

NATIONAL QUALIFICATIONS FRAMEWORK BILL, 2008

BILL

To provide for the national qualifications framework; to provide for the responsibilities of Ministers; to provide for the South African Qualifications Authority; to provide for Quality Councils; to provide for transitional arrangements; to repeal the South African Qualifications Authority Act, 1995; and to provide for matters connected therewith.

PREAMBLE

WHEREAS the advancement and recognition of learning is an essential attribute of a free and democratic nation and a prerequisite for the development and well-being of its citizens;

WHEREAS the National Qualifications Framework has been developed and implemented in terms of the South African Qualifications Act, 1995;

WHEREAS the National Qualifications Framework has won wide acceptance as the principal instrument through which national education and training qualifications are recognised and quality assured;

WHEREAS a review of the implementation of the National Qualifications Framework has necessitated changes to the governance and organisation of the framework so that its objectives may be more effectively and efficiently realised;

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

CHAPTER 1**INTERPRETATION, OBJECT AND APPLICATION OF THIS ACT****Definitions**

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

“**Authority**” means the South African Qualifications Authority contemplated in chapter 4;

“**board**” means the board of the Authority established in chapter 4;

“**Council on Higher Education**” means the Council established in terms of section 4 of the Higher Education Act, 1997 (Act 101 of 1997);

“**education institution**” means an education institution that is established, declared or registered by law;

“**gazette**” means *Government Gazette*;

“**learning**” means the acquisition of knowledge, understanding, values, skill, competence or experience;

“**level**” means a level contemplated in chapter 2;

“**Minister**” means Minister of Education;

“**NQF**” means the national qualifications framework contemplated in chapter 2;

“**PFMA**” means Public Finance Management Act, 1999 (Act 1 of 1999);

“**part qualification**” means an assessed unit of learning that may be registered as part of a qualification;

“**professional body**” means a statutory or non-statutory body of expert practitioners in an occupational field, which is recognised by SAQA in terms of this Act, and includes an occupational body;

“**professional designation**” means a title or status conferred by a professional body in recognition of a person's expertise and right to practise in an occupational field;

“**QC**” means a Quality Council contemplated in chapter 5;

“**qualification**” means a registered national qualification, and includes a part qualification;

“**registered**” means registered on the NQF by SAQA in terms of chapter 4;

“**relevant minister**” means either the Minister or the Minister of Labour as indicated by the context;

“**sector**” means a sector of education or training as the case may be for whose sub-framework a QC is responsible;

“**Skills Development Act**” means the Skills Development Act, 1998 (Act 97 of 1998);

“**sub-framework**” means a sub-framework contemplated in chapter 2;

“SAQA” means the Authority;

“SAQA Act” means the South African Qualifications Authority Act, 1995 (Act 58 of 1995);

“**training provider**” means a provider of occupational learning programmes accredited in terms of the Skills Development Act;

“**Umalusi**” means the council established by section 4 of the General and Further Education and Training Quality Assurance Act, 2001 (Act 58 of 2001).

Object of Act

2. The object of this Act is to provide for the further development, organisation and governance of the NQF.

Application of Act

3. This Act applies to –

(a) qualifications offered by

(i) education institutions; and

(ii) training providers; and

(b) professional designations, subject to the limitations prescribed in this Act.

CHAPTER 2

NATIONAL QUALIFICATIONS FRAMEWORK

Framework

4. The NQF is a comprehensive system for the classification, registration, publication and articulation of quality assured national qualifications.

Objectives of NQF

5. (1) The objectives of the NQF are to –

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

(2) The objectives of the NQF are to be achieved by –

- (a) developing, fostering and maintaining an integrated and transparent national framework for the recognition of learning achievements;
- (b) ensuring that South African qualifications meet appropriate criteria and are internationally comparable; and
- (c) ensuring that South African qualifications are quality assured.

Framework levels

6. (1) The NQF is organised as a series of levels of learning achievement in ascending order from one to ten.

(2) Each level on the NQF is described by a statement of learning achievement known as a level descriptor.

(3) A level descriptor provides a broad indication of learning achievements or outcomes that are appropriate to a qualification at that level.

(4) Level descriptors must be developed and determined in terms of this Act for each sub-framework contemplated in section 7.

(4) SAQA assigns a qualification to a particular level on the NQF if it fits the descriptor for that level.

Sub-frameworks

7. The NQF comprises three co-ordinated sub-frameworks –
- (a) for General and Further Education and Training;
 - (b) for Higher Education; and
 - (c) for Trades and Occupations.

CHAPTER 3

RESPONSIBILITIES OF MINISTERS

Joint responsibilities

8. The Minister and the Minister of Labour must –

- (a) advance the achievement of the objectives of the NQF contemplated in chapter 2;
- (b) uphold the coherence and public credibility of the NQF;
- (c) co-operate in discharging their respective responsibilities under this Act;
- (d) encourage collaboration among QCs and between QCs and SAQA;
- (e) consult one another on any matter affecting their respective interests in terms of this Act;
and
- (f) consult one another before any executive decision in terms of this Act is published in the gazette.

Responsibilities of Minister

9. The Minister –

- (a) has overall executive responsibility for the NQF;
- (b) has executive responsibility for SAQA;
- (c) must, after consultation with the Minister of Labour, provide SAQA with a multi-year remit which sets out the government's strategy and priorities for the NQF and which may be annually updated;
- (d) has executive responsibility for the QC for General Education and Training and the QC for Higher Education contemplated in chapter 5;
- (e) must provide funds from money appropriated by Parliament for SAQA, the QC for General and Further Education and Training and the QC for Higher Education to enable them to fulfil their functions under this Act;
- (f) must determine level descriptors recommended by SAQA in terms of section 14, after consultation with the Minister of Labour;
- (g) must determine a dispute referred by SAQA in terms of section 12, but a dispute involving the QC for Trades and Occupations must be determined in co-operation with the Minister of Labour;
- (h) must consider advice on NQF matters given by SAQA or a QC in terms of this Act;
- (i) must determine policy on NQF matters in terms of this Act, and publish it in the gazette;
and

(j) may perform any other function consistent with this Act that advances the objectives of the NQF contemplated in chapter 2.

Responsibilities of Minister of Labour

10. The Minister of Labour –

- (a) has executive responsibility for the QC for Trades and Occupations established by the Skills Development Act;
- (b) must consider advice on NQF matters given by SAQA or a QC in terms of this Act, and provide a response in writing; and
- (c) may perform any other function consistent with this Act that advances the objectives of the NQF contemplated in chapter 2.

CHAPTER 4**SOUTH AFRICAN QUALIFICATIONS AUTHORITY****Continuation of Authority**

11. The South African Qualifications Authority continues to exist as a juristic person despite the repeal of the SAQA Act contemplated in chapter 7.

Objects of Authority

12. The objects of the Authority are to –

- (a) oversee the further development and implementation of the NQF; and
- (b) advance the objectives of the NQF contemplated in chapter 2.

Accountability of Authority

13. The Authority is accountable to the Minister.

Functions of Authority

14. (1) The Authority must perform its functions subject to this Act.

(2) The Authority must advise the Minister and the Minister of Labour on NQF matters in terms of this Act.

(3) The Authority must undertake its functions –

- (a) in a co-operative, consultative, open and transparent manner; and
- (b) with due regard for the statutory rights, powers and functions of QCs, education institutions, professional bodies and training providers.

(4) The Authority must -

- (a) oversee the implementation of the NQF in accordance with a multi-year rolling strategic plan, budget and implementation framework which must -
 - (i) take account of the remit of the Minister contemplated in chapter 3;
 - (ii) be prepared after consultation with the QCs;
 - (iii) be co-ordinated with the annual state budget process; and
 - (iv) be submitted to the Minister for approval;
- (b) with respect to QCs –
 - (i) facilitate a system of collaboration in order to achieve the objectives of the NQF contemplated in chapter 2; and

- (ii) refer a dispute to the Minister for determination as provided in section 8;
- (c) with respect to levels –
 - (i) recommend level descriptors to the Minister after considering proposals by each QC;
 - and
 - (ii) keep level descriptors under review in order to ensure that they remain current and appropriate.
- (d) with respect to qualifications –
 - (i) recommend a policy framework to the Minister for the development, registration and publication of qualifications in each sector, after considering proposals by each QC;
 - (ii) recommend a policy framework to the Minister for assessment, recognition of prior learning and credit accumulation and transfer, after considering proposals by each QC;
 - and
 - (iii) register a qualification recommended by a QC if it meets the approved criteria;
- (e) with respect to quality assurance, recommend a policy framework to the Minister for quality assurance in each sector, after considering proposals by each QC;
- (f) with respect to professional bodies –
 - (i) recommend a policy framework to the Minister for recognising a professional body and registering a professional designation for the purposes of this Act, after consultation with statutory and non-statutory bodies of expert practitioners in occupational fields and after considering proposals by each QC; and
 - (ii) recognise a professional body and register its professional designations if the approved criteria have been met;
- (g) with respect to international relations –
 - (i) collaborate with its international counterparts on all matters of mutual interest concerning national or regional qualifications frameworks; and
 - (ii) inform the QCs and other interested parties about international practice in the development and management of qualifications frameworks;
- (h) with respect to research, conduct or commission and publish investigations on issues of importance to the development and implementation of the NQF, including periodic studies of the impact of the NQF on South African education, training and employment;
- (i) with respect to records of education and training, maintain a national learners' records database comprising registers of national qualifications, national standards, learner achievements, professional bodies, professional designations, and associated information;

- (j) with respect to foreign qualifications, provide an evaluation and advisory service consistent with this Act; and
- (k) with respect to other matters –
 - (i) inform the public about the NQF;
 - (ii) perform any other function required by this Act; and
 - (iii) perform any function consistent with this Act that the Minister may determine.

The SAQA board

15. (1) The Authority is governed by a board.

(2) The board comprises –

- (a) twelve members appointed in their personal capacities by the Minister after consultation with the Minister of Labour;
- (b) the chief executive officer of SAQA contemplated at section 20, who is a member by virtue of his or her office; and
- (c) the chief executive officer of each QC contemplated in chapter 5, who are members by virtue of their offices.

(3) The Minister must appoint members in such a manner as to ensure, insofar as is practically possible, that the functions of the Authority are performed according to the highest professional standards;

(a) the membership taken as a whole –

- (i) is broadly representative of the education and training sectors and related interests;
- (ii) has thorough knowledge and understanding of education and training;
- (iii) appreciates the role of education and training in the reconstruction and development of the South African economy and society;
- (iv) has known and attested commitment to the interests of education and training;
- (v) has knowledge and understanding of standards generation and quality assurance in education and training;
- (vi) is competent to undertake the governance and oversee the financial affairs of the Authority; and

(b) due attention is given to the representivity of the board in terms of such factors as race, gender and disability.

(4) The Minister –

- (a) must invite nominations for appointed members by notice in the gazette; and