



"The voice of business"

3 November 2011

SACCI POSITION ON SKILLS DEVELOPMENT AMENDMENT BILL

Background to the document

The original Skills Development Act of 1998 introduced Sector Education and Training Authorities (SETA's) which replaced the traditional apprentice system in South Africa. Through prior consultation with members and interested parties, it has become clear that the current SETA system is dysfunctional and in need of urgent amendment or complete revision.

SETAs are not able to make the necessary payments to business to facilitate training in their respective fields. Similarly, the Skills Development Fund which is meant to pay for these training programs has also grown in size to R5.2 billion since its creation. Obviously, this growth is indicative of dormant funds amid South Africa's sizable structural unemployment.

SACCI welcomes any action from government to address these problems to ensure that institutional tertiary education and training in South Africa is saved from the dysfunctional present state.

In General

The bulk of the legislation deals with the:

- Deletion of certain obsolete definitions,

- Amendment of provisions relating to the establishment, amalgamation and dissolution of SETAs and to provide for the incorporation of a subsector of one SETA into another SETA;
- Provision for the approval of a constitution for every SETA;
- Regulation of the conduct of a member of an Accounting Authority, or staff,
- Repeal of certain provisions which become obsolete as a result of the transfer of the administration of the said Act to the Minister of Higher Education and Training; and to provide for matters connected therewith.

However, while these amendments deal mostly with administrative issues relating to the transfer to the Department of Higher Education and Training and other obsolete parts of the legislation, the composition of an Accounting Authority for each SETA may present a significant operational change to the management of the SETA system and requires some comment.

Specific Comments

Accounting Authorities

The Bill introduces a so-called Accounting Authority for each existing SETA with the powers to nominate the CEO and presumably decide over the financial matters of the SETA in question.

According to the Bill, the Accounting Authority must be composed of:

- 6 representatives from organized labour
- 6 representatives from organised business
- 2 representatives from either government, professional society, civil society or a bargaining council
- Non-voting chairperson appointed by the minister

The Bill also provides for the requirements for serving on the Accounting Authority and expressly prohibits representatives from having any conflict of interest.

The Accounting Authorities may help in resolving long-standing issues of non-payment and bureaucratic inefficiencies. As such, SACCI welcomes this inclusionary initiative by the Minister, **subject to receiving extensive clarity** on the general powers of the Accounting Authority, and specifically related to its oversight over the CEO and usage of funds. Specifically, clarity is also

sought on the powers of the Accounting Authority in awarding National Skills Development (NSA) moneys.

Clarity is also sought on the definition of “interested professional body” and whether it refers to a Professional Body as recognised by South African Qualification Authority (SAQA) in terms of the National Qualification Framework (NQF) Act.

The Amendment Bill makes provision for the nomination of board members (accounting authority) by ‘bb) any interested professional body’. We welcome that and will definitely make use of this opportunity to participate in the governance of our relevant SETA. However I assume that this MEANS a Professional Body Act but it does not stipulate that clearly. This may cause difficulty and I would therefore propose that the NQF Act definition of a Professional Body (recognised by SAQA) is used either in the definitions or in that particular section.

The Bill provides for the Minister to create regulations pertaining to, amongst others,

- The performance criteria of the CEO
- The terms of service of the CEO
- The appointment process of the CEO
- The salary level of the CEO

SACCI is of the opinion that these powers of the minister to intervene in the supposed oversight function of the Accounting Authorities over the CEO effectively dilutes the authority of Accounting Authority and endangers it becoming a mere rubber stamp.

It should be noted that these regulations have in fact already been drafted and was available from public comment from April 2011 and that the deadline for comments have already been reached. Obviously, such a practice of creating the regulations before the Act greatly reduces the efficacy of public comments.

SACCI is of the opinion that this practice is extremely problematic since it does not provide the full information on what the regulations will be based, and therefore threatens the very nature of public participation.

It should also be noted that the existing legislation contains provision for a Board. Therefore, the relationship between the Board and the Accounting Authority needs to be stipulated, specifically with regards to the nomination and appointment of the CEO.

SACCI welcomes the opportunity to comment and reserve the right to, if need be, provide comment to relevant parties in future.