

# OFFICE OF THE PRESIDENT

No. 1521. 4 October 1995

## NO. 58 OF 1995: SOUTH AFRICAN QUALIFICATIONS AUTHORITY ACT, 1995.

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

### ACT

To provide for the development and implementation of a National Qualifications Framework and for this purpose to establish the South African Qualifications Authority; and to provide for matters connected therewith.

(English text signed by the President.) (Assented to 28 September 1995.)

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

### Definitions

1. In this Act, unless the context indicates otherwise-

- i. "Authority" means the South African Qualifications Authority established by section 3; (viii)
- ii. "company" means a company or close corporation registered under any law, which provides education or training for its employees or clients; (v)
- iii. "Director-General" means the Director-General of Education; (i)
- iv. "Minister" means the Minister of Education and, for the purposes of sections 4(2), 4(3), 4(4), 4(5), 4(6), 5(1)(c), 11, 13(2), 14 and 15(2), the Minister of Education in consultation with the Minister of Labour; (vi)
- v. "National Qualifications Framework" means the National Qualifications Framework approved by the Minister for the registration of national standards and qualifications; (vii)
- vi. "organised teaching profession" means an organisation or union which is a member of the Education Labour Relations Council established in terms of the Education Labour Relations Act, 1993 (Act No. 146 of 1993), and is recognised by the Minister for the purposes of this Act; (ii)
- vii. "prescribe" means prescribe by regulation; (x)
- viii. "qualification" means the formal recognition of the achievement of the required number and range of credits and such other requirements at specific levels of the National Qualifications Framework as may be determined by the relevant bodies registered for such purpose by the South African Qualifications Authority; (iv)
- ix. "registered" means registered in terms of the National Qualifications Framework; (iii)
- x. "standard" means registered statements of desired education and training outcomes and their associated assessment criteria. (ix)

### Objectives of National Qualifications Framework

2. The objectives of the National Qualifications Framework are to-

- a. create an integrated national framework for learning achievements;
- b. facilitate access to, and mobility and progression within education, training and career paths;
- c. enhance the quality of education and training;
- d. accelerate the redress of past unfair discrimination in education, training and employment opportunities; and thereby
- e. contribute to the full personal development of each learner and the social and economic development of the nation at large.

## **Establishment of South African Qualifications Authority**

3. There is hereby established a juristic person called the South African Qualifications Authority.

### **Constitution of Authority**

4.

(1) The Authority shall consist of a chairperson who shall be appointed in terms of subsection (2), such members as shall be appointed in terms of subsections (3) and (4), and an executive officer who shall be appointed in terms of subsection (7).

(2) The Minister shall appoint a person of experience and expertise in matters relating to the functions of the Authority, to be the chairperson of the Authority.

(3) The Minister shall appoint the following persons as members of the Authority, in the manner provided for in subsection (4)-

- a. one member nominated by the Director-General;
- b. one member nominated by the heads of provincial education departments;
- c. one member nominated by the Director-General: Labour;
- d. one member nominated by the National Training Board;
- e. two members nominated by the national organisations representing organised labour;
- f. two members nominated by national organisations representing organised business;
- g. one member nominated by the Committee of University Principals established by section 6 of the Universities Act, 1955 (Act No. 61 of 1955);
- h. one member nominated by the Committee of Technikon Principals established by section 2 of the Technikons Act, 1993 (Act No. 125 of 1993);
- i. one member nominated by the national body representing teachers' college rectors and recognised by the Minister for this purpose;
- j. one member nominated by the national body representing technical college rectors and recognised by the Minister for this purpose;
- k. one member nominated by national organisations representing colleges other than teachers' colleges and technical colleges and recognised by the Minister for this purpose;
- l. one member nominated by national organisations representing the adult basic education and training sector and recognised by the Minister for this purpose;
- m. one member nominated by national organisations representing the early childhood development sector and recognised by the Minister for this purpose;
- n. two members nominated by the organised teaching profession;
- o. two members nominated by national organisations representing lecturers and trainers and recognised by the Minister for this purpose;
- p. one member nominated by national organisations representing the special education needs sector and recognised by the Minister for this purpose;
- q. not more than six members appointed by the Minister at his or her discretion;
- r. not more than two members co-opted by the Authority at its discretion and recommended to the Minister for appointment.

(4) For the purpose of seeking nominations as contemplated in subsection (3), the Minister shall give notice in the Gazette of his or her intention to appoint members of the Authority, and shall request any body or organisation in the fields referred to in subsection (3) to submit the names of persons who, on account of their experience and expertise in matters relating to the functions of the Authority may be suitable candidates for appointment as members of the Authority and in submitting the names of candidates due recognition shall be given to the principle of representivity.

(5) For the purpose of the nominations contemplated in paragraph (n) of subsection (3), not more than one nomination shall be made by any one organisation or union.

(6) A member of the Authority excluding the executive officer, shall hold office for such period which shall not exceed three years, as the Minister may determine at the time of his or her appointment, and a member may be re-appointed for one further term of office when his or her initial term of office expires.

(7) The Minister shall, in filling any vacancy, take the provisions of subsection (3) into account.

(8) The members contemplated in subsections (2) and (3), shall, with the approval of the Minister, appoint a competent person to be executive officer on such conditions of service as may be determined by the Authority with the approval of the Minister, granted with the concurrence of the Minister of Finance.

## **Functions of Authority**

5.

(1) Subject to the provisions of subsection (2), the Authority shall-

(a)(i) oversee the development of the National Qualifications Framework; and

(ii) formulate and publish policies and criteria for-

(aa) the registration of bodies responsible for establishing education and training standards or qualifications; and

(bb) the accreditation of bodies responsible for monitoring and auditing achievements in terms of such standards or qualifications;

(b) oversee the implementation of the National Qualifications Framework, including-

- i. the registration or accreditation of bodies referred to in paragraph (a) and the assignment of functions to them;
- ii. the registration of national standards and qualifications;
- iii. steps to ensure compliance with provisions for accreditation; and
- iv. steps to ensure that standards and registered qualifications are internationally comparable;

(c) advise the Minister on matters affecting the registration of standards and qualifications; and

(d) be responsible for the control of the finances of the Authority.

(2) The Authority shall pursue the objectives of the National Qualifications Framework as provided in section 2 and execute the functions of the Authority as provided in subsection (1)-

- a. after consultation and in co-operation with the departments of state, statutory bodies, companies, bodies and institutions responsible for education, training and the certification of standards which will be affected by the National Qualifications Framework;
- b. with due regard for the respective competence of Parliament and the provincial legislatures in terms of section 126 of the Constitution, and the rights, powers and functions of the governing bodies of a university or universities and a technikon or technikons as provided in any Act of Parliament.

## **Functions of executive officer**

6.

(1) The executive officer shall-

- a. be responsible to the Authority for the execution of its functions in terms of this Act;
- b. supervise the officers and employees of the Authority; and
- c. be the accounting officer of the Authority charged with accounting for moneys received, payments made and movable property purchased by the Authority.

(2) The executive officer shall be assisted in the performance of his or her duties in terms of subsection (1) by such officers and employees of the Authority as the executive officer may designate for this purpose.

### **Powers of Authority**

7.

(1)

- a. The Authority may establish committees and appoint persons who are not members of the Authority to the committees.
- b. The Authority shall appoint the chairperson of every committee.
- c. The Authority may dissolve or reconstitute a committee.
- d. The Authority may delegate any of its powers, excluding the powers referred to in this section, to any of its committees, but shall not be divested of a power so delegated and may at any time withdraw such a delegation.
- e. The Authority may amend or set aside any decision of such a committee.

(2) The Authority may resolve disputes relating to the performance of its functions referred to in section 5.

(3) The Authority may acquire and dispose of assets.

(4) The Authority may cause research to be done which it considers relevant to the performance of its functions.

(5) The Authority may perform any other function which the Minister may designate which is relevant to the National Qualifications Framework.

### **Meetings of Authority and committees**

8.

(1) The meetings of the Authority or of a committee shall be held at such times and places as the chairperson of the Authority or the committee, as the case may be, may determine.

(2) The proceedings of the Authority or of a committee shall not be invalid by reason of a vacancy on the Authority or the committee, as the case may be.

(3) If the chairperson of the Authority or of a committee is absent from any meeting of the Authority or a committee, as the case may be, the members present shall elect from among themselves a person to preside at that meeting.

(4) The Authority may prescribe rules relating to the procedures at its meetings or at the meetings of a committee, including the quorum for such meetings.

### **Vacation of office by members of Authority**

9. The chairperson or any member of the Authority referred to in section 4(3) shall vacate his or her office if-

- a. his or her estate is sequestrated or he or she enters into a compromise with his or her creditors;
- b. he or she is detained as a mentally disordered person in terms of any law;
- c. he or she is absent from three consecutive meetings of the Authority without leave from the Authority;
- d. he or she resigns by giving notice in writing to the Minister; or
- e. he or she, during the course of his or her term of office, is found guilty of an offence and sentenced to imprisonment without the option of a fine.

### **Funds of Authority**

10.

(1) The funds of the Authority shall consist of-

- a. moneys appropriated by Parliament for the achievement of the objectives of the Authority;
- b. moneys received by the Authority by virtue of the regulations made in terms of section 14;
- c. moneys obtained by means of loans raised by the Authority with the approval of the Minister, granted with the concurrence of the Minister of Finance;
- d. donations, contributions or royalties received by the Authority; and
- e. interest on investments.

(2) The Authority shall employ its funds to defray expenses in connection with the performance of its functions.

(3)

(a) The Authority shall in each financial year, at such time and in such form as the Minister may determine, submit a statement of its estimated income and expenditure for the ensuing financial year to the Minister for approval.

(b) The moneys contemplated in subsection (1)(a) shall be employed by the Authority in accordance with the approved statement referred to in paragraph (a), and any unexpended balance shall be carried forward as a credit to the following financial year.

(4) Subject to the provisions of subsection (3)(b), the Authority may invest any portion of its funds in such manner as the Minister, with the concurrence of the Minister of Finance, may approve.

(5) The Authority may charge or waive fees-

- a. for the granting of any registration or accreditation; and
- b. for any services provided by the Authority.

### **Officers and employees of Authority**

11. The Authority may, subject to the conditions of service determined by the Authority with the approval of the Minister and the concurrence of the Minister of Finance, appoint such officers and employees as the Authority may deem necessary for the performance of its functions in terms of this Act.

### **Allowances and remuneration of members of Authority and committees**

12. The chairperson, every other member of the Authority and any person appointed as a member of a committee under section 7(1) who is not in the full-time service of the State may, in respect of services rendered by him or her in connection with the affairs of the Authority or a committee, be paid by the Authority-

- a. such travelling, subsistence and other allowances; and
- b. in the case of the chairperson of the Authority, such additional remuneration, as the Minister with the concurrence of the Minister of Finance may determine.

### **Auditing and annual report**

13.

(1) The books of account and financial statements of the Authority shall be audited at the end of each financial year by the Auditor-General.

(2) The Authority shall not later than six months after the end of each financial year submit to the Minister a report in such form as the Minister may determine on its functions during that financial year, including an audited balance sheet and a statement of income and expenditure.

(3) The Minister shall table copies of the report, including the balance sheet and statement of income and expenditure referred to in subsection (2), in Parliament within 14 days after the receipt thereof if Parliament is in ordinary session, or, if Parliament is not in ordinary session, within 14 days after the commencement of its next ensuing ordinary session.

### **Regulations**

14. The Authority may, with the approval of the Minister, make regulations relating to-

- a. any matter which by this Act is required or permitted to be prescribed;
- b. the moneys payable to the Authority in respect of matters referred to in section 10(5)(a) and (b); and
- c. any other matter the regulation of which is necessary or expedient to give effect to the provisions of this Act.

### **Transitional provision relating to existing bodies**

15.

(1) Any body established by law which performs functions similar to those of the Authority as provided in section 5 shall continue to perform such functions until the body is abolished or its functions are changed by law.

(2) No body contemplated in subsection (1) shall be abolished nor shall the functions of any such body be changed until the Authority and the body have jointly examined the implications of such abolition or change and the implementation of the National Qualifications Framework and made recommendations to the Minister.

(3) This section shall not apply to any body established by a private law of a university.

### **Short title**

16. This Act shall be called the South African Qualifications Authority Act, 1995.