



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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Government Notices

MINISTRY OF HIGHER EDUCATION, TECHNOLOGY AND INNOVATION

No. 66 2021

AMENDMENT OF REGULATIONS RELATING TO USE OF VOCATIONAL AND TRAINING LEVIES FOR FUNDING VOCATIONAL EDUCATION AND TRAINING PROGRAMMES AND PROJECTS AND FOR PROVIDING TECHNICAL AND FINANCIAL ASSISTANCE: VOCATIONAL EDUCATION AND TRAINING ACT, 2008

Under section 47 of the Vocational Education and Training Act, 2008 (Act No. 1 of 2008), after consultation with the Board of the Namibia Training Authority, I have amended the regulations as set out in the Schedule.

I. KANDJIL-MURANGI
MINISTER OF HIGHER EDUCATION
TECHNOLOGY AND INNOVATION

Windhoek, 5 March 2021

SCHEDULE**Definitions**

1. In these regulations the “Regulations” means the Regulations relating to use of vocational and training levies for funding vocational education and training programmes and projects and for providing technical and financial assistance published under Government Notice No. 5 of 27 January 2014.

Amendment of regulation 1 of Regulations

2. Regulation 1 of the Regulations is amended by the substitution for the definition of “training” of the following definition -

“training” means training which is related to vocational training provided by a private vocational training provider accredited by the Namibian Qualifications Authority or a state-owned training centre, including certificates and diplomas up to NQF Level 6;”.

Amendment of regulation 4 of Regulations

3. Regulation 4 of the Regulations is amended by -

(a) the substitution for subregulation (5) of the following subregulation:

“(5) If the NTA rejects an application in terms of subregulation (4)(b), the employer concerned may resubmit the application to the NTA within six months from the date of rejection if the employer meets the eligibility criteria referred to in regulation 3(1).”; and

(b) the addition of the following subregulation after subregulation (5):

“(6) An employer who fails to resubmit an application in terms of subregulation (5) or resubmits an application and such resubmitted application is rejected by the NTA, the employer forfeits the funds it is entitled to claim under this regulation.”.

MINISTRY OF HIGHER EDUCATION, TECHNOLOGY AND INNOVATION

No. 67

2021

**IMPOSITION OF VOCATIONAL EDUCATION AND TRAINING LEVY ON EMPLOYERS:
VOCATIONAL EDUCATION AND TRAINING ACT, 2008**

Under section 35(1) and (4) of the Vocational Education and Training Act, 2008 (Act No. 1 of 2008) read with section 41 of that Act, I, with the concurrence of the Minister of Finance and after consulting the Board of the Namibia Training Authority -

(a) impose a levy on employers as set out in the Schedule; and

(b) repeal Government Notice No. 6 of 27 January 2014, No. 248 of 14 October 2016 and No. 290 of 5 November 2018.

**I. KANDJII-MURANGI
MINISTER OF HIGHER EDUCATION,
TECHNOLOGY AND INNOVATION**

Windhoek, 5 March 2021

SCHEDULE

Definitions

1. In this notice a word or expression to which a meaning has been assigned in the Act has that meaning and, unless the context otherwise indicates -

“employee” means an employee as defined in section 1 of the Labour Act, 2007 (Act No. 11 of 2007);

“payroll” means the total annual remuneration paid or payable by an employer to its employees during any financial year;

“remuneration” means remuneration as defined in Part I of Schedule 2 of the Income Tax Act, 1981 (Act No. 24 of 1981); and

“the Act” means the Vocational Education and Training Act, 2008 (Act No. 1 of 2008).

Imposition of levy

2. Subject to paragraph 3, a vocational education and training levy is payable by every employer, excluding the employers provided for in paragraph 4.

Description of employers who must pay levy

3. An employer with an annual payroll of N\$1 000 000 or more must pay the levy.

Exemption of employers from payment of levy

4. (1) The following employers are exempted from payment of the levy -
- (a) the State;
 - (b) regional councils as defined in section 1 of the Regional Councils Act, 1992 (Act No. 22 of 1992);
 - (c) local authorities established by the Local Authorities Act, 1992 (Act No. 23 of 1992) except those referred to in Part I of Schedule 1 of that Act;
 - (d) employers, whether or not supported wholly or partly by grants from public funds, that meet the criteria for -
 - (i) public educational institutions;
 - (ii) faith-based organisations;
 - (iii) charitable organisations;
 - (iv) private education and training institutions;
 - (v) diplomatic and consular missions and offices of representatives of other states;
 - (vi) donor organisations and their agencies;
 - (vii) non-profit making voluntary organisations or non-government organisations;or

(viii) non-profit making non-voluntary organisations.

(2) In order to qualify for exemption, the employers referred to in subparagraph (1) must meet the criteria described in the Framework for the Exemption of Employers from Payment of the Vocational Education and Training Levy set out in Annexure C.

(3) An institution or employer not mentioned in subparagraph (1) may apply in writing to the Minister for exemption from paying the levy.

Rate on which levy is payable

5. The rate of the levy is 1% of the amount of the annual payroll of the employer concerned.

Payment of levy

6. (1) The levy referred to in paragraph 5 must be paid and reflect in the National Training Fund bank account on or before the 20th day of each month.

(2) Every payment of the levy referred to in subparagraph (1) must be accompanied by -

(a) a completed monthly return form provided by the NTA as set out in Annexure A; and

(b) evidence of monthly payroll as set out in Annexure A.

(3) If -

(a) an employer is required to pay the levy and fails to submit a monthly return form;

(b) the NTA is not satisfied with the information provided in the return form; or

(c) an employer has failed to pay the levy in terms of the Act,

the NTA may make a reasonable estimate, based on information provided on Annexure B, of the amount of any levy payable and issue to the employer a notice of assessment for the unpaid amount and in respect of the failure contemplated in subparagraph (a), impose a penalty of N\$250 on every late monthly return form.

(4) An employer to whom a notice of assessment is issued in terms of subparagraph (3) must pay the amount of the assessment concerned unless the employer has -

(a) after receiving the assessment submitted a monthly return form;

(b) given proof to the NTA that the submitted monthly return form is correct; and

(c) paid the levy in terms of the Act.

(5) An employer may submit an amended monthly return form as follows -

(a) in respect of periods preceding the date of publication of this Notice in the *Gazette*, within six months of such date of publication;

(b) after the date of publication of this Notice in the *Gazette*, within the financial year concerned; and

- (c) for declarations for the month of March, on or before 30th April of the following financial year.

Body to which levy is paid and manner of payment

7. An employer who is required to pay the levy in terms of this notice must pay the levy to the NTA into the National Training Fund bank account by -

- (a) electronic funds transfer; or
(b) bank deposit.

Furnishing of information by employers

8. (1) An employer who is required to pay the levy must, within 30 days of publication of this Notice in the *Gazette*, complete the levy registration form in the form of Annexure B.

(2) An employer with a subsidiary establishment must complete a levy registration form in the form of Annexure B in respect of such subsidiary.

Levy as debt due to National Training Fund

9. On the date of publication of this Notice in the *Gazette*, a levy that is due and payable is a debt to the National Training Fund and may be recovered by the NTA in the manner set out in section 40 of the Act.

ANNEXURE A

Monthly Levy Submission Form
(Paragraph 6)

Financial Period:

Employer's Name:

NTA Registration Number:

LEVY FOR THE MONTH		
A	Total Monthly Payroll	
B	Levy Payable (Payroll times 1 percent)	
C	Interest	
D	Penalties	
E	Total Amount Payable (B+C+D)	
	Previous Amounts Over/Underpaid	
	Total Amount Payable	
EVIDENCE		
		Attached (X) Not attached (X)
1	Detailed payroll report (including employee names and/or numbers as well as remuneration)	

BEE Status

Compliant

Exempt

Not BEE Compliant

*(Please tick as appropriate)****In the case of a company or a close corporation, please state registration number under the Companies Act, 2004 (Act No. 28 of 2004) or Close Corporation Act, 1988 (Act No. 26 of 1988) - whichever is applicable***

Company Registration Number																			
Income Tax Number																			
Social Security Number																			

Location

Region																			
City																			
Constituency																			
Municipality																			

Business Sector and economic Classification

Industry Skills Committee																			
Division- Main Sector																			
Sub-Group Sector Code																			
Detailed Sector Code																			

Or**Specify Main Activity and Sub-activity**

Main Activity																			
Sub-activity																			

Payroll Data - Estimated***“Payroll” means the total annual remuneration paid or payable by an employer to its employees during any financial year******“remuneration” means remuneration as defined in Part I of Schedule 2 of the Income Tax Act, 1981 (Act No. 24 of 1981)***

Estimated Annual Payroll	N\$																		
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Addresses

ANNEXURE C**FRAMEWORK FOR THE EXEMPTION OF EMPLOYERS FROM PAYMENT OF THE VOCATIONAL EDUCATION AND TRAINING LEVY****1. The State**

The Republic of Namibia is a sovereign, secular, democratic and unitary State founded upon the principles of democracy, the rule of law and justice for all. The State is exempt from payment of the Vocational Education and Training Levy (“VET levy”). In accordance with the doctrine of separation of powers, this category of employers will include, and “State” means, the three organs of the State being the Executive, Legislature and Judiciary, specifically:

- (i) Offices, Ministries and Agencies as contemplated in the Public Service Act, 1995 (Act No. 13 of 1995);
- (ii) the Cabinet;
- (iii) the National Assembly;
- (iv) the National Council; and
- (v) the Judiciary.

For purposes of the VET levy, public enterprises as defined in the Public Enterprises Governance Act, 2019 (Act No. 1 of 2019), are excluded from the definition of State.

Regional and Local Authorities, are also excluded from the definition of State and are dealt with under item 2 and item 3, respectively.

2. Regional Councils

“Regional Council”, means a regional council as is established in accordance with Article 103 of the Namibian Constitution and as defined in section 1 of the Regional Councils Act, 1992 (Act No. 22 of 1992), and are exempted from payment of the VET levy.

3. Local Authorities (except those listed in Part I of Schedule 1 of the Local Authorities Act, 1992)

In terms of section 3(1) of the Local Authorities Act, 1992 (Act No. 23 of 1992), the Minister responsible for urban and rural development may establish by notice in the *Gazette* any area specified in the notice as the area of a local authority, and declare the area to be a municipality, town or village under the name specified in the notice. All categories of local authorities, except those referred to in Part I of Schedule 1 to that Act, are exempt from payment of the VET levy.

4. Public Educational Institutions

“Public educational institutions” mean entities that provide instructional services or education-related services to individuals and other educational institutions that are owned and funded by government and devoted to the promotion of a particular cause or program that is of an educational character.

5. Faith-Based Organisations

“Faith-based organisations” are organisations affiliated with or based on religion or a religious group, including associations not for gain incorporated in terms of section 21 of the Companies Act, 2004 (Act No. 28 of 2004). Faith-based organisations must meet the following criteria in order to be exempt from payment of the VET levy:

- 5.1 The main objective of the organisation is the promotion of faith-based activities or religion and includes churches and mosques.
- 5.2 The organisation should have a written constitution stating that it is a faith-based organisation and adhere to religious tenets.
- 5.3 The written constitution must provide that any profits or income derived by the organisation must be applied only to promote the main objective of the organisation as set out therein and not for distribution to its members.

6. Charitable Organisations

- 6.1. Subject to subitem 6.2, a “charitable organisation” means a group of people or organisation having its main objective as the voluntary provision of support, fund raising and donation of things, including money, to vulnerable or disadvantaged groups or individuals and carries on or intends to carry on charitable activities, and includes, but is not limited to, a welfare organisation that has been registered in terms of section 19 of the National Welfare Act, 1965 (Act No. 79 of 1965), which charitable organisation, is formed around a common purpose, e.g. promotion of non-violence or helping children, community-based development, welfare or similar.
- 6.2. A charitable organisation, including the aforementioned welfare organisation, must meet the following criteria in order to be exempt from the payment of the VET levy:
 - 6.2.1 The organisation should have a written constitution.
 - 6.2.2 The organisation is in terms of its constitution required to utilise any property or income solely in the furtherance of its aims and objects and is prohibited from transferring any portion thereof, directly or indirectly, in any manner whatsoever so as to profit any person other than by way of the payment in good faith of reasonable remuneration to any officer or employee of the organisation or institution for any services actually rendered to such organisation or institution.
 - 6.2.3 The members of the organisation are not entitled to any distribution nor profits of the organisation.
 - 6.2.4 The organisation should have members that are helping defined individuals or groups of societies as set out in the written constitution.
 - 6.2.5 If required, the organisation must be registered with the relevant authority concerned.

7. Private Educational and Training Institutions

Educational institutions are entities that provide and promote instructional services or education-related services to individuals or other educational institutions. An education institution is classified as private if it is controlled and managed by a non-governmental

organisation, or if the governing board of such institution consists mostly of members not selected by a public agency. Private educational and training institutions generate their funding from fees from students and some government subventions. Private educational and training institutions must meet the following criteria in order to be exempt from payment of the VET levy:

- 7.1 The core business of the institution must be education and training as stated in the constitution or founding document of the institution.
- 7.2 The institution must be registered with all the relevant authorities (i.e. Ministry of Education, Arts and Culture, National Council for Higher Education, Namibia Training Authority etc.).

8. Diplomatic Missions and Consular Missions and Office of a Representative of another State

The persons listed in section 2(1) of the Diplomatic Privileges Act, 1951 (Act No. 71 of 1951) are exempt from payment of the VET levy.

9. Donor Organisations and their agencies

Organisations whose main objective is to provide developmental aid are generally regarded as donor organisations. Developmental aid is granted by governments and other agencies to support the economic, environmental, social, and political development of developing countries. All donor organisations are exempt from paying the VET levy.

10. Non-Profit Making Voluntary or Non-Governmental Organisations

A non-profit making voluntary organisation is an organisation whose main objective is to provide a service for the promotion of the arts, science, recreation or any other cultural or social activity or communal or group interest acting in a voluntary and non-profit making capacity. A non-profit making non-governmental organisation (NGO) is any non-profit, voluntary citizens' group which is organised on a local, national or international level, some organised around specific issues, such as human rights, environment or health. NGOs are task-oriented and driven by people with a common interest and perform a variety of services and humanitarian functions, bring citizen concerns to government, advocate and monitor policies and encourage political participation through provision of information. Non-profit making voluntary and non-governmental organisations are required to meet the following criteria in order to be exempt from payment of the VET levy:

- 10.1 The organisation must have a written constitution.
- 10.2 If required, the organisation must be registered with the relevant authority concerned.
- 10.3 The organisation must have members that are helping defined individuals or groups of societies as set out in the written constitution.
- 10.4 The written constitution must provide that any profits or income derived by the organisation must be applied only to promote the main objective of the organisation as set out therein and not for distribution to its members.

11. Non-Profit Making Non-Voluntary Organisations

A non-profit making non-voluntary organisation is an organisation whose main objective is to provide a service for the promotion of the arts, science, professions, recreation or any

other cultural or social activity or communal or group interest acting in a non-voluntary and non-profit making capacity. Non-profit making non-voluntary organisations are required to meet the following criteria in order to be exempt from payment of the VET levy:

- 11.1 The organisation must be established by an Act of Parliament.
 - 11.2 If required, the organisation must be registered with the relevant authority concerned.
 - 11.3 Membership to the organisation should be compulsory (non-voluntary).
 - 11.4 The organisation must be involved in skills development.
 - 11.5 The members of the organisation should be beneficiaries to such skills development initiatives.
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