

**IN THE LABOUR COURT OF SOUTH AFRICA
(HELD AT JOHANNESBURG)**

CASE NO: _____

In the matter between:

**SOLIDARITY OBO KROUCAMP & MEMBERS
LISTED IN ANNEXURE 'X'**

APPLICANT

and

**MINISTER: DEPARTMENT OF
HIGHER EDUCATION & TRAINING**

1st RESPONDENT

**NATIONAL ARTISAN MODERATION
BOARD**

2nd RESPONDENT

**ACTING DIRECTOR: NATIONAL ARTISAN
MODERATION BOARD**

3rd RESPONDENT

**QUALITY COUNCIL FOR TRADES
& OCCUPATIONS**

4th RESPONDENT

**CEO: QUALITY COUNCIL FOR TRADES &
OCCUPATIONS**

5th RESPONDENT

**CEO: MANUFACTURING, ENGINEERING &
RELATED SERVICES SECTOR EDUCATION
& TRAINING AUTHORITY**

6th RESPONDENT

**MANUFACTURING, ENGINEERING &
RELATED SERVICES SECTOR EDUCATION
& TRAINING AUTHORITY**

7th RESPONDENT

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ADMINISTRATOR: CONSTRUCTION SECTOR EDUCATION & TRAINING AUTHORITY	8th RESPONDENT
CONSTRUCTION SECTOR EDUCATION & TRAINING AUTHORITY	9th RESPONDENT
CEO: AGRICULTURE SECTION EDUCATION & TRAINING AUTHORITY	10th RESPONDENT
AGRICULTURE SECTION EDUCATION & TRAINING AUTHORITY	11th RESPONDENT
TRANSPORT EDUCATION & TRAINING AUTHORITY	12th RESPONDENT
CEO: TRANSPORT EDUCATION & TRAINING AUTHORITY	13th RESPONDENT
FIBRE PROCESSING & MANUFACTURING SECTOR EDUCATION & TRAINING AUTHORITY	14th RESPONDENT
CEO: FIBRE PROCESSING & MANUFACTURING SECTOR EDUCATION & TRAINING AUTHORITY	15th RESPONDENT
ENERGY & WATER SECTOR EDUCATION & TRAINING AUTHORITY	16th RESPONDENT
CEO: ENERGY & WATER SECTOR EDUCATION & TRAINING AUTHORITY	17th RESPONDENT
FOOD & BEVERAGES MANUFACTURING INDUSTRY SECTOR EDUCATION AND TRAINING AUTHORITY	18th RESPONDENT

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**CEO: FOOD AND BEVERAGES MANUFACTURING
INDUSTRY SECTOR EDUCATION & TRAINING
AUTHORITY**

19th RESPONDENT

**SERVICES SECTOR EDUCATION &
TRAINING AUTHORITY**

20th RESPONDENT

**CEO: SERVICES SECTOR EDUCATION &
TRAINING AUTHORITY**

21st RESPONDENT

FOUNDING AFFIDAVIT

I, the undersigned:

ROELOF STEFANUS PRETORIUS

Do hereby make an oath and swear as follows:

1. I am an adult male employed by the applicant as the coordinator of its Trade/Artisan Network. I am responsible for the protection of union members as well as the promotion of opportunities and further training within this sector.
2. I am duly authorised to depose to this affidavit and to institute these proceedings on behalf of the applicant. A copy of the resolution is annexed hereto marked "SP1".
3. The facts contained herein are, unless the context indicates otherwise, within my personal knowledge and are both true and correct. Where I deal with

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matters of law, I do so on the advice of the applicant's legal representatives, which advice I respectfully submit to be correct.

4. To the extent that information does not fall within my personal knowledge, or may amount to hearsay, I pray that the above honourable Court admits such allegations as evidence in terms of section 3 of the Law of Evidence Amendment Act 45 of 1988.

INTRODUCTION & OVERVIEW

5. This is an urgent application for a final interdict. The mandatory relief sought is in substance a final mandatory interdict compelling performance of statutory duties.
6. The persons on whose behalf Solidarity is acting are all aspiring artisans and tradespeople. They have done all that is lawfully required of them to be awarded their national trade certificate (colloquially, the "red seal") which is their 'passport' to higher-paying work, local and international employment opportunities, career advancement and job security in general. The red seal is a competency-based occupational 'certification' that represents mastery in a practical trade or craft, equivalent in level of expertise to other post-school qualifications, but with a focus on applied technical skill.
7. The respondents are those organs of state responsible for the statutory mandated and prescribed facilitating and overseeing of the process of

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certification and the issuing of red seal certificates. They have collectively failed in their statutory obligation to issue the red seal to which these aspiring artisans are entitled as a matter of law.

8. This failure is ongoing and has become a national crisis impacting all aspiring South African artisans, in a vital sector of the economy where there is an acknowledged critical shortage of skills.
9. Solidarity's members have a clear right to the issuing of their red seal certificates. To be eligible for a red seal, all that is required of a candidate is to have qualified for and passed a trade test in terms of the applicable regulations, set out more fully below. From that point a candidate can do no more than 'wait' for the respondents to execute the barest of their functions.
10. In this case, the applicants have all passed their trade tests. Conversely, the respondents have not upheld their end of the bargain.
11. A mandatory interdict is therefore necessitated to vindicate the rights and interests of Solidarity's members. Because the evidence reveals that the failures are systemic rather than isolated, ancillary structural relief is also appropriate, as set out fully herein below.
12. Urgency in this matter flows from the fact that Solidarity's members suffer ongoing harm and prejudice that is difficult (all but impossible) to quantify financially and cannot be rectified by a substantive hearing in due course; as



well as the violation of their Constitutional rights and the public interest in a functioning state.

12.1 I refer in this respect particularly to the case of Mr CECIL CHRISTIAAN KROUCAMP, a recently qualified young member who stands to lose a work offer in New Zealand and therefore risks being deported from that country - where his family now lives - and will be forced to return to South Africa where he has no support network, no financial resources, and no prospects without the red seal.

13. This affidavit is structured as follows:

13.1 First, I set out the parties, standing, and jurisdiction of the Honourable Court.

13.2 Second, I set out the legal framework and associated policies, directives, and practices of the respondents. It is vital to illustrate the legal framework before addressing the factual background to fully grasp the origin and nature of the applicants' clear right herein.

13.3 Third, I set out the factual background of the matter as well as the concomitant urgency. I will first sketch a picture of general collapse within the certification chain and quality assurance process for which the respondents are accountable. I will then provide an overview of the

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systemic dysfunction as experienced by Solidarity, with detail in respect of Mr Kroucamp as an illustrative and representative case study.

- 13.4 Fourth, I set out Solidarity's averments in respect of the relief sought, including the basis for the interdict(s), and conclude with a prayer for relief.

PARTIES

14. The applicant is the **SOLIDARITY TRADE UNION** ("*Solidarity*") a trade union duly registered in terms of the Labour Relations Act 66 of 1995, acting on behalf of its members and in the public interest on behalf of a distinct class of persons, namely qualified artisans who have completed the requirements for artisan certification but who have not received their trade certificates.

- 14.1 Solidarity has over 220 000 members, spanning a wide range of employment sectors and industries. Solidarity frequently litigates in the interests of its members as well as in the public interest and has in the past brought suits in respect of human rights, Constitutionalism and the rule of law. Solidarity seeks always to hold the state accountable to the people of South Africa.

15. Solidarity acts herein, under the terms of section 200 of the Labour Relations Act 66 of 1995 ("*the LRA*"), and particularly in its own interest, in the interests of its members and on behalf of some one hundred of its members, all of whom

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are aspiring artisans prejudiced by the respondents' failure to execute their basic functions. For the convenience of the Court, I attach hereto annexure "X", being a list of said members setting out the following:

- 15.1 Surname, name, ID number
 - 15.2 Contact details
 - 15.3 Membership number
 - 15.4 Date on which trade test was conducted (demonstrating also duration of delay)
 - 15.5 The trade test centre where the trade test was concluded
 - 15.6 The relevant unique serial or registration number assigned to trade test applicants with which their application for certification is tracked through the system
 - 15.7 Relevant SETA
 - 15.8 The annexure number where their trade test results can be perused.
16. For each member so listed, I also attach hereto a collated bundle containing each member's trade test result, organised in the same order as the index of annexure "X" and marked "TT1-100" The critical relevance hereof is demonstrated below.
17. By virtue of their memberships of Solidarity is duly mandated.
18. The **First Respondent** is the **MINISTER OF HIGHER EDUCATION, SCIENCE AND TECHNOLOGY** ("*the Minister*") cited in his official capacity. The office is



currently occupied by MR BUTI MANAMELA. The Minister is the political principal accountable for the Department of Higher Education and Training and bears constitutional responsibility for the bodies exercising statutory functions within his portfolio, including the second respondent. In simple terms, the Minister is that part of the national executive responsible for the system that is supposed to certify artisans.

19. The **Second Respondent** is the **NATIONAL ARTISAN MODERATION BOARD** (*"the NAMB"*), an operational unit within the Department of Higher Education and Training established in terms of section 26A of the Skills Development Act 97 of 1998. In simple terms, the NAMB is the conduit between a passed trade test and a issued certificate. It verifies trade test results and recommends certification to the QCTO. It is the contracted 'Assurance Quality Partner' of the QCTO and therefore entirely accountable to same.
20. The **Third Respondent** is the **ACTING DIRECTOR OF THE NATIONAL ARTISAN MODERATION BOARD**, cited in their official capacity. The Acting Director is cited separately from the NAMB as the named natural person accountable for compliance with any order of this Court, given the NAMB's absence of independent legal personality.
21. The **Fourth Respondent** is the **QUALITY COUNCIL FOR TRADES AND OCCUPATIONS** (*"the QCTO"*), a statutory body established in terms of Chapter 6C of the Skills Development Act 97 of 1998 and listed as a Schedule 3A Public Entity under the Public Finance Management Act 1 of 1999. In simple terms,

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the QCTO is the body that actually issues the trade certificate — the so-called red seal — that transforms a person who has passed their trade test into a formally qualified artisan. It is the ultimate accountable body for all certification processes.

22. The **Fifth Respondent** is **MR VIJAYEN NAIDOO**, the Chief Executive Officer of the QCTO, cited in his official capacity. He is cited alongside the QCTO to ensure personal accountability for compliance with any order compelling the QCTO to act.

23. The **Sixth Respondent** is the **MANUFACTURING, ENGINEERING AND RELATED SERVICES SECTOR EDUCATION AND TRAINING AUTHORITY** (“*the merSETA*”), established in terms of section 9 of the Skills Development Act 97 of 1998 and listed as a Schedule 3A Public Entity under the Public Finance Management Act 1 of 1999. In simple terms, the merSETA manages the artisan pipeline for engineering and manufacturing trades, from registering the apprenticeship contract to submitting completed trade test documentation to NAMB.

24. The **Seventh Respondent** is **MR NAPHTALY MOKGOTSANE**, the Acting Chief Executive Officer of the merSETA, cited in his official capacity. He is cited to ensure personal accountability for compliance with any order directed at the merSETA.

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25. The **Eighth Respondent** is the **CONSTRUCTION SECTOR EDUCATION AND TRAINING AUTHORITY** (*“the CETA”*), established in terms of section 9 of the Skills Development Act 97 of 1998 and listed as a Schedule 3A Public Entity under the Public Finance Management Act 1 of 1999. In simple terms, the CETA performs the same pipeline function as the merSETA for artisans in the construction trades.
26. The **Ninth Respondent** is the Administrator of CETA, Mr Oupa Nkoane. CETA is currently under administration. During the period of administration, the powers and functions ordinarily exercised by the Accounting Authority (Board) are vested in the Administrator, subject to the direction and oversight of the Minister.
27. The **Tenth Respondent** is the **AGRICULTURE SECTOR EDUCATION AND TRAINING AUTHORITY** (*“AgriSETA”*), established in terms of section 9 of the Skills Development Act 97 of 1998 and listed as a Schedule 3A Public Entity under the Public Finance Management Act 1 of 1999. In simple terms, AgriSETA manages the artisan development and certification pipeline for persons in agricultural trades.
28. The **Eleventh Respondent** is **MR FANNY PHETLA**, the Acting Chief Executive Officer of AgriSETA, cited in his official capacity. He is cited to ensure personal accountability for compliance with any order directed at AgriSETA



29. The **Twelfth Respondent** is the **TRANSPORT EDUCATION AND TRAINING AUTHORITY** ("*TETA*"), established in terms of section 9 of the Skills Development Act 97 of 1998 and listed as a Schedule 3A Public Entity under the Public Finance Management Act 1 of 1999. In simple terms, TETA manages the artisan development and certification pipeline for trades in the transport sector.
30. The **Thirteenth Respondent** is **MS MAPHEFO ANNO-FREMPONG**, the Chief Executive Officer of TETA, cited in her official capacity for personal accountability in respect of any order directed at TETA.
31. The **Fourteenth Respondent** is the **FIBRE PROCESSING AND MANUFACTURING SECTOR EDUCATION AND TRAINING AUTHORITY** ("*FP&M SETA*"), established in terms of section 9 of the Skills Development Act 97 of 1998 and listed as a Schedule 3A Public Entity under the Public Finance Management Act 1 of 1999. In simple terms, FP&M SETA manages the artisan pipeline for trades within the clothing, textiles, leather, furniture, wood, and related manufacturing sub-sectors.
32. The **Fifteenth Respondent** is **DR FELLENG YENDE**, the Chief Executive Officer of FP&M SETA, cited in her official capacity for personal accountability in respect of any order directed at FP&M SETA.
33. The **Sixteenth Respondent** is the **ENERGY AND WATER SECTOR EDUCATION AND TRAINING AUTHORITY** ("*EWSETA*"), established in terms



of section 9 of the Skills Development Act 97 of 1998 and listed as a Schedule 3A Public Entity under the Public Finance Management Act 1 of 1999. In simple terms, EWSETA manages the artisan pipeline for trades in the energy and water sectors.

34. The **Seventeenth Respondent** is the **CHIEF EXECUTIVE OFFICER OF EWSETA**, cited in her or his official capacity for personal accountability in respect of any order directed at EWSETA.

35. The **Eighteenth Respondent** is the **FOOD AND BEVERAGES MANUFACTURING INDUSTRY SECTOR EDUCATION AND TRAINING AUTHORITY** ("*FoodBev SETA*"), established in terms of section 9 of the Skills Development Act 97 of 1998 and listed as a Schedule 3A Public Entity under the Public Finance Management Act 1 of 1999. In simple terms, FoodBev SETA manages the artisan pipeline for trades in the food and beverage manufacturing sector.

36. The **Nineteenth Respondent** is **MS NOKUTHULA SELAMOLELA**, the Chief Executive Officer of FoodBev SETA, cited in her official capacity for personal accountability in respect of any order directed at FoodBev SETA.

37. The **Twentieth Respondent** is the **SERVICES SECTOR EDUCATION AND TRAINING AUTHORITY** ("*the Services SETA*"), established in terms of section 9 of the Skills Development Act 97 of 1998 and listed as a Schedule 3A Public Entity under the Public Finance Management Act 1 of 1999. In simple terms,

Services SETA manages the artisan pipeline for trades within the broader services sector.

38. The **Twenty-First Respondent** is **MR MATJIE LEHLOGONOLO ALFRED MASOGA**, cited in his official capacity as the administrator presently appointed to the Services SETA in terms of section 15(1) of the Skills Development Act, who exercises the powers, functions and duties otherwise vested in the Services SETA's accounting authority.
39. I refer hereafter to 'the Minister' in respect of the first respondent, to 'NAMB' in respect of the third and fourth respondents, 'the QCTO' in respect of the fifth and sixth respondents, and 'the SETA' for the remainder, save where context indicates otherwise or direct distinction is drawn.

JURISDICTION

40. The Honourable Court has jurisdiction over the dispute by virtue of sections 157, 158(1)(iv) and 158(1)(j) of the LRA, read with section 31 of the Skills Development Act 97 of 1998 ("SDA"), the latter of which reads as follows:

"Subject to the jurisdiction of the Labour Appeal Court and except where this Act provides otherwise, the Labour Court has exclusive jurisdiction in respect of all matters arising from this Act."

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41. This dispute flows directly from the provisions of the SDA and regulations made in terms thereunder, seeking to enforce compliance with statutory duties placed on the respondents in terms thereof.
42. Both the applicants and the primary respondents are moreover situated within the territorial jurisdiction of the Honourable Court.

STANDING

43. Solidarity brings this application on three separate interrelated bases:
 - 43.1 First, and primarily, as a trade union acting in the interests of its members in terms of s200 of the Labour Relations Act 66 of 1995 being those persons listed in annexure 'X' including Mr Kroucamp.
 - 43.2 Second, as a trade union or representative body acting in the interest of a class of persons. I am advised that section 38(c) of the Constitution grants Solidarity standing in such a case.
 - 43.3 Third, in the public interest in terms of section 38(d) of the Constitution, given the systemic issues that affect the wellbeing of critical sectors of the economy as well as the interest of all citizens in an efficient and accountable state.

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44. I note from the outset that due to the logistical challenges and time constraints inherent to an application of this nature, this application has been instituted and served on the respondents without signed mandates being attached for each and every member. The applicant begs the indulgence of the Court in this respect and notes the following:

44.1 The signed mandates will be delivered and filed as and when they are received.

44.2 A signed mandate is not a *sine qua non* for a trade union to act on behalf its members. All persons listed in annexure 'X' are identified by their membership number. The mandates are for the sake of completeness only.

44.3 Where this Court may require that signed mandates are lawfully required and such mandates have not been received, the list of applicants marked 'X' will be amended accordingly and filed for the perusal of the Honourable Court.

LEGAL FRAMEWORK

The certification chain and legislative scheme

45. This application concerns the statutory framework governing the registration, training and certification of artisans. The central institution in that framework is

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the QCTO, which is responsible for the quality assurance and certification of occupational qualifications registered on the Occupational Qualifications Sub-Framework ("OQSF").

46. The QCTO was established under the Skills Development Act 97 of 1998 ('SDA'), as amended, and operates within the broader National Qualifications Framework ("NQF") established by the National Qualifications Framework Act 67 of 2008.
47. The NQF provides the overarching statutory architecture for qualifications in South Africa. It is divided into three sub-frameworks, each administered by a different Quality Council. Within that structure, the QCTO is the Quality Council responsible for the OQSF, the other two being the Council on Higher Education and Umalusi.
48. Although the OQSF regulates occupational qualifications generally, this matter is concerned specifically with its artisan stream. That stream includes traditional trades such as plumbing, millwrighting, boilermaking, electrical work and automotive mechanics; being occupations which require structured workplace learning and the successful completion of a national trade test before artisan status may be conferred.
49. The statutory certification pathway within this framework is administered by those respondents cited herein, the QCTO having ultimate authority and oversight of the process.



50. The SDA is the primary enabling legislation. The respondents (save for the Minister) are all established and mandated by the SDA, and the Act establishes a structured institutional chain involving, *inter alia*, the QCTO and NAMB as its contracted quality assurance partner. The chain has by practice and directive also evolved to create a supporting role for the relevant Sector Education and Training Authorities ("SETAs").
51. NAMB's establishment and statutory functions arise under section 26A of the Act, and the QCTO's general statutory functions — including the issuing of certificates — arise under section 26H.
52. Each of the respondents perform an interlocking role within the certification chain: the QCTO as the central quality assurance and certification authority, NAMB as the body responsible for the coordination and moderation of trade testing, and SETAs as the sectoral bodies responsible for facilitating and supporting workplace-based learning and apprenticeship pathways.
53. In short:
- 53.1 The statutory anchor of the certification process is section 26D of the SDA, read with section 26H. Section 26D(4) places the obligation to issue trade certificates on the QCTO once the section 26D process — trade test, NAMB verification, NAMB recommendation — has been completed.

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- 53.2 Section 26H sets out the QCTO's functions, including issuing certificates, as a statutory function rather than a discretion.
- 53.3 The Trade Test Regulations 2014 then supply the procedural skeleton, viz, what a trade test candidate must do, what the trade test centre and SETA must do upon a pass, the documentary chain that flows to NAMB and then to QCTO.
54. The QCTO has also published several policies and directives internally. I cite several of these policies herein below under the appropriate heading, but note from the outset that policies are not legislation or statutory instruments and are relied on for evidentiary purposes rather than as jurisdictional facts.

What is required to qualify as an artisan

55. From the above it is plain that the requirements for eligibility to be certified as an artisan are statutorily determined, straightforward, and clear. They arise from the Trade Test Regulations 2014, issued in terms of s26D(5) of the SDA. Due to their importance, I attach a copy hereto as annexure "Z".
56. In essence, all that is required of an aspiring artisan is to complete a process of work-based learning which enables entry to a final trade test, which if passed leads ineluctably to certification. In sum, with respect to the exigencies of the

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urgent court and the specific matters at issue herein, candidates are required to take the following steps:

56.1 Step one — meet the entrance requirements and complete training. The candidate must achieve the entrance requirement specified by the QCTO for the relevant listed trade qualification, and complete all 'curriculum components' of an artisan qualification — meaning the 1. Knowledge 2. Practical and 3. Structured work experience components. (*Regulation 2(2)(b)–(c) of the Trade Test Regulations, 2014; definition of "curriculum components of an artisan qualification" in regulation 1.*)

56.1.1 It must be pointed out that the practice appears to have developed that the relevant SETA must first be engaged by the candidate and a registration number provided before applying to take the test. This is not stipulated in the regulations.

56.2 Step two — apply to an accredited trade test centre. The candidate applies to a trade test centre accredited by the QCTO for the relevant trade, submitting an application form in the format determined by NAMB, proof of the entrance requirement, proof of completion of the curriculum components, and proof of compliance with any applicable medical or legal requirement. (*Regulation 2(1)–(2)*)

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56.3 **Step three — receive confirmation of the trade test.** Within 5 working days of a conforming application, the trade test centre must issue written notice confirming the trade test serial number, the date, the trade being tested, the venue, time and duration, and the cost. *(Regulation 2(4))*

56.4 **Step four — sit and pass the trade test.** The candidate undergoes the trade test — the final integrated summative assessment for the listed trade — conducted by an assessor registered with NAMB. A candidate is permitted up to three attempts within the learning programme agreement period. *(Regulation 2(5)–(6))*

56.5 **Step five — receive a result report.** Within 3 working days of completing the trade test, the trade test centre must issue the candidate a report of the result. *(Regulation 2(7))*

57. From this point, the remaining steps fall to be performed by the respondents, not the candidate.

What is required of the respondents for certification

58. **It is these steps that the respondents have collectively failed to take and which the interdict seeks to rectify.**

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- 58.1 **Step six — submission to NAMB and the SETA.** The trade test centre submits the results once a week to NAMB and to the SETA where the candidate is registered. *(Regulation 7(2))*
- 58.2 **Step seven — NAMB verification.** NAMB verifies the results within 5 working days of receipt, confirming the accreditation status of the trade test centre and the registration status of the assessor and moderator. *(Regulation 7(4))*
- 58.3 **Step eight — NAMB recommendation.** NAMB recommends certification of the qualifying candidate to the QCTO within 21 working days of verifying the results, provided the candidate was properly approved for the trade test and appears on the relevant monthly schedule. *(Regulation 7(5)–(6))*
- 58.4 **Step nine — the QCTO issues the certificate.** The QCTO issues and distributes the national trade certificate (red seal) within 21 working days of receiving NAMB's recommendation. *(Regulation 7(7), Trade Test Regulations, 2014, read with section 26D(4) of the Skills Development Act 97 of 1998, which imposes the underlying statutory duty on the QCTO to certify.)*
59. In sum: once a trade test is passed, the legal framework imposes a rigid timeline:

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59.1 results to NAMB within a week,

59.2 NAMB verification within 5 working days,

59.3 NAMB's recommendation to the QCTO within 21 working days thereafter, and

59.4 the QCTO's certificate within a further 21 working days.

59.5 In total, the process should take no more than roughly seven weeks from a passed trade test to a certificate in hand. I am advised however, that the practice appears to have become an average of three months, and that this was satisfactory to most stakeholders until the start of the crisis some years ago, as further detailed below.

60. It is the above timeline which the respondents have flouted and in which the applicant locates its declaratory relief.

61. I note the following salient points before turning to the factual background, which must be borne in mind when perusing same:

61.1 None of the bodies involved in the certification process has any discretion whatsoever in issuing the red seal once the learner or applicant has met the statutory requirements. The language of the Act

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and regulations are peremptory: the QCTO “will” issue and distribute, and the NAMB “must” recommend certification of qualifying learners.

61.2 The QCTO is the ultimate authority in respect of certification and is statutorily responsible for oversight and management of this process. Where NAMB or a SETA performs any step in this sequence, it does so only pursuant to a delegation from the QCTO under section 26I(1) of the Act.

61.2.1 Moreover, such a delegation does not divest the QCTO of the function delegated, and the QCTO may at any time review, amend or set aside any decision taken under it – as stated in section 26I(2)(a).

61.2.2 The QCTO accordingly remains the accountable statutory authority for the proper functioning of the entire sequence set out above, irrespective of which body performs any individual step within it.

61.3 The various policies and directives compiled by the QCTO are subordinate to the applicable legislation and regulations.

61.4 The role played by the various SETAs in the certification chain is not clearly defined in the anchoring legislative framework and appears to largely result from policy and practice. Their role is to assist and is

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presumably a holdover from pre-reform where the SETAs played a far bigger role in quality assurance and monitoring.

FACTUAL BACKGROUND

62. I will first sketch a broad picture of the factual context before detailing Solidarity's involvement therein, as well as the impact of this situation on its members and affiliates. I devote particular focus to the matter of Mr Kroucamp as aforesaid.

Systemic collapse & the critical importance of certification

63. As stated herein above, it is first critical to understand what the collapse of the certification system means for aspiring artisans and the economy. In sum: without the red seal, an aspiring artisan has little to no recognized status in the job market or workplace.

63.1 The red seal ensures that regardless of where a tradesperson was trained, their skills meet a consistent, nationally standardized benchmark. Many industries in South Africa, like construction, mining, and energy, require a red seal to legally supervise job sites and sign off on high-risk work. The red seal further allows for international work opportunities, as it is recognised in *inter alia* Australia, Canada, the UK. Qualified artisans are also usually the last to be retrenched and the first

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to be headhunted. It is, in essence, an absolute *sine qua non* for those who wish to make full use of their training.

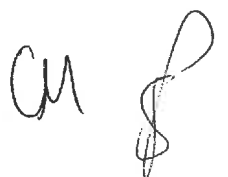
64. By virtue of my employment; discussions with peers, stakeholders like trade test centres and other SDPs, and affected Solidarity members; as well as open source and news media, I can state on an informed basis that there is an unfolding systemic collapse within the quality assurance and certification chain for artisans, as overseen by the respondents.

65. The collapse is marked by allegations of corruption; but of more direct relevance, also governance and administrative crises. It appears that the current peak of this crisis commenced in 2023/2024.

66. I refer from the outset in this regard to the statements of two SDPs – Elite Training and Olifantsfontein Artisans Academy - provided for purposes of this application, and neither of which are affiliated with Solidarity. I attach the original affidavits hereto, as well as confirmatory affidavits attesting their providence and authenticity, as annexures “**SP2**”. In sum, both SDPs state the following:

66.1 Service to clients, being candidate artisans, hinges on efficient service delivery from the respondents, which service delivery has become markedly poor, evidenced by:

66.1.1 Poor communication



66.1.2 Shifting and inconsistent administrative standards and requirements

66.1.3 Constant 'blame-shifting' and shirking of accountability

66.1.4 Institutional incompetence and/or incapacity.

66.2 Hundreds of their clients have been waiting close to, or more than, a full year for their certification since passing the relevant trade test;

66.3 Escalation and follow-up have little to no effect

66.4 The effect of delay and administrative failure on candidate artisans, as well as the reputation of SDPs, are deleterious.

67. Elite Training states specifically that:

"In our experience, the core problems are the following: poor or late feedback on applications; repeated requests for documentation or corrections without finalisation; uncertainty regarding which entity is responsible for which part of the process; matters being shifted between SETAs, NAMB and QCTO without effective resolution; unreasonable delays in issuing serial numbers; unreasonable delays in issuing certificates; and a lack of consistent, written, timeous and practically implementable guidance."

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68. Elite Training also expresses concern regarding potentially fraudulent conduct on the part of the respondents, based on discussions with 'informants' and demonstrating that "a chain of connected individuals that are either working with people inside and cutting the queue."
69. Olifantsfontein Artisan Academy describes the process of obtaining red seals for their learners as an "ongoing battle". They note specifically that the crisis appears to have germinated around MAY 2024, stating that "our office began noticing a significant reduction in the number of certificates being returned" around this time. Their current backlog stands at 236 certificates for the year of 2024, and 305 for the year of 2025.
70. They emphasise also the shifting administrative requirements, submission and processing requirements applicable to applications were altered and expanded over time, stating that:
- "these evolving requirements frequently necessitated that our office revisit previously submitted applications, obtain additional documentation from learners and employers, and resubmit documentation that had previously been accepted as compliant."
71. The same sentiments are echoed in a press release to the public authored by the South African Training Providers Forum, a representative membership-based forum for SDPs, and addressed to the CEO of the QCTO. A copy of the statement is attached hereto as annexure "SP3".

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72. Their letter states that “the private training sector, the engine of skills development and human capital in this country, is being strangled by systemic dysfunction, institutional incompetence, and a catastrophic failure of governance within the QCTO and the broader Department of Higher Education and Training (DHET).”

73. As evidence hereof, they cite the following:

“To validate the depth of this crisis, our Forum conducted a direct test. We emailed all 21 SETAs plus the QCTO, using official contact details published on their own websites. The results speak for themselves: 4 of 22 email addresses were dead — the mailboxes no longer exist. Of the remaining 18, only ONE SETA responded to a general query. The QCTO did not respond. There is no accessible mechanism for an accredited provider or a member of the public to raise a concern, log a complaint, or follow up — without a direct personal contact. This is not a minor administrative oversight. This is institutional collapse.”

74. They additionally allege that:

74.1 The appeals process is broken. Providers submit appeals and wait years for outcomes that never arrive.

74.2 The QCTO website has not been meaningfully updated for 2026 and is ‘abandoned’ and ‘outdated’.

74.3 Only two qualifications may be verified per day.

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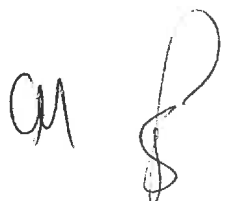


75. That there is a shockingly large backlog across all SETA sectors appear common consensus among stakeholders, but is reinforced by public statements from NAMB. I attach a copy of a press release dated April 2026, marked annexure “**SP4**”, in which the backlog is acknowledged and NAMB warns of looming crises due to a shift to a new system. It goes on to state that:

“It is therefore requested that all SETAs urgently clear the backlog applications at their offices. Failure to comply with these deadlines will result in learners not being certificated through the manual process and that SETAs will have to transfer the applications onto the NATTS prior to the processing of the certificates. SETAs that need assistance with the processing of their backlogs should contact Mrs Seanego Thibela on Thibela.s@dhet.gov.za”

76. The EWSETA released a communication to all stakeholders in March 2026 in which it also expressly identified a backlog and looming cut-off date. I attach a copy hereto as annexure “**SP5**”. It states that:

“Failure to comply with these deadlines will result in learners not being certified. TTCs/ACs unable to meet the deadlines are required to provide a formal motivation for consideration. Centres are urged to ensure that all submissions are complete, accurate, and accompanied by the required supporting documentation to prevent delays in processing. Your cooperation and prompt action in clearing this backlog is critical to ensure timely certification for all learners.”



77. Most telling however: the scale of the issue was formally recognised *via* an official Parliamentary question in November 2025. Ms KL Khakhau of the Democratic Alliance queried the first respondent as follows:

“What (a) total amount is held in cash reserves by the (i) Sector Education and Training Authority ii) Quality Council for Trades and Occupation and (iii) National Skills Authority as of 1 November 2025 and (b)(i) are the relevant details of the certification backlog of each specified entity and (ii) how long has each entity's backlog stood for?”

78. I attach a copy of the Minister’s official reply hereto as annexure “**SP6**”. The reply reveals that:

78.1 out of the 21 official SETAs, only nine did not have a backlog of outstanding certifications.

78.2 At least two of the SETAs were functionally insolvent.

78.3 The combined backlog runs to several thousand.

79. In his reply, the Minister is at pains to point out that the QCTO is not responsible for the backlogs, and that it “issues all certificates within 21 working days once applications are received. The full statement is quoted here for its relevance:

“The backlog does not sit within the QCTO, which issues all certificates within 21 working days once applications are received. The apparent backlog arises upstream in the submission chain (Trade Test Centre → SETA → NAMB → QCTO). In terms of

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Regulation 7 of the Trade Test Regulations, accredited trade test centres must submit trade test results to NAMB, which is responsible for verifying results and recommending certification to the QCTO within 21 working days. A subsequent circular on the progressive implementation of Regulation 7(1), 7(2) and 7(6)(b) introduced an interim arrangement in which trade test centres submit certification applications via the SETAs, and the SETAs in turn submit these to NAMB within prescribed timelines. This additional layer, created through decisions by NAMB and the DHET, means that SETAs now play an operational role in the certification pipeline, and delays frequently occur at this level, including late submission of applications and incomplete or incorrect learner information. Investigating and addressing SETA-level backlogs should therefore fall to NAMB and the DHET, as the entities that assigned this role to the SETAs; the QCTO can only report on the impact, as reflected in the percentage of certificates issued beyond the 3-month policy window.”

80. The situation among SETAs is particularly dire. The travails of the SETA system in South Africa are well-publicised, and the problems have only become more entrenched as the new system whereby QCTO takes over many of the functions of SETAs has gradually come into effect.

80.1 It is my understanding that historically, SETAs handled both quality assurance and grants for workplace-based training. Under the new structure, SETAs still register learnerships and allocate grants, but their role shifts to supporting the QCTO as ‘Development Quality Partners’ (DQPs). The QCTO is intended under the new system to assume full control of the design, registration, and quality assurance of qualifications.

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81. News reports indicate that SETAs are particularly vulnerable to corruption and consequent mismanagement. I attach as proof hereof a bundle of annexures as “**SP7**”, being an illustrative selection of news reports, Parliamentary press releases, and civil society reports, attesting to the dire state of SETAs.
82. The CETA in particular is in dire straits, and is the SETA responsible for Mr Kroucamp’s application, set out fully herein below.
- 82.1 It is currently under administration in terms of s15 of the SDA. The administrator himself, being the eighth respondent, is involved in a remuneration scandal in which the Minister is also involved, evidenced by annexure “**SP8**”. A whistleblower within CETA revealed that Nkoane had allegedly approved a remuneration package far in excess of prescribed standards without the authorization of the Minister. On 21 May the CETA itself released a press release indicating that one of its officials had been arrested on suspicion of procurement fraud. I attach a copy as annexure “**SP9**”.
83. The inescapable conclusion is that the system is broken, alternatively rapidly approaching such a state. The right hand does not know what the left hand is doing. The most basic tenets of good governance and administrative efficiency are not adhered to. Functions like tracing of applications between certification chain parties, basic communication structures, and complaint relief systems are

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ineffectual and obsolete. There seems to be no prospects of amelioration whatsoever.

Solidarity's members

84. Solidarity's attention was first drawn to the crisis outlined above in and around MARCH 2026 when it was approached out of desperation by members for assistance, having reaching wit's end with attempts at internal escalation. Many of these members have been waiting for their red seal for more than two years.
85. Initial consultations revealed that the number of affected persons – being only those affiliated with or directed to Solidarity, not nationally - exceeded 670. Whilst this number changes weekly as certificates are issued in drips and drabs, most of these students have been waiting for their red seals for more than a year, and in many cases more than two years.
86. My team at Solidarity and I were able to compile a list of these members and were able to determine that the majority of the members and affiliates have 'clean hands', viz, are able to confirm that their documentation is complete and correct; has been submitted to their SETA; that they have escalated with NAMB regarding receipt and processing; and that the final application was sent to QCTO, where it is currently stuck.
87. We realised the scale of the problem in light of these numbers, as supplemented by further consultation and research. We therefore lodged the

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list with the QCTO, being the ultimate authority with oversight, indicating that these members had complied in all material respects and were simply awaiting issue of the red seal from their offices.

88. We reached out to those who were affected, of which approximately 102 members indicated that they would be willing to participate in an application to court and had appropriately clear-cut situations that could be determined in the urgent court without disputes of fact arising.
89. Given that these are paid up members in good standing; that the nation has long endured a critical shortage of skilled artisans; and the fact that the situation is yet another example of corruption and mismanagement damaging the wellbeing of both citizens and the entire country, Solidarity resolved to engage the matter on a broad basis and convened its legal team to start consultation with those affected and other stakeholders. I attach as proof of this timeline a press release dated 20 APRIL 2026, as annexure "SP10".
90. Thereafter, Solidarity proceeded to consult further with stakeholders, its legal team, and its members and affiliates. It was decided that an urgent application was warranted and preparatory steps to this end were taken. I pause here to note that this process of consolidation, consultation, and collation of relevant documentation was substantive and logistically challenging, and forms part of the relevant evidence regarding urgency and the timelines set by the respondent.

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91. As part of the process, Solidarity Trades' Network divided said affected persons into those whose applications could be confirmed to have reached the offices of QCTO, and those applications who are uncertain as to where in the chain it resides.

91.1 Knowing the whereabouts of applications that were verifiably in the possession of QCTO, a letter of demand was issued by Solidarity's legal team to QCTO requesting clarity and relief on specified issues as per annexure **"SP11"**.

91.2 It is also common cause that all applications flow from the different SETA's to NAMB, and therefore the sensible point of reference for Solidarity to establish the whereabouts of the rest of the applications would be to enquire with NAMB. Solidarity's first feedback from NAMB was to engage with the CEO, Mr Jowie Bopape, directly which we did telephonically without any positive response.

92. Having launched its campaign, Solidarity was approached by further aspiring artisans who sought assistance. The range of stories received in the wake of this campaign is striking and heartbreaking.

92.1 Common issues and complaints concern lapsed job offers; financial hardship; inability to accept work abroad.

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- 92.2 A common theme that emerges is that persons' lives have been "suspended" for years pending issue of the red seal. Many must still live with their parents and rely on them for financial support despite being fully qualified and willing to work. Those who have their own young families are unable to provide for them. Another common theme is that documents lodged with SETAs are first registered, then later 'lost', after which the process starts anew when the candidate lodges the documentation afresh *via* the trade test centre.
- 92.3 It is depressingly common for an applicant to attempt to track their application only to be told by three separate parties that one of the other parties currently has ownership thereof. This is despite monthly escalation and follow-up, leading in some cases to loss of estimated earnings in the hundreds of thousands of rands.
93. During this process, on 14 May, a response was received from QCTO, a copy of which is attached as annexure "SP12", stating only the following:
- "Good day Sirs,
We acknowledge receipt of your email below and note the contents thereof.
Kindly note that the relevant Unit is attending to the matter and a substantive response will be furnished in due course."
94. To date, no response to this letter has been received.

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95. Having received no response from Mr Bopape above, I had no choice but to visit NAMB's office personally in early June to enquire about the status of emails I had sent. During this visit, I saw for myself the chaos that reigns there – boxes and boxes of documents with no discernible filing system to be seen. From this visit I also learned that NAMBs internal IT systems function only intermittently and that they often have issues with power and electricity as well. This dysfunction leads to applications not being 'captured' or owned by the system and thereby lost in the proverbial cracks, as one body will attest the application has been sent while the other has no working tracking system. Further to same I learned that Internal office politics at the highest levels played a major role in the dysfunction of said institution.
96. Consolidation of evidence continued throughout May and June, as well as consultation with the applicant's legal team. This entailed consultation with Mr Kroucamp in particular, which was challenging given the time-zone difference, as well as the collection of the trade test statements referred to above and arranging for the deposition of the necessary confirmatory affidavits, and also the receipt of mandates and trade test results among the broad list of members. The evidence was concluded and these papers prepared on 24 June.
97. One of those persons who approached Solidarity following the launch of its campaign is the aforementioned Mr Cecil Kroucamp. I turn now to set out his story fully, as it a) demonstrates the urgency of this application b) is broadly representative of the experience of all aspiring artisans c) it would not be

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practical or a judicious use of the urgent court's resources to set out in similar detail the experience of the other hundreds of affected candidates.

98. I attach also a confirmatory affidavit deposed to by Mr Kroucamp, attesting to the accuracy of what I set out herein below.

Cecil Kroucamp

99. Mr Kroucamp commenced his artisan training with Sol-Tech, where he completed the theory component of his training. He thereafter relocated to Nelspruit to be with his family and continued the practical training component with the FOUREK Institute of Technology.

100. He then completed a duly registered year-long apprenticeship with ASW Metal fabrication during which he completed the statutorily required logbook, as set out above.

101. He compiled a portfolio comprising proof of his completion of the three required learning components. The results of these three phases are attached as annexure "SP13". Mr Kroucamp thereafter applied to CETA for a trade test serial number, which is required before a candidate may sit a trade test.

- 101.1 This process took over three months, from May to August 2025, on account of repeated and, it is respectfully submitted, unreasonable queries raised by CETA — including objections that his identity

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document was insufficiently clear, that he had submitted too many supporting documents, and that certain photocopies were in landscape rather than portrait orientation. By August, Mr Kroucamp and his mother were obliged to deliver the file to CETA's offices in person and work through each page with CETA staff to demonstrate compliance. A serial number was issued shortly thereafter.

102. Mr Kroucamp sat and passed his trade test on 1 and 2 September 2025. He received his statement of results (trade test results) from the first respondent's office the following week, attached as annexure "SP14".
103. **At this point, responsibility for his certification passed to the trade test centre, CETA, NAMB and the QCTO in the manner set out above.**
104. Believing the certification process to be complete on his part, and having been advised by his college that he would receive his red seal within approximately three months (by early December 2025) Mr Kroucamp proceeded with plans to emigrate to New Zealand, where his uncle has long been settled in Dunedin. He had pursued artisan training, and welding in particular, specifically with this goal in mind, given the demand for the trade there and the fact that his uncle had offered to assist him with his search for work. He has no comparable support or opportunity in South Africa.
105. Mr Kroucamp thus relocated to New Zealand in October 2025 to seek employment, selling his vehicle and using his savings to fund the move. His

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mother and sister intended to follow once his sister completed matric, and did so in December 2025; his sister also intends to pursue further study unavailable in South Africa. The move thus represented the relocation of the entire Kroucamp family and support structure.

106. By early January 2026, with no certificate issued, Mr Kroucamp and his mother began making enquiries. FOREK college advised that it had no further role in the process and that Mr Kroucamp was one of approximately 80 of its students awaiting certificates in similar circumstances (annexure "**SP16**").
107. On 28 January 2026, his mother thus contacted the QCTO, which advised that no record existed of any request for his certification and that they should make enquiries with the relevant trade test centre, SETA, or INDLELA (annexure "**SP17**"). This was a shocking revelation that left in doubt the viability of the family's entire life-plan.
108. On 11 February 2026, Mr Kroucamp's mother contacted NAMB to ask whether the absence of any record meant the SETA had not yet submitted the application. NAMB responded some weeks later that this could mean either that the SETA had not submitted the application, or that it had submitted it and it had been returned for correction (annexure "**SP18**").
109. In early March 2026, Mr Kroucamp's mother sought verification of his qualification from the New Zealand Qualifications Authority on the strength of his statement of results, but was informed that only the red seal itself would

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suffice and that she should pursue the matter with the QCTO (annexure "SP19").

110. This exchange confirmed to the Kroucamps that the QCTO functions as the final authority in the certification process. His mother accordingly asked the QCTO to verify the application's status by contacting NAMB and CETA directly. The QCTO responded that Mr Kroucamp's name did not appear on its systems and that it could not verify anything until NAMB and CETA had performed their respective functions (annexure "SP20").
111. On 18 March 2026, Mr Kroucamp wrote to the QCTO explaining that the difficulty appeared to lie with CETA's apparent failure to submit his application to NAMB. On 24 March 2026, the QCTO simply advised him to contact CETA (annexure "SP21").
112. When Mr Kroucamp clarified that he was in fact asking whether the QCTO could issue a verification letter for the NZQA's purposes, the QCTO responded a month later: "QCTO only issue the letter for trade certificate." (annexure "SP22")
113. Mr Kroucamp emailed CETA at both addresses provided by the QCTO on 24 March 2026, and received no response, nor any response to his follow-up email of 15 April 2026 (annexure "SP23"). CETA has, to date, never responded to any communication from Mr Kroucamp or his mother.

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114. On 14 May 2026, NAMB itself wrote to CETA on Mr Kroucamp's behalf requesting assistance (annexure "SP24").
115. Mr Kroucamp contacted Solidarity following its press release of 20 April 2026. Solidarity's initial enquiries with NAMB – outlined above - revealed that his application was "not captured" on NAMB's system, which NAMB indicated usually meant the application remained with the relevant SETA. CETA, by contrast, informed Solidarity that it had already forwarded the application to NAMB (annexure "SP25").
116. On 2 June 2026, CETA advised Solidarity that the qualification in question "belonged" to merSETA and that enquiries should be directed there (annexure "SP26"). The Kroucamps did so. merSETA in turn directed them to EWSETA, which confirmed this was incorrect and that CETA remained the responsible SETA (annexure "SP27").
117. The Kroucamps also wrote to the DHET directly on 2 March, 14 May, and again in early June 2026, without response (annexure "SP28").
118. On 5 June 2026, NAMB responded on DHET's behalf, explaining that NAMB's system was down and requesting Mr Kroucamp's Trade Test Feedback Report to enable an investigation.
119. On 15 June 2026, DHET advised, via NAMB: "The application was received on the 21 May and has not been verified. I apologise for any inconvenience caused

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and appreciate your patience and cooperation." Copy attached as annexure "SP29".

120. On 10 June 2026, CETA emailed to state that "your application was submitted to NAMB on 21 May 2026" (annexure "SP30".) Mr Kroucamp's mother queried whether this meant CETA had taken no action between Mr Kroucamp passing his trade test on 2 September 2025 and that date.
121. On 12 June 2026, CETA responded: "Kindly note that we, as CETA, submitted your application to NAMB on 21 May 2026. NAMB is currently in possession of your application documents and will submit them to QCTO for further processing. Please note that the process takes between 06 to 12 months." (annexure ""SP31".)
122. Solidarity addressed a letter to the QCTO, NAMB, and CETA on Kroucamp's behalf on 12 June 2026, a copy of which is attached as annexure "SP32". The letter explained the contradiction that had arisen: Mr Kroucamp had been informed for months that his application did not exist, only to hear that his application had been submitted six months after he had completed his trade test. Moreover, that there was no basis in law for the process to take 6-12 months.
123. In sum: Mr Kroucamp was told for over four months that his application appeared on no respondent's system, only to be informed on 21 May 2026 — nearly nine months after he passed his trade test — that CETA had only then

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submitted his application to NAMB, with NAMB indicating a further six to twelve months before completion.

124. Mr Kroucamp's New Zealand visa expires on 27 July 2026. A further extension is uncertain, as it would be his second in under a year.
125. Without the red seal, Mr Kroucamp will not be granted a work permit and will be compelled to return to South Africa, where he no longer has accommodation, income, or support — both his mother and uncle remain in New Zealand.
126. The position offered to him cannot be expected to remain open indefinitely. I attach a copy of the proposed contract as annexure “SP33.” He currently cannot work despite having a job offer in hand, and has incurred substantial cost in retaining an immigration attorney.
127. The resources invested in this process — time, money, and the relocation of his entire family — were premised on the State performing its statutory obligation to certify him within the timeframes prescribed by the Trade Test Regulations. These losses are not readily quantifiable and cannot adequately be remedied by a subsequent claim for damages.

URGENCY

128. Urgency in this matter arises from the continuing failure of the respondents to perform mandatory statutory duties. Every day that the respondents fail to issue

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certificates to qualifying artisans prolongs the infringement of the applicants' rights and causes prejudice which cannot adequately be remedied by relief obtained in due course (as set out above). The prejudice is ongoing and cumulative.

129. The position of Mr Kroucamp demonstrates the practical consequences of further delay. His current New Zealand visa expires on 27 July 2026. Unless the respondents perform their statutory duties before then, he faces the real prospect of losing both the employment opportunity available to him and his ability lawfully to remain in New Zealand while that opportunity is pursued. These are consequences which cannot realistically be reversed by a judgment granted after that date. Mr Kroucamp is moreover far from the only applicant to be prejudiced in such a time-sensitive manner.
130. The applicant has not created its own urgency. Upon becoming aware that the delays experienced by its members were not isolated incidents but indicative of a broader systemic failure, the applicant investigated the matter, consulted affected members and relevant stakeholders, gathered the necessary documentary evidence, obtained legal advice, and addressed correspondence and a letter of demand to the respondents. Those steps necessarily required time if the matter was to be properly prepared and responsibly presented to this court.
131. The applicant has also approached this court with due regard to the demands placed upon the urgent roll. Although the evidence available to the applicant

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extends considerably further than that contained in these papers, the application has been confined to the material necessary to establish the relief sought. Likewise, the applicant has dispensed with the Rules only to the extent required by the circumstances. The respondents have been afforded a proper opportunity to oppose the application and place evidence before this Court.

132. The applicant accordingly acted with reasonable expedition once litigation became necessary. It has neither delayed unnecessarily nor sought to manufacture urgency. Rather, it has attempted to balance the need for urgent relief against the respondents' procedural rights and the efficient administration of the urgent court.

AVERMENTS

133. I am advised that to be granted a final interdict, an applicant must prove a clear right, injury, and the absence of any other remedy. I am advised that whilst the matter is more properly addressed in legal argument, I set out the basic case here for the sake of clarity.

Violation of Constitutional Rights and Constitutional Context

134. The applicants' immediate cause of action arises from the Skills Development Act and the regulations promulgated thereunder. The respondents' statutory obligations, however, derive their force from the broader constitutional framework within which public power is exercised.

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135. The respondents are organs of state exercising powers conferred exclusively by statute. They are accordingly bound by the Constitution, including the principles of legality, accountability, responsiveness and the rule of law. Where Parliament has imposed mandatory statutory duties upon an organ of state, those duties must be performed lawfully and within a reasonable time. A prolonged and systemic failure to perform them is inconsistent with those constitutional principles.
136. The members and affiliates rely in particular upon sections 10 and 22 of the Constitution. The prolonged withholding of certification from persons who have fulfilled every statutory requirement impairs their ability to pursue their chosen trade or occupation and undermines the dignity inherent in obtaining formal recognition as qualified artisans after years of training, assessment and practical experience.
137. The evidence demonstrates a sustained pattern of institutional dysfunction affecting large numbers of qualifying candidates across multiple statutory bodies over an extended period. It is for that reason that the applicant seeks limited structural relief in addition to the mandatory relief compelling performance of the respondents' statutory duties. Its purpose is to ensure that the orders of this Court are capable of effective implementation where the evidence demonstrates an ongoing pattern of institutional failure.

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138. Such relief is particularly appropriate where the Court is concerned not with the review of a single administrative decision, but with the continuing failure of several organs of state to discharge mandatory statutory obligations. In those circumstances, a narrowly tailored supervisory order is directed at securing compliance with the Constitution, the governing legislation and the order of this Court, while respecting the separation of powers. Such an order would give effect to the overarching Constitutional requirements captured in s195 and s237, the former of which sets out governing values for public administration, including that:

(b) efficient, economic and effective use of resources must be promoted;

(f) public administration must be accountable;

(g) transparency must be fostered;

(h) good human-resource management and career development practices must be cultivated.

S237 holds that "All constitutional obligations must be performed diligently and without delay.

139. The constitutional considerations identified above therefore reinforce both the applicants' entitlement to mandatory relief and the limited structural relief sought in the notice of motion.

Clear Right

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140. Where a candidate has met the requirements and passed the trade test on the terms set out herein above, a clear right to the logical conclusion of the training and qualification process is created, viz, the certification and award of a red seal.

141. That is the case for virtually every member and affiliate on who's behalf this application is brought.

141.1 The evidence in this case, namely, the fact that the affected persons all passed a trade test, makes this incontestable. Regulation 2(4) only allows a centre to schedule a trade test "upon receipt of an application that conforms to requirements" under regulation 2(2), meaning entrance requirements and curriculum completion. A trade test centre cannot lawfully administer a trade test to someone who hasn't cleared those thresholds. Hence proof of a pass, at an accredited centre, is not just evidence of the test result — it is circumstantial proof that the gatekeeping step already happened, because the centre is itself bound by the regulations not to test someone who hasn't qualified to be tested. It is this moment where the test is passed also, where the duty to act moves entirely out of the applicant's hands and into the respondents. Failure on their part, at any step of the process, to give effect to the right, is therefore a violation of that right.

142. This right is accompanied necessarily by the fact that this certification must be finalised within a statutorily determined time frame. The rights violated are

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therefore a) to be certified where eligible and b) to have such certification awarded within the regulatory timeframe.

143. The above statutory requirements are also reflected in the QCTO's own stated guidelines, policies and directives. As stated in the Policy for the Certification of Learner Achievements for Trades and Occupational Qualifications on the Occupational Qualifications Sub-Framework (OQSF), a copy of which is attached hereto as annexure "**SP34**":
144. In anticipation of what the respondents may argue in response hereto, I point out that the QCTO remains ultimately accountable for the actions of NAMB, by virtue of the fact that NAMB is a contracted AQP. As stated in the QCTO's Policy on Delegation of Qualification Assessment to Assessment Quality Partners (AQPs), a copy of which attached hereto as annexure "**SP35**":

Section 26I(2) of the SDA states that a delegation under section 26I(1) does not divest the QCTO of the function delegated. Section 32 of the NQF Act provides that SAQA and the Quality Councils have the power to delegate any of their functions to a committee, any other body capable of performing the function, or an employee, but the delegation: must be in writing and available for inspection on request by a member of the public; must specify the terms and conditions of the delegation; must be consistent with the Act and the Act by which the relevant QC is established; must be accompanied by sufficient funds to perform the function; and does not exempt SAQA or the QC from responsibility for the function.

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The QCTO's obligations in respect of AQPs include to: evaluate submissions from prospective AQPs and revert upon receipt of required documentation; upon approval, sign a Service Level Agreement with the AQP; monitor and evaluate the functions, systems and policies of the AQP; publish criteria and guidelines for accreditation of skills development providers and assessment centres; accredit skills development providers; accredit assessment centres upon recommendation of the relevant AQP; maintain a database of accredited providers and assessment centres; monitor assessment and moderation processes; issue certificates for occupational qualifications or part qualifications; prescribe the format for submission of learner external assessment data; consult with the AQP prior to exercising withdrawal powers; and monitor adherence to the QCTO Code of Conduct for AQPs.

Non-compliance: The QCTO may at any time review, amend or set aside any decision under a delegation (s261(2)(a)). If an AQP fails to comply, the QCTO may withdraw the delegation or impose other penalties.

- 145.** And per the Assessment Quality Partners (AQPs) — Criteria and Guidelines, copy of which attached hereto as annexure “**SP36**”:

"An AQP is an entity appointed by the QCTO and delegated to manage, on behalf of the QCTO, the assessment process" in order to establish a streamlined, cost-efficient and effective skills development system that responds to labour market needs, focusing quality assurance on the final integrated summative assessment to determine whether learners have developed the required occupational competence. (p7)

External assessment systems must: be fair, reliable, valid, ethical and transparent; be consistent across time, place, and role players, responding to a non-sectoral demand-led model; use methodologies that are fit-for-purpose and reflect a consistent level of higher cognitive challenge; avoid tendencies of exclusivity; and adhere to QCTO



values of innovation and excellence, empowerment and recognition, respect and dignity, ethics and integrity, ownership and accountability, and authenticity.

The AQP will set national standards to ensure validity and consistency of the external summative assessment (Qualification Assessment Specifications).

Injury

146. The rights so identified have been hollowed out by the actions of the respondents. As set out herein above, the injuries are marked and myriad. Lack of certification halts career progression; deprives qualified persons of a substantially higher income and status; deprives the nation of skilled workers in sectors that are notoriously deprived of same; harms the interests of children and spouses where the breadwinner cannot support them; and much else.

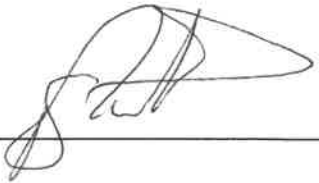
Absence of another ordinary remedy

147. The injury is caused by the failure of the very system which would ordinarily serve as the internal or alternative remedy available to those affected, namely, complaints and appeals to the state bodies with oversight and ultimate accountability. Since these state bodies are in a state of dysfunction, and given the scale and scope of the problem and the severity of the harm suffered – and the urgency thereby engendered - it would be absurd to expect that the applicant avail itself of those self-same state bodies for remedies.

CONCLUSION

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148. In the premises, I humbly pray for an order as set out in the notice of motion.



ROELOF STEFANUS PRETORIUS

I certify that the Deponent acknowledged that he knows and understands the contents of this affidavit, that he has no objection to the making of the prescribed oath and that he considers this oath to be binding on his conscience. I also certify that this affidavit was signed in my presence at PRETORIA on this 25th day of June 2026 and that the Regulations contained in Government Notice R1258 of 21 July 1972, as amended by Government Notice R1648 of 19 August 1977, have been complied with.



CARL MANFRED MEYER
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