
REPUBLIC OF SOUTH AFRICA

**HIGHER EDUCATION
AMENDMENT ACT**

REPUBLIEK VAN SUID-AFRIKA

**WYSIGINGSWET OP HOËR
ONDERWYS**

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.
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ACT

To amend the Higher Education Act, 1997, so as to substitute a definition; to extend the period within which the CHE must submit a report to the Minister; to provide that the principal is the chairperson of the senate and the registrar of a public higher education institution appointed by the council is the secretary to the council; to provide that the chairperson and the vice-chairperson of the council must be elected from the external members of the council; to empower a council to discriminate fairly between students who are not citizens or permanent residents and students who are citizens or permanent residents with regard to certain matters; to empower the Minister to appoint an administrator for a public higher education institution where there is financial or other maladministration of a serious nature; to designate the Director-General as the registrar of private higher education institutions and to empower the Minister to designate an assistant for the registrar; to extend the requirements to be determined by the registrar for the registration of private higher education institutions; to provide for the delegation of powers and assignment of duties by the principal of a higher education institution and the CHE; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 101 of 1997

1. Section 1 of the Higher Education Act, 1997 (hereinafter referred to as the principal Act), is hereby amended by the substitution for the definition of “registrar” of the following definition: 5
- “ ‘registrar’ means the registrar [**designated by the Director-General**] referred to in [**terms of**] section 50(1);”.

Amendment of section 19 of Act 101 of 1997

2. Section 19 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: 10
- “(1) The CHE must, within [**three**] six months after the end of each financial year, submit a report to the Minister on the performance of its functions during the past financial year.”.

Amendment of section 26 of Act 101 of 1997

3. Section 26 of the principal Act is hereby amended— 15

- (a) by the substitution for subsection (3) of the following subsection:
 “(3) [A] Subject to subsection (4) a structure referred to in subsection (2)(a), (b), (e), (f) and (g) must elect a chairperson, vice-chairperson and other office-bearers from among its members in the manner determined by the institutional statute or an Act of Parliament.”; and 5
- (b) by the addition of the following subsection:
 “(4) Notwithstanding the provisions of subsection (3)—
- (a) the principal is the chairperson of the senate;
 - (b) the registrar of the public higher education institution appointed by the council, is the secretary to the council; and 10
 - (c) the chairperson and the vice-chairperson of the council may not be elected from members contemplated in section 27(4)(a), (b), (d), (e), (f) and (g).”.

Amendment of section 39 of Act 101 of 1997

4. Section 39 of the principal Act is hereby amended by the addition of the following subsection: 15

“(4) The policy referred to in subsection (1) may discriminate in a fair manner between students who are not citizens or permanent residents of the Republic and students who are citizens or permanent residents of the Republic.”.

Amendment of section 40 of Act 101 of 1997 20

5. Section 40 of the principal Act is hereby amended by the substitution for paragraph (g) of the following paragraph:

“(g) money payable by students for higher education programmes provided by the institution, but the council may discriminate in a fair manner between students who are not citizens or permanent residents of the Republic and students who are citizens or permanent residents of the Republic when the amount payable is determined;”.

Insertion of section 41A in Act 101 of 1997

6. The principal Act is hereby amended by the insertion after section 41 of the following section: 30

“Appointment of administrator

41A. (1) If an audit of the financial records of a public higher education institution, or an investigation by an independent assessor as contemplated in section 47, reveals financial or other maladministration of a serious nature at a public higher education institution or the serious undermining of the effective functioning of a public higher education institution, the Minister may, after consultation with the council of the public higher education institution concerned, if practicable, and notwithstanding any other provision of this Act or a private Act of Parliament, appoint a person as administrator to perform the functions relating to governance or management on behalf of the institution for a period not exceeding six months. 35

(2) The Minister may extend the period referred to in subsection (1) once for a further period not exceeding six months.”.

Amendment of section 50 of Act 101 of 1997 45

7. Section 50 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections:

“(1) The Director-General [**must designate an employee of the Department of Education as**] is the registrar of private higher education institutions [**to perform the functions of registrar in terms of this Act**]. 50

(2) The [**Director-General**] Minister may designate any other employee of the Department of Education to assist the registrar in the performance of his or her functions in terms of this Act.”.

Amendment of section 53 of Act 101 of 1997

8. Section 53 of the principal Act is hereby amended by the substitution in subsection (1)(b) for subparagraph (iii) of the following subparagraph:

“(iii) complies with any other reasonable requirement determined by the registrar which may include a requirement that none of the words or expressions “university”, “technikon” or “higher education college” may appear in the name of an applicant.”.

Amendment of section 68 of Act 101 of 1997

9. Section 68 of the principal Act is hereby amended by the addition of the following subsections:

“(3) The principal of a public higher education institution may, on such conditions as he or she may determine, delegate any of his or her powers under this Act and assign any of his or her duties in terms of this Act to any other employee of the public higher education institution concerned.

(4) The CHE may, on such conditions as it may determine, delegate any of its powers under this Act and assign any of its duties in terms of this Act to any of its committees or employees.”.

Amendment of section 76 of Act 101 of 1997

10. Section 76 of the principal Act is hereby amended by the addition of the following subsections:

“(5) The Technikons Amendment Act, 1995 (Act No. 27 of 1995), is hereby repealed in its entirety.

(6) The Education Policy Act, 1967 (Act No. 39 of 1967), is hereby repealed in its entirety.”.

Short title

11. This Act is the Higher Education Amendment Act, 1999.