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GOVERNMENT NOTICE

DEPARTMENT OF HIGHER EDUCATION AND TRAINING

No. R. 20

12 January 2012

SKILLS DEVELOPMENT ACT, 1998 (ACT NO. 97 OF 1998)

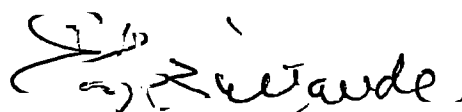
THE SECTOR EDUCATION AND TRAINING AUTHORITIES (SETAs) GRANT REGULATIONS REGARDING MONIES RECEIVED BY A SETA AND RELATED MATTERS

I, Bonginkosi Emmanuel Nzimande, Minister of Higher Education and Training, intend to repeal the Sector Education and Training Authorities (SETAs) Grant Regulations regarding monies received by a SETA and related matters, published in Government Notice No. R.713 in *Government Gazette* No. 27807 of 18 July 2005, as amended by Government Notice No. R88 published in *Government Gazette* No. 29584 of 2 February 2007; and I intend to make the Sector Education and Training Authorities (SETAs) Grant Regulations regarding monies received by a SETA and related matters, as contained in the Schedule, in terms of section 36 of the Skills Development Act, 1998 (Act No. 97 of 1998), after consultation with the National Skills Authority. These Regulations are hereby published for comments. All interested persons and organisations are invited to comment on the Regulations in writing, and to direct their comments to –

The Director-General, Private Bag X174, Pretoria, 0001, for attention: Ms M Erra, email Erra.m@dhet.gov.za .

Kindly provide the name, address, telephone number, fax number and email address of the person or organisation submitting the comments.

The comments should reach the Department within 21 calendar days after publication of this Notice.



Dr. Bonginkosi Emmanuel Nzimande, MP
Minister of Higher Education and Training
Date. 15/12/11.....

SCHEDULE

ARRANGEMENT OF REGULATIONS

- 1 Definitions
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- 3 SETA finances
- 4 Allocation of mandatory grants by a SETA
- 5 Allocation of Pivotal grants by a SETA
- 6 Allocation of discretionary grants by a SETA
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- 8 Grant disbursement schedule
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1 Definitions

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-

'administration costs' means the costs contemplated in regulation 2(4);

'annexure' means an annexure to these Regulations;

'discretionary grants' means grants contemplated in regulation 6;

'financial year' means a year ending on 31 March (as defined in the PFMA)

'institutional and sectoral research' means research commissioned by a SETA on any aspect of the administration or management of a SETA;

'legal fees' means the total amount paid for legal services rendered with regards to legal proceedings or any order of cost made by a court of law against the SETA and may only be paid from administration funds;

'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 4;

'PFMA' means the Public Finance Management Act, 1999 (Act 1 of 1999);

'pivotal grant' means a grant as contemplated in regulation 5

'pivotal programmes' means professional, vocational, technical and academic learning programmes that result in occupational qualifications that are quality assured

by the QCTO and may include a knowledge component that is normally delivered at a Further Education and Training College or a University;

‘project administration costs’ means administration costs related to a project that has been approved by a SETA Accounting Authority that is payable to an external service provider and must form part of the total project cost but may not be more than 7,5 % of the total project cost;

‘project costs’ means costs payable through a discretionary grant and includes all costs inclusive of project administration costs that have been budgeted for and approved by a SETA Accounting Authority;

‘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;

‘surplus funds’ means any monies in a SETA bank account or in an investment vehicle on the 31 March annually that is not committed to learners in pivotal programmes;

‘the Act’ means the Skills Development Act, 1998 (Act 97 of 1998);

2 Limitation on administration costs of a SETA

- (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 10.5% of the total levies paid by the employer as allocated in the Act received in any year to pay for its administration costs in respect of that financial year.
- (2) In addition to sub regulation (1), a SETA may use the contributions received from public service employers in the national or provincial spheres of government as contemplated in section 30 of the Act, and relevant national and provincial public entities as contemplated in section 30A of the Act for its administration costs.

- (3) The Minister may grant written approval authorising a SETA to use an amount not contemplated by sub regulations (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 sub regulations (1) and (2), and subject to section 14 (3B) of the Act, the administration costs are the following:
Rent, heat, light, power, insurances, bank charges, audit fees, accounting fees, legal fees, 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, land, non-residential buildings and improvements thereon, furniture and office equipment, other machinery and equipment, transport assets, consultancy fees including institutional research and sectoral research, promotional items, national skills development strategy conference expenses, recruitment expenses and any other reasonable administration costs approved by a SETA Accounting Authority but does not include project administration costs.
- (5) A SETA must monthly from 1 October 2012 transfer as part of its administration costs as contemplated in sub regulation (1) and approved in the annual SETA strategic plan, a maximum of 0,5% of the total levy received by the SETA to QCTO for quality assurance functions as contemplated in section 26H of the Act;

3 SETA finances

- (1) Each SETA must in compliance with the Public Finance Management Act, establish banking accounts.
- (2) A SETA must use all monies received in terms of the Skills Development Levies Act to-
- (a) administer the activities of the SETA;
 - (b) implement its annual strategic plan as contemplated in the Treasury Regulations

issued in terms of the Public Finance Management Act;

- (c) Treasury Regulations require that the Accounting Authority (Board) of a public entity should approve the investment policy.
- (3) With effect from 31 March 2013 all surplus funds in a SETA for each financial year must be transferred to the pivotal grant within 10 working days after 31 August annually.
- (4) With effect from 31 March 2013 all surplus funds in a SETA for all previous financial years must be transferred to the pivotal grant within 10 working days.
- (5) The effective date for above clause may be extended by the DG for one or more SETAs.
- (6) Notwithstanding clauses (3), (4) and (5), a SETA may for compelling reasons and circumstances, request the Director-General to advise the National Treasury to approve the utilization of the surplus in other ways, within the Skills Development Act and the National Skills Development Strategy.

4 Allocation of mandatory grants by a SETA

- (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 and Annual Training Report grant in accordance with sub regulation (2) and as a minimum in the format contained in Annexure 2 to these Regulations;
 - (b) an employer who has registered for the first time in terms of section 5 of the Skills Development Levies Act and has submitted an application for a Workplace Skills Planning grant within 6 months of registration.
- (2) An application for a mandatory grant in terms of sub regulation (1) must be submitted

by 30 June.

- (3) The mandatory grant to be paid by the SETA –
 - (a) must be equivalent to 40% 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;
 - (b) must be paid to the employer monthly.

- (4) If the employer does not claim a mandatory grant within the time period specified in sub regulation (2), the SETA must transfer the employer's unclaimed mandatory grant funds to the pivotal grant fund.

5 Allocation of pivotal grants by a SETA

- (1) A SETA must allocate a pivotal grant to an employer for a learning programme at a level determined by the Director General through a general circular to all SETAs to fund learners on pivotal programmes inclusive of funding of University of Technology students and FET College graduates subject to verification by the SETA to a maximum of 10% of total levies paid by the employer.

- (2) In addition, subject to sub regulation (1), a SETA may allocate additional pivotal grant funds to an employer for pivotal programmes, should the employer have spent more than 3 % of their payroll on training as reported in the pivotal training report and verified by the SETA.

6 Allocation of discretionary grants by a SETA

- (1) A SETA may determine and allocate a discretionary grant in support of the National Skills Development Strategy, the National Skills Accord and other relevant national priorities detailed in the strategic plan of the SETA as approved by the Minister.

- (2) A SETA may only commit, beyond each financial year, discretionary funds for

learners in pivotal programmes.

- (3) A SETA may prepare and distribute forms for applications for any category of grant specified in sub regulation (1).
- (4) The discretionary grants to be paid by the SETA in terms of sub regulation (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) interest and penalties received in terms of sections 11 and 12 of the Skills Development Act;
 - (d) interest earned on investment;
 - (e) surplus contributions received from public service employers in the national or provincial spheres of government contemplated in section 30 (b) of the Act; or
 - (f) any other money received by the SETA in terms of section 14 (1) (f) of the Act.
- (5) A discretionary grant may be paid in terms of sub regulation (1) to-
 - (a) an employer within the jurisdiction of a SETA, including an employer who is not required to pay a skills development levy in terms of the Skills Development Levies Act;
 - (b) other associations or organizations that meet the criteria for the payment of such grant; or
 - (c) an employer contemplated in section 30 and 30 (A) of the Act who has submitted to its relevant line SETA and Public Service SETA (PSETA) within the time frames prescribed in regulation 4 (2) of these Regulations, a Workplace Skills Plan and Annual Training Report as a minimum in the format contained in Annexure 3.
- (6) A discretionary grant contemplated in sub regulation 6 (1) must fund all project costs for any project funded by a discretionary grant under sub regulation 6 (1) inclusive of project administration costs.

7 Approval of grants by a SETA

The SETA criteria for grants must be approved by the SETA Accounting Authority before funds are allocated.

8 Grant disbursement schedule

Each SETA must prepare and distribute a schedule setting out the criteria in terms of regulation 7 and the dates by which applications for grants must be submitted.

9 Mandatory grant and Pivotal Grant recovery by employers

- (1) An employer seeking recovery of a grant against the levy payment must meet the eligibility criteria for grant recovery as prescribed in sub regulation (2).
- (2) A SETA must not pay a mandatory grant and pivotal 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 3 (1) 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 and pivotal training report that contributes to the relevant SETA sector skills plan as contemplate in section 10 (1) of the Act within the timeframes prescribed in regulation 5 (2) of these Regulations;
 - (e) with effect from 1st April 2012, has submitted and implemented its workplace skills plan for the previous financial year to the extent that it satisfies the criteria for implementation that must be established and approved by the SETA Accounting Authority based on guidelines provided by DHET; and

- (f) has WSP, PTR and ATR approved by relevant organised labour structures.

10 Payment for services rendered by a SETA

For the purpose 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.

11 Repeal of Regulations previously published

The Sector Education and Training Authorities (SETAs) Grant Regulations regarding monies received by a SETA and related matters, published in Government Notice No. R.713 in *Government Gazette* No. 27807 of 18 July 2005, as amended by Government Notice No. R88 and published in *Government Gazette* No. 29584 of 2 February 2007 are hereby repealed.

12 Short title and commencement

These regulations are called the Sector Education and Training Authorities (SETAs) Grant Regulations regarding monies received by a SETA and related matters and will come into operations on a date to be determined by the Minister in a *Gazette*.

**ANNEXURE 1
REGULATIONS REPEALED**

Government notice	Date	Title	Extent of repeal
R 103	7 February 2000	Skills Development Act, 1998 (Act 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 97 of 1998) Skills Development Regulations	As a whole
R 344	7 March 2003	Skills Development Act, 1998 (Act 97 of 1998) Skills Development Regulations	As a whole
R 729	11 June 2004	Skills Development Act, 1998 (Act 97 of 1998) Skills Development Funding Regulations: Amendment	As a whole
R 1200	15 October 2004	Skills Development Act, 1998 (Act 97 of 1998) Skills Development Funding Regulations: Amendment: Government Notice R729 of 11 June 2004. Correction Notice	As a whole
R88	2 February 2011	Sector Education and Training Authorities (SETAs) Grant Regulations regarding monies received by a SETA and related matters.	

ANNEXURE 2 (Private)

WORKPLACE SKILLS PLAN

and

ANNUAL TRAINING REPORT

and

PIVOTAL TRAINING REPORT

Private Sector Template

Minimum Requirements

SECTION A: ADMINISTRATIVE DETAILS

A1: Entity Name

**A2: Skills Development Levy
Number (SDL)**

**A3: Postal Address of the
Main Office**

City

Province

Postal Code

**A4: Standard Industrial Code (SIC Code) for the main
business activity**

DETAILS OF THE PERSON WHO COMPLETED THE FORM

A5: Title

A6: Surname

A7: First Name

A8: ID Number

A9: Telephone Number

A10: E-mail

BANKING DETAILS

A11: Name of Bank

A12: Account Number

A13: Name of account Holder

A14: Type of Account

A15: Branch Name

A16: Branch Code

SECTION B: EMPLOYMENT SUMMARY

B1: Total number of employees per occupational category, by gender, population group, disability status and age group

Occupations		Male			Female			Total	People with Disability				Age Groups			Geography	
OFO Code	Occupational Category	A	C	I	W	A	C		I	W	A	C	I	W	<35	35-55	>55

B2: Total number of employees in each province

SECTION C: SKILLS DEVELOPMENT

C1: Planned beneficiaries of training per occupational category, by gender, population group and disability status

Occupations		Male			Female			Total	People with Disability				Age Groups			Geography	
OFO Code	Occupational Category	A	C	I	W	A	C		I	W	A	C	I	W	<35	35-55	>55

C2: Planned training – unemployed

OFO Code	Occupational Category	Number to be trained at		
		Entry level	Intermediate Level	Advanced Level

C3: Planned training – employed

OFO Code	Occupational Category	Number to be trained at		
		Entry level	Intermediate Level	Advanced Level

C4: Planned AET training

AET	Total number to be trained
-----	----------------------------

SECTION D: ANNUAL TRAINING REPORT (Report on training interventions)

D1: Breakdown of beneficiaries of training by gender, age group and disability status

Occupations		Male			Female			Total	People with Disability				Age Groups			Geography		
OFO Code	Occupational Category	A	C	I	W	A	C		I	W	A	C	I	W	<35		35-55	>55

D2: Number of beneficiaries who completed the training by level

OFO Code	Occupational Category	Number to be trained at		
		Entry level	Intermediate Level	Advanced Level

D3: Total number of beneficiaries who completed AET by level

AET Training	Total number of employees
AET	

D4: Impact Assessment

Has production increased?

Prove how the profit and production of the company was affected by training as planned/completed in the WSP, ATR and PIVOTAL Reports

SECTION E : PIVOTAL TRAINING REPORT

E1: Number of planned beneficiaries of training per occupational category, by gender, population group and disability status.

Occupations			Male			Female			Total	People with Disability				Age Groups			Geography		
OFO Code	Occupational Category	PIVOTAL Programme	A	C	I	W	A	C		I	W	A	C	I	W	<35	35-55	>55	Local Municipality

E2: Number of verified beneficiaries of training per occupational category, by gender, population group and disability status.

Occupations			Male			Female			Total	People with Disability				Age Groups			Geography		
OFO Code	Occupational Category	PIVOTAL Programme	A	C	I	W	A	C		I	W	A	C	I	W	<35	35-55	>55	Local Municipality

E3: Planned training – unemployed

OFO Code	Occupational Category	PIVOTAL Programme	Number to be trained at		
			Entry level	Intermediate Level	Advanced Level

E4: Planned training – employed

OFO Code	Occupational Category	PIVOTAL Programme	Number to be trained at		
			Entry level	Intermediate Level	Advanced Level

SECTION F : GENERAL COMMENTS

(Insert any clarification or comment that you wish to make on any aspect of the WSP, ATR and PIVOTAL Report. (Provide the number of the item that your comment refers to).)

SECTION G: AUTHORISATION AND STAKEHOLDER SUPPORT (WSP,ATR and PIVOTAL Report)

Section G of the template, with the original signatures, must be submitted to the skills development division of the relevant SETA by hand, post or fax by 30 June.

DECLARATION

We, the undersigned, submit this information in fulfillment of this entity's legal obligation in terms of the skills development legislation and regulations. We declare that, to the best of our knowledge, the information contained in this WSP / ATR/PIVOTAL Report is accurate and up to date. We recognise that any inaccurate statement in this document may constitute fraud and be subject to the full penalty of the law.

SIGNATORIES

G1: Designated Signatory The person who completed WSP / ATR/PIVOTAL Report Designated employee representative	Name and Surname	Telephone Number	Original Signature	Date

AUTHORISATION

G2: CEO / Managing Director

ANNEXURE 2 (Public)

WORKPLACE SKILLS PLAN

and

ANNUAL TRAINING REPORT

and

PIVOTAL TRAINING REPORT

Public Sector Template

Minimum Requirements

SECTION A: ADMINISTRATIVE DETAILS

A1: Entity Name

**A2: Skills Development Levy
Number (SDL)**

**A3: Postal Address of the
Main Office**

City

Province

Postal Code

DETAILS OF THE PERSON WHO COMPLETED THE FORM

A4: Title

A5: Surname

A6: First Name

**A7: Contact ID Number
Details**

**Telephone
Number**

Fax

Cell Number

Email

**Postal
Address**

Code

**A8: Contact Name and
of the CFO Surname
Telephone**

Fax

Cell Number

Email

SECTION B: TRAINING BUDGET

B1: Total Personnel budget for the current financial year

B2: One per cent (1%) of the personnel budget

B3: Total Planned training budget for the current financial year

B4: Additional funding planned for the current financial year

SECTION C: EMPLOYMENT SUMMARY

C1: Total number of employees per occupational category, by gender, population group, disability status and age group

Occupations		Male			Female			Total	People with Disability				Age Groups			Geography	
OFO Code	Occupational Category	A	C	I	W	A	C		I	W	A	C	I	W	<35	35-55	>55
TOTAL																	

SECTION D: SCARCE SKILLS

D1: Total number of employees per occupational category, by gender, population group, disability status and age group

Occupations		Reason's for the scarcity	Projected Number of Staff needed	Number of qualified persons imported from outside South Africa
OFO Code	Occupational Category			
TOTAL				

SECTION E: SKILLS DEVELOPMENT

E1: Strategic objectives described in the entity's strategic or business plan

No. List of Strategic Objectives

E2: Strategic Training Priorities of the entity derived from Strategic Objectives

No. List of Training Priorities

Occupations		Male				Female				Total	People with Disability			Age Groups			Geography		
OFO Code	Occupational Category	A	C	I	W	A	C	I	W		A	C	I	W	<35	35-55	>55	Local Municipality	
OFO Code		Occupational Category								Entry level			Number to be trained at						
													Intermediate Level			Advanced Level			
OFO Code		Occupational Category								Entry level			Number to be trained at						
													Intermediate Level			Advanced Level			
AET										Total number to be trained									
AET																			

SECTION F: ANNUAL TRAINING REPORT (Report on training interventions)

F1: Number of actual beneficiaries of training per occupational category, by gender, population group and disability status, age and geography.

Occupations		Male	Female	Total	People with Disability	Age Groups			Geography				
OFO Code	Occupational Category	A	C	I	W	A	C	I	W	<35	35-55	>55	Local Municipality

F2: Number of beneficiaries who completed the training interventions – employed (18.1)

OFO Code	Occupational Category	Number to be trained at		
		Entry level	Intermediate Level	Advanced Level

F3: Number of beneficiaries who completed the training interventions – unemployed (18.2)

OFO Code	Occupational Category	Number to be trained at		
		Entry level	Intermediate Level	Advanced Level

F4: Total number of beneficiaries who completed AET programmes

AET Training	Total number of employees
AET	

F5: Expenditure of Training Budget

Type of Learning Programme	Employed	Unemployed
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F6: Expenditure of Additional Budget

Source	Amount	Project
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SECTION G : PIVOTAL TRAINING REPORT

G1: Number of planned beneficiaries of training per occupational category, by gender, population group and disability status.

Occupations			Male			Female			Total	People with Disability			Age Groups			Geography		
OFO Code	Occupational Category	PIVOTAL Programme	A	C	I	W	A	C	I	W	A	C	I	W	<35	35-55	>55	Local Municipality

G2: Number of verified beneficiaries of training per occupational category, by gender, population group and disability status.

Occupations			Male			Female			Total	People with Disability			Age Groups			Geography		
OFO Code	Occupational Category	PIVOTAL Programme	A	C	I	W	A	C	I	W	A	C	I	W	<35	35-55	>55	Local Municipality

G3: Planned training – unemployed

OFO Code	Occupational Category	PIVOTAL Programmes	Number to be trained at		
			Entry level	Intermediate Level	Advanced Level

G4: Planned training – employed

OFO Code	Occupational Category	PIVOTAL Programme	Number to be trained at		
			Entry level	Intermediate Level	Advanced Level

G5: Expenditure of Training Budget

Type of Learning Programme	Employed	Unemployed
----------------------------	----------	------------

G6: Expenditure of Additional Budget

Source	Amount	Project
--------	--------	---------

SECTION H: GENERAL COMMENTS

(Insert any clarification or comment that you wish to make on any aspect of the WSP, ATR and PIVOTAL Report. (Provide the number of the item that your comment refers to).

SECTION I: AUTHORISATION AND STAKEHOLDER SUPPORT (WSP, ATR and PIVOTAL Report) DECLARATION

Section I of the template, with the original signatures, must be submitted to the skills development division of the relevant SETA by hand, post or fax by 30 June.

DECLARATION

We, the undersigned, submit this information in fulfillment of this entity's legal obligation in terms of the skills development legislation and regulations. We declare that, to the best of our knowledge, the information contained in this WSP / ATR/PIVOTAL Report is accurate and up to date. We recognise that any inaccurate statement in this document may constitute fraud and be subject to the full penalty of the law.

SIGNATORIES

I1: Designated Signatory
The person who completed WSP / ATR/PIVOTAL Report
Designated employee representative

Name and Surname	Telephone Number	Original Signature	Date
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AUTHORISATION

I2: DG or Head of Department

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