

LSSA / SASSETA WSP /ATR SUBMISSION GUIDE¹



LAW SOCIETY
OF SOUTH AFRICA

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List Of abbreviations:

DHET	Department of Higher Education & Training
LSSA	Law Society of South Africa
LEAD Tel 012 441 4600	Legal Education Division www.LSSALEAD.org.za
MG	Mandatory Grant
NSDS III	National Skills Development Strategy III
OFO Codes	Organising Framework of Occupations
SASSETA	Safety and Security Sector Education and Training
Call Centre on (011) 087 5555	Authority www.SASSETA.org.za
SARS	South Africa Revenue Services
SDF	Skills Development Facilitator
SDC	Skills Development Committee
SDL	Skills Development Levy
SSP	Sector Skills Plan
WSP-ATR	Workplace Skills Plan-Annual Training Report

¹ This guide is not a reference manual and readers are referred to the SASSETA for any clarity, including their website for any update, changes or legislative changes.

1. INTRODUCTION

In terms of the amended Skills Development Act, SASSETA is required to develop a Sector Skills Plan (SSP), facilitate and monitor its implementation, and approve Workplace Skills Plans (WSPs) and Annual Training Reports (ATRs) submitted by organisations within the Legal, Safety & Security Sector.

The Skills Development Act No 97 of 1998 aims to amongst other things, develop and improve the levels of skills in South Africa by increasing the level of investment in education and training, and ensuring the quality of such education and training. The SETA's were established to provide a vehicle to achieve the aims of the Skills Development Act. An important function of the SETA's is the management of funds received due the levies imposed through the Skills Development Levies Act No 9 of 1999.

Skills planning is central to the implementation of the National Skills Development Strategy III (NSDS III). The SETAs are required to respond to the NSDS III and White Paper for Post-School Education and Training, as approved by Cabinet on 20 November 2013 by ensuring creditable data related to skills in the sector is generated and maintained. The source data approach to generating WSP-ATR reports is ensuring the SASSETA lives up to this responsibility of obtaining sector information.

Reporting on education and training activities is an equally important element of the NSDS III and hence the need for the LSSA to assist small to medium law firms to provide the SASSETA with the necessary information required to plan for and implement skills development in the Legal Sector.

A law firm must submit a WSP and ATR to the SASSETA annually around April – this constitutes the Mandatory Grant (MG) Application. To qualify for both the Pivotal Grant and Mandatory Grant, organisations must use the prescribed format to submit a Grant Application for the reporting period. Information from the submitted WSP-ATRs is analysed by the SASSETA to identify skills needs, including scarce skills, to update the Sector Skills Plan (SSP) and to plan interventions to support skills development within the Legal Sector. It is one source of identifying changes to the **Organising Framework for Occupations** (OFO) that may be required by the Legal Sector. Furthermore, SASSETA reports to the Department of Higher Education and Training (DHET) in relation to WSP-ATR/ Mandatory Grants.

2. PURPOSE OF THE GUIDE

This guide is intended for use by law firms who fall under the SASSETA to prepare and submit the WSP-ATR., it is not definitive but provides general guidance in how to approach accessing and complying with the requirements via the SETA for the legal profession, viz. SASSETA.

The Guide provides the context and background information to complete the submission template, generate a WSP-ATR and complete the approval process to submit the WSP-ATR before the due date. LSSA skills and business development section is available to provide guidance to members, this section is based at the LSSA Legal Education Division (LEAD) and includes a SASSETA project officer.

3. WSP-ATR MANDATORY GRANTS CRITERIA

Completion and submission of the WSP-ATR, using the prescribed SASSETA format, constitutes an application for the Mandatory Grant to the SASSETA. For the legislative framework on the allocation of Mandatory Grants by a SETA and the recovery of mandatory grants by employers see SASSETA Grant Regulations.

SASSETA's WSP-ATR/Mandatory Grants criteria are outlined in the SASSETA Mandatory Grants Policy (2019 – 2020). A mandatory grant must be paid once the workplace skills plans and annual training report have been received, evaluated and approved by the Skills Development and Research Unit based upon the following criteria:

- 1.1 The WSP and ATR must conform to the format prescribed by the SASSETA.
- 1.2 The WSP- ATR must be fully completed and submitted.
- 1.3 In the case of large and medium sized law firms, proof of consultation by an employer with employee representatives / trade unions is required as per the SASSETA Skills Development Facilitator and Skills Development Committee (SDF-SDC) guideline.
- 1.4 Where the law firm has submitted a WSP-ATR it must include the most recent national occupational codes as contained in the Organising Framework for Occupations (OFO) in support of the annual sector skills planning process.
- 1.5 The law firm has submitted a self-evaluation report in the format prescribed by the SASSETA of the relevant WSP compared to the current ATR. If the alignment is less than 60%, the employer must submit reasons for the misalignment to the SASSETA.
- 1.6 The WSP-ATR are to be received on or before 30th April annually (due date) except where an extension was granted in writing for a period of 30 days from the due date.
- 1.7 Where the law firm submits only one application per SDL number and the employer name that correlates with information received from South African Revenue Services (SARS) and the DHET; applications for all SDL numbers for an Organisation must be submitted by the required date.
- 1.8 The law firm must be paying levies to SARS against the SETA Code indicated on the SARS submission.
- 1.9 The law firm must not be in arrears with their SDL contributions to the SETA.
- 1.10 It remains the responsibility of the law firm to ensure that the payment of the mandatory grant is done against the correct SDL levy number.

Law firms whose personnel costs are below the prescribed threshold of R500 000 per annum and are exempt from the Skills Development Levy, are encouraged to submit a WSP-ATR for the purposes of research and recording of their details on the SASSETA database.

SASSETA could ask for information to be verified by employers.

Law firms must retain the following documentary evidence for verification purposes:

- Clear evidence that consultation took place and that such consultation was with individuals or law firm's representative of the employees as required in medium and large law firms;
- Documented evidence must be retained with respect to training completed for the period during which the WSP-ATR is implemented (this evidence may be in the form of, inter alia training attendance registers, certificates and invoices).

4. WSP-ATR MG APPLICATION SUBMISSION DATE

- Law firms are urged to plan and manage the submission process using the Expression of Interest template issued by SASSETA.
- The deadline for submission of the WSP-ATR Mandatory Grant Application is 30 April, annually.
- The penalty for a late submission is loss of any full Mandatory Grant (MG) and not qualifying for potential Discretionary Grants. The only 2 exceptions are:
 - Where the MG application is submitted within 6 months of registration in the case of an employer who has registered for the first time in terms of Section 5(1) of the Skills Development Levies Act; and
 - Where, in exceptional circumstances, a law firm has applied before 31 March 2019 for a 30 day - extension for the WSP-ATR MG application and this has been granted by SASSETA.
- If SASSETA grants such an extension, the WSP-ATR MG application must be submitted in the prescribed format by 31 May 2019. The application for extension should be done using the applicable Application Form available from the SASSETA submission website.

5. BANKING DETAILS

Organisations must supply their banking details by entering the correct banking details on the system as part of the Company Registration process. Where the details are the same as already registered on the SASSETA database no further action in terms of proof of bank details will be required; and the status of the Banking Details will be set to Banking Details Confirmed. The Verification Document will be evaluated and if the Banking Details differ from the Banking Details on the SETA database for the specific SDL number the status of Banking Details will be set to Banking Details Proof Required.

To reinstate your banking status to conformed:

- A letter from the Bank and/or cancelled cheque needs to be re-scanned with the signed last page of the Verification and reuploaded on the Submission System. These original documents (signed Verification Document and Proof of Banking Details) must be submitted to the SASSETA's regional office. Original proof of banking details must be received by the SASSETA (SDL Officer) before the MG will be paid to the organisation.

The status of the Banking Details will be changed to Banking Details Proof Received and once the banking details are updated on the SETA Finance Database the status will be updated to Banking Details Confirmed.

6. DECLARATION AND SIGNATURE

6.1 Verification Document

Organisations are urged to verify their organisation and SDF details as correct on the Verification document submitted to SASSETA with all the signatures of the various designated organisation officials.

Each line of Banking Details section must be initialled confirming it is correct.

6.2 WSP-ATR Sign-Off

The declaration regarding the WSP-ATR final submission, which needs to be signed off by both the Senior Organisation representative and the Skills Development Facilitator, reads as follows:

“We, the undersigned, submit this information in compliance with the Mandatory Grant requirements of the Skills Development Legislation and Regulations. We declare that, to the best of our knowledge, the information contained in this Annual Training Report and Workplace Skills Plan is accurate and up to date.”

Note that best practice requires that employees are involved in the process of developing a WSP-ATR, this process should include the Skills **Development Committee**.

Consultation means that parties must engage in a thorough, meaningful and joint consensus seeking process.

For medium and large organisations organised labour/employee representatives need to sign the following declaration:

“We, the undersigned, confirm that organised labour/employee representatives were consulted by the employer on the WSP and the ATR.”

Note that organised labour/employee representative signature/s are not required for small organisations, although it is considered good practice to consult organised labour/employee representatives, where applicable.

If the required signatures are not obtained from organised labour/employee representatives, a copy of the agendas, attendance registers, minutes and other supporting documentation should be kept as proof that consultation with organised labour/employee representatives did take place and the reasons as to why organised labour/employee representatives have not signed should be stated in the Comments Section of the WSP-ATR.

A senior finance official is required to sign the following declaration confirming the organisation's levy-paying status of ALL SDL numbers for which the submission is made:

“This is to confirm that this organisation is up-to-date with levy payments to the Commissioner of South African Revenue Services for the following levy numbers.”

The submission is not complete without ALL the relevant signatures.

7. STAKEHOLDER CONSULTATION

Consultation means that concerned parties must engage in a thorough, meaningful and joint consensus seeking process.

It is the responsibility of the employer to establish a **Training/Skills Development Committee (SDC)** to oversee the training committed and training done.

An SDC is a forum established by the employer to consult employees (representative Trade Unions where they exist and/or representatives nominated by employees where they do not) on skills development matters. It is recommended that the employer should conduct the SDC meetings quarterly and consultation should commence as early as possible in the process of preparing for the WSP-ATR. An employer with 50 or more employees must submit a WSP-ATR that was signed off by the labour representative appointed by the Trade Union or an employee representative where labour is absent on or before the submission deadline. If the required signatures are not obtained from organised labour/employee representatives, the following documents must be kept as proof of the consultation process for a period of five years:

- Signed attendance registers
- Signed Agendas and Minutes of the consultation meetings by both the meeting chairperson and union/employee representative/s
- Other supporting documentation of the consultation process.

8. CONCLUSION

It is important for all law firms to submit their annual WSP-ATR to the relevant SETA. The information submitted on the WSP-ATR is used for research purposes to identify the allocation of resources to where there is a greater need for training and skills development, within the legal profession.

An accurate WSP-ATR submission informs the Sector Skills Plan, a plan that will in turn guide the strategic processes and implementation of training interventions within the sector, it is therefore crucial that the submission of WSP-ATR is not a compliance issue, but an accurate representation of training needs in the legal, safety & security sector.