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GOVERNMENT NOTICE

DEPARTMENT OF LABOUR

No. 959

1 July 2003

SKILLS DEVELOPMENT ACT, 1998 (Act No. 97 of 1998)**NOTICE OF AMENDMENT OF THE SKILLS DEVELOPMENT BILL, 2003**

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, after consulting with Cabinet, hereby publish for public comment, proposed amendments to the Skills Development Act, 1998 (Act No. 97 of 1998).

Interested parties are invited to submit written comments on the proposed amendments before 21 days after publication of this Notice by-

- a) Posting comments to: The Executive Officer
National Skills Authority
Mr B Maja
Department of Labour
Private Bag X117
Pretoria
0001

- b) Fax comments to: The Executive Officer
National Skills Authority
(012) 309-4237

- c) Deliver comments to: Room 372
Third Floor
Laboria House Building
215 Schoeman Street
Pretoria

- d) E-mail to: botshabelo.maja@labour.gov.za

M.M.S MDLADLANA
MINISTER OF LABOUR

SKILLS DEVELOPMENT AMENDMENT BILL, 2003

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:-

To amend the Skills Development Act, 1999; to require SETAs to conclude service level agreements with the Director-General; to amend the powers of the Minister in relation to SETAs; to clarify the obligations of SETAs in respect of financial management; to further regulate private employment service agencies; to allow the Minister to establish and promote a standard for people development; to provide for the financing of the National Skills Fund; and to provide for matters connected therewith.

Amendment to section 1 of Act 97 of 1998

1. Section 1 of the Skills Development Act, 1998 (Act 97 of 1998) (hereinafter referred to as the principal Act), is amended by-

(1) The insertion after the definition of 'Department' of the following definition –

“ **‘designated groups’** means black people, women and people with disabilities.”

(2) The substitution for the definition of 'employment services' of the following definition –

“ **‘employment services’** means the provision of the service of –

(a) advising or counselling of workers on career choices either by the provision of information or other approaches;

(b) assessment of work-seekers for -

(i) entry or re-entry into the labour market; or

(ii) education and training;

- (c) the reference of work-seekers –
 - (i) to employers to apply for vacancies; or
 - (ii) to training providers for education and training;
- (d) assistance of employers by –
 - (i) providing recruitment and placement services;
 - (ii) advising them on the availability of work-seekers with skills that match their needs;
 - (iii) advising them on the retrenchment of employees and the development of social plans; [or]
- (e) procuring for or providing to a client other persons to render services to, or perform work for the client, irrespective of by whom those persons are remunerated; or
- (f) any other prescribed employment service.”

- (3) The insertion after the definition of ‘employment services’ of the following definition –

“ ‘Gazette’ means the Government Gazette ”;

- (4) The insertion after the definition of ‘prescribed’ of the following definitions –

“ ‘private employment services agency’ means any person that provides employment services for gain; ”

“ ‘Public Finance Management Act’ means the Public Finance Management Act, 1999 (Act 1 of 1999);”

- (5) The substitution for the definition of ‘regulation’ of the following definition –

“ ‘regulation’ means a regulation made and in force in terms of [section 36] this Act;

- (6) The insertion after the definition of ‘regulation’ of the following definition –

“ **‘service level agreement’ means a service level agreement concluded in terms of section 10A;**”

Amendment to section 5 of Act 97 of 1998

2. Section 5 of the principal Act is amended by the substitution for sub-section (1) of the following sub-section –

“(1) The functions of the National Skills Authority are –

- (a) to advise the Minister on –
 - (i) a national skills development policy;
 - (ii) a national skills development strategy;
 - (iii) guidelines on the implementation of the national skills development strategy;
 - (iv) the allocation of subsidies from the National Skills Fund; and
 - (v) any regulations to be made;
- (b) to liaise with SETAs on –
 - (i) the national skills development policy; **[and]**
 - (ii) the national skills development strategy; **and**
 - (iii) sector skills plans;
- (c) to report to the Minister in the prescribed manner on the progress made in the implementation of the national skills development strategy;
- (d) to conduct investigations on any matter arising out of the application of this Act; and
- (e) to exercise any other powers and perform any other duties conferred or imposed on the Authority by this Act.”

Amendment to section 6 of Act 97 of 1998

3. Section 6 of the principal Act is amended by the insertion after subsection (2) of the following sub-section –

“(2A) In addition to the members contemplated by sub-sections (1) and (2), the Minister may appoint up to two non-voting members with expertise in skills development.”

Amendment to section 9 of Act 97 of 1998

4. Section 9 of the principal Act is amended by the insertion after subsection (3) of the following subsection -

“(4) The Minister, after consulting the National Skills Authority and the SETAs concerned and in compliance with subsection (2), may publish a notice in the Gazette varying the sector of a SETA. ”

Insertion of section 9A of Act 97 of 1998

5. The principal Act is amended by the insertion after section 9 of the following section –

“9A Amalgamation and dissolution of SETAs

- (1) The Minister, after consulting the National Skills Authority and the SETAs concerned and in compliance with section 9(2), may amalgamate two or more SETAs.
- (2) The Minister must approve a constitution for the amalgamated SETA.
- (3) The Minister must publish a notice in the Gazette determining –
 - (a) the date of the amalgamation;
 - (b) the sector for which the amalgamated SETA is established;

- (c) any other matter necessary to establish the amalgamated SETA.
- (4) On the establishment of the amalgamated SETA, all assets, rights, liabilities and obligations of the amalgamating SETAs devolve upon and vest in the amalgamated SETA.
- (5) The Minister, after consulting the National Skills Authority and the SETA concerned, may dissolve a SETA if the Minister is of the opinion that the SETA is unable to continue to perform its functions.
- (6) The Minister must publish a notice in the Gazette determining –
- (a) the date of the dissolution of the SETA;
 - (b) by whom, and the manner in which, the SETA is to be wound-up;
 - (c) to whom any assets remaining after winding-up must be distributed;
 - (d) any other matter necessary for the dissolution and winding up of the SETA.
- (7) No transfer duty, stamp duty, fee or costs are payable in respect of transfer of any assets, rights, liability or obligations between SETAs as contemplated in this section.
- (8) The Registrar of Deeds on presentation of proof of any transfer of immovable property contemplated in this section must endorse the title deeds accordingly and make the entries in the relevant register that are necessary to register the transfer. ”

Amendment to section 10 of Act 97 of 1998

6. Section 10 of the principal Act is amended by the substitution for subsection (1) of the following-

“(1) A SETA must in accordance with any requirements that may be prescribed-

-
- (a) develop a sector skills plan within the framework of the national skills development strategy;
 - (b) implement its sector skills plan by-
 - (i) establishing learnerships;
 - (ii) approving workplace skills plans;
 - (iii) allocating grants in the prescribed manner and in accordance with any prescribed standards and criteria to employers, education and training providers and workers; and
 - (iv) monitoring education and training in the sector;
 - (c) promote learnerships by-
 - (i) identifying workplaces for practical work experience;
 - (ii) supporting the development of learning materials;
 - (iii) improving the facilitation of learning; and
 - (iv) assisting in the conclusion of learnership agreements;
 - (d) register learnership agreements;
 - (e) within a week from its establishment, apply to the South African Qualifications Authority for accreditation as a body contemplated in section 5 (1) (a) (ii) (bb) and must, within 18 months from the date of that application, be so accredited;
 - (f) when required to do so as contemplated in section 7 (1) of the Skills Development Levies Act, collect the skills development levies, and must disburse the levies, allocated to it in terms of sections 8 (3) (b) and 9 (b), in its sector;
 - (g) liaise with the National Skills Authority on-
 - (i) the national skills development policy;

- (ii) the national skills development strategy; and
- (iii) its sector skills plan;
- (h) submit [report] to the Director-General [on]-
 - (i) any budgets, reports and financial statements on its income and expenditure that it is required to make in terms of the Public Finance Management Act; and
 - (ii) plans and reports on the implementation of its sector skills plan and service level agreement;
- (i) liaise with the employment services of the Department and any education body established under any law regulating education in the Republic to improve information-
 - (i) about employment opportunities; and
 - (ii) between education and training providers and the labour market;
- (j) subject to section 14, appoint staff necessary for the performance of its functions; [and]
- (k) promote the national standard to promote good practice in skills development established by the Minister in terms of section 30B; and
- (l) perform any other duties imposed by this Act or the Skills Development Levies Act or consistent with the purposes of this Act.”

Insertion of section 10A in Act 97 of 1998

7. The principal Act is hereby amended by the insertion after section 10 of the following section-

“ 10A SETA to conclude service level agreement

- (1) For each financial year, every SETA must conclude with the Director-General a service level agreement concerning-
 - (a) the SETA’s performance of its functions in terms of this Act and the national skills development strategy;
 - (b) the SETA’s annual business plan; and
 - (c) any assistance that the Director-General is to provide to the SETA to enable it to perform its functions.
- (2) If the Director-General and a SETA cannot agree on the contents of a service level agreement within the prescribed period, the Minister after consulting the National Skills Authority must determine the contents of the service level agreement.
- (3) The determination by the Minister of a service level agreement is final and binding.
- (4) The Minister must make regulations concerning –
 - (a) the procedure for negotiating a service level agreement, including the time-periods in which negotiations must be conducted
 - (b) the matters which may be dealt with in a service level agreement, which may include-
 - (i) standards, criteria and targets for measuring and evaluating the SETA’s performance of its functions and duties in terms of the Act and its obligations in terms of the national skills development strategy;
 - (ii) the timetable, number, format, contents and information requirements of plans and reports to be submitted to the Director-General.”

Amendment to section 13 of Act 97 of 1998

8. Section 13 is amended by the insertion of the following subsection –

“(4) In order to ensure that its membership is representative, every SETA must -

- (a) provide in its constitution that each constituency contemplated by section 11 represented on the SETA is represented by members who are sufficiently representative of designated groups as contemplated by the Employment Equity Act, 1998 (Act No. 55 of 1998);
- (b) take the necessary steps to require each constituency represented on the SETA to comply with the provision in the SETA’s constitution contemplated in sub-paragraph (a).”

Amendment to section 14 of Act 97 of 1998

9. Section 14 of the principal Act is amended by –

(1) the substitution for subsection (3) of the following subsection:-

“(3) The moneys received by a SETA may be used only in the prescribed manner and in accordance with any prescribed standards or criteria to-

- (a) fund the performance of its functions; and
- (b) pay for its administration within the prescribed limit.”

(2) the insertion after subsection (3) of the following subsections-

“(3A) In terms of subsection 3(b), the Minister–

- (a) must prescribe limits for the total expenditure that a SETA may make on its administration; and
- (b) may prescribe –
 - (i) limits on the amount a SETA may spend on any aspect of its administration;
 - (ii) salary bands, within which categories of employees must be remunerated;
 - (iii) the conditions under which employees may receive performance-related payments and the maximum payments that may be made on this ground;
 - (iv) the allowances that may be paid to members and office-bearers of SETAs or any other persons who serves on a committee or other structure of a SETA.

(3B) For the purposes of subsections (3) and (3A), the administration of a SETA includes any aspect of the administration or management of a SETA, irrespective of who performs it. ”

(3) Subsections (4) and (5) are substituted by the following subsections -

“(4) A SETA must be managed in accordance with the Public Finance Management Act.

(5) Every SETA must-

- (a) prepare annual budgets, annual reports and financial statements in accordance with Chapter 6 of the Public Finance Management Act;
- (b) supply to the Director-General copies of all budgets, reports and statements contemplated by paragraph (a) and any other information that they are required to submit in terms of the Public Finance Management Act. ”

Insertion of section 14A in Act 97 of 1998

10. The principal Act is amended by the insertion of the following section after section 14 -

“14A Minister’s power to instruct SETAs

- (1) The Minister may issue a written instruction to a SETA if the Minister is of the opinion that –
- (a) a SETA is not performing its functions or complying with its service level agreement;
 - (b) a SETA is not managing its finances in accordance with this Act;
 - (c) the SETA’s membership is not representative of the constituencies contemplated by section 11; or
 - (d) the SETA has not prepared and implemented an employment equity plan in accordance with the Employment Equity Act, 1998 (Act 55 of 1998).
- (2) An instruction issued in terms of this section must set out –
- (a) the acts or omissions contemplated by sub-section (1);
 - (b) any provision of the Act that the SETA has not complied with;
 - (c) the steps that the SETA is required to take and the period within which those steps must be taken.
- (3) At the request of a SETA, the Minister may –
- (a) extend the period for complying with an instruction;
 - (b) revise the terms of the instruction.

- (4) If the Minister is of the opinion that a SETA has not complied with an instruction in terms of this section within the specified period, the Minister may –
- (a) direct the Director-General to withhold all or part of the allocation to the SETA in terms of section 8(3)(b) of the Skills Development Levies Act for such period and on such conditions as the Director-General may determine;
 - (b) invoke the provisions of section 15 without further notice to the SETA;
 - (c) order an investigation into the management and administration of the SETA;
 - (d) take any other steps necessary to ensure that the SETA performs its functions or manages its finances in accordance with the Act.
- (5) “If the Minister is of the opinion that a SETA has unreasonably failed to institute disciplinary proceedings for misconduct against any employee of the SETA, the Minister may direct the SETA to institute disciplinary proceedings against an employee.”

Amendment to section 15 of Act 97 of 1998

11. Section 15 of the principal act is amended by-

- (1) the substitution for subsections (1) and (2) of the following subsections-

“(1) The Minister may, after consultation with the National Skills Authority and the SETA concerned, [by notice in the Gazette,] direct the Director-General to appoint an administrator to take over the administration of a SETA or perform the functions of a SETA if the Minister is of the opinion that-

- (a) the SETA fails to perform its functions;

- (b) there is mismanagement of its finances; ~~[or]~~
- (c) its membership no longer substantially represents the composition contemplated in section 11;
- (d) the SETA has failed to comply with its service level agreement; or
- (e) the SETA has failed to comply with an instruction by the Minister in terms of section 14B.

(2) **[In that notice the Minister]** The Director-General must publish a notice in the Gazette appointing an administrator. The notice -

- (a) must determine the powers and duties of the administrator appointed in terms of subsection (1), which may include performing the SETA's obligations in terms of the Public Finance Management Act;
- (b) may suspend or replace one or more members of the SETA for a reason contemplated in subsection (1)(a) to (e) [(b) or (c)];
- (c) may suspend the operation of the constitution of the SETA; and
- (d) may direct the [in the prescribed manner,] transfer of all or some of the funds in the SETA's bank account to the National Skills Fund."

(2) The insertion after subsection (3) of the following subsection -

"(4) The Minister may issue a notice in terms of subsection (1) without consulting the National Skills Authority if the Minister is of the opinion that there is financial mismanagement of the SETA and the delay caused by the consultation would be detrimental to the SETA's capacity to perform its functions."

Amendment to section 17 of Act 97 of 1998

12. Section 17 is amended by the insertion after subsection (6) of the following subsection –

“(7) The Minister may make regulations –

- (a) permitting an employer to contract an agency to perform the employer’s obligations and exercise the employer’s rights in respect of a learnership agreement or, in respect of a learner contemplated by section 18(2), a contract of employment;
- (b) prescribing the relationship between the employer and the agency contemplated in paragraph (a).”

Amendment to section 19 of Act 97 of 1998

13. Section 19 of the principal Act is amended by the substitution for the section by –

(1) the substitution for subsection (1) of the following subsection -

“(1) For the purposes of this section a ‘dispute’ means a dispute about -

- (a) the interpretation or application of any provision of –
 - (i) a learnership agreement;
 - (ii) a contract of employment of a learner contemplated by section 18(2); or
 - (iii) a determination made in terms of section 18(3);
- (b) this Chapter; or
- (c) the termination of
 - (i) a learnership agreement; or

- (ii) a contract of employment of a learner contemplated by section 18(2).”

(2) by the insertion of the following subsection –

“ (7) For the purposes of section 210 of the Labour Relations Act, 1995 (Act 66 of 1995), this section amends any contrary provision in that Act.”

Amendment to section 20 of Act 97 of 1998

14. Section 20 of the principal Act is amended by the substitution for subsection (1) of the following subsection –

“(1) For the purposes of this Chapter, a ‘skills programme’ means a skills programme that –

- (a) is occupationally based;
- (b) when completed, will constitute a credit towards a qualification registered in terms of the National Qualifications Framework as defined in section 1 of the South African Qualifications Authority Act;
- (c) uses training providers referred to in section 17 (1) (c); **[or]** and
- (a) complies with any [the prescribed] requirements that may be prescribed.”

Amendment to title of Chapter 6

15. The title to Chapter 6 of the principal Act is amended by substituting the following title –

“INSTITUTIONS IN DEPARTMENT OF LABOUR AND REGULATION OF PRIVATE EMPLOYMENT SERVICES AGENCIES.”

Amendment to section 24 of Act 97 of 1998

16. Section 24 of the Act is hereby amended by -

(1) the substitution for subsection (1) of the following subsection -

“(1) Any person who wishes to provide employment services for gain must apply for registration as a private employment services agency to the Director-General in the prescribed manner.”

(2) the substitution for sub-section (4) of the following sub-section:

(4) “A registered private employment services agency must comply with the prescribed criteria.”

(3) by the insertion after subsection (4) of the following subsection -

“(5) The Director-General may withdraw the registration of any private employment services agency that fails to comply with the Act or any prescribed requirements or criteria.”

Amendment to section 25 of Act 97 of 1991

17. Section 25 is amended by the substitution of the following section -

“Cancellation of registration of private employment services agency

(1) Subject to this section, the Director-General may cancel the registration of [an] a private employment services agency if satisfied that the

employment services agency is not complying with the prescribed criteria.

- (2) If the Director-General has reason to believe that **[an] a private employment services agency** is not complying with the prescribed criteria and accordingly that its registration should be cancelled, the Director-General must, before cancelling its registration –
 - (a) notify the **[service] agency** of the intention to cancel registration and the reasons for doing so;
 - (b) give the **[service] agency** 30 days from the date of the notice to make representations on why its registration should not be cancelled; and
 - (c) take those representations into account in reaching a decision.
- (3) If the Director-General cancels the registration of **[an] a private employment services agency**, the Director-General must give written notice of that decision to the **private employment services agency**. ”

Amendment to section 28 of Act 97 of 1998

18. Section 28 of the principal Act is amended by the insertion of the following subsection -

“ (2) A maximum of two percent of the money allocated to the Fund in terms of section 8(3)(a) of the Skills Development Levies Act may be used to administer the Fund. ”

Amendment to section 30A of Act 97 of 1998

19. Section 30A of the principal Act is amended by the substitution of the section by the following –

“ If 80 per cent or more of the expenditure of a national or provincial public entity is defrayed directly or indirectly from funds voted by Parliament, that entity [**must budget for at least**] -

- (a) [**0,5 percent of its payroll with effect from 1 April 2000**] must annually budget at least one per cent of its payroll for the training and education of its employees;
- (b) [**one percent of its payroll with effect from 1 April 2000**] may contribute funds to a SETA. ”

Insertion of section 30B in Act 97 of 1998

20. The following section is inserted after the heading for Chapter 8 –

“ 30B National Standard to promote good practice

- (1) In order to achieve the purposes of the Act, the Minister by notice in the Gazette may establish a national standard to promote good practice in skills development.
- (2) The Minister may take such steps as are necessary to promote the national standard to promote good practice in skills development, including, but not limited to establishing an agency or contracting with an existing agency to promote the national standard to promote good practice in skills development.
- (3) The Director-General may allocate funds from the National Skills Funds to fund any activity undertaken in terms of this section. ”

Amendment to section 32 of Act 97 of 1998

21. Section 32 of the principal Act is amended by the substitution of the section by the following –

“(1) Chapter Ten, sections 90 to 93 and Schedule Two of the Basic Conditions of Employment Act apply, with changes required by the context, to –

- (a) the monitoring and enforcement of this Act; and
- (b) any legal proceedings concerning a contravention of this Act.

(2) A labour inspector appointed in terms of section 63 of the Basic Conditions of Employment Act may issue an order in the prescribed form requiring any person to cease conducting the business of a private employment services agency in contravention of the Act.”

Amendment to section 33 of Act 97 of 1998

22. Section 33 of the principal Act is amended by the substitution for the section of the following section –

“It is an offence to -

- (a) obstruct or attempt to influence improperly a person who is performing a function in terms of this Act;
- (b) obtain or attempt to obtain any prescribed document by means of fraud, false pretences or by submitting a false or forged prescribed document;
- (c) furnish false information in any prescribed document knowing that information to be false; [or]
- (d) provide employment services for gain without being registered in terms of section 24; or
- (e) conduct the business of a private employment services agency in contravention of the Act or any prescribed requirement.”

Amendment to section 36 of Act 97 of 1998

23. Section 36 of the principal Act is amended by the substitution for the section of the following section –

“The Minister may, after consultation with the National Skills Authority, by notice in the Gazette, make regulations relating to -

- (a) any matter which may or must be prescribed under this Act;
- (b) any matter listed in Schedule 3 to this Act; and
- (c) any other matter which it is necessary or expedient to prescribe in order to achieve the purposes of this Act.”

Amendment to item 4 of Schedule 2 to Act 97 of 1998

24. Schedule 2 to the principal Act is amended by –

- (a) the substitution for sub-item (5) of item 4 of the following sub-item-

“(5) Subject to sub-item (4)(b), all sections [13 to 29] of the Manpower Training Act that concern apprentices remain[s] in force as if that Act had not been repealed until a date determined by the Minister by notice in the Gazette.”

- (b) the insertion after sub-item (5) of the following sub-item -

“(5A) For the purposes of sub-item (5) -

- (a) any function of the registrar must be performed by an official of the Department of Labour designated for that purpose in writing by the Minister;
- (b) any function of a training board must be performed by the SETA contemplated in sub-item 4(a);

- (c) any function of the National Training Board must be performed by the National Skills Authority.”

Insertion of new item 4A in Schedule 2 of Act 97 of 1998

25. Schedule 2 to the principal Act is amended by the insertion of item 4A:

“(4A) Despite any provision to the contrary in either this Act or the Mine Health and Safety Act, 1996 (Act No 29 of 1996)

- (a) the Mining Qualifications Authority established in terms of section 41(3) of the Mine Health and Safety Act, 1996 is deemed to be established as SETA 16 with effect from 20 March 2000;
- (b) Schedule 7 to the Mine Health and Safety Act, 1996 containing the constitution of the Mining Qualifications Authority is deemed to contain with effect from 20 March 2000 the constitution of the Mining Qualifications Authority approved by the Minister in terms of section 9(1) of this Act;
- (c) the Chief Inspector of Mines is deemed to have been elected as the chair of the Mining Qualifications Authority with effect from 20 March 2000;
- (d) the Mining Qualifications Authority must perform all of its functions in terms of section 46 of the Mine Health and Safety Act, 1996 (Act No 29 of 1996);
- (e) the Mining Qualifications Authority must establish chambers in accordance with section 12 of this Act;

- (f) the Minister may, in consultation with the Minister of Minerals and Energy, and after consulting the Mining Qualifications Authority -
- (i) amend the constitution of the Mining Qualifications Authority;
 - (ii) allow an interested professional body or a bargaining council with jurisdiction in the mining sector to be represented on the Mining Qualifications Authority;
- (f) the Minister may, in consultation with the Minister of Minerals and Energy, exercise any other power in terms of Chapter 3 of this Act in respect of the Mining Qualifications Authority. ”

Insertion of schedule 3 in the Skills Development Act 97 of 1998

26. The principal Act is amended by the insertion of the following schedule after schedule 2 –

“SCHEDULE 3

Matters on which the Minister may make regulations in terms of section 36(b) –

- (a) procedures, periods, criteria and standards for SETAS to perform any function in terms of section 10(1);
- (b) the categories and amounts of grants that may be allocated in terms of section 10(1)(b)(iii);
- (c) the criteria or conditions that may be attached to grants allocated in terms of section 10(1)(b)(iii);
- (d) the evaluation of applications for grants in terms of section 10(1)(b)(iii);
- (e) the manner in which grants may be allocated in terms of section 10(1)(b)(iii);
- (f) the exercise by a SETA of any power contemplated by section 10(2);

- (g) the content, format and time-frame for submitting any report or plan that SETAs are required to submit in terms of this Act ;
 - (h) the services in respect of which a SETA may earn income in terms of section 14(1)(f) and the fees, including maximum fees, that may be charged in respect of those services;
 - (i) the financial systems that SETAs are required to utilise;
 - (j) the submission by employers to SETAs of workplace skills plans and report and the form and contents of those reports;
 - (k) the appointment by employers of workplace skills facilitators and the obligations of employers in respect of workplace skills facilitators;
 - (l) the functions, rights and duties of workplace skills facilitators;
 - (m) the rights of registered trade unions, or other employee representatives, to consult with their employer over developing, implementing and reporting on workplace skills plans and on other matters dealt with in this Act;
 - (n) specifying the circumstances under which an employment services agency may charge fees in respect of any services provided by employment services agencies and the maximum fees that may be charged;
 - (o) prohibiting private employment services agencies from charging work-seekers fees in respect of specified services;
 - (p) prescribing a form for registering private employment services agencies;
- the administration, operation, functioning and obligations of the National Skills Fund.”

AMENDMENTS TO THE MINE HEALTH AND SAFETY ACT, 1996**Amendment to section 45 of Act 29 of 1996**

27. Section 45 of the Mine Health and Safety Act, 1996 (Act 29 of 1996), is amended by the substitution for subsection (2) of the following subsection-

“(2) The [**Minister must appoint the**] the members of the Mining Qualifications Authority must be appointed in accordance with the constitution contemplated in section 97(4).”

Amendment to section 46 of Act 29 of 1996

28. Sections 46(1) and (2) of the Mine Health and Safety Act, 1996 (Act 29 of 1996) are amended by the substitution of the section by the following subsections-

“Mining Qualifications Authority’s functions

- (1) The Mining Qualifications Authority must –
- (a) seek registration in terms of the South African Qualifications Act, 1995 (Act 58 of 1995), as a body responsible for generating education and training standards and qualifications as contemplated in section 5(1)(a)(ii)(aa) of that Act;
 - (b) seek accreditation in terms of the South African Qualifications Act, 1995 (Act 58 of 1995), as a body responsible for monitoring and auditing achievements as contemplated in section 5(1)(a)(ii) (bb) of that Act;
 - (c) propose education and training standards and qualifications to bodies registered with that Authority and responsible for developing education and training standards;

- (d) generate education and training standards and qualifications in the mining industry; **[and]**
 - (e) monitor and audit achievement in terms of those standards and qualifications; and
 - (f) perform the functions of a sector education and training authority in terms of the Skills Development Act, 1998 (Act 97 of 1998).
- (2) The Mining Qualifications Authority **[may]** –
- (a) may appoint permanent and ad hoc committees, and subcommittees, for any period and on any conditions;
 - (b) must administer and control its financial affairs in accordance with the Skills Development Act, 1998 (Act 97 of 1998); and
 - (c) may do anything necessary to achieve its objectives.”

Amendment to section 97 of Act 29 of 1996

29. Section 97 of the Mine Health and Safety Act, 1996 (Act 29 of 1996), is amended by the substitution for subsection (1) of the following subsection-

“(1) The Minister, after consulting the Council, by notice in the Gazette, may add to, change or replace any Schedule to this Act other than Schedules 2, 3 and 7 and, subject to subsection (5), Schedule 4.”

AMENDMENTS TO THE UNEMPLOYMENT INSURANCE ACT, 2001**Amendment to section 3 of Act 63 of 2001**

30. Section 3 of the Unemployment Insurance Act, 2001 (Act 63 of 2001), is amended by the substitution for paragraph (b) of subsection (1) of the following paragraph -

“(b) **[employees who receive remuneration under a learnership agreement registered in terms] a learner who was not employed by the employer party to the learnership agreement when the agreement was concluded, as contemplated by section 18(2) of the Skills Development Act, 1998 (Act 97 of 1998), and their employers.”**
