

**THE INDUSTRIAL TRAINING (AMENDMENT)
ACT, 1975**

No. 11 of 1975

Date of Assent: 3rd December, 1975

Date of Commencement: 5th December, 1975

An Act of Parliament to amend the Industrial Training Act

ENACTED by the Parliament of Kenya, as follows:—

Short title.

1. This Act may be cited as the Industrial Training (Amendment) Act, 1975.

Amendment of
the long title
of Cap. 237.

2. The long title of the Industrial Training Act (hereinafter referred to as the principal Act) is hereby amended by the deletion of the words “apprentices and other persons” and the substitution therefor of the words “persons engaged”.

Amendment of
section 3
of Cap. 237.

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

(a) in subsection (1), by the insertion, immediately before the word “Assistant”, of the words “Deputy Directors and”;

(b) in subsection (2), by the insertion, immediately before the word “Assistant”, of the words “Deputy Director and”.

Amendment of
section 4
of Cap. 237.

4. Section 4 of the principal Act is hereby amended by the addition, at the end thereof, of the following new subsections—

(7) Every member of the Council shall have the power to appoint one other person approved by the Minister other than a member of the Council to act as an alternate member in his absence and may, at his discretion, revoke the appointment of such alternate member:

Provided that no person shall act as an alternate member in place of more than one member at any one time.

(8) An alternate member, as such, shall be subject to the provisions of this Act and may exercise all the powers, except the power to appoint an alternate member, and perform all the duties of the member by whom he was appointed.

(9) The appointment of an alternate member shall determine if, for any reason, the member by whom such appointment was made ceases to be a member of the Council.

(10) No person shall be appointed as a member if he—

(a) is insolvent or has conveyed or assigned his property or has made a composition or arrangement for the benefit of his creditors; or

(b) is of unsound mind; or

(c) has been sentenced by a court to imprisonment for a term of six months or more within the preceding five years.

(11) If the Minister is satisfied that a member—

(a) has become subject to any of the disqualifications specified in subsection (10) of this section; or

(b) is incapacitated by reason of physical or mental illness; or

(c) has been absent from three consecutive meetings of the Council without the leave of the Council; or

(d) is otherwise unable or unfit to discharge his functions as a member of the Council,

he may revoke the appointment of such member, and give notification thereof in such manner as he thinks fit, whereupon the office of that member shall become vacant.

(12) The Council may co-opt to serve on it for such length of time as it thinks fit any number of persons whose assistance or advice it may require, but a person so co-opted shall neither be entitled to vote at any meeting of the Council nor be counted as a member thereof for the purpose of forming a quorum.

No. 11*Industrial Training (Amendment)***1975**

Amendment of
section 4A
of Cap. 237.

5. Section 4A of the principal Act is hereby amended—

(a) in subsection (6), by the deletion of the words “as the Council delegates to it in writing,” and the substitution therefor of the words “as may be delegated to it by the Council,”;

(b) by the addition, at the end thereof, of the following new subsections—

(7) If a member of any Committee has been absent from three consecutive meetings of the Committee in question without the leave of the Chairman or Vice-Chairman his office may be declared by the Council to be vacant, and in that event he shall be notified of the fact by the Council and he shall forthwith relinquish his membership of that Committee whereupon the office shall become vacant.

(8) A Committee may co-opt to serve on it for such length of time as it thinks fit any number of persons whose assistance or advice it may require, but a person so co-opted shall neither be entitled to vote at any meeting of that Committee nor be counted as a member thereof for the purpose of forming a quorum.

Replacement of
section 5
of Cap. 237.

6. The principal Act is hereby amended by the repeal of section 5 and the substitution therefor of the following—

Duties and
functions
of the
Council.

5. Without prejudice to the provisions of this Act, the Council shall perform the following duties and functions—

(a) it shall secure the greatest possible improvement in the quality and efficiency of the training of personnel engaged in industry;

(b) it shall ensure an adequate supply of properly trained manpower at all levels in industry;

(c) it shall share the cost of all industrial training undertaken in pursuance of this Act as evenly as possible between employers;

- (d) it shall advise the Minister from time to time concerning the institution, review and maintenance of a system or systems for the holding of tests in respect of trades and occupations generally or any particular trade or occupation, and for the granting of certificates of efficiency to, and the making of reports upon, persons who enter for such tests;
- (e) it shall investigate any dispute or other matter arising out of a contract of apprenticeship or indentured learnership referred to it by the Director, and shall endeavour to settle such dispute amicably;
- (f) it shall perform such duties and functions in regard to any other matter concerning apprenticeship or indentured learnership as may be prescribed;
- (g) it shall, at the request of the Minister, and may of its own motion, investigate and make recommendations to the Minister on any matters connected with this Act.

7. Subsection (1) of section 5B of the principal Act is hereby amended by the deletion of the words "may make a training levy order" and the substitution therefor of the words "may, except in relation to the Government, make a training levy order".

Amendment of
section 5B
of Cap. 237.

8. Section 5c of the principal Act is hereby amended—

- (a) in subsection (1), by the insertion, immediately after the words "Training Levy Fund", of the words in brackets "(in this section referred to as a Fund)";
- (b) in subsection (2), by the deletion of the words "a Training Levy Fund to persons" and the substitution therefor of the words "a Fund to any individual, or any company or association or body of persons whether corporate or unincorporate,";

Amendment of
section 5c
of Cap. 237.

(c) by the deletion of paragraph (d) of subsection (2) and the substitution therefor of the following—

(d) the reimbursement of an employer for all or part of his training costs, including fees, instruction costs, cost of materials, and the wages of any individual while attending training courses.;

(d) by the addition, at the end thereof, of the following new subsections—

(4) The Director shall cause to be kept all proper books of account and other books and records in relation to a Fund and shall, within such period after the end of each financial year as the Minister shall specify, cause to be prepared a balance sheet showing in detail the assets and liabilities of each such Fund as at the end of that year and, in such form as the Minister shall specify, statements of account of each such Fund for that year.

(5) The accounts of a Fund shall be examined, audited and reported upon annually by auditors to be appointed in respect of each financial year by the Council in relation to each such Fund, and the expenses of and incidental to the examination and audit of and report upon such accounts shall be paid out of the Fund to which they relate.

(6) The Director shall cause to be produced and submitted to the auditors all books and records necessary for and relevant to the performance of their duties under subsection (5) of this section and shall, in addition, cause to be supplied to them such other information and particulars as they may require in that behalf.

(7) The Director shall cause to be submitted to the Minister all such information as the Minister may from time to time require in respect of the financial position of a Fund, and shall, in addition, submit to the Minister an annual report, including a balance sheet and a statement of income and expenditure audited in accordance with subsection (5) of this

section, and such other particulars as the Minister may request, and such report shall be published by the Council, in such manner as it shall specify, as soon as practicable after the end of each financial year.

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

Amendment of
section 13
of Cap. 237.

(a) by the deletion of the marginal note and the substitution therefor of the following new marginal note—

Termination
and extension
of contracts.

Provided that nothing in this paragraph of this Act shall be construed so as to make any marginal note part of the principal Act or of this Act, or so as to make any marginal note affect the construction of either Act;

(b) in subsection (1), by the insertion, after the word “terminated”, of the words “or extended”;

(c) in subsection (2), by the insertion, after the word “termination” wherever it appears, of the words “or extension”;

(d) in subsection (4), by the insertion, after the word “termination”, of the words “or extension”;

(e) in subsection (5)—

(i) in paragraph (a), by the insertion, after the word “terminating”, of the words “or extending”;

(ii) in paragraph (b), by the deletion of the words “the Director,” and the substitution therefor of the words “the Director to terminate a contract.”.

10. Section 23 of the principal Act is hereby amended by the deletion of the words “appoint any labour officer, or any person appointed to the public service as an Inspector of Factories, a Trade Testing Officer or a Labour Inspector,” and the substitution therefor of the words “, by notice in the Gazette, appoint any person appointed to the public service as a senior training officer or levy inspector”.

Amendment of
section 23
of Cap. 237.

Amendment of
section 29
of Cap. 237.

11. Subsection (1) of section 29 of the principal Act is hereby amended by the deletion of paragraph (f) and the substitution therefor of the following new paragraphs—

(f) the form and manner in which tests to assess the occupational skills of persons (other than apprentices and indentured learners) in any particular trade or occupation, or trades and occupations generally, shall be conducted;

(g) the form of certificates, reports and other documentary evidence to be granted or issued, after the completion of such tests, in respect thereof;

(h) all or any matters which by this Act are required or permitted to be prescribed.

Amendment of
section 31
of Cap. 237.

12. Section 31 of the principal Act is hereby amended by the deletion of the words "Any labour officer" and the substitution therefor of the words "The Director".

Replacement of
section 32
of Cap. 237.

13. The principal Act is hereby amended by the repeal of section 32 and the substitution therefor of the following new section—

32. Subject as provided by subsection (1) of section 5B, this Act shall bind the Government.

Minor amend-
ments to
Cap. 237.

14. The provisions of the principal Act set out in the first column of the Schedule to this Act are hereby amended in the manner specified in relation thereto in the second column of that Schedule.

SCHEDULE

(s. 14)

<i>Provisions</i>	<i>Amendments</i>
Sections 6 (3), 7 (3), 11 (6), 13 (5) (a) (b) and (6).	Delete the words "Labour Commissioner" wherever they occur and substitute the word "Minister".
Sections 21, 22 and 30.	Delete the words "Labour Commissioner" wherever they occur and substitute the word "Director".