**REPUBLIC OF SOUTH AFRICA**

**PROPOSED AMENDMENTS TO**

**HIGHER EDUCATION AMENDMENT BILL**

**[B36-2015]**

**(*Portfolio Committee on Higher Education and Training*)**

**[B36A – 2015]**

***14 April 2016***

**CLAUSE 1**

1. On page 3, in line 29, to substitute for the definition of "higher education college", the following definition:

" **'higher education college'** means a higher education institution providing higher education, but with a limited scope and range of operations and which meets the criteria for recognition as a higher education college as prescribed by the Minister under section 69*(d)* and—

*(a)* established, merged, converted, deemed to have been established or declared as a public higher education college; or

*(b)* registered as a private higher education college,

in terms of this Act.";

2. On page 3, after line 42, to insert the following paragraph:

"*(l)* by the substitution for the definition of "local juristic person" of the following definition:

"**'local juristic person'** means a person established as a juristic person in South Africa in terms of the Companies Act, **[1973 (Act No. 61 of 1973)]** (2008 (Act No. 71 of 2008).";

3. On page 3, from line 51, to omit the definition of "PFMA";

4. On page 4, in line 9, after "spouse", to insert "or partner".

5. On page 4, in line 17, to omit "Islamic or other";

6. On page 4, in line 21, to substitute for the definition of "university", the following definition:

" **'university'** means **[any university]** a higher education institution providing higher education and with a scope and range of operations*,* including undergraduate and postgraduate higher education programmes, research and community engagement, which meets the criteria for recognition as a university as prescribed by the Minister under section 69*(d)* and—

*(a)* established, merged, converted, deemed to have been established or declared as a public university; or

*(b)* registered as a private university,

in terms of this Act."; and

6. On page 4, in line 29, to substitute for the definition of "university college", the following definition:

" **'university college'** means a higher education institution providing higher education, but with a limited scope and range of operations and which meets the criteria for recognition as a university college as prescribed by the Minister under section 69*(d)* and—

*(a)* established, merged, converted, deemed to have been established or declared as a public university college; or

*(b)* registered as a private university college,

in terms of this Act.".

**CLAUSE 3**

1. Clause rejected.

**NEW CLAUSE**

2. That the following be the new clause:

“**Amendment of section 3 of Act 101 of 1997, as amended by section 2 of Act 54 of 2000**

**3.** Section 3 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The Minister must, taking into consideration the provisions of the Constitution and after consulting the CHE, determine policy on higher education, which policy includes, but is not limited to—

*(a)* transformation goals and oversight mechanisms for these goals;

*(b)* articulation and recognition of prior learning frameworks across the education system; and

*(c)* criteria for recognition as a university, university college, or higher education college.".

**CLAUSE 5**

1. On page 5, in line 30, to omit "sections" and to insert "section".
2. On page 5, in line 31 to line 38, to delete the whole subsection (5A).

1. On page 5, in line 39, to substitute "5B" with "5A".

**CLAUSE 8**

1. On page 6, in line 31, to omit the comma.
2. On page 6, from line 32, to omit "and with due observance of the relevant provisions of the Use of the Official Languages Act, 2012 (Act No. 12 of 2012),".
3. On page 6, in lines 54 to 57, to omit "unless the Minister, having regard to such representations as the person may make, determines that the finding is not of such a nature as to disqualify the person from becoming or continuing to be a member of the council of a public higher education institution”.

**CLAUSE 10**

1. On page 8, in line 11, to omit “;”and to substitute with “; and”.
2. On page 8, in line 12, to omit subparagraph (ii).
3. On page 8, in line 13, to omit “(iii)” and to insert “(ii)”.
4. On page 8, in line 13, to omit “, not disclosed as contemplated in subparagraph (i) or (ii),”.

**CLAUSE 12**

1. On page 9, in line 6, to omit “as soon as reasonable practicable after such” and to substitute with “within a period of thirty days of the”.

**CLAUSE 28**

1. On page 16, in line 26, after “Minister” to insert the following “, after taking into account the report of the administrator,”.

**CLAUSE 31**

1. On page 20, in line 45, to omit "private".

2. On page 20, in line 46, to substitute for subsection (1), the following subsection:

"(1) No local juristic person or foreign juristic person other than a public higher education institution or an organ of state may provide higher education unless that person is—

(a) in the prescribed manner, registered or conditionally registered as a private higher education institution in terms of this Act; and

(b) registered or recognised as a juristic person in terms of the Companies Act, **[1973 (Act No. 61 of 1973)]** (2008 Act No. 17 of 2008), before such person is registered or conditionally registered in accordance with paragraph *(a)*." ; and

3. On page 21, in line 8, to substitute for paragraph *(c)*, the following paragraph:

"*(c)* by the substitution for subsection (2) of the following subsection:

"(2) If the person contemplated in subsection (1) is a foreign juristic person, that person must ensure that any qualification or part-qualification offered within the Republic is registered on the **[sub-framework]** sub-frameworks for higher education and trades and occupations on the National Qualifications Framework contemplated in section 7*(b)* and *(c)* read with section 13(1)*(h)* of the National Qualifications Framework Act.".

**CLAUSE 33**

**10.** On page 21, in line 33, to omit "institutions" and to substitute "colleges".

**CLAUSE 35**

1. On page 21, in line 48, after “Minister” to insert “, at the request of the council of the institution concerned,”.

2. On page 21, from line 48, to omit “and at the request of the council of the institution concerned”.

3. On page 21, in line 52, to omit “3(3) and 20(5)*(b)*” and to substitute with “3(1) and 20(4*)*”.

4. On page 22, after line 2, to add the following subsection:

"(3) The provisions of subsections (1) and (2) shall apply to registered private higher education institutions, subject to the necessary changes required by the context.".

**NEW CLAUSE**

1. The following clause is inserted on page 22, after line 2:

"**Amendment of section 65B of Act 101 of 1997, as substituted by section 24 of Act 23 of 2001**

**36.** Section 65B of the principal Act is hereby amended by the addition of the following subsection:

"(3) The provisions of subsections (1) and (2) shall apply to registered private higher education institutions, subject to the necessary changes required by the context.".

**CLAUSE 36**

1. On page 22, after line 30, to add the following subsections:

"(3) The provisions of subsections (1) and (2) shall apply to registered private higher education institutions, subject to the necessary changes required by the context.

(4) In the event that any degree, diploma, certificate or other qualification that was awarded, is withdrawn or revoked, the relevant Quality Council responsible for the qualification or part-qualification and SAQA must be informed so as to amend the National Learner Record Database, if necessary.".

**CLAUSE 37**

1. On page 22, from line 33, to omit "Section 65D of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:", and to substitute the following:

"Section 65D of the principal Act is hereby amended—

*(a)* by the substitution for subsection (1) of the following subsection:

“(1) No person may offer, award or confer a degree, or a higher education diploma or a higher education certificate, provided for on the **[HEQF]** HEQSF unless such degree, diploma or certificate is registered on the sub-framework for higher education on the National Qualifications Framework contemplated in section 7*(b)* read with section 13(1)*(h)* of the National Qualifications Framework Act." and

*(b)* by the substitution for subsection (2) of the following subsection:"

**CLAUSE 42**

1. On page 23, in line 18, after “mechanisms” to insert “policy”.
2. On page 23, in line 20, after “frameworks;” to insert “to provide for new institutional types;”.

**CLAUSE 45**

1. On page 24, from line 52, to omit "fixed by the President by proclamation", and substitute "to be determined by the Minister by notice".

2. On page 24, after line 52, to add the following subsection:

"(2) Different dates may be determined under subsection (1) in respect of different provisions of this Act.".