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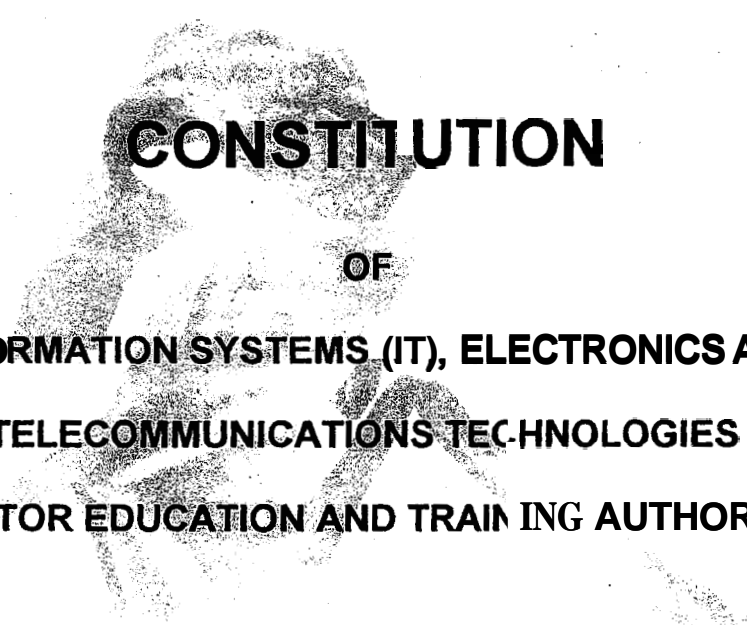
SKILLS DEVELOPMENT ACT, 1998 (ACT NO. 97 OF 1998)**APPROVAL OF CONSTITUTION OF INFORMATION SYSTEMS (IT),
ELECTRONICS AND TELECOMMUNICATION TECHNOLOGIES SECTOR
EDUCATION AND TRAINING AUTHORITY (SETA 12)**

The Minister of Labour has on 1 April 2005 in terms of section 13 (1) of the Skills Development Act, approved the constitution of the INFORMATION SYSTEMS (IT), ELECTRONICS AND TELECOMMUNICATION TECHNOLOGIES SECTOR EDUCATION AND TRAINING AUTHORITY as set out in the Schedule.

SCHEDULE

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COMMITTED TO SKILLS DEVELOPMENT IN THE ICT SECTOR



CONSTITUTION

OF

**INFORMATION SYSTEMS (IT), ELECTRONICS AND
TELECOMMUNICATIONS TECHNOLOGIES
SECTOR EDUCATION AND TRAINING AUTHORITY**

(Hereinafter referred to as "ISETT SETA")



ISETT SETA CONSTITUTION

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SETA Chief Executive Officer:	Oupa Mopaki
Signature:	
Date:	05/07/2005.
Chairperson of the Board:	MARDALE JACOB RACHIDI
Signature:	
Date:	5-7-2005
<p>NOTE: This revised Constitution (Version 8.2, 01st July 2005) was re-submitted to the Department of Labour on 05th July 2005 for Gazetting.</p>	



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CHAPTER ONE

1. The Purpose of the Constitution

1.1. The purpose of this Constitution is to:

1.1.1. Provide for the Constitution of the Information Systems (IT), Electronics and Telecommunications Technologies Authority;

1.1.2. Provide an institutional framework to implement national, sector, and workplace strategies;

1.1.3. Develop and improve the skills of employees and future employees in the Information Systems (IT), Electronics and Telecommunications Technologies sectors;

1.1.4. Advise the Minister of Labour and other appropriate persons relating to education and training in the Electronics **and** Telecommunications Technologies sector as well as the Information Systems (IT) sector and for matters connected **therewith**.



CHAPTER TWO

2 Definitions

- 2.1. "ABET" means Adult Basic Education and Training.
- 2.2. "Alternate" means any person appointed by the relevant stakeholder group as an alternate to a representative;
- 2.3. "Authority" means the Information Systems, Electronics and Telecommunications Technologies Sector Education and Training Authority established hereby (see Clause 5.1);
- 2.4. "Chairperson" means any person who chairs any meeting of the Authority or a Committee;
- 2.5. "CEO" means the Chief Executive Officer as appointed in terms of this Constitution;
- 2.6. "Committee" means any Standing Committee, ad hoc or Sub Committee of the Authority;
- 2.7. "Consensus" means unanimous agreement;
- 2.8. "Deputy Chairperson" means any person elected to the position of Deputy Chairperson in terms of this Constitution;
- 2.9. "Education and Training Standards" means registered statements of desired education and training outcomes and their associated assessment criteria as defined in Section 1 of the SAQA Act;
- 2.10. "Employees Organisation" means any organisation, trade union or federation of trade unions that are sufficiently representatives of the employees employed by an employer and registered as such under the Labour Relations Act 1995 (Act No 66 of 1995) ("the LRA");
- 2.11. "Establishing Authority" means Authority as defined in clause 2.3 herein above;
- 2.12. "ETQA" means the Education and Training Quality Assurance body established in terms of the SAQA Act;
- 2.13. "Improper use" means usage of information to advance personal interests and / or at the disadvantage of the Authority;
- 2.14. "Leamership" means a Leamership contemplated in Chapter 4 of the Act;



- 2.15. "Learning" means a process by which a person gains skills, knowledge and values;
- 2.16. "Minister" means the Minister of Labour;
- 2.17. "National qualifications framework" means the national qualifications framework as defined in Section 1 of the SAQA Act;
- 2.18. "National Skills Development Strategy" means the national skills development strategy referred to in section 5 (a) (ii) of the Act;
- 2.19. "Organised employer" means the state, any employer's organisation registered as such in terms of the provisions of the LRA and operate in the Information, System Electronics and Telecommunications Technologies Seta, and any other association of employers;
- 2.20. "Other Committee" means any other Ad hoc committees that may be formed by the Authority;
- 2.21. "Presiding Officer" means any member of the committees nominated by the other members of the Committee in the absence of the Chairperson or in the case where the Chairperson is unable to preside over the meeting.
- 2.22. "Representative" means any member of the Authority or any committee and includes any alternate designated by the stakeholder group to attend a meeting of the Authority or any committee on behalf of such stakeholder group;
- 2.23. "Republic" means the Republic of South Africa as defined by South African Constitution;
- 2.24. "SAQA Act" means the South African Qualifications Authority Act 1995 (Act No 58 of 1995);**
- 2.25. "Scrutinisers" means appointed independent observers who are not member of the Authority;
- 2.26. "Sector" means the Information Systems, Electronics and Telecommunication Technologies sector as determined by the Minister in terms of Section 9 of the Act and Government Gazette No 27445 of 31 March 2005;
- 2.27. "SETA" means the Sector Education Training Authority established in terms of section 9(1) of the Act;
- 2.28. "Skills Development Levies Act" means the Skills Development Levies Act, 1995 (Act No of 1999) (As amended);



2.29. "SSP" means research to identify skills needs and develop a strategic plan to address the needs;

2.29.1. A Sub Committee established by the Authority or Committee to perform a function, which is not assigned to any Committee.

2.29.2. Any *ad hoc* committee established for a limited term to perform any function of the Authority which is not a function of any committee; and

2.29.3. Competitive advantage;

2.29.4. For personal gain;

2.29.5. In the case of a committee, the Authority; and

2.29.6. In the case of a standing committee, *ad hoc* committee or sub committee, the Authority or any committee that establishes the sub committee, *ad hoc* committee or standing committee as the case may be;

2.29.7. In the case of the Authority, the Minister;

2.29.8. Release to third parties for unlawful or competitive purposes.

2.30. "The Act" means the Skills Development Act 1998 (Act No 97 of 1998) as amended.

2.31. "The LRA" means the Labour Relations Act 1995 (Act No 66 of 1995).

2.32. "The Republic" means the Republic of South Africa.

2.33. "The Skills Development Levies Act" – means the Skills Development Levies Act, 1999 (Act No 09 of 1999).



CHAPTER THREE

3. Organisations in the Sector

- 3.1. The trade unions, employer, organisations and relevant government departments in the sector are set out in Schedule 1.



CHAPTER FOUR

4. Name

- 4.1. The name of this Sector Education and Training Authority (SETA) shall be the Information Systems Electronics and Telecommunications Technologies Sector Education and Training Authority (ISETT SETA) (“the Authority”).



CHAPTER FIVE

5. Legal Status

5.1. The Authority is hereby established under:

5.1.1. Section 9 of the Skills Development Act 1998 (Act No 97 of 1998) as amended;

5.1.2. The South African Qualification Act, 1995 (Act No 58 of 1995); and

5.1.3. The Skills Development Levies Act, 1999 (Act No 09 of 1999).

5.2. The Authority is a body corporate with an identity and existence entirely separate and distinct from that of its office bearers or members and shall continue to exist notwithstanding changes in the composition of the membership or office bearers. As such, the Authority may sue or be sued in its own name and is capable of having its own rights, obligations and duties;

5.3. The Authority is an association not for gain and the income and property of the Authority, wheresoever it may be derived, shall be applied solely towards the promotion of its objectives as recorded herein and no portion thereof shall be paid, divided, distributed or transferred directly or indirectly in any manner whatsoever to the members of the Authority.

5.4. This notwithstanding, nothing shall prevent the payment in good faith of reasonable remuneration to any officer or servant of the Authority or to any member thereof in return for any services provided by such person to the Authority in accordance with the objectives as laid out in this **Constitution**;

5.5. The Authority may establish committees, standing committees, ad hoc committees, sub committees and functional committees for such period as it may consider necessary in order to achieve the objectives or perform the functions of the Authority as provided for herein;

5.6. Every committee may, in turn and subject to such conditions as the Authority may determine, establish ad hoc or sub committees for such periods as it may consider necessary to achieve the objectives or perform any of the functions of that committee as may be required for the Authority to achieve its objectives as recorded in the Act and this Constitution;

5.7. In the case of standing committees, the chairperson of the Authority must inform the Minister of such establishment;



5.8. When establishing any committee in terms of this Constitution, the establishing Authority must provide terms of reference, which shall include, subject to the provisions of this Constitution:

- The name of each committee established by it;
- Membership
- Functions;
- Period of establishment;
- Accountability;
- Quorum;
- Funding; and
- Which person shall act as chairperson.

5.9. The Authority may authorise any person or persons to act on behalf of it and to sign all such documents and take all such steps as may be necessary in connection with any proceedings at law brought by or against the Authority.



CHAPTER SIX

6. Place of Business

6.1. The primary place of business of the Authority shall be:

³ 6.1.1. Postal address:

**P O Box 5585
HALFWAY HOUSE
1685, Gauteng**

6.1.2. Telephone number:

(011) 805 5115 / 206 2600

6.1.3. Telefax:

(011) 805 6833

6.1.4. Physical address:

**Block 2, Level 3 West
Gallagher House, Gallagher Estate
19 Richards Drive
Midrand
Gauteng**



CHAPTER SEVEN

7. Areas of Jurisdiction

7.1. The area of jurisdiction of the Authority shall be as determined by the Minister in terms of Section 9 of the Act and Government Gazette No 27445 of 31st March 2005.



CHAPTER EIGHT

8. Objectives of the Authority

8.1. In addition to the objectives set out in the various statutes to which reference has been made in section 3, the objectives of the Authority are:

8.1.1. To develop sector skills plans, within the framework of the Skills Development Strategy.

8.1.2. To co-operate with the South African Qualifications Authority.



CHAPTER NINE

9. Functions and Duties of the Authority

9.1. The Authority must in terms of Section 10 of the Act:

9.1.1. Develop a sector skills plan within the framework of the national skills development strategy;

9.1.2. Implement its sector skills plan by -

- Establishing Learnerships;
- Approving workplace skills plans;
- Allocating grants in the prescribed manner to employers, education and training providers and workers, and
- Monitoring education and training in the sector;

9.1.3. Promote Learnerships by -

- Identifying workplaces for practical work experience;

9.2. Supporting the development of learning materials;

- Improving the facilitation of learning; and
- Assisting in the conclusion of Learnership agreements;

9.2.1. Register Learnership agreements;

9.2.2. 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;

9.2.3. If required to do so by the Skills Development Levies Act, collect and disburse the skills development levies in its sector.;

9.2.4. Liaise with the National Skills Authority on:

- The national skills development policy;
- The national skills development strategy; and
- Its sector skills plan.

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9.2.5. Report to the Director General "

- Its income and expenditure; and
- The implementation of its sector skills plan;

9.2.6. Liaise with the employment services of the Department and any education body established under any law regulating education in the Republic to improve information:

- About employment opportunities; and
- Between education and training providers and the labour market

9.2.7. Appoint staff necessary for the performance of its functions;

9.2.8. Perform any other duties imposed by this Act, or consistent with the purposes of this Act.

9.3. The Authority has:

9.3.1. All such powers as are necessary to enable it to perform its duties referred to in subsection (8.1); and the other powers conferred on the Authority by this Act.

9.4. The Authority must perform its functions in accordance with this Act and its Constitution.



CHAPTER TEN

10. Powers of the Authority

10.1. The Authority may, for the purpose of achieving its objectives and performing its duties and functions establish such committees, sub committees, ad hoc committees and other committees and, with the approval of the Minister, functional committees in addition to those referred to in this Constitution;

10.2. A committee or functional committee so established shall have the terms of reference and organisational structures determined by the Authority, however, they shall not conflict with those of the committees or functional committees provided for in this Constitution. All committees and functional committees must consist of an equal number of members representing organised employers and employees and such additional members as the Authority may determine;

10.3. The Authority may, at any time, dissolve any committee or functional committee and may amend or revoke its terms of reference and organisational structures;

10.4. A Committee or Other Committee shall have the power and the Authority and may impose functions delegated to it by the Authority, subject to such conditions as. In addition to the foregoing, and without derogating from the provisions of Section **12** and **13 (3)** (vii) of the Act, the Authority may:

10.4.1. Appoint an Chief Executive Officer and such other employees necessary for the effective running of the Authority;

10.4.2. Formulate the general policy of the Authority;

10.4.3. Approve the annual budget of the Authority;

10.4.4. Approve the business plan of the Authority;

10.4.5. Determine the terms and conditions of employment of the Chief Executive Officer and other employees of the Authority;

10.4.6. Make rules relating to meetings of the Authority, financial matters, general procurement and administrative matters which are in accordance with provisions of this Constitution, the Act or any law;

10.4.7. Report on skills development within the sector ;

10.4.8. Compile a code of conduct by which all representatives shall be bound at all times.



CHAPTER ELEVEN

11. Members of the Authority

11.1. The Authority consists of:

11.1.1. Three representatives representing “organised employers” from each of the sectors respectively, namely information systems, electronics and telecommunications technologies representing “organised employers”;

11.1.2. Three representatives are representing “organised employees” from each of the sectors respectively, namely information systems, electronics and telecommunications technologies representing “organised employees”.

11.1.3. Up to three representatives representing relevant government departments and up to three representatives representing special interest groups as contemplated in section 11(d) of the Act

11.2. In order to qualify and be eligible to be admitted as a representative of the Authority, each representative shall be required to adhere to a code of conduct as provided for hereinafter. In addition, representative shall be expected to have the appropriate knowledge, competency and qualifications in the sector, which they represent.

11.3. Eligibility of Employers

11.4. Membership to the Authority shall only be open to nominated representatives from organised employer groups representing employers, including small businesses, that have registered with the South African Revenue Services to pay their levy to the Authority, including an indication as to which sector they are aligned to.

11.5. Employers that are not eligible to pay the levy can seek representation through an organised employer body.

Eligibility of Employees-

The Authority shall receive nominations for members to represent organised employees from, where applicable, registered trade unions, relevant employee groups or organisations, based on the principle of proportional representation within the relevant sector.

In **determining** the applicable formula for proportional representation for employees, the Authority shall consider the following:



- a) The scope of operation of the employee organisation union as determined by its own Constitution.
- b) The number of companies with which the employees' organisation union has Signed Recognition Agreements.
- c) The number of paid up members of that employee organisation or labour union within the companies it has a Recognition Agreement with.

11.6. Additional Members

The Authority may admit relevant government departments and, should the Minister deem it appropriate after consultation with the other members of the Authority, any interested professional body and any bargaining council with jurisdiction in the sector as the case may be falling within the ambit of the Authority.



CHAPTER TWELVE

12. Nomination and Appointment of Members of the Authority and Committees

12.1. Members of the Authority are nominated and appointed in accordance with this item and Schedule 2, it being of paramount importance that equal representation be effected on the Authority by organised employers and employees organisations.;

12.2. The establishing Authority shall invite nominations for three organised employers and three organised employees organisations' representatives in respect of each sector provided that they have complied with the provisions of item 11 above;

12.3. Once the appropriate nominations are received from the necessary organised employers organisations or employees organisations as recorded above, the relevant establishing Authority, subject to this Constitution must appoint the representatives; and

12.3.1. Must **elect** one of the representatives as chairperson and one of the representatives as deputy chairperson of the Authority, it being recorded that the two respective offices **shall** be occupied by one organised employers representative and one employees organisations representative simultaneously.

12.4. The nomination of any employer's / employees organisations' representatives to serve on the Authority as provided for in terms of this item shall be conducted in accordance with the **rules** and regulations of that particular organisation;

12.5. Special Interest Groups

"If the Minister, after consultation with organised employers including small business, organised labour, relevant government departments, considers it appropriate **for** the sector he may allow members of:

- a) Any interested professional body;
- b) Any bargaining council with jurisdiction in the sector, to form part of the isett Seta.

12.6. Period of Existence

The Authority shall, by its certificate of establishment, continue to exist for a period of 60 months in accordance with the Regulations published under Regulation Gazette



number 20442 dated 7 September 1999 and shall, 12 months prior to the expiry of its first certificate, apply for renewal thereof in accordance with the relevant Regulations or provisions as the case may be;

12.7. Liability of Members

- 12.7.1. No member or office bearer of the Authority shall be liable for any of the obligations and liabilities of the Authority solely by virtue of his or her status as a member or office bearer;
- 12.7.2. No office bearer or member of the Authority shall in any way be personally liable for any loss or damage suffered by any person as a result of the execution, attempted execution or non-execution in good faith of the office bearer's or member's duties and powers under this Constitution while that person was performing functions for or on behalf of the Authority, and members will be indemnified by the Authority for any such loss or damage.
- 12.7.3. The Authority indemnifies office bearers, representatives and employees of the Authority against any claims that may be made against them which may arise during the course and scope of their employment or performance or their duties, provided that such claim did not arise from dishonesty, fraud, breach of trust, wilful default or wilful breach of duty.
- 12.7.4. The Minister may after consultation with the National Skills Authority, by Notice in the gazette, direct the Director-General to appoint an administrator to take over the administration of the Authority as contemplated in Section 15 of the Act.
- 12.7.5. The Authority may be abolished by an Act of Parliament.

12.8. Terms and Conditions of Office of Members of the Authority

- 12.8.1. Members of the Authority (other than the Chief Executive Officer) shall hold office for a period of two years from the date of his or her nomination until:
- His or her term ends;
 - His or her nomination is revoked by notice in writing to the Authority by the organisation that nominated him or her;
 - He or she resigns, dies or otherwise becomes incapable of discharging his or her duties; or



- He or she is removed from office by the Authority, after being afforded an opportunity to be heard as a result of:
 - Serious misconduct;
 - Any violation of the Code of Conduct referred to hereinafter or any provisions of this Constitution;
 - Being absent from three consecutive meetings of the Authority without good cause or the prior submission of an apology;
 - Any conduct that may undermine the integrity of the Authority or which may bring ~~the~~ Authority or any of its members into disrepute; or
 - Any other good reason or upon grounds sufficient in law.
- 12.8.2.** Whenever a vacancy occurs in a Ministerial nominee member position, the Authority must inform the Minister concerned of the vacancy in writing as soon as practicable. The Authority may provide the Minister concerned with a list ~~of~~ recommended suitable candidates, and in selecting Ministerial nominees, the Minister concerned will consider any candidates who have been recommended by the Authority;
- 12.8.3.** Whenever a vacancy occurs in any organised employees or organised employers representative's position, the Authority must as soon as practicable request the nomination of a replacement to fill ~~the~~ vacancy from the recognised employees' or employers' organisations, as the case may be.
- 12.8.4.** Any person appointed to ~~fill~~ a vacancy in terms of this item shall occupy such position from the time of his or her appointment until the next general meeting of the Authority when that appointment will lapse.



CHAPTER THIRTEEN

13. Annual General Meeting

13.1. The Authority shall meet for its annual general meeting at least once in each year within not more than nine months after the end of each financial year of the Authority and within not more than 15 months after the date of the last preceding annual general meeting of the Authority. The time, date and place of such a meeting shall be determined by the chairperson in consultation with the Executive Committee;

13.2. The business of the Authority, when meeting as the annual general meeting of the Authority, shall include:

13.2.1. The consideration of the annual financial statements of the Authority, the annual report of the Authority's affairs and the report of the Auditor General;

13.2.2. The discussion of any matter referred to in or arising out of the financial statements or the reports;

13.2.3. The discussion of any matter of which notice shall have been given to the Chief Executive Officer at least 15 days before the date of the annual general meeting;

13.2.4. The transaction of such other business as is required to be transacted by the Authority under this Constitution or the Act;

13.2.5. The election of the office bearers of the Authority and of the members and office bearers of the standing committees and of the office bearers of the functional committees and the selection of the members thereof;

13.3. Other Meetings

13.3.1. In addition to the annual general meeting, the Authority shall meet at least once more in each financial year;

13.3.2. Other meetings of the Authority:

- May be held at a time, date and venue and for the transaction of such business as may be determined by the Authority itself;
- May be convened by the chairperson at a time, date and venue and for the transaction of such business as may be determined by the chairperson when, in the chairperson's opinion and after consultation with the Executive Committee, circumstances justify such a step.



13.4. Requisitioned Meetings

13.4.1. The chairperson shall, on the requisition of not less than one-third of the members of the Authority, within **14** days of the lodging of the requisition issue a notice to members of the Authority convening a meeting of the Authority for a date not less than **21** and not more than 35 days from the date of the notice:

- The requisition shall state the objects of the meeting, which shall be to transact some business, which by this Constitution is required or permitted to be transacted by the Authority.
- The requisition shall be signed by the requisitionists and lodged at the registered office of the Authority referred to in Chapter 4.
- It may consist of several documents in like form, each signed by one or more requisitionists;
- If the chairperson does not, within 14 days from the date of the lodging of the requisition, issue a notice as required, the requisitionists may, themselves, on 21 days' notice convene a meeting, stating the objects thereof, but no meeting so convened shall be held after the expiration of three months from the date upon which the requisition was lodged;
- Any meeting convened by the requisitionists as set out above shall be convened in the same manner as nearly as possible as that in which meetings of the Authority are to be convened by the chairperson;
- Any reasonable expenses incurred by the requisitionists by reason of the failure of the chairperson to convene a meeting shall be repaid to the requisitionists by the Authority.

13.5. Procedure of Meetings

13.5.1. The Authority shall regulate its meetings, as it deems fit. The quorum necessary for the transaction of business shall be 50% (fifty percent) plus one, of its members from time to time;

13.5.2. The Authority may act despite vacancies in its membership so long as a quorum is present;

13.5.3. Acts or decisions of the Authority **will** not be invalid only because of a defect or irregularity in the appointment of a member or the election of the chairperson or to the office holder or in choosing a member to chair a meeting;



- 13.5.4.** If within half an hour after the time appointed for the meeting a quorum is not present, the meeting, if convened upon a requisition of members, shall be dissolved. In such an instance, the meeting shall stand adjourned to a day not earlier than 7 days and not later than **21** days after the date of the meeting at the same time and place. If no quorum were then present within half an hour after the time appointed for the meeting, the members present shall then form a quorum.
- 13.5.5.** The chairperson of the Authority or such person as shall be acting in the place of the chairperson in terms hereof shall preside at all meetings of the Authority;
- 13.5.6.** The person presiding at any meeting of the Authority shall ensure that:
- Minutes of such meetings are kept and distributed to members of the Authority.
 - Minutes of the previous meeting are signed by the Chairperson.
 - Decisions and / or resolutions are properly captured in the minutes.

13.6. Voting

13.6.1. At all meetings of the Authority:

- Each member of the Authority shall have one vote;
- Proxy votes will not be allowed;
- All questions shall be determined by a majority of votes. In the case of an equality of votes, whether on a show of hands *or* on a poll, the Presiding Officer of the meeting shall have a second or casting vote;
- All questions shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by the Presiding Officer of the meeting or by three members personally present.
- The demand for a poll may be withdrawn if:
 - The Presiding Office withdraws the demand;
 - One of the three members personally present withdraws the demand.



- Unless a poll is so demanded, a declaration by the Presiding Officer at the meeting that a resolution has, on a show of hands, been carried or carried by a particular majority, or lost or not carried by a particular majority, and an entry to that effect in the book containing the minutes of the proceedings of the Authority shall be conclusive evidence of the fact, without proof of the number or proportion of the vote recorded in favour or against any such resolution;
- If a poll is duly demanded, it shall be taken in such manner and either at once or after an interval or adjournment as the Presiding Officer at the meeting directs. The result of such poll shall be deemed to be the resolution of the Authority. **Scrutinisers** shall be elected to determine the result of the poll.

13.7. Notice of Meetings of the Authority

- 13.7.1. The annual general meeting of the Authority shall be called by not less than 21 days ~~notice~~ notice in writing. Any other general meeting or meeting of the Authority shall be called by not less than 14 days notice in writing. Notice of a general meeting, other than the annual general meeting, may be dispensed with if each of the members of the Authority so agrees;
- 13.7.2. The notice shall be exclusive of the day on which it is served or deemed to have been served and of the day for which it is given. It shall specify the place, the day, the hour and the business of the meeting and shall be given in the manner provided for in this Constitution to each member of the Authority;
- 13.7.3. A meeting of the Authority shall, notwithstanding the fact that it is called by shorter notice than that specified in this article, be deemed to have been duly called if it is so agreed by 90% of the members of the Authority;
- 13.7.4. Any notice required or permitted to be given to any member of the Authority under this Constitution shall be given in the manner and in accordance with the provisions of this clause;
- 13.7.5. A notice may be given by the Authority to any member either personally, by telefax ~~or~~ electronic mail or by sending it by post in a registered letter addressed to such member at the telefax, electronic mail or delivery address, as the case may be, supplied by him or her to the Authority at the time when



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he or she became a member of the Authority or at such other address within the Republic of South Africa as he or she may have notified the Authority in writing from time to time;

- 13.7.6. Any notice by post shall be deemed to have been served on the fifth day after the day when the letter containing it was posted.
- 13.7.7. Notice sent by telefax or by electronic mail shall be deemed to have been received on the next business day after transmission. In proving the giving of the notice by post, it **shall** be sufficient to prove that the letter containing the notice was properly addressed, registered and posted. In the case of telefax or electronic mail, it shall be sufficient to prove that the notice was transmitted to the correct address.



CHAPTER FOURTEEN

14. Office Bearers of the Authority

14.1. Office Bearers

14.1.1. The office bearers of the Authority shall be:

- The Chairperson; and
- The Deputy Chairperson.

14.2. Election

14.2.1. The Authority from amongst its members representing employers and employees shall elect each of the office bearers of the Authority. The chairperson and deputy chairperson shall not be elected from the same group;

14.2.2. The election of the office bearers of the Authority shall take place at the annual general meeting of the Authority or at another meeting of the Authority properly constituted as required for the annual general meeting of the Authority and the persons so elected shall hold office for the period of two years, from the time of their election until the election of their successors.

14.3. Absence of Vacant Office

14.3.1. In the absence of the chairperson or should the office of chairperson be vacant, the deputy chairperson shall act as chairperson. If the chairperson and the deputy chairperson are absent, or if each of these offices is vacant, the Executive Committee shall appoint an acting chairperson and an acting deputy chairperson from amongst the members of the Authority representing employers and employees;

14.3.2. Such acting office bearers shall hold office during the absence of the officer in whose place they stand, or until the next annual general meeting of the Authority, as the case may be. During this period, the acting office bearers shall have all the powers, rights, duties and privileges that this Constitution confers upon the officer in whose place they stand.



CHAPTER FIFTEEN

15. Standing Committees

15.1. General

15.1.1. The Standing committees of the Authority shall be:

- The Executive Committee;
- The Audit Committee;
- The Provincial Committees.

Each standing committee shall have the duties and functions and composition provided for in the Constitution as well as the duty to seek and consider the advice of the other standing committees.

15.2. Meetings and Procedure

15.2.1. Each committee shall meet as often as necessary for the proper conduct of its affairs but at least once in every three months and shall regulate its meetings as it deems fit;

15.2.2. Meetings of the committees may be convened by its chairperson, either of his or her own accord (after consultation with the Chief Executive Officer) or whenever required to do so by at least one-third of the remaining members of the committee. In the absence of the chairperson, the Chief Executive Officer may exercise the powers of the chairperson under this clause to convene a meeting of a committee;

15.2.3. The quorum necessary for the transaction of business shall be 50% (fifty percent) plus one, members.

15.2.4. At meetings of each committee, each member present shall have one vote and all questions shall be decided by a majority of votes. In the case of an equality of votes, the Presiding Officer of the meeting shall have a second or casting vote;



- 15.2.5. A resolution in writing signed by all the members of a committee and inserted in the minute book of that committee shall be as valid and effective as if it had been passed at a meeting of the committee, duly convened and held. Any such resolution may consist of several documents in the same form, each of which is signed by one or more members of the committee and shall be deemed (unless the contrary appears from the resolution) to have been passed on the date on which it was signed by the last member of the committee entitled to sign it. A resolution shall be deemed to have been signed if consent thereto has been given in a message transmitted by telegram, tele-printer or telefax and purporting to emanate from the person whose signature to such resolution is required;
- 15.2.6. Any member of the Authority who is not elected as a member of a standing committee shall be entitled to attend and speak at meetings of that committee but not to vote;
- 15.2.7. The person presiding at any meeting of a committee shall ensure that minutes of such meetings are kept.



CHAPTER SIXTEEN

16. Executive Committee

16.1. Duties and Functions

16.1.1. The Executive Committee shall be responsible for the oversight of the operational affairs of the Authority, as well as be responsible for the oversight and monitoring of the financial, budgetary, personnel and facilities affairs of the Authority. The Executive Committee shall be responsible to and shall report to the Authority;

16.1.2. To appoint and to agree the terms of service of the Chief Executive Officer of the Authority, from time to time to determine the functions, rights and duties of the Chief Executive Officer.

16.1.3. To assist the Chief Executive Officer in the performance of his or her duties;

16.2. Composition

16.2.1. The Executive Committee shall be chaired by the CEO and shall consist of:

- (a) The Chairperson of the Authority;
- (b) The Deputy Chairperson of the Authority;
- (c) Three members of the Authority representing organised employers and three representing organised labour;
- (d) The Chief Executive Officer;
- (e) The Chief Financial Officer or any other person designated as such;
- (9) Any other person appointed to the Authority in terms of this Constitution, for as long as he or she holds such office.

16.2.2. Any person who may be required from time to time to attend a meeting of the Executive Committee but who is not a member of the committee shall be entitled to speak at the invitation of the chairperson but not to vote.

16.2.3. The quorum for Executive Committee meetings shall be 50% + 1.



16.3. Terms of Office

The office bearers of the Authority shall hold office as members of the Executive Committee for as long as they **hold** the position or office to which they have been appointed. The remaining members of the Executive Committee shall hold office from the conclusion of the annual general meeting at which they were elected to the Board;

16.4. Appointment of Sub-Committees

The Executive Committee **may** appoint such **sub-committees**, as it may deem appropriate for the purposes of fulfilling the requirements and objectives entrusted to it.



CHAPTER SEVENTEEN

17. Audit Committee

17.1. Duties and Functions

The Audit Committee shall be responsible for the oversight and monitoring of the financial, budgetary, facilities, compliance and risk related affairs of the Authority. The Audit Committee shall be responsible to and shall report to the Authority;

17.2. Composition

The Audit Committee shall consist of at least five members, of whom the majority should be independent persons appointed by the Authority and at least two shall be members of the Authority.

The Audit Committee shall appoint a chairperson from the independent members of the Committee.

17.3. Any person who may be required from time to time to attend a meeting of the Audit Committee but who is not a member of the Audit committee shall be entitled to speak at the invitation of the chairperson but not to vote.

17.4. The Audit Committee shall meet at least four times in each financial year of the Authority and within. The time, date and place of such a meeting shall be determined by the chairperson in consultation with the Authority;

17.5. The quorum for Audit Committee meetings shall be 50% + 1

17.6. Terms of Office

Members so nominated shall become members for the period of two years from the time of their nomination until the next nominations.



CHAPTER EIGHTEEN

18. Provincial Committees

- 18.1. Having regard to the nature and the extent of the operations of the sector, the Authority may set up provincial committees in certain provinces, the purpose of which would be to identify, report upon and deal with the appropriate objectives of the Authority with the peculiar interests, needs and exigencies of a region or province of the Republic;
- 18.2. The scope and number of such committees shall be determined by the Authority taking into account, inter alia, the specific interaction which may be required by the various sectors and the divergent provincial needs, requirements and exigencies, the fundamental objective of such committees being to identify skills development issues and criteria in their specific regions or provinces;

18.3. Provincial Committees

The Provincial Committees shall be responsible for the following duties and functions:

- a) To identify provincial sector and sector **skills** requirements and needs;
- b) To recommend potential Learnership focuses,
- c) To identify and recommend workplaces for Learnerships,
- d) To promote and publicise the Authority,
- e) To share information
- 9 To provide an opportunity for all stakeholders and interested parties to participate and provide input into the Authority
- g) To identify and liaise with regional initiatives relevant to the work of the SETA

18.4. Composition

- 18.4.1. The composition of the Provincial Committees shall be determined in accordance with the needs and exigencies peculiar to each region or province, as the case may be and shall comprise of an equal number of employer and employee representatives together with representatives from interest groups and interested parties which may be admitted in accordance with the relevant provisions of the **Act**;



18.4.2. In addition, having regard to the unique employment opportunities and circumstances prevailing in each particular province, provision may be made for the participation in the deliberations of any such committee of any employment agencies or personnel agencies;

18.5. Meetings of the Provincial Committees

Each Provincial Committee shall meet on no fewer than four occasions in each year in order to ensure that the objectives of the Act and this Constitution are satisfactorily achieved and maintained;

18.6. Reporting Structure

All minutes, reports and recommendations adopted by the Provincial Committee shall, within 14 days of such adoption be submitted to the Authority which shall, in turn, consolidate such reports and recommendations and submit them to the appropriate functional committee.



CHAPTER NINETEEN

19. Functional Committees

19.1. In order to ensure adequate representation from within the sector, the Authority shall establish Functional Committees as is more fully described hereinafter, i.e. Learnerships, ETQA and SSP Committees.

19.2. Functional committees must report to the Chief Executive Officer.

19.3. Learnerships Committee

19.3.1. Duties and functions -

Without limiting the generality of developing, managing and monitoring the Learnerships system for the Authority, the Learnerships Committee shall:

- Develop policies, principles, criteria and guidelines related to Learnerships and including "ABET" programmes for the recommendation to and subsequent endorsement of the Authority, in accordance with Chapter 4 of the Act
- Develop and recommend plans for the implementation of Learnerships and/or ABET programmes, where appropriate;
- Receive and address such reports and recommendations from provincial committees on Learnership requirements in each sector and/or ABET programmes, where appropriate;
- Monitor and report to the Chief Executive Officer on Learnerships functions of the Authority and/or ABET programmes, where appropriate.

19.3.2. Composition

- Up to three employee representatives and up to three employer representatives in respect of the sector shall comprise the Learnership Committee, employee and employer delegates representing their respective constituencies;
- The Learnerships Committee shall elect a "Learnerships Chairperson" who shall be required to generally supervise, manage and co-ordinate the functions of the Learnerships Committee with particular emphasis being placed on its objectives in terms of this item;

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- Subject to the provisions of the Act, groups having a special interest in the activities of the Learnership Committee shall be eligible, subject to such criteria as may be established by the Learnership Committee and the Authority, for admission to this Committee.

19.3.3. Frequency of Meetings

- The Learnership Committee, in order to ensure that it fulfils its objectives and requirements adequately, satisfactorily and expeditiously, shall meet on no fewer than four occasions in each year.

19.4. ETQA Committee

19.4.1. Duties and functions –

The “ETQA” Committee shall, in essence, be responsible for, inter alia, the management strategy, on behalf of the Authority, of the quality assurance functions and obligation of the Authority. Without derogating from the generality of the foregoing, the ETQA Committee shall:

- Develop policies, **principles**, criteria and guidelines related to ETQA for recommendation to the Authority in accordance with the SAQA requirements as set out in the South African Qualification Act (Act 58 of **1995**);
- Prepare the ETQA plan for recommendation to the Authority,
- Establish and monitor the implementation of a quality management system in order to:
 - Make recommendations to the Authority on the accreditation of any one or more providers in the sector for specific standards or qualifications;
 - Promote quality amongst the various **constituent** providers;
 - Receive and collate reports and recommendations from provinces or regions on issues effecting the ETQA Committee and its objectives in terms of this Constitution and the Act;
 - Register constituent assessors of national qualifications in the sector in respect of specific standards or qualifications in terms of such criteria which may be established for this purpose;
 - Certify any one or more constituent learners;



- o Co-operate in the moderation of the assessment and of quality assurance across the sector as the case may be.
- o Monitor the development of, and requirements for, new standards, qualifications or modifications to existing standards or qualifications for the sector..
- o Ensure that the Authority maintains an appropriate database for its quality assurance and certification functions;
- o Report to the Chief Executive Officer on such matters as may be necessary.

19.4.2. Composition

- Up to three employee representatives and up to three employer representatives in respect of the sector shall comprise the ETQA Committee, employee and employer delegates representing their respective constituencies;
- The ETQA Committee shall elect a "ETQA Chairperson" who shall be required to generally supervise, manage and co-ordinate the functions of the ETQA Committee with particular emphasis being placed on its objectives in terms of this item;
- Subject to the provisions of the Act, groups having a special interest in the activities of the ETQA Committee shall be eligible, subject to such criteria as may be established by the ETQA Committee and the Authority, for admission.

19.5. Sector Skills Planning Committee

19.5.1. Duties

The fundamental responsibility of the Sector Skills Planning Committee shall be to prepare and recommend the Sector Skills Plan and monitor its implementation. Without derogating from the generality of the foregoing, the Sector Skills Planning Committee shall:



- Develop such policies, principles, criteria and guidelines relating to sector skills planning for recommendation to the Authority;
- Identify the data which may be necessary for the development of a sector skills plan and to propose a means of collecting or acquiring such data;
- Determine the enterprise, employee, occupational and skills profile of the sector with which it may be entrusted;
- Identify and analyse strategic issues which may impact on the sector with particular emphasis being paid to its objectives as recorded herein;
- Establish such skills, needs and employment growth developments in the economic sectors and regions or provinces;
- Assess education and training provisions in the sector or as the case may be, and identify any deficiencies in such provisions;
- Determine education and training priorities in the sector or with which it is entrusted;
- Receive and collate provincial recommendations, contributions or inputs with regard to skills requirements and the skills plan implementation in the provinces or regions, as the case may be;
- Develop policies, principles, guidelines and criteria related to workplace skills plans for recommendation to the Chief Executive Officer;
- Report to the Chief Executive Officer on the implementation of workplace skills plans;
- Develop sector skills plans for consideration by the Chief Executive Officer;
- Monitor and report to the Chief Executive Officer on the implementation of the sector skills plan.

19.5.2. Composition

- Up to three employee representatives and up to three employer representatives in respect of the sector shall comprise the Sector Skills Planning Committee, employee and employer delegates representing their respective constituencies;



- The Sector Skills Planning Committee shall elect a "Sector Skills Planning Chairperson" who shall be required to generally supervise, manage and co-ordinate the functions of the Sector Skills Planning Committee with particular emphasis being placed on its objectives in terms of this item;
- Subject to the provisions of the Act, groups having a special interest in the activities of the Sector Skills Planning Committee shall be eligible, subject to such criteria as may be established by the Sector Skills Planning Committee and the Authority, for admission.



CHAPTER TWENTY

20. The Chief Executive Officer

- 20.1. The Authority must appoint a person with experience and expertise as Chief Executive Officer of the Authority, for the effective performance of the functions of the Authority;
- 20.2. The Chief Executive Officer must perform such functions as may be assigned to the Chief Executive Officer by the Act or by the Authority;
- 20.3. The Chief Executive Officer must attend all meetings of the Authority;
- 20.4. If the Chief Executive Officer is absent or for any reason is unable to perform the functions entrusted to him or her, or there is a vacancy in office of the Chief Executive Officer, the chairperson of the Authority may designate an employee of the Authority to act as Chief Executive Officer until the Chief Executive Officer is able to resume his or her, functions or until an Chief Executive Officer is appointed in terms of paragraph 20.1.
- 20.5. The Chief Executive Officer may, subject to the provisions of this Constitution:
 - 20.5.1. Appoint persons as employees of the Authority to assist in the performance of his or her functions;
 - 20.5.2. Which terms and conditions of service of persons appointed under this clause will be determined by the Authority.
- 20.6. In particular, but without limiting the generality of this, the Chief Executive Officer shall have the following specific functions:
 - 20.6.1. To manage the preparation and the presentation of the annual business plan, the annual budgets, sector skills plan and the quality management plan for the approval of the Authority.
 - 20.6.2. To manage, co-ordinate and monitor the activities of the standing committees and the functional committees.
 - 20.6.3. To determine which standing committee or functional committee should deal with emergent issues or business developments.
 - 20.6.4. To seek and consider the advice of the functional and standing committees in conducting and directing the business of the Authority



- 20.7. The Chief Executive Officer is responsible as accounting officer for financial and budget management:
- 20.7.1. To recommend the appointment of an independent internal auditor and to receive and consider the auditor's report in collaboration with the Authority's Audit Committee;
 - 20.7.2. To develop and implement sound financial operations with internal financial controls and budget performance of the Authority;
 - 20.7.3. To manage the Authority's insurance portfolio;
 - 20.7.4. To facilitate the calling and letting of tenders for items of major expenditure in line with the delegations of Authority;
 - 20.7.5. To develop and implement the financial reports of the Authority.
- 20.8. The Chief Executive Officer is responsible for resources regarding:
- 20.8.1. Delivery of capital resources to facilitate achievement of the Authority's objectives.
- 20.9. The Chief Executive Officer is responsible for human resources regarding:
- 20.9.1. The implementation of policies, for the effective management of human resources.



CHAPTER TWENTY ONE

21. Delegation and Assignment of Functions

- 21.1. The Authority may delegate any of its powers or assign any of its functions by or under the Act to any committee or the Chief Executive Officer;
- 21.2. Any permanent or ad hoc committee may delegate or assign any of **its** functions to any of its sub committees;
- 21.3. The Chief Executive Officer may delegate any power or assign the performance of any function conferred or imposed upon the Chief Executive Officer to any employee of the Authority;
- 21.4. A delegation or assignment in terms of this section -
 - 21.4.1. Must be in writing;
 - 21.4.2. May be subject to such conditions and restrictions as determined by the Authority, a permanent or an ad hoc committee or the Chief Executive Officer, as the case may be; and
 - 21.4.3. **Does** not prevent the exercise of that power or
 - 21.4.4. Performances of that function by the Authority, permanent or an ad *hoc* committee or the Chief Executive Officer, as the case may be.



CHAPTER TWENTY TWO

22. Functions of the Chairperson

22.1. Every Chairperson must, with regard to the Authority or Committee, he/she chairs:

22.1.1. Allow any member to nominate from among its members to act as convenor of such a Committee for communication purposes. If no member is nominated as a convenor, the Chairperson may appoint any member of that Committee as convenor;

22.1.2. Cause meetings to be convened;

22.1.3. Ensure the orderly conduct of meetings and that all resolutions are recorded.

22.2. If the Chairperson of the Authority is unable to attend a meeting, the deputy chairperson shall chair the meeting;

22.3. If the Chairperson of a permanent Committee is unable to attend a meeting, the Chief Executive Officer may designate another employee of the Authority to chair the meeting.



CHAPTER TWENTY THREE

23. Appointment and Functions of Secretary

23.1. The Chief Executive Officer must appoint a secretary for:

23.1.1. The Authority; and

23.1.2. Any committee if the establishing Authority so requires.

23.2. If a secretary is not appointed for a sub committee, the members of that committee must keep a record of and report to the relevant establishing Authority on their activities;

23.3. The secretary must, with regard to the Authority or committee for which the secretary is appointed:

- Prepare the agenda for every meeting;
- Prepare the minutes of every meeting;
- Record every resolution of such meeting and if so requested by a member, the views of that member;
- Keep general records, records of members, minutes, documents and files of the Authority or such committee; and
- Serve every member with:
 - A convening notice and the agenda of a meeting at least five days before the meeting or two days before an urgent meeting;
 - Any reports or documentation to be considered at a meeting, a reasonable period before the meeting; and
 - The minutes of every meeting.



CHAPTER TWENTY FOUR

24. Rights and Obligations of Members

24.1. Any member who is unable to attend a meeting of the Authority or Committee:

24.1.1. May be represented by the alternate member; and

24.1.2. Must before the meeting give notice of it to the Chairperson.

24.2. An alternate designated under the above clause has the rights and obligations of the member whom that alternate represents;

24.3. Every member has the right to:

24.3.1.1. Be heard on any matter considered at the meeting;

24.3.1.2. Take part in the resolution of any matter before the meeting; and

24.3.1.3. Have their views on any matter considered at the meeting recorded in the minutes of the meeting and in any report or recommendation of the meeting.

24.4. Members of the Authority and Committees appointed by the Minister excluding full time employees of the state may claim compensation for their participation in ~~the~~ Authority or its Committees in accordance with the regulations of the Authority.



CHAPTER TWENTY FIVE

25. Dispute Resolution

- 25.1. Any member or employee of the Authority, who is a party to a dispute concerning the interpretation or application of this Constitution, may refer the dispute to the Chief Executive Officer of the Authority.
- 25.2. The Chief Executive Officer must, as soon as is possible, refer the dispute to the Executive Committee, which must endeavour to resolve the dispute by conciliation within 30 days of referral of the dispute.
- 25.3. If the Executive Committee fails to resolve the dispute within the allocated time, then any party to the dispute may refer it for mediation.
- 25.4. The mediator must be agreed to by all the parties to the dispute, and must be approved by the Chairperson of the Authority, or failing such agreement, such a mediator shall be appointed by the Chairperson of the Authority.
- 25.5. If mediation of the dispute is not possible, any party to the dispute may refer the dispute for arbitration.
- 25.6. The arbitrator must be agreed to by all the parties to the dispute, and must be approved by the Chairperson of the Authority, or failing such agreement, such an arbitrator shall be appointed by the Chairperson of the Authority.
- 25.7. Powers of the arbitrator shall be agreed upon by parties to the dispute.
- 25.8. The arbitration award is final and binding to all parties to the dispute.
- 25.9. The cost of arbitration will be borne equally by all the parties to the dispute, unless the arbitrator finds otherwise and varies the allocation of costs.



CHAPTER TWENTY SIX

26. Finances of the Authority

26.1. The Authority is financed from -

- Monies that accrued to the Authority in terms of regulations made under this act **or** in terms of any other applicable law;
- The skills development levies collected in this sector,
- Monies paid to the Authority from the National Skills Fund;
- Revenue obtained from investments of surplus monies;
- Fees obtained from services provided by the Authority;
- Donations, grants and bequests received from any person, body, government **or** administration; and
- Any other money received from any other source.

26.2. Moneys received by the Authority may be used only in the prescribed manner and to:

- Fund the performance of its functions
- Pay for its administration within the prescribed limit.

26.3. Monies referred to hereinbefore may be:

- Used as contemplated in Section 14 of the Act;
- Invested at any bank registered as such under the Banks Act 1990 (Act **No** 94 of 1990) or invested in such other manner as determined by the Authority; and
- Used to register or **utilise** any intellectual property of the Authority.

26.4. Any monies paid to the Authority in terms of donations received from any person, body, government or administration must be utilised in accordance with the conditions, if any, imposed by the donor of such monies;

26.5. The chairperson of the Authority must for each financial year submit a statement **of estimated income and expenditure during such financial year to **the** Minister, who must approve the budget **for**:**

- The first financial year before the first meeting of the Authority; and
- Every other financial year before the beginning **of** such financial year.



CHAPTER TWENTY SEVEN

27. Accounting

27.1. The Chief Executive Officer is the accounting officer of the Authority;

27.2. The accounting officer is responsible for all monies received and payments made by the Authority;

27.3. The financial year of the Authority ends on 31 March in each year;

27.4. The accounting officer must cause records to be kept in accordance with generally accepted accounting principles that are necessary to represent fairly the state of affairs and business of the Authority and to explain the transactions and financial position of the Authority;

27.5. The money received by the Authority must be managed as contemplated in Section 14 (2) and 14 (3) of the Act;

- Annual financial statements must be prepared in respect of every financial year. The statement must consist of:
 - Balance sheet dealing with the state of affairs of the Authority;
 - A return of income received and expenses incurred by the Authority; and
 - A statement of cash flow information.

27.6. The books of account, statements of account and annual financial statements of the Authority must be audited annually by the Auditor General. The Auditor General must compile a report on the audit and submit a copy of it to the Minister and the chairperson of the Authority;

27.7. The Chief Executive Officer of the Authority must supply each member of the Authority with a copy of the report to the Auditor General;

27.8. As soon as practicable after the report of the Auditor General has been submitted to the Minister, the Minister must table it in Parliament;

27.9. In order to ensure that the Authority is fully appraised, at all times, of its true financial position, it may, in accordance with this Constitution, appoint an audit committee with specific tasks as may be assigned to it to conduct an audit on the accounting records of the Authority and to report to it at such intervals as it may deem appropriate.



CHAPTER TWENTY EIGHT

28. Code of Conduct

- 28.1. A member of the Authority ~~or~~ of any committee ~~or~~ functional committee of the Authority must in the exercise of his ~~or~~ her functions:
- 28.2. Act honestly and in the utmost good faith;
- 28.3. Give effect to the spirit and obligations as incorporated in the Act;
- 28.4. Exercise reasonable care and diligence;
- 28.5. Not make Improper use of any information resources acquired as a member of the Authority ~~or~~ of any committee ~~or~~ functional committee of the Authority;
- 28.6. Avoid any conflict between their personal interests and those of the Authority;
- 28.7. Declare any conflict of interest ~~or~~ potential ~~conflict~~ of interest ~~or~~ duties;
- 28.8. Promote and advance the interests and objectives of the Authority.



29. Disclosure of Interest

- 29.1.** A member of the Authority of any committee or functional committee of the Authority who is directly or indirectly interested in any business of the Authority or the committee or the functional committee of which he or she is a member or who holds any office or possesses any property which might cause a conflict of duties or interest must declare that interest or potential conflict prior to assuming any office **or**, to the extent that any such conflict may arise subsequent to his assuming office, immediately thereafter;
- 29.2.** Such a disclosure must be made to a meeting of the Authority, Committee or functional Committee, where after **such** disclosure shall be reported to the next meeting of the Authority and be recorded in the minutes thereof.
- 29.3.** Should the extent of the conflict of interest **or** potential conflict of interest of a member is such that it may negatively influence the outcome of a decision; such a member **shall** be excused from those deliberations.



CHAPTER THIRTY

30. Confidentiality

30.1. A member or employee of the Authority or any of its Committees or functional Committees shall not, while he or she is a member or employee or thereafter, disclose to any person any information, for which non-disclosure has been declared, which he or she acquired whilst exercising or performing any function or duty under this Constitution and which therefore, is confidential to the Authority, any of its committees or functional committees to any other member or to any employer or employee in the sector, as the case may be. Any disclosure must, at all times, be communicated in terms of the Skills Development Act, any other law or an order of court.



CHAPTER THIRTY ONE

31. Terms of Office

- 31.1. Any person elected or appointed to hold any position or office under this Constitution **shall** be eligible for re-election to that position or office for a maximum of **two** consecutive terms of ~~one~~ **two**. The fact that such person has served **two** consecutive terms shall not preclude him or **her** from holding any other position or office in the Authority after ~~retiring~~ there from nor should it preclude him or her from holding that office again after the expiry of the term of office of ~~his~~ or her successor;
- 31.2. Any person who attends a meeting in more than one capacity shall be entitled, to ~~the~~ extent that ~~he or~~ she **is** entitled to vote, to one vote only.

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CHAPTER THIRTY TWO

32. Amendments to this Constitution

- 32.1. The secretary must send copies of any proposed amendments together with the agenda for the meeting to all members;
- 32.2. At least 30 days notice of a meeting at which an amendment of the Constitution is to be considered **will**, in all instances, be required;
- 32.3. The provisions of this Constitution may be amended only:
 - a) By the decision of at least **two-thirds** of the members present at a meeting of the Authority; and
 - b) If they are approved by the Minister.



CHAPTER THIRTY THREE

33. Taking Over Administration of Authority

33.1. Cognisance of the Amendment of Section 15 of Act 97 of 1998 must be taken:

Section 15 of the principal Act as amended refers:

(a) By the substitution for subsections (1) and (2) of the following subsections, respectively:

- (1) The Minister may, after consultations with the National Skills Authority (by notice in the Gazette) and the SETA in question, direct the Director-General to appoint an administrator to take over administration of a SETA or to perform the functions of a SETA if (the Minister is of the opinion that)
 - a) The SETA fails to perform its function;
 - 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 issued by the Minister in terms of section 14A.
- (2) (In that notice the Minister) The Director-General must publish a notice in the Gazette appointing an administrator and in that notice the Director General –
 - a) must determine the powers and duties of the administrator (appointed in terms of subsection (1)), which may include the performance by the administrator of the SETA's functions 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), ((b) or (c) to (e);
 - c) may suspend the operation of the Constitution of the SETA; and;
 - d) may (in the prescribed manner) direct the transfer of all or some of the funds in the SETA's bank account to the National Skills Fund"; and



- e) by the addition of the following subsection; (4) “The Minister may act in terms of subsection (1) without consulting the National Skills Authority and the SETA in question if 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.”

Organised Employers	Employees Organisations	Interest Groups	Government Departments
Association (ITA)	union (CWU)	Africa (CSSA)	(DOC)
Telecommunication Skills Development Forum (TSDF)	United Association of South Africa (UASA)	Black Information Technology Forum (BITF)	Department of Trade and Industry (DTI)
Electronics Industry Federation (EIF)	National Union of Metal workers of south Africa (NUMSA)	South African Communications Forum (SACF)	Department of Education (DOE)
			Department of Science and Technology (DST)



SCHEDULE 2

Manner of Nomination and Appointment of Members of the Authority

All Stakeholders have the right to 6 nominated members onto the Authority in as far as they believe such person(s) will meet the demands of skills development required by the Skills Development Act, the Skills Development Levies Act and the National Skills Development Strategy.

Organised Businesses are entitled to three (3) seats per sector (Information Technology, Electronics and Telecommunications) on the Authority. A maximum of two (2) alternating members may be added to these nominations.

All nominees of this group have a right to vote.

Organised Labour is entitled to three (3) seats per sector (Information Technology, Electronics and Telecommunications) A maximum of two (2) alternating members may be added to these nominations.

All nominees of this group have a right to vote.

Government Departments

Each of the designated government departments has one seat on the Authority's Board. Government Departments do not have a right to vote (according to the Act). Each nominee may have one (1) alternating nomination.

Special Interest Groups

Each Special Interest Group has one (1) seat each on the Authority. They enjoy voting rights. Each group may send one additional nominee as an alternating member.

Provincial Committees

In all the qualifying nominations, the principle of proportional representation applies. This shall take into account the Provincial composition

Distribution of members by organised employers or organised labour as the case may be, on appropriate dispute resolution mechanisms will be facilitated by an independent mediator. Failing to resolve the dispute the matter may be resolved through arbitration and or later through legal course.

Employees' organisations representation is determined by consensus based on proportionality based on Chapter 11.4

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COMMITTED TO SKILLS DEVELOPMENT IN THE ICT SECTOR

AMENDMENT HISTORY TABLE

AMENDMENT HISTORY			
Policy Number	Version Number	Description	Revision Date
ISETT SETA Constitution 20 th January, 2000	3.1	Original document	20 th January, 2000
ISETT SETA Constitution	4.0	First revision	May 2003
CON ISETT SETA Constitution	5.0	<p>Second revision incorporating DoL recommendations (REF: 12/P/26/MT)</p> <ul style="list-style-type: none"> a) Various formatting and numbering corrections; b) Additional Definitions: c) "National Skills Development Strategy" d) "SETA" e) "Employees Organisation" f) "Organised Employer" g) "Sector" h) Paragraph 7 added "and Government Gazette No 21012 of 20 March 2000 as amended." i) Paragraph 8 amended to "To develop sector skills plans, within the framework of the Skills Development Strategy" instead of "To develop sector skills plans, which take cognisance of the employment equity act". j) Paragraph 11 and 12 amended to include "Employee Organisation" and "Organised Employer" throughout. k) Paragraph 12.5 changed from "Provided that the provisions of Section 11 (d) of the Act are complied with, such groups referred to in that section may be admitted as the Authority and the Minister may lay down members subject to such criteria as from time to time." to "If the Minister, after consultation with organised employers including small business, organised labour, relevant government departments, considers it appropriate for the sector he may allow members of: <ul style="list-style-type: none"> (i) Any interested professional body; (ii) Any bargaining council with jurisdiction in the sector; to form part of the Isett Seta. a) Paragraph 19.1 include names of functional committees; b) Where necessary "ISETT SETA" replaced by "Authority". c) Inserted Paragraph 34 – Indemnity; d) Inserted Paragraph 35 – Taking over Administration of Authority; 	12 th October 2004

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COMMITTED TO SKILLS DEVELOPMENT IN THE ICT SECTOR

AMENDMENT HISTORY			
Policy Number	Version Number	Description	Revision Date
CON ISETT SETA Constitution	6.0	Formatting changes: Index and Approval Page added	22 nd November 2004
CON ISETT SETA Constitution	7.0	<p>a) Change "Executive Officer" to "Chief Executive Officer" throughout the document;</p> <p>b) Paragraph 14.2.2 inserted "or at another meeting of the Authority properly constituted as required for the annual general meeting of the Authority";</p> <p>c) Paragraph 17.2 Inserted "The Audit Committee shall consist of at least five members, of whom at least three should be independent persons appointed by the Board and at least two should be Board members."; and "The Audit Committee shall appoint a chairperson from the independent members of the Committee." This change was done to ensure the Audit Committee Charter and Constitution are aligned.</p> <p>d) Paragraph 26.3 replaced "may be determined by the Minister" with "determined by the Authority" to ensure it does not contradict the Investment Policy.</p> <p>e) Amendments to Schedule 1 as required by Annual Review.</p> <p>9 Various formatting and numbering corrections.</p>	25 th November 2004
CON ISETT SETA Constitution	8.0	<p>DoL Suggestions were acted on:</p> <p>Chapter Three Name Added "Sector" between the words Technologies and Education.</p> <p>The word "Authority" was changed whenever the word Authority is used in this Constitution to begin with a capital letter.</p> <p>Chapter Four Legal Status Clause 4.1.1. Added; 1998 (Act No 97 of 1998) (As amended) Clause 4.1.2. Revised to read; The South African Qualification Act, 1995 (Act No 58 of 1995) Clause 4.1.3 Revised to read; The Skills Development Levies Act (Act No 09 of 1999) Clause 4.5: The words Ad hoc changed to Italics throughout the constitution.</p> <p>Chapter 6 Definitions This chapter was moved to appear as Chapter 2. This necessitated a change in numbering. The reference to clause 5.1 was added to clause 2.3:</p>	9 th April 2005 and 9 th June 2005



AMENDMENT HISTORY

Policy Number	Version Number	Description	Revision Date
		<p>"Authority" - means the Information Systems, Electronics and Telecommunications Technologies Sector Education and Training Authority established hereby (see Clause 5.1);</p> <p>The C in Constitution was changed to a capital letter throughout the document.</p> <p>The clauses were sorted in alphabetical order for easy reference.</p> <p>Clause 2.23 was changed to refer to the documents that list the ISETT SETA's scope of coverage.</p> <p>Abbreviations were used when referring to definitions of words defined, like the Labour relations Act as "LRA".</p> <p>The formatting of the various Acts quoted was improved on.</p> <p>Definitions were added e.g. - the Skills Development Levies Act -</p> <p>Means the Skills Development Levies Act, 1995 (Act No 9 of 1999)</p> <p>Chapter 7 Areas of Jurisdiction</p> <p>References to the Minister of Labour were changed to the use of only the word "Minister".</p> <p>Chapter 13 Annual General Meeting</p> <p>Clauses 13.5.4 & 13.7.1: For consistency purposes the numbers (7 days or 21 days) were used instead of words.</p> <p>Clause 13.7.3: For consistency purposes the (90%) number was used instead of words.</p> <p>13.7.5 & 13.7.7 The word pre-paid was changed to 'registered'.</p> <p>Chapter 16 Executive Committee</p> <p>16.2.1. CEO has been defined in Chapter 2</p> <p>16.2.2. Added 'but who is not a member of the committee' between the words 'committee and shall.'</p> <p>16.2.2 & 16.2.3. A space was created between these two.</p> <p>Chapter 17 Audit Committee</p> <p>Clause 17.3.: Added 'but who is not a member of the Audit committee' between the words 'Committee and shall.'</p> <p>Chapter 18 Provincial Committees</p>	



AMENDMENT HISTORY			
Policy Number	Version Number	Description	Revision Date
		<p>18.1 Republic has been defined in Chapter 2.</p> <p>18.4 Both paragraphs were numbered as 18.4.1 and 18.4.2 respectively.</p> <p>Chapter 19 Functional Committees Clause 19.3.1.: "Skills Development" was removed from the first bullet. Clause 19.3.4 changed to 19.4. Clause 19.3.6 changed to 19.5</p> <p>Chapter 20 The Executive Officer Clause 20.4. . Reference to Clause 20.1 has been added. Clauses 20.7, 20.8 20.9 were linked directly to the CEO. Clause 20.9 was re-formatted.</p> <p>Chapter 26 Finances of the Authority Clause 26.1: Added ' of surplus monies.' after investments on the fourth bullet. Added ' grants and bequests' after donations on the sixth bullet. Clause 26.3 : Added 'No' on the second bullet. Clauses 26.4 & 26.5: A space was created between these two clauses. Clause 28 (d) : Added 'resources' after information.</p> <p>Chapter 30 Confidentiality The Levies Act has been defined in Chapter 2.</p> <p>Chapter 33 Dissolution or Winding up This chapter has been moved to be the last Chapter</p> <p>Chapter 34 Indemnity This chapter was incorporated with Chapter 12: "Liability of Members" and thus deleted as Chapter 34.</p>	
CON ISETT SETA Constitution	8.1	<p>Chapter 17 Terms of Office have been clarified.</p>	1 st July 2005