

**THE INDUSTRIAL TRAINING (AMENDMENT) ACT, 2011****No. 34 of 2011**

*Date of Assent: 11th November, 2011*

*Commencement: 14th November, 2011*

**An Act of Parliament to amend the Industrial Training Act to provide for the establishment, powers, functions and the management of the National Industrial Training Authority, to provide for the control and regulation of industrial training in Kenya, and for connected purposes**

ENACTED by the Parliament of Kenya, as follows—

**Short Title.**

1. This Act may be cited as the Industrial Training (Amendment) Act, 2011.

**Amendment of section 2 of Cap. 237.**

2. Section 2 of the Industrial Training Act (in this Act referred to as “the principal Act”) is amended—

- (a) by deleting the definitions of “apprentice”, “Council”, “Director”, and “labour officer” and inserting the following new definitions in their proper alphabetical order—

“apprentice” means a person who is bound by a written contract to serve an employer for such period as the Board shall determine with a view to acquiring knowledge, including theory and practice, of a trade in which the employer is reciprocally bound to instruct that person;

“Authority” means the National Industrial Training Authority established under section 3;

“Board” means The National Industrial Training Board established under section 4;

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

“Director-General” means the Director-General of the Authority appointed under section 4C;

“employee” means a person employed for wages or salary and includes an apprentice, indentured learner, temporary, seasonal and casual worker;

“employer” means any person, public body, firm, corporation or company who or which has entered into a contract of service to employ any person, and includes—

an agent, foreman or manager; and

an heir, successor, assignee or transferee of that person, public body, firm, corporation or company;

“industry” means a trade, occupation, profession or an economic sector for which a training committee has been established for purposes of this Act;

“industrial attachment” means the placement of a person in a workplace for the purpose of gaining knowledge and practical skills;

“industrial training” means training for a specified industry;

“trainer” means any person, firm, or institution registered under section 7C;

- (b) by deleting the words “less than four” appearing in the definition of “indentured learner” and substituting therefor the words “not more than two”;
- (c) by deleting the word “fifteen” appearing in the definition of “minor” and substituting therefor the word “eighteen”.

**Repeal and replacement of section 3 of Cap. 237.**

3. The principal Act is amended by repealing section 3 and replacing it with the following new sections—

**Establishment of the Authority.**

3. (1) There is established an Authority to be known as the National Industrial Training Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing or lending money;
- (d) entering into contracts; and,
- (e) doing or performing all other things or acts for the proper performance of its functions under this Act, which may be lawfully done or performed by a body corporate.

(3) The common seal of the Authority shall be kept in such custody as the Board may direct and shall not be used except on the order of the Board.

(4) The affixing of the common seal of the Authority shall be authenticated by the signatures of the chairman and the Director-General and in the absence of the chairman or the Director-General, by a member of the Board, authorized by the Board.

(5) The common seal of the Authority when affixed to a document and duly authenticated shall be judicially and officially noticed and unless and until the contrary is proved, any necessary order or authorization by the Board under this section shall be presumed to have been duly given.

**Powers and functions of the Authority.**

**3A.** The Authority shall be responsible for—

- (a) industrial training;
- (b) assessing and collecting industrial training levy and fees;
- (c) regulating trainers registered under section 7C;
- (d) developing industrial training curricula;
- (e) integrating labour market information into skills development;
- (f) harmonizing curricula and certificates of competence;
- (g) assessing industrial training, testing occupational skills and awarding certificates including Government trade test certificates;
- (h) equating certificates;
- (i) accrediting institutions engaged in skills training for industry;
- (j) associating or collaborating with any other body or organization within or outside Kenya as the Board may consider desirable or appropriate and in furtherance of the purposes for which the Authority is established;
- (k) charging for goods and services offered by the Authority; and
- (l) performing any other duties and functions as may be conferred on it by this Act or by any other written law.

**Headquarters.**

**3B.** (1) The headquarters of the Authority shall be in Nairobi, or such other place as the Board may, with the approval of the Cabinet Secretary, determine.

- (2) The Authority shall establish, manage and promote

industrial training centres in the counties.

**Amendment of section 4 of Cap. 237.**

4. Section 4 of the principal Act is amended—

- (a) by deleting the word “Council” appearing in the marginal note and substituting therefor the word “Board”;
- (b) by deleting subsection (1) and substituting therefor the following new subsections—

(1) There shall be a Board to be known as the National Industrial Training Board which shall consist of—

- (a) a chairperson appointed by the Cabinet Secretary;
- (b) the Principal Secretary of the Ministry for the time being responsible for matters relating to labour or a representative duly appointed in writing;
- (c) the Principal Secretary of the Ministry for the time being responsible for matters relating to science and technology or a representative duly appointed in writing;
- (d) the Principal Secretary of the Ministry for the time being responsible for matters relating to finance or a representative duly appointed in writing;
- (e) members nominated as follows and appointed by the Cabinet Secretary-
  - (i) three persons nominated by the Federation of Kenya Employers; and
  - (ii) three persons nominated by the Central Organisation of Trade Unions; and
- (f) one other member appointed by the Cabinet Secretary.

(1A) A person shall not be eligible for appointment as the chairperson or member of the Board, other than an ex-officio member unless that person-

- (a) has at least five years experience in matters relating to technical education, industrial training, technology, finance, law, human resource management, financial management, public administration, public policy, advocacy or education administration; and
- (b) has a proven record of personal integrity, competency and accountability.

(1B) In appointing the members of the Board, the Cabinet Secretary shall ensure that not more than two thirds of the members are of one gender and at least one member

represents persons with disabilities.

(c) by deleting subsection (3) and substituting therefor the following new subsection;

(3) The Director-General shall be the secretary to the Board.

(d) in subsection (4) by deleting the word "Council" wherever it appears and substituting therefor the word "Board";

(e) in subsection (5) by deleting the word "Council" and substituting therefor the word "Board";

(f) in subsection (6) by deleting the word "Council" and substituting therefor the word "Board";

(g) in subsection (7) by deleting the word "Council" wherever it appears and substituting therefor the word "Board";

(h) in subsection (9) by deleting the word "Council" and substituting therefor the word "Board";

(i) in subsection (11)—

(i) in paragraph (c) by deleting the word "Council" wherever it appears and substituting therefor the word "Board";

(ii) in paragraph (d) by deleting the word "Council" and substituting therefor the word "Board";

(iii) by inserting the following new paragraph immediately after paragraph (c)—

(ca) has ceased to be a representative of employers, employees or other interests as the case may be;

(iv) by deleting the word "Council" appearing in paragraph (d) and substituting therefor the word "Board";

(j) in subsection (12) by deleting the word "Council" wherever it appears and substituting therefor the word "Board";

(k) by inserting the following new subsection immediately after subsection (12)—

(13) Subject to the provisions of this Act, the Board may regulate its own procedure.

**Amendment of section 4A of Cap. 237.**

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

(a) in subsection (1) by deleting the word "Council" wherever it appears and substituting therefor the word "Board";

(b) by deleting subsection (2) and substituting therefor the following new subsection—

(2) A Committee shall consist of such number of persons appointed in writing as the Board may determine, to represent-

- (a) employers in the industry concerned;
- (b) employees in the industry concerned; and
- (c) other interests,

and the Board shall appoint a chairperson and vice-chairperson of such Committee from amongst the members.

(c) in subsection (5) by deleting the word “Director” and substituting therefor the word “Director-General”.

(d) by deleting subsection (6) and substituting therefor the following new subsection—

(6) A Committee shall perform, on behalf of the Board, such functions of the Board as may be delegated to it by the Board and shall perform these functions in consultation with the Director-General;

(e) in subsection (7) by deleting the word “Council s and substituting therefor the word “Board”;

(f) by renumbering the existing section 4A as 4J;

**Insertion of new section 4A, 4B, 4C, 4D, 4E, 4F, 4G, 4H and 4I in Cap. 237.**

6. The principal Act is amended by inserting the following new sections immediately after section 4—

**Powers of the Board.**

**4A.** The Board shall exercise all powers necessary for the proper performance of its functions under this Act and in particular but without prejudice to the generality of the foregoing, the Board shall have power to—

- (a) control, supervise and administer the assets of the Authority in a manner that best promotes the purposes for which the Authority is established;
- (b) determine the provision to be made for capital and recurrent expenditure and for reserves of the Authority;
- (c) receive any grants, gifts, donations or endowments on behalf of the Authority and make legitimate disbursements therefrom;
- (d) open a bank account or bank accounts for the funds of the Authority;

- (e) administer training levy funds;
- (f) invest any funds of the Authority not immediately required for the purposes of the Authority; and
- (g) set terms and conditions of service for employees of the Authority.

**Remuneration of members.**

**4B.** The Authority shall pay members of the Board such remuneration, fees, or allowances and other expenses as the Board may, with the approval of the Minister, determine.

**Director-General.**

**4C.** (1) There shall be a Director- General of the Authority who shall be the chief executive of the Authority, and secretary to the Board and the Committees.

(2) The Director-General shall be appointed by the Board on such terms and conditions of service as the Board may determine.

(3) The Director-General shall hold office for one term of five years and shall be eligible for re-appointment for one further term of five years.

(4) A person shall not be appointed Director-General unless that person-

- (a) is a holder of a degree in the field of engineering, technology, administration, finance, technical or industrial education, from a recognized university; and
- (b) has at least fifteen years working experience in a related field, five of which shall be in matters relating to industrial training.

(5) The Director General shall subject to the directions of the Board, be responsible for the day to day management of the Authority.

**Staff of the Authority.**

**4D.** (1) The Board shall appoint such directors as may be necessary for the purposes of this Act.

(2) A director appointed under subsection (1) shall, subject to the directions of the Director-General, perform any act or discharge any duty which may lawfully be performed or discharged by the Director-General under this Act.

(3) The Board shall appoint such other officers and staff as may be necessary for the purposes of this Act on such terms and conditions of service as the Board may determine.

**Protection from personal liability.**

**4E.** No matter or thing done by a member of the Board or any officer, employee or agent of the Authority shall, if the matter or thing is done bona fide for executing the functions, powers or duties of the Authority, render the member, officer, employee or agent personally liable to any action, claim or demand whatsoever.

**Liability of the Authority for damages.**

**4F.** The provisions of section 4E shall not relieve the Authority of the liability to pay compensation or damages to any person for any injury to him, his property or any of his interests caused by the exercise of the powers conferred on the Board by this Act, or by any other written law, or by the failure, whether wholly or partially, of any contract.

**Funds of the Authority.**

**4G.** (1) The funds of the Authority shall consist of—

- (a) moneys provided by Parliament;
- (b) training levy funds;
- (c) trade testing fees;
- (d) course and hostel fees;
- (e) grants from the Government;
- (f) such moneys as may accrue to or vest in the Authority in the course of the exercise of its powers or the performance of its functions under this Act or under any other written law;
- (g) such grants, gifts, donations or endowments received by the Board on behalf of the Authority; and
- (h) any other funds that may be received by the Authority from any other source.

(2) The financial year of the Authority shall be the period of twelve months ending on the thirtieth June, in each year.

**Annual estimates.**

**4H.** (1) The Board shall, not less than four months before the commencement of each financial year cause to be prepared estimates of the revenue and expenditure of the Authority for that financial year.

(2) The annual estimates shall make provision for all estimated expenditure of the Authority for the financial year and in particular, the estimates shall provide for—

- (a) the payment of the salaries, allowances and other charges in respect of the staff of the Authority;
- (b) the payment of pensions, gratuities and other charges in respect of the staff of the Authority;
- (c) the proper maintenance of the buildings and grounds of the Authority;
- (d) the maintenance, repair and replacement of the equipment of the Authority;
- (e) the payment of expenses related to training and industrial attachment;
- (f) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings; and
- (g) any other expenditure necessary for the Performance of the functions of the Authority.

(3) The annual estimates shall be approved by the Board and be submitted to the Minister for approval before the commencement of the financial year to which they relate.

(4) No expenditure shall be incurred for purposes of the Authority except in accordance with the annual estimates approved under subsection (3) or in pursuance of an authorization of the Minister

(5) Not more than fifteen percent of the total annual levy collected under this Act may be used for administration of the Authority within that year.

#### Records and Accounts.

**41.** (1) The Board shall cause to be kept proper books and records of the income, expenditure, assets and liabilities of the Authority.

(2) The Board shall, within three months after the end of each financial year, submit to the Controller and Auditor-General or to an auditor appointed under subsection (4), the accounts of the Authority together with—

- (a) a balance sheet showing the assets and liabilities of the Authority as of the end of the financial year;
- (b) a statement of income and expenditure for that year;
- (c) a cash flow statement for the financial year; and
- (d) any other statements and accounts.

(3) The accounts of the Authority shall be audited and

reported upon in accordance with the Public Audit Act No.12 of 2003.

(4) The accounts of the Authority shall be audited by the Controller and Auditor-General or by an auditor appointed by the Board with the approval of the Controller and Auditor-General in accordance with the Public Audit Act.

(5) The appointment of an auditor shall not be terminated by the Board without the prior written consent of the Controller and Auditor-General.

(6) The Controller and Auditor-General may give general or special directions to an auditor appointed under subsection (4) and the auditor shall comply with those directions.

(7) An auditor appointed under subsection (4) shall report directly to the Controller and Auditor-General on any matter relating to the directions given under subsection (6) of this section.

(8) Notwithstanding anything in this Act, the Controller and Auditor-General may submit to the Minister a special report on any matters incidental to his powers under this Act, and provisions of the Public Audit Act shall, *mutatis mutandis*, apply to any report made under this section.

(9) The Minister shall lay the audit report before the National Assembly as soon as reasonably practicable after the report is submitted to him.

(10) The fees for any audit carried out under this section shall be determined and paid by the Board.

**Amendment of section 5 of Cap. 237.**

7. Section 5 of the principal Act is amended—

- (a) by deleting the word “Council” appearing in the marginal note and substituting therefor the word “Board”;
- (b) by deleting the word “Council” and substituting therefor the word “Board”;
- (c) by deleting paragraph (d) and substituting therefor the following new paragraph—
  - (d) it shall review and maintain a system or systems for the holding of tests in respect of trades and occupations generally or any particular trade or occupation, and grant certificates of proficiency and competency to, and keep a record in respect of each person who enrolls for the tests;
- (d) by deleting the word “Director” appearing in paragraph (e) and substituting therefor the word “Director General”

- (e) by deleting paragraph (g) and substituting therefor the following new paragraph-
- (g) it shall investigate any matters connected with this Act and take the necessary action.

**Amendment of section 5A of Cap. 237.**

8. Section 5A of the principal Act is amended-

- (a) in subsection (1)—
  - (i) by deleting the word “Council” wherever it appears and substituting therefor the word “Board”;
  - (ii) by deleting the words “in the industry in respect of which the committee is established” appearing in the third line;
- (b) by deleting subsection (2);
- (c) in subsection (3) by deleting the word “Council” wherever it appears and substituting therefor the word “Board”;
- (d) in subsection (4) by deleting the word “Council” and substituting therefor the word “Board”;
- (e) in subsection (5) by deleting the word “Council” wherever it appears and substituting therefor the word “Board”.

**Amendment of section 5B of Cap.237.**

9. Section 5B of the principal Act is amended—

- (a) in subsection (1) by deleting the word “Council” and substituting therefor the word “Board”;
- (b) in subsection (2) by deleting the word “Director” and substituting therefor the word “Director-General”;
- (c) by deleting the fullstop at the end of subsection (4) and inserting the words—

“and shall be liable to a fine not exceeding one hundred thousand shillings and if such failure continues after a conviction, such person shall be liable to a penalty not exceeding fifty thousand shillings for every month or part thereof during which such failure is continued;”

- (d) by inserting the following new subsections immediately after subsection (4)—
  - (5) The court before which any person is convicted of an offence under subsection (4) may, without prejudice to any civil remedy, order such person to pay to the Fund the amount of any levy or any other sum due, together with any interest or penalty thereon, found to be due from such person to the Fund.

(6) Without prejudice to any other remedy, any training levy due under this Act plus the five percent penalty imposed by this section that remains unpaid shall be recoverable summarily by the Authority as a civil debt due to the Authority.

**Amendment of section 5C of Cap.237.**

10. Section 5C of the principal Act is amended—

- (a) by deleting the word “Director” appearing in the marginal note and substituting therefor the word “Director- General”;
- (b) by deleting subsection (1) and substituting therefor the following new subsections—

(1) There is established a fund in respect of each industry, as may be determined by the Board, to be known as the Training Levy Fund.

(1A) There shall be paid into the Fund all industrial training levy contributions for each industry, as may be determined by the Board.

(c) in subsection (2)—

- (i) by deleting the word “Director” and substituting therefor the word “Director-General”;
  - (ii) by deleting the word “Council” and substituting therefor the word “Board”;
  - (iii) by inserting the words “or industrial attachment” immediately after the word “courses” appearing at the end of paragraph (d);
  - (iv) by deleting the word “Minister” appearing in paragraph (h) and substituting therefor the word “Board”.
- (d) by deleting subsections (3), (4), (5), (6) and (7).

**Amendment of section 6 of Cap. 237.**

11. Section 6 of the principal Act is amended—

- (a) in subsection (1) by deleting the word “Director” wherever it appears and substituting therefor the word “Director-General”;
- (b) in subsection (2) by deleting the word “Director” and substituting therefor the word “Director-General”;
- (c) by deleting subsection (3);

- (d) in subsection (4) by deleting the word “Director” wherever it appears and substituting therefor the word “Director-General”;

**Amendment of section 7 of Cap. 237.**

12. Section 7 of the principal Act is amended—

- (a) in subsection (1) by deleting the word “Director” wherever it appears and substituting therefor the word “Director-General”;
- (b) in subsection (2) by deleting the word “Director” wherever it appears and substituting therefor the word “Director-General”;
- (c) by deleting subsection (3);
- (d) in subsection (4) by deleting the word “Director” wherever it appears and substituting therefor the word “Director-General”.

**Insertion of sections 7A, 7B, and 7C in Cap 237.**

13. The principal Act is amended by inserting the following new sections immediately after section 7—

**Permission to train.**

**7A.** (1) An employer who wishes to carry out training under this Act shall first obtain the written permission of the Director-General to do so.

(2) No permission shall be granted under this section unless the trainer who is to carry out the training has been approved and registered for purposes of training under this Act.

**Industrial attachment.**

**7B.** (1) A person who—

- (a) has attained the age of eighteen years;
- (b) is undergoing training in a programme requiring industrial attachment; and
- (c) has in the case of a trade or occupation in respect of which a scheme has been made, the qualifications prescribed under that scheme; or
- (d) is a lecturer or instructor in a training institution registered under this Act, or
- (e) has applied for industrial attachment and in the opinion of the Director-General may benefit from skills acquired in industry

may be admitted for industrial attachment.

(2) A minor shall not be admitted for industrial attachment

except with the consent of his parent or guardian or if there is no parent or guardian, with the consent of the Director-General.

(3) An employer who wishes to admit any person for industrial attachment under this Act shall first obtain the written permission of the Director-General.

(4) No permission shall be granted under subsection (3) unless the employer satisfies the Director-General that the establishment to be used for industrial attachment offers reasonable opportunity for the proper training of the person or number of persons proposed for industrial attachment.

(5) A person who purports to be—

(a) on industrial attachment; or

(b) an employer offering industrial attachment

otherwise than as provided by this section, commits an offence and shall be liable, on conviction, to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months, or to both.

#### **Registration of trainers.**

**7C.** (1) A person who wishes to be registered as a trainer under this Act shall apply for registration to the Director-General in the prescribed form.

(2) No person shall be registered under subsection (1) unless the trainer satisfies the Director-General that he offers reasonable facilities and opportunities for proper training in the field specified in the application.

(3) For purposes of registration under this section, the Director-General may conduct such inspection or carry out such investigations as he may consider necessary.

(4) A person who—

(a) having been registered as a trainer under this section contravenes any conditions subject to which the registration was granted;

(b) uses any unqualified persons for purposes of training under this Act;

(c) issues a certificate to any person who has not completed training under this Act; or

(d) issues any receipt, invoice or other document in respect of any training under this Act which contains any false particulars;

shall be guilty of an offence.

(5) The Director-General may deregister a trainer who contravenes the provisions of this section.

**Amendment of section 8 of Cap. 237.**

14. Section 8 of the principal Act is amended—

- (a) in subsection (1) (a) by deleting the words “fifteen” and substituting therefor the word “eighteen”;
- (b) in subsection (3) by deleting the words “District Officer or labour officer” and substituting therefor the word “Director-General”;
- (c) by inserting the following new subsection immediately after subsection (4)—
  - (5) A person who purports to be—
    - (a) an apprentice or indentured learner; or
    - (b) an employer of an apprentice or indentured learner;

otherwise than as provided for under this section shall be guilty of an offence and shall be liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months or to both.

**Amendment of section 11 of Cap.237.**

15. Section 11 of the principal Act is amended—

- (a) in subsection (1) by deleting the word “Director” and substituting therefor the word “Director-General”;
- (b) in subsection (2)—
  - (i) by deleting the word “fourteen” and substituting therefor the word “thirty”;
  - (ii) by deleting the word “Director” and substituting therefor the word “Director-General”;
- (c) in subsection (4) by deleting the word “Director” and substituting therefor the word “Director-General”;
- (d) in subsection (5) by deleting the word “Director” and substituting therefor the word “Director -General”;
- (e) by deleting subsection (6);
- (f) in subsection (7) by deleting the word “Director” and substituting therefor the word “Director-General”;

**Amendment of section 12 of Cap.237.**

16. Section 12 of the principal Act is amended—

- (a) in subsection (1) by deleting the word “Director” and substituting therefor the word “Director- General”;
- (b) in subsection (2) by deleting the word “Director” and substituting therefor the word “Director-General”;
- (c) by deleting subsections (3), (4) and (5).

**Amendment of section 13 of Cap.237.**

17. Section 13 of the principal Act is amended -

- (a) in subsection (1)—
  - (i) by deleting the word “Director” appearing in paragraph (b) and substituting therefor the word “Director- General”;
  - (ii) by deleting the word “Director” wherever it appears in paragraph (c) and substituting therefor the word “Director-General”;
  - (iii) by deleting the word “Council” wherever it appears in paragraph (c) and substituting therefor the word “Board”;
- (b) in subsection (2) by deleting the word “Director” and substituting therefor the word “Director-General”;
- (c) in subsection (3) by deleting the word “Director” and substituting therefor the word “Director-General”;
- (d) in subsection (4) by deleting the word “Director” and substituting therefor the word “Director-General”;
- (f) by deleting subsections (5), (6) and (7).

**Repeal of section 14 of Cap. 237.**

18. The principal Act is amended by repealing section 14.

**Repeal of section 15 of Cap. 237.**

19. The principal Act is amended by repealing section 15.

**Repeal of section 16 of Cap. 237.**

20. The principal Act is amended by repealing section 16.

**Amendment of section 17 of Cap. 237.**

21. Section 17 of the principal Act is amended—

- (a) in subsection (1) by inserting the words “the training expenses and” immediately after the word “of” appearing in the third line;
- (b) in subsection (2)—

- (i) by deleting the word “Director” and substituting therefor the word “Director-General”;
- (ii) by deleting the word “Council” and substituting therefor the word “Board”.

**Amendment of section 18 of Cap.237.**

22. Section 18 of the principal Act is amended—

- (a) by renumbering the existing section 18 as section 18 (1);
- (b) by deleting the word “seventeen” appearing in paragraph (b) and substituting therefor the word “eighteen”;
- (c) by inserting the following new subsection immediately after the new subsection (1)—

(2) Any term of a contract of industrial attachment, or any condition which requires a person under eighteen years of age who is on industrial attachment to work overtime shall be void.

**Amendment of section 19 of Cap.237.**

23. Section 19 of the principal Act is amended—

- (a) by deleting the subsection (1) and substituting therefor the following new subsection—

(1) An employer of an apprentice or an indentured learner or an employer who has accepted a person on industrial attachment shall, on the satisfactory completion of the contract of apprenticeship, indentured learnership or industrial attachment, submit a certificate of completion in the prescribed form, to the Director-General and issue a copy of the certificate to the apprentice, indentured learner or person on industrial attachment.

- (b) in subsection 2—

- (i) by inserting the words “of completion” immediately after the word “certificate” appearing in the first line;
- (ii) by deleting the word “Director” and substituting therefor the word “Director-General”.

- (c) in subsection 4—

- (i) by inserting the words “or a person on industrial attachment” immediately after the word “learner”;
- (ii) by inserting the words “of completion” immediately after the word “certificate”.

- (d) by inserting the following new subsection immediately after subsection (4)—

(5) The Director-General shall upon receiving a certificate of completion under subsection (1), issue to the apprentice, indentured learner or person on industrial attachment a certificate of apprenticeship, indentured learnership or industrial attachment as the case may be.

**Amendment of section 20 of Cap.237.**

**24.** Section 20 of the principal Act is amended—

(a) by deleting the word “Director” appearing in the marginal note and substituting therefor the word “Director- General”

(b) in subsection (1)—

(i) by deleting the words “ an apprentice or indentured learner” and substituting therefor the words “a person undergoing training;”

(ii) by deleting the word “Director” and substituting therefor the the word “Director General”;

(iii) by deleting the words “ an apprenticeship or indentured learnership” and substituting therefor the word “ training;”

(c) in subsection (2)—

(i) by deleting the word “Council” wherever it appears and substituting therefor the word “Board”;

(ii) by deleting the word “Director” and substituting therefor the word “Director-General”

(iii) by deleting the word “apprenticeship” and substituting therefor the word “training”;

(d) in subsection (3) by deleting the word “Director” and substituting therefor the word “Director-General”;

**Amendment of section 21 of Cap.237.**

**25.** Section 21 of the principal Act is amended—

(a) in subsection (1)—

(i) by deleting the word “Director” and substituting therefor the word “Director-General”;

(ii) by deleting the word “Council” and substituting therefor the word “Board”.

(iii) by deleting the words “apprentices or indentured learner in any trade or occupation” and substituting therefor the words “persons undergoing training”;

(iv) by deleting the words “apprenticeship or indentured leadership” appearing in the proviso and substituting therefor the word “training”.

(b) in subsection (2)—

(i) by deleting the words “apprentices or indentured learners in that trade or occupation” appearing in paragraph (a) and substituting therefor the words “the scheme”;

(ii) by deleting paragraph (b);

(iii) by deleting the words “apprentices or indentured learners in their employ in that trade or occupation” appearing in paragraph (c) and substituting therefor the words “persons undergoing training”;

(iv) by deleting paragraph (d) and substituting therefor the following new paragraph—

(d) the theoretical training in that scheme which shall be provided by or at the expense of the employers of persons undergoing training, and the manner in which training shall be provided or undergone;

(v) by deleting the words “apprentices or indentured learners in that trade or occupation” appearing in paragraph (e) and substituting therefor the words “persons undergoing training in that scheme”;

(vi) by deleting paragraph (f) and substituting therefor the following new paragraph—

(f) the maximum number of hours which persons undergoing training in that scheme may be required or permitted to work during any week or on any day;

(vii) by deleting the words “apprentices or indentured learners in that trade or occupation” appearing in paragraph (g) and substituting therefor the words “persons undergoing training”;

(viii) by deleting paragraph (h) and substituting therefor the following new paragraph—

(h) the minimum number of paid holidays to be allowed to a person undergoing training in that scheme during any year of training.

(ix) by deleting paragraph (i) and substituting therefor the following new paragraph—

(i) the type and mode of certification to be issued to a person who completes training under the scheme.

- (x) by deleting the words “Director” and “Council” appearing in paragraph (j) and substituting therefor the words “Director-General” and “Board” respectively; .
- (c) in subsection (3)—
- (i) by deleting the word “Director” and substituting therefor the word “Director-General”;
  - (ii) by deleting the words “apprenticeship or indentured learnership” and substituting therefor the word “training”;
  - (iii) by deleting the word “apprentices or indentured learners” and substituting therefor the words “ persons undergoing training”.
- (d) by deleting subsection (4) and substituting therefor the following new subsection-
- (4) Different conditions of training may be specified under this section in respect of different classes of employers or persons undergoing training; and in prescribing different conditions the Director-General may apply any method of differentiation he may deem advisable.
- (e) in subsection (5) by deleting the words “Director” and “Council” wherever they appear and substituting therefor the words “Director-General” and “Board” respectively;

**Amendment of section 22 of Cap. 237.**

26. Section 22 of the principal Act is amended—

- (a) in subsection (1) by deleting the word “Director” wherever it appears and substituting therefor the word “Director-General”;
- (b) in subsection (2) by deleting the word “Director” and substituting therefor the word “Director-General”;
- (c) in subsection (3) by deleting the word “Director” and “Council” wherever they appear and substituting therefor the word “Director-General” and “Board” respectively;
- (d) in subsection (4) by deleting the word “Director” and substituting therefor the word “Director-General”;
- (e) in subsection (5) by deleting the word “Director” and substituting therefor the word “Director-General”;

**Amendment of section 22A of Cap. 237.**

27. Section 22A of the principal Act is amended—

- (a) in the marginal note by deleting the words “apprentices or indentured learners” and substituting therefor the words “persons undergoing training”;
- (b) in subsection (1)—
- (i) by deleting the words “ of apprentices or indentured learners” and substituting therefor the words “carrying out training under this Act”;
  - (ii) by deleting the words “apprentices or indentured learners” appearing in paragraph (a) and substituting therefor the words “persons undergoing training”
  - (iii) by deleting paragraph (b) and substituting therefore the following new subsection—
    - (b) at every premises or worksite where persons are undergoing training for a period of not less than three months, the employer shall appoint a training master who shall be responsible for the day to day guidance of the persons undergoing training in matters concerning their trade or occupation.
- (c) in subsection (2)—
- (i) by deleting the word “Director” wherever it appears and substituting therefor the word “Director-General”;
  - (ii) by deleting the word “an” appearing in the second line and substituting therefor the word “a”;
  - (iii) by deleting the words “ apprentice or indentured learner” wherever it appears and substituting therefor the words “ training”;
- (d) by deleting subsection (3) and substituting therefor the following new subsection—
- (3) Where twenty-five or more persons are undergoing training in any one premises or worksite, the training master shall devote the whole of his time during normal working hours to the guidance of the persons undergoing training; and where the number of those undergoing training is less than twenty-five, the training master shall devote that proportion of his time to the guidance of the persons undergoing training as that number bears to twenty-five.
- (e) by inserting the following new subsections immediately after subsection (4)—
- (5) No contract of apprenticeship or indentured learnership shall be registered unless the employer has complied with subsection (1).

(6) The provisions of subsections (1), (2), (3) and (4) shall apply to contracts of industrial attachment.

(7) Where the Director-General is satisfied that an employer has a human resource, personnel or training department capable of satisfactory supervision of persons undergoing training within the organisation, the Director - General may exempt the employer from the provisions of subsection (1).

**Repeal and replacement of section 23 of Cap. 237.**

**28.** The principal Act is amended by repealing section 23 and substituting therefor the following new section—

**Appointment of Inspectors.**

**23.** (1) The Minister may on the advice of the Board, by notice in the Gazette appoint an employee of the Authority to be an inspector for the purposes of enforcing this Act.

(2) An inspector appointed under subsection (1) shall be issued with a certificate of appointment signed by the Director-General.

(3) A person who ceases to be an inspector shall surrender the certificate of appointment issued under subsection (2) to the Director -General.

(4) Any person who fails to surrender the certificate of appointment or who uses or purports to use the certificate of appointment after ceasing to be an inspector shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or imprisonment for a term not exceeding six months or to both.

(5) A person who, not being an inspector presents himself as such shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings or to a term of imprisonment not exceeding twelve months or to both.

**Amendment of section 24 of Cap. 237.**

**29.** Section 24 of the principal Act is amended—

(a) in subsection (1)—

(i) by deleting paragraph (a) and substituting therefor the following new paragraph—

(a) at any reasonable time enter premises of an employer—

(i) in which he has reasonable cause to believe that a person is undergoing or has undergone training under this Act;

- (ii) to establish whether there is any training in the premises; or
  - (iii) for purposes of levy collection under this Act;
  - (ii) by deleting the words “within the preceding six months”; and inserting the words “or trained” immediately after the word “employed” appearing in paragraph (b);
  - (iii) by inserting the words “or trainer” immediately after the word “employer” appearing in paragraph (d);
  - (iv) by deleting the words “apprentice or indentured learner” wherever it appears in paragraph (c) and substituting therefor the words “employer or a person undergoing training”;
  - (v) by deleting the words “or was within the preceding six months the employer of an apprentice or indentured learner” appearing in paragraph (d) and substituting therefor the words “an employer”.
- (b) by inserting the following new subsection immediately after subsection (3)—
- (4) An inspector may prosecute an offence under this Act.

**Amendment of section 25 of Cap. 237.**

30. Section 25 of the principal Act is amended in subsection (1) by deleting the word “Council” and substituting therefor the word “Board”.

**Repeal of section 26 of Cap. 237.**

31. The principal Act is amended by repealing section 26.

**Amendment of section 27 of Cap.237.**

32. Section 27 of the principal Act is amended by deleting the word “Director” wherever it appears and substituting therefor the word “Director-General”.

**Insertion of new section 27A in Cap. 237.**

33. The principle Act is amended by inserting the following new section immediately after section 27—

**False statements.**

**27A.** A person who—

- (a) makes, causes to be made or knowingly allows to be made an entry in a register, record, book or other document whatsoever, required by this Act to be kept which he knows to be false in a material particular; or
- (c) produces, furnishes, causes or allows to be produced or furnished to an officer of the Authority, a register, record,

book or other document which is false in a material particular;

shall be guilty of an offence and liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding twelve months or to both.

**Amendment of section 28 of Cap.237.**

**34.** Section 28 of the principal Act is amended by deleting the word “six” appearing in the third line and substituting therefor the words “one hundred”.

**Amendment of section 29 of Cap. 237.**

**35.** Section 29 of the principal Act is amended—

(a) in subsection (1)—

- (i) by inserting the words “on the advice of the Board” immediately after the word “may” appearing in the first line;
- (ii) by deleting the words “apprenticeship or indentured learnership” appearing in paragraph (a) and substituting therefor the words “training under this Act”;
- (iii) by deleting the word “Director” appearing in paragraph (c) and substituting therefor the word “Director General”;
- (iv) by deleting the words “of apprenticeship or indentured learnership” appearing in paragraph (d) and substituting therefor the words “under this Act”
- (v) by deleting the words “apprenticeship or indentured learnership” appearing in paragraph (e) and substituting therefor the words “completion”.

(b) by deleting subsection (2) and replacing it with the following new subsection—

(2) Different rules may be made under subsection (1) in respect of different classes of employers or persons undergoing training under this Act.

**Insertion of new section 29A in Cap.237.**

**36.** The principal Act is amended by inserting the following new section immediately after section 29—

**Regulation 29A**

**29A.** The Minister may make regulations generally for the better carrying into effect of the provisions of this Act.

**Amendment of section 30 of Cap.237.**

**37.** Section 30 of the principal Act is amended—

(a) in subsection (1)—

- (i) by deleting the word “Director” and substituting therefor word “Director General”;
- (ii) by deleting the word “Council” and substituting therefor the word “Board”;
- (iii) by deleting the words “apprenticeship or indentured learnership” and substituting therefor the word “training”;

(b) in subsection (2)—

- (i) by deleting the word “Director” and substituting therefor the word “Director-General”.
- (ii) by deleting the word “Council” and substituting therefor the word “Board”.

**Amendment of section 31 of Cap. 237.**

38. Section 31 of the principal Act is amended by deleting the word “Director” and substituting therefor for the word “Director-General”;

**Insertion of section 33 and 34 in Cap. 237.**

39. The Principal Act is amended by adding the following new sections immediately after section 32—

**Transitional and saving provisions.**

33. (1) In this section, “Directorate of Industrial Training” means the Government Department by that name existing immediately before the commencement of this Act.

(2) All property, which immediately before the commencement of this Act was vested in the Directorate of Industrial Training shall on the commencement of this Act, vest in the Authority subject to all interests, liabilities, charges, obligations and trusts affecting such property.

(3) All contracts, debts, obligations and liabilities of the Directorate of Industrial Training before the commencement of this Act shall be vested in the Authority and may be enforced by or against the Authority.

(4) All legal proceedings pending in Kenya by or against the Directorate of Industrial Training in respect of any property, liabilities or contracts of the Directorate of Industrial Training shall be deemed to continue or be continued by or against the Authority.

(5) All directions, orders, rules, authorizations and other things published, made, given or done by the Directorate of Industrial Training, under the Act, subsisting at the commencement of this Act, shall on that day be deemed to have been published, given, made or done by the Authority.

**Staff of the Directorate of Industrial Training.**

34. Any person who was a member of staff of the Directorate of Industrial Training shall, upon the commencement of this Act, be deemed to be an employee of the Authority in accordance with the Schedule.

**Chairman, vice-chairman and members of the Council.**

35. Any person who at the commencement of this Act was a chairman, vice-chairman or member of the Council shall, on the commencement date, be deemed to be the chairman, vice-chairman or member of the Board respectively until a new Board is constituted under this Act.

**Insertion of schedule in Cap.237.**

40. The principal Act is amended by inserting the following new schedule—

**SCHEDULE (s. 34)****Interpretation.**

1. In this schedule "vesting day" means the date of commencement of this Act.

**Staff.**

2. Any person who, at the commencement of this Act, is a member of staff of the former Directorate of Industrial Training, shall on the vesting day become a member of staff of the Authority on the same or improved terms and conditions of service as may be specified by the Minister:

Provided—

- (a) a member of staff of the former Directorate of the Industrial Training may retire on the basis of abolition of office in accordance with the existing regulations; and,
- (b) a member of staff of the former Directorate of Industrial Training may remain in the civil service with mutual consent of any such member of staff and the Government.

3. Where on the vesting day—

- (a) any disciplinary proceedings against any member of staff of the former Directorate of Industrial Training, are in the course of being heard or instituted, or have been heard or investigated by the former Directorate of Industrial Training but no order or decision has been made thereon; or
- (b) any such member of staff is interdicted or suspended, the Authority shall—

- (i) in the case of paragraph (a), carry on and complete the hearing or investigation and make an order or render a decision, as the case may be; and
- (ii) in the case of paragraph (b), deal with such member of staff in such manner as it deems appropriate having regard to the offence committed by him, including the completion of disciplinary proceedings that have been commenced by the Authority.

4. Where on the vesting day, any penalty, other than dismissal, has been imposed on any member of staff of the former Directorate of Industrial Training pursuant to disciplinary proceedings against him and the penalty has not been, or remains to be, serviced by such member of staff, he shall on his transfer to the Authority, under paragraph (2) serve or continue to serve such penalty to its full as if it had been imposed by the Authority.

**Pensions.**

5. (1) A member of staff of the Directorate of Industrial Training who becomes a member of staff of the Authority shall continue to be governed by the existing Government pension scheme.

(2) Where any person whose services are transferred to the Authority is on the vesting day a member of any statutory voluntary pension scheme or provident fund, he shall for the purpose of this Act, continue to be governed by the same regulations under those schemes or funds, as if he had not been so transferred, and for purposes of the regulations governing those schemes or funds service with the Authority shall be deemed to be service in the former Directorate of Industrial Training.

I certify that this printed impression is a true copy of the Bill passed by the National Assembly on the 18<sup>th</sup> October, 2011.

***Clerk of the National Assembly.***

Presented for assent in accordance with the provisions of the Constitution on the ....., at the hour of .....

***Attorney-General.***