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THE PRESIDENCY

No. 1078 19 August 2019

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

Act No. 12 of 2019: National Qualifications Framework Amendment Act, 2019

IHHOVISI LIKAMONGAMELI

No. 1078 19 August 2019

Ngalokhu kwaziswa ukuthi uMongameli usewuvumile loMthetho nosewuzoshicilelelwa umphakathi:—

Ino. 12 ka 2019: Umthetho Wesichibiyelo Wohlaka Lukazwelonke Lweziqu wezi-2019

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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.

(English text signed by the President)
(Assented to 13 August 2019)

ACT

To amend the National Qualifications Framework Act, 2008, so as to amend and insert certain definitions; to provide for the verification of all qualifications or part-qualifications by the SAQA; to provide for the formulation of criteria for evaluating foreign qualifications; to provide for the establishment and maintenance of separate registers of misrepresented or fraudulent qualifications or part-qualifications; to provide for a separate register for professional designations; to provide for the referral of qualifications or part-qualifications to the SAQA for verification and evaluation; to provide for offences and penalties which have a bearing on fraudulent qualifications; 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 67 of 2008, as amended by section 8 of Act 26 of 2010

1. Section 1 of the National Qualifications Framework Act, 2008 (Act No. 67 of 2008) (hereinafter referred to as the principal Act), is hereby amended—

(a) by the insertion before the definition of ''board'' of the following definition:

'' **'authenticity'—**

(a) in relation to a qualification or part-qualification, includes a qualification or part-qualification that is—

(i) registered on the NQF;

(ii) offered by a registered, established, declared or merged and accredited education institution or skills development provider in terms of this Act or any other applicable law; and

(iii) lawfully obtained; and

(b) in relation to a foreign qualification, means a qualification or part-qualification that is lawfully obtained from a foreign country and is evaluated by the SAQA in terms of this Act,

and authentic has a corresponding meaning;'';

(b) by the insertion after the definition of ''board'' of the following definitions:

'' **'Constitution'** means the Constitution of the Republic of South Africa, 1996;

INCAZELO EFINGQIWE:

[ ]	Amagama akubakaki abayisikwele amele okukhishiwe emthethweni osebenzayo.
______	Amagama adwetshelwe ngomugqa amele okufakiwe emthethweni osebenzayo.

(English text signed by the President)
(Assented to 13 August 2019)

UMTHETHO

Ukuchitshiyela koMthetho woHlaka lukaZwelonke Lweziqu, wezi-2008, ukuze kuchitshiyelwe futhi kufakwe izincazelo ezithile; ukuhlinzekela ukuqinisekiswa kwazo zonke iziqu noma ingxenye yeziqu ze-SAQA; ukuhlinzekela ukwakhiwa kohlaka lokuhlola iziqu zasemazweni angaphandle; ukuhlinzekela ukusungulwa kanye nokugcinwa kwamarejista ahlukene eziqu noma ingxenye yeziqu ezingelona iqiniso noma ezingumgunyathi; ukuhlinzekela amarejista ahlukene amagama emisebenzi ekhethiwe; ukuhlinzekela ukudluliswa kweziqu noma ingxenye yeziqu ziye kwa-SAQA ukuze ziqinisekiswe futhi zihlolwe; ukuhlinzekela amacala kanye nezijeziso zeziqu zomgunyathi; kanye nokuhlinzekela izindaba ezihambisana nalokhu.

UZOMISWA yiPhalamende leRiphabhulikhi yaseNingizimu Afrika, kanje:—

Ukuchitshiyelwa kwesigaba soku-1 soMthetho wama-67 wezi-2008, njengokuba uchitshiyelwe yisigaba sesi-8 soMthetho wama-26 wezi-2010

1. UMthetho woHlaka lukaZwelonke Lweziqu, wezi-2008 (uMthetho wama-67 wezi-2008) (lapha owaziwa njengoMthethongqangi), uchitshiyelwe lapha—

(a) ngokufaka ngaphambi kwencazelo ''yebhodi'' incazelo elandelayo:

'' **'ubuqiniso'**—

(a) maqondana neziqu noma ingxenye yeziqu, kuhlanganisa iziqu noma ingxenye yeziqu—

(i) ezibhalisiwe ku-NQF;

(ii) zinikwa yisikhungo semfundo esifanele, esibhalisile, esisebenzayo, saqinisekiswa noma sahlanganiswa noma umhlinzeki wokuthuthukiswa kwamakhono ngokwemigomo yalo Mthetho noma nanoma yimuphi umthetho ofanele; futhi

(iii) zitholakale ngokomthetho; futhi

(b) maqondana neziqu zamazwe angaphandle, kusho iziqu noma ingxenye yeziqu ezitholakale ngokusemthethweni ezweni langaphandle futhi zihlolwe yi-SAQA ngokwemigomo yalo Mthetho,

futhi ubuqiniso bunencazelo efanayo;'';

(b) ngokufaka emuva kwencazelo ''yebhodi'' izincazelo ezilandelayo:

'' **'uMthethosisekelo** usho uMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, we-1996;

'Continuing Education and Training Act' means the Continuing Education and Training Act, 2006 (Act No. 16 of 2006);'';

(c) by the insertion after the definition of ''education institution'' of the following definitions:

'' **'evaluate'** means the process followed by the SAQA to verify the authenticity of a foreign qualification and compare it with a South African qualification for placement within the South African NQF, and evaluation has a corresponding meaning;

'foreign institution' means a foreign juristic person offering or issuing an authentic qualification or part-qualification;

'fraudulent qualification or part-qualification' is a verified qualification or part-qualification registered on the NQF or an evaluated foreign qualification or part-qualification, which is found to be forged, fraudulently obtained or awarded in contravention of this Act, and has been declared as such by a court of law;''.

(d) by the substitution for the definition of ''*Gazette*'' of the following definition:

'' ***'Gazette'*** means the *Government Gazette*;

(e) by the insertion after the definition of ''learning'' of the following definition:

'' **'learner achievements'** means a qualification or part-qualification contemplated by this Act;'';

(f) by the insertion after the definition of ''Minister'' of the following definitions:

'' **'misrepresented qualification or part-qualification'** is a qualification or part-qualification—

(a) which is not authentic; or

(b) where the certificate of award or the SAQA Certificate of Evaluation was erroneously issued or altered in any way;

'national learners' records database' means the electronic management information system as contemplated in section 13(1)*(l)*;

(g) by the insertion after the definition of ''SAQA Act'' of the following definition:

'' **'SAQA Certificate of Evaluation'** means a certificate issued by the SAQA indicating the authenticity of the foreign qualification and its placement within the NQF;'';

(h) by the substitution for the definition of ''skills development provider'' of the following definition:

'' **'skills development provider'** means a provider that is registered with the Department in terms of the Continuing Education and Training Act, and is accredited by the QC for Trades and Occupations to offer occupational qualifications;''; and

(i) by the insertion after the definition of ''Umalusi'' of the following definition:

'' **'verification'** means the process followed by the SAQA to determine the authenticity of a qualification or part-qualification in terms of the relevant SAQA policy and procedures.''.

Substitution of section 2 of Act 67 of 2008

2. The following section is hereby substituted for section 2 of the principal Act:

''**Object of Act**

2. The object of this Act is to provide for the further development, organisation and governance of the NQF and related matters.''.

Amendment of section 3 of Act 67 of 2008, as amended by section 9 of Act 26 of 2010

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

(a) by the substitution for subsection (2) of the following subsection:

''(2) Every qualification or part-qualification contemplated in subsection (1)*(a)* must be registered on the National Qualifications Framework in accordance with this Act.''; and

'uMthetho Wokuqhubeka nokuFunda kanye noQeqesho' kusho uMthetho Wokuqhubeka nokuFunda kanye noQeqesho, wezi-2006 (uMthetho We-16 wezi-2006);'';

(c) ngokufaka emuva kwencazelo ''yesikhungo semfundo'' izincazelo ezilandelayo:

'' **'ukuhlola'** kusho uhlelo olulandelwa yi-SAQA ukuqinisekisa ubuqiniso beziqu zasemazweni angaphandle uma luziqhathanisa neziqu zaseNingizimu Afrika ukuze zifakwe phakathi ku-NQF yaseNingizimu Afrika, futhi ukuhlola kunencazelo ehambisanayo;

'isikhungo sasezweni langaphandle' kusho umuntu wangaphandle onegunya lokunika noma ukukhipha iziqu noma ingxenye yeziqu;

'iziqu noma ingxenye yeziqu eziwumgunyathi' iziqu noma ingxenye yeziqu ezibhalisiwe ku-NQF noma iziqu noma ingxenye yeziqu zasemazweni angaphandle ezihloliwe, ezitholakale ukuthi zifojiwe, zitholakale ngomgunyathi noma zinikwe ngokuphambana nalo Mthetho, futhi inkantolo yomthetho izithole zinjalo;'';

(d) ngokufaka endaweni yencazelo ''*yeGazethi*'' incazelo elandelayo;

'' '***iGazethi***' isho *iGazethi* kaHulumeni;

(e) ngokufaka endaweni yencazelo ''yokufunda'' incazelo elandelayo:

'' **'impumelelo yomfundi'** kusho iziqu noma ingxenye yeziqu okukhulunywe ngazo kulo Mthetho;'';

(f) ngokufaka emuva kwencazelo ''kaNgqongqoshe'' izincazelo ezilandelayo:

'' **'iziqu noma ingxenye yeziqu ezingelona iqiniso'** kusho iziqu noma ingxenye yeziqu—

(a) ezingelona iqiniso; noma

(b) lapho ukunikwa kwesitifiketi noma Isitifiketi Sokuhlola sakwa-SAQA sithole iphutha noma ukushintshwa kwanganoma iyiphi indlela;

'umthombo kazwelonke wamarekhodi abafundi' kusho uhlelo lobuchwepheshe lokuphathwa kolwazi njengokuba kushiwo esigabeni se-13(1)*(l)*;

(g) ngokufaka emuva kwencazelo ''yoMthetho we-SAQA'' incazelo elandelayo:

'' **'Isitifiketi Sokuhlola sakwa-SAQA'** kusho isitifiketi esikhishwe yi-SAQA siveza ubuqiniso beziqu zamazwe angaphandle kanye nokufakwa kwazo ku-NQF;'';

(h) ngokufaka endaweni yencazelo ''yokuhlinzeka ngokuthuthukiswa kwama-khono'' incazelo elandelayo:

'' **'Umhlinzeki ngokuthuthukiswa kwamakhono'** kusho umhlinzeki obhalisile noMnyango ngokwemigomo yoMthetho Wokuqhubeka Nokufunda kanye noQeqesho, futhi wavunyelwa yi-QC yezokuHweba kanye nezokuSebenza ukuthi athwese ngeziqu zokusebenza;''; kanye

(i) ngokufaka emuva kwencazelo yegama ''Umalusi'' incazelo elandelayo:

'' **'ukuqinisekisa'** kusho uhlelo olulandelwa yi-SAQA lokunquma ubuqiniso beziqu noma ingxenye yeziqu ngokwemigomo yenqubo-mgomo ye-SAQA kanye nezinqubo.''.

Ukufaka endaweni yesigaba sesi-2 soMthetho wama-67 wezi-2008

2. Isigaba esilandelayo sifakwe endaweni yesigaba sesi-2 soMthethongqangi:

''**Inhloso yalo Mthetho**

2. Inhloso yalo Mthetho ukuhlinzekela ukuqhutshekiswa kokuthuthuka, ukuhlelwa nokuphathwa kwe-NQF kanye nezinto ezifanayo.''.

Ukuchitshiyelwa kwesigaba sesi-3 soMthetho wama-67 wezi-2008, njengokuba sichitshiyelwe yisigaba sesi-9 soMthetho wama-26 wezi-2010

3. Isigaba sesi-3 soMthethongqangi sichitshiyelwe lapha—

(a) ngokufaka endaweni yesigatshana sesi-(2) isigatshana esilandelayo:

''(2) Zonke iziqu noma ingxenye yeziqu okukhulunywe ngazo esigatshaneni (1)*(a)* kumele zibhaliswe oHlakeni lukaZwelonke Lweziqu ngokuhambisana nalo Mthetho.''; kanye

(b) by the addition of the following subsection:

"(3) Every private education institution or skills development provider offering education and training programme or any component thereof towards a qualification or part-qualification, must be registered by the relevant Department as a private education institution or skills development provider and accredited by the relevant QC to offer such qualification or part-qualification.".

Amendment of section 13 of Act 67 of 2008, as amended by section 12 of Act 26 of 2010 and section 12 of Act 23 of 2012

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

(a) by the addition in subsection (1)*(h)* of the following subparagraph:

"(iv) verify all qualifications or part-qualifications referred to it in terms of section 32A and make a decision on the status thereof;";

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

"*(l)* with respect to records of education and training, maintain a national learners' records database comprising registers of—

(i) **[national]** qualifications **[,]** ;

(ii) part-qualifications **[,]** ;

(iii) qualification and part-qualification requirements and other related information;

(iv) learner achievements **[,]** ;

(v) details of the education institution or QC that awarded the qualification or part-qualification;

(vi) recognised professional bodies **[,professional designations]** ; and

(vii) associated information relating to registration, verification and accreditation;";

(c) by the insertion in subsection (1) after paragraph *(l)* of the following paragraph:

"*(l*A*)* (i) maintain a separate register of professional designations;

(ii) establish and maintain a register of misrepresented qualifications or part-qualifications with respect to records of education and training; and

(iii) establish and maintain a register of fraudulent qualifications or part-qualifications with respect to records of education and training;";

(d) by the substitution in subsection (1) for paragraph *(m)* of the following paragraph:

"*(m)* with respect to foreign qualifications **[,]**—

(i) provide a verification or an evaluation and advisory service consistent with this Act; **[and]**

(ii) evaluate all foreign qualifications referred to it in terms of this Act against the South African NQF in accordance with SAQA policy and procedures and, where appropriate, issue a SAQA Certificate of Evaluation; and

(iii) formulate and publish criteria for evaluating foreign qualifications;";

(e) by the insertion of the following subsections after subsection (1):

"(1A) When verifying or evaluating a qualification or part-qualification in terms of this Act, the SAQA must, amongst other things, consider whether the education institution, skills development provider or foreign institution is registered by law and whether the qualification or part-qualification is authentic and complies with the policy and criteria contemplated in section 13(1)*(h)*.

(1B) If after verification or evaluation, a qualification or part-qualification is found to be inauthentic or is found to be a misrepresented qualification or part-qualification or is declared by a court of law to be a fraudulent qualification or part qualification, the SAQA must refer such

(b) nangokwengeza isigatshana esilandelayo:

"(3) Zonke izikhungo zemfundo zangasese noma umhlinzeki wezokuthuthukiswa kwamakhono kanye nezinhlelo zoqeqesho nanoma yiziphi iziqu noma ingxenye yeziqu, kumele kubhaliswe noMnyango ofanele njengokuba izikhungo zemfundo zangasese noma umhlinzeki wezokuthuthukiswa kwamakhono kanye nezinhlelo zoqeqesho futhi ezivunyelwe yi-QC efanele ukuthi zihlinzeke ngeziqu noma ingxenye yeziqu ezinjalo.".

Ukuchitshiyelwa kwesigaba se-13 soMthetho wama-67 wezi-2008, njengokuba uchitshiyelwe yisigaba se-12 soMthetho wama-26 wezi-2010 kanye nesigaba se-12 soMthetho wama-23 wezi-2012

4. Isigaba se-13 soMthethongqangi sichitshiyelwe lapha—

(a) ngokwengeza esigatshaneni (1)*(h)* indinyana elandelayo:

"(iv) ukuqinisekisa iziqu noma ingxenye yeziqu okukhulunywe ngazo emigomweni yesigaba sama-32A kanye nokwenza isinqumo esimweni esinjalo;";

(b) ngokufaka endaweni esigatshaneni soku-(1) sendima *(l)* indima elandelayo:

"*(l)* mayelana namarekhodi emfundo nokuqeqesha, igcine uhlu lukazwelonke lwamagama abafundi olwakhiwe amarejista—

(i) eziqu **[zikazwelonke,]**;

(ii) awengxenye yeziqu**[,]**

(iii) ezimfuneko zeziqu kanye nengxenye yeziqu kanye nolunye ulwazi oluhambisanayo;

(iv) awempumelelo yabafundi**[,]** ;

(v) emininingwane yesikhungo semfundo noma i-QC ethwesa ngeziqu noma ingxenye yeziqu;

(vi) awemigwamanda yolwazi **[,amagama emisebenzi ekhethiwe]** ; kanye

(vii) nawolwazi oluhambisana nalokhu maqondana nokubhalisa, ukuqinisekisa kanye nokuvunyelwa;";

(c) ngokufaka esigatshaneni soku-(1) emuva kwendima *(l)* indima elandelayo:

"*(l*A*)* (i) ukugcina irejista eseceleni yamagama emisebenzi ekhethiwe;

(ii) ukusungula kanye nokugcina irejista yeziqu noma ingxenye yeziqu ezingamelekanga maqondana namarekhodi emfundo kanye noqeqesho; kanye

(iii) nokusungula kanye nokugcina irejista yeziqu noma ingxenye yeziqu zomgunyathi maqondana namarekhodi emfundo kanye noqeqesho;";

(d) ngokufaka endaweni yesigatshana soku-(1) sendima *(m)* indima elandelayo:

"*(m)* mayelana neziqu zakwamanye amazwe**[,]**—

(i) sihlinzeke ngesiqinisekiso noma ngesilinganiso kanye nosizo lokweluleka ngokuhambelana nalo Mthetho; **[futhi]**

(ii) ukuhlola zonke iziqu zasemazweni angaphandle okukhulunywe ngazo emigomweni yalo Mthetho ngokuphambana ne-NQF yaseNingizimu Afrika ngokuhambisana nenqubomgomo kanye nenqubo futhi, lapho kufanele, sikhiphe Isitifiketi Sokuhlola sakwa-SAQA; futhi

(iii) sakhe futhi sishicilele uhlobo lokuhlola iziqu zamazwe angaphandle;";

(e) ngokufaka isigatshana esilandelayo emuva kwesigatshana soku-(1):

"(1A) Lapho kuqinisekiswa noma kuhlolwa iziqu noma ingxenye yeziqu ngokwemigomo yalo Mthetho, i-SAQA kumele, kwezinye izinto, ibheke ukuthi ngabe isikhungo semfundo, umhlinzeki wezokuthuthukiswa kwamakhono noma isikhungo esisemazweni angaphandle kubhalisile ngokomthetho yini futhi ngabe iziqu noma ingxenye yeziqu ziyiqiniso futhi zihambisana nenqubomgomo kanye nohlobo okukhulunywe ngakho esigabeni se-13(1)*(h)*.

(1B) Uma emuva kokuqinisekisa kanye nokuhlolwa, iziqu noma ingxenye yeziqu zitholwe ukuthi azilona iqiniso noma zingamelanga iziqu noma ingxenye yeziqu noma zitholwe inkantolo yomthetho ukuthi zingumgunyathi, i-SAQA kumele idlulise imiphumela noma ulwazi

a finding or information to the relevant professional body, as may be prescribed, and subject to subsection (1C):

(a) must inform the requester and the holder of the qualification or part-qualification of the finding;

(b) must record such finding in the register of misrepresented qualifications and part-qualifications or fraudulent qualifications and part-qualifications; and

(c) the requester must provide the SAQA with all particulars of the holder to enable the SAQA before recording such finding in the relevant register, to give notice and comply with section (1C).

(1C) The verification and evaluation processes referred to in subsection (1)*(h)* must conform to the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).''.

Amendment of section 27 of Act 67 of 2008, as amended by section 14 of Act 26 of 2010

5. Section 27 of the principal Act is hereby amended—

(a) by the substitution for paragraph *(f)* of the following paragraph:

''*(f)* in consultation with the SAQA, advise the Minister on matters relating to its sub-framework;'';

(b) by the addition in paragraph *(i)* of the following subparagraph:

''(iv) accredit the education institution or skills development provider that complies with all the requirements to offer a qualification or part-qualification registered on the NQF;''; and

(c) by the substitution in paragraph *(j)* for subparagraph (ii) of the following subparagraph:

''(ii) submit at no charge to the SAQA and within 30 days after complying with all the requirements applicable to quality assurance relating to the qualification or part-qualification such data in a format determined in consultation with the SAQA for recording on the national learners' records database contemplated in section 13(1)*(l)*;''.

Substitution of section 30 of Act 67 of 2008

6. The following section is hereby substituted for section 30 of the principal Act:

''**Registration of professional designation**

30. A professional body that is recognised in terms of section 29 must—

(a) apply to the SAQA, in the manner determined by the SAQA in terms of section 13(1)*(i)*(ii) **[,]**; and

(b) **[to register a professional designation on the NQF]** ensure that its professional designation is registered on a separate designated register.''.

Insertion of sections 32A and 32B in Act 67 of 2008

7. The following sections are inserted in the principal Act after section 32:

Referral of a qualification or part-qualification to the SAQA for verification and evaluation

32A. (1) *(a)* All organs of state, employers, education institutions, skills development providers and QCs must authenticate, prior to appointment or registration, if the qualification or part-qualification which is presented to them for the purposes of appointment, study or for any other related purpose, is registered on the national learners' records database.

olunjalo egatsheni lobuchwepheshe elifanele, njengokuba kunganqunywa, futhi ngaphansi kwesigatshana se-(1C):

(a) kumele yazise umfaki wesicelo kanye nomnikazi weziqu noma ingxenye yeziqu ngemiphumela;

(b) kumele irekhode imiphumela enjalo kurejista yeziqu noma ingxenye yeziqu ezingelona iqiniso noma zomgunyathi; futhi

(c) umfaki wesicelo kumele ahlinzeke i-SAQA ngayo yonke imininingwane ukuze ngaphambi kokurekhoda imininingwane enjalo kurejista, i-SAQA inike isaziso futhi ihambisane nesigaba (1C).

(1C) Uhlelo lokuqinisekisa kanye nokuhlola okukhulunywe ngalo esigatshaneni soku-(1)*(h)* kumele luhambisane nemihlinzeko ye-Promotion of Administrative Justice Act, wezi-2000 (uMthetho wesi-3 wezi-2000).''.

Ukuchitshiyelwa kwesigaba sama-27 soMthetho wama-67 wezi-2008, njengokuba uchitshiyelwe yisigaba se-14 soMthetho wama-26 wezi-2010

5. Isigaba sama-27 soMthethongqangi sichitshiyelwe lapha—

(a) ngokufaka endaweni yendima *(f)* indima elandelayo:

``*(f)* ngokuxoxisana ne-SAQA, yeluleke uNgqongqoshe ofanele ngemidanti emayelana nohlakana lwayo;'';

(b) ngokwengeza endimeni *(i)* indinyana elandelayo:

(iv) ``inike imvume isikhungo semfundo noma umhlinzeki wokuthuthukiswa kwamakhono okulandela zonke izimfuneko ukuthi sethwese ngeziqu noma ingxenye yeziqu ezibhaliswe ku-NQF;''; futhi

(c) ngokufaka endaweni endimeni *(j)* yendinyana (ii) indinyana elandelayo:

``(ii) idlulisele mahhala ku-SAQA futhi ezinsukwini ezingama-30 emuva kokulandela zonke izimfuneko ezifanele zokuqinisekisa ikhwalithi maqondana neziqu noma ingxenye yeziqu ulwazi olufana nalolu ngendlela enqunywe ngokuxhumana ne-SAQA ukuze lurekhodwe ohlwini lukazwelonke lwamagama abafundi okukhulunywe ngalo kwisiqephu se-13(1)*(l)*;'',

Ngokufaka endaweni yesigaba sama-30 soMthetho wama-67 wezi-2008

6. Isigaba esilandelayo sifakwe endaweni yesigaba sama-30 soMthethongqangi:

``**Ukubhaliswa kwemisebenzi ekhethiwe**

30. Umgwamanda wolwazi owaziwayo ngokwesiqephu sama-30 kufanele —

(a) ufake isicelo kwa-SAQA, ngendlela enqunywe yi-SAQA ngokwesiqephu se-13(1)*(i)*(ii)**[,]** ; futhi

(b) **[sokubhalisa umsebenzi okhethiwe kwi-NQF]** ukuqinisekisa ukuthi amagama emisebenzi ekhethiwe arejistwe kurejista eseceleni eqokiwe.''.

Ukufaka isigaba sama-32A kanye nesama-32B eMthethweni wama-67 wezi-2008

7. Izigaba ezilandelayo zifakwe kuMthethongqangi emuva kwesigaba sama-32:

Ukudluliswa kweziqu noma ingxenye yeziqu ziye ku-SAQA ukuze ziqinisekiswe futhi zihlolwe

32A. (1) *(a)* Onke amagatsha ombuso, abaqashi, izikhungo zemfundo, abahlinzeki bokuthuthukiswa kwamakhono kanye nama-QC kumele baqinisekise, ngaphambi kokuqoka noma ukubhalisa, ukuthi iziqu noma ingxenye yeziqu abanikwe zona ngezinhloso zokuqokwa, ukufunda nanoma yinoma iyiphi enye inhloso, zibhalisiwe ohlwini lukazwelonke lwamarekhodi abafundi.

(b) If not registered on the national learners' records database, such qualification or part-qualification must be referred to the SAQA for verification and evaluation.

(c) The Minister may in consultation with the SAQA exempt any category of persons, or entity contemplated in paragraph *(a)* from the provisions of this section by notice in the *Gazette*.

(2) If after verification or evaluation of the qualification or part-qualification—

(a) the SAQA establishes that the qualification or part-qualification is an authentic qualification or part-qualification, but is not on the national learners' records database, the SAQA must record such a qualification or part-qualification on the national learners' records database; or

(b) the SAQA must comply with section 13 (1B)*(a)* and *(b)* and shall refer such a finding or information to the relevant body.

(3) The SAQA must perform its functions in terms of subsection (1) and (2) within 30 days so as to not prejudice the holder of the qualification or part-qualification.

Offences and penalties

32B. (1) A person is guilty of an offence if the person—

(a) makes or causes to be made a false entry in the national learners' records database or the misrepresented or fraudulent register;

(b) is a party to the falsification and dissemination or publication of a qualification or part-qualification of any person or the records of the national learners' records database or the misrepresented or fraudulent register; or

(c) with a fraudulent purpose, knowingly provided false or misleading information in any circumstances in which this Act requires the person to provide information or give notice to another person.

(2) A person, an education institution or skills development provider is guilty of an offence if a person, the education institution or skills development provider claims to be offering a qualification or part-qualification registered on the NQF whereas that qualification or part-qualification is not so registered.

(3) A person is guilty of an offence, if such a person falsely or fraudulently claims to be holding a qualification or part-qualification registered on the NQF or awarded by an education institution, skills development provider, QC or obtained from a lawfully recognised foreign institution.

(4) Any person, education institution, skills development provider, foreign institution is guilty of an offence if it falsely claims to be registered and accredited as an education institution, skills development provider or foreign institution in terms of the laws of the Republic or foreign law.

(5) If a person, education institution its directors or board, a foreign institution its agents or directors or board, or a skills development provider is convicted of any offence under this Act, the court that imposes the sentence shall consider as an aggravating factor the fact that the offence was—

(a) committed with the intent to gain financially, or to receive any favour, benefit, reward, compensation or any other advantage; or

(b) gained financially, or received any favour, benefit, reward, compensation or any other advantage.

(6) Any person convicted of an offence in terms of this Act, is liable, in the case of a contravention of sections 32B(1), 32B(2), 32B(3) or 32B(4) to a fine or to imprisonment for a period not exceeding five years, or to both a fine and such imprisonment.

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(b) Uma zingabhalisiwe ohlwini lukazwelonke lwamarekhodi abafundi, iziqu noma ingxenye yeziqu ezinjalo kumele zidluliselwe ku-SAQA ukuze ziqinisekiswe futhi zihlolwe.

(c) UNgqongqoshe angase, ngokuxoxisana ne-SAQA avumele noma yiluphi uhlobo lwabantu, noma igatsha okukhulunywe ngalo endimeni *(a)* emihlinzekweni yalesi sigaba ngesaziso esiku*Gazethi*.

(2) Uma emuva kokuqinisekiswa noma ukuhlolwa kweziqu noma ingxenye yeziqu—

(a) i-SAQA ithola ukuthi iziqu noma ingxenye yeziqu ziyiqiniso, kodwa azikho ohlwini lukazwelonke lwamarekhodi abafundi, i-SAQA kumele irekhode iziqu noma ingxenye yeziqu ezinjalo ohlwini lukazwelonke lwamarekhodi abafundi; noma

(b) i-SAQA kumele ilandele isigaba se-13(1B)*(a)* kanye no-*(b)* futhi kumele idlulise imiphumela enjalo noma ulwazi olunjalo egatsheni elifanele.

(3) I-SAQA kumele yenze yonke imisebenzi yayo ngokwemigomo yesigatshana soku-(1) kanye nesesi-(2) ezinsukwini ezingama-30 ukuze ingabandlululi umnikazi weziqu noma ingxenye yeziqu.

Amacala kanye nezinhlawulo

32B. (1) Umuntu unecala uma loyo muntu—

(a) enza noma eyisizathu sokufakwa kwezinto okungezona ohlwini lukazwelonke lwamarekhodi abafundi, noma irejista okungeyona noma engumgunyathi;

(b) eyingxenye yamanga kanye nokusatshalaliswa noma ukushicilelwa kweziqu noma ingxenye yeziqu kwanoma yimuphi umuntu noma ohlwini lukazwelonke lwamarekhodi abafundi noma irejista engelona iqiniso noma engumgunyathi; noma

(c) ngenhloso yokukhwabanisa, enikeze ulwazi olungelona iqiniso ngamabomu kunoma yisiphi isimo lapho uMthetho udinga ukuthi umuntu ahlinzeke ulwazi noma anike omunye umuntu isaziso.

(2) Umuntu, isikhungo semfundo noma umhlinzeki wezokuthuthukiswa kwamakhono unecala uma loyo muntu, isikhungo semfundo noma umhlinzeki wezokuthuthukiswa kwamakhono ethi uthwesa ngeziqu noma ingxenye yeziqu ezibhaliswe ku-NQF kodwa lezo ziqu noma ingxenye yeziqu ingabhalisiwe.

(3) Umuntu unecala, uma loyo muntu ngokukhwabanisa ethi uneziqu noma ingxenye yeziqu ezibhaliswe ku-NQF noma azethweswe yisikhungo semfundo, umhlinzeki wezokuthuthukiswa kwamakhono, i-QC noma ezitholwe ngokomthetho esikhungweni sasemazweni angaphandle.

(4) Noma yimuphi umuntu, isikhungo semfundo, umhlinzeki wezokuthuthukiswa kwamakhono, isikhungo sasemazweni angaphandle sinecala uma siqamba amanga ukuthi sibhalisile futhi sivunyelwe ukuthi sibe yisikhungo semfundo, umhlinzeki wezokuthuthukiswa kwamakhono noma yisikhungo sasemazweni angaphandle ngokwemigomo yemithetho yeRiphabhulikhi noma umthetho wasemazweni angaphandle.

(5) Uma umuntu, abaqondisi noma ibhodi yesikhungo semfundo, abasebenzi noma abaqondisi noma ibhodi yesikhungo sasemazweni angaphandle, noma umhlinzeki wezokuthuthukiswa kwamakhono etholakale enecala ngaphansi kwalo Mthetho, inkantolo enikeza isigwebo kumele ibheke ezinye izinto ezenza icala libe libi kakhulu ngoba—

(a) enze icala ngenhloso yokuthola imali, noma ukuthola usizo, azuze, athole umklomelo, ukukhokhelwa nanoma yikuphi ukusizakala; noma

(b) ezuze ngokwemali, noma ethole noma yiluphi usizo, umklomelo, ukukhokhelwa nanoma yikuphi ukusizakala.

(6) Noma yimuphi umuntu otholakale enecala ngokwemigomo yalo Mthetho, odabeni lokuphambana nesigaba sama-32B(1), 32B(2), 32B(3) noma 32B(4) uzohlawula noma agwetshwe isikhathi esingedluli iminyaka emihlanu, noma kokubili inhlawulo kanye nokugwetshwa okunjalo.

(7) Any person, education institution, director or a board member of an education institution, foreign institution or its agents, or skills development provider in contravention of section 32B(4) may be ordered to close its business and declared unfit to apply and register any education institution, skills development provider or become an agent of any foreign institution in the Republic offering a qualification or part-qualification on the NQF or foreign qualification or part-qualification for a period not exceeding 10 years.''.

Substitution of the Long Title of Act 67 of 2008

8. The following long title is hereby substituted for the long title of the principal Act: ''**To provide for the National Qualifications Framework; to provide for the responsibilities of the Minister of Higher Education and Training; to provide for the South African Qualifications Authority and its functions; to provide for Quality Councils and their functions; to provide for the referral of qualifications or part-qualifications to the SAQA for verification and evaluation; to provide for offences and penalties; to provide for transitional arrangements; to repeal the South African Qualifications Authority Act, 1995; and to provide for matters connected therewith**''.

Short title and commencement

9. (1) This Act is called the National Qualifications Framework Amendment Act, 2019, and comes into operation on the date determined by the President by proclamation in the *Gazette*.

(2) Different dates of commencement may be so determined for different sections of the Act.

(7) Noma yimuphi umuntu, isikhungo semfundo, umqondisi noma ilunga lebhodi yesikhungo semfundo, isikhungo sasemazweni angaphandle noma abasebenzi baso, noma umhlinzeki wezokuthuthukiswa kwamakhono ephambene nesigaba sama-32B(4) angalayelwa ukuthi avale ibhizinisi futhi atholwe engafanelekile ukuthi afake isicelo kanye nokubhalisa kunoma yisiphi isikhungo semfundo, umhlinzeki wezokuthuthukiswa kwamakhono noma abe umsebenzi wanoma yisiphi isikhungo sasemazweni angaphandle kweRiphabhulikhi ethwesa ngeziqu noma ingxenye yeziqu ku-NQF noma iziqu noma ingxenye yeziqu zasemazweni angaphandle isikhathi esingedluli iminyaka eyi-10.''.

Ukufaka endaweni Yesihloko Eside soMthetho wama-67 wezi-2008

8. Isihloko eside esilandelayo lapha sifakwe endaweni Yesihloko eside soMthetho-ngqangi:

''Ukuhlinzekela uHlaka LukaZwelonke LweziQu; ukuhlinzekela izibopho zikaNgqongqoshe Wezemfundo ePhakeme noQeqesho; ukuhlinzekela isiPhathimandla saseNingizimu Afrika seziQu kanye nemisebenzi yaso; ukuhlinzekela imiKhandlu yeKhwalithi (ama-QC) kanye nemisebenzi yayo; ukuhlinzekela ukudluliswa kweziqu noma ingxenye yeziqu ziye ku-SAQA ukuze ziqinisekiswe futhi zihlolwe; ukuhlinzekela amacala kanye nezinhlawulo; ukuhlinzekela amalungiselelo esikhashana; ukuchitha uMthetho waseNingizimu Afrika wesiPhathimandla seziQu, we-1995; kanye nokuhlinzekela imidanti exhumene nokunjalo.

Isihloko esifushane kanye nokuqaliswa kokusebenza

9. (1) Lo Mthetho ubizwa ngoMthetho Wesichibiyelo Wohlaka Lukazwelonke Lweziqu, wezi-2019, futhi uzoqala ukusebenza ngosuku olunqunywe nguMongameli ngesaziso ku*Gazethi*.

(2) Izinsuku ezahlukene zokuqaliswa zinganqunyelwa izigaba ezahlukene zoMthetho.

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