

**Overview of  
legislation  
impacting on skills  
development in  
South Africa**

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## Key of icons used in text

Notes

**NB**



**Definition**



## ■ Putting the pieces of the puzzle together

Notes

Focusing only on education and training in the workplace is not the only ingredient for a successful business recipe. All the ingredients must be identified and properly addressed before any strategy is going to deliver results. What is needed is a holistic approach to raising business efficiency and consequently international competitiveness.

For such a major activity as developing and implementing a new education and training system together with its policies, procedures and structures one needs

- A. A vision of what needs to be strived for
- B. Principles or values to support the vision
- C. A mission statement
- D. Strategic objectives to be achieved
- E. A time frame for achievement.
- F. The means to implement the plan.

Below is an extract from the National Skills Strategy proposed by the Minister of Labour during February 2001. This strategy is to be implemented during the period April 2001 – March 2005.

Learners are advised to obtain a copy of the entire document and familiarise themselves with the contents.

### A. The Vision

The title of the strategy document - **Skills for Productive Citizenship for All** - summarises the vision for the future. This vision includes the following:

- **Skills**

Financial and other support should be directed towards the acquisition of skills that are needed by employers and communities and that

increasingly will reflect qualifications and standards that are part of the National Qualifications Framework. Skills development is about enabling and empowering individuals through the acquisition of competencies that are in demand. It is not about the provision of diversionary activities simply to keep unemployed people active for short periods of time or about merely filling programmes offered by training providers. Skills must be linked to quality provision and qualifications (either in whole or part) that hold currency throughout the country

- **Productive citizenship**

The concept of citizenship in South Africa has been understood mainly in political terms - "the right to vote" and to be consulted. But as poor people, particularly, have discovered the ability to vote is not enough on its own. Citizenship must also include the right to actively contribute to and participate in making decisions that affect investment and work. Skills development is as much about building the capacity of people to engage in these decisions as to execute the roles and functions that will flow from them. In the workplace the decisions are about productivity, the organisation of work and technology; in new and small enterprises they are about entrepreneurship, sustainability and growth and in communities they are about the focus, pace and trade-offs linked to local economic development.

- **For all**

The vision is an inclusive one. The intention is to create opportunities for those in work as well as for the unemployed; for new entrants to the world of work as well as for older people; for women as well as men and for people with disabilities who for too long have not been valued for their capabilities.

## B. Principles

Notes

This **Vision** is underpinned by **six** guiding principles:

- **Lifelong learning**

communities and workplaces are changing continuously. If individuals are to shape these changes and take advantage of them to improve the quality of their lives, they need to upgrade and improve their skills continuously

- **The promotion of equity**

there are not only legacies to be erased but positive interventions are demanded if we are to build an inclusive society and widen opportunities. In recent years there has been a net decline in the number of black people in jobs. Of our 40 million people only 20 per cent have jobs in the formal sector. Of the 4,6 million people who are unemployed, 4,2 million are black and 58 per cent are women. Through skills development we need not only to provide opportunities for disadvantaged groups but also encourage effective collaboration amongst people from diverse backgrounds

- **Demand-led**

for too long skills development has been pursued in the absence of a realistic assessment of how the skills are to be employed. The emphasis will be on the skills and competencies required to support productivity, international competitiveness, the mobility of workers, self-employment and meeting defined and articulated community needs

- **Flexibility and decentralisation**

the role of Government and the National Skills Authority is to provide the framework, direction and coordination for the skills strategy and to monitor its implementation. Public and private employers and

workers are best placed to make judgements about priorities and to determine the most effective providers to meet those needs

- **Partnership and cooperation**

At national, sector, provincial, community and workplace levels the definition and implementation of the skills development strategy should be based on partnerships between and amongst the social constituencies

- **Efficiency and effectiveness**

The delivery of skills development programmes and initiatives must be characterised by cost-efficiency and should lead to positive outcomes for all those who invest in training and skills development.

### **C. Mission statement**

The following mission statement has been adopted to encapsulate the goals of the national skills development strategy:

**To equip South Africa with the skills to succeed in the global market and to offer opportunities to individuals and communities for self-advancement to enable them to play a productive role in society.**

### **D. Strategic objectives to be achieved**

To fulfill this mission **five** objectives have been identified to drive the national skills strategy:

- **to develop a culture of high quality lifelong learning**

Notes

- **to foster skills development in the formal economy for productivity and employability**
- **to stimulate and support skills development in small businesses**
- **to promote skills development for employability and sustainable livelihoods through social development initiatives**
- **to assist new entrants into employment**

Notes

### **E. A time frame for achievement**

These objectives will frame the work of the Department of Labour and the Sector Education and Training Authorities. They will also define the uses of the National Skills Fund and the skills development levies. The objectives offer priorities around which government, employers, trade unions and the wider community can unite to achieve the skills revolution our country so badly requires.

### **F. The means to implement the plan**

The skills strategy is designed to support economic and employment growth and social development.

Having formulated the strategic plan for skills development for South Africa, the mechanisms to implement the plan had to be introduced. There is only one way that a government can achieve its objectives and that is by use of legislation.

## ■ Legislation

The following **legislation** was introduced to achieve the above mentioned objectives:

1. The South African Qualifications Authority Act no 58 of 1995
2. The Skills development Act 97 of 1998
3. The Skills Development Levies Act 9 of 1999
4. The Employment Equity Act 58 of 1998
5. Labour Relations Act

### 1. South African Qualifications Authority (SAQA)

As mentioned above, the first institution that was established by **law** is the **South African Qualifications Authority** and it is tasked to oversee reconstructed and re-developed education and training which reflects the objectives of the National Qualifications Framework (**NQF**).

#### ■ SAQA's mission is

"To ensure the development and implementation of a National Qualifications Framework which contributes to the full development of each learner and to the social and economic development of the nation at large."

#### ■ SAQA – Major Objectives

- Oversee **the development** of the National Qualifications Framework (**NQF**)
  - Formulate and publish policies and criteria for;
  - Registration of bodies responsible for establishing education and training standards, and

Notes

- The accreditation of bodies' responsibilities for monitoring and auditing achievements in terms of standards and qualifications.
- Oversee the **implementation** of the **NQF**, including
  - The accreditation of bodies responsible for moderating and auditing achievements and assignments of functions to them
  - The registration of national standards and qualifications
  - Ensuring compliance with accreditation, and
  - Ensuring international comparability of registered standards and registered qualifications

From the above it is clear that **SAQA** is responsible to ensure that a proper structure is developed to support, monitor and develop skills through training and education in the country. It therefore has to oversee the implementation as well as oversee the development of the NQF

## ■ Structures implemented by SAQA

### The National Qualifications Framework (NQF)

The **NQF**, as its name indicates is a framework for **national qualifications**.

It represents a holistic approach to the personal, social and economic needs of the South African Society. This approach unifies qualifications, education and training and assessment in a way that is nationally acceptable.

The **NQF** makes it possible for learners to achieve different national qualifications through a wide variety of mechanisms and delivery systems.

Notes

It generates coherence across education and training systems

Allows articulation between business and public sectors and education and training institutions and allows for the transfer of credits across different modes of study and qualifications.

### ■ **Why has South Africa chosen a National Qualification Framework**

Many countries all over the world are looking for better ways of educating their people and organising their education and training systems so that they might gain the edge in an increasingly competitive economic global environment. Furthermore, the world is an ever-changing place, politically, geographically and technologically. Indeed, the rapid technological advances of the twentieth century have placed education systems under extreme pressure as they try to adapt and incorporate these changes in an effort to produce more creative, effective and adaptable people.

Success, or even survival, in such a world demands that South Africa has a national education and training system that provides quality learning, is responsive to the ever-changing influences of the external environment and promotes the development of a nation that is committed to life-long learning.

When learners know that there are clear learning pathways which provide access to, and mobility and progression within education, training and career paths, they are more inclined to improve their skills and knowledge, as such improvements increase their employment opportunities.

The increased skills base of the workforce has a wider implication namely the enhancement of the functional and intellectual capability of the nation, thereby increasing our chances for success in the global community.

Notes

Sir Christopher Ball (1996) in describing the kind of learner profile that is suited to the 21st century, spoke about 'flexible generalists'. Ball maintained that such people are needed to realise the goal of life-long learning which, with the ever-increasing human longevity, will characterise the successful citizenry of the next millennium. 'Flexible generalists' are people equipped with the necessary knowledge, skills and values to adjust readily to multiple career changes and make, through their own personal development, a significant contribution to the life of this country and the world. The shift in thinking is from education for employment – developing the ability to do a specific job - to education for employability – developing the ability to adapt acquired skills to new working environments. The new education and training system must be able to support the notion of an adaptable workforce.

#### ■ Objectives of the NQF

- To create an integrated national framework
- Facilitate access to, and mobility and progression within education, training and career paths;
- Enhance the quality of education and training;
- Accelerate the redress of past unfair discrimination in education, training and employment opportunities;
- Contribute to the full personal development of each learner and the social and economic development of the nation at large.

#### ■ Principles guiding the NQF

- The right of individuals to life long learning.
- Integration of education and training systems to ensure maximum flexibility of horizontal and vertical mobility between different levels of education and training systems, both formal and informal.

- Development of a national standards and qualifications structure, which reflects the achievement of learning outcomes, defined at different levels from beginner to post graduate, in terms of national standards.
- Mechanisms that enable learners to accumulate credits earned in the same or different learning contexts, which may be accumulated towards the achievement of national qualifications.
- Recognition of prior learning and experience
- Promotion of career paths as an aid to mobility within all sectors of economic activity
- Development of a national curriculum based on integration of academic and vocational skills.
- Democratic participation of stakeholders in the education and training system.

#### ■ NQF levels, bands and fields

##### • Levels

The **NQF** consists of an **eight-level** framework, with **level 1** (lowest level) and **level 8** (highest level) being regarded as open-ended. **Level 1** also accommodates three adult Basic Education and Training (**ABET**) Levels.

NQF **level 2** is equivalent to secondary school level grade 10 (standard 8) and NQF **level 4** is equivalent to grade 12 (standard 10)

- Bands**

Within the NQF **three education** and training bands are recognised as being -

1. General Education and Training (NQF level 1 and below)
2. Further Education and Training (NQF levels 2 - 4)
3. Higher Education and Training (NQF levels 5-8)

Notes

NQF Level	Band	Qualifications Type	
8	<b>Higher Education and Training</b>	• Post-doctoral Research Degrees	
7		• Doctorates	
6		• Masters Degrees	
5		• Professional Qualifications	
5		• Honours Degrees	
		• National First Degrees	
		• Higher First Degrees	
		• National Diplomas	
		• National Certificates	
<b>Further Education and Training Certificate (FETC)</b>			
4	<b>Higher Education and Training</b>	National Certificates	
3			
2			
<b>General Education and Training Certificate (GETC)</b>			
1	<b>General Education and Training</b>	Grade 9 National Certificates	ABET Level 4

- **What do NQF qualifications look like?**

An **NQF** qualification shall;

- Represent a planned **combination of learning outcomes** which has a defined purpose and which is intended to provide qualifying learners with **applied competence** and a basis for further learning;
- Add value to the qualifying learner by providing status, recognition, enhancing marketability and employability.
- Provides benefits to society and the economy.
- Comply with the objectives of the NQF
- Include both specific and critical cross-field outcomes that promote life-long learning;
- Where applicable, be internationally comparable;
- Incorporate integrated assessment appropriately to ensure that the purpose of the qualification is achieved. Assessment should include a range of formative and summative assessment methods such as portfolios, simulations, workplace assessments and also written and oral examinations;
- Indicate the rules governing the award of the qualification that the qualification may be achieved in the whole or in part through the recognition of prior learning, which concept includes, but is not limited to learning outcomes achieved through formal, informal and non-formal learning and work experience.

- **Qualifications and Credits**

Qualifications comprise of Unit of competence to be achieved. These units of competence are known as "**Unit Standards**" and represent the smallest unit of learning in a learning programme for qualification purposes.

Notes

A number of unit standards together make up a qualification. A learner who successfully completes a unit standard is awarded a number of "**Credits**". A credit refers to the total amount of learning and effort (measured in time units) that it will take an "**average**" learner to master the outcomes prescribed by a unit standard.

The unit of time is known as a "**notional hour**". A notional hour is the equivalent of an hour.

"**Notional hours of learning**" mean the **learning time** that it is conceived it would take an average learner to meet the outcomes defined, and includes concepts such as contact time, time spent in structured learning in the workplace and individual learning.

A Credit in a **Unit Standard** = 10 Notional Hours of education, training, development or a combination thereof. The time indicates the aggregate of the learning of theory time as well as the application of knowledge in the workplace to develop applied competence time.

Although a credit represents 10 hours of training, it is flexible in its application. A learner who has the ability to master a unit standard in less time will obtain the credits irrespective of the time spent in doing so. The 10 hour time frame is therefore simply an indication on time to be spent and not an absolute.

A total of 120 or more credits shall normally be required for registration of a qualification at NQF levels 1 – 8. A minimum of 72 credits must be obtained at or above the level at which the qualification is registered. The number and levels of credits constituting the balance of credits (48) shall also be specified.

Notes

## Definition



NB



Qualifications consisting of less than 120 credits may be considered if:

- They meet the requirements as set out under "**What do NQF qualifications look like?**" Or
- Enable learners to progress by complying with the objectives of the **NQF** including the enhancement of learner access, mobility and progression, and the provision of quality education and training.

**Examples of types, levels and titles of qualifications are:**

- **National Certificate** – Minimum of 120 credits.
- **National First Diploma** – Minimum of 240 credits (minimum of 72 at NQF level 5)
- **National First Degree** – Minimum of 360 credits (minimum of 72 at NQF level 6)

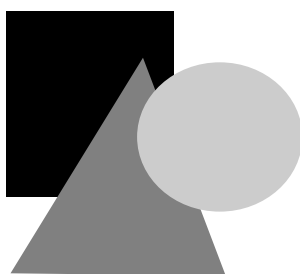
#### ■ **SAQA – Standard Setting and Quality Assurance**

SAQA has two focus areas namely "**Standards Setting**" and "**Quality Assurance**." In order to apply effective focus in both areas, SAQA has established **sub-structures** to execute these responsibilities on behalf of SAQA.

Notes

<b>Standards Setting Focus</b>	SQA established the National Standards Bodies (NSBs) and the Standards Generating Bodies (SGBs),
<b>Quality Assurance Focus</b>	Education and Training Quality Assurance bodies (ETQAs) have been established. To further enhance quality assurance, SAQA may choose to appoint moderating bodies to ensure that assessment of learning outcomes is fair, valid and reliable across the NQF.

Notes

**Standards Setting****Quality Assurance**

■ **Organising Fields: (National Standards Bodies)**

For purposes of sensibly organising training and education development in a focused manner, all learning in the NQF is organised into **twelve fields**:

1. Agriculture and Nature Conservation.
2. Culture and Arts.
3. Business, Commerce and Management Studies.
4. Communication Studies and Language.
5. Education, Training and Development

6. Manufacturing, Engineering and Technology.
7. Human and Social Studies.
8. Law, Military Science and Security.
9. Health Sciences and Social services.
10. Physical, Mathematical, Computer and Life sciences.
11. Services
12. Physical Planning and Construction.

### ■ National Standards Bodies (NSBs)

NSBs must be registered as such according to the SAQA Act. There are 12 NSBs, one each for each for the 12 organising fields as listed above. The NSBs have very specific functions and responsibilities.

It is important to note that the NSBs do not generate standards or qualifications, but rather oversee these activities at the sub-fields levels.

#### **The functions of NSBs are:**

- Defining and recommending to SAQA the boundaries of the field and, within this, a framework of sub-fields.
- Recognising or establishing Standards Generating Bodies within the framework of sub-fields, and ensuring that the work of the SGBs meets SAQA requirements.
- Recommending the registration of qualifications and standards to SAQA.
- Overseeing the update and review of qualifications and standards.
- Liaison with ETQAs.
- Defining requirements and mechanisms for the moderation of standards and qualifications.

Notes

## ■ Standards Generating Bodies (SGBs)

As mentioned above, an NSB can give rise to the establishment of an SGB within a sub-field within the organising field that the NSB is responsible for. SGBs must however also be registered with SAQA as per the requirements of the SAQA act.

### • Organising Field 06 – SGBs registered.

06	1.	Air-conditioning Refrigeration and Ventilation
	2.	Baking
	3.	Beverages
	4.	Clothing
	5.	Dairy Technology
	6.	Engineering
	7.	Food
	8.	Footwear Manufacturing
	9.	Manufacturing and Assembly Processes
	10.	Metal Engineering Industries Education & TB
	11.	Mining & Minerals
	12.	Plastics Manufacturing
	13.	Power Plant Operations
	14.	Pulp and Paper
	15.	Telecommunications
	16.	Textiles

As at March 2002, there are already 111 registered SGBs. SGBs have been established in all organising fields for a wide variety of business commercial and public services activities.

Notes

The SGBs can really be described as the "**engine room**" for standards and qualifications in the NQF for it is here that various stakeholders from government, organised business, organised labour, education and training providers and community interest groups meet to identify and formulate appropriate standards and qualifications for their sub-field enterprises.

- **SGBs perform the following functions:**

- Generating unit standards and qualifications in accordance with the authority requirements in identified sub-fields and levels.
- Updating and reviewing standards
- Recommending standards and qualifications to NSBs.
- Recommending criteria for the registration of assessors, moderators and moderating bodies.

SGBs therefore have an ongoing role to play in this new education and training dispensation as they have to make sure that the standards they have generated are regularly revised and reviewed to ensure continued relevance to the requirements of a sub-field.

- **Education and Training Quality Assurance Bodies (ETQAs)**

**ETQAs** are accredited by **SAQA** for the purpose of **monitoring** and **auditing** achievements in terms of national standards and qualifications and to which specific functions relating to the monitoring and auditing of national standards have been assigned in terms of the SAQA Act. In a sector where no ETQA has been accredited, SAQA shall undertake such functions and responsibilities.

**ETQAs may be established in:**

- A social sector
- An economic sector or in
- An education and training sub-system sector.

Notes

**The functions of an ETQA include the following:**

- Accreditation of providers and the promotion of quality amongst providers.
- The monitoring of provision by providers.
- Evaluation of assessment and facilitating moderation among providers.
- Registration of assessors for specified NQF standards and/or qualifications in terms of criteria established for this purpose.
- Responsibility for the certification of learners.
- Co-operation with relevant moderating body/bodies appointed to moderate across ETQAs i.e. to moderate the quality assurance on specified NQF standards and/or qualifications for which one or more ETQAs have been accredited.
- The recommendation of new standards and qualifications to NSBs for consideration, or the recommendation of modifications to existing NQF standards and qualifications to NSBs for consideration.
- Maintaining a database acceptable to SAQA.
- Submission of reports to SAQA in accordance with SAQA requirements.
- Such other functions as may from time to time be delegated by SAQA

ETQAS are accredited by SAQA according to very specific guidelines and receive certificates of accreditation from SAQA. SAQA may also withdraw the accreditation of an ETQA if it believes that the ETQA is not performing its responsibilities satisfactorily.

ETQAs may not be providers; its primary function is to assure the quality of provision and assessment of providers it has accredited.

- **Accreditation of providers**

In seeking accreditation from ETQAs, providers will have to fulfil the following criteria:

- Be registered as a provider in terms of applicable legislation.
- Have a quality management system.
- Be able to develop, deliver and evaluate learning programmes, which culminate in specified NQF qualifications or standards.
- Have the necessary financial, administrative and physical resources.
- Have policies for staff selection, appraisal and development, for learner entry, guidance and support systems, for the management of off-site practical work or work-site components, for the management of assessments.
- Have necessary reporting procedures
- Have the ability to achieve the desired outcomes using available resources and procedures.

Notes

- **Moderating bodies**

SAQA may appoint moderating bodies to ensure that the process of assessment of outcomes described in the NQF standards and qualifications is fair, reliable and valid.

**The functions of moderating bodies are:**

- To determine whether assessment decisions in respect of specified NQF standards and/or qualifications are fair, reliable and valid in terms of the outcomes described in those standards and/or qualifications, in one or more of the following designated areas:
- Across ETQAs and
- Such other moderation functions as may be designated by SAQA from time to time
- Making recommendations to SAQA concerning improvements required in the functioning of ETQAs and the accreditation of ETQAs.
- Recommending changes to unit standards and/or qualifications to be considered by NSBs

Notes

## ETQA Accreditation Status Report

### February/March 2002

Notes

Accredited: 31

Evaluations: 3

**TOTAL: 34**

### Sector education and training authorities (SETAs)

Name of ETQA		Status
1. Banking Sector Education and Training Authority	(BANKSETA)	Accredited
2. Clothing, Textiles, Footwear and Leather Sector Education and Training Authority	(TEXTILES)	Accredited
3. Chemical Industries Education and Training Authority	(CHIETA)	Accredited
4. Construction Education and Training Authority	(CETA)	Accredited
5. Diplomacy, Intelligence, Defense and Trade Education and Training Authority	(DIDTETA)	Accredited
6. Education, Training and Development Practices Sector Education and Training Authority	(ETDP SETA)	Accredited
7. Energy Sector Education and Training Authority	(ESETA)	Accredited
8. Financial & Accounting Services Sector Education and Training Authority (FASSET)	Accredited	<b>Evaluation:</b> Extension of Accreditation
9. Food & Beverages Sector Education and Training Authority	(FOODBEV)	Accredited
10. Forest Industries Education and Training Authority	(FIETA)	Accredited
11. Health and Welfare Sector Education and Training Authority	(HWSETA)	Accredited
12. Information Systems, Electronics and Telecommunication Technologies	(ISETT)	Accredited
13. Insurance Sector Education and Training Authority	(INSETA)	Accredited
14. Local Government, Water and Related Services Sector Education and Training Authority	(LGWSETA)	Accredited
15. Manufacturing, Engineering and Related Services Sector Education and Training Authority	(MERSETA)	Accredited
16. Mining Qualifications Authority	(MQA)	Accredited
17. Media, Advertising, Publishing, Printing and Packaging	(MAPPP)	Accredited
18. Police, Private Security, Legal and Correctional Services Sector Education and Training Authority	(POSLECSETA)	Accredited

19. Primary Agriculture Sector Education and Training Authority	(PAETA)	Accredited
20. Public Service Sector Education and Training Authority	(PSETA)	Accredited
21. Services Sector Education and Training Authority	(SERVICES)	Accredited <b>Evaluation:</b> Extension of Accreditation
22. Sector Education and Training Authority for Secondary Agriculture	(SETASA)	Accredited <b>Evaluation:</b> Extension of Accreditation
23. Tourism and Hospitality Education and Training Authority	(THETA)	Accredited
24. Transport Education and Training Authority	(TETA)	Accredited <b>Evaluation:</b> Extension of Accreditation
25. Wholesale and Retail Sector Education and Training Authority	(W&R SETA)	Accredited

### Professional Bodies (Statutory)

Accredited: 2

Evaluation 1

TOTAL: 3

Name of ETQA		Status
1. Engineering Council of South Africa	(ECSA)	Evaluation
2. Security Officers Board	(SOB)	Accredited
3. South African Nursing Council	(SANC)	Accredited

**Professional bodies (non-statutory)**

Accredited: 3

Evaluation: 1

TOTAL: 4

Name of ETQA		Status
1. Professional Accreditation Body for Health and Skincare	(PAB)	Accredited
2. South African Institute for Chartered Accountants	(SAICA)	Accredited
3. South African Board for Personnel Practitioners	(SABPP)	Evaluation
4. South African Institute for Materials Handling	(SAIMH)	Accredited

**Education and training sub-system sector**

Accredited: 1

TOTAL: 1

Name of ETQA		Status
1. Council on Higher Education	(CHE)	Accredited

**Social sector**

Evaluation: 1

TOTAL: 1

Name of ETQA		Status
1. Dar Al-Salam: Islamic Research Centre		Evaluation

Notes

## ■ National Learners Records Database (NLRD)

The South African Qualifications Authority (SAQA) is responsible for the development and implementation of the National Qualifications Framework (NQF). The primary objective of the NQF is the creation of a high quality education and training system in South Africa that embraces the concept of life-long learning for all.

One of the features of a quality system is the ability to manage and report information about the system accurately. The National Learners' Records Database (NLRD) is an electronic management information system to facilitate the management of the National Qualifications Framework and enable the South African Qualifications Authority to report accurately on most aspects of the education and training system of South Africa.

## ■ What information is provided by the NLRD?

The NLRD provides the following information:

- SAQA and its sub-structures, including National Standards Bodies (NSBs) and Standards Generating Bodies (SGBs) and their areas of competence and member details;
- Standards and qualifications registered on the NQF including exit level outcomes and assessment criteria;
- Accredited Education and Training Quality Assurance bodies (ETQAs) and the standards and qualifications for which accreditation has been granted;
- Accredited providers and registered assessors;
- SAQA-appointed Moderating Bodies;
- The records of learners who achieve the outcomes of standards or qualifications registered on the NQF and their achievements.

Notes

### What functions are available on the system?

- On-line data entry and data access;
- On-line and batch-loading processes to allow for qualifications and standards to be loaded into the NLRD from NSBs and SGBs;
- On-line and batch-loading processes to register Assessors and permit accreditation of ETQAs and Providers;
- Batch-loading processes to record learner achievements;
- Reports on all information held in the NLRD;
- A security system;
- Implementation of the NQF business rules.

External access for SGBs and ETQAs is possible via Internet or dial-in options.

### ■ Is information generally available?

SAQA provides information to appropriate queries only on the basis that confidentiality is ensured for all sensitive information. The security of the NLRD is ensured through a sophisticated protection system.

- **Who can make use of the NLRD information?**
  - As a learner, you will ultimately have access to a verified record of your own personal learning achievements. You will be able to see a full list of the standards and qualifications registered on the NQF. You will be able to verify the accreditation status of providers of the qualifications you wish to pursue.

Notes

- As a provider of education and training, you will be able to see a full list of the standards and qualifications registered on the NQF, you will be able to find out which ETQA is responsible for the quality assurance of the standards and qualifications and the list of registered assessors for those standards and qualifications. You will be able to find out details about the members and areas of activity of the twelve NSBs and their associated SGBs.
- As a member of business and industry, you will be able to verify the achievements of applicants for work. You will be able to see a full list of the standards and qualifications registered on the NQF in order to choose which are relevant for your organisation and so plan your training programmes accordingly. You will also be able to find out which providers have been accredited and which ETQA is responsible for the quality assurance of the standards and qualifications, as well as the list of registered assessors for those standards and qualifications.
- As a worker, you will have access to a verified record of your own personal learning achievements. You will be able to see a full list of the standards and qualifications registered on the NQF and hence be able to plan your life-long learning programme.
- Politicians and government departments will benefit from NLRD information as it will enable informed policy decisions regarding education and training and human resource development in the areas of industry development, immigration and deployment of available resources.
- Society will have verified data on the education and training that is available as well as an informed view of the nature and quality of the labour force and education system at a national level.

Notes

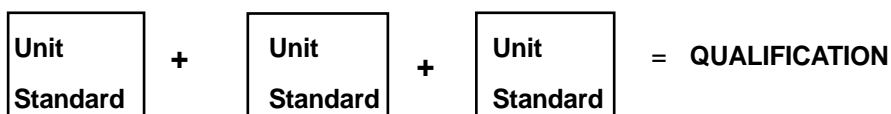
How do I contact the National Learners' Records Database at SAQA?

- If you want to know more about the information contained in the NLRD, the policies governing it, the batch load specifications, or data structures: contact the NLRD Manager, e-mail [yshapiro@saqa.co.za](mailto:yshapiro@saqa.co.za), tel. (012) 482 0850, fax (012) 482 0957

### ■ UNIT STANDARDS - the building blocks for NQF Qualifications

**Unit standards** mean registered statements of desired education and training outcomes and their associated assessment criteria together with administrative and other information as specified in the ETQA regulations.

The **unit standards** are therefore the building blocks that together can culminate in a particular NQF qualification. Unit standards also incorporate performance criteria, which provide the benchmarks and quality assurance required to certify a desired level of performance usually at a nationally agreed level. It measures whether a learner conforms to a national standard in terms of knowledge, skill and ability.



Notes

#### Definition



- **Components of a Unit Standard.**

Notes

**Unit Standard consists of:**

- A Unit Standard Title
- The SAQA approval logo
- Unique Unit Standard Number
- Unit Standard Level on NQF
- Credit(s) attached to the unit standard
- The Organising- and sub-field where the standard originated
- The issue date of the standard
- The review date of the standard
- The purpose of the unit standard
- Learning assumed to be in place with the learner before attempting this unit standard
- Specific outcomes to be assessed
- Assessment criteria
- Essential embedded knowledge to be mastered by the learner.
- Accreditation process (including moderation) for the unit standard
- Range statements as a general guide for the scope, context and level being used for this standard
- A "**notes**" category which
  - Must include critical cross-field outcomes supported by the unit standard.
  - References to essential embedded knowledge if not addressed under "**Assessment Criteria**"
  - May include other supplementary information on the unit standard

- **Critical Cross-field Education and Training Outcomes**

Notes

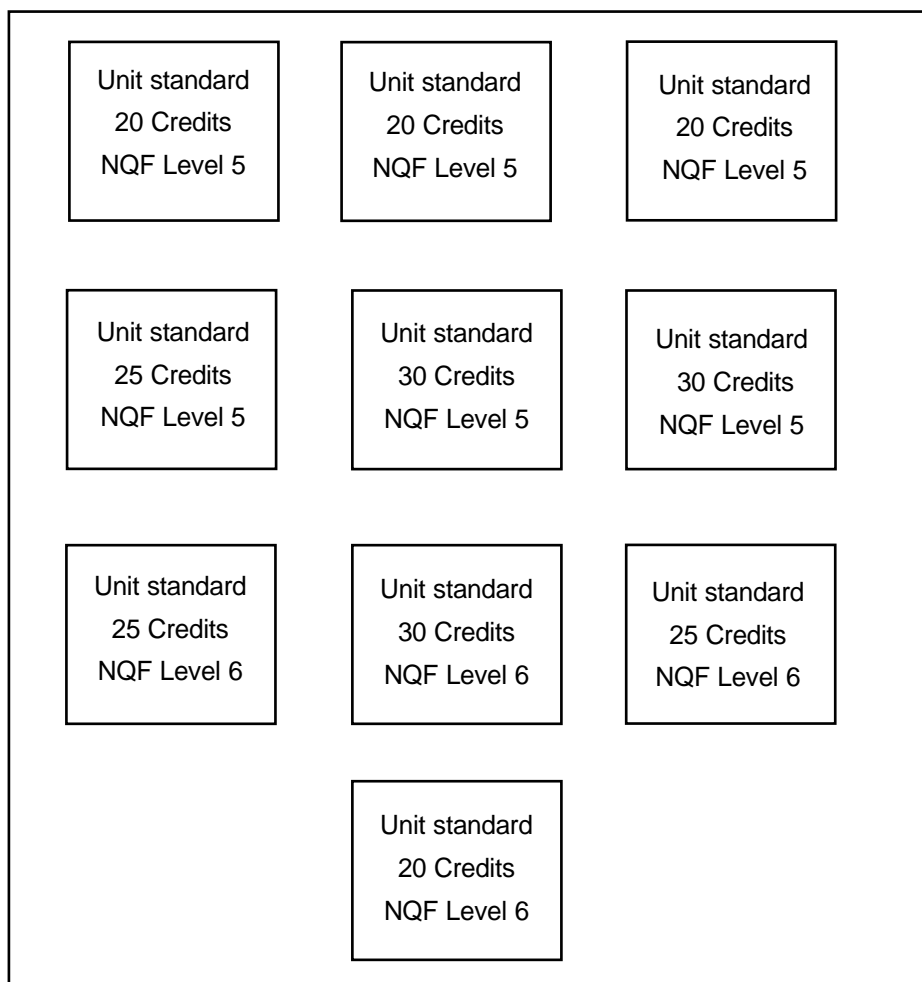
Critical outcomes include but are not limited to:

- identifying and solving problems in which responses display that responsible decisions using critical and creative thinking have been made.
- working effectively with others as a member of a team, group, organisation, community.
- organising and managing oneself and one's activities responsibly and effectively.
- collecting, analysing, organising and critically evaluating information.
- communicating effectively using visual, mathematical and/or language skills in the modes of oral and/or written persuasion.
- using science and technology effectively and critically, showing responsibility towards the environment and health of others.
- demonstrating an understanding of the world as a set of related systems by recognising that problem-solving contexts do not exist in isolation.
- contributing to the full personal development of each learner and the social and economic development of the society at large, by making it the underlying intention of any programme of learning to make an individual aware of the importance of:
  - reflecting on and exploring a variety of strategies to learn more effectively;
  - participating as responsible citizens in the life of local, national and global communities;

- being culturally and aesthetically sensitive across a range of social contexts;
- exploring education and career opportunities; and
- developing entrepreneurial opportunities.

Notes

### Unit standard-based qualification



## 2. The Skills development Act 97 of 1998

Notes

To provide an institutional framework to devise and implement national, sector and workplace strategies to develop and improve the skills of the South African workforce; to integrate those strategies within the National Qualifications Framework contemplated in the South African Qualifications Authority Act, 1995; to provide for learnerships that lead to recognised occupational qualifications; to provide for the financing of skills development by means of a levy-grant scheme and a National Skills Fund; to provide for and regulate employment services; and to provide for matters connected therewith.

The purposes of **this Act** are-

- a) to develop the skills of the South African workforce
  - i. to improve the quality of life of workers, their prospects of work and labour mobility;
  - ii. to improve productivity in the workplace and the competitiveness of employers;
  - iii. to promote self-employment; and
  - iv. to improve the delivery of social services;
- b) to increase the levels of investment in education and training in the labour market and to improve the return on that investment;
- c) to encourage employers-
  - i. to use the workplace as an active learning environment;
  - ii. to provide **employees** with the opportunities to acquire new skills;
  - iii. to provide opportunities for new entrants to the labour market to gain work experience; and
  - v. to employ persons who find it difficult to be employed;

- d) to encourage workers to participate in learnership and other training programmes;
- e) to improve the employment prospects of persons previously disadvantaged by unfair discrimination and to redress those disadvantages through training and education
- f) to ensure the quality of education and training in and for the workplace;
- g) to assist-
  - i. work-seekers to find work;
  - ii. retrenched workers to re-enter the labour market;
  - iii. employers to find qualified employees; and
- h) to provide and regulate employment services.

Notes

**Those purposes are to be achieved by-**

- a) establishing an institutional and financial framework comprising-
  - i. the **National Skills Authority**;
  - ii. the National Skills Fund;
  - iii. a skills development levy-financing scheme as contemplated in the **Skills Development Levies Act**;
  - iv. SETAs;
  - v. Labour centres; and
  - vi. the Skills Development Planning Unit;
- b) encouraging partnerships between the public and private sectors of the economy to provide education and training in and for the workplace; and
- c) co-operating with the **South African Qualifications Authority**.

## ■ The National Skills Authority (NSA)

The NSA is established through legislation by the Department of Labour and has the following functions:

- To advise the Minister of Labour on-
  - A national skills development policy
  - A national skills development strategy
  - Guidelines on the implementation of the national skills development strategy
  - Allocation of subsidies from the National Skills Fund
  - Any regulations pertaining to skills development to be made
- To liaise with SETAs on-
  - The national skills development policy
  - The national skills development strategy
- To report to the Minister on progress made in the implementation of the national skills strategy
- Conduct investigations on any matter arising out of the application of the Skills Development Act
- Exercise powers and perform any duties conferred or imposed on the NSA by the Skills Development Act.

## ■ Sector Education and Training Authority (SETA)

SETAs can be established for any national economic sector, the sector must be discrete according to the classification of employers and must further take into account-

- The education and training needs of employers and employees that:
  - Use similar materials, processes and technologies
  - Make similar products

- Render similar services.
- The potential of the sector for coherent occupational structures and career pathing
- The scope of any national strategies for economic growth and development
- The organisational structures of the trade unions, employer organisations and government in closely related sectors
- Any consensus that there may be between organised labour, organised employers and relevant government departments as to the definition of any sector and
- The financial and organisational ability of the proposed sector to support a SETA.

## ■ Functions of a SETA

### A SETA must-

- Develop a sector skills plan within the framework of the national skills development strategy
- Implement a sector skills plan by-
  - Establishing learnerships
  - Approving workplace skills plans
  - Allocating grants in the prescribed manner to employers, education and training providers and workers and
  - Monitoring education and training in the sector

- Promote learnerships by-
  - Identifying workplaces for practical work experience
  - Supporting the development of learning materials
  - Improving the facilitation of learning
  - Assisting in the conclusion of learnership agreements
- Register learnership agreements
- Obtain accreditation from SAQA
- Collect and disburse the skills development levies in the sector
- Liaise with the NSA
- Report to the Director-General on its income, expenditure and the implementation of the sector skills plan
- Liaise with the employment services of the Department of Labour and any education body established under any law regulating education in South Africa to improve information
- About employment opportunities and
- Between education and training providers and the labour market
- Appoint staff to perform its functions
- Perform duties imposed by the Skills Development Act

### ■ **Composition of a SETA**

A SETA may consist of members representing-

- Organised labour

Notes

- Organised business including small business
- Relevant government departments
- Interested professional bodies
- Any bargaining council with jurisdiction in the sector

### ■ **Finances of a SETA**

#### **A SETA is financed from-**

- The skills development levies collected in the sector
- Monies paid to it from the National Skills Fund
- Grants, donations and bequests made to it
- Income earned on surplus money invested
- Money received from any other source

### ■ **Learnerships**

A learnership is a structured learning programme that includes practical work of a specified nature and duration, would lead to a qualification on the NQF. Be related to an occupation and be registered with the Department of Labour.

Learnerships are governed by "**Learnership agreements**" between the learner, and employer (group of employers) and accredited training provider.

The obligations and rights of each of the parties to the agreement are well defined by the "**Regulations on Learnerships and Skills Programmes.**"

Notes

## 2. Registering intended learnership

- (1) A SETA applying to register an intended learnership, in terms of Section 16 of the Act, must complete the registration form
- (2) The completed registration form referred to in sub-regulation (1) must be submitted to the Director-General.
- (3) Upon registration of a learnership, the Director-General must -
  - issue a certificate of registration to the SETA; and
  - allocate and issue a learnership code.
- (4) A SETA may apply in writing to the Director-General to amend the registered learnership.
- (5) If the registered learnership is amended, the Director-General must amend the relevant certificate of registration accordingly or issue a new certificate of registration.

## 3. Registering Learnership Agreement

- (1) A learnership agreement must be in the form set out in Annexure B.
- (2) A SETA may require the parties to a learnership agreement to submit relevant information in addition to that required in terms of sub-regulation (1).
- (3) A SETA may register a learnership agreement in terms of section 17(3) of the Act if -
  - (a) the Director-General has registered the learnership;
  - (b) a completed learnership agreement form referred to in sub-regulation (1) has been submitted to the SETA in duplicate;

- (c) all parties to the agreement have signed the agreement and, if the learner is a minor , the learner's parent or guardian has signed the agreement on behalf of the learner;
  - (d) the employer party to the learnership agreement falls within the scope of coverage of the SETA;
  - (e) the terms of the agreement comply with the Act and any other applicable law; and
  - (f) the learnership agreement was concluded before the start of the learnership.
- (4) A SETA may only register a learnership agreement to which a group of employers is party if -
- (a) one of the employers is identified in the agreement as the lead employer; and
  - (b) the lead employer undertakes to ensure compliance with the employer's duties in terms of the agreement.
- (5) A SETA may only register a learnership agreement to which a group of training providers is party if -
- (a) one of the training providers is identified in the agreement as the lead training provider; and
  - (b) the lead training provider undertakes to ensure compliance with the training provider' duties in terms of the agreement.
- (6) Within 30 days of receiving the learnership agreement, the SETA must decide -
- (a) whether or not to register the learnership agreement;
  - (b) in respect of every learnership agreement that is registered, whether or not to pay a grant -

Notes

- (i) towards the costs of the learnership;
  - (ii) towards the allowance to be paid to a learner who was not in the employment of the employer at the time the learnership agreement was concluded.
- (7) A SETA must advise the employer of the amount of any grant that it will pay in terms of sub-regulation 6(b).
- (8) If a SETA decides not to register the learnership agreement, the SETA must notify the parties to the agreement accordingly in writing, providing reasons thereof.
- (9) A SETA must record the name and the date of registration of each learnership agreement that it registers and forthwith send a copy to each of the parties to the agreement at the addresses stated in the agreement.

#### **4. Altering terms of Learnership Agreement**

- (1) The parties to a learnership agreement registered with the relevant SETA may, subject to the SETA's approval, alter the terms of the said agreement.
- (2) A SETA may only register an alteration referred to in sub-regulation (1), if a copy of the learnership agreement, together with the alterations to the said agreement, signed by all the parties thereto, is submitted to the SETA.

#### **5. Substituting a party to a Learnership Agreement**

- (1) A SETA may approve the substitution of the employer or the training provider party to a learnership agreement in terms of section 17(5) of the Act if a written application, accompanied by an agreement setting out the terms of the substitution, is submitted to the SETA.

- (2) The parties to a learnership agreement may, with the approval of the SETA, substitute a new learnership agreement for a learnership agreement that the SETA has already registered.

Notes

## 6. Terminating Learnership Agreement

- (1) A SETA may approve the termination of a learnership agreement in terms of section 17(4)(b) of the Act if -
- (a) the employer and learner have agreed in writing to terminate the agreement;
  - (b) the employer or employee has requested, on good cause, to terminate the agreement and the other parties to the learnership agreement have had the opportunity to make representations as to why the agreement should not be terminated;
  - (c) the employee has terminated the contract of employment with the employer; or
  - (d) the training provider has requested on good cause to terminate the agreement and
    - (i) the other parties to the agreement have had the opportunity to make representations; and
    - (ii) the SETA and the employer have been unable to arrange for a new training provider to be substituted for the old training provider in accordance with regulation 5 (1).
- (2) An application to terminate a learnership agreement in terms of sub-regulation (1) must be submitted to the SETA in writing together with -
- (a) a copy of the relevant learnership agreement;

- (b) in the case of sub-paragraph (a), a written agreement signed by the employer and the learner setting out the reasons for the termination.

Notes

## 7. Making of decisions by SETA

A SETA must make any decision required in terms of these regulations within 30 working days of receiving the relevant documents.

## 8. Keeping of Records

- (1) Every SETA must keep an updated record of -
  - (a) all learnership agreements registered by the SETA, including the title and code of the learnerships;
  - (b) all grants paid by the SETA in respect of learnerships;
  - (c) all alterations to the terms of learnership agreements referred to in paragraph 4(a);
  - (d) all learnership agreements successfully concluded, including the title and code of the learnerships;
  - (e) all learnership agreements that the SETA did not register and the reasons for not registering the agreements; and
  - (f) all learnership agreements terminated in terms of regulation 6, including the reasons for termination.
- (2) Records referred to in sub-regulation (1) may be kept in any form, provided that at least one set of the records is kept in hard copy.

## 9. Referring of dispute

- (1) A party referring a dispute in terms of section 19(2) of the Act must submit a completed Form 7.11 published in terms of the Labour Relations Act 66 of 1995 to the Commission for Conciliation, Mediation and Arbitration.
- (2) The relevant provisions of Parts C and D of Chapter VII of the Labour Relations Act 66 of 1995, read with the changes required by the context, apply in respect of a dispute in terms of section 19 of the Act.

## 10. Short Title

These regulations are to be known as the Learnership Regulations, 2001.

Notes

SETA  
Logo

## LEARNERSHIP AGREEMENT

DoL  
Logo

Notes

### Part A

#### Terms and conditions of Agreement

##### Declaration of parties:

We understand that this Agreement is legally binding. We understand that it is an offence in terms of the Skills Development Act 97 of 1998 (**'the Act'**) to provide false or misleading information in this Agreement. We agree to the following rights and duties.

Rights of learners, employers and registered training providers

##### Learner

The learner has the right to:

- be educated and trained in terms of this Agreement;
- have access to the required resources to receive training in terms of the learnership;
- have his or her performance in training assessed and have access to the assessment results;
- receive a certificate upon successful completion of the learning;
- raise grievances in writing with the SETA concerning any shortcomings in the training.

**Employer**

The employer has the right to require the learner to:

- perform duties in terms of this Agreement; and
- comply with the rules and regulations concerning the employer's business concern.

**Training provider**

The registered training provider has the right of access to the learner's books, learning material and workplace, if required.

**Duties of learners, employers and registered training providers****Learner.**

The learner must:

- work for the employer as part of the learning process;
- be available for and participate in all learning and work experience required by the learnership;
- comply with workplace policies and procedures;
- complete any timesheets or any written assessment tools supplied by the employer to record relevant workplace experience; and
- attend all study periods and theoretical learning sessions with the training provider and undertake all learning conscientiously.

Notes

## Employer

## Notes

The employer must comply with its duties in terms of the Act and all applicable legislation including:

- Basic Conditions of Employment Act (No. 75 of 1997);
- any applicable determination made in terms of section 18(3) of the Act;
- Labour Relations Act (No. 66 of 1995);
- Employment Equity Act (No. 55 of 1998);
- Occupational Health and Safety Act (No. 85 of 1993) or Mine Health and Safety Act (No. 27 of 1996);
- Compensation for Occupational Injuries and Diseases Act(No.130of1993);
- Provide the learner with appropriate training in the work environment to achieve the relevant outcomes required by the learnership;
- Provide appropriate facilities to train the learner in accordance with the workplace component of learning;
- Provide the learner with adequate supervision at work;
- Release the learner during normal working hours to attend off-the-job education and training required by the learnership;
- Pay the learner the agreed learning allowance both while the learner is working for the employer and while the learner is attending approved off-the-job training;
- Conduct on-the-job assessment, or cause it to be conducted;
- Keep up to date records of learning and periodically discuss progress with the learner;
- If the learner was not in the employment of the employer at the time of concluding this Agreement, advise the learner of
  - the terms and conditions of his or her employment, including the learning allowance; and
  - workplace policies and procedures.
- Apply the same disciplinary, grievance and dispute resolution procedures to the learner as to other employees.

### Training provider

The training provider must:

- Provide education and training in terms of the learnership;
- Provide the learner support as required by the learnership;
- Record, monitor and retain details of training provided to the learner in terms of the learnership;
- Conduct off-the-job assessment in terms of the learnership, or cause it to be conducted; and
- Provide reports to the employer on the learner's performance.

### Termination of Agreement

- This learnership agreement terminates:
  - on the termination date stipulated in Part B of this Agreement; or on an earlier date if:
    - the learner successfully completes the learnership;
    - the learner is fairly dismissed by the employer for a reason related to the learner's conduct or capacity as an employee;
    - the employer and learner agree to terminate the Agreement; or
    - the SETA approves a written application to terminate the Agreement by the learner or, if good cause is shown, by the employer.

### Disputes

If there is a dispute concerning any of the following matters, it may be referred to the Commission for Conciliation, Mediation and Arbitration (CCMA):

- The interpretation or application of any provision of this Agreement, the learner's contract of employment or a sectoral determination made in terms of section 18(3) of the Act;

Notes

- Chapter 4 of the Act; the termination of this Agreement or the learner's contract of employment

Notes

## **Part B:**

### **Details of the learnership and the parties to this agreement**

#### **Please take note of the following:**

- If the learner is not already in the employ of the employer, the learner and employer must conclude a contract of employment.
- If the learner is a minor then the learner's parent or guardian must be a party to this Agreement and must complete section 3. The parent or guardian ceases to be a party to this Agreement once the learner turns 21.
- If a group of employers are party to this Agreement, one of the employers must perform the function of a lead employer. The lead employer must complete section 4 and details of the other employers must be attached on a separate sheet.
- If the employer and the accredited training provider are the same entity, the employer must complete sections 4 and 5.
- If a group of accredited training providers are party to this Agreement, one of the providers must perform the function of lead training provider. The lead training provider must complete section 5 and details of the other accredited training providers must be attached on a separate sheet.

**Learnership details agreement**

Notes

Name of learnership: .....

.....

Department of Labour registration number of learnership: .....

.....

Commencement date of learnership agreement: .....

.....

Termination date of learnership agreement: .....

.....

**Learner details**

Full name: .....

.....

Identity number: .....

Date of birth: .....

**Sex:**       Male                       Female

**Race:**       African                       Indian

Coloured                       White

Other (specify): .....

Do you have a disability, as contemplated by the Employment Equity Act 55 of 1998?

Yes (specify): .....  No

Home address: .....

.....

Postal address (if different from above): .....

.....

E-mail address: .....

What language/s do you speak at home? .....

.....

Are you a South African citizen?

Yes  No (specify and attach documents indicating your status, for example: permanent residence, study permit, etc):

Highest level qualification  
(for example: Standard 7, Grade 10, ABET Level 3)

.....

What is the title of your highest qualification?

.....

Have you previously undertaken a learnership?

Yes (specify title and code) .....  No

Were you employed by your employer before concluding this Agreement?

Yes  No

Notes

If you were unemployed before concluding this Agreement, state for how long:

.....

If you are employed, when did you start work with your employer?

.....

**Parent or Guardian details**

(To be completed if learner is a minor – i.e. an unmarried person under 21 years)

Full name: .....

.....

Identity number: .....

Home address: .....

.....

Postal address (if different from above): .....

.....

Telephone number (home and work): .....

.....

E-mail address: .....

Employer details: .....

Legal name of employer: .....

Trading name (if different from above): .....

Are you acting as Lead Employer? .....

Yes

No

Notes

Business address:.....

Postal address (if different from 4.4):.....

Name of contact person:.....

Telephone No: .....

Fax No: .....

E-mail address: .....

Registration numbers and codes:

SIC: ..... SARS: ..... SETA:.....

Notes

**Training provider details:**

Legal name of Training Provider:.....

Trading name (if different from above): .....

Are you acting as Lead Training Provider? .....

Yes                       No

Business address: .....

.....

Postal address (if different from 5.4):.....

Name of contact person: .....

Telephone No:.....

Fax No: .....

E-mail address: .....

Registration numbers or codes:

SIC:..... SARS: ..... SETA:..... SAQA:.....

Terms and conditions of employment:

Are the learner’s terms of employment determined by a document of general application (for example, section 18(3) determination, sectoral determination, bargaining council agreement, collective agreement.)

Yes (specify): .....  No

Attach a copy of a document reflecting the learner’s conditions of employment for learners who were not employed by the employer when the agreement was concluded as contemplated by section 18(2) of the Act. (for example: contract of employment, written particulars of employment)

.....  
Learner’s signature: Parent or guardian’s signature  
(Only if the learner is a minor)

.....  
Date: Date:

.....  
Witness signature: Witness signature:

.....  
Date: Date:

.....  
Employer or Lead EMPloyer’s signature Training Provider or Lead Training Provider’s signature

.....  
Date: Date:

Notes



Table A

Column 1	Column 2	Column 3	Column 4
Exit level of learnership	Credits already earned by learner	Percentage of qualified wage to be paid as allowance	Minimum allowance per week
NQF 1 or 2	0 – 120	35%	R120.00
	121 – 240	69%	R240.00
NQF 3	0 – 120	17%	R120.00
	121 – 240	40%	R226.00
	241 – 360	53%	R370.00
NQF 4	0 – 120	13%	R120.00
	121 – 240	25%	R240.00
	241 – 360	53%	R370.00
	361 – 480	56%	R540.00
NQF 5 to 8	to 8 0 - 120	8%	R120.00
	120 – 240	18%	R260.00
	240 – 360	27%	R389.00
	361 – 480	38%	R548.00
	481 – 600	49%	R700.00

Notes

### Payment remuneration

- (1) An employer must pay to a learner any remuneration that is paid in money-
- in South African currency;
  - daily, weekly, fortnightly or monthly; and
  - in cash, by cheque or by direct deposit into an account designated by the learner.

Any remuneration paid in cash or by cheque must be given to each learner-

- at the workplace or at a place agreed to by the learner; -
- during the learner's working hours or within 15 minutes of the commencement

- or conclusion of those hours; and in a sealed envelope which becomes the
- property of the learner.

An employer must pay remuneration not later than seven days after-

- the completion of the period for which the remuneration is
- payable; or
- the termination of the learnership.

Subclause (3)(b) does not apply to any pension or provident fund payment to a learner that is made in terms of the rules of the fund.

### Skills Programmes

A skills programme is a programme that is occupationally based, when completed will constitute a credit(s) towards a qualification registered on the the NQF and using accredited providers.

Skills programmes therefore includes one or more unit standards for which a learner can obtain credits. A Skills Program by itself is not however a full qualification.

A person who has developed a skills programme may apply to a SETA with jurisdiction for a grant or the Director –general for a subsidy. SETA may fund skills programmes if it is in accordance with the sector skills development plan or the national skills development strategy.

Notes

#### Definition



### **National Skills Fund**

The fund receives 20% of all skills levies levied, funds allocated from Parliament, donations and interest earned.

The money in the Fund may only be used for projects identified in the national skills development strategy as national priorities or projects related to the achievement of the purposes of the Skills Development Act.

### **Skills Development Planning Unit (SDPU)**

This unit must be established by the Director-General of Labour, the functions being;

- To research and analyse the labour market in order to determine skills development needs for South Africa as a whole, each sector of the economy and organs of state.
- To assist in the formulation of national skills development strategy and sector skills development plans and
- To provide information on skills to the Minister of Labour, the NSA, SETAs, E&T providers and organs of state.

### **Employment Services**

The Director-General must establish labour centres

- to provide employment services for workers, employers and training providers
- to register work-seekers
- to register vacancies and work opportunities
- to assist prescribed categories of persons to enter special training programmes, find employment, start income generating projects, participate in special employment programmes

Notes

## Jurisdiction

The Labour Court has ( subject to the jurisdiction of the Labour Appeal Court) exclusive jurisdiction in respect of all matters arising from the SDA.

Notes

### 3. The Skills Development Levies Act

To provide for the imposition of a skills development levy; and for matters connected therewith.

#### Definition



The SDLA was proclaimed on 30 April 1999 by the State President, to give effect to certain stipulations of the SDA.

#### Chapter 1 Administration, Imposition and Recovery of Levy 3. Imposition of Levy

Every **employer** must pay a skills development levy from-

- 1 April 2000, at a rate of 0,5 per cent of the leviable amount; and
- 1 April 2001, at a rate of one per cent of the leviable amount.

For the purposes of subsections (1), (2) and (3), but subject to subsection (5), the leviable amount means the total amount of remuneration, paid or payable, or deemed to be paid or payable, by an employer to its **employees** during any month, as determined in accordance with the provisions of the Fourth Schedule to the **Income Tax Act** for the purposes of determining the employer's liability for any employees' tax in terms of that Schedule, whether or not such employer is liable to deduct or withhold such employees' tax.

- The amount of remuneration referred to in subsection (4) does not include any amount—
  - paid or payable to any person contemplated in paragraphs (c) and (d) of the definition of "employee" in paragraph 1 of the Fourth Schedule to the Income Tax Act, to whom a certificate of exemption has been issued in terms of paragraph 2(5)(a) of that Schedule;
  - paid or payable to any person by way of any pension, superannuation allowance or retiring allowance;
  - contemplated in Paragraphs (a), (d), (e) or (eA) of the definition of "**gross income**" in section 1 of the Income Tax Act;
  - payable to a learner in terms of a contract of employment contemplated in section 18(3) of the **Skills Development Act**.

Notes

### Selecting a SETA

For the purposes of subsection (1), where an employer falls within

- the jurisdiction of more than one SETA, that employer must, having regard to--
  - the composition of its workforce;
  - the amount of remuneration paid or payable to the different categories of **employees**; and
  - the training needs of the different categories of employees,
  - select one SETA within which it must be so classified for the purposes of **this Act**.

**The levy is not payable by—**

- any public service employer in the national or provincial sphere of government;
- any employer where section 3(1)(a) or (b) applies and—
- during any month, there are reasonable grounds for believing that the total amount of remuneration, as determined in accordance with section 3(4), paid or payable by that employer to all its employees during the following 12 month period will not exceed R250 000, or such other amount as the Minister may determine by notice in the Gazette; and
- that employer is not required to apply for registration as an employer in terms of paragraph 15(1) of the Fourth Schedule to the Income Tax Act;

Notes

**Fourth Schedule****Amounts to be Deducted or Withheld by Employers and Provisional Payments in respect of Normal Tax and Provincial Taxes****Part II: Employees' Tax****Registration of Employers**

- 1) Every **person** who is an employer shall apply to the Commissioner in such form as the Commissioner may prescribe for registration as an employer within fourteen days after becoming an employer, or within such further period as the Commissioner may approve. Provided that where no one of such employer's employees is liable for normal **tax**, the provisions of this paragraph shall not apply to such employer.

### **How is the levey paid?**

Employers must register as levy payers with their local South African Revenue Services (SARS) office and monthly submit their levy payments to this office.

Failure by employers to do so is an offence and conviction can be either a fine or imprisonment for a period not exceeding one year.

### **What happens to the levies paid?**

SARS, upon receipt of the levies, pays 20% of the levies over to the National Skills Fund and the balance (80%) over to the SETA under which the particular employer resides.

The SETA is entitled to retain 30% of the levies it receives to fund its own operations and make available the balance as levy-grants to employers subject to the conditions of the levy-grant scheme,

Schematically the process can be shown as:

The Minister of Labour has published Regulations about the skills grants to be paid by Sector Education and Training Authorities (SETAs). These Guidelines seek to explain the Regulations and provide advice to employers and others on how to claim grants.

### **Claiming grants: general information**

Employers who are up-to-date with the payment of the skills levy can claim skills grants from their SETA. Their SETA is the one to which employers pay their levies.

Each SETA will decide the dates by which applications for grants must be made. They will let employers know about these arrangements. Employers may also approach their SETA for information.

Training providers and workers may also seek grants from a SETA.

Notes

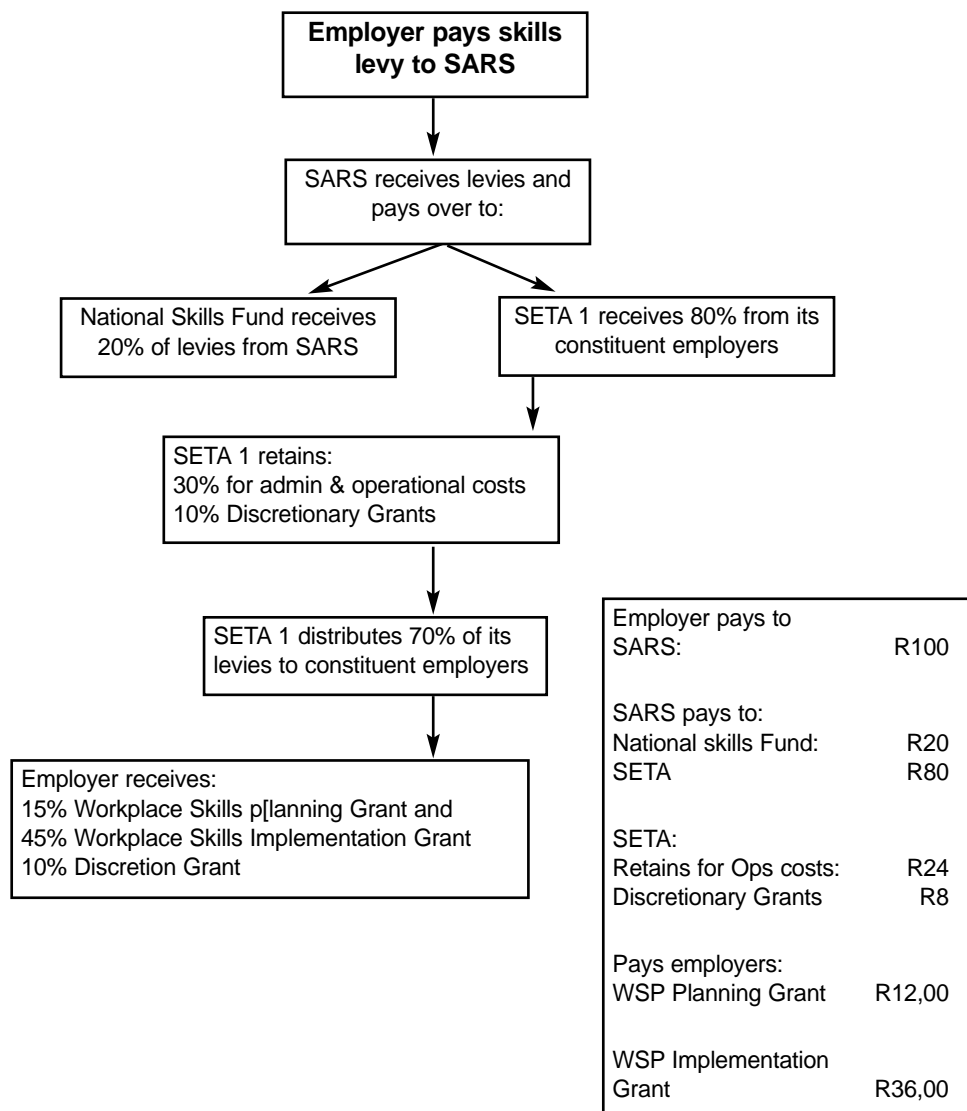
These grants may be given to projects, programmes and research activities if they support the implementation of the sector skills plan that each SETA has developed. Each SETA will publish details about the grants and how to apply for them.

Notes

**Grants**

There are **six** types of **grants** that an employer might claim. These are:

- a workplace skills grant;



- a workplace skills implementation grant;
- a grant towards the costs of learnerships and learner allowances
- a grant towards the costs of skills programmes;
- a grant towards the costs of providing apprenticeship training; and
- a grant towards a programme, project or research activity that helps the relevant SETA to implement its sector skills plan.

The first two grants - for the submission of a workplace skills plan, and for a subsequent implementation report on the training provided - MUST be paid by the relevant SETA as long as an employer submits the application correctly on time, as assessed by the appropriate SETA. The Regulations refer to these as mandatory grants.

The workplace skills planning grant is fixed as a percentage of the levies paid by an employer. An employer who makes an application on time and in the proper way will receive 15 per cent of the total of the levies he/she has paid. Similarly the workplace skills implementation report will be, in 2001/2, 50 per cent of the total levies paid and in 2002/3, 45 per cent of the total levies paid.

The other grants are discretionary and a SETA may pay these. It will decide the grants it will pay on the basis of the contribution that the skills development activities being proposed will contribute to the implementation of the SETA's sector skills plan. For example, there may be a number of requests for grants to support learnerships. If a choice has to be made between a number of different applications for such grants, the SETA will make its decisions on the basis of the priorities set out in its sector skills plan.

Each SETA will determine the amounts of all the other grants. Applications for these grants MUST be made and approved by the SETA before any training or other activity starts.

Notes

## Consultation arrangements

Before describing each of the grants it is important to stress, that although the majority of grants are made to employers, the need for meaningful consultation between employers and workers prior to grant applications. This is fundamental to the success of the national skills development strategy.

It is important that employees are consulted about the person(s) to be designated as skills development facilitators, the workplace skills plan and the report on the implementation of the workplace skills plan. It is strongly recommended for organisations with more than 50 employees that a Skills Development Committee is established for the purposes of consultation on training matters.

This committee, as a whole, should reflect the interests of employees from all occupational categories in the organisation's workforce. All trades unions that represent 10 per cent or more of the workforce or represent a significant occupational group should be invited to take part in this committee. A trade union that represents 80 per cent or more of the workforce may be the sole representative.

## Mandatory Grants

### Workplace skills planning grant

Each up-to-date levy-paying employer may expect a grant from the relevant SETA, if:

- at least one skills development facilitator is designated by the employer and the name is submitted to the SETA
- a workplace skills plan is correctly submitted to the SETA at the appropriate time (see Annexure A of the Regulations)

A workplace skills plan is important to:

- employers to provide a strategic basis for planning the development of the workforce and organisation

Notes

- workers to provide opportunities for enhanced job satisfaction and promotion prospects
- SETAs to assist in the identification of imbalances in the supply of, and demand for, skilled labour. This information can also be used by school leavers and unemployed people to inform choices about training options
- the Government to assist in the development and review of the National Skills Development Strategy that must be demand-led and sensitive to labour market needs.

Notes

### **Workplace Skills Plan**

Based on the analysis of business requirements and the skill needs of current staff, the workplace skills plan must define the skills priorities that each workplace will pursue, the training programmes that are required to meet and deliver those priorities and the staff who will be targeted for training -'the beneficiaries'

Each SETA will provide employers with the application forms to claim this grant, together with details of the dates by which completed forms must be submitted to the appropriate SETA. A SETA may also publish more detailed guidance on how to apply for this grant.

Each SETA is able to amend the outline design of forms included in the Regulations so that it can collect more sector specific data. A SETA may also simplify the form for organisations with fewer than 50 employees.

### **Workplace skills report grant**

Employers who are up-to-date with their levy payments can claim a grant from the appropriate SETA if they submit a report each year on the implementation of their workplace skills plan before the date stipulated by the SETA. The form of this report is Annexure B of the

Regulations, but a SETA is able to modify this to take account of sector differences. The implementation report is important to:

- employers and workers to assess the progress that is being made
- SETAs, to review progress and problems and to assist employers, workers and the sectors as a whole to determine any additional support and advice that might be required
- Government, to inform the monitoring of progress in addressing skills development priorities and in identifying any problems that might need to be addressed.
- Each SETA will inform employers of the dates by which applications for this grant must be submitted and each may issue additional guidance to assist employers to complete the implementation report.

### **Discretionary Grants**

#### **Learnerships**

Any employer may seek a grant from a SETA to support the implementation of learnerships. Each SETA will determine the level of the grant and details of the grant will be registered with the Department of Labour when each learnership is registered.

There are two possible types of grants to support learnerships. The first is a grant to offset the costs of implementing a learnership, (e.g. off-the-job education and training provider fees). The second is a grant that may be paid to subsidise the learner's allowance if the learner was unemployed immediately before starting the learnership. (a section 18(2) learner). The learner allowance must be in terms of the Learnership Determination published by the Minister of Labour on 15 June 2001.

Notes

It is a matter for each SETA to decide how many and which applications it will support. Each SETA will need to make its decisions in the light of the priorities of its sector skills plan and the amounts of money it has available to support learnerships.

A SETA must inform an employer whether or not it will make a grant before the learnership starts. The SETA will agree with the employer when the grant will be paid, e.g. if this will be in staged payments or only once the learnership is successfully concluded.

Each SETA will establish and publicise its criteria for approving the learnership grants.

### **Skills Programmes**

Any employer may claim a grant towards the costs of providing skills programmes. It is for each SETA to determine arrangements for the applications for grants and the amounts. Any application for a grant must be submitted to the appropriate SETA, and approved by it, before the skills programmes start.

It may be that a person completes a series of skills programmes that result in a full learnership qualification. If the employer receives grants for the skills programmes, the total of the grants that the employer receives must be no greater than the grants he/she would have got had the employee undertaken a learnership programme resulting in the same final qualification.

### **Apprenticeships**

There are, and will continue to be, apprenticeships, until the Minister of Labour declares a date after which all apprenticeships will become learnerships. It is still open to employers to seek to register apprenticeships.

Unless otherwise agreed, the appropriate SETA must honour any commitments to pay grants to employers that were agreed by a former Industry Training Board. It is for each SETA to determine and publish the level and criteria for new apprenticeship grants. Any grant must be agreed between the employer and the SETA before a new apprenticeship begins.

### **Sector Priorities**

A major function of the SETAs is the implementation of their sector skills plans. In order to do this a SETA may make a grant to an employer, to a training provider or to an individual. For example, a grant might be to finance research or to develop the training infrastructure in a sector. The grants will be determined by each SETA, which will also publish details of how to apply.

## **4. Skills Development and the Employment Equity Act**

### **The Purpose of the Act**

The purpose of the Act is to achieve equity in the workplace by-

- Promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination and
- Implementing affirmative action measures to redress the disadvantages in employment experienced by designated groups, in order to ensure their equitable representation in all occupational categories and levels in the workplace

Notes

## How does it relate to Education, Training and Development?

Notes

The Act requires employers to ensure that they

"..retain and develop people from designated groups and to implement appropriate training measures, including measures in terms of an Act of Parliament providing for skills development"

Furthermore the Act stipulates that

"A designated employer must prepare and implement an employment equity plan which will achieve reasonable progress towards employment equity in the employer's workforce."

As part of correcting the imbalances in the demographical composition of workforces, employers must now take cognisance of the fact that many individuals forming part of the "designated group" categorie (blacks, colourds, indians, females) do not possess the necessary skills to be able to be integrated into the workforce immediately.

The employment equity plan will change not only the face of the workforce in an enterprise, but will also highlight issues such as cultural diversity, interpersonal relationships and other issues which will need to be addressed to help people from different ethnic and social backgrounds to work together effectively.

Training and development will be one of the specific and important remedies to the situation.

It is also deemed to be unfair to discriminate against a person for purposes of employment " solely on the grounds of that person's lack of relevant experience."

Learnerships and skills programmes, amongst other interventions, should therefore be utilised to address these issues.

Employment equity plans should therefore form an integral part of the skills development plans and strategies of employers.

## 5. Skills Development and the Labour Relations Act

Notes

### Purpose of the Act

The purpose of this Act is to advance economic development, social justice, labour peace and the democratisation of the workplace by fulfilling the primary objects of this Act, which are –

- to give effect to and regulate the fundamental rights conferred by section 27 of the Constitution
- to give effect to obligations incurred by the Republic as a member state of the International Labour Organisation.
- To provide a framework within which employees and their trade unions, employers and employers' organisations can-
  - collectively bargain to determine wages, terms and conditions of employment and other matters of mutual interest; and
  - formulate industrial policy
- To promote –
  - orderly collective bargaining
  - collective bargaining at sectoral bargaining
  - employee participation in decision-making in the workplace; and
  - the effective resolution of labour disputes

Chapter 5 of this Act specifically makes provision for the establishment of workplace forums. The Act also stipulates the specific matters for consultation by such workplace forums. One of these stipulations refers to education and training.

The Skills Development Facilitator must therefore understand that workplace forums need to play an active role in the development of workplace skills plans and the approval and implementation of such plans. The workplace forum is thus a major stakeholder in the skills development process.

Notes