

NOTICE 1296 OF 1997

DEPARTMENT OF LABOUR

THE SKILLS DEVELOPMENT BILL 1997

The public are invited to respond to the skills Development Bill.

Written responses should reach the Department of Labour at the address below not later than **20 October 1997**.

Written comments should be sent to:

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BILL

To provide for a skills development strategy which is flexible, accessible, decentralised, demand-led and based on a partnership between the public and private sectors, and for that purpose –

- **to provide for the establishment of a Research and Strategic Planning Unit to collect and disseminate information on labour market skills trends;**
- **to provide for the establishment of Employment Services to enable persons to be active participants in the labour market;**
- **to provide for learnerships and other training programmes that lead to registered qualifications;**
- **to promote high quality education and training by a system that is cost-effective, accountable and meets training needs;**
- **to provide for the financing of skills development by means of a levy-grant scheme; and**
- **to provide for the co-ordination of the strategy by Sector Education and Training Authorities, Education and Training Boards, the National Skills**

- Authority and the Minister of Labour; and
- to provide for incidental matters.

ARRANGEMENT OF ACT

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BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:-

CHAPTER 1 – OBJECTS AND INTERPRETATION

Objects and interpretation

1. (1) The objects of this Act are -

- a. to provide for a skills development strategy which is flexible, accessible, decentralised, demand-led and based on partnerships between the public and private sectors;
- b. to improve the competency levels of the workforce in order to promote the level of responsibility of employees and to enable *employers* to achieve rising levels of productivity and competitiveness;
- c. to enable persons of working age who are outside of work to obtain nationally recognised qualifications indicating work readiness;
- d. to enable persons to enter and remain in employment or become self-employed and enjoy a rising standard of living;
- e. to provide for special assistance to *target groups* to enter and remain in employment or become self-employed.

(2) This Act binds the State.

CHAPTER 2 – INFORMATION

Establishment of Research and Strategic Planning Unit

2. The *Director-General* must, subject to the laws governing the public service, establish a *Research and Strategic Planning Unit* in the Department of Labour.

Functions of Research and Strategic Planning Unit

3. The *Research and Strategic Planning Unit* must in the *prescribed* manner research and analyse labour market trends in order to determine training needs, and must –

- a. assist the *Minister* and the *National Skills Authority* to formulate a long-term national skills development strategy and to evaluate its progress;
- b. advise the *Minister* and the *National Skills Authority* on skills trends and future skills needs;
- c. provide *Employment Services* with skills information to upgrade the quality of their services;
- d. assist *SETAs* and *ETB's* to determine their training needs;
- e. assist Government departments to determine their training needs; and
- f. assist *training providers* to align their training programmes to changing market conditions.

CHAPTER 3 – EMPLOYMENT SERVICES

Establishment of Employment Services

4. The *Director-General* -

- a. must establish and maintain *Employment Services* in the Department of Labour; and
- b. must in accordance with the *prescribed* criteria, accredit private or public *Employment Services* before they may perform the functions contemplated in section 5.

Functions of Employment Services

5. An *Employment Service* must -

(a) manage employment counselling by -

- (i) assisting persons to make informed career choices;
- (ii) providing persons and communities with career and labour market knowledge and certain life skills relevant to careers and the world of work;
- (iii) assisting persons by means of life skills programmes to apply ethical standards at work, to improve their productivity and to assume social responsibility; and
- (iv) assisting *employers* and employees affected by retrenchment;

(b) manage placement services by -

- (i) registering work-seekers and other clients and referring them to appropriate services;
- (ii) assessing persons for entry or re-entry into employment, self-employment or training;
- (iii) facilitating the best possible job match between work-seekers and vacancies at prospective *employers*;
- (iv) referring work-seekers for training to appropriate *training providers*; and
- (v) informing persons of services available to them such as small business support and welfare services;

(c) render special assistance by -

- (i) referring persons in *target groups* to appropriate *training providers*;
- (ii) assisting persons with special problems, such as alcoholics, drug addicts and ex-prisoners after their rehabilitation, to enter or re-enter the labour market;
- (iii) supporting communities to start income generating and training projects linked to local economy initiatives and to assist them to get support for skills development; and
- (iv) developing special employment programmes to enable individuals in *target groups* to participate actively in the labour market.

(d) provide careers and labour market information by collecting, analysing and disseminating information about training, career and employment opportunities in the labour market; and

(e) collect and maintain statistics of all users of the *Employment Service*.

CHAPTER 4 – LEARNERSHIPS

Learnerships

6. (1) A *learnership* must -

- a. consist of a structured learning component and a practical work experience component;
- b. lead to a registered qualification as contemplated in section 7(b); and
- c. guarantee that the successful candidate is competent for the specified occupation.

(2) Practical work experience may, with the approval of the relevant *SETA*, be provided at one or more workplaces, at a development or job creation project or by a group of employers working together to provide the practical experience.

Development of learnerships

7. A *SETA* must -

- a. with the concurrence of the *Minister*, develop *learnerships* in areas of need and opportunity in its sector, in accordance with the *prescribed* criteria;
- b. propose standards and qualifications relating to these *learnerships* to the *South African Qualifications Authority*, for registration;
- c. manage the implementation of *learnerships* in accordance with the *prescribed* guidelines; and
- d. conduct assessments and issue certificates of the appropriate registered qualifications contemplated in paragraph (b) to successful candidates, in accordance with the requirements of the *South African Qualifications Authority*.

Learnership agreements

8. (1) A learnership agreement in the *prescribed* form may be entered into by any person who desires to acquire any skills or to improve his or her skills.

(2) A learnership agreement contemplated in subsection (1) must be entered into with -

- a. the accredited *training provider* that provides the structured theoretical training; and
- b. the *employer* or person that provides the practical work experience, required for the relevant qualification, according to its registration as contemplated in section 7(b).

(3) A learnership agreement must be registered with the relevant *SETA*, in the *prescribed* manner.

(4) A *SETA* must provide the *Director-General*, or any person designated by him or her, with the *prescribed* record of learnership agreements.

(5) All disputes arising from learnership agreements must be dealt with through the dispute resolution procedures set out in the Labour Relations Act, 1995 (Act No. 66 of 1995).

CHAPTER 5 – OTHER TRAINING PROGRAMMES

Other training programmes

9.(1) Training programmes other than *learnerships*, for which national standards and

qualifications are registered in terms of the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), may qualify for financial assistance under *this Act*.

(2) The implementation of such a training programme may be managed by a *SETA* or any other body authorised by the *Minister* to do so.

CHAPTER 6 –IMPROVING TRAINING PROVISION

Quality and relevance of skills development programmes

10. To promote the quality and relevance of skills development programmes -

- a. a *SETA* must seek accreditation in terms of section 5(1)(a)(ii)(bb) of the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), as a body responsible for monitoring and auditing achievements; and
- b. a *SETA* and an *authorised body* must comply with the requirements of the *South African Qualifications Authority* for setting standards and designing qualifications.

Procedures for financing

11. An *ETB* or *authorised body* may receive funds to pay *training providers* for the provision of training in a *learnership* or other training programme, if -

- a. the standards which the programme aims to achieve are registered by the *South African Qualifications Authority*, or specific exemption has been granted by the *Minister*;
- b. the objectives of the programme and performance criteria required of the *training provider* are clearly indicated in a training agreement;
- c. in the case of *learnerships*, the *SETA* confirms that the *training provider* party to the learnership agreement is accredited in terms of the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995) ;
- d. in the case of other training programmes, the *ETB* or *authorised body* in all cases has called for tenders in the *prescribed* manner from *training providers* who wish to provide the training;
- e. the *ETB* or *authorised body* has entered into an agreement with the successful *training provider*; and
- f. the *prescribed* conditions for the release of funds are met.

Training providers

12. To qualify for funds a *training provider* must -

- a. be accredited in terms of South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), and comply with the *prescribed* requirements to obtain funds for training;
- b. receive the approval of the relevant *SETA*, where it is a party to a learnership

- agreement, or, in all other cases, comply with the *prescribed* tender procedures governing the provision of training, and, if successful, enter into an agreement with the relevant *ETB* or *authorised body*; and
- c. report as required in the agreement to the relevant *ETB* or *authorised body* on training done.

CHAPTER 7 – FINANCING

Skills development levy

13. (1) (a) To achieve the objects of *this Act* the *Minister* must, with the concurrence of the Minister of Finance, by notice in the Government Gazette impose a levy of between one and one and a half per cent on the personnel costs of each *employer* in the Republic, but the *Minister* may in respect of a specific sector or subsector provide for an alternative formula to calculate the levy.

(b) For the purposes of this section personnel costs means the total amount expended by an *employer* during the relevant period on remuneration and allowances, including fringe benefits, to persons in his or her employment.

(2) The notice contemplated in subsection (1) -

- a. must state the percentage of the levy;
- b. must state the date on which the levy becomes payable;
- c. may require *employers* to keep the records, and to render the returns, specified in the notice;
- d. may provide for the exemption of any category of *employers* from the liability to pay the levy; and
- e. may provide for any other matter which is necessary to ensure the effective administration of the notice.

(3) Levies must be paid in the *prescribed* manner to the South African Revenue Service, which must pay -

- a. eighty per cent of the levies received, on the *prescribed* conditions, into the Education and Training Funds established in terms of section 15, in proportion to the levies received from the *employers* in the different sub-sectors or industries; and
- b. twenty per cent of the levies received into the National Skills Fund established by section 14.

(4) (a) Any *employer* who fails to pay a levy as *prescribed*, is guilty of an offence and liable on conviction to a fine not exceeding five per cent of his or her personnel costs for the period of non-payment.

(b) Despite any other law, a magistrate's court may impose a fine contemplated in

paragraph (a).

(5) An *ETB* may collect an additional voluntary levy in its subsector or industry.

Education and Training Funds

14. (1) Each *ETB* must establish an Education and Training Fund, into which must be paid-

- a. the relevant portion of the levies contemplated in section 13(3)(a);
- b. any voluntary levies collected under section 13(5);
- c. interest earned on investments contemplated in subsection (3);
- d. donations to the relevant Fund; and
- e. any other money received for the relevant Fund from any source.

(2) An *ETB* must -

- a. use the money in its Fund to support the *prescribed* training schemes in its subsector or industry, in accordance with the *prescribed* criteria;
- b. keep proper accounts of all money received for its Fund and payments made from it, and the accounts must be audited by a public auditor registered under the Public Accountants' and Auditors' Act, 1991 (Act No. 80 of 1991); and
- c. quarterly and annually report to the relevant *SETA*, subject to subsection (4), on how the money in its Fund has been spent and on the progress made against the *prescribed* criteria.

(3) Any unexpended balance in an Education and Training Fund at the end of a financial year must be carried forward to the next financial year as a credit in the Fund.

(4) Where no *ETB* exists in a subsector or an industry, the relevant *SETA* is regarded as the *ETB* for the purposes of this section, except that the report contemplated in subsection (2)(c) must be made to the *Director-General*.

National Skills Fund

15. (1) There is a National Skills Fund into which must be paid -

- a. the percentage of the levies mentioned in section 13(3)(b);
- b. money appropriated by Parliament for this Fund;
- c. interest earned on investments contemplated in subsection (5);
- d. donations to this Fund; and
- e. any other money received for this Fund from any source.

(2) The *Director-General* must administer this Fund subject to the directions of the *Minister*, and is for the purposes of the Exchequer Act, 1975 (Act No. 66 of 1975), the accounting officer of this Fund.

(3) The *Director-General* must keep proper accounts of all money paid into and out of this Fund, and the accounts must be audited by the Auditor-General.

(4) (a) The money in this Fund must be used for allocations to *ETBs* or *authorised bodies* in accordance with the *prescribed* criteria.

(b) An *ETB* or *authorised body* that has received allocations contemplated in paragraph (a) must -

(i) use the money to support the *prescribed* training programmes in accordance with the *prescribed* criteria;

(ii) keep proper accounts of each allocation received and payments made from it, and these accounts must be audited by the Auditor-General; and

(iii) quarterly and annually report to the relevant *SETA*, subject to paragraph (c), on how the allocations have been spent and on the progress made against the *prescribed* criteria.

(c) Where no *ETB* exists in a particular subsector or industry, the relevant *SETA* is regarded as the *ETB* for the purposes of this subsection, except that the report contemplated in paragraph (b)(iii) must be made to the *Director-General*.

(5) Money in this Fund which is not required for immediate use, must be invested with the Corporation for Public Deposits established by section 2 of the Corporation for Public Deposits Act, 1984 (Act No. 46 of 1984), and may be withdrawn when it is required for use.

(6) Any unexpended balance in this Fund at the end of any financial year must be carried forward to the next financial year as a credit in the Fund.

CHAPTER 8 – CO-ORDINATION

Co-ordination of skills development strategy

16. The national skills development strategy is co-ordinated by *SETAs*, *ETBs* and the *National Skills Authority*, under the control of the *Minister*.

Establishment of Sector Education and Training Authorities

17.(1) The *Minister* must *prescribe* sectors, for which *SETAs* must be established in accordance with the *prescribed* procedure.

(2) In each sector *employers*, *trade unions* and other interested parties must identify subsectors or industries covering the entire sector.

(3) A *SETA* must be established in accordance with the *prescribed* criteria, which must provide for -

- a. equal representation for *employers* and *trade unions* in the sector, with due regard to the interests of small *enterprises*;
- b. representation for Government departments, where applicable;
- c. representation for interested professional bodies in the sector

(4) Representatives contemplated in subsection (3) must be drawn from *ETBs* established in terms of section 18 in the relevant sector.

(5) A *SETA* must establish an administrative office, which may be subsidised by the *Minister* from money appropriated by Parliament, and must report to the *Director-General* on the use of such subsidy.

Establishment of Education and Training Boards

18.(1) For each subsector or industry contemplated in section 17(2) an *ETB* must be established in accordance with the *prescribed* procedure.

(2) An *ETB* must be established in accordance with the *prescribed* criteria, which must include -

- a. equal representation for *employers* and *trade unions* in the subsector or industry, with due regard to the interests of small enterprises; and
- b. representation for Government departments, where applicable;

Registration of SETAs and ETBs

19.(1) A *SETA*, in conjunction with the *ETBs* in the sector, must in the *prescribed* manner apply for registration to the *Minister*, who may approve of the applications on the conditions that he or she may determine, after consultation with the *National Skills Authority*.

(2) (a) The registration of a *SETA* or an *ETB* may after due notice be withdrawn by the Minister, if a condition of registration is not being complied with.

(b) If the registration of a *SETA* is withdrawn, the registration of its *ETBs* is regarded to have been withdrawn.

Functions of Education and Training Boards

20. (1)(a) In addition to the other functions referred to in *this Act*, an *ETB* has such functions in respect of its subsector or industry as may be assigned to it by the *SETA* concerned under paragraph (b).

(b) A *SETA* may, with the approval of the *Director-General*, assign any of its functions in terms of *this Act* (excluding its accountability to the *Director-General*, the *National Skills Authority* and the *South African Qualifications Authority*) to any *ETB* in its sector, in so far as those functions relate to the subsector or industry for which the *ETB* has been established.

(2) An *ETB* must perform its functions contemplated in subsection (1) under the supervision of the *SETA* concerned.

(3) An *ETB* must monitor education and training within the scope of its functions, and must in the *prescribed* manner investigate any alleged irregularities committed by *training providers*, *employers* or enterprises in its subsector or industry.

Functions of Sector Education and Training Authorities

21. In addition to the other functions referred to in *this Act*, a *SETA* has the following functions:

a. General functions:

- i. To promote a strategic approach to human resource development within the sector.
- ii. To liaise with *Employment Services* to improve information about, and to directly support access to employment opportunities in the sector.
- iii. In conjunction with other *SETAs*, to design and implement skills development strategies to assist employees facing retrenchment.

d. Learnership functions:

- i. To identify training places for learners in the sector or sub-sectors.
- ii. To facilitate and register learnership agreements between companies and learners.
- iii. To support the design of learnerships.
- iv. To support the development of learning materials and delivery of learnerships.

e. Support of employee and management training in small, micro and medium enterprises.

f. Quality assurance functions contemplated in section 10.

g. Planning and reporting functions:

- i. To plan skills development in the sector in accordance with the *prescribed* guidelines.
- ii. To report on skills development in accordance with the *prescribed* guidelines.

c. Promotion of public and private partnerships for skills development in the sector:

- i. To promote skills for social delivery in the sector.
 - ii. To increase access of *target groups* to skills development in the sector.
- c. Financial functions:
- i. To assist *employers* in its sector to comply with the *prescribed* criteria for accessing grants and subsidies.
 - ii. To consolidate reports from *ETBs* in its sector, and to report quarterly and annually to the *Director-General* in accordance with the *prescribed* criteria.
- c. Monitoring and investigating functions:
- i. To monitor education and training within the scope of its functions.
 - ii. To investigate in the *prescribed* manner, on behalf of the *Director-General*, any alleged irregularities committed by *ETBs* in its sector.

Establishment of National Skills Authority

22. (1) There is a *National Skills Authority*, which consists of -

- a. a member appointed by the *Minister* as the chairperson of the Authority;
- b. five members appointed by the *Minister* from nominations made by *employers' organisations*;
- c. five members appointed by the *Minister* from nominations made by *trade unions*;
- d. five members appointed by the *Minister*, one each from nominations made by the Ministers of -
 - i. Education;
 - ii. Labour;
 - iii. Trade and Industry;
 - iv. Public Service and Administration; and
 - v. Arts, Culture, Science and Technology;
- f. (e) five members appointed by the *Minister*, one each from nominations made by organisations representing -
 - i. the youth;
 - ii. the disabled;
 - iii. women;
 - iv. rural people; and
 - v. urban people;
- f. (f) five members appointed by the *Minister* from nominations made by national organisations representing *training providers*;
- g. (g) two members appointed by the *Minister* for their expertise in *Employment Services*; and
- h. (h) the executive officer contemplated in section 25(1).

(2) The *Minister* must by notice in the *Government Gazette* invite nominations contemplated in subsection (1), and if no or insufficient nominations have been received from a particular category contemplated in subsection (1) within 30 days of the publication of the notice, the *Minister* may appoint any person who is able to represent that category as a member.

(3) A member is appointed for three years, and may be re-appointed when the *National Skills Authority* is reconstituted in terms of subsections (1) and (2).

(4) The *Minister* may at any time terminate the membership of a member, if there are good reasons to do so.

(5) Any vacancy in the *National Skills Authority* must be filled with due regard to subsections (1) and (2), and such member must be appointed for the unexpired term of office of the member in whose place he or she is appointed.

(6) The Minister of Finance must nominate a representative to advise the *National Skills Authority*.

Chairpersons of National Skills Authority

23. (1) The *Minister* must designate four members, one each from nominations made by members appointed in terms of section 22(1)(b), (c), (d) and (e), as deputy chairpersons.

(2) If the chairperson is absent from any meeting, the deputy chairpersons must elect one of them to preside at that meeting, and if all the deputy chairpersons are also absent from a meeting the members present must elect one of them to preside at that meeting.

Meetings of National Skills Authority

24.(1) Thirteen members of the *National Skills Authority* constitute a quorum.

(2) A decision of the majority of the members present at a meeting constitutes a decision of the *National Skills Authority*.

(3) No decision taken by the *National Skills Authority* is invalid by reason only of a vacancy on the Authority or the fact that a person who was not entitled to sit as a member was present when the decision was taken, if the decision was taken in accordance with subsection (2).

Administration of National Skills Authority

25.(1) The *Director-General* must, subject to the laws governing the public service

and after consultation with the *National Skills Authority*, appoint an executive officer and the necessary staff to assist the *National Skills Authority* and its committees with the administration of their functions.

(2) A member of the *National Skills Authority* who is not in the full-time employment of the State must be paid the remuneration and allowances determined by the *Minister*, with the concurrence of the Minister of Finance.

Committees of National Skills Authority

26. (1) The chairperson, the four deputy chairpersons, the chairperson of the employment services committee contemplated in subsection (2) and the executive officer of the *National Skills Authority* constitute the executive committee of the Authority, and must perform the functions that the Authority may assign to it.

(2) The *National Skills Authority* must establish an employment services committee to be chaired by a member contemplated in section 22(1)(g).

(3) The *National Skills Authority* may from its members establish any other committee to perform the functions that the Authority may assign to it.

Functions of National Skills Authority

27. In addition to the other functions referred to in this Act, the *National Skills Authority* must -

- a. comment on proposals made by the *Director-General*, and make recommendations to the *Minister* about -
 - i. the formulation and revision of the national skills development strategy and priorities;
 - ii. guidelines and targets against which *SETAs* and *ETBs* must determine their targets and priorities;
- c. matters which may be *prescribed*;
- d. applications for registration by *SETAs* and associated *ETBs*;
- e. skills development policies;
- f. skills development financing policies and procedure; and
- g. such other matters as the *Minister* may request.
- h. convene at least two meetings per year with representatives of *SETAs* to enable them to make proposals on skills development policies and their implementation;
- i. co-operate with the *South African Qualifications Authority* to enable both authorities to achieve their objectives; and
- j. quarterly and annually report to the *Minister* on all expenditure by *SETAs* and *ETBs*, and on the progress made with education and training against the *prescribed* criteria.

- k. in the *prescribed* manner investigate any alleged irregularities committed by *SETAs* or *ETBs*.

Functions of Minister

28. In addition to the other functions referred to in this Act, the *Minister* must, after consultation with the *National Skills Authority* –

- a. determine a national long-term skills development strategy;
- b. determine skills development targets, policies and programmes to achieve the objectives of that strategy;
- c. determine *target groups* and special target group training programmes which may be supported from public funds;
- d. determine a national long-term employment services strategy;
- e. quarterly and annually report to Parliament on the progress made with the skills development strategy.

CHAPTER 9 – GENERAL PROVISIONS

Regulations

29. (1) The *Minister* may, after consultation with the *National Skills Authority*, make regulations relating to –

- a. any matter which may or must be *prescribed* in terms of this Act;
- b. any other matter that is necessary or expedient to achieve the objects of this Act.
- c. A regulation contemplated in subsection (1) may, for a contravention of it or a failure to comply with it, provide for a penalty of a fine or imprisonment for a period not exceeding three months.

Repeal of laws, and transitional provisions

30.(1) Subject to the other provisions of this section, the laws set out in the Schedule 1 are repealed to the extent specified in the third column of that Schedule.

(2) Anything done in terms of a law repealed by subsection(1), and which may be done in terms of this Act, is regarded as having been done in terms of this Act.

(3) (a) The provisions of sections 3 to 6, 12 to 29, 39, 41 to 44, 47 and 50 of the Manpower Training Act, 1981 (Act No. 56 of 1981), as they existed immediately prior to the date of commencement of this Act, relating to the functions of the Minister, National Training Board, registrar and a training board in respect of existing contracts of apprenticeship, remain in force in respect of a relevant industry and area as if *this Act* has not been passed.

(b)Where a *SETA* and *ETB* has been registered for a sector which includes the

industry for which a training board had been accredited and the registrar is satisfied that the *SETA* or *ETB* is able to take over the functions and responsibilities of such a training board in respect of the continuation of the contracts of apprenticeship, the registrar may withdraw the accreditation of such a training board and transfer the duties and powers to that *SETA* and *ETB* which is then, for the purposes and full duration of these contracts, regarded as the accredited training board.

(c) The functions of the National Training Board, as far as these transitional provisions are concerned, are transferred to the *National Skills Authority*.

(4) Training Act, 1981, before the date of commencement of this Act and which immediately prior to that date was in force must after that date continue under that Act until such an agreement has been cancelled or terminated.

(5) Any apprenticeship certificate issued under a law repealed by subsection (1) is regarded to be a learnership certificate issued in terms of section 7 (d) of *this Act*.

(6) (a) Regional Training Centres registered under a law repealed by subsection (1), retain their legal personality for a period of six months from the date of commencement of *this Act*, to enable them to register as associations not for gain in terms of the Companies Act, 1973 (Act No. 61 of 1973).

(b) Regional Training Centres registered under a law repealed by subsection (1) and the Training Trusts specified in Schedule 2, are regarded as having been accredited as *training providers* under section 12(a) of *this Act*.

(7) Any grant-in-aid awarded under section 35 of the Manpower Training Act, 1981, continues in force for the period it was awarded.

(8) All the rights and obligations of the Manpower Development Fund established by section 38 of the Manpower Training Act, 1981, are transferred to the National Skills Fund established by section 15 of *this Act*, and any balance in any other fund created by a law repealed by subsection (1) must be transferred to the National Skills Fund, but -

(a) any balance of the Fund for the Training of Unemployed Persons referred to in section 36A of the Manpower Training Act, 1981, may only be used for training of unemployed persons; and

(b) any balance of a training levy scheme promulgated in terms of section 39 of the said Act after the relevant board has settled all the debts and obligations, must be transferred to the relevant Education and Training Fund contemplated in section 14 of *this Act*.

(9) Training levies imposed under section 39 of the Manpower Training Act, 1981, prior to the date of commencement of *this Act*, remain in force in respect of the relevant industry until the day immediately prior to the date on which the *Minister* imposes a national levy under section 13 of *this Act*.

(10) Private employment offices registered in terms of section 15 of the Guidance and Placement Act, 1981 (Act No. 62 of 1981), are regarded as having been accredited as private *Employment Services* under section 4(b) of *this Act*.

Authorisation to perform functions

31. (1) The *Minister* may authorise the *Director-General* or any officer in the Department of Labour to perform any of his or her functions in terms of this Act, excluding the functions contemplated in sections 13(1)(a) and 29(1).

(2) The *Director-General* may authorise any officer in the Department of Labour to perform any of his or her functions in terms of this Act.

(3) The *Minister* or *Director-General* who has granted an authorisation under subsection (1) or (2), as the case may be, is not divested of the relevant function.

Definitions

32. In this Act, unless the context indicates otherwise -

"**authorised body**" means any body authorised by the *Minister* under section 9(2);

"**Director-General**" means the Director-General of Labour;

"**employer**" means any person, including the State, who -

- a. (a) employs, or provides work for, any other person and who remunerates or expressly or tacitly undertakes to remunerate that other person; or
- b. (b) permits any other person in any manner to assist him or her in carrying on or conducting his or her business for remuneration;

"**employers' organisation**" means any number of *employers* associated for the purpose, whether by itself or with other purposes, of regulating relations between *employers* and employees or *trade unions*;

"**Employment Service**" means an Employment Service established or accredited in terms of section 4;

"**ETB**" means an Education and Training Board registered in terms of section 19;

"**learnership**" means any training programme contemplated in Chapter 4;

"**Minister**" means the Minister of Labour;

"**National Skills Authority**" means the National Skills Authority established by section 22;

"**prescribed**" means prescribed by regulation under section 29;

"**SETA**" means a Sector Education and Training Authority registered in terms of section 19;

"**South African Qualifications Authority**" means the South African Qualifications Authority established by the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995);

"**target groups**" means the target groups determined in terms of section 28(c);

"**this Act**" includes the regulations made under section 29;

"**trade union**" means an association of employees whose principal purpose is to regulate relations between employees and *employers*;

"**training provider**" means any *employer*, person or body accredited to provide education or training as contemplated in this Act.

Short title and commencement

33. This Act is called the Skills Development Act, 1998, and comes into operation on a date fixed by the President by proclamation in the Government Gazette.

SCHEDULE 1

LAWS REPEALED (section 27(1))

Act No.	Short Title	Extent of repeal
56 of 1981	Manpower Training Act, 1981	The whole
62 of 1981	Guidance and Placement Act, 1981	The whole
88 of 1982	Manpower Training Amendment Act, 1982	The whole
1 of 1983	Manpower Training Amendment Act, 1983	The whole
39 of 1990	Manpower Training Amendment Act, 1990	The whole

SCHEDULE 2

TRAINING TRUSTS (section 27(6)(b))

Name	Registration Number
1 Gazankulu Training Trust	89/05849/08
2 Regional Training Trust	93/06132/08
3 Venda Training Trust	94/0007
4 KwaZulu Training Trust	80/02076/08
5 Border-Kei Training Trust	94/0026/09