



PO BOX 501 AUCKLAND PARK
 Telephone (09) 220-9000

WRITTEN SUBMISSION ON THE DRAFT SKILLS AMENDMENT BILL 2011 [B16-2011]

1. INTRODUCTION

As per the invitation of the Portfolio Committee on Higher Education and Training the Chemical Education and Training Authority (CHIETA) hereby provides a written submission on above-mentioned bill. This input is provided as per the views of CHIETA Management.

2. ORGANISATIONAL PERSPECTIVE

From a governance perspective the Honourable Minister of Higher Education and Training appointed on 08 April 2011 the CHIETA Governing Board and approved the CHIETA Constitution as recommended to the Minister by the CHIETA Governing Board.

CHIETA has pro actively responded to the new Governance frameworks in terms of the implementation of the current approved CHIETA Constitution. Governing Board Committees has been successfully established with formal appointees and terms of references that leads into formal reporting to the CHIETA Governing Board for performance monitoring and evaluation in support of the deliverables of NSDS III.

In a short period of time the new Governance structures has positively influenced and impacted on our organisational response towards our service delivery mandate to our broad stakeholder base. Taking cognisance that the majority aspects of the proposed Skills Amendment Bill relates to further potential interventions to optimise the effectiveness of the SETAs Governance structures our comments will be primarily based on these proposed amendments.

We are grateful for the opportunity that you have afforded the public in terms of making these comments, as it shows that our young democracy is truly working. Our input is therefore made in a bona fide and positive manner with the sole intention to optimally support and empower CHIETA as enabling agent for delivery on the eight (8) primary goals of NSDS III and taking cognisance of Government Macro Strategic Frameworks and social accord between socio-economic business partners.

3. SUBMISSION PER RELEVANT SECTION OF SKILLS DEVELOPMENT BILL

SECTION 9A- CONTRACTS OF EMPLOYMENT

The insertion and acknowledgement of section 197 and 197A of the Labour Relations Act 1995 (Act no 66 of 1995) is welcomed to ensure the adherence to fair labour practices to be applied at all times around the vested employment

| | | | |
|--|-----------------|-------------|------------|
| WRITTEN SUBMISSION ON SKILLS AMENDMENT BILL BY CHIETA MANAGEMENT | CONTROLLED COPY | Page 1 of 4 | REVISION A |
|--|-----------------|-------------|------------|



PO BOX 961 AUCKLAND PARK 2006 • 2 CLARMART ROAD RICHMOND 2092 JOHANNESBURG
 Telephone (011) 726-4026 • Fax (011) 726-7777 • info@chieta.org.za • www.chieta.org.za

WRITTEN SUBMISSION ON THE DRAFT SKILLS AMENDMENT BILL 2011 [B16-2011]

1. INTRODUCTION

As per the invitation of the Portfolio Committee on Higher Education and Training the Chemical Education and Training Authority (CHIETA) hereby provides a written submission on above-mentioned bill. This input is provided as per the views of CHIETA Management.

2. ORGANISATIONAL PERSPECTIVE

From a governance perspective the Honourable Minister of Higher Education and Training appointed on 08 April 2011 the CHIETA Governing Board and approved the CHIETA Constitution as recommended to the Minister by the CHIETA Governing Board.

CHIETA has pro actively responded to the new Governance frameworks in terms of the implementation of the current approved CHIETA Constitution. Governing Board Committees has been successfully established with formal appointees and terms of references that leads into formal reporting to the CHIETA Governing Board for performance monitoring and evaluation in support of the deliverables of NSDS III.

In a short period of time the new Governance structures has positively influenced and impacted on our organisational response towards our service delivery mandate to our broad stakeholder base. Taking cognisance that the majority aspects of the proposed Skills Amendment Bill relates to further potential interventions to optimise the effectiveness of the SETAs Governance structures our comments will be primarily based on these proposed amendments.

We are grateful for the opportunity that you have afforded the public in terms of making these comments, as it shows that our young democracy is truly working. Our input is therefore made in a bona fide and positive manner with the sole intention to optimally support and empower CHIETA as enabling agent for delivery on the eight (8) primary goals of NSDS III and taking cognisance of Government Macro Strategic Frameworks and social accord between socio-economic business partners.

3. SUBMISSION PER RELEVANT SECTION OF SKILLS DEVELOPMENT BILL

SECTION 9A- CONTRACTS OF EMPLOYMENT

The insertion and acknowledgement of section 197 and 197A of the Labour Relations Act 1995 (Act no 66 of 1995) is welcomed to ensure the adherence to fair labour practices to be applied at all times around the vested employment

| | | | |
|---|-----------------|-------------|------------|
| WRITTEN SUBMISSION ON SKILLS AMENDMENT BILL BY CHIETA MANAGEMENT | CONTROLLED COPY | Page 1 of 4 | REVISION A |
|---|-----------------|-------------|------------|

relationship of SETA staff in the event of amalgamation and restructuring of SETAs.

SECTION 11- COMPOSITION OF ACCOUNTING AUTHORITY

The criteria for the appointment of Accounting Authority members in terms of representivity, competencies and skills set and to be drawn from the senior ranks of organisations is fully supported to ensure required expertise and maturity levels of SETA Boards.

Although it is recognised that the proposed clause 13 of the of the Skills Development Bill will allow for an deviation from the standard Constitution contained in schedule five (5) of the Act on approval from the Minister we feel that the number of six labour and six business representatives are to prescriptive and more flexibility in the wording should be allowed to cater for the operational and sector reality of each industry represented in the various SETAs. This can be obtained while still maintaining the principle of appropriate stakeholder driven governance regime for each SETA.

SECTION 11 B ON DISCLOSURE OF INTEREST AND SECTION 13 ON CONDUCT OF ACCOUNTING AUTHORITY OR STAFF MEMBERS

The insertion of these sections is welcomed specifically with regard to the more explicit description of accepted and required behaviour and placing the onus on each new Accounting Authority member and appointed staff member to disclose conflicting interest and any business\commercial interest before assuming office. We are however of the view that the legislation could have gone further by also including existing Accounting Authority members and SETA staff.

SECTION 30(1) TRANSITIONAL PROVISIONS

The articulation of this section is welcomed since it ensures business continuity while the objectives of the proposed legislation are implemented.

SCHEDULE FIVE (5) – STANDARD SETA CONSTITUTION

Clause 6(1)- Power and functions of SETAs

The inclusion of the performing of delegated QCTO functions and closer collaboration with the NSA on Skills Development Strategic issues is welcomed and supported.

Clause 7(1)(d) – Service level agreement and Strategic Plan of SETA

The linkage of the Minister's performance plan with the President of SA with the SETA Service Level Agreement is strongly supported and provide the organisational linkage and logic of operations with strategy filtered from the highest office in the country.

| | | | |
|---|-----------------|-------------|------------|
| WRITTEN SUBMISSION ON SKILLS AMENDMENT BILL BY CHIETA MANAGEMENT | CONTROLLED COPY | Page 2 of 4 | REVISION A |
|---|-----------------|-------------|------------|

Clause 8(3)(c)-Delegation of functions

The more comprehensive articulation of what is meant with delegation of authority will assist positively in understanding sustainable accountability within the respective Governance structures.

Clause 8(8)(c)- Alternates to members of the Accounting Authority

In the interest of effective meetings, decision making processes and optimal usage of financial resources the inclusion of the clause that alternates cannot attend meetings when their member is present is strongly supported.

Clause 9(1)(a)- Establishment of Executive Committee of Accounting Authority

We do not understand the new inclusion that members of EXCO must now be appointed by the Minister. The Accounting Authority members are all appointed by the Minister to oversee a diverse range of duties as defined in the Standard Constitution and Skills Development Legislation, inclusive of the establishment of Board committees. It work more efficiently if the Accounting Authority appoints the members to committees inclusive of EXCO. The accountability frameworks articulated in the Skills Amendment Bill and SETA Constitutions, supported by King III governance best practices should provide the necessary quality assurance and guarantees to the Executive Authority.

Clause 9(4)(b)- Functions of Executive Committee

We request greater clarification of what is meant by coordinating the activities of committees, chambers and structures of the SETAs given proposed terms of references of other Accounting Authority committees.

Clause 10,11,12 and 13 – Establishment of Accounting Authority Committees

The structuring of the proposed committees is supported in principle. It is proposed that the Remuneration Committee terms of reference are expanded to include all aspects of people management in the SETA. The committee can be renamed to the Human Resource and Remuneration Committee

More distinctive clarity on the terms of references between the Constitutional Committees is needed. As an example there is duplication regarding which committee carries the primary responsibility of the Financial oversight\management and that of Internal and External Audit, therefore which Committee Chairperson reports to the Board on this matter. EXCO must oversee financial matters governance. Financial matters are also the responsibility of the Audit Committee and also of the Finance Committee. There is also a duplication on who oversees the work of the Internal Auditors, as both the EXCO and the Audit Committee must do so as things stand at present. Streamlining in such areas of duplication would be helpful.

| | | | |
|---|-----------------|-------------|------------|
| WRITTEN SUBMISSION ON SKILLS AMENDMENT BILL BY CHIETA MANAGEMENT | CONTROLLED COPY | Page 3 of 4 | REVISION A |
|---|-----------------|-------------|------------|

Clause 15(2)(a)- Meetings of Executive Committee

The proposed Amendment Bill states that the EXCO must meet at least once a month and may meet more often when necessary. It is proposed that the proviso in the current approved Constitution be included and maintained that articulate that EXCO should meet between meetings of the Accounting Authority, and more often, only if urgent and pressing circumstances arise. This is a more realistic and practical approach given business realities, without compromising the oversight role of EXCO and the Accounting Authority.

Clause 16(5)(b)- Duties of Chief Executive Officer

The insertion that the CEO executes the strategic and management operations of the SETA is welcomed. It is based on the understanding that the responsibility of the operational management of the SETA is that of the CEO and not the Accounting Authority, while the latter is responsible for governance and performance oversight of SETA activities.

3.5.10 Clause 17(6)- Financial responsibilities of Executive Committee

The insertion that the EXCO must ensure that the SETA complies with the financial requirements of the Act, the PFMA and other applicable legislation is overlapping with the proposed terms of references of the Audit Committee and Finance Committee. Quality assurance of the various terms of references to achieve mutual understanding and remove duplications where appropriate becomes key.

Regarding signatories to accounts it is recommended that the three people (one being the CEO) should be part of the executive management to avoid delays in fiscal operations.

3.5.11 Annexure six(6), Clause three(3)- Chairperson of Chamber

The insertion that the Chairperson of a chamber must be a member of the Accounting Authority is not supported. This inter alia due to the small number of Accounting Authority members who are already participating in the compulsory Accounting Authority Committees and self acknowledge limited capacity amongst members. Chamber members are nominated from the constituencies represented on the Board any way and choosing a chairman from such a group should suffice. Chambers do report in to the Board in many SETAs via appropriate structures and now via the Governance and Strategy Committee.

Once again we thank you for this opportunity to make our comments.

Kind regards from

Original signed on 3 November 2011

AYESHA ITZKIN

Acting CEO, CHIETA

| | | | |
|---|-----------------|-------------|------------|
| WRITTEN SUBMISSION ON SKILLS AMENDMENT BILL BY CHIETA MANAGEMENT | CONTROLLED COPY | Page 4 of 4 | REVISION A |
|---|-----------------|-------------|------------|