



**NATIONAL ECONOMIC DEVELOPMENT AND LABOUR COUNCIL
REPORT OF THE NATIONAL ECONOMIC DEVELOPMENT AND LABOUR
COUNCIL (NEDLAC) ON THE SKILLS DEVELOPMENT AMENDMENT BILL,
2003**

July 2003

1. INTRODUCTION

This report deals with consideration of the Amendments to the Skills Development Act, 1999.

2. SKILLS DEVELOPMENT AMENDMENT BILL, 2003

2.1 Background

2.1.1 The objectives of the Bill are to amend the Skills Development Act, 1999 to:

- (i) require SETAs to conclude service level agreements with the Director-General;
- (ii) amend the powers of the Minister in relation to SETAs;
- (iii) clarify the obligations of SETAs in respect of financial management;
- (iv) further regulate private employment service agencies;
- (v) allow the Minister to establish and promote a standard for good practice in skills development (for people development);
- (vi) provide for the financing of the National Skills Fund; and
- (viii) provide for matters connected therewith.

2.2 Process In Nedlac

- 2.2.1 Government tabled the Skills Development Amendment Bill, 2003 at the Labour Market Chamber meeting on 19 June 2003.
- 2.2.2 The chamber agreed that a task team should be formed and that engagement should commence as soon as possible.
- 2.2.3 The task team met on 04 July 2003.
- 2.2.4 The task team comprised of the following:
- (i) **Business:** J. Lopes and B. Angus
 - (ii) **Community:** K. Mbongo and M. Mahlobogoane
 - (iii) **Labour:** K. Moleme; S. Gangca and W. van Heerden
 - (iv) **Government:** A. Bird and B. Maja
- 2.2.5 At the meeting of the task team held on 04 July 2003, Government took the constituencies through the proposed amendments and clarified certain aspects thereof.

2.3 Areas Of Agreement

Constituencies agreed on the following areas:

[()= deletion and _____ = insertion]

- 2.3.1 Amendment to long title. Add: promote a standard for good practice in skills development and delete (“**for people development**”)
- 2.3.2 Amendment to section 1 of Act 97 of 1998.
- 2.3.3 Amendment to section 5 of Act 97 of 1998.
- 2.3.4 That the amendment to section 6 of Act 97 of 1998 should read:
- (i) “(2A) In addition to the members contemplated by sub-sections (1) and (2), the Minister may, after consultation with the National Skills Authority

whenever possible, appoint up to two non – voting members with expertise in skills development’.

- 2.3.5 Amendment to section 9 of Act 97 of 1998.
- 2.3.6 Amendment to section 9A of Act 97 of 1998.
- 2.3.7 Amendment to section 10 of Act 97 of 1998, however clause (k) to be amended to read “promote the national standard to achieve (promote) good practice.”
- 2.3.8 The insertion of section 10A in Act 97 of 1998 , the task team also agreed on Business’s view that clause (4) of (10A) should read; “ The Minister must after consulting the National Skills Authority make regulations concerning....”
- 2.3.9 The amendment to section 13 of Act 97 of 1998.
- 2.3.10 Amendment to section 14, subsection (3) of Act 97 of 1998.
- 2.3.11 Insertion of section 14A in Act 97 of 1998
- 2.3.12 Amendments to section 15 of Act 97 of 1998
- 2.3.13 Amendments to section 17 of Act 97 of 1998
- 2.3.14 Amendment to section 19 of Act 97 of 1998
- 2.3.15 Amendment to section 20 of Act 97 of 1998
- 2.3.16 Amendment to title of Chapter 6.
- 2.3.17 Amendment to section 24 of Act 97 of 1998
- 2.3.18 Amendment to section 25 of Act 97 of 1998
- 2.3.19 Amendment to section 28 of Act 97 of 1998 and agreed on Business’ proposal that the National Skills Fund budget should be presented to the National Skills Authority for information.
- 2.3.20 Amendment to section 30A of Act 97 of 1998.
- 2.3.21 Insertion of section 30B in Act 97 of 1998 and the heading should read :

- (i) National Standard to promote good practice in Skills Development
- (ii) 30B (2) should read “The Minister may take such steps as are necessary to promote the national standard to achieve (promote) good practice in skills development including, but not limited to establishing an agency or contracting with an existing agency to promote the national standards. **(To promote good practice in skills development.)**”

2.3.22 Amendment to section 32 of Act 97 of 1998.

2.3.23 Amendment to section 33 of Act 97 of 1998.

2.3.24 Amendment to section 36 of Act 97 of 1998.

2.3.25 Amendment to item 4 of Schedule 2 to Act 97 of 1998. Constituencies further agreed that the National Skills Authority should conduct an investigation on the matter to advise the Minister on the date to be set as a matter of urgency to settle uncertainty on the future of the apprenticeship system.

2.3.26 Amendment to the Unemployment Insurance Act, 2001. These are deleted as they are covered in the amendments to that Act.

2.4 Areas of Disagreement

2.4.1 The Community Constituency expressed its reservations regarding the fact that the legislation did not provide for representation of the Community Constituency on the board of SETAs.

2.4.2 Business expressed its strong disagreement with the Amendment to section 14, subsection (3A), and for the same reasons objected to the inclusion of Schedule 3 in its entirety.

Business believes that the social partners are all in agreement that Skills Development is vital to the future of the country. Business has a strong interest in ensuring the success of the skills development legislation since its own survival and competitiveness, in great measure, is dependent

on the skills possessed by its employees. Business however believes that a collaborative approach by all the parties themselves will offer a far better chance of achieving the legislation's objective than a heavy-handed method that prefers prescription and over-regulation to consultation and co-operation. Business requested that Ministerial authority over the SETAs cannot be increased to such an extent that it undermines the powers of the SETA Council or Boards and renders the latter powerless to make operational decisions. Business believes that this will serve only to retard skills development in the country.

2.4.3 Business further expressed its reservation about Amendment 4A in Schedule 2 of Act 97 of 1998. They stated that:

- (i) Business signalled its views in the initial Business South Africa response on matters affecting the Mining Industry, especially with specific reference to the role of the Chief Inspector of Mines as the Chairperson of the Mining Qualifications Authority Board. Business acknowledges that the Department of Minerals and Energy has a significant role to play in the MQA and that the portfolio of board members must be treated the same as all other SETAs.
- (ii) Section 4A makes the Chief Inspector of Mines a permanent chair of the MQA as elected with effect from 20 March 2000. The stakeholders as stipulated in the Constitution should determine the chair of the MQA. In line with good corporate governance and transparency the position of the chair should be determined through a board election on an annual basis. Business proposed that the Chief Inspector's term as chair should be limited to a specific time period. This period should be linked with a process of separating the MQA as a SETA and the Mine Health and Safety Act obligation.
- (iii) Section 4A(e) stipulates that the MQA must establish chambers. Business feels that this regulation should not be mandatory to the Mining Industry alone. The establishment of chambers must only be considered by the board after a serious consideration of the need to establish such chambers.

- (iv) Section 4 A(f)(ii) authorizes the Minister to allow other bodies in the mining industry to be represented on the MQA. It is only fair to determine the representation through the constitution. Bargaining Councils with jurisdiction are already represented through their unions who are key stakeholders in the MQA.
- (v) The Minister needs to guard against bodies that may abuse their power and not participate legitimately in the SETA structures. The SETA Act already provides for appropriate mechanisms in which professional bodies can participate.

3. DOCUMENTS SUBMITTED DURING THE NEDLAC PROCESS OF ENGAGEMENT ON THE DRAFT SKILLS DEVELOPMENT AMENDMENT BILL

Government submitted the Skills Development Amendment Bill, 2003.

4. CONCLUSION

This report, therefore, completes consideration of the Skills Development Amendment Bill, 2003, in Nedlac and the report is hereby submitted to the Minister of Labour in terms of section 8 of the Nedlac Act, No. 35 of 1994.