

## **SKILLS DEVELOPMENT ACT**

Act 97 of 1998.

### **SERVICE LEVEL AGREEMENT REGULATIONS, 2005**

[Updated to 7 October 2011]

GoN R712, G. 27801 (c.i.o 18 July 2005),  
GoN R823, G. 34644, originally published as GoN R808 and corrected by G. 34652 (c.i.o 28 September  
2011).

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour has under section 10A(4) of the Skills Development Act, 1998 (Act 97 of 1998), and after consultation with the National Skills Authority, make the regulations in the Schedule.

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#### 1. Definitions

In this Schedule, any word or expression to which a meaning has been assigned in the Act, shall have the meaning so assigned and, unless the context otherwise indicates—

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

“**CEO**” means the Chief Executive Officer of the respective SETA, as appointed in terms of the Constitution of that SETA;

[“CEO” ins by reg 1 of GoN R823 in G. 34644.]

“**PM&D**” means the performance management and development system applicable to a CEO of a SETA;

[“PM&D” ins by reg 1 of GoN R823 in G. 34644.]

“**submit**” means to serve by hand, registered post or telefax or to transmit by electronic mechanism as a result of which the recipient is capable of printing the communication.

**CHAPTER 1**  
**PERFORMANCE MANAGEMENT OF THE SETA**

[Chapter heading ins by reg 2 of GoN R823 in G. 34644.]

**2. Procedure for negotiating a service level agreement with SETAs.**

The Director-General and each SETA must annually conduct negotiations on a service level agreement as follows—

- (1) The Director-General must submit to each SETA by no later than the end of July in each year a draft service level agreement for the subsequent financial year;
- (2) the SETA must submit its proposed amendments to that draft agreement to the Director-General by the end of September of each year;
- (3) the Director-General and the SETA must seek to conclude a service level agreement by the end of November of each year.

**3.** If the Director-General and any SETA have not agreed on the contents of their service level agreement for the next financial year by the end of November in each year, the matter must be referred to the Minister for determination under section 10A(2) of the Act.

**4.** If the contents of a service level agreement are referred to the Minister as contemplated in regulation 3, the Minister must—

- (1) after consulting the National Skills Authority, determine the matter by the end of February of that year; and
- (2) in writing, notify the Director-General and the SETA of the determination as soon as possible after making it.

**5. Matters which may be dealt with in service level agreements**

The contents of a service level agreement may deal with any matter concerning—

- (1) a SETA's performance of its functions in terms of the Act and the national skills development strategy;
- (2) a SETA's annual strategic plan as contemplated in regulation 30 of the Treasury Regulations issued in terms of the Public Finance Management Act; and

- (3) any assistance that the Director-General is to provide to a SETA in order to enable it to perform its functions.

**6.** Without limiting the generality of regulation 5, a service level agreement may include—

- (1) the standards, criteria and targets for measuring and evaluating the level of service delivery by a SETA in—
  - (a) performing its statutory functions;
  - (b) meeting its targets in terms of the national skills development strategy; and
  - (c) implementing its annual strategic plan as contemplated in regulation 5(2).
- (2) the reports that a SETA must submit to the Director-General for purposes of measuring and evaluating its performance, conduct and practices;
- (3) the format and information requirements of such annual strategic plans and reports; and
- (4) the details of any assistance that the Director-General is to provide to a SETA in order to enable it to perform its functions, including any time-table for providing that assistance.

## **CHAPTER 2**

### **PERFORMANCE MANAGEMENT OF THE CEO**

[Chapter heading ins by reg 3 of GoN R823 in G. 34644.]

#### **6A. Introduction**

- (1) The performance of a SETA as contemplated in Chapter 1 must be aligned with the performance management, development and evaluation of the CEO of the SETA.
- (2) The PM&D system applicable to a CEO of a SETA must consist of—
  - (a) mandatory assessment of demonstrated managerial competence;
  - (b) standardised rating scale to which performance related rewards must be directly related; and
  - (c) The introduction of personal development plans.

[Reg 6A ins by reg 3 of GoN R823 in G. 34644.]

#### **6B. Purpose**

The chapter aims to—

- (1) consolidate the provisions regarding PM&D for the CEO that must be applied by the Accounting Authority;
- (2) provide a link between the recruitment and selection of a suitable CEO as contemplated in Regulations and the PM&D System as contained in the regulations;
- (3) encourage and further develop good practice in the management and development of the CEO based on an assessment existing practices;
- (4) give guidance on the maximum amount payable as a performance bonus to the CEO comparable to that of the post of a Director-General in the public service;
- (5) give guidance on the implementation and management of performance assessments within the context of a PM&D system; and
- (6) suggest the conditions that Accounting Authorities will need to create in order to manage performance effectively.

[Reg 6B ins by reg 3 of GoN R823 in G. 34644.]

#### **6C. Key Principles of the PM&D**

- (1) The key principles underpinning the effective implementation of performance management are—
  - (a) Accounting Authority must manage performance of the CEO in a consultative, supportive and nondiscriminatory manner in order to enhance organisational efficiency and effectiveness, accountability for the use of resources and the achievement of results;
  - (b) performance management processes must link to broad and consistent staff development plans and align with the SETA's strategic goals;
  - (c) performance management processes must be developmental, but shall allow for effective response to consistent inadequate performance and for recognising outstanding performance;
  - (d) performance management procedures should minimise the administrative burden on the Accounting Authority while maintaining transparency and administrative justice; and
  - (e) CEO's performance assessment: one mid-term formal assessment and two informal assessments and a final formal evaluation for the year in question must be received by the Accounting Authority to ensure that the CEO's performance is effective.

[Reg 6C ins by reg 3 of GoN R823 in G. 34644.]

#### **6D. Linking the PM&D cycle to planning and budgeting**

- (1) A SETA, in implementing a management performance cycle of the CEO, must ensure that it is linked to the strategic plan in the SLA, as contemplated in Chapter 1.
- (2) The PM&D system must create an opportunity for evaluation of the CEO's performance annually and must link it to a development system to ensure that the strategic objectives of the SETA are delivered through providing the necessary skills and capacity to the CEO.

[Reg 6D ins by reg 3 of GoN R823 in G. 34644.]

#### **6E. Entering into a Performance Agreement**

- (1) The Accounting Authority of a SETA must enter into a written performance agreement with the CEO by not later than 31 March annually and a copy of this performance agreement must be submitted to the Department of Higher Education and Training, within a month after signing.
- (2) This performance agreement must be applicable to a particular financial year and must be reviewed annually.
- (3) Any newly appointed CEO must complete his / her performance agreement within the first three months of appointment.
- (4) The signatories to this performance agreement are the Accounting Authority of a SETA and the CEO of the respective SETA.
- (5) Amendments to this performance agreement, during the implementation year, should be in writing and can only be effected after discussion and agreement by both parties.

[Reg 6E ins by reg 3 of GoN R823 in G. 34644.]

#### **6F. Contents of performance agreement of the CEO**

- (1) The performance agreement must, at minimum, address—
  - (a) a description of the purpose of the job;
  - (b) an agreement on the personal development plan;
  - (c) dates of reviews and formal assessment of the SMS member's performance;
  - (d) a dispute resolution; and

- (e) dates for consideration of performance related rewards.

[Reg 6F ins by reg 3 of GoN R823 in G. 34644.]

## **6G. The Development of an assessment instrument for annual appraisal**

- (1) The Accounting Authority must develop an assessment instrument for annual appraisal.
- (2) This appraisal instrument must address the following principles—
  - (a) Allows an overall judgement of performance at the appraisal meeting to be made that is clear and unambiguous;
  - (b) Enables the fair and equitable determination and allocation of package progression and cash rewards based on performance by providing a clear link between the policy on salary and rewards for the CEO in accordance with the Regulations; and
  - (c) Enables the fair management of key career incidents such as probation and action as a result of incapacity or incompetence by making an explicit link between the rating that summarises the appraisal outcome and its implications for these key career incidents. This link should be transparently specified in departmental policy.

[Reg 6G ins by reg 3 of GoN R823 in G. 34644.]

## **7. Short title**

These Regulations are called the Service Level Agreement Regulations, 2005.