

Act No. 50, 2008 GENERAL AND FURTHER EDUCATION AND TRAINING
QUALITY ASSURANCE AMENDMENT ACT, 2008

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 23 December 2008.)*

ACT

To amend the General and Further Education and Training Quality Assurance Act, 2001, so as to make it consistent with the National Qualifications Framework Act, 2008; and to provide for matters connected therewith.

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

Deletion of Preamble of Act 58 of 2001

1. The Preamble to the General and Further Education and Training Quality Assurance Act, 2001 (hereinafter referred to as the principal Act), is hereby deleted. 5

Amendment of section 1 of Act 58 of 2001, as amended by section 8 of Act 1 of 2004

2. Section 1 of the principal Act is hereby amended—
- (a) by the substitution for the definition of “**accreditation**” of the following definition: 10
- “**‘accreditation’** means [the certification of a person, a body or an institution as having the capacity to fulfill a particular function in the quality assurance system set up by the South African Qualifications Authority in terms of the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995)] accreditation by the Council in terms of this Act;”;
- (b) by the substitution for the definition of “**assessment body**” of the following definition: 15
- “**‘assessment body’** means a department of education or [any other body registered with] a body accredited by the Council as a body responsible for conducting external assessment;”;
- (c) by the substitution for the definition of “**certificate**” of the following definition: 20
- “**‘certificate’** means a certificate contemplated in section [16(4)(e)] 17A(6);”;
- (d) by the deletion of the definition of “**Education and Training Quality Assurance Body**”; 25

WYSIGINGSWET OP GEHALTEVERSEKERING
VIR ALGEMENE EN VERDERE ONDERWYS
EN OPLEIDING, 2008

Wet No. 50, 2008

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit
bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in
bestaande verordenings aan.

(Engelse teks deur die President geteken.)
(Goedgekeur op 23 Desember 2008.)

WET

Tot wysiging van die Wet op Gehalteversekering vir Algemene en Verdere Onderwys en Opleiding, 2001, ten einde dit met die “National Qualifications Framework Act, 2008”, in ooreenstemming te bring; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Skrapping van Aanhef van Wet 58 van 2001

1. Die Aanhef van die Wet op Gehalteversekering vir Algemene en Verdere Onderwys en Opleiding, 2001 (hieronder die Hoofwet genoem), word hierby geskrap. 5

Wysiging van artikel 1 van Wet 58 van 2001, soos gewysig deur artikel 8 van Wet 1 van 2004

2. Artikel 1 van die Hoofwet word hierby gewysig—

(a) deur die omskrywing van “**akkreditering**” deur die volgende omskrywing te 10
vervang:

“**akkreditering**’ [die sertifisering van ’n persoon, ’n liggaam of ’n 10
inrigting as bevoeg om ’n bepaalde werksaamheid in die ge-
halteversekeringsstelsel ingestel deur die Suid-Afrikaanse Kwali-
fikasie-owerheid ingevolge die Wet op die Suid-Afrikaanse 15
Kwalifikasie-owerheid, 1995 (Wet No. 58 of 1995), te verrig] 15
akkreditering deur die Raad ingevolge hierdie Wet;”;

(b) deur die omskrywing van “**algemene onderwys en opleiding**” deur die 20
volgende omskrywing te vervang:

“**algemene onderwys en opleiding**’ alle leer- en opleidingsprogramme 20
wat [lei] tot ’n kwalifikasie op vlak I van die Nasionale 20
Kwalifikasieraamwerk [, **welke vlak laer as verdere onderwys en 20**
opleiding is] lei;”;

(c) deur die omskrywing van “**assesseringsliggaam**” deur die volgende 25
omskrywing te vervang:

“**assesseringsliggaam**’ ’n departement van onderwys of [**enige ander 25**
liggaam by die raad geregistreer] ’n liggaam deur die Raad 25
geakkrediteer as ’n liggaam verantwoordelik vir die onderneem van 25
eksterne assessering;”;



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- (e) by the insertion before the definition of “**employee**” of the following definition:
“**education institution**’ means an education institution contemplated in section 2;”;
- (f) by the substitution for the definition of “**further education and training**” of the following definition:
“**further education and training**’ means all learning and training programmes leading to qualifications [from] on levels [2 to 4] 2, 3 and 4 of the National Qualifications Framework[, which levels are above general education and training but below higher education];”;
- (g) by the substitution for the definition of “**general education and training**” of the following definition:
“**general education and training**’ means all learning and training programmes leading to a qualification on level 1 of the National Qualifications Framework[, which level is below further education and training];”;
- (h) by the substitution for the definition of “**internal assessment**” of the following definition:
“**internal assessment**’ means any assessment conducted by [the provider] an education institution contemplated in section 2, the outcomes of which count towards the achievement of a qualification;”;
- (i) by the substitution for the definition of “**National Qualifications Framework**” of the following definition:
“**National Qualifications Framework**’ means the National Qualifications Framework contemplated in the [South African Qualifications Authority Act, 1995 (Act 58 of 1995)] National Qualifications Framework Act;”;
- (j) by the insertion after the definition of “**National Qualifications Framework**” of the following definitions:
“**National Qualifications Framework Act**’ means the National Qualifications Framework Act, 2008;
“**part qualification**’ means an assessed unit of learning that is registered on the National Qualifications Framework as part of a qualification;
“**private education institution**’ means an education institution which, in terms of a law referred to in section 2, is an independent school, a private college or a private centre;”;
- (k) by the deletion of the definition of “**provider**”;
- (l) by the substitution for the definition of “**qualification**” of the following definition:
“**qualification**’ means [the formal recognition of the achievement of the required number and range of credits and such other requirements at specific levels of the National Qualifications Framework as may be determined by the relevant bodies registered for such purpose] a qualification registered by the South African Qualifications Authority”;
- (m) by the insertion after the definition of “**raw marks**” of the following definitions:
“**registrar**’ means the registrar of private colleges referred to in section 27 of the Further Education and Training Colleges Act, 2006 (Act No. 16 of 2006);
“**SAQA**’ means the South African Qualifications Authority;
- (n) by the substitution for the definition of “**South African Qualifications Authority**” of the following definition:
“**South African Qualifications Authority**’ means the South African Qualifications Authority established by [section 3 of the South African Qualifications Authority Act, 1995 (Act 58 of 1995)] the National Qualifications Framework Act;”;
- (o) by the deletion of the definition of “**standard**”.



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Substitution of section 3 of Act 58 of 2001

3. The following section is hereby substituted for section 3 of the principal Act:

“Object of Act

3. The object of the Act is to enhance the quality of general and further education and training.” 5

Substitution of heading to Chapter 2 of Act 58 of 2001

4. The following heading is hereby substituted for the heading to Chapter 2 of the principal Act:

“ESTABLISHMENT AND [ACCREDITATION] FUNCTIONS OF COUNCIL”. 10

Repeal of section 5 of Act 58 of 2001

5. Section 5 of the principal Act is hereby repealed.

Amendment of section 6 of Act 58 of 2001

6. Section 6 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection: 15

“(2) In addition to the members contemplated in subsection (1), the **[Chief Executive Officer is a member by virtue of his or her officer]** chief executive officers of the following institutions are members by virtue of their office:

- (a) The Council;
- (b) the Council on Higher Education established by the Higher Education Act, 1997 (Act No. 101 of 1997);
- (c) the Quality Council for Trades and Occupations contemplated in the National Qualification Framework Act; and
- (d) the SAQA.” 20

Substitution of section 16 of Act 58 of 2001 25

7. The following section is hereby substituted for section 16 of the principal Act:

“Functions of Council

16. (1) The Council performs its functions subject to—

- (a) the National Qualifications Framework Act; and
- (b) the National Education Policy Act, 1996 (Act No. 27 of 1996). 30

(2) The Council is the quality council for general and further education and training as contemplated in the National Qualifications Framework Act and has the functions contemplated in section 27 of that Act.

(3) The Council is responsible for the sub-framework for general and further education and training of the National Qualifications Framework determined by the Minister in terms of section 8(2)(e) of the National Qualifications Framework Act. 35

(4) The Council, with the approval of the Minister, may assume its functions progressively, depending on its capacity.

(5) The Council must perform any function consistent with this Act that the Minister may determine.” 40

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IN OPLEIDING, 2008

Wet No. 50, 2008

Vervanging van artikel 3 van Wet 58 van 2001

3. Artikel 3 van die Hoofwet word hierby deur die volgende artikel vervang:

“Oogmerk van Wet

3. Die oogmerk van die Wet is om die gehalte van algemene en verdere onderwys en opleiding te verhoog.”

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Wysiging van opskrif van Hoofstuk 2 van Wet 58 van 2001

4. Die opskrif van Hoofstuk 2 van die Hoofwet word hierby deur die volgende opskrif vervang:

“INSTELLING EN [AKKREDITERING] WERKSAAMHEDE VAN RAAD”.

Herroeping van artikel 5 van Wet 58 van 2001

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5. Artikel 5 van die Hoofwet word hierby herroep.

Wysiging van artikel 6 van Wet 58 van 2001

6. Artikel 6 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Bykomend tot die lede in subartikel (1) beoog, is [Die Hoof-Uitvoerende Beampte] die hoof- uitvoerende beamptes van die volgende inrigtings [is, bykomend tot die lede in subartikel (1) beoog ’n lid uit hoofde van sy of haar] lede uit hoofde van hul amptelike hoedanigheid:

- (a) Die Raad;**
- (b) die Raad op Hoër Onderwys ingestel by die Wet op Hoër Onderwys, 1997 (Wet No. 101 van 1997);**
- (c) die Gehalteraad vir Ambagte en Beroepe beoog met ‘Quality Council for Trades and Occupations’ in die ‘National Qualifications Framework Act’; en**
- (d) die SAKO.”**

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Vervanging van artikel 16 van Wet 58 van 2001

7. Artikel 16 van die Hoofwet word hierby deur die volgende artikel vervang:

“Wersaamhede van Raad

16. (1) Die Raad verrig sy wersaamhede behoudens—

- (a) die ‘National Qualifications Framework Act’; en**
- (b) die Wet op Nasionale Onderwysbeleid, 1996 (Wet No. 27 van 1996).**

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(2) Die Raad is die gehalteraad vir algemene en verdere onderwys en opleiding beoog met ‘QC for Higher Education’ in die ‘National Qualifications Framework Act’ en verrig die wersaamhede in artikel 27 van daardie Wet beoog.

(3) Die Raad is verantwoordelik vir die subraamwerk vir algemene en verdere onderwys en opleiding, beoog met ‘sub-framework for general and further education and training’ van die Nasionale Kwalifikasieraamwerk ingevolge artikel 8(2), e van die ‘National Qualifications Framework Act’ deur die Minister bepaal.

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(4) Die Raad kan, met die goedkeuring van die Minister, sy wersaamhede stapsgewyse aanpak, afhangende van sy vermoë.

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(5) Die Raad moet enige wersaamheid verrig wat met hierdie Wet bestaanbaar is en wat die Minister bepaal.”

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Insertion of heading after section 16 of Act 58 of 2001

8. The following heading is hereby inserted after section 16 of the principal Act:

**“CHAPTER 2A
ASSESSMENT”.**

Insertion of section 17A in Act 58 of 2001

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9. The following section is hereby inserted in the principal Act after section 17:

“External assessment

- 17A. (1)** The Council must assure the quality of assessment at exit points.
- (2) (a) The Council must develop policy for the accreditation of assessment bodies other than departments of education and must submit it to the Minister for approval. 10
- (b) The Minister must make regulations in which the policy for accreditation is set out.
- (c) The Council must accredit an assessment body in accordance with the regulations contemplated in paragraph (b). 15
- (3) The Council must perform the external moderation of assessment of all assessment bodies and education institutions.
- (4) The Council may adjust raw marks during the standardisation process. 20
- (5) The Council must, with the concurrence of the Director-General and after consultation with the relevant assessment body or education institution, approve the publication of the results of learners if the Council is satisfied that the assessment body or education institution has— 25
- (i) conducted the assessment free from any irregularity that may jeopardise the integrity of the assessment or its outcomes;
- (ii) complied with the requirements prescribed by the Council for conducting assessments;
- (iii) applied the standards prescribed by the Council which a learner is required to comply with in order to obtain a certificate; and 30
- (iv) complied with every other condition determined by the Council.
- (6) The Council must issue certificates to learners who have achieved qualifications or part qualifications.”.

Amendment of section 18 of Act 58 of 2001

10. Section 18 of the principal Act is hereby amended— 35

- (a) by the substitution for the heading of the following heading:
“Functions of [provider or] assessment body with regard to external assessment”; and
- (b) by the substitution for the words preceding paragraph (a) of the following words: 40
- “In respect of an external assessment and subject to policy determined by the Minister in terms of [section 3(4) of the National Education Policy Act, 1996 (Act No. 27 of 1996)] this Act, an assessment body—”.

Substitution of heading to Chapter 3 of Act 58 of 2001

11. The following heading is hereby substituted for the heading to Chapter 3 of the principal Act: 45

“[ACCREDITATION OF PROVIDERS] QUALITY ASSURANCE OF PRIVATE EDUCATION INSTITUTIONS”.

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Invoeging van opskrif na artikel 16 van Wet 58 van 2001

8. Die volgende opskrif word hierby na artikel 16 van die Hoofwet ingevoeg:

“HOOFSTUK 2A
ASSESSERING”.

Invoeging van artikel 17A in Wet 58 van 2001

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9. Die volgende artikel word hierby na artikel 17 van die Hoofwet ingevoeg:

“Eksterne assessering

17A. (1) Die Raad moet die gehalte van assessering by uittreepunte verseker.

(2) (a) Die Raad moet beleid vir die akkreditering van assesseringsliggame buiten onderwysdepartemente ontwikkel en dit vir goedkeuring aan die Minister voorlê.

(b) Die Minister moet regulasies uitvaardig waarin die beleid vir akkreditering uiteengesit word.

(c) Die Raad moet 'n assesseringsliggaam akkrediteer in ooreenstemming met die regulasies in paragraaf (b) beoog.

(3) Die Raad moet die eksterne moderering van assessering van alle assesseringsliggame en onderwysinrigtings uitvoer.

(4) Die Raad kan rou punte gedurende die standaardiseringsproses aanpas.

(5) Die Raad moet, met die instemming van die Direkteur-generaal en na oorlegpleging met die tersaaklike assesseringsliggaam of onderwysinrigting, die publikasie van die uitslae van leerders goedkeur as die Raad oortuig is dat die assesseringsliggaam of onderwysinrigting—

(i) die assessering op so 'n manier uitgevoer het dat dit vry is van enige onreëlmatigheid wat die integriteit van die assessering of die uitkomst daarvan in gevaar kan stel;

(ii) voldoen het aan die vereistes wat die Raad vir die uitvoer van assesserings voorgeskryf het;

(iii) die deur die Raad voorgeskrewe standaard waaraan 'n leerder moet voldoen ten einde 'n sertifikaat te verwerf, toegepas het; en

(iv) aan elke ander deur die Raad bepaalde voorwaarde voldoen het.

(6) Die Raad moet sertifikate uitreik aan leerders wat kwalifikasies of deelkwalifikasies verwerf het.”

Wysiging van artikel 18 van Wet 58 van 2001

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10. Artikel 18 van die Hoofwet word hierby gewysig—

(a) deur die opskrif deur die volgende opskrif te vervang:

“Werksaamhede van [verskaffer of] assesseringsliggaam met betrekking tot eksterne assessering”; en

(b) deur die woorde wat paragraaf (a) voorafgaan, deur die volgende woorde te vervang:

“'n Assesseringsliggaam, ten aansien van 'n eksterne assessering en behoudens beleid bepaal deur die Minister ingevolge [artikel 3(4) van die Wet op Nasionale Onderwysbeleid, 1996 (Wet No. 27 of 1996)] hierdie Wet—”.

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Vervanging van opskrif van Hoofstuk 3 van Wet 58 van 2001

11. Die opskrif van Hoofstuk 3 van die Hoofwet word hierby deur die volgende opskrif vervang:

“[AKKREDITERING VAN VERSKAFFERS]
GEHALTEVERSEKERING VAN PRIVATE ONDERWYSINRIGTINGS”.

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Repeal of Part 1 of Chapter 3 of Act 58 of 2001

12. Part 1 of Chapter 3 of the principal Act is hereby repealed.

Deletion of heading in Chapter 3 of Act 58 of 2001

13. The principal Act is hereby amended by the deletion of the heading, "Part 2 Private Providers", which precedes section 23. 5

Substitution of sections 23 and 24 of Act 58 of 2001

14. The following sections are hereby substituted for sections 23 and 24 of the principal Act:

"Quality assurance of private education institutions

23. (1) The Council must develop policy and criteria for quality assurance of private education institutions. 10

(2) Any institution that is required to register as—

- (a) an independent school in terms of the South African Schools Act, 1996 (Act No. 84 of 1996);
 - (b) a private college for further education and training in terms of the Further Education and Training Colleges Act, 2006 (Act No. 16 of 2006); or 15
 - (c) a private centre in terms of the Adult Basic Education and Training Act, 2000 (Act No. 52 of 2000),
- must comply with the policy and criteria contemplated in subsection (1)". 20

Notification of accredited programmes

24. (1) The Council must within 14 days of accrediting [the] programmes [as] in terms of the policy contemplated in section 23—

- (a) in the case of a [provider] private college contemplated in section [23(4)(b)] 23(2)(b), notify the registrar [of further education and training institutions]; and 25
- (b) in the case of [a provider] an independent school or a private centre contemplated in section [23(4)(a) or (c)] 23(2)(a) or (c), the relevant head of department.

(2) The notification must indicate if any conditions are attached to the accreditation and the nature thereof." 30

Amendment of section 25 of Act 58 of 2001

15. Section 25 of the principal Act is hereby amended by the substitution for subsections (1), (2) and (3) of the following subsections:

"(1) The Council must monitor private [providers] education institutions to ensure compliance with the policy contemplated in section [23(2)] 23(1). 35

(2) If a private [provider] education institution fails to comply with the policy, the Council must—

- (a) notify such private [provider] education institution in writing and set out the nature and extent of the failure; and 40
- (b) determine a reasonable period within which the private [provider] education institution must comply with the policy.

(3) At the expiry of the period contemplated in subsection (2)(b), the Council—

- (a) must evaluate the steps taken by the private [provider] education institution to comply with the policy and take into account any submissions made by the [provider] education institution; and 45
- (b) may affirm the accreditation of the private [provider] education institution or withdraw the accreditation as from a date specified by the Council."

Short Title

16. This Act is called the General and Further Education and Training Quality Assurance Amendment Act, 2008. 50

WYSIGINGSWET OP GEHALTEVERSEKERING
VIR ALGEMENE EN VERDERE ONDERWYS
IN OPLEIDING, 2008

Wet No. 50, 2008

Herroeping van Deel 1 van Hoofstuk 3 van Wet 58 van 2001

12. Deel 1 van Hoofstuk 3 van die Hoofwet word hierby herroep.

Skraping van opskrif in Hoofstuk 3 van Wet 58 van 2001

13. Die Hoofwet word hierby gewysig deur die skraping van die opskrif "Deel 2 Private Verskaffers" wat artikel 23 voorafgaan. 5

Vervanging van artikels 23 en 24 van Wet 58 van 2001

14. Artikels 23 en 24 van die Hoofwet word hierby deur die volgende artikels vervang:

"Gehalteversekering van private onderwysinrigtings

23. (1) Die Raad moet beleid en maatstawwe vir gehalteversekering van private onderwysinrigtings ontwikkel. 10

(2) 'n Inrigting waarvan daar vereis word om as—

(a) 'n onafhanklike skool ingevolge die Suid-Afrikaanse Skolewet, 1996 (Wet No. 84 van 1996);

(b) 'n private kollege vir verdere onderwys en opleiding ingevolge die 'Further Education and Training Colleges Act, 2006' (Wet No. 16 van 2006); of 15

(c) 'n private sentrum ingevolge die Wet op Basiese Onderwys en Opleiding vir Volwassenes, 2000 (Wet No. 52 van 2000),

te registreer, moet aan die in subartikel (1) beoogde beleid en maatstawwe voldoen. 20

Kennisgewing van geakkrediteerde programme

24. (1) Die Raad moet, binne 14 dae nadat [die] dit programme [soos] ingevolge die in artikel 23 beoogde beleid [,] geakkrediteer [is] het— 25

(a) in die geval van 'n [verskaffer] private kollege in artikel [23(4)(b)] 23(2)(b) beoog, die registrateur [van inrigtings vir verdere onderwys en opleiding] in kennis stel; en

(b) in die geval van 'n [verskaffer] onafhanklike skool of 'n private sentrum in artikel [23(4)(a) of (c)] 23(2)(a) of (c) beoog, die betrokke departementshoof in kennis stel. 30

(2) Die kennisgewing moet aandui of enige voorwaardes aan die akkreditering geheg is, en die aard daarvan."

Wysiging van artikel 25 van Wet 58 van 2001

15. Artikel 25 van die Hoofwet word hierby gewysig deur subartikels (1), (2) en (3) deur die volgende subartikels te vervang: 35

"(1) Die Raad moet private [verskaffers] onderwysinrigtings monitor ten einde voldoening aan die beleid in artikel [23(2)] 23(1) beoog, te verseker.

(2) Indien 'n private [verskaffer] onderwysinrigting versuim om aan die beleid te voldoen, moet die Raad—

(a) daardie private [verskaffer] onderwysinrigting skriftelik in kennis stel en die aard en omvang van die versuim uiteensit; en 40

(b) 'n redelike tydperk bepaal waarbinne die [verskaffer] private onderwysinrigting aan die beleid moet voldoen.

(3) By die verstryking van die tydperk in subartikel (2)(b) beoog—

(a) moet die Raad die stappe evalueer wat deur die private [verskaffer] onderwysinrigting gedoen is om aan die beleid te voldoen [,] en enige voorleggings deur die [verskaffer] onderwysinrigting gedoen, in ag neem; en 45

(b) kan die Raad die [akkreditasie] akkreditering van die private [verskaffer] onderwysinrigting bevestig of dit intrek vanaf 'n datum deur die Raad bepaal." 50

Kort titel

16. Hierdie Wet heet die Wysigingswet op Gehalteversekering vir Algemene en Verdere Onderwys en Opleiding, 2008.

