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## GENERAL NOTICE

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### NOTICE 269 OF 2011

#### DEPARTMENT OF HIGHER EDUCATION AND TRAINING

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

### CALL FOR COMMENTS ON THE DRAFT REGULATIONS FOR MATTERS RELATING TO THE ACCOUNTING AUTHORITY OF A SECTOR EDUCATION AND TRAINING AUTHORITY (SETA)

I, Bonginkosi Emmanuel Nzimande, Minister of Higher Education and Training, hereby intend, after I have consulted with the National Skills Authority, to make Regulations, in terms of sections 9(1); 13(1) and 13(4) read with section 36(s) of the Skills Development Act, 1998 (Act No. 97 of 1998) and hereby publish this draft Regulations for public comment.

These Regulations provide for certain matters relating to the Accounting Authority of a SETA.

All interested persons and organisations are invited to comment on the draft Regulations in writing, and to direct their comments to –

The Director-General, Private Bag X174, Pretoria, 0001, for attention: Mr VL Rikhotso, email [Rikhotso.v@dhet.gov.za](mailto:Rikhotso.v@dhet.gov.za).

Kindly provide the name, address, telephone number, fax number and email address of the person or organisation submitting the comments.

The comments should reach the Department within 21 calendar days after publication of this Notice.

**Bonginkosi Emmanuel Nzimande, MP**  
**Minister of Higher Education and Training**  
**28 April 2011**

## **SCHEDULE**

### **1. Definitions**

Expressions and definitions in these Regulations have the same meaning as they have in the Act, unless contrary intention appears:

“**Accounting Authority**” means the board or other controlling body of the SETA;

“**CEO**” means the Chief Executive Officer of the SETA; and

“**the Act**” means the Skills Development Act, 1998 (Act 97 of 1998).

### **2. Composition of the Accounting Authority of the SETA**

- (1) The Accounting Authority of the SETA comprises of a maximum of 15 members.
- (2) A maximum of 12 members are to be appointed from the stakeholders of the sector in line with section 11 (a), (b) and (c) of the Act.
- (3) The Minister may appoint a maximum of four (4) members from the relevant government departments.
- (4) Three (3) of the members are Ministerial appointees, one of which is an independent chairperson without voting rights, but who has a casting vote.
- (5) Out of the maximum of 12 members contemplated in sub Regulation (2), a maximum of one third is eligible for reappointment for a further one term.

### **3. Appointment process of the members of the Accounting Authority**

#### **Stakeholder members**

- (1) The Accounting Authority of a respective SETA must at least three months before expiration of their term of office, through the CEO –
  - (a) invite nominations for members, for the forthcoming term of office, from organised labour, organised employers, excluding government departments; and
  - (b) submit the nominees to the Minister for consideration and appointment in accordance with its constitution.

- (2) The Minister must at least three months before the expiration of the term of office of the Accounting Authority, call for nominations from government departments.
- (3) At least two months before expiration of the term of office of the Accounting Authority, the Accounting Authority must submit to the Minister all the nominations for members as contemplated in sub Regulation (1).
- (4) Nominations must be made on a standard form containing all the essential details of the nominees.

#### **Ministerial appointees**

- (5) The Minister must issue a notice inviting nominations for the ministerial appointees for the forthcoming term of office, at least three months before the expiration of the term of the Accounting Authority.
- (6) The Minister must appoint the independent chairperson of the SETA for the forthcoming term of office before the expiration of the term of the Accounting Authority.

#### **Appointment letters**

- (7) The Minister must sign the letters of appointment of all the members of the Accounting Authority.
- (8) The Minister must receive letters of acceptance from the members within seven working days of the appointment.

### **4. Vacation of office by members of the Accounting Authority**

- (1) The Minister may remove a member on the recommendation of the Accounting Authority-
  - (a) upon the written request of the organisation represented by that member;
  - (b) who is absent for three (3) consecutive meetings of the Accounting Authority and other relevant committees without prior and written permission of the Accounting Authority, unless the member shows good cause;
  - (c) due to permanent incapacity;
  - (d) for serious misconduct;
  - (e) for failure to comply with any provision in the Code of Conduct contained in the respective SETA's constitution;
  - (f) for conduct that undermines the Accounting Authority or brings the Accounting Authority or any of its members into disrepute; or
  - (g) on good cause shown.

(2) Before recommending the removal of a member, the Accounting Authority must-

- (a) give notice of its intention to do so to that member;
- (b) give reasons for the intention to recommend removal; and
- (c) give the member reasonable opportunity under the circumstances to make representations to the Accounting Authority.

(3) The Chairperson must inform the member in writing and in sufficient detail-

- (a) of the allegations against the member; and
- (b) refer the matter to the Minister for an inquiry.

(4) The member must be given adequate time to prepare for the inquiry and may at the inquiry be represented by a person of his or her choice.

(5) Where a member has vacated office, the same process to appoint the member, applies to the appointment of the replacement.

## **5. Suspension of members of the Accounting Authority**

The Accounting Authority may, on reasonable grounds, as contemplated in Regulation 3(1)(b) to (f), recommend to the Minister the suspension of a member, pending an inquiry.

## **6. Vacation of office of the Chairperson**

(1) The Chairperson must vacate office if he or she –

- (a) is removed as a member as contemplated in Regulation 3;
- (b) is unable to attend meetings of the Accounting Authority and Executive Committee for a consecutive period of three (3) meetings without good cause shown; or
- (c) if the Minister, on good cause shown, decides to terminate his or her appointment.

(2) Where the Chairperson has vacated office, the same process followed to appoint the Chairperson, applies to the appointment of a new chairperson.

**7. Executive Committee of the Accounting Authority**

- (1) The Accounting Authority at its first meeting must establish an executive committee in line with its constitution.
- (2) The executive committee must comprise of five members including the Chairperson of the Accounting Authority who must also be the chair of the executive committee.
- (3) The executive committee must be established at the first sitting of the Accounting Authority in line with any provisions applicable as provided in the relevant SETA constitution.

**8. Remuneration of the members of the Accounting Authority**

The remuneration of members of the Accounting Authority must be based on the remuneration policy of a SETA which must be in line with the recommended fees published by the National Treasury for all public entities.

**9. Short title and commencement**

These Regulations are called the Regulations for matters relating to the Accounting Authority of a SETA and will come into operation on the date of promulgation of these Regulations in a *Government Gazette*.

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