

**THE INDUSTRIAL TRAINING (AMENDMENT)
ACT, 1971**

No. 3 of 1971

Date of Assent: 29th January, 1971

Date of Commencement: 29th January, 1971

An Act of Parliament to amend the Industrial Training Act

ENACTED by the Parliament of Kenya, as follows:—

1. This Act may be cited as the Industrial Training (Amendment) Act, 1971.

Short title.

2. Section 2 of the Industrial Training Act (hereinafter referred to as the principal Act) is hereby amended—

Amendment of section 2 of Cap. 237.

(a) by the deletion of the definitions of “Board”, “Controller”, “minor” and “trade”;

(b) by the insertion of the following definitions in their appropriate alphabetical positions—

“Committee” means a Training Committee established under section 4A of this Act;

“Council” means the National Industrial Training Council established under section 4 of this Act;

“Director” means the Director of Industrial Training appointed under section 3 of this Act;

“the Minister” means the Minister for the time being responsible for matters relating to labour;

“minor” means a person under the age of fifteen years;

“trade” means a skilled occupation;

“training levy order” means an order made under subsection (1) of section 5B of this Act.

3. The principal Act is hereby amended by the repeal of section 3 and the substitution therefor of the following—

Replacement of section 3 of Cap. 237.

Appointment of Director and Assistants.

3. (1) There shall be a Director of Industrial Training and such number of Assistant Directors of Industrial Training as may be necessary for the purposes of this Act.

(2) Every Assistant Director of Industrial Training may, subject to the directions of the Director, perform any act or discharge any duty which may lawfully be performed or is required to be discharged by the Director under this Act.

4. The principal Act is hereby amended by the repeal of section 4 and the substitution therefor of the following—

Establishment of National Training Council.

4. (1) There shall be a National Industrial Training Council for the purposes of this Act consisting of a chairman and not less than twelve other members appointed by the Minister, of whom—

(a) four shall be chosen to represent employers;

(b) four shall be chosen to represent employees;
and

(c) not less than four shall be chosen to represent other interests.

(2) A Vice-Chairman shall be appointed by the Minister from among the members.

(3) The Director or his representative shall act as a secretary to the Council.

(4) The Chairman, or in his absence the Vice-Chairman, shall preside at every meeting of the Council and where he does so thereat, he shall have all the powers of, and be deemed to be, the Chairman of the Council under this Act.

(5) A quorum of the Council shall be the Chairman or Vice-Chairman and five other members, and in the case of an equality of votes, the Chairman or Vice-Chairman, as the case may be, shall have a casting vote.

(6) The Chairman and members of the Council shall hold office for such period, not exceeding four years, as shall be specified at the time of their appointment, and a retiring member shall be eligible for reappointment.

Replacement of section 4 of Cap. 237.

Training
Committees.

4A. (1) The Council may establish training committees to exercise functions of the Council in relation to training in specified industries.

(2) A Committee shall consist of nine persons appointed, in writing, by the Council, of whom—

(a) three shall be chosen to represent employers in the industry concerned;

(b) three shall be chosen to represent employees in the industry concerned; and

(c) three shall be chosen to represent other interests,

and the Council shall appoint a Chairman and a Vice-Chairman from among the members of the Committee chosen under paragraph (c) and (a) respectively of this subsection.

(3) The Chairman and other members of a Committee shall hold office for such period not exceeding three years as may be specified at the time of appointment, and a retiring member shall be eligible for reappointment.

(4) A quorum of a Committee shall be the Chairman or Vice-Chairman and three other members, and in case of an equality of votes, the Chairman or Vice-Chairman, as the case may be, shall have a casting vote.

(5) The Director or his representative shall act as the secretary to any Committee.

(6) A Committee shall exercise on behalf of the Council such functions of the Council as the Council delegates to it in writing, and shall exercise these functions in consultation with the Director.

5. Section 5 of the principal Act is hereby amended by the addition at the end thereof of the following new paragraphs—

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

Amendment of
section 5 of
Cap. 237.

- (e) it shall secure the greatest possible improvement in the quality and efficiency of Industrial Training;
- (f) it shall share the cost of training as evenly as possible between employers.

6. The principal Act is hereby amended by the insertion after section 5 of the following new sections—

Insertion of
new sections
5A, 5B and 5C
in Cap. 237.

Duties and
functions of
Committees.

5A. (1) A Committee shall, from time to time, and whenever so directed by the Council submit to the Council proposals for the raising and collection of a training levy on employers in the industry in respect of which the Committee is established.

(2) The Minister may, by notice in writing, require the Council to exercise its power of direction under subsection (1) of this section in respect of any industry specified in the notice within such time as may be so specified.

(3) Where a Committee—

(a) has failed to comply within a reasonable time with a direction of the Council under subsection (1) of this section to submit proposals for the raising and collection of a levy; or

(b) has submitted such proposals which appear to it unsatisfactory,

the Council may direct the Committee to submit such proposals or, as the case may be, fresh proposals, within a specified time, and if it directs the Committee to submit fresh proposals it shall specify in the direction in what respects the proposals already submitted appear to it unsatisfactory and if the Committee fails to comply with the direction or the proposals submitted in pursuance of which it appears to the Council unsatisfactory the Council may make an order declaring the Committee to be in default.

(4) On the making of an order under subsection (3) of this section the members of the Committee shall forthwith vacate their office and the order may contain such provisions as seem to the Council expedient for authorizing any person to

act in the place of the member of the Committee during such period, not exceeding six months, as may elapse before new members are appointed.

(5) If the proposals of a Committee, or of a person acting under subsection (4) of this section, are approved by the Council, the Council shall submit such proposals to the Minister.

Training
levies.

5B. (1) The Minister may make a training levy order for the purpose of giving effect to proposals submitted by the Council and approved by him, and the order may provide for the amendment of any previous training levy order and may make different provisions in relation to different classes or descriptions of employer.

(2) A training levy order may contain provisions as to the evidence by which a person's liability to the levy or his discharge of that liability may be established, and as to the time at which any amount payable by any person by way of the levy shall become due and the manner in which it shall be recoverable by the Director.

(3) If any person fails to pay any amount payable by him by way of the training levy within the time prescribed by the training levy order a sum equal to five per cent of such amount shall be added to the amount for each month or part of a month thereafter that the amount due remains unpaid.

(4) Any person who fails to comply with any provision of a training levy order shall be guilty of an offence.

Disburse-
ment
powers of
Director.

5C. (1) All monies received in respect of a training levy order shall be paid into a Training Levy Fund established in respect of the industry to which that order relates.

(2) The Director, acting on the advice of the Council, may make payments out of a Training Levy Fund to persons in the industry in respect of which that Fund is established for any of the following purposes—

(a) the payment of maintenance and travelling allowance to persons attending training courses;

- (b) the making of grants or loans to persons providing courses or training facilities;
- (c) the payment of fees to persons providing further education in respect of persons who receive it in association with their training; and
- (d) the reimbursement of an employer for all or part of his training costs including fees, instruction costs, materials costs and wages of apprentices or indentured learners while attending training courses.

(3) In any case where the Council withholds its approval for any payment, or the Director refuses to make a payment approved by the Council, being a payment proposed under the provisions of subsection (2) of this section, the matter shall be referred to the Minister whose decision thereon shall be final.

7. The principal Act is hereby amended by the repeal of section 9.

8. Section 20 of the principal Act is hereby amended by the deletion of subsection (1) and the substitution thereof of the following—

(1) If an apprentice or indentured learner is absent from work for a period of thirty days or more, or for a number of periods amounting in the aggregate to thirty days or more, the Director may, if he considers it expedient, order that the term of his contract of apprenticeship or indentured learnership be extended by the number of days on which he is absent, and the contract shall stand extended accordingly.

9. The principal Act is hereby amended by the insertion after section 22 of the following new section—

22A. (1) Every employer of apprentices or indentured learners shall appoint by name, from among his employees—

- (a) a person responsible for supervising generally the training of apprentices or indentured learners under the provisions of this Act and of any relevant scheme; and

Repeal of section 9 of Cap. 237.

Amendment of section 20 of Cap. 237.

Insertion of new section 22A in Cap. 237.

Supervision of apprentices or indentured learners.

(b) at every premises or worksite where apprentices or indentured learners are regularly employed for a period of not less than three months, an apprentice or indentured learner master, who shall be responsible for day-to-day guidance of the apprentices or indentured learners in matters concerning their trade or occupation.

(2) The Director may, by notice to an employer in writing, disapprove the appointment of any apprentice or indentured learner master deemed by him not to be competent for the purpose of this Act, and such notice may specify the nature of the training which the Director requires the apprentice or indentured learner master to undertake before his appointment may be re-approved.

(3) Where twenty-five or more apprentices and or indentured learners are employed at any one premises or worksite, the apprentice or indentured learner master shall devote the whole of his time during normal working hours to apprentice or indentured learner guidance; and where the number of apprentices and or indentured learners so employed is less than twenty-five the apprentice or indentured learner master shall devote that proportion of his time to apprentice or indentured learner guidance as the number of apprentices and or indentured learners employed bears to twenty-five.

(4) An employer who fails to make any appointment required by subsection (1) of this section, or who fails to ensure that the provisions of subsection (3) of this section are observed shall be guilty of an offence.

10. (1) The principal Act is hereby amended—

(a) by the deletion of the word “Board” wherever it appears and the substitution therefor of the word “Council”;

(b) by the deletion of the word “Controller” wherever it appears and the substitution therefor of the word “Director”.

General and
minor amend-
ments to
Cap. 237.

(2) 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. 10 (2))
<i>Provision</i>	<i>Amendment</i>	
s. 8 (1), 11 (5), 20 (2), 21 (1) and (2).	Insert "or occupation" after "trade" wherever it occurs.	
s. 21 (4) and 29 (2).	Insert "or occupations" after "trades" wherever it occurs.	
s. 15 (1).	Delete "four" and substitute "six". Insert "during or" after "probation".	
s. 18.	Delete "and foreign service" in the marginal note. Delete everything after the word "overtime" up to "territories".	
s. 22 (5).	Delete "publish it" and substitute "publish notice thereof". Add at end "specifying a place where copies of the scheme may be inspected".	