

No. R. 1152

13 November 2000

DEPARTMENT OF LABOUR
SKILLS DEVELOPMENT ACT 97 OF 1998
PROPOSED REGULATIONS REGARDING FUNDING AND RELATED ISSUES

I, Membathise Mphumzi Shepherd Mdladlana, Minister of Labour, after consultation with (the Minister of Finance) and the National Skills Authority (NSA) hereby publish for public comment the proposed regulations on the skills development levies and related issues in the Schedule.

Interested parties are invited to submit written comments on the proposed regulations before (30 days after publication date) by

- (a) posting comments to

The Executive Officer
National Skills Authority
Private Bag XI 17
Pretoria
0001

- (b) faxing comments to

The Executive Officer
National Skills Authority
0123200792

- (c) delivering comments to:

Room 411 (M)
Department of Labour
Cnr Schoeman and Paul Kruger Streets
Pretoria

SCHEDULE

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1. Definitions

In these regulations any word or expression to which a meaning has been assigned in the Act bears that meaning, and unless the context otherwise indicates:

'Act' means Skills Development Act, 1998 (Act No. 97 of 1998);

'annexure' means an annexure to these regulations;

'Commissioner' means the Commissioner for the South African Revenue Service, 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)(bb) of the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), responsible for 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 and qualifications have been assigned in terms of section 5(1)(b)(i) of that Act;

'financial **year**' means the period from 1 April to 31 March in the following year;

'Funding Regulations 2000/2001' means the regulations for the Period 1 April 2000 to 31 March 2001 regarding the Funding and Related Issues published on 7 February 2000;

'**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 a skills development levy contemplated in section 3 of the Skills Development Levies Act, 1999;

'**Manpower Training Act, 1981** means the Manpower Training Act, 1981 (Act 56 of 1981);

'**Skills Development Levies Act, 1999** means the Skills Development Levies Act, 1999 (Act 9 of 1999);

'**submit**' means to serve by hand or by registered post;

'training boards' means training boards established in terms of the section 12A of the Manpower Training Act, 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 and referred to in clause 9 of the transitional provisions;

'transitional provisions' means the Transitional Provisions, Schedule 2 to the Act;

'year' means financial year.

2. Administration costs of SETA

- (1) In terms of section 14(3)(b) of the Act, a SETA may use up to 10% of its levy income for its administration costs.
- (2) The administration costs of a SETA must relate directly to the functions of a SETA prescribed in the Act and include the costs of:
 - (a) rent, heat, light and power;
 - (b) insurances, bank charges, audit fees and accounting fees;
 - (c) general administration, postage, printing and stationery;
 - (d) documentation, books, advertising and reports;
 - (e) salaries, travel expenses and staff training;
 - (f) purchase and maintenance of computers and information systems;
 - (g) general maintenance;

- (h) telephone, telefax and photocopying expenses; and
- (i) meetings and seminars.

3. Money for administrative and other costs from 2000-2001 financial year

- (1) A SETA may use any money received by it in terms of the Funding Regulations 2000/2001 for administration, operational costs and exceptional SETA set-up costs during the 2000/2001 financial year that were not used in that financial year for those purposes during the 2001/2002 financial year.
- (2) Any money contemplated by sub-regulation (1) that is not used in the 2001 /2002 financial year will be forfeited to the National Skills Fund.
- (3) For the purposes of this regulation, 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;
 - (e) grants to educational training providers and workers in terms of section 10(1)(b) (iii) of the Act.

4. Sales of services rendered by SETAs

- (1) A SETA may only charge for services rendered in terms of section 14(1)(e) of the Act with the written approval of the Director-General,

acting with due regard to any guidelines issued by the Director-General for this purpose.

- (2) A SETA may apply for approval in terms of sub-regulation (1) by submitting an application in writing to the Director-General specifying, and providing a motivation for, the nature of the services it proposes to offer and the proposed charges for those services.

5. **SETA finances**

- (1) In compliance with good financial practice, each SETA must open and maintain a bank account, with sub-accounts for lodging and withdrawing all amounts used for:
- (a) administering the activities of the SETA;
 - (b) disbursing grants; and
 - (c) investments.
- (2) A SETA must open and maintain an additional sub-account in addition to those specified in sub-regulation (1) for lodging and withdrawing all amounts:
- (a) received from training boards, training schemes, training levies or any other source contemplated in the transitional provisions;
 - (b) received from the Minister or the Department to pay outstanding obligations arising from the transitional provisions; or
 - (c) used to pay outstanding obligations arising from the . transitional provisions,

(3) A SETA must maintain the sub-account referred to in sub-regulation (3) until:

- (a) all outstanding obligations arising from the transitional provisions are finalised; and
- (b) the Director-General has authorised the SETA in writing to close the sub-account.

6. Financial year of SETA

The financial year of a SETA runs from 1 April of each year to 31 March of the following year.

7. Annual report

A SETA must include a detailed report on the utilisation of all levy funds in its report to the Director-General in terms of section 10(1)(h) of the Act.

8. Transfer of funds by Minister

A notice issued by the Minister in terms of section 15(2) of the Act may require –

- (a) the SETA concerned to identify any bank account or other financial account operated by the SETA;
- (b) the bank or other financial institution concerned to transfer any funds in an account contemplated by sub-paragraph (a) to a bank account opened and administered for that purpose by the National Skills fund in accordance with section 29 of the Act.

9. Employer eligibility for grants

An employer may not receive any grant in terms of these regulations unless the employer:

- (a) has registered with the Commissioner in terms of section 5 of the Skills Development Levies Act, 1999;
- (b) has paid levies in the manner and within the period determined in terms of section 6(1) of the Skills Development Levies Act, 1999:
 - (i) to the Commissioner; or
 - (ii) in accordance with a notice issued in terms of section 7(1) of the Skills Development Levies Act, 1999;
- (c) is up to date with the levy payments contemplated by subparagraph (b) at the time of the approval and the payment of the grant;
- (d) falls within the jurisdiction of the SETA to which it has applied for the grant;
- (e) has applied for the grant in the manner and within the period required in terms of these regulations; and
- (f) has applied for the grant in compliance with the requirements in these regulations applicable to the particular grant, and any additional requirements that may have been set by the SETA.

10. **Levy-based grants**

Employers may claim from a SETA the following two categories of levy-based grants:

- (a) a workplace skills planning grant in terms of regulation 11;
- (b) a workplace skills plan implementation grant in terms of regulation 15

11. Workplace skills planning grant

- (1) A SETA must pay a workplace skills planning grant to every employer that has on or before 1 April:
 - (a) appointed a skills development facilitator in accordance with Schedule One to these regulations and submitted the details of the appointment to the SETA;
 - (b) submitted a workplace skills plan to the SETA; and
 - (c) has complied with the requirements of Schedule One to these regulations in respect of appointing a skills development facilitator and consulting with employees or their representatives.
- (2) In the financial year 2001 /2002, an employer must submit the required information concerning the skills development facilitator and workplace skills plan by 31 May 2001.
- (3) An employer must submit to the SETA:
 - (a) those details that are required in terms of Annexure A to these regulations; and
 - (b) any additional details that may be required by the SETA.
- (4) A SETA may extend the period during which an employer is required to submit its workplace skills plan for a further period not exceeding six months, if there are legitimate business circumstances that prevent the employer from submitting the plan or make it inappropriate for it to do so.
- (5) A SETA may not extend the period for lodging a skills plan in terms of sub-regulation (1) unless the employer has submitted in writing to the

SETA by no later than 15 March, prior to the 1 April deadline, of the reasons why it is unable to file its plan.

- (6) The grant paid in terms of this regulation must be equivalent to 15% of the levies to be paid by the employer in that financial year.
- (7) The SETA must pay the grant to employers who qualify to receive it by no later than 31 October of the financial year in respect of which the grant is paid.

12. **Workplace skills plan implementation grant**

- (1) A SETA must pay a grant to every employer:
 - (a) that qualified to receive a workplace skills planning grant; and
 - (b) that has submitted a report on the implementation of its workplace skills plan for the financial year concerned by no later than 31 May of the following year.
- (2) The report referred to in sub-regulation (1) must contain:
 - (a) the information required in terms of Annexure B to these regulations; and
 - (b) any additional information required by the SETA.
- (3) The SETA must pay every employer who qualifies for a skills plan implementation grant, a grant determined as a percentage of the total levy payment by the employer for the financial year concerned, determined in accordance with the following table:

Financial Year	Percentage of total levy payment paid as grant
200112	40%
2002/3	35%
2003/4	30%
2004 and beyond	25%

- (4) The SETA must pay the grant to every employer who qualifies to receive it by no later than 31 August in the year following the year in respect of which the implementation report was made.

13. Discretionary strategic grant

- (1) A SETA may use any residual levy income, including any money that is not claimed by employers in respect of levy-based grants, to make the following categories of discretionary strategic grants:
- (a) learnership grants in terms of regulation 14;
 - (b) skills programme grants in terms of regulation 15;
 - (c) sector grants in terms of regulation 16.
- (2) A SETA may only make a discretionary strategic grant if there are sufficient funds available for it to do so.
- (3) A SETA may only make a discretionary strategic grant to an employer if the employer qualifies to receive the workplace skills planning grant in terms of regulation 11 for the financial year concerned.
- (4) Sub-regulation (3) does not apply to employers who employ less than 50 employees and who have complied with regulation 9.

14. Learnership grants

- (1) An employer may apply to the SETA for a grant towards the approved operational costs of any learnership agreement that the employer concludes in terms of section 18(1) of the Act.
- (2) In addition to the grant in terms of sub-regulation (1), an employer may apply to the SETA for a grant towards the learner allowance of any learner who was not in the employment of the employer at the time the learnership agreement was entered into.
- (3) The operational costs of a learnership agreement are the operational costs approved by the Director-General when registering an intended learnership in terms of section 16(d) of the Act, as adjusted by the Director-General from time to time.
- (4) A learnership grant in terms of sub-regulation (1) or (2) may cover all or some of the operational costs or the learnership allowances, respectively.
- (5) A SETA may only make a learnership grant if the employer has applied to the SETA for the grant prior to entering into the learnership agreement.

15. **Skills programme grants**

- (1) A SETA may make a grant to an employer in respect of a skills programme in accordance with section 20 of the Act.
- (2) The SETA must determine the amount of the grant to be paid in respect of any skills programme subject to the following requirements:
 - (a) a grant may only be paid in respect of the operational costs of a skills programme;

- (b) the total of any grants paid to an employer in terms of subparagraph (a) in respect of learners who earn sufficient credits to achieve a full learnership qualification in terms of the skills programme must be less than the grants that the employer would have received in respect of operational costs of the relevant learnership;
- (c) the application for the grant must have been approved by the SETA before the skills programme commenced; and
- (d) the amount to be paid has been approved by the Director-General.

16. **Sector grants**

- (1) A SETA may make grants to fund initiatives, programmed, projects or research in order to achieve the objectives of the sector skills plan prepared in terms of section 10(1)(a) of the Act or to secure the strategic objectives of the sector.
- (2) A SETA may make a grant in terms of sub-regulation (1) to employers, training providers, registered trade unions, employees or other organisations or persons.
- (3) A SETA must:
 - (a) set out the grant criteria in the SETA business plan; or
 - (b) report to the Director-General on the grant criteria in the report contemplated in section 10(1)(h) of the Act.
- (4) A SETA must determine and publicise to employers and trade unions in the sector:
 - (a) the criteria for grant allocation;

- (b) the arrangements for the disbursing of grants; and
- (c) the projects and activities to be funded by sector grants.

17. Apprenticeship grants

- (1) An employer may apply to a SETA for an apprenticeship grant in respect of a contract of apprenticeship registered in terms of section 18 of the Manpower Training Act, 1981 (read with items 4(5) and (6) of Schedule 2 to the Act) to which the employer is party.
- (2) An application in terms of sub-regulation (1) must be made:
 - (a) before 30 June 2001, in respect of any contract of apprenticeship entered into before 1 April 2001;
 - (b) before the contract of apprenticeship is entered into, in respect of contracts concluded on or after 1 April 2001.
- (3) A SETA may use residual levy income, including any money that is not claimed by employers in respect of levy-based grants, to pay apprenticeship grants.
- (4) A SETA may not make an apprenticeship grant unless:
 - (a) the apprenticeship is registered with the Department of Labour;
 - (b) the employer qualifies to receive the workplace skills planning grant in terms of regulation 11 for the financial year concerned; and
 - (c) there are sufficient funds available for it to do so.
- (5) Subparagraph (b) of sub-regulation (4) does not apply to employers who employ less than 50 employees and who have complied with regulation 9.

18. **Acknowledgement of receipt**

A SETA must acknowledge receipt of any application for a grant made in terms of these regulations within seven days of receiving the application.

19. **Requesting reasons for a decision**

If a person affected by a decision made by a SETA in respect of a matter dealt with in these regulations submits a written request for the reasons for that decision, the SETA must give written reasons within 30 working days of receiving the request.

20. **Matters arising under Funding Regulations, 2000/2001**

Any claim for Grant 'C' in terms of the Funding Regulations, 2000/2001, as well as any other matter dealt with in those regulations that is not expressly dealt with in these regulations, must be dealt with in terms of those regulations.

21. **Commencement date**

These regulations come into effect on 1 April 2001.

22. **Short title**

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

Annexure A
Workplace Skills Planning Grant

Grant requirements:

In order to **qualify** for a Workplace Skills Planning Grant of 15 per cent of levy paid, employers must provide the following information:

Section A(1) – Details of the firm and the Skills Development Facilitator
 Section A(2) - Annual Skills Priorities (table 1)
 Section A(3) - Proposed Beneficiaries (table 2)
 Section A(4) – Authorisation

And comply with the timeframes and other requirements set by the regulations.

A(1). Details of firm and Skills Development Facilitator

1. **Name of Company:**
-
2. **Address:**
-
3. **Main business activity:**
-
4. **Total employment** (defined as total **workforce** in respect of which skills development levies have been paid to SARS):
5. **Total annual payroll for the end of the last financial year:**
6. **SARS registration number:**
7. **SETA to which affiliated:**
8. **If application is submitted on behalf of one or more establishments, please attach a list of names and addresses, including physical and postal addresses.**
9. **Name of Skills Development Facilitator (SDF):**
10. **Address (if different from address of firm indicated in (2) above:**

11. **Contact details of SDF:**
 - (a) **Phone number:**
 - (b) **Fax number:**
 - (c) **Email where available:**

A(2). Annual Skills Priorities

Strategic skills development priorities for the financial year 1/4/... to 31/3/.....

Workplace Skills Planning Grant – Annual Skills Priorities											
Skills Priority number	Skills priorities – List education and training priorities	Level of planned education and training								SAQA registered?	
		General		Further			Higher			Yes No	If yes, provide SAQA ID number
		Upto and including level 1	2	3	4	5	6	7	8		
1											
2											
3											
4											
Etc.											

A(3). Proposed Beneficiaries

The beneficiaries to whom the skills priorities listed in Section B will be provided:

Workplace Skills Planning Grant - Beneficiaries																
Occupation (- definitions appended)	Skills priorities (use skill priority number from Section A(2) above)	Number of beneficiaries per population group														
		African			Coloureds			Indians			Whites			Total		
		M	F	D	M	F	D	M	F	D	M	F	D	M	F	D
Senior officials and managers/owner managers																
Professionals																
Technicians																
Clerical/administrative workers																
Service workers																
Agricultural and fishery workers skilled workers																
Plant/machine operators and assemblers																
Labourers																
Apprentices and Section 18(2) learners																
Total																

(1) M= Male, F = Female, D = Person with disability

A(4). Authorisation

Signature:

Position in organization:

Date:

Witness(es):

Explanatory notes

1. The workplace skills plan should cover all skills development training.
2. This document should be the result of **meaningful** interaction between **employers** and employees and where applicable this should occur through the training committees or union management structures.

Annexure B
Workplace Skills Plan Implementation Grant

Grant requirements:

In order to qualify for a Workplace Skills Plan Implementation Grant as set out in the regulations, employers must provide the following information;

Section B(1) - Confirmation of the details of the firm and the Skills Development Facilitator
 Section B(2) – List of skills priorities delivered.
 Section C(3)- Report of actual beneficiaries.
 Section D(4) - Authorisation

B(1). Details of firm and Skills Development Facilitator

- 1. Name of Company:
-
- 2. Address:
-
- 3. Main business activity:
-
- 4. Total employment (defined as total workforce in respect of which skills development levies have been paid to SARS):
- 5. Total annual payroll for the end of the last financial year:
- 6. SARS registration number:
- 7. SETA to which affiliated:
- 8. If application is submitted on behalf of one or more establishments, please attach a list of names and addresses, including physical and postal addresses.
- 9. Name of Skills Development Facilitator (SDF):
- 10. Address (if different from address of firm indicated in (2) above):

- 11. Contact details of SDF:
 - (d) Phone number:
 - (e) Fax number:
 - (f) Email where available:

Definitions

Occupational Groups

Senior officials and managers: People who plan, direct and co-ordinate the activities of a business/organization in either the private or the public sector. *Examples are chief executives, managing directors, administration, financial, production and catering managers, school principals, etc.*

Professionals: People who possess a high level of professional knowledge and experience in a field of physical and life science or the social sciences and humanities. *Examples are scientist, engineers, computer programmers, accountants, teaching professionals, management consultants, medical practitioners, priests, attorneys, social workers, etc.*

Technicians and associated professionals: People who possess technical knowledge and experience in a field of the physical and life sciences or the social sciences and humanities. *Examples are clerks of work, pilots, reporters, telecommunication technicians, nursing assistants, insurance agents, property agents, etc.*

Clerks: People who organize, store, compute and retrieve information. Typical tasks are secretarial duties, operating word processors and other office machines, recording and computing numerical data, mail services, money-handling operations and appointments. *Examples are secretaries, messengers, coders, cashiers, tellers, switchboard operators, administrative assistants, bookkeepers, store clerks, etc.*

Service workers: People who provide personal and protective service or who sell goods in shops or at markets. *Examples are transport conductors, police officers, shop attendants, cooks, waiters, retail sales workers, hairdressers, prison wardens, etc.*

Agricultural and fishery workers: People who grow crops, breed or hunt animals, breed or catch fish or cultivate or harvest forests. *Examples are farmers, crop growers, fishermen, horticulturists, forestry workers, etc.*

Skills workers: People who apply the knowledge and experience of skilled trades and handicrafts to extract raw materials, construct buildings and other structures or make various products, including handicraft goods. *Examples are miners, ore processors, bricklayers, carpenters, plumbers, electricians, painters, aircraft mechanics, welders, glass-makers, fitter and turners, boiler makers, clothes and shoemakers, locksmiths, etc.*

Plant and machine operators and assemblers: People who operate and monitor large-scale and often highly automated industrial machinery and equipment. *Examples are lathe operators, railway signalers, Production supervisors, motor mechanics, mine drills operators, assembly line workers, etc.*

Labourers: People who perform mostly simple and routine tasks, revolving the use of hand-tools and in some cases considerable physical effort, and generally only limited personal initiative and judgement. *Examples are news vendors, tinkers, charworkers,*

sweepers, garbage collectors, kitchen workers, farm-hands, door-to-door and telephone sales persons, construction workers, quarry workers, security guards, caretakers, etc.

SCHEDULE ONE

CRITERIA FOR APPOINTING SKILLS DEVELOPMENT FACILITATORS AND CONSULTATION ON WORKPLACE SKILLS PLAN

1. Appointment of skills development facilitator

- (1) Every employer must appoint an employee or any other person who is formally contracted to the employer as a skills development facilitator.
- (2) Employees with less than 50 employees or having a sales turnover less than that specified in Schedule 4 to the Employment Equity Act, 1998 (Act 55 of 1998) may jointly appoint a skills development facilitator.
- (3) The employer must submit to the SETA the name and contact details of the person who is to serve as skills development facilitator for the financial year on or before 1 April of each year.
- (4) If the skills development facilitator leaves the employer's service, the employer must forthwith:
 - (a) appoint a new skills development facilitator; and
 - (b) submit the name and contact details of the new facilitator to the SETA.
- (5) A SETA may publish criteria for the appointment of skills development facilitators.

2. Functions to be performed by the skills development facilitator

- (1) The functions of a skills development facilitator are to:

- (a) assist the employer and employees to develop a workplace skills plan which complies with the requirements of Annexure A;
 - (b) submit the workplace skills plan to the relevant SETA;
 - (c) advise the employer on the implementation of the workplace skills plan;
 - (d) assist the employer to draft an annual training report on the implementation of the workplace skills plan which complies with Annexure B;
 - (e) advise the employer on the quality assurance requirements set by the SETA;
 - (f) act as a contact person between the employer and the sector SETA; and
 - (g) serve as a resource with regard to all aspects of skills development.
- (2) The employer must provide the skills development facilitator with the resources, facilities and training necessary to perform the functions set out in sub-item (l).

3. **Consultation with employees**

- (1) An employer with more than 50 employees must take reasonable steps to consult and attempt to reach agreement on the appointment of a skills development facilitator, the workplace skills plan and the report on the implementation of the workplace skills plan:

- (a) with a representative trade union representing members at the workplace and its employees or representatives nominated by them; or
 - (b) if no representative trade union represents members at the workplace, with its employees or representatives nominated by them.
- (2) The employees or their nominated representative with whom an employer consults in terms of sub-item (1), taken as a whole, must reflect the interests of employees from across all occupational categories and levels of the employer's workforce.
- (3) Sub-items (1) and **(2)** do not apply if an employer and a registered trade union have concluded a collective agreement in terms of section 86(1) of the Labour Relations Act, conferring joint decision-making on a workplace forum in respect of the matters contemplated by sub-item (1).

Draft Funding Regulations: Explanatory Memorandum

Skills Development in 2001 and beyond

More Incentives / More Benefits

The Skills Development Act and Skills Development Levies Act were passed to ensure that high quality skills, so desperately needed by this country, will increase substantially. By promoting skills, the Acts aim to enhance the quality of lives of workers; the productivity and competitiveness of firms; the employability of work seekers; the sustainability of small enterprises; and, the quality and delivery of social services.

There are essentially four ways in which these purposes will be achieved:

1. By setting a clear **vision, mission and set of objectives** at national, sector, workplace, provincial and project levels so that we know where we are going. These objectives are to be arrived at through a combination of research and discussion. They will be embodied in plans such as the National Skills Development Strategy (NSDS); Sector Skills Plans (SSPs), Workplace Skills Plans (WSPs), Provincial Skills Plans (PSPs) and Project Skills Plans (Project SPs).

Progress towards the achievement of the vision, mission and objectives will be measured.

2. By introducing **new programmed** to provide quality training. The traditional apprenticeships are being expanded to include new occupations and will be known as learnerships. Short courses will become skills programmed, which unlike their predecessors will be quality assured and give learners national credits. Both will be registered on the National Qualifications Framework (NQF). It follows then that both learnerships and skills programmed will be quality assured through the assessment of learners' competencies against national standards.

3. By putting in place a new funding system to provide **grant** incentives for employers, workers and community members to take up the challenge of skills development. This new funding system started on 1 April 2000. Employers are required to pay a levy based on their payroll and they can claim a refund of a percentage of the levy if they meet certain requirements.

In the first year of operation April 2000 – March 2001, grants are essentially of two types:

for employers and workers they were a refund of a proportion of levy paid for the:

submission of the name of a Skills Development Facilitator (Grant A 15%);

submission of a Workplace Skills Plan (Grant B 10%); and, reporting on the implementation of the Workplace Skills Plan (Grant C 20%).

for community members it was for the:

submission of training proposals linked to employment generating initiatives. Part of the levy that employers pay (20 per cent) is paid into the National Skills Fund and this is used to assist unemployed people and communities.

4. By putting in place intermediate institutions, governed by the representatives of those intended to benefit from the skills strategy (employers, representatives of employees and government departments). These new bodies are called Sector Education and Training Authorities (SETAs) and Provincial Skills Development Forums (PSDFs). They have two principal tasks - - to help those whom they represent to realise the benefits of the skills development strategy and to disburse grants to them when they respond to the new incentives.

What has been the progress?**Progress to date has been significant:**

In April 1999 the **National Skills Authority** was established to advise the Minister of Labour on a range of issues including the National Skills Development Strategy and the disbursement of funds from the National Skills Fund. On 20 March 2000 25 Sector Education and Training Authorities (SETAs) were established – covering the full spectrum of the public and private sectors, as well as large and small firms in South Africa. In parallel **10 Provincial Skills Development Forums (PSDFs)** were established to guide the disbursement of funds by the Department of Labour to local communities and service providers.

The preparation of the National Skills Development Strategy is well underway and is due to be launched in February 2001. Twenty-five Sector Skills Plans (SSPs) were submitted in September **2000** and ten Provincial Skills Plans (PSPs) in October 2000. A multitude of firms and communities have prepared Workplace Skills Plans (WSPs) and Project Skills Plans (PSPs).

The collection of skills development levies began in April 2000. The first grants for Skills Development Facilitators and Workplace Skills Plans were paid out in September 2000.

These achievements are significant, but there are a number of challenges to be addressed.

¹Regulations **Gazette No. 6729**, published “7 February 2000.

1. Not all employers are applying for grants and there is a danger that the levy funds may be under-used. Employers from small and medium sized enterprises are less likely to claim grants than those from larger firms.
2. Workplace Skills Plans tend to incorporate company specific training only. On the one hand this is positive as the training is flexible and responsive to the needs of firms. On the other hand there is a danger that one of the key purposes of the Act, namely to promote training of rising quality, will not be achieved.
3. The grant structure for 2000/1 did not provide incentives to employers to indenture apprentices (or for the future, learnerships).

Looking ahead to 2001 and beyond, the strategies and institutions are in place, but we need now to interrogate whether the incentives are sufficiently well aligned to the strategic priorities. We also must address the challenges that have emerged in 2000. These are:

1. To improve incentives to all firms;
2. To recognise the special position of small firms and treat them differently;
- 3 To encourage skills development that quality assured qualifications;
- 4 To build a foundation for training and education that is externally quality assured; and
- 5 To develop learnerships (and apprenticeships) across the country.

New funding regulations

These new funding regulations have been prepared to address these challenges. In drafting them a range of alternative options were considered. Given the range of interests that need to be served it is felt that the proposed option provides an appropriate blend of flexibility and enticement. These regulations are being published in draft form so that employers, workers and others involved in skills development can comment on them.

The new funding regulations propose:

1. **More incentives:** to stimulate even more firms to participate in the Skills Development Strategy. There are two innovations:

- A. The grant for the submission (or confirmation) of the name of the Skills Development Facilitator and the Workplace Skills Plan are to be combined into a single grant that will represent 15% of the levy paid by an employer. This simplifies the administration.

- B. The grant paid to employers who report on the implementation of their Workplace Skills Plans (WSPs) will be increased to 40% of the levy paid in 2001/2.

Firms can therefore claim a total of 55% of the levy paid for reporting on the implementation of their Workplace Skills Plan to their SETA in 2001.

The grants will change but the complete flexibility that firms have to include any training they choose in the Workplace Skills Plan is not altered.

2. **Rewards for those firms setting up learnerships and conducting training that is linked to the National Qualifications Framework.** Employers will be able to claim grants if they provide training that results in credits or qualifications on the National Qualifications Framework. These grants will not be linked to levy payments. They will be cash grants linked to the actual cost of training. *So a firm can get back more by way of grants than it pays in the levy if, over and above completing its own flexible Workplace Skills Plan, it helps people to earn national credits and complete learnerships.*

Our research has shown that whilst some firms do excellent training, too many still do little more than induction and task training. There is still too much reliance on workers learning by copying what the next person is doing - *sitting next to*

Nellie. Such training leads to both good and bad habits being passed on from worker to worker, from generation to generation. As a nation, we are unlikely to grow if new knowledge and skills are not injected into our workplaces and if we simply continue to do things the way they have always been done. New skills need to be linked to new ways of doing things such as improved team working for better client service, productivity and quality enhancement. The new system of training to national and international standards intends to act as an impetus for this.

The funding regulations introduce a sliding scale for the payment of grants for the implementation of Workplace Skills Plans from 40% of the levy paid to 25% over the next four years. This will allow for additional money to be released over time to reward employers who provide learnerships and skills programmes. Grants for learnerships and skills programmed are described in the regulations. In essence they are cash grants for the successful achievement of registered standards and learnership qualifications. **Firms with more than 50 employees will be required to successfully claim the Workplace Skills Plan grants before they will be eligible for the learnership and skills programme cash grants.**

The intention to promote learnerships and skills programmed is clear and employers are being given notice of the switch in the balance of funding. This will provide them with the time to plan for the new training and skills development programmed. It will also give them the opportunity to put pressure on their Sector Education and Training Authorities (SETAs) to ensure that standards for those credit-based skills programmed and learnerships that they need, are developed and are accessible.

3. A simpler process for small firms to claim grants

The skills levy paid by small firms may only be a few rands each month. The difficulty of claiming grants, even for 55% of the levy paid may deter small firms from doing so. The draft regulations provide that firms with less than 50 workers can claim grants for learnerships and skills programmed without first having to claim the Workplace Skills Plan grants. This will mean that small firms can identify one or two courses that they need, and provided that these are quality courses (as measured by the South African Qualifications Authority), they can claim grants for them. In practice such firms that successfully apply for grants are likely to get back more than the levy they have paid, since the grant will be linked to the actual costs of training. Hopefully this will bring many more small firms into the Skills Development Strategy.

4. Sector Grants. Implementing the new skills strategy poses enormous challenges for all involved. Sadly we cannot address our skills shortage by leaving things unchanged! One of the key reasons why Sector Education and Training Authorities (SETAs) were established was to help employers, workers and community members to make these necessary changes.

The administrative costs of SETAs are limited to 10 per cent of their total levy income. However, they need to put in place new systems and develop new programmes to ensure that the most vulnerable, most strategic and indeed the most reluctant beneficiaries get involved. Examples of the kind of measures envisaged include: additional research into the needs of the sector; designing the standards and leadership qualifications that firms in a sector need and which are a precondition to claim grants for quality training as described above; supporting the development of curricula and learning materials; conducting trainer upgrading where required; initiating assessor training and registration; establishing programmes designed to support small firms (either singly or in groups) to participate in skills development; putting in place incentives to encourage larger

firms to support small firms with workplace skills planning; addressing particular skill shortages in a sector such as IT or ABET; designing and developing recognition of prior learning programmed. Some of these measures will happen only once while others will be more permanent.

The scaling down of the percentage of funds to be paid for WSPS and the corresponding increase in grants for learnerships, skills programmed and sector grants over the next four years provides SETAs with an effective 'window' within which to fast-track the development of standards and qualifications. This infrastructure must be in place if employers are to offer training that is linked to the National Qualifications Framework. Some might fear that SETAs will absorb more levy income than will go to employers and to learners for REAL training.

There are three checks to prevent this:

The board of stakeholder representatives who govern each SETA must approve all sector grants. It is incumbent upon these people to ensure that the levy income is spent in a way that is consistent with the purposes of the Act and sector priorities.

Strategic grants and projects will have to be included in Sector Skills Plans, the SETA Business Plans or, be reported to the Director-General in the Department of Labour in each SETA's Annual Report. In this way all expenditure will be subject to public accountability. If funds are mismanaged the Act provides for corrective and punitive measures to be taken.

Each SETA will be required to formally commit itself on how it will contribute to the National Skills Development Strategy (NSDS). By February 2001 the NSDS will have set clear and measurable targets on the percentage of firms of different sizes claiming Workplace Skills Plan grants and it will also set a target for the number of learners in learnerships. For example, the current draft of the NSDS

states that by the year 2004, 100 000 people under the age of 25 will have completed learnerships. Each SETA will need to indicate the number of learners they believe their sector will contribute towards this target. These will be 'hard' targets and SETAs will be required to report annually on their progress towards their achievement.

Together these measures should ensure that the purposes of the Act remain in focus.

Managing the funds

One of the greatest threats to the Skills Development Strategy is the under-utilization of the levy funds that are collected. If money, intended for training, sits unused in SETA bank accounts, then the strategy will have failed. This could happen for a range of reasons – if firms don't claim grants, if SETAs are ineffective or inefficient, if the Department of Labour or the South African Revenue Services fail in their responsibilities.

To decrease the chance of this happening, the regulations impose deadlines on firms for claiming grants and on SETAs for paying grants. The Act spells out the obligations of SARS and the Department of Labour.

The regulations state **that**:

Firms should submit the names of the Skills Development Facilitator and Workplace Skills Plan to their SETA by 1st April each year (except in 2001 when special provisions apply).

If a firm with more than 50 employees does not submit a claim by the deadline it forfeits its right to claim any further grant for that financial year. This may sound harsh, but it enables the funds to be allocated to learnerships, skills programmed and sector grants rather than remaining unused in the expectation that claims might be made. It is also consistent with the core motivation for the levy/grant

system, namely those firms that **train** should be rewarded and those that do not train should contribute towards the costs of those that do.

Firms employing less than 50 workers would still be able to claim for learnerships and skills programmed later in the financial year, but larger firms would forfeit **even** this right.

SETAs are required to pay out the Workplace Skills Plan grants to firms no later than the beginning of November.

The time period for the payment of grants was based on the following:

- i. No SETA should be expected to pay out money it has not yet received (the firm may default, may cease to operate or not pay for other reasons) and then other firms would effectively be cross-subsidizing the firm. This would not be fair.
- ii. 15% of the levy contribution constitutes just over three months levy payments if taken as a percentage of total WSP grant entitlement (55%). There is a time lag between employers paying their levies and this money being received by SETAs. Employers will continue to pay the levy on a monthly basis. The financial year begins in April and levy payments to guarantee the 15% grant will not be received by SETAs until September. The draft regulations suggest that SETAs be required to make the Workplace skills plan grant payments by no later than *31st October*. This provides time for the levy payments to be made and for the SETA to approve grants. This payment would be made on the assumption that the firm would continue to pay the levy at the same rate for the remainder of the year.
- iii. Each Workplace Skills Plan covers one year. The report on the implementation of training being undertaken can be given only once this year is over. For example, Company X submits its Workplace Skills Plan on 1

April 2001. The report on the implementation of the plan can only be made after 31 March 2002. The draft regulations propose that the report on the implementation of the skills plan be received by the SETA no later than the end of May – giving firms two months to complete and submit their reports. Again firms that do not meet this deadline will forfeit their right to this grant and funds will be allocated to other uses.

- iv. SETAs will be required to pay the grant for the implementation of the Workplace Skills Plan by no later than 31 August i.e. within four months of receiving the reports. This is calculated as follows: final payments for the financial year will be made in April for March. The money will take two months to find its way back to the SETA i.e. in June. Each SETA will need to reconcile its initial projections of an employer's levy payment against actual income received. Hence it is proposed that the second grant be paid no later than 31 August, giving SETAs July and August to complete their reconciliations.
- v. Special arrangements will be needed for 2001 as the new grant and payment arrangements are to be introduced then,
- vi. Once operational, firms and SETAs should become familiar with a system that will require inputs in April and May and grant payments by no later than August and November.

How all of this will apply to special categories:

Public Service: No specific mention has been made of public sector workers employed at national and provincial levels. They are a special category because the Skills Development Levies Act specifically excludes national and provincial government departments from paying the levy. These departments are required to budget an equivalent amount to the private sector for training, but they are not required to pay this

money to their SETA. Nevertheless it is clearly envisaged that government departments will be actively involved in the skills development strategy.

In brief, because Government Departments do not pay the levy they do not **qualify for grants**. Government departments will have to pay the **full costs of their own training**. However this does not exempt them from planning in the same way as the private sector or from reporting on the training that they have undertaken. It is expected too that Departments will contribute to the administrative costs of SETAs.

It is envisaged that most government departments will become members of their 'line' SETA. For example, the Department of Education is a member of the Education, Training and Development Practices SETA. The Department is therefore required to participate in the preparation of the Sector Skills Plan – injecting government policies and priorities into the sector planning process. It is also required to prepare and submit a Workplace Skills Plan to its SETA. But unlike other workplaces, it has not only to take into account the priorities of the sector when preparing its plan, it must also take account of transversal public sector priorities set by the Public Service Education and Training Authority (PSETA). Indeed government departments will meet on occasion with the PSETA to agree these priorities. Hence its Workplace Skills Plan must be submitted to both the PSETA and the line SETA.

This is admittedly a little clumsy, but provides for the first time the basis for an active partnership between the public and private sectors in respect of skills development.

Unemployed beneficiaries of skills development grants: unemployed people can benefit from the skills development strategy in two ways.

Individuals can enter leadership agreements and receive learning allowances whilst taking part in a leadership programme. Hopefully they will also benefit by being more employable once the programme is successfully completed. The firm that provides the workplace experience can claim a SETA grant and will be

responsible for paying the allowance to the learner. (Such allowances are only payable to people who were unemployed before the leadership started. Employees **will** continue to receive their normal wages from the employer whilst undergoing their training).

Community **members can** benefit from grants from the National Skills Fund.

National **Skills Fund (NSF)**: The National Skills Fund is a fund made up of 20% of the Skills Development levy income paid by employers. The Government and donors may also contribute **to the Fund**. Each year the National Skills Authority advises the Department of **Labour on how** the money in the Fund should be allocated. These allocations are known as 'funding windows'. The bulk of the fund is used to train unemployed people **and the provincial** offices of the Department of Labour distribute the money. Stakeholders, drawn from other government departments, community groups, employer **organisations and trade unions, participate in a Provincial Skills Development Forum established to assist the Department in this task. Together** they determine the priorities to be addressed in the province through a planning exercise that results in the Provincial Skills **Plan. Essentially funds** are used to train unemployed people to acquire skills that are likely **to assist** them **to** become more economically independent either by getting formal **sector jobs or by** becoming self-employed. As there are too few jobs at present, training **in the** context of social development projects funded by different government departments **is** seen as a viable alternative.

The National Skills **Fund will also be used to augment the funds** of SETAs for the design and development of **new learnerships** and skills programmed. It will also be used to support new investment by employers through a **programme** being run in partnership with the Department of **Trade and Industry. It will also assist strategic and vulnerable sectors and groups.**

Conclusion

This document has attempted to explain why the draft funding regulations for the financial year commencing April 2001 and beyond have been framed **as** they are. The new incentives have been designed to ensure that there are **more** grants for those who train and a rising return on this investment for the nation as a whole.

We look forward to receiving your comments on these recommendations and hope that together we can work to achieve the purposes of the Skills Development Strategy.

Department of Labour

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