

**FURTHER EDUCATION AND TRAINING COLLEGES ACT, 2006
(ACT NO. 16 OF 2006)**

1. COMMENCEMENT OF THE ACT

The Further Education and Training Act, 2006 (Act No. 16 of 2006), herein after referred to as the Act, came into operation on 11 December 2006 (see notice number 1274 in Government Gazette number 29469 dated 11 December 2006).

2. PURPOSE OF THE ACT

The purpose of the Act, amongst other things, is to provide for the establishment, governance and funding of public further education and training colleges; to provide for transitional arrangements; and to provide for matters connected therewith.

3. IMPACT OF CERTAIN PROVISIONS OF THE ACT ON THE REGISTRATION PROCEDURES

3.1 Establishment of public college:

3.1.1 The Member of the Executive Council responsible for education in a province, (herein after referred to as the MEC), may, by notice in the *Gazette*, establish a public college (section 3(1) of the Act). Every public college is a juristic person (section 3(2) of the Act).

3.1.2. A public college established in terms of section 3(1) of the Act must, in deeds and documents lodged for registration, be described along the following lines:

“ ‘ABC’ public college (established by section 3 (1) of Act No. 16 of 2006)”

3.1.3. A public college may not, without the concurrence of the MEC, dispose of or alienate any movable or immovable property acquired with the financial assistance of the State, or grant to any person any real right or servitude over such movable or immovable property (section 3(3) of the Act).

3.1.4. The MEC may, in terms of section 3(4)(a) of the Act, determine that certain categories of assets below a certain value may be alienated without his or her concurrence. The value of the assets contemplated in section 3(4)(a) must be published in the *Gazette* (section 3(4)(b)).

3.1.5. The assets of a public college may not, in terms of section 3(6) of the Act, be attached as a result of any legal action taken against the college.

3.2. Declaration of institutions as public college:

3.2.1. The MEC may, by notice in the *Gazette*, declare any institution providing further education and training as a public college (section 4 (1) of the Act). The notice contemplated in section 4(1) must determine the date on which the institution becomes a public college (section 4(2)(a)).

3.2.2. A public college declared in terms of section 4(1) of the Act must, in deeds and documents lodged for registration, be described along the following lines:

“ ‘ABC’ public college (declared by section 4(1) of Act No. 16 of 2006)”

3.3. Consequences of declaration as public college:

3.3.1. As from the date of declaration of an institution as a public college as published by notice in the *Gazette*, the assets, liabilities, rights and obligations of such institution vest in the public college (section 5 (1)(b) of the Act).

3.3.2. Immovable property vesting in a public college in terms of section 5(1)(b) of the Act, must, subject to the concurrence of the Minister of Finance, be transferred into the name of such public college (section 5(2)(a)). Such transfer must be affected by means of an endorsement in terms of the provision of section 5(3) of the Act.

3.3.3. The transfer of the immovable property must be made subject to any existing right, encumbrance or trust on or over that property (section 5(2)(a)).

3.4. Endorsement of title deeds upon declaration of institution as public college:

3.4.1. A Registrar of Deeds must, upon application and submission of the relevant title deed/s by the public college concerned, together with the consent of the Minister of Finance, effect such endorsements on the title deed/s and such entries in his/her registers as are necessary in order to register the vesting as referred to in section 5(1)(b) of the Act (section 5(3) of the Act).

3.4.2. The application must be filed under a T/K/BC code, as the case may be, and the title deed/s must be endorsed along the following lines:

Endorsement in terms of section 5(3) of Act No. 16 of 2006

The within-mentioned *asset/right/liability vests, as from in **, in terms of section 5(1)(b) of Act No. 16 of 2006.

Application filed with *T/K/BC

DATE

REGISTRAR OF DEEDS

* Omit whichever is inapplicable

** Here insert the name of the public college

3.5. Merger of public colleges:

- 3.5.1. The MEC may, by notice in the *Gazette*, merge two or more public colleges into a single public college (section 6 (1) of the Act).
- 3.5.2. As from the date of merge of two or more public colleges, as published by notice in the *Gazette*, the assets, liabilities, rights and obligations of the two or more public colleges vest in the single public college.
- 3.5.3. The provisions of section 5(1)(b), 5(2) and 5(3) of the Act apply with the necessary changes required by the context to a merger of public colleges (section 6(4)). In this regard see the provisions discussed under paragraphs 3.3 and 3.4.1 above.

3.6. Endorsement of title deeds upon merger of public colleges:

- 3.6.1. The Registrar of Deeds must, upon application and submission of the relevant title deed/s by the public college concerned, effect such endorsements on the title deed/s and such entries in his/her registers as are necessary in order to register the vesting referred to in paragraph 3.5.2 above.
- 3.6.2. The application must be filed under a T/K/BC code, as the case may be, and the title deed/s must be endorsed along the following lines:

Endorsement in terms of section 6(4) of Act No. 16 of 2006

The within-mentioned *asset/right/liability vests, as from, in ** in terms of section 6(4) of Act No. 16 of 2006.

Application filed with T/K/BC*

DATE

REGISTRAR OF DEEDS

* Omit whichever is inapplicable

** Here insert the name of the public college

3.7. Closure of a public college:

- 3.7.1. The MEC may, by notice in a *Gazette*, close a public college (section 8(1) of the Act).
- 3.7.2. After closure of a public college, all the assets and liabilities of such closed public college shall be dealt with by the MEC according to law, and any assets remaining after all liabilities have been paid, shall vest in the MEC, (sections 8 (3)(a) and 8(3)(b) of the Act). Registration of assets must, notwithstanding the wording of section 8(3)(b), be made in favour of the Province concerned.
- 3.7.3. The provisions of sections 5(2) and 5(3) of the Act apply with the necessary changes required by the context to a closure of public colleges. In this regard see the provisions discussed under paragraphs 3.3 and 3.4.1 *supra*.

3.8. Endorsement of title deeds upon closure of public college:

- 3.8.1. A Registrar of Deeds must, upon application and submission of the relevant title deeds by the MEC concerned, effect such endorsements on the title deeds and such entries in his/her registers as are necessary in order to register the closure referred to in paragraph 3.7.1 above.
- 3.8.2. The application must be filed under a T/K/BC code, as the case may be, and the title deed/s must be endorsed along the following lines:

Endorsement in terms of section 8(1) of Act No. 16 of 2006

The within-mentioned *asset/right/liability now vests in the **....., in terms of section 8(1) read with section 8(3)(b) of Act No.16 of 2006.

Application filed with T/K/BC*

DATE

REGISTRAR OF DEEDS

* Omit whichever is inapplicable

** Here insert the name of the Province

- 3.8.3. Examiners should take note that no act of registration shall be permissible unless and until the relevant title deed/s is/are endorsed regarding the vesting referred to in paragraphs 3.3.1, 3.5.2 and 3.7.2. above.

3.9. Change of name of a public college:

- 3.9.1. The council of a public college may, with the approval of the MEC and by notice in a *Gazette*, change the name of a public college (section 47 of the Act).

3.9.2. Where a change of name has taken place the matter must be dealt with in terms of section 93 of the Deeds Registries Act, 1937 (Act No.47 of 1937).

3.10. Existing public further education and training institutions, structures and bodies:

The public further education and training institutions listed in Schedule 2 of the Act, continue to exist and are deemed to be public colleges for the purposes of this Act (section 53(1) of the Act).

4. WITHDRAWAL OF PREVIOUS CIRCULAR

4.1. Chief Registrar's Circular No. 33 of 1998 is hereby withdrawn due to the repeal of 'The Further Education and Training Act, 1998 (Act No. 98 of 1998)', by section 58(1) of the Act.

4.2. Anything done under any provision of Act No. 98 of 1998 must be regarded as having been done under the corresponding provision of the Act.

5. TRANSFER DUTY AND OFFICE FEES

All acts of registration in terms of the Act are exempt from the payment of transfer duty or any other duty or cost, but not exempt from registration fees (section 5 (2)(a) read with section 5 (2)(b) of the Act).



CHIEF REGISTRAR OF DEEDS

DATE: 29 JANUARY 2007

REFERENCE: A. 6/2/P and A. 1/3/1/208
RINGBINDER 68

CHIEF REGISTRAR OF DEEDS

REGISTRARS OF DEEDS

THE CHIEF: JUSTICE TRAINING

DIRECTOR: LAW SOCIETY OF SOUTH AFRICA : PRETORIA

MANAGER: BUTTERWORTHS PUBLICATIONS : DURBAN

CHAIRPERSON: PROPERTY LAW COMMITTEE : PRETORIA