

CHAPTER 82

THE VOCATIONAL EDUCATION AND TRAINING ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 82

THE VOCATIONAL EDUCATION AND TRAINING ACT

An Act to repeal and replace the Apprenticeships Ordinance and to make further and better provision for the regulation of the training of apprentices and other persons in industry.

[1st January, 1995]

[G.N. No. 622 of 1994]

Acts Nos.

1 of 1994

14 of 2001

PART I

PRELIMINARY PROVISIONS (ss 1-2)

[PCh82s1]1. Short title

(1) This Act may be cited as the Vocational Education Training Act.

[PCh82s2]2. Interpretation Act No. 14 of 2001 s. 32

In this Act, unless the context requires otherwise—

"apprentice" means a person of at least fifteen years of age, except where a higher minimum age is otherwise required by law, and who is employed to learn an occupation under standards of apprenticeship approved by the Board;

"Authority" means the National Vocational Education and Training Authority established by section 3 of this Act;

"Board" means the National Vocational Education and Training Authority established by section 5 of this Act;

"Commissioner" means the Commissioner for Income Tax;

"Committee" means a Trade Advisory Committee established under section 8 of this Act;

"Director" means the Director-General of Vocational Education and Training appointed pursuant to section 10 of this Act;

"Fund" means the Vocational Education and Training Fund established by section 22 of this Act;

"indentured trainee" means a person other than an apprentice who is not bound by a written contract but serves an employer for a determined period of time with a view to acquiring knowledge of a trade, and who attends a prescribed course of study leading to trade tests and examination;

"inspector" means an inspector appointed by the Director-General;

"Levy" means skills and development levy imposed under section 14;

"Minister" means the Minister responsible for vocational education and training;

"Regional Board" means a Regional Vocational Education and Training Board established for a Region pursuant to section 11 of this Act;

"Regional Vocational Training and Service Centre" means a centre which has been delegated special regional authority and responsibilities by the Board;

"trade test" means an examination to test the knowledge and the skills acquired by a trainee or any person in a designated trade or occupation;

"Vocational Education and Training" means training leading to a skilled occupation;

"Vocational Training Centre" means any place or institution where vocational education and training is provided, including a trade school.

PART II

THE VOCATIONAL EDUCATION AND TRAINING AUTHORITY (ss 3-4)

[PCh82s3]3. Establishment of the Authority

(1) There is hereby established an autonomous government agency to be known as the Vocational Education and Training Authority.

(2) The Authority shall be a body corporate and shall—

- (a) have perpetual succession and a common seal;
- (b) in its corporate name be capable of suing and being sued;
- (c) subject to this Act, be capable of purchasing or otherwise acquiring and of alienating movable property.

(3) The Minister may by Order published in the Gazette, vest in the Authority the management and the assets of any vocational training centre owned by the Government.

[PCh82s4]4. Objectives and functions of the Authority

(1) The objectives and the functions of the Authority shall be—

- (a) to provide vocational training opportunities, and facilities for such training;
- (b) to establish a vocational education and training system which includes both basic and specialised training to meet the needs of both the formal and the informal sectors;
- (c) to satisfy the demands of the labour market for employees with trade skills in order to improve production and productivity of the economy;
- (d) to ensure that the system of vocational education and training is based on demand, is cost effective and given a gradually decentralised planning and implementation

authority to the regions to ensure maximum utilisation of resources and relevance of training programmes;

(e) to foster and to promote entrepreneurial values and skills, as an integral part of all training programmes;

(f) to promote on-the-job training in industry for both apprenticeship training and for skill updating and upgrading;

(g) to promote access to vocational education and training for disadvantaged groups;

(h) to secure adequate and stable financing of the vocational education and training system;

(i) to raise the quality of vocational education and training being provided;

(j) to promote or provide vocational education and training according to needs, within the framework of overall national socio-economic development plans and policies;

(k) to promote the balancing of supply and demand for skilled labour in both wage-employment and for skills needed for self-employment in rural and urban areas;

(l) to promote and to provide short tailor-made course programmes and in service training in order to improve the performance both of quality and productivity of the national economy;

(m) to provide a dual vocational education and training system, combining broad basic training, gradual specialisation and practical experiences from work; and

(n) to promote a flexible training approach and appropriate teaching methodologies.

(2) Without prejudice to subsection (1) the Authority may establish or manage vocational training institutions including vocational teacher training colleges, Regional Vocational Training and Service Centres and Vocational Training Centres.

PART III

VOCATIONAL EDUCATION AND TRAINING BOARD AND REGIONAL BOARDS

(ss 5-13)

[PCh82s5]5. Establishment of Vocational Education and Training Board

(1) There is hereby established for the Authority, a Board to be known as the Vocational Education and Training Board.

(2) The Board shall be composed of eleven members to be appointed as follows—

(a) the Chairman who shall be appointed by the President;

(b) ten other members to be appointed by the Minister upon being nominated as follows—

(i) two members to be nominated by the organisations for the time being representing employers;

(ii) two members to be nominated by trade unions movement;

(iii) three members to be nominated by each of the ministries responsible for industries, education and labour;

(iv) three members to be nominated by a non-governmental organisations which manage vocational education and training institutions.

(3) The persons to be nominated and appointed members of the Board shall be those who are qualified to contribute to the development of vocational education and training.

(4) Every member of the Board shall, unless he sooner resigns or otherwise ceases to hold office, hold office for a period of three years and may be eligible for re-appointment.

[PCh82s6]6. Functions and powers of the Board

(1) The Board shall be responsible for the performance of the functions and management of the affairs of the Authority.

(2) For the proper discharge of the functions of the Authority the Board shall, subject to any directions on matters of general policy which the Minister may give in that behalf, have the responsibility and power—

(a) to develop policies on vocational education and training and to supervise their implementation on a national level;

(b) to set the policies and procedures for the use of the Vocational Education and Training Fund including—

(i) approval of allocation criteria and budget norms for Regional Vocational Training and Service Centres and other training providers;

(ii) appointment of external auditors to audit the accountants of any receiver of funds from the Vocational Education and Training Fund;

- (c) to approve the plans and the annual budgets of the Authority;
- (d) to establish a personnel policy and administration of the Authority;
- (e) to approve Regulations and Guidelines for Regional Boards and Trade Advisory Committees;

- (f) to approve the registration of Vocational Training Centres according to laid down standards and regulations by the Board;

- (g) to issue regulations and guidelines concerning the following training matters—

- (i) syllabi;
 - (ii) the trade testing system, examination and certification;
 - (iii) inspection and registration of vocational training education and institutions;
 - (iv) student selection and vocational guidance or counselling;
 - (v) vocational teacher education and training;
 - (vi) apprenticeship training;
 - (vii) other regulations which may be necessary for the implementation of the objective and provisions of the Act.

[PCh82s7]7. Meetings and decisions of the Board

(1) The Board shall hold four regular meetings every year and may hold more meetings if the business of the Authority so requires.

(2) The first meeting of the Board shall be held at such time and such place as the Chairman may determine. Any subsequent meetings of the Board shall be held at such time and place as the Board may determine.

(3) Five members shall constitute a quorum for a meeting of the Board.

(4) The Chairman shall preside at all meetings of the board at which he is present.

(5) If the Chairman is absent, the members present shall elect one of their numbers to be the chairman of that meeting.

(6) The decision of the Board shall be by majority votes of the members present and voting, and in the event of an equality of votes, the chairman of the meeting shall have a casting vote.

[PCh82s8]8. Establishment of Trade Advisory Committees

(1) The Board may establish committees, to be known as Trade Advisory Committees, to assist it in the performance of its functions.

(2) A Trade Advisory Committee may be established in respect of such industry, trade or occupation as the Board may determine.

(3) Each Trade Advisory Committee shall consist of such number of members, being not more than seven, as the Board may determine of whom—

(a) one member shall be representing the interests of the vocational education and training institutions;

(b) one member who is a training specialist, to be appointed by the Board;

(c) two members shall be chosen to represent the interests of employers in the industry concerned; and

(d) two members shall be chosen to represent the interests of employees in the industry concerned.

(4) The Board shall appoint one of their number to be the Chairman of the Trade Advisory Committee.

(5) Every member of the committee shall, unless he sooner resigns or otherwise ceases to hold office, hold office for a period of three years and may be eligible for re-appointment.

(6) Subject to any general or specific directions by the Board and subject further to the provisions of this Act or any regulations made under it, the committee may regulate its own proceedings.

(7) A representative of the Director shall act as the secretary to any committee established under this section.

[PCh82s9]9. Functions of the Trade Advisory Committees

(1) It is the responsibility of the Trade Advisory Committees to ensure that vocational education and training programmes offered are according to the needs of the employment market.

(2) Without prejudice to subsection (1) the Trade Advisory Committees shall perform the following specific functions—

(a) to advise the Board on the establishment of new vocational trades training and education programmes and abolition of existing ones;

(b) to assess training needs and determine training standards for the area of trades which the committee is covering;

(c) to draw up training specifications and job descriptions for the trades to be taught;

(d) to ensure co-ordination of related trade training activities;

(e) to approve log-books and trade testing standards for the trades related to its activities;

(f) to ensure that the employment market is informed about training activities under the committees and to promote placements for students; and

(g) to form sub-committees to work with particular training issues as may be necessary.

[PCh82s10]10. Director-General and other employees

(1) The Board shall after consultations with the Minister appoint a Director-General of the Authority on such terms and conditions as the Board may determine.

(2) The Director-General shall be the Chief Executive of the Authority and shall be directly responsible to the Board for the day to day administration of the affairs of the Authority.

(3) The Director-General shall be Secretary of the Board and may participate in its deliberations, but shall not be entitled to vote on any resolution or other matter before the Board.

[PCh82s11]11. Establishment of Regional Vocational Education and Training Board

(1) The Board shall establish for any region a Regional Vocational Educational and Training Board.

(2) The Regional Board shall be composed of not more than seven members to be appointed as follows–

- (a) a Chairman to be appointed by the Board;
- (b) three members to be nominated by the organisations for the time being representing employees;
- (c) two members to be nominated by trade union movements representing employees;
- (d) one member to be nominated by the Regional Administration;
- (e) one member to be nominated by a non-governmental organisation representing a training institution.

(3) The Regional Director shall be Secretary to the Regional Board.

[PCh82s12]12. Functions of the Regional Boards

- (1) The Regional Boards shall–
- (a) co-ordinate vocational education and training activities within the Region;
 - (b) provide direct supervision and serve as the governing board for all Vocational Training Centres within the Region;

- (c) provide guidelines and supervision on budget preparations by vocational education and training institutions within the Region;
- (d) evaluate budget proposals for Vocational Training Centres managed by the Authority within the Region education and forward the budgets to the Board;
- (e) determine regional priorities for vocational education and training;
- (f) authorise Vocational Training Centres managed by the Authority within the region to utilise any funds raised from fees or other activities of the centres;
- (g) carry out inspection of Vocational Training Centres according to regulations and guidelines laid down by the Board;
- (h) prepare an annual report to the Board on training and related activities in the region;
- (i) advise the Board on any matter related to the improvement of vocational education and training in the region.

[PCh82s13]13. Functions of the Regional Vocational Training Service Centres

(1) The Board may designate any Vocational Training Centre to be a Regional Vocational Training and Service Centre.

(2) The Regional Vocational Training and Service Centres shall have the following functions—

- (a) to select trainees in accordance with trade standards and admission requirements as approved by the Board;

(b) to conduct regionally based tracer studies and disseminate information and vocational education and training;

(c) to implement programmes approved by the Regional Board;

(d) to conduct trade test according to regulations laid down by the Board;

(e) to monitor training log-books and issue certificates;

(f) to act as a nucleus for vocational education and training system development in the Region;

(g) subject to guidelines and regulations issued by the Board, to generate funds to supplement the operational costs of the centre;

(h) to promote and to support the development entrepreneurial skills and attitudes.

PART IV

THE VOCATIONAL EDUCATION AND TRAINING LEVY (ss 14-21)

[PCh82s14]14. Imposition of skills and development levy Act No. 14 of 2001 s. 33

(1) Subject to the provisions of this Part, there shall be charged, levied and payable to the Commissioner, at the end of every month, from every employer who has in his employment four or more employees, a levy to be known as the skills and development levy.

(2) The levy shall be the sum of money equal to six per centum of the total gross monthly emoluments payable by the employer to all his employees in respect of that month.

(3) For the purposes of this section "gross monthly emoluments" in relation to any employee includes wages, salary, leave pay, sick pay, payment in lieu of leave, fee, commission, bonus, gratuity and any subsistence, travelling entertainment or other allowance paid to him by the employer in respect of his employment or service, and any amount so paid in respect of employment or services rendered by the employee in any month other than the month in which it is paid, shall be deemed to be emoluments in respect of the calendar month in which it is paid.

(4) Where in any case an employer pays emoluments to any employee at intervals of less than a month or at intervals of greater than a month, the provisions of this Act shall apply as if such employee was entitled to monthly payments and the monthly chargeable emoluments of such employee in respect of any month shall be deemed to be the chargeable emoluments that would have accrued to the employee had the emoluments been payable monthly.

(5) Where in any case the monthly chargeable emoluments in respect of any employee cannot be ascertained with any reasonable accuracy, the Commissioner may, in writing require the employer to pay the levy in respect of such employee at such intervals as the Commissioner may specify, where such order is made in respect of any employee, the employer shall pay the levy for any period so specified on the last day of such specified period.

(6) The levy imposed and paid pursuant to this Act, shall be deducted for the purpose of ascertaining the taxable income in accordance with section 16 of the Income Tax Act *.

[PCh82s15]15. Distribution of the levy Act No. 14 of 2001 s. 34

The Commissioner shall immediately after collecting the levy under section 14, submit two thirds ($\frac{2}{3}$) of the amount collected to the Treasury, and one third ($\frac{1}{3}$) to the Fund.

[s. 14A]

[PCh82s16]16. Penalty upon failure to pay levy Act No. 14 of 2001 s. 35

(1) Every employer shall on or before the seventh day of every month pay to the Commissioner the levy due from such employer in respect of the preceding month.

(2) Any sum payable by way of penalty under this section shall, for the purposes of this Act, be deemed to be a skills and development levy and shall be collected and recoverable accordingly.

(3) The Commissioner may, if in any case he thinks just and equitable so to do, remit the whole or any part of the penalty payable under this section.

[s. 15]

[PCh82s17]17. Summary recovery of unpaid levy Act No. 14 of 2001 s. 36

(1) Any levy or penalty payable by any employer under this Act, shall be a debt due to the Government and shall be collected and recovered in accordance with the provisions of sections 101, 103, 107, 108 or 109 of the Income Tax Act, 1973.

(2) Without prejudice to the method of recovery of levy and penalties prescribed by subsection (1), where any amount of levy or penalty is due from any employer, the Commissioner may file in a court of a resident magistrate having jurisdiction over the area in which such employer resides or carries on business, a certificate stating—

- (a) the name and address of the employer from whom the levy is due; and
- (b) the amount due.

(3) A certificate lodged under this section shall be deemed to be a decree of the court against the person named in the certificate for payment by such person to the Commissioner of the amount stated in the certificate together with interest at ten per centum per month from the date on which such certificate is filed until the date of payment, and every such decree may be executed in the same manner as a decree passed by a court of a resident magistrate in a civil suit.

(4) The provisions of subsection (2) shall apply notwithstanding that the amount involved exceeds the pecuniary jurisdiction of a court of a resident magistrate.

(5) Every certificate filed in a court of a resident magistrate pursuant to the provisions of subsection (2) of that section shall be conclusive evidence for the truth of the statements contained in such certificate.

[s. 16]

[PCh82s18]18. Powers of the Commissioner Acts Nos. 15 of 2000; 14 of 2001 s. 36A

(1) Notwithstanding the provisions of section 16; where a person fails or defaults to remit the levy or part of the levy, the Commissioner shall by demand notice require such person to pay immediately the demanded amount of Levy plus interest and such demand notice shall constitute a final demand notice.

(2) Any dispute arising from the decision of the Commissioner under subsection (1) shall be determined in accordance with the provisions of the Tax Revenue Appeal Act, 2000.

(3) Subject to any express direction by the Commissioner to the contrary, any powers and duties of the Commissioner under this Act, may be exercised by any public officer authorized in writing in the behalf of the Commissioner.

[s. 16A]

[PCh82s19]19. Exemption from levy

(1) The provisions of section 14 shall not apply to any Government departments and to any public institution which is non-profit making and wholly financed by the Government.

[s. 17]

[PCh82s20]20. Giving false information, etc., to evade levy Act No. 14 of 2001 s.

37

Any person who with intent to evade payment of any levy or with penalty due under this Act—

- (a) makes any false statement to the Commissioner; or
- (b) fails or omits to give any information or to submit any return required to be given or submitted under this Act or under regulations made under this Act;
- (c) gives any information or submits any return which is false in any material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding three years or to both.

[s. 18]

[PCh82s21]21. Collection of levy Act No. 14 of 2001 s. 38

(1) The levy payable under this Act may be paid directly to the Authority or collected by the Commissioner or by such other agency as the Minister may after consultations with the Minister responsible for finance, appoint.

(2) The Minister for Finance may after consultation with the Minister make regulations relating to the collection and distribution of levy under this Act.

[s. 19]

PART V

THE VOCATIONAL EDUCATION AND TRAINING FUND AND FINANCIAL PROVISIONS (ss 22-26)

[PCh82s22]22. Establishment of the Vocational Education and Training Fund

There is hereby established a fund to be known as the Vocational Education Training Fund which shall be managed by the Board.

[s. 20]

[PCh82s23]23. Resources of the Fund Act No. 14 of 2002 s. 39

The resources of the Fund shall be—

- (a) all assets currently owned by the National Vocational Training Division;

(b) such sums as may be paid as one third (1/3) of the levy imposed and collected under section 14 of this Act;

(c) such sums as may be provided for the Fund by Parliament;

(d) such sums as may be paid to the Authority by way of grants or donations from any source within or outside the United Republic.

[s. 21]

[PCh82s24]24. Management and auditing of the Fund

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

(2) The Board shall cause to be provided and to be kept proper books of account of the payments made into and out of the Fund.

(3) The accounts relating to the Fund shall be audited annually by such authorised auditor duly registered under the Accounts and Auditors (Registration) Act, as the Board may with the approval of the Minister, appoint.

[s. 22]

[PCh82s25]25. Public Finance Act not to affect application of this Act.

The provisions of this Act shall apply and have effect notwithstanding any provisions to the contrary in the Public Finance Act * or any other law.

[s. 23]

[PCh82s26]26. Report and audited accounts to be laid before the National Assembly

(1) The Board shall within six months after the close or every financial year of the Authority, cause to be prepared and submitted to the Minister, a report on the activities and operations of the Authority during that year together with a copy of the—

- (a) audited accounts of the Authority; and
- (b) auditors' report on the accounts.

(2) The Minister shall as soon as practicable and in any case not later than twelve months after the closing of the financial year of the Authority, lay before the national Assembly a copy of the—

- (a) annual report of the Authority;
- (b) audited accounts; and
- (c) auditors' report.

[s. 24]

PART VI

MISCELLANEOUS PROVISIONS (ss 27-31)

[PCh82s27]27. Remuneration of members of the Boards, etc.

(1) The members of the Board shall be entitled to such remuneration, fees and allowances for expenses as the Minister may upon recommendation of the Board, prescribe.

(2) The members of Regional Boards and of a committee shall be entitled to such remuneration, fees and allowances for expenses as the Board may prescribe.

[s. 25]

[PCh82s28]28. Regulations

(1) The Minister may after consultations with the board make regulations for giving better effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1) of this section the Minister may make regulations—

- (a) establishing an interim Board to give advice on transitional provisions;
- (b) establishment of a new personnel system including a possible transfer of present staff into the Authority;
- (c) vesting of all assets and liabilities of the existing organisation into the new Authority;
- (d) any other area related to smooth and safe transformation of the present organisation into the Authority.

[s. 26]

[PCh82s29]29. Penalties

Any person who commits an offence under this Act in respect of which no penalty has been specifically provided shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding three years or to both.

[s. 27]

[PCh82s30]30. Repeal of Act No. 28 of 1974 and savings

- (1) [Repeal of the Vocational Training Act with savings.]

(2) Notwithstanding the provisions subsection (1) every training scheme and every contract of apprenticeship existing immediately before the commencement of this Act shall continue in force and be executed as if this Act had not been made until completion.

[s. 28]

[PCh82s31]31. Repeal of Act No. 12 of 1985 and savings Act No. 14 of 2001 s. 40

(1) [Repeals the Housing Levy Act with savings.]

(2) Notwithstanding the repeal under subsection (1), every scheme, contract loan or debt existing immediately before the commencement of the amendments shall continue in force and be executed until completion as if this amendment had not been enacted.

[s. 29]