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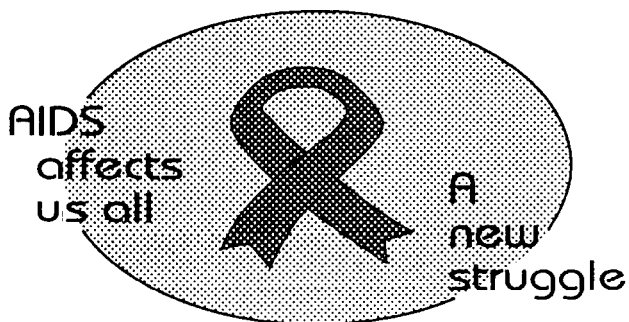
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DEPARTMENT OF HEALTH

G E N E R A L N O T I C E S

NOTICE 1444 OF 2000

DEPARTMENT OF EDUCATION

The Minister of Education hereby publishes the following draft Bills for comment:

- (A) Adult General Education and Training Bill, 2000;
- (B) Education Laws Amendment Bill, 2000;
- (C) General And Further Education And Training Quality Assurance Bill, 2000; and
- (D) Higher Education Amendment Bill, 2000

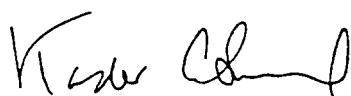
All interested persons and organisations are invited to comment in writing on the draft Bills and to direct the comments to:

The Director-General, Department of Education, Private Bag X895, Pretoria, 0001 for attention Ms M Locke. Fax No.: (012) 326 9128 or e-mail: locke.m@educ.gov.za, telephone number (012) 312 5356.

Kindly provide the name, address, telephone number, fax number and e-mail address of the person or organisation submitting the comments.

The comments should reach the Department not later than 23 April 2000.

Copies of the draft Bills and explanatory memoranda can be obtained from the Department of Education at the above address and the Government Printer in Pretoria.



PROFESSOR KADER ASMAL, MP
MINISTER OF EDUCATION

DATE:

28/3/2000

NOTICE 1446 OF 2000

GENERAL AND FURTHER EDUCATION AND TRAINING QUALITY ASSURANCE BILL, 2000

BILL

To provide for **quality assurance in general and further education and training**, for control over norms and standards of **subject matter and examination**, and for the **issuing of certificates at the exit points in general and further education and training**; and for that purpose to establish the **General and Further Education and Training Quality Assurance Council**; to provide for the composition and functions of the council; to provide for the conducting of examinations; and to provide for matters connected therewith.

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

Definitions

1. In this Act, unless the context otherwise indicates-
“**assessment**” means the **process of identifying, gathering and interpreting information about a learner’s achievement** in order to-
 - (a) assist the learner’s development and improve the process of learning and teaching; and
 - (b) evaluate and certify competence in order to ensure qualification credibility;“**certificate**” means a **certificate contemplated in section 9(1)(c)**;
“**council**” means the **General and Further Education and Training Quality Assurance Council established by section 2**;

“education department” means a department responsible for education at national level or a department responsible for education in a province;

“employee” means any person who is in the full-time or part-time employ of the council;

“(ex)amining body” means an education department or any other body registered with the council as a body responsible for conducting external examinations;

“exit point” means a stage in general or further education and training at which a candidate is required to demonstrate competence with a view to obtaining documentary proof of proficiency;

“external examination” means an examination at an exit point, taken by the candidates of an examining body;

“financial year” means a year ending on 31 March in each year;

“further education and training” means all learning and training programmed leading to qualifications from levels 2 to 4 of the National Qualifications Framework, which levels are above general education but below higher education;

“general education and training” means all learning and training programmed leading to a qualification on level¹ of the National Qualifications Framework, which level is below further education and training;

“Minister” means the Minister of Education;

“National Qualifications Framework” means the National Qualifications Framework as contemplated in the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995);

“provider” means a body which delivers learning programmed which culminate in a specified National Qualifications Framework standard or qualification, and manages the assessment thereof;

“raw marks” means the actual marks obtained by a candidate in a subject in an external examination before any adjustment of the marks is made by the council;

“South African Qualifications Authority” means the South African Qualifications Authority established by section 3 of the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995); and

“(verifier” means a person who is registered by the council to validate the internally conducted learner assessment as well as internal moderation processes.

Establishment of General and Further Education and Training Quality Assurance Council

2. (1) There is hereby established a council to be known as the General and Further Education and Training Quality Assurance Council.

(2) The council is a juristic person.

(3) The council must comply with the policies and criteria formulated by the South African Qualifications Authority in terms of section 5(1)(a)(ii) of the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995).

Object of council

3. The object of the council is to ensure that qualifications and credits awarded in general and further education and training, comply with the requirements of the South African Qualifications Authority, to ensure quality assurance in the general and further education and training bands and that the certificates issued by the council at an exit point, represent the same standard of education and assessment.

Composition of council

4. (1) The council consists of-

- (a) **one** member nominated by the Department of Education;
- (b) **one** member nominated by organised business and industry;
- (c) one member nominated by organised labour;
- (d) one member nominated by national organisations representing private providers of general and further education and training recognised by the Minister for this purpose;
- (e) one member nominated by non-governmental organisations and community based organisations recognised by the Minister for this purpose;
- (g) one member nominated by the Heads of Education Departments Committee;

- (g) one member nominated by the National Skills Authority established by **section 4 of the National Skills Development Act, 1998 (Act No. 97 of 1998);**
- (h) one member nominated by the **interim Adult Basic Education and Training** Advisory Board;
- (i) one member nominated by the Co-ordinating Committee for Early Childhood Development;
- (j) one member nominated by the National Board for Further Education and Training established by regulations made under the National Education Policy Act, 1996 (Act No. 27 of 1996);
- (k) one member nominated by the Council on Higher Education established by **section 4 of the Higher Education Act, 1997 (Act No. 101 of 1997);**
- (l) **one member nominated by national organisations representing distance education providers, recognised by the Minister for this purpose;**
- (m) three members nominated by the trade unions represented in the Education Labour Relations Council;
- (n) one member nominated by the South African Council for Educators;
- (o) one member nominated by the South African Qualifications Authority;
- (p) four members appointed by the Minister at his or her discretion, of whom one is appointed by the Minister as the chairperson; and
- (q) the chief executive officer appointed in terms of section 15, in his or her **official capacity;**

(2) The selection of members of the council must be undertaken in such a manner as to ensure, insofar as is practically possible, that-

- (a) the functions of the council in terms of this Act are performed according to the highest professional standards;
- (b) the membership taken as a whole-
 - (i) is broadly representative of the general and further education and training systems and related interests;
 - (ii) has thorough knowledge and understanding of general and further education and training;
 - (iii) appreciates the role of the general and further education and training systems in reconstruction and development;

- (iv) has known and attested commitment to the interests of general and further education and training;
- (v) has knowledge and understanding of accreditation, assessment and certification of general and further education and training programmed; and
- (vi) has experience in the statistical or financial field; and
- (c) due attention is given to the representivity of the council on such relevant factors as race, gender and disability.

(3) (a) The Minister must invite nominations for the appointment of members of the council from the bodies and organisations referred to in subsection (1).

(b) In respect of the bodies mentioned in subsection (1)(b) and (c) nominations must be invited by notice in the Gazette.

(4) (a) Organisations referred to in subsection (1)(d), (e) and (f) may apply to the Minister in writing for recognition as organisations that may nominate persons for appointment as members of the council.

(b) The Minister may at his discretion grant or refuse an application referred to in paragraph (a).

(5) The Minister appoints the members of the council except the chief **executive officer**, and must consider the nominations contemplated in subsection (2) in appointing the members of the council contemplated in subsection (1)(a) to (f).

(6) The chairperson and any member of the council, excluding the chief executive **officer**, hold office for a period of four years and may be reappointed at the expiry of his or her term of office.

(7) The chairperson and any member of the council excluding the chief executive officer, may not serve for more than two consecutive terms of office.

Vacation of office and filling of vacancies

5. (1) The chairperson or any member of the council shall vacate his or her office if he or she-

- (a) resigns by giving written notice to the chairperson, or in the case of the chairperson, to the Minister;

- (b) is absent from three consecutive meetings of the council, without leave of the council;
- (c) is declared insolvent, is removed from an office of trust by a court of law or is convicted of an offence for which the sentence is imprisonment without the option of a fine;
- (d) is declared unable to attend to his or her personal affairs by a court of law; or
- (e) ceases to represent the body or organisation that nominated him or her.

(2) The Minister may revoke the appointment of the chairperson or any member of the council appointed in terms of section 4(5) at any time before the expiry of his or her term of office if in the Minister's opinion there exist sound reasons for doing so.

(3) If the chairperson or a member of the council vacates his or her office, the resultant vacancy must be filled by appointment in accordance with section 4.

Committees of council

6. (1) The council may establish committees to assist it in the performance of its functions.

(2) A committee may include persons who are not members of the council.

(3) The chairperson of a committee is appointed by the council and must be a member of the council,

(4) Members of committees are appointed for such periods as the council may determine.

Meetings of council and committees

7. (1) Meetings of the council and its committees must be held at such times and places as may be determined by the chairperson concerned, but the chairperson must convene a meeting of the council at least twice a year or if asked to do so in writing by at least one third of the members of the council, or by the Minister, as the case may be.

(2) Whenever the chairperson is absent from any meeting of the council or a committee, the members present must appoint a person from among themselves to preside at that meeting.

(3) The council may make rules relating to the procedure at meetings of the council and its committees including the quorum at such meetings, and any other matter necessary or expedient for the performance of the functions of the council or its committees.

(4) The proceedings at a meeting of the council or a committee are not invalid by reason only of the fact that a vacancy exists on the council or committee, as the case may be, at the time of such meeting.

Remuneration and allowances of members of council and committees

8. The chairperson and a member of the council, and any person appointed as a member of a committee, who is not in the full-time employ of the State, may, in respect of the services rendered by him or her in connection with the affairs of the council or committee, be paid by the council-

(a) such traveling, subsistence and other allowances; and

(b) in the case of the chairperson of the council, such remuneration in addition, as the Minister with the concurrence of the Minister of Finance may determine from time to time.

Functions of council

9. (1) Subject to policy determined in terms of the National Education Policy Act, 1996 (Act No. 27 of 1996) the council must-

(a) monitor, audit and report on general and further education and training achievements and systems in terms of standards and qualifications registered on the National Qualifications Framework;

(b) recognise learner achievements in general and further education and training that meet the requirements of the council, and award qualifications and credits towards qualifications registered on the National Qualifications Framework, and also-

(i) manage assessment either directly or through accredited examining bodies or assessment agencies;

- (ii) **moderate across different accredited examining bodies and assessment agencies to ensure reliability and validity of external assessment;**
- (iii) **register verifiers of assessment;**
- (iv) **verify internally conducted assessments;**
- (v) **verify internal moderation processes; and**
- (vi) **ensure that internal and external quality management systems are in place;**
- (c) **issue certificates in the form prescribed by the council to candidates who, in one or more subjects at an exit point-**
 - (i) **have met the requirements set by the council for a certificate; and**
 - (ii) **have complied with every other condition determined by the council;**
- (d) **accredit general and further education and training providers, other than departments of education, for specific National Qualifications Framework standards and qualifications, and also-**
 - (i) **accredit those providers for delivery of learning programmed which culminate in specified standards and qualifications according to the criteria determined by the South African Qualifications Authority;**
 - (ii) **monitor provision by constituent providers; and**
 - (iii) **promote quality among constituent providers;**
- (e) **monitor and report to the Minister on the performance of departments of education as providers, and recommend steps to rectify any deficiencies;**
- (o) **recommend new standards and qualifications, or the modification of existing standards and qualifications, to the national standards bodies; and**
- (9) **maintain an acceptable data base and follow acknowledged recording and reporting procedures.**

(2) Subject to policy determined in terms of section 3(4) of the National Education Policy Act, 1996 (Act No. 27 of 1996), the council, with regard to external examination-

- (a) **must perform the external moderation of examination papers, memoranda and samples of examination scripts of all examining bodies;**
- (b) **must, in consultation with the Director-General and the examining body, approve the publication of the results of candidates if the council is satisfied that the examining body-**

- (i) conducted the examination free from any irregularity;
 - (ii) **complied with the requirements prescribed by the council for conducting examinations;**
 - (iii) **applied the norms and standards prescribed by the council and the South African Qualifications Authority, and with which a candidate is required to comply in those examinations in order to obtain a certificate; and**
 - (iv) **complied with every other condition determined by the council;**
- (c) **must** issue certificates as contemplated in subsection (1)(c);
- (d) may adjust raw marks during the standardisation process in consultation with the Director-General.

(3) Subject to the approval of the Minister, the council may register an examining body other than a department of education in accordance with criteria determined by the council.

(4) Subject to section 74 of the Higher Education Act, 1997 (Act No. 101 of 1997), the council may with the approval of a body authorised to determine the requirements for admission to study at a higher education institution, endorse a certificate of a candidate who has complied with the minimum requirements for admission to study at a higher education institution accordingly.

Functions of examining body with regard to external examination

10. In respect of an external examination to be conducted, an examining body, subject to policy determined in terms of section 3(4) of the National Education Policy Act, 1996 (Act No. 27 of 1996) -

- (a) must take adequate measures, including measures to combat irregularities in the examination venue and security measures for ensuring the confidentiality of examination papers, to ensure the integrity of the examinations;
- (b) must ensure that each paper is representative of the prescribed subject matter;
- (c) must ensure that each paper is moderated by at least one competent internal moderator;

- (d) **must submit a paper and memorandum to an external moderator** for confirmation that they conform to the required standards;
- (e) must ensure that a sample of the examination scripts is moderated by an external moderator;
- (f) must schedule a particular paper for a stipulated date and time on the examination time-table;
- (g) must supply the council on or before a date and in the form determined by the council, with a mark for each subject in which a candidate sat for examination;
- (h) must without delay and **in writing supply the council and the Director-General with full details of any irregularities that occurred in respect** of such examination as well as the steps taken with regard to such irregularities;
- (i) must publish the results of the examination after obtaining the approval of the council; and
- (j) may recommend to the council during the standardisation process that raw marks be adjusted.

Functions of Director-General with regard to external examination

11. With regard to external examination the Director-General-
- (a) must promote the integrity of the examination system;
 - (b) must monitor the conduct of the **council and the examination body** in upholding the minimum norms and standards set by the South African Qualifications Authority, or determined by policy; and
 - (c) may institute an investigation into any irregularities which may occur.

Fees payable to council

12. The council determines the fees payable to the **council in respect of-**
- (a) **the issue of a certificate as contemplated in section 9(1)c) or a duplicate certificate; and**
 - (b) **the endorsement of a certificate as contemplated in section 9(4) or of a duplicate certificate.**

Cancellation of certificates

13. (1) If in the opinion of the council a substantial irregularity has occurred in relation to the sitting for an examination, or if a certificate has been issued by the council to a candidate who in the opinion of the council has not complied with the norms and standards for obtaining that certificate, the council may refuse the issue of the relevant certificate or cancel a certificate that has been issued, as the case may be.

(2) For the purposes of such cancellation the council may by notice in writing direct the candidate to whom the certificate in question has been issued to return the certificate to the council within three weeks after such notice.

(3) Any person who fails to comply with such notice shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months.

Funds of council

14. (1) The funds of the council consist of-

- (a) money appropriated by Parliament;
- (b) donations and contributions received by the council;
- (c) moneys received by the council in respect of fees charged for services;
- (d) interest received on investments referred to in subsection (5);
- (e) money obtained by means of loans raised by the council with the approval of the Minister granted with the concurrence of the Minister of Finance; and
- (f) any other income received by the council.

(2) The council-

- (a) must keep record of all funds received and spent and of all assets, liabilities and financial transactions;
- (b) must in each financial year, at such time and in such manner as the Minister may determine, submit a statement of its estimated income and expenditure for the ensuing financial year, to the Minister for his or her approval granted with the concurrence of the Minister of Finance;

(c) may in **any** financial year submit adjusted statements of its estimated income and expenditure to the Minister for his or her approval, granted with the concurrence of the Minister of Finance; and

(d) may not incur any expenditure which exceeds the total amount approved in terms of paragraphs (b) and (c).

(3) If the Minister does not approve the council's statement of its estimated income and expenditure, the Minister must require the council to provide a revised statement to him or her within a specified period.

(4) The money contemplated in subsection (1) must be used by the council in accordance with the approved statement referred to in subsection (2), and any unexpended balance must be carried forward as a credit to the following financial year.

(5) Subject to subsection (4), the council may invest any portion of its funds in such manner as the Minister, with the concurrence of the Minister of Finance, may approve.

Appointment of chief executive officer and staff

15. (1) The council must appoint a chief executive officer and may appoint other employees as it may deem necessary to assist it to perform its functions.

(2) The secretariat of the council is the responsibility of the chief executive officer who must carry out the duties as assigned or delegated by the council.

(3) The council is the employer of the employees and must determine their remuneration, allowances, subsidies and other conditions of service, subject to the applicable labour law.

Functions of chief executive officer

16. (1) The chief executive officer must-

(a) be responsible for the work in connection with the performance by the council of its functions in terms of this Act;

(b) supervise the employees of the council;

(c) be accounting officer to the council charged with accounting for moneys received, payments made and movable property purchased by the council.

(2) The chief executive officer must be assisted in the performance of his or her functions in terms of subsection (1) by such employees of the council as the chief executive officer may designate for that purpose.

Alienation and encumbrance of council's property

17. The council shall not without the prior approval of the Minister granted with the concurrence of the Minister of Finance-

- (a) let, sell, exchange or otherwise alienate its immovable property;
- (b) as long as a guarantee in terms of section 70 of the Public Finance Management Act, 1999 (Act No. 1 of 1999), is in force in respect of any loan granted to the council-
 - (i) mortgage or otherwise encumber its immovable property acquired with money obtained by means of that loan; and
 - (ii) let, sell, exchange or otherwise alienate, or hypothecate or otherwise encumber its movable property acquired with money obtained by means of that loan.

Auditing and annual report

18. (1) The statements of account and balance sheet of the council shall be audited at the end of each financial year by a person registered as an accountant and auditor in terms of the provisions of the Public Accountants' and Auditors' Act, 1991 (Act No. 80 of 1991), and appointed by the council with the approval of the Director-General.

(2) The council must not later than three months after the end of each financial year submit to the Minister a report in such form as the Minister may determine on its functions during that financial year, including an audited balance sheet and a statement of income and expenditure.

(3) The Minister must table the report, including the balance sheet and statement of income and expenditure referred to in subsection (2), in parliament within 14 days, after receipt thereof, if Parliament is then in ordinary session, or, if Parliament is not then in ordinary session, within 14 days after the commencement of its next ensuing ordinary session

Information to be provided to and by council

19. (1) Every education department, every provider of general or further education and training, every institution where general or further education and training is provided and every examining body must provide the council with such information as the council may reasonably require for the performance of its functions in terms of this Act.

(2) The council must on request provide such information as may be reasonably required by any body or organisation referred to in subsection (1).

Regulations

20. The Minister may make regulations on any matter which may or must be prescribed by regulation in terms of this Act, and any matter which is necessary or expedient to prescribe in order to achieve the objects of this Act.

Repeal of law

21. The South African Certification Council Act, 1986 (Act No. 85 of 1986), is hereby repealed.

Transitional arrangements

22. (1) Despite section 21, the South African Certification Council established by section 2 of the South African Certification Council Act, 1986 (Act No. 85 of 1986), continues to perform the functions which it performed prior to the commencement of this Act, until the date on which the council is constituted in terms of section 4 of this Act.

(2) The Minister must immediately after the commencement of this Act, initiate the process to constitute the council as contemplated in section 4.

(3) For the purposes of subsection (2), the Minister must identify bodies to nominate the members of the council referred to in paragraphs (d), (e) and (1) of subsection (1) of section 4.

(4) All assets which vested in the South African Certification Council referred to in subsection (1) immediately prior to the date referred to in that subsection, vest in the council on that date.

(5) Existing agreements of employment between the South African Certification Council and its employees, must on the date referred to in subsection (1), be deemed to be agreements entered into between those **employees and the council and must continue to exist subject to applicable labour laws, and those employees must be deemed to have served continuously under the same employer without interruption.**

Short title

23. This Act is the General and Further Education and Training Quality Assurance Act, 2000.

EXPLANATORY MEMORANDUM TO THE GENERAL AND FURTHER EDUCATION
AND TRAINING QUALITY ASSURANCE BILL, 2000

1. INTRODUCTION

This Bill provides for quality assurance in general and further education and training. It establishes, for that purpose, the General and Further Education and Training Quality Assurance Council.

2. BACKGROUND

The Department of Education appointed a task team to investigate, develop and produce a suitable quality assurance model for the general and further education and training bands. After extensive consultations with all relevant stakeholders and also with quality assurance authorities in Scotland and Canada, the task team proposed a model which was accepted by the Heads of Education Department Committee.

3. REASONS FOR AND SUBSTANCE OF BILL

3.1 This Bill creates a general and further education and training quality assurer on the basis of the model proposed by the task team. The intention with this legislation is to move from an examination driven system to a system that provides for quality assurance of standard.

3.2 Provision is made for a wide range of bodies and organisations to be represented on the council. Nominations will be invited from these bodies and organisations and the Minister will appoint the members. The council will be broadly representative of the general and further education and training systems and related interests, and will also have knowledge and understanding of accreditation, assessment and certification.

3.3 The object of the council is to ensure that qualifications and credits awarded comply with requirements of the South African Qualifications

Authority, and to ensure quality assurance in general and further education and training.

3.4 The main function of the council is to audit and monitor general and further education and training achievements, and to perform all related functions such as the management of assessment, moderation, accrediting of providers and the issuing of certificates.

3.5 The functions of examining bodies and of the Director-General with regard to the viewing and elimination of irregularities during examinations are set out in the Bill.

4. DISCUSSION

A Bill has been drafted that incorporates the above model as proposed by the task team.

5. THE BILL AND THE EDUCATION SYSTEM

The Bill is designed to improve the quality of general and further education and training. In this regard the Bill establishes a Quality Management System at 4 levels.

5.1 At school level, governing bodies, the school principal and management will be responsible for ensuring quality in terms of general school management and of teaching, learning and assessment.

5.2 At district level there will be two components of quality assurance. These would include

The professional support service who will be Responsible for ensuring quality in teaching, learning and assessment of particular subject areas. These education specialists will be registered by the Education and Training Quality Assurer for the purpose of external verification of the learners' assessment conducted by educators.

Supervisor Inspection Service will be responsible for quality in the management and administration of the institution.

5.3 The professional support **service as well as the district supervisory inspection** service will report to both the provincial department as well as to the council on the functioning of the system.

5.4 At national level the whole school reviews will be carried out at regular intervals.

6. **PARLIAMENTARY PROCEDURE**

The Department and the Chief State Law Adviser are of the opinion that this Bill must be dealt with in terms of sections 73 and 76 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996).