

**TERTIARY EDUCATION (AMENDMENT) BILL, 2021**

*(Bill No. 61 of 2021)*

**OBJECTS AND REASONS**

The Tertiary Education Act, Act 12 of 2011 (the “Act”) was enacted to provide for the organisation and development of tertiary education in Seychelles, to establish the Tertiary Education Commission (hereinafter the “Commission”) and to provide for connected matters. The affairs of the Commission is administered by a Board of which its members are appointed by the President. The Chief Executive Officer appointed by the President is responsible for the implementation of the decisions of the Board and managing the overall operations of the Commission.

The President, in his address to the Nation on the 1 February, 2021, made announcement of restructuring of statutory and other parastatal bodies.

In order to give effect to the announcement made by the President, it is proposed to abolish the Commission and entrust its functions and responsibilities to the Ministry of Education and the Seychelles Qualifications Authority.

Accordingly, in view of the above, it is proposed to amend sections 2, 8, 11, 12, 13, 19, 21, 22, 27, 28, 29, 30, 33, 34, 37, 41, 42 and 44, and repeal sections 3, 4, 16, 17 of the Act.

The Bill seeks to achieve the above objectives.

**Dated this 25th day of November, 2021.**

**FRANK D.R. ALLY  
ATTORNEY-GENERAL**

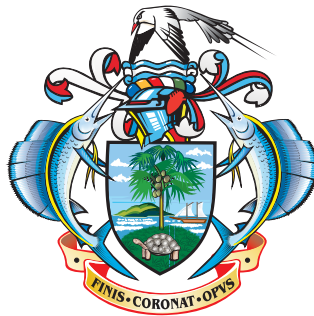
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**TERTIARY EDUCATION (AMENDMENT) BILL, 2021***(Bill No. 61 of 2021)***ARRANGEMENT OF SECTIONS****SECTIONS**

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**TERTIARY EDUCATION (AMENDMENT) BILL, 2021**

*(Bill No. 61 of 2021)*



**A BILL**

**FOR**

**AN ACT** TO AMEND THE TERTIARY EDUCATION ACT (ACT 12 OF 2011).

**ENACTED** by the President and the National Assembly.

**Short title and amendment Act 12 of 2011**

**1.** This Act may be cited as the Tertiary Education (Amendment) Act, 2021, and shall be read and construed as one with the Tertiary Education Act, Act 12 of 2011, which is hereinafter referred to as the “principal Act”.

## Commencement

2. The principal Act shall come into operation on such date as the Minister may, by Notice publish in the *Gazette*, appoint.

## Amendment of section 2

3. Section 2 of the principal Act is amended as follows —

(a) by repealing —

(i) the definition of “entities”;

(ii) the definition of “National Qualification Framework” and substituting therefor the following —

“National Qualifications Framework” means a comprehensive system approved by the Minister for the development, classification, registration, publication, evaluation and articulation of quality-assured qualifications;”

(iii) the definition of “qualification” and substituting therefor the following —

“qualification” means a registered national qualification;”

(iv) in the definition of “Professional Centre” the words “set out in Part II of the Schedule”;

(v) in the definition of “tertiary education institution” the words “specified in the Schedule”;

(vi) in the definition of “University” the words “set out in Part I of the Schedule”;

(b) by inserting in the alphabetical order the following definitions —

““board” means a body appointed in accordance with the provisions of the Act, Charter or statutes that govern a professional centre or faculty of a university;

“Council” means a body appointed in accordance with the provisions of the Act, Charter or statutes that govern a university;

“recognised authority” means any governmental authority or other organization, local or foreign, recognized by the government as having a regulatory role in a particular sector;”

#### **Amendment of Part 2 head note**

4. The principal Act is amended, in the head note of Part 2, by repealing the words “TERTIARY EDUCATION COMMISSION”.

#### **Repeal of sections 3 to 4**

5. The principal Act is amended by repealing sections 3 and 4.

#### **Amendment of section 8**

6. Section 8 of the principal Act is amended as follows —

(a) by repealing subsection (2) and substituting therefor the following —

“(2) The charter of a Government tertiary education institution shall be approved and granted by the Minister on the recommendation of the Board or Council of the Tertiary Education Institution and may be amended in the manner set out in the Charter.”

(b) in subsection (3), by repealing the words “Tertiary Education Commission” and substituting therefor the words “Board or Council of the Tertiary Education Institution”;

- (c) in subsection (4), by repealing the words “subject to the approval of the Tertiary Education Commission”.

### **Amendment of Section 11**

7. Section 11 of the principal Act is amended in subsection (2) (a) by repealing the words “the Tertiary Education Commission” and substituting the words “recognized authorities”.

### **Amendment of Section 12**

8. Section 12 of the principal Act is amended in subsection (1) by repealing the words “Tertiary Education Commission” and substituting therefor the word “Minister”.

### **Amendment of Section 13**

9. Section 13 of the principal Act is amended by repealing the words “Tertiary Education Commission” wherever they appear, and substituting therefor the word “Minister”.

### **Repeal of section 16 and 17**

10. The principal Act is amended by repealing sections 16 and 17.

### **Amendment of section 19**

11. Section 19 of the principal Act is amended —

- (a) in subsection (1), by repealing the word “shall” and substituting therefor the word “may”.
- (b) in subsection (2), by repealing the words “on the recommendation of the Tertiary Education Commission and”.

### **Amendment of Section 21**

12. Section 21 of the principal Act is amended in subsection (5), by repealing the words “Tertiary Education Commission” and substituting therefor the word “Minister”.

**Amendment of section 22**

**13.** Section 22 of the principal Act is amended in subsection (3) (g), by repealing the words “Tertiary Education Commission” and substituting therefor the word “Minister”.

**Amendment of Section 27**

**14.** Section 27 of the principal Act is amended in subsection (5), by repealing the words “in accordance with the recommendations of the Tertiary Education Commission” and substituting therefor the words “by the University Council”.

**Amendment of Section 28**

**15.** Section 28 of the principal Act is amended by repealing subsection (1) and substituting therefor the following —

“(1) Public Professional Centres shall be established by the Minister.

(2) Private Professional Centres shall be established by its owners.”

**Amendment of Section 29**

**16.** Section 29 of the principal Act is amended as follows —

(a) by repealing subsection (1) and (2) and substituting therefor the following —

“(1) The Board of a Professional Centre shall be appointed by the Minister under the administration of which the Professional Centre operates in accordance with the provisions of this Act and procedures in its charter.

(2) (a) The composition of the Board of a Professional Centre shall be as prescribed by its charter.

(b) Notwithstanding paragraph (a), in constituting the Board, consideration shall be given to the academic staff, representatives of learners and representatives of the service area or industry related to the operations of the Professional Centre.”

- (b) in subsection (5) (b) by repealing the words “Tertiary Education Commission” and substituting therefor the word “Minister”.
- (c) in subsection (5) (f) by —
  - (i) repealing the word “approve” and substituting therefor the word “endorse”;
  - (ii) repealing the word “and the Tertiary Education Commission”.
- (d) in subsection (6) (l) by repealing the word “Ministry” and substituting therefor the word “Government”.

### **Amendment of Section 30**

17. Section 30 of the principal Act is amended in subsection (3) (g), by repealing the words “Tertiary Education Commission” and substituting therefor the word “Minister”.

### **Amendment of Section 33**

18. Section 33 of the principal Act is amended in subsection (4), by repealing the words “Tertiary Education Commission” and substituting therefor the word “Minister”.

### **Amendment of Section 34**

19. Section 34 of the principal Act is amended in subsection (3), by repealing the words “on the advice of the Tertiary Education Commission”.



**Amendment of Section 37**

20. Section 37 of the principal Act is amended in subsection (2), by repealing the words “Tertiary Education Commission” and substituting therefor the word “Minister”.

**Amendment of Section 41**

21. Section 41 of the principal Act is amended in subsection (2), by repealing the words “according to criteria recommended by the Tertiary Education Commission and shall be determined”.

**Amendment of Section 42**

22. Section 42 of the principal Act is amended in subsection (1), by repealing the words “to the Tertiary Education Commission for review, and for its recommendation”.

**Amendment of Section 44**

23. Section 44 of the principal Act is amended in subsection (1), by repealing the words “in consultation with the Tertiary Education Commission”.

**Repeal of Schedule**

24. The principal Act is amended by repealing the Schedule.

**Continuation of employment**

25. On the commencement of this Act —

- (a) the members of the Board, established by section 3(2) of the Tertiary Education Act, 2011, shall cease to be members as such and shall vacate their office; and
- (b) such members shall not be entitled to claim any compensation for the premature termination of the term of their office or of any contract of service.

- (c) all persons employed by the Tertiary Education Commission under section 3(6) of the Tertiary Education Act, 2011, prior to the commencement of this Act shall continue his or her employment with the Government of Seychelles in its Ministry of Education on terms and conditions no less favourable than those subsisting immediately prior to the commencement of this Act until these are amended, varied or repealed in accordance with any scheme of service applicable to employees of the Government.

### **Transitional**

#### **26. On the commencement of this Act —**

- (a) all movable or immovable properties, assets, rights, interests and privileges acquired, accrued by, or vested in, the Tertiary Education Commission shall stand transferred to and vested in the Government of Seychelles;
- (b) all liabilities and obligations incurred by the Tertiary Education Commission prior to the date of the commencement of this Act shall be deemed to have been incurred by the Government of Seychelles;
- (c) any contract or agreement executed by the Tertiary Education Commission prior to the date of the commencement of this Act shall continue to have effect in accordance with its terms as if it was originally made and entered into by the Government of Seychelles; and
- (d) any right, privilege obligation or liability acquired or incurred by a person in respect of the Tertiary education Commission shall not be affected by the repeal and any legal investigation, legal proceedings or remedy in respect of such right, privilege, obligation or liability may be instituted, continued or enforced by or against the Government of Seychelles.