
GOVERNMENT NOTICE

DEPARTMENT OF LABOUR

No. R. 330

3 April 2001

**SKILLS DEVELOPMENT ACT 1998 (NO 97 OF 1998)
REGULATIONS CONCERNING
THE REGISTRATION OF INTENDED LEARNERSHIPS AND
LEARNERSHIP AGREEMENTS**

The Minister of Labour, after consultation with the National Skills Authority, has made the regulations in the Schedule in terms of Section 36, read with sections 16(d) and 17 (3) and (6) of the Skills Development Act, 1998 (Act No. 97 of 1998).

**M M S MDLADLANA
MINISTER OF LABOUR**

SCHEDULE

CONTENTS LIST

1. Definitions
2. Registering Intended Learnership
3. Registering Learnership Agreement
4. Altering terms of Learnership Agreement
5. Substituting party to Learnership Agreement
6. Terminating Learnership Agreement
7. Making of decisions by SETA
8. Keeping of records
9. Referring of dispute
10. Short title

Annexure A: Learnership Registration Form

Annexure B: Learnership Agreement

Definitions

1. In this Schedule any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned, unless the context indicates otherwise -

- (a) "**submit**" means to deliver by hand or registered post or to transmit a communication by electronic mechanism as a result of which the recipient is capable of printing the communication
- (b) "**the Act**" means the Skills Development Act, 1998 (Act No 97 of 1998).

Registering intended learnership

2.(1) A SETA applying to register an intended learnership, in terms of Section 16 of the Act, must complete the registration form set out in Annexure A.

(2) The completed registration form referred to in sub-regulation (1) must be submitted to the Director-General at one of the following addresses -

- (a) when posted, be addressed to:
The Director-General: Department of Labour
Private Bag X117
Pretoria
0001; or
- (b) when delivered by hand, be delivered to:
The Director-General: Department of Labour
215 Schoeman Street
Pretoria

(3) Upon registration of a learnership, the Director-General must -

- i. issue a certificate of registration to the SETA; and
- ii. 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.

Registering Learnership Agreement

3.(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 minor¹, 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

¹ A minor is an unmarried person who is under 21 years of age. The High Court may declare a person who is over 18 years of age to have attained majority.

- (b) the lead training provider undertakes to ensure compliance with the training provider's 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 –
 - (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.

Altering terms of Learnership Agreement

- 4.(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.

Substituting a party to a Learnership Agreement

5. (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.

Terminating Learnership Agreement

6.(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.

Making of decisions by SETA

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

Keeping of Records

8.(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.

Referring of dispute

9. (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.

Short Title

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

Annexure A

SETA
Logo

LEARNERSHIP REGISTRATION FORM

DoL
Logo**Documents to accompany this application form:**

- A letter of registration from SAQA, if the qualification has been registered on the NQF.
- A letter of receipt from SAQA, if the qualification has been submitted for registration.
- Professional licence or registration requirements over and above the achievement of the specified learnership qualification must be provided where required.
- Employment Conditions Commission determination on wages to be paid to learners

Learnership Code: _____
(To be completed by the Department of Labour)

1. Information pertaining to the SETA

1.1 Name of SETA: _____

1.2 Name of Chamber (if applicable): _____

1.3 Name of SETA official responsible for learnerships: _____

1.4 SETA's telephone number: _____

1.5 SETA's fax number: _____

1.6 SETA's postal address: _____

1.7 SETA's e mail address: _____

2. Learnership information

2.1 Title of the Learnership Qualification:

2.2 NQF field:

2.3 NQF sub-field:

2.4 NQF level:

2.5 Number of credits to be earned:

2.6 Date of registration of the qualification on the NQF (if registered) and code and number of the qualification:

2.7 Date of application to SAQA for registration of the qualification (if not registered):

2.8 Name of ETQA responsible for quality assuring the qualification:

3. Learnership identification

3.1 How did the SETA identify the need for this learnership?

(tick the box)

- SETA sector skills plan
- Skills plans from "adjacent" SETAs
- Generally available research (specify)
- SETA commissioned research
- Workplace skills plans
- Other (specify)

3. Duties of learners, employers and registered training providers

3.1 Learner

The learner must:

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

3.2 Employer

- 3.2.1 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. 130 of 1993);
- 3.2.2 Provide the learner with appropriate training in the work environment to achieve the relevant outcomes required by the learnership;
- 3.2.3 Provide appropriate facilities to train the learner in accordance with the workplace component of learning;
- 3.2.4 Provide the learner with adequate supervision at work;
- 3.2.5 Release the learner during normal working hours to attend off-the-job education and training required by the learnership;
- 3.2.6 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;

4. Qualification and Unit Standards

	Title	Code	NQF Level	Credit value	Percentage of assessment at:	
					Workplace Provider	Training Provider
Details of Qualification						
Details of unit standards	Fundamental Learning					
	Core Learning					
	Elective learning					

5. Credits

	Total credits to be earned through:	Show credits as a % of the total credits of the qualification
Workplace assessment		%
Structured learning		%

Specify the nature and duration of work experience required for each credit that is to be assessed at the workplace

Nature (Tasks/Functions)	Time (in notional hours)

6. Grant to the employer

Specify and explain the amount the SETA grants for the implementation of the learnership, per NQF level, having regard to such factors as training costs, market demand, the employment status of learners (i.e. section 18(1) or 18(2) learners) and equity targets. Specify if any other factors have been taken into account in determining the level of subsidy.

7. Grant towards learner allowances

Specify the amount the SETA allocates to subsidise the learner allowances for learners who were not employed by the employer when the agreement was concluded, as provided for in section 18(2) of the Act.

Credits earned	0 - 120	121 - 240	241 - 360	361 - 480
Learner Allowance				

SETA
Logo

LEARNERSHIP AGREEMENT

DoL
Logo

PART A: TERMS AND CONDITIONS OF AGREEMENT

1. 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.

2. Rights of learners, employers and registered training providers

2.1 Learner

The learner has the right to:

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

2.2 Employer

The employer has the right to require the learner to:

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

2.3 Training provider

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

3. Duties of learners, employers and registered training providers

3.1 Learner

The learner must:

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

3.2 Employer

- 3.2.1 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.130 of 1993);
- 3.2.2 Provide the learner with appropriate training in the work environment to achieve the relevant outcomes required by the learnership;
- 3.2.3 Provide appropriate facilities to train the learner in accordance with the workplace component of learning;
- 3.2.4 Provide the learner with adequate supervision at work;
- 3.2.5 Release the learner during normal working hours to attend off-the-job education and training required by the learnership;
- 3.2.6 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;

- 3.2.7 Conduct on-the-job assessment, or cause it to be conducted;
- 3.2.8 Keep up to date records of learning and periodically discuss progress with the learner;
- 3.2.9 If the learner was not in the employment of the employer at the time of concluding this Agreement, advise the learner of –
 - (a) the terms and conditions of his or her employment, including the learning allowance; and
 - (b) workplace policies and procedures.
- 3.2.10 Apply the same disciplinary, grievance and dispute resolution procedures to the learner as to other employees.

3.3 Training provider

The training provider must:

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

4. Termination of Agreement

This learnership agreement terminates:

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

5. 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):

- 5.1 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;
- 5.2 Chapter 4 of the Act;
- 5.3 the termination of this Agreement or the learner's contract of employment.

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.

1. Learnership details

1.1 Name of learnership:

1.2 Department of Labour registration number of learnership:

1.3 Commencement date of learnership agreement:

1.4 Termination date of learnership agreement:

2. Learner details

2.1 Full name:

2.2 Identity number:

2.3 Date of birth

2.4 Sex:

Male

Female

2.5 Race:

African

Indian

Coloured

White

Other (specify): _____

2.6 Do you have a disability, as contemplated by the Employment Equity Act 55 of 1998?¹

Yes (specify): _____

No

2.7 Home address:

2.8 Postal address (if different from above):

2.9 E-mail address:

¹ The Employment Equity Act defines a disability as a long-term or recurring physical or mental impairment which substantially limits prospects of entry into, or advancement in, employment.

2.10 What language/s do you speak at home?

2.11 Are you a South African citizen?

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

2.12 Highest level qualification:

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

2.13 What is the title of your highest qualification?

2.14 Have you previously undertaken a learnership?

Yes (specify title and code) _____ No

2.15 Were you employed by your employer before concluding this Agreement?

Yes No

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

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

3. Parent or Guardian details

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

3.1 Full name:

3.2 Identity number:

3.3 Home address:

3.4 Postal address (if different from above):

3.5 Telephone number (home and work):

3.6 E-mail address:

4. Employer details

4.1 Legal name of employer:

4.2 Trading name (if different from above):

4.3 Are you acting as Lead Employer?

Yes No

4.4 Business address:

4.5 Postal address (if different from 4.4):

4.6 Name of contact person:

4.7 Telephone No:

4.8 Fax No:

4.9 E-mail address:

4.10 Registration numbers and codes:

SIC:	SARS:	SETA:
_____	_____	_____

5. Training Provider details

5.1 Legal name of Training Provider:

5.2 Trading name (if different from above):

5.3 Are you acting as Lead Training Provider?

Yes No

5.4 Business address:

5.5 Postal address (if different from 5.4):

5.6 Name of contact person:

5.7 Telephone No:

5.8 Fax No:

5.9 E-mail address:

5.10 Registration numbers or codes:

SIC:	SARS:	SETA:	SAQA:
_____	_____	_____	_____

6. Terms and conditions of employment:

6.1 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

6.2 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:

Date: _____

Witness signature:

Date: _____

Employer or Lead Employer's signature

Date: _____

Witness signature:

Date: _____

Parent or Guardian's signature
(Only if the learner is a minor)

Date: _____

Witness signature:

Date: _____

**Training Provider or Lead Training
Provider's signature**

Date: _____

Witness signature:

Date: _____