



Republic of Namibia
Annotated Statutes

National Vocational Training Act 18 of 1994

(GG 933)

Parts I-VII and IX-XI brought into force on 1 September 1996,
and Part VIII brought into force on 1 January 1997, by GN 233/1996 (GG 1399)

This Act is repealed in its entirety by the Vocational Education and Training Act 1 of 2008 (GG 4042), which was brought into force on 2 June 2008 by GN 126/2008 (GG 4053).
However, certain portions of this Act remain operational despite the repeal.

Section 49(12) of Act 1 of 2008 provides that sections 17-28 inclusive of this Act remain in force as if this Act had not been repealed, until a date determined by the Minister by notice in the *Government Gazette*. Section 49(15) similarly provides that subsections 32(1) and (2) of this Act remain in force as if this Act had not been repealed, until a date determined by the Minister by notice in the *Government Gazette*. No such notices have yet been issued.

Section 49(13) of Act 1 of 2008 provides that the National Trade Testing and Certification Centre established under section 30 of this Act continues to exist and to perform its functions as if this Act had not been repealed, until a date determined by the Minister by notice in the *Government Gazette*, except that the Board of the Namibia Training Authority established by Act 1 of 2008 must perform the functions of the Vocational Training Board in respect of the National Trade Testing and Certification Centre until that date.

The sections which remain operational were not amended prior to the Act's repeal.

ACT

To make provision for the regulation of the training of apprentices and vocational trainees; to provide for the establishment, powers and functions of a Vocational Training Board and trade advisory committees; to provide for the establishment and approval of vocational standards and the designation of trades and the establishment and approval of training schemes in respect of such trades; to provide for the establishment of a National Trade Testing and Certification Centre and trade testing and certification of apprentices; to provide for the registration of vocational training centres; to provide for the imposition of training levels and the establishment of a Vocational Training Fund; and to provide for matters incidental thereto.

(Signed by the President on 23 September 1994)

ARRANGEMENT OF SECTIONS

National Vocational Training Act 18 of 1994

PART V

EMPLOYMENT AND TRAINING OF APPRENTICES

17. Employment of persons as apprentices
18. Persons who may bind themselves as apprentices
19. Registration of contracts of apprenticeship
20. Transfer of contracts of apprenticeship
21. Suspension of apprentices
22. Termination of contracts of apprenticeship
23. Probationary period in employment of apprentices
24. Inducement of apprentices to terminate services with employers an offence
25. Records to be kept by employers in relation to apprentices
26. Limitations in regard to payment of remuneration
27. Extension or reduction of duration of apprenticeship
28. Supervision over training of apprentices

PART VII

TRADE TESTING AND CERTIFICATION

30. Establishment of National Trade Testing and Certification Centre and appointment of Chief Trade Testing Officer and trade testing officers
31. Functions of National Trade Testing and Certification Centre
32. Approval of other centres as trade testing centres
33. Issuing of certificates on completion of trade testing

BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:-

PART V

EMPLOYMENT AND TRAINING OF APPRENTICES

Employment of persons as apprentices

17. (1) No person shall, after the commencement of this Act, employ in terms of a contract of apprenticeship any person as an apprentice in a designated trade for which a scheme has been approved without having first been granted the written approval of the Chief Inspector to do so and except in accordance with the provisions of this Act or any other law.

(2) Before granting any approval referred to in subsection (1), the Chief Inspector shall satisfy himself or herself that -

National Vocational Training Act 18 of 1994

- (a) the prospective apprentice -
 - (i) has, in relation to the designated trade in question, the qualifications, including the minimum age and educational qualifications determined under the scheme in question; and
 - (ii) has been certified as being physically fit to perform the work relating to the trade in question as contemplated in subsection (3);
- (b) the prospective employer referred to in subsection (1) complies with any requirement relating to the maximum number of apprentices to be employed in the industry or trade in question, determined under the scheme in question; and
- (c) any other matter has been complied with as may be determined under the scheme in question.

(3) Any person who intends to employ any person as an apprentice shall, for the purposes of the approval referred to in subsection (1) obtain at his or her expense a medical certificate stating that such last-mentioned person has been medically examined by a medical practitioner and he or she is physically fit to perform the work relating to the trade in question.

(4) Any person who employs any person as an apprentice in contravention of the provisions of this section shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$4 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

Persons who may bind themselves as apprentices

18. (1) Any person in respect of whom an approval under section 17(1) has been granted may, by entering into a contract of apprenticeship, bind himself or herself as an apprentice in any designated trade for which a scheme has been approved under this Act.

(2) If any such person is a minor, he or she shall be assisted by his or her parent or guardian or, if there is no parent or guardian, by the magistrate of the district in which the contract of apprenticeship is to be executed.

Registration of contracts

19. (1) Every contract of apprenticeship entered into of apprenticeship after the date of commencement of this Act shall -

- (a) be in such form as may be prescribed; and
- (b) be signed by or on behalf of the employer and by the person to be employed as an apprentice and, in the case of such person who is a minor, by any of his or her parents or guardian or, if there is no parent or guardian, the magistrate of the district in which such contract is to be executed, as the case may be.

(2) An employer who enters into a contract of apprenticeship referred to in subsection (1) with any person shall, within a period of 15 days after the date on which it was so entered into, lodge the contract of apprenticeship, in such manner as may be prescribed, with the Chief Inspector for registration.

National Vocational Training Act 18 of 1994

(3) Any employer who fails to comply with the provisions of subsection (2) shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$4 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

(4) No contract of apprenticeship entered into after the date of commencement of this Act shall be binding unless it has been registered by the Chief Inspector.

(5) When the Chief Inspector registers a contract of apprenticeship under this Act, he or she shall -

- (a) endorse the said contract to that effect, and return such contract and a duplicate thereof, so endorsed, to the employer; and
- (b) keep a copy thereof, so endorsed, for his or her records.

(6) The employer shall deliver the duplicate of the contract referred to in subsection (5)(a) to the apprentice concerned for him or her to keep.

Transfer of contracts of apprenticeship

20. (1) The rights and obligations of an employer under any contract of apprenticeship may, with the prior approval of the apprentice concerned and of the Chief Inspector, be transferred to any other employer.

(2) The Inspector may grant the approval referred to in subsection (1), subject to such conditions as he or she may deem necessary in the interest of the apprentice concerned.

(3) Subject to the provisions of subsection (5), no transfer of the rights and obligations of an employer under any contract of apprenticeship shall have any effect, unless the transfer -

- (a) has been in writing and has been signed -
 - (i) by or on behalf of the employer transferring such rights and obligations;
 - (ii) by or on behalf of the employer to whom such right and obligations are being transferred; and
 - (iii) by the apprentice, and where such apprentice is a minor, also by his or her parent or guardian or, if he or she has no parent or guardian, by the magistrate of the district in which the contract of apprenticeship in respect of which the rights and obligations are to be transferred, was executed; and

(b) has been registered by the Chief Inspector in accordance with the provisions of subsection (4).

(4) (a) An employer to whom the rights and obligations under a contract of apprenticeship has been transferred as contemplated in subsection (1), shall, within a period of 30 days after the date on which such transfer has been signed by all the parties referred to in subsection (3)(a), lodge, in such manner as may be prescribed, such transfer with the Chief Inspector for registration.

(b) An employer who fails to comply with the provisions of paragraph (a) shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$4 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

National Vocational Training Act 18 of 1994

- (5) (a) When under any contract of apprenticeship, an apprentice is employed by two or more persons in partnership, the contract of apprenticeship shall, unless the apprentice otherwise elects, not be terminated by reason only of the death or retirement of any partner if the business of the partnership is continued by the surviving or continuing partner or partners whether alone or jointly with another person or other persons, and the rights and obligations of the employer under such contract shall be deemed to be transferred to the person or partnership continuing the business.
- (b) The person or partnership referred to in paragraph (a), continuing the business, shall, within a period of 30 days after the date of such death or retirement, lodge the contract in the prescribed manner with the Chief Inspector for registration who shall certify on that contract that the rights and obligations under that contract have been transferred to such person or partnership under this section.

Suspension of apprentices

21. (1) If an employer is satisfied that an apprentice bound to him or her by contract in terms of this Act has committed a serious breach of the terms of such contract or of any condition of apprenticeship, such employer may after giving such apprentice the opportunity to be heard, suspend the apprentice in his or her service for such period, not exceeding 30 days, as he or she may determine.

(2) An employer who has so suspended an apprentice shall report the matter in writing to the Chief Inspector within three days of the suspension and the Chief Inspector shall inquire into such suspension and may by order confirm or set aside the suspension of the apprentice or alter the period of such suspension.

- (3) (a) Whether or not a report referred to in subsection (2) has been lodged by the employer, the Chief Inspector may, if an apprentice has acted in any manner justifying his or her suspension in terms of subsection (1) and such apprentice has not been suspended by the employer concerned, by written notice order the suspension of such apprentice in the service of the employer concerned for such period, not exceeding 30 days, as the Chief Inspector may determine pending any inquiry by him or her.
- (b) When the Chief Inspector has ordered the suspension of an apprentice as contemplated in paragraph (a), he or she shall report the suspension to the Board.

(4) If the Chief Inspector alters or sets aside the suspension of an apprentice in terms of subsection (2), the employer shall pay to the apprentice such remuneration as may have been withheld from the apprentice during the period of suspension, and such order shall have the effect of and may be executed as if it were a civil judgment in favour of the State, and the Chief Inspector shall, to the extent that any amount has been recovered from the employer by virtue of such order, pay such amount to the apprentice concerned.

(5) Any employer who fails to report the suspension of an apprentice as contemplated in subsection (2) shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$4 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

Termination of contracts of apprenticeship

National Vocational Training Act 18 of 1994

22. (1) Notwithstanding anything to the contrary contained in any other law, but subject to the provisions of section 23 of this Act, no contract of apprenticeship shall be terminated, except -

- (a) by agreement of the parties thereto;
- (b) by the Chief Inspector at the instance of any party thereto if the Chief Inspector is satisfied that the requirements of section 17(2) are no longer being complied with in respect of the apprentice or employer concerned; or
- (c) by the Chief Inspector at the instance of the Board.

(2) The employer concerned shall give notice to the Chief Inspector of any termination under subsection (1)(a) and any employer who fails to give such notice within a period of 30 days after the date of such termination shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$4 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

(3) The Chief Inspector shall not exercise the powers conferred upon him or her by subsection (1)(b) and (c), unless the Chief Inspector has given both parties to the contract an opportunity to be heard by, or to make representations to, him or her in relation to such termination.

(4) The fact of termination shall be endorsed by the Chief Inspector on the registered copy of the contract of apprenticeship kept in the office of the Chief Inspector.

(5) A contract terminated under this section shall, for all purposes be deemed to be duly terminated, but without prejudice to any right of action which may have accrued before the date of such termination.

Probationary period in employment of apprentices

23. (1) Notwithstanding the provisions of section 22, the first four weeks of employment in terms of every contract of apprenticeship shall be a period of probation during or at the expiration of which the contract may be terminated with at least one working day's written notice by either party, and any agreement to the contrary, whether expressed or implied, shall be void without affecting the validity of any other provision or condition of that contract.

(2) The employer concerned shall give notice to the Chief Inspector of the termination of any contract under subsection (1) and any employer who fails to give such notice within a period of 30 days after the date of such termination shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$4 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

Inducement of apprentices to terminate services with employers an offence

24. Any person who induces or attempts to induce an apprentice to terminate his or her service with his or her employer or who employs a person whom he or she knows to be bound by a contract of apprenticeship to another employer shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$4 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

Records to be kept by employers in relation to apprentices

National Vocational Training Act 18 of 1994

25. (1) (a) Any person who employs any apprentice shall keep in respect of every such apprentice records of the remuneration paid to, and of the time worked by, every such apprentice and such other particulars as may be prescribed.

(b) Such records shall be kept in such form and manner as may be prescribed.

(2) Any person who employs or has employed any apprentice shall retain any record made in accordance with the provisions of subsection (1) for a period of five years after the date of the last entry in the record.

(3) Any employer who fails to keep the required records in the form and manner prescribed and any employer or former employer who fails to retain any records made in accordance with the provisions of this section for the required period shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$4 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

Limitations in regard to payment of remuneration

26. Notwithstanding any provision to the contrary contained in any other law, any provision of a contract of apprenticeship which provides that the whole or any part of the remuneration of an apprentice shall be based upon the quantity of work done by such apprentice shall be void, but shall not affect the validity of any other provision of that contract.

Extension or reduction of duration of apprenticeship

27. (1) Notwithstanding any provision to the contrary contained in this Act or any condition of apprenticeship under this Act, if any apprentice is during a period of one year for 21 working days or more absent from work, the Chief Inspector may extend the period of his or her apprenticeship by the number of working days exceeding 20 which he or she was absent from work.

(2) Notwithstanding any provision to the contrary contained in this Act or any condition of apprenticeship under this Act, when it is proved to the satisfaction of the Board that a person has undergone previous technical training relevant to the trade in which he or she desires to be trained as an apprentice, the Board may authorize the Chief Inspector to reduce the period of apprenticeship to be served by such person to such period as may be determined by it.

Supervision over training of apprentices

28. (1) Any person who employs any apprentice of apprentices shall -

(a) from among his or her employees, who are not apprentices, appoint a person responsible for supervising generally the training of the apprentices under the provisions of this Act and of any relevant scheme; and

(b) at any premises or worksite where 25 or more apprentices are regularly employed for a period of not less than three months, from among his or her employees, who are not apprentices, appoint an apprentice trainee supervisor who shall be responsible for the guidance of apprentices concerning instruction in any trade for which they are being trained.

(2) An employer shall in writing and within a period of 14 days from the date of appointment of any person referred to in subsection (1), submit the name and such other particulars as may be prescribed, of any person so appointed to the Chief Inspector for his or her approval.

National Vocational Training Act 18 of 1994

(3) The Chief Inspector may, by written notice to the employer, refuse to grant his or her approval to any appointment referred to in subsection (1), if he or she is of the opinion that such person is not suitably qualified for such appointment, and may in such notice require such person to undergo for such purpose the training or courses determined by the Chief Inspector.

(4) Where apprentices are employed at any premises or worksite referred to in subsection (1)(b), the apprentice trainee supervisor referred to in that subsection shall devote his or her time during normal working hours mainly to the guidance of apprentices as contemplated in that subsection.

(5) Any person who -

- (a) refuses or fails to make any appointment required by subsection (1);
- (b) fails to submit any appointment within the period referred to in subsection (2) for the approval of the Chief Inspector under that subsection;
- (c) refuses or fails to comply with the provisions of subsection (4);
- (d) hinders or obstructs any person appointed under subsection (1) in the exercise of his or her functions; or
- (e) falsely holds himself or herself out to be a person appointed under subsection (1),

shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$4 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

[Although this Act is repealed in its entirety by the Vocational Education and Training Act 1 of 2008, section 49(12) of Act 1 of 2008 provides that sections 17-28 remain in force as if the Act had not been repealed, until a date determined by the Minister by notice in the Government Gazette.]

PART VII

TRADE TESTING AND CERTIFICATION

Establishment of National Trade Testing and Certification Centre and appointment of Chief Trade Testing Officer and trade testing officers

30. (1) The Minister shall establish a component in the Ministry to be known as the National Trade Testing and Certification Centre, consisting of -

- (a) an officer in the Ministry appointed by the Minister, subject to the laws governing the public service, as Chief Trade Testing Officer to head such centre and to perform the other functions assigned to him or her under this Act;
- (b) such other officers of the Ministry appointed by the Minister, subject to the said laws, in respect of a particular designated trade or trades as trade testing officers who are qualified and experienced in such trade or trades to conduct trade tests therein and to perform such other functions as the Chief Trade Testing Officer may from time to time assign to such officers.

National Vocational Training Act 18 of 1994

- (2) (a) The Minister may, if in his or her opinion the number of applicants to undergo trade testing in a designated trade does not justify the appointment of a full-time trade testing officer as contemplated in subsection (1), appoint any qualified and experienced person in that trade as a trade testing officer on a temporary basis.
- (b) A temporary trade testing officer referred to in paragraph (a) shall receive such remuneration and such allowances (if any) as the Minister may, with the concurrence of the Minister of Finance, determine.

Functions of National Trade Testing and Certification Centre

- 31.** The functions of the National Trade Testing and Certification Centre shall be -
- (a) to establish, with the concurrence of the Board, a system for the governing and controlling of trade testing;
 - (b) the conducting of trade tests in accordance with the standards based on the approved vocational standard in respect of the designated trade in question;
 - (c) the evaluation of trade qualifications obtained outside Namibia;
 - (d) the receipt and processing of applications for trade testing in the manner and form as may be determined by the Chief Trade Testing Officer;
 - (e) the issuing of certificates to persons who have successfully concluded any trade test and the keeping of records regarding certificates issued by it and the furnishing from time to time, as the Minister may determine, of trade testing statistics to the Minister;
 - (f) the keeping abreast of new developments in the field of vocational training in so far as it relates to trade testing and certification under this Part;
 - (g) the making available of training in the principles and techniques of evaluation to trade testing officers and all persons evaluating training and conducting the testing of apprentices;
 - (h) the upgrading of the work proficiencies of qualified artisans;
 - (i) the performance of any other function which the Minister or the Board deems it necessary to perform in relation to trade testing and certification under this Part.

[Although this Act is repealed in its entirety by the Vocational Education and Training Act 1 of 2008, section 49(13) of Act 1 of 2008 provides that the National Trade Testing and Certification Centre established under section 30 of this Act continues to exist and to perform its functions as if this Act had not been repealed, until a date determined by the Minister by notice in the Government Gazette. Section 31 is not referenced in Act 1 of 2008, but it sets forth the functions of the Centre referred to.]

Approval of other centres as trade testing centres

- 32.** (1) The Minister may, on the recommendation of the Board, approve, on application of any person or body of persons, a centre to be a trade testing centre in respect of a particular designated trade or category of such trades or in general for the purposes of this Act,

National Vocational Training Act 18 of 1994

and may make such approval subject to such conditions and the issuing of such directives as the Minister may deem necessary in the interest of vocational training under this Act.

(2) The Minister may, on the recommendation of the Board, withdraw his or her approval referred to in subsection (1), if any person or body, so referred to therein, fails to comply with any condition subject to which such approval has been granted or any directive issued under that subsection.

[Although this Act is repealed in its entirety by the Vocational Education and Training Act 1 of 2008, section 49(15) of Act 1 of 2008 provides that section 32(1) and (2) remain in force as if the Act had not been repealed, until a date determined by the Minister by notice in the *Government Gazette*.]

Issuing of certificates on completion of trade testing

33. (1) A certificate shall be issued by the National Trade Testing and Certification Centre to each person having successfully completed a trade test to the required standard.

(2) The form and contents of the certificate referred to in subsection (1) shall be determined by the Chief Trade Testing Officer with the concurrence of the Board.

[Although this Act is repealed in its entirety by the Vocational Education and Training Act 1 of 2008, section 49(13) of Act 1 of 2008 provides that the National Trade Testing and Certification Centre established under section 30 of this Act continues to exist and to perform its functions as if this Act had not been repealed, until a date determined by the Minister by notice in the *Government Gazette*. Section 33 is not referenced in Act 1 of 2008, but it elaborates on one of the functions of the Board referred to in section 31(e).]