

VOCATIONAL TRAINING ACT, 1998

No. 22



of 1998

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An Act to provide for the integration and promotion of vocational training and for matters connected or incidental thereto.

Date of Assent: 21.12.98.

Date of Commencement: On Notice.

ENACTED by the Parliament of Botswana.

Part I — *Preliminary*

Short title

- 1. This Act may be cited as the Vocational Training Act, 1998 and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint.

Interpretation

- 2. In this Act, unless the context otherwise requires —
 - “apprentice” means an employee bound by a contract of apprenticeship;
 - “Authority” means the Botswana Training Authority established under section 3;
 - “Board” means the Board of the Authority established under section 5;
 - “Chief Executive Officer” means the chief executive officer of the Authority appointed under section 16;
 - “equivalences of vocational qualifications” means the same value of awards among various qualifications within the vocational training system being developed;
 - “Framework” means the Botswana National Vocational Qualifications Framework established under section 20;
 - “Fund” means the Vocational Training Fund established under section 21;
 - “levy” means a training levy imposed under section 24;
 - “technician level” means a training level leading to qualifications higher than those specified in the Framework under section 20;

“trainees” means employees enrolled in and undergoing an approved programme in vocational training;

“training institution” means a private or public centre, organisation, employer or person, providing vocational training; and

“vocational training” means provision of skills, knowledge and attitudes up to certain specified levels of qualification below the technician level.

PART II — *Establishment, Constitution and Membership of Botswana Training Authority*

3. There is hereby established a training authority to be known as the Botswana Training Authority which shall be a body corporate with a common seal, capable of suing and being sued and subject to the provisions of this Act, of performing such acts as bodies corporate may, by law, perform.

Establishment
of Botswana
Training
Authority

4. The principal objectives of the Authority shall be to —

Principal
objectives of
Authority

- (a) coordinate vocational training activities in order to achieve better integration and harmonisation of the vocational training system being developed;
- (b) monitor and evaluate the performance of the vocational training system being developed in order to ensure the successful performance of all training activities; and
- (c) advise on policy related issues of vocational training.

5. (1) There is hereby established a Board to exercise the powers and functions of the Authority which shall be composed of twenty members consisting of —

Establishment
of Board

- (a) one person appointed by the Minister, subject to subsection (2), as the chairperson of the Board;
- (b) six persons appointed by the Minister representing the Government;
- (c) three persons appointed by the Minister having a particular expertise in vocational training;
- (d) ten persons to be appointed by the Minister upon being nominated as follows —
 - (i) 4 members nominated by organisations for the time being representing employers;
 - (ii) 4 members nominated by organisations for the time being representing employees;
 - (iii) 2 members nominated by non-governmental organisations that manage privately owned vocational training institutions.

(2) The Minister shall, after consultation with the organisations for the time being representing employers, employees and institutions of vocational training, appoint a person of experience and expertise in matters related to vocational training, as chairperson of the Board.

(3) The members of the Board shall appoint, from among their number, a vice-chairperson.

(4) The Chief Executive Officer shall be the Secretary of the Board and as Secretary shall be entitled to attend and take part in the proceedings of every meeting of the Board but shall not vote.

(5) The persons to be nominated and appointed members of the Board under subsection (1) shall be those qualified on account of experience and expertise in matters relating to the functions of the Board.

(6) Every member of the Board shall, unless the member sooner resigns or otherwise ceases to hold office, hold office for a period not exceeding three years.

(7) At the expiry of the term of membership, a member of the Board is eligible for reappointment.

Disqualifi-
cation from
appointment
as a Board
member

6. No person shall be appointed or be qualified to hold office as a Board member if that member —

- (a) has been adjudged or otherwise become insolvent or bankrupt under any law in any country and has not been rehabilitated or discharged;
- (b) has made an assignment to, or arrangement or composition with creditors which has not been rescinded or set aside;
- (c) is of unsound mind;
- (d) has within a period of ten years preceding the date of the proposed appointment, been convicted, whether within or outside Botswana, of any criminal offence and sentenced by a court of competent jurisdiction to imprisonment for six months or more without the option of a fine;
- (e) is a member of Parliament;
- (f) has been disqualified or suspended, being the holder of professional qualifications, from practising the trade or skill in Botswana or any other country by order of a competent authority.

Vacation of
office

7. A Board member shall vacate office and the office shall become vacant —

- (a) if the member becomes disqualified to hold office as a member in accordance with section 6;
- (b) if the member is absent from three consecutive meetings of the Board without reasonable excuse;
- (c) upon the member's death;
- (d) upon the expiry of one month's notice, given in writing by the member to the Minister of the member's intention to resign from office;
- (e) upon the expiry of such time as the Minister may specify in writing of the member's removal from office;
- (f) if the member becomes mentally or physically incapable of performing the duties as a member of the Board; or
- (g) if he is convicted of an offence under this Act or any other Act for which the member is sentenced to imprisonment for a term of six months or more without the option of a fine.

8. If a vacancy occurs in the membership of the Board in accordance with section 7, the Minister may appoint, in accordance with this Act, any person to fill the vacancy and the person so appointed shall hold office for the unexpired period of the term of office of the member who vacated office.

Filling of
vacancies

9. There shall be paid to the members out of the Fund, such fees and allowances as the Minister may, from time to time determine.

Payment of
members

PART III — *Meetings and Proceedings of the Board*

10. (1) Subject to the provisions of this Act, the Board shall regulate its own procedure.

Meetings of
Board

(2) The Board shall meet at least three times in each year for the discharge of its functions and such meetings shall be held at such place and time and on such days as the chairperson may determine.

(3) At any meeting of the Board, the chairperson shall preside and in the absence of the chairperson, the vice-chairperson; in the absence of both the chairperson and vice-chairperson, the members of the Board present shall elect from among their number, a chairperson for purposes of that meeting.

(4) At every meeting of the Board, one-third of the number of members shall constitute a quorum.

(5) The decisions of the Board shall be by a majority of votes and in the case of an equality of votes, the chairperson presiding shall have a casting vote.

(6) Proper minutes of each meeting shall be kept and shall be confirmed by the chairperson at a subsequent meeting.

(7) The Board may, and shall if the Minister so directs, request the attendance at any meeting of any person who can, in its considered opinion or that of the Minister, assist or advise the Board in respect of any matter before it, and such person whilst attending such meeting shall have all the rights of a member, save that of voting and that of the attendance counting in the constitution of a quorum.

11. (1) A Board member who is, directly or indirectly, interested in a contract made or proposed to be made by the Board or any other matter which is before any meeting of the Board, shall forthwith declare the nature of his or her interest after becoming aware of the relevant facts.

Declaration of
interest by
members

(2) A declaration made under subsection (1) shall be recorded in the minutes of the Board and after the declaration, that Board member shall —

(a) not take part in any deliberation or discussion of, nor shall the member vote on any question with respect to that contract or matter; and

(b) be disregarded for the purpose of constituting a quorum of the Board for such deliberation, discussion or vote as the case may be.

	(3) Any Board member who fails to comply with the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding P5000.
Validity of acts or proceedings	12. The validity of any act or proceedings of the Board shall not be affected by any vacancy in the membership thereof, or by any defect in the appointment of any member thereof.
Signification of documents	13. All documents and decisions of the Board, may be signified under the hand of the chairperson or any Board member or senior officer of the Authority generally or specially authorised in that behalf.
Power to delegate	14. (1) The Board may delegate to the Chief Executive Officer, authority to carry out on its behalf such duties as the Board may determine. (2) Any delegation made under subsection (1) may be revoked by the Board at any time and no such delegation shall prevent the exercise of authority by the Board.
Committees	15. (1) The Board may, for the purpose of performing the functions of the Authority, establish such committees as it considers appropriate and may delegate, to any such committee, such of its functions as it considers necessary. (2) The Board may appoint, to such committees, such number of persons, not being members of the Board as it considers appropriate, and such persons shall hold office for such period as the Board may determine. (3) Subject to the specific or general directions of the Board, a committee may regulate its own procedure. (4) Meetings of a committee shall be held at such times and places as the committee may determine, or as the Board may direct. (5) Each committee shall keep minutes of its meetings and shall keep the Board informed of its activities and shall conduct its proceedings in such manner as the Board may direct. (6) A member of a committee of the Board shall be paid such allowances, if any, as the Board with the approval of the Minister, may determine.
Appointment of officers and employees	16. (1) The Board shall, with the approval of the Minister, upon such terms and conditions as it may determine, appoint a Chief Executive Officer of the Authority. (2) The Chief Executive Officer shall, in accordance with policy laid down by the Board, be charged with the administration and organisation of the Authority, the control and management of the officers and employees, and the responsibility of accounting for all financial transactions of the Authority. (3) The Chief Executive Officer may delegate to any officer or employee of the Authority, the exercise of any powers which he or she is authorised to exercise under this Act. (4) The Board may, with the approval of the Minister, summarily dismiss the Chief Executive Officer for misconduct or incompetence.

(5) The Board shall appoint the senior officers of the Authority and the Chief Executive Officer shall appoint such other officers and employees as may be necessary for the proper discharge of the functions of the Authority.

(6) The terms and conditions of employment of the officers and employees of the Authority shall be as may be determined by the Board.

PART IV — *Functions, Powers and Duties of Authority*

17. (1) The Authority shall coordinate and promote vocational training in Botswana.

Functions and
powers of
Authority

(2) Without derogating from the generality of subsection (1), the Authority shall —

- (a) promote access to training opportunities in vocational training on an equitable basis;
- (b) accredit, register and monitor both public and private training institutions to ensure adherence to the required standard and quality of training and to minimise variability between the training institutions;
- (c) develop and review national training standards for the various qualification levels within the Framework in order to form a clear and consistent system that is relevant to the needs of the various sectors of the economy;
- (d) approve and guide the development of new and emerging vocations to meet the requirements of the diversifying economy;
- (e) guide the development of programme courses and curricula in vocational training;
- (f) accredit, monitor and evaluate the implementation of programme courses for a comprehensive development of the individual, the economy and the society;
- (g) initiate, monitor and evaluate pilot programme courses for further development of vocational training;
- (h) coordinate the production of teaching and learning materials in accordance with programme courses and curricula;
- (i) accredit and register teachers for vocational training and ensure that standards of teaching, assessment and grading are maintained;
- (j) develop a national training awards system in accordance with the Framework;
- (k) establish a data base and initiate relevant surveys in matters relating to vocational training;
- (l) regulate assessment and testing within the vocational training system being developed;
- (m) declare any trade to be an apprenticeable trade and regulate any matter relating to apprenticeship training;
- (n) initiate, support and conduct research in the area of vocational training nationally and internationally and disseminate research outcomes in order to enhance the quality and relevance of the vocational training system being developed; and

	(o) establish links with national and international institutions to draw from their experience in the development of a vocational training system. (3) The Authority may exercise and perform such other powers and functions as may be conferred on it by this Act, or any other law. (4) The Board may, in writing, delegate any of the powers and functions of the Authority to the Chief Executive Officer or any other officer or employee of the Authority.
Directions by Minister	18. (1) The Minister may, after consultation with the Board, give such general or specific directions, not inconsistent with the provisions of this Act, or as to the policy to be followed by the Authority in the performance of its functions under this Act as appears to the Minister to be necessary, and the Authority shall as soon as practicable give effect to any such direction. (2) The Minister may, on the recommendations of the Board, close any training institution.
Power to require information	19. (1) The Authority shall have the power to require, from any training institution such information including accounts, returns or estimates as the Authority deems it necessary, to carry out its functions under this Act. (2) If so requested by the Authority, the training institution shall give the Authority access to or provide it with such information as the Authority may require and the Authority shall be entitled to make copies or take extracts from any information. (3) Information provided by any training institution shall not be false or misleading. (4) The Chief Executive Officer, employee or officer of the Authority shall not disclose to any other person any information so acquired if that disclosure would be detrimental to the training institution the information was obtained from, except where — (a) civil or criminal proceedings arise involving that training institution; (b) the Chief Executive Officer, employee or officer of the Authority is summoned to appear before a court of competent jurisdiction in Botswana and the court orders the disclosure of the information; (c) the information is required by the Chief Executive Officer, employee or officer, or by an auditor or legal representative of the Authority, who is entitled to know the information in the course of professional duties in matters related to the objectives of this Act. (5) Any person who contravenes any of the provisions of this section shall be guilty of an offence and liable to a fine not exceeding P5000.
Botswana National Vocational Qualifications Framework	20. (1) The Authority shall establish the National Vocational Qualifications Framework for the purpose of providing the basis for accreditation and determination of equivalencies of vocational qualifications, which framework shall be linked to any other qualification and accreditation within the overall qualification framework of the education system in Botswana.

(2) The Framework shall consist of the following levels of qualifications to be certified by appropriate testing after relevant training and adequate work experience —

- (a) Foundation Level which includes a broad based initial training and reflects competence to perform, under supervision, a limited range of work activities;
- (b) Intermediate Level which includes competence to perform, with minimum guidance and supervision, routine jobs and some non routine jobs; and
- (c) Certificate Level which includes competence to perform tasks associated with skilled jobs of non routine and complex nature and indicates potential for supervisory functions.

PART V — *Vocational Training Fund and Financial Provisions*

21. (1) The Minister may establish the Vocational Training Fund for the purpose of reimbursing employers who have incurred training costs for apprentices or trainees.

Vocational
Training Fund

(2) There shall be paid into the Fund such moneys as may be —

- (a) appropriated by Parliament for payment into the Fund;
- (b) received by way of a levy imposed under section 24;
- (c) received from any other source for payment into the Fund.

(3) There shall be paid from the Fund such amounts as are required for the purposes of facilitating vocational training.

(4) The Authority shall have the overall responsibility of the Fund and the Board shall manage the Fund.

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

22. (1) The funds of the Board shall consist of —

Funds of the
Board

- (a) such sums as may be payable to the Board from moneys appropriated by Parliament for the purpose;
- (b) such other moneys or contributions which may accrue to the Fund;
- (c) such other moneys or assets which may accrue to or vest in the Board, whether in the performance of its functions or otherwise.

(2) The Board shall keep and maintain proper accounts and records in respect of its finances and shall prepare in each financial year a balance sheet and statement of income and expenditure in such form and manner as the Accountant-General may approve.

(3) The Board shall, not later than 31st March in each year, sign and forward to the Accountant-General a copy of the balance sheet and statement of income and expenditure in respect of the previous year.

(4) The balance sheet and statement of income and expenditure shall be included in the Annual Statement of Accounts submitted by the Accountant-General to the Auditor-General in accordance with section 34 (2) of the Finance and Audit Act.

Cap. 54:01

Powers to
borrow
money

23. The Board, on behalf of the Authority, may, with prior approval of the Minister and the Minister responsible for finance, borrow money from any source.

Imposition of
training levy

24. (1) The Minister may, after consultation with the Board, impose, by Order, a levy, which shall be payable into the Fund.

(2) A levy Order may prescribe the level, exemption or payment procedures and any other matter relating to the enforcement of payment of levy.

Evasion of
levy

25. Any person who with intent to evade payment of levy —

- (a) makes a false statement to the Chief Executive Officer;
 - (b) fails or omits to give information required under this Act; or
 - (c) gives any information which is false in any material particular;
- shall be guilty of an offence and shall be liable to a fine not exceeding P7000 or to imprisonment for a term not exceeding eighteen months or to both.

PART VI — *Miscellaneous*

Symbol or
design of
Authority

26. (1) The Authority shall have the exclusive right to the use of such symbol, design or representation as it may select or devise in connection with its activities or affairs.

(2) A person who uses a symbol, design or representation identical with that of the Authority or which so resembles the symbol, design or representation thereof so as to deceive or cause confusion or to be likely to deceive or cause confusion shall be guilty of an offence and shall be liable to a fine not exceeding P1000.

Issue of
certificates

27. (1) The Authority shall have the exclusive right to the form and presentation of its titles of certificates or other qualifications issued by the Authority to any person who attains any of the three levels of qualification within the Framework.

(2) Any person who issues or uses, or causes or permits the use of titles of certificates or other qualifications identical with those of the Authority shall be guilty of an offence and shall be liable to a fine not exceeding P3000.

Annual Report

28. (1) The Board shall, within a period of six months after the end of the financial year or within such longer period as the Minister may approve, submit to the Minister a comprehensive report on its operations during such year together with the auditor's report and the audited accounts as provided for in section 22 and the Board shall publish them in such manner as the Minister may specify.

(2) The Minister shall, not later than 30 days after the first sitting of the National Assembly next after the receipt of the Board's report, lay it before the National Assembly.

Protection
from personal
liability

29. No matter or thing done by any member of the Board or by any officer or employee of the Authority shall, if the matter or thing is done *bona fide* for the purpose of executing any provision of this Act, render such person personally liable to any action, claim or demand.

30. Any person who contravenes any of the provision of this Act in respect of which no penalty is provided shall be guilty of an offence and liable to a fine not exceeding P5000 or to imprisonment for a term not exceeding twelve months or to both.

Penalties

31. The Minister may, after consultation with the Board, make regulations for any matter which under this Act is to be prescribed or for the better carrying out of the provisions and purposes of this Act, and without prejudice to the generality of the foregoing, such regulations may provide for —

Power to make Regulations

- (a) prescribing procedures of accrediting, registering and monitoring of both public and private training institutions;
- (b) the procedure for accrediting teachers, programme courses and determination of equivalences of qualifications within the Framework;
- (c) prescribing national training standards for the various qualification levels within the Framework;
- (d) prescribing the manner of accrediting, monitoring and evaluating the implementation of programme courses;
- (e) regulating the national training awards system in accordance with the Framework;
- (f) regulating the manner of assessment and testing within the vocational training system being developed;
- (g) prescribing the manner of conducting research and disseminating research outcomes, nationally or internationally, in the area of vocational training;
- (h) approving and declaring vocations to be apprenticeable and regulating any other matter affecting apprenticeship training.

32. (1) Any responsibility or function of the Authority under this Act which immediately before the coming into operation of this Act, has been or is performed by any other person or institution shall be deemed to be transferred to the Authority.

Transitional provision

(2) Any person who, at the coming into operation of this Act is carrying on the business or activity of vocational training in public or private institutions, shall within six months of the coming into operation of this Act, comply with the provisions of this Act and regulations made thereunder.

33. The Apprenticeship and Industrial Training Act is hereby repealed.

Repeal of Cap. 47:04

34. Notwithstanding the repeal effected under section 33, any person awarded with a certificate under the Apprenticeship and Industrial Training Act before the commencement of this Act, shall be deemed to have been so qualified under this Act.

Savings

Cap. 47:04

PASSED by the National Assembly this 9th day of December, 1998.

C.T. MOMPEI,
Clerk of the Natrional Assembly.