

No. R. 105

3 February 2006

SKILLS DEVELOPMENT ACT, 1998 (ACT NO. 97 OF 1998)**APPROVAL OF THE CONSTITUTION OF THE TRANSPORT EDUCATION AND
TRAINING AUTHORITY (TETA)**

The Minister of Labour has on 1 July 2005 in terms of section 13 (1) of the Skills Development Act, approved the constitution of the TRANSPORT AND EDUCATION TRAINING AUTHORITY as set out in the Schedule.

SCHEDULE



CONSTITUTION OF THE TRANSPORT EDUCATION AND TRAINING AUTHORITY (TETA)

PREAMBLE

This Constitution seeks to give effect to the spirit of transformation that is embodied in the Skills Development Act, 1998 (Act No. 97 of 1998) read together with the Public Finance Management Act (PFMA), 1999 (Act No. 1 of 1999), as amended and the Treasury Regulations (TR), while at the same time recognising the unique requirements of the diverse sub-sectors that make up the Transport Sector.

As per the requirements of the PFMA, as amended, the provisions of this Act will take preference over the TETA Constitution, where the Constitution is in conflict with the PFMA and its regulations.

The signatories to this Constitution, and the parties represented by them, acknowledge that the ultimate purpose of the Constitution is threefold:

- To create an environment in which all the people employed – or seeking employment in the Transport Sector, have access to relevant learning opportunities of a pre-determined standard.
- To contribute to the economic growth of the Sector through the development of skilled human resources.
- To ensure that effective financial stewardship and adequate systems of good governance and risk management are in place.



An institutional framework is now created to implement national, sector and workplace education and training initiatives in order to develop the skills and knowledge of the people in the Transport Sector, and to manage this function in a sound and transparent manner, giving effect to the spirit and intention of the **Skills Development Act, 1998** (Act No. 97 of 1998), the Skills Development Levies Act, 1999, (Act No. 9 of 1999), Employment Equity Act, 1998 (Act No. 55 of 1998), the Labour Relations Act, 1995 (Act No. 66 of 1995), the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997) and any other relevant legislation having an impact on people at work.

PURPOSE OF THE CONSTITUTION

The purpose of this constitution is to provide a governance as well as an institutional framework to devise and implement national, sectoral and workplace strategies that are aligned to the objectives of national economic and social development. These strategies will be developed within the context of:

- Enhancing the financial management and ensuring effective stewardship and risk management over TETA assets.
- Supporting the development and improvement of skills development interventions.
- Providing an assurance of quality in education and training.
- Enhancing access to learning opportunities.
- Encouraging active employer and employee participation.
- Supporting the objectives of the Skills Development Act and The Public Finance Management Act.



- Addressing the needs of the South African labour market including:
 - Employers
 - Current employees
 - Unemployed people
 - New and potential entrants into the labour market
 - Small, medium and micro enterprises

Accordingly, the following Sector Education and Training Authority is hereby established:

1. INTERPRETATION

1.1 Any term used in this Constitution, and which *is* not defined hereinafter, but which is defined in the **Act**, shall, unless indicated otherwise, bear the same meaning **as** that assigned to it in the Act.

1.2 In the interpretation of this Constitution: –

1.2.1 The singular includes the plural and vice versa.

1.2.2 The masculine includes the feminine and vice versa.

1.2.3 **Natural persons** include juristic persons and vice versa.

1.2.4 Where any definition confers **a** substantive right or imposes a substantive obligation, such provision **shall** be binding notwithstanding the fact that it does not appear in any other place in this constitution.



1.3 Definitions:

In this Constitution, unless the context should indicate a different meaning, the following words and phrases shall have the following meanings assigned to them:

1.3.1. "Act" means the Skills Development Act, **1998** (Act No. **97** of **1998**).

1.3.2. "Alternate" means a person appointed in writing to act on behalf of a member of the Board, a Standing Committee, or Chamber Committee, in the absence of the elected representative.

1.3.3. "Board" means the Accounting Authority of TETA as contemplated in terms of Section **49** of the **PFMA**, and shall consist of nominated members appointed in accordance with this Constitution.

1.3.4. "Chamber" means a body formally established by the TETA as contemplated in Section **12** of the Act, for the purpose of managing the affairs of its sub-sector, as well as performing the functions so delegated to it by TETA and exercising the powers necessary to manage its affairs and perform such functions.

1.3.5. "Chamber Mancom" means the Chamber Management Committee consisting of the Chief Executive Officer (ex officio) Chamber Executive Officer (ex officio), the Chairperson and Vice-Chairperson of the Chamber and the duly appointed Chamber members.



1.3.6. “Chairperson” means any person elected to chair any meeting of the Board, or its Chambers, or any Board Committee, or any *ad hoc* Committee and to fulfil any responsibilities or tasks assigned by the Board or *as* contained in the applicable Board Committee Charters.

1.3.7 “Chief Executive Officer” means the person appointed by the **TETA** Board in accordance with Section 13(3)(a)(xi) of the Act, **and** who serves in this capacity as a full time employee of **TETA**.

1.3.8 “Committee” means any Board Committee, *ad hoc* or subcommittee of **TETA** or its Chambers.

1.3.9 “Constituency” means the employer groups, employee groups and government departments that are registered with **TETA**.

1.3.10 “Day” means a business day, excluding Saturdays, Sundays and Public Holidays. Where any time lapse is expressed in days, if the last day ~~of~~ such computation is not a business day, the last day shall be deemed to be the next succeeding business day.

1.3.11 “Department” means the Department of Labour.

1.3.12 “Employee Group” means any organised and registered labour group as contemplated in Section 11(a) of the **Act**, which **has** been formed to promote or advance the collective interests of their members and is formally recognised by employers for that purpose.



- 1.3.13 “Employer Group”** means any organised employer group, including small business as contemplated in Section 11(b) of the Act and any other association of employers formed to promote or advance the collective interests of their members.
- 1.3.14 “Education and Training Standards”** means statements of desired education and training outcomes and their associated assessment criteria **as** defined in Section 1 of the **SAQA** Act, and registered in the terms of the said Act.
- 1.3.15 “ETQA”** means the Education and Training Qualifications Authority; established in the **terms** of the South African Qualifications Authority Act, No. 58 of 1995.
- 1.3.16 “Executive Authority”** means the Cabinet member who **is** accountable to Parliament for **TETA** or **in** whose portfolio it falls.
- 1.3.17 “Financial year”** means a year ending 31 March.
- 1.3.18 “Fruitless and wasteful expenditure”** means expenditure which was made in vain and would have been avoided had reasonable care been exercised.
- 1.3.19 “Irregular expenditure”** means expenditure, other than authorised expenditure incurred in contravention of or that is not in accordance with a requirement of any applicable legislation.



1.3.20 “**Levies Act**” means the Skills Development Levies Act, 1999 (Act No. 9 of 1999).

1.3.21 “**Levy Income**” means the total funds available to TETA, which includes levy transfers, donor funds, and interest payments from investments, service fees, transfers from Industry Training Boards and income from any other source.

1.3.22 “**Majority Vote**” means a vote taken on any issue at any meeting held in terms of this Constitution and shall, further, mean 50%, plus one of all employer representatives present and entitled to vote at such meeting and 50% plus one of all employee representatives present and entitled to vote at such meeting, and further **provided** that a quorum is **present** at such meeting.

1.3.23 “**Member**” or “**Representative**” means a person appointed as such in terms of the TETA Constitution, and shall include persons mandated by those bodies contemplated in Section 11 (c) and (d) of the Act, and shall also include a person who is a consultant appointed by an employer group or an employee group to represent its interests and to **serve as a** member or representative.

1.3.24 “**Minister**” means the Minister of Labour, unless otherwise indicated.

1.3.25 “**Natural Person**” means that **TETA** may sue or can be sued.



1.3.26 “**NQF**” means the National Qualifications Framework as defined in section 1 of the SAQA Act.

1.3.27 “**Office Bearers**” Is the elected chairperson and vice chairperson of the **TETA** Board in consultation with the CEO of the organisation.

1.3.28 “Permanent employee” means any employee of **TETA** who is employed in terms of the conditions and provisions of the Basic Conditions of Employment Act as amended.

1.3.29 “**PFMA**” means the Public Finance Management Act, 1999 (Act No. 1 of 1999) as amended.

1.3.30 “**Public Entity**” means a national or provincial public entity as per the definitions of the Public Finance Management Act, as amended.

t.3.31 “**Professional body**” means bodies or organisations whose activities are directed at improving and enhancing the professional status of role players in that particular industry; - Without derogating the generality of the foregoing, such activities could include provision of professional registration of role players, research and development facilities, provision of training and development programmes, the formulation of codes of conduct and related practices and procedures that would protect and preserve the professional integrity of the role players.





1.3.32 **“Quorum”** means the requisite number of members who must be present at any meeting for decisions of that meeting to have any binding effect.

1.3.33 **“Requisitionist”** means one third of the members of the Board or Chamber who call for a special Board of Chamber meeting.

1.3.34 **SAQA** means the South African Qualifications Authority.

1.3.35 **“SAQA Act”** means the South African Qualifications Authority Act, 1995 (Act No 58 of 1995).

1.3.36 **“Sector”** means the transport national economic sector as determined by the Minister of Labour.

1.3.37 **“TETA”** means the Transport Sector Education and Training Authority.

1.3.38 **“TR”** means the Treasury Regulations For Departments, Trading Entities, Constitutional Institutions And Public Entities issues in terms of the PFMA and as amended from time to time.

1.3.39 **“Vice Chairperson”** means any person who is elected to act, in the absence of the Chairperson, in the latter's stead.

2 NAME

The name of this Sector Education and Training Authority shall be referred to as TETA.



3. LEGAL STATUS

3.1 **TETA** is established in accordance with sections 9 and 13 of the **Act** read together with the **SAQA Act**, and the **Levies Act**.

3.2 **TETA** is a juristic person with perpetual succession, and **TETA** will:

3.2.1 Have a separate identity and existence distinct from its members and representatives.

3.2.2 Hold property and assets distinct from its members and representatives.

3.2.3 Not carry on any business, which has for its object the acquisition of gain for itself or its representatives or members.

3.2.4 Not distribute any profits **by way** of dividends or any other means to its members or representatives.

3.2.5 Be required to use its funds solely for the objects for which it has been established, with any surplus funds being invested in line with the provisions of the **PFMA** and **TR**.

3.2.6 Be entitled to raise funds, generate income and charge fees in terms of the relevant legislation.

3.2.7 Be capable at law of suing and being sued, of investing funds and of operating banking and other accounts, of entering into contracts **and** of doing or performing **all** such other **acts** or things which a company incorporated



with limited liability may do or perform subject to the provisions of this Constitution and the **Act**;

3.2.8 Continue to exist notwithstanding changes in its members or representatives.

3.3 TETA may appoint any competent person to act on its behalf to **sign** all documents and to take any steps necessary in any proceedings at **law** brought by or against **TETA**.

4. PLACE OF BUSINESS

The place of business of **TETA** shall be at **such** place as the Board may determine from time to time.

Physical Address: 2nd Floor, Sonson Building
344 Pretoria Avenue
Randburg
2125

Postal Address: Private Bag X10016
Randburg
2125

5. THE OBJECTIVES OF TETA

The objectives of TETA are to:

5.1 Encourage and facilitate the development of competence of employees and potential employees in the sector.

5.2 Encourage increased levels of investment in education and training and facilitate an optimum return on this investment.



- 5.3 Position this sector as the '*sector of career choice*' for prospective learners and entrants into the labour market.
- 5.4. Encourage employers and employees to adopt a culture of life long learning through:
- 5.4.1 Utilising the workplace as an active Learning environment.
 - 5.4.2 Providing employees with opportunities to acquire new and appropriate skills.
 - 5.4.3 Providing opportunities for new entrants and potential entrants into the sector labour market, and enhancing access to opportunities to gain **work** experience.
 - 5.4.4 Enhancing access to learning opportunities and to facilitate the recognition of prior learning.
 - 5.4.5 Ensuring the quality of education and training within the transport sector.
- 5.5 Supporting the prime objectives of the Employment ~~Equity~~ Act, 1998 (**Act No. 55 of 1998**).
- 5.6 Expand the provision of education and training in this sector through **sound partnerships** with public and private sector service providers.
- 5.7 Encourage greater co-operation between the public and private sectors.



- 5.8 Co-operate with SAQA and other SETAs, in support of the objectives of the Act.

6. SCOPE OF COVERAGE & JURISDICTION

- 6.1 The scope of coverage of the SETA is the Transport Sector as determined by the Minister and which has been defined in terms of Section 9(2) of the Skills Development Act, 1998 and by notice No. 316 published in the government gazette of 31 March 2005.

7. POWERS OF TETA

- 7.1 TETA shall, subject to the provisions of the Act, be governed by its Constitution, read in conjunction with the PFMA and all other applicable legislation and managed by the Board. TETA shall, subject to the provisions of the Act, the PFMA and TR have all such powers as may be necessary to enable it to carry out its functions and fulfill its objectives, and without limiting the generality thereof, it shall have the following specific powers:

7.1.1 Be accountable and responsible for the governance of TETA in terms of the Act, the PFMA, TR and where applicable the Companies Act.

7.1.2 Confirm the appointment of any representative member of Employee and Employer groups, and his or her alternate, duly nominated to serve on the Board and Board committees.



- 7.1.3 Establish and approve the Board and Board Committee Charters taking into account the requirements of good governance practices and the unique composition and make up of the Board.
- 7.1.4 Establish and approve the number, powers and roles of Board Committees.
- 7.1.5 Establish Chambers and Committees as is more specifically provided for in terms of Sections 12 and 13(3)(vii) of the Act, and to dissolve such Committees **and** amend the number of Chambers as provided for in this Constitution.
- 7.1.6 Appoint a Chief Executive Officer in terms of Section 13 (3)(a)(xi) of the Act and **such** other employees as **may be** necessary **for** the effective functioning of TETA.
- 7.1.7 Approve the strategic business plan of TETA.
- 7.1.8 Delegate specific functions and the commensurate powers to **the Board, Board Committees**, management, Chambers, outside organisations and **persons**, without abrogating its responsibility.
- 7.1.9 Ensure that appropriate business structures, processes and systems are in place to achieve the business strategy, goals and objectives of TETA.
- 7.1.10 Ensure that TETA has and maintains effective, efficient **and** transparent **systems of** financial and **risk** management and internal control.



7.1.11 Be responsible for the management, including the safeguarding of the assets and for the management of the revenue, expenditure and liabilities of TETA.

7.1.12 Take effective and appropriate steps to prevent irregular expenditure, fruitless and wasteful expenditure, losses resulting from criminal conduct, and expenditure not complying with the operational policies of TETA.

7.1.13 Receive the levy income and other income and to manage the same in accordance with the Levies Act read together with the PFMA, TR and Generally Accepted Accounting Standards.

7.1.14 Approve the general strategic, financial and operational policies of TETA.

7.1.15 Approve the annual TETA budget and approve or disapprove the audited financial statements of TETA, including its Chambers.

7.1.16 Determine, the remuneration payable to Board members, Board Committees and consultants providing advice to the Board and its members.

7.1.17 Determine the scale of remuneration for the Chief Executive Officer, and approve such scales of remuneration for all other staff as recommended by the Chief executive Officer with due regard to representations made by the appropriate Board Committees and Chambers.



7.1.18 Stipulate the terms and conditions of employment of the Chief Executive Officer and other TETA employees.

7.1.19 Establish parameters within which **all** general procurement and administrative matters should take effect; **taking** into account the requirements for effective Supply Chain Management principles and practices as is required by the TR.

7.1.20 Regulate any other matter that may impact upon the good governance of TETA as a whole.

7.1.21 Execute any other power allowed by law.

8. FUNCTIONS OF TETA

TETA will execute the following functions:

- 8.1 Facilitate strategic human resource development planning within the sector.
- 8.2 Propose education and training standards qualifications to bodies registered with SAQA and be responsible for developing education and training standards and qualifications.
- 8.3 Monitor and measure achievements in terms of those standards and qualifications.
- 8.4 Accredite providers, assessors and moderators of education and training in this sector.
- 8.5 Assure the quality of education and training in this sector without itself being a provider of education and training.



- 8.6 Analyse and prioritise education and training needs within this sector and develop **skills** development strategies to address identified priorities.
- 8.7 Enhance access to learning opportunities including:
- 8.7.1 The establishment of career paths and progression pathways.
 - 8.7.2 The establishment of **NQF** qualifications.
 - 8.7.3 The establishment of learnerships and skills programmes.
- 8.8 Manage and administer all learnerships within the transport sector.
- 8.9 Manage and measure the administration of levy disbursements in this sector.
- 8.10 Promote a culture of lifelong learning within the sector and encourage active employer and employee organisation participation in the strategies and activities of **TETA**.
- 8.11 Promote and market **TETA** through regular communication with all stakeholders and potential stakeholders.
- 8.12 Perform any other function required by **SAQA** in terms of **TETA's** registration.
- 8.13 Perform any other function that must be performed by **TETA** in terms of this **Act** or any other applicable law.



- 8.14 Develop a sector skills plan within the framework of the national skills development strategy;
- 8.15 Implement a sector skills plan by:
- 8.15.1 Approving and monitoring workplace skills plans.
 - 8.15.2 Establishing learnerships.
 - 8.15.3 Allocating grants as per the approved TETA grant criteria.
 - 8.15.4 Monitoring and measuring education and training in this sector.
- 8.16 Promote learnerships by:
- 8.16.1 Identifying appropriate workplaces where individuals can gain practical work experience.
 - 8.16.2 Improving and supporting learning through the development of learning methodologies, standards and curricula.
 - 8.16.3 Assisting in the conclusion, registration and monitoring of learnerships agreements.
- 8.17 Liaise with the National Skills Authority as well as other SETA's on issues including:
- 8.17.1 National skills strategy.
 - 8.17.2 Skills development policy.
 - 8.17.3 its own sector skills plan.



8.18 Report to the Accounting Officer of the Department of Labour on the implementation of its sector ~~skills~~ plan, ~~its~~ income and expenditure;

8.19 Liaise with the employment services of the Department and Education Boards and other regulatory bodies in terms of education laws of South Africa-in order to improve the quality of information:-

8.19.1 About employment opportunities.

8.19.2 Between education providers and the labour market,

8.20 Facilitate the involvement of the relevant government departments in the activities of TETA in order to:

8.20.1 Address the competency requirements for socio-economic development.

8.20.2 Address the learning needs ~~of~~ the transport sector.

8.20.3 Promote training in small, medium and micro enterprises to enhance quality, productivity, sustainability and job creation.

8.20.4 Perform any other duties imposed by the Act, PFMA, TR and Protocol on Corporate Governance within the Public Sector or not specifically mentioned, in order to fulfil the objectives of TETA.



- 8.21 Receive the levy payment for the sector and effect the appropriate allocation of grants to employers as approved by **TETA**.

9. TETA CONSTITUENCY'

The **TETA** constituency in the Transport Sector shall be determined as follows:

- 9.1 The Chief Executive Officer **shall** from time to time compile and maintain a schedule of employers and employee groups whose members carry on their business activities or are employed, as the case may be, in the sector, together with Government Departments relevant to the sector.
- 9.2 The name of any employer or employee group shall be removed from the schedule:
- 9.2.1 Upon the written request of that organisation, or
- 9.2.2 **As directed by** the Minister.
- 9.3 The trade unions, employer organisations **and relevant** government departments whose core functions fall within the Transport Sector must **be** maintained **on** a stakeholder database.



10. COMPOSITION OF THE TETA BOARD

10.1 Members nominated onto the TETA Board should have the appropriate experience and skills to ensure an appropriate duty of **skill** and care as per the requirements of the PFMA, Companies Act and King Report on Corporate Governance.

10.2 The powers, which the Constitution of the TETA confers upon the Board members, may normally be exercised only by them collectively, acting as the Board. Their fiduciary duties, however, rest upon them individually and require that:

10.2.1 They act only within their powers and use their powers only for the **purposes** for which they were **conferred**.

10.2.2 They act with the required skill and care.

10.2.3 They avoid conflict of interest and use their powers only for the benefit of TETA.

10.2.4 They do not use information acquired in their capacity **as** directors for personal gain.

10.2.5 They retain their independence of action and do not enter into agreement to fetter the discretion they have as directors.

10.3 In accordance with the principle of equal representation from employer and employee groups, the Board shall consist of **a** maximum of 36 members made up of 32 voting and **4** non-voting members.



10.4 The voting members of the Board shall be:

10.4.1 **Two** members per Chamber nominated by the employee group (non-executive directors).

10.4.2 Two members per Chamber nominated by the employer group (non-executive directors).

10.5 The non-voting members of the **Board** shall, (if deemed appropriate and appointed by the Minister) be:

10.5.1 The Chief Executive Officer of TETA.

10.5.2 One member from the Department of Transport,

10.5.3 One member representing Professional **Bodies**, whose activities and interests fall primarily within the Transport Sector.

10.5.4 One member from Bargaining Boards established in terms of the Labour Relations Act, 1995 (Act No. 66 of 1995), with jurisdiction in this sector.

11. **ROLE AND FUNCTIONS OF THE TETA BOARD**

The comprehensive roles and functions of the TETA Board are contained in Sections 50, 51, 52, 54, 55, 56 and 57 of the PFMA, the Companies Act as well as the Act, read in conjunction with the Board Charter.



11.1 The primary purpose of the Board is to ensure that TETA fulfils its legal mandate, objectives and obligations in terms of this constitution, the Act, the Employment Equity Act 1998 (Act No. 55 of 1998), the PFMA and a variety of other applicable legislation. Accordingly, the Board must retain full and effective control over TETA, manage and monitor the performance of the entity and Chief Executive Officer. Ensure that decisions on material matters, risk management, systems and controls are in the hands of the Board. Representatives on the Board **shall** bring independent judgement to bear on issues of governance, strategy, structure, risk management, performance, resources and standards of conduct. The role will specifically include, but will not be limited to:

11.1.1 Providing strategic leadership to TETA.

11.1.2 Reviewing the performance of the Board and Board Committees against the approved charters.

11.1.3 Ensuring the sound governance of TETA, including appropriate code of business ethics, risk management and fraud prevention.

11.1.4 Approval of formal delegations of authority with limitations and conditions.

11.1.5 Approval of levels of materiality.

11.1.6 Compilation and approval of tolerance levels acceptable to the Board.



- 11.1.7 Determining and approval of **TETA** strategies and policies.
- 11.1.8 Measuring and monitoring the performance of **TETA** against its business strategies and plans.
- 11.1.9 Appointing the Chief Executive Officer, in accordance with relevant employment legislation and the policies of **TETA**, and determining and reviewing the terms and conditions of employment.
- 11.1.10 Managing the performance of the Chief Executive Officer and **TETA**, in accordance with agreed performance output and outcomes.
- 11.1.11 Ensure the preparation of financial statements for each financial year in accordance with Generally Accepted Accounting Practice (**GAAP**).
- 11.1.12 Report on instances of material losses through criminal conduct, irregular expenditure, ~~fruitless~~ and wasteful expenditure and unauthorised expenditure.
- 11.1.13 The effective financial and operational management of **TETA** including the approval of budgets and all capital expenditure, fund raising and income generation.
- 11.1.14 Ensure that **TETA** complies with any tax, duty, pension, medical aid and audit commitments as required by legislation.



11.1.15 Ensure the development, implementation and maintenance of proper records of the financial affairs of TETA.

11.1.16 Promoting the objectives and interests of **TETA**.

12. **BOARD CHAIRPERSON and VICE-CHAIRPERSON**

12.1 The Board, at its first formal meeting, and every second year thereafter, shall elect from **its** members in terms of sub-clause 10.2.1 and 10.2.2:

12.1.1 The Chairperson and Vice-Chairperson,

12.2 Once those persons have been elected, **the** duties of the previous Chairperson and Vice-Chairperson **shall** terminate.

12.3 In the absence of the Chairperson at **a** Board meeting, the Vice-Chairperson will perform the Chairperson's functions, and in the event of both being absent, TETA Board members must appoint an *ad hoc* chairperson from amongst the Members to **perform** these functions for that meeting.

12.4 **Ineligibility for Remuneration:**

Other than for a sitting and travel allowance no member of the Board or representative appointed in-terms of the Constitution shall be remunerated by **TETA** for services rendered in that capacity.



13. REMOVAL AND REPLACEMENT OF MEMBERS AND OFFICE BEARERS

13.1 The Board may remove a member or representative from the Board, Chamber Mancom or any committee for any of the following reasons:

13.1.1 For breach of the TETA Code of Conduct and Board Charter.

13.1.2 For incapacity, where such incapacity of a member reasonably justifies removal.

13.1.3 For engaging in activities that have or may have the effect of undermining the integrity or reputation of TETA and/or its Chambers and/or any of its Board Committees or sub-committees.

13.1.4 For being absent from three consecutive TETA Board or Chamber Mancom meetings or subcommittee meetings without good cause and prior to tender of apology, provided that in the case of a Chamber Mancom representative, the TETA Board shall act on the advice of that Chamber.

13.1.5 For any wilful or negligent infringement of any term or condition of this Constitution, the PFMA or operating practice or procedure or rules of order governing meetings, which has the effect of undermining the reputation, work of TETA, misleading any other member or representative or in any way placing TETA, its members or employees in an embarrassing or disadvantageous position.

13.2 In the event of the anticipated removal of the Chairperson of the Board, Chamber Mancom or any of the Board Committees, the



Chief Executive Officer shall pursue the matter under the direction of the remainder of the members of the Board or Chamber Mancom, together with the Board Secretary,

13.3 Whenever a vacancy occurs in a Ministerial nominee member's position, the TETA Board must inform the Minister concerned of the vacancy in writing as soon as possible and request that a suitable replacement be appointed from the Ministers office.

13.4 Whenever a vacancy occurs in the Board or Chamber Mancom in respect of any employee, or employer representative position, the relevant TETA structure must as soon as practicable invite nominees from the relevant Chamber to fill the vacancy. In appointing a new member from the nominees of employees' and or employer organisations, TETA shall continue to ensure a representative coverage of the industries, occupations and enterprises that make up the sector, including small business.

13.5 Any person appointed to fill a vacancy that arises shall occupy such position from the time of appointment until the expiry of the term of office of the previous incumbent.

13.6 In addition to the above, it remains the prerogative of an employer organisation, and an employee organisation to replace any one or more of its representatives sitting on one or more TETA bodies by giving at least 10 day's notice in writing to the effect, delivered to the Chief Executive Officer. A representative so replaced shall have no right of appeal to TETA.

14. DELEGATION OF FUNCTIONS

14.1 The Board may, from amongst its members, appoint Board committees with powers to execute the functions of the Board



upon such terms and conditions (Board committee charters) as it may resolve from time to time, and to amend or withdraw such powers from time to time.

- 14.2** The Board may in terms of the provisions of Section 56 of the **PFMA** delegate its powers entrusted or delegated to the Board as the Accounting Authority in terms of the **PFMA** and the Act, to an official within TETA to sign all documents on behalf of TETA and to take any steps necessary in connection with any legal proceedings brought by or against **TETA**.
- 14.3** The Board may confirm, vary or revoke any decision taken by an official as a result of a delegation or instruction in terms of the delegations.
- 14.4** Such delegations do not divest the Board of the accountability concerning the exercise of the delegated power or the performance of the assigned duty.
- 14.5** To the extent that the Chief Executive Officer has not been empowered to execute any function of the Board, he **shall** be empowered to act on behalf of the **TETA** Board in an emergency. In such emergency the Chief Executive Officer shall immediately report in writing his actions, and his reasons for having acted, to the office bearers and the whole Board at the next Board meeting.
- 14.6** The Board may delegate certain functions to be executed from time to time by the Office Bearers.



15. ADMISSION AND REMOVAL ~~OF~~ REPRESENTATIVE GROUPS BY THE BOARD

15.1 Any employee group or employer group that is represented and registered in this sector may apply in writing to the Board for representation on the appropriate TETA Chamber.

15.2 After deliberation and consultation with the Chamber concerned, the Board may admit the employer or employee group to **TETA** if satisfied that the admission of that body will make **TETA** more representative of the interests of the sector.

15.3 After deliberation the Board may, after consultation with the respective employee or employer group concerned, remove it from the TETA if it **is** satisfied:

15.3.1 The group *is* no longer representative of employers or employees in the sector. In making such determination, it shall not bear the onus of proving non-representativity, but the group in question shall have the onus of proving representivity. The onus of proof shall be on balance of probabilities; and/or

15.3.2 If it **is** dysfunctional.

15.3.3 If its' **conduct is** such that it has brought, or is likely to bring, **TETA** into disrepute,



16. THE CHIEF EXECUTIVE OFFICER (CEO)

16.1 Appointment

16.1.1 The Chief Executive Officer shall have a critical and strategic role to play in the operational success of TETA's business, and shall manage the business on a day-to-day basis.

16.1.2 The Chief Executive Officer shall be appointed by the Board, and shall be a full time salaried employee of TETA.

16.1.3 The Board shall enter into a performance agreement with the Chief Executive Officer, which shall form the basis against which the performance of the Chief Executive Officer will be measured on at least a bi-annual basis.

16.2 The Duties and Functions of the Chief Executive Officer

16.2.1 As the Executive Director of the Board the Chief Executive Officer shall be the chief spokesperson of TETA and not the Board.

16.2.2 Develop and recommend to the Board a long-term strategy and vision for TETA that will generate acceptable levels of service delivery value and positive, reciprocal relations with relevant stakeholders.



- 16.2.3 Develop and recommend to the Board annual business plans and budgets that support TETAs business strategy.
- 16.2.4 Foster an environment within which ethical business practice is promoted, developed and maintained.
- 16.2.5 Be held accountable for employee's ethical conduct.
- 16.2.6 Exercise due care in delegating discretionary authority.
- 16.2.7 Strive consistently to achieve **TETAs** strategic, financial and operational goals and objectives, and ensure that the day-to-day business affairs of **TETA** are appropriately monitored and managed.
- 16.2.8 Ensure adequate performance in the quality and value of the services provided by **TETA**, and that **TETA** achieves and maintains a satisfactory liquid position to deliver on its legal mandate.
- 16.2.9 Ensure that **TETA** has an effective management team and to actively participate in the development of management and succession.
- 16.2.10 Develop and implement an integrated risk management system into **TETA** that addresses the wide variety of risk exposure inherent to the business of **SETA's**.
- 16.2.11 Ensure that effective and efficient systems of internal control are in place.



16.2.12 Formulate **and** oversee the implementation and maintenance of all TETAs policies.

16.2.13 Duty to manage the day-to-day activities of **TETA**.



17. BOARD COMMITTEES

- 17.1 Board committees are merely a mechanism to aid and assist the Board and its members or representatives in giving detailed attention to specific areas of their duties and responsibilities in a more comprehensive evaluation of specified issues such as utilisation of assets and resources, governance practices, Risk management, input into policy development, audit focus and coverage, internal control, skills development, remuneration and procurement, etc,
- 17.2 Some committees will be standing committees appointed to perform a continuing function, while others have a specific task, and are disbanded once that task has been completed.
- 17.3 The Board in consultation with the Chief Executive Officer shall determine the number of Board Committees it wishes to establish to assist it to effectively advance the business of the Board,
- 17.4 In establishing Board Committees, the Board must determine their terms of reference, life span, powers role and function. The powers, role and functions, composition and size of the committee/s shall be contained in the applicable Charter, which is approved by the Board on an annual basis.
- 17.5 The Board must create reporting procedures and proper written mandates or "Charters" for its committees and, ways of evaluating them.
- 17.6 Time should not be wasted on repeating a committee's deliberations at Board level.



17.7 The chairperson or vice-chairperson of the Board shall not be the chairperson of the Audit committee.

17.8 Board Committees shall ~~not~~ perform any management functions or assume any management responsibilities, as it only provides a forum for discussing business risk and control ~~issues~~ for developing relevant recommendations for consideration by the Board. The committees ~~will~~ make recommendations to the Board for its approval and final decision, while management is responsible for the ~~implementation~~ thereof.

17.9 The chairperson of the Board Committee shall be required to report orally or formally to the Board on a quarterly basis regarding the activities of the committee

18. ELECTION OF MEMBERS OF BOARD AND OR CHAMBER COMMITTEES, CHAIRPERSONS AND VICE-CHAIRPERSON, TERMS OF OFFICE AND FILLING OF CASUAL VACANCIES

18.1 Election of Board and or Chamber Committee Members

The election of members of the Board and or Chambers representing employee groups and employer groups who are required to serve on the various Board and or Chamber Committees shall take place at the Board Meeting every 24 months after the conclusion of the ~~election~~ of Board members.

18.2 The Term of Office of Chamber ~~Committee~~ Members and Filling of Casual Vacancies



18.2.1 Provided that a Committee member holds a position in any of the Chambers, he or she shall serve as a Committee member for a period of 24 months.

18.2.2 Should a casual vacancy arise in any Committee, for any reason whatsoever, that vacancy shall **be** filled **by** a person from the appropriate Chamber (representing an employee group or an employer group, as the case may be) on the written notice of the Chamber Mancom concerned to the Chief Executive Officer of TETA, and such replacement Committee member shall be ratified by the Board at its next Board meeting.

18.2.3 A replacement committee member shall serve in that capacity until the next election.

18.3 Election of Chairpersons and Vice-Chairpersons

18.3.1 The Chairperson and Vice-Chairperson of a Committee shall **be** elected from amongst members of a Committee or as prescribed in the Treasury Regulations at its first meeting after such Committee has been elected.



18.3.2 Of the two persons elected as Chairperson and Vice-Chairperson respectively, one shall represent an employee group and the other shall represent an employer group.

18.3.3 The Chairperson and Vice-Chairperson of a Committee shall serve in those positions for a period of 24 months.

18.3.4 At each succeeding election of a Chairperson and a Vice-Chairperson, the respective positions shall rotate between a representative of an employee group and a representative of an employer group.

18.3.5 The Chairperson of a Committee shall preside at all meetings of a Committee. In the Chairperson's absence, the Vice-Chairperson shall preside, and in the latter's absence the members present shall elect an *ad hoc* Chairperson.

19. CHAMBERS

19.1 The TETA hereby establishes the following Chambers for the following sub-sectors:



19.1.1 **Aerospace**

Means the industry in which employers and employees are associated for the transportation and activities involving aircraft and space vehicles including related components; their regulation, operation, design, manufacture, maintenance, repair, overhaul and testing; the provision of and regulation of airport, heliport, air traffic and airspace services; the servicing, calibration and maintenance of related equipment.

19.1.2 **Forwarding and Clearing**

Means the industry in which employers and employees are associated for the management of the international aspects of the procurement, acquisition, movement and storage of materials, **parts** and finished inventory into, through and out of organisations and its distribution channels, by the application of value added solutions.

19.1.3 **Freight Handling**

Means the industry in which employers and employees are associated for the purposes of the handling, storage and stock control of any cargoes through ports, airports, distribution centres, factories and other depots.

19.1.4 **Maritime**

Means the industry in which the employers and employees are associated for the purpose of activities on all vessels used at sea.



19.1.5 Rail

Means the industry in which employer groups and employees groups are associated for:

- 19.1.5.1 The purpose of the transportation of goods, passengers and livestock by rail;
- 19.1.5.2 The control, management, accomplishment, maintenance and exploitation of railways and rail services;
- 19.1.5.3 The maintenance, servicing, repair overhaul and testing of locomotives, rolling stock and support services.

19.1.6 Road Freight

Means the industry in which employers and employees are associated for the purpose of the transportation of goods by means of a goods vehicle, for reward, on a public road.

19.1.7 Road Passenger

Means the industry in which employers and employees are associated for the purposes of conveying passengers by **bus** transport for reward including the control, management and maintenance of these vehicles.



19.1.8 Taxi Transport

Means the industry in which employers and employees are associated for the purposes of transporting passengers by taxi for reward including the control and management of such vehicles.

19.2 The Powers and Functions of the Chambers

Each Chamber shall, as soon as practicable:

19.2.1 Establish the Chamber Mancom, which shall comprise:

19.2.1.1 An equal number of representatives from registered employer and employee groups, who are sufficiently representative and **who** have a direct interest in the sub-sector, which the Chamber represents.

19.2.1.2 Such members **as** Mancom may co-opt from time to time subject to the proviso that there shall be an **equal** number of co-opted members representing employer groups and employee groups,

19.3 Each Chamber Mancom shall:

19.3.1 Appoint, at its first formal meeting, the Chairperson and Vice-Chairperson for **a** period of **24** months on the understanding that these offices shall, on expiry of each **24** month period, rotate between employee representatives and employer representatives. The Chairperson and Vice-Chairperson **shall** not be from the same employer.



19.3.2 Appoint a Chamber Executive Committee or any other subcommittee **if so** resolved by the Chamber Mancom, with the proviso that an Executive Committee shall be appointed from the duly appointed members of the Chamber and shall include the Chairperson, the Vice-Chairperson and Executive Officer of the Chamber.

19.3.3 Nominate the stipulated number of Chamber representatives to the Board of TETA in accordance with the Constitution.

19.3.4 Draw up a levy disbursement plan and a budget and submit these for approval to the Board in the manner and **on** the dates prescribed **by** the Board.

19.3.5 Monitor the disbursement of grants in accordance with the approved levy disbursement plan.

19.3.6 To assist employers with the implementation of workplace skills plans in line with **TETA** criteria, by:

19.3.6.1 Establishing learnerships.

19.3.6.2 Approving workplace skills plans.

19.3.6.3 Approving grants in the prescribed manner to employers, and education and training providers.

19.3.7 Promote learnerships by:

19.3.7.1 Identifying workplaces for practical work experience.



19.3.7.2 Supporting the development of learning curricula.

19.3.7.3 Improving the facilitation of learning; and

19.3.7.4 Assisting in the conclusion of learnership agreements.

19.3.8 Ensure that learnership agreements are properly and expeditiously registered with TETA

19.3.9 Perform the functions of an **ETQA** in terms of the SAQA **Act** in respect of education and training providers operating within its sub-sector, as delegated to it by TETA.

19.3.10 Generally promote and market its services within the sub-sector.

20. MEETINGS

20.1 TETA Annual General Meeting

20.1.1 TETA shall hold its Annual General Meeting/s within six months as agreed by the Board, after the end of each financial year (the year-end being the 31st day of March in each year). The time, date and place of such meeting shall be determined by the TETA Board, which shall give at least 28 days notice of such Annual General Meeting to its stakeholder groups represented by the members. Such a notice shall also appear in national daily newspapers circulating in the Provincial capitals of the Republic of South Africa.



20.1.2 The business of TETA, when meeting as the annual general meeting, shall be:

20.1.2.1 To provide verbal and formal feedback of its performance to members and stakeholders and any other interested parties in attendance at the Annual General Meeting.

20.1.2.2 To answer any relevant questions pertaining to the Annual Report.

20.1.2.3 To provide, in general terms, an overview of **the** business for the forthcoming year.

20.1.2.4 To present the annual financial statements of TETA, and report of the Auditor-General.

20.1.2.5 To discuss any matter referred to in or arising out of the financial statements or the reports.

20.1.2.6 No other business other than that stated above shall be conducted at a TETA Annual General Meeting.

20.2 Other TETA Meetings and the Frequency Thereof

The Board, at their respective inaugural meeting, and thereafter at their respective final meeting in each financial year shall determine **how** many Board and Committee meetings shall take place and the dates of **such** meetings.



20.3 Chamber Management Committee Meetings

The Chamber Management Committee meetings shall be held at a time, place and frequency to be determined by each respective Chamber Executive Officer in consultation with the Chamber member representatives. However, every Chamber Management Committee shall meet at least four times per year.

20.4 Requisitioned Meetings

The Chairperson of the Board of **TETA** or a Chamber shall, at the written request of not less than one-third of the members of the Board or Chamber Mancom and within **14** days of the lodging of the requisition, issue a notice to members of the Board, or Chamber Mancom convening a meeting of the Board or Chamber Mancom for a date not less than **21** days and not more than **35** days from the date of notice.

20.4.1 The requisition shall state the purpose of the meeting, which shall be to transact business, which, in terms of this Constitution is required or permitted to be transacted by **TETA** or a Chamber. The requisition shall also be signed by the requisitionists and lodged at the office of **TETA** or the Chamber, as the case may be.

20.4.2 If the Chairperson does not, within **14** days from date of lodging of the requisition issue a notice as required under subclause **20.4** the requisitionists, may themselves on a **21** days notice and not more than **35** days convene a meeting, stating the purpose thereof, which shall not be materially different to that stated in the requisition, **No** meeting so convened shall be held after the expiration of **35** days from the date upon which the requisition was lodged.



20.4.3 Any meeting convened by the requisitionists under sub-clause 20.4. shall be convened in the same manner and quorum requirements as per any meetings of TETA Board or Chamber.

20.5 Procedure at Meetings and Quorum

20.5.1 The Board, Board Committees, Chamber Mancoms, and Chamber Sub-Committees shall regulate their meetings as they deem fit, but in accordance with good governance practices and common law procedures to be followed at meetings.

20.5.2 The quorum necessary for the transaction of business shall be 50 percent plus 1 of the employer representatives and 50 percent plus 1 of the employee representatives.

20.5.3 If within one hour after the time appointed for a meeting, a quorum is not present, a meeting, if convened upon a requisition of members, shall be dissolved. In any other case, the meeting shall stand adjourned to a day not earlier than seven days and not later than 21 (twenty-one) days after the date of the meeting at the same time and place. If no quorum is then present within half an hour after the time appointed for the meeting, the members then present shall constitute a quorum and may transact the business for which the meeting was called.

20.5.4. The chairperson, or such person as such shall be acting in the place of the chairperson, shall preside at the meeting.

20.5.5. The chairperson presiding at any meeting shall ensure that minutes of such meetings are formally documented and adequately kept for record purposes and scrutiny.



20.6 Voting

At all meetings:

20.6.1 Each member shall have one vote in respect of any issue put to the vote.

20.6.2 Proxy votes will be allowed, provided that the member appointing the person to act as proxy submits written and signed confirmation of such appointment to the Chairperson of the meeting prior to the commencement of the meeting.

20.6.3 All issues, if not resolved through reaching consensus, **shall** be put to the vote. An issue voted on shall be considered resolved if carried by a majority vote. Any issue, which ~~is~~ not passed by a majority vote shall not be carried and shall forthwith be removed from the table.

20.6.4 The Chairperson shall not have a second or “casting” vote.

20.6.5 Unless a batlot ~~is~~ demanded of the Chairperson by at least one employer member and one employee member personally present, then the Chairperson shall declare that a motioh has, on a show of hands, been carried or lost and an entry to that effect shall be made in the minutes of the proceedings of the meeting. Such ~~declaration~~ shall be conclusive evidence of the fact that a motion was duly carried or defeated.



20.6.6 If a ballot ~~is~~ demanded, as contemplated in subparagraph 20.6.5 above, it shall be taken either immediately or after an adjournment as the Chairperson directs. Two scrutinisers shall be elected from amongst the members present, (one employer representative and one employee representative) to **determine** the result of the ballot. The result of such ~~ballot~~ shall be deemed to be the resolution of the meeting and an entry to that effect shall be made in the Minutes of the proceedings of the meeting.

2Q.7 Notice of Meetings

20.7.1 The Annual General Meeting of the TETA Board shall be called by giving not less than 28 (twenty-eight) days notice in writing. Subject to 20.7.2, any other meeting ~~of~~ the TETA Board shall be called by giving, not ~~less~~ than 14 (fourteen days) clear notice in writing.

20.7.2 Notice of an ordinary meeting, other than the Annual General Meeting, may be dispensed with if each of the members of the TETA Board so agrees. Such a meeting of the TETA Board shall, notwithstanding the fact that it is called by shorter notice than that specified in this Constitution, be deemed to have been duly called.

20.7.3 When notice ~~is~~ required to be given it shall specify the place, the date, the hour and the business of the meeting and shall be electronically submitted, posted or hand delivered to each recipient, depending on the custom prevailing. Proof of transmission by the sender shall be conclusive evidence of notice duly given.



21. CONDUCT OF BOARD MEMBERS AND EMPLOYEES

21.1 Code of Conduct

21.1.1 Members or representatives of the Board or any committee or Chamber of TETA are required to act in good faith in all dealings, which may involve TETA. Accordingly they must exercise their fiduciary duties and fulfil their obligations in a manner, which gives effect to the requirements of the PFMA, common law, this Constitution and the Board Charters. Members or representatives, office bearers and employees shall, in addition:

21.1.7.1 Act honestly and in a transparent manner.

21.1.1.2 Give effect to the spirit and intent of The Act, the SAQA Act, and the Levies Act.

21.1.1.3 Exercise reasonable care and diligence in all their decision-making.

21.1.1.4 Not make improper use of any information acquired as a member or representative of TETA or of any committee or Chamber of TETA.

21.1.1.5 Avoid any conflict between personal interests and those of TETA.

21.1.1.6 Declare any such conflict or interest as required in sub-clause **21.2** below.



21.2 Disclosure of Interest

TETA shall develop the required conflict of interest policy in terms of the PFMA and good governance practices, which shall be approved by the Board.

21.3 Confidentiality

21.3.1 A member of TETA or of any of its committees or Chambers shall not, while a member disclose to any unauthorised person any information which is acquired whilst performing any function in terms of this Constitution or in the course of employment and which is confidential to TETA. Such information may however be disclosed if it must be disclosed in terms of the Act, the Levies Act, or by virtue of a dispute with TETA duly declared, or by any other law or by an order of court.

21.4 Code of Conduct

The Board must cause a Code of Conduct to be drawn up for TETA as part of its corporate governance system, as well as procedures for a disciplinary hearing to address breaches of the Code of Conduct, and an appeal mechanism.

22. RESOLVING A CONSTITUTIONAL DISPUTE

22.1 Procedure

Should a matter concerning the interpretation and/or implementation of a term or condition of this Constitution (which is not required to be adjudicated upon by the Labour Court) remain



unresolved after having been tabled and discussed at a **TETA** Board meeting, the party who tabled the matter may

22.1.1 Refer the dispute in writing to the Chief Executive Officer adequately describing the dispute. The referral must be delivered to every other party to the dispute by the party referring the dispute.

22.1.2 The Chief Executive Officer shall then endeavour to resolve the dispute by conciliation within 30 days of referral of the dispute, then any party to the dispute may refer it for arbitration by an arbitrator. The arbitrator must be agreed to by both parties to the dispute with the approval of the Chairperson of TETA or, failing such agreement or approval, by an arbitrator appointed by the Chairperson of **TETA**.

22.1.3 The arbitrator shall determine the date and venue of the arbitration and the procedure to be followed by the parties to the dispute, with a view to settle the dispute as informally and as expeditiously as possible. If conciliation is not possible, then the arbitrator must arbitrate the dispute.

22.1.4 The arbitrator must conduct the arbitration in a manner that he or she considers appropriate in order to determine the dispute fairly and quickly, but must deal with the substantial merits of the dispute with the minimum of legal formality.



22.1.5 Within 14 days of conclusion of the arbitration proceedings:

- (a) The arbitrator must issue a signed arbitration award with reasons.
- (b) The Chief Executive Officer must provide a copy of the award to every party to the dispute.

22.1.6 The arbitration award is final and binding on the parties to the dispute.

22.1.7 The costs of the arbitration must be borne equally by the parties to the dispute or as otherwise determined by the Board. The arbitrator may however make a different and appropriate award of costs if:

- (a) A party to the dispute, without reasonable cause, refuses or fails to attend the arbitration or unduly delays arbitration proceedings, or
- (b) The arbitrator is of the view that a party pursuing or resisting the dispute did so vexatiously or frivolously or had no reasonable prospect of succeeding.

22.1.8 An arbitrator may, at his or her own initiative or as a result of an application by an affected party, vary or rescind an award:

- (a) Erroneously sought or made in the absence of any party affected by the award.



- (b) In which there is ambiguity, or any obvious error or omission, but only to the extent of the ambiguity, error or omission or
- (c) Granted **as** a result of a mistake common to the parties to the proceedings.

22.1.9 The provisions of the Arbitration Act 1995 (Act No. **42** of **1965**) shall not apply.

23. FINANCES OF THE TETA

23.1 TETA shall be financed from:

23.1.1. The levy transfers from its sector.

23.1.2 Monies paid to it from the National Skills Fund.

23.1.3 Grants, donations and bequests made to it, subject to TETA honouring the direction made by any donor, grantor etc. in respect of the specific use or purpose for which the money (or property) was intended.

23.1.4 Monies received from any other legal source.

23.1.5 Income earned from money invested.

23.1.6 Income earned from services rendered in those instances where the Minister has ruled that a fee or other charge may be recovered for the rendering of those services.



23.2 The funds received by TETA shall be managed as contemplated in Sections 14(2) and 14(3) of The Act. Monies managed by a Chamber shall be done **so** in accordance with the relevant legislation and procedures laid down by the **TETA** Board.

23.3 The books of account shall be audited annually by the office of the Auditor General as provided for by the Levies Act, and the **PFMA**.

24. PROCESS FOR AMENDING THE CONSTITUTION

24.1 The Chief Executive Officer shall provide copies of any proposed amendment motivated together with the agenda for the next meeting of the TETA Board.

24.2 At least **30** days notice must be given to members of a meeting at which an amendment of the Constitution ~~is~~ to be considered.

24.3 The provisions of this Constitution may be amended only:

24.3.1 ~~By~~ the decision of at least 50% plus **1** of the employer members and 50% plus **1** of the employee members present at a properly constituted meeting ~~of~~ the Board, and

24.3.2 If approved by the Minister in the prescribed manner.

25. TAKING OVER ADMINISTRATION ~~OF~~ TETA

25.1 In terms of section 15 of the Act, 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 a TETA if the Minister is of the opinion that:



- a. the TETA fails to perform its functions;
- b. there is mismanagement of its finances; or
- c. its membership no longer substantially represents the composition contemplated in section 11 of the Act.

25.2 In that notice the Minister—

- a. must determine the powers and duties of the administrator appointed in terms of sub-clause 25.7
- b. may suspend or replace one or more members of the TETA for a reason contemplated in sub-clause 25.1 (a), (b) or (c);
- c. may suspend the operation of the constitution of the TETA; and
- d. may, in the prescribed manner, transfer funds in the TETAs bank account to the National Skills Fund.

25.3 If a notice is published in terms of sub-clause 25.1, the Minister may, to ensure that TETA resumes the performance of its functions—

- a. amend its constitution;
- b. reinstate any of its members; and
- c. withdraw or amend any provision of the notice contemplated in sub-clause 25.2 on such conditions as the Minister considers appropriate.

[Handwritten signature]
 APPROVE By TETA SWA
 31/10/2005⁵³