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GOVERNMENT NOTICE

DEPARTMENT OF LABOUR

No. R. 1455

13 November 1998

MANPOWER TRAINING ACT, 1981

TRAINING LEVY SCHEME FOR THE ROAD TRANSPORT INDUSTRY

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, acting in terms of section 39(5) and (6) of the Manpower Training Act, 1981 –

- (a) hereby withdraw Government Notice No. R. 483 of 4 April 1997 as amended by Government Notice No. R.1330 of 16 October 1998; and
- (b) hereby declare that the provisions of the Scheme which appears in the Schedule hereto, shall be binding with effect from the date of publication of this notice, upon all employers and employees who are engaged or employed in the Road Transport Industry in the Republic of South Africa.

M.M.S. MDLADLANA
Minister of Labour

SCHEDULE

THE ROAD TRANSPORT INDUSTRY SCHEME

In terms of section 39(4) of the Manpower Training Act, 1981 (Act No. 56 of 1981), created by the Road Freight Association for the training of employees in the Road Transport industry, providing for the establishment of a fund for the purposes of the Scheme and the payment of contributions to the Fund by employers in the industry and the establishment of a Road Transport Industry Training Board to administer the Fund.

1. NAME OF THE SCHEME

The name of the scheme shall be the Road Transport Training Scheme

2. SCOPE AND APPLICATIONS OF THE SCHEME

The provisions of the scheme shall be observed throughout the Republic of South Africa by all employers who are members of the Road Freight Association and include all employers engaged in the Road Freight Industry who are not members of the Road Freight Association and includes all Labour Broker activities in the Republic of South Africa.

3. DEFINITIONS

Any expressions used in this Scheme which are defined in the Manpower Training Act 1981 (Act No. 56 of 1981), shall have the same meaning as in the Act, any reference to that Act shall include any amendments to the Act any regulations made in terms of that Act and, unless inconsistent with the context –

“Act” means the Manpower Training Act 1981 (Act No. 56 of 1981);

“Board” means the Road Transport Industry Education and Training Board established under Clause 6;

“driver” means any person principally employed and used to control a goods vehicle in motion on a public road and includes a trainee driver;

“employee” means both driver and trainer;

“Fund” means the Road Transport Industry Training Fund referred to in Clause 5;

“goods” mean all movable property including livestock;

“goods vehicle” means any vehicle –

- (a) designed or adapted for the conveyance of goods on a road; and
- (b) having a gross vehicle mass of more than 3 500 kilograms and designed or adapted for propulsion or haulage by means of any power other than human or animal power and includes any trailer.

“Industry” means the Road Transport Industry,

“member” means, for the purposes of Clause 2, and employer in the Road Transport Industry who is an ordinary member in good standing of the Road Freight Association.

“public carrier” means a natural person or corporate body whose business is to carry goods for hire or reward, but does not include a bus operator,

“Road Freight Association” means the association of public carriers registered in terms of Section 21 of the Companies Act, 1973,

“public road” means any road declared or recognised as a public road under any law and includes any road, street, thoroughfare or other place (whether or not a thoroughfare) to which the public, or any section of the public, has right of access,

“Road Transport Industry” means the industry in which employers and employees are associated for the purpose of the transportation of goods by means of a goods vehicle for hire or reward on a public road,

“salaries and wages” means the gross payment for work done in the Industry, which includes normal pay, bonuses, payments for overtime, sickness and holidays and payment in kind, but which excludes cash allowances for travel and subsistence or director fees,

“Scheme” means the Road Transport Training Scheme,

“trailer” means any vehicle which is not self-propelled and which is designed or adapted to be drawn by a motor vehicle, and includes a semi-trailer,

“trainer” means any person employed to instruct any person in the driving of a goods vehicle, to teach any person the rules of the road or road traffic signs in connection with the operation of a goods vehicle or to supervise any person in the driving of a goods vehicle, and

“training incentive” means any grant, subsidy, bounty or other benefit, whether financial or otherwise, paid or obtained from the Fund or granted in terms of the Scheme, to an employer for the education and training of his employees.

4. OBJECTIVES OF THE SCHEME

The objects of the Scheme are –

- 1) Ensuring adequate training by setting and maintaining standards for all employees in the Industry and assisting Industry with training plans as per the Training Act;
- 2) Securing an improvement in the quality and efficiency of training in the Industry;
- 3) To establish, conduct and control a private training center as contemplated in terms of Section 32 (1) of the Act;
- 4) To borrow, invest, lend, subscribe or donate money for the furtherance of these objectives;
- 5) Encouraging and financing research into:
 - a. The improvement of training,
 - b. The development of training systems and technologies as required to meet the needs of Industry,
- 6) Providing employers in the Industry with training incentives to educate and train their employees;
- 7) Marketing of training of employers;
- 8) Providing Industry with training courses;
- 9) Promoting career paths with the Transport Industry and creating learning opportunities for unemployed, woman, youth and disabled;
- 10) Attaining and maintaining first level Accreditation as prescribed by the Act;
- 11) Establishing, maintaining and administering the Road Transport Industry Training Fund as established in terms of Section 39 of the Act;
- 12) Establishing training structures for the Industry, including structures for the administration of learners within the Road Freight Education Training Board;
- 13) Striving to address the problems related to literacy and numeracy within Industry;
- 14) Providing for mobility of skills and national recognition of competence or workers within the Industry;
- 15) Ensuring that all Accredited Providers comply with the compulsory national standards for the Road Freight Industry;

- 16) To acquire any movable property, either by purchase, lease or otherwise, required for the proper administration of the Scheme's affairs or any immovable property required for the purpose of office accommodation for the Scheme or accommodation for training purposes or matters incidental thereto and to sell, let, mortgage, hypothecate or otherwise deal with or dispose of such movable property or immovable property;
- 17) To maintain a register of employees in the Industry; and
- 18) To do all such things as may be necessary to achieve the objects set out above.

5. THE ROAD TRANSPORT INDUSTRY TRAINING FUND

1. There is hereby established a fund to be known as the Road Transport Industry Training Fund.
2. The Fund shall consist of-
 - (a) Contributions paid into the Fund in terms of Clause 6;
 - (b) Interest and/or capital appreciation derived from the investment of any moneys of the Fund; and
 - (c) Any other sums to which the Fund may become entitled.

6. ESTABLISHMENT AND FUNCTION OF THE ROAD FREIGHT EDUCATION TRAINING BOARD

- 1 (a) The Scheme shall be administered by the Road Transport Industry Training Board, which shall consist of a Chairman and not less than four and not more than seven members appointed as follows by the Road Freight Association:
 - (i) The Chairman shall be appointed solely on the grounds of his knowledge and experience of road transport and training.
 - (ii) At least four members shall be nominated by employer associations in the Industry so as to provide the widest representation.
 - (iii) Further members may be appointed on account of their special knowledge or experience of matters pertaining to the objects of the Scheme.
- 2 The Board shall have the right to co-opt, in an advisory capacity, such other persons as it may deem necessary.

- 3 The Board shall have the power to-
- (a) deal with all matters falling within the scope of the objects of the scheme as set out in Clause 4; and
 - (b) make such rules and regulations for the proper conduct of its business as it may consider advisable.
 - (c) The Road Freight Association may at any time remove any member appointed by it and any member may at any time resign by notice of one calendar month in writing to the Chairman of the Board.
- 4 Three members and the chairman of the Board shall constitute a quorum.

7. RETURNS AND CONTRIBUTIONS TO THE FUND

1. Each employer in the Industry that is required to pay a levy to the Scheme shall submit to the Road Transport Industry Education and Training Board by the 15th day of the second month following the end of each quarter a return showing the wages and salaries paid by him/her in the three calendar months preceding 31 March, 30 June, 30 September and 31 December of each year. The employer shall have such returns certified annually by a public auditor.
2. Each employer in the industry shall pay to the Road Transport Industry Education and Training Board, P O Box 4660, Randburg, 2125, or such other address as may be advised in writing and posted by prepaid registered post to the employer, by the 15th day of the second month following each quarter, a levy of 0.5% of the salaries and wages of employees covered by the return specified in Clause 6 (1) of this Scheme.
3. Every employer shall in respect of every employee keep a record which contains-
 - (a) The name of the employee;
 - (b) The residential and postal addresses of the employee;
 - (c) The nation registration number of the employee;
 - (d) The date of appointment;
 - (e) The designation of the position to which appointed;
 - (f) The training received by the employee while employed by the employer;
 - (g) Any educational courses completed by the employee while in the employ of the employer and any examinations passed together with the grade or standard of pass; and
 - (h) The categories of driver's licenses held by the employee and the registration numbers of such driver's licenses.

4. The employer shall furnish the Board by the 15th day of the second month following the end of each quarter with a notice of any change in the name, address, position, training, educational status or driving status of each employee, together with any appointments, transfers, resignations or dismissals of such employees.

8. INFORMATION

- (a) The Board shall furnish every employer with details concerning the Scheme in such form as it may from time to time determine, provided that such details shall include at least the constitution of the Board, the contributions to be made towards the Fund, the training incentives to be provided by the Scheme and the procedure to be followed for the lodging of claims against the Scheme.
- (b) The Board shall, within six months after the close of each financial year, submit to the Director-General of Labour and to the Road Freight Association a report on its activities during that financial year together with a copy of the audited statement of income and expenditure.
- (c) A copy of the report and statement of income and expenditure shall be made available to the public at the head office of the Board.

9. FINANCE

1. All moneys paid into the Fund shall be deposited in a Bank account opened in the name of the Fund. Payment from the Fund shall be by cheque or debit order signed by such persons as may from time to time be authorised by the Board.
2. All moneys not required to meet current payments of the administrative expenses of the Board and the Scheme, less a reasonable operating balance, shall be invested as director by the Board.
3. The Board shall appoint a public auditor who shall be paid out of the Fund. The accounts are to be audited annually for the period ending 31 March.

10. DISSOLUTION OF THE FUND

- (a) Upon the termination of the Scheme, for any reason whatsoever, the assets of the Fund shall be transferred to the Board for disposal in accordance with its constitution, after consultation with all contributing parties.
- (b) All administrative charges and liabilities of the Scheme shall then be charged against the Board.

11. AGENTS

The Board may appoint agents to give effect to the objects of the Scheme on such terms and under such conditions as the Board may deem fit. The appointment of an agent may be revoked by the Board at any time and for any reason. The agent shall be entitled to enter any establishment and may question the employer or any employee and in respect of the record mentioned in Clause 6 (3) for the purpose of ascertaining whether or not Clause 6 is being observed.

12. INDEMNITY

The members of the Board shall not be liable for any loss to the Fund arising from any improper investment made in good faith, or by any act in their bona fide administration of the Fund, or by negligence or fraud by any person employed by the Board, or by reason of any act or omission by members or by reason of any other matter or thing save individual willful or fraudulent wrongdoing on the part of such members who can be made liable. Any such member shall be reimbursed by the Fund for any liability incurred by him in defending any proceedings, whether civil or criminal arising out of an allegation involving bad faith in which judgment is given in his favour or in which he is acquitted.

13. EXEMPTIONS

1. The Minister of Labour or any officer in the service of the Department of Labour to whom any power to grant exemption from a training scheme in terms of Section 39(4) of the Act has been granted, may grant exemption from any provision of Clause 6 of the Scheme after consultation with the Board.
2. Any application for exemption must be lodged with the Road Transport Industry Education and Training Board, P O Box 4660, Randburg, 2125, which must forward such application together with any recommendation by the Board to the Director-General of Labour.



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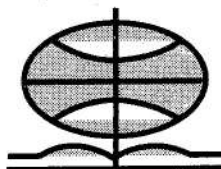
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