



LIFELONG LEARNING: Amendments to the Higher Education Act create mechanisms for expansion and differentiation of higher education through institutional types, for improving quality and for increasing diversity.

Higher Education Bill **PASSED** in Parliament

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THIS year marks 20 years since the National Commission on Higher Education (NCHE) submitted its report to the then State President, Mr Nelson Mandela, in fulfilment of its mandate to advise the Minister of Education on, among others, appropriate policies for governance of the higher education system; the role of stakeholders including that of government; institutional autonomy; and the fulfilment of constitutional obligations by the higher education system in South Africa.

Following the NCHE report, the White Paper 3: A Programme for Higher Education Transformation was then developed and adopted in Parliament in August 1997. This White Paper guides all higher education-related policies and lays a foundation for its transformation from apartheid policies.

The Higher Education Act 101 of 1997, which has now been reviewed, resulted in the Higher Education Bill that was also passed and enacted into law in November 1997.

Since then, the Act has undergone nine amendments, and lately the frequency of such amendments was becoming high. Indeed, that was the first signal that the time had come to consider its review.

Secondly, the Department of Education was split in 2009 into the Department of Basic Education and the Department of Higher Education and Training.

The latter was legally established on 1 April 2010 and that ushered in a need for new policies to give

direction and purpose to the new establishment. Indeed, the White Paper on Post-school Education and Training was launched early in 2014.

Thus, this is the second reason which necessitated the review of the Higher Education Act 101 of 1997.

Moreover, other policy and legal changes that have a bearing on the Higher Education Act have also taken place elsewhere in government.

Thus, the Higher Education Amendment Bill 2015 amended the Higher Education Act, 1997, to ensure alignment and consistency with the administrative law provisions of the Constitution; Promotion of Administrative Justice Act, 2000; and with new policy directives the White Paper for Post-school Education and Training — the third reason that necessitated the review of the Act.

The Bill provides new definitions; rectifies any inconsistencies and/or contradictions and/or gaps in the Act; addresses issues pertaining to transformation goals; institutional autonomy; public accountability and co-operative governance, all arising from previous amendments to the principal Act.

It is true that the higher education system of South Africa is still uneven, owing largely to the legacy

of the apartheid system.

One of the consequences is that the one-size-fits-all legislation is not practical for governing and guiding the system.

Thus, the amendments to the Act, resulting in this Bill, provide for a range of measures that can be taken by the Minister of Higher Education and Training in steering the system and facilitating its speedy transformation, while supporting the development of the historically under-developed institutions of higher learning to acceptable standards.

The amendments do not tamper with institutional autonomy, thereby keeping the integrity of our higher education institutions and the system intact. Councils remain the highest governance structures of universities in South Africa.

The accountability of institutions is being strengthened and where

there are signals of faltering management and governance, early warning systems are put in place.

The amendments to the Act, resulting in this Bill, create mechanisms for expansion and differentiation of higher education through institutional types.

Expanding access, improving quality and increasing diversity are also some of the objectives of the White Paper for Post-school Education and Training.

In order to meet the White Paper objectives, therefore, the Higher Education Act had to be amended.

The strategic focus of these amendments also take into consideration government's priorities and programmes as set in the National Development Plan (NDP).

The Bill introduces three types of institutions: a university; a university college and a higher education college. These types are defined in

terms of the scope and range of their activities.

Universities remain engaged in undergraduate and postgraduate studies, knowledge production (research) and community engagement. Higher education colleges focus on undergraduate and skills development programmes.

The amendments anticipate the incorporation of agricultural colleges into higher education. University Colleges are introduced as a mechanism to enable the developmental growth of new universities under the supervision of another identified university.

Moving forward, the amendments to the Act will influence acceleration of transformation of the higher education system.

All policies will be amended or developed in line with the provisions of the Act.

We thank the task team, which comprised officials from the Department of Higher Education and Training, Universities South Africa, the University Council Chairs Forum and the Council on Higher Education.

We thank all the organisations that were consulted and those that voluntarily made contributions during the review of the Act.

We also wish to extend our deepest gratitude to the members of the Portfolio Committee for their invaluable contribution and sterling work in ensuring that we arrive to this final stage of the review of the Higher Education and resulting in this Bill.

Mr MC Manana is the Deputy Minister of Higher Education and Training



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Deputy Minister of Higher Education and Training Mduzuzi Manana.