

SCHEDULE**LEARNING PROGRAMME REGULATIONS, 2012****CHAPTER 1****DEFINITIONS****1. Definitions**

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

- (a) **“learning programme agreement”** means an agreement contemplated in these regulations;
- (b) **‘candidacy’** means the practical and work experience training that is an occupational qualification as determined by the relevant professional body and follows the completion of an academic qualification required for access to the assessment for the issuing of a professional designation. This learning must lead to the issuing of a designation registered on the NQF;
- (c) **“lapsed ”** means that a learning programme agreement has ended after the learner has completed all the relevant curriculum components and undergone the relevant assessments and includes the termination of the agreement and payment of all associated grants to the employer and the removal of the learner from the active database of learners in learning programmes;
- (d) **“internship”** means the structured work experience component of an occupational qualification registered by the QCTO;
- (e) **“learner”** means the learning party to a learning programme agreement, who is enrolled in a registered learning programme that has a curriculum registered with QCTO and includes learner contemplated in both section 18(1) and section 18(2) of the Act;
- (f) **“NAMB “** means the National Artisan Moderation Body contemplated in section 26A of the Act;
- (g) **“learnership”** means a learning programme that leads to an occupational qualification or part qualification and includes an apprenticeship and cadetship;

- (h) “**placement**” means a learner is placed in a workplace to complete part of an internship;
- (i) “**professional body**” means any body of expert practitioners in an occupational field, and includes an occupational body;
- (j) “**QCTO**” means the Quality Council for Trades and Occupations as contemplated in Section 26G of the Skills Development Act;
- (k) “**submit**” means to deliver by hand or registered post or to transmit a communication by electronic mechanism as a result of which the recipient is capable of printing the communication;
- (l) “**suspension**” of a learning programme agreement means the temporary halting of the delivery of the learning programme agreement and includes an extension of time period for the learning programme agreement in order to accommodate special circumstances of any of the parties to the learning programme agreement. The learning programme agreement remains in force during this period of suspension;
- (m) “**skills programme**” means a part qualification as defined in the NQF Act;
- (n) “**structured learning component**” means the knowledge and practical curriculum components of an occupational qualification;
- (o) “**successful completion**” means the learner has successfully completed the learning programme and has been declared competent;
- (p) “**structured work experience component**” means the workplace curriculum components of an occupational qualification;
- (q) “**termination**” of a learning programme agreement means the cancellation or dissolution of a learning programme agreement before one or more of the components of the learning programme agreement have been successfully completed;
- (r) “**the Act**” means the Skills Development Act 1998 (Act 97 of 1998); and
- (s) “**work integrated learning**” means a process that formally integrates a student’s academic qualification or part qualification with work experience in participating employer organisations.

CHAPTER 2**REGISTRATION AND MANAGEMENT OF LEARNING PROGRAMME AGREEMENTS****2. Registering learning programme agreements**

- (1) A learner will be conditionally registered on any learning programme for a period of 30 calendar days during which time the learning programme agreement must be registered by a SETA;
- (2) A learning programme agreement must be in the form set out in **Annexure A1 or A2** to these regulations.
- (3) A SETA may require the parties to a learning programme agreement to submit relevant information in addition to that required in terms of sub regulation (2).
- (4) A SETA may register a learning programme agreement in terms of these regulations only if-
 - (a) a learnership is registered with the Department:
 - (i) the Department may only register a learnership in terms of section 16 (d) of the act if there is sufficient proof that the relevant occupational curriculum for the learnership is registered with QCTO in terms of these regulations;
 - (b) the QCTO has registered a curriculum for the relevant occupational qualification or part qualification;
 - (c) a complete learning programme agreement form referred to in sub-regulation (2) has been submitted to the SETA;
 - (d) all parties to the agreement have signed the agreement and, if the learner is a minor, the learner's parent or guardian has signed the agreement on behalf of the learner;
 - (e) the employer party to the learning agreement falls within the scope of coverage of the SETA as determined by the Minister in terms of section 9(2) of the Act;
 - (f) the employer party meets the requirements specified for the structured work experience component associated with the learning programme;
 - (g) the skills development provider party to the learning programme agreement is accredited by the relevant quality council for the relevant curriculum components associated with the learning programme;

- (h) the terms of the agreement comply with the Act, any other applicable law and the terms of the registered learning programme; and
 - (i) in the case of a learner that is not employed at the start of a learning programme, the employer party and the learner must, subject to sub regulation (8), enter into a contract of employment.
- (5) Subject to any limits or conditions that the Director-General may determine, a SETA may only register a learning programme agreement to which a group of employers is party if-
- (a) one of the employers is identified in the agreement as the lead employer and that employer is geographically located within South Africa;
 - (b) the lead employer has signed the agreement and all other host employers are listed as an annexure to the agreement;
 - (c) all employers are approved by QCTO for the workplace curriculum component; and
 - (d) the lead employer undertakes -
 - (i) to ensure compliance with the employer's duties in terms of the agreement; and
 - (ii) to ensure the implementation of the agreement at the workplace of the other employer parties to the agreement.
- (6) A SETA may only register a learning programme agreement to which a group of skills development providers are party if-
- (a) one of the skills development providers is identified in the agreement as the lead skills development provider and that skills development provider is geographically located within South Africa;
 - (b) all the skills development providers are accredited for a component of the curriculum associated with the learning programme; and
 - (c) the lead skills development provider -
 - (i) has entered into a binding agreement with the accredited skills development provider parties to provide the relevant curriculum components;
 - (ii) undertakes to ensure compliance with the skills development provider's duties in terms of the agreement; and

- (iii) ensures the accreditation status of the skills development provider parties to the agreement is maintained for the duration of the agreement.
- (7) The SETA must -
- (a) within seven (7) working days of receiving the learning programme agreement, decide whether or not to register the learning programme agreement;
 - (b) if it decides to register the agreement, the SETA must decide whether or not to pay a grant towards the costs of the learning programme agreement;
 - (c) if the SETA decides to register the agreement, within seven (7) working days of receiving the learning programme agreement the SETA must-
 - (i) record the date of registration as contemplated in Regulation 11 and generate a registration number for the learning agreement;
 - (ii) submit to all three parties proof that the agreement has been registered,
 - (iii) make available a copy of the agreement to each of the parties to the agreement as and when requested to do so; and
 - (iv) advise the employer of the amount of any grant that it will pay in terms of sub regulation (b); and
 - (d) if the SETA decides not to register the agreement, within seven (7) working days of receiving the agreement it must notify all the parties to the agreement, providing reasons therefore.
- (8) A contract of employment concluded with an unemployed learner only comes into effect once the a learning programme agreement has conditionally been registered in respect of the unemployed learner.

3. Altering terms of learning programme agreements

- (1) The parties to a learning programme agreement registered with the relevant SETA may, by mutual agreement and subject to the SETA's prior approval, alter the terms of the said agreement.
- (2) A SETA may only register an alteration referred to in sub regulation (1), if a copy of the original agreement, together with an annexure signed by all parties indicating the

alterations to the original agreement is submitted to the SETA prior to implementing the alterations.

4. Substituting parties to learning programme agreements

- (1) A SETA may approve an application from an employer for the substitution of the employer or the skills development provider party to a learning programme agreement if a written application in the form of an annexure setting out the terms of the substitution and signed by all the parties to the original agreement, is submitted to the SETA.

5. Suspending learning programme agreements

- (1) A SETA must approve the suspension of a learning programme agreement for a specified period if the employer and learner have agreed in writing to suspend the agreement.
- (2) A SETA may approve the suspension of a learning programme agreement for a specified period if the employer or the learner has requested, on good cause, to suspend the agreement and the other parties to the agreement have had the opportunity to make representations as to why the agreement should not be suspended.
- (3) On approval of the suspension of the agreement, the SETA must
 - (a) Extend the registered agreement completion date by the period of the suspension as agreed to by the parties to the agreement or as determined by the SETA in sub regulation (2);
 - (b) Suspend any grant payments that may be associated with the agreement; and
 - (c) Notify all parties to the agreement of the suspension period and the date on which the agreement will recommence.
- (4) An application to suspend a learning programme agreement in terms of sub regulation (1) or (2) must be submitted to the SETA in writing together with
 - (a) in the case of sub regulation (1), a written agreement signed by the employer and the learner setting out the reasons for the suspension; and
 - (b) in the case of sub regulation (2), the reasons for requesting the suspension and proof that the other parties to the agreement have had the opportunity to make representations as to why the agreement should not be suspended.

- (5) The employer to a suspended agreement must inform the SETA, in writing, of the re-commencement of the agreement within 7 calendar days of re-commencement.
- (6) On receipt of proof that the agreement has been re-commenced, the SETA must continue any outstanding grant payments.

6. Terminating learning programme agreements

- (1) A SETA must approve the termination of a learning programme agreement if-
 - (a) the employer and learner have agreed in writing to terminate the agreement;
 - (b) the learner has terminated the contract of employment with the employer subject to Regulation 4; or
 - (c) the skills development provider has requested on good cause to terminate the agreement and-
 - (i) the other parties to the agreement have had the opportunity to make representation;
 - (ii) the SETA and the employer have been unable to arrange for a new skills development provider party to be substituted for the existing skills development provider party; and
 - (iii) the termination of a learning programme may only occur once the SETA has approved the application for termination.
- (2) A SETA may approve the termination of a learning programme agreement if the employer or learner has requested, on good cause, to terminate the agreement and the other parties to the learnership agreement have had the opportunity to make representations as to why the agreement should not be terminated.

7. Certification of learner achievements

- (1) In the case of a learning programme agreement leading to an artisan qualification as contemplated in Section 26D of the Act-
 - (a) the relevant accredited trade test centre must submit the results of all artisan trade test results once a week to the NAMB and the SETA;
 - (b) the NAMB must report monthly on all artisan learner trade tests results to the Department, SETAs, QCTO and other relevant stakeholders; and

- (c) the NAMB must recommend certification for qualifying learners to the QCTO within 10 working days after verification of the results from the accredited trade tests centres.
- (2) For all other learning programme agreements leading to an occupational qualification, the relevant assessment quality partner appointed by QCTO must, within 21 working days of the learner's final external summative assessment, submit the results –
 - (a) to the QCTO; and
 - (b) to the relevant SETA.
- (3) If the learner has complied to the standards, requirements and procedures for the final external summative assessment for the occupational qualification associated with the learning programme agreement, the QCTO must issue the learner with a certificate for the relevant occupational qualification within 10 working days of receiving the certification recommendation from relevant Assessment Quality Partner or NAMB.

8. Lapsing of learning programme agreements

- (1) Once the termination date specified in the learning programme agreement has been reached, the SETA must inform the learner and the employer that the agreement has lapsed and advise on any outstanding matters relating to the learning programme agreement.
- (2) In the case of a learner that does not remain in employment with the employer when the learning programme agreement lapses, the employer must in a format determined by the SETA inform the SETA monthly for a period of six months if the learner was employed full time or part time by the employer or any other employer.

CHAPTER 3

DISPUTES

9. Referral of disputes concerning learning programmes

- (1) Any party to a dispute regarding the quality or delivery or payment related to education and training or assessment provided by any of the parties to the agreement may in writing refer the dispute to the respective SETA holding the learning programme agreement;

- (2) If the dispute is not settled by the SETA within 21 working days of the written submission being received by the SETA, then the matter may be referred to the QCTO or NAMB in the case of artisan trade learner agreements for resolution in accordance with the applicable policies and procedures of the QCTO or the NAMB; and
- (3) Where relevant a party may also use the provisions of prevailing applicable legislation in the case of a dispute.

CHAPTER 4

ADMINISTRATIVE PROVISIONS

10. Decision making by SETAs

Unless indicated otherwise in these Regulations, a SETA must make any decision required in terms of these Regulations within 21 working days of receiving the relevant documents unless good cause is shown for an extension and a process is followed to convince the SETA to allow an extension.

11. Record keeping by SETAs

- (1) Every SETA must keep an updated record of-
 - (a) all learning programme agreements registered by the SETA including the registration number;
 - (b) all grants paid by the SETA in respect of all learning programme agreements;
 - (c) all alterations to the terms of learning programme agreements;
 - (d) all learning programme agreements successfully completed including the agreement registration number, qualification or part qualification number and certificate number;
 - (e) all learning programme agreements that the SETA did not register and the reasons for not registering the agreements;
 - (f) all learnership agreements terminated in terms of regulation 9, including the reasons for such termination; and

- (g) all reports from employers regarding the employment status of a learner that has completed his or her learning programme agreement.
- (2) Records referred to in sub regulation (1) may be kept in any form, provided that an acceptable original form of the learning programme agreement can be produced in hard copy when required.

12. Repeal of regulations

The Learnership Regulations, 2007 published in General Notice No R519 in Government Gazette 30010 of 29 June 2007 are hereby repealed as a whole.

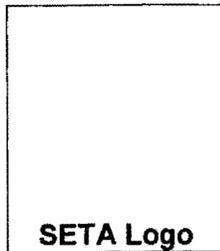
13. Transitional Arrangements

- (1) All training providers accredited by SETA ETQAs will be deemed to be skills development providers accredited by QCTO for the purposes of the teach out period associated with learnership agreements registered under the provisions of the learnership regulations of 2007.
- (2) All learnerships registered with the Department as contemplated in section 16 of the act that were registered with the Department prior to the commencement of these regulations will be deemed to be occupational curriculum registered with QCTO in accordance with regulation 2.
- (3) Any dispute that originated and for which the process commenced prior to these regulations coming into effect will continue to be managed and be resolved through the provisions of the regulations repealed by regulation 12.
- (4) All records that were kept in terms of the requirements stipulated provisions of the regulations repealed by regulation 12 are deemed to be records generated and managed in term of these regulations.

14. Short title

These regulations are to be known as the Learning Programme Regulations, 2012.

Annexure A 1



LEARNING PROGRAMME AGREEMENT (EXCLUDING SKILLS PROGRAMMES)



PART A: INTERPRETATIONS

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

PART B: TERMS AND CONDITIONS OF AGREEMENT

1 Declaration of the parties

We understand that this Agreement is legally binding.

We understand that it is an offence in terms of the Skills Development Act, 1998 (Act 97 of 1998) ('this Act') to provide false or misleading information in this Agreement.

We agree to the following rights and duties.

2 Rights and duties of learners, employers and skills development providers

2.1 Rights of the Learner

The learner has the right to:

- 2.1.1 receive an induction to the learning programme;
- 2.1.2 be educated and trained under the learning programme;
- 2.1.3 access to the required resources for all required curriculum components of the learning programme;
- 2.1.4 be assessed internally as specified and have access to the assessment results of the learning programme;
- 2.1.5 Have access to final external summative assessments as specified in the assessment specification;
- 2.1.6 if successful, be awarded a certificate of occupational competence, from the QCTO;
- 2.1.7 in the case of an unemployed learner, receive the agreed learning programme allowance for the duration of the learning programme; and
- 2.1.8 raise grievances in writing with the SETA concerning any shortcomings in the quality of the education and training under the learning programme.

2.2 Duties of the Learner

The learner must:

- 2.2.1 carry out all related work experience activities required and specified in the learning programme;
- 2.2.2 comply with the employer's workplace policies and procedures;
- 2.2.3 be available for, and participate in, all knowledge, practical skills and work experience activities required by the learning programme;
- 2.2.4 complete timesheets and projects and participate in all internal assessment activities that are required for the final external summative assessment at the end of the learning programme; and
- 2.2.5 be available for final external summative assessment of occupational competence on the date and place scheduled.

2.3 Rights of the Employer

The employer has the right to require the learner to:

- 2.3.1 perform duties in terms of this Agreement; and
- 2.3.2 comply with the rules and regulations concerning the employer's workplace policies and procedures.

2.4 Duties of the Employer

The employer must:

- 2.4.1 comply with all duties in terms of the Skills Development Act and applicable legislation including:
 - Basic Conditions of Employment Act 75 of 1997;
 - Labour Relations Act 66 of 1995;
 - Employment Equity Act 55 of 1998;
 - Occupational Health and Safety Act 85 of 1993 or Mine Health and Safety Act 27 of 1996;
 - Compensation for Occupational Injuries and Diseases Act 130 of 1993; and
 - Unemployment Insurance Act 30 of 1996.
- 2.4.2 provide the facilities and resources required for the work experience components of the learning programme;
- 2.4.3 provide the learner with supervision, mentoring and coaching at work;
- 2.4.4 release the learner during normal working hours to attend off-the-job components of the learning programme;
- 2.4.5 complete the learner's work records;
- 2.4.6 keep up to date records of workplace learning and periodically discuss progress with the learner and the Skills Development Provider;

- 2.4.7 if the learner was not in the employment of the employer at the time of concluding this Agreement-
- enter into a contract of employment with the learner for the duration of the learning programme;
 - advise the learner of the terms and conditions of his or her employment, including the learner allowance; and
 - advise the learner of the employer's workplace policies and procedures.
- 2.4.8 pay the learner on time the agreed learner allowance for the duration of the learning programme;
- 2.4.9 apply the same disciplinary, grievance and dispute resolution procedures to the learner as to any other employee; and
- 2.4.10 submit the signed learning programme agreement to the SETA for registration.

2.5 Rights of the Skills Development Providers

The Skills Development Provider has the right to access the learner's work experience records.

2.6 Duties of the Skills Development Providers

The Skills Development Providers must:

- 2.6.1 provide the knowledge and practical skills components specified in the learning programme;
- 2.6.2 provide the learner support as required by the learning programme;
- 2.6.3 record, monitor and retain details of the education and training provided to the learner in terms of the learning programme and periodically discuss progress with the learner and the employer;
- 2.6.4 conduct internal assessments for the knowledge and practical skills components specified in the learning programme; and
- 2.6.5 issue statements of results.

3 Completion or Termination of this Agreement

- 3.1 This learning programme agreement is completed:
- 3.1.1 on the date as stipulated in this Agreement as completion date; or
- 3.1.2 on an earlier date if the learner has successfully completed the final external summative assessment and fulfilled all requirements associated with the specified workplace experience activities of the learning programme;
- 3.2 This learning programme agreement is terminated:
- 3.2.1 the learner is fairly dismissed by the employer for a reason related to the learner's conduct or capacity as an employee; and
- 3.2.1 the SETA approves the termination of the Agreement in terms of the Learning Programme Regulations.

4 Disputes

- 4.1 If there is a dispute concerning any of the following matters, it may be referred to the SETA that holds the Learning Programme Agreement.

PART C: DETAILS OF THE LEARNING PROGRAMME AND THE PARTIES TO THIS AGREEMENT

Please take note of the following:

- If the learner is not already in the employ of the employer, the learner and employer must conclude a contract of employment.
- If the learner is under 18 years then the learner's parent or guardian must be a party to this Agreement and must complete Section 2. The parent or guardian ceases to be a party to this Agreement once the learner turns 18.
- If a group of employers are party to this Agreement, one of the employers must perform the function of a lead employer. The lead employer must complete section 3. Details of the other employers must be attached on a separate sheet.
- If a group of Skills Development Providers are party to this Agreement, one of the Skills Development Providers must perform the function of lead Skills Development Provider. The lead Skills Development Provider must be accredited for the relevant curriculum components and must complete section 4. Details of the other Skills Development Providers must be attached on a separate sheet.

1 Learner details

1.1 Full name: _____

1.2 Identity number: _____

1.3 Date of birth: _____

1.4 Sex: Male Female

1.5 Race: African Indian

Coloured White

1.6 Do you have a disability, as contemplated by the Employment Equity Act 55 of 1998¹

Yes (specify): _____

No

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

1.7 Residential address: _____

1.8 Contact Telephone Numbers: _____

(As many contact numbers as possible, one of which MUST be a cell number)

1.9 Postal address (if different from residential): _____

1.10 E-mail address: _____

1.11 Are you a South African citizen?

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

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

Yes No

2 Parent or Guardian details

(To be completed if learner is a minor – i.e. an unmarried person under 18 years)

2.1 Full name: _____

2.2 Identity number: _____

2.3 Home address: _____

2.4 Postal address (if different from above): _____

2.5 Telephone number (home and work): _____

2.6 E-mail address: _____

3 Employer details

3.1 Legal name of employer: _____

3.2 Trading name (if different from above): _____

3.3 Are you liable for the skills development levy?

Yes

No

If yes, what is your SDL number: _____

3.4 Name of SETA with which you are registered: _____

3.5 What is the Standard Industrial Classification (SIC) code that applies to your core business: _____

3.6 Are you acting as the Lead Employer, or only employer?

Lead

Only

3.7 Business address: _____

3.8 Postal address (if different from 3.7): _____

3.9 Name of contact person: _____

3.10 Telephone No: _____

3.11 Fax No: _____

3.12 Cell No: _____

3.13 E-mail address: _____

4 Skills Development Provider details

4.1 Legal name of Skills Development Provider: _____

4.2 Trading name (if different from above): _____

4.3 Are you acting as the Lead Skills Development Provider?

Yes

No

4.4 Are you liable for the skills development levy?

Yes

No

If yes, what is your SDL number: _____

4.5 What is the Standard Industrial Classification (SIC) code that applies to your core business: _____

4.6 Accreditation number: _____

4.7 Accreditation review date: _____

4.8 Business address: _____

4.9 Postal address (if different from 4.8): _____

4.10 Name of contact person: _____

4.11 Telephone number: _____

4.12 Fax number _____

4.13 E-mail address: _____

5 Contract of employment

5.1 Is the learner's contract of employment specific to the period of the Learning Programme Agreement?

Yes (specify): _____

No

If Yes, attach a copy of the document reflecting the learner's conditions of employment

5.2 Does the learner have a copy of the contract of employment?

No (explain): _____

Yes

6. Learning Programme Details

Learning Programme Type	Place an X next to ONLY ONE Type
Apprenticeship	
Candidacy	
Internship	
Learnership - Cadetship	
Learnership - Other	
SETA responsible for Learning Programme Agreement	
QCTO occupational qualification title associated with learning programme	
QCTO occupational qualification registration number associated with the learning programme:	
QCTO Learning Programme Curriculum Registration Number	
QCTO appointed Assessment Quality Partner associated with the qualification	

7 Signatories

Learners signature:

Date: _____

Witness signature:

Date: _____

Parent or Guardian's signature

(Only if the learner is a minor)

Date: _____

Witness signature:

Date: _____

Employer or Lead Employer's signature

Date: _____

Witness signature:

Date: _____

Skills Development Provider or Lead Skills Development Provider's signature

Date: _____

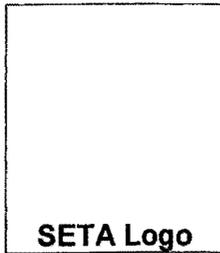
Witness signature:

Date: _____

SETA Official Use Only

Learning programme Agreement Number	_____
Conditional date of agreement	_____
Registration date of the Agreement	_____
Signature, Name and Designation of SETA Official approved by the CEO to register Learning Programme Agreements.	_____

Annexure A 2



LEARNING PROGRAMME AGREEMENT (SKILLS PROGRAMMES ONLY)

**PART A: INTERPRETATIONS**

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

PART B: TERMS AND CONDITIONS OF AGREEMENT

All terms and conditions applicable to all skills programmes as detailed in Annexure A1 OF THE Learning Programme regulations apply to all skills programmes

PART C: DETAILS OF SKILLS PROGRAMME AND PARTIES TO THIS AGREEMENT**Please take note of the following:**

- No provision is made for lead Employers or lead Skills Development Providers.

1 Learner details

1.1 Full name: _____

1.2 Identity number: _____

1.3 Sex: Male Female

1.4 Race: African Indian

Coloured White

1.5 Do you have a disability, as contemplated by the Employment Equity Act 55 of 1998²

Yes (specify): _____ No

² The Employment Equity Act defines a disability as a long-term or recurring physical or mental impairment which substantially limits prospects of entry into, or advancement in, employment.