

**INTERPRETATION NOTE 10 (Issue 4)**

DATE: 12 December 2022

**ACT : SKILLS DEVELOPMENT LEVIES ACT 9 OF 1999**  
**SECTION : SECTION 4(c)**  
**SUBJECT : SKILLS DEVELOPMENT LEVY EXEMPTION: PUBLIC BENEFIT ORGANISATIONS**

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**Preamble**

In this Note unless the context indicates otherwise –

- **“Commissioner”** means the Commissioner for the South African Revenue Service appointed under section 6 of the South African Revenue Service Act 34 of 1997, or the “Acting Commissioner” designated under section 7 of that Act as defined in section 1(1);
- **“Part I”** means Part I of the Ninth Schedule;

- **“PBA”** means a “public benefit activity” as defined in section 30(1) and listed in Part I of the Ninth Schedule;
- **“PBO”** means a “public benefit organisation” as defined in section 30(1) and approved by the Commissioner under section 30(3);
- **“qualifying PBAs”** means the PBAs qualifying for purposes of the exemption of the payment of SDL listed in paragraphs 1, 2(a), (b), (c), (d) and 5 in Part I;
- **“Schedule”** means a schedule to the Act;
- **“SDL”** means the skills development levy referred to in section 3 of the SDL Act, paid by an employer;
- **“SDL Act”** means the Skills Development Levies Act 9 of 1999;
- **“section”** means a section of the Act;
- **“TA Act”** means the Tax Administration Act 28 of 2011;
- **“the Act”** means the Income Tax Act 58 of 1962; and
- any other word or expression bears the meaning ascribed to it in the Act or the SDL Act.

All guides and interpretation notes referred to in this Note are available on the SARS website at [www.sars.gov.za](http://www.sars.gov.za). Unless indicated otherwise, the latest issue of these documents should be consulted.

## 1. Purpose

This Note provides guidance on the interpretation and application of section 4(c) of the SDL Act,<sup>1</sup> which exempts any PBO<sup>2</sup> contemplated in section 10(1)(cN) from the payment of SDL, provided the PBO –

- solely carries on qualifying PBAs;<sup>3</sup> or
- solely provides funds to PBOs that solely carry on qualifying PBAs.<sup>4</sup>

## 2. Background

The Commissioner is responsible for the administration of the SDL Act in so far as it relates to the collection of SDL payable to the Commissioner by employers.<sup>5</sup>

Section 3(1) of the SDL Act imposes on every employer an SDL on the total amount of remuneration paid or payable or deemed to be paid or payable by an employer<sup>6</sup> to its employees<sup>7</sup> during any month. The amount of such remuneration is the same as

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<sup>1</sup> See *Guide for Employers in respect of the Skills Development Levy – External Guide*, issued to assist employers to understand the basic fundamentals of the SDL Act.

<sup>2</sup> See *Tax Exemption Guide for Public Benefit Organisations in South Africa* and the *Basic Guide to Income Tax Exemption for Public Benefit Organisations* for commentary on PBOs and the tax implications affecting them.

<sup>3</sup> Section 4(c)(i) of the SDL Act.

<sup>4</sup> Section 4(c)(ii) of the SDL Act.

<sup>5</sup> For commentary, see the *Guide for Tax Rates / Duties / Levies and Taxation in South Africa*.

<sup>6</sup> The term “employer” is defined in section 1(1) of the SDL Act and includes an “employer” as defined in the Fourth Schedule.

<sup>7</sup> The term “employee” is defined in section 1(1) of the SDL Act and includes an “employee” as defined in the Fourth Schedule.

the amount of remuneration<sup>8</sup> determined under the Fourth Schedule from which an employer is obligated to withhold employees' tax<sup>9</sup> taking into consideration certain exclusions referred to in section 3(4) of the SDL Act.

Section 4 of the SDL Act contains a number of exemptions from the SDL. The SDL is not payable by –

- any public service employer in the national or provincial sphere of government;<sup>10</sup>
- any employers with an anticipated payroll of R500 000 or less (whether registered for PAYE purposes with SARS or not) during the following 12-month period;<sup>11</sup>
- any PBO contemplated in section 10(1)(cN), which solely carries on any PBAs contemplated in paragraphs 1, 2(a), (b), (c) and (d) and 5 in Part I or solely provides funds to PBOs solely carrying on the listed qualifying PBAs;<sup>12</sup>
- any national or provincial public entity, if 80% or more of its expenditure is defrayed directly or indirectly from funds voted by Parliament;<sup>13</sup> or
- any municipality, which has been granted a certificate of exemption on such conditions and for such period as the Minister of Higher Education and Training may prescribe by regulation, in consultation with the Minister of Finance and the Minister for Provincial and Local Government.<sup>14</sup>

An employer liable to pay SDL must apply to the Commissioner in such manner as the Commissioner may determine to be registered as an employer for the purposes of SDL.<sup>15</sup> Even an employer, which includes any employer that is a public service employer in the national or provincial sphere of government, any PBO, any national or public entity, or municipality, which is exempt from the payment of SDL under sections 4(a), (c), (d) and (e) must register<sup>16</sup> with the Commissioner.<sup>17</sup>

This Note concentrates only on the exemption under section 4(c) of the SDL Act relating to a PBO that meets the requirements of that section.

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<sup>8</sup> The term “remuneration” is defined in paragraph 1 of the Fourth Schedule.

<sup>9</sup> For commentary on employees' tax, see the *Guide for Employers in respect of Employees' Tax - External Guide*.

<sup>10</sup> Section 4(a) of the SDL Act.

<sup>11</sup> Section 4(b) of the SDL Act.

<sup>12</sup> Section 4(c) of the SDL Act.

<sup>13</sup> Section 4(d) of the SDL Act.

<sup>14</sup> Section 4(e) of the SDL Act.

<sup>15</sup> Section 5(1) of the SDL Act. For commentary, see the *External Guide – Guide for Employers in Respect of Skills Development Levy* SDL-GEN-01-G01.

<sup>16</sup> See above.

<sup>17</sup> Section 5(6) of the SDL Act.

### 3. The law

#### Section 4(c) of the Skills Development Levies Act

##### 4. Exemptions.—The levy is not payable by—

- (c) any public benefit organisation contemplated in section 10(1)(cN) of the Income Tax Act, which—
- (i) solely carries on any public benefit activity contemplated in paragraphs 1, 2(a), (b), (c) and (d) and 5 of Part I of the Ninth Schedule to that Act; or
  - (ii) solely provides funds to public benefit organisations contemplated in subparagraph (i);

### 4. Application of the law

#### 4.1 Public benefit organisation carrying on public benefit activities

An organisation claiming exemption from the payment of SDL under section 4(c)(i) of the SDL Act, must be a PBO that solely (see **5.5**) carries on (see **5.3**) any qualifying PBAs (see **Annexure B**).

#### 4.2 Public benefit organisation providing funds

An organisation claiming exemption from the payment of SDL under section 4(c)(ii) of the SDL Act, must be a PBO that solely (see **5.5**) provides funds (see **5.4**) to other PBOs that solely carry on (see **5.3**) any qualifying PBAs (see **Annexure B**).

### 5. General meaning of certain terminology in the context of section 4(c) of the Skills Development Levies Act

#### 5.1 Public benefit organisation

A PBO is an organisation that –

- carries on one or more approved PBAs listed in Part I (see **Annexure A**);
- complies with the requirements of section 30; and
- is approved by the Commissioner under section 30(3).

Section 10(1)(cN) exempts an approved PBO from normal tax on certain of its receipts and accruals.<sup>18</sup>

#### 5.2 Public benefit activities listed in Part I

The term “public benefit activity” is defined in section 30(1), and means –

- any activity listed in Part I; and
- any other activity determined by the Minister from time to time by notice in the *Government Gazette* to be of a benevolent nature, having regard to the needs, interests and well-being of the general public.

<sup>18</sup> See Interpretation Note 24 “Income Tax: Public Benefit Organisations: Trading Rules – Partial Taxation of Trading Receipts”.

Part I comprises 11 categories, each containing a list of specific activities that qualify as PBAs for the approval of an organisation as a PBO. See **Annexure A** for a detailed description of the PBAs listed under each category.

For purposes of the exemption from the payment of SDL, the qualifying PBAs are limited to the following three categories in Part I:

- Welfare and Humanitarian (paragraph 1).
- Health Care (paragraph 2) which is limited to PBAs 2(a), 2(b), 2(c) and 2(d).
- Religion, Belief or Philosophy (paragraph 5).

See **Annexure B** for a detailed description of the PBAs listed under each of the above qualifying categories.

### 5.3 Carries on

The expression “carries on” is not defined in the SDL Act, and should therefore be interpreted according to its ordinary meaning as applied to the subject matter relating to which it is used<sup>19</sup> unless the ordinary meaning creates an absurdity or ambiguity. It is important when giving words and expressions their ordinary meaning, to consider the context in which such words or expressions are used.

The *Lexico Dictionaries* describes the expression “carry on” as –<sup>20</sup>  
 “engage in an activity”.

In this context, the expression “carries on” means that the PBO must itself conduct the PBAs by expending its funds in carrying on the qualifying PBAs. Whether a PBO “carries on” the relevant PBA is a question of fact and must be decided considering the facts of a particular case.

#### **Example 1 – Carrying on qualifying PBAs**

*Facts:*

ABC Haven is a non-profit company that provides accommodation and care to neglected and abandoned children. A social worker, house parents and other essential staff employed by the home are responsible for the basic needs and care of these children. ABC Haven has submitted an application for approval as a PBO.

*Result:*

ABC Haven complies with the requirements of section 30 and will be approved by the Commissioner as a PBO because its sole or principal object is to carry on PBA 1(a) in Part I (see **Annexure A** under the category “Welfare and Humanitarian”).

ABC Haven will also qualify for the exemption from the payment of SDL contemplated in section 4(c)(i) of the SDL Act, because it is solely carrying on a qualifying PBA (see **Annexure B** under the category “Welfare and Humanitarian”).

<sup>19</sup> See EA Kellaway *Principles of Legal Interpretation of Statutes, Contracts and Wills* (1995) Butterworths Durban at 224. See also *Natal Joint Municipality Pension Fund v Endumeni Municipality* 2012 (4) SA 593 (SCA).

<sup>20</sup> [www.lexico.com/definition/carry\\_on](http://www.lexico.com/definition/carry_on) [Accessed 12 December 2022].

## 5.4 Provides funds

An organisation that provides funds to other organisations may be referred to as a “conduit” organisation. A “conduit” organisation does not itself carry on approved PBAs, but merely passes its funds on to other organisations, which themselves carry on the PBAs.

Paragraph 10 in Part I deals with a PBO that is a “conduit” (see **Annexure A** under the category “Providing of Funds, Assets or Other Resources”). A “conduit” organisation may for purposes of the approval as a PBO provide funds, assets, services or other resources to any –

- PBO;
- institution, board or body contemplated in section 10(1)(cA)(i), that conducts one or more PBA in Part I (excluding PBA 10);
- association of persons carrying on one or more PBA contemplated in Part I (excluding PBA 10), in South Africa;<sup>21</sup> or
- department of state or administration in the national, provincial or local sphere of government of South Africa contemplated in section 10(1)(a).

The exemption from the payment of SDL under section 4(c)(ii) of the SDL Act, applies only to a “conduit” PBO that solely provides funds to PBOs carrying on only qualifying PBAs (see **4.2**). The provision of assets, services or other resources contemplated in PBA 10 is therefore excluded for the purposes of the SDL exemption (see **Annexure A**).

### **Example 2 – Provision of funds to a PBO solely carrying on a qualifying PBA**

*Facts:*

ABC Haven Trust was established with the sole object of raising funds and accepting donations from the public and corporate entities solely for the benefit of ABC Haven, an approved PBO, engaged in the care of neglected and abandoned children (see **Example 1**).

*Result:*

ABC Haven Trust complies with the formal requirements of section 30 and will be approved by the Commissioner as a “conduit” PBO carrying on PBA 10 in Part I (see **Annexure A** under the category “Provision of Funds, Assets or Other Resources”).

ABC Haven Trust qualifies for the exemption from the payment of SDL contemplated in section 4(c)(ii) of the SDL Act, because it solely provides funds to ABC Haven, an approved PBO, that solely carries on a qualifying PBA, namely, PBA 1(a) in Part I (see **Annexure B** under the category “Welfare and Humanitarian”).

A “conduit” PBO providing funds to PBOs as well as to any other entity described in the second to fourth bullets above will not qualify for the exemption from the payment of SDL under section 4(c)(ii) of the SDL Act.

<sup>21</sup> For commentary, see Interpretation Note 98 “The Provision of Funds, Assets or Other Resources to any Association of Persons”.

### Example 3 – Provision of funds to a PBO as well as to non-qualifying entities

#### *Facts:*

XYZ Trust was established with the object of raising funds and accepting donations from the public and corporate entities for the benefit of the following:

- Glory for All, an approved PBO carrying on PBA 5(a) in Part I.
- Community leaders of a rural community in a remote village to fund the cost of the installation of pipes and a water pump to ensure accessible water to all community members. The community leaders are regarded as the “association of persons” referred to in PBA 10(iii) in Part I.
- PEN University, an institution, board or body contemplated in section 10(1)(cA)(i) carrying on PBA 4(b) in Part I.

#### *Result:*

XYZ Trust complies with the formal requirements of section 30 and will be approved by the Commissioner as a “conduit” PBO because its sole or principal object is to carry on PBA 10 in Part I (see **Annexure A** under the category “Providing of Funds, Assets or Other Resources”).

XYZ Trust provides funds to an –

- approved PBO carrying on a qualifying PBA (see **Annexure B** under the category “Religion, Belief of Philosophy”);
- association of persons carrying on a non-qualifying PBA for purposes of the SDL exemption (see **Annexure A** under the category “Provision of Funds, Assets or Other Resources”);
- institution, board or body carrying on a non-qualifying PBA for purposes of the SDL exemption (see **Annexure A** under the category “Education and Development”).

XYZ Trust does not qualify for the exemption from the payment of SDL contemplated in section 4(c)(ii) of the SDL Act, because it does not solely provide funds to approved PBOs carrying on qualifying PBAs (see **5.5**).

## 5.5 Solely

The word “solely” is not defined in the SDL Act. The word “solely” is described in the *Lexico Dictionaries* as follows:<sup>22</sup>

“Not involving anyone or anything else; only.”

The *Dictionary.com* describes “solely” as follows –<sup>23</sup>

“as the only one or ones; exclusively or only”.

In this context, the word “solely” means that a PBO must exclusively carry on the qualifying PBAs, or exclusively provide funds to PBOs that exclusively carry on the qualifying PBAs, in order to qualify for the exemption from the payment of SDL.

<sup>22</sup> [www.lexico.com/definition/solely](http://www.lexico.com/definition/solely) [Accessed 12 December 2022].

<sup>23</sup> [www.dictionary.com/browse/solely#](http://www.dictionary.com/browse/solely#) [Accessed 12 December 2022].

The requirement of “solely” is absolute and the Commissioner has no discretion to allow any exception, no matter how insignificant.

A PBO carrying on more than one approved PBA, some of which are qualifying PBAs (see **Annexure B**) as well as other PBAs not listed in section 4(c)(i) of the SDL Act (see **Annexure A**), will not qualify for the exemption from the payment of SDL under section 4(c)(i) of the SDL Act.

#### **Example 4 – A PBO carrying on qualifying and non-qualify PBAs**

*Facts:*

DEF Religious Centre is an association of persons, which provides church services every Sunday to its members. DEF Religious Centre also provides daily early childhood development services to pre-school children of the general public. The centre employs a principal, teachers, assistants as well as other essential staff to provide the early childhood development services on its premises. DEF Religious Centre has submitted an application for approval as a PBO.

*Result:*

DEF Religious Centre complies with the requirements of section 30 and will be approved by the Commissioner as a PBO because its principal object is to carry on PBAs 4(h) and 5(a) in Part I (see **Annexure A** under the categories “Education and Development” and “Religion, Belief or Philosophy”).

However, since DEF Religious Centre is carrying on a non-qualifying PBA, namely, PBA 4(h) in Part I, and a qualifying PBA, namely, PBA 5(a) in Part I (see **Annexure B** under the category “Religion, Belief or Philosophy”) it will not qualify for the exemption from the payment of SDL contemplated in section 4(c)(i) of the SDL Act, because it is not solely carrying on qualifying PBAs.

Similarly, a “conduit” PBO providing funds to PBOs carrying on one or more approved PBAs, some of which are qualifying PBAs as well as other PBAs not listed in section 4(c)(i) of the SDL Act, will not qualify for the exemption from the payment of SDL under section 4(c)(ii) of the SDL Act.

#### **Example 5 – Provision of funds to PBOs carrying on qualifying as well other non-qualifying PBAs**

*Facts:*

HUF Trust was established with the object of raising funds and accepting donations from the public and corporate entities for the benefit of the following approved PBOs:

- Health 4 All established to provide healthcare services at no charge to poor and needy persons contemplated in PBA 2(a) in Part I.
- Unlocking Potential established to provide training for unemployed persons to enable them to obtain employment contemplated in PBA 4(e) in Part I.
- For the Love of Furbabies established to care, prevent the ill-treatment and rehabilitation of animals contemplated in PBA 7(a) in Part I.

*Result:*

HUF Trust complies with the formal requirements of section 30 and will be approved by the Commissioner as a “conduit” PBO because its sole or principal object is to carry on PBA 10 in Part I (see **Annexure A** under the category “Providing of Funds, Assets or Other Resources”).

HUF Trust provides funds by way of donation to approved PBOs carrying on –

- PBA 2(a) in Part I, which is a qualifying PBA for purposes of the SDL exemption (see **Annexure B** under the category “Health Care”); and
- PBAs 4(e) and 7(a) in Part I, which are non-qualifying PBAs for purposes of the SDL exemption.

HUF Trust therefore does not qualify for the exemption from the payment of SDL contemplated in section 4(c)(ii) of the SDL Act, because it does not solely provide funds to PBOs that solely carry on qualifying PBAs.

## 6. Application and administration of the skills development levy exemption

The Commissioner will, by letter, inform an organisation applying for PBO approval by completing and submitting the prescribed application form EI 1 whether it has been approved as a PBO and whether it qualifies for the exemption from the payment of SDL under section 4(c) of the SDL Act. The SDL will therefore not be payable from the date of confirmation of the PBO approval by the Commissioner.

The approval by the Commissioner of an organisation as a PBO is generally effective from the date of the notice of approval, that is, it is prospective, unless it is granted with retrospective effect.<sup>24</sup> Any amount of SDL, interest or penalty paid by an employer approved as a PBO retrospectively, which was, when applying the retrospective approval, not leviable or payable under section 4(c) of the SDL Act must be refunded to the employer within a prescribed period. The Commissioner, however, may refuse to authorise a refund under section 190 of the TA Act, if the employer has failed to submit a return together with payment of the SDL<sup>25</sup> until the employer has submitted such return.<sup>26</sup> A request for a refund must be submitted to the local SARS branch office where the PBO is registered as an employer. Each request for a SDL refund will be considered on its own merits and specific facts.

If at any time subsequent to the notification issued by the Commissioner confirming exemption from the payment of SDL, the PBO no longer solely carries on the qualifying PBAs or no longer solely provides funds to other PBOs solely carrying on the qualifying PBAs, the PBO will no longer qualify for the exemption of the payment of SDL under section 4(c) of the SDL Act.

<sup>24</sup> Section 30(3B). For commentary, see the *Tax Exemption Guide for Public Benefit Organisations in South Africa*.

<sup>25</sup> Section 6(2) of the SDL Act.

<sup>26</sup> Section 6(6) of the SDL Act.

An organisation whose approval as a PBO is withdrawn by the Commissioner due to non-compliance with the provisions of section 30 will also no longer qualify for the exemption from the payment of SDL under section 4(c) of the SDL Act.<sup>27</sup> The Commissioner will by letter, inform the PBO of the withdrawal of the PBO approval.

An organisation not qualifying for exemption from the payment of SDL under section 4(c) of the SDL Act is liable to pay the SDL to SARS within seven days after the end of the month or such longer period as the Commissioner determines.<sup>28</sup> A 10% penalty will be imposed on an unpaid amount of SDL under Chapter 15 of the TA Act.<sup>29</sup>

## 7. Conclusion

A PBO may qualify for exemption from the payment of SDL under section 4(c) of the SDL Act, provided certain requirements are met. The obligation will be on the PBO to show that it meets the strict requirements of section 4(c) of the SDL Act.

### Leveraged Legal Products

#### SOUTH AFRICAN REVENUE SERVICE

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<sup>27</sup> For commentary on the circumstances in which the PBO approval may be withdrawn and the consequences of such withdrawal, see the *Tax Exemption Guide for Public Benefit Organisations in South Africa*

<sup>28</sup> Section 6 of the SDL Act.

<sup>29</sup> Section 12(1) of the SDL Act.

**Annexure A – Public benefit activities listed in Part I for purposes of the approval as a public benefit organisation**

**NINTH SCHEDULE**

**PUBLIC BENEFIT ACTIVITIES**

(Section 30)

**PART I**

**WELFARE AND HUMANITARIAN**

1. (a) The care or counseling of, or the provision of education programmes relating to, abandoned, abused, neglected, orphaned or homeless children.
- (b) The care or counseling of poor and needy persons where more than 90 per cent of those persons to whom the care or counseling are provided are over the age of 60.
- (c) The care or counseling of, or the provision of education programmes relating to, physically or mentally abused and traumatized persons.
- (d) The provision of disaster relief.
- (e) The rescue or care of persons in distress.
- (f) The provision of poverty relief.
- (g) Rehabilitative care or counseling or education of prisoners, former prisoners and convicted offenders and persons awaiting trial.
- (h) The rehabilitation, care or counseling of persons addicted to a dependence-forming substance or the provision of preventative and education programmes regarding addiction to dependence-forming substances.
- (i) Conflict resolution, the promotion of reconciliation, mutual respect and tolerance between the various peoples of South Africa.
- (j) The promotion or advocacy of human rights and democracy.
- (k) The protection of the safety of the general public.
- (l) The promotion or protection of family stability.
- (m) The provision of legal services for poor and needy persons.
- (n) The provision of facilities for the protection and care of children under school-going age of poor and needy parents.
- (o) The promotion or protection of the rights and interests of, and the care of, asylum seekers and refugees.
- (p) Community development for poor and needy persons and anti-poverty initiatives, including—
  - (i) the promotion of community-based projects relating to self-help, empowerment, capacity building, skills development or anti-poverty;
  - (ii) the provision of training, support or assistance to community-based projects contemplated in item (i); or
  - (iii) the provision of training, support or assistance to emerging micro enterprises to improve capacity to start and manage businesses, which may include the granting of loans on such conditions as may be prescribed by the Minister by way of regulation.
- (q) The promotion of access to media and a free press.

## HEALTH CARE

2. (a) The provision of health care services to poor and needy persons.
- (b) The care or counseling of terminally ill persons or persons with a severe physical or mental disability, and the counseling of their families in this regard.
- (c) The prevention of HIV infection, the provision of preventative and education programmes relating to HIV/AIDS.
- (d) The care, counseling or treatment of persons afflicted with HIV/AIDS, including the care or counseling of their families and dependants in this regard.
- (e) The provision of blood transfusion, organ donor or similar services.
- (f) The provision of primary health care education, sex education or family planning.

## LAND AND HOUSING

3. (a) The development, construction, upgrading, conversion or procurement of housing units for the benefit of persons whose monthly household income is equal to or less than R15 000 or any greater amount determined by the Minister of Finance by notice in the *Gazette* after consultation with the Minister of Housing.
- (b) The development, servicing, upgrading or procurement of stands, or the provision of building materials, for purposes of the activities contemplated in subparagraph (a).
- (c) The provision of residential care for retired persons, where—
  - (i) more than 90 per cent of the persons to whom the residential care is provided are over the age of 60 and nursing services are provided by the organisation carrying on such activity; and
  - (ii) residential care for retired persons who are poor and needy is actively provided by that organisation without full recovery of cost.
- (d) Building and equipping of—
  - (i) clinics or crèches; or
  - (ii) community centres, sport facilities or other facilities of a similar nature,
 for the benefit of the poor and needy.
- (e) The promotion, facilitation and support of access to land and use of land, housing and infrastructural development for promoting official land reform programmes.
- (f) Granting of loans for purposes of subparagraph (a) or (b), and the provision of security or guarantees in respect of such loans, subject to such conditions as may be prescribed by the Minister by way of regulation.
- (g) The protection, enforcement or improvement of the rights of poor and needy tenants, labour tenants or occupiers, to use or occupy land or housing.
- (h) The provision of training, support or assistance to emerging farmers in order to improve capacity to start and manage agricultural operations.

## EDUCATION AND DEVELOPMENT

4. (a) The provision of education by a "school" as defined in the South African Schools Act, 1996, (Act No. 84 of 1996).
- (b) The provision of "higher education" by a "higher education institution" as defined in terms of the Higher Education Act, 1997, (Act No. 101 of 1997).
- (c) "Adult education and training", as defined in the Adult Education and Training Act, 2000, (Act No. 52 of 2000), including literacy and numeracy education.
- (d) "Continuing education and training" provided by a "private college" as defined in the Continuing Education and Training Colleges Act, 2006 (Act No. 16 of 2006), which is registered in terms of that Act.

- (e) Training for unemployed persons with the purpose of enabling them to obtain employment.
- (f) The training or education of persons with a severe physical or mental disability.
- (g) The provision of bridging courses to enable educationally disadvantaged persons to enter a higher education institution as envisaged in subparagraph (b).
- (h) The provision of educare or early childhood development services for pre-school children.
- (i) Training of persons employed in the national, provincial and local spheres of government, for purposes of capacity building in those spheres of government.
- (j) The provision of school buildings or equipment for public schools and educational institutions engaged in public benefit activities contemplated in subparagraphs (a) to (h).
- (k) Career guidance and counseling services provided to persons attending any school or higher education institution as envisaged in subparagraphs (a) and (b).
- (l) The provision of hostel accommodation to students of a public benefit organisation contemplated in section 30 or an institution, board or body contemplated in section 10(1)(cA)(i), carrying on activities envisaged in subparagraphs (a) to (g).
- (m) Programmes addressing needs in education provision, learning, teaching, training, curriculum support, governance, whole school development, safety and security at schools, pre-schools or educational institutions as envisaged in subparagraphs (a) to (h).
- (n) Educational enrichment, academic support, supplementary tuition or outreach programmes for the poor and needy.
- (o) The provision of scholarships, bursaries, awards and loans for study, research and teaching on such conditions as may be prescribed by the Minister by way of regulation in the *Gazette*.
- (p) The provision or promotion of educational programmes with respect to financial services and products, carried on under the auspices of a public entity listed under Schedule 3A of the Public Finance Management Act.
- (q) The provision, to the general public, of education and training programmes and courses that are administered and accredited by entities contemplated in paragraph (r).
- (r) The administration, provision and publication of qualification and certification services by industry organisations recognised by an industry specific organisation and its qualifications accredited by the Quality Council for Trades and Occupations established in 2010 in terms of the Skills Development Act, 1998 (Act No. 97 of 1998).

#### RELIGION, BELIEF OR PHILOSOPHY

- 5. (a) The promotion or practice of religion which encompasses acts of worship, witness, teaching and community service based on a belief in a deity.
- (b) The promotion and/or practice of a belief.
- (c) The promotion of, or engaging in, philosophical activities.

#### CULTURAL

- 6. (a) The advancement, promotion or preservation of the arts, culture or customs.
- (b) The promotion, establishment, protection, preservation or maintenance of areas, collections or buildings of historical or cultural interest, national monuments, national heritage sites, museums, including art galleries, archives and libraries.
- (c) The provision of youth leadership or development programmes.

CONSERVATION, ENVIRONMENT AND ANIMAL WELFARE

7. (a) Engaging in the conservation, rehabilitation or protection of the natural environment, including flora, fauna or the biosphere.
- (b) The care of animals, including the rehabilitation, or prevention of the ill-treatment of animals.
- (c) The promotion of, and education and training programmes relating to, environmental awareness, greening, clean-up or sustainable development projects.
- (d) The establishment and management of a transfrontier area, involving two or more countries, which—
- (i) is or will fall under a unified or coordinated system of management without compromising national sovereignty; and
  - (ii) has been established with the explicit purpose of supporting the conservation of biological diversity, job creation, free movement of animals and tourists across the international boundaries within the peace park, and the building of peace and understanding between the nations concerned.

RESEARCH AND CONSUMER RIGHTS

8. (a) Research including agricultural, economic, educational, industrial, medical, political, social, scientific and technological research.
- (b) The protection and promotion of consumer rights and the improvement of control and quality with regard to products or services.

SPORT

9. The administration, development, co-ordination or promotion of sport or recreation in which the participants take part on a non-professional basis as a pastime.

PROVIDING OF FUNDS, ASSETS OR OTHER RESOURCES

10. The provision of—
- (a) funds, assets, services or other resources by way of donation;
  - (b) assets or other resources by way of sale for a consideration not exceeding the direct cost to the organisation providing the assets or resources;
  - (c) funds by way of loan at no charge; or
  - (d) assets by way of lease for an annual consideration not exceeding the direct cost to the organisation providing the asset divided by the total useful life of the asset,
- to any—
- (i) public benefit organisation which has been approved in terms of section 30;
  - (ii) institution, board or body contemplated in section 10(1)(cA)(i), which conducts one or more public benefit activities in this part (other than this paragraph);
  - (iii) association of persons carrying on one or more public benefit activity contemplated in this part (other than this paragraph), in the Republic; or
  - (iv) department of state or administration in the national or provincial or local sphere of government of the Republic, contemplated in section 10(1)(a).

## GENERAL

11. (a) The provision of support services to, or promotion of the common interests of public benefit organisations contemplated in section 30 or institutions, boards or bodies contemplated in section 10(1)(cA)(i), which conduct one or more public benefit activities contemplated in this part.
- (b) The bid to host or hosting of any international event approved by the Minister for purposes of this paragraph, having regard to—
- (i) the foreign participation in that event; and
  - (ii) the economic impact that event may have on the country as a whole.
- (c) The promotion, monitoring or reporting of development assistance for the poor and needy.
- (d) The provision of funds to an organisation—
- (i) which is incorporated, formed or established in any country other than the Republic;
  - (ii) which is exempt from tax on income in that other country;
  - (iii) the sole or principal object of which is the carrying on of one or more activities that would qualify as public benefit activities listed in Part I of this Schedule if carried on in the Republic; and
  - (iv) that carries on each of its activities—
    - (aa) in a non-profit manner;
    - (bb) with altruistic or philanthropic intent;
    - (cc) in a manner which does not directly or indirectly promote the economic self-interest of any fiduciary or employee of the organisation other than by way of reasonable remuneration; and
    - (dd) for the benefit of, or is widely accessible to the general public of that country including any sector thereof (other than small and exclusive groups).

## Annexure B – Qualifying public benefit activities for purposes of the SDL exemption

### Paragraph 1 in Part I

#### NINTH SCHEDULE

#### PUBLIC BENEFIT ACTIVITIES

(Section 30)

#### PART I

#### WELFARE AND HUMANITARIAN

1. (a) The care or counseling of, or the provision of education programmes relating to, abandoned, abused, neglected, orphaned or homeless children.
- (b) The care or counseling of poor and needy persons where more than 90 per cent of those persons to whom the care or counseling are provided are over the age of 60.
- (c) The care or counseling of, or the provision of education programmes relating to, physically or mentally abused and traumatized persons.
- (d) The provision of disaster relief.
- (e) The rescue or care of persons in distress.
- (f) The provision of poverty relief.
- (g) Rehabilitative care or counseling or education of prisoners, former prisoners and convicted offenders and persons awaiting trial.
- (h) The rehabilitation, care or counseling of persons addicted to a dependence-forming substance or the provision of preventative and education programmes regarding addiction to dependence-forming substances.
- (i) Conflict resolution, the promotion of reconciliation, mutual respect and tolerance between the various peoples of South Africa.
- (j) The promotion or advocacy of human rights and democracy.
- (k) The protection of the safety of the general public.
- (l) The promotion or protection of family stability.
- (m) The provision of legal services for poor and needy persons.
- (n) The provision of facilities for the protection and care of children under school-going age of poor and needy parents.
- (o) The promotion or protection of the rights and interests of, and the care of, asylum seekers and refugees.
- (p) Community development for poor and needy persons and anti-poverty initiatives, including—
  - (i) the promotion of community-based projects relating to self-help, empowerment, capacity building, skills development or anti-poverty;
  - (ii) the provision of training, support or assistance to community-based projects contemplated in item (i); or
  - (iii) the provision of training, support or assistance to emerging micro enterprises to improve capacity to start and manage businesses, which may include the granting of loans on such conditions as may be prescribed by the Minister by way of regulation.
- (q) The promotion of access to media and a free press.

**Paragraph 2 in Part I**

## HEALTH CARE

2.
  - (a) The provision of health care services to poor and needy persons.
  - (b) The care or counseling of terminally ill persons or persons with a severe physical or mental disability, and the counseling of their families in this regard.
  - (c) The prevention of HIV infection, the provision of preventative and education programmes relating to HIV/AIDS.
  - (d) The care, counseling or treatment of persons afflicted with HIV/AIDS, including the care or counseling of their families and dependants in this regard.

**Paragraph 5 of Part I**

## RELIGION, BELIEF OR PHILOSOPHY

5.
  - (a) The promotion or practice of religion which encompasses acts of worship, witness, teaching and community service based on a belief in a deity.
  - (b) The promotion and/or practice of a belief.
  - (c) The promotion of, or engaging in, philosophical activities.