

SKILLS DEVELOPMENT ACT, 1998
SECTOR EDUCATION AND TRAINING AUTHORITIES
(SETAs) GRANT REGULATIONS REGARDING MONIES
RECEIVED BY A SETA AND RELATED MATTERS

I, Membathisi Mphumzi Shepherd Mdladlana, the Minister of Labour, in terms of section 36 of the **Skills Development Act, 1998 (Act No. 97 of 1998)**, and after consultation with the National **Skills Authority**, hereby **make the** regulations in the Schedule.

SCHEDULE

ARRANGEMENT OF REGULATIONS

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4. **SETA** finances
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6. Allocation of mandatory grants by SETA
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Definitions

- 1.** In these Regulations, **any** word or expression to which a meaning has been assigned **in** the Act, shall have the **meaning so** assigned and, unless the context otherwise indicates-
- Act" means the **Skills** Development Act, **1998** (Act **No. 97** of **1998**);
- "administration costs" **means** the costs contemplated in regulation 4(3);
- "annexure" means **an** annexure to these regulations;
- "chamber" means a chamber established under section 12 of **the** Act;
- "discretionary grants" **means** grants contemplated in regulation **7**;
- "financial **year**" means the period contemplated in regulation **2**;
- "levy income" means the total amount of **money** received by a **SETA** in terms of sections **7(1)** and **8(2)(a)** read with **8(3)(b)** of the **Skills** Development Levies **Act**;
- "mandatory grants" **means** grants contemplated in regulation 6;
- "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.

Financial Year

- 2** **The** financial year of a SETA **will** cover **the** period **1** April **2005** to 31 **March** 2006 and thereafter the period of **12** consecutive **months** extending from **1** April to 31 March in the succeeding years.

Limitation on administration costs of SETA

- 3.** (1) In **terms** of section **14(3)(b)** read with sections 14(3A)(a) and 14(3B) of the Act, a SETA **may** not use more **than 12,5%** of its levy income received in **any year** to pay for **its** administration costs in respect of **that** financial year.
- (2) In addition to subregulation (1), a SETA **may use** the contributions received **from** public service employers in the national or provincial spheres of government for its administration costs.
- (3) The Minister **may** grant prior written approval authorising a **SETA** to **use an** amount not Contemplated by subregulations **(1)** and **(2)** for **its** administration costs, if the Minister is satisfied that such expenditure is

necessary to enable **the SETA** to continue performing its functions in terms of the Act.

- (4) For the purposes of subregulation (1) and (2), and subject to section 14(3B) of the Act, the administration **costs** include, but not limited to, the following-

rent, heat, light, power, insurances, bank charges, audit fees **and** accounting fees, general administration, postage, printing and stationery, documentation **and books**, advertising, reports, **wages** and salaries, travel **expenses**, **staff** training, purchase of computers and information systems, maintenance of computers **and** systems, general maintenance, hire **costs** of photocopier, telephone and fax, meetings and **seminars**, land, non-residential buildings **and** improvements **thereon**, furniture and office equipment, other machinery **and** equipment, **transport assets**, research, consultancy fees, depreciation, promotional items, national skills development strategy conference **expenses**, database development and stakeholder training.

SETA finances

4. (1) **Each SETA must in compliance** with section 14(2) of the Act, establish a banking account from which-

- (a) the administration costs of SETA activities;
- (b) mandatory grant disbursements;
- (c) discretionary grant **and** project disbursements; and
- (d) investments

shall be deposited and **withdrawn**.

- (2) **An amalgamated SETA** contemplated **in** section 9A of the Act that receives funds from **one** or **more** amalgamating **SETAs** must-

- (a) establish a **banking** account for depositing and withdrawing such funds; and
- (b) **maintain** such account until all outstanding assets, rights, liabilities and obligations that devolved **upon** and vested in the SETA in terms of section **9A (4)** are finalised.

- (3) A **SETA must use all** moneys received **in** terms of the **Skills Development Levies Act** to -

- (a) administer the activities of that **SETA**;
- (b) implement its annual strategic plan **as** contemplated in the **Treasury Regulations issued** in terms of the Public Finance Management Act; **and**
- (c) if not otherwise **specified** by the Public Finance Management **Act**, invest the moneys in accordance with the investment policy approved by **the** National Treasury.

Transfer of funds by Director-General if administration of SETA is taken over

5. In order to transfer any funds in a **SETA's** banking account to the National **Skills** Fund in terms of section 15(2)(d) of the Act, the Director-General may require-
- (a) the **SETA** concerned to identify any banking account operated by **the SETA** in terms of section 14(2) of the Act; and
 - (b) a ~~bank~~ or other financial institution concerned to transfer, in accordance with section 15(2)(d) of the Act, the funds in **the** account contemplated in subregulation (1) **to** a bank account **opened and** administered for that purpose by the National Skills Fund.

Allocation of mandatory grants by SETA

6. (1) Subject to regulation 10, A SETA must allocate a mandatory grant to -
- (a) **an** employer employing **50** or more employees that has submitted **an** application for a Workplace Skills **Planning** or Training Report grant in accordance with subregulation (2) **and** in the form prescribed in Annexure "2" to these Regulations; or
 - (b) **an** employer employing less **than 50** employees ~~that~~ has submitted an application for a grant in accordance with subregulation (2) on a simplified form provided **by the SETA**.
- (2) An application for a mandatory grant in terms of subregulation (1) **must** be submitted by-
- (a) 30 September 2005 for the 2005/ 2006 financial year or in respect of unclaimed mandatory grants in respect of previous financial years;
 - (b) 30 June for all subsequent financial years;
 - (c) within 6 ~~months~~ of registration in the case of an employer **who has** registered for the **first** time in terms of section 5(1) of **the** Skills Development Levies Act.
- (3) The mandatory grant to be paid by the SETA -
- (a) **must** be equivalent to **50** % of the total levies paid by the employer in terms of section 3(1) read with section 6 of **the** Skills Development Levies Act during **each** financial year; **and**
 - (b) **must** be paid to the employer at least quarterly.

- (4) If **the** employer does not claim a mandatory grant within the time **periods** specified in subregulation (2), **the** SETA must transfer the employer's unclaimed mandatory grant funds to **the** discretionary grant **fund**.

Allocation of discretionary grants by SETA

7. (1) A SETA may determine and allocate a discretionary grant-
- (a) to commission research in the sector in accordance with the sector skills plan and guidelines prepared by the Department;
 - (b) to fund the development of guidelines and the **training** of sector specialists or **skills** development facilitators;
 - (c) to a **qualifying** employer or **an** accredited organisation in respect of Adult Basic Education and **Training** provided to a learner or worker;
 - (d) to a **training** provider or employer in respect of a learner who enters a learning programme to acquire **a** scarce skill identified by the SETA;
 - (e) to **an** employer who provides **work** experience opportunities to learners in sector relevant programmes;
 - (f) to **an** employer or **training** provider to **train** and mentor learners to acquire new venture qualification;
 - (g) to **fund an** institution of sectoral or occupational excellence;
 - (h) to **fund an** institution ~~that offers the new~~ venture qualification;
 - (i) to **fund an** education and **training** provider or an institution responsible for **the** implementation of **the** National Qualifications Framework in support of the National Skills Development Strategy;
 - (j) to **fund** SETA constituency capacity building initiatives and promotion of skills development in **the** sector;
 - (k) to fund a lead employer contemplated in regulation 3(4) of the Learnership Regulations;
 - (l) to **fund an** agency established in terms of section 17(7) of the Act;
 - (m) to **fund an** employer for learnerships registered under a different **SETA**;

- (n) to **fund an** employer in respect of sector **skills** priorities.
- (2) A SETA may prepare and distribute forms for applications for any category of grant specified in subregulation (1).
- (3) The discretionary grants to be paid by the SETA in terms of subregulation (1) must be funded from-
 - (a) 20% of the total levies paid by **the** employer in terms of section 3(1) of the **Skills** Development Levies Act during each financial year;
 - (b) surplus administration funds;
 - (c) unclaimed mandatory grants;
 - (d) interest and penalties received in terms of sections 11 and 12 of the **Skills** Development Levies Act;
 - (e) interest **earned** on investment;
 - (f) surplus contributions received from public service employers in the national or provincial spheres of government contemplated in section 30(b) of the **Act**.
 - (g) **any** other money received by the SETA in terms of section 14(1)(f) of the **Act**.
- (4) A discretionary grant may be paid in terms of subregulation (1) to-
 - (a) **an** employer within the jurisdiction of **a** SETA, including an employer who is not required to pay skills development levy in **terms** of the **Skills** Development Levies Act; and
 - (b) other associations or organisations that meet the criteria for the payment of such *grant*.

Approval of grants by **SETA** Board or Council

8. The SETA criteria for discretionary **grants** must be approved by the SETA Board or Council before funds **are** allocated under regulation 7.

Grant disbursement schedule

9. **Each** SETA **must** prepare and distribute a schedule setting out the criteria in terms of regulation 8 and the dates by which applications for the mandatory grants contemplated in regulation 6 and discretionary grants contemplated in regulation 7 must be submitted.

Grant recovery by employers

10. (1) **An** employer seeking recovery of a **grant against** the levy payment **must** meet the eligibility criteria for grant recovery **as** prescribed in subregulation (2).

- (2) A SETA may not pay any grant to **an** employer who is liable to pay the skills development levy in terms of section 3(1) of the Skills Development Levies Act unless the employer-
- (a) has registered ~~with~~ the 'Commissioner in terms of section 5 of the **Skills** Development Levies Act;
 - (b) has paid the levies directly to the Commissioner in the manner and within the period determined in section 6 of the **skills** Development Levies Act;
 - (c) is up to date ~~with~~ the levy payments to the Commissioner at the time of approval and in respect of the period for which an application is made;
 - (d) has submitted a Workplace **Skills** Plan ~~within~~ the timeframes prescribed in regulation 6(2) of these regulations; and
 - (e) with effect from 2006 / 2007 financial year and in subsequent financial years, ~~has~~ submitted a Training Report of performance in respect of the implementation of the previous financial year's Workplace **Skills** Plan.
- (3) Employers who fail to meet the prescribed criteria will forfeit the grant referred to **in** regulation 6 of these regulations.

Payment for services rendered by SETAs

11. For the purposes of section 14(1)(e) of the Act, a SETA may only charge for services if –
- (a) it ~~has~~ submitted a motivation in ~~writing~~ to the Director-General; and
 - (b) the Director General, in accordance with **any** guidelines ~~issued~~ by the Minister on the advice of the **National Skills** Authority, has approved ~~the~~ SETA charging for those services.

Repeal of Regulations

12. The Regulations referred to in Annexure 1 are hereby repealed to the extent specified therein.

ANNEXURE 1

REGULATIONS REPEALED

Government Notice No.	Date	Title	Extent of Repeal
R.103	7 February 2000	Skills Development Act, 1998 (Act No.97 of 1998) Regulations for the period 1 April 2000 To 31 March 2001 Regarding the Funding and Related Issues	As a whole
R.571	22 June 2001	Skills Development Act, 1998 (Act No.97 of 1998) Skills Development Regulations	As a whole
R.344	7 March 2003	Skills Development Act, 1998 (Act No.97 of 1998) Skills Development Regulations	As a whole
R.729	11 June 2004	Skills Development Act, 1998 (Act No.97 of 1998) Skills Development Funding Regulations: Amendment	As a whole
R.1200	15 October 2004	Skills Development Act, 1998 (Act No.97 of 1998) Skills Development Funding Regulations Amendment: Government Notice No. R.729 of 11 June 2004. Correction Notice	As a whole

ANNEXURE 2

SKILLS DEVELOPMENT ACT, 1998

SETA GRANT REGULATIONS

NAME AND ADDRESS OF SETA

**APPLICATION FOR MANDATORY GRANT BY EMPLOYER
[Regulation 6(1)(a)]**

A(1). Details of Employer

1. Name of Organisation:

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2. Postal address:

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City and Province: **Postal code:**

3. Physical address:

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(If the workplace skills plan or training report is submitted on behalf of one or more establishments, please attach a list of names and addresses, including physical and postal addresses).

4. Skills Development Levy (SDL) number:

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5. Telephone number:

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6. Fax number:

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7. E-mail address:

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8. Banking details

Name of Bank	
Address of Bank	
Branch Code	
Account Number	

9. Main business activity (use **SIC** code):

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10. Total employment (defined as total workforce in respect of which **skills** development levies have been paid to SARS):

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11. Total annual payroll for the end of the previous financial year:

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12. Name(s) of **Skills** Development Facilitator(s) (**SDF**):

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13. Address (if different from address of organisation indicated above):

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14. Contact details of **SDF**

(a) Telephone number:

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(b) Mobile telephone number:

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(c) Fax number:

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(d) E-mail address:

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	External recruits (including 18(2) learners at this level and above)														
Elementary occupations	Current employees (at this level)														
	Current employees (earmarked for development at this level)														
	External recruits (including 18(2) learners at this level and above)														
Total															