

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
SKILLS DEVELOPMENT
AMENDMENT BILL**

[B 16—2011]

*(As agreed to by the Portfolio Committee on Higher Education and Training
(National Assembly))*

[B 16A—2011]

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AMENDMENTS AGREED TO

SKILLS DEVELOPMENT AMENDMENT BILL
[B 16—2011]

CLAUSE 6

1. On page 4, in line 5, to omit “approve” and to substitute “[**approve**]
provide”.

CLAUSE 8

1. On page 5, in line 2, to omit “3002” and to substitute “2003”.

CLAUSE 9

1. On page 5, in line 21, to omit “must include” and to substitute “may not
include more than”.
2. On page 5, in line 56, to omit “Annexure 4 to”.

CLAUSE 10

1. On page 6, after line 9, to insert the following paragraph:
 - (c) if he or she is an employee of the SETA in question;
2. On page 6, in line 10, to omit “(c)” and to substitute “(d)”.
3. On page 6, in line 14, to omit “(d)” and to substitute “(e)”.
4. On page 6, in line 28, to omit “(e)” and to substitute “(f)”.
5. On page 6, after line 28, to insert the following section:

Vacation of office by members of Accounting Authority

<p>11B. (1) A member of the Accounting Authority vacates office if that member—</p> <ol style="list-style-type: none"> (a) resigns by written notice, addressed to the Accounting Authority and the Minister; (b) no longer satisfies the eligibility requirements contemplated in section 11A; or (c) is removed from office in the manner contemplated in the <u>constitution referred to in section 13(1).</u>

6. On page 6, in line 30, to omit “11B.” and to substitute “11C.”.

CLAUSE 11

1. On page 7, in line 5, to omit “approve” and to substitute “provide”.
2. On page 7, in line 6, to omit “the” and to insert “a”.

3. On page 7, from line 6, to omit “contained in Schedule 5” and to substitute “prescribed by the Minister”.
4. On page 7, after line 7, to insert the following subsection:
 - (2) Subject to this Act, the standard constitution referred to in subsection (1) must at least contain the following matters:
 - (a) The responsibilities of the Accounting Authority of the SETA;
 - (b) The identification of the SETA by—
 - (i) name;
 - (ii) setting out its scope of coverage;
 - (iii) setting out its constituencies in the relevant sector; and
 - (iv) setting out its legal status;
 - (c) The general objectives of the SETA and its objectives in respect of—
 - (i) employers in the relevant sector; and
 - (ii) employees in the relevant sector;
 - (d) The functions of the SETA;
 - (e) The framework, procedure and process for the development of a strategic plan for the SETA relating to this Act and in accordance with the Public Finance Management Act;
 - (f) The Accounting Authority of the SETA in respect of—
 - (i) its composition of members in accordance with the number of members per constituency;
 - (ii) its powers and duties, and delegation of functions;
 - (iii) its size;
 - (iv) its capacity;
 - (v) the nomination and appointment of members;
 - (vi) consultation on proportional representation;
 - (vii) alternates for members;
 - (viii) the term of office of members;
 - (ix) the induction and capacity building of members and alternates;
 - (x) the first meeting at each new term of office of members;
 - (xi) the suspension of members;
 - (xii) the removal of members from office;
 - (xiii) the filling of vacancies in the Accounting Authority; and
 - (xiv) the application to the Accounting Authority for listing as new organisations;
 - (g) The establishment of—
 - (i) an Executive Committee, including its composition, term of office and functions;
 - (ii) an Audit Committee, including its composition, accountability and functions;
 - (iii) a Finance Committee, including its composition, accountability and functions;
 - (iv) a Remuneration Committee, including its composition, accountability and functions; and
 - (v) a Governance and Strategy Committee, including its composition, accountability and functions;
 - (h) The Chairperson of the Accounting Authority regarding his or her—
 - (i) appointment;
 - (ii) term of office;
 - (iii) functions;
 - (iv) temporary absence or incapacity; and
 - (v) vacation of office;
 - (i) Meetings, special meetings and meeting procedures of the Accounting Authority, Executive Committee, chambers and other committees;
 - (j) The appointment of the Chief Executive Officer and other employees and the duties of the Chief Executive Officer;
 - (k) The finances of the SETA, in respect of—

- (i) sources of finance;
 - (ii) investments;
 - (iii) purposes for which funds may be used;
 - (iv) financial records of the SETA;
 - (v) the audit of the SETA;
 - (vi) the financial responsibility of the Executive Committee of the SETA; and
 - (vii) signatories to accounts;
 - (l) A code of conduct for the SETA;
 - (m) A dispute resolution system;
 - (n) The indemnification of members of the Accounting Authority of the SETA, members of committees and employees of the Accounting Authority;
 - (o) The amalgamation with other SETAs and the dissolution of the SETA;
 - (p) The taking over of the administration of the SETA; and
 - (q) The amendment of the constitution of the SETA.
5. On page 7, in line 9, to omit “contained in Schedule 5” and to insert “referred to in subsection (1)”.
 6. On page 7, in line 10, to omit “(2)” and to substitute “(3)”.
 7. On page 7, in line 14, to omit “(2)” and to substitute “(3)”.
 8. On page 7, in line 18, to omit “an essential” and to substitute “a”.

CLAUSE 12

1. On page 7, after line 48, to insert the following subsections:

<p>(4) A committee or chamber of the Accounting Authority with delegated functions in terms of this Act may not take a decision on a matter considered by it if any member has a conflict of interest contemplated in this section.</p> <p>(5) A member of the Accounting Authority, or a member of a committee or chamber of the Accounting Authority contemplated in subsection (4), who contravenes section 11C(2) and (3) or this section may, after the Accounting Authority has followed a due process, be—</p> <ul style="list-style-type: none"> (a) suspended from attending a meeting; or (b) disqualified as a member of the Accounting Authority or a member of a committee or chamber of the Accounting Authority, as the case may be.

2. On page 8, in line 5, to omit “must” and to substitute “may”.

NEW CLAUSE

1. That the following be a new Clause:

Substitution of heading to Chapter 6 of Act 97 of 1998, as substituted by section 8 of Act 37 of 2008

14. The following heading is hereby substituted for the heading to Chapter 6 in the principal Act:

“Administration Act”.

CLAUSE 15

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Substitution of section 23 of Act 97 of 1998

15. The following section is hereby substituted for section 23 of the principal Act:

“Functions of provincial offices

23. The functions of the provincial offices of the Department in respect of this Act are—

- (a) to establish a skills development forum as prescribed;
- (b) to maintain a data-base of skills development providers within their jurisdiction; and
- (c) to perform any other prescribed or delegated function.”

CLAUSE 28

Clause rejected.

CLAUSE 30

1. On page 10, in line 12, to omit “contained in Schedule 5 to” and to substitute “referred to in section 13(1) of”.
2. On page 10, in line 13, to omit “(2)” and to substitute “(3)”.
3. On page 10, in line 16, to omit “(2)” and to substitute “(3)”.
4. On page 10, in line 18, to omit “(2)” and to substitute “(3)”.
5. On page 10, in line 19, to omit “direct the SETA in question to align its” and to substitute “provide the SETA in question with a”.

CLAUSE 31

1. On page 10, in line 35, to omit “20, 21, 22, 23, 24, 25 and 27” and to substitute “19, 21, 22, 23, 24, 25, 26 and 28”.

SCHEDULE

Schedule rejected.

LONG TITLE

1. On page 2, in the sixth line, to omit “the approval of”.
2. On page 2, in the tenth line, after “repeal” to insert “or amend”.

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