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**GENERAL NOTICE**

**Labour, Department of**

*General Notice*

919 Skills Development Act (97/1998): Regulations with regard to employment services

.      3      30113

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## **SCHEDULE**

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## Definitions

1. In these Regulations, any word or expression to which a meaning has been assigned in the Act, shall have the same meaning so assigned unless the context indicates otherwise -

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

"Annexure" means an annexure to these regulations;

"Client" means an employer or a work seeker;

"Employer" means any person, including a person acting in a fiduciary capacity, who pays or who is liable to pay any person any amount by way of remuneration as defined in the Basic Conditions of Employment Act, Act 75 of 1997 and any person responsible for the payment of any amount by way of remuneration to any person under the provisions of any law or out of public funds, excluding any person not acting as a principal as defined in the Unemployment Insurance Act, Act 63 of 2001 and shall include all private employment service agencies;

"Entity" means an organisation that is registered in terms of relevant legislation such as but not limited to Companies Act, Cooperatives Act etc.

"Fees" means all charges that a private employment services agency may charge a work seeker and is inclusive of registration fees, administration fees and fees for any other service offered by the private employment services agency to a work seeker;

"Lowest level or stand alone level of organisational structure" means each separate unit of an organisational structure that offers employment services for gain such as but not limited to head offices, branches, agencies, licensees, franchisors, franchisees etc.

"OFO" means organising framework of occupations as published by the Department of Labour;

"Placement opportunity" means any opportunity that could be offered to a work seeker as an alternate to the current employment status and includes vacancies, learnerships, apprenticeships and internships;

"Private employment services agency" (PEA) means any juristic person who must be registered in terms of section 24(3)(a) of the Act for purposes of providing employment services for gain and includes Personnel Agencies, Temporary Employment Services, Labour Brokers and Labour Recruitment Agencies and any other entity that provides employment services to South African employers and/or work seekers for gain.

"Submit" means to serve by hand, registered post or telefax or to transmit by electronic mechanism as a result of which the recipient is capable of printing the communication;

"Work-seeker" means a person who is unemployed or under employed or employed that has been issued with a thirteen digit bar-coded South African identity document by the Department of Home Affairs.

### **Registration of private employment services agency**

2. (1) All private employment services agencies must submit to the Director-General an application for registration as a private employment services agency in the form prescribed in Annexure "1".
- (2) The application referred to in sub-regulation (1) must comply with the following criteria:
  - (a) proof that the company is registered as an entity in terms of the relevant legislation;
  - (b) proof that the entity is registered with South African Revenue Services for employee's tax; skills development levy, unemployment insurance fund contribution and/or VAT where applicable;
  - (c) proof that the entity is registered with a bargaining council where applicable;
  - (d) proof that the entity is registering at its lowest level or stand alone level of organisational structure;
  - (e) Compliance with the following legislation where relevant
    - (i) Skills Development Act, 1998 (Act No.97 of 1998);
    - (ii) Skills Development Levies Act, 1999 (Act No 9 of 1999);
    - (iii) Unemployment Insurance Act, 2001 (Act No 63 of 2001);
    - (iv) Basic Conditions of Employment Act, 1997 (Act No 75 of 1997);
    - (v) Labour Relations Act, 1995 (Act No 66 of 1995);
    - (vi) Employment Equity Act, 1998 (Act No 55 of 1998);
    - (vii) Compensation for Occupational Injuries and Diseases Act, 1993 (Act No 130 of 1993);
    - (viii) Occupational Health and Safety Act, 1993 (Act No 85 of 1993).
    - (ix) Unemployment Insurance Contributions Act (Act No 2 of 2002)
- (3) The registration certificate issued in terms of section 24(3)(a) of the Act must be in the form prescribed in Annexure "2". The registration is issued subject to the conditions stipulated in sub-regulation (5).

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- (4) The private employment services agency must display the registration certificate in a conspicuous place at its registered physical address and/or on the home page of the web site address of the private employment services agency as specified in Section B of Annexure 1.
- (5) A registered private employment services agency shall not-
- (a) allow any other person other than the applicant to conduct its business on its behalf without the prior written approval of the Director General;
  - (b) register for employment any non-citizen, unless the non-citizen has been issued with a Republic of South Africa identity document for permanent residence by the Department of Home Affairs;
  - (c) directly or indirectly, divulge or provide to any person any information whatsoever regarding any client of the employment service, which was acquired or requested from the client in the course of business of the private employment services agency, unless with the client's written consent and where such information is required in terms of any statute.
  - (d) directly or indirectly charge work-seekers a fee for registration, assessment, recruitment, selection, administration and/or placement other than the fees that may from time to time be fixed in terms of these regulations;
- (6) If a private employment services agency changes ownership and/or its physical address and/or its web site address as specified in Section B of Annexure I after receiving a certificate of registration from the Director-General in terms of section 24(3) (a) of the Act, such agency must reapply to the Director-General as prescribed in sub-regulations (1) and (2) above.
- (7) A private employment services agency may not charge work-seekers fees exceeding the following-
- (a) RIO registration fee;
  - (b) RIOO for administration fees, subject to the consent of the work-seeker;
  - (c) No other fees shall be charged by a private employment services agency from the work-seeker other than the fees prescribed in sub-regulation 7(a) and (b).
  - (d) The fee structure shall be displayed in a conspicuous place at the physical address and/or on the home page of the web site address

of the private employment services agency as specified in Section B of Annexure 1.

#### Keeping of records by private employment services agency

3. (1) A private employment services agency must keep-
  - (a) a register of work-seekers in the form prescribed in Annexure "3" to these regulations; and
  - (b) a register of employers in the form prescribed in Annexure "4" to these regulations.
- (2) A private employment services agency must retain all documentation received from work-seekers and employers relating to the application for employment and employment of persons for a period of at least three years from date of receipt thereof.
- (3) The owner or manager of private employment services agency must submit a report in the form prescribed in Annexure 5 within 24 hours of a placement opportunity becoming available to the Labour Centre to which the private employment services agency has been allocated to by the Director General.
- (4) The records referred to in sub-regulation (1) and (2) must be kept meticulously on a day-to-day basis by making entries in legible letters in ink or typescript on durable material or by entries onto electronic database systems that have proven back up and data recovery mechanism in place.

#### Cancellation of registration of private employment services agency

4. (1) The Director-General may cancel the registration of a private employment services agency if-
  - (a) the criteria stipulated in regulation 2(2) of these regulations is not complied with;
  - (b) the conditions stipulated in regulation 2(5) of these regulations have not been complied with;
  - (c) the fees and conditions in Regulation 2 (7) of these regulations have not been complied with;
  - (d) it fails to keep the records as stipulated in regulation 3 of these regulations;
  - (e) it fails to submit the reports as prescribed in these regulations;
  - (f) it is not carrying on, or has ceased to operate, its business as a private employment services agency;

- (g) the entity is dissolved, deregistered, wound up or liquidated in terms of the relevant legislation;
- (h) requested in writing by-
  - (i) the owner or manager of an entity;
  - (ii) any interested person;
  - (iii) judicial manager of the company; or
  - (iv) Master of the High Court

#### Registration of placement opportunities by Employers

5. (1) An employer must submit in the form prescribed in Annexure "6" an application to the Director General within 30 days of the publication of the regulations requesting an allocation to a Labour Centre
- (2) An employer must submit, to the Labour Centre, a report in the form prescribed in Annexure "5" within 24 hours of a placement opportunity becoming available commencing on date to be determined by the Minister in the Gazette.

#### Repeal of Regulations

6. The Regulations referred to in Annexure "8" are hereby repealed to the extent specified therein.



ANNEXURE 1  
SKILLS DEVELOPMENT ACT, 1998

REGULATION 2(1)  
APPLICATION FOR THE REGISTRATION OF A PRIVATE EMPLOYMENT  
SERVICES AGENCY

Date: .

The Director-General  
Department of Labour

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Address to most geographically relevant provincial office of the Department of Labour as per contact details an Annexure 7

ATTENTION: DoL PROVINCIAL EXECUTIVE MANAGER

PROVINCE: .

I hereby apply for registration as a Private Employment Services Agency in terms of section 24(1) of the Skills Development Act, 1998.

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Particulars of applicant

---

Title: MrD MsD Mrs0 DrD ProfD

AdvD OtherD Specify: ..

Initials:

Full name of applicant: . .

Identity number: .

Designation: ..

Physical (residential) address of applicant: .

Postal address of applicant: .

.....Postal Code: .

Telephone number: .

Cellular phone number: .

E-Mail address: ..

**B: Particulars of Private Employment Services Agency**

**Location of Agency** (tick the appropriate box):

South Africa

Other

Specify ..

**Type of Agency** (tick the appropriate box):

Private employment services agency

Personnel agency

Temporary employment service

Labour broker

Labour recruitment agency

Other  Specify .

**Tick Relevant**

**Registration number**

| <b>Type of Entity:</b>                                  | <b>Box</b>  |    |
|---|-------------|----|
| Proprietary Limited (Pty) Ltd                           | D           |    |
| Close Corporation                                       | D           |    |
| Sole Proprietor   | D           |    |
| Trust   | D           |    |
| Non -Governmental Organization (NOO)                    | D           |    |
| Community Based Organization (CBO)                      | D           |    |
| Cooperative   | D           |    |
| Other   | D Specify   |    |
|   |             |    |
| Registered name of Private Employment Services Agency:  | ,           | .  |
|   |             |    |
| Trading name of Private Employment Services Agency:     |             | .  |
|   |             |    |
| Physical address of Private Employment Services Agency: |             | .  |
|   |             |    |
| Postal address of Private Employment Services Agency:   |             | .  |
| .....   | Postal Code | .  |
| Citandi et executandi                                   |             | .  |
|   |             |    |
| Web Site address of Private Employment Services Agency: |             | .. |
|   |             |    |
| Business E-mail address of Private Employment Services  |             | .. |

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**C: The following documents must be attached to the application forms**

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1. VAT Registration Certificate (if applicable)
2. Institutional Registration Certificate (Company, CC, Co-op etc)(compulsory)
3. Tax Compliance Certificate from SARS (compulsory)
4. Latest EMP 201 [Return for Remittance} Form submitted to SARS for PAYE, UIF and SDL. (if applicable)
5. Employer Registration Certificate from Bargaining Council (if applicable)
6. Letter of good standing - Compensation Commissioner

Applicants can submit for consideration by the Director General a separate covering letter giving reasons why any of the above documents cannot be submitted.

#### Conditions

The Certificate is issued subject to the conditions prescribed in Regulation 2(2).

Signature of applicant

Date

For Official Use:

Recommendation: Approved / Rejected

Comments

..

Signature:

.

Note:

In terms of Section 33 of the Skills Development Act, 1998 as amended, it is an offence to conduct the business of a private employment services agency in contravention of this Act or any prescribed requirement.

Section 34 of the Skills Development Act, 1998 as amended reads: "Any person convicted of an offence referred to in Section 33 may be sentenced to a fine or imprisonment for a period not exceeding one year.

ANNEXURE 2  
SKILLS DEVELOPMENT ACT, 1998

REGULATION 2(3)  
CERTIFICATE OF REGISTRATION  
PRIVATE EMPLOYMENT SERVICES AGENCY

Date: .

This is to certify that .

Trading as .

has in tenus of section 24(3)(a) of the Skills Development Act; 1998; been granted permission to provide employment services for gain at:

Physical Address: .

and / or

Web Site Address: " .

The Certificate is valid with effect from: ..

ESSA Registration Number ..

Labour Centre Allocation: ..

This Certificate is issued subject to the conditions stipulated in sub-regulation 2(2) of the Regulations with regard to Employment Services.

Director-General: Labour

**ANNEXURE 3  
SKILLS DEVELOPMENT ACT, 1998**

**REGULATION 3(1)(a)  
REGISTER OF WORKSEEKERS**

Name of private employment services agency:  
ESSA Registration Number.

| <b>WORK-SEEKER'S PERSONAL DETAILS</b> |                                    |             |   |                 |          |    |      |         |
|---------------------------------------|------------------------------------|-------------|---|-----------------|----------|----|------|---------|
| A                                     | B                                  | C           |   | D               | E        | F  | G    |         |
| No:                                   | Name and Surname<br>of Work-Seeker | Male/Female |   | Identity Number | Disabled |    | Race | Address |
|                                       |                                    | M           | F |                 | Yes      | No |      |         |
| 1.                                    |                                    |             |   |                 |          |    |      |         |
| 2.                                    |                                    |             |   |                 |          |    |      |         |
| 3.                                    |                                    |             |   |                 |          |    |      |         |

| <b>EMPLOYMENT DETAILS</b>                                   |   |                        |              | <b>PLACEMENT DETAILS</b> |                      |  |  |
|---|---|------------------------|--------------|--------------------------|----------------------|--|--|
| H   | I   | J                      | K            |                          | L                    | M  | N  |
| PES SA<br>Registration<br>Number of<br>previous<br>employer | Occupation<br>Required as<br>perDoL-OFO<br>Code | Date of<br>application | Fees charged |                          | Date of<br>placement | Name&DoL<br>ES Number of<br>Employer with<br>whom placed | Occupation<br>Placed as per<br>DoL-OFO<br>Code |
|   |   |                        | Registration | Administration           |                      |  |  |
| 1.  |   |                        |              |                          |                      |  |  |
| 2.  |   |                        |              |                          |                      |  |  |
| 3.  |   |                        |              |                          |                      |  |  |

Note:- The following documents may be submitted by a work-seeker to a private employment services agency:

Identity document and certified copies of educational qualifications

This register must be kept and made available to an inspector at any time within three years after the occurrence of the event recorded.

**ANNEXURE 4  
SKILLS DEVELOPMENT ACT, 1998**

**REGULATION 3(1)(b)  
REGISTER OF EMPLOYERS**

Name of private employment services agency: ..  
ESSA Registration number: ..

| <b>EMPLOYER DETAILS</b> |                  |  |                                      |                                   |                                    | <b>PLACEMENT DETAILS</b>              |                                  |                      |                                   |
|-------------------------|------------------|--|--------------------------------------|-----------------------------------|------------------------------------|---------------------------------------|----------------------------------|----------------------|-----------------------------------|
| <b>A</b>                | <b>B</b>         | <b>C</b>                               | <b>D</b>                             | <b>E</b>                          | <b>F</b>                           | <b>G</b>                              | <b>H</b>                         | <b>I</b>             | <b>J</b>                          |
| No:                     | Name of Employer | PESSA Registration Number for Employer | Employer SETA Code (Economic Sector) | Placement Opportunity Description | Placement Opportunity DoL-OFO Code | Date Placement Opportunity Registered | Rates of wages/ salaries offered | Special Requirements | Date Placement Opportunity Filled |
| 1.                      |                  |  |                                      |                                   |                                    |                                       |                                  |                      |                                   |
| 2.                      |                  |  |                                      |                                   |                                    |                                       |                                  |                      |                                   |
| 3.                      |                  |  |                                      |                                   |                                    |                                       |                                  |                      |                                   |

Note:- This register is to be kept and made available to an inspector at any time within three years after the occurrence of the event recorded.

**ANNEXURE 5  
SKILLS DEVELOPMENT ACT, 1998**

**REGULATION 3(3) and 5(2)**

**EMPLOYER PLACEMENT OPPORTUNITY REPORT**

Complete and submit the following table within 24 hours of a placement opportunities becoming available.

| Occupation Code as per DoL - OFO Code List | ESSA Registration Number for Employer | Employer SETA Code (Economic Sector) | No of Placement Opportunities Available |
|--|---------------------------------------|--------------------------------------|---|
| 1.   |                                       |                                      |   |
| 2.   |                                       |                                      |   |
| 3  |                                       |                                      |   |

Note:- This register is to be kept and made available to an inspector at any time within three years after the occurrence of the event recorded.



ANNEXURE 6  
SKILLS DEVELOPMENT ACT, 1998

**REGULATION 5(1)**  
**APPLICATION FOR THE ALLOCATION OF A LABOUR CENTRE**

Date: ..

The Director-General  
Department of Labour

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Address to most geographically relevant provincial office of the Department of Labour as per contact details in Annexure 7

**ATTENTION: DoL PROVINCIAL EXECUTIVE MANAGER**

**PROVINCE:** ..

I hereby apply for allocation of a Labour Centre in terms of section 23(3) of the Skills Development Act, 1998.

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**Particulars of Applicant**

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|                         |      |                 |      |     |       |    |
|-------------------------|------|-----------------|------|-----|-------|----|
| Title:                  | MrD  | MsD             | MrsD | DrD | ProfD |    |
|                         | AdvD | OtherD Specify: |      |     |       | .. |
| Initials:               |      |                 |      |     |       | .. |
| Full name of applicant: |      |                 |      |     |       | .. |
| Identity number:        |      |                 |      |     |       | .. |
| Designation:            |      |                 |      |     |       | .. |

Telephone number: .

Cellular phone number: " " " " .

E-Mail address: ..

|                               | Tick Relevant<br>Box          | Registration number |
|-------------------------------|-------------------------------|---------------------|
| Type of Entity:               |                               |                     |
| Proprietary Limited (Pty) Ltd | <input type="radio"/>         |                     |
| Close Corporation             | <input type="radio"/>         |                     |
| Sole Proprietor               | <input type="radio"/>         |                     |
| Trust                         | <input type="radio"/>         |                     |
| NGO                           | <input type="radio"/>         |                     |
| CBO                           | <input type="radio"/>         |                     |
| Co-operative                  | <input type="radio"/>         |                     |
| Other                         | <input type="radio"/> Specify |                     |

Registered name of Entity: .

Trading name of Entity: .

Physical address of Entity: .

Postal address of Entity: ..

..... ..Postal Code .

C: The following documents must be attached to the application forms

1. Institutional Registration Certificate (Company, CC, Coop etc)
2. Tax Compliance Certificate from SARS

Applicants can submit for consideration by the Director General a separate covering letter giving reasons why any of the above documents cannot be submitted.

APPLICATION FOR THE ALLOCATION TO A LABOUR CENTRE

Signature of applicant

Date

For Official Use:

ESSA Registration Number:

..

Recommended Labour Centre Allocation:

Signature:..... Date

..

DoL Provincial Executive Manager

Note:

A copy of this application once completed and approved by the DoL Provincial Executive Manager must be returned to the applicant with a copy also sent to the relevant Labour Centre Manager.

## ANNEXURE 7

## SKILLS DEVELOPMENT ACT, 1998

CONTACT DETAILS OF THE PROVINCIAL OFFICES OF THE  
DEPARTMENT OF LABOUR

|   |   |
|---|---|
| <p>1. Provincial Executive Manager<br/>Department of Labour<br/>Western Cape<br/>4<sup>th</sup> - 6<sup>th</sup> Floor Westbank House<br/>Cnr Rlebeeck and Long Street Cape<br/>Town<br/>CAPETOWN</p> | <p>Contact: Khuthala Mabece<br/>Tel: (021) 441 8113</p>       |
| <p>2. Provincial Executive Manager<br/>Department of Labour<br/>Northern Cape<br/>Markstead Building<br/>C/o Priel &amp; Compound Street<br/>KIMBERLEY</p>  | <p>Contact: Gaolahle Sefothlo<br/>Tel: (053) 8381500/6284</p> |
| <p>3. Provincial Executive Manager<br/>Department of Labour<br/>Free State<br/>National House<br/>C/o Maitland and West Burger Street<br/>BLOEMFONTEIN</p>  | <p>Contact: Wisane Mavasa<br/>Tel:(051) 505 6200/6284</p>     |
| <p>4. Provincial Executive Manager<br/>Department of Labour<br/>Gauteng South<br/>Annuity House<br/>18 Rissik Street<br/>JOHANNESBURG</p>   | <p>Contact: Katlego Tselapedi<br/>Tel: (011) 497 3218</p>     |

|   |   |
|---|---|
| <p>5. Provincial Executive Manager<br/>         Department of Labour<br/>         Gauteng North<br/>         Concillium Building<br/>         239 Skinner Street<br/>         PRETORIA</p>  | <p>Contact:<br/>         Molatelo Mathikithela<br/>         Tel: (012) 309 5136</p> |
| <p>6. Provincial Executive Manager<br/>         Department of Labour<br/>         Limpopo Province<br/>         42A Schoeman Street<br/>         POLOKWANE</p>  | <p>Contact: Joe Malia<br/>         Tel: (015) 2901606</p>                           |
| <p>7. Provincial Executive Manager<br/>         Department of Labour<br/>         Mpumalanga<br/>         Labour Building<br/>         Cla Hofmeyer Street and Beatty Avenue<br/>         WITBANK</p>                             | <p>Contact: Sekhothali Lerotholi<br/>         Tel: (013) 6558700</p>                |
| <p>8. Provincial Executive Manager<br/>         Department of Labour<br/>         North West<br/>         Provident House<br/>         2<sup>nd</sup> floor SEBO Building<br/>         University Drive<br/>         MMABATHO</p> | <p>Contact: Orpa Mathabe<br/>         Tel: (018) 3847916 X115</p>                   |

|   |  |
|---|--|
| 9. Provincial Executive Manager<br>Department of Labour<br>KwaZulu - Natal<br>Salmon Grove Chambers<br>407 Smith Street<br>DURBAN |  |
|   | Contact: Jay Anand<br>Tel: (031) 3361545       |
| 10. Provincial Executive Manager<br>Department of Labour<br>Eastern Cape<br>3 Hill Street<br>EAST LONDON                          |  |
|   | Contact: Siyanda Mhlaba<br>Tel: (043) 701 3079 |
|   |  |

## ANNEXURE 8

## SKILLS DEVELOPMENT ACT, 1998

## REGULATIONS REPEALED

| Government Notice No. | Date         | Title   | Extent of Repeal |
|-----------------------|--------------|---|------------------|
| R608                  | 13 June 2000 | Skills Development Act, 1998 (Act No.9? of1998)<br>Regulations with regard to private employment agencies | As a whole       |