

REPUBLIC OF SOUTH AFRICA

FURTHER EDUCATION AND TRAINING COLLEGES AMENDMENT BILL

*(As amended by the Portfolio Committee on Higher Education and Training
(National Assembly))*

(MINISTER OF HIGHER EDUCATION AND TRAINING)

[B 24B—2012]

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GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Further Education and Training Colleges Act, 2006, so as to amend certain definitions; to amend the provisions relating to the establishment of a public college; to establish the South African Institute for Vocational and Continuing Education and Training; to provide for the composition, functions and functioning of the Institute; to provide for transitional arrangements, the repeal of the Adult Education and Training Act, 2000, and the amendment of certain other laws; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 16 of 2006, as amended by section 9 of Act 25 of 2010 and section 1 of Act 3 of 2012

1. Section 1 of the Further Education and Training Colleges Act, 2006 (hereinafter referred to as the principal Act), is hereby amended— 5

(a) by the substitution for the definition of “college” of the following definition:

“ ‘college’ means—

(a) a public **[or private further education and training institution]** college that is established or declared as— 10

(i) a technical and vocational education and training college; or

(ii) a community education and training college; or

(b) a private college that is established, declared or registered under this Act, 15

but does not include[—

(a) a school offering further education and training programmes under the South African Schools Act; or

(b)] a college under the authority of a government department other than the Department **[of Education]**;”;

(b) by the insertion after the definition of “college statute” of the following definition: 20

“ ‘continuing education and training’ means all learning and training programmes leading to qualifications or part-qualifications at levels 1 to 4 of the National Qualifications Framework contemplated in the National Qualifications Framework Act, 2008 (Act No. 67 of 2008), provided for at a college in terms of this Act;”;

- (c) by the deletion of the definitions of “further education and training” and “general education”;
- (d) by the insertion after the definition of “higher education” of the following definition:
- “**‘Institute’** means the South African Institute for Vocational and Continuing Education and Training established by the Minister in terms of section 43A;”;
- (e) by the substitution for the definition of “National Qualifications Framework” of the following definition:
- “**‘National Qualifications Framework’** means the [National Qualifications Framework as defined in] national qualifications framework contemplated in Chapter 2 of the [South African Qualifications Authority Act, 1995 (Act No. 58 of 1995)] National Qualifications Framework Act, 2008 (Act No. 67 of 2008);”;
- (f) by the substitution for the definition of “private college” of the following definition:
- “**‘private college’** means any college that provides [further] continuing education and training on a full-time, part-time or distance basis and which is registered or provisionally registered as a private college under Chapter 6 of this Act;”;
- (g) by the substitution for the definition of “public college” of the following definition:
- “**‘public college’** means any college that provides [further] continuing education and training on a full-time, part-time or distance basis and which is—
- (a) established or regarded as having been established as a public college under section 3 of this Act; or
- (b) declared as a public college under section 4 of this Act;”;
- (h) by the substitution for the definition of “to provide further education and training” of the following definition:
- “**‘to provide [further] continuing education and training’** means—
- (a) to register students for all learning and training programmes leading to qualifications or part-qualifications at levels [2] 1 to 4 of the National Qualifications Framework [or such further education and training levels determined by SAQA and contemplated in the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), which levels are above general education but below higher education] provided for at a college in terms of this Act; and
- (b) to take responsibility for the registration of students, the provision and delivery of the curriculum and the assessment of students;”.

Amendment of section 3 of Act 16 of 2006, as amended by section 2 of Act 3 of 2012

2. Section 3 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
- “(1) The Minister, after consultation with the Institute, may, by notice in the *Gazette* and from money appropriated for this purpose, establish a public—
- (a) technical and vocational education and training college; or
- (b) community education and training college.”;
- (b) by the insertion after subsection (1) of the following subsection:
- “(1A) A notice referred to in subsection (1) must set out—
- (a) the date of the establishment of the college;
- (b) whether the college is a technical and vocational education and training college or whether the college is a community education and training college;
- (c) the name of the college; and
- (d) the physical location and address of the college.”; and
- (c) by the substitution for subsection (2) of the following subsection:
- “(2) Every public college contemplated in subsection (1)(a) or (b) is a juristic person.”.

Amendment of section 4 of Act 16 of 2006, as amended by section 3 of Act 3 of 2012

3. Section 4 of the principal Act is hereby amended—

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

“(1) The Minister may, by notice in the *Gazette*, declare any institution providing **[further]** continuing education and training as a public college.”; and
- (b) by the substitution in subsection (3)(b) for subparagraph (i) of the following subparagraph:

“(i) published a notice in one or more newspapers circulating in the area in which the institution provides **[further]** continuing education and training, containing the reasons for the declaration referred to in subsection (1);”.

Amendment of section 10 of Act 16 of 2006, as amended by section 8 of Act 3 of 2012

4. Section 10 of the principal Act is hereby amended by the substitution in subsection (7) for paragraphs (b), (c) and (d) of the following paragraphs, respectively:
- “(b) the council or interim council is broadly representative of the **[further]** continuing education and training system and related interests;
 - (c) the members have a thorough knowledge and understanding of the **[further]** continuing education and training sector;
 - (d) the members appreciate the role of **[further]** continuing education and training in reconstruction and development; and”.

Amendment of section 11 of Act 16 of 2006

5. Section 11 of the principal Act is hereby amended by the addition of the following subsections:

- “(6) The Minister may, by notice in the *Gazette*, determine that a community education and training college specified in that *Gazette* does not require an academic board contemplated in section 9(1) if—
 - (a) the diversity of qualifications or part-qualifications do not justify the establishment of an academic board; and
 - (b) the decision is taken in the best interest of the college and delivering of continuing education and training within that college.
- (7) If the Minister publishes a notice in terms of subsection (6), the Department must perform the functions of the academic board applicable to the college.”.

Amendment of section 17 of Act 16 of 2006, as amended by section 10 of Act 3 of 2012

6. Section 17 of the principal Act is hereby amended by the substitution in subsection (3) for paragraphs (a) and (b) of the following paragraphs, respectively:

- “(a) determine admission requirements in respect of particular **[further]** continuing education and training **[programmes]** qualifications or part-qualifications;
- (b) determine the number of students who may be admitted for a particular **[further]** continuing education and training **[programme]** qualification or part-qualification and the manner of their selection;”.

Amendment of section 22 of Act 16 of 2006, as amended by section 14 of Act 3 of 2012

7. Section 22 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph (b) of the following paragraph:

- “(b) different conditions in respect of different public colleges, different **[further]** continuing education and training **[programmes]** qualifications or part-qualifications or different allocations, if there is a reasonable basis for such differentiation.”.

Amendment of section 24 of Act 16 of 2006, as amended by section 16 of Act 3 of 2012

8. Section 24 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (g) of the following paragraph:

“(g) money payable by students for **[further] continuing** education and training **[programmes] qualifications or part-qualifications** provided by the public college;”.

Amendment of section 28 of Act 16 of 2006, as amended by section 19 of Act 3 of 2012

9. Section 28 of the principal Act is hereby amended by the substitution for the words preceding paragraph (a) of the following words:

“No person other than a public college or an organ of state may provide **[further] continuing** education and training unless that person is—”.

Amendment of section 30 of Act 16 of 2006

10. Section 30 of the principal Act is hereby amended by the substitution in subsection (1)(b) for the words preceding subparagraph (i) of the following words:

“with regard to all its **[further] continuing** education and training **[programmes] qualifications or part-qualifications—**”.

Amendment of section 36 of Act 16 of 2006

11. Section 36 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The registrar may not amend the registration or provisional registration of a private college unless he or she is satisfied that such amendment is in the interests of **[further] continuing** education and training and is compatible with this Act.”.

Amendment of section 39 of Act 16 of 2006

12. Section 39 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) If the accreditation of any **[further] continuing** education and training **[programme] qualification or part-qualification** offered by a private college is withdrawn, the registrar must review the registration of such college.”.

Amendment of section 42 of Act 16 of 2006

13. Section 42 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading:

“Promotion of quality in [further] continuing education and training”; and

(b) by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) promote quality in **[further] continuing** education and training; and”.

Amendment of section 43 of Act 16 of 2006

14. Section 43 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading:

“[Further] Continuing education and training [programmes] qualifications or part-qualifications”; and

(b) by the substitution for subsection (1) of the following subsection:

“(1) The Minister may prescribe minimum norms and standards for **[further] continuing** education and training **[programmes] qualifications or part-qualifications** that are offered at colleges.”.

Insertion of Chapter 7A in Act 16 of 2006

15. The following Chapter is hereby inserted in the principal Act after Chapter 7:

“CHAPTER 7A

SOUTH AFRICAN INSTITUTE FOR VOCATIONAL AND CONTINUING EDUCATION AND TRAINING

5

Establishment of Institute

43A. The Minister must establish a South African Institute for Vocational and Continuing Education and Training as a juristic person.

Functions of Institute

- 43B.** (1) The Institute must— 10
- (a) assist and support the Minister, SAQA, the relevant Quality Council and colleges in the provision of opportunities for and encouraging lifelong learning; 15
 - (b) assist and support the Minister in the development of distance education and training, including open learning; 15
 - (c) assist and support colleges in the development of learning, teaching and assessment materials;
 - (d) assist and support the development of public colleges and the development of a skills system;
 - (e) assist in the development of a curriculum for every public college and ensure that curriculum development is institutionalised within a technical and vocational education and training college or a community education and training college, as the case may be, with long term capacity; 20
 - (f) conduct research and contribute to innovate development in continuing education and training; 25
 - (g) undertake and promote research in the areas of teaching and learning in vocational and occupational programmes that would lead to qualifications or part-qualifications;
 - (h) advise the Minister on any matter in respect of vocational and continuing education and training; 30
 - (i) develop material for career guidance;
 - (j) develop capacity and upgrade college teaching staff skills in vocational and continuing education and training;
 - (k) provide management training in every college; 35
 - (l) provide management, leadership and operational training at all levels for Services Education and Training Authorities established in terms of section 9 of the Skills Development Act, 1998 (Act No. 97 of 1998);
 - (m) provide management, leadership and operational training for officials of the Department; 40
 - (n) promote dialogue between colleges and between employers and Sector Education and Training Authorities;
 - (o) interact with professional councils and promote dialogue between those councils and education and training institutions and the Department; 45
 - (p) publish a journal containing information in respect of continuing education and training and skills development;
 - (q) establish and maintain a library information service in order to support the Institute and the institutions served by the Institute; and
 - (r) conduct and promote labour market research. 50

Board of Institute

43C. (1) The Institute performs its functions through, and is governed, managed and administered by, a board.

(2) The board of the Institute consists of—

- (a) a chairperson; and
 - (b) not less than nine ordinary members and not more than 15 ordinary members.
- (3) The chairperson and members contemplated in subsection (2) are appointed by the Minister from nominations received in the manner prescribed for a term of office not exceeding a period of five years. 5
- (4) The Minister may renew the term of office of members contemplated in subsection (2) for one additional period not exceeding five years.

Vacation of office and filling of vacancies

- 43D.** (1) A person ceases to be a member of the board if he or she— 10
- (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 board without the leave of the board;
 - (c) is declared insolvent, removed from an office of trust by a court of law, convicted of an offence involving dishonesty or an offence for which the sentence is imprisonment without the option of a fine; or 15
 - (d) is declared unfit to attend to his or her personal affairs by a court of law.
- (2) Notwithstanding subsection (1), the Minister may terminate a person's membership of the board on good cause shown and in accordance with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2004). 20
- (3) A vacancy as a result of subsection (2) must be filled by the Minister in accordance with section 43C(3).
- (4) A person appointed to fill a vacancy in terms of this section holds office for the unexpired period of the term of office of his or her predecessor. 25

Funds and accountability of Institute

- 43E.** (1) The funds of the Institute consist of—
- (a) money appropriated by Parliament;
 - (b) fees or charges for services rendered;
 - (c) interest on fees or charges for services rendered;
 - (d) donations or contributions; and
 - (e) any other income accruing to or received by the Institute. 30
- (2) The Institute—
- (a) must keep record of all— 35
 - (i) funds received and spent;
 - (ii) assets and liabilities; and
 - (iii) financial transactions;
 - (b) must, in each financial year, submit to the Minister by not later than 31 August of each year, and in such manner as the Minister may determine, a statement of estimated income and expenditure for the ensuing financial year, for approval by the Minister with the concurrence of the Minister of Finance; 40
 - (c) may, in any financial year, submit an adjusted statement of its estimated income and expenditure to the Minister, for approval by the Minister with the concurrence of the Minister of Finance; and 45
 - (d) may not incur any expenses which exceed the total amount approved in terms of paragraph (b) or (c).
- (3) If the Minister does not approve of the Institute's statement of estimated income and expenditure or adjusted statement of estimated income and expenditure, the Institute must submit a revised statement to the Minister within a period specified by the Minister. 50
- (4) (a) The money contemplated in subsection (1) must be used in accordance with the approved statement referred to in subsection (2) or (3).
- (b) Any balance not spent within the financial year in question must be carried over as a credit to the next financial year. 55
- (5) Subject to subsection (4), the board may invest any portion of its funds in such manner as the Minister, with the concurrence of the Minister of Finance, may approve.

(6) Subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999), the board—

- (a) is the accounting authority for the Institute;
- (b) is charged with the responsibility of accounting for monies received or payment made by the Institute; and
- (c) must cause the necessary accounting and other related records to be kept.

(7) The accounts, financial statements and records of the Institute must be audited annually.

Intervention by Minister

43F. (1) The Minister may issue a directive to the board to take such action specified by the Minister if the Institute—

- (a) is involved in financial impropriety or is being otherwise mismanaged;
- (b) is unable to perform its functions effectively due to dissension among board members;
- (c) has acted unfairly or in a discriminatory or inequitable way towards a person to whom it owes a duty in terms of this Act;
- (d) has failed to comply with any law;
- (e) has failed to comply with any directive given by the Minister in terms of this Act; or
- (f) has obstructed the Minister or a person authorised by the Minister from performing a function in terms of this Act.

(2) A directive contemplated in subsection (1) must state—

- (a) the nature of the deficiency;
- (b) the steps which must be taken to remedy the situation; and
- (c) a reasonable period within which the steps contemplated in paragraph (b) must be taken.

(3) Before making a decision in terms of subsection (1), the Minister must, subject to the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2002)—

- (a) give notice to the board of the intention to issue a directive;
- (b) give the board a reasonable opportunity to make representations; and
- (c) consider the representations contemplated in paragraph (b).

(4) (a) If the board fails to comply with a directive within the stated period, the Minister must dissolve the board and appoint an administrator to take over the finances of the board.

(b) For the purposes of paragraph (a), sections 43G, 43H and 43I apply with the changes required by the context.

(5) If the Minister appoints an administrator in terms of subsection (4), the administrator may perform all the functions of the Institute and an employee of the Institute must comply with a directive given by the administrator.

(6) The costs associated with the appointment of an administrator shall be for the account of the Institute.

Appointment of administrator

43G. (1) Notwithstanding any other provision of this Act, the Minister may, after consultation with the board if practicable, appoint a person as administrator to take over the governance, management and administration of the Institute and to perform the functions of the Institute if any one of or if any combination of or if all of the following circumstances occur:

- (a) An audit of the accounts, financial statements and records of the Institute or a report by a Ministerial Committee reveals financial or other maladministration of a serious nature or the serious undermining of the effective functioning of the Institute;
- (b) any other circumstances arise that reveals financial or other maladministration of a serious nature or the serious undermining of the effective functioning of the Institute; or
- (c) the board requests such appointment.

(2) The Minister may act in terms of subsection (1)(a) or (b) only if the appointment of an administrator is in the interests of the Institute and continuing education and training in an open and democratic society.

(3) (a) The Minister appoints an administrator in terms of subsection (1) for such period as may be determined by the Minister but such period may not exceed two years.

(b) The Minister may extend the period contemplated in paragraph (a) once for a period not exceeding six months.

Assistance to administrator

43H. An administrator appointed in terms of section 43G may, with the approval of the Minister, appoint any other person with suitable knowledge and experience to assist him or her in the performance of his or her functions.

Remuneration and allowances

43I. The Minister, with the approval of the Minister of Finance, may determine the remuneration and allowances to be paid to the administrator and to any other person appointed in terms of section 43H.

Dissolution of board

43J. The board is dissolved from the date on which the Minister appoints the administrator in terms of section 43G(3)(a).

Closure and disestablishment of Institute

43K. (1) The Minister may, by notice in the *Gazette*, close and disestablish the Institute.

(2) Before making a decision under subsection (1) the Minister must, subject to the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000)—

- (a) give notice to the board of the intention to issue a directive;
- (b) give the board a reasonable opportunity to make representations; and
- (c) consider those representations.

(3) If the Institute is closed and disestablished in terms of subsection (1), all assets and liabilities must, after such closure and disestablishment, be dealt with by the Minister according to the law and any assets remaining after payment of all liabilities vest in the State.

(4) Any immovable property belonging to the Institute must be transferred to the State.”.

Amendment of section 45 of Act 16 of 2006, as amended by section 28 of Act 3 of 2012

16. Section 45 of the principal Act is hereby amended by the deletion of subsection (3).

Amendment of section 46 of Act 16 of 2006, as amended by section 29 of Act 3 of 2012

17. Section 46 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (c) of the following paragraph:

“(c) the appointment is in the interests of [further] continuing education and training in an open and democratic society.”.

Amendment of section 48 of Act 16 of 2006

18. Section 48 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for paragraphs (a) and (b) of the following paragraphs, respectively:

- “(a) offers or pretends to offer any **[further]** continuing education and training **[programme]** qualification or part-qualification;
- (b) confers a **[further]** continuing education and training qualification or part-qualification that purports to have been granted by a college or in collaboration with a college; or”;
- (b) by the substitution for subsection (2) of the following subsection:
 - “(2) Any person who pretends that a **[further]** continuing education and training qualification or part-qualification has been awarded to him or her by a college whereas in fact no such qualification or part-qualification has been so awarded is guilty of an offence and is liable on conviction to any sentence which may be imposed for fraud.”; and
- (c) by the substitution for subsection (5) of the following subsection:
 - “(5) Any person who claims that he or she is offering a **[further]** continuing education and training qualification or part-qualification that is registered with the National Qualifications Framework whereas such qualification or part-qualification is not so registered is guilty of an offence and is liable on conviction to any sentence that may be imposed for fraud.”.

Substitution of section 52 of Act 16 of 2006

19. The following section is hereby substituted for section 52 of the principal Act:

“Application of Act when in conflict with other laws

52. This Act prevails over any other law dealing with **[further]** continuing education and training other than the Constitution of the Republic of South Africa, 1996.”.

Substitution of section 59 of Act 16 of 2006

20. The following section is hereby substituted for section 59 of the principal Act:

“Short title

59. This Act is called the **[Further]** Continuing Education and Training **[Colleges]** Act, 2006.”.

Amendment of Schedule 1 to Act 16 of 2006, as amended by section 33 of Act 3 of 2012

21. Schedule 1 to the principal Act is hereby amended—
- (a) by the substitution in item 1 for the words preceding the definition of “academic board” of the following words:
 - “In this Statute, unless the context indicates otherwise, any word or expression to which a meaning has been ascribed in section 1 of the Act bears the meaning so ascribed, and—”;
 - (b) by the deletion of the definitions of “further education and training” and “further education and training college”;
 - (c) by the deletion of the definition of “NBFET”;
 - (d) by the deletion of the definition of “public college”;
 - (e) by the substitution for the definition of “the Act” of the following definition:
 - “**‘the Act’** means the **[Further]** Continuing Education and Training **[Colleges]** Act, 2006;”;
 - (f) by the deletion of the definition of “to provide further education and training”.

Substitution of Preamble of Act 16 of 2006

22. The following Preamble is hereby substituted for the Preamble of the principal Act:

“PREAMBLE

WHEREAS it is desirable to— 5

ESTABLISH a national co-ordinated **[further]** continuing education and training system which promotes co-operative governance and provides for programme-based vocational and occupational training;

RESTRUCTURE AND TRANSFORM programmes and colleges to respond better to the human resources, economic and development needs of the Republic; 10

REDRESS past discrimination and ensure representivity and equal access;

ENSURE access to basic adult education, further education and training and the workplace through continuing education and training by persons who have been marginalised in the past, such as women, the disabled and the disadvantaged; 15

PROVIDE optimal opportunities for learning, the creation of knowledge and the development of intermediate to high level skills in keeping with international standards of academic and technical quality;

PROMOTE the values which underlie an open and democratic society based on human dignity, equality and freedom; 20

ADVANCE strategic priorities determined by national policy objectives at all levels of governance and management within the **[further]** continuing education and training sector;

RESPECT and encourage democracy and foster a collegial culture which promotes fundamental human rights and creates an appropriate environment for teaching and learning; 25

PURSUE excellence, and promote the full realisation of the potential of every student and member of staff, tolerance of ideas and appreciation of diversity; 30

RESPOND to the needs of the Republic, the labour market and the communities served by the colleges; and

COMPLEMENT the National Skills Development Strategy **[in co-operation with the Department of Labour]**;

AND WHEREAS it is desirable for **[further]** community education and training colleges and technical and vocational education and training colleges to perform specific functions by offering basic adult education and further education contemplated in section 29(1) of the Constitution of the Republic of South Africa, 1996, within the context of public accountability and the national need for intermediate to high level skills and knowledge and to provide access to work and higher education,”. 35 40

Substitution of long title of Act 16 of 2006

- 23.** The following long title is hereby substituted for the long title of the principal Act:
 “To provide for the regulation of **[further]** continuing education and training; to provide for the establishment, governance and funding of public **[further]** technical and vocational education and training colleges and public community education and training colleges; to provide for the employment of staff at **[public further education and training]** those colleges; to provide for the registration of private **[further education and training]** colleges that offer continuing education and training qualifications and part-qualifications; to provide for the establishment of the South African Institute for Vocational and Continuing Education and Training; to provide for the promotion of quality in **[further]** continuing education and training; to provide for transitional arrangements and the repeal or amendment of laws; and to provide for matters connected therewith.”.

Repeal or amendment of laws

- 24.** The laws mentioned in the Schedule are hereby repealed or amended to the extent set out in the third column thereof.

Transitional provisions

- 25.** (1) (a) For the purposes of this subsection, “college” has the meaning ascribed to it in the definition of “public college” in the principal Act as it existed immediately before this Act took effect.
- (b) Any college that is in existence immediately before the commencement of this Act continues to exist as a vocational and continuing education and training college and is deemed to have been established as a technical and vocational education and training college in terms of section 3(1)(a) of the principal Act as amended by this Act.
- (c) Any member of a council, academic board and student representatives council of a college appointed in terms of the principal Act as it existed immediately before this Act took effect and who is in office immediately before the commencement of this Act, continues to be a member of such council or board and continues to perform the functions of the council or board of the technical and vocational education and training college deemed to have been established in terms of section 3(1)(a) of the principal Act as amended by this Act, until the term of office of such member expires.
- (d) Any regulation, policy or college statute made in terms of the principal Act and that was applicable to a college immediately before the commencement of this Act, continues to exist to the extent that such regulation, policy or college statute is applicable to the technical and vocational education and training college deemed to have been established in terms of section 3(1)(a) of the principal Act as amended by this Act.
- (e) Any process or action which was started by a college before the commencement of this Act is deemed to be a process or an action which was started by the technical and vocational education and training college deemed to have been established in terms of section 3(1)(a) of the principal Act as amended by this Act.
- (f) Any employee of a college who was employed by the State or a college immediately before the commencement of this Act continues to be employed by the State or the technical and vocational education and training college deemed to have been established in terms of section 3(1)(a) of the principal Act as amended by this Act.
- (g) All assets, rights, liabilities and obligations of a college that vested in the college immediately before the commencement of this Act continue to vest in the technical and vocational education and training college deemed to have been established in terms of section 3(1)(a) of the principal Act as amended by this Act.
- (2) (a) For the purposes of this subsection and subsection (3)—
- (i) “AET Act” means the Adult Education and Training Act, 2000 (Act No. 52 of 2000);
- (ii) “AET Centre” means a public Adult Education and Training Centre that is in existence immediately before the commencement of this Act and that was established as a public Adult Education and Training Centre in terms of sections 3(1)(b) of the AET Act.
- (b) An AET Centre continues to exist and is deemed to have been established as a community education and training college in terms of section 3(1)(b) of the principal Act as amended by this Act.

(c) Any member of a governing body of an AET Centre appointed in terms of the AET Act and who are in office immediately before the commencement of this Act, is deemed to be a member of and must perform the functions of the council of the community education and training college deemed to have been established in terms of section 3(1)(b) of the principal Act as amended by this Act, until the term of office of such member expires. 5

(d) Any regulation or policy made or deemed to have been made in terms of the AET Act and that was applicable to an AET Centre immediate before the commencement of this Act continues to exist to the extent that such regulation or policy is applicable to the community education and training college deemed to have been established in terms of section 3(1)(b) of the principal Act as amended by this Act. 10

(e) Any process or action which was started by an AET Centre before the commencement of this Act is deemed to be a process or an action which was started by the community education and training college deemed to have been established in terms of section 3(1)(b) of the principal Act as amended by this Act. 15

(f) Any employee who worked at an AET Centre and who was employed by the State or the AET Centre immediately before the commencement of this Act continues to be employed by the State or the community education and training college deemed to have been established in terms of section 3(1)(b) of the principal Act as amended by this Act. 20

(g) All assets, rights, liabilities and obligations that vested in an AET Centre immediately before the commencement of this Act continue to vest in the community education and training college deemed to have been established in terms of section 3(1)(b) of the principal Act as amended by this Act. 25

(3) (a) Subject to paragraph (b), a private AET Centre registered in terms of sections 26 and 27 of the AET Act, the registration of which is still valid immediately before the commencement of this Act, is deemed to be provisionally registered in terms of the principal Act as amended by this Act for the duration of the registration period set in terms of the AET Act. 30

(b) A private adult education and training centre referred to in paragraph (a) must, within 12 months from the date of commencement of this Act or such extended period as the Minister may determine by notice in the *Gazette*, apply to be registered in terms of the principal Act as amended by this Act. 35

Short title and commencement

26. This Act is called the Further Education and Training Colleges Amendment Act, 2012, and comes into operation on a date determined by the President by notice in the *Gazette*. 35

SCHEDULE**LAWS AMENDED OR REPEALED***(Section 24)*

No. and year of Act	Short Title	Extent of repeal or amendment
Adult Education and Training Act, 2000	Act No. 52 of 2000	The whole
Education Laws Amendment Act, 2002	Act No. 50 of 2002	Sections 27, 28, 29 and 30
Education Laws Amendment Act, 2007	Act No. 31 of 2007	Sections 22, 23 and 24
Higher Education and Training Laws Amendment Act, 2010	Act No. 25 of 2010	Sections 1, 2, 3, 4, 5, 6, 7 and 8

MEMORANDUM ON THE OBJECTS OF THE FURTHER EDUCATION AND TRAINING COLLEGES AMENDMENT BILL, 2012

1. MAIN OBJECT OF BILL

- 1.1.1 The main object of the Bill is to amend the Further Education and Training Colleges Act, 2006 (Act No. 16 of 2006) (“the FETC Act”), in order to provide for the inclusion of a second type of institution within the existing legal framework, as set out in this Bill. The two institutional types will be Vocational and Continuing Education and Training Colleges (“VCET Colleges”) and Community Education and Training Colleges (“CET Colleges”), identified in the Green Paper for Post-School Education and Training, 2012 (“the Green Paper”).
- 1.1.2 The proposed amendments seek to convert existing Further and Education Training Colleges (“FET Colleges”) established under the FETC Act into VCET Colleges and to convert Adult Education and Training Centres (“AET Centres”), established in terms of the Adult Education and Training Act, 2000 (Act No. 52 of 2000) (“AET Act”), into CET Colleges.
- 1.1.3 It is proposed that CET Colleges operate within the existing provisions of the FETC Act, as it is to be amended by this Bill, and that the AET Act be repealed. The converted AET Colleges will be deemed to have been established in terms of the FETC Act. Furthermore, it is proposed that the governance structures, funding, management and other related functions of AET Colleges be regulated in terms of the FETC Act, as it is to be amended by this Bill.
- 1.1.4 The AET Act is modelled on the South African Schools Act, 1996 (Act No. 84 of 1996), which is unsuitable as a framework to deal with the current demand to deliver adult post-school education envisaged in the Green Paper.
- 1.2 The scope of the qualifications that these two institutional types may offer, will be amended to include all qualifications or part-qualifications from level 1 to level 4 of the National Qualifications Framework, and the qualifications or part-qualifications offered per institutional types will be determined by landscape policy applicable to the respective institutional types. This will allow CET Colleges to provide both basic and further education and training qualifications or part-qualifications such as the “adult matric” (National Senior Certificate for Adults). It is envisaged that the qualifications or part-qualifications offered by VCET Colleges will mainly be those currently being offered by existing FET Colleges. VCET Colleges will offer trade and occupational qualifications or part-qualifications.
- 1.3 The Bill also seeks to establish the South African Institute for Vocational and Continuing Education and Training (“the Institute”) envisaged in the Green Paper, and to provide for the framework within which the Institute is to be established, funded and governed, as well as related functions thereof.
- 1.4 The Bill further seeks to amend the name of the FETC Act to “Continuing Education and Training Act, 2006”. This amendment is necessary as post-school adult education is focusing on the continuing of education of all persons outside schools. The new name of the Act provides the certainty that learning opportunities to the adult student through education institutions continue within the sub-framework of general and further education and training contemplated in the National Qualifications Framework Act, 2008 (Act No. 67 of 2008).

2. BODIES/PERSONS/STAKEHOLDERS CONSULTED

This Bill was published in *Gazette* No. 35113, Notice No. 181, of 2 March 2012, and all interested bodies, persons, stakeholders and the public were invited to submit comments on the Bill. Several comments were received and were accommodated in the Bill. The following bodies, persons and stakeholders submitted comment: Premier's Office of the Free State Province, Office of the Premier Western Cape Province, Food and Beverage SETA, South African Qualifications Authority, Council for Adult Education and Training, NAPTOSA, Quality Council for Trade and Occupations and Umalusi. It was also referred to HEDCOM where the Heads of Provincial Department of Education considered the Bill.

3. FINANCIAL IMPLICATIONS FOR STATE

Financial implications are expected in the current financial year and as such have been factored into the Budget. The implications for subsequent years will be studied and explained in the budgetary process, especially with a view of converting and incorporating AET Centres into Community Education and Training Colleges.

4. PARLIAMENTARY PROCEDURE

- 4.1 The Department of Higher Education and Training and the State Law Advisers are of the opinion that this Bill must be dealt with in accordance with the procedure prescribed by section 76 of the Constitution of the Republic of South Africa, 2006, since it falls within a functional area of concurrent national and provincial competence listed in Part A of Schedule 4 to the Constitution, namely "Education at all levels, excluding tertiary education".
- 4.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain any provisions pertaining to customary law or to the customs of traditional communities.