

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

[ASSENTED TO 14 APRIL 1999]

[DATE OF COMMENCEMENT: 1 SEPTEMBER 1999]

*(English text signed by the President)*

### **as amended by**

Revenue Laws Amendment Act 53 of 1999  
Taxation Laws Amendment Act 30 of 2000  
Revenue Laws Amendment Act 59 of 2000  
Taxation Laws Amendment Act 5 of 2001  
Revenue Laws Amendment Act 19 of 2001  
Taxation Laws Amendment Act 30 of 2002  
Revenue Laws Amendment Act 74 of 2002  
Revenue Laws Amendment Act 45 of 2003  
Taxation Laws Amendment Act 9 of 2005

### **Regulations under this Act**

LEVIES AND RELATED ISSUES

## **ACT**

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

### **TABLE OF CONTENTS**

#### CHAPTER 1

#### ADMINISTRATION, IMPOSITION AND RECOVERY OF LEVY

1. Definitions
2. Administration of Act
3. Imposition of levy
4. Exemptions
5. Registration for payment of levy
6. Payment of levy to Commissioner and refund
- 6B. Electronic filing of statement  
[S. 6B inserted by s. 45 of Act 5 of 2001.]
7. Payment of levy to SETA and refund
8. Distribution of levies paid to Commissioner
9. Distribution of levies paid to SETA
10. Collection costs
11. Interest on late payment
12. Penalties on default
13. Applicability of Income Tax Act

#### CHAPTER 2

#### RECOVERY OF LEVY BY SETA

14. Recovery of levy
15. Appointment of inspectors
16. Powers of entry of inspectors
17. Powers of inspector to question and inspect
18. Co-operation with inspectors
19. Undertakings and compliance orders

#### CHAPTER 3

#### GENERAL PROVISIONS

20. Offences
- 20A. Jurisdiction of courts  
[S. 20A inserted by s. 77 of Act 19 of 2001.]

21. Proof of accuracy of statement
22. Regulations
23. Amendment of Skills Development Act
24. Short title and commencement

Schedule

## AMENDMENT OF SKILLS DEVELOPMENT ACT

### CHAPTER 1

#### ADMINISTRATION, IMPOSITION AND RECOVERY OF LEVY (ss 1-13)

##### 1 Definitions

In this Act, unless the context otherwise indicates-

**'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, established by section 2 of the South African Revenue Service Act, 1997 (Act 34 of 1997);

**'Director-General'** means the Director-General of Labour;

**'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 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 Labour;

**'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;

**'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 97 of 1998);

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

##### 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.

(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**

- (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) and (3) .....

[Sub-ss. (2) and (3) deleted by s. 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.

[Para. (e) added by s. 61 (1) of Act 30 of 2002.]

(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;  
[Para. (b) substituted by s. 24 (1) 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

[Para. (c) substituted by s. 91 of Act 30 of 2000, by s. 62 of Act 30 of 2002 and by s. 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.

[Para. (e) added by s. 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).

[Sub-s. (6) substituted by s. 92 (1) of Act 30 of 2000.]

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

(1) Subject to section 7, every employer must pay the levy to the Commissioner in the manner and within the period determined in this Act.

(2) An 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 and together with such payment submit a statement-

(a) in such form as the Commissioner may require; and

(b) reflecting the amount of the levy due by that employer and containing such other information as the Commissioner may require.

(3) If the amount of any levy, interest or penalty paid by an employer to the Commissioner 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 that employer by the Commissioner, which refund is a drawback against the National Revenue Fund.

(4) If the Director-General has allocated in accordance with section 8 the full amount or any portion of the amount referred to in subsection (3), 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.

(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-

(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.

[Sub-s. (5) amended by s. 76 of Act 19 of 2001.]

## **6B Electronic filing of statement**

(1) The Commissioner may, in the case of any statement submitted by an employer or his or her authorised agent in electronic format, accept electronic or digital signatures as valid signatures.

(2) The Minister may make rules and regulations prescribing the procedures for submitting any statement in electronic format and setting out the requirements for an electronic or digital signature contemplated in subsection (1).

[S. 6B inserted by s. 45 of Act 5 of 2001.]

## **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.

## **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**

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 at the rate contemplated in paragraph (b) of the definition of 'prescribed rate' in section 1 of the Income Tax Act, calculated from the day following that last day for payment to the day that payment is received by the Commissioner, SETA or approved body, as the case may be.

[S. 11 substituted by s. 123 of Act 74 of 2002.]

## **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), a penalty of 10 per cent of that unpaid amount is payable in addition to the interest contemplated in section 11.

[Sub-s. (1) substituted by s. 113 of Act 53 of 1999.]

(2) The Commissioner or the executive officer of the SETA or approved body, as the case may be, may, having due regard to the circumstances of the case, remit the penalty or any portion thereof imposed by subsection (1).

(3) If an employer fails to pay an amount of levy with intent to evade that employer's obligations under this Act, the employer may be liable to pay a penalty not exceeding an amount equal to twice the amount of levy which that employer so failed to pay.

[Sub-s. (3) added by s. 197 (1) of Act 45 of 2003.]

(4) Any penalty contemplated in subparagraph (3)-

- (a) must be determined by the Commissioner and must be paid within such period as the Commissioner may determine; and
- (b) shall be deemed to be a tax for purposes of-
  - (i) the determination of any interest payable in terms of section 11; and
  - (ii) the provisions relating to the allocation of payments by the employer as applied in terms of section 13 (e) and (iii).

[Sub-s. (4) added by s. 197 (1) of Act 45 of 2003.]

## **13 Applicability of Income Tax Act**

The provisions of the Income Tax Act relating to-

- (a) the administration thereof as contained in Chapter I of the Income Tax Act;
- (b) returns, the production of information, documents or things, enquiries, searches and seizures and evidence on oath;
- (c) assessments;
- (d) objections and appeals;
- (e) the payment and recovery of tax, interest and penalties;
- (f) refunds;
- (g) representative taxpayers;
- (h) transactions, operations or schemes for purposes of avoiding or postponing liability for taxes on income or reducing the amount of taxes on income;
- (i) reporting of unprofessional conduct; and
- (j) jurisdiction of courts as contained in section 105,

[Para. (g) substituted by s. 93 (1) of Act 30 of 2000.]

[Para. (j) added by s. 70 (1) (c) of Act 59 of 2000.]

apply, with the changes required by the context, to the levy paid or payable to the Commissioner in terms of this Act in respect of-

- (i) the administration of this Act;

- (ii) statements, the production of information, documents or things, enquiries, searches and seizures and evidence on oath for the purpose of obtaining full information in respect of the calculation of the levy due and payable in terms of this Act;
- (iii) any assessment, objection and appeal and the payment recovery or refund of the levy, interest or penalty;
- (iv) representative taxpayers;
- (v) any transaction, operation or scheme entered into or carried out for the purposes of avoiding or postponing liability for the levy or reducing the amount of the levy and in the application of the provisions contemplated in paragraph (h), such provisions are regarded to include a reference to the levy;
- (vi) reporting of unprofessional conduct; and
- (vii) jurisdiction of courts.

[Para. (vii) added by s. 70 (1) (e) of Act 59 of 2000.]

## **CHAPTER 2**

### **RECOVERY OF LEVY BY SETA (ss 14-19)**

#### **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 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.

#### **16 Powers of entry of inspectors**

(1) In order to monitor and enforce compliance with this Act in so far as it relates to the collection of levies by a SETA or its approved body, an inspector may without

warrant or notice at any reasonable time, enter any workplace or any other place where an employer carries on business or keeps any records, which is not a home.

(2) An inspector may enter a home or any place other than a place contemplated in subsection (1) only-

- (a) with the consent of the owner or occupier; or
- (b) if authorised by a warrant, in terms of subsection (3), to do so.

(3) A magistrate, or judge of a High Court, in chambers having jurisdiction may issue a warrant contemplated in subsection (2) only on written application by an inspector, referred to in section 15, and stating under oath or affirmation the reasons for the need to enter a place in order to monitor compliance with this Act in so far as it relates to the collection of levies by a SETA or its approved body.

### **17 Powers of inspector to question and inspect**

(1) In order to monitor compliance with this Act in so far as it relates to the collection of levies by a SETA or its approved body, an inspector referred to in section 15 may-

- (a) require a person to disclose information either orally or in writing, and either alone or in the presence of witnesses on any matter to which this Act so relates, and require that the disclosure be made under oath or affirmation;
- (b) inspect, and question a person about, any document to which this Act so relates;
- (c) copy that document, or remove that document to make copies of, or extracts from, that document;
- (d) require a person to produce or deliver to a place specified by the inspector that document for inspection; and
- (e) perform any other prescribed function necessary for monitoring or enforcing compliance with this Act in so far as it relates to the collection of levies by a SETA or its approved body.

(2) The inspector may be accompanied by an interpreter and any other person reasonably required to assist in conducting the inspection.

(3) The inspector must-

- (a) produce on request the certificate of appointment as inspector;
- (b) provide a receipt for any document removed or delivered in terms of subsection (1) (c) or (d); and
- (c) return anything so removed or delivered within a reasonable time.

### **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 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 (ss 20-24)**

#### **20 Offences**

Any person who-

- (a) fails to apply for registration for purposes of the levy;
- (b) fails to pay any levy on the date determined for payment thereof;
- (c) furnishes any false information in a statement or other document required in terms of this Act, knowing the information to be false;
- (d) fails to-
  - (i) submit or deliver any statement or other document or thing;
  - (ii) disclose any information;
  - (iii) reply to or answer truly and fully, any questions put to him or her; or
  - (iv) attend and give evidence, required in terms of this Act; or
- (e) hinders or obstructs any person in carrying out his or her functions in terms of this Act,

commits an offence and is liable on conviction to a fine or imprisonment for a period not exceeding one year.

#### **20A Jurisdiction of courts**

A person charged with an offence under this Act may be tried in respect of that offence by any court having jurisdiction within any area in which that person resides or carries on business, in addition to any jurisdiction conferred upon any court by any law. [S. 20A inserted by s. 77 of Act 19 of 2001 and substituted by s. 124 of Act 74 of 2002.]

#### **21 Proof of accuracy of statement**

In any proceedings concerning a contravention of this Act, it is for an employer to prove that the information supplied by that employer in a statement required to be submitted in terms of this Act is accurate.

#### **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) [sic] 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:

### **'30A Budget for training by national and provincial public entities**

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 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'.

---

<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.