

(8 January 2016 – to date)

[This is the **current** version and applies as from **8 January 2016**, i.e. the date of commencement of the Tax Administration Laws Amendment Act 23 of 2015 – **to date**]

## **SKILLS DEVELOPMENT LEVIES ACT 9 OF 1999**

*Government Notice 516 in Government Gazette 19984, dated 30 April 1999. Commencement date: 1 September 1999. [Proc. R92, Gazette 20394, dated 27 August 1999].*

### **As amended by:**

*Revenue Laws Amendment Act 53 of 1999 - Government Notice 1404 in Government Gazette 20656, dated 24 November 1999. Commencement date: 24 November 1999.*

*Taxation Laws Amendment Act 30 of 2000 - Government Notice 744 in Government Gazette 21390, dated 19 July 2000. Commencement date: 19 July 2000, unless otherwise indicated.*

*Revenue Laws Amendment Act 59 of 2000 - Government Notice 1320 in Government Gazette 21848, dated 6 December 2000. Commencement date: 1 January 2001, unless otherwise indicated.*

*Taxation Laws Amendment Act 5 of 2001 - Government Notice 550 in Government Gazette 22389, dated 20 June 2001. Commencement date: 20 June 2001.*

*Revenue Laws Amendment Act 19 of 2001 - Government Notice 709 in Government Gazette 22532, dated 27 July 2001. Commencement date: 27 July 2001.*

*Taxation Laws Amendment Act 30 of 2002 - Government Notice 1047 in Government Gazette 23709, dated 5 August 2002. Commencement date: 5 August 2002, unless otherwise indicated.*

*Revenue Laws Amendment Act 74 of 2002 - Government Notice 1581 in Government Gazette 24181, dated 13 December 2002. Commencement date: 13 December 2002.*

*Revenue Laws Amendment Act 45 of 2003 - Government Notice 1844 in Government Gazette 25864, dated 22 December 2003. Commencement date: 22 December 2003.*

*Taxation Laws Amendment Act 9 of 2005 - Government Notice 743 in Government Gazette 27815, dated 19 July 2005. Commencement date of section 24: 1 August 2005.*

*Revenue Laws Second Amendment Act 32 of 2005 - Government Notice 103 in Government Gazette 28451, dated 1 February 2006. Commencement date: 1 February 2006.*

Prepared by:

*Taxation Laws Second Amendment Act 18 of 2009 - Government Notice 945 in Government Gazette 32611, dated 30 September 2009. Commencement date: 30 September 2009.*

*Skills Development Levies Amendment Act 24 of 2010 - Government Notice 1177 in Government Gazette 33854, dated 7 December 2010. Commencement date: 7 December 2010.*

*Tax Administration Act 28 of 2011 - Government Notice 591 in Government Gazette 35491, dated 4 July 2012. Commencement date: 1 October 2012. [Proc. 51, Gazette No. 35687, dated 14 September 2012].*

*Tax Administration Laws Amendment Act 39 of 2013 - Government Notice 14 in Government Gazette 37236, dated 16 January 2014. Commencement date of section 23: 1 March 2014.*

*Tax Administration Laws Amendment Act 23 of 2015 - Government Notice 20 in Government Gazette 39586 dated 8 January 2016. Commencement date: 8 January 2016.*

It is hereby notified that the Acting President has assented to the following Act which is hereby published for general information:-

#### **GENERAL EXPLANATORY NOTE:**

[     ]     Word in bold type in square brackets indicate omissions from existing enactments.

\_\_\_\_\_     Words underlined with a solid line indicate insertions in existing enactments.

\_\_\_\_\_  
(English text signed by the President.)

(Assented to 14 April 1999.)  
\_\_\_\_\_

## **ACT**

**To provide for the imposition of a skills development levy; and for matters connected therewith.**

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

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## **SCHEDULE**

### **AMENDMENT OF SKILLS DEVELOPMENT ACT**

## **CHAPTER 1**

### **ADMINISTRATION, IMPOSITION AND RECOVERY OF LEVY**

#### **1. Definitions**

- (1) In this Act, unless the context otherwise indicates-

Prepared by:

**“approved body”** means the body approved by the Minister in terms of section 7(1)(b) to collect the levy on behalf of a SETA;

**“Commissioner”** means the Commissioner for the South African Revenue Service appointed in terms of section 6 of the South African Revenue Service Act, 1997 (Act No. 34 of 1997), or the Acting Commissioner designated in terms of section 7 of that Act;

*(Definition of “Commissioner” substituted by section 271 of Act 28 of 2011)*

**“Director-General”** means the Director-General of Higher Education and Training;

*(Definition of “Director-General” substituted by section 1(a) of Act 24 of 2010)*

**“employee”** includes an employee as defined in the Fourth Schedule to the Income Tax Act;

**“employer”** includes an employer as defined in the Fourth Schedule to the Income Tax Act;

**“Income Tax Act”** means the Income Tax Act, 1962 (Act No. 58 of 1962);

**“interest”** means any interest payable in terms of section 11;

**“levy”** means the skills development levy referred to in section 3;

**“Minister”** means the Minister of Higher Education and Training;

*(Definition of “Minister” substituted by section 1(b) of Act 24 of 2010)*

**“National Skills Authority”** means the National Skills Authority, established by section 4 of the Skills Development Act;

**“National Skills Fund”** means the National Skills Fund, established by section 27(1) of the Skills Development Act;

**“penalty”** means any penalty payable in terms of section 12 and a penalty contemplated in Chapter 16 of the Tax Administration Act;

*(Definition of “penalty” substituted by section 29 of Act 23 of 2015)*

**“prescribed”** means prescribed by regulation in terms of section 22;

**“sector”** means a sector as determined by the Minister in terms of section 9(2) of the Skills Development Act;

**“SETA”** means a sector education and training authority, established by section 9(1) of the Skills Development Act;

**"Skills Development Act"** means the Skills Development Act, 1998 (Act No. 97 of 1998);

**"Tax Administration Act"** means the Tax Administration Act, 2011;

*(Definition of "Tax Administration Act" inserted by section 271 of Act 28 of 2011)*

**"this Act"** includes any regulation made in terms of section 22, but does not include the footnotes.

*(Section 1 renumbered to 1(1) by section 271 of Act 28 of 2011)*

- (2) Unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Tax Administration Act, bears that meaning for purposes of this Act.

*(Section 1(2) inserted by section 271 of Act 28 of 2011)*

## **2. Administration of Act**

- (1) Subject to subsection (2), the Director-General must administer this Act.

- (2) The Commissioner must administer the provisions of the Act in so far as it relates to the collection of the levy payable to the Commissioner in terms of this Act, in accordance with the provisions of the Tax Administration Act.

*(Section 2(2) substituted by section 271 of Act 28 of 2011)*

- (2A) Administrative requirements and procedures for purposes of the performance of any duty, power or obligation or the exercise of any right in terms of this Act are, to the extent not regulated in this Act, regulated by the Tax Administration Act.

*(Section 2(2A) inserted by section 271 of Act 28 of 2011)*

- (3) The Director-General may delegate any part of the administration of this Act, contemplated in subsection (1), to the executive officer of a SETA.

- (4) A delegation in terms of subsection (3)-

- (a) is subject to the conditions the Director-General determines;
- (b) must be in writing;
- (c) does not prevent the Director-General from performing the part of the administration so delegated; and
- (d) may at any time be withdrawn in writing.

## **3. Imposition of levy**

Prepared by:

- (1) Every employer must pay a skills development levy from-
- (a) 1 April 2000, at a rate of 0,5 per cent of the leviable amount; and
  - (b) 1 April 2001, at a rate of one per cent of the leviable amount.
- (2) .....
- (Section 3(2) deleted by section 111 of Act 53 of 1999)*
- (3) .....
- (Section 3(3) deleted by section 111 of Act 53 of 1999)*
- (4) For the purposes of subsections (1), (2) and (3), but subject to subsection (5), the leviable amount means the total amount of remuneration, paid or payable, or deemed to be paid or payable, by an employer to its employees during any month, as determined in accordance with the provisions of the Fourth Schedule to the Income Tax Act for the purposes of determining the employer's liability for any employees' tax in terms of that Schedule, whether or not such employer is liable to deduct or withhold such employees' tax.<sup>1</sup>
- (5) The amount of remuneration referred to in subsection (4) does not include any amount-
- (a) paid or payable to any person contemplated in paragraphs (c) and (d) of the definition of "employee" in paragraph 1 of the Fourth Schedule to the Income Tax Act, to whom a certificate of exemption has been issued in terms of paragraph 2(5)(a) of that Schedule;
  - (b) paid or payable to any person by way of any pension, superannuation allowance or retiring allowance;
  - (c) contemplated in paragraphs (a), (d), (e) or (eA) of the definition of "gross income" in section 1 of the Income Tax Act;
  - (d) payable to a learner in terms of a contract of employment contemplated in section 18(3) of the Skills Development Act.
  - (e) which is in terms of paragraph 11C of the Fourth Schedule to the Income Tax Act, 1962, deemed to be paid or payable by an employer which is a private company for purposes of that Act, to any person who is a director of that private company.
- (Section 3(5)(e) added by section 61(1) of Act 30 of 2002 with effect from 1 March 2002)*

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<sup>1</sup> This means that the remuneration paid to employees below the Income Tax threshold must be incorporated into the remuneration for determining the leviable amount in this Act.

- (6) Despite subsection (1), on the request of a SETA, the Minister may, in consultation with the Minister of Finance and by notice in the *Gazette*, determine from time to time a rate and basis for the calculation of a levy payable by employers within the jurisdiction or a part of the jurisdiction of a SETA, different from the rate and basis contemplated in subsection (1)(a) or (b), as the case may be, but subject to subsection (7).
- (7) The rate and basis determined in a notice in terms of subsection (6) may not have the result that the amount of the levies collected by virtue of such notice is less than the amount of the levies which would have been collected, based on the rate and basis contemplated in subsection (1)(a) or (b), as the case may be.
- (8) The Minister may, in consultation with the Minister of Finance, determine criteria for purposes of any determination contemplated in subsection (6).
- (9) The notice referred to in subsection (6) must contain-
  - (a) the rate and basis for the calculation of the levy;
  - (b) the date on which the levy becomes payable;
  - (c) a description of the employers falling within the jurisdiction of the SETA or part of the jurisdiction of the SETA in respect of which the levy is payable;
  - (d) any other matter necessary to ensure the effective collection of the levy.

#### 4. Exemptions

The levy is not payable by-

- (a) any public service employer in the national or provincial sphere of government;
- (b) any employer where section 3(1)(a) or (b) applies and during any month, there are reasonable grounds for believing that the total amount of remuneration, as determined in accordance with section 3(4), paid or payable by that employer to all its employees during the following 12 month period will not exceed R500 000;  
*(Section 4(b) substituted by section 24 of Act 9 of 2005)*
- (c) any public benefit organisation contemplated in section 10(1)(cN) of the Income Tax Act, which
  - 
  - (i) solely carries on any public benefit activity contemplated in paragraphs 1, 2(a), (b), (c) and (d) and 5 of Part I of the Ninth Schedule to that Act, or

- (ii) solely provides funds to public benefit organisations contemplated in subparagraph (i); or  
*(Section 4(c) substituted by section 91 of Act 30 of 2000)*  
*(Section 4(c) substituted by section 62 of Act 30 of 2002)*  
*(Section 4(c) substituted by section 196 of Act 45 of 2003)*

(d) any national or provincial public entity, if 80 per cent or more of its expenditure is defrayed directly or indirectly from funds voted by Parliament.

(e) any municipality in respect of which a certificate of exemption has been granted on such conditions and for such period as the Minister may prescribe by regulation, in consultation with the Minister of Finance and the Minister for Provincial and Local Government.

*(Section 4(e) added by section 112 of Act 53 of 1999)*

## **5. Registration for payment of levy**

(1) When an employer is liable to pay the levy, that employer must-

(a) apply to the Commissioner in such manner as the Commissioner may determine, to be registered as an employer for the purposes of the levy and indicate in such application the jurisdiction of the SETA within which that employer must be classified (if any); and

(b) if the employer is affected by the establishment or amendment of a SETA as contemplated in subsection (4), indicate to the Commissioner the jurisdiction of the SETA within which that employer must be classified.

(2) For the purposes of subsection (1), where an employer falls within the jurisdiction of more than one SETA, that employer must, having regard to-

(a) the composition of its workforce;

(b) the amount of remuneration paid or payable to the different categories of employees; and

(c) the training needs of the different categories of employees,

select one SETA within which it must be so classified for the purposes of this Act.

(3) A selection by an employer in terms of subsection (2) is binding on the employer, unless the Commissioner having regard to the factors contemplated in subsection (2)(a), (b) and (c) otherwise directs.



- (4) If a SETA is established or its jurisdiction is amended after 1 April 2000, the Minister must, by notice in the *Gazette*-
- (a) inform employers of any change in respect of which SETA the levy is or becomes payable; and
  - (b) determine a date, more than 60 days after the date of the notice, from which employers will be affected by that establishment or amendment of jurisdiction.
- (5) An employer that falls within the jurisdiction of a SETA specified in a notice referred to in section 7(1), must-
- (a) apply to the SETA in such manner as the SETA determines, to be registered as an employer for the purposes of the payment of the levy;
  - (b) within 21 days from the date of such notice, submit a statement to the Commissioner confirming that such employer falls within the jurisdiction of that SETA and that payment of the levy will be made to that SETA.
- (6) Any employer that is exempt from the payment of the levy as contemplated in section 4(a), (c), (d) and (e), must register in terms of subsection (1).

*(Section 5(6) substituted by section 92(1) of Act 30 of 2000 with effect from 24 November 1999)*

## **6. Payment of levy to Commissioner and refund**

- (1) Subject to section 7, every employer must, not later than seven days, or such longer period as the Commissioner determines, after the end of each month in respect of which the levy is payable, pay the levy to the Commissioner within the period determined in this Act.

*(Section 6(1) substituted by section 271 of Act 28 of 2011)*

- (1A) Notwithstanding the provisions of subsection (1), if an employer is a micro business that is registered in terms of the Sixth Schedule to the Income Tax Act, the employer may pay the levy to the Commissioner within the periods as prescribed in paragraph 11(4A) of the Sixth Schedule to that Act.

*(Section 6(1A) inserted by section 23(1)(a) of Act 39 of 2013)*

- (2) An employer must together with payment of the levy in terms of subsection (1) or (1A), submit a return.

*(Section 6(2) substituted by section 271 of Act 28 of 2011)*

*(Section 6(2) substituted by section 23(1)(b) of Act 39 of 2013)*

- (2A) Every employer shall—

- (a) by such date or dates as prescribed by the Commissioner by notice in the *Gazette*; and

- (b) if the employer ceases to carry on any business or other undertaking in respect of which the employer has paid or becomes liable to pay a levy as prescribed in terms of section 3, or otherwise ceases to be an employer, within 14 days after the date on which the employer has so ceased to carry on that business or undertaking or to be an employer, as the case may be,

or within such longer time as the Commissioner may approve, render to the Commissioner such return as the Commissioner may prescribe.

*(Section 6(2A) inserted by section 43 of Act 18 of 2009)*

- (3) .....

*(Section 6(3) deleted by section 30(a) of Act 23 of 2015)*

- (4) If the Director-General has allocated in accordance with section 8 the full amount or any portion of an amount refunded in terms of section 190 of the Tax Administration Act, the Director-General must, when necessary, withhold the amount so allocated from future payments due to the SETA or National Skills Fund, as the case may be, in terms of this Act.

*(Section 6(4) substituted by section 30(b) of Act 23 of 2015)*

- (5) The Commissioner must, before the seventh day of each month, or such longer period as the Commissioner and Director-General may agree, notify the Director-General of-

*(Words preceding section 6(5)(a) substituted by section 76 of Act 19 of 2001)*

- (a) the names of employers in each SETA and the amount of levies, interest and penalties collected from and refunds made to those employers; and
- (b) the names of employers which do not fall within the jurisdiction of any SETA and the amount of levies, interest and penalties collected from and refunds made to those employers,

during the previous month.

- 6B. ....

*(Section 6B inserted by section 45 of Act 5 of 2001)*

*(Section 6B repealed by section 46 of Act 32 of 2005)*

## **7. Payment of levy to SETA and refund**

- (1) Subject to subsection (2), the Minister may, in consultation with the Minister of Finance and by notice in the *Gazette*, determine that all employers that fall within the jurisdiction of any SETA specified in that notice, must pay the levy to-

- (a) that SETA; or

- (b) a body nominated by the SETA and approved by the Minister to collect the levy on behalf of that SETA.
- (2) Before making a determination contemplated in subsection (1), the Minister and the Minister of Finance must be satisfied that-
- (a) sufficient grounds exist for the SETA to collect the levy from the employers in its jurisdiction;
  - (b) the SETA, or the body nominated by the SETA to collect the levy on its behalf, has demonstrated the required competence to collect the levy; and
  - (c) the costs pertaining to such collection will not exceed two per cent of the total amount of the levies collected.
- (3) The Minister may withdraw the notice contemplated in subsection (1) if he or she is satisfied that the SETA has not complied in the prescribed manner with section 10(1)(a), (b), (g)(iii) and (h)(ii) of the Skills Development Act.
- (4) An employer must, not later than seven days after the end of each month in respect of which the levy is payable-
- (a) pay the levy; and
  - (b) submit to the SETA or approved body and to the Commissioner a statement-
    - (i) in such form as the SETA or approved body, as the case may be, and the Commissioner, respectively, may require; and
    - (ii) reflecting the amount of the levy paid to the SETA or approved body and containing such other information as the SETA or approved body, as the case may be, and the Commissioner may require.
- (5) If the amount of a levy, interest or penalty paid by an employer to the SETA or approved body was not leviable or payable, or was in excess of the amount leviable or payable, in terms of this Act, that amount must be refunded to the employer by the SETA or approved body from the funds of the SETA.
- (6) If any portion of the amount refunded in terms of subsection (5), has been paid over to the National Skills Fund in terms of section 9(a), the SETA must withhold that portion from future payments to the Fund in terms of this Act.

**7A.** .....

*(Section 7A inserted by section 44 of Act 18 of 2009)*

*(Section 7A repealed by section 271 of Act 28 of 2011)*

## **8. Distribution of levies paid to Commissioner**

- (1) The levies, interest and penalties collected by the Commissioner, after deduction of refunds, must be paid into the National Revenue Fund.
- (2) Subject to section 6(4), the total amount of levies, interest and penalties paid into the National Revenue Fund in terms of subsection (1), is a direct charge against the National Revenue Fund for the credit of-
  - (a) the SETA to the amount contemplated in subsection (3)(b);
  - (b) the National Skills Fund to the amount contemplated in subsection (3)(a) and (c).
- (3) The Director-General must, within 14 days after receipt of a notice from the Commissioner in terms of section 6(5), allocate-
  - (a) 20 per cent of the levies, interest and penalties collected in respect of a SETA to the National Skills Fund;
  - (b) 80 per cent of the levies, interest and penalties collected in respect of a SETA to that SETA after he or she is satisfied that the SETA has complied in the prescribed manner with section 10(1)(a), (b), (g)(iii) and (h)(ii) of the Skills Development Act;
  - (c) the levies, interest and penalties collected by the Commissioner from employers which do not fall within the jurisdiction of a SETA to the National Skills Fund.
- (4) The levies, interest and penalties allocated to a SETA in terms of subsection (3)(b) must be dealt with in accordance with section 14 of the Skills Development Act.

## **9. Distribution of levies paid to SETA**

Subject to section 10(3), the executive officer of a SETA or its approved body, as the case may be, must-

- (a) not later than the 15th day of each month, pay 20 per cent of the levies collected by that SETA in terms of section 7(1), and of any interest and penalties collected in respect thereof, to the National Skills Fund;
- (b) deal with the balance of the levies, interest and penalties so collected in accordance with section 14 of the Skills Development Act.

## 10. Collection costs

- (1) Subject to subsection (2), the Director-General must, on a monthly basis as may be agreed between by the Commissioner and the Director-General, defray the costs of collection by the Commissioner from the levies paid into the National Skills Fund.
- (2) The total amount of collection costs referred to in subsection (1), excluding the start-up capital costs, may not exceed two per cent of the total amount of the levies calculated at the rate referred to in section 3(1)(b).
- (3) Subject to subsection (4), a SETA or its approved body may withhold from its payment to the National Skills Fund in accordance of section 9(a), the cost of collection of the SETA or approved body.
- (4) The total amount of collection costs referred to in subsection (3) may not exceed two per cent of the total amount of the levies collected.

## 11. Interest on late payment

- (1) If an employer fails to pay a levy or any portion thereof on the last day for payment thereof, as contemplated in section 6(2) or 7(4), interest is payable on the outstanding amount in accordance with the provisions of Chapter 12 of the Tax Administration Act.

*(Section 11(1) substituted by section 271 of Act 28 of 2011)*

- (2) .....

*(Section 11(2) deleted by section 271 of Act 28 of 2011)*

*(Section 11 substituted by section 123 of Act 74 of 2002)*

*(Section 11 substituted by section 45 of Act 18 of 2009)*

## 12. Penalties on default

- (1) Subject to subsection (2), if any levy remains unpaid after the last day for payment thereof as contemplated in section 6(2) or 7(4), the Commissioner must, under Chapter 15 of the Tax Administration Act, impose a penalty of 10 per cent of that unpaid amount.

*(Section 12(1) substituted by section 113 of Act 53 of 1999)*

*(Section 12(1) substituted by section 271 of Act 28 of 2011)*

- (2) The Commissioner or the executive officer of the SETA or approved body, as the case may be, may remit the penalty or any portion thereof imposed by subsection (1) in accordance with the provisions of Chapter 15 of the Tax Administration Act.

*(Section 12(2) substituted by section 271 of Act 28 of 2011)*

(3) .....  
*(Section 12(3) added by section 197(1) of Act 45 of 2003)*  
*(Section 12(3) deleted by section 271 of Act 28 of 2011)*

(4) .....  
*(Section 12(4) added by section 197(1) of Act 45 of 2003)*  
*(Section 12(4) deleted by section 271 of Act 28 of 2011)*

(5) .....  
*(Section 12(5) added by section 46(1)(b) of Act 18 of 2009)*  
*(Section 12(5) deleted by section 271 of Act 28 of 2011)*

13. ....  
*(Section 13 amended by section 93(1) of Act 30 of 2000 with effect from 1 September 1999)*  
*(Section 13 amended by section 70(1) of Act 59 of 2000 with effect from 1 September 1999)*  
*(Section 13 repealed by section 271 of Act 28 of 2011)*

## **CHAPTER 2**

### **RECOVERY OF LEVY BY SETA**

#### **14. Recovery of levy**

(1) A levy payable by an employer in terms of section 7(1) to a SETA or its approved body is regarded to be a debt due to the SETA.

(2) If an employer-

(a) fails to submit a statement in respect of the amount of levies due as contemplated in section 7(4)(b); or

(b) submits a statement reflecting an amount which, in the opinion of the executive officer of the SETA or approved body, as the case may be, is less than the amount which is due in terms of this Act,

the executive officer of the SETA or approved body, as the case may be, may estimate the amount of the levy due and issue an assessment for the outstanding amount.

(3) If any amount of the levy payable by an employer to a SETA in accordance with section 7(1), or any interest or penalty in respect thereof, remains unpaid on the last day for payment thereof as contemplated in sections 7(4)(a), 11 and 12, respectively, the SETA or approved body, as the case may be, may, despite any law to the contrary, recover the outstanding amount by action in a

magistrate's court having jurisdiction in the area in which the person liable for the levy, interest or penalty carries on business.

## **15. Appointment of inspectors**

- (1) A labour inspector appointed in terms of section 63 of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997), is regarded to be an inspector for the purposes of this Act in so far as it relates to the collection of levies by a SETA or its approved body.
- (2) The Director-General must, by a signed certificate, designate any person appointed in the prescribed manner and against the prescribed criteria as an agent of a SETA or its approved body as an inspector for the purposes of this Act in so far as it relates to the collection of levies by the SETA or approved body, as the case may be.
- (3) An inspector has the same powers afforded to a senior SARS official, a SARS official or SARS under Chapter 5 of the Tax Administration Act.

*(Section 15(3) added by section 271 of Act 28 of 2011)*

## **16. ....**

*(Section 16 repealed by section 271 of Act 28 of 2011)*

## **17. ....**

*(Section 17 repealed by section 271 of Act 28 of 2011)*

## **18. Co-operation with inspectors**

- (1) Any person who is questioned by an inspector referred to in section 15 must answer all relevant questions lawfully put to that person, truthfully and to the best of his or her ability.
- (2) An employer must provide any facility and assistance at his or her premises that is reasonably required by an inspector to perform his or her functions effectively.

## **19. Undertakings and compliance orders**

Sections 68 to 73 of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997), apply, with the changes required by the context, to-

- (a) the monitoring and enforcement of this Act in so far as it relates to the collection of levies by a SETA or its approved body; and
- (b) any legal proceedings concerning a contravention of this Act,

in so far as it relates to the collection of levies by a SETA or its approved body.

### **CHAPTER 3**

#### **GENERAL PROVISIONS**

**20.** .....

*(Section 20 repealed by section 271 of Act 28 of 2011)*

**20A.** .....

*(Section 20A inserted by section 77 of Act 19 of 2001)*

*(Section 20A substituted by section 124 of Act 74 of 2002)*

*(Section 20A repealed by section 271 of Act 28 of 2011)*

**21.** .....

*(Section 21 repealed by section 271 of Act 28 of 2011)*

#### **22. Regulations**

The Minister may, in consultation with the Minister of Finance and after consultation with the National Skills Authority, make regulations about any matter which-

- (a) may or must be prescribed in terms of this Act; and
- (b) is necessary for the effective administration of this Act.

#### **23. Amendment of Skills Development Act**

The Skills Development Act is amended as set out in the Schedule.

#### **24. Short title and commencement**

This Act is called the Skills Development Levies Act, 1999 and takes effect on a date to be determined by the President by proclamation in the *Gazette*.

### **SCHEDULE**

#### **AMENDMENT OF SKILLS DEVELOPMENT ACT**

**(Section 23)**

#### **1. Amendment of section 1 of Act 97 of 1998**

Section 1 of the Skills Development Act is hereby amended by the substitution for the definitions of "Skills Development Levies Act" and "skills development levies" of the following definitions:



**"Skills Development Levies Act"** means the Skills Development Levies Act, 1999;

**'skills development levies'** means a levy as defined in section 1 of the Skills Development Levies Act;"

## **2. Amendment of section 2 of Act 97 of 1998**

Section 2 of the Skills Development Act is hereby amended by the substitution in subsection (2)(a)(iii) for the expression "levy-grant" of the expression "levy-financing".

## **3. Amendment of section 10 of Act 97 of 1998**

Section 10 of the Skills Development Act is hereby amended-

(a) by the substitution for paragraph (f) of subsection (1) of the following paragraph:

"(f) when required to do so as contemplated in section 7(1) of the Skills Development Levies Act, collect the skills development levies, and must disburse the levies, allocated to it in terms of sections 8(3)(b) and 9(b), in its sector;";

(b) by the substitution for paragraph (k) of subsection (1) of the following paragraph:

"(k) perform any other duties imposed by this Act or the Skills Development Levies Act or consistent with the purposes of this Act.";

(c) by the substitution for paragraph (b) of subsection (2) of the following paragraph:

"(b) the other powers conferred on the SETA by this Act or the Skills Development Levies Act."; and

(d) by the substitution for subsection (3) of the following subsection:

"(3) A SETA must perform its functions in accordance with this Act, the Skills Development Levies Act and its constitution.".

## **4. Amendment of section 14 of Act 97 of 1998**

Section 14 of the Skills Development Act is hereby amended-

(a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

"(a) 80 per cent of the skills development levies, interest and penalties collected in respect of the SETA, as allocated in terms of sections 8(3)(b) and 9(b) of the Skills Development Levies Act;"; and

(b) by the deletion of paragraph (c) of subsection (2).

#### **5. Amendment of section 27 of Act 97 of 1998**

Section 27 of the Skills Development Act is hereby amended by the substitution for paragraphs (a) and (b) of subsection (2) of the following paragraphs:

"(a) 20 per cent of the skills development levies, interest and penalties collected in respect of every SETA, as required by sections 8(3)(a) and 9(a) of the Skills Development Levies Act;

(b) the skills development levies, interest and penalties collected by the Commissioner from employers which do not fall within the jurisdiction of a SETA, as required by section 8(3)(c) of the Skills Development Levies Act."

#### **6. Amendment of section 30 of Act 97 of 1998**

Section 30 of the Skills Development Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

"(a) must budget for at least-

(i) 0,5 per cent of its payroll with effect from 1 April 2000;

(ii) one per cent of its payroll with effect from 1 April 2001,

for the training and education of its employees; and"

#### **7. Insertion of section 30A in Act 97 of 1998**

The following section is hereby inserted after section 30 of the Skills Development Act:

##### **"Budget for training by national and provincial public entities**

30A. If 80 per cent or more of the expenditure of a national or provincial public entity is defrayed directly or indirectly from funds voted by Parliament, that entity must budget for at least-

(a) 0,5 per cent of its payroll with effect from 1 April 2000;

(b) one per cent of its payroll with effect from 1 April 2001,

for the training and education of its employees."

**8. Amendment of item 10 of Schedule 2 to Act 97 of 1998**

Item 10 of Schedule 2 to the Skills Development Act is hereby amended by the deletion of paragraph (b) of subitem (2).

**9. Amendment of item 14 of Schedule 2 to Act 97 of 1998**

Item 14 of Schedule 2 to the Skills Development Act is hereby amended by the substitution for subitem (3) of the following subitem:

"(3) Subject to subitem 7(c), any levy imposed in terms of section 10 of the Local Government Training Act and in force immediately before the commencement of this Act, remains in force until 31 March 2000 **[unless withdrawn before that date by the Minister in terms of section 2(3) of the Skills Development Act]** as if the Local Government Training Act had not been repealed."

**10. Amendment of long title of Act 97 of 1998**

The long title of the Skills Development Act is hereby amended by the substitution for the expression "levy-grant" of the expression "levy-financing".