

WEBBER WENTZEL
BOWENS
10 FRICKER ROAD
ILLOVO BOULEVARD
JOHANNESBURG 2196



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Regulation Gazette

No. 8308

Regulasiekoerant

Vol. 483

Pretoria, 8 September 2005

No. 28005

PART 2 OF 2



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

CONSTITUTION OF THE HEALTH AND WELFARE SECTOR EDUCATION AND TRAINING
AUTHORITY

MAY 2005

- (3) If a notice is published in terms of clause 21(1) the Minister may, to assure that the Authority resumes the performance of its functions –
- (a) amend its constitution;
 - (b) reinstate any of its members; and
 - (c) withdraw or amend any provision of the notice mentioned in clause 21(2) on such conditions that the Minister considers appropriate.
- (4) The Minister may act in terms of clause 21(1) without consulting the NSA and the Authority if there is financial mismanagement of the Authority and the delay caused by the consultation would be detrimental to the Authority's capacity to perform its functions.

CONSTITUTION OF THE HEALTH AND WELFARE SECTOR EDUCATION AND TRAINING
AUTHORITY

MAY 2005

ANNEXURE "A": SCOPE OF THE AUTHORITY**Standard Industrial Code (SIC) for the Health and Welfare SETA**

SETA CODE	SETA NAME	SIC CODE	DESCRIPTION
11	HWSETA	3992	Registered therapeutic health and skin care
11	HWSETA	33531	Traditional healing services
11	HWSETA	37410	Manufacture of medical and surgical equipment and orthopaedic appliances
11	HWSETA	37413	Manufacture of medical precision and optical instruments
11	HWSETA	62312	Retail of prescribed medicines and pharmaceutical products by registered/licensed pharmacy
11	HWSETA	62313	Private sector pharmacy services
11	HWSETA	62314	Public sector pharmacy services
11	HWSETA	62315	Pharmacy management services
11	HWSETA	82132	Medical aid schemes
11	HWSETA	87000	Research and development in the health and welfare sectors
11	HWSETA	87130	Medical and veterinary research
11	HWSETA	87131	SA medical research council
11	HWSETA	87200	Research and experimental development on social sciences and humanities
11	HWSETA	88221	Biomedical engineering
11	HWSETA	88915	Health professionals employment agencies
11	HWSETA	93101	Universities, specialist pharmaceutical and drug information services
11	HWSETA	93102	Public and private rehabilitation services
11	HWSETA	93104	Ancillary health care services
11	HWSETA	93105	Residential care facilities
11	HWSETA	93107	Environmental and occupational health and safety services
11	HWSETA	93108	Health maintenance organisations
11	HWSETA	9311B	Private and public hospitals
11	HWSETA	9311E	Hospice care facilities
11	HWSETA	9312A	Public sector doctors
11	HWSETA	9312B	Private sector doctors
11	HWSETA	9312C	General and specialist medical practitioners
11	HWSETA	9312G	Public service dentists
11	HWSETA	9312H	Private sector dentists
11	HWSETA	9312I	Public and private oral hygienists
11	HWSETA	9312J	Public and private dental therapists
11	HWSETA	9312K	Public and private dental laboratories
11	HWSETA	93193	Nursing services
11	HWSETA	93199	Other health services
11	HWSETA	9319A	Public sector emergency services

CONSTITUTION OF THE HEALTH AND WELFARE SECTOR EDUCATION AND TRAINING
AUTHORITY

MAY 2005

11	HWSETA	9319C	State services
11	HWSETA	9319D	Public and private clinics
11	HWSETA	9319E	Community services
11	HWSETA	9319F	Private and private clinics
11	HWSETA	9319M	Optical and optometric services
11	HWSETA	9319N	Dietetics and nutritional services
11	HWSETA	9319O	Hearing and audiometric services
11	HWSETA	9319P	Complementary health services
11	HWSETA	9319Q	Laboratory services
11	HWSETA	9319S	Ambulance services
11	HWSETA	9319T	Blood transfusion services
11	HWSETA	9319U	Psychological and psychometric services
11	HWSETA	93200	Veterinary activities
11	HWSETA	93300	Social work activities
11	HWSETA	93301	Public welfare sector
11	HWSETA	93302	Private welfare sector
11	HWSETA	93303	Development and social services
11	HWSETA	9391W	NGO in the health and social development sectors
11	HWSETA	93400	Religious institutions, grief counselling working with the dying e.g.; Hospices
11	HWSETA	94000	Other community, social and personal service activities

CHANGES MADE

CODE 11	DESCRIPTION	NOTE
3992	Registered therapeutic health and skin care	New
37411	Orthopaedic Appliances	Deleted as contained under code 37410
37413	Manufacture of medical precision and optical instruments	New
62313	Private sector pharmacy services	New
62314	Public sector pharmacy services	New
62315	Pharmacy management services	New
87000	Research and development	Added "in the Health and Welfare sectors"
87200	Research and experimental development on social services and humanities	Deleted as contained in code 87000
93106	Rehabilitation Services	Deleted as it appears in code 93102
9319T	Blood Transfusion	Added "services"
93103	Other services including local government, mines and industry	Deleted
93110	Hospital activities	Deleted as covered in code 9311B

CONSTITUTION OF THE HEALTH AND WELFARE SECTOR EDUCATION AND TRAINING
AUTHORITY

MAY 2005

93301	Public sector	Added "welfare"
93302	Hospice	Deleted as covered in code 9311E
93302	Private welfare sector	New
9391W	NGO involved in health work	Changed to "NGO in the health and social development Sector"
93400	Religious institutions, grief counselling working with the dying e.g.; Hospices	New
9311A	Defence force hospitals	Deleted as covered in code 9311B
9311C	Mine hospitals	Deleted as covered in code 9311B
9311D	Company-owned hospitals	Deleted as covered in code 9311B
9312C	General and specialist practice	Deleted practice and added medical practitioners
9312D	Industry based doctors	Deleted as covered in code 9311B
9312E	Doctors in charitable organisations	Deleted as covered in code
9312F	Paediatrics	Deleted as covered in code 9311B
93190	Other human health activities	Deleted
93192	Clinics and related health care services	Deleted as covered in code 9319D
9319C	State services	Deleted
9319D	Public hospitals and clinics	Changed to read Public and private clinics
9319F	Private and private clinics	Deleted as covered in code 9319D
9319U	Psychological and psychometric testing	Replaced testing with services
93200	Veterinary activities	Replaced activities with services
93300	Social work activities	Replaced activities with services
93107	Environmental and occupational health and safety services	Questionable
94000	Other community, social and personal service activities	Deleted as covered in code 9319E, 93300

CONSTITUTION OF THE HEALTH AND WELFARE SECTOR EDUCATION AND TRAINING
AUTHORITY

MAY 2005

ANNEXURE "B": ORGANIZATIONS IN THE SECTOR**Trade Unions:**

ANASA	Association of Nursing Agencies of South Africa
DENOSA	Democratic Nursing Organisation of South Africa
HOSPERSA	Health and other Service Personnel Trade Union of South Africa
NEHAWU	National Education Health and Allied Workers Union
NPSWU	National Public Sector Workers Union
NUPSAW	National Union of Public Service and Allied Workers
PAWUSA	Public and Allied Workers
PSA	Public Servants Association of South Africa

Employers:

HASA	Hospital Association of South Africa
NPG	National Pathology Group
PSSA	Pharmaceutical Society of South Africa
SAMA	South African Medical Association

Government:

DoH	Department of Health and 9 provincial departments
DoSD	Department of Social Development: and 9 provincial departments

Statutory Councils

Forum of Statutory Professional Councils (Health and Social Development)

Levy Exempt Sector

CONSTITUTION OF THE HEALTH AND WELFARE SECTOR EDUCATION AND TRAINING
AUTHORITY

MAY 2005

ANNEXURE C: CODE OF CONDUCT

The members of the Authority, all members of any committee or structure of the Authority, and all staff -

- (a) stand in a fiduciary relationship to the Authority;
- (b) must perform their functions in good faith giving full effect to the obligations, and spirit of the Act and this Constitution;
- (c) must avoid any material conflict between their own interests and those of the Authority, and in particular-
 - (i) must not derive any personal economic benefit to which they are not entitled because that benefit is obtained in conflict with the interests of the Authority; and
 - (ii) must notify the Authority, at the earliest opportunity practicable in the circumstances, of the nature and extent of any direct or indirect material interest which they may have in any dealings of the Authority;
- (d) must protect and promote the reputation and goodwill of the Authority;
- (e) must exercise their powers for the benefit and in the interests of the Authority;
- (f) must not abuse the resources of the Authority; and
- (g) must not disclose to any unauthorised person any privileged or confidential information of the Authority.

CONSTITUTION OF THE HEALTH AND WELFARE SECTOR EDUCATION AND TRAINING
AUTHORITY

MAY 2005

ANNEXURE "D" DISPUTE RESOLUTION

- (1) Any party to a dispute concerning the interpretation or application of this Constitution may refer the dispute to the Chief Executive Officer.
- (2) The referral must:
 - (a) be in writing;
 - (b) adequately describe the dispute; and
 - (c) be delivered to every other party to the dispute by the party referring the dispute.
- (3) The Chief Executive Officer must, as soon as reasonably practicable, refer the dispute to the Executive Committee, which must endeavour to resolve the dispute by conciliation within 30 days of referral of the dispute.
- (4) If the Executive Committee fails to resolve the dispute within 30 days of its referral, then any party to the dispute may refer it for arbitration by an arbitrator approved in terms of the Arbitration Act, 1965 (Act No. 42 of 1965).
- (5) The arbitrator must be agreed to by the parties to the dispute with the approval of the Chairperson of the Authority or, failing such agreement or approval, by an arbitrator appointed by the Chairperson of the Authority.
- (6) The arbitrator must first attempt to conciliate the dispute. If conciliation is not possible, then the arbitrator must arbitrate the dispute.
- (7) The arbitrator must conduct the arbitration in a manner that he or she considers appropriate in order to determine the dispute fairly and quickly, but must deal with the substantial merits of the dispute with the minimum of legal formality.
- (8) Within 14 days of conclusion of the arbitration proceedings:
 - (a) the arbitrator must issue a signed arbitration award with reasons; and
 - (b) the Chairperson must provide a copy of the award to every party to the dispute.
- (9) The arbitration award is final and binding on the parties to the dispute.
- (10) The costs of the arbitration must be borne equally by the parties to the dispute. The arbitrator may however make a different and appropriate award of costs if:
 - (a) a party to the dispute, without reasonable cause, refuses or fails to attend the arbitration or unduly delays arbitration proceedings; or

CONSTITUTION OF THE HEALTH AND WELFARE SECTOR EDUCATION AND TRAINING
AUTHORITY

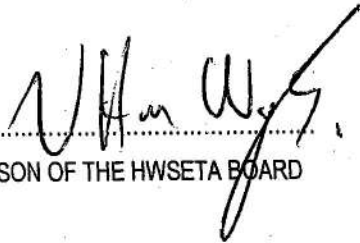
MAY 2005

- (b) the arbitrator finds that a party pursuing or resisting the dispute did so vexatiously or frivolously or had no reasonable prospect of succeeding.
- (11) An arbitrator may, at his or her own initiative or as a result of an application by an affected party, vary or rescind an award:
 - (a) erroneously sought or made in the absence of any party affected by the award;
 - (b) in which there is ambiguity, or any obvious error or omission, but only to the extent of the ambiguity, error or omission; or
 - (c) granted as a result of a mistake common to the parties to the proceedings.

CONSTITUTION OF THE HEALTH AND WELFARE SECTOR EDUCATION AND TRAINING
AUTHORITY

MAY 2005

SIGNED AT JOHANNESBURG ON THIS 12TH DAY OF JULY 2005.


.....
CHAIRPERSON OF THE HWSETA BOARD



No. R. 893

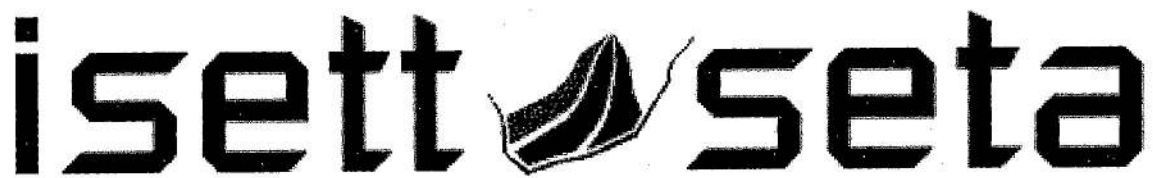
8 September 2005

SKILLS DEVELOPMENT ACT, 1998 (ACT NO. 97 OF 1998)

**APPROVAL OF CONSTITUTION OF INFORMATION SYSTEMS (IT),
ELECTRONICS AND TELECOMMUNICATION TECHNOLOGIES SECTOR
EDUCATION AND TRAINING AUTHORITY (SETA 12)**

The Minister of Labour has on 1 April 2005 in terms of section 13 (1) of the Skills Development Act, approved the constitution of the INFORMATION SYSTEMS (IT), ELECTRONICS AND TELECOMMUNICATION TECHNOLOGIES SECTOR EDUCATION AND TRAINING AUTHORITY as set out in the Schedule.

SCHEDULE



COMMITTED TO SKILLS DEVELOPMENT IN THE ICT SECTOR

CONSTITUTION
OF
INFORMATION SYSTEMS (IT), ELECTRONICS AND
TELECOMMUNICATIONS TECHNOLOGIES
SECTOR EDUCATION AND TRAINING AUTHORITY

(Hereinafter referred to as "ISETT SETA")



COMMITTED TO SKILLS DEVELOPMENT IN THE ICT SECTOR

ISETT SETA CONSTITUTION

Process:	Governance
Document Number:	CON – GOV – BOARD - 01
Effective Date:	XX / XX / 2005/6
Version:	8.2


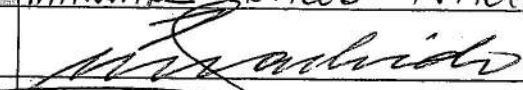
SETA Chief Executive Officer:	Oupa Mopaki
Signature:	
Date:	05/07/2005.
Chairperson of the Board:	MARGALE JACOB RACHIDI
Signature:	
Date	5-7-2005
<p>NOTE: This revised Constitution (Version 8.2, 01st July 2005) was re-submitted to the Department of Labour on 05th July 2005, for Gazetting.</p>	





Table of Contents

CHAPTER ONE5

1. The Purpose of the Constitution.....5

CHAPTER TWO6

2. Definitions6

CHAPTER THREE.....9

3. Organisations in the Sector9

CHAPTER FOUR.....10

4. Name.....10

CHAPTER FIVE.....11

5. Legal Status11

CHAPTER SIX.....13

6. Place of Business13

CHAPTER SEVEN.....14

7. Areas of Jurisdiction14

CHAPTER EIGHT.....15

8. Objectives of the Authority15

CHAPTER NINE16

9. Functions and Duties of the Authority16

CHAPTER TEN18

10. Powers of the Authority.....18

CHAPTER ELEVEN19

11. Members of the Authority.....19

CHAPTER TWELVE.....21

12. Nomination and Appointment of Members of the Authority and Committees21

CHAPTER THIRTEEN.....24

13. Annual General Meeting.....24



CHAPTER FOURTEEN	29
14. Office Bearers of the Authority	29
CHAPTER FIFTEEN	30
15. Standing Committees	30
CHAPTER SIXTEEN	32
16. Executive Committee	32
CHAPTER SEVENTEEN	34
17. Audit Committee	34
CHAPTER EIGHTEEN	35
18. Provincial Committees	35
CHAPTER NINETEEN	37
19. Functional Committees	37
CHAPTER TWENTY	42
20. The Chief Executive Officer	42
CHAPTER TWENTY ONE	44
21. Delegation and Assignment of Functions	44
CHAPTER TWENTY TWO	45
22. Functions of the Chairperson	45
CHAPTER TWENTY THREE	46
23. Appointment and Functions of Secretary	46
CHAPTER TWENTY FOUR	47
24. Rights and Obligations of Members	47
CHAPTER TWENTY FIVE	48
25. Dispute Resolution	48
CHAPTER TWENTY SIX	49
26. Finances of the Authority	49
CHAPTER TWENTY SEVEN	50



COMMITTED TO SKILLS DEVELOPMENT IN THE ICT SECTOR

27. Accounting	50
CHAPTER TWENTY EIGHT	51
28. Code of Conduct	51
CHAPTER TWENTY NINE	52
29. Disclosure of Interest	52
CHAPTER THIRTY	53
30. Confidentiality	53
CHAPTER THIRTY ONE	54
31. Terms of Office	54
CHAPTER THIRTY TWO	55
32. Amendments to this Constitution	55
CHAPTER THIRTY THREE	56
33. Taking Over Administration of Authority	56
SCHEDULE 1	58
Representation on the Authority	58
SCHEDULE 2	59
Manner of Nomination and Appointment of Members of the Authority	59
AMENDMENT HISTORY TABLE	60



CHAPTER ONE

1. The Purpose of the Constitution

1.1. The purpose of this Constitution is to:

- 1.1.1. Provide for the Constitution of the Information Systems (IT), Electronics and Telecommunications Technologies Authority;**
- 1.1.2. Provide an institutional framework to implement national, sector, and workplace strategies;**
- 1.1.3. Develop and improve the skills of employees and future employees in the Information Systems (IT), Electronics and Telecommunications Technologies sectors;**
- 1.1.4. Advise the Minister of Labour and other appropriate persons relating to education and training in the Electronics and Telecommunications Technologies sector as well as the Information Systems (IT) sector and for matters connected therewith.**



CHAPTER TWO

2. Definitions

- 2.1. "ABET" means Adult Basic Education and Training.
- 2.2. "Alternate" means any person appointed by the relevant stakeholder group as an alternate to a representative;
- 2.3. "Authority" means the Information Systems, Electronics and Telecommunications Technologies Sector Education and Training Authority established hereby (see Clause 5.1);
- 2.4. "Chairperson" means any person who chairs any meeting of the Authority or a Committee;
- 2.5. "CEO" means the Chief Executive Officer as appointed in terms of this Constitution;
- 2.6. "Committee" means any Standing Committee, ad hoc or Sub Committee of the Authority;
- 2.7. "Consensus" means unanimous agreement;
- 2.8. "Deputy Chairperson" means any person elected to the position of Deputy Chairperson in terms of this Constitution;
- 2.9. "Education and Training Standards" means registered statements of desired education and training outcomes and their associated assessment criteria as defined in Section 1 of the SAQA Act;
- 2.10. "Employees Organisation" means any organisation, trade union or federation of trade unions that are sufficiently representatives of the employees employed by an employer and registered as such under the Labour Relations Act 1995 (Act No 66 of 1995) ("the LRA");
- 2.11. "Establishing Authority" means Authority as defined in clause 2.3 herein above;
- 2.12. "ETQA" means the Education and Training Quality Assurance body established in terms of the SAQA Act;
- 2.13. "Improper use" means usage of information to advance personal interests and / or at the disadvantage of the Authority;
- 2.14. "Leamership" means a Leamership contemplated in Chapter 4 of the Act;



COMMITTED TO SKILLS DEVELOPMENT IN THE ICT SECTOR

- 2.15. "Learning" means a process by which a person gains skills, knowledge and values;
- 2.16. "Minister" means the Minister of Labour;
- 2.17. "National qualifications framework" means the national qualifications framework as defined in Section 1 of the SAQA Act;
- 2.18. "National Skills Development Strategy" means the national skills development strategy referred to in section 5 (a) (ii) of the Act;
- 2.19. "Organised employer" means the state, any employer's organisation registered as such in terms of the provisions of the LRA and operate in the Information, System Electronics and Telecommunications Technologies Seta, and any other association of employers;
- 2.20. "Other Committee" means any other Ad hoc committees that may be formed by the Authority;
- 2.21. "Presiding Officer" means any member of the committees nominated by the other members of the Committee in the absence of the Chairperson or in the case where the Chairperson is unable to preside over the meeting.
- 2.22. "Representative" means any member of the Authority or any committee and includes any alternate designated by the stakeholder group to attend a meeting of the Authority or any committee on behalf of such stakeholder group;
- 2.23. "Republic" means the Republic of South Africa as defined by South African Constitution;
- 2.24. "SAQA Act" means the South African Qualifications Authority Act 1995 (Act No 58 of 1995);
- 2.25. "Scrutinisers" means appointed independent observers who are not member of the Authority;
- 2.26. "Sector" means the Information Systems, Electronics and Telecommunication Technologies sector as determined by the Minister in terms of Section 9 of the Act and Government Gazette No 27445 of 31 March 2005;
- 2.27. "SETA" means the Sector Education Training Authority established in terms of section 9(1) of the Act;
- 2.28. "Skills Development Levies Act" means the Skills Development Levies Act, 1995 (Act No of 1999) (As amended);



COMMITTED TO SKILLS DEVELOPMENT IN THE ICT SECTOR

2.29. "SSP" means research to identify skills needs and develop a strategic plan to address the needs;

2.29.1. A Sub Committee established by the Authority or Committee to perform a function, which is not assigned to any Committee.

2.29.2. Any *ad hoc* committee established for a limited term to perform any function of the Authority which is not a function of any committee; and

2.29.3. Competitive advantage;

2.29.4. For personal gain;

2.29.5. In the case of a committee, the Authority; and

2.29.6. In the case of a standing committee, *ad hoc* committee or sub committee, the Authority or any committee that establishes the sub committee, *ad hoc* committee or standing committee as the case may be;

2.29.7. In the case of the Authority, the Minister;

2.29.8. Release to third parties for unlawful or competitive purposes.

2.30. "The Act" means the Skills Development Act 1998 (Act No 97 of 1998) as amended.

2.31. "The LRA" means the Labour Relations Act 1995 (Act No 66 of 1995).

2.32. "The Republic" means the Republic of South Africa.

2.33. "The Skills Development Levies Act" – means the Skills Development Levies Act, 1999 (Act No 09 of 1999).



CHAPTER THREE

3. Organisations in the Sector

- 3.1. The trade unions, employer, organisations and relevant government departments in the sector are set out in Schedule 1.



CHAPTER FOUR

4. Name

- 4.1. The name of this Sector Education and Training Authority (SETA) shall be the Information Systems Electronics and Telecommunications Technologies Sector Education and Training Authority (ISETT SETA) ("the Authority").



CHAPTER FIVE

5. Legal Status

- 5.1. The Authority is hereby established under:
 - 5.1.1. Section 9 of the Skills Development Act 1998 (Act No 97 of 1998) as amended;
 - 5.1.2. The South African Qualification Act, 1995 (Act No 58 of 1995); and
 - 5.1.3. The Skills Development Levies Act, 1999 (Act No 09 of 1999).
- 5.2. The Authority is a body corporate with an identity and existence entirely separate and distinct from that of its office bearers or members and shall continue to exist notwithstanding changes in the composition of the membership or office bearers. As such, the Authority may sue or be sued in its own name and is capable of having its own rights, obligations and duties;
- 5.3. The Authority is an association not for gain and the income and property of the Authority, wheresoever it may be derived, shall be applied solely towards the promotion of its objectives as recorded herein and no portion thereof shall be paid, divided, distributed or transferred directly or indirectly in any manner whatsoever to the members of the Authority.
- 5.4. This notwithstanding, nothing shall prevent the payment in good faith of reasonable remuneration to any officer or servant of the Authority or to any member thereof in return for any services provided by such person to the Authority in accordance with the objectives as laid out in this Constitution;
- 5.5. The Authority may establish committees, standing committees, ad hoc committees, sub committees and functional committees for such period as it may consider necessary in order to achieve the objectives or perform the functions of the Authority as provided for herein;
- 5.6. Every committee may, in turn and subject to such conditions as the Authority may determine, establish ad hoc or sub committees for such periods as it may consider necessary to achieve the objectives or perform any of the functions of that committee as may be required for the Authority to achieve its objectives as recorded in the Act and this Constitution;
- 5.7. In the case of standing committees, the chairperson of the Authority must inform the Minister of such establishment;



COMMITTED TO SKILLS DEVELOPMENT IN THE ICT SECTOR

5.8. When establishing any committee in terms of this Constitution, the establishing Authority must provide terms of reference, which shall include, subject to the provisions of this Constitution:

- The name of each committee established by it;
- Membership
- Functions;
- Period of establishment;
- Accountability;
- Quorum;
- Funding; and
- Which person shall act as chairperson.

5.9. The Authority may authorise any person or persons to act on behalf of it and to sign all such documents and take all such steps as may be necessary in connection with any proceedings at law brought by or against the Authority.



CHAPTER SIX

6. Place of Business

6.1. The primary place of business of the Authority shall be:

6.1.1. Postal address:

P O Box 5585
HALFWAY HOUSE
1685, Gauteng

6.1.2. Telephone number:

(011) 805 5115 / 206 2600

6.1.3. Telefax:

(011) 805 6833

6.1.4. Physical address:

Block 2, Level 3 West
Gallagher House, Gallagher Estate
19 Richards Drive
Midrand
Gauteng



CHAPTER SEVEN

7. Areas of Jurisdiction

- 7.1. The area of jurisdiction of the Authority shall be as determined by the Minister in terms of Section 9 of the Act and Government Gazette No 27445 of 31st March 2005.



CHAPTER EIGHT

8. Objectives of the Authority

8.1. In addition to the objectives set out in the various statutes to which reference has been made in section 3, the objectives of the Authority are:

- 8.1.1. To develop sector skills plans, within the framework of the Skills Development Strategy.
- 8.1.2. To co-operate with the South African Qualifications Authority.



CHAPTER NINE

9. Functions and Duties of the Authority

9.1. The Authority must in terms of Section 10 of the Act:

9.1.1. Develop a sector skills plan within the framework of the national skills development strategy;

9.1.2. Implement its sector skills plan by -

- Establishing Learnerships;
- Approving workplace skills plans;
- Allocating grants in the prescribed manner to employers, education and training providers and workers, and
- Monitoring education and training in the sector;

9.1.3. Promote Learnerships by -

- Identifying workplaces for practical work experience;

9.2. Supporting the development of learning materials;

- Improving the facilitation of learning; and
- Assisting in the conclusion of Learnership agreements;

9.2.1. Register Learnership agreements;

9.2.2. Within a week from its establishment, apply to the South African Qualifications Authority for accreditation as a body contemplated in section 5(1)(a)(ii)(bb) and must, within 18 months from the date of that application, be so accredited;

9.2.3. If required to do so by the Skills Development Levies Act, collect and disburse the skills development levies in its sector.;

9.2.4. Liaise with the National Skills Authority on:

- The national skills development policy;
- The national skills development strategy; and
- Its sector skills plan.



9.2.5. Report to the Director General -

- Its income and expenditure; and
- The implementation of its sector skills plan;

9.2.6. Liaise with the employment services of the Department and any education body established under any law regulating education in the Republic to improve information:

- About employment opportunities; and
- Between education and training providers and the labour market

9.2.7. Appoint staff necessary for the performance of its functions;

9.2.8. Perform any other duties imposed by this Act, or consistent with the purposes of this Act.

9.3. The Authority has:

9.3.1. All such powers as are necessary to enable it to perform its duties referred to in subsection (8.1); and the other powers conferred on the Authority by this Act.

9.4. The Authority must perform its functions in accordance with this Act and its Constitution.



CHAPTER TEN

10. Powers of the Authority

10.1. The Authority may, for the purpose of achieving its objectives and performing its duties and functions establish such committees, sub committees, ad hoc committees and other committees and, with the approval of the Minister, functional committees in addition to those referred to in this Constitution;

10.2. A committee or functional committee so established shall have the terms of reference and organisational structures determined by the Authority, however, they shall not conflict with those of the committees or functional committees provided for in this Constitution. All committees and functional committees must consist of an equal number of members representing organised employers and employees and such additional members as the Authority may determine;

10.3. The Authority may, at any time, dissolve any committee or functional committee and may amend or revoke its terms of reference and organisational structures;

10.4. A Committee or Other Committee shall have the power and the Authority and may impose functions delegated to it by the Authority, subject to such conditions as. In addition to the foregoing, and without derogating from the provisions of Section 12 and 13 (3) (vii) of the Act, the Authority may:

10.4.1. Appoint an Chief Executive Officer and such other employees necessary for the effective running of the Authority;

10.4.2. Formulate the general policy of the Authority;

10.4.3. Approve the annual budget of the Authority;

10.4.4. Approve the business plan of the Authority;

10.4.5. Determine the terms and conditions of employment of the Chief Executive Officer and other employees of the Authority;

10.4.6. Make rules relating to meetings of the Authority, financial matters, general procurement and administrative matters which are in accordance with provisions of this Constitution, the Act or any law;

10.4.7. Report on skills development within the sector ;

10.4.8. Compile a code of conduct by which all representatives shall be bound at all times.



CHAPTER ELEVEN

11. Members of the Authority

11.1. The Authority consists of:

11.1.1. Three representatives representing "organised employers" from each of the sectors respectively, namely information systems, electronics and telecommunications technologies representing "organised employers";

11.1.2. Three representatives are representing "organised employees" from each of the sectors respectively, namely information systems, electronics and telecommunications technologies representing "organised employees".

11.1.3. Up to three representatives representing relevant government departments and up to three representatives representing special interest groups as contemplated in section 11(d) of the Act

11.2. In order to qualify and be eligible to be admitted as a representative of the Authority, each representative shall be required to adhere to a code of conduct as provided for hereinafter. In addition, representative shall be expected to have the appropriate knowledge, competency and qualifications in the sector, which they represent.

11.3. Eligibility of Employers

11.4. Membership to the Authority shall only be open to nominated representatives from organised employer groups representing employers, including small businesses, that have registered with the South African Revenue Services to pay their levy to the Authority, including an indication as to which sector they are aligned to.

11.5. Employers that are not eligible to pay the levy can seek representation through an organised employer body.

Eligibility of Employees-

The Authority shall receive nominations for members to represent organised employees from, where applicable, registered trade unions, relevant employee groups or organisations, based on the principle of proportional representation within the relevant sector.

In determining the applicable formula for proportional representation for employees, the Authority shall consider the following:



COMMITTED TO SKILLS DEVELOPMENT IN THE ICT SECTOR

- a) The scope of operation of the employee organisation union as determined by its own Constitution.
- b) The number of companies with which the employees' organisation union has Signed Recognition Agreements.
- c) The number of paid up members of that employee organisation or labour union within the companies it has a Recognition Agreement with.

11.6. Additional Members

The Authority may admit relevant government departments and, should the Minister deem it appropriate after consultation with the other members of the Authority, any interested professional body and any bargaining council with jurisdiction in the sector as the case may be falling within the ambit of the Authority.



CHAPTER TWELVE

12. Nomination and Appointment of Members of the Authority and Committees

- 12.1. Members of the Authority are nominated and appointed in accordance with this item and Schedule 2, it being of paramount importance that equal representation be effected on the Authority by organised employers and employees organisations.;
- 12.2. The establishing Authority shall invite nominations for three organised employers and three organised employees organisations' representatives in respect of each sector provided that they have complied with the provisions of item 11 above;
- 12.3. Once the appropriate nominations are received from the necessary organised employers organisations or employees organisations as recorded above, the relevant establishing Authority, subject to this Constitution must appoint the representatives; and
- 12.3.1. Must elect one of the representatives as chairperson and one of the representatives as deputy chairperson of the Authority, it being recorded that the two respective offices shall be occupied by one organised employers representative and one employees organisations representative simultaneously.
- 12.4. The nomination of any employer's / employees organisations' representatives to serve on the Authority as provided for in terms of this item shall be conducted in accordance with the rules and regulations of that particular organisation;
- 12.5. Special Interest Groups
- "If the Minister, after consultation with organised employers including small business, organised labour, relevant government departments, considers it appropriate for the sector he may allow members of:
- a) Any interested professional body;
- b) Any bargaining council with jurisdiction in the sector, to form part of the Isett Seta.
- 12.6. Period of Existence
- The Authority shall, by its certificate of establishment, continue to exist for a period of 60 months in accordance with the Regulations published under Regulation Gazette



number 20442 dated 7 September 1999 and shall, 12 months prior to the expiry of its first certificate, apply for renewal thereof in accordance with the relevant Regulations or provisions as the case may be;

12.7. Liability of Members

- 12.7.1. No member or office bearer of the Authority shall be liable for any of the obligations and liabilities of the Authority solely by virtue of his or her status as a member or office bearer;
- 12.7.2. No office bearer or member of the Authority shall in any way be personally liable for any loss or damage suffered by any person as a result of the execution, attempted execution or non-execution in good faith of the office bearer's or member's duties and powers under this Constitution while that person was performing functions for or on behalf of the Authority, and members will be indemnified by the Authority for any such loss or damage.
- 12.7.3. The Authority indemnifies office bearers, representatives and employees of the Authority against any claims that may be made against them which may arise during the course and scope of their employment or performance of their duties, provided that such claim did not arise from dishonesty, fraud, breach of trust, wilful default or wilful breach of duty.
- 12.7.4. The Minister may after consultation with the National Skills Authority, by Notice in the gazette, direct the Director-General to appoint an administrator to take over the administration of the Authority as contemplated in Section 15 of the Act.
- 12.7.5. The Authority may be abolished by an Act of Parliament.

12.8. Terms and Conditions of Office of Members of the Authority

- 12.8.1. Members of the Authority (other than the Chief Executive Officer) shall hold office for a period of two years from the date of his or her nomination until:
 - His or her term ends;
 - His or her nomination is revoked by notice in writing to the Authority by the organisation that nominated him or her;
 - He or she resigns, dies or otherwise becomes incapable of discharging his or her duties; or



- He or she is removed from office by the Authority, after being afforded an opportunity to be heard as a result of:

- Serious misconduct;
- Any violation of the Code of Conduct referred to hereinafter or any provisions of this Constitution;
- Being absent from three consecutive meetings of the Authority without good cause or the prior submission of an apology;
- Any conduct that may undermine the integrity of the Authority or which may bring the Authority or any of its members into disrepute; or
- Any other good reason or upon grounds sufficient in law.

12.8.2. Whenever a vacancy occurs in a Ministerial nominee member position, the Authority must inform the Minister concerned of the vacancy in writing as soon as practicable. The Authority may provide the Minister concerned with a list of recommended suitable candidates, and in selecting Ministerial nominees, the Minister concerned will consider any candidates who have been recommended by the Authority;

12.8.3. Whenever a vacancy occurs in any organised employees or organised employers representative's position, the Authority must as soon as practicable request the nomination of a replacement to fill the vacancy from the recognised employees' or employers' organisations, as the case may be.

12.8.4. Any person appointed to fill a vacancy in terms of this item shall occupy such position from the time of his or her appointment until the next general meeting of the Authority when that appointment will lapse.



CHAPTER THIRTEEN

13. Annual General Meeting

13.1. The Authority shall meet for its annual general meeting at least once in each year within not more than nine months after the end of each financial year of the Authority and within not more than 15 months after the date of the last preceding annual general meeting of the Authority. The time, date and place of such a meeting shall be determined by the chairperson in consultation with the Executive Committee;

13.2. The business of the Authority, when meeting as the annual general meeting of the Authority, shall include:

13.2.1. The consideration of the annual financial statements of the Authority, the annual report of the Authority's affairs and the report of the Auditor General;

13.2.2. The discussion of any matter referred to in or arising out of the financial statements or the reports;

13.2.3. The discussion of any matter of which notice shall have been given to the Chief Executive Officer at least 15 days before the date of the annual general meeting;

13.2.4. The transaction of such other business as is required to be transacted by the Authority under this Constitution or the Act;

13.2.5. The election of the office bearers of the Authority and of the members and office bearers of the standing committees and of the office bearers of the functional committees and the selection of the members thereof;

13.3. Other Meetings

13.3.1. In addition to the annual general meeting, the Authority shall meet at least once more in each financial year;

13.3.2. Other meetings of the Authority:

- May be held at a time, date and venue and for the transaction of such business as may be determined by the Authority itself;
- May be convened by the chairperson at a time, date and venue and for the transaction of such business as may be determined by the chairperson when, in the chairperson's opinion and after consultation with the Executive Committee, circumstances justify such a step.



13.4. Requisitioned Meetings

13.4.1. The chairperson shall, on the requisition of not less than one-third of the members of the Authority, within 14 days of the lodging of the requisition issue a notice to members of the Authority convening a meeting of the Authority for a date not less than 21 and not more than 35 days from the date of the notice:

- The requisition shall state the objects of the meeting, which shall be to transact some business, which by this Constitution is required or permitted to be transacted by the Authority.
- The requisition shall be signed by the requisitionists and lodged at the registered office of the Authority referred to in Chapter 4.
- It may consist of several documents in like form, each signed by one or more requisitionists;
- If the chairperson does not, within 14 days from the date of the lodging of the requisition, issue a notice as required, the requisitionists may, themselves, on 21 days' notice convene a meeting, stating the objects thereof, but no meeting so convened shall be held after the expiration of three months from the date upon which the requisition was lodged;
- Any meeting convened by the requisitionists as set out above shall be convened in the same manner as nearly as possible as that in which meetings of the Authority are to be convened by the chairperson;
- Any reasonable expenses incurred by the requisitionists by reason of the failure of the chairperson to convene a meeting shall be repaid to the requisitionists by the Authority.

13.5. Procedure of Meetings

- 13.5.1. The Authority shall regulate its meetings, as it deems fit. The quorum necessary for the transaction of business shall be 50% (fifty percent) plus one, of its members from time to time;
- 13.5.2. The Authority may act despite vacancies in its membership so long as a quorum is present;
- 13.5.3. Acts or decisions of the Authority will not be invalid only because of a defect or irregularity in the appointment of a member or the election of the chairperson or to the office holder or in choosing a member to chair a meeting;



13.5.4. If within half an hour after the time appointed for the meeting a quorum is not present, the meeting, if convened upon a requisition of members, shall be dissolved. In such an instance, the meeting shall stand adjourned to a day not earlier than 7 days and not later than 21 days after the date of the meeting at the same time and place. If no quorum were then present within half an hour after the time appointed for the meeting, the members present shall then form a quorum.

13.5.5. The chairperson of the Authority or such person as shall be acting in the place of the chairperson in terms hereof shall preside at all meetings of the Authority;

13.5.6. The person presiding at any meeting of the Authority shall ensure that:

- Minutes of such meetings are kept and distributed to members of the Authority.
- Minutes of the previous meeting are signed by the Chairperson.
- Decisions and / or resolutions are properly captured in the minutes.

13.6. Voting

13.6.1. At all meetings of the Authority:

- Each member of the Authority shall have one vote;
- Proxy votes will not be allowed;
- All questions shall be determined by a majority of votes. In the case of an equality of votes, whether on a show of hands or on a poll, the Presiding Officer of the meeting shall have a second or casting vote;
- All questions shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by the Presiding Officer of the meeting or by three members personally present.
- The demand for a poll may be withdrawn if:
 - The Presiding Office withdraws the demand;
 - One of the three members personally present withdraws the demand.



- Unless a poll is so demanded, a declaration by the Presiding Officer at the meeting that a resolution has, on a show of hands, been carried or carried by a particular majority, or lost or not carried by a particular majority, and an entry to that effect in the book containing the minutes of the proceedings of the Authority shall be conclusive evidence of the fact, without proof of the number or proportion of the vote recorded in favour or against any such resolution;
- If a poll is duly demanded, it shall be taken in such manner and either at once or after an interval or adjournment as the Presiding Officer at the meeting directs. The result of such poll shall be deemed to be the resolution of the Authority. Scrutinisers shall be elected to determine the result of the poll.

13.7. Notice of Meetings of the Authority

- 13.7.1. The annual general meeting of the Authority shall be called by not less than 21 days notice in writing. Any other general meeting or meeting of the Authority shall be called by not less than 14 days notice in writing. Notice of a general meeting, other than the annual general meeting, may be dispensed with if each of the members of the Authority so agrees;
- 13.7.2. The notice shall be exclusive of the day on which it is served or deemed to have been served and of the day for which it is given. It shall specify the place, the day, the hour and the business of the meeting and shall be given in the manner provided for in this Constitution to each member of the Authority;
- 13.7.3. A meeting of the Authority shall, notwithstanding the fact that it is called by shorter notice than that specified in this article, be deemed to have been duly called if it is so agreed by 90% of the members of the Authority;
- 13.7.4. Any notice required or permitted to be given to any member of the Authority under this Constitution shall be given in the manner and in accordance with the provisions of this clause;
- 13.7.5. A notice may be given by the Authority to any member either personally, by telefax or electronic mail or by sending it by post in a registered letter addressed to such member at the telefax, electronic mail or delivery address, as the case may be, supplied by him or her to the Authority at the time when



COMMITTED TO SKILLS DEVELOPMENT IN THE ICT SECTOR

he or she became a member of the Authority or at such other address within the Republic of South Africa as he or she may have notified the Authority in writing from time to time;

- 13.7.6. Any notice by post shall be deemed to have been served on the fifth day after the day when the letter containing it was posted.
- 13.7.7. Notice sent by telefax or by electronic mail shall be deemed to have been received on the next business day after transmission. In proving the giving of the notice by post, it shall be sufficient to prove that the letter containing the notice was properly addressed, registered and posted. In the case of telefax or electronic mail, it shall be sufficient to prove that the notice was transmitted to the correct address.



CHAPTER FOURTEEN

14. Office Bearers of the Authority

14.1. Office Bearers

14.1.1. The office bearers of the Authority shall be:

- The Chairperson; and
- The Deputy Chairperson.

14.2. Election

14.2.1. The Authority from amongst its members representing employers and employees shall elect each of the office bearers of the Authority. The chairperson and deputy chairperson shall not be elected from the same group;

14.2.2. The election of the office bearers of the Authority shall take place at the annual general meeting of the Authority or at another meeting of the Authority properly constituted as required for the annual general meeting of the Authority and the persons so elected shall hold office for the period of two years, from the time of their election until the election of their successors.

14.3. Absence of Vacant Office

14.3.1. In the absence of the chairperson or should the office of chairperson be vacant, the deputy chairperson shall act as chairperson. If the chairperson and the deputy chairperson are absent, or if each of these offices is vacant, the Executive Committee shall appoint an acting chairperson and an acting deputy chairperson from amongst the members of the Authority representing employers and employees;

14.3.2. Such acting office bearers shall hold office during the absence of the officer in whose place they stand, or until the next annual general meeting of the Authority, as the case may be. During this period, the acting office bearers shall have all the powers, rights, duties and privileges that this Constitution confers upon the officer in whose place they stand.



CHAPTER FIFTEEN

15. Standing Committees

15.1. General

15.1.1. The Standing committees of the Authority shall be:

- The Executive Committee;
- The Audit Committee;
- The Provincial Committees.

Each standing committee shall have the duties and functions and composition provided for in the Constitution as well as the duty to seek and consider the advice of the other standing committees.

15.2. Meetings and Procedure

15.2.1. Each committee shall meet as often as necessary for the proper conduct of its affairs but at least once in every three months and shall regulate its meetings as it deems fit;

15.2.2. Meetings of the committees may be convened by its chairperson, either of his or her own accord (after consultation with the Chief Executive Officer) or whenever required to do so by at least one-third of the remaining members of the committee. In the absence of the chairperson, the Chief Executive Officer may exercise the powers of the chairperson under this clause to convene a meeting of a committee;

15.2.3. The quorum necessary for the transaction of business shall be 50% (fifty percent) plus one, members.

15.2.4. At meetings of each committee, each member present shall have one vote and all questions shall be decided by a majority of votes. In the case of an equality of votes, the Presiding Officer of the meeting shall have a second or casting vote;



COMMITTED TO SKILLS DEVELOPMENT IN THE ICT SECTOR

- 15.2.5. A resolution in writing signed by all the members of a committee and inserted in the minute book of that committee shall be as valid and effective as if it had been passed at a meeting of the committee, duly convened and held. Any such resolution may consist of several documents in the same form, each of which is signed by one or more members of the committee and shall be deemed (unless the contrary appears from the resolution) to have been passed on the date on which it was signed by the last member of the committee entitled to sign it. A resolution shall be deemed to have been signed if consent thereto has been given in a message transmitted by telegram, tele-printer or telefax and purporting to emanate from the person whose signature to such resolution is required;
- 15.2.6. Any member of the Authority who is not elected as a member of a standing committee shall be entitled to attend and speak at meetings of that committee but not to vote;
- 15.2.7. The person presiding at any meeting of a committee shall ensure that minutes of such meetings are kept.



CHAPTER SIXTEEN

16. Executive Committee

16.1. Duties and Functions

16.1.1. The Executive Committee shall be responsible for the oversight of the operational affairs of the Authority, as well as be responsible for the oversight and monitoring of the financial, budgetary, personnel and facilities affairs of the Authority. The Executive Committee shall be responsible to and shall report to the Authority;

16.1.2. To appoint and to agree the terms of service of the Chief Executive Officer of the Authority, from time to time to determine the functions, rights and duties of the Chief Executive Officer.

16.1.3. To assist the Chief Executive Officer in the performance of his or her duties;

16.2. Composition

16.2.1. The Executive Committee shall be chaired by the CEO and shall consist of:

- (a) The Chairperson of the Authority;
- (b) The Deputy Chairperson of the Authority;
- (c) Three members of the Authority representing organised employers and three representing organised labour;
- (d) The Chief Executive Officer;
- (e) The Chief Financial Officer or any other person designated as such;
- (f) Any other person appointed to the Authority in terms of this Constitution, for as long as he or she holds such office.

16.2.2. Any person who may be required from time to time to attend a meeting of the Executive Committee but who is not a member of the committee shall be entitled to speak at the invitation of the chairperson but not to vote.

16.2.3. The quorum for Executive Committee meetings shall be 50% + 1.



16.3. Terms of Office

The office bearers of the Authority shall hold office as members of the Executive Committee for as long as they hold the position or office to which they have been appointed. The remaining members of the Executive Committee shall hold office from the conclusion of the annual general meeting at which they were elected to the Board;

16.4. Appointment of Sub-Committees

The Executive Committee may appoint such sub-committees, as it may deem appropriate for the purposes of fulfilling the requirements and objectives entrusted to it.



CHAPTER SEVENTEEN

17. Audit Committee

17.1. Duties and Functions

The Audit Committee shall be responsible for the oversight and monitoring of the financial, budgetary, facilities, compliance and risk related affairs of the Authority. The Audit Committee shall be responsible to and shall report to the Authority;

17.2. Composition

The Audit Committee shall consist of at least five members, of whom the majority should be independent persons appointed by the Authority and at least two shall be members of the Authority.

The Audit Committee shall appoint a chairperson from the independent members of the Committee.

17.3. Any person who may be required from time to time to attend a meeting of the Audit Committee but who is not a member of the Audit committee shall be entitled to speak at the invitation of the chairperson but not to vote.

17.4. The Audit Committee shall meet at least four times in each financial year of the Authority and within. The time, date and place of such a meeting shall be determined by the chairperson in consultation with the Authority;

17.5. The quorum for Audit Committee meetings shall be 50% + 1

17.6. Terms of Office

Members so nominated shall become members for the period of two years from the time of their nomination until the next nominations.



CHAPTER EIGHTEEN

18. Provincial Committees

- 18.1. Having regard to the nature and the extent of the operations of the sector, the Authority may set up provincial committees in certain provinces, the purpose of which would be to identify, report upon and deal with the appropriate objectives of the Authority with the peculiar interests, needs and exigencies of a region or province of the Republic;
- 18.2. The scope and number of such committees shall be determined by the Authority taking into account, inter alia, the specific interaction which may be required by the various sectors and the divergent provincial needs, requirements and exigencies, the fundamental objective of such committees being to identify skills development issues and criteria in their specific regions or provinces;

18.3. Provincial Committees

The Provincial Committees shall be responsible for the following duties and functions:

- a) To identify provincial sector and sector skills requirements and needs;
- b) To recommend potential Learnership focuses,
- c) To identify and recommend workplaces for Learnerships,
- d) To promote and publicise the Authority,
- e) To share information
- f) To provide an opportunity for all stakeholders and interested parties to participate and provide input into the Authority
- g) To identify and liaise with regional initiatives relevant to the work of the SETA

18.4. Composition

- 18.4.1. The composition of the Provincial Committees shall be determined in accordance with the needs and exigencies peculiar to each region or province, as the case may be and shall comprise of an equal number of employer and employee representatives together with representatives from interest groups and interested parties which may be admitted in accordance with the relevant provisions of the Act;



18.4.2. In addition, having regard to the unique employment opportunities and circumstances prevailing in each particular province, provision may be made for the participation in the deliberations of any such committee of any employment agencies or personnel agencies;

18.5. Meetings of the Provincial Committees

Each Provincial Committee shall meet on no fewer than four occasions in each year in order to ensure that the objectives of the Act and this Constitution are satisfactorily achieved and maintained;

18.6. Reporting Structure

All minutes, reports and recommendations adopted by the Provincial Committee shall, within 14 days of such adoption be submitted to the Authority which shall, in turn, consolidate such reports and recommendations and submit them to the appropriate functional committee.



CHAPTER NINETEEN

19. Functional Committees

19.1. In order to ensure adequate representation from within the sector, the Authority shall establish Functional Committees as is more fully described hereinafter, i.e. Learnerships, ETQA and SSP Committees.

19.2. Functional committees must report to the Chief Executive Officer.

19.3. Learnerships Committee

19.3.1. Duties and functions -

Without limiting the generality of developing, managing and monitoring the Learnerships system for the Authority, the Learnerships Committee shall:

- Develop policies, principles, criteria and guidelines related to Learnerships and including "ABET" programmes for the recommendation to and subsequent endorsement of the Authority, in accordance with Chapter 4 of the Act.
- Develop and recommend plans for the implementation of Learnerships and/or ABET programmes, where appropriate;
- Receive and address such reports and recommendations from provincial committees on Learnership requirements in each sector and/or ABET programmes, where appropriate;
- Monitor and report to the Chief Executive Officer on Learnerships functions of the Authority and/or ABET programmes, where appropriate.

19.3.2. Composition

- Up to three employee representatives and up to three employer representatives in respect of the sector shall comprise the Learnership Committee, employee and employer delegates representing their respective constituencies;
- The Learnerships Committee shall elect a "Learnerships Chairperson" who shall be required to generally supervise, manage and co-ordinate the functions of the Learnerships Committee with particular emphasis being placed on its objectives in terms of this item;



COMMITTED TO SKILLS DEVELOPMENT IN THE ICT SECTOR

- Subject to the provisions of the Act, groups having a special interest in the activities of the Learnership Committee shall be eligible, subject to such criteria as may be established by the Learnership Committee and the Authority, for admission to this Committee.

19.3.3. Frequency of Meetings

- The Learnership Committee, in order to ensure that it fulfils its objectives and requirements adequately, satisfactorily and expeditiously, shall meet on no fewer than four occasions in each year.

19.4. ETQA Committee

19.4.1. Duties and functions –

The "ETQA" Committee shall, in essence, be responsible for, inter alia, the management strategy, on behalf of the Authority, of the quality assurance functions and obligation of the Authority. Without derogating from the generality of the foregoing, the ETQA Committee shall:

- Develop policies, principles, criteria and guidelines related to ETQA for recommendation to the Authority in accordance with the SAQA requirements as set out in the South African Qualification Act (Act 58 of 1995);
- Prepare the ETQA plan for recommendation to the Authority,
- Establish and monitor the implementation of a quality management system in order to:
 - Make recommendations to the Authority on the accreditation of any one or more providers in the sector for specific standards or qualifications;
 - Promote quality amongst the various constituent providers;
 - Receive and collate reports and recommendations from provinces or regions on issues effecting the ETQA Committee and its objectives in terms of this Constitution and the Act;
 - Register constituent assessors of national qualifications in the sector in respect of specific standards or qualifications in terms of such criteria which may be established for this purpose;
 - Certify any one or more constituent learners;



- Co-operate in the moderation of the assessment and of quality assurance across the sector as the case may be.
- Monitor the development of, and requirements for, new standards, qualifications or modifications to existing standards or qualifications for the sector..
- Ensure that the Authority maintains an appropriate database for its quality assurance and certification functions;
- Report to the Chief Executive Officer on such matters as may be necessary.

19.4.2. Composition

- Up to three employee representatives and up to three employer representatives in respect of the sector shall comprise the ETQA Committee, employee and employer delegates representing their respective constituencies;
- The ETQA Committee shall elect a "ETQA Chairperson" who shall be required to generally supervise, manage and co-ordinate the functions of the ETQA Committee with particular emphasis being placed on its objectives in terms of this item;
- Subject to the provisions of the Act, groups having a special interest in the activities of the ETQA Committee shall be eligible, subject to such criteria as may be established by the ETQA Committee and the Authority, for admission.

19.5. Sector Skills Planning Committee

19.5.1. Duties

The fundamental responsibility of the Sector Skills Planning Committee shall be to prepare and recommend the Sector Skills Plan and monitor its implementation. Without derogating from the generality of the foregoing, the Sector Skills Planning Committee shall:



- Develop such policies, principles, criteria and guidelines relating to sector skills planning for recommendation to the Authority;
- Identify the data which may be necessary for the development of a sector skills plan and to propose a means of collecting or acquiring such data;
- Determine the enterprise, employee, occupational and skills profile of the sector with which it may be entrusted;
- Identify and analyse strategic issues which may impact on the sector with particular emphasis being paid to its objectives as recorded herein;
- Establish such skills, needs and employment growth developments in the economic sectors and regions or provinces;
- Assess education and training provisions in the sector or as the case may be, and identify any deficiencies in such provisions;
- Determine education and training priorities in the sector or with which it is entrusted;
- Receive and collate provincial recommendations, contributions or inputs with regard to skills requirements and the skills plan implementation in the provinces or regions, as the case may be;
- Develop policies, principles, guidelines and criteria related to workplace skills plans for recommendations to the Chief Executive Officer;
- Report to the Chief Executive Officer on the implementation of workplace skills plans;
- Develop sector skills plans for consideration by the Chief Executive Officer;
- Monitor and report to the Chief Executive Officer on the implementation of the sector skills plan.

19.5.2. Composition

- Up to three employee representatives and up to three employer representatives in respect of the sector shall comprise the Sector Skills Planning Committee, employee and employer delegates representing their respective constituencies;



- The Sector Skills Planning Committee shall elect a "Sector Skills Planning Chairperson" who shall be required to generally supervise, manage and co-ordinate the functions of the Sector Skills Planning Committee with particular emphasis being placed on its objectives in terms of this item;
- Subject to the provisions of the Act, groups having a special interest in the activities of the Sector Skills Planning Committee shall be eligible, subject to such criteria as may be established by the Sector Skills Planning Committee and the Authority, for admission.



CHAPTER TWENTY

20. The Chief Executive Officer

- 20.1. The Authority must appoint a person with experience and expertise as Chief Executive Officer of the Authority, for the effective performance of the functions of the Authority;
- 20.2. The Chief Executive Officer must perform such functions as may be assigned to the Chief Executive Officer by the Act or by the Authority;
- 20.3. The Chief Executive Officer must attend all meetings of the Authority;
- 20.4. If the Chief Executive Officer is absent or for any reason is unable to perform the functions entrusted to him or her, or there is a vacancy in office of the Chief Executive Officer, the chairperson of the Authority may designate an employee of the Authority to act as Chief Executive Officer until the Chief Executive Officer is able to resume his or her, functions or until an Chief Executive Officer is appointed in terms of paragraph 20.1.
- 20.5. The Chief Executive Officer may, subject to the provisions of this Constitution:
 - 20.5.1. Appoint persons as employees of the Authority to assist in the performance of his or her functions;
 - 20.5.2. Which terms and conditions of service of persons appointed under this clause will be determined by the Authority.
- 20.6. In particular, but without limiting the generality of this, the Chief Executive Officer shall have the following specific functions:
 - 20.6.1. To manage the preparation and the presentation of the annual business plan, the annual budgets, sector skills plan and the quality management plan for the approval of the Authority.
 - 20.6.2. To manage, co-ordinate and monitor the activities of the standing committees and the functional committees.
 - 20.6.3. To determine which standing committee or functional committee should deal with emergent issues or business developments.
 - 20.6.4. To seek and consider the advice of the functional and standing committees in conducting and directing the business of the Authority



20.7. The Chief Executive Officer is responsible as accounting officer for financial and budget management:

20.7.1. To recommend the appointment of an independent internal auditor and to receive and consider the auditor's report in collaboration with the Authority's Audit Committee;

20.7.2. To develop and implement sound financial operations with internal financial controls and budget performance of the Authority;

20.7.3. To manage the Authority's insurance portfolio;

20.7.4. To facilitate the calling and letting of tenders for items of major expenditure in line with the delegations of Authority;

20.7.5. To develop and implement the financial reports of the Authority.

20.8. The Chief Executive Officer is responsible for resources regarding:

20.8.1. Delivery of capital resources to facilitate achievement of the Authority's objectives.

20.9. The Chief Executive Officer is responsible for human resources regarding:

20.9.1. The implementation of policies, for the effective management of human resources.



CHAPTER TWENTY ONE

21. Delegation and Assignment of Functions

- 21.1. The Authority may delegate any of its powers or assign any of its functions by or under the Act to any committee or the Chief Executive Officer;
- 21.2. Any permanent or *ad hoc* committee may delegate or assign any of its functions to any of its sub committees;
- 21.3. The Chief Executive Officer may delegate any power or assign the performance of any function conferred or imposed upon the Chief Executive Officer to any employee of the Authority;
- 21.4. A delegation or assignment in terms of this section -
 - 21.4.1. Must be in writing;
 - 21.4.2. May be subject to such conditions and restrictions as determined by the Authority, a permanent or an *ad hoc* committee or the Chief Executive Officer, as the case may be; and
 - 21.4.3. Does not prevent the exercise of that power or
 - 21.4.4. Performances of that function by the Authority, permanent or an *ad hoc* committee or the Chief Executive Officer, as the case may be.



CHAPTER TWENTY TWO

22. Functions of the Chairperson

- 22.1. Every Chairperson must, with regard to the Authority or Committee, he/she chairs:
 - 22.1.1. Allow any member to nominate from among its members to act as convenor of such a Committee for communication purposes. If no member is nominated as a convenor, the Chairperson may appoint any member of that Committee as convenor;
 - 22.1.2. Cause meetings to be convened;
 - 22.1.3. Ensure the orderly conduct of meetings and that all resolutions are recorded.
- 22.2. If the Chairperson of the Authority is unable to attend a meeting, the deputy chairperson shall chair the meeting;
- 22.3. If the Chairperson of a permanent Committee is unable to attend a meeting, the Chief Executive Officer may designate another employee of the Authority to chair the meeting.



COMMITTED TO SKILLS DEVELOPMENT IN THE ICT SECTOR

CHAPTER TWENTY THREE

23. Appointment and Functions of Secretary

23.1. The Chief Executive Officer must appoint a secretary for:

23.1.1. The Authority; and

23.1.2. Any committee if the establishing Authority so requires.

23.2. If a secretary is not appointed for a sub committee, the members of that committee must keep a record of and report to the relevant establishing Authority on their activities;

23.3. The secretary must, with regard to the Authority or committee for which the secretary is appointed:

- Prepare the agenda for every meeting;
- Prepare the minutes of every meeting;
- Record every resolution of such meeting and if so requested by a member, the views of that member;
- Keep general records, records of members, minutes, documents and files of the Authority or such committee; and
- Serve every member with:
 - A convening notice and the agenda of a meeting at least five days before the meeting or two days before an urgent meeting;
 - Any reports or documentation to be considered at a meeting, a reasonable period before the meeting; and
 - The minutes of every meeting.



CHAPTER TWENTY FOUR

24. Rights and Obligations of Members

24.1. Any member who is unable to attend a meeting of the Authority or Committee:

24.1.1. May be represented by the alternate member; and

24.1.2. Must before the meeting give notice of it to the Chairperson.

24.2. An alternate designated under the above clause has the rights and obligations of the member whom that alternate represents;

24.3. Every member has the right to:

24.3.1.1. Be heard on any matter considered at the meeting;

24.3.1.2. Take part in the resolution of any matter before the meeting; and

24.3.1.3. Have their views on any matter considered at the meeting recorded in the minutes of the meeting and in any report or recommendation of the meeting.

24.4. Members of the Authority and Committees appointed by the Minister excluding full time employees of the state may claim compensation for their participation in the Authority or its Committees in accordance with the regulations of the Authority.



COMMITTED TO SKILLS DEVELOPMENT IN THE ICT SECTOR

CHAPTER TWENTY FIVE

25. Dispute Resolution

- 25.1. Any member or employee of the Authority, who is a party to a dispute concerning the interpretation or application of this Constitution, may refer the dispute to the Chief Executive Officer of the Authority.
- 25.2. The Chief Executive Officer must, as soon as is possible, refer the dispute to the Executive Committee, which must endeavour to resolve the dispute by conciliation within 30 days of referral of the dispute.
- 25.3. If the Executive Committee fails to resolve the dispute within the allocated time, then any party to the dispute may refer it for mediation.
- 25.4. The mediator must be agreed to by all the parties to the dispute, and must be approved by the Chairperson of the Authority, or failing such agreement, such a mediator shall be appointed by the Chairperson of the Authority.
- 25.5. If mediation of the dispute is not possible, any party to the dispute may refer the dispute for arbitration.
- 25.6. The arbitrator must be agreed to by all the parties to the dispute, and must be approved by the Chairperson of the Authority, or failing such agreement, such an arbitrator shall be appointed by the Chairperson of the Authority.
- 25.7. Powers of the arbitrator shall be agreed upon by parties to the dispute.
- 25.8. The arbitration award is final and binding to all parties to the dispute.
- 25.9. The cost of arbitration will be borne equally by all the parties to the dispute, unless the arbitrator finds otherwise and varies the allocation of costs.



CHAPTER TWENTY SIX

26. Finances of the Authority

26.1. The Authority is financed from -

- Monies that accrued to the Authority in terms of regulations made under this act or in terms of any other applicable law;
- The skills development levies collected in this sector;
- Monies paid to the Authority from the National Skills Fund;
- Revenue obtained from investments of surplus monies;
- Fees obtained from services provided by the Authority;
- Donations, grants and bequests received from any person, body, government or administration; and
- Any other money received from any other source.

26.2. Moneys received by the Authority may be used only in the prescribed manner and to:

- Fund the performance of its functions
- Pay for its administration within the prescribed limit.

26.3. Monies referred to hereinbefore may be:

- Used as contemplated in Section 14 of the Act;
- Invested at any bank registered as such under the Banks Act 1990 (Act No 94 of 1990) or invested in such other manner as determined by the Authority; and
- Used to register or utilise any intellectual property of the Authority.

26.4. Any monies paid to the Authority in terms of donations received from any person, body, government or administration must be utilised in accordance with the conditions, if any, imposed by the donor of such monies;

26.5. The chairperson of the Authority must for each financial year submit a statement of estimated income and expenditure during such financial year to the Minister, who must approve the budget for:

- The first financial year before the first meeting of the Authority; and
- Every other financial year before the beginning of such financial year.



CHAPTER TWENTY SEVEN

27. Accounting

- 27.1. The Chief Executive Officer is the accounting officer of the Authority;
- 27.2. The accounting officer is responsible for all monies received and payments made by the Authority;
- 27.3. The financial year of the Authority ends on 31 March in each year;
- 27.4. The accounting officer must cause records to be kept in accordance with generally accepted accounting principles that are necessary to represent fairly the state of affairs and business of the Authority and to explain the transactions and financial position of the Authority;
- 27.5. The money received by the Authority must be managed as contemplated in Section 14 (2) and 14 (3) of the Act;
- Annual financial statements must be prepared in respect of every financial year. The statement must consist of:
 - Balance sheet dealing with the state of affairs of the Authority;
 - A return of income received and expenses incurred by the Authority; and
 - A statement of cash flow information.
- 27.6. The books of account, statements of account and annual financial statements of the Authority must be audited annually by the Auditor General. The Auditor General must compile a report on the audit and submit a copy of it to the Minister and the chairperson of the Authority;
- 27.7. The Chief Executive Officer of the Authority must supply each member of the Authority with a copy of the report to the Auditor General;
- 27.8. As soon as practicable after the report of the Auditor General has been submitted to the Minister, the Minister must table it in Parliament;
- 27.9. In order to ensure that the Authority is fully appraised, at all times, of its true financial position, it may, in accordance with this Constitution, appoint an audit committee with specific tasks as may be assigned to it to conduct an audit on the accounting records of the Authority and to report to it at such intervals as it may deem appropriate.



CHAPTER TWENTY EIGHT

28. Code of Conduct

- 28.1. A member of the Authority or of any committee or functional committee of the Authority must in the exercise of his or her functions:
- 28.2. Act honestly and in the utmost good faith;
- 28.3. Give effect to the spirit and obligations as incorporated in the Act;
- 28.4. Exercise reasonable care and diligence;
- 28.5. Not make Improper use of any information resources acquired as a member of the Authority or of any committee or functional committee of the Authority;
- 28.6. Avoid any conflict between their personal interests and those of the Authority;
- 28.7. Declare any conflict of interest or potential conflict of interest or duties;
- 28.8. Promote and advance the interests and objectives of the Authority.



COMMITTED TO SKILLS DEVELOPMENT IN THE ICT SECTOR

CHAPTER TWENTY NINE

29. Disclosure of Interest

- 29.1. A member of the Authority of any committee or functional committee of the Authority who is directly or indirectly interested in any business of the Authority or the committee or the functional committee of which he or she is a member or who holds any office or possesses any property which might cause a conflict of duties or interest must declare that interest or potential conflict prior to assuming any office or, to the extent that any such conflict may arise subsequent to his assuming office, immediately thereafter;
- 29.2. Such a disclosure must be made to a meeting of the Authority, Committee or functional Committee, where after such disclosure shall be reported to the next meeting of the Authority and be recorded in the minutes thereof.
- 29.3. Should the extent of the conflict of interest or potential conflict of interest of a member be such that it may negatively influence the outcome of a decision; such a member shall be excused from those deliberations.



CHAPTER THIRTY

30. Confidentiality

- 30.1. A member or employee of the Authority or any of its Committees or functional Committees shall not, while he or she is a member or employee or thereafter, disclose to any person any information, for which non-disclosure has been declared, which he or she acquired whilst exercising or performing any function or duty under this Constitution and which therefore, is confidential to the Authority, any of its committees or functional committees to any other member or to any employer or employee in the sector, as the case may be. Any disclosure must, at all times, be communicated in terms of the Skills Development Act, any other law or an order of court.



COMMITTED TO SKILLS DEVELOPMENT IN THE ICT SECTOR

CHAPTER THIRTY ONE

31. Terms of Office

- 31.1. Any person elected or appointed to hold any position or office under this Constitution shall be eligible for re-election to that position or office for a maximum of two consecutive terms of office. The fact that such person has served two consecutive terms shall not preclude him or her from holding any other position or office in the Authority after retiring there from nor should it preclude him or her from holding that office again after the expiry of the term of office of his or her successor;
- 31.2. Any person who attends a meeting in more than one capacity shall be entitled, to the extent that he or she is entitled to vote, to one vote only.



CHAPTER THIRTY TWO

32. Amendments to this Constitution

- 32.1. The secretary must send copies of any proposed amendments together with the agenda for the meeting to all members;
- 32.2. At least 30 days notice of a meeting at which an amendment of the Constitution is to be considered will, in all instances, be required;
- 32.3. The provisions of this Constitution may be amended only:
 - a) By the decision of at least two-thirds of the members present at a meeting of the Authority; and
 - b) If they are approved by the Minister.



COMMITTED TO SKILLS DEVELOPMENT IN THE ICT SECTOR

CHAPTER THIRTY THREE**33. Taking Over Administration of Authority**

33.1. Cognisance of the Amendment of Section 15 of Act 97 of 1998 must be taken:

Section 15 of the principal Act as amended refers:

(a) By the substitution for subsections (1) and (2) of the following subsections, respectively:

(1) The Minister may, after consultations with the National Skills Authority (by notice in the Gazette) and the SETA in question, direct the Director-General to appoint an administrator to take over administration of a SETA or to perform the functions of a SETA if (the Minister is of the opinion that)

- a) The SETA fails to perform its function;
- b) There is mismanagement of its finances (or)
- c) its membership no longer substantially represents the composition contemplated in section 11;
- d) The SETA has failed to comply with its service level agreement; or
- e) The SETA has failed to comply with an instruction issued by the Minister in terms of section 14A.

(2) (In that notice the Minister) The Director-General must publish a notice in the Gazette appointing an administrator and in that notice the Director General –

- a) must determine the powers and duties of the administrator (appointed in terms of subsection (1)), which may include the performance by the administrator of the SETA's functions in terms of the Public Finance Management Act.
- b) may suspend or replace one or more members of the SETA for a reason contemplated in subsection (1)(a), ((b) or (c)) to (e);
- c) may suspend the operation of the Constitution of the SETA; and;
- d) may (in the prescribed manner) direct the transfer of all or some of the funds in the SETA's bank account to the National Skills Fund"; and



- e) by the addition of the following subsection; (4) "The Minister may act in terms of subsection (1) without consulting the National Skills Authority and the SETA in question if there is financial mismanagement of the SETA and the delay caused by the consultation would be detrimental to the SETA's capacity to perform its functions."

**SCHEDULE 1****Representation on the Authority**

The employees' organisations, organised employers, relevant government departments and other interest groups in the sector with representation on the Authority.

The following Schedule is subject to Annual Reviews:

Organised Employers	Employees Organisations (Organised Labour)	Interest Groups	Government Departments
Information Technology Association (ITA)	Communications Workers union (CWU)	Computer Society of South Africa (CSSA)	Department of Communication (DOC)
Telecommunication Skills Development Forum (TSDF)	United Association of South Africa (UASA)	Black Information Technology Forum (BITF)	Department of Trade and Industry (DTI)
Electronics Industry Federation (EIF)	National Union of Metal Workers of South Africa (NUMSA)	South African Communications Forum (SACF)	Department of Education (DOE)
			Department of Science and Technology (DST)



SCHEDULE 2

Manner of Nomination and Appointment of Members of the Authority

All Stakeholders have the right to 6 nominated members onto the Authority in as far as they believe such person(s) will meet the demands of skills development required by the Skills Development Act, the Skills Development Levies Act and the National Skills Development Strategy.

Organised Businesses are entitled to three (3) seats per sector (Information Technology, Electronics and Telecommunications) on the Authority. A maximum of two (2) alternating members may be added to these nominations.

All nominees of this group have a right to vote.

Organised Labour is entitled to three (3) seats per sector (Information Technology, Electronics and Telecommunications) A maximum of two (2) alternating members may be added to these nominations.

All nominees of this group have a right to vote.

Government Departments

Each of the designated government departments has one (1) seat on the Authority's Board. Government Departments do not have a right to vote (according to the Act). Each nominee may have one (1) alternating nomination.

Special Interest Groups

Each Special Interest Group has one (1) seat each on the Authority. They enjoy voting rights. Each group may send one additional nominee as an alternating member.

Provincial Committees

In all the qualifying nominations, the principle of proportional representation applies. This shall take into account the Provincial composition

Distribution of members by organised employers or organised labour as the case may be, on appropriate dispute resolution mechanisms will be facilitated by an independent mediator. Failing to resolve the dispute the matter may be resolved through arbitration and or later through legal course.

Employees' organisations representation is determined by consensus based on proportionality based on Chapter 11.4



COMMITTED TO SKILLS DEVELOPMENT IN THE ICT SECTOR

AMENDMENT HISTORY TABLE

AMENDMENT HISTORY			
Policy Number	Version Number	Description	Revision Date
ISETT SETA Constitution 20 th January, 2000	3.1	Original document	20 th January, 2000
ISETT SETA Constitution	4.0	First revision	May 2003
CON ISETT SETA Constitution	5.0	<p>Second revision incorporating DoL recommendations (REF: 12/P/26/MT)</p> <ul style="list-style-type: none"> a) Various formatting and numbering corrections; b) Additional Definitions: c) "National Skills Development Strategy" d) "SETA" e) "Employees Organisation" f) "Organised Employer" g) "Sector" h) Paragraph 7 added "and Government Gazette No 21012 of 20 March 2000 as amended." i) Paragraph 8 amended to "To develop sector skills plans, within the framework of the Skills Development Strategy" instead of "To develop sector skills plans, which take cognisance of the employment equity act". j) Paragraph 11 and 12 amended to include "Employee Organisation" and "Organised Employer" throughout. k) Paragraph 12.5 changed from "Provided that the provisions of Section 11 (d) of the Act are complied with, such groups referred to in that section may be admitted as the Authority and the Minister may lay down members subject to such criteria as from time to time." to "If the Minister, after consultation with organised employers including small business, organised labour, relevant government departments, considers it appropriate for the sector he may allow members of: <ul style="list-style-type: none"> (i) Any interested professional body; (ii) Any bargaining council with jurisdiction in the sector; to form part of the Isett Seta. a) Paragraph 19.1 include names of functional committees; b) Where necessary "ISETT SETA" replaced by "Authority". c) Inserted Paragraph 34 – Indemnity; d) Inserted Paragraph 35 – Taking over Administration of Authority; 	22 nd October 2004



AMENDMENT HISTORY

Policy Number	Version Number	Description	Revision Date
CON ISETT SETA Constitution	6.0	Formatting changes: Index and Approval Page added	22 nd November 2004
CON ISETT SETA Constitution	7.0	<p>a) Change "Executive Officer" to "Chief Executive Officer" throughout the document;</p> <p>b) Paragraph 14.2.2 inserted "or at another meeting of the Authority properly constituted as required for the annual general meeting of the Authority";</p> <p>c) Paragraph 17.2 Inserted "The Audit Committee shall consist of at least five members, of whom at least three should be independent persons appointed by the Board and at least two should be Board members."; and "The Audit Committee shall appoint a chairperson from the independent members of the Committee." This change was done to ensure the Audit Committee Charter and Constitution are aligned.</p> <p>d) Paragraph 26.3 replaced "may be determined by the Minister" with "determined by the Authority" to ensure it does not contradict the Investment Policy.</p> <p>e) Amendments to Schedule 1 as required by Annual Review.</p> <p>f) Various formatting and numbering corrections.</p>	25 th November 2004
CON ISETT SETA Constitution	8.0	<p>DoL Suggestions were acted on:</p> <p>Chapter Three Name Added "Sector" between the words Technologies and Education. The word "Authority" was changed whenever the word Authority is used in this Constitution to begin with a capital letter.</p> <p>Chapter Four Legal Status Clause 4.1.1. Added; 1998 (Act No 97 of 1998) (As amended) Clause 4.1.2. Revised to read; The South African Qualification Act, 1995 (Act No 58 of 1995) Clause 4.1.3 Revised to read; The Skills Development Levies Act (Act No 09 of 1999) Clause 4.5: The words Ad hoc changed to Italics throughout the constitution.</p> <p>Chapter 6 Definitions This chapter was moved to appear as Chapter 2. This necessitated a change in numbering. The reference to clause 5.1 was added to clause 2.3:</p>	19 th April 2005 and 29 th June 2005



COMMITTED TO SKILLS DEVELOPMENT IN THE ICT SECTOR

AMENDMENT HISTORY

Policy Number	Version Number	Description	Revision Date
		<p>"Authority" - means the Information Systems, Electronics and Telecommunications Technologies Sector Education and Training Authority established hereby (see Clause 5.1);</p> <p>The C in Constitution was changed to a capital letter throughout the document.</p> <p>The clauses were sorted in alphabetical order for easy reference.</p> <p>Clause 2.23 was changed to refer to the documents that list the ISETT SETA's scope of coverage.</p> <p>Abbreviations were used when referring to definitions of words defined, like the Labour relations Act as "LRA".</p> <p>The formatting of the various Acts quoted was improved on.</p> <p>Definitions were added e.g. - the Skills Development Levies Act -</p> <p>Means the Skills Development Levies Act, 1995 (Act No 9 of 1999)</p> <p>Chapter 7</p> <p>Areas of Jurisdiction</p> <p>References to the Minister of Labour were changed to the use of only the word "Minister".</p> <p>Chapter 13</p> <p>Annual General Meeting</p> <p>Clauses 13.5.4 & 13.7.1: For consistency purposes the numbers (7 days or 21 days) were used instead of words.</p> <p>Clause 13.7.3: For consistency purposes the (90%) number was used instead of words.</p> <p>13.7.5 & 13.7.7 The word pre-paid was changed to "registered".</p> <p>Chapter 16</p> <p>Executive Committee</p> <p>16.2.1. CEO has been defined in Chapter 2.</p> <p>16.2.2. Added ' but who is not a member of the committee' between the words 'committee and shall.'</p> <p>16.2.2 & 16.2.3. A space was created between these two.</p> <p>Chapter 17</p> <p>Audit Committee</p> <p>Clause 17.3.: Added 'but who is not a member of the Audit committee' between the words 'committee and shall.'</p> <p>Chapter 18</p> <p>Provincial Committees</p>	



COMMITTED TO SKILLS DEVELOPMENT IN THE ICT SECTOR

AMENDMENT HISTORY

Policy Number	Version Number	Description	Revision Date
		<p>18.1 Republic has been defined in Chapter 2.</p> <p>18.4. Both paragraphs were numbered as 18.4.1 and 18.4.2 respectively.</p> <p>Chapter 19</p> <p>Functional Committees</p> <p>Clause 19.3.1.: "Skills Development" was removed from the first bullet.</p> <p>Clause 19.3.4 changed to 19.4.</p> <p>Clause 19.3.6 changed to 19.5</p> <p>Chapter 20</p> <p>The Executive Officer</p> <p>Clause 20.4. : Reference to Clause 20.1 has been added.</p> <p>Clauses 20.7, 20.8 20.9 were linked directly to the CEO.</p> <p>Clause 20.9 was re-formatted.</p> <p>Chapter 26</p> <p>Finances of the Authority</p> <p>Clause 26.1: Added ' of surplus monies.' after investments on the fourth bullet.</p> <p>Added ' grants and bequests' after donations on the sixth bullet.</p> <p>Clause 26.3 : Added 'No' on the second bullet.</p> <p>Clauses 26.4 & 26.5: A space was created between these two clauses.</p> <p>Clause 28 (d) : Added 'resources' after information.</p> <p>Chapter 30</p> <p>Confidentiality</p> <p>The Levies Act has been defined in Chapter 2.</p> <p>Chapter 33</p> <p>Dissolution or Winding up</p> <p>This chapter has been moved to be the last Chapter.</p> <p>Chapter 34</p> <p>Indemnity</p> <p>This chapter was incorporated with Chapter 12: "Liability of Members" and thus deleted as Chapter 34.</p>	
CON ISETT SETA Constitution	8.1	<p>Chapter 17</p> <p>Terms of Office have been clarified.</p>	01 st July 2005

No. R. 897

8 September 2005

SKILLS DEVELOPMENT ACT, 1998 (ACT NO. 97 OF 1998)**APPROVAL OF CONSTITUTION OF INSURANCE SECTOR EDUCATION AND TRAINING AUTHORITY (SETA 13)**

The Minister of Labour has on 1 April 2005 in terms of section 13 (1) of the Skills Development Act, approved the constitution of the INSURANCE SECTOR EDUCATION AND TRAINING AUTHORITY as set out in the Schedule.

SCHEDULE



inseta

INSURANCE SECTOR EDUCATION
AND TRAINING AUTHORITY

"Working together for a skilled tomorrow"

**Constitution of the Insurance
Sector Education and Training Authority (INSETA)
(Amended: July 2005)**

TABLE OF CONTENTS

Subject	Page
Legal Entity	3
Definitions	4
Scope and Coverage	6
Establishment of committees and structures	7
Meeting procedures of committees and structures (other than Council)	8
The Council	9
Powers of Council	14
The Executive Committee	15
Finances	15
Certification	16
INSETA Organogram/Governance Structures (Annexure)	17

LEGAL ENTITY

Purpose of the Constitution The purpose of this Constitution is to provide an institutional framework to devise and implement national, sector and workplace strategies to develop and improve the skills of the South African workforce.

Name The name of this Sectoral Education and Training Authority (SETA) is the Insurance SETA, hereinafter referred to as INSETA.

Legal Status This is the Constitution of INSETA established in accordance with Sections 9 of the Act.

Address The address of this SETA is:

INSETA
11 St. Andrews Road
Oakhurst Office Park
North Wing, Ground Floor
Parktown
2193

Tel: (011) 544 2000
Fax: (011) 484 0862
E-Mail: info@inseta.org.za

Legal Personality INSETA is a public entity listed in schedule 3a of the PFMA and will:

- Have a separate identity and existence distinct from its office bearers, constituents and representatives;
- Hold property and assets distinct from its office bearers, constituents and representatives;
- Not be entitled to carry on any business which has for its object the acquisition of gain for itself or its office bearers, representatives or constituents;
- Be required to use its funds solely for the objects for which it has been established or for investment in terms of an investment policy as approved by the National Treasury;
- Shall be entitled to raise funds, generate income and charge fees in accordance with any relevant legislation;
- Be capable at law of suing and being sued, of investing funds and of operating banking and other accounts, of entering into contracts and doing or performing such other acts or things as body corporates may do or perform, subject to the provisions of this constitution and the Act;
- Continue to exist notwithstanding changes in its office bearers, constituents or representatives; and
- Be dissolved in accordance with the requirements of the Act, should dissolution become necessary for any reason.

Period of Existence	INSETA shall, by its certificate of establishment, continue to exist for a period of 60 months in accordance with the Regulations published under Regulation number 20442 dated 7 September 1999 and shall 12 months prior to the expiry of its first certificate, apply for renewal thereof in accordance with the prevailing provisions or regulations of the Act.
----------------------------	--

Legislative Framework	<p>The Constitution must be read in conjunction with the following legislation and any amendments thereto:</p> <ul style="list-style-type: none"> ▪ Skills Development Act, 1998 (Act No. 97 of 1998). ▪ Skills Development Levies Act, 1999 (Act No. 9 of 1999). ▪ South African Qualifications Authority Act, 1995 (Act No. 58 of 1995). ▪ Public Finance Management Act, 1999 (Act No. 1 of 1999) as amended.
------------------------------	--

Process of amending the Constitution	<p>The provisions of this Constitution may be amended only</p> <ul style="list-style-type: none"> ▪ by the decision of at least two thirds of the Council members present at a quorate meeting of the Council; and ▪ if approved by the Minister. <p>There must be at least 30 days notice of a meeting at which an amendment of the Constitution is to be considered.</p> <p>The secretary must send copies of any proposed amendment together with the agenda for the meeting.</p>
---	--

DEFINITIONS

"The Act"	means the Skills Development Act, 1998 (Act No. 97 of 1998), together with any Regulations;
------------------	---

"Alternate"	means a person appointed to act on behalf of a Council member of INSETA in the absence of the latter;
--------------------	---

"Authority"	means the Insurance Sector Education and Training Authority as defined in the Skills Development Act;
--------------------	---

"Chairperson"	means the Chairperson of the Council as provided for in this Constitution;
----------------------	--

"Chief Executive Officer"	means the Chief Executive Officer of INSETA duly appointed by Council and responsible to Council as per terms and conditions as stipulated in his/her Employment Contract or any other written delegation/decision by Council;
----------------------------------	--

"Committee"	means a standing committee established by Council or the Executive Management Committee, functioning in accordance with its approved Terms of Reference;
--------------------	--

"Council"	means a Governing body of INSETA;
"Council member"	means a person nominated by their respective stakeholder grouping and appointed in terms of this Constitution;
"Employees"	means a person or persons duly appointed by the Chief Executive Officer as per Council's approved terms and conditions;
"Financial year"	means the period commencing on 1 April each year and ending on the 31st of March of the following year;
"General"	means any expression which is not specifically defined below, but which is defined in the Act shall, unless the contrary intention is apparent from the wording contained herein, bear the meaning assigned to it in the Act;
"Grants"	means <ul style="list-style-type: none">▪ money that can be claimed back by member organisations for NQF related training and development that has been conducted;▪ block grants as per national process;
"INSETA"	means the Insurance Sector Education and Training Authority;
"Learnerships"	means "learnerships" as defined in the Skills Development Act, 1998 (Act no 97 of 1998) and any amendment thereto;
"Levy"	means "levy" as described in the Skills Development Levies Act, 1999 (Act no 99 of 1999) and any amendment thereto;
"L R A"	Means the Labour Relations Act, No 66 of 1995 and any amendment thereto;
"Levy Paying Entity"	means an organisation that is registered with INSETA as a constituent of a Stakeholder grouping;
"NQF"	means the National Qualifications Framework as established by the SAQA Act, 1995 (Act no 58 of 1995) and any amendment thereto;
"Qualifications"	means "qualifications" as defined in the SAQA Act, 1995 (Act no 58 of 1995) and any amendment thereto;

"Quorate"	means a Council meeting that has a quorum according to this Constitution;
"Relevant Government Department"	means, for the purposes of INSETA, the Department of Labour, the Department of Education: the Financial Services Board and the SA Qualifications Authority;
"SAQA"	means the South African Qualifications Authority established by section 3 of the SAQA Act, 1995 (Act no 58 of 1995);
"Secretary"	means the secretary of the Council appointed in terms of section 10 (l) (j) of the Act;
"Sector"	means the insurance sector as determined by the Minister of Labour;
"Sector Skills Plan"	means a plan as defined and required in terms of the Act;
"SETA"	means a Sector Education and Training Authority established under the Skills Development Act;
"Stakeholder"	means an organised employer body, an organised employee body, or trade union registered in terms of the LRA and active in the Sector or special interest group that may be agreed between the INSETA and the Minister from time to time;
"Stakeholder Grouping"	means the groups specified in terms of section 11 of the Act;
"Unit standard"	means registered statements of desired education and training outcomes and their associated assessment criteria together with administrative and other information as specified in these regulations in accordance with SAQA's definition.

SCOPE AND COVERAGE

Area of Jurisdiction

INSETA shall have jurisdiction over all skills development and all aspects thereof in the Sector as constituted from time to time and as determined by the Minister of Labour

Any undertaking having common interests or associations with the Sector may voluntarily participate in the activities of INSETA under such conditions as may be determined by INSETA.

Subject to the agreement of INSETA, persons or bodies of the Sector operating in the states neighbouring South Africa may also voluntarily participate in the activities of INSETA under such conditions as may be determined by INSETA.

National Economic Sector	The Insurance Sector as defined by the Minister as a discrete National Economic Sector as published in the Government Gazette notice No. R.316 of 31 March 2005.
Sub-sector	<p>The following sub-sectors are established and included in the Insurance Sector:</p> <ul style="list-style-type: none"> ▪ Short Term Insurance ▪ Long Term Insurance ▪ Healthcare Benefits Administration ▪ Funeral Insurance ▪ Pension Funding ▪ Reinsurance ▪ Unit Trust ▪ Risk Management ▪ Insurance and Pension Funding ▪ Activities auxiliary to Financial Intermediation ▪ And any other sub-sectors defined by the Minister from time to time
Employers	Employers liable to contribute levies in terms of the Skills Development Act.
Functions	The main functions within INSETA are as defined in section 10(1) of the Act and any Regulation or amendment thereto.
Functions delegated	INSETA may delegate any of its powers and functions as necessary to a Committee or a Service Provider with conditions in accordance with its Constitution. The delegation of authority in terms of this Constitution does not relieve INSETA of overall responsibility and accountability for its duties in terms of the Act.
Type of Skills Development	INSETA will facilitate skills development in terms of the National Skills Development Strategy and the Insurance Sector Skills Plan.

ESTABLISHMENT OF COMMITTEES AND STRUCTURES

Establishment of committees and structures	<p>Council may establish any standing committee, ad hoc committee or structure to assist it in the performance of its functions and must determine-</p> <ul style="list-style-type: none"> ▪ the membership of the committee or structure; ▪ its functions; and ▪ its written terms of reference.
---	--

Membership of a committee or structure -**Membership of a committee or structure**

- is to be determined by the role and function that the committee is perform in accordance with the terms of reference of the committee ; and
- is not restricted to members of Council.

MEETING PROCEDURES OF COMMITTEES, OTHER THAN COUNCIL**Ordinary meetings**

In respect of meetings, whether in the form of a physical meeting, telephone conference call, video conference, internet meeting or e-mail meeting, of any committee or structure of the Authority, the Chairperson must –

- give at least 10 working days written notice of the forthcoming meeting to members; and
- include an agenda with the notice.

Special meetings

The Chairperson of any committee or structure may, on grounds of urgency, call a special meeting, whether in the form of a physical meeting, telephone conference call, video conference, internet meeting or e-mail meeting, of that committee or structure on 48 hours' notice.

Chairperson

The chairperson must preside at meetings of the committee or structure to which he has been appointed.
If the chairperson is absent from the meeting then the vice-chairperson must preside at the meeting.
If the vice-chairperson is absent then members at the meeting must elect a member from amongst themselves to act as chairperson at that meeting.

Quorum at meetings

A quorum at a meeting, whether in the form of a physical meeting, telephone conference call, video conference, internet meeting or e-mail meeting, consists of at least half of the total members plus one member.
If, within one hour of the time fixed for a scheduled meeting, a quorum is not present, then that meeting must stand adjourned to a day, time and place determined by the chairperson and the members present at the adjourned meeting form a quorum.
The Chairperson must notify members who were absent from the scheduled meeting of the adjourned meeting.

Voting rights and decisions at meetings

Each member has a single vote on any matter before a meeting for its decision.
Proxy votes will not be allowed.
Any policy decision at a meeting requires the support of at least two thirds of members present.
Any operational decision at a meeting requires the support of at least 50% plus one of the members present.
Decisions must be made by way of a show of hands or, if at least half the members present so require, by way of closed ballot.
In the event of an equality of votes, the chairperson has a casting vote.

Minutes of meetings

The Chairperson must appoint a person to –

- take minutes of the meeting;
- forward the minutes to the members within two weeks of the meeting; and
- table the minutes at the next meeting, for approval by the members.

The chairperson of the meeting must sign the minutes as confirmation of their correctness.

THE COUNCIL**Representation**

The representation of the interests of employers and employees shall be equal and Council will consist of persons representing:

- organised labour;
- organised employers including small business;
- relevant government departments
- and the Chief Executive Officer of the INSETA (non voting)

If the Minister, after consultation, considers it appropriate for the sector

- any interested professional body;
- any bargaining Council within the jurisdiction of the sector

Members of the Council

INSETA must appoint the number of representatives indicated in the schedule below and as amended from time to time in accordance with the appointment procedure of this Constitution.

Stakeholder Groups	Number of Representatives
Organised Labour	6
Organised Employers	6
Relevant Government Departments	1

Period of appointment

Council members are appointed at its annual general meeting for a period of two years and are eligible for re-appointment.

Responsibilities of Council Members

All representatives elected to Council will be required to:

- Represent the interests of constituents in their discipline, who are registered with INSETA;
- Demonstrate that they fall within the appropriate constituency;
- Demonstrate that they have a sufficient mandate to act on behalf of the constituents they represent;
- Commit time and effort to attending to the affairs of INSETA;
- Demonstrate their involvement in and commitment to the national interests of education and training; and
- Consult regularly with the constituents, whose interests they represent, and provide regular feedback to such constituents.

Procedure for the Appointment of Council members

The Council shall determine the date and place of the special meeting at which the appointment is to take place.

At least 21 days before the meeting the secretary shall forward to Stakeholders a Notice of a meeting which shall set out the following matters:

- A statement that nominations are required for the appointment of Council members representative of the Stakeholders.
- The number of Council members to be appointed; and
- The closing date for receipt of nominations, which shall be not less than 48 hours before the date of the meeting.

Any Stakeholder shall be entitled to nominate representatives for appointment as a Council member. The nomination of any Stakeholder representative shall be conducted in accordance with the rules and regulations of that particular Stakeholder.

Each nomination shall be signed on behalf of the nominator and the nominee.

Each retiring Council member shall be eligible for re-appointment.

The secretary shall determine which of the nominations are in order. If only the required number of valid nominations to fill the available positions is received, the nominees shall be declared appointed at the annual general meeting of the Council.

If the nominations received for appointment exceed the number of positions to be filled, an election by ballot shall be held at the meeting. Each Stakeholder present at the meeting may cast their vote. Voting by proxy shall not be permitted. The secretary shall conduct the election and the Chairperson may appoint such persons present at the meeting who are not nominees to act as scrutineers and to assist the secretary in the conduct of the ballot.

If no nominee receives a majority of the votes the nominee who receives the lowest number of votes must be eliminated and a further vote taken on the remaining nominees.

The Chairperson of the meeting shall declare the result of the election.

Removal / replacement from Council

The Council may remove and or replace a member from the Council for any one of the following:

- on the expiration of a term of office
- on the voluntary resignation of the appointee
- on the written request of a Stakeholder
- he/she ceases to be employed within the insurance sector;
- for misconduct or bringing INSETA into disrepute in terms of the Code of Conduct,
- for incapacity,
- for being absent from three consecutive meetings without good cause or apology.

Replacement Procedures	A vacant position on the Council through removal or replacement will be filled in terms of the "Appointment procedure of Council members".
Chairperson and Deputy Chairperson	<p>The Chairperson and Deputy Chairperson must be elected by the appointed members of the Council within one (1) month of the Annual General Meeting.</p> <p>The Chairperson and Deputy Chairperson of the Council shall hold their respective offices until the next annual general meeting and shall be eligible for re-election.</p> <p>Once a new Chairperson and Deputy Chairperson is appointed the current Chairperson and Deputy Chairperson's duties terminate.</p> <p>In the absence of the Chairperson, the Deputy Chairperson will perform the Chairpersons' functions and in the event of both being absent the Council may appoint a temporary Chairperson to perform these functions.</p> <p>If the Chairperson or Deputy Chairperson as the case may be, ceases to hold their positions in terms of "Removal / replacement from Council" then the Council may appoint a Chairperson or Deputy Chairperson as the case may be until the next election.</p> <p>The Chairperson and Deputy Chairperson shall have the authority and powers assigned to them from time to time by the Council.</p>
Chief Executive Officer	<p>The Chief Executive Officer will be responsible for the administrative and secretarial work arising from the functioning of the Council and for performing the duties imposed by the Authority in terms of the Act and this Constitution.</p> <p>All SETA functions as recorded in terms of Section 10 of the Skills Development Act is delegated to the Chief Executive Officer and is authorised to delegate same.</p>
Conduct of members	Council members must perform their functions in good faith, giving full effect to the obligations and spirit of the Act and the Code of Conduct.
Code of conduct	The Council has approved a Code of Conduct for INSETA.
Dispute resolution	Any party to a dispute concerning the interpretation or application of this Constitution may refer the dispute to the Executive Officer of the SETA.
Dispute procedure	<p>The referral must:</p> <ul style="list-style-type: none"> ▪ be in writing; ▪ adequately describe the dispute; and ▪ be delivered to every other party to the dispute by the party referring the dispute. <p>The Executive Officer must, as soon as reasonably practicable, refer the dispute to the Executive Committee, which must endeavour to resolve the</p>

dispute by conciliation within 30 days of referral of the dispute.

If the Executive Committee fails to resolve the dispute within 30 days of its referral, then any party to the dispute may refer it for arbitration by an arbitrator appointed in terms of the Arbitration Act, 1965 (Act No. 42 of 1965).

The arbitrator must be agreed to by the parties to the dispute with the approval of the Chairperson of the SETA or, failing such agreement or approval, by an arbitrator appointed by the Chairperson of the SETA.

The arbitrator must first attempt to conciliate the dispute. If conciliation is not possible, then the arbitrator must arbitrate the dispute.

The arbitrator must conduct the arbitration in a manner that he or she considers appropriate in order to determine the dispute fairly and quickly, but must deal with the substantial merits of the dispute with the minimum of legal formality.

Within 14 days of the arbitration proceedings:

- the arbitrator must issue a signed arbitration award with reasons; and
- the Executive Officer must provide a copy of the award to every party to the dispute

The arbitration award is final and binding on the parties to the dispute. The costs of the arbitration must be borne equally by the parties to the dispute. The arbitrator may however make a different and appropriate award of costs if:

- a party to the dispute, without reasonable cause, refuses or fails to attend the arbitration or unduly delays arbitration proceedings; or
- the arbitrator is of the view that a party pursuing or resisting the dispute did so vexatiously or frivolously or had no reasonable prospect of succeeding.

An arbitrator may, at his or her own initiative or as a result of an application by an affected party, vary or rescind an award:

- erroneously sought or made in the absence of any party affected by the award;
- in which there is ambiguity, or any obvious error or omission, but only to the extent of the ambiguity, error or omission; or
- granted as a result of a mistake common to the parties to the proceedings.

Meetings of the Council

The Council must meet at least four (4) times a year.

The secretary must give written notice of meetings together with the agenda to Council members on

- the instructions of the Chairperson;
- at least seven (7) days written notice.

The Chairperson must preside over all meetings. In the event of the Chairperson being absent the Deputy Chairperson must preside. If there is no Deputy Chairperson at the meeting, then the Council must appoint one of the Council members present to preside.

A decision taken at a meeting cannot be rendered invalid due to

- a vacancy or,
- an unauthorised person attending a meeting.

The Chief Executive Officer's must ensure that proper minutes of all meetings of the Council are taken, distributed and retained.

Any member who has a direct, personal or financial interest in any matter before the meeting must, before the matter is discussed by the meeting, declare such interest to the meeting and the Chairperson must determine whether such member may participate in the consideration of the matter.

Voting rights

Every Council Member shall have one vote at a Council meeting. The Chairperson shall have a second or casting vote.

Voting at Council meetings

Unless the Constitution provides otherwise, every motion submitted at any meeting shall be decided by a majority of votes and voting must be by a show of hands of those Council members present, in which case every Council member present or represented shall have one vote and in the case of an equality of votes the Chairperson shall have a casting vote.

Quorum

- At least 50% plus one of the appointed Council members must be present before a meeting may begin or continue.
- If, at the time fixed for a meeting to begin or continue, and for 30 minutes after that time, there is no quorum present, the meeting must be adjourned to the same place at the same time on the corresponding day of the following week unless that day is a public holiday, in which case the meeting must be adjourned to the business day immediately following the public holiday.
- A meeting that has been adjourned in terms of above may proceed on the date to which it was adjourned with the Council member present at the time called for the meeting constituting a quorum.
- The Council may adopt general rules of procedure for its meetings. However, in the event of any conflict between those rules and this Constitution, the provisions of this Constitution will prevail.

Special meetings

A special meeting of the Council may be called by the Chairperson at the written request of at least two Council members or when the Chairperson deems it necessary.

Proxies

Voting by proxy is permitted at any general meeting of the Council. Every instrument constituting a proxy must be in writing under the hand of the Council Member or the Council Members Representative and must be deposited with the Chairperson or the Secretary not later than the commencement of the meeting or adjourned meeting.

- Monitoring effective financial management including the approval of budgets and all capital expenditure, fund raising and income generation;
- Promoting the objectives and interests of INSETA;
- Establishing committees and chambers as is more specifically provided for in sections 12 and 13 (3)(vii) of the Act;
- Terminating the employment of the chief executive officer;
- Approving the Business Plan that is submitted to the Department of Labour for final approval; and
- Approving the annual budget.
- Approving the Annual Financial Statements

**Taking over
administration of
INSETA**

The Minister may after consultation with the National Skills Authority, by Notice in the gazette, direct the Director-General to appoint an administrator to take over the administration of INSETA as contemplated in section 15 of the Act.

THE EXECUTIVE MANAGEMENT COMMITTEE

**Powers and
Duties**

The Executive Management Committee shall be responsible for the management and monitoring of the operational affairs of INSETA. It shall exercise such powers and functions as may be entrusted or delegated to it by the Council and its Terms of Reference as approved by Council. The Executive Committee shall be responsible to and report to the Council.

The Executive Management Committee may appoint such Sub-Committees, as it may deem appropriate for the purposes of fulfilling the requirements and objectives entrusted to it.

The Executive Committee shall not be entitled to decide questions of general policy but shall be entitled to make recommendations on such matters to Council.

The Executive Management Committee shall consist of the members as appointed by Council according to its Terms of Reference. The Committee may choose to invite the Chairpersons of the EXECUTIVE COMMITTEE Sub-Committees to attend meetings of EXECUTIVE COMMITTEE, should they deem it necessary.

FINANCES AND CORPORATE GOVERNANCE

**Financing of
INSETA**

INSETA shall be financed from sources as defined in section 14(1) of the Act

**Financial
management of
INSETA**

INSETA shall conduct and manage its finances in terms of the Public Finance Management Act and all other applicable legislation, and any amendment thereto

**Corporate
Governance and
the PFMA**

As a schedule 3A public entity, INSETA must comply with all provisions pertaining to sound financial management as detailed in section 14 of the Act and the relevant sections of the PFMA
It is the duty of Council to present a balanced and understandable

assessment of INSETA's position in communicating with stakeholders. The information must be consistent with the guidelines of openness and substance over form. Communication should address, in a timely manner, material matters of interest and concern to all stakeholders. Reports and communications must be made in the context of society's demands for greater transparency and accountability.

The Council is accountable for ensuring that INSETA has effective internal controls in place aimed at reducing in a cost-effective manner risk or loss. These controls include the proper delegation of responsibilities, effective accounting procedures and the adequate segregation of duties.

Disclosure of Interest

A constituent, representative or employee of INSETA who is directly or indirectly interested in any business of INSETA or the committee of which he is a member, or who holds any office or possesses any property which might cause a conflict of interest or duties or such possible perception must declare such interest or potential conflict.

CERTIFICATION

Signed at Johannesburg for and on behalf of INSETA, duly authorised thereto,

on this _____ day of _____ 200__.

CHAIRPERSON

COUNCIL MEMBER

Signed at _____ on this _____ day of 200__.

MINISTER OF LABOUR

No. R. 901

8 September 2005

SKILLS DEVELOPMENT ACT, 1998 (ACT NO. 97 OF 1998)

**APPROVAL OF CONSTITUTION OF WHOLESALSALE AND RETAIL SECTOR
EDUCATION AND TRAINING AUTHORITY (SETA 27)**

The Minister of Labour has on 1 April 2005 in terms of section 13 (1) of the Skills Development Act, approved the constitution of the WHOLESALSALE AND RETAIL SECTOR EDUCATION AND TRAINING AUTHORITY as set out in the Schedule.

SCHEDULE



12 July 2005

The Honourable Minister
Mr. M. Mdladlana
Department of Labour
Private Bag x 117
Pretoria
0001

Dear Mr. Mdladlana

Re: W&R SETA Constitution

On behalf of the W&R SETA Board, we hereby submit the amended W&R SETA's Constitution which has been drafted after consultation with the Wholesale and Retail sector stakeholders.

The comments and changes proposed by the Department of Labour Legal Services have also been incorporated in this final document.

We confirm that the amended W&R SETA Constitution has been proof read and is ready for your approval and signature.

Yours sincerely

Prof. M.C. Mehl
Chairman

Mr. T. J. Dikgole
Chief Executive Officer

CONSTITUTION OF THE W&R SETA



**CONSTITUTION
OF THE
SECTORAL EDUCATION AND TRAINING AUTHORITY
FOR THE
WHOLESALE AND RETAIL SECTOR**

CONSTITUTION OF THE W&R SETA

TABLE OF CONTENTS

1.	PREAMBLE	2
2.	PURPOSE	2
3.	NAME	3
4.	LEGAL STATUS	3
5.	DEFINITIONS	3
6.	SCOPE OF OPERATIONS OF W&R SETA	6
7.	POWERS	6
8.	FUNCTIONS OF THE AUTHORITY	8
9.	COMPOSITION OF THE BOARD	11
10.	ROLES AND RESPONSIBILITIES	12
11.	THE EXECUTIVE COMMITTEE	13
12.	THE CHIEF EXECUTIVE OFFICER	14
13.	COMMITTEES	14
14.	FINANCE COMMITTEE	15
15.	AUDIT COMMITTEE	16
16.	CHAMBERS	16
17.	REMOVAL FROM THE BOARD AND OTHER BODIES	17
18.	CHAIRPERSON, DEPUTY CHAIRPERSON AND THE BOARD MEMBERS	18
19.	MEETINGS	19
20.	DELEGATION AND ASSIGNMENT OF FUNCTIONS	22
21.	DISPUTE RESOLUTION	22
22.	CONDUCT OF BOARDS MEMBERS	23
23.	LIABILITY OF BOARD MEMBERS	25
24.	FINANCES OF THE W&R SETA	25

CONSTITUTION OF THE W&R SETA**1. PREAMBLE**

WHEREAS pursuant to section 9(2) of the Skills Development Act 97,1998 ("the Act") the Minister of Labour established under notice dated 31 March 2005 known as the wholesale and retail sector.

AND WHEREAS pursuant to section 13(1) of the Act a Constitution must be drafted by the Sector Education and Training Authority for the Wholesale and Retail Sector, and approved by the Minister.

AND WHEREAS the Minister published his approved Constitution of the Wholesale and Retail Sector Education and Training Authority under Notice GN 24036 R 1424.

AND WHEREAS the W&R SETA has adopted a resolution to amend certain provisions of its Constitution.

NOW THEREFORE

This Constitution is adopted by the Sector Education and Training Authority for the Wholesale and Retail sector.

2. PURPOSE

2.1. The purpose of this Constitution is to:

2.1.1. Establish the legal parameters within which the W&R SETA can exercise its authority; and to

2.1.2. Establish a legal institutional framework within which the W&R SETA is enabled and empowered to execute its mandate and carry out the functions for which it was created in terms of the Act.

CONSTITUTION OF THE W&R SETA**3. NAME**

The name of this Sectoral Education and Training Authority (SETA) shall be the **WHOLESALE AND RETAIL SECTOR EDUCATION AND TRAINING AUTHORITY** herein referred to as W&R SETA.

4. LEGAL STATUS

- 4.1. The W&R SETA is a body corporate with an identity and existence distinct from its office bearers or Board members. It will continue to exist notwithstanding changes in the composition of its Board members. It may sue and / or be sued in its own name and is capable of being a bearer of its own rights, and obligations.
- 4.2. It is an association not for gain.
- 4.3. The income and the property of the W&R SETA, where-so-ever derived, shall be applied solely towards the promotion of its objects, and no portion thereof shall be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus, or otherwise howsoever, to the Board members of the W&R SETA, provided that nothing herein contained shall prevent the payment in good faith of reasonable compensation in return for any services actually rendered to the W&R SETA. None of the Board members has any rights in the property or other assets of the W&R SETA solely by virtue of their being Board members

5. DEFINITIONS

- 5.1. Any expression which is not specifically defined hereunder, but which is defined in the Act, shall, unless contrary intention is apparent from the wording contained herein, bear the meaning assigned to it in the Act. The following expressions shall have the following meanings assigned to them below and cognate expressions shall have the corresponding meanings:

CONSTITUTION OF THE W&R SETA

- 5.1.1. **"Act"** means the Skills Development Act, 1998 (Act No. 97 of 1998)
- 5.1.2. **"Board"** means the governing body of the W & R SETA made up of members appointed in terms of Section 9 of the Act.
- 5.1.3. **"Board members"** means representatives of constituencies appointed to the authority in terms of section 11 of the Skills Development Act. For purposes of clarity the word
- 5.1.4. **"Constituencies"** means employer and employee organisation
- 5.1.5. **"CEO"** means the Chief Executive Officer
- 5.1.6. **"Department"** means the Department of Labour.
- 5.1.7. **"Director-General"** means the Director-General of Labour.
- 5.1.8. **"Designated groups"** mean black people, women and people with disabilities.
- 5.1.9. **"Employee's organization"** means organised labour including any trade union or federation of trade unions registered as such under the provisions of the Labour Relations Act.
- 5.1.10. **"Employer's organization"** means organised employers, including small business; including any organization registered as such in terms of the Labour Relations Act together with any other associations which are or have been formed to promote or advance or represent the interests of their members, as employers.
- 5.1.11. **"General Consultative Meetings"** means meeting held between the W&R SETA and broader members of its constituencies to obtain input on their views and suggestions, and such meeting are not decision making forums but are aimed at creating a participative process for the Board.

CONSTITUTION OF THE W&R SETA

- 5.1.12. **"Stakeholders"** means the employers organisations, employees organisations, employers who are not members of an employers organisation, employees who are not members of an employees organisation, professional bodies and government departments which by virtue of their main function or Board membership have a direct interest in the affairs of the sector and the skills training and development of persons within the sector.
- 5.1.13. **"Labour Relations Act"** means the Labour Relations Act, 1995 (Act No. 66 of 1995) (as amended) herein referred to as "LRA".
- 5.1.14. **"Levies Act"** means the Skills Development Levies Act, 1999 (Act No. 9 of 1999) (as amended).
- 5.1.15. **"Minister"** means the Minister of Labour.
- 5.1.16. **"National Skills Authority"** means the National Skills Authority established in terms of Section 4 of the Act.
- 5.1.17. **"N S D S"** means the National Skills Development Strategy referred to in section 5(1) (a) (ii) of the Act.
- 5.1.18. **"Sector"** means W & R SETA as contemplated in Government notice R136 of 31 March 2005.
- 5.1.18.1. And the word **"sectoral"** shall have a corresponding meaning.
- 5.1.19. **"SETA"** means the sector education and training authority
- 5.1.20. **"SAQA"** means the South African Qualifications Authority established by Section 3 of the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995) (as amended).
- 5.1.21. **The W&R SETA** means the Wholesale and Retail Education and Training Authority.

CONSTITUTION OF THE W&R SETA**6. SCOPE OF OPERATIONS OF W&R SETA**

- 6.1. The area of operation of the W&R SETA is national, with regional offices as determined. The scope of coverage of the W&R SETA is the Wholesale and Retail Sector determined by the Minister in terms of the Government Notice R316 of March 2005.

7. POWERS

- 7.1. The W&R SETA, subject to the provisions of the Act and the Levies Act has all such powers as may be necessary to enable it to carry out its functions and fulfil its objectives and without limiting the generality thereof it shall have the following powers:

- 7.1.1. To receive funds in terms of section 14(1) of the Act;
- 7.1.2. To open banking accounts at registered banks and to deposit all funds received in terms of the Levies Act into the said banking accounts in accordance with the provisions of section 14(2) of the Act;
- 7.1.3. Register learnership agreements concluded in terms of Section 17(3) of the Act;
- 7.1.4. Monitor education and training in the sector whether conducted within the ambit of the National Skills Framework or otherwise;
- 7.1.5. Establish learnerships within the sector and to register learnerships with the Director-General as contemplated in Section 16(d) of the Act;
- 7.1.6. Approve or reject workplace skills plans in the prescribed manner;
- 7.1.7. Allocate grants in the prescribed manner to employers, education and training providers and workers as determined in the funding regulations;

CONSTITUTION OF THE W&R SETA

- 7.1.8. Purchase, sell, donate, exchange, take on lease, hire or otherwise acquire or dispose of movable or immovable property or any right therein and to improve and develop any of its property or assets in such manner as it deems fit;
- 7.1.9. To appoint an agent or agents to represent it for any specific purpose, including the power to employ accountants, attorneys, advocates and other professional persons for any specific purpose and to remunerate such persons at the usual professional or business rate;
- 7.1.10. To take action in a court of law for the recovery of any amounts due to it or to compel the fulfilment of obligations in its favour and to defend any proceedings that may be instituted against it;
- 7.1.11. To pay all expenses incurred in connection with its proper and efficient administration and subject to any limits which may be prescribed from time to time
- 7.1.12. Establish and dissolve committees or chambers as is more specifically provided for in Section 12 and 13(3) (a) (vii) of the Act;
- 7.1.13. Appoint a CEO and employ staff and to contract with persons to assist it in the carrying out of its functions and to remunerate such staff or persons from funds allocated to it in the prescribed manner for its administration expenses; necessary for the effective running of the W&R SETA
- 7.1.14. Formulate the general policy of the W&R SETA;
- 7.1.15. Approve the annual budget of the W&R SETA;
- 7.1.16. Approve the business plan of the W&R SETA
- 7.1.17. Determine the scale of remuneration and other related matters for the W&R SETA, committee Board members and employees;

CONSTITUTION OF THE W&R SETA

- 7.1.18. Determine the terms and conditions of employment of the CEO and other employees of the W&R SETA;
- 7.1.19. Make rules relating to the W&R SETA's meetings, financial matters, general procurement and administrative matters which are in accordance with the provisions of this constitution, the Act or any other law; and
- 7.1.20. Report on skills development within the sector.

8. FUNCTIONS OF THE W&R SETA

- 8.1. THE W&R SETA shall, subject to the provisions of the Act, have the following functions and all such other functions as it may be required to perform in terms of the Act;
- 8.2. To develop a sector skills plan within the framework of the national skills development strategy for the sector.
- 8.3. To increase the levels of investment in education and training in the sector and to improve the return on that investment.
- 8.4. To implement the sector skills plan by:
 - 8.4.1. Approving workplace skills plans;
 - 8.4.2. Establishing learnerships
 - 8.4.3. Allocating grants in the prescribed manner to employers, education and training service providers and workers in the sector;
 - 8.4.4. Monitoring education and training in the sector; and
- 8.5. To promote learnerships by:
 - 8.5.1. Identifying the relevant workplace where individuals can gain practical work experience;

CONSTITUTION OF THE W&R SETA

- 8.5.2. Improving the facilitation of learning;
- 8.5.3. Encouraging workers in the sector to participate in learnership and other training programmes;
- 8.5.4. Encouraging employers in the sector to use the workplace as an active learning environment;
- 8.5.5. Supporting learning and the development of learning materials; and
- 8.5.6. Assisting in the conclusion and registration of learnership agreements.
- 8.5.7. To perform the functions of an Education and Training Quality Assurance body.
- 8.5.8. To liaise with the National Skills Authority as well as other SETAs on issues including inter alia:
 - 8.5.8.1. A national skills development strategy;
 - 8.5.8.2. A skills development policy; and
 - 8.5.8.3. Its own sector skills plan.
- 8.6. To report to the Director-General on the implementation of its sector skills plan, its income and expenditure and to consolidate its reports;
- 8.7. To submit to the Director – General
 - 8.7.1. any budgets, reports and financial statements on its income and expenditure that it is required to prepare in terms of the Public Finance Management Act, (Act No1 of 1999) and
 - 8.7.2. plans, reports on the implementation of its sector skills plan and service level agreement.

CONSTITUTION OF THE W&R SETA

- 8.8. To liaise with employment services of the Department of Labour and any educational body established in terms of educational laws of South Africa in order to improve the quality of information:
- 8.8.1. about employment opportunities;
 - 8.8.2. between educational providers and the labour market; and
 - 8.8.3. quality assurance functions as contemplated in Section 10 of the Act.
- 8.9. To facilitate the involvement of the relevant government departments and employer and employee organisations in the activities of the W&R SETA to:
- 8.9.1. Address the competency requirements for social delivery;
 - 8.9.2. Address the learning needs of the sector; and
 - 8.9.3. Promote training in small, medium and micro enterprises to enable them to qualify for public contracts,
- 8.10. To register learnership agreements;
- 8.10.1. To apply for accreditation to the SAQA.
 - 8.10.2. To disburse the skills development levies in the sector in terms of the Levies Act and its prescribed regulations;
 - 8.10.3. To appoint an Executive Committee and such other committees, sub committees or chambers as it may from time to time determine necessary for the due performance of its duties; and
- 8.11. To perform any other duties imposed by the Act, the Levies Act and, the Constitution or any other function not specifically mentioned, in order to fulfil the objectives of W&R SETA.
- 8.12. To comply with provision of the Act by concluding a service level agreements as prescribed for each financial year.

CONSTITUTION OF THE W&R SETA**9. COMPOSITION OF THE BOARD**

- 9.1. The Board shall comprise of members appointed by the constituent employer and employee organisations in terms of the Act.
- 9.2. The specified constituent employer and employee organisations in the sector listed in Annexure "A" of this Constitution.
- 9.3. The Board must consist of an equal number of Board members representing:
 - 9.3.1. Employee organizations with Board seat distributed as per Annexure "B"; and
 - 9.3.2. Employer organizations with Board seat distributed as per Annexure "B".
- 9.4. The Board may include members representing:
 - 9.4.1. A Government Department having a direct interest in the affairs of the W&R SETA; and
 - 9.4.2. If the Minister after consultation with the Board , deems it appropriate;
 - 9.4.2.1. Any interested professional body including a body representing unemployed persons or work seekers in the sector or
 - 9.4.2.2. Any bargaining council within the jurisdiction of the sector.
- 9.5. Every constituency which is entitled to appoint representatives on the Board is obliged to ensure that its representatives include designated groups.
- 9.6. Each constituency should provide written assurance that in selecting its representation to the Board, due process was followed.

CONSTITUTION OF THE W&R SETA

- 9.7. Board members who are appointed in terms of clause 9.2 above shall not be voting board members.
- 9.8. The Board shall consist of:
 - 9.8.1. Six (6) members representing employer organizations in the sector;
 - 9.8.2. Six (6) members representing employee organizations in the sector; and
 - 9.8.3. Such other non-voting Board members appointed from time to time in terms of clause 9.2.
- 9.9. All Board members shall have a term of office not exceeding 2(two) years from the date of their appointment.
- 9.10. The constituent employer and employee organisations shall:
 - 9.10.1. through a transparent and objective process appoint new members to the Board at or prior to the Annual General Meeting of the W & R SETA, and the appointees shall be inaugurated at the Annual General Meeting.
 - 9.10.2. have the power to replace their appointed representative should the appointed member resign or for any reason be unable to continue to serve on the board.

10. ROLES AND RESPONSIBILITIES OF THE BOARD

- 10.1. Those responsibilities and functions of the W&R SETA that are reserved for the Board shall be to:
 - 10.1.1. Determine the strategic direction of the W&R SETA
 - 10.1.2. Formulate the general policy of the W&R SETA.

CONSTITUTION OF THE W&R SETA

- 10.1.3. To appoint a CEO on such terms as may be stipulated in the Constitution and subject to the LRA and other labour legislation
- 10.1.4. Determine the remuneration terms and conditions of the employment of the CEO and other permanent employees of the W&R SETA.
- 10.1.5. Approve the annual budget and business plan of the W&R SETA including the establishment of unallocated fund projects and funding thereof, in terms of relevant legislation.
- 10.1.6. Approve the Sector Skills Plan of the W&R SETA.
- 10.1.7. Establish and dissolve committees or chambers as is more specifically provided for in sections 12 and 13(3) (vii) of the Act.
- 10.1.8. Approve the financial strategy and financial standards of the W&R SETA.
- 10.1.9. Elect an Executive Committee and such other Committees and structures or chambers as it may deem necessary from time to time for the due performance of its duties.

11. THE EXECUTIVE COMMITTEE

- 11.1. The Board shall elect from its members an Executive Committee which shall comprise four (4) Board members, two from each constituency subject to its delegation and terms of reference.
- 11.2. The term of office of members of the Executive Committee shall terminate as and when that member's membership of W&R SETA terminates.

CONSTITUTION OF THE W&R SETA**12. THE CHIEF EXECUTIVE OFFICER (CEO)**

- 12.1. The Board shall appoint a person who has specific experience and expertise in matters relating to the functions of W&R SETA.
- 12.2. The powers, functions, rights, duties and delegated powers of the CEO together with his or her conditions of service shall be as determined from time to time.
- 12.3. The CEO shall attend all meetings of the Board and the Executive Committee. If the CEO is not able to attend a meeting for whatever reason he or she shall delegate Chief Operations Officer or in his or her absence Chief Financial Officer, as the case may be to attend the meeting on his or her behalf.
- 12.4. The CEO shall report to and be accountable to the Board .
- 12.5. Without derogating from the powers that the Board may choose to delegate to the CEO the power to employ persons to serve THE W&R SETA on such terms and conditions as he or she sees fit.

13. COMMITTEES

- 13.1. The Board shall establish committees as may be necessary to implement, supervise or otherwise perform any of the functions of the Board . The committees may establish other structures as defined in their Terms of Reference in order to perform their functions.
- 13.2. The Board shall appoint members of the Committees it establishes and shall be entitled to remove and replace members thereof subject to the provision of clause 17 in this Constitution and the Act.
- 13.3. The Committee established in terms of this clause shall appoint members of any subcommittee it establishes and shall be entitled to remove and replace members thereof subject to the provisions of clause 17 in this constitution and the Act.

CONSTITUTION OF THE W&R SETA

- 13.4. The Board shall determine at its own discretion whether to establish a standing or ad hoc committee, as the case may be.
- 13.5. The Board shall determine at its own discretion whether a Committee shall perform its functions on a national basis or whether its functions shall exclusively serve the interests of a specific province or provinces or other specified geographical area.
- 13.6. All Committees or subcommittees established pursuant to this Constitution excluding the Audit Committee shall comprise an equal number of voting Board members representing employer's organisations and employee organisations and such other non-voting Board members as the establishing authority from time to time deems necessary or appropriate.
- 13.7. The Board shall be empowered to dissolve a Committee and/or its related structures at its discretion where the purpose for which the committee and/or its related structure was established has been served or where it is no longer conducive to the efficient and due performance of the functions of the Board . Without derogating from the foregoing, the Board may amend or revoke the Terms of Reference of the powers delegated to a committee.

14. FINANCE COMMITTEE

- 14.1. The Board hereby establishes a Finance Committee to serve in the manner as envisaged in clause 13 above.
- 14.2. The finance committee shall consist of 4 (four) voting members and the CEO
- 14.3. The purpose of the Finance Committee is to monitor the income and expenditure of THE W&R SETA and to make recommendations to the Executive Committee and the Chief Executive regarding any aspect of the finances of THE W&R SETA

CONSTITUTION OF THE W&R SETA

- 14.4. The Board may delegate any further powers to the Finance Committee it may deem appropriate from time to time.

15. AUDIT COMMITTEE

- 15.1. The audit committee shall consist of 4 (four) voting members and the CEO

- 15.2. The voting members will include:

15.2.1. A chairperson (who shall ideally be a Board member), 3 members of the Board; and

15.2.2. 2 (two) external members appointed by the Board

- 15.3. The following persons are normally invited to attend all Audit Committee meetings:

15.3.1.1. An invitee from the office of the Auditor General;

15.3.1.2. The Chief Financial Officer;

15.3.1.3. Head of Internal Audit (and any other person it deems necessary); and

15.3.1.4. A head of a department when he/she has a functional responsibility to be discussed at the Audit Committee

16. CHAMBERS

- 16.1. The Board shall, , establish any number of Chambers which shall represent the exclusive interests, views and expertise of any of the major sub-sectors within the sector as may be determined by the Board from time to time.

- 16.2. Any Chambers established by the Board in terms hereof shall provide the Board with expert advice and strategic information to enable appropriate recognition of that sub sector's education and training needs in the sector skills plan, business plan and budget, learnerships, quality assurance activities and such other activities undertaken by the W&R SETA

CONSTITUTION OF THE W&R SETA**17. REMOVAL FROM THE BOARD**

17.1. A member shall be removed from the Board , the Executive Committee, and any other committee or sub committee established in terms of this Constitution and no person shall be entitled to hold any office established in terms of this constitution where such person or Board members:

17.1.1. Commits an act of fraud or dishonesty which impairs the integrity of W&R SETA, or any committee or chamber established in terms of this constitution;

17.1.2. Becomes of unsound mind;

17.1.3. Is convicted of an offence of which dishonesty is an element;

17.1.4. Is unfit or incapable of acting as a Board member;

17.1.5. Becomes insolvent or assigns his/her estate for the benefit of or compounds with his creditors;

17.1.6. Becomes disqualified in terms of the Companies Act, 1973 (Act No. 61 of 1973) as amended from time to time to act as a Director of a company;

17.1.7. Is absent from any 3 (three) consecutive meetings of the relevant and / or committee meeting without good cause;

17.1.8. Was appointed by a constituency to serve on the Board and such constituency wishes to withdraw that appointment pursuant and to replace that nominee with another appointee; or

17.2. A Board members may resign from the Board , any committee, sub committee or chamber by giving the Chairperson not less than 1 (one) month's notice in writing.

17.3. Where a person resigns or is removed from the Board in terms of this clause he or she shall be replaced by the constituency which appointed that Board members within 30 (thirty) days from the effective date of the

CONSTITUTION OF THE W&R SETA

resignation or removal for the remaining term of office of the original Board members.

18. CHAIRPERSON, DEPUTY CHAIRPERSON AND BOARD MEMBERS

- 18.1. The voting members of the Board shall elect at its general meeting from amongst its voting Board members a Chairperson, Deputy Chairperson, and such other office bearers as it shall from time to time determine necessary.
- 18.2. The term of office of a Chairperson, deputy Chairperson and Board members shall not exceed 2 (two) years from the date of his or her appointment.
- 18.3. If the appointed Chairperson is a representative from an employer's organisation only a representative of an employee's organisation may be elected as Deputy Chairperson and vice versa.
- 18.4. The role of a Chairperson and Deputy Chairperson will alternate between an employer representative and an employee representative every 2(two) years subject to the provisions of this Constitution.
- 18.5. The voting members of each Committee or chamber shall no less than every two (2) years elect their own Chairperson and Deputy Chairperson at a meeting convened for this purpose or any other meeting contemplated in Clause 19.2.3 and the term of office of the Chairperson and the Deputy Chairperson shall not exceed 2(two) years from the date of appointment.
- 18.6. In the absence of the Chairperson appointed in terms of Clauses 18.1 and 18.5 respectively, the Deputy Chairperson shall perform the functions of the Chairperson and in the absence of both the Chairperson and the Deputy Chairperson, the Board or the relevant Committee or chamber, shall be entitled to appoint a temporary Chairperson whose appointment shall automatically terminate upon the attendance of the Chairperson or Deputy Chairperson as the case may be.

CONSTITUTION OF THE W&R SETA**18.7. The Chairperson shall:**

18.7.1. Cause meetings to be convened;

18.7.2. Ensure the orderly conduct of meetings; and

18.7.3. Order Board members to leave a meeting if in the opinion of the Chairperson the behaviour of such Board members is disruptive to the orderly conduct of meetings.

19. MEETINGS**19.1. Annual General Meetings**

19.1.1. An annual general meeting of the W&R SETA shall be held each year within six (6) months of the end of the preceding financial year of the W&R SETA at the W&R SETA's registered office or at such other place as shall be designated by the Board. This meeting shall be called by the Board and notice of the meeting shall be advertised in the press at a national level. The agenda and the matters that it shall deal with shall be determined by the Board.

19.1.2. General Consultative meetings between the Board and Stakeholder may be convened at any time by the Board or, if requested, by a Stakeholder.

19.1.3. The Annual General meetings and meetings with Stakeholders are consultative meetings at which no binding decisions will be taken on W&R SETA. The resolutions taken at such meetings will be adopted by the Board for them to have legal force and effect.

19.1.4. A quorum shall be constituted by 50% (fifty percent) of the representatives of Labour and 50% (fifty percent) the representations of Employer Organisations personally present or

CONSTITUTION OF THE W&R SETA

present through a duly authorised representative proxy at the commencement of and throughout the meeting.

19.1.5. A notice of the meeting on at least 14 days shall set out an agenda identifying in reasonable detail the matters to be discussed; unless otherwise agreed;

19.1.6. The chairperson shall have a casting vote.

19.1.7. If a quorum cannot be obtained within 1 (One) hour after the time appointed for the commencement of the holding of a general meeting, then such meeting shall stand adjourned until the same time and at the same place after the expiration of seven (7) days, provided that written notice is given to all Constituent Stakeholders that such meeting has been so adjourned.

19.2. Meetings of the Board and Committees

19.2.1. Save where otherwise stated or the context indicates the contrary the provisions of this Clause shall apply with the necessary changes apply to meetings held by the Board , the Executive Committee, any committee or chamber as the case may be.

19.2.2. The Board must meet at least four (4) times a year.

19.2.3. The Executive Committee, any Committee and the chambers shall meet as regularly as they are required to meet in accordance with the duties delegated by the Board .

19.2.4. The Chairperson with assistance of the CEO must give written notice of meetings together with the agenda to Board members on at least fourteen (14) days written notice unless the chairperson decides that there are good grounds for calling a meeting at short notice.

CONSTITUTION OF THE W&R SETA

19.2.5. A meeting shall, notwithstanding the fact that it is called at short notice than that specified in Clause 19.2.4. above, be deemed to have been duly called if it is so agreed by 80% (eighty percent) of the Board members then present.

19.2.6. The CEO shall ensure that the Board secretariat takes and keeps minutes of all meetings and distributes such minutes to the members of the Board and the relevant Committees or chamber within seven (7) days calendar days of the date of the meeting.

19.2.7. The quorum necessary for the transaction of business shall be 50% (fifty percent) of both employers and employees representatives respectively. If after 1(one) hour of the scheduled time for the meeting there is no quorum the meeting must be adjourned for a later date. If at the next meeting having given fourteen (14) calendar days notice of such meeting those present shall constitute a quorum provided 2 (two) employer representatives and two (2) employee representatives are present.

19.2.8. The decision of the majority of the voting Board members at a meeting will constitute the decision of the Board, the Executive Committee, any Committee, subcommittee or chamber as the case may be save in circumstances involving a decision to amend this constitution for which a two-third ($2/3^{\text{rd}}$) majority of the voting members of the Board is required.

19.2.9. Notwithstanding Clause 19.2.8. a decision to amend any provision of the Constitution shall be preceded by at least fourteen (14) calendar days' written notice to all members of the Board which notice shall contain all relevant details relating to the proposed amendment. Any proposed amendment to the Constitution must be approved by the Minister in terms of the relevant legislation.

19.2.10. Voting at a meeting for decisions to be made will take place by a show of hands of the voting members and each voting members

CONSTITUTION OF THE W&R SETA

shall have 1 (one) vote. In the event of an equality of votes, the Chairperson will have a second casting vote.

19.2.11. Voting for decisions to be made between meetings may be indicated in a written format.

19.2.12. A decision taken at a meeting cannot be rendered invalid due to vacancy.

20. DELEGATION AND ASSIGNMENT OF FUNCTIONS

20.1. The Board may delegate any of its powers or assign any of its functions by or under this Constitution to any Committee, chamber or the CEO.

20.2. Any Committee may delegate or assign any of its functions to any of its subcommittees.

20.3. The CEO may delegate or assign the performance of any function conferred or imposed upon the CEO to senior employee of the W&R SETA.

20.4. A delegation or assignment made under this clause:

20.4.1. Must be in writing;

20.4.2. May be subject to such conditions or restrictions as determined by the Board, a Committee or CEO as the case may be; and

20.4.3. May not prevent the exercise of that power or performance of that function by the relevant delegating authority.

21. DISPUTE RESOLUTION

21.1. Any dispute relating to the interpretation or implementation of this constitution shall be referred by the parties thereto to arbitration, to be

CONSTITUTION OF THE W&R SETA

- conducted by an arbitrator duly appointed by the parties in dispute from a list of arbitrators determined by the Board from time to time for the full and final determination of the dispute.
- 21.2. Any dispute relating to a matter of interest to the parties shall be referred by the parties thereto to arbitration. The parties in dispute shall appoint an arbitrator from a list of Arbitrators as determined by the Board from time to time with both parties agreeing upon the procedure for the arbitration proceedings.
- 21.3. The arbitrator shall be entitled to resolve the dispute by way of conciliation before proceeding with arbitration.
- 21.4. In the event that conciliation is unsuccessful after a period of seven (7) days after the dispute was referred to the Arbitrator, the Arbitrator must arbitrate the dispute.
- 21.5. The Arbitrator must issue an arbitration award within fourteen (14) days after the conclusion of the arbitration proceedings. The cost of arbitration shall be borne by the parties to the dispute.
- 21.6. The Arbitrator's award will be final and binding on the parties thereto.

22. CONDUCT OF BOARD MEMBERS

- 22.1. A member of the Board or any of its Committees or chambers must in the exercise of his or her functions:
- 22.1.1. Act honestly with due care and in the utmost good faith.
 - 22.1.2. Give effect to the spirit and obligations of the Act.
 - 22.1.3. Exercise reasonable care and diligence.
 - 22.1.4. Not make improper use of any information acquired as Board members.
 - 22.1.5. Avoid any conflict between their personal interests and those of the W&R SETA.

CONSTITUTION OF THE W&R SETA

- 22.1.6. Declare any such conflict of interest or duties provided in Clause 22.2; and
- 22.1.7. Promote the interests of and advance the objectives of THE W&R SETA.
- 22.2. A member of the Board or any of its Committees or chambers who is directly or indirectly involved in any business of the W&R SETA or any committee or chamber of which he or she is a Board member or who holds any office or possesses any property, which might cause a conflict of interest, must declare that interest or potential conflict.
- 22.3. A disclosure of any conflict of interest or duties made by a member of the Board or any Committee or chamber of the W&R SETA under Clause 20(2) must be made at a meeting of the Board or the committee or chamber of which he or she is a Board member as soon as practicable after the Board member becomes aware of such facts.
- 22.4. All disclosures made in accordance with Clause 22.3 must be reported to the W&R SETA at the next meeting of the Board
- 22.5. A member of the Board or employee of the W&R SETA or any of its chambers or Committees or employees shall not, while he or she is a Board member or employee or thereafter, disclose to any person any information which he or she acquired while exercising or performing any function or duty under this constitution and which is confidential to the W&R SETA, any of its Committees or chambers, or any other Board members or to any employer or employee in the sector. Such information may be disclosed only if it must be disclosed in terms of the Act, the Levies Act or any other law or order out of court.

CONSTITUTION OF THE W&R SETA**23. LIABILITY OF BOARD MEMBERS**

- 23.1 Save for the provisions of Section 51 of the PFMA no member of the Board or any of its Committees or chambers shall be liable for any of the obligations and liabilities of the W&R SETA or that committee or chamber solely by virtue of his or her status as a Board member.
- 23.2 Save for the provisions of Section 51 of the PFMA no member of the Board or any of its committees or chambers shall in any way be personally liable for any loss or damage suffered by any person as a result of the execution, attempted execution or non execution in good faith of the Board member's duties and powers under this Constitution while that person was performing functions for or on behalf of the W&R SETA or the committee or chamber as the case may be and the W&R SETA indemnifies such Board members for such loss or damage except conduct which was intention, unlawful and results in prejudice to the interest of the W&R SETA in a material respect.

24. FINANCES OF THE W&R SETA

- 24.1. THE W&R SETA shall be financed as prescribed in section 14 of the Act:
- 24.2. The funds received by THE W&R SETA shall be audited in terms of relevant legislation

THUS DONE AND SIGNED AT ____ ON THE __ DAY OF _____ 20 ____

DULY NOMINATED AND AUTHORISED REPRESENTATIVE
OF EMPLOYERS ORGANISATION

CONSTITUTION OF THE W&R SETA

**DULY NOMINATED AND AUTHORISED BY EMPLOYEES
ORGANISATION**

CHAIRPERSON OF THE W&R SETA

**EXECUTIVE OFFICER OF THE AUTHORITY DULY
AUTHORISED THERETO DULY APPROVED BY THE MINISTER
OF LABOUR IN ACCORDANCE WITH THE PROVISIONS OF
SECTION 13(1) OF ACT 97 OF 1998 ON THIS
..... DAY OF TO BE
COMPLETED AND SIGNED BY THE AUTHORITY UPON
REGISTRATION OF THE AMENDED CONSTITUTION.**

MINISTER OF LABOUR

CONSTITUTION OF THE W&R SETA**STATEMENT OF ENDORSEMENT BY CONSTITUENCIES**

Duly authorised representatives of employers and organised labour in this economic sector hereby endorse this constitution of the Wholesale and Retail Sector Education and Training Authority (W&RSETA).

FOR ORGANISED LABOUR

ECCAWUSA

SACCAWU

HOTELICA

SACTWU

FEDCRAW

DICHAWU

CONSTITUTION OF THE W&R SETA

FOR EMPLOYERS

RETAILERS ASSOCIATION

SAISA

SOINSA

HOST

FURNITURE TRADERS ASSOCIATION

CONSTITUTION OF THE W&R SETA**Annexure A**

The following parties are entitled to appoint members to the W&RSETA Board

1. **Employee bodies**

Any Trade Union with membership in the Wholesale and Retail sector including but not limited to the following known bodies:

- SACCAWU (South African Commercial Catering & Allied Workers Union)
- FEDCRAW (Federal Council of Retail & Allied Workers)
- SERTAWU (Security, Retail Transport & Allied Workers Union)
- ECCAWUSA Entertainment, Catering, Commercial Allied Workers Union of South Africa)
- SACTWU (South African Commercial Trade Workers Union)

2. **Employer bodies**

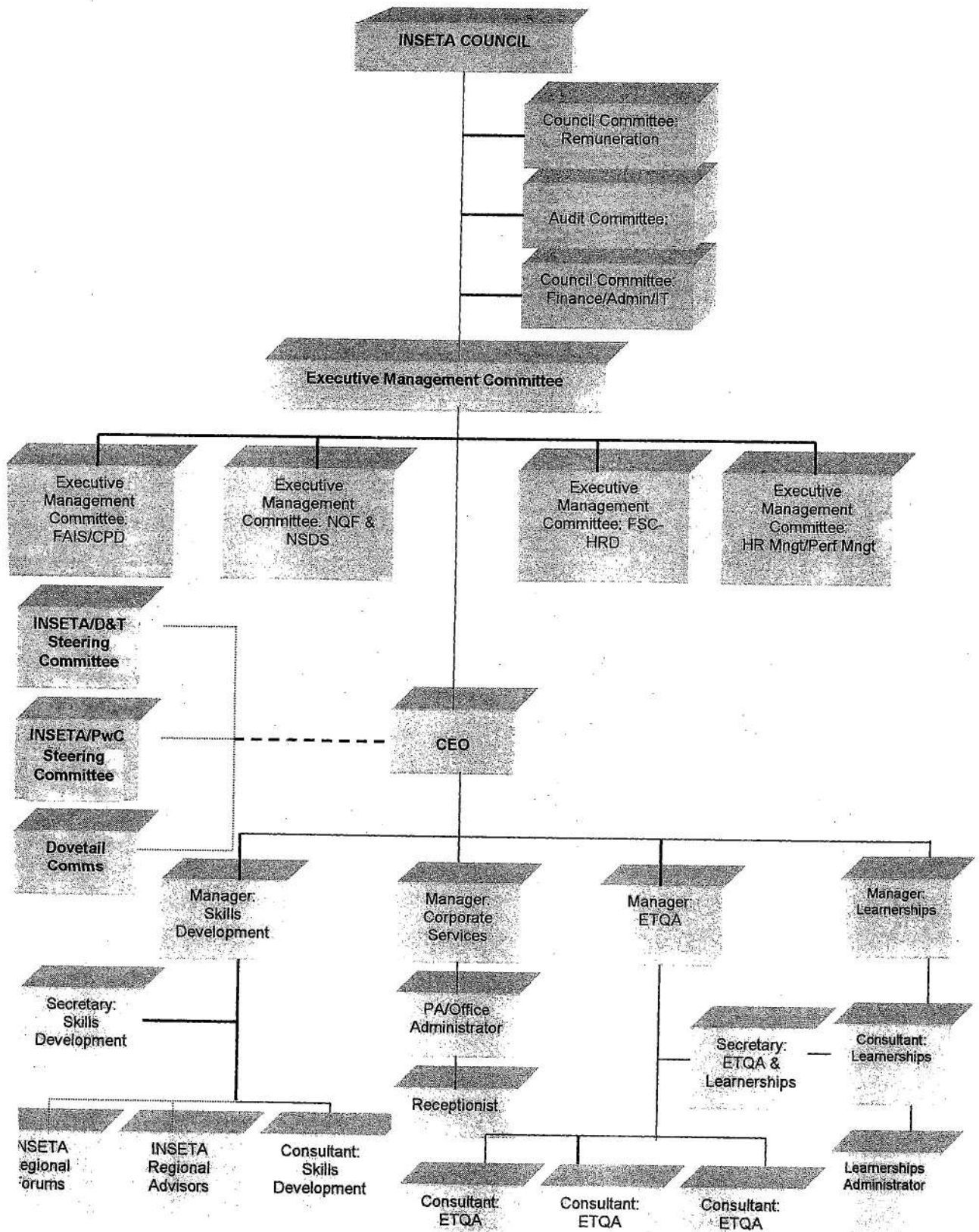
- Retailers Association
- Furniture Traders Association
- SOINSA (Soweto Independent Shopkeepers Association)
- SAISA (South African Independent Shopkeepers Association)
- HOST (Home of SMME's Business Trust)

CONSTITUTION OF THE W&R SETA**Annexure B****ALLOCATION OF BOARD SEATS AS AGREED BY EMPLOYEE ORGANISATIONS**

- 1 Number of seats allocated for COSATU affiliated unions is three (3)
- 2 Number of Seats allocated to other trade unions is three (3)

ALLOCATION OF BOARD SEATS AS AGREED BY EMPLOYER ORGANISATION

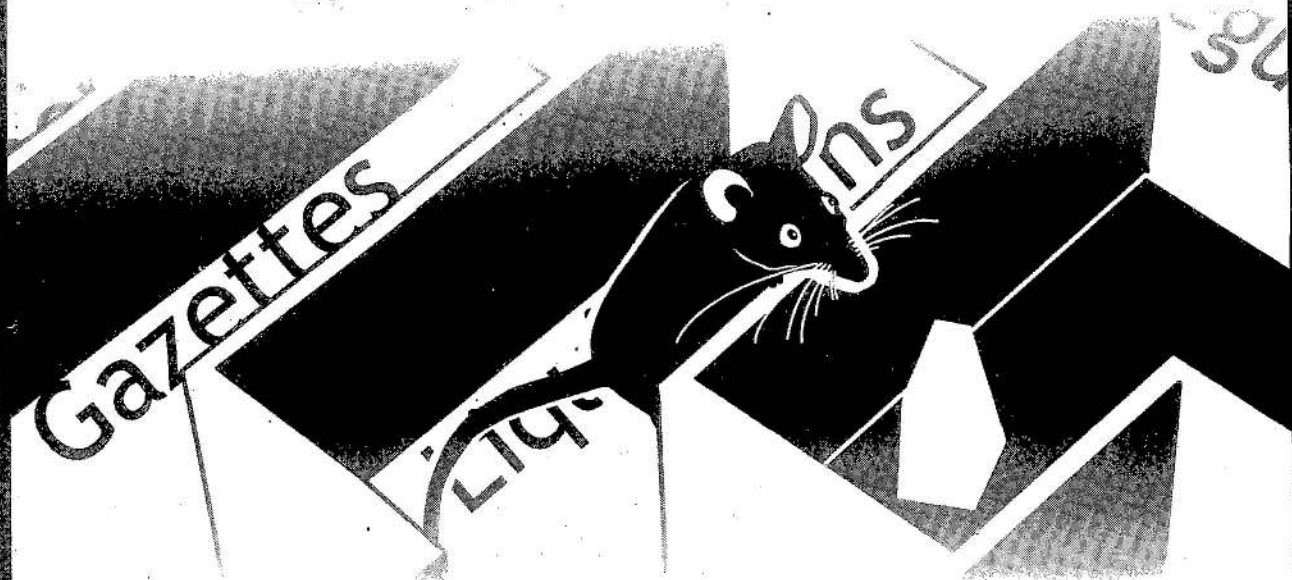
1. The parties have not agreed to any formal process; however as matters stand at present, the parties have agreed to 3 seats for the large employers and 3 for SMME employers. The parties moreover agree that any changes to the allocation, criteria and number of Board seats will be subject to negotiation between the employer bodies as listed on Annexure A"

INSETA ORGANOGRAM/GOVERNANCE STRUCTURE



Sabinet Online Ltd has established itself, for more than a decade, as a leader in facilitating electronic access to gazetted information.

Are you looking for information published in Gazettes such as changes to Acts, Regulations of Acts, Notices, Liquidation & distribution accounts on deceased estates?



Search no more.

Sabinet Online's SA Gazettes provides immediate access to full-text databases of Government and Provincial Gazettes, the Government Gazette Index and Parliamentary Bills. Updated daily.

The SA Gazettes is considered in all industry sectors as the most comprehensive collection of searchable gazette data on the Internet. With SA Gazettes you have access to the electronic full-text of the Government Gazette and all Provincial Gazettes.

- The Government Gazette - from January 1994
- All Provincial Gazettes - from September 1995
- Indexes pertaining to the past week's Government and all Provincial Gazettes.
- Parliamentary Bills - from January 1999

We facilitate access to information
www.sabinet.co.za

Tel: +27 12 643 9500; Fax: +27 12 663 3543; E-mail: info@sabinet.co.za



Looking for out of print issues of Government and Provincial Gazettes

We can provide photocopies

Contact

The National Library of South Africa,
Pretoria Campus
PO Box 397
0001 PRETORIA

Physical address

C/o Andries and Vermeulen Streets
Entrance in Andries Street

Contact details

Tel: (012) 321-8931

Fax: (012) 325-5984

E-mail: infodesk@nlsa.ac.za

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001
Publications: Tel: (012) 334-4508, 334-4509, 334-4510
Advertisements: Tel: (012) 334-4673, 334-4674, 334-4504
Subscriptions: Tel: (012) 334-4735, 334-4736, 334-4737
Cape Town Branch: Tel: (021) 465-7531

Gedruk deur en verkrygbaar by die Staatsdrukker, Bosmanstraat, Privaatsak X85, Pretoria, 0001
Publikasies: Tel: (012) 334-4508, 334-4509, 334-4510
Advertensies: Tel: (012) 334-4673, 334-4674, 334-4504
Subskripsies: Tel: (012) 334-4735, 334-4736, 334-4737
Kaapstad-tak: Tel: (021) 465-7531