

Regulation Gazette No. 6290

GOVERNMENT NOTICE
SOUTH AFRICAN QUALIFICATIONS AUTHORITY

NO. R 1127

8 September 1998

REGULATIONS UNDER THE SOUTH AFRICAN QUALIFICATIONS AUTHORITY ACT, 1995
(ACT NO. 58 OF 1995)

The South African Qualifications Authority has, under section 14 of the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), with the approval of the Minister of Education and in consultation with the Minister of Labour, made the regulations in the Schedule.

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CHAPTER 1:

GENERAL PROVISIONS

Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Act shall have such a meaning and, unless the context otherwise indicates -
 - "accreditation" means any certification, usually for a particular period of time, of a person, a body or an institution as having the capacity to fulfill a particular function in the quality assurance system set up by the South African Qualifications Authority in terms of the Act;
 - "Act" means the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995);
 - "assessor" means the person who is registered by the relevant Education and Training Quality Assurance Body in accordance with criteria established for this purpose by a Standards Generating Body to measure the achievement of specified National Qualifications Framework standards or qualifications, and "constituent assessor" has a corresponding meaning;
 - "conditional registration" means the registration of a private higher education institution as specified in the Higher Education Act, 1997 (No. 101 of 1997);
 - "constituent" means belonging to the defined or delegated constituency of an organisation or body referred to in these regulations;
 - "Education and Training Quality Assurance Body" means a body accredited in terms of section 5(1)(a)(i) of the 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 the Act;
 - "field" means a particular area of learning used as an organising mechanism for the National Qualifications Framework;
 - "moderation" means the process which ensures that assessment of the outcomes described in National Qualifications Framework standards or qualifications is fair, valid and reliable;
 - "moderating body" means a body specifically appointed by the Authority for the purpose of moderation;
 - "National Standards Body" means a body registered in terms of section 5(1)(a) (ii) of the Act, responsible for establishing education and training standards or qualifications, and to which specific functions relating to the registration of national standards or qualifications have been assigned in terms of section 5(1)(b) (i) of the Act;
 - "outcomes" means the contextually demonstrated end-products of the learning process;
 - "primary focus" means that activity or objective within the sector upon which an organisation or body concentrates its efforts;
 - "professional body" means a statutory body registered as such in terms of the legislation applicable to such bodies, or a voluntary body performing the functions contemplated in the legislation for such bodies but not registered as such;
 - "provider" means a body which delivers learning programmes which culminate in specified National Qualifications Framework standards or qualifications and manages the assessment thereof;
 - "quality assurance" means the process of ensuring that the degree of excellence specified is achieved;
 - "quality audit" means the process of examining the indicators which show the degree of excellence achieved;
 - "quality management system" means the combination of processes used to ensure that the degree of excellence specified is achieved;
 - "registered standards" means standards or qualifications registered on the National Qualifications Framework;
 - "sector" means a defined portion of social, commercial or educational activities used to prescribe the boundaries of an Education and Training Quality Assurance Body;
 - and
 - "Standards Generating Body" means a body registered in terms of section 5(1)(a) (ii) of the Act, responsible for establishing education and training standards or qualifications, and to which specific functions relating to the establishing of national standards or qualifications have been assigned in terms of section 5(1)(b) (i) of the Act.

CHAPTER 2

EDUCATION AND TRAINING QUALITY ASSURANCE BODIES

Accreditation

2. (1) Education and Training Quality Assurance Bodies shall be accredited in each sector by the Authority for the purpose of 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 shall be assigned in terms of section 5(1)(b) (i) of the Act.
- (2) In a sector where no Education and Training Quality Assurance Body has been accredited or where an Education and Training Quality Assurance Body fails to discharge its responsibilities, and where the Authority deems it necessary, the Authority shall undertake the functions and responsibilities normally allocated to such an Education and Training Quality Assurance Body.
- (3) An organisation or group of organisations seeking accreditation as an Education and Training Quality Assurance Body shall be established in one of the following sectors:
 - a. A social sector;
 - b. An economic sector; or
 - c. An education and training sub-system sector.

Criteria for accreditation of Education and Training Quality Assurance Bodies

3. (1) An organisation or group of organisations representing a sector contemplated in regulation 2(3), which meets the criteria for accreditation as an Education and Training Quality Assurance Body indicated in subregulation (2), may apply to the Authority for accreditation as an Education and Training Quality Assurance Body.
- (2) Such an organisation shall demonstrate that-
 - a. there is a need for an Education and Training Quality Assurance Body to be established in the sector in which it wishes to function;
 - b. it has a primary focus for its quality assurance activities based upon its association with the identified sector and the identified mission of that sector;
 - c. it has not duplicated the functions or parts of the functions of an existing Education and Training Quality Assurance Body unless the Authority deems such duplication or partial duplication necessary;
 - d. it has the capacity to perform the functions assigned to it by the Authority;
 - e. it has sufficient resources to be viable for the duration of the period of accreditation;
 - f. it has a quality management system which includes but is not limited to -
 - i. quality management policies which define the quality which the Education and Training Quality Assurance Body wishes to achieve;
 - ii. quality management procedures which enable the Education and Training Quality Assurance Body to practice its defined quality management policies; and
 - iii. review mechanisms which ensure that the quality management policies and procedures defined are applied and remain effective;
 - g. the function of external quality assurance is separate from and independent of the function of provision of education and training;
 - h. in respect of the quality assurance function, it has national stakeholder representation at decision-making level, which representation shall ensure public accountability and transparency; and
 - i. its activities will advance the objectives of the National Qualifications Framework.

- (3) An organisation seeking accreditation as an Education and Training Quality Assurance Body shall accept in writing-
 - a. the right of the Authority to examine at any time the activities of an Education and Training Quality Assurance Body and review its quality management policies and procedures;
 - b. the right of the Authority to provide guidance or issue relating to the activities of an Education and Training Quality Assurance Body; and
 - c. the right of members of the Education and Training Quality Assurance Body to approach the Authority directly on matters affecting the effectiveness of the Education and Training Quality Assurance Body: Provided that reasonable steps to resolve such matters have been taken at the level of the Education and Training Quality Assurance Body.

Certificate of accreditation

4. (1) Each Education and Training Quality Assurance Body shall, upon accreditation be issued with a certificate of accreditation by the Authority.
- (2) The certificate of accreditation shall indicate the specific standards or qualifications for which accreditation has been granted: Provided that such standards or qualifications shall be limited to the primary focus of the Education and Training Quality Assurance Body unless an extension of accreditation is granted in terms of regulation 5.
- (3) Each accredited Education and Training Quality Assurance Body shall, in the first calendar month of the third year of accreditation and every third year thereafter, submit a report to the Authority stating the reasons why such accreditation should be retained, and indicating the results achieved by the Education and Training Quality Assurance Body during the previous two years.

Extension of accreditation

5. (1) An Education and Training Quality Assurance Body which desires the extension of its accreditation to include standards or qualifications not considered by the Authority to be within its primary focus, shall submit an application to that effect to the Authority, demonstrating its ability to meet the criteria for such accreditation in terms of regulation 3(1) and (2).
- (2) Upon the granting of the extension the certificate of accreditation shall be endorsed accordingly.

Withdrawal of accreditation

6. The accreditation of an Education and Training Quality Assurance Body may be withdrawn if, in the opinion of the Authority, it fails to perform its functions satisfactorily.

Membership of Education and Training Quality Assurance Bodies

7. The members of an Education and Training Quality Assurance Body shall be those members of the organisation or group of organisations accredited as an Education and Training Quality Assurance Body who have been appointed to that body by such organisation or group of organisations meeting the requirements of regulation 2(2).
8. The office of members of Education and Training Quality Assurance Body

9. The chairperson or any member of the Education and Training Quality Assurance Body referred to in regulation 7 shall relinquish his or her appointment if -
 - a. his or her estate is sequestrated or he or she enters into a compromise with his or her creditors;
 - b. he or she is detained as a mentally disordered person in terms of any law;
 - c. he or she is absent from three consecutive meetings of the Education and Training Quality Assurance Body without leave from the Education and Training Quality Assurance Body;
 - d. he or she resigns by giving notice in writing to the Education and Training Quality Assurance Body;
 - e. he or she, during the course of his or her term of office, is found guilty of an offence and sentenced to imprisonment without the option of a fine; or
 - f. he or she in the opinion of the Education and Training Quality Assurance Body fails to discharge his or her responsibilities.

Functions of Education and Training Quality Assurance Bodies

9. (1) An Education and Training Quality Assurance Body shall-
 - a. accredit constituent providers for specific standards or qualifications registered on the National Qualifications Framework;
 - b. promote quality amongst constituent providers;
 - c. monitor provision by constituent providers;
 - d. evaluate assessment and facilitate moderation among constituent providers;
 - e. register constituent assessors for specified registered standards or qualifications in terms of the criteria established for this purpose;
 - f. take responsibility for the certification of constituent learners;
 - g. cooperate with the relevant body or bodies appointed to moderate across Education and Training Quality Assurance Bodies including but not limited to, moderating the quality assurance on specified standards or qualifications for which one or more Education and Training Quality Assurance Bodies are accredited;
 - h. recommend new standards or qualifications to National Standards Bodies for consideration, or modifications to existing standards or qualifications to National Standards Bodies for consideration;
 - i. maintain a data base acceptable to the Authority;
 - j. submit reports to the Authority in accordance with the requirements of the Authority; and
 - k. perform such other functions as may from time-to-time be assigned to it by the Authority.
- (2) In performing its functions an Education and Training Quality Assurance Body -
 - a. shall abide by regulations 2 to 12 of the National Standards Bodies Regulations (R452 of 28 March 1998, Government Gazette No 18787);
 - b. may delegate selected functions contemplated in subregulation (1) to a constituent provider or other body with the prior approval of the Authority, but may not delegate its accountability to the Authority; and
 - c. if established under another Act of Parliament to govern a single co-ordinated system of multi-qualification providers, shall delegate the function of registering constituent assessors, contemplated in subregulation 1(i)(e), to its providers if their quality management system includes the monitoring of this function and the South African Qualifications Authority is notified.

CHAPTER 3

RULES OF PROCEDURE AND FINANCING THE ACTIVITIES OF EDUCATION AND TRAINING QUALITY ASSURANCE BODIES

Financing activities of Education and Training Quality Assurance Bodies

10. (1) An Education and Training Quality Assurance Body seeking to reach agreement with the Authority on charges to be raised or waived under the powers delegated to the Education and Training Quality Assurance Body by the Authority, shall produce a business plan indicating the objectives to be achieved in the period of review which shall normally be three years, and which shall include a financial budget.
- (2) The business plan contemplated in subregulation (1) shall indicate the proposed charges to be raised or waived and the effect of such proposals on the achievement of the objectives which the National Qualifications Framework with particular reference to facilitating access to, and mobility and progression within education, training and career paths.

Rules of procedure

11. Each Education and Training Quality Assurance Body shall, when functioning as such, be governed by its rules of procedure which shall adhere to the Guidelines contained in the Annexure to these Regulations.

CHAPTER 4

PROVIDERS OF EDUCATION AND TRAINING

Accreditation of providers

12. An Education and Training Quality Assurance Body may on application accredit as a provider a body which meets the criteria contemplated in regulation 13.

Criteria for accreditation of providers

13. A body may be accredited as a provider by an Education and Training Quality Assurance Body whose primary focus coincides with the primary focus of the provider: Provided that the body seeking accreditation-
 - a. is registered as a provider in terms of the applicable legislation at the time of application for accreditation;
 - b. has a quality management system which includes but is not limited to-
 - i. quality management policies which define that which the provider wishes to achieve;
 - ii. quality management procedures which enable the provider to practise its defined quality management policies; or
 - iii. review mechanisms which ensure that the quality management policies and procedures defined are applied and remain effective;
 - c. is able to develop, deliver and evaluate learning programmes which culminate in specified registered standards or qualifications;
 - d. has -
 - i. necessary financial, administrative and physical resources;
 - ii. policies and practices for staff selection, appraisal and development;
 - iii. policies and practices for learner entry, guidance and support services;
 - iv. policies and practices for the management of off-site practical or work-site components;
 - v. policies and practices for the management of assessment;
 - vi. necessary reporting procedures; and
 - vii. the ability to achieve the desired outcomes, using available resources and procedures considered by the Education and Training Quality Assurance Body to be needed to develop, deliver and evaluate learning programmes which culminate in specified registered standards or qualifications contemplated in regulation 2(3); and
 - e. has not already been granted accreditation by or applied for accreditation to another Education and Training Quality Assurance Body contemplated in regulation 2.

Certificate of accreditation as provider

14. (1) Each registered provider shall, upon accreditation, be issued with a certificate of accreditation by the relevant Education and Training Quality Assurance Body, which certificate shall be endorsed by the Authority and shall state -
 - a. that it is a constituent provider of the relevant Education and Training Quality Assurance Body; and
 - b. the standards or qualifications for which accreditation is granted.
- (2) Each accredited provider shall, in the first calendar month of the fifth year of accreditation and every fifth year thereafter, submit a report to the relevant Education and Training Quality Assurance Body stating the reasons why such accreditation should be retained, and indicating the results achieved by it during the previous four years.

Extension of accreditation of providers

15. (1) An accredited provider which desires the extension of its accreditation to include standards or qualifications not considered by the Education and Training Quality Assurance Body by which it is accredited to be within its primary focus, shall submit an application to that effect to the Education and Training Quality Assurance Body with which it is accredited, demonstrating its ability to meet the criteria for such extension of accreditation.
- (2) The Education and Training Quality Assurance Body with which such provider is accredited, shall, with the concurrence of the Authority, arrange such extension of accreditation as is required via the Education and Training Quality Assurance Body of primary focus for the standards or qualifications for which application has been made: Provided that-
 - a. the criteria for such accreditation contemplated in regulation 13(1) are met;
 - b. assessors registered with the Education and Training Quality Assurance Body with which the provider is accredited carry out the assessment of the registered standards or qualifications for which the extension is sought; or
 - c. assessors registered with the Education and Training Quality Assurance Body of primary focus for the standards or qualifications to which application has been made, carry out the assessment.
- (3) The Authority shall, in consultation with the Education and Training Quality Assurance Body of primary focus contemplated in subregulation (2) ensure that the criteria for accreditation contemplated in regulation 13 for the specified standards or qualifications are met.
- (4) The Education and Training Quality Assurance Body with which the provider making application for extension of accreditation is accredited shall remain the Education and Training Quality Assurance Body of primary focus for that provider after granting of the extension of accreditation.
- (5) Upon the granting of the extension, the certificate of accreditation shall be endorsed as contemplated in regulation 14(1)(b).

Provisional accreditation of providers

16. (1) If the Education and Training Quality Assurance Body to whom application for accreditation is made, is of the opinion that a registered provider or a provider seeking conditional registration does not meet all the criteria for accreditation, then such Education and Training Quality Assurance Body may grant such provider provisional accreditation for an agreed period of time, not exceeding two years, during which it shall undergo a programme of development agreed by the Education and Training Quality Assurance Body if the business on the agenda appears not to warrant calling such a meeting, with the proviso that members shall be advised of such postponement at least one week before the date on which the Education and Training Quality Assurance Body is due to meet, and with the further proviso that meetings may not be cancelled or postponed due to acceptable events or considerations beyond the control of the Education and Training Quality Assurance Body unless two-thirds of the members agree to this.
- (2) A person whose presence is required for the purpose of a meeting may be invited by the Education and Training Quality Assurance Body to attend any meeting of the Education and Training Quality Assurance Body.
- (3) All documentation dispatched to members shall be labelled in a manner appropriate to the nature and status of the contents, with the understanding that it is incumbent upon members to ensure that such documentation is dealt with in accordance with that labelling.

NOTICE OF MEETINGS

9. Notice of any meeting of the Education and Training Quality Assurance Body which shall include an agenda of the matters to be considered there, shall be forwarded by the Secretary to each member and such other persons required to attend at least 14 days before the scheduled date of the meeting to the address registered with the Secretary: Provided that in the case of special meetings such shorter written notice as may be decided by the Chairperson, but not less than three working days, may be given.
- (2) The non-receipt of any notice, duly sent to the registered address of any member, shall not affect or invalidate the proceedings of any meeting.

ATTENDANCE REGISTER

11. Every member present at a meeting of the Education and Training Quality Assurance Body shall sign the attendance register which shall be available for that purpose.

QUORUM

20. One half of the members, excluding the Chairperson, shall form a quorum at all ordinary meetings of the Education and Training Quality Assurance Body. At special meetings one-third of the members of the Education and Training Quality Assurance Body, excluding the Chairperson, shall constitute a quorum.
- (2) If the members present at the time and place fixed for a meeting is insufficient to form a quorum, the meeting shall continue, with the proviso that any decisions reached shall be considered to be draft decisions and shall be circulated to the Education and Training Quality Assurance Body for further discussion and comment prior to finalisation.

PRESS STATEMENTS

14. Where it is deemed necessary to issue press statements concerning aspects relevant to the activities and meetings of the Education and Training Quality Assurance Body, they shall be issued by the Chairperson of the Education and Training Quality Assurance Body with the concurrence of the Chairpersons of the Authority.

MINUTES

15. Minutes of each meeting shall be compiled and submitted for confirmation at the following meeting. The Secretary shall circulate the minutes to members at the same time as the notice convening the next meeting.
16. Minutes shall not reflect verbatim the proceedings of meetings, but shall be a summarised recording of the proceedings, Resolutions and actions required, with the provision that any member shall have the right to request that his or her particular view be reflected in the minutes.

DEBATES OF THE EDUCATION AND TRAINING QUALITY ASSURANCE BODY AND VOTING

17. In the absence of any meeting of the Education and Training Quality Assurance Body which requires a decision and the ordinary rules of the majority shall apply.
18. Decision-making shall be by consensus with the proviso that where consensus cannot be reached a vote may be taken. Where voting is deemed necessary it shall be by show of hands unless a ballot be requested by any member, when a secret ballot shall be held.
19. The Chairperson, when presiding shall not have a deliberative vote, but a casting vote.
20. In the absence of the Chairperson the acting Chairperson (be it the Deputy Chairperson on another) shall not have a casting vote, but a deliberative vote.
21. It is incumbent upon a member of the Education and Training Quality Assurance Body to declare any pecuniary interest in a matter being debated by the Education and Training Quality Assurance Body and to offer to recuse himself or herself from the debate: Provided that such member shall be excused when a decision on such matter is being made by the Education and Training Quality Assurance Body.
22. The request of such member shall be decided by the majority of the members present at a meeting of the Education and Training Quality Assurance Body to attend any meeting of the Education and Training Quality Assurance Body.
23. Non-attendance of members at any of these rules, if any matter arises between ordinary meetings which requires a decision of the Education and Training Quality Assurance Body and which in the opinion of the Chairperson should not be delayed until the next ordinary meeting of the Education and Training Quality Assurance Body, the Chairperson may authorise the Secretary to prepare and dispatch by registered post or courier to each member a notice reflecting the matter in question and seeking a postal vote upon which a decision may be made. The notice shall specify the period in which a postal vote may be lodged, which shall not be less than 10 days from the date of dispatch of the notice. The decision of the majority of the Education and Training Quality Assurance Body shall be deemed to be the Education and Training Quality Assurance Body's decision. The result of each such ballot shall be made known at the next meeting of the Education and Training Quality Assurance Body.

ESTABLISHMENT OF EXECUTIVE COMMITTEE

24. An Executive Committee shall consist wholly of members and be appointed by it. It shall consist of the Chairperson and such other number of members as determined and nominated by the Education and Training Quality Assurance Body: Provided that -
 - a. such Executive Committee shall, subject to the directions of the Education and Training Quality Assurance Body and which the affairs of the Education and Training Quality Assurance Body between meetings: Provided that all decisions relating to matters of principle shall be the prerogative of the Education and Training Quality Assurance Body;
 - b. the Chairperson, or in absence of the Chairperson, the acting Chairperson elected by the members shall preside at all meetings of the Executive Committee;
 - c. the Chairperson shall report on the work of the Executive Committee at each ordinary meeting of the Education and Training Quality Assurance Body; and
 - d. a quorum of the Executive Committee shall consist of the Chairperson plus one half of the members of that committee.

ROLE OF SECRETARY

25. The secretarial work incidental to the performance by the Education and Training Quality Assurance Body of its functions, shall be performed, subject to the directions of the Chairperson of the Education and Training Quality Assurance Body, by the Secretary.
26. The role of the secretary is to assist the Education and Training Quality Assurance Body through -
 - a. providing secretarial functions;
 - b. advising on administrative matters;
 - c. effective administration service;
 - d. assistance in managing projects;
 - e. executing such other tasks as the Education and Training Quality Assurance Body may from time to time require.

AMENDMENT OF THE RULES.

27. These rules may be added to or amended at any meeting of the Education and Training Quality Assurance Body with the concurrence of the Authority, by a simple majority of the members present, provided that such amendment forms a specific item on the agenda, the text whereof was circulated to members with the agenda and provided that no fewer than half of its members are present at the meeting.

REVIEWING DECISIONS OF THE EDUCATION AND TRAINING QUALITY ASSURANCE BODY

28. Each decision taken at a meeting of the Education and Training Quality Assurance Body is to be allocated a unique Education and Training Quality Assurance Body decision number and is seen as an Education and Training Quality Assurance Body decision. A member wishing to have a decision reviewed is required to submit written notice of such a requirement with the desired review to the Secretary at least 14 days prior to a meeting of the Education and Training Quality Assurance Body. Should the Education and Training Quality Assurance Body amend the decision, such amendment shall be recorded in the minutes of the meeting, the necessary amendments to documentation shall be made and revised versions of documentation shall be issued.