



## **Comments on the National Qualifications Framework Amendment Bill of 2018**

### **1. Introduction**

The Council on Higher Education (CHE) has noted with appreciation the call by the Parliamentary Portfolio Committee on Higher Education and Training for comments from stakeholders on the National Qualifications Framework (NQF) Bill of 2018. It therefore takes this opportunity to provide its comments on the Bill.

### **2. Overview of the Amendments**

It is clear from the Bill that the purpose of the amendments was to eliminate some inconsistencies, and fill in some gaps in the National Qualifications Framework (NQF) Act (Act No. 67 of 2008). One such glaring gap is that the NQF Act does not make provisions for mechanisms for handling and addressing the challenges of misrepresentation of qualifications, and the corollary acts of fraud pertaining to qualifications. Accordingly, the amendments make provisions for the referral to SAQA for verification of all qualifications presented for study, employment, and appointment to bodies and structures.

The amendments further empower SAQA with the requisite authority to evaluate qualifications and part-qualifications; and to develop as well as maintain separate registers of professional designations, fraudulent qualifications, and misrepresented qualifications and part-qualifications. SAQA has also been accorded the authority to formulate evaluation criteria for foreign qualifications.

The clause requiring Quality Councils to advise the Minister on matters relating to their respective sub-frameworks has been amended to include the requirement that the QCs have to consult with SAQA in providing advice to the Minister.

Another key amendment regarding the functions of the QCs has been the addition of a provision for the QCs to accredit institutions that comply with requirements to offer qualifications or part-qualifications registered on the NQF.

### **3. Comments**

- 3.1 Overall the CHE welcomes the amendments to the NQF Act as proposed in the Bill. It is of the view that the amendments are necessary, and can only serve to strengthen the NQF Act and the implementation of the National Qualifications Framework. In particular the CHE appreciates the new provisions that seek to empower SAQA and the QCs with the necessary authority to handle and address matters regarding fraud and misrepresentation of qualifications.

- 3.2 Notwithstanding the above generally positive view of the amendments, the CHE is aware that the final report of the *NQF Act Implementation Evaluation (2018)* which was commissioned by the DHET and project-managed jointly by the DHET and the Department of Planning, Monitoring and Evaluation (DPME), recommends, among others, some other amendments to the NQF Act. One such amendment that the CHE agrees with is the need to restate clearly the objectives of the NQF (Section 5 of the NQF Act). The report has already been accepted by the DHET and it is therefore more likely that a new process for amending the Act will commence soon. This means that there will be two processes of amending the Act in quick succession which then raises the question of whether it would not be in the best interests of the education and training system to delay for a little while the finalisation of the current amendment process with a view to incorporating the other proposed amendments as recommended in the final report of the *NQF Act Implementation Evaluation (2018)*. Thus, rather than having two different amendment processes following each other in quick succession, there would be a single process that also incorporates the amendments recommended in the report of the *NQF Act Implementation Evaluation (2018)*.
- 3.3 Section 27 (f) of the NQF Act which reads: 'advise the Minister on matters relating to its sub-framework' has been amended in the Bill to read 'in consultation with SAQA, advise the Minister on matters relating to its sub-framework'. This means, for instance, that the CHE would legally not be allowed to provide advice to the Minister on matters about the Higher Education Qualifications Sub-Framework (HEQSF) without consulting SAQA. Section 5(1)(a) of the Higher Education Act (Act No. 101 of 1997) as amended, stipulates that one of the functions of the CHE is to 'advise the Minister on any aspect of higher education.....'. The understanding is that matters related to the HEQSF are subsumed under the 'any aspect of higher education' as contemplated in Section 5(1) (a) of Higher Education Act. The latter does not require the CHE to provide such advice 'in consultation with SAQA' while the amendment to the NQF Act makes it obligatory that any advice that the CHE provides to the Minister in relation to the HEQSF has to be processed in consultation with SAQA. Since, as per Section 34 of the NQF Act, the provisions of the NQF Act take precedence over those of the Higher Education Act, this amendment implies that the CHE would have to change the way in which it conducts its core business of advising the Minister, at least in terms of the HEQSF. This is not an insignificant change in the way the CHE goes about its work in fulfilment of its legislated mandate. It will cause unnecessary delays and dilute the expertise, influence, and unrestricted advice to the Minister that the CHE currently is able to convey within its mandate. The CHE therefore requests that this amendment be reconsidered if not removed altogether.

#### **4. Conclusion**

The CHE welcomes most of the amendments to the NQF Act as reflected in the Bill. The CHE is of the view that they aim to strengthen the NQF Act to be able to deal with matters of misrepresentation of qualifications, among others.

However, the CHE is concerned that before the current process of amending the Act has been finalised, the DHET has accepted the final report of the *NQF Act Implementation Evaluation (2018)* which also recommends additional amendments to the NQF Act. It would be less confusing and less disruptive to the education and training system if all envisaged amendments

to the NQF Act were to be effected in one process rather than in two processes which will have to run in quick succession. The CHE is also concerned with the amendment that requires that any advice to the Minister from a QC has to be provided in consultation with SAQA. Effectively, this amendment will mean that the CHE would have to consult SAQA whenever it intends to provide advice to the Minister on matters about the HEQSF. This will be a significant change in the way the CHE carries out its core function of advising the Minister as provided for in the Higher Education Act (Act No. 101 of 1997) as amended.

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