

(b) may invite nominations from persons and organisations involved in education and training, professional bodies, organised labour, organised business, and organisations representing community and development interests.

(5) Any appointed member –

(a) holds office for a period not exceeding five years; and

(b) may be reappointed at the expiry of his or her term of office, but may not serve for more than two consecutive terms of office.

(6) The Minister must appoint one of the appointed members as chairperson.

(7) The appointed members must elect a deputy chairperson from amongst their number.

Vacation of office by a board member and filling of vacancies

16. (1) An appointed member must vacate the office if the member –

(a) resigns by giving written notice to the chairperson, or in the case of the chairperson, to the Minister;

(b) is absent from three consecutive meetings of the board, without leave of the board;

(c) is declared insolvent, is removed from an office of trust by a court of law or is convicted or an offence for which the sentence is imprisonment without the option of a fine; or

(d) is declared unable to manage his or her personal affairs by a court of law.

(2) The Minister may revoke the appointment of an appointed member at any time before the expiry of the member's term of office, if there are sound reasons for doing so.

(3) Any vacancy on the board must be filled by appointment in accordance with section 15.

Committees of board

17. (1) The board may establish one or more committees which must perform such functions as the board may determine.

(2) A committee may include a person who is not a member of the board but the board must give due regard to the criteria contemplated in section 15 when it appoints such a person to a committee.

(3) The board must appoint an appointed member of the board as chairperson of a committee.

(4) A member of a committee is appointed for such period as the board may determine.

Meetings of board and committees

18. (1) The board and its committees must meet at least twice a year at such times and places as the relevant chairperson may determine by notice in writing to the members concerned.

(2) The chairperson must convene a meeting of the board –

- (a) within 14 days of the receipt of a written request signed by at least one third of the members of the board; or
- (b) if requested by the Minister to convene a meeting.
- (3) If the chairperson and deputy chairperson of the board are absent from any meeting of the board, the appointed members present must appoint one of their number to preside at that meeting.
- (4) The board must make rules relating to the procedure at meetings of the board and its committees, including the quorum for such meetings, and any other matter necessary or expedient for the performance of the functions of the board or its committees.
- (5) The proceedings at a meeting of the board or a committee are not invalid by reason only of the fact that a vacancy exists on the board or committee, as the case may be, at the time of such meeting.
- (6) The board and its committees must keep minutes of their proceedings and decisions which when confirmed must be open to scrutiny by an interested person in terms of the Promotion of Access to Information Act, 2000 (Act 2 of 2000).

Allowances and remuneration of members of board and committees

19. Any appointed member of the board and any appointed member of a committee who is not in the full-time service of the state may, in respect of services rendered by him or her in connection with the affairs of the board or committee, as the case may be, be paid by the Authority such allowances and, in the case of the chairperson of the board, such additional remuneration, as the Minister, with the concurrence of the Minister of Finance, may determine.

Appointment of chief executive officer and staff

20. (1) The board must appoint a chief executive officer for the Authority.

(2) The board must appoint such number of employees as it may deem necessary for the performance of the Authority's functions, but the board may delegate this function to the chief executive officer for the Authority subject to such conditions as are consistent with the relevant provisions of the PFMA.

(3) The Authority is the employer of the chief executive officer and other employees.

(4) The board must determine the remuneration, allowances, subsidies and other conditions of service of the chief executive officer subject to the approval of the Minister with the concurrence of the Minister of Finance.

Functions of chief executive officer

21. The chief executive officer –

- (a) is responsible to the board for executing the functions of the Authority in terms of this Act;
- (b) must assign responsibilities and supervise the employees of the board;
- (c) is the accounting officer charged with accounting for moneys received, payments made and property purchased by the board.

Funds of Authority

22. (1) The funds of the Authority consist of –

- (a) money appropriated by Parliament;
- (b) donations and contributions received by the Authority;
- (c) money received by the Authority in respect of fees charged for services;
- (d) interest received on investments; and
- (e) any other income received by the Authority.

(2) The board –

- (a) must keep a record of all funds received and spent and of all assets, liabilities and financial transactions;
- (b) must in each financial year, in such manner as the Minister may determine, submit for the Minister's approval a strategic plan and budget for the ensuing financial year, as contemplated in section 14;
- (c) may in any financial year submit adjusted budgets to the Minister for approval; and
- (d) may not incur any expenditure which exceeds the total amount approved in terms of paragraphs (b) and (c).

(3) If the Minister does not approve the budget of the Authority, the Minister must require the board to submit a revised budget within a specific period.

(4) The funds contemplated in (1) must be used in accordance with the approved budget.

Alienation and encumbrance of property

23. The board may not without the prior approval of the Minister, granted with the concurrence of the Minister of Finance, sell, exchange or otherwise alienate the immovable property of the Authority.

Financial statements, audit and annual report

24. (1) The financial statements of the Authority must be prepared in terms of the Standards of Generally Recognised Accounting Practice set by the Accounting Standards Board established in terms of the PFMA.

(2) The financial statements referred to in (1) must be audited at the end of each financial year by a person registered as an accountant and auditor in terms of the Accountancy Professions Act, 2005 (Act 26 of 2005), and appointed by the board with the approval of the Auditor-General.

(3) The board must, not later than five months after the end of each financial year, submit to the Minister an annual report in such form as the minister may determine on the performance of the functions of the Authority during that financial year, including the audited financial statements of the Authority.

(4) The Minister must table in Parliament the annual report, including the financial statements of the Authority within one month after receipt thereof, if Parliament is then sitting, and if Parliament is not then sitting, within one month after the commencement of the next sitting.

CHAPTER 5

QUALITY COUNCILS

QC for General and Further Education and Training

25. Umalusi is the QC for General and Further Education and Training.

QC for Higher Education

26. The Council on Higher Education is the QC for Higher Education.

QC for Trades and Occupations

27. The QC for Trades and Occupations is the body of that name established by the Skills Development Act.

Functions of QCs

28. (1) A QC must perform its functions subject to this Act.

(2) A QC must advise the relevant minister on matters relating to its sub-framework in terms of this Act.

(3) A QC must undertake its functions –

(a) in a co-operative, consultative, open and transparent manner;

(b) in collaboration with SAQA and other QCs; and

(c) with due regard for the statutory rights, powers and functions of SAQA, other QCs, education institutions, professional bodies and training providers.

(4) A QC must -

(a) develop and manage the sub-framework in accordance with a multi-year rolling strategic plan, budget and implementation framework which must –

(i) take into account the Minister's remit contemplated in section 8;

(ii) be prepared after appropriate consultation within its sector;

(iii) be co-ordinated with the annual state budget process; and

(iv) be submitted to the relevant minister for approval;

(b) with respect to levels on its sub-framework –

(i) propose level descriptors to SAQA for consideration and recommendation to the Minister; and

(ii) keep level descriptors under review in order to ensure that they remain current and appropriate;

- (c) with respect to qualifications for its sub-framework –
 - (i) propose a policy framework to SAQA for the development, registration and publication of qualifications, after consultations within the sector;
 - (ii) propose a policy framework to SAQA for assessment, recognition of prior learning and credit accumulation and transfer, after consultations within the sector;
 - (iii) ensure the development of such qualifications as are necessary for the sector, which may include appropriate measures for the assessment of learning achievement; and
 - (iv) recommend qualifications to SAQA for registration;
- (d) with respect to quality assurance within its sub-framework –
 - (i) propose a policy framework to SAQA for quality assurance, after consultations within the sector;
 - (ii) ensure the integrity and credibility of quality assurance;
 - (iii) make provision for the delegation of powers to undertake quality assurance;
 - (iv) ensure that such quality assurance as is necessary for the sector is undertaken; and
 - (v) publish reports on the outcomes of quality assurance processes.
- (e) with respect to information matters –
 - (i) maintain a database of learner achievements and related matters for purposes of this Act; and
 - (ii) submit such data in a format determined in consultation with SAQA for recording on the national learners' records database contemplated at section 14.
- (f) with respect to other matters –
 - (i) conduct or commission and publish research on issues of importance to the development and implementation of the sub-framework;
 - (ii) inform the public about the sub-framework;
 - (iii) perform any other function required by this Act; and
 - (iv) perform any function consistent with this Act that the Minister may determine.

CHAPTER 6

PROFESSIONAL BODIES

Recognition by SAQA

29. A statutory or non-statutory body of expert practitioners in an occupational field must apply to SAQA to be recognised as a professional body in terms of this Act.

Co-operation with QCs

30. Despite the provisions of any other Act, a professional body must co-operate with the relevant QCs in respect of qualifications and quality assurance in its occupational field, but nothing in this Act may be construed as superseding any lawful requirement relating to public health and safety.

Registration of professional designation

31. A professional body must apply to SAQA in the prescribed manner to register a professional designation on the NQF.

Information

32. A professional body must, in consultation with SAQA –

- (a) maintain a database for purposes of this Act;
- (b) submit such data in an agreed format for recording on the national learners' records database contemplated at section 14.

CHAPTER 7

MISCELLANEOUS

Regulations

33. The Minister –

- (a) must make regulations relating to any matter which by this Act must be prescribed; and
- (b) may make regulations on any other matter in order to give effect to the provisions of this Act.

Transitional arrangements

34. (1) The Authority which was established in terms of the SAQA Act continues to exist and performs its functions in terms of this Act until the board contemplated in chapter 4 is appointed by the Minister.

(2) The regulations made under the SAQA Act continue to exist to the extent that they are consistent with this Act until they are repealed and where necessary replaced by the Minister by notice in the gazette.

(3) Subject to any applicable law, all conditions of service or service benefits applicable immediately prior to the commencement of this Act continue to exist until changed by the board.

Repeal of law

35. The South African Qualifications Authority Act, 1995 (Act 58 of 1995) is hereby repealed in its entirety.

Short title and commencement

36. (1) This Act is called the National Qualifications Framework Act, 2008.

(2) This Act takes effect on a date determined by the Minister by notice in the gazette.

NATIONAL QUALIFICATIONS FRAMEWORK BILL, 2008

EXPLANATORY MEMORANDUM

Introduction

Background

The Ministers of Education and Labour have published a joint policy statement on *Enhancing the Efficacy and Efficiency of the National Qualifications Framework* (the NQF). This Bill gives legislative effect to the new policy.

The joint policy statement concluded the review of the implementation of the NQF which began in April 2001, when a study team comprising international and local specialists was appointed by the two ministers. The study team's report was published and drew a vigorous response. The Departments of Education and Labour conferred for a year before publishing a consultative document on the way forward for the NQF. This document too received valuable written comment and was subjected to scrutiny in consultations with stakeholders. Prolonged inter-departmental consultation and engagement with the South African Qualifications Authority resulted in Ministerial agreement late in 2007.

The Ministers explain in their joint statement that:

“The new policy retains the original objectives of the NQF but envisages changes in its organisational structures.... Such changes...are designed to address the allocation of responsibility, resolve tensions among important role-players, and simplify the NQF apparatus in order to speed up the achievement of NQF objectives.”

The National Qualifications Framework

The South African NQF has its roots in the 1980s in the struggle against racial discrimination in the workplace. Labour unions campaigned for the right of workers to have their skills formally recognised, be admitted to structured career paths and receive formal education and training to enable them to advance to any level within their industries. By 1994 the concept of a national framework of qualifications in education and training as a whole had taken root. The *Reconstruction and Development Programme* (p. 62) envisaged an NQF that would:

- Integrate all elements of the education and training system
- Enable learners to progress to higher levels from any starting point
- Enable learners to transfer credits from one part of the system to another
- Enable assessment and recognition of prior learning and skills acquired through experience
- Enable curricula to cut across traditional divisions of skills and knowledge.

The South African Qualifications Authority (SAQA) Act, 1995 (Act 58 of 1995) was the first substantive measure on education and training passed by the first democratic Parliament. It was an enabling Act that established SAQA as a statutory body and gave it wide powers to develop and oversee the implementation of the NQF in order to achieve objectives which encapsulated the features envisaged in the RDP base document.

In little more than ten years the NQF, developed by SAQA with the participation of thousands of citizens, has become an essential frame of reference for the nation's education and training system, in formal learning institutions and in the workplace.

The Ministers of Education and Labour observe that "all social institutions benefit from renewed mandates and revised procedures that take experience into account". The NQF is no exception.

Main features of the Bill

The main features of the Bill distinguish it from the SAQA Act which it will replace.

(1) **The NQF.** The SAQA Act did not describe the NQF, since in 1995 it had not yet been established. The NQF Bill, 2008 contains such a description and in so doing clarifies the concept of an NQF and the way it is organised. The change of name from "SAQA Act" to "NQF Bill" reflects the new focus.

(2) **Ministerial authority.** The SAQA Act requires the Ministers of Education and Labour to achieve agreement on many matters in consultation with one another. Such provisions reflect the wide scope of the NQF, which covers all education and training, but they have proved cumbersome in practice. The NQF Bill requires the two Ministers to act collaboratively, but prescribes clear spheres of ministerial responsibility.

(3) **SAQA's role.** The SAQA Act gave SAQA the responsibility of conceptualising the NQF and leading its implementation. Although SAQA has been true to its mandate to act consultatively, the NQF system as it developed was felt by many participants to entail an unnecessary degree of centralisation and conceptual and procedural rigidity. The NQF Bill secures an apex role for SAQA as custodian of the values of the NQF, research organisation, learning database manager and advisor on the entire NQF system to the government (among other responsibilities). The Bill gives executive responsibility for NQF implementation to three sectoral Quality Councils which will act in close liaison with each other and with SAQA.

(4) **A fit for purpose approach.** The SAQA Act encompassed all areas of education and training. It was expected that the desired integration of the system would be achieved by means of an essentially uniform approach to designing standards and qualifications. Experience has taught that a different approach is preferable. Learning outcomes cannot (or ought not) be dissociated from what is learnt, and what is learnt depends on the purpose and context of learning and the age, previous learning and experience of the