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## GENERAL NOTICE

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### NOTICE 260 OF 2011

#### DEPARTMENT OF HIGHER EDUCATION AND TRAINING

#### SKILLS DEVELOPMENT ACT, 1998 (ACT NO. 97 OF 1998)

#### SERVICE LEVEL AGREEMENT

### **CALLS FOR COMMENTS ON THE DRAFT AMENDMENT OF THE SERVICE LEVEL AGREEMENT REGULATIONS PUBLISHED IN GOVERNMENT NOTICE NO. R.712 IN GOVERNMENT GAZETTE NO. 27801 OF 18 JULY 2005**

I, Bonginkosi Emmanuel Nzimande, Minister of Higher Education and Training, hereby intend to amend the Service Level Agreement Regulations published in Government Notice No. R 712 in *Government Gazette* No. 27801 of 18 July 2005.

This amendment, as contained in the Schedule, is made in terms of section 10A(4) of the Skills Development Act, 1998 (Act No. 97 of 1998), after consultation with the National Skills Authority and is hereby published for comments.

All interested persons and organisations are invited to comment on the amended Regulations in writing, and to direct their comments to –

The Director-General, Private Bag X174, Pretoria, 0001, for attention: Mr VL Rikhotso, email [Rikhotso.v@dhet.gov.za](mailto:Rikhotso.v@dhet.gov.za).

Kindly provide the name, address, telephone number, fax number and email address of the person or organisation submitting the comments.

The comments should reach the Department within 21 calendar days after publication of this Notice.

**Bonginkosi Emmanuel Nzimande, MP**  
**Minister of Higher Education and Training**  
**Signed on 16 April 2011**

## SCHEDULE

1. Regulation 1 is hereby amended by the insertion after the definition of “Act”, of the following definitions –

“**CEO**” means the Chief Executive Officer of the respective SETA, as appointed in terms of the Constitution of that SETA;

“**PM&D**” means the performance management and development system applicable to a CEO of a SETA.

2. The Regulations are hereby amended after Regulation 1, by the insertion of the following heading:

### “CHAPTER 1

#### PERFORMANCE MANAGEMENT OF THE SETA”

3. The Regulations are hereby amended by the insertion after Regulations 6, by the insertion of the following Chapter:

### “CHAPTER 2

#### PERFORMANCE MANAGEMENT OF THE CEO

##### 6A. Introduction

- (1) The performance of a SETA as contemplated in Chapter 1 must be aligned with the performance management, development and evaluation of the CEO of the SETA.
- (2) The PM&D system applicable to a CEO of a SETA must consist of-
  - (a) mandatory assessment of demonstrated managerial competence;
  - (b) standardised rating scale to which performance related rewards must be directly related; and
  - (c) The introduction of personal development plans.

##### 6B. Purpose

The chapter aims to-

- (1) consolidate the provisions regarding PM&D for the CEO that must be applied by the Accounting Authority;
- (2) provide a link between the recruitment and selection of a suitable CEO as contemplated in Regulations and the PM&D System as contained in the regulations;
- (3) encourage and further develop good practice in the management and development of the CEO based on an assessment existing practices;
- (4) give guidance on the maximum amount payable as a performance bonus to the CEO comparable to that of the post of a Director-General in the public service;

- (5) give guidance on the implementation and management of performance assessments within the context of a PM&D system; and
- (6) Suggest the conditions that Accounting Authorities will need to create in order to manage performance effectively.

#### **6C. Key Principles of the PM&D**

- (1) The key principles underpinning the effective implementation of performance management are-
  - (a) Accounting Authority must manage performance of the CEO in a consultative, supportive and non-discriminatory manner in order to enhance organisational efficiency and effectiveness, accountability for the use of resources and the achievement of results;
  - (b) performance management processes must link to broad and consistent staff development plans and align with the SETA's strategic goals;
  - (c) performance management processes must be developmental, but shall allow for effective response to consistent inadequate performance and for recognising outstanding performance; and
  - (d) Performance management procedures should minimise the administrative burden on Accounting Authority while maintaining transparency and administrative justice.
  - (e) CEO's performance assessment: one mid-term formal assessment and two informal assessments and a final formal evaluation for the year in question must be received by the Accounting Authority to ensure that the CEO's performance is effective.

#### **6D. linking the PM&D cycle to planning and budgeting**

- (1) A SETA, in implementing a management performance cycle of the CEO, must ensure that it is linked to the strategic plan in the SLA, as contemplated in Chapter 1.
- (2) The PM&D system must create an opportunity for evaluation of the CEO's performance annually and must link it to a development system to ensure that the strategic objectives of the SETA are delivered through providing the necessary skills and capacity to the CEO.

#### **6E. Entering into a Performance Agreement**

- (1) The Accounting Authority of a SETA must enter into a written performance agreement with the CEO by not later than 31 March annually and a copy of this performance agreement must be submitted to the Department of Higher Education and Training, within a month after signing.
- (2) This performance agreement must be applicable to a particular financial year and must be reviewed annually.
- (3) Any newly appointed CEO must complete his/her performance agreement within the first three months of appointment.
- (4) The signatories to this performance agreement are the Accounting Authority of a SETA and the CEO of the respective SETA.

- (5) Amendments to this performance agreement, during the implementation year, should be in writing and can only be effected after discussion and agreement by both parties.

**6F. Contents of performance agreement of the CEO**

- (1) The performance agreement must, at minimum, address-
  - (a) a description of the purpose of the job;
  - (b) an agreement on the personal development plan;
  - (c) dates of reviews and formal assessment of the SMS member's performance;
  - (d) a dispute resolution; and
  - (e) dates for consideration of performance related rewards.

**6G. The Development of an assessment instrument for annual appraisal**

- (1) The Accounting Authority must develop an assessment instrument for annual appraisal.
- (2) This appraisal instrument must address the following principles-
  - (a) Allows an overall judgement of performance at the appraisal meeting to be made that is clear and unambiguous;
  - (b) Enables the fair and equitable determination and allocation of package progression and cash rewards based on performance by providing a clear link between the policy on salary and rewards for the CEO in accordance with the Regulations; and
  - (c) Enables the fair management of key career incidents such as probation and action as a result of incapacity or incompetence by making an explicit link between the rating that summarises the appraisal outcome and its implications for these key career incidents. This link should be transparently specified in departmental policy.”.

**Short title and commencement**

7. These Regulations are called the Amended Service Level Agreement Regulations and will come into effect on a date when these Regulations are promulgated in a *Government Gazette*.
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