



**An Act to Amend the Human Employment and Resource Training Act; to
merge the functions of the Human Employment and Resource Training
Trust with the National Youth Service Board and the Apprenticeship Board; to
repeal the Apprenticeship Act and the National Youth Service Act; and for
connected matters**

The Most Honourable Andrew Holness, ON, MP

29 October 2019

Mr. Speaker, I tabled the Human Employment and Resource Training (Amendment) Act, 2019, in the context of my budget presentation (on 19 March 2019) on “Building a new Jamaica” and addressed the critical element of human capital development in that new Jamaica.

Mr. Speaker, former Prime Minister, the Most Honourable Edward Seaga had a passionate mission to provide a meaningful future for those who had fallen outside of the formal education system. The Human Employment and Resource Training (HEART) Trust was conceptualized by him and we saw the great tribute paid to him by persons who were given new opportunities to advance in life because of the HEART Trust.

The policies implemented over the past two years with the merger of the HEART Trust with the National Youth Service Board, the Jamaican Foundation for Lifelong Learning Limited and the Apprenticeship Board were designed to return the HEART Trust to the original vision of an institution with a significant role to play in nation building in ensuring that no Jamaican youth is left behind.

The merger has opened the doors of the Human Employment Resource Training Trust, National Training Service Agency (HEART Trust/NTSA) to many who had been shut out for years. Until we took the decision to merge the entities many unattached youth were turned away from one agency and redirected to another and in the process many fell through the cracks. Now every single person who knocks on HEART Trust/TNA's door is given a roadmap for a productive life and meaningful future through training and development, whether through HOPE which is Helping Our People Excel, adult learning programmes or other certification programmes.

The Human Employment and Resource Training (Amendment) Act, 2019, provides the legal framework that will allow us to build on the successful policies implemented over the past two years. The Act makes the necessary legal provision for the merger of the functions of the National Youth Service Board, the Apprenticeship Board and the Jamaican Foundation for Lifelong Learning Limited with the Human Employment and Resource Training Trust within one entity, i.e. the HEART Trust/NTSA.

This merger is consistent with the Public Sector Master Rationalization Plan to create a more efficient and effective Public Sector by the merger of public bodies and agencies which share synergies of functions and resources.

The Act that is before us will:

- streamline training processes,
- clearly establish the rights and obligations of trainees, employers and the HEART Trust/NTSA,
- provide for such transitional measures as necessary to facilitate the smooth transfer of administrative responsibilities to the Trust,
- and provide for the issuance, validation or recognition, as required, of certificates or other academic qualifications, distinctions or awards to current and former participants of the training programmes now merged with the Trust.

Our objective is to reach more unattached youth, steer and mentor them with greater opportunities to work, learn, earn, give (back through service) and save (for the future) - “LEGS” - Learning, Earning, Giving, and Saving.

The National Youth Service Board and the Jamaican Foundation for Lifelong Learning Limited working with the Trust provides the support and facilitation services for the Housing, Opportunity, Production and Employment (HOPE) programme. They assist in recruitment, providing the initial core skills training, certification, and assist with arranging placements. We launched the HOPE programme in 2017 and in each year we have deepened and expanded the programme's reach and impact in communities across Jamaica.

In 2017, we also amended the Defence Act to include a third primary category of service into the Jamaica Defence Force (JDF), namely, the Jamaica National Service Corps (JNSC).

HOPE and the JNSC work with HEART in providing life skills to young and unattached youth to empower them and make them independent, purpose driven and important nation builders. For too many decades in Jamaica we have been turning a blind eye to the growing problem of unattached youth – winding up our windows at the traffic lights, pretending that they are not there.

Many unattached youth come from inner city communities. They are talented young people but many have not had the benefit of a well-structured environment long enough to develop the character, positive attitudes and skills to successfully negotiate the challenges of life. The vast majority of unattached youth dropped out of school. They did not gain an education sufficient for their age and stage in life and many end up in conflict with the law. Mr. Speaker, we are giving our unattached youth; HOPE.

Mr. Speaker, at a later sitting, I will include further details on the HOPE Programme.

Mr. Speaker, I will now provide you with an overview of the various provisions of the Bill.

Clause 1 – Short Title and Construction

Clause 1 of the Bill sets out the Short Title as being “the Human Employment and Resource Training (Amendment) Act, 2019”.

Clause 2 – Amendment of Section 2 of the Principal Act

Clause 2 of the Bill sets out the definition of certain terms that are used throughout the Bill. Of significance is the meaning of the following terms:

- “Contract of Traineeship” which means a written agreement that accords with the standard form approved by the Trust, made between an employer and a trainee, or between an employer and a trainee and the parent or guardian of the trainee, whereby the employer will agree to teach, and the trainee will agree to learn any trade in which the employer is engaged;
- ‘Trainee’ which means a person who is seventeen years or older, who is engaged in an approved skills-based training programme, whether through direct delivery or on the job modality for a prescribed period; and;
- “Training order” which means a technical and vocational education training order made in accordance with section 16A.

Clause 3 – Amendment to the heading and section 3 of the principal Act

Clause 3 of the bill amends section 3 of the HEART Act, by setting out the name of the Trust as being “the Human Employment and Resource Training Trust, National Training and Service Agency”, which may be referred to as the HEART Trust/NTSA. At the appropriate time, this amendment will be done as applicable.

Clause 4 – Insertion of new section 3A in principal Act

Clause 4 of the Bill seeks to insert a new section 3A in the HEART Act to outline the objects of the Act as follows:

- a) to promote the education of persons not involved in the formal education system, to provide opportunities to enable them to become better citizens;
- b) to encourage trainees to develop a sense of responsibility and service to Jamaica;
- c) to monitor aspects of technical, and vocational education and training, and;

d) to establish an effective system to align the workforce to industry and national development needs through the provision of education, training, character development, national service and work experience for trainees.

I would like to mention Mr. Speaker, that at the opportune time, an amendment will be proposed to delete the words “upon attaining the age of seventeen years” from this clause, because the definition of the term “trainee” already addresses the issue of who it applies to, that is, a person who has attained the age of 17 years.

Clause 5 – Amendment of section 4 of principal Act

Clause 5 of the Bill proposes to amend Section 4 of the HEART Act by expanding the functions of the Trust:

- to provide financing for and to monitor technical and vocational education and training schemes for trainees;
- to develop technical and vocational training guidelines;
- to take the necessary steps to establish and maintain high standards in technical and vocational education and training;

- to institute, review and maintain a system of assessment in relation to trainees;
- to administer training schemes for trainees and establish provisions for the suspension, discharge or transfer of trainees; among other things.

Clause 6 – Insertion of new section 4A in principal Act

Clause 6 of the Bill proposes to insert a new section 4A in the HEART Act, by granting power to the Trust to delegate any of its functions under the Act, other than the Trust's power to delegate. The Trust may delegate any of its functions to a council, a committee, a member of the Trust, or to such other person as the Trust considers appropriate.

Clause 7 – Amendment of section 10 of principal Act

Clause 7 of the Bill proposes to amend section 10 of the HEART Act by prohibiting the Trust from exercising any borrowing powers, or enter into negotiations or take any steps to borrow money by way of the issue of bonds or other debt securities, unless the amount to be borrowed, the source of the

borrowing, the terms on which the borrowing is to be effected etc. is exercised with the approval of the Minister responsible for Finance.

Clause 8 – Insertion of new sections 16A to 16P in principal Act

Clause 8 of the Bill seeks to insert new sections 16A to 16P in the HEART Act to address the following:

- a) Granting power to the Board, with the approval of the Minister, to make technical and vocational education training orders for the regulation of such trades as are specified in the orders.

- b) Providing for Contracts of Traineeship to be subject to each prescribed trade or vocation specified in the training order and providing for a party to a contract of traineeship to apply to the Board for a modification of any training order, in so far as it affects the contract of traineeship. Further, the Board may make such modification of the training order or may exclude a

contract from the operation of the training order, as it thinks fit.

- c) Requiring every contract of traineeship to be in writing and signed by the employer and the trainee, and if the trainee is under the age of eighteen years, by his or her parent or guardian.
- d) Providing that stamp duty will not be payable on any contract of traineeship, notwithstanding the requirements of the Stamp Duty Act.
- e) Requiring the registration of the contract of traineeship with the Trust prior to the engagement of the trainee in any prescribed trade and creating an offence for failure to do so.
- f) Granting power to the Trust to register a contract of traineeship or refuse to register the contract if the Trust is of the view that the employer will not be able to provide adequate facilities for the training of the trainee, or if the

contract does not comply with the provisions of the HEART Act or of any training order.

Furthermore, Clause 8 of the Bill provides for the cancellation of a registered contract as well as the transfer, suspension and discharge of trainees under certain circumstances. I would like to mention Mr. Speaker, that at the opportune time, a proposal will be made to amend the new section 16J(1), to specify the action that must be taken where the trainee is under the age of eighteen (18) years, that is to say, the application in that situation must be done after consultation with the parent or guardian of the trainee. This is to ensure Mr. Speaker, that in all respects the rights of the child (who is a person under the age of eighteen (18) years) are safeguarded.

Importantly, Mr. Speaker, the Bill proposes in the new section 16M(1) to prohibit an employer from charging or receiving, directly or indirectly any payment by way of premium on behalf of or on account of any trainee. Contravention of this section could attract a fine not exceeding Five Hundred Thousand Dollars (\$500,000).

Clause 9 – Repeal and Replacement of section 18 of principal Act

Clause 9 of the Bill seeks to amend section 18 of the HEART Act by granting power to the Trust for eligibility for selection as a trainee. At the appropriate time, I will be proposing an amendment to this section to ensure that applicants are assessed for their stage of development and readiness and placement accordingly.

Clause 10 – Insertion of new section 23A of principal Act

Clause 10 of the Bill provides for the establishment of an Appeals Tribunal to afford for a person who has been aggrieved by a decision of the Trust, or an agent of the Trust, a right of appeal to have his or her matter heard and determined by the Tribunal.

I would like to point out Mr. Speaker, that an amendment will be proposed to this clause (ie the proposed new section 23A (3)(d) to make it clear that the appeal that is to be made to the Appeals Tribunal is to be done within 21 days of the date of the decision of the Trust or an agent of the Trust).

Clause 11 (Amendment of section 24 of principal Act) & Clause 12 (Amendment of section 25 of principal Act)

Clauses 11 and 12 of the Bill propose to amend sections 24 and 25 of the HEART Act, by updating the fines in those sections, which had become outdated and ineffective over time. The proposed increase of monetary penalties forms part of the Government's recent thrust to review monetary penalties under various pieces of legislation, to ensure relevance and effectiveness.

Clause 13 – Insertion of new sections 26 to 30 in principal Act

In addition to granting power to the Minister to amend monetary penalties and schedules imposed by the Act or any regulations made under the Act, Clause 13 of the Bill also seeks to:

- repeal the National Youth Service Act and the Apprenticeship Act;

- vest all interests, rights and easements in property purchased by or belonging under the repealed Acts in the Trust; and,
- make provisions for transitional arrangements for apprentices and for participants of the National Youth Service.

Clause 15 – Amendment of Second Schedule to principal Act

Clause 15 of the Bill seeks to amend the Second Schedule to the Act by inserting a new paragraph which grants power to the Board to appoint councils and committees as it thinks fit, to undertake research, monitor aspects of technical and vocational education and training, among other things.

Clause 16 – Insertion of new Fifth, Sixth and Seventh Schedules in principal Act

Clause 16 of the Bill seeks to amend the HEART Act by inserting three (3) new schedules which treat with the power and the procedures of the Board in the making of technical and vocational education training orders, readiness for programmes offered by HEART Trust/NTSA, and the constitution, powers and tenure of the Appeal Tribunal.

Clause 17 – Construction of other enactments

Finally, Mr. Speaker, Clause 17 of the Bill makes provision for reference in any other enactment to the Trust or the HEART Trust, to be construed as a reference to the HEART Trust/NTSA.

In concluding Mr. Speaker, I wish to emphasize that the Bill seeks to give effect to the decision of the Government under the Public Sector Master Rationalization Plan to merge public bodies and agencies which share synergies of functions and resources.

The decision to merge the HEART Trust/0, National Youth Service and the Apprenticeship Board, is consistent with this plan, which aims to create a more efficient and effective Public Sector.

It is considered that the merger of the functions and resources of the above-mentioned entities will solidify several benefits, including, but not limited to:

- The rationalization of programmes and systems to efficiently and effectively meet the education and training needs of Jamaicans;
- The avoidance of duplication of administrative and other functions;
- The facilitation of the full alignment of remedial training, technical and vocational training and support of the employability skills programme;
- The improvement of the quality of graduate output; and
- The expansion of training opportunities to unattached youth and youth at risk in Jamaica.

This merger will create a total training institution for Jamaica that will track the life cycle of all Jamaicans and support their training needs at all stages.