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GOVERNMENT NOTICE

DEPARTMENT OF LABOUR

No. R. 103

7 February 2000

SKILLS DEVELOPMENT ACT, 1998

**REGULATIONS FOR THE PERIOD 1 APRIL 2000 TO 31 MARCH 2001 REGARDING THE
FUNDING AND RELATED ISSUES**

The Minister of Labour has, after consultation with the National Skills Authority, under section 36 of the Skills Development Act, 1998 (Act No. 97 of 1998), made the regulations in the Schedule.

MMS MDLADLANA

MINISTER OF LABOUR

SCHEDULE

Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Act shall bear that meaning, and unless the context otherwise indicates -

“Act” means the Skills Development Act, 1998 (Act No. 97 of 1998);

“administration costs” means the administration costs contemplated in regulation 2(2);

“annexure” means an annexure to these regulations;

“chamber” means a chamber established under section 12 of the Act;

“Commissioner” means the Commissioner for the South African Revenue Services, established by section 2 of the South African Revenue Service Act, 1997 (Act No. 34 of 1997);

“ETQA” means a body accredited in terms of section 5(1)(a)(ii)(b) of the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), responsible for monitoring and auditing achievements in terms of national standards or qualifications, and to which specific functions relating to the monitoring and auditing of national standards or qualifications have been assigned in terms of section 5(1)(b)(i) of the South African Qualifications Authority Act, 1995;

“exceptional SETA set-up costs” means the exceptional SETA set-up costs contemplated in regulation 2(4);

“financial year” means the period referred to in regulation 6;

“levy income” means the total amount of money received by a SETA in terms of sections 7 and 8(3)(b) of the Skills Development Levies Act, 1999;

“levy payment” means the skills development levy contemplated in section 3 of the Skills Development Levies Act, 1999;

“operational costs” means the operational costs contemplated in regulation 2(3);

“PEA” means a private employment agency;

“Skills Development Levies Act, 1999” means the Skills Development Levies Act, 1999 (Act No. 9 of 1999);

“TES” means temporary employment services contemplated in section 198 of the Labour Relations Act, 1995 (Act No. 66 of 1995);

“training boards” means training boards established in terms of section 12A of the Manpower Training Act, 1981 (Act No. 56 of 1981) and referred to in clause 4 of the Transitional Provisions, Schedule 2 of the Act;

“training levy schemes” means training levy schemes established in terms of section 39 of the Manpower Training Act, 1981 (Act No. 56 of 1981) and referred to in clause 9 of the Transitional Provisions, Schedule 2 of the Act.

Use of money received by SETA

2 (1) For the purposes of section 14(3) of the Act the moneys received by a SETA in the financial year must be used in the following basis and categories:

- | | |
|---|------------------------------------|
| (a) Portion of levy transfer to NSF (prescribed) | - 20 per cent of levy payment; |
| (b) administration and operational cost (maximum) | - 20 per cent of levy payment; |
| (c) exceptional SETA set-up costs (maximum) | - 10 per cent of levy payment; and |
| (d) grants to employers (minimum) | - 50 per cent of levy payment. |

(2) For the purposes of subregulation (1)(b), the administration costs are defined as follows:

The administration costs of a SETA must relate to the functions prescribed in the Act and will only be for costs directly related to those functions. The administration costs must for the financial year be less than 20 per cent of the levy payment and include rent, heat, light, power, insurances, bank charges, audit fees and accounting fees, general administration,

postage, printing and stationery, documentation and books, advertising, reports, salaries, travel expenses, staff training, purchase of computers and information systems, maintenance of computers and systems, general maintenance, hire costs of photocopier, telephone and fax, meetings and seminars.

- (3) For the purposes of subregulation (1)(b) the operational costs are defined as follows:

The costs other than the administration costs to perform the other functions of a SETA as defined in the Act, contained within the percentage limits referred to in this regulation.

- (4) For the purposes of subregulation (1)(c) exceptional SETA set-up costs are defined as follows:

- (a) ETQA application and once-off establishment costs;
- (b) generation of national standards and qualifications applicable to the sector;
- (c) development of learnerships for the sector;
- (d) support for and development of skills development facilitators referred to in Annexure A;
- (e) grants to training providers and workers in terms of regulations 10 and 11.

Limit on administration and operational costs of SETA

3. For the purposes of section 14(3)(b) of the Act the limit on the administration and operational costs is determined as indicated in regulation 2(1)(b) for the financial year.

Sale of services rendered by SETA's

4. For the purposes of section 14(1)(e) of the Act, a SETA wishing to charge for services must obtain the written approval of the Director General, or a person delegated by the Director-General to act in that capacity, on the advice of the National Skills Authority for those charges and must clearly specify the motivation and the proposed charges for those services.

SETA finances

- 5 (1) In compliance with good financial practice, each SETA must establish a banking account with separate sub-accounts from which –
- (a) the amounts for the administration for the SETA activities;
 - (b) grant disbursements; and
 - (c) investments amounts,
- will be both lodged and withdrawn.
- (2) A SETA receiving funds from training boards or training levy schemes must open an additional sub-account other than that specified in subregulation (1) for a transitional period until all outstanding obligations are finalised.

Financial year of SETA

6. The financial year of a SETA will cover the period 1 April 2000 to 31 March 2001 and thereafter the period of 12 consecutive months extending from 1 April to 31 March in the succeeding years.

Grant disbursement to employers by a SETA or a chamber

- 7 (1) Employers may access a percentage of the levy payment by way of the grants set out in regulation 8.
- (2) A SETA may allocate grants to all employers under their jurisdiction who have paid the levy.

Grant recovery by employers

- 8 (1) An employer seeking recovery of a grant against the levy payment must meet the eligibility criteria for grant recovery.

- (2) An employer seeking recovery against the levy payment by way of grants -
- (a) must have registered with the Commissioner in terms of section 5 of the Skills Development Levies Act, 1999;
 - (b) must have paid the levies directly to the Commissioner or the SETA, as the case may be, in the manner and within the period determined in section 6 of the Skills Development Levies Act, 1999;
 - (c) must be up to date with the levy payments to the Commissioner and the SETA, as the case may be, at the time of approval and payment of a grant from the payments of the levy income transferred to the SETA.

- (3) An employer may recover a minimum of 50 per cent of the total levy payment by complying with the following grant categories:

(a) **GRANT “A” - (15 per cent)**

- (i) An employer can recover 15 per cent of the total levy payment for the employment or use of a skills development facilitator in accordance with the guidelines set out in Annexure A;
- (ii) an employer must have nominated a skills development facilitator who is -
 - (aa) an employee;
 - (bb) a skills development facilitator formally contracted to the employer; or
 - (cc) a skills development facilitator who is jointly contracted by the employer and a number of other employers to meet the skills development needs of that group of employers and all their employees.

(b) **GRANT “B” - (10 per cent)**

- (i) An employer who is approved for GRANT “A” may recover 10 per cent of the total levy payment by the employer for preparing and submitting a workplace skills plan for the financial year;

- (ii) the guidelines set out in Annexure B regarding the workplace skills plan must be complied with; and
- (iii) an employer must complete and return a workplace skills plan in accordance with the set timetables and supplementary guidelines issued by the SETA.

(c) **GRANT “C” - (20 per cent)**

- (i) An employer who is approved for GRANT “A” and GRANT “B” may claim a further grant of 20 per cent of the total levy payment by the employer for the implementation of the training specified in the workplace skills plan;
- (ii) the guideline set out in Annexure C with regard to the reporting format must be complied with; and
- (iii) the employer seeking the grant payment contemplated in subparagraph (i) must submit a report accompanied by appropriate training records by the date required by the SETA.

(d) **GRANT “D” - (5 per cent)**

- (i) Each SETA must make available grants to the equivalent of 5 per cent of the total levy payment by the employer as a Grant “D”. Those grants will be for specific skills initiatives in its sector;
- (ii) a SETA must to submit its criteria for making Grant “D” allocations to the Department of Labour by no later than 1 September 2000; and
- (iii) a SETA must recommend a list of skills initiatives that merit grants under GRANT “D” and those grants will be paid on a basis of outcomes achieved.

- (4) Unclaimed levy funds which arise as a result of non-payment of grants to employers who fail to comply with the relevant terms and conditions for grant recovery or who fail to submit a valid application for grant disbursement within six months of the final date may be used by the SETA for -

- (a) grants to employers for training in specific high need areas;
 - (b) sectoral support expenses;
 - (c) incentives to encourage participation in the skills development levy scheme; and
 - (d) any other purpose to promote the objectives of the sector skills plan and national priorities.
- (5) The detailed utilisation of all levy funds must be included in the report referred to in section 10(1)(h) of the Act.

Private employment agencies and temporary employment services covered by the Services SETA:

- 9 (1) For the purposes of the disbursement of grants to PEA employers, the Services SETA must make provision for a Labour Recruitment Chamber. The Labour Recruitment Chamber will have two functional fields, namely labour recruitment and temporary employment services.
- (2) For the purposes of the Act and relating to the development of workplace skills plans, PEA's must submit separate workplace skills plans pertaining to permanent PEA employees and TES employees respectively.

Allocation of grants to education and training providers by a SETA

10. For the purposes of section 10(1)(b)(iii) of the Act the grants allocated to education and training providers must be regarded as being covered under exceptional SETA set-up costs contemplated in regulation 2(4).

Allocation of grants to workers by a SETA

11. For the purpose of section 10(1)(b)(iii) of the Act the grants allocated to workers must be regarded as being covered under exceptional SETA set-up costs referred to in regulation 2(4).