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**G O V E R N M E N T N O T I C E S**

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**DEPARTMENT OF LABOUR**

No. R. 1151

13 November 2000

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

1, Membathise Mphumzi Shepherd Mdladlana, Minister of Labour, after consultation with the National Skills Authority (NSA) hereby publish for public comment the proposed regulations on the registration of learnerships and learnership agreements 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

**M M S MDLADLANA**  
**Minister of Labour**

## SCHEDULE

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### 1. **Definitions**

In these regulations any word or expression which has been defined in the Actor the Skills Development Levies Act, 1999 (Act No 9 of 1999) has that meaning, and unless the context indicate otherwise;

- (a) **“submit”** means to deliver by hand or registered post; and

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

2. Registering a learnership with the Director-General

- (1) A SETA intending to register an intended learnership must complete the learnership 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) if posted:  
The Director-General: Department of Labour  
Private Bag XI 17  
Pretoria  
0001; or
- (b) if delivered by hand:  
The Director-General: Department of Labour  
215 Schoeman Street  
Pretoria
- (3) In respect of every learnership that is registered, the Director-General must -
- (a) issue a SETA with a certificate of registration; and
- (b) allocate and issue a learnership code.
- (4) A SETA may apply in writing to the Director-General to amend the terms of registration of a learnership.
- (5) If the terms of registration of a learnership are amended, the Director-General must amend the certificate of registration or issue a new certificate of registration to the SETA.

**3. Registering a Learnership Agreement with a SETA**

- (1) A learnership agreement must contain the information set out in Annexure B.**
- (2) A SETA may require the parties to a learnership to submit 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 intended learnership;
  - (b) a completed learnership agreement form in duplicate has been submitted to the SETA;
  - (c) all parties to the agreement have signed the agreement and, if the learner is a minor<sup>1</sup>, 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 are party if –**

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<sup>1</sup>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.

- (a) one of the employers is identified in the agreement as the lead employer; and
  - (b) the lead employer undertakes to ensure compliance with the employer's duties in terms of the agreement.
- (5) A SETA may only register a learnership agreement **to which a group of** training providers is party if –
  - (a) one of the training providers is identified in the agreement as the lead training provider; and
  - (b) the lead training provider undertakes to ensure compliance with the training provider's duties in terms of the agreement.
- (6) A SETA must decide whether or not to register a learnership agreement within 30 working days of receiving the learnership agreement.
- (7) If a SETA does **not** register a learnership agreement, the SETA must notify the parties to the agreement in writing.
- (8) A SETA must record its name and the date of registration on each learnership agreement that it registers and forthwith send **a copy to each** of the parties to the agreement at the addresses stated in the agreement.

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

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

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

- (1) A SETA may approve the substitution of the employer or the training provider party to a learnership agreement in terms of section 17(5) of the Act if 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 an agreement that the SETA has already registered.

6. **Terminating a Learnership Agreement**

- (1) A SETA may approve the termination of a learnership agreement in terms of section 17(4)(b) of the Act if –
  - (a) the employer and learner have agreed to terminate the agreement;
  - (b) the employer or employee has applied on good cause to terminate the agreement and the other party has had an opportunity to make representations as to why the agreement should not be terminated; or
  - (c) the employee has terminated the contract of employment with the employer.
- (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 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.

7. **SETA may make rules**

A SETA may make rules not inconsistent with these regulations concerning the making or consideration of any application in respect of a matter dealt with in these regulations.

8. **Making of decisions by SETA**

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

9. **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.

10. **SETA record-keeping**

(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 learnerships successfully concluded, including the title and code of the learnerships;
- (c) all learnership agreements that the SETA did not register including the reasons for not registering the agreements; and
- (d) all learnership agreements terminated in terms of regulation 6, including the reasons for termination.

(2) A SETA must keep at least one set of the records referred to in sub-regulation (1) in hard copy.

**11. Referring a dispute**

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

**12. Short Title**

These regulations are to be known as the Learnership Regulations, 2000.



## 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.

**1. SETA information**

1.1 Name of SETA:

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1.2 Name of Chamber (if applicable):

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1.3 Name of SETA official responsible for learnerships:

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1.4 SETA's tel number:

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1.5 SETA's fax number:

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1.6 SETA's postal address:

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1.7 SETA's e mail address:

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**2. Learnership information**

2.1 Title and code of Learnership:

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2.2 NQF field:

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2.3 NQF sub-field:

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2.4 NQF level:

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2.5 Number of credits to be earned:

---

2.6 Date of registration on the NQF (if registered):

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

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2.8 Name of ETQA responsible for qualification:

---

2.9 What qualification will this learnership lead to?

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**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

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•If applicable.







## 6. Breakdown of operational costs

Specify the operational costs of the learnership under the following line items -

Line Item	Training Costs	Actual Costs
<b>instructor costs</b>		
Accommodation*		
Travel and subsistence*		
Training consumables		
Administration		
Insurance		
Tools*		
Protective clothing*		
Training aids	1 - - - -	
Assessment (including recognition of prior learning/experience)		
Special requirements*		
<b>TOTAL</b>		

\* If applicable.

**7. SETA Grant for minimum allowances paid in respect of learners\***

Learner Allowance	Year 1	Year 2	Year 3	Year 4
	-			

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\* Only applicable to learners not employed by the employer when the learnership agreement was concluded.



## LEARNERSHIP AGREEMENT



### PART A : TERMS AND CONDITIONS OF AGREEMENT

#### 1. Declaration of the 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 75 of 1997;
  - Labour Relations Act 66 of 1995;
  - Employment Equity Act 55 of 1998;
  - Occupational Health and Safety Act 85 of 1993 (or Mine Health and Safety Act 27 of 1996);
  - Compensation for Occupational Injuries and Diseases Act 130 of 1993;
  - Unemployment Insurance Act 30 of 1996.
- 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 this 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 under 21 years 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:

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1.2 Department of Labour registration number of learnership:

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1.3 Commencement date of learnership agreement:

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1.4 Termination date of learnership agreement:

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2. **Learner details**

2.1 Full name:

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2.2 Identity number:

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2.3 Date of birth

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2.4 Sex:

Male

Female

2.5 Race:

African

Indian

Coloured

White

Other (specify):

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2.6 **Do you have a disability, as contemplated by the Employment Equity Act 55 of 1 998?**

Yes (specify):

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No

2.7 Home address:

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2.8 Postal address (if different from above):

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2.9 E-mail address:

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<sup>1</sup> 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:

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3.4 Postal address (if different from above):

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3.5 Telephone number (home and work):

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3.6 E-mail address:

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#### 4. Employer details

4.1 Legal name of employer:

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4.2 Trading name (if different from above):

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4.3 Are you acting as Lead Employer?

Yes

No

4.4 Business address:

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4.5 Postal address (if different from 4.4):

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4.6 Name of contact person:

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4.7 Telephone No:

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4.8 Fax No:

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4.9 E-mail address:

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4.10 Registration numbers and codes:

Sic:

SARS:

SETA:

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5. Training Provider details

5.1 Legal name of Training Provider:

---

5.2 Trading name (if different from above):

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5.3 Are you acting as Lead Training Provider?

Yes

No

5.4 Business address:

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5.5 Postal address (if different from 5.4):

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5.6 Name of contact person:

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5.7 Telephone No:

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5.8 Fax No:

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5.9 E-mail address:

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5.10 Registration numbers or codes:

Sic:                      SARS:                      SETA:                      SAQA:

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**6. Terms and conditions** of employment

6.1 Are the learner's terms of employment determined by a document of general application (for example, 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 example: contract of employment, written particulars of employment.)

**Learner's signature:**

\_\_\_\_\_

Date: \_\_\_\_\_

Witness signature:

\_\_\_\_\_

Date: \_\_\_\_\_

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

\_\_\_\_\_

Date: \_\_\_\_\_

Witness signature:

\_\_\_\_\_

Date: \_\_\_\_\_

**Employer or Lead Employer's signature**

\_\_\_\_\_

Date: \_\_\_\_\_

Witness signature:

\_\_\_\_\_

Date: \_\_\_\_\_

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

\_\_\_\_\_

Date: \_\_\_\_\_

Witness signature:

\_\_\_\_\_

Date: \_\_\_\_\_