

**AMENDMENT PROPOSED TO  
HIGHER EDUCATION LAWS AMENDMENT BILL**

**[B14 – 2011]**

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**CLAUSE 1**

1. On page 2, in line 7, after “council” to insert “or committee of a council”.
2. On page 2, in line 15, after “raise” to insert “a conflict or”.
3. On page 3, after line 17, to insert the following subsections:

(7C) A committee of the council with delegated functions in terms of section 68(2) may not take a decision on a matter considered by it if any member of the committee has a conflict of interest contemplated in this section.

(7D) A member of the council or a committee of council who contravenes subsections (7)(c), (d) and (e), (7A) and (7B) after Council has followed a due process may be—

- (a) suspended from attending a meeting; or
- (b) disqualified as a member of council.

(7E) The council must—

- (a) having regard to the provisions of section 29(7) and (7A) to (7D) and section 34 and after consultation with the institutional forum, adopt a code of conduct to which all the members of the council, all the members of committees of the council and all other

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persons who exercise functions of the council in terms of delegated authority must subscribe; and

- (b) determine rules and procedures in terms of section 32 for an annual declaration—
  - (i) by each member of the council, each member of a council committee and each person who exercises functions of the council in terms of delegated authority;
  - (ii) of his or her financial interests and fiduciary roles, the latter to include but not be limited to offices, directorships of companies, memberships of close corporations and trusteeships held; and
  - (iii) of the financial interests and fiduciary roles of the members of his or her immediate family.

## **CLAUSE 2**

1. On page 3, in line 20, to omit subsections (4) and (5) and to substitute:

(4) An employee must in writing—

- (a) before he or she assumes office, declare any business that may raise a conflict or possible conflict of interest with the public higher education institution concerned; and
- (b) notify the public higher education institution concerned of any conflict or possible conflict of interest before such public higher education institution procures any goods or services from the

employee or an organisation within which the employee holds an interest.

(5) An employee may not conduct business directly or indirectly with the public higher education institution at which he or she is employed that entails or may entail a conflict of interest with the public higher education institution unless the council of such public higher education institution is of the opinion that—

- (a) the goods, product or service in question are unique;
- (b) the supplier is a sole provider; and
- (c) it is in the best interest of the institution

(6) An employee may not on behalf of that public higher education institution contract with himself or herself or any entity in which he or she has a direct or indirect financial or personal interest.

(7) Business referred in subsection (4) relates to conduct that is aimed at receiving any direct or indirect financial personal gain that does not form part of the employment relationship contemplated in subsection (1).

#### **CLAUSE 4**

1. On page 3, in line 38, to omit “direct” and to substitute “issue a directive to”.
2. On page 4, in line 1, to omit “taking any action” and to substitute “making a decision”.
3. On page 4, in line 4, to omit “so to act” and to substitute “to issue a directive”.
4. On page 4, in line 7, to omit “direction” and to substitute “directive”.

5. On page 4, from line 8, to omit “relevant function” and to substitute “functions”.
6. On page 4, in line 8, to omit “may” and to insert “must dissolve the board and”
7. On page 4, from line 12, to omit subsections (5) and (6), and to substitute:
  - (5) If the Minister appoints an administrator in terms of subsection (4), the administrator may perform all the functions of the board and an employee must comply with a directive given by the administrator.
8. On page 4, from line 27, to omit section 4B.

#### **CLAUSE 5**

1. On page 4, from line 43, to omit clause 5.

#### **CLAUSE 6**

1. On page 5, in line 23, to omit “the board has failed to resolve the maladministration or undermining contemplated in subsection (1)(a) or (b), as the case may be, within a period determined by the Minister and”
2. On page 5, after line 41, to insert a new clause 17D
  - “Dissolution of board**
  - 17D The board is dissolved from the date the Minister appointed the Administrator in terms of Section 17A (3)(a).”

**LONG TITLE**

1. On page 2, in the second line, to omit “staff” and to substitute “employees”.