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THE PRESIDENCY

No. 1292 1 December 2008

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

No. 37 of 2008: Skills Development Amendment Act, 2008.

IHHOVISI LIKAMONGAMELI

Ino. 1292 1 December 2008

Ngalokhu kwaziswa ukuthi uMongameli usewuvumile loMthetho nosewuzoshicilelelwa umphakathi:—

Ino. 37 Ka 2008: Umthetho wokuThuthukisa amaKhono oChibiyelayo, 2008.

GENERAL EXPLANATORY NOTE:

[ ] Words 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 27 November 2008.)

ACT

To amend the Skills Development Act, 1998, so as to define certain expressions; to broaden the purpose of the Act; to provide anew for the functions of the National Skills Authority; to provide anew for the composition of the National Skills Authority; to provide anew for the function of the SETAs, to provide for apprenticeships; to make further provision in respect of the implementation of employment services; to increase the quality and quantity of artisans; to repeal remaining sections of the current Manpower Training Act, 1981; to provide for Skills Development Institutes; to provide for the Quality Council for Trades and Occupations; to clarify the legal status of Productivity South Africa; to clarify the legal and governance status of the National Skills Fund; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 97 of 1998, as amended by section 23 of Act 9 of 1999 and section 1 of Act 31 of 2003

1. Section 1 of the Skills Development Act, 1998 (hereinafter referred to as the principal Act), is hereby amended by— 5

(a) the insertion before the definition of "Basic Conditions of Employment Act" of the following definitions:

" **'apprenticeship'** means a learnership in respect of a listed trade, and includes a trade-test in respect of that trade; 10

'artisan' means a person that has been certified as competent to perform a listed trade in accordance with this Act;

UMTHETHO WOKUTHUTHUKISA AMAKHONO OCHIBIYELAYO, 2008 **Act No. 37, 2008**

INCAZELO:

[ ] Amazwi acaciswe ngombhalo ogqamile akubakaki abayisikwele abonisa okukhishwayo kuMthetho osebenzayo.

Amazwi adwetshelwe ngomugqa ogqamile akhombisa okufakelwayo kuMthetho osebenzayo.

(English text signed by the President.)
(Assented to 27 November 2008.)

UMTHETHO

Ukuchibiyela uMthetho wokuThuthukiswa kwaMakhono, ka 1998, ukuze kuchazwe izisho ezithize ; ukwelula inhloso yoMthetho; ukuhlinzekela kabusha imisebenzi yeGunya likaZwelonke lokuThuthukisa aMakhono; ukuhlinzekela kabusha ukubumbeka kweGunya likaZwelonke lokuThuthukisa aMakhono; ukuhlinzekela kabusha ukusebenza kwama- SETA, ukuze kuhlinzekelwe abasaqeqeshelwa imisebenzi; ukwenza ezinye izihlinzeko maqondana nokuphunyeleliswa kwezinsizakalo zezokuqasha; ukwandisa isibalo nommongo wezingcweti; ukuchitha izigaba ezisasele zoMthetho wokuQeqesha Abasebenzi, 1981; ukuhlinzekela iziKhungo Zokuthuthukisa Amakhono; ukuhlinzekela uMkhandlu Wekhwalithi Kumikhakha Nemisebenzi; ukucacisa isimo sangokomthetho se- Productivity South Africa; ukucacisa isimo sangokomthetho nesokwenganyelwa kweSikhwama sikaZwelonke saMakhono; kanye nokuhlinzekela izindaba ezixhumene naloko.

AKUMISWE yiPhalamende laseRiphabhuliki yaseNingizimu Afrika, njengokulandelayo:—

Ukuchibiyelwa kwesigaba 1 soMthetho 97 ka 1998, njengokuchibiyelwa isigaba 23 soMthetho 9 ka 1999 nesigaba 1 soMthetho 31 ka 2003

1. Isigaba 1 soMthetho Wokuthuthukiswa Kwamakhono, 1998 (osekuyothi emva kwaloku sibizwe ngoMthetho oyinhloko) siyachibiyelwa kanje— 5

(a) ukushuthekwa ngaphambi kwencazelo "yoMthetho Wemibandela Eyisisekelo Yokuqashwa" kwalezi zincazelo:

" **'ukuqeqeshelwa umsebenzi'** kusho ukufundiswa ngaphansi komkhakha wokusebenza osohlwini, kanti kumbandakanya ukuhlolwa ngaphansi kwalowo mkhakha; 10

'ingcweti' kusho umuntu onesitifiketi esifakazisa ukuthi uwumpetha womsebenzi ngaphansi komkhakha othize osohlwini njengokwezihlinzeko zalo Mthetho;";

(b) the insertion after the definition of "Labour Court" of the following definitions:

" **'learner'** includes an apprentice;

'learnership' includes an apprenticeship;

'learning' means the acquisition of knowledge, understanding, values, skill, competence or experience;

'learning programme' includes a learnership, an apprenticeship, a skills programme and any other prescribed learning programme which includes a structured work experience component;";

(c) the insertion after the definition of "Minister" of the following definition:

" **'National Qualifications Framework'** means the National Qualifications Framework contemplated by the National Qualifications Framework Act, 2008;";

(d) the insertion after the definition of "NEDLAC" of the following definitions:

" **'occupational qualification'** means a qualification associated with a trade, occupation or profession resulting from work-based learning and consisting of knowledge unit standards, practical unit standards and work experience unit standards;

'Occupational Qualifications Framework' means the sub-framework for occupational qualifications which forms an integral part of the National Qualifications Framework;";

(e) the insertion before the definition of **"prescribed"** of the following definitions:

" **"placement"** means placing an individual in a placement opportunity, with due regard to the Code of Good Practice on the Integration of Employment Equity in Human Resources Policies and Practices in terms of the Employment Equity Act, 1998 (Act No. 55 of 1998);".

'placement opportunity' means any opportunity for work or learning that could be offered to an individual and includes a vacancy for employment, an opportunity for self-employment, a learning programme and community service;";

(f) the insertion after the definition of **"Public Finance Management Act"** of the following definition:

" **'QCTO'** means the Quality Council for Trades and Occupations established in terms of section 26G;";

(g) the insertion after the definition of **"regulation"** of the following definition:

" **'repealed Act'** means—

(i) the Manpower Training Act, 1981 (Act No. 56 of 1981);

(ii) any law repealed by the Manpower Training Act, 1981, and any law repealed by such an Act; and

(iii) any law listed in Schedule 1 to the Integration of Labour Laws Act, 1994 (Act No. 49 of 1994), dealing with training or skills development;";

(h) the insertion after the definition of **"skills development levies"** of the following definition:

" **'skills development provider'** means a provider of an occupational learning; and";

(i) the insertion after the definition of **"this Act"** of the following definition:

" **'trade'** means an occupation for which an artisan qualification is required in terms of section 26B;".

(b) ukushuthekwa ngemuva kwencazelo "iNkantolo Yezabasebenzi", kwalezi zincazelo ezilandelayo:

" **'umfundi'** kufaka oqeqeshelwa umsebenzi;

'ilenashiphu' kufaka ukuqeqeshelwa umsebenzi;

'ukufunda' kusho kuthola ulwazi, ukuqonda, ubuqotho, ikhono, ubumpetha noma isipiliyoni;

'uhlelo lokufunda' kufaka ilenashiphu, ukuqeqeshelwa umsebenzi, uhlelo lwezamakhono nanoma ikuphi okunye ukufunda okuyalelwe okumbandakanya ingxenye ehleliwe enikeza ithuba lokuba ufundwe ngokwenziwa umsebenzi;";

(c) ukushuthekwa ngemuva kwencazelo ka- "Ngqongqoshe" kwencazelo elandelayo:

" **'UHlaka Lukazwelonke Lokugogodela Imisebenzi'** kusho uHlaka lweZimfanelo zikaZwelonke olushiwo kuMthetho Wohlaka Lukazwelonke Wokugogodela Umsebenzi, ka 2008;";

(d) ukushuthekwa ngemuva kwencazelo ka- "NEDLAC" kwezincazelo ezilandelayo:

" **'ukugogodela umsebenzi'** kusho ukugogoda okuhambisana nomkhakha, umsebenzi noma ubungoti okutholakala ekuqeqeshweni okwesekwe ekuwenzeni umsebenzi futhi okuqukethe isilinganiso samazinga olwazi, isilinganiso samazinga ekhono lokuwenza umsebenzi, kanjalo nesilinganiso samazinga okuwenza umsebenzi;

'uHlaka Lwemisebenzi Efundelwayo' kusho isigatshana esimayelana nokufundelwa kwemisebenzi esiyingxenye esemqoka yoHlaka Lukazwelonke Lokugogodela Imisebenzi;";

(e) ukushuthekwa ngaphambi kwencazelo **"okuyalelwe"** kwezincazelo ezilandelayo:

" **'ukubutha'** kusho ukubeka umuntu ethubeni lokubhekelwa ngomsebenzi, kube kucatshangelwa kuMgomo Wokuziphatha Okuhle mayelana nokudidiyelwa kwenqubo Yokulinganiswa Emsebenzini kuZinqubo-Migomo Nezinkambiso Zezabasebenzi ngokoMthetho Wokuqashwa Ngokulingana, 1998 (Umthetho No. 55 ka 1998);

'ithuba lokuhuthwa' kusho noma iliphi ithuba lomsebenzi noma lokufunda elinganikezelwa kumuntu, kanti limbandakanya isikhala somsebenzi, ithuba lokuzisebenza, uhlelo lokufunda nokusebenzela umphakathi;";

(f) ukushuthekwa emva kwencazelo **"uMthetho Owengamele Ukuphathwa Kwezimali Zikahulumeni"** kwencazelo elandelayo:

" **'i- QCTO'** kusho i- Quality Council for Trades and Occupations - uMkhandlu Obhekele Ikhethelo Kumikhakha Nakumisebenzi owasungulwa ngokwesigaba 26G;";

(g) ukushuthekwa ngaphambi kwencazelo **"umthetho myalelo"** kwencazelo elandelayo:

" **'umthetho ochithiwe' kusho—**

(i) uMthetho wokuQeqeshwa Kwabasebenzi, 1981 (uMthetho 56 ka1981);

(ii) noma imuphi umthetho ochithwe uMthetho wokuQeqeshwa Kwabasebenzi, 1981 (uMthetho 56 ka1981) nanoma imuphi umthetho ochithwe uMthetho walolo hlobo; kanye

(iii) nanoma imuphi umthetho osoHlwini lukaSheduli 1 yoMthetho Wokudidiyelwa Kwemithetho Yezabasebenzi, 1994 (uMthetho 49 ka 1994) ophathelene nokuqeqeshwa noma ukuthuthukiswa kwamakhono;";

(h) ukushuthekwa emva kwencazelo **"intela yokuthuthukiswa kwamakhono"** kwencazelo elandelayo:

" **'nmhlinzeki wokuthuthukiswa kwamakhono'** kusho umhlinzeki oqeqeshela umsebenzi; kanye";

(i) nokushuthekwa emva kwencazelo ya- **"lo Mthetho"** kwencazelo elandelayo:

" **'umkhakha'** kusho umsebenzi odinga umuntu awufundele aze athole isitifiketi ngokwesigatshana 26B;".

Amendment of section 2 of Act 97 of 1998, as amended by section 23 of Act 9 of 1999

2. Section 2 of the principal Act is hereby amended by—

(a) the substitution in subsection (1) for paragraphs *(d)* and *(f)* of the following paragraphs:

"*(d)* to encourage workers to participate in **[learnership and other training]** learning programmes;

(f) to ensure the quality of **[education and training]** learning in and for the workplace;";

(b) the substitution for subsection (2) of the following subsection:

"(2) Those purposes are to be achieved **[by]** through—

(a) **[establishing]** an institutional and financial framework comprising—

(i) the National Skills Authority;

(ii) the National Skills Fund;

(iii) a skills development levy-financing scheme as contemplated in the Skills Development Levies Act;

(iv) SETAs;

(v) **[labour centres; and]** provincial offices of the Department;

(vi) **[the Skills Development Planning Unit;]** labour centres of the Department;

(vii) accredited trade test centres;

(viii) skills development institutes;

(ix) the Quality Council for Trades and Occupations;

(x) a skills development forum for each province;

(xi) a national artisan moderation body; and

(xii) Productivity South Africa;

(b) encouraging partnerships between the puhlic and private sectors of the economy to provide **[education and training]** learning in and for the workplace; and

(c) co-operating with the South African Qualifications Authority.".

Amendment of section 5 of Act 97 of 1998, as substituted by section 2 of Act 31 of 2003

3. Section 5 of the principal Act is hereby amended by—

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

"(1) The functions of the National Skills Authority are—

(a) to advise the Minister on—

(i) a national skills development policy;

(ii) a national skills development strategy;

(iii) guidelines on the implementation of the national skills development strategy;

(iv) the strategic framework and criteria for allocation of **[subsidies]** funds from the National Skills Fund; and

(v) any regulations to be made;

(b) to liaise with SETAs on—

(i) the national skills development policy;

(ii) the national skills development strategy; and

(iii) sector skills plans;

(c) to report to the Minister **[in the prescribed manner]** on the progress made in the implementation of the national skills development strategy;

Ukuchibiyelwa kwesigaba 2 soMthetho 97 ka 1998, njengokuchibiyelwa isigaba 23 soMthetho 9 ka 1999

2. Isigaba 2 soMthetho oyinhloko siyachibiyelwa kanje—

(a) kufakwe amaparagrafu alandelayo esikhundleni sika *(d)* no *(f)* abakusigatshana (1):

"*(d)* ukukhuthaza abasebenzi ukuhlanganyela **[kumalenashiphu nakwezinye]** izinhlelo**[zokuqeqeshwa]** zokufunda;

(f) ukuqinisekisa iqophelo **[lemfundo nokuqeqeshwa]** lokufunda emsebenzini nokuwufundela;";

(b) kufakwe isigatshana esilandelayo esikhundleni sesigatshana (2):

"(2) Lezo nhloso zizofezwa **[ngoku]** kanje—

(a) [ngokumisa] uhlaka lwezikhungo nolwezimali oluhlanganisa—

(i) iGunya likaZwelonke laMakhono;

(ii) iSikhwama sikaZwelonke saMakhono;

(iii) isikimu sokuthuthukisa amakhono esixhasa izibizontela njengoba sicatshangelwe kuMthetho weZibizontela wokuThuthukisa aMakhono;

(iv) amaSETA;

(v) **[izizinda zezabasebenzi; kanye]** namahhovisi oMnyango ezifundazaweni;

(vi) **[uHlangothi Lokulungiselela ukuThuthukisa aMakhono];** izizinda zezabasebenzi zoMnyango;

(vii) izizinda ezigunyaziwe zokuhlolwa kumikhakha;

(viii) izikhungo zokuthuthukisa amakhono;

(ix) uMkhandlu Wekhethelo Kumikhakha Nemisebenzi;

(x) isigcawu sezokuthuthukiswa kwamakhono soMnyango kuleso naleso sifundazwe;

(xi) Uhlaka lukazwelonke olumodereyitha izngcweti; kanye

(xii) n-e Productivity South Africa;

(b) ukukhutbaza ubambiswano phakathi kukahulumeni namabhizinisi azimele ukuze kuhlinzekwe **[imfundo nokuqeqesha]** ukufunda emsebenzini nokuwufundela; kanye

(c) nokusebenzisana neGunya Elengamele Ukugogoda laseNingizimu Afrika.".

Ukuchibiyelwa kwesigaba 5 soMthetho 97 ka 1998, njengokuchibiyelwa isigaba 2 soMthetho 31 ka 2003

3. Isigaba 5 soMthetho oyinhloko siyachibiyelwa kanje—

(a) kufakwa isigatshana esilandelayo esikhundleni sesigatshana (1):

"(1) Imisebenzi yeGunya Likazwelonke laMakhono yile—

(a) ukweluleka uNgqongqoshe—

(i) ngenqubomgomo kazwelonke yokuthuthukiswa kwamakhono;

(ii) ngesumgomo likazwelonke lokuthuthukiswa kwamakhono;

(iii) ngemihlahlandlela ngokuphunyeleliswa kwesumgomo lokuthuthukisa amakhono likaZwelonke;

(iv) ngohlaka lwesumgomo nemibandela ebekelwe ukwabiwa kwemali **[koxhaso]** okubuya kuSikhwama sikaZwelonke saMakhono; kanye

(v) nanganoma imiphi imithetho miyalelo esazonqunywa;

(b) Ukuxoxisana namaSETA maqondana—

(i) nenqubomgomo kazwelonke yokuthuthukiswa kwamakhono;

(ii) nesumgomo likazwelonke lokuthuthukiswa kwamakhono; kanye

(iii) namasu amakhono kumikhakha;

(c) ukubikela uNgqongqoshe **[ngendlela eyalelwe]** ngebanga eselihanjiwe ekuphumeleliseni isumgomo likazwelonke lokuthuthukiswa kwamakhono;

(d) to conduct investigations on any matter arising out of the application of this Act; **[and]**

(dA) to liaise with the QCTO on occupational standards and qualifications; and

(e) to exercise any other powers and perform any other duties conferred or imposed on the Authority by this Act."; and

(b) the addition of the following subsection:

"(4) Subsection (1)*(a)*(iv) does not apply to regulations in respect of which the Minister is required to consult with the QCTO or Productivity South Africa.".

Amendment of section 6 of Act 97 of 1998, as substituted by section 3 of Act 31 of 2003

4. Section 6 of the principal Act is hereby amended by—

(a) the substitution in subsection (1) for paragraph *(b)* of the following paragraph:

"*(b)* 24 voting and **[five]** six non-voting members appointed by the Minister";

(b) the substitution in subsection (2) for paragraph *(e)* of the following paragraph:

"*(e)* four voting members appointed by the Minister to represent the interests of education and **[training]** skills development providers;".

(c) the substitution in subsection (2) for paragraphs *(f)* and *(g)* of the following paragraphs:

"*(f)* two non-voting members, who have expertise in the provision of employment services, appointed by the Minister; **[and]**

(g) a non-voting member nominated by the South African Qualifications Authority and appointed by the Minister **[to represent that Authority.]**;";

(d) the addition to subsection (2) of the following paragraph:

"*(h)* a non-voting member nominated by the QCTO and appointed by the Minister.";

(e) the substitution for subsection (3) of the following subsection:

"(3) The Minister must designate **[four]** five members as deputy chairpersons, one deputy chairperson each from the members to be appointed to represent—

(a) organised labour;

(b) organised business;

(c) organisations of community and development interests; **[and]**

(d) the interests of the State; and

(e) education and skills development providers.";

(f) the substitution for subsection (4) of the following subsection:

"(4) A member of the Authority holds office for a period of **[three]** five years and is eligible for re-appointment on expiry of his or her term of office, but may not serve more than two consecutive terms of office."; and

(g) the substitution for subsection (7) of the following subsection:

"(7) If the chairperson or a member of the Authority vacates office before the expiry of the period of office, the Minister must, in terms of subsection 1*(a)* or (2), respectively, appoint a new chairperson or member, as the case may be, for the unexpired portion of that period within 90 days.".

Amendment of section 10 of Act 97 of 1998

5. Section 10 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) A SETA must, in accordance with any requirements that may be prescribed—

(d) ukuphenya nganoma iluphi udaba olulandela ukusetshenziswa kwalo Mthetho; **[kanye]**

(dA) nokubonisana ne QCTO ngamazinga asekusebenzeni nawokugogoda; kanye

(e) nokusebenzisa noma imaphi amanye amandla nokugcina noma iziphi ezinye izibopho ezinikwe noma zethweswa iGunya ngokwalo Mthetho.";

(b) ukwengezwa kwesigatshana esilandelayo:

"(4) Isigatshana 1 *(a)*(iv) asisebenzi kumithetho miyalelo edinga ukuthi Ungqongqoshe abonisane ne QCTO kumbe i- Productivity South Africa.".

Ukuchibiyelwa kwesigaba 6 soMthetho 97 ka 1998, njengokufakwa esikhundleni saso kwesigaba 3 soMthetho 31 ka 2003

4. Isigaba 6 soMthetho oyinhloko siyachibiyelwa kanje—

(a) kufakwe iparagrafu elilandelayo esikhundleni sika paragrafu *(b)* kusigatshana (1):

"*(b)* amalungu angama- 24 avotayo kanye nayisi- **[hlanu]** thupha angavoti aqokwe uNgqongqoshe";

(b) kufakwe iparagrafu elilandelayo esikhundleni sika paragrafu *(e)* kusigatshana (2):

"*(e)* amalungu amane avotayo aqokwe uNgqonqgoshe azomela izintshisekelo kwezemfundo **[nokuqeqeshwa]** abahlinzeki bokuthuthukiswa kwamakhomo;".

(c) kufakwe amaparagrafu alandelayo esikhundleni sama paragrafu *(f)* no *(g)* kusigatshana 2:

"*(f)* amalungu amabili angavoti, angongoti bezokuhlwaya abasebenzi, aqokwe nguNgqongqoshe; **[kanye]**

(g) nelungu elilodwa elingavoti eliphakanyiswe iGunya leZimfanelo laseNingizimu Afrika laqokwa nguNgqongqoshe **[ukumela lelo Gunya.]**;";

(d) kwengezwe iparagrafu elilandelayo kusigatshana (2):

"*(h)* ilungu elingavoti eliphakanyiswe yi QCTO lase liqokwa uNgqongqoshe.";

(e) ukufakwa kwesigatshana esilandelayo esikhundleni sesigatshana (3):

"(3) uNgqongqoshe kufanele ajube amalungu **[amane]** amahlanu njengamaphini kasihlalo; iphini likasihlalo ngalinye kumalungu aqokelwe ukumela—

(a) izinyonyana zabasebenzi;

(b) izinhlangano zabaqashi;

(c) izinhlangano ezithinteka ngezintshisekelo zomphakathi nentuthuko; **[kanye]**

(d) nezintshisekelo zoMbuso; kanye

(e) nabahlinzeki bemfundo nokuthuthukiswa kwamakhono.";

(f) ukufakwa kwesigatshana esilandelayo esikhundleni sesigatshana (4):

"(4) Ilungu eGunya liba sesikhundleni isikhathi esiyiminyaka **[emithathu]** emihlanu kanti lisenokukhethelwa kuso leso sikhundla ekupheleni kwesikhathi sokuba sesikhundleni, kodwa akufanele abe sesikhundleni ngaphezu kweziwombe ezimbili zilandelana."; kanye

(g) nokufakwa kwesigatshana esilandelayo esikhundleni sesigatshana (7):

"(7) Uma usihlalo noma ilungu leGunya lishiya esikhundleni isikhathi sokuyeka singakafiki, uNgqongqoshe kufanele kuthi, ngokwesigatshana 1*(a)* noma (2) ngokulandelana, aqoke usihlalo noma ilungu elisha, lokho okuyobe kudingeka ngaleso sikhathi, maqondana nengxenye esasele yesiwombe sokusebenza zingakapheli izinsuku ezingama- 90.

Ukuchibiyelwa kwesigaba 10 soMthetho 97 ka 1998

5. Isigaba 10 soMthetho oyinhloko siyachibiyelwa ngokufakwa kwesigatshana esilandelayo esikhundleni sesigatshana (1)—

"(1) I-SETA kufanele, kuthi ngokuhambisana nanoma iziphi izimfuno ezingayalelwa—

(a) develop a sector skills plan within the framework of the national skills development strategy;

(b) implement its sector skills plan by—

(i) establishing **[learnerships]** learning programmes;

(ii) approving workplace skills plans and annual training reports;

(iii) allocating grants in the prescribed manner and in accordance with any prescribed standards and criteria to employers, education and **[training]** skills development providers and workers; and

(iv) monitoring education and **[training]** skills development provision in the sector;

(c) promote **[learnerships]** learning programmes by—

(i) identifying workplaces for practical work experience;

(ii) supporting the development of learning materials;

(iii) improving the facilitation of learning; and

(iv) assisting in the conclusion of **[learnership]** agreements for learning programmes, to the extent that it is required;

(d) register **[learnership]** agreements for learning programmes, to the extent that it is required;

(e) **[within a week from its establishment, apply to the South African Qualifications Authority for accreditation as a body contemplated in section 5(1)*(a)*(ii)*(bb)* and must, within 18 months from the date of that application, be so accredited]** perform any functions delegated to it by the QCTO in terms of section 26I;

(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;

(g) liaise with the National Skills Authority on—

(i) the national skills development policy;

(ii) the national skills development strategy; and

(iii) its sector skills plan;

(h) submit to the Director-General—

(i) any budgets, reports and financial statements on its income and expenditure that it is required to prepare in terms of the Public Finance Management Act; and

(ii) strategic plans and reports on the implementation of its **[sector skills plan and]** service level agreement;

(i) liaise with the **[employment services]** provincial offices and labour centres of the Department and any education body established under any law regulating education in the Republic to improve information—

(i) about **[employment]** placement opportunities; and

(ii) between education and **[training]** skills development providers and the labour market;

*(i*A*)* liaise with the skills development forums established in each province in such manner and on such issues as may be prescribed;

(j) subject to section 14, appoint staff necessary for the performance of its functions;

*(j*A*)* promote the national standard established in terms of section 30B; **[and]**

*(j*B*)* liaise with the QCTO regarding occupational qualifications; and

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

(a) ithuthukise isu lamakhono kumikhakha ngaphansi kohlaka lwesumgomo likaZwelonke lokuthuthukiswa kwamakhono;

(b) iphumelelise isu layo lamakhono kumikhakha—

(i) ngokumisa **[amalenashiphu]** izinhlelo zokufunda;

(ii) ngokugunyaza amasu amakhono asendaweni yomsebenzi kanye nemibiko yonyaka yokuqeqesha;

(iii) ngokwaba izibonelelo ngendlela enqunyiwe nangokuhambisana nanoma imaphi amazinga nemibandela eyalelwe, kubaqashi, abahlinzeki nabasebenzi bemfundo **[nokuqeqeshwa]** nokuthuthukiswa kwamakhono; kanye

(iv) nangokuqapha ukuhlinzekwa kwemfundo **[nokuqeqeshwa]** nokuthuthukiswa kwamakhono kumkhakha;

(c) igqugquzele **[amalenashiphu]** izinhlelo zokufunda—

(i) ngokuhlonza izindawo zomsebenzi okuzothekelwa kuzo ulwazi lomsebenzi ngokuwenza;

(ii) ngokwesekela ukuthuthukiswa kwezinsiza kufunda;

(iii) ngokuphucula izinhlelo ezelekelela ukufunda; kanye

(iv) nangokusiza ekwenziweni kwezivumelwano **[zamalenashiphu]** zezinhlelo zokufunda kangangoba kungadingeka;

(d) irejiste izivumelwano **[zamalenashiphu]** zezinhlelo zokufunda kangangoba kungadingeka;

(e) **[kuthi kungapheli isonto isunguliwe, ifake isicelo kwiGunya leZimfanelo laseNingizimu Afrika lokugunyazwa njengomgwamanda oshiwo kusigaba 5(1)*(a)*(ii)*(bb)*, kanti kufanele kuthi zingakapheli izinyanga ezili- 18 kusuka ngosuku lokufakwa kwaleso sicelo, isithole isigunyaziso leso]** yenze noma imiphi imisebenzi eyethweswe yi- QCTO ngokwesigaba 26I;

(f) uma kudingeka yenze njalo njengokucatshangelwe kusigaba 7(1) soMthetho weziBizontela zokuThuthukiswa kwaMakhono, iqoqe izibizontela zokuthuthukiswa kwamakhono, futhi kufanele iziphake izibizontela, eyabelwe zona njengokwezigaba 8(3)*(b)* no 9*(b)*, emkhakheni wayo;

(g) ixoxisane neGunya lika Zwelonke laMakhono mayelana—

(i) nenqubomgomo kazwelonke yokuthuthukiswa kwamakhono;

(ii) nesumgomo likazwelonke lokuthuthukisa amakhono; namayelana

(iii) nesu layo lamakhono kumkhakha;

(h) yethule kumQondisi-Jikelele—

(i) noma iziphi izabelo mali, imibiko nezitatimende zemali zongeniso mali nezindleko zayo okudingeka ikulungise njengokoMthetho Owengamele Izimali Zikahulumeni; kanye

(ii) namasumgomo nemibiko ephathelene nokuphunyeleliswa **[kwesu layo lamakhono kumkhakha kanye]** nesivumelwano sezinga lokwethulwa kwezinkonzo zayo;

(i) ixoxisane **[nezinkonzo zokuqashwa kwabasebenzi]** namahhovisi asezifundazweni nezizinda zezabasebenzi koMnyango nanoma iluphi olunye uhlaka lwezemfundo olumiswe ngaphansi kwanoma imuphi umthetho olawula ezemfundo eRiphabhuliki ukuphucula ukwaziseka—

(i) ngamathuba **[okuqashwa]** okubuthelwa umsebenzi; kanye

(ii) naphakathi kwabahlinzeki mfundo **[nokuqeqeshwa]** nokuthuthukiswa kwamakhono kanye nemakethe yabasebenzi;

(iA) ixoxisane nezigcawu zokuthuthukiswa kwamakhono ezimiswe kuleso naleso sifundazwe ngaleyo ndlela nangalezo zindaba njengokungase kuyalelwe;

(j) kuthi ngokuhambisana nesigaba 14, iqashe abasebenzi abadingakalayo ukuze ifeze imisebenzi yayo;

(jA) iqhakambise izinga likazwelonke elisungulwe ngokwesigaba 30B; **[futhi]**

(jB) ixoxisane neQCTO mayelana nokufundela noqeqeshelwa umsebenzi; futhi

(k) yenze noma imiphi eminye imisebenzi eyethweswe yilo Mthetho noma uMthetho Wezibizontela Zokuthuthukisa Amakhono noma ehambisana nezinhloso zalo Mthetho.".

Substitution of section 16 of Act 97 of 1998

6. The following section is substituted for section 16 of the principal Act:

"**Learnerships**

16. A SETA may establish a learnership if—

(a) the learnership **[consists of]** includes a structured learning component; 5

(b) the learnership includes **[practical]** a structured work experience **[of a specified nature and duration]** component;

(c) the learnership would lead to a qualification registered by the South African Qualifications Authority **[and related to an]** associated with a trade, occupation or profession; and 10

(d) the intended learnership is registered with the Director-General in the prescribed manner.".

Amendment of section 17 of Act 97 of 1998

7. Section 17 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection: 15

"(1) For the purposes of this Chapter, a 'learnership agreement' means an agreement entered into for a specified period between—

(a) a learner;

(b) an employer or a group of employers (in this section referred to as 'the employer'); and 20

(c) a **[training]** skills development provider accredited by **[a body contemplated in section 5(1)*(a)*(ii)*(bb)* of the South African Qualifications Authority Act]** the QCTO or group of such **[training]** skills development providers;";

(b) by replacing the words **"training provider"** with **"skills development provider"**, where they appear in subsections (2)*(c)* and (5); 25

(c) by the deletion in subsection (7) of the word "and" at the end of paragraph *(a)*;

(d) by the addition to subsection (7) of the following paragraphs:

"*(c)* prescribing the requirements for registering an agency contemplated in paragraph *(a)*; and 30

(d) making it an offence to operate an agency contemplated in paragraph *(a)* except in accordance with such regulations.".

Substitution of heading to Chapter 6 of Act 97 of 1998

8. The following heading is hereby substituted for the heading to Chapter 6:

"**INSTITUTIONS IN DEPARTMENT OF LABOUR AND [REGULATION OF PRIVATE] EMPLOYMENT SERVICES [AGENCIES]**". 35

Substitution of section 22 of Act 97 of 1998

9. The following section is hereby substituted for section 22 of the principal Act:

"**[Skills Development Planning Unit] Administration of Act by Department** 40

22. (1) Subject to the laws governing the public service, the Director-General must**[—**

(a) **establish a Skills Development Planning Unit in the Department; and]**

(b) **provide the Unit with]** ensure that the Department, including its provincial offices and labour centres, has the personnel and financial resources necessary for the performance of its functions in terms of this Act. 45

Ukufakwa kwesinye isigaba esikhundleni sesigaba 16 soMthetho 97 ka 1998

6. Kufakwa isigaba esilandelayo esikhundleni sesigaba 16 soMthetho oyinhloko—

"**Amalenashiphu**

16. I- SETA inokusungula ilenashiphu uma—

(a) ilenashiphu **[yakhiwe]** ibandakanya ingxenye ehlelekile yokufunda;

(b) ilenashiphu ihlanganisa **[okwenziwayo]** ingxenye ehlelekile yokuwufunda ngokuwenza umsebenzi **[wohlobo oluthize nesikhathi esinqunyiwe]**;

(c) ilenashiphu inokuholela ekutholakaleni kweziqu ezirejistwe iGunya leZimfanelo laseNingizimu Afrika **[nezihambisana]** ezixhumana nomkhakha othize, umsebenzi noma ubungoti; futhi

(d) ilenashiphu ehlosiwe ibe irejistiwe nomQondisi-Jikelele ngendlela enqunyiwe.".

Ukuchibiyelwa kwesigaba 17 soMthetho 97 ka 1998

7. Isigaba 17 soMthetho oyinhloko siyachibiyelwa kanje—

(a) ngokufaka isigatshana esilandelayo esikhundleni sesigatshana (1)—

"(1) Ngokwezinhloso zalesi Sahluko, 'isivumelwano selenashiphu' kusho isivumelwano okungenwe kuso isikhathi esibaluliwe esiphakathi—

(a) komfundi;

(b) komqashi noma iqoqo labaqashi (kulesi sigaba ababizwa ngo 'mqashi');futhi

(c) umhlinzeki **[kuqeqeshwa]** kuthuthukiswa kwamakhono ogunyazwe **[umgwamanda oshiwo kusigaba 5(1)*(a)*(ii)*(bb)* seGunya leZimfanelo laseNingizimu Afrika]** i-QCTO, noma iqoqo lalabo bahlinzeki **[luqeqesho]** kuthuthukiswa kwamakhono."

(b) ngokufaka amagama athi **"umhlinzeki kuthuthukiswa kwamakhono"** esikhundleni salawa athi **"umhlizeki kuqeqeshwa"** lapho ebonakala khona kuzigatshana 2*(c)* no 5;

(c) ngokukhihswa kwegama elithi 'kanye' ekupheleni kuka paragrafu *(a)*;

(d) ngokwengeza iparagrafu elilandelayo kusigatshana (7):

"*(c)* ngokunquma izimfuno zokurejistwa kwehhovisi elishiwo kusigaba *(a)*; kanye

(d) nokukwenza kube icala ukusebenza kwehhovisi elishiwo kusigaba *(a)* ngaphandle uma ukwenze njalo kuhambisana nemithetho miyalelo ebekiwe.".

Ukufakwa kwesinye isihloko sesahluko 6 soMthetho 97 ka 1998

8. Kufakwa isihloko esilandelayo kuSahluko 6 esikhundleni kwaleso esikhona—

"**IZIKHUNGO KUMNYANGO WEZEMISEBENZI KANYE [NOKULAWULWA KWAMAHHOVISI AZIMELE] OKUHLWAYWA KWABASEBENZI.**"

Ukufakwa kwesinye isigaba esikhundleni sesigaba 22 soMthetho 97 ka 1998

9. Ngalokhu, kufakwa isigaba esilandelayo esikhundleni sesigaba 22 soMthetho oyinhloko—

"**[uHlangothi lokuhlelela Ukuthuthukiswa Kwamakhono] Ukuphathwa koMthetho uMnyango**

22. (1) Ngokuhambisana nemithetho eyengamele imisebenzi kahulumeni, umQondisi-Jikelele kufanele **[—**

(a) **asungule uHlangothi lokuhlelela Ukuthuthukiswa Kwamakhono kuMnyango; futhi]**

(b) **aluhlinzeke uHlangothi]** aqinisekise ukuthi uMnyango, kumbandakanya amahhovisi awo asezifundazweni kanye nezizinda zawo

(2) The functions of the **[Skills Development Planning Unit]** Department in terms of this Act are—

(a) to research and analyse the labour market in order to determine skills development needs for—
  (i) South Africa as a whole;
  (ii) each sector of the economy; and
  (iii) organs of state;

(b) to assist in the formulation of—
  (i) the national skills development strategy; and
  (ii) sector skills development plans; and

(c) to provide information on skills to—
  (i) the Minister;
  (ii) the National Skills Authority;
  (iii) SETAs;
  (iv) education and **[training]** skills development providers;**[and]**
  (v) organs of the state;
  (vi) the skills development forums in each province;
  (vii) the QCTO; and
  (viii) any other interested party; and

(d) to perform any other function assigned or delegated to the Department in terms of this Act.".

Amendment of section 23 of Act 97 of 1998

10. Section 23 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections, respectively:

"(1) **[Subject to the laws governing the public service, the Director-General must—**

(a) **establish labour centres in the Department; and**

(b) **appoint such number of persons in the public service at each centre as is necessary to perform the functions of that centre.]** The functions of provincial offices of the Department in respect of employment services are—
  (a) to plan, coordinate, support, monitor and report on all activities occurring at all labour centres;
  (b) to establish a skills development forum as prescribed;
  (c) to maintain a data-base of skills development providers within their jurisdiction; and
  (d) to perform any other prescribed or delegated function.

(2) The functions of **[those]** the labour centres of the Department in respect of employment services are—

(a) to provide **[employment services for]** information to workers, employers and **[training]** skills development providers, including **[improvement of such services to rural communities]** the unemployed;

(b) to register work-seekers;

(c) to register **[vacancies and work]** placement opportunities;

(d) to assist workers and other prescribed categories of persons—
  (i) to enter **[special education and training]** learning programmes;
  (ii) to find **[employment]** placement opportunities;
  (iii) to start income-generating projects; and
  (iv) to participate in **[special employment]** placement programmes; **[and]**

(e) **[to perform any other prescribed function related to the functions referred to in paragraph *(a)* to *(d)*]** to develop plans, programmes and coherent strategies to extend services to rural communities; and

zezabasebenzi unabasenzi nemali eyenele okudingekela ukwenziwa komsebenzi wawo ngokwalo Mthetho.

(2) Imisebenzi **[yoHlaka oluhlelela Ukuthuthukiswa Kwamakhono]** yoMnyango, ngaphansi kwalo Mthetho ilena—

(a) ukucwaninga nokuhlaziya imakethe yomsebenzi ukuze kutholakale ukuthi yiziphi izidingo zokuthuthukisa amakhono—
(i) eNingizimu Afrika yonkana;
(ii) kumkhakha ngamunye womnotho; kanye
(iii) nakuziNhlaka Zombuso;

(b) ukusiza ekwakhiweni—
(i) kwesumgomo likazwelonke lokuthuthukisa amakhono; kanye
(ii) namasu okuthuthukisa amakhono kumikhakha; kanye

(c) nokuhlinzeka imininingwane ephathelene namakhono—
(i) kuNgqongqoshe;
(ii) kwiGunya laMakhono likaZwelonke;
(iii) kumaSETA;
(iv) kubahlinzeki **[bemfuudo]** bokuqeqeshwa kumakhono; **[kanye]**
(v) kuzinhlaka zombuso;
(vi) kuizigcawu zokuthuthukisa amakhono kuleso naleso sifundazwe;
(vii) ku- QCTO; kanye
(viii)nanoma iziphi ezinye izinhlaka ezinentshisekelo; kanye

(d) nokwenza noma yimuphi umsebenzi okuyalelwe ukuba wenziwe uMnyango ngaphansi kwalo Mthetho.".

Ukuchibiyelwa kwesigaba 23 soMthetho 97 ka 1998

10. Isigaba 23 soMthetho oyinhloko siyachibiyelwa ngokuthi kufakwe izigatshana ezilandelayo esikhundleni sezigatshana (1) no (2) ngokulandelana kwazo—

(1) **[Ngokuhambisana neMithetho elawula ukusebenza kukahulumeni, uMqondisi-Jikelele kufanele—**

(a) **asungule izizinda zezabasebenzi kuMnyango; futhi**

(b) **aqashe inani elidingekayo labasenzi kuleso naleso sizinda ukuze kwenziwe imisebenzi yaleso sizinda.]** Imisebenzi yamahhovisi oMnyango asezifundazweni mayelana nezinsizakalo zokuqahswa kwabasebenzi ilezi—

(a) ukuhlela, ukudidiyela, ukweseka, ukuqapha nokubika ngako konke okwenzekayo kuzizinda zezabasebenzi;

(b) ukusungula isigcawu sokuthuthukiswa kwamakhono njengoba kuyalelwe;

(c) ukugcina iqoqo lemininingwane yabahlinzeki bokuthuthukiswa kwamakhono kumingcele abayibekelwe umthetho; kanye

(d) nokwenza noma imuphi omunye umsebenzi oyalelwe.

(2) Imisebenzi **[yalezo]** zizinda zezabasebenzi zoMnyango ephathelene nokuqashwa kwabasebenzi ilena—

(a) ukuhlinzeka **[insizakalo yokuqashwa]** imininingwane kubasebenzi, abaqashi, nakubahlizeki **[bokuqeqeshwa]** bokuthuthukiswa kwamakhono, kumbandakanya **[ukuphucula lezo zinsizakalo kumiphakathi yasemaphandleni]** abangasebenzi;

(b) ukurejista abafuna umsebenzi;

(c) ukurejista **[izikhala zomsebenzi nawo umsebenzi]** amathuba okubuthelwa umsebenzi;

(d) ukusiza abasebenzi kanye nezinye izinhlobo zabantu eziyalelwe—
(i) ukuba bangene **[emfundweni nasekuqeqeshweni okukhethekile]** kuzinhlelo zokufunda;
(ii) ukuba bathole amathuba **[okuqashwa]** okubuthelwa umsebenzi;
(iii) ukuba baqale amaphrojeki azongenisa imali; futhi
(iv) bahlanganyele kuzinhlelo **[ezikhethekile zokuqashwa]** zokubuthelwa umsebenzi; **[kanye]**

(e) **[nokwenza noma imuphi omunye umsebenzi oyalelwe oxhumene nemisebenzi okukhulunywa ngayo ku paragrafu *(a)* kuya ku *(d)*]** ukuthuthukisa amasu, izinhlelo kanye namasu mgomo asimeme okwelulela izinsizakalo zezabasebenzi kumiphakathi yasemaphandleni; kanye

(f) to perform any other prescribed function related to the functions referred to in paragraphs *(a)* to *(e)*.".

Insertion of sections 26A to 26M in Act 97 of 1998

11. The following sections are hereby inserted in the principal Act after section 26:

"**CHAPTER 6A**

ARTISAN DEVELOPMENT

National artisan moderation body

26A. (1) The Director-General must—

(a) establish a national artisan moderation body in the Department; and

(b) provide the body contemplated in paragraph *(a)* with the personnel and financial resources that are necessary to coordinate artisan development in the Republic.

(2) The functions of the national artisan moderation body are to—

(a) monitor the performance of accredited artisan trade test centres;

(b) moderate artisan trade tests;

(c) develop, maintain and apply a national data-bank of instruments for assessment and moderation of artisan trade tests;

(d) develop and maintain a national data-base of registered artisan trade assessors and moderators;

(e) record artisan achievements;

(f) determine appeals against assessment decisions;

(g) recommend the certification of artisans to the QCTO; and

(h) perform any other prescribed function.

Listing of trades

26B. The Minister may, on application by one or more SETAs in the prescribed form, by notice in the *Gazette*—

(a) list any occupation as a trade for which an artisan qualification is required;

(b) remove any trade from the list contemplated in subparagraph *(a)* if an artisan qualification is no longer required for that trade.

National register of artisans

26C. (1) The Director-General must maintain a register of persons—

(a) who have obtained an artisan qualification in terms of this Act or any repealed Act; and

(b) who are practicing that trade.

(2) *(a)* No person, whether employed or self-employed, may hold themselves out to be qualified as an artisan in a listed trade unless that person is registered as an artisan in terms of subsection (1).

(b) Paragraph *(a)* does not affect any requirement that any professional or regulatory body regulating any listed trade may require for the practice of that trade.

(3) For the purpose of this section, a person qualified to be an artisan in terms of any repealed Act includes any person who completed a contract of apprenticeship under a time-based apprenticeship system in terms of any conditions of apprenticeship published in terms of any repealed Act.

(4) The Minister may make regulations concerning—

(f) nokwenza nanoma imuphi omunye umsebenzi oxhumene nemisebenzi eshiwo kuma paragrafu *(a)* kuya ku *(e)*.".

Ukushuthekwa kwezigaba 26A kuya ku 26M kuMthetho 97 ka 1998

11. Kushuthekwa izigaba ezilandelayo kuMthetho oyinhloko emva kwesigaba 26:

"ISAHLUKO 6A 5

UKUTHUTHUKISWA KWEZINGCWETI

uHlaka lukaZwelonke lokumodereyithwa kwezingcweti

26A. (1) uMqondisi- Jikelele kufanele—

(a) asungule uhlaka lukazwelonke lokumodereyithwa kwezingcweti kuMnyango; futhi; 10

(b) aluhlinzeke lolu hlaka olushiwo kuparagrafu *(a)* ngabasebenzi nemali okudingekayo ukudidiyela ukuthuthukiswa kwezingcweti eRiphabhuliki.

(2) Imisebenzi yohlaka lukazwelonke lokumodereyithwa kwezingcweti— 15

(a) ukuqapha ukusebenza kwezizinda ezigunyaziwe zokuhlola ulwazi lwemisebenzi kongoti;

(b) ukumodereyitha izivivinyo zokuhlola izingcweti kumikhakha yazo;

(c) ukwenza, ukugcina nokusebenzisa inqolobane kazwelonke yezinsiza maqondana nokuhlola nokumodereyitha izivivinyo zezingcweti; 20

(d) ukwakha nokugcina iqoqo likazwelonke labahloli namamodereyitha arejistiwe ezingcweti;

(e) ukuqopha izimpumelelo zezingcweti;

(f) ukubhekela izikhalazo ngezinqumo zokuhlolwa;

(g) ukwenza izincomo mayelana nokunikwa kwengcweti isitifiketi kuQCTO; kanye 25

(h) nokwenza noma imuphi omunye umsebenzi oyalelwe.

Ukubhaliswa kwemisebenzi yolwazi ohlwini

26B. Ungqongqoshe, kungathi ngokwesicelo esifakwe i-SETA eyodwa noma ngaphezulu ngendlela eyalelwe, afake isaziso ku*Gazethi*— 30

(a) afake noma imuphi umsebenzi ohlwini lwemikhakha edinga isitifiketi sobungcweti ukuze wenziwe;

(b) asuse noma imuphi umkhakha wokusebenza ohlwini okushiwo kusigatshana *(a)* uma ukugogoda kobungcweti bungasadingeki kulowo mkhakha. 35

Irejista kazwelonke yezingcweti

26C. (1) uMqondisi- Jikelele kufanele agcine irejista yabantu—

(a) abathole ukuqeqeshelwa ubungcweti ngokwalo Mthetho nangokwanoma imuphi omunye uMthetho ochithiwe; kanye

(b) nalabo abasenza ngaphansi kwalowo mkhakha. 40

(2) *(a)* Akukho muntu, osebenzayo noma ozisebenzayo, ongazibika ukuthi uqeqeshiwe njengengcweti kuluhlu lwemikhakha ngaphandle uma lowo muntu erejistiwe njengengcweti ngokwesigatshana (1).

(b) uParagrafu *(a)* akanamthintela kuzidingo ezingafunwa inoma imuphi umgwamanda wezazimkhakha kumbe olawula noma imuphi umkhakha osohlwini ukuze kusetshenzwe ngaphansi kwalowo mkhakha. 45

(3) Ngokwenhloso yalesi sigaba, umuntu ogogodile waba ingcweti ngaphansi kwanoma imuphi uMthetho ochithiwe, umbandakanya noma imuphi umuntu ophothule inkontilaki yakhe yokuqeqeshelwa umsebenzi ngaphansi kohlelo olubekelwe isikhathi ngokwanoma imiphi imibandela yokuqeqeshelwa umsebenzi emernezelwe ngaphansi komthetho ochithiwe. 50

(4) UNgqongqoshe angenza imithetho miyalelo mayelana—

(a) the criteria and procedure for the name of any person to be included on, or removed from, the register of artisans;

(b) any other matter necessary for maintaining the register of artisans.

Trade tests

26D. (1) Subject to any regulation made in terms of subsection (5), no person may obtain an artisan qualification in terms of this Act unless they have successfully undergone a trade test administered by an accredited trade test centre.

(2) A person may apply to undergo a trade test in respect of a trade if—

(a) that person has completed a learnership relevant to that trade; or

(b) that person has satisfied the relevant requirements of an apprenticeship in respect of that trade; or

(c) an accredited trade test centre has certified that the person has acquired sufficient prior learning related to that trade; and

(d) that person has completed any other learning programme resulting in an occupational or vocational qualification inclusive of prescribed work experience that entitles such person to undergo the relevant trade test.

(3) An accredited trade test centre may require any person who applies to undergo a trade test to undergo a preliminary evaluation to determine whether that person has sufficient experience and knowledge in respect of the trade in question to undergo the trade test.

(4) The QCTO must issue any person who successfully completed a trade test with a trade certificate in the prescribed form, stating that that person is qualified to perform the trade specified in the certificate.

(5) The Minister, after consulting the QCTO, may make regulations concerning—

(a) the procedure for applying to undergo a trade test;

(b) the criteria for determining whether a learner should be required to undergo a preliminary trade test evaluation;

(c) the payment of fees for undergoing a trade test;

(d) the contents of a preliminary evaluation or trade test in respect of any trade;

(e) any matter related to conducting or moderating of trade tests;

(f) the criteria for granting exemptions from all or some of the requirements in respect of a trade test before being registered as an artisan;

(g) the form of certificate issued to artisans who successfully undergo a trade test;

(h) any other matter necessary for the conducting or moderating of trade tests.

CHAPTER 6B

SKILLS DEVELOPMENT INSTITUTES

Skills development institutes

26E. (1) The Minister may, by notice in the *Gazette*, establish skills development institutes in accordance with the prescribed requirements and may contribute the resources that are necessary for the effective performance of their functions.

(2) A skills development institute may—

(a) provide advisory services on skills development, mentoring and the recognition of prior learning;

(b) provide learning programmes; and

(*a*) nemibandela nezinkambiso zokufakwa nokkhihswa kwegama lumuntu kurejista yezingcweti;
(*b*) nanoma iluphi olunye udaba olidingekayo ukugcina irejista yezingcweti.

Izivivinyo zomkhakha

26D. (1) Ngokuhambisana nanoma imiphi imithetho miyalelo eyenziwe ngokwesigatshana (5), akukho muntu oyozithola efanelwe ukuba ingcweti ngaphansi kwalo Mthetho ngaphandle kokuba ehloliwe ukuhlolwa okwenganyelwe isizinda esigunyaziwe sokuhlolwa ngokwemikhakha.

(2) Umuntu angasifaka isicelo sokuhlolwa ngaphansi komkhakha uma—
(*a*) lowo muntu ephothule ilenashiphu kulowo mkhakha; noma
(*b*) uma lowo muntu ezenelisile zonke izidingo ezifanelekile zokuqeqeshelwa umsebenzi ngokwalowo mkhakha; noma
(*c*) uma isizinda esigunyazekile sokuvivinya abaqeqeshwa kumkhakha sikuqinisekisile ukuthi usesebenze ngokwenele phansi kwalowo mkhakha wathola ulwazi oludingekayo; futhi
(*d*) uma lowo muntu ephothule noma iluphi olunye uhlelo lokufunda wase ethola iziqu zomsebenzi kumbandakanya isipiliyoni esiyalelwe sokusebenza esimgunyaza ukuthi azenze izivivinyo zomkhakha.

(3) Isizinda esigunyaziwe sokuvivinya kumkhakha singadinga ukuthi noma imuphi umuntu ofaka isicelo sokuhlolwa enze ukuhlolwa kokwandulelisa ukuze ahlungwe kubonakale noma unalo ngokwenele yini ulwazi lomsebenzi kanye nolwazi ngokomkhakha ukuze akwazi ukubhekana nezivivinyo zomkhakha.

(4) I- QCTO kufanele inikeze noma imuphi umuntu oye wahlolelwa umkhakha waphumelela, isitifiketi ngendlela eyalelwe, esishoyo kuthi lo muntu uyawazi futhi angawenza umsebenzi obalulwe kusitifiketi.

(5) uNgqongqoshe, emva kokubonisana ne- QCTO angenza imithetho miyalelo mayelana—
(*a*) nenkambiso yokufaka isicelo sokuhlolelwa umkhakha;
(*b*) nezimpawu ezifunwayo ukuze kutholakale noma umfundi kuyadingeka yini ukuba ahlolwe okokwandulelisa anduba ahlolelwe umkhakha;
(*c*) nenkokhelo eqondene nokwenza izivivinyo zomkhakha;
(*d*) nokuqukethwe isivivinyo sokwandulelisa noma sokuhlolelwa umkhakha noma imuphi;
(*e*) nanoma iluphi udaba oluhambisana nokwenziwa noma ukumodereyithwa kwezivivinyo zokuhlolela umkhakha;
(*f*) indlela yokuthethelela kuzo zonke noma ezimbalwa zezimfuneko zokuhlolwa ngokommkhakha phambi kokurejistwa ukuba ingcweti;
(*g*) uhlobo lwesitifiketi esinikwa izingcweti emuva kokuphumelela ukuhlolelwa umkhakha;
(*h*) nanoma iluphi olunye udaba oludingekela ukwenziwa nokumodereyithwa kokuhlolelwa umkhakha.

ISAHLUKO 6B

IZIKHUNGO ZOKUTHUTHUKISA AMAKHONO

Izikhungo zokuThuthukisa amaKhono

26E. (1) UNgqongqoshe, kungathi ngokufaka inothisi *kuGazethi*, asungule izikhungo zokuthuthukisa amakhono ngokuhambisana nezidingo eziyalelwe kanti angahlinzeka ezinye zemithombo edingekayo ukuze ziyenze ngempumelelo imisebenzi yazo.

(2) Isikhungo sokuthuthukisa amakhono—
(*a*) singahlinzeka insizakalo yokweluleka mayelana nokuthuthukiswa kwamakhono, ukunakekelwa kwabaqeqeshwayo kanye nokwemukela ukufunda kwangaphambilini;
(*b*) singahlinzeka izinhlelo zokufunda; futhi

(c) perform any other prescribed function necessary to promote skills development.

(3) The Minister may make regulations concerning—

(a) the establishment, functions, operation, legal status, governance and funding of skills development institutes;

(b) any other matter that it is necessary or expedient to prescribe in order to enable skills development institutes to perform their functions.

(4) The Minister may make different regulations under subsection (2) with respect to different skills development institutes.

CHAPTER 6C

QUALITY COUNCIL FOR TRADES AND OCCUPATIONS

Policy on occupational standards and qualifications

26F. (1) The Minister, after consulting the QCTO, may by notice in the *Gazette* determine policy on—

(a) an occupational qualifications sub-framework as an integral part of the National Qualifications Framework;

(b) the sub-framework for quality assurance for occupational qualifications; and

(c) any other matter concerning occupational standards or occupational qualifications.

Establishment of QCTO

26G. (1) The Quality Council for Trades and Occupations is hereby established as a juristic person.

(2) The QCTO must be managed in accordance with the Public Finance Management Act.

(3) The QCTO consists of 16 members appointed by the Minister in accordance with Schedule 3.

(4) The Minister must approve a constitution for the QCTO which, subject to this Act, complies with the requirements set out in Schedule 3.

(5) The Minister must appoint the executive officer of the QCTO.

(6) The QCTO is financed from—

(a) money voted by Parliament for this purpose;

(b) income earned from services rendered by it;

(c) grants or donations made to it; and

(d) money received from any other source."

Functions of QCTO

26H. (1) The QCTO must advise the Minister on all matters of policy concerning occupational standards and qualifications.

(2) The QCTO must perform its functions in terms of this Act and the National Qualifications Framework Act, 2008.

(3) Subject to any policy issued by the Minister in terms of section 26F, the QCTO is responsible for—

(a) establishing and maintaining occupational standards and qualifications;

(b) the quality assurance of occupational standards and qualifications and learning in and for the workplace;

(c) designing and developing occupational standards and qualifications and submitting them to the South African Qualifications Authority for registration on the National Qualifications Framework;

(d) ensuring the quality of occupational standards and qualifications and learning in and for the workplace;

(e) promoting the objectives of the National Qualifications Framework;

(c) senze noma imuphi umsebenzi oyalelwe odingekela ukugqugquzela ukuthuthutkiswa kwamakhono.

(3) uNgqongqoshe angenza imithetho miyalelo mayelana—

(a) nokumiswa, imisebenzi, ukuhanjiswa, isimo ngaphansi komthetho, ukuphathwa nokwesekwa ngezimali kwezikhungo zokuthuthukisa amakhono;

(b) nanoma iluphi olunye udaba oludingekayo noma olufanele oluzokwenza izikhungo zokuthuthukisa amakhono zikwazi ukwenza imisebenzi yazo ngempumelelo.

(4) UNgqongqoshe unokwenza imithetho miyalelo eyahlukile ngokwesigatshana (2) maqondana nezikhungo zokuthuthukisa amakhono ezehluka hlukene.

ISAHLUKO 6C

UMKHANDLU I- QUALITY COUNCIL FOR TRADES AND OCCUPATIONS (QCTO)

Inqubo mgomo yamazinga omsebenzi nokugogodela umsebenzi

26F. (1) uNgqongqoshe, kungathi emuva kokubonisana ne-QCTO, akhiphe isaziso ku*Gazethi* ukwazisa ngenqubo mgomo ngaloku—

(a) uhlakana lweziqu zemisebenzi efundelwe njengengxenye esemqoka yoHlaka lweZimfanelo lukaZwelonke;

(b) uhlakana lokuqinisekiswa kwamaqophelo eziqu ezifundelwe; kanye

(c) nanoma iluphi olunye udaba oluphathelene namazinga omsebenzi kumbe iziqu ezifundelwe maqondana nomsebenzi.

Ukumiswa kwe-QCTO

26G. (1) uMkhandlu Wamaqophelo, i-Quality Council for Trades and Occupations iyamiswa njengomuntu womthetho.

(2) i- QCTO kufanele yengamelwe ngokuhambisana noMthetho Owengamele Izimali Zikahulumeni, i Public Finance Management Act.

(3) i- QCTO inamalungu ali-16 abekwa uNgqongqoshe ngokuhambisana noSheduli 3.

(4) uNgqongqoshe kufanele agunyaze umthethosisekelo we- QCTO, okuyothi ngokwalo mthetho, uhambisane nezidingo ezibekwe kuSheduli 3.

(5) UNgqongqoshe kufanele abeke isiphathimandla esikhulu se- QCTO.

(6) i- QCTO yesekwe ngezimali—

(a) ezivotelwe yiPhalamende ngokwale nhloso;

(b) ezithole ngezinsizakalo ezihlinzekayo;

(c) ezibuya kuzibonelelo nakuminikelo eyemukele; kanye

(d) nezimali ezibuya kunoma imiphi eminye imithombo.

Imisebenzi ye- QCTO

26H. (1) i-QCTO kufanele yeluleke uNgqongqoshe ngako onke okuphathelene nezinqubo migomo zamazinga okusebenza nokufundelwe.

(2) I- QCTO kufanele yenze imisebenzi yayo ngokwalo Mthetho kanye noMthetho woHlaka lweZimfanelo, 2008.

(3) Ngokuhambisana nanoma iyiphi inqubo mgomo ekhishwe nguNgqongqoshe ngokwesigaba 26F, i- QCTO inesibopho ngaloku—

(a) ukumisa nokugcina amazinga okufundelwayo neziqu;

(b) ukuqinisekiwa kweqophelo lamazinga okusebenza nokufundelwe kanye nokufunda emsebenzini nokufundela umsebenzi;

(c) ukwakha nokwenza amazinga okusebenza nokufundelwe futhi kwethulwe kwiGunya leZimfanelo laseNingizimu Afrika ukuze arejistwe kuHlaka lweZimfanelo lukaZwelonke;

(d) ukuqinisekisa iqophelo lamazinga okusebenza nokufundelwe kanye nokufunda emsebenzi kanye nokufundela umsebenzi;

(e) ukugqugquzela izinjongo zoHlaka lweZimfanelo lukaZwelonke;

(f) liaising with the National Skills Authority on the suitability and adequacy of occupational standards and qualifications and on the quality of learning in and for the workplace;

(g) liaising with the South African Qualifications Authority, other Quality Councils and professional bodies responsible for establishing standards and qualifications or the quality assurance of standards and qualifications; and

(h) performing any other prescribed function.

(4) The QCTO has all such powers as are necessary to enable it to perform its functions in terms of this section.

(5) The Minister may issue written instructions, which are not inconsistent with any policy made by the Minister in terms of section 26F, to the QCTO regarding the performance of its functions in terms of subsection (3).

(6) The QCTO must comply with—

(a) any policy determined by the Minister in terms of section 26F; and

(b) any written instruction issued by the Minister in terms of subsection (5).

Delegation of functions

26I. (1) The QCTO may, in writing and subject to such conditions as it may determine, delegate any of its functions to—

(a) the executive officer of the QCTO;

(b) a committee of the QCTO;

(c) the national artisan moderation body established in terms of section 26A;

(d) a SETA; or

(e) any other suitable body.

(2) A delegation under subsection (1)—

(a) does not divest the QCTO of the function delegated and the QCTO may at any time review, amend or set aside any decision made under the delegation;

(b) does not prevent the performance of the function by the QCTO itself; and

(c) may be revoked by the QCTO at any time.

Regulations regarding occupational standards and qualifications

26J. The Minister may, after consulting the QCTO, by notice in the *Gazette* make regulations regarding—

(a) the setting of occupational standards and qualifications;

(b) the recognition and registration of occupational curricula;

(c) the accreditation of occupational skills development providers;

(d) the approval of occupational learning programmes;

(e) the registration of occupational assessors and moderators;

(f) the certification for occupational standards and qualifications;

(g) the accreditation of occupational assessment centres;

(h) the approval of workplaces for occupational training and the monitoring of workplaces for occupational training;

(i) the provision of occupational foundational learning;

(j) the provision of internships;

(k) the appointment of occupational communities of expert practice;

(l) the organising framework for occupations;

(m) the recognition of prior learning in respect of occupational qualifications; and

(*f*) ukuxoxisana neGunya Likazwelonke laMakhono ngokufaneleka nokwenela kwamazinga okusebenza nokufundelwe kanye nekhethelo lokufundela umsebenzi nelemfundo yasemsebenzini;

(*g*) ukubonisana neGunya leZimfanelo laseNingizimu Afrika, kanye nemiKhandlu Yamaqophelo nezinye izinhlaka zezifundiswa ezibhekene nokumiswa kwamazinga kanye nokuqeqesha noma ukuqinisekisa ikhethelo lamazinga kanye nokugogoda; kanye

(*h*) nokwenza noma imuphi omunye umsebenzi oyalelwe.

(4) I- QCTO inawo onke amandla afanele ukwenza umsebenzi wayo ngokwalesi sigaba.

(5) UNgqongqoshe angakhipha imiyalelo ebhaliwe, engaphambani nanoma iziphi ezinye izinqubo migomo azenzile uNgqongqoshe ngokwesigaba 26F, ayibhekise ku- QCTO mayelana nokwenza imisebenzi yayo ngokwesigatshana (3).

(6) i- QCTO kufanele ihambisane—

(*a*) nanoma iziphi izinqubo migomo ezibekwe uNgqongqoshe ngokwesigaba 26F; kanye

(*b*) nanoma imuphi umyalelo obhaliwe okhishwe uNgqongqoshe ngokwesigatshana (5).

Ukudluliswa kwemisebenzi

26I. (1) I- QCTO ingabhala futhi nangaphansi kwemibandela eyithandayo, idlulisele noma imiphi imisebenzi yayo—

(*a*) kusiphathi mandla esikhulu se- QCTO;

(*b*) kwikomidi le- QCTO;

(*c*) kumgwamanda kazwelonke omodereyitha izingcweti omiswe ngokwesigaba 26A;

(*d*) kwiSETA; nokunoma

(*e*) iluphi olunye uhlaka olufanelekile.

(2) Ukudluliswa kwemisebenzi ngaphansi kwesigatshana (1)—

(*a*) akuyiphuci i- QCTO imisebenzi eyidlulisile kanti i-QCTO kungathi noma nini ibuyekeze, ichibiyele kumbe idedukise noma isiphi isinqumo esenziwe ngenkathi kusadluliswe umsebenzi;

(*b*) akuyivimbeli i- QCTO ukuthi iwenze ngokwayo lowo msebenzi; futhi

(*c*) kungayekiswa i- QCTO noma nini.

Imithetho miyalelo mayelana namazinga emisebenzi nokufundelwe

26J. uNgqongqoshe, kungathi emuva kokubonisana ne- QCTO, enze imithetho miyalelo ngenothisi ku*Gazethi* maqondana—

(*a*) nokubekwa kwamazinga emisebenzi nokufundelwe;

(*b*) nokwemukelwa kanye nokurejistwa kommongo wezinhlelo zokufundela umsebenzi;

(*c*) nokugunyazwa kwabahlinzeki bokuthuthukiswa kwamakhono emisebenzi;

(*d*) nokugunyazwa kwezinhlelo zokufundela imisebenzi;

(*e*) nokurejistwa kwabahloli namamodereyitha kumikhakha;

(*f*) nokukhishwa kwezitifiketi maqondana mazinga okusebenza nokufundelwe;

(*g*) nokugunyazwa kwezizinda zokuhlolwa ngokwemikhakha;

(*h*) nokugunyazwa kwezindawo zokusebenza njengezindawo zokuqeqesha kanye nokuziqapha izindawo zokusebenza njengezidawo zokuqeqeshwa;

(*i*) nokuhlinzekwa kokufundiswa okuyisisekelo kumkhakha;

(*j*) nokuhlinzekwa kwezinhlelo zokuwufunda ngokuwenza umsebenzi;

(*k*) nokuqokwa kwemiphakathi yezifundiswa ezingongoti kumikhakha ethize;

(*l*) nohlaka oluhlelayo maqondana nemisebenzi efundelwe;

(*m*) nokwemukelwa kolwazi lwangaphambilini mayelana nokunikezwa kwezitifiketi zokufundelwe; kanye

(n) any other matter concerning occupational standards and qualifications or which it is necessary or expedient to prescribe in order to enable the QCTO to perform its functions under this Act.

CHAPTER 6D

WORKPLACE PRODUCTIVITY AND COMPETITIVENESS

Establishment of Productivity South Africa

26K. (1) Productivity South Africa is hereby established as a juristic person.

(2) Productivity South Africa must be managed in accordance with the Public Finance Management Act.

(3) The Board of Productivity South Africa consists of seven members appointed by the Minister in accordance with Schedule 4.

(4) The Minister must approve a constitution for Productivity South Africa which, subject to this Act, complies with the requirements set out in Schedule 4.

Functions of Productivity South Africa

26L. The functions of Productivity South Africa are—

(a) to promote a culture of productivity in workplaces;
(b) to develop relevant productivity competencies;
(c) to facilitate and evaluate productivity improvement and competitiveness in workplaces;
(d) to measure and evaluating productivity in the workplace;
(e) to maintain a data-base of productivity and competitiveness systems and publicising these systems;
(f) to undertake productivity-related research;
(g) to support initiatives aimed at preventing job losses; and
(h) to perform any other prescribed function.

Finances of Productivity South Africa

26M. Productivity South Africa is financed from—

(a) money voted by Parliament for this purpose;
(b) income earned from services rendered by it;
(c) grants or donations made to it; and
(d) money received from any other source.

Regulations regarding workplace productivity and competitiveness

26N. The Minister may, after consulting Productivity South Africa, by notice in the *Gazette* make regulations regarding any improvements in workplace productivity and competitiveness which it is necessary or expedient to prescribe in order to enable Productivity South Africa to perform its functions under this Act.".

Substitution of section 28 of Act 97 of 1998

12. The following section is substituted for section 28 of the principal Act:

"**Use of money in Fund**

28. (1) The money in the Fund may be used only for the projects identified in the national skills development strategy as national priorities or for such other projects related to the achievement of the purposes of this Act as the Director-General determines.

(*n*) nanoma iluphi udaba oluphathelene namazinga okusebenza nokufundelwe noma oludingekayo noma olufanele ukuyalelwa ukuze i- QCTO ikwazi ukwenza imisebenzi yayo ngaphansi kwalo Mthetho.

ISAHLUKO 6D

UMKHIQIZO NOKUNCINTISANA EMSEBENZINI

Ukumiswa kwe- Productivity South Africa

26K. (1) Ngalokhu i- Productivity South Africa iyamiswa njengomuntu womthetho.

(2) i- Productivity South Africa kufanele yengamelwe ngokuhambisana noMthetho Owengamele Ukusetshenziswa Kwezimali Zikahulumeni.

(3) iBhodi le- Productivity South Africa inamalungu ayisikhombisa aqokwe uNgqongqoshe ngokuhambisana noSheduli 4.

(4) uNgqongqoshe kufanele agunyaze umthethosisekelo we- Productivity South Africa, okufanele kube ngokwalo Mthetho, uhambisana nezidingo ezibekwe kuSheduli 4.

Imisebenzi ye- Productivity South Africa

26L. Imisebenzi ye- Productivity South Africa yile—

(*a*) ukugqugquzela isiko lokukhiqiza emsebenzini;
(*b*) ukuthuthukisa amakhono afanele okukhiqiza;
(*c*) ukwelekelela kanye nokuhlola ukuphuculwa kokukhiqiza nezinga lokuncintisana ezindaweni zokusebenza;
(*d*) ukulinganisa kanye nokuhlola ukukhiqiza endaweni yokusebenza;
(*e*) ukugcina iqoqo mininingwane lemikhiqizo nezinhlelo zokuncintisana kanye nokusabalalisa lezo nhlelo;
(*f*) ukucwaninga kabanzi ngokukhiqiza;
(*g*) ukweseka amasu abhekele ukulwa kokulahleka kwemisebenzi; kanye
(*h*) nokwenza noma yimuphi umsebenzi oyalelwe.

Izimali ze- Productivity South Africa

26M. i- Productivity South Africa ithola izimali—

(*a*) kusabelo esivotelwe yiPhalamende;
(*b*) ngokuhlinzeka izinsizakalo;
(*c*) kuzibonelelo noma iminikelo;
(*d*) nakunoma imiphi eminye imithombo.

Imithetho miyalelo mayelana nokusebenza okunomkhiqizo nokuncintisana ezindaweni zokusebenza

26N. UNgqongqoshe, kungathi emuva kokubonisana ne-Productivity South Africa, enze umthetho myalelo ngenothisi ku*Gazethi*, mayelana nokuphucula izinga lokukhiqiza nokuncintisana kuzindawo zokusebenzela okungafanela kuyalelwe ukuze i- Productivity South Africa ikwazi ukwenza imisebenzi yayo ngaphansi kwalo Mthetho."

Ukufakwa kwesinye isigaba esikhundleni sesigaba 28 soMthetho 97 ka 1998

12. Kufakwa isigaba esilandelayo esikhundleni sesigaba 28 soMthetho oyinhloko—

"**Ukusetsenziswa kwezimali zesikhwama**

28. (1) Izimali zesikhwama zingasetsenziselwa kuphela imisebenzi nhloso ehlonzwe kwisumgomo lokuthuthukisa amakhono likazwelonke njengzibalulekile kuzwelonke noma eminye imisebenzi nhloso ehambisana nokufezwa kwezinhloso zalo Mthetho njengokunganqunywa uMqondisi-Jikelele.

(2) **[A maximum of two per cent of the]** The money allocated to the Fund in terms of section 8(3)*(a)* of the Skills Development Levies Act may be used to administer the Fund within a prescribed limit.".

Substitution of section 29 of Act 97 of 1998

13. The following section is substituted for section 29 of the principal Act: 5

"**Control and administration of Fund**

29. (1) The Director-General is the accounting **[officer]** authority of the Fund **[in terms of the Exchequer Act, 1975 (Act 66 of 1975)]** as contemplated by section 49(2)(b) of the Public Finance Management Act and must— 10

(a) control the Fund;

(b) keep a proper record of all financial transactions, assets and liabilities of the Fund; **[and]**

(c) **[as soon as possible after the end of each financial year, ending on the prescribed date,]** prepare **[accounts of the income and expenditure of the Fund for the year and a balance sheet of its assets and liabilities as at the end of that year]** annual financial statements for the Fund in the prescribed form; and 15

(d) subject to the laws governing the public service, appoint the executive officer of the Fund who will, upon such appointment, be in the employ of the public service. 20

(1A) The Fund must be managed in accordance with the Public Finance Management Act.

(2) Any money in the Fund not required for immediate use may be invested in accordance with **[the Public Investment Commissioner or with a financial institution approved by the Minister]** an investment policy approved by the Director-General that complies with the requirements of the Public Finance Management Act and may be withdrawn when required. 25

(3) Any unexpended balance in the Fund at the end of the financial year must be carried forward to the next financial year as a credit to the Fund. 30

(4) The **[accounts and balance sheet]** annual financial statements contemplated in subsection (1)*(c)* must be submitted by the Director-General to the National Skills Authority for information as soon as possible after they have been prepared.". 35

Amendment of section 36 of Act 97 of 1998

14. Section 36 of the principal Act is hereby amended by the insertion after paragraph *(r)* of the following paragraphs:

"*(r*A) any matter concerning the administration of apprenticeships or other qualifications in terms of any repealed Act, including, but not limited to, issuing duplicate certificates; 40

*(r*B) providing for the establishment of skills development forums in respect of each provincial office and specifying the operation, composition and functions of the forums;".

(2) **[Amaphesenti angevile kwamabili e]** Imali eyabelwe isikhwama ngokwesigaba 8(3)*(a)* soMthetho weZibizontela zokuThuthukisa aMakhono ingasetshenziselwa ukuphathta isikhwama ngaphansi kwemikhawulo eyalelwe.".

Ukufakwa kwesinye isigaba esikhundleni sesigaba 29 soMthetho 97 ka 1998

13. Kufakwa isigaba esilandelayo esikhundleni sesigaba 29 soMthetho oyinhloko—

"**Ukulawulwa nokuphathiswa kwesikhwama**

29. (1) UMqondisi- Jikelele uyisiphathimandla sasemagunyeni esinesibopho ngokwezimali **[isiphathimandla]** sesikhwama njengokushiwo isigaba 49(2)*(b)* soMthetho Owengamele Izimali Zikahulumeni, iPublic Finace Management Act **[ngokoMthetho weSikhwama seSizwe, 1975(Umthetho 66 ka 1975)]** kanti kufanele—

(a) asilawule isikhwama;

(b) agcine ngokufanelekile amarekhodi ako konke ukusetshenziswa kwemali, nawezimpahla nezikwenetu zesikhwama; futhi

(c) **[kuthi maduzane nje emuva kokuphela konyaka wezimali, ophela ngosuku oluyalelwe,]** alungise **[ama- akhawunti ongeniso mali nezindleko kwesikhwama onyaka kanye nebhalansi shidi yempahla nezikwenetu zaso njengokuma kwazo ekupheleni kwalowo nyaka]** izincwadi zonyaka zezimali zesikhwama ngendlela eyalelwe; futhi

(d) kuthi ngokuhambisana nemithetho elawula ukusebenza kukahulumeni, abeke isiphathimandla esikhulu sesikhwama okuzothi, lapho sesibekiwe, sisebenzele uhulumeni.

(1A) Isikhwama kufanele siphathwe ngokuhambisana noMthetho Owengamele Izimali Zikahulumeni, i-Public Finance Management Act.

(2) Noma iyiphi imali esesikhwameni engezukusebenza maduze ingatshalwa **[KuKhomishane Wotshalomali Yomphakathi noma esikhungweni semali esigunyazwe uNgqongqoshe]** ngokulandela inqubo mgomo yotshalo mali egunyazwe uMngqondisi- Jikelele ehambisana nezimfuno zoMthetho Wokuphathwa Kwezimali Zikahulumeni i-Public finance management act futhi ingadonswa uma kunesidingo.

(3) Noma iyiphi imali esalile engasetshenziswanga eseSikhwameni ekupheleni konyaka kudinga yedluliselwe kunyaka mali olandelayo njengemali esinayo iSikhwama.

(4) **[ama-akhawunti nebhalansi shidi]** Izitatimende zonyaka zezimali okushiwo kusigatshana (1)*(c)* kufanele zethulwe uMngqondisi-Jikelele kwiGunya likaZwelonke laMakhono ukuze laziseke ngokushesha ngemuva kokuba zilungisiwe."

Ukuchibiyelwa kwesigaba 36 soMthetho 97 ka 1998

14. Ngalokhu, kuchibiyelwa isigaba 36 soMthetho oyinhloko ngokushuthekwa kwama paragrafu alandelayo emva kuka paragrafu *(r)*:

"*(r*A*)* noma iluphi udaba oluphathelene nokuphathwa kwezinhlelo zokuwufundiswa ngokuwenza umsebenzini noma okunye okufundelwe ngokuhambisana nanoma imuphi umthetho ochithiwe, kumbandakanya, kepha kungapheleli kukho nje, ukukhishwa kwezitifiketi ezingamaduplikhethi.

*(r*B*)* ukuhlinzekela ukusungulwa kwezigcawu zokuthuthukiswa kwamakhono kulelo nalelo hhovisi lasesifundazweni futhi kubalulwe ngokusebenza. ukwakheka nemisebenzi yazo izigcawu;".

Amendment of section 37 of Act 97 of 1998

15. Section 37 is amended by the addition of the following subsection:

"(3) Schedule 2 to the principal Act is hereby repealed, except for item 4A.".

Insertion of Schedules 2A, 3 and 4 in Act 97 of 1998 5

16. The following Schedule is hereby inserted in the principal Act after Schedule 2:

"**SCHEDULE 2A**

TRANSITIONAL PROVISIONS:
SKILLS DEVELOPMENT AMENDMENT ACT, 2008

Definitions 10

1. In this Schedule—

'Amendment Act' means the Skills Development Amendment Act, 2008;

'ETQA' means an Education and Training Quality Assurance Body accredited in terms of section 5(1)*(a)*(ii) of the South African Qualifications Authority Act, responsible for monitoring and auditing achievements in terms of national standards or qualifications, and to which specific functions relating to the monitoring and auditing of national standards or qualifications have been assigned in terms of section 5(1)*(b)*(i) of that Act; 15 20

'Manpower Training Act' means the Manpower Training Act, 1981 (Act No. 56 of 1981);

'SAQA' means the South African Qualifications Authority;

'the Act' means the "Skills Development Act, 1998 (Act No. 97 of 1998). 25

Contracts of apprenticeship in force immediately prior to commencement of Amendment Act

2. (1) Subject to the provisions of this Schedule, all sections of the Manpower Training Act, including any regulations and conditions of apprenticeship, that concern apprentices remain in force insofar as they apply to any contract of apprenticeship in force immediately prior to the commencement of the Amendment Act, as if the Manpower Training Act had not been repealed. 30

(2) For the purposes of this item—

(a) any function of the registrar must be performed by an official of the Department of Labour designated by the Minister for that purpose in writing; 35

(b) any function of a training board must be performed by the SETA to whom the assets, rights, liabilities and obligations of the training board were transferred; 40

(c) any function of the National Training Board must be dealt with by the National Skills Authority.

(3) Any dispute about a contract of apprenticeship or any conditions of apprenticeship applicable to that contract is deemed to be a dispute contemplated in section 19(1) of the Act and must be dealt with in terms of section 19 of the Act, read with the changes required by the context. 45

(4) Any outstanding matter concerning a contract of apprenticeship that had been completed prior to the commencement of the Amendment Act must be dealt with in terms of the prevailing law immediately prior to the commencement of the Amendment Act. 50

Ukuchibiyelwa kwesigaba 37 soMthetho 97 ka 1998

15. Isigaba 37 siyachibiyekwa ngokwengezwa kwesigatshana esilandelayo:

"(3) Ngalokhu kuchithwa uSheduli 2 woMthetho oyinhloko, ngaphandle kohlamvu 4A.".

Ukushuthekwa kukSheduli 2A, 3 no 4 kuMthetho 97 ka 1998 5

16. Kushuthekwa iSheduli elandelayo kuMthetho oyinhloko ilandele uSheduli 2:

"iSHEDULI 2A

IZIHLINZEKO ZESIKHASHANA: UMTHETHO WOKUTHUTHUKISA AMAKHONO, 2008

Izincazelo 10

1. Kule sheduli—

'uMthetho ochibiyelayo' kusho uMthetho wokuThuthukisa amaKhono ka 2008;

'ETQA' kusho uhlaka 'i- Education and Training Quality Assurance Body' egunyazwe ngokwesigaba 5(1)*(a)*(ii) soMthetho i-South African Quality Assurance Act, olubhekele ukuqapha nokucwaningisisa izimpumelelo ngokwamazinga kumbe okufundelwe kuzwelonke, futhi olunikezwe imisebenzi ebaluliwe ephathelene nokuqapha nokucwaningisisa amazinga kazwelonke ngokwesigaba 5(1)*(b)*(i) salowo Mthetho; 15

'uMthetho wokuQeqeshwa Kwabasebenzi' kusho uMthetho woku-Qeqeshwa Kwabasebenzi,1981 (uMthetho 56 ka 19981); 20

'SAQA' kusho i- South African Qualifications Act;

'Umthetho' kusho uMthetho wokuThuthukisa amaKhono, 1998 (uMthetho 97 ka 1998).

Izinkontileka zokuqeqeshelwa umsebenzi ezisebenza nje ngaphambi kokuqala koMthetho ochibiyelayo 25

2. (1) Ngokwezihlinzeko zale sheduli, zonke izigaba zoMthetho wokuQeqeshwa Kwabasebenzi, kumbandakanya nanoma imiphi imithetho miyalelo nemibandela yokuqeqeshelwa umsebenzi, ephathelene nabafundeli msebenzi zizohlala zisebenza ngokuphathelene nezinkontileki zabafundeli msebenzi ezizobe zisebenza ngaphambi nje kokuqala kwalo Mthetho, kube songathi uMthetho wokuQeqeshwa Kwabasebenzi awuzange wachithwa. 30

(2) Ngokwezinhloso zalolu hlamvu— 35

(a) noma imuphi umsebenzi wombhalisi rejista kufanele wenziwe isiphathimandla soMnyango Wezabasebenzi ojutshwe ngokubhalelwa uNgqongqoshe ngokwaleyo nhloso;

(b) noma imuphi umsebenzi webhodi yokuqeqesha kufanele wenziwe yi-SETA okwadluliselwa kuyo impahla, amalungelo, izikwenetu kanye nezibopho zamaSETA kwayo ibhodi yokuqeqesha; 40

(c) noma imuphi umsebenzi weBhodi Likazwelonke Lokuqeqesha kufanele kube iGunya Likazwelonke Lamakhono elibhekana nawo.

(3) Noma ikuphi ukushayisana kwemibono okumayelana nenkontilaki yokufundelwa komsebenzi nokumayelana nanoma imuphi umbandela wokuqeqeshelwa umsebenzi oqondene naleyo nkontilaki kuthathwa njengokushayisan kwemiqondo okushiwo kusigaba 19(1) soMthetho futhi kufanele kubhekanwe nako ngokwesigaba 19 soMthetho sifundwa nezinguquko ezidingwa ingqikithi. 45

(4) Noma iluphi udaba olusilele olumayelana nenkontilaki yokufundelwa komsebenzi eyaphothulwa phambi kokuqala kwalo Mthetho Wesichibiyelo, kufanele lusetshenzwe ngokomthetho osebenzayo owandulela ukuqala koMthetho Ochibiyelayo. 50

Conversion of contracts of apprenticeship in force at commencement of Act

3. (1) Despite item 2, an employer and an apprentice who are party to a contract of apprenticeship in force at the commencement of this Act may conclude a learnership agreement in accordance with the form prescribed in terms of section 17(3) of the Act, subject to the following:

(a) The training provider must be a party to the learnership agreement, unless the training element of the apprenticeship has been completed;

(b) the learnership agreement may only be terminated in terms of section 17(4);

(c) the employer and apprentice must, in addition, conclude a written contract of employment;

(d) the apprentice is deemed to be a learner contemplated in section 18(2) of the Act and must be employed on terms and conditions of employment that are no less favourable than those that are applicable in terms of section 18(1) of the Act;

(e) paragraphs *(c)* and *(d)* do not apply to an apprentice who was already employed by the employer prior to the commencement of the contract of apprenticeship.

Trades deemed to be listed

4. Any trade which immediately prior to the commencement of this Act was designated, or deemed to have been designated, in terms of section 13 (1) of the Manpower Training Act, is deemed to have been listed in terms of section 26B*(a)* of the Amendment Act.

Coming into operation of QCTO

5. The QCTO comes into operation on a date determined by the Minister in the *Gazette*.

SAQA accreditation of SETA ETQAs

6. (1) Until such time as the QCTO delegates powers and functions to a SETA in terms of Chapter 6B of the Act, a SETA ETQA will—

(a) remain accredited by SAQA;

(b) continue to perform all ETQA functions prescribed by the South African Qualifications Authority Act; and

(c) have any matter concerning the performance of ETQA functions by a SETA dealt with in terms of the South African Qualifications Authority Act.

(2) The accreditation of any education and skills development provider by a SETA ETQA remains in effect until the accreditation—

(a) lapses;

(b) is withdrawn by the SETA ETQA; or

(c) is withdrawn in terms of regulations made under section 26J of the Act.

National Productivity Institute

7. (1) On a date determined by the Minister by notice in the *Gazette*, all the assets, rights, liabilities and obligations of the National Productivity Institute, a company incorporated in terms of section 21 of the Companies Act, 1973 (Act No. 61 of 1973), registration number 75/04742/08, are transferred to Productivity South Africa.

Ukuguqulwa kwezinkontileka zabaqeqeshelwa umsebenzi ezisebenzayo ma kuqala uMthetho

3. Phezu kohlamvu 2, umqashi kanye noqeqeshelwa umsebenzi abayingxenye yenkontilaki yokuqeqeshelwa umsebenzi esuke isebenza ngenkathi kuqala lo Mthetho bangenza isivumelwano selenashiphu ngendlela eyalelwe ngokwesigaba 17(3) soMthetho, ngaphansi kwale mibandela elandelayo—

(a) Umhlinzeki wokuqeqesha kufanele abe ingxenye yesivumelwano selenashiphu, ngaphandle uma ingxenye yokuqeqeshwa yokufundela umsebenzi isiphothuliwe;

(b) Isivumelwano sokufundela umsebenzi singaqedwa kuphela ngokwesigaba 17(4);

(c) Umqashi kanye nofundela umsebenzi kufanele, nangaphezu kwalokho, benze isivumelwano sokusebenza;

(d) Oqeqeshelwa ukusebenza uthathwa njengomfundi oshiwo kusigaba 18(2) soMthetho kanti kufanele aqashwe ngaphansi kwezimo nemibandela yokusebenza engengaphansi ngezinga kwaleyo efanelekile ngokwesigaba 18(1) soMthetho;

(e) amaparagrafu *(c)* no *(d)* awasebenzi kumfundeli msebenzi ovele esebenzela umqashi phambi kokuqala kwenkontilaki yokufundela umsebenzi.

Imikhakha ethathwa njengesohlwini

4. Noma imuphi umkhakha obusebenza ngaphambi nje kokuqala kokusebenza kwalo Mthetho owajutshwa kumbe wathathwa njengowajutshwa, ngokwesigaba 13(1) soMthetho wokuQeqeshwa Kwabasebenzi, uthathwa njengosohlwini ngokwesigaba 26B*(a)* soMthetho Wesichibiyelo.

Ukuqala kokusebenza kwe- QCTO

5. I-QCTO izoqala ukusebenza ngelanga elizonqunywa uNgqongqoshe kuyi *Gazethi*.

Ukugunyazwa kokusebenza kwama- SETA ETQA u-SAQA

6. (1) Kuze kube i- QCTO idlulisela amandla nemisebenzi kuSETA ngokwesahluko 6B soMthetho, iSETA ETQA—

(a) izohlala igunyazwe u-SAQA;

(b) izoqhubeka nokwenza yonke imisebenzi yeETQA eyalelwe uMthetho we- South African Qualifications Authority; kanti

(c) kufanele noma iluphi udaba oluphathelene nokusebenza kwe- ETQA yi-SETA iluphathe ngokoMthehto we South African Qualifications Authority.

(2) Ukugunyazwa kwanoma imuphi umhlinzeki mfundo noma kuthuthukiswa kwamakhono, egunyazwa i- SETA ETQA, uzohlala egunyazekile kuze isigunyazo—

(a) siyaphela;

(b) sihoxiswa yi SETA ETQA; noma

(c) sihixiswa ngokwemithetho miyalelo eyenziwe ngaphansi kwesigaba 26J soMthetho.

Isikhungo sikaZwelonke Sokukhiqiza, i-National Productivity Institute

7. (1) Ngosuku oluqokwe nguNgqongqoshe ngenothisi ku*Gazethi*, yonke impahla, amalungelo, izikwenetu kanye nezibopho ze- National Productivity Institute, inkampani engeniswe ngokwesigaba 21 soMthetho weziNkampani 61 ka 1973, inombolo yokurejistwa 75/04742/08, kudluliselwa kwi- Productivity South Africa.

(2) The National Productivity Institute must thereafter be wound up in accordance with its articles of association.

SCHEDULE 3

COMPOSITION AND CONSTITUTION OF QCTO

Composition of QCTO

1. (1) The QCTO consists of 16 members appointed by the Minister, as follows:

(a) The chairperson;
(b) the executive officer of the SAQA;
(c) the executive officer of the National Skills Authority;
(d) the executive officer of the QCTO;
(e) the executive director of the Higher Education Quality Committee established in terms of section 7 of the Higher Education Act, 1997 (Act No. 101 of 1997);
(f) the chief executive officer of Umalusi established in terms of section 4 of the General and Further Education and Training Quality Assurance Act, 2001 (Act No. 58 of 2001);
(g) two members nominated by NEDLAC to represent organised labour;
(h) two members nominated by NEDLAC to represent organised business;
(i) two members nominated by NEDLAC to represent organisations of community and development interests;
(j) one members nominated by the Minister of Education to represent the interests of public education and training providers;
(k) one member nominated by the private providers of education and training to represent the interests of private education and training providers; and
(l) two additional members to represent the interests of the State.

(2) Members of the QCTO contemplated by sub-items (1) *(a)* and *(g)* to *(l)* hold office for a period of five years and are eligible for reappointment upon expiry of their terms of office, but may not serve more than two consecutive terms of office.

Constitution of QCTO

2. The Minister must approve the constitution of the QCTO, which subject to this Act—

(a) must provide for—
- (i) the establishment and functioning of committees, including an executive committee;
- (ii) rules for convening and conducting of meetings of the QCTO and its committees, including the quorum required for and the minutes to be kept of such meetings;
- (iii) the voting rights of the different members and the manner in which decisions are to be taken by the QCTO and its committees;
- (iv) the circumstances and manner in which a member of the QCTO may be removed from office;
- (v) the procedure for the filling of vacancies on the QCTO;
- (vi) a code of conduct for the members of the QCTO;
- (vii) the circumstances and manner in which the Minister may dissolve the QCTO and appoint an administrator on a temporary basis to perform its functions;
- (viii) the determination through arbitration of any dispute concerning the interpretation or application of the constitution;
- (ix) the procedure for amending the constitution;
- (x) the procedure for advising the Minister on regulations to be made in terms of section 26; and

(2) i- National Productivity Institute kufanele emva kwalokho iphothulwe ngokuhambisana nemibandela yayo kasoseshani.

USHEDULI 3

UKUBUNJWA NOMTHETHOSISEKELO WE- QCTO

Ukubunjwa kwe- QCTO

1. (1) i- QCTO inamalungu angu 16 aqokwe nguNgqongqoshe kanje:

(a) Usihlalo;

(b) isiphathimandla seGunya lezezitifiketi, i- South African Qualifications Authority;

(c) isiphathimandla seGunya Likazwelonke laMakhono;

(d) isiphathimandla esikhulu seQCTO;

(e) uMqondisi omkhulu wekomidi elikhulu i- Higher Education Quality Committee, elisungulwe ngokwesigaba 7 soMthetho Wemfundo Ephakeme, 1997 (Umthetho 101 ka 1997);

(f) uMphathi omkhulu ka Umalusi osungulwe ngokwesigaba 4 soMthetho wokuqinisekiswa kwamazinga emfundo jikelele nawemfundo eqhubekayo, i- General and Further Education and Training Quality Assurance Act, 2001 (Umthetho 58 ka 2001);

(g) amalungu amabili aphakanyiswe iNEDLAC ukumela izinyunyana zabasebenzi;

(h) amalungu amabili aphakanyiswe iNEDLAC ukumela abaqashi;

(i) amalungu amabili aphakanyiswe iNEDLAC ukumela izinhlangano ezinezintshisekelo ngomphakathi nentuthuko;

(j) ilungu elilodwa eliphakamiswe nguNgqongqoshe Wezemfundo ukumela izidingo zemfundo yomphakathi kanye nabahlinzeka ukuqeqeshwa;

(k) ulungu elilodwa eliphakamiswe ngabahlinzeki bemfundo nokuqeqeshwa ukumela izidingo zabahlinzeki benfundo nokuqeqesha; kanye

(l) namanye amalungu amabili okwengeza amele izintshisekelo zikaHulumeni.

(2) Amalungu e- QCTO ashiwo kuhlamvana (1)*(a)* no *(g)- (l)* azohlala esikhundleni iminyaka emihlanu futhi angaphinde aqokelwe kulezo khundla futhi uma isikhathi sokuba sesikhundleni sesiphelile, kepha angeke aba sesikhundleni ngaphezulu kweziwombe ezimbili zilandelana.

Umthethosisekelo we-QCTO

2. uNgqongqoshe kufanele agunyaze umthethosisekelo we- QCTO, okufanele ngokwalo Mthetho—

(a) uhlinzekele—

(i) ukubunjwa kanye nokusebenza kwamakomiti, kumbandakanya ikomiti elikhulu;

(ii) imithetho nqubo yokubiza nokuqhuba imihlangano ye- QCTO kanye neyamakomidi ayo, kumbandakanya nesibalo esidingakalayo ukuze kubanjwe umhlangano kanye nokugcinwa kwamaminithi aleyo mihlangano;

(iii) amalungelo okuvota amalungu ahlukene kanye nendlela i- QCTO namakomidi ayo angathatha ngayo izinqumo;

(iv) izimo kanye nendlela yokususa esikhundleni ilungu le-QCTO;

(v) inqubo yokugcwalisa izikhala ku- QCTO;

(vi) umgomo wokuziphatha wamalungu e- QCTO;

(vii) izimo nendlela uNgqongqoshe angahlakaza ngayo i- QCTO bese ebeka umphathiswa ozophatha okwesikhashana ukuba aqhube umsebenzi wayo;

(viii) isinqumo sabalamuli nganoma imuphi umbango mayelana nokuhunyushwa noma ukusetshenziswa komthethosisekelo;

(ix) inkambiso yokuchibiyela umthethosisekelo;

(x) inkambiso yokweluleka uNgqongqoshe ngemithetho miyalelo ezokwenziwa ngokwesigaba 26; futhi

(b) may provide for any other matter necessary for the performance of the functions of the QCTO.

SCHEDULE 4

COMPOSITION AND CONSTITUTION OF PRODUCTIVITY SOUTH AFRICA

Composition of Productivity South Africa

1. (1) Productivity South Africa consists of seven members appointed by the Minister, as follows:

(a) The chairperson;

(b) two members nominated by NEDLAC to represent organised labour;

(c) two members nominated by NEDLAC to represent organised business; and

(d) two members to represent the government.

(2) Members of Productivity South Africa hold office for a period of five years and are eligible for reappointment upon expiry of their terms of office, but may not serve more than two consecutive terms of office.

Constitution of Productivity South Africa

2. The Minister must approve the constitution of Productivity South Africa, which subject to this Act—

(a) must provide for—

(i) the establishment and functioning of committees, including an executive committee;

(ii) rules for convening and conducting of meetings of Productivity South Africa and its committees, including the quorum required for and the minutes to be kept of those meetings;

(iii) the voting rights of the different members and the manner in which decisions are to be taken by Productivity South Africa and its committees;

(iv) the circumstances and manner in which a member of Productivity South Africa may be removed from office;

(v) the procedure for the filling of vacancies on Productivity South Africa;

(vi) a code of conduct for the members of Productivity South Africa;

(vii) the circumstances and manner in which the Minister may dissolve Productivity South Africa and appoint an administrator on a temporary basis to perform its functions;

(viii) the determination through arbitration of any dispute concerning the interpretation or application of the constitution;

(ix) the procedure for amending the constitution;

(x) financial arrangements, including bank accounts, investment of surplus money, annual budgets, annual reports, financial statements and annual audits;

(xi) the appointment of an executive officer and such other employees necessary for the effective performance of the functions of Productivity South Africa by its members, including the determination of their terms and conditions of employment; and

(b) may provide for any other matter necessary for the performance of the functions of Productivity South Africa.".

(*b*) ungahlinzekela nanoma iluphi udaba oludingekela ukwenziwa kwemisebenzi ye- QCTO.

USHEDULI 4

UKUBUNJWA KANYE NOMTHETHOSISEKELO WE- PRODUCTIVITY SOUTH AFRICA

Ukubumbeka kwe Productivity South Africa

1. (1) i- Productivity South Africa inamalungu ayisikhombisa aqokwe uNgqongqoshe kanje:

(*a*) usihlalo;

(*b*) amalungu amabili aphakanyiswe iNEDLAC ukumela izinyunyana zabasebenzi;

(*c*) amalungu amabili aphakanyiswe iNEDLAC ukumela abaqashi;

(*d*) amalungu amabili amele uHulumeni.

(2) Amalungu e- Productivity South Africa aba sesikhundleni iminyaka emihlanu 5 futhi anokubuye akhethwe emva kokuba sekuphele lesi sikhathi esebenza, kodwa awakwazi ukuba sesikhundleni emva kweziwombe ezimbili zokusebenza zilandelana.

Umthethosisekelo we- Productivity South Africa

2. UNgqongqoshe kufanele agunyaze umthethosisekelo weProductivity South Africa, ngokwalo mthetho—

(*a*) okufanele uhlinzekele—

(i) ukubunjwa kanye nokusebenza kwamakomidi, kumbandakanya ikomidi elikhulu;

(ii) imithetho nqubo yokubiza nokuqhuba imihlangano ye-Productivity South Africa kanye neyamakomidi ayo, kumbandakanya nesibalo esidingekayo samalungu ukuze kubamnjwe umhlangano kanye neyokugcinwa kwamaminithi aleyo mihlangano;

(iii) amalungelo okuvota amalungu ehluka hlukene kanye nendlela u- Productivity South Africa namakomidi akhe angathatha ngayo izinqumo;

(iv) izimo nendlela okususwa ngayo ilungu le- Productivity South Africa esikhundleni;

(v) inkambiso yokugcwaliswa kwezikhala kwa-Productivity South Africa;

(vi) umgomo wokuziphatha wamalungu e- Productivity South Africa;

(vii) izimo nenqubo engalandelwa uNgqongqoshe lapho ehlakaza i-Productivity South Africa abeke nomphathiswa wesikhashana ukwenza umsebenzi we- Productivity South Africa;

(viii) isinqumo sabalamuli nganoma imiphi imibango ephathelene nokuhunyushwa noma ukusetshenziswa komthethosisekelo;

(ix) inkambiso yokuchibiyela umthethosisekelo;

(x) amalungiselelo ezezimali, ama- akhawunti asebhange, ukutshalwa kwemali esele ukuba izale, izabelo mali zonyaka, imibiko yonyaka, izitatimende zezimali kanye nocwaningo mabhuku lwaminyaka yonke;

(xi) ukuqokwa komphathi omkhulu nabanye abasebenzi abandingekile ukuze wenziwe ngempumelelo umsebenzi we- Productivity South Africa amalungu ayo, kumbandakanya ukunquma ngezimo nemibandela yokuqashwa kwawo; futhi

(*b*) ungahlinzekela nanoma iluphi udaba olufanele ukuze kwenziwe umsebenzi we- Productivity South Africa.".

Amendment of section 65 of Act 75 of 1997

17. Section 65 of the Basic Conditions of Employment Act, 1997, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) In order to monitor and enforce compliance with an employment law, a labour inspector may, without warrant or notice, at any reasonable time, enter—

(a) any workplace or any other place where an employer carries on business or keeps employment records, that is not a home;

(b) any premises used for **[or training]** skills development in terms of the **[Manpower Training Act, 1981 (Act No. 56 of 1981)]** Skills Development Act, 1998 (Act No 97 of 1998); or

(c) any **[private employment office registered under section 15 of the Guidance and Placement Act, 1981 (Act No. 62 of 1981)]** place at which any person provides or purports to provide any employment services as defined in terms of the Skills Development Act, 1998 (Act No 97 of 1998).".

Amendment of Arrangement of Sections of Act 97 of 1998

18. The Arrangement of Sections after the Long title of the principal Act is hereby amended—

(a) by the substitution for **"CHAPTER 6 INSTITUTION IN DEPARTMENT OF LABOUR AND REGULATION OF PRIVATE EMPLOYMENT SERVICES AGENCIES"** of the following:

"CHAPTER 6

INSTITUTION IN DEPARTMENT OF LABOUR AND EMPLOYMENT SERVICES";

(b) by the insertion after **"Chapter 6"** of the following Chapters:

"CHAPTER 6A

ARTISAN DEVELOPMENT

26A. National artisan moderation body
26B. Listing of trades
26C. National register of artisans
26D. Trade tests

CHAPTER 6B

SKILLS DEVELOPMENT INSTITUTES

26E. Skills development institutes

CHAPTER 6C

QUALITY COUNCIL FOR TRADES OCCUPATIONS

26F. Policy on occupational standards and qualifications
26G. Establishment of QCTO
26H. Functions of QCTO
26I. Delegation of functions
26J. Regulations regarding occupational standards and qualifications

Ukuchibiyelwa kwesigaba 65 soMthetho 75 ka 1997

17. Ngalokhu kuchibiyelwa isigaba 65 soMthetho Wemibandela Eyisisekelo 75, 1997, ngokufakwa kwesigatshana esilandelayo esikhundleni sesigatshana (1):

"(1) Ukuze aqaphe futhi aqikelele ukugcinwa komthetho wokuqashwa kwabasebenzi, umhloli wezabasebenzi, kungathi ngaphandle kwesigunyaziso noma inothisi, noma ngasiphi isikhathi esifanele, angene—

(a) kunoma iyiphi indawo yokusebenza noma iyiphi indawo lapho umqashi enzela khona ibhizinisi lakhe noma egcina khona amarekhodi okuqasha, engesilona ikhaya;

(b) kunoma isiphi isakhiwo esisetshenziselwa **[noma ukuqeqeshwa]** ukuthuthukiswa kwamakhono ngaphansi **[koMthetho wokuQeqeshwa Kwabasebenzi, 1981 (uMthetho 56 ka 1981]** koMthetho wokuThuthukiswa kwamaMakhono,1998 (uMthetho 97 ka 1998); noma

(c) noma **[iliphi ihhhovisi elizimele lokuqashwa kwabantu elibhaliswe ngaphansi kwesigaba 15 soMthetho wokweLuleka nokuQasha Abasebenzi, 1981(uMthetho 62 ka 1981]** iyiphi indawo lapho umuntu ehlinzeka noma ethi uhlinzeka khona izinsizakalo zezabasebenzi okuchazwe njengokoMthetho wokuThuthukiswa kwaMakhono,1998(uMthetho 97 ka 1998).".

Ukuchibiyelwa kokuhleleka kwezigaba zomthetho 97 ka 1998

18. Kuchibiyelwa ukuhleleka kweziGaba kulandela isihloko Eside soMthetho oyinhloko kanje—

(a) ngokufakwa kwesihloko esilandelayo esikhundleni salesi esithi **"ISAHLUKO 6 IZIKHUNGO EZIKUMNYANGO WEZABASEBENZI NOKULAWULWA KWAMAHHOVISI AZIMELE AHLWAYA ABASEBENZI**:

"ISAHLUKO 6

IZIKHUNGO EZIKUMNYANGO WEZABASEBENZI NAMAHHOVISI AHLWAYA ABASEBENZI";

(b) ngokushuthekwa emva kuka **"Sahluko 6"** kwezahluko ezilandelayo:

"ISAHLUKO 6A

UKUTHUTHUKISWA KWEZINGCWETI

26A. Uhlaka lukazwelonke olumodereytha izingcweti
26B. Ukubhaliswa kwemisebenzi yolwazi ohlwini
26C. Irejista kaZwelonke Yezingcweti
26D. Ukuhlolwa ngokomkhakha

ISAHLUKO 6B

IZIKHUNGO ZOKUTHUTHUKISWA KWAMAKHONO

26E. Izikhungo zokuthuthukiswa kwamakhono

ISAHLUKO 6C

UMKHANDLU I- QUALITY COUNCIL FOR TRADES AND OCCUPATIONS

26F. Inqubo mgomo mayelana namazinga okusebenza nokufundelwe
26G. Ukusungulwa kwe- QCTO
26H. Imisebenzi ye- QCTO
26I. Ukudluliswa kwemisebenzi
26J. Imithetho miyalelo mayelana namazinga okusebenza nokufundelwe

CHAPTER 6D

WORKPLACE PRODUCTIVITY AND COMPETITIVENESS

26K. Establishment of Productivity South Africa
26L. Functions of Productivity South Africa
26M. Finances of Productivity South Africa
26N. Regulations regarding workplace productivity and competitiveness".

Short title and date of commencement

20. This Act is called the Skills Development Amendment Act, 2008, and comes into operation on a date determined by the Minister of Labour by notice in the *Gazette*.

ISAHLUKO 6D

UMKHIQIZO NOKUNCINTISANA EMSEBENZINI

26K. Ukusungulwa kwe- Productivity South Africa
26L. Imisebenzi ye- Productivity South Africa
26M. Izimali ze- Productivity South Africa
26N. Imithetho miyalelo mayelana nomkhiqizo nokuncintisana ezindaweni zokusebenza".

Isihloko esifusha nokuqala ukusebenza

20. Lo Mthetho ubizwa ngokuthi uMthetho wokuThuthukisa amaKhono oChibiyelayo 2008, kanti uqala ukusebenza ngosuku oluzonqunywa uNgqongqoshe Wezabasebenzi ngenothisi kuyi *Gazethi*.