

HUMAN RESOURCE DEVELOPMENT COUNCIL ACT, 2013

No. 17



of 2013

ARRANGEMENT OF SECTIONS

SECTION

PART I — *Preliminary*

1. Short title and commencement
2. Interpretation

PART II — *Establishment and Functions of Human Resource Development Council*

3. Continuation of establishment of Council
4. Objectives and functions of Council

PART III — *Constitution and Qualifications of Board*

5. Board
6. Direction by Minister
7. Tenure of office
8. Qualifications, removal and suspension of members
9. Vacation of office by members
10. Filling of vacancy
11. Remuneration and allowances

PART IV — *Meetings and Proceedings of Board*

12. Election of Vice Chairperson
13. Meetings of Board
14. Quorum and procedure at meetings
15. Committees of Board
16. Disclosure of interest
17. Confidentiality

PART V — *Chief Executive Officer and Other Staff of the Council*

18. Chief Executive Officer
19. Appointment of Secretary of Board
20. Appointment of senior staff

PART VI — *Financial Provisions*

21. Funds of the Council
22. Financial year
23. Accounts and audit
24. Pension and other funds
25. Annual report

PART VII — *Establishment of Funds*

26. Human Resource Development Fund
27. Public Tertiary Education Institution Fund
28. Tertiary Education Student Sponsorship Fund
29. Responsibility of Funds
30. Imposition of Training levy

PART VIII — *Miscellaneous Provisions*

31. Appeals
32. Power to require information
33. Protection from personal liability
34. Reports to Minister
35. Code of practice and guidelines
36. Regulations
37. Repeal (Cap. 57:04)
38. Transitional and savings

An Act to establish the Human Resource Development Council and to provide for its powers and functions; and to provide for the promotion and funding of work-place training, human resource development planning and funding of tertiary education institutions and for matters connected or incidental thereto.

Date of Assent: 04 OCTOBER, 2013

Date of Commencement: ON NOTICE

ENACTED by the Parliament of Botswana.

PART I — *Preliminary*

1. This Act may be cited as the Human Resource Development Council Act, 2013, and shall come into operation on such date as the Minister may, by Order published in the *Gazette*, appoint.

Short title and commencement

2. In this Act, unless the context otherwise requires —

Interpretation

“Board” means the Board of the Council;

“Chairperson” means the Chairperson of the Council;

“Chief Executive Officer” means the Chief Executive Officer of the Council appointed as such under section 18;

“Code of Practice” means the Code of Practice issued by the Council under section 35;

“Council” means the Human Resource Development Council established under section 3 (1);

“education training provider” means a person or entity that provides or organises a programme of education and training, including the provision of professional development services;

“member” means a member of the Board appointed under section 5 (2);

“national human resource development” means the life cycle stages from early childhood development through formal education (primary, secondary and tertiary education) to skills training and development and employment all underpinned by the process of life-long learning;

“national human resource development plan” means a human resource development which focuses on, but is not limited to, the planning of the specific elements of a national human resource development life cycle inclusive of tertiary education, skills training and development and employment;

“repealed Act” means the Tertiary Education Act repealed under section 37;

“tertiary education” means a programme which is offered beyond the level of senior secondary education, including technical and vocational education and training (TVET) and such programmes with a set theoretical foundation, through to advanced research qualifications, which have been accredited by the Botswana Qualifications Authority or by a competent authority in the country from which the programme is offered;

“tertiary education institution” means a public or private post secondary education and training institution including a university save where the context expresses otherwise; and

“work-place learning” means skills training and development that is provided at the work-place for employees, apprentices and interns but is not limited to informal and indigenous skills training and development, on the job training and other vocational and technical training other than those offered by a tertiary education institution.

PART II — *Establishment and Functions of the Human Resource Development Council*

Continuation
and
establishment
of Council

3. (1) The Council known as the Tertiary Education Council, established under section 3 of the repealed Act is hereby continued under the new name of the Human Resource Development Council and shall continue as if established under this Act.

(2) The Council shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its own name and, subject to the provisions of this Act, performing such acts as bodies corporate, may by law, do or perform.

Objectives and
functions of
Council

4. (1) The objectives of the Council shall be to —

- (a) provide for policy advice on all matters of national human resource development;
- (b) co-ordinate and promote the implementation of the national human resource development strategy;
- (c) prepare the national human resource development plans; and
- (d) plan and advise on tertiary education financing and work-place learning.

(2) Without derogating from the generality of subsection (1), the Council shall —

- (a) advise the Minister on all policy issues relevant to the implementation of the national human resource development strategy as developed by the Government from time to time;
- (b) formulate the national human resource development plan;

- (c) provide advice on management, planning and financing with specific reference to —
 - (i) internship,
 - (ii) apprenticeship,
 - (iii) work-place learning, and
 - (iv) reimbursing employers who have incurred training costs for apprentices or trainees;
- (d) manage Funds established under Part VII of the Act;
- (e) promote work-place learning;
- (f) establish and manage a national labour market information system and national education and skills development data base;
- (g) promote the establishment, co-ordination and approval of institutional plans for public and private tertiary education institutions and post implementation monitoring and evaluation with specific reference to —
 - (i) human resource development,
 - (ii) research and innovation, and
 - (iii) institutional capacity building;
- (h) co-ordinate, promote and support tertiary education-industry link research and innovation activities;
- (i) formulate human resource development plans for key sectors of the economy through linkages with employers in the public and private;
- (j) develop strategies for student attachments and academically prescribed internships and promote methods of skills development; and
- (k) act as a supervisory agency and to co-ordinate the implementation of the National Human Resource Development Strategy and ensure a link between the different levels of education, training and skills development.

PART III — *Constitution and Qualifications of Board*

5. (1) There shall be a Board of the Council, which shall be the governing body of the Council. Board

(2) The Board shall consist of 13 members, appointed by the Minister from amongst persons whom the Minister considers qualified by reason of their experience or expertise in the areas relevant to the objects and functions of the Council.

(3) The Chief Executive Officer shall be an *ex-officio* member of the Board.

(4) The Minister shall appoint the Chairperson of the Council and the Vice Chairperson shall be elected by members from amongst their number.

(5) The Minister may appoint other persons to sit on the Board as alternates to the substantive members of the Board appointed under subsection (2).

(6) The alternate members appointed by the Minister under subsection (5) shall be appointed, if the Minister is satisfied that such persons meet the requirements for qualifications for members set out under section 8.

(7) The Minister shall, by notice in the *Gazette*, publish the appointment of members and their alternates, specifying the dates of their appointment and the period for which they are appointed to the office of the Board.

Direction by
Minister

6. The Minister may, after consultation with the Board, give the Board directions of a general or specific nature regarding the exercise of its powers and the performance of its functions, which directions shall not be inconsistent with this Act or with the contractual or other obligations of the Council, and the Board shall give effect to any such directions.

Tenure of
office

7. A member shall hold office for a period not exceeding three years, and shall be eligible for re-appointment for a further term of three years.

Qualifications,
removal and
suspension
of members

8. (1) A person shall not be appointed as a member or be qualified to continue to hold office where the person —

- (a) has, in terms of a law in force in any country —
 - (i) been adjudged or otherwise declared bankrupt and has not been discharged, or
 - (ii) made an assignment to, arrangement or composition with his or her creditors, which has not been rescinded or set aside; or
- (b) has, within the period of ten years immediately preceding the date of his or her appointment, been convicted —
 - (i) of a criminal offence within Botswana, or
 - (ii) outside Botswana, of an offence which if committed in Botswana, would have been a criminal offence, and sentenced by a court of competent jurisdiction to imprisonment for six months or more without the option of a fine, whether that sentence has been suspended or not, and for which he or she has not received a free pardon.

(2) The Minister may, in writing, suspend from office, a member against whom criminal proceedings are instituted for an offence in respect of which a sentence of imprisonment without the option of a fine may be imposed, and whilst that member is so suspended, he or she shall not carry out any duties under this Act or be entitled to any remuneration or allowances as a member of the Board.

(3) The Minister shall remove a member from office, if the member —

- (a) is absent without reasonable cause from three consecutive meetings of the Board of which he or she has had notice;
- (b) has been found to be physically or mentally incapable of performing his or her duties efficiently, and a medical doctor has issued a certificate to that effect;

- (c) contravenes the provisions of this Act or otherwise misconducts himself or herself to the detriment of the objectives of the Board;
- (d) has failed to comply with the provisions of sections 16 and 17; or
- (e) has been convicted of an offence under this Act, or under any other Act for which he or she is sentenced to imprisonment for a term of six months or more without an option of a fine.

9. A member shall vacate his or her office and his or her office shall become vacant —

Vacation of office by members

- (a) if he or she becomes disqualified in terms of section 8 to hold office as a member of the Board;
- (b) if he or she is adjudged bankrupt or insolvent;
- (c) if he or she is absent from three consecutive meetings of the Board without reasonable excuse;
- (d) upon his or her death;
- (e) upon the expiry of such time as the Minister may specify, in writing, notifying the member of his or her removal from office by the Minister;
- (f) upon the expiry of one month's notice, in writing, to the Chairperson, of his or her intention to resign from office;
- (g) if he or she becomes mentally or physically incapable of performing his or her duties efficiently, and a medical doctor has issued a certificate to that effect;
- (h) if he or she is convicted of an offence under this Act for which he or she is sentenced to imprisonment for a term of six months or more without the option of a fine; or
- (i) if he or she is summarily dismissed by the Minister on the grounds of contravening the provisions of this Act.

10. (1) Where the office of a member becomes vacant before the expiry of the member's term of office, the Minister shall appoint the alternate of that member in place of the member who vacates office, until the expiry of a period during which such member would have otherwise continued in office.

Filling of vacancy

(2) Subsection (1) shall not apply where the remainder of the period for which the member whose office has been vacated would otherwise have held office is less than six months.

11. A member shall be paid such remuneration, travelling expenses and other expenses and allowances, incurred in connection with his or her services on the Board, if any, as the Minister may from time to time determine.

Remuneration and allowances

PART IV — *Meetings and Proceedings of Board*

12. (1) At the first meeting of the Board, the members shall elect from among their number, a Vice Chairperson.

Election of Vice Chairperson

(2) The Chairperson and Vice Chairperson shall hold office for a period of not more than three years.

(3) On the expiry of the terms of office of the Chairperson or the Vice Chairperson, or where the Chairperson or the Vice Chairperson vacates office, a new Chairperson shall be appointed by the Minister and a new Vice Chairperson shall be elected by the members from among their number at the next meeting of the Board or as soon thereafter as may be convenient.

(4) The Chairperson or Vice Chairperson may vacate his or her office as such even though he or she remains a member.

(5) The Vice Chairperson shall exercise the functions of the Chairperson during the period that the Chairperson is absent or unable to act as Chairperson.

Meetings of
Board

13. (1) Subject to the provisions of this Act, the Board may regulate its own proceedings.

(2) The Board shall hold its first meeting on such date and at such place as the Minister may fix and thereafter the Board shall meet at least once in every three months.

(3) Upon giving notice, in writing, of not less than 14 days, a meeting of the Board may be called by the Chairperson, but if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon the giving of a shorter notice.

(4) The notice referred to under subsection (3) shall state —

(a) the place and time for the meeting; and

(b) the agenda for the meeting.

(5) There shall preside at any meeting of the Board —

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice Chairperson; or

(c) in the absence of the Chairperson and Vice Chairperson, such member as the members present may elect from amongst themselves for the purpose of that meeting.

(6) The Secretary shall cause to be recorded and kept minutes of all proceedings of meetings of the Board.

Quorum and
procedure at
meetings

14. (1) The quorum at any meeting of the Board shall be a simple majority of the members.

(2) A decision of the Board on any question shall be by the majority of the members present and voting at the meeting and, in the event of an equality of votes, the member presiding shall have a casting vote in addition to that member's deliberative vote.

(3) A decision of the Board shall not be rendered invalid by reason of a vacancy on the Board or the fact that a person who was not entitled to sit as a member did so sit.

(4) Where an alternate member is appointed by the Minister under section 6 (3), such alternate member shall attend and take part in the voting at meetings whenever the member to whom he or she is alternate is absent from such meeting.

(5) The Board may invite any person whose presence it deems necessary, to attend and participate in the deliberations of a meeting of the Board, but such person shall have no vote.

15. (1) The Board may, for the purpose of performing its functions, establish such committees as it considers appropriate and may delegate to any such committee such of its functions as it considers necessary.

Committees
of Board

(2) The Board may appoint, to the committees established under subsection (1), such number of persons from the members and such number of persons with specialised skills, not being members, as it considers appropriate, to be members of such committees and such persons shall hold office for such period as the Board may determine.

(3) The Board shall appoint a Chairperson and Vice Chairperson for any of its committees from amongst its members.

(4) An officer of the Council appointed in writing by the Chief Executive shall be secretary to any committee and shall, on the instructions of the Chairperson of the committee, convene meetings of the committee.

(5) Subject to the specific or general directions of the Board, a committee may regulate its own procedure and the Board may attach any conditions to the delegation of any of its powers to such committees.

(6) The Board may confirm, vary or revoke any decision taken in consequence of a delegation or assignment, but no variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

(7) Meetings of a committee shall be held at such times and places as the committee may determine, or as the Board may direct.

16. (1) If a member is present at a meeting of the Board or any committee of the Board at which any matter in which the member or immediate family member of the member is directly or indirectly interested in a private capacity is the subject of consideration, the member shall, as soon as practicable after the commencement of the meeting, disclose such interest and shall not, unless the Board otherwise directs, take part in any consideration or discussion of, or vote on any question touching on the matter.

Disclosure of
interest

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(3) Where a member fails to disclose his or her interest in accordance with subsection (1) and a decision by the Board is made benefitting such member, or an immediate family member of the member, such decision shall be null and void to the extent that it benefits such member or family member.

(4) A member who fails to comply with the provisions of subsection (1) commits an offence and is liable to a fine not exceeding P2 000, or to imprisonment for a term not exceeding six months, or to both.

Confidentiality

17. (1) A member and any other person assisting the Board shall observe and preserve the confidentiality of all matters coming before the Board, and such confidentiality shall subsist even after the termination of their terms of office or their mandates.

(2) Any member or any person to whom confidential information is revealed through working with the Board shall not disclose that information to any other person unless he or she is required to do so in terms of any written law or for purposes of any judicial proceedings.

(3) Any member or any other person who contravenes the provisions of this section commits an offence and is liable to a fine not exceeding P2 000, or to imprisonment for a term not exceeding six months, or to both.

PART V — Chief Executive Officer and Other Staff of the Council

Chief
Executive
Officer

18. (1) The Minister shall, in consultation with the Board, appoint a Chief Executive Officer of the Council for a fixed contract period not exceeding five years, who shall be eligible for re-appointment, for a further term of five years.

(2) A person shall not be appointed as Chief Executive Officer unless he or she possesses such experience and training as the Minister may determine, and he or she has demonstrated that he or she is competent to carry out the functions of the Council.

(3) The Chief Executive Officer shall, subject to such directions on matters of policy as may be given by the Board, be responsible for the day-to-day management of the affairs of the Council.

(4) The Chief Executive Officer may resign from office by giving three months' notice in writing, to the Minister and the Board.

(5) The Minister may, in consultation with the Board, remove the Chief Executive Officer from office by giving him or her three months' notice in writing, or by paying him or her three months' salary in lieu of notice, if the Chief Executive Officer —

(a) conducts himself or herself in a manner that is detrimental to the objective of, or the proper performance of the functions of the Authority;

(b) has been found to be physically or mentally incapable of performing his or her duties efficiently by his or her medical doctor or psychiatrist, as well as an independent medical doctor or psychiatrist;

(c) becomes bankrupt or is declared insolvent by a court of law; or

(d) absents himself or herself from office without reasonable excuse.

(6) The Chief Executive Officer may delegate, in writing, to any senior officer of the Council, the exercise of any powers which he or she is authorised to exercise under this Act.

- (7) The Chief Executive Officer shall be responsible for —
- (a) the appointment, formation and development of an efficient administration of the Council;
 - (b) the organisation, control and management of all staff of the Council;
 - (c) the maintenance of discipline in respect of the staff of the Council;
 - (d) the carrying out of the decisions of the Board;
 - (e) the management of the support structure of the Council;
 - (f) all income and expenditure of the Council; and
 - (g) all assets of the Council and the discharge of all the liabilities of the Council.

(8) The Chief Executive Officer shall receive such remuneration, allowances and other benefits, as the Board, in consultation with the Minister, may determine.

19. (1) The Board shall, on the recommendation of the Chief Executive Officer appoint a Secretary, who shall be suitably qualified and experienced.

Appointment
of Secretary
of Board

(2) The Secretary of the Board shall attend meetings of the Board but shall have no right to vote, and shall be responsible for the recording of the Board's proceedings and decisions.

(3) The Secretary of the Board shall be accountable to the Board for his or her functions and responsibilities, and shall report directly to the Chairperson.

(4) The conditions of service, including the remuneration package of the Secretary, shall be set by the Board, on the recommendation of the Chief Executive Officer with the concurrence of the Minister.

20. (1) The Board shall, on the recommendation of the Chief Executive Officer, appoint the senior staff of the Council.

Appointment
of senior staff

(2) The senior staff shall, under the direction of the Chief Executive Officer, assist the Chief Executive Officer in the proper administration and management of the functions and affairs of the Council, in accordance with the policies laid down by the Board.

(3) The Chief Executive Officer shall appoint such other staff as may be necessary for the proper discharge of the functions of the Council.

(4) The terms and conditions of employment of staff of the Council shall be as may be determined by the Board, in consultation with the Minister.

PART VI — *Financial Provisions*

- 21.** (1) The funds of the Council shall consist of —
- (a) such monies as may be appropriated by the National Assembly for the purposes of the Council;
 - (b) such grants and donations as the Council may receive;
 - (c) such fees as may be charged for services rendered by the Council; and
 - (d) any income that the Council may receive from investments.

Funds of the
Council

(2) The Council shall use the revenues acquired under subsection (1) to meet the costs incurred for its operations and shall use any surplus accrued for such purposes as it may determine, with the approval of the Minister.

Financial year

22. The financial year of the Council shall be a period of 12 months, beginning on the 1st April of each year and ending on the 31st March of the subsequent year.

Accounts and audit

23. (1) The Council shall keep and maintain proper accounts and records of accounts in respect of every financial year relating to its assets, liabilities, income and expenditure, and shall prepare, in each financial year, a statement of such accounts.

(2) The accounts of the Council in respect of each financial year shall, within three months of the end of the financial year, be audited by an auditor appointed by the Board.

(3) The auditor shall report in respect of the accounts for each financial year, in addition to any other matter on which the auditor deems it pertinent to comment on, whether or not —

(a) the auditor has received all the information and explanation which, to the best of the auditor's knowledge and belief, were necessary for the performance of the auditor's duties;

(b) the accounts and related records of the Council have been properly kept;

(c) the Council has complied with all the financial provisions of this Act with which it is its duty to comply with; and

(d) the statement of accounts prepared by the Council was prepared on a basis consistent with that of the preceding year and represents a true and fair view of the transactions and financial affairs of the Council.

(4) The auditor's report and a copy of the audited accounts shall, within 14 days of completion, be forwarded to the Council by the auditor.

Pension and other funds

24. (1) The Council may, out of its revenues, establish and maintain such pension, superannuation, provident or other funds as it may consider desirable or necessary for the payment of benefits or other allowances on the death, sickness, injury, superannuation, resignation, retirement or discharge of its staff and may, make rules providing for the payment of money out of its revenues to such funds and providing for contributions to such funds by its staff.

(2) The Council may contract with insurance companies or such other bodies as may be appropriate for the maintenance and administration of the funds authorised under subsection (1).

Annual report

25. (1) The Council shall, within a period of six months after the financial year or within such longer period as the Minister may approve, submit, to the Minister, a comprehensive report of its operations during that year, together with the auditor's report and the audited accounts as provided for in section 23 and the report shall be published in such manner as the Minister may require.

(2) The Minister shall lay the annual report of the Council in Parliament, within three months of its receipt.

PART VII — *Establishment of Funds*

26. (1) The Vocational Training Fund established under the repealed Vocational Training Act is hereby continued under the name Human Resource Development Fund.

Human
Resource
Development
Fund

(2) There shall be paid into the Fund such monies as may be —

- (a) appropriated by Parliament into the Fund;
- (b) received by way of a levy imposed under section 30; and
- (c) received from any other source for payment into the Fund.

(3) There shall be paid out of the Fund such amounts as are required for the purpose of reimbursing employers who have incurred training costs for apprentices or trainers.

(4) The Board shall maintain with such a bank as the Minister may approve, a designated account into which shall be paid the levy and all the moneys paid into the Fund.

27. (1) The Minister may establish the Public Tertiary Education Institutions Fund.

Public Tertiary
Education
Institutions
Fund

(2) There shall be paid into the Fund such monies as may be —

- (a) appropriated by Parliament into the Fund;
- (b) charged for services provided;
- (c) provided by way of grants and donations; and
- (d) received from any other source for payment into the Fund.

(3) There shall be paid out of the Fund such amounts as are required for the purpose of funding public tertiary education institutions.

(4) The Board shall maintain with such a bank as the Minister may approve, a designated account into which shall be paid the moneys paid into the Fund.

28. (1) The Minister may establish the Tertiary Education Student Sponsorship Fund.

Tertiary Edu-
cation Student
Sponsorship
Fund

(2) There shall be paid into the Fund such monies as may be —

- (a) appropriated by Parliament into the Fund;
- (b) charged for services provided;
- (c) recovered from student loans; and
- (d) received from any other source for payment into the Fund.

(3) There shall be paid out of the Fund such amounts as are required for the purpose of funding public tertiary education students.

(4) The Board shall maintain with such a bank as the Minister may approve, a designated account into which shall be paid the moneys paid into the Fund.

Responsibility of Funds

29. The Council shall have the overall responsibility of the Funds and the Board shall manage the Funds.

Imposition of training levy

30. (1) The Minister may, after consultation with the Board, impose, by Order, a levy, which shall be payable into the Human Resource Development Fund.

(2) A levy Order may prescribe the level, exemption or payment procedures and any other matter relating to the enforcement of payment of levy.

PART VIII — *Miscellaneous Provisions*

Appeals

31. (1) There shall be established an Appeals Committee to hear appeals from education and training providers in relation to decisions of the Council.

(2) The Committee shall consist of five members appointed by the Minister.

(3) Subject to subsection (2), one of the members shall be an attorney admitted to practice law in the courts of Botswana in accordance with the Legal Practitioners Act, with no less than ten years experience who shall be the Chairperson of the Committee.

Cap. 61:01

(4) Subject to this Act, the Committee shall regulate its proceedings.

Power to require information

32. (1) The Council shall have the power to require, from any tertiary education institution and provider of work-place learning, such information including accounts, returns or estimates as the Council deems it necessary, to carry out its functions under this Act.

(2) If so requested by the Council, the tertiary education institution and provider of work-place learning under subsection (1) shall give the Council access to or provide it with such information as the Council may require and the Council shall be entitled to make copies or take extracts from any information.

(3) Information provided by any tertiary education institution and provider of work-place learning shall not be false or misleading.

(4) The Chief Executive Officer, employee or officer of the Council shall not disclose to any other person any information so acquired if that disclosure would be detrimental to the education and training provider the information was obtained from, except where —

- (a) civil or criminal proceedings arise involving that education and training provider;
- (b) the Chief Executive Officer, employee or officer of the Authority is summoned to appear before a court of competent jurisdiction in Botswana and the court orders the disclosure of the information; or
- (c) the information is required by the Chief Executive Officer, employee or officer, or by an auditor or legal representative of the Authority, who is entitled to know the information in the course of professional duties in matters related to the objectives of this Act.

(5) Any person who contravenes any of the provisions of this section commits an offence and is liable to a fine not exceeding P20 000, or to imprisonment for a term not exceeding five years, or to both.

33. No matter or thing done or omitted to be done by a member, any officer or employee of the Council shall, if the matter or thing is done or omitted to be done *bona fide* in the course of the operations of the Council, render such person, or any person acting by his or her direction, personally liable to an action, claim or demand.

Protection
from
personal
liability

34. The Chairperson shall, from time to time, submit to the Minister, reports with regard to matters relating to the activities of the Council which, in the opinion of the Board, should be brought to the notice of the Minister.

Reports to
Minister

35. (1) The Council may issue a code of practice and guidelines for any matter falling under its objectives under section 3.

Code of
practice and
Guidelines

(2) The Council may, as it considers appropriate, approve of any code of practice or guidelines, or any part of a code of practice or guidelines, drawn up by any other body and issue it as a code of practice for any matter falling under its objectives under section 3.

(3) Any code of practice issued under this section shall be for the purpose of providing guidance with respect to the requirements of the provisions of this Act.

36. The Minister may make regulations —

Regulations

- (a) specifying institutions or class of institutions which may be recognised as tertiary institutions by the Council;
- (b) define the qualifications that should ordinarily be required of any person to be appointed to the teaching staff of a tertiary institution;
- (c) define the minimum standards of instruction for the grant of any qualification by any tertiary institution;
- (d) regulate the maintenance of standards and the coordination of work facilities in tertiary institutions;
- (e) specify matters in respect of which fees may be charged and scales of fees in accordance with which fees may be charged by a public tertiary institution;
- (f) specify the manner in which an inquiry may be conducted on a tertiary institution;
- (g) specify the manner of registration of tertiary institutions;
- (h) for the establishment of the Funds referred to under Part VII of the Act;
- (i) for the better carrying out of the provisions of this Act; and
- (j) prescribing anything that under this Act requires to be prescribed.

Repeal
Cap. 57:04

Transitional
and
savings

37. The Tertiary Education Act is hereby repealed.

38. (1) Any subsidiary legislation made under the repealed Act, and in force immediately prior to the coming into operation of this Act shall, in so far as such legislation is consistent with the provisions of this Act, continue to be in force as if made under this Act.

(2) All rights, obligations, assets and liabilities which have accrued to the Council in terms of the repealed Act, shall, upon this Act coming into force, simultaneously pass and accrue to the Council and be dealt with in terms of this Act.

(3) Any disciplinary proceedings which, before the coming into operation of this Act, were pending shall be continued or enforced by or against the Council in the same manner as they would have been continued or enforced before the coming into operation of this Act.

(4) Any legal proceedings which, before the coming into operation of this Act, were pending shall be continued or enforced by or against the Council in the same manner as they would have been continued or enforced before the coming into operation of this Act.

(5) The Board of the Tertiary Education Council, established under section 3 of the repealed Act, shall, continue as if appointed under this Act.

(6) All employees of the Tertiary Education Council shall become the corresponding employees of the Council and shall continue in office for the period for which, and be subject to the conditions under which, they were appointed, as employees of the Tertiary Education Council.

PASSED by the National Assembly this 14th day of August, 2013.

BARBARA N. DITHAPO,
Clerk of the National Assembly.