# Consultative Paper
# on the
# proposed amendments to the
# National Qualifications Framework Act, 2008 (Act No. 67 of 2008)
# as amended

26 March 2020

## Invitation to Respond to the 'Consultative Paper on Proposed Amendments to the National Qualifications Framework Act, 2008 (Act No. 67 of 2008) as amended'

The Department invites the public to respond to the '*Consultative Paper on Proposed Amendments to the National Qualifications Framework (NQF) Act, 2008 (Act No. 67 of 2008) as amended'* (Consultative Paper). Written responses should reach the Department at the address below not later than **30 May 2020.**

The Department will also be engaged in a series of bilateral and multilateral consultations with stakeholders from March to the end of June 2020.

Copies of the Consultative Paper can be accessed on the Department's website: www.dhet.gov.za.

Written comments on the proposed amendments to the NQF Act should  be emailed to Ms Bellinah Molaudzi at the following address: molaudzi.b@dhet.gov.za.

Hard copy comments can be sent to:
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# Preface

We are pleased to release *Consultative Paper on Proposed Amendments to the National Qualifications Framework Act, 2008 (Act No 67 of 2008) as amended* for public comments.

The *White Paper for Post-School Education and Training* (2014), which pronounces government's vision for Post-School Education and Training (PSET) in South Africa, draws attention to the unwarranted complexity of the current qualifications and quality assurance regime in South Africa, and commits government to simplify the National Qualifications Framework (NQF).

In addition, an external evaluation of the implementation of the NQF Act (2008) commissioned by the Department of Performance Monitoring and Evaluation (DPME) and undertaken in partnership with the Department of Higher Education and Training (DHET), also concluded that the NQF Act needs to be reviewed. To this end, it recommends that changes be made to several dimensions of the NQF Act. Upon consideration of the recommendations of the report on the *Implementation Evaluation of the NQF Act* (2018), I am of the view that it would be reasonable to provide interested parties an opportunity to comment on these before such recommendations are acted upon. This Consultative Paper is therefore intended to solicit your views, perspectives and feedback on the issues that have been identified for review in the NQF Act. A revised NQF Act is expected to better support the implementation of the NQF, strengthen institutions implementing the NQF, and address challenges experienced in the qualifications and quality assurance regime in South Africa.

We wish to draw your attention to the recent publication of the NQF Amendment Act, 2019 (Act No. 12 of 2019). These amendments to the NQF Act were necessary to strengthen the principal Act in various respects by *inter alia* rectifying the inconsistencies in the principal Act and to address the issues of misrepresentation of qualifications, and fraudulent processes embarked on by education and training providers who were operating illegally. These initial amendments to the NQF Act will only be implemented on a date to be announced by the President.

We look forward to hearing from you.

# Acronyms

| | |
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| CEO | Chief Executive Officer |
| CET Act | Continuing Education and Training Act (Act No. 16 of 2006) |
| CET Colleges | Community Education and Training Colleges |
| CHE | Council on Higher Education and Training |
| DBE | Department of Basic Education |
| DHET | Department of Higher Education and Training |
| DoE | Department of Education[1] |
| DoL | Department of Labour[2] |
| DPME | Department of Planning, Monitoring and Evaluation |
| GENFETQA | General and Further Education and Training Quality Assurance [Act] |
| GFETQSF | General and Further Education and Training Qualifications Sub-Framework |
| HEQSF | Higher Education Qualifications Sub-Framework |
| NEET | Not-in-Employment, Education or Training |
| NLRD | National Learners' Records Database |
| NQF | National Qualifications Framework |
| NQF Act | National Qualifications Framework Act, 2008 (Act No 67 of 2008) as amended |
| OECD | Organisation for Economic Co-operation and Development |

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[1] Only in operation until 2010 when the DoE was reconfigured into the Departments of Basic Education and Higher Education and Training

[2] Note that the DoL has been renamed in 2019 as the Department of Employment and Labour

OQSF         Occupational Qualifications Sub-Framework

PSET         Post-School Education and Training

RPL         Recognition of Prior Learning

QCTO         Quality Council for Trades and Occupations

SAQA         South African Qualifications Authority

SASA         South African Schools Act (Act No. 84 of 1996) as amended

TVET         Technical and Vocational Education and Training

UMALUSI         Council for Quality Assurance in General and Further Education and Training

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# Consultative Paper on Proposed Amendments to the National Qualifications Framework Act, 2008 (Act No 67 of 2008) as amended

## 1. Purpose of the Consultative Paper

The purpose of this Consultative Paper is to solicit public response to issues pertaining to the NQF Act and proposed amendments to the Act. It takes into consideration the findings and recommendations of the *Implementation Evaluation of the NQF Act, 2008 Report* (DPME, 2018), as well as the recommendations regarding proposed changes to the NQF as set out in the *White Paper for Post-School Education and Training* (2014) (White Paper).

This Consultative Paper provides an opportunity for public comments before formal legislative amendments to the NQF Act are developed. The public will have a further opportunity to engage with formal amendments to the NQF Act in the form of an NQF Bill prior to the adoption of any amendments to the NQF Act.

## 2. Terminology

This section of the Consultative Paper focuses on key terminology pertaining specifically to the NQF Act. The terms identified below are drawn (as is) from the current NQF Act itself. In addition, key terms associated with the NQF Act, and that have been defined in the *NQF Standard Glossary of Terms*[3] (NQFpedia), have been included.

We recognise however, that it is likely that debate and disagreements about use and interpretation of terms will continue.

*Table 1: Terminology used in this Consultative Paper*

| Council on Higher Education (CHE) | An independent statutory body responsible for advising the Minister of Higher Education, Science and Technology on all Higher Education policy issues, and for quality assurance in Higher Education. The CHE is the council for quality assurance in Higher Education, mandated by the NQF Act (Act No. 67 of 2008) |
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[3] Standard glossary of terms (NQFpedia) that defines and clarifies the core terminology relating to the development and implementation of the South African National Qualifications Framework (NQF)

| | as amended, to achieve the objectives of the NQF and to develop and manage the Higher Education Qualifications Sub-Framework (HEQSF). |
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| General and Further Education and Training Qualifications Sub-Framework (GFETQSF) | The Sub-Framework of the NQF for General and Further Education and Training (level 1 – 4) that is developed and managed by Umalusi. |
| Higher Education Qualifications Sub-Framework (HEQSF) | The Sub-Framework of the NQF for Higher Education (level 5 – 10) that is developed and managed by the CHE. |
| National Learners' Records Database (NLRD) | The electronic management information system of the NQF under the authority of SAQA, which contains records of qualifications, part-qualifications, learner achievements, recognised professional bodies, professional designations and all related information such as registrations and accreditations. |
| NQF Bodies | An overarching term that refers to the SAQA, CHE, Umalusi and QCTO (this term is used specifically for the purposes of this consultative paper). |
| Occupational Qualifications Sub-Framework (OQSF) | The Sub-Framework of the NQF for Trades and Occupations (level 1 – 8) that is developed and managed by the QCTO. |
| Post-School Education and Training (PSET) | Education and training opportunities for people who have left school as well as for those who may never have been to school but require education opportunities (the term Not-in-Employment, Education or Training [NEET] is also used in some sectors). PSET exclude all school-based education and Early Childhood Development.<br><br>PSET institutions include universities, private higher education institutions, technical and vocational education and training (TVET) colleges, private colleges, community education and training (CET) colleges and private skills development providers. These are established, declared or registered by law assigned to the Minister of Higher Education, Science and Technology. |
| Professional Body | Any body of expert practitioners in an occupational field - this includes occupational bodies and statutory councils. |
| Quality Assurance | The processes of ensuring that specified standards or requirements for teaching, learning, education administration, assessment and the recording of achievements have been met. |
| Quality Council | Is one of the three Councils tasked with developing and managing each of the Sub-Frameworks of the NQF in order to ensure that agreed quality standards are met: CHE for the HEQSF; Umalusi for the GFETQSF; and QCTO for the OQSF. |

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| Quality Council for Trade and Occupations (QCTO) | The Quality Council for Trades and Occupations established in terms of the Skills Development Act (Act No. 97 of 1998) as amended and mandated to achieve the objectives of the NQF and to develop and manage the OQSF. |
| South African Qualifications Authority (SAQA) | The statutory authority that was established in terms of the SAQA Act (Act No. 58 of 1995) and continuing in terms of the NQF Act (Act No. 67 of 2008) as amended, which oversees the further development and implementation of the NQF, the achievement of the objectives of the NQF, and the co-ordination of the three Sub-Frameworks. |
| System of Collaboration | An agreed mechanism to guide the mutual relations of SAQA, the Quality Councils [and relevant departments[4]] in such a manner as to promote constructive co-operation. |
| Umalusi | The Quality Council for General and Further Education and Training established by the GENFETQA Act (Act No 58 of 2001) as amended. In terms of the NQF Act (Act 67 of 2008) as amended, it is tasked to support the achievement of the objectives of the NQF and to develop and manage the GFETQSF. |

## 3. Introduction

This Consultative Paper brings together the recommendations made to amend the NQF Act in the *Implementation Evaluation of the NQF Act, 2008 Report* (the evaluation report) (DPME, 2018); the Department's *NQF Improvement Plan (*DHET, 2018*)*; and the White Paper on Post-School Education and Training (DHET, 2014). The Consultative Paper identifies issues that can be addressed through the amendment of the NQF Act and puts forward proposals for amending the NQF Act.  It recognises that some issues can be addressed through alternative mechanisms such as policies, directives, regulations, guidelines and memoranda of understanding.

## 4. Background and Context

According to the NQF Act, the Minister has the overall executive responsibility for the NQF, the South African Qualifications Authority (SAQA) and the Quality Councils as contemplated in Chapter 5 of the NQF Act.

Under the NQF Act, SAQA's responsibility is to "oversee the further development and implementation of the NQF as well as coordinate the sub-frameworks". On the other hand, each

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[4] […] is a proposed amendment to the System of Collaboration

Quality Council must perform its functions according to the respective acts that established the specific Quality Council as well as the NQF Act.

The NQF is one component of the NQF Act. The NQF Act defines the NQF as "a comprehensive system approved by the Minister for the classification, registration, publication and articulation of quality-assured national qualifications". The term 'system' has in the past created some confusion, but it is more seen as a 'conceptual/organising framework' for the classification, registration, publication and articulation of quality-assured national qualifications.

The broad aim of the NQF is both regulatory and transformational, in order to ensure that South Africa has a national Education and Training System that encourages life-long learning, while the specific objectives are to:

- Create an integrated framework for learning achievements;
- Facilitate access to, and mobility and progression within education, training and career paths;
- Enhance the quality of education and training;
- Accelerate the redress of past unfair discrimination in education, training and employment opportunities; and
- Contribute to the full personal development of each learner and the social and economic development of the national at large.

These broad objectives are supported in the *White Paper for Post-School Education and Training* which was approved by Cabinet on 20 November 2013 and published on 15 January 2014 in the Government Gazette. It envisioned that South Africa has "A skilled and capable workforce to support an inclusive growth path" in a fair, equitable, non-racial, non-sexist and democratic manner. The Department will achieve this through *inter alia*, the provision of sound legislation and policy.

The current NQF comprises 10 levels and three qualifications sub-frameworks. The NQF Act provides for three Quality Councils that are given the responsibility to develop and manage each of these sub-frameworks, viz:

- General and Further Education and Training Qualifications Sub-Framework (GFETQSF): The sub-framework covers qualifications registered at NQF levels 1 to 4, and is managed by Umalusi (Council for Quality Assurance in General and Further Education and Training). Umalusi is established through the General and Further Education and Training Quality Assurance (GENFETQA) Act (Act No. 58 of 2001) as amended;

- Higher Education Qualifications Sub-Framework (HEQSF): This sub-framework covers qualifications registered at NQF levels 5 to 10 and is the responsibility of the Council on Higher Education (CHE); the CHE is established through the Higher Education Act (Act No. 101 of 1997) as amended; and
- Occupational Qualifications Sub-Framework (OQSF): This sub-framework covers occupational qualifications registered at NQF levels 1 to 8 and is the responsibility of the Quality Council for Trades and Occupations (QCTO) provided for in the Skills Development Amendment Act (Act No. 37 of 2008). Although the sub-framework covers NQF levels 1 to 8, the QCTO may also motivate for NQF levels 9 and 10, provided that such motivation is done in collaboration with a recognised professional body and the CHE, and is coordinated by SAQA.

Furthermore, in the quest for simplifying the NQF, the alignment of nomenclature of qualification levels within the sub-frameworks are envisioned.

A number of evaluations of the NQF (and not the NQF Act) have been conducted over the past 21 years since the existence of the NQF. While significant progress has been made in implementing the NQF Act, and whilst policies and guidelines were developed to give effect to the Act, the report on the *Implementation Evaluation of the NQF Act, (2018)* found that implementation of the Act has been 'slow'. Systematic challenges and inefficiencies have among other things contributed to the slow implementation. The report did however conclude that there is general consensus about the need for an NQF, and that many countries around the world do have NQFs that are used to facilitate international mobility of students.

Given that the NQF Act was adopted over ten years ago, and introduced prior to the split of the then Department of Education into the Departments of Basic Education and Higher Education and Training, and given the challenges identified in the report on the evaluation of the implementation of the NQF Act, it is necessary for the Act to be reviewed. The purpose of a review is to clarify areas of policy uncertainty and to address continuing systemic challenges.

## 5. The National Qualifications Framework (NQF) Act

### 5.1 Background to the NQF Act

The official enactment of the NQF was expressed in the SAQA Act, 1995 (Act No. 57 of 1995). The SAQA Act established SAQA as a statutory body. It mandated SAQA to oversee the development and implementation the NQF. The then Minister of Education, in consultation with the Minister of Labour administered the SAQA Act.

A review of the implementation of the NQF commissioned in 2002 by the then Departments of Education (DoE) and Labour (DoL), identified a number of challenges in implementing the NQF and recommended significant design and organisational changes. In response to the *Report of the Study Team on the Implementation of the National Qualifications Framework* (2002), the DoE and DoL published the *NQF Consultative Document* (2003) in July 2003 that proposed a revised architecture for NQF implementation. Subsequently a Joint Policy Statement by the DoE and DoL on *Enhancing the Efficacy and Efficiency of the NQF* was published in 2007. This statement specified the perceived challenges in the system and recommended significant design and organisational changes. It formed the basis for the NQF Act that was promulgated a year later.

Consequently, the SAQA Act (that was the joint responsibility of the Ministers of Education and Labour) was repealed and replaced by the NQF Act, 2008 (Act No 67 of 2008). Following the split of the DoE in 2010, the NQF Act was amended (and became known as the NQF Act, 2008 (Act No 67 of 2008) as amended, to *inter alia* provide for the responsibilities of the Minister of Higher Education and Training only.

## 5.2 An Overview of the NQF Act

The purpose (object) of the NQF Act is to provide for the further development, organisation and governance of the NQF. It provides for the responsibilities of the Minister, SAQA, the three Quality Councils, and professional bodies.

The NQF Act expanded the objectives of the SAQA Act, and established a more differentiated NQF through the creation of three integrated sub-frameworks that are being managed by three Quality Councils. The NQF Act compelled SAQA and the Quality Councils to develop policies and guidelines to give effect to the Act. To date, policies have been developed, and are being implemented whereas some have been or are in the process of being reviewed. These policies address issues such as articulation, recognition of prior learning, credit accumulation and transfer, accreditation, registration of qualifications and part-qualifications on the NQF, etc.

The Act furthermore provides for any professional body to co-operate with the relevant Quality Council in respect of qualifications and quality assurance in its occupational field, regardless of the provisions of any other Act.

## 5.3 White Paper for Post-School Education and Training and the NQF Act

In 2014, the Minister of Higher Education and Training published the *White Paper for Post-School Education and Training* which sets out a vision for a PSET system that enriches lives, promotes

social justice and overcomes historical inequalities. Chapter 9 of the White Paper provides for changes in the NQF and reinforces that central to the design of the NQF, is the need to establish equivalence as an aid to credit recognition and learner progression. It also endorses the continuation of SAQA and the three Quality Councils and their sub-frameworks respectively. The White Paper among other things, make recommendations on:

(a)     Simplification of the NQF;

(b)     Articulation;

(c)     Configuration and remit of Quality Councils;

(d)     Assessment and quality assurance;

(e)     Assessment and certification;

(f)     Recognition of prior learning; and

(g)     Learning that does not lead to a qualification.

## 5.4 Implementation Evaluation of the NQF Act

The Department and the Department of Planning, Monitoring and Evaluation (DPME) jointly commissioned the *Implementation Evaluation of the NQF Act* study that covered an eight-year period from the promulgation of NQF Act in 2009 to 2016. The purpose of the evaluation was to provide an independent and objective examination of the implementation of the NQF Act, including its associated policies and regulations, relative to its goal(s) and objectives. The evaluation also seeks to identify the successes and challenges in the implementation of the Act and offer recommendations regarding improvements to the implementation of Act in the future.

The evaluation focused on whether the NQF Act has been implemented as planned and examined the intended and unintended outcomes that might have arisen as a consequence of its implementation. It also interrogated the external factors that might have a bearing on the implementation of the Act, but are not within the direct control of the NQF bodies. In January 2018, the final *Implementation Evaluation of the NQF Act*[5] was approved. The Evaluation Report provides the findings and recommendations for consideration by the Department.

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[5] Final Draft Report available on:

http://www.dhet.gov.za/ResearchNew/NQFA%20Full%20Evaluation%20Report%20Final%20STC_.pdf

## 5.5 NQF Improvement Plan into the Implementation Evaluation of the NQF Act

Emanating from the evaluation, an *NQF Implementation Evaluation Improvement Plan* (the Improvement Plan) was approved by the Director-General of the Department in July 2018. The purpose of the Improvement Plan is to inter alia, ensure the utilisation of evaluation findings; monitor the implementation of the recommendations; and to keep stakeholders abreast of the necessary actions that should be taken to improve the delivery of a programme, project or policy.

The recommendations of the evaluation were synthesised into six main categories in the plan, namely:
- Legislation and Policy;
- Institutional Arrangements, Coordination and Integration;
- Programmes, Accreditation and Qualifications;
- Monitoring and Evaluation;
- Human Resources and Capacity Development; and
- Financing and Funding.

The Department, SAQA and the three Quality Councils have incorporated the strategies of the Improvement Plan in their annual planning.

The implementation of the Improvement Plan is currently in progress. To date, the Department has submitted two quarterly reports on implementing the plan to the DPME for further processing and reporting to Cabinet.

## 5.6 National Qualifications Framework Amendment Act

In August 2019, the National Qualifications Framework Amendment Act, 2019 (Act No. 19 of 2019) (the Amendment Act) was published for information. It provides for the referral of qualifications or part-qualifications to SAQA for verification and evaluation; and provides for offences and penalties to fraudulent qualifications or part-qualifications.

These amendments were necessary to provide an enabling mechanism for SAQA and the three Quality Councils to have legislative competence to perform their respective functions such as accreditation, registration, and verification and to manage the Registers of fraudulent or misrepresented qualifications and part qualifications.

Although the recent Amendment Act (2019) is not in operation yet, this document does not preclude any feedback on the 2019 NQF Amendment Act.

# 6. Strategies for Implementing the White Paper on Post-School Education and Training

A comprehensive plan to implement the White Paper is developed to set out system goals, objectives, outcomes and strategies to achieve an integrated, coordinated, expanded, responsive PSET system over the period 2019 – 2030. The following are worth mentioning to further the discourse in this Consultative Paper.

## A simplified NQF

The NQF, its nomenclature and related processes need to be simplified, with less overlap and duplication of key regulatory processes. This should be addressed through, inter alia the possible review of the NQF Act to refine roles, responsibilities, functions, funding frameworks including monitoring and evaluation and to enhance efficiency. The Department will work with SAQA and the Quality Councils to address NQF related issues, including:

a) The development/review of NQF policies;
b) The simplification of qualifications nomenclature across the system;
c) Quality Councils together with SAQA, will simplify the accreditation and registration processes; and
d) The sub-frameworks, particularly the HEQSF and the OQSF should be reviewed to ensure alignment and reduce the proliferation of programmes leading to a qualification.

## Increased articulation between and within institutions

Implementation Strategies should ensure that *articulation* is deliberately and intentionally steered through design and instituted at all levels of the PSET system and that all PSET institutions are working together to eliminate unnecessary barriers. These include:

a) A joined-up planning process between the DHET and the DBE, SAQA, CHE, QCTO and Umalusi regarding changes to higher education, TVET and CET programmes between now and 2030, for example the development of national occupational qualifications to replace NATED (N1-N3) programmes;
b) When qualifications are designed and developed, planned articulation routes must be mapped out at the outset, as linked to the primary purposes of qualifications;
c) The capacity of SAQA to gather and track reliable systemic data through the National Learners' Records Database (NLRD) will be developed;
d) The Department will investigate the establishment of a mechanism to monitor articulation blockages and make recommendations for improvement; and

e)  A communications strategy will be implemented, focusing on developing an understanding of the NQF as a framework and what it means to articulate from one qualification to another in a cognate knowledge/practice area, etc.

### Aligned Policy and Legislation

Policy coherence and alignment is essential in the complex system that has multiple stakeholders. Policy and legislative review is inevitable. The Department envisages this will emanate from the joined up planning processes mentioned above.

## 7.  Matters that need to be addressed in the NQF Act

This section must be read together with the NQF Act, 2008 (Act No. 67 of 2008) as amended [that includes the NQF Amendment Act, 2019 (Act No. 12 of 2019)].

### 7.1 Definitions, Object and Application of the Act

#### Definitions

The recent Amendment to the NQF Act (Act No. 12 of 2019) has amended and inserted certain definitions. In order to further clarify and provide for consistent use of standard terminology, the Department proposes the following to strengthen the NQF Act further:

a)  Amend the definition of "*part-qualification*" to point out that the *part-qualification* is registered on the NQF;

b)  Insert the definition of "*certification*" in order to provide a distinction between "qualification" and "certification";

c)  The term "certification" is defined as: "formal recognition of a qualification or part-qualification awarded to a successful learner"[6];

d)  Insert definitions for the QCTO, Training, registered institution, and executive responsibility of the NQF, SAQA and the Quality Councils;

e)  Review the definition of "*skills development provider*" to align it with the definition in the Skills Development Act;

f)  Review the definitions of "authenticity" and "misrepresented qualification or part-qualification" to provide more clarity;

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[6] Standard glossary of terms (NQFpedia) that defines and clarifies the core terminology relating to the development and implementation of the South African National Qualifications Framework (NQF)

g) Amend "education institution" to "education and training institution" and link it to education provision as stated in the Constitution;

h) Amend the "Minister" to mean the Minister of Higher Education, Science and Technology.

i) Amend "registered" to "registered qualification or part qualification"

j) Insertion of the definition of "system of collaboration" to be "an agreed mechanism to guide the mutual relations of relevant government Departments, SAQA and the Quality Councils in order to promote constructive cooperation". The definition can also take cognisance of the developments in the review of the system of collaboration to capture the inclusion of other structures, which will be agreed upon.

k) Whilst the definition of "*verification*" refers to the process that SAQA follows to determine the authenticity of a qualification and part-qualification in terms of SAQA's relevant policies, Umalusi contends that this definition excludes the verification of details such as the results/grades/level of achievement. Currently, Umalusi has a fully functional Verifications Unit that conduct verification of National Senior Certificate; National Certificate (Vocational) and other qualifications in its sub-framework **results** (in terms of level of achievement, subject performance and admission to higher education).

The definition of "verification" in its current form confines itself to the verification of qualifications and part-qualifications (and does not include detailed results of achievements), and assigns the role to SAQA. The role of the Quality Councils is to SAQA for recording in the NLRD. There are proposals that the SAQA verifies qualifications or part-qualifications and the relevant Quality Council, for example, Umalusi verifies the attainment of the certificate for the qualification.

This Consultative Document affords an opportunity to further interrogate the term "verification" and the roles and responsibilities of bodies other than SAQA including other laws assigning such responsibilities to these bodies. Respondents to this document are invited to provide proposals in this regard.

### Object and Application of the Act

The NQF Amendment Act amended the object of the Act to remove limitation to the NQF. The amended object of the Act is to "provide for the further development, organisation and governance of the NQF and related matters."

The Department is awaiting comments on the objective and application of the Act.

## 7.2 National Qualifications Framework

### Framework

The NQF Act defines the NQF as a "comprehensive system approved by the Minister for the classification, registration, publication and articulation of quality assured national qualification."

When looking at definitions of qualifications frameworks internationally (other countries and regions), they share common characteristics. However, each qualification framework has a specific configuration that is suited to its particular context. Internationally a qualifications framework is defined as **"an instrument for the development and classification of qualifications according to a set of criteria for levels of learning achieved"** (OECD 2007:179)[7]. It appears that the definition of the South African NQF reifies a framework to a 'system'. However, there is a concern from different quarters about the use of the term 'system' in the definition. Although a system is an organised, purposeful structure that consists of interrelated and interdependent elements (components, entities, factors, members, parts etc), the use of 'system' in the definition of the NQF is often misinterpreted to mean that the NQF is an end in itself and therefore should be independent of other parts of the entire education and training system. It is therefore proposed that the definition of the NQF be revisited to remove the word 'system' and to align it with the international definition of "instrument for the development and classification of qualifications" and might include "to foster articulation, progression and mobility". Respondents to this document are invited to provide proposals on the definition of the NQF.

### Objectives of NQF

The *Implementation Evaluation of the NQF Act* study highlights that a fundamental weakness in the design of the NQF Act is that it does not clarify the specific contribution of the NQF to the education and training system, nor does it contain a set of focused and measurable objectives by which to consider the success of the Act. According to the study, these weaknesses have created a situation where SAQA and the Quality Councils are held accountable for broad education and training system goals, over which they have little influence. Based on this, the study

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[7] Organisation for Economic Cooperation and Development (OECD). 2007. *Qualifications systems: bridges to lifelong learning.* Paris: OECD.

recommended that through cooperation between the NQF bodies and other key stakeholders and experts in these areas, the Act should be reviewed to reflect a new set of objectives.

The Department is of the view that the objectives of the NQF are generally accepted and command public support. However, it is necessary to get specific input on the relevance and appropriateness of these objectives to determine if they should be amended or upheld. Respondents to this document are invited to provide proposals on the objectives of the NQF.

### Framework Levels and Sub-Frameworks

The White Paper has made reference to the need to review and simplify sub-frameworks and reduce the proliferation of qualifications. The Department is open for any proposals that members of the public may wish to make.

## 7.3 Roles and responsibilities

The Evaluation Study presents a view that, in order for the NQF Act to be implemented successfully, a "joined-up approach" is needed that makes stakeholders collectively accountable for the implementation of the Act. The roles and responsibilities of the Minister of Higher Education, Science and Technology, SAQA and the Quality Councils are already outlined in the Act, however, the Act is silent on the role of other parties in relation to the NQF. It is therefore proposed that the Act be amended as such.

### Responsibilities of Minister

When the former DoE split into the DBE and the Department, responsibility for all aspects of the NQF Act were assigned to the Minister of Higher Education and Training in terms of Proclamation 56 of 2009 (now Minister of Higher Education, Science and Technology, after the configuration of national departments in 2019).

In terms of section 8 of the NQF Act, the Minister of Higher Education and Training is vested with an overall executive responsibility for (a) SAQA and the three Quality Councils (as contemplated in Chapter 5 of the NQF Act), one of which is Umalusi which is under the executive authority of the Minister of Basic Education (according to the GENFETQA Act). Since the NQF Act regulates the relationship between SAQA and the Quality Councils (including Umalusi) in relations to qualifications, the role of the Minister of Basic Education is not very clear. The Evaluation Study in specific raises a concern that the Act is silent about the responsibilities of the Minister of Basic Education. Since the NQF Act deals with ALL Quality Councils (as contemplated in Chapter 5 of

the NQF Act), the role of the Minister of Basic Education in relation to the NQF and implementation of the Act, needs to made explicit.

It is also recommended that the "executive responsibility of the NQF" be defined in section 1 – Definitions, of the Act.

## Roles and Responsibilities of the DBE and DHET

The Evaluation Study points out that the NQF Act fails to clarify the roles and responsibilities of the DBE and the Department; nor is this explained meaningfully in any other policy documentation. Consequently, the relationship between DBE, the Department, SAQA and the three Quality Councils is not clear, resulting in some confusion about roles and responsibilities among the parties.

However, government departments exist to support their Ministers in executing their duties. Therefore, the roles assigned to Ministers is what departments are responsible for. Further clarity on roles and responsibilities of departments will assist. This document therefore proposes that the NQF Act be amended to guide the roles and responsibilities of the DBE and the Department in relation to the NQF, SAQA and the three Quality Councils.

Respondents to this document are invited to provide proposals in this regard.

## Roles and responsibilities of other stakeholders such education and training providers

While the Act stipulates the roles and responsibilities of the NQF bodies (SAQA and the Quality Councils), the Evaluation Study highlights that it does not provide any clarity on the roles or responsibilities of other stakeholders such as public and private education and training providers (including education and training institutions as well as the Sector Education and Training Authorities). The evaluation report maintains that good regulatory practice dictates that the role of regulated entities (in this case the education and training providers), and any sanctions that might apply for not fulfilling these functions, must be expressed in legislation.

Within the specific object and application of the NQF Act, it might be problematic to clarify the roles and responsibilities of public and private education and training providers not covered in Act.

Respondents to this document are invited to provide proposals on the roles and responsibilities of stakeholders that need to be included in the Act.

## 7.4 South African Qualifications Authority

The Evaluation Study recommended the amendment of sections 10 (The continued existence of SAQA), 11 (Objects of SAQA), 12 (Accountability of SAQA), and 13 (Functions of SAQA) of the NQF Act to allow for clarity around SAQA's roles and functions as the 'Apex' body.

The Department however, approaches the notion of 'Apex' with caution. The concept of SAQA as an 'Apex' body, particularly in relation to its status (legal and otherwise) and its relationship with the three Quality Councils need to be interrogated.

Respondents to this document are invited to provide proposals in this regard.

### System of Collaboration

There is a need to give greater impetus to the System of Collaboration as stated in the NQF Act. The System of Collaboration should conceptually be revised (to include at least the DBE and the Department) and the collaboration structures, levels and procedure be clarified. Although the latter is not part of the amendment to the Act, it is important that these have to be revised within the context of the System of Collaboration (that remains within the responsibility of SAQA to define, set up and operationalise).

This document therefore proposes that the section/s of the NQF Act that deal with the System of Collaboration be amended to include the definition for the System of Collaboration and the scope of the System of Collaboration, e.g. "develop a system of collaboration to guide the mutual relations of the SAQA, Quality Councils, and relevant Departments after consultation with them".

### Appointment of Chief Executive Officers of SAQA and the Quality Councils

Currently, there is little alignment in the appointment of Chief Executive Officers (CEOs) of SAQA and the Quality Councils as per the different legislation (either the Minister or the Board is responsible for the appointment).

The following table reflects a comparison of the appointment of CEOs of SAQA, CHE, QCTO and Umalusi

*Table 3: Comparison table of the appointment of CEOs*

|  | South African Qualifications Authority | Council on Higher Education | Quality Council for Trades and Occupations | UMALUSI |
|---|---|---|---|---|
| Who Appoints the CEO? | The SAQA Board appoints the CEO as prescribed by the National Qualification | The CHE (the Council itself) appoints the CEO as prescribed by Higher Education | The Minister appoints the CEO on recommendation of the council members as prescribed by the | The Minister must appoint the CEO with recommendation of the members of the council as prescribed |

|  | South African Qualifications Authority | Council on Higher Education | Quality Council for Trades and Occupations | UMALUSI |
|---|---|---|---|---|
|  | Framework Act, 2008 (Act No 67 of 2008 as amended) | Act (Act 101 of 1997) | Skills Development Act, 1998 (Act no. 97 of 1998) | by the GENFETQA Act 58 of 2001 |
| Remuneration, Condition of service, etc | SAQA is the employer of the CEO. The Board determines remuneration, allowances, subsidies and other conditions of service subject to the approval of the Minister with the concurrence on the Minister of Finance | The CHE is the employer. The Council determines remuneration, allowances, subsidies and other conditions of service subject to the approval of the Minister with the concurrence on the Minister of Finance | The Council is the employer of the CEO and employees and must determine their remuneration, allowances, subsidies and other conditions of service | The Council is the employer of the CEO and employees and must determine their remuneration, allowances, subsidies and other conditions of service |

The Department notes the proposition in the Evaluation Study that the Act must be reviewed to ensure that the authority to appointment of CEOs of the Quality Councils and SAQA are aligned. In line with the recommendation in the *Report on the Evaluation of the Implementation of the NQF Act*, this document proposes that the NQF Act be amended such that there is alignment and consistency in who appoints CEOs of NQF bodies.

Respondents to this document are invited to provide proposals in this regard. It should be noted that any amendment to the NQF Act in this regard will necessitate amendments to other legislation.

## Appointment of Boards or Councils

The following table reflects a comparison of the appointment of the Boards or Councils of SAQA, CHE, QCTO and Umalusi.

*Table 4: Comparison table of the appointment of Boards/Councils*

| Board/Council matters | South African Qualifications Authority | Council on Higher Education | Quality Council for Trades and Occupations | UMALUSI |
|---|---|---|---|---|
| Appointment of Board/Council members | As prescribed by the National Qualification Framework Act, 2008 (Act No 67 of 2008 as amended) | As prescribed by Higher Education Act (Act 101 of 1997 amended) | As prescribed by the Skills Development Act, 1998 (Act no. 97 of 1998) | As prescribed by the GENFETQA, 2001 (Act 58 of 2001 as amended) |
| Who appoints the Board/Council members? | The Minister of Higher Education and Training (now Higher Education, Science and Technology) | The Minister of Higher Education and Training (now Higher Education, Science and Technology) | The Minister of Higher Education and Training (now Higher Education, Science and Technology) | The Minister of Basic Education appoints Council members |

| Board/Council matters | South African Qualifications Authority | Council on Higher Education | Quality Council for Trades and Occupations | UMALUSI |
|---|---|---|---|---|
| | appoints the Board Members | appoints and Council Members | appoints Council Members | |
| Who appoints Chairperson and Deputy Chairperson of the Board/Council | The Minister must appoint one of the members of the Board as chairperson. The members must elect a deputy chairperson from amongst their midst | The Minister appoints the chairperson, following a public nomination process. There is no deputy chairperson | The Minister appoints the chairperson, following a public nomination process. The Council may appoint the deputy chairperson and must be a member of the executive committee of the Council | The Minister of Basic Education appoints one of the members of the Council as chairperson. Members of the Council nominate one member as a deputy chairperson |
| Size | 16 | 18 | 16 | 18 |
| Composition | • Two members representing organised labour;<br>• Persons involved in education and training;<br>• Organisations involved in education and training;<br>• Professional bodies;<br>• Organised business;<br>• Organisations representing community and development interests; and<br>• The remaining four members are the CEOs of SAQA and the three Quality Councils, who are appointed to the Council by virtue of their positions | • No more than thirteen (13) ordinary members of the CHE;<br>• A minimum of three members must be external to the higher education sector and they must be appointed on account of their experience and expertise;<br><br>• The Minister must appoint eight non-voting members of the CHE nominated by the DG, Provincial Heads of Education, the DG of the DSI, the NRF established in terms of the National Research Foundation Act (Act 23 of 1998), and the CEOs of SAQA and other Quality Councils in their official capacities;<br>• The CHE is allowed to co-opt no more than three (3) members;<br>• The remaining four members are the CEOs of | • Chief Executive Officer of the National Skills Authority;<br>• Two members of Organised labour;<br>• Two members organised business;<br>• Two members of community and development interests;<br>• One member nominated by the Minister to represent interests of Public education and training providers;<br>• One member nominated by private providers of education and training;<br>• Two additional members to represent the interests of the state; and<br>• The remaining four members are the CEOs of SAQA and the three Quality Councils, who are appointed to the Council by virtue of their positions | • Role players or organisations active or involved in general and further education and training; and<br>• The remaining four members are the CEOs of SAQA and the three Quality Councils, who are appointed to the Council by virtue of their positions |

| Board/Council matters | South African Qualifications Authority | Council on Higher Education | Quality Council for Trades and Occupations | UMALUSI |
|---|---|---|---|---|
| | | SAQA and the three Quality Councils, who are appointed to the Council by virtue of their positions | | |
| Ex Officio Members | • CEO of SAQA<br>• CEO of the QCTO<br>• CEO of Umalusi<br>• CEO of CHE | • CEO of SAQA<br>• CEO of the QCTO<br>• CEO of Umalusi<br>• CEO of CHE<br>• Department of Higher Education and Training | • CEO of SAQA<br>• CEO of the QCTO<br>• CEO of Umalusi<br>• CEO of CHE<br>• Department of Higher Education and Training | • CEO of SAQA<br>• CEO of the QCTO<br>• CEO of Umalusi<br>• CEO of CHE<br>• DHET<br>• Department of Higher Education and Training |
| Filling of vacancies | As prescribed by the NQF Act, a vacancy on the board must be filled by appointment in accordance with section 14 of the Act | As prescribed by the Higher Education Act, if a member vacates his or her office, the resultant vacancy must be filled by nomination. Appointment or co-option in accordance with section 8 | As prescribed by the Skills Development Act and stated in the Constitution of the QCTO, 2018, approved by the Minster provide for the procedure for the filling of vacancies on the QCTO | As prescribed by the GENFETQA Act, if a member of the council vacates his or her office or if his or her appointment is revoked in terms of subsection 2, the resultant vacancy must be filled by appointment in accordance with section 6 |
| Term of Office | • The term of office of the Board is 5 years;<br>• Any member may be reappointed at the expiry of his or her term but may not serve for more than two consecutive terms of office | • The chairperson holds office for a period of 5 Years.<br>• Every ordinary member holds office for a period of 4 year<br>• Any co-opted member of the CHE holds office for a period determined by the CHE;<br>• A member of the CHE may not serve for more than two consecutive terms | • 5 Years and are eligible for reappointment upon expiry.<br>• Any member may be reappointed at the expiry of his or her term but may not serve for more than two consecutive terms of office | • 4 years and does not exceed 4 years;<br>• A member may be reappointed at the expiry of his or her term of office, but may not serve for more than two consecutive terms |
| Remuneration Tariffs | Guided by National Treasury Regulations and determined by the Board | Guided by National Treasury Regulations and determined by the Council | Guided by National Treasury Regulations; determined by the Council and Audit and Risk committee members are remunerated in terms of the SAICA rates approved by the Minister | Guided by National Treasury Regulations and determined by the Council |

The following comments are worth noting:

a) The appointment and filling of vacancies in the Boards or Councils of SAQA and the Quality Councils are according to the founding Acts of each entity;

b) The Department has representation in the Councils of QCTO and CHE, but not in the SAQA Board, whereas DBE has representation in the Umalusi Council; and

c) There are slight differences in the four bodies as reflected in the table.

The Department therefore recommends that agreement be reached on the alignment of appointments of members and Chairpersons of Boards/Councils of SAQA and the Quality Councils and that all legislation establishing the SAQA and Quality Councils be reviewed to align inter alia, the appointment processes, size and term of office of the Board/Councils. Respondents to this document are invited to provide proposals in this regard.

## 7.5 Quality Councils (Registration and Accreditation)

Quality Councils are established through different legislation, and are also given a mandate through the NQF Act. This dual mandate, yet complicated to manage, is useful and can be maintained. The Evaluation Study established that the Quality Councils have performed and continue to perform their advisory, regulatory, research and coordination functions set out in the NQF Act. The Quality Councils have established their sub-frameworks, re-aligned and rationed older qualifications and recommended new qualifications for registration by SAQA.

The report on the Evaluation of the Implementatiomn of the NQF Act highlighted that the quality assurance model and the model adopted by the NQF bodies for registering and accrediting programmes, qualifications and part-qualifications are effective, yet extremely complicated, bureaucratic and consumes considerable resources. The evidence available (policies, procedures, criteria and guidelines published by the three Quality Councils) all point to the use of extensive checklists that require a lot of work by those being quality assured and a lot of evidence to be collected often with duplication of processes between different Quality Councils and SAQA. Furthermore, these processes are complicated and too burdensome for the public, and therefore creates confusion and frustration.

Respondents to this document are invited to provide proposals on how registration and accreditation processes in relation to qualifications and programmes and private education and training providers could be streamlined.

The Department acknowledges that processes and procedures should be spelt out in policies, regulations, standards and guidelines, rather than legislation, this document proposes that the NQF Act must be amended to compel the SAQA and Quality Councils to adopt registration and accreditation processes that are transparent, easy to understand and that are similar across the NQF bodies.

## 7.6 Professional Bodies

Statutory professional bodies operate according to specific legislative mandates (as per the founding legislation) and rules provided by a range of different national government departments. Non-statutory professional bodies however, do not have legislative mandates, but adopt rules and procedures (in consultation with their custodian department, if they are connected to such).

The NQF Act specifically provides that a professional body must <u>co-operate with the relevant Quality Council in respect of qualifications and quality assurance in its occupational field</u>. This is a very strong statement, but it makes space for different interpretations. It is well-known that there are areas of actual and perceived disagreement and duplication in the accreditation, registration, quality assurance and cooperation between the professional bodies and the Quality Councils. Where needed, the responsibilities and processes must be re-configured to remove inefficiencies, gaps and duplication in the system. Information on the correct procedures should be shared with education and training institutions.

The Evaluation Study calls for the overarching preferential role of the NQF Act over other legislation governing Professional bodies' roles in standard setting and quality assurance is clarified through the amendment of the NQF Act as one of the mechanisms to address these challenges. The Department however has to manage this statement carefully and consult widely with the relevant government departments and professional bodies in this regard.

## 7.7 Delegation

According to the NQF Act, SAQA and the Quality Councils have the power to delegate some of their functions to other bodies that are capable of performing the function. This provision clearly outlines the important aspects and is aligned to the founding legislation of the Quality Councils. However, the evaluation study has noted that the NQF Act is not clear about delegation between and among NQF bodies.

In light of the above, the Department recommends that the Act should clarify whether SAQA or a Quality Council could delegate among themselves.

Respondents to this document are invited to provide proposals in this regard.

According to Section 32A of the NQF Amendment Act, all organs of state, employers, education institutions, skills development provider sand Quality Councils must authenticate, prior to appointment or registration, if the qualification or part-qualification which is presented to them for the purposes of appointment, study or for any other related purpose, is registered on the national learners' records database. The Minister may, in consultation with SAQA, exempt any category of persons or entity from the provision of this section.

Respondents to this document are requested to provide their views and proposals in this regard.

## 7.8 Conflicting Interpretation

Currently the NQF Act makes provision for "In the event of a conflict in interpretation between this Act, the Higher Education Act, the Skills Development Act and the GENFETQA Act, this Act must be given preference". However, this statement precludes the CET Act, 2016 (Act No. 16 of 2016), which provides the framework for among other things, programme and qualifications offerings, quality assurance, examinations and assessment. It is therefore proposed that the issue of the conflict of interpretation must be expanded to include the CET Act.

## 7.9 Saving and Transitional Arrangements

The text for this section will be determined as per the legal requirements of amending/making laws.

## 8. Conclusion

The Evaluation Study concluded that the NQF has gained widespread acceptance within the education and training system. It highlights that considerable progress has been made in implementing the NQF Act. However, much still needs to be done to improve the efficiency of implementation. More efficient approaches to implementation, together with better policy coherence and role clarity will contribute to enhancing the effectiveness of the Act, and achieving the intended outcomes of the NQF.

This Consultative Paper's arguments will contribute to improving efficiency in parts of the system and enhancing the effectiveness of the NQF Act. Stakeholders can achieve this through collective and collaborative efforts. The Department concurs with the recommendation of the evaluation

that, "*there is a need to align legislation with the intentions of policymakers and to put in place mechanisms for ensuring delivery and increasing accountability.*"