

## GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

## DEPARTMENT OF HIGHER EDUCATION AND TRAINING

NO. 395

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**HIGHER EDUCATION ACT, 1997 (ACT No.101 of 1997) SECTION 3****POLICY ON THE EVALUATION OF CREATIVE OUTPUTS AND  
INNOVATIONS PRODUCED BY SOUTH AFRICAN PUBLIC HIGHER  
EDUCATION INSTITUTIONS, 2017**

I, Bonginkosi Emmanuel Nzimande, Minister of Higher Education and Training, hereby promulgate the *Policy on the Evaluation of Creative Outputs and Innovations produced by South African Public Higher Education Institutions (2017)* in terms of the Higher Education Act, 1997 (Act No. 101 of 1997), as set out in the Schedule. The purpose of this policy is to recognise and reward quality creative outputs and innovations produced by public higher education institutions. Innovations recognised by the policy are patents and plant breeders' rights; whereas recognised creative outputs are divided into the following subfields, namely: Fine Arts and Visual Arts, Music, Theatre, Performance and Dance, Design, Film and Television and Literary Arts.

This policy is promulgated after consultation with the Council on Higher Education as required in terms of section 3(1) of the Act.

**Dr BE Nzimande, MP****Minister of Higher Education and Training****Date:** 31/03/2017

## SCHEDULE

# **POLICY ON THE EVALUATION OF CREATIVE OUTPUTS AND INNOVATIONS PRODUCED BY PUBLIC HIGHER EDUCATION INSTITUTIONS**

*(2017)*



**higher education  
& training**

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## BACKGROUND

1. The Department of Higher Education and Training (DHET) currently funds university research based on both the number of Masters and Doctoral graduates as well as published textual research outputs. The Research Outputs Policy (2015) provides a framework for DHET's funding of research outputs at public higher education institutions in South Africa. The policy defines research as textual output (publication) where research is understood as original, systematic investigation undertaken in order to gain new knowledge and understanding.
2. Notably, other forms of scholarly outputs, specifically those from the creative and performing arts as well as innovations are excluded from the above definition. The DHET has therefore developed a separate policy on the recognition of creative outputs and innovations from universities.
3. The rationale for the recognition and reward of the creative outputs and innovations is foregrounded in various government policy frameworks, which include the White Paper 3: A Programme for the Transformation of Higher Education (1997); the National Plan for Higher Education (2001); the National Development Plan (2011); as well as the White Paper for Post-School Education and Training (2013).
4. The *White Paper 3: A Programme for the Transformation of Higher Education (1997)*, and the *National Plan for Higher Education (2001)* in various ways, consider research and knowledge production as fundamental to the socio-economic development of South Africa, and more broadly, to the country's global competitiveness. The White Paper 3 foregrounds the notion of a "national research system" and the need for higher education "to broaden its capacity to undertake research across the full spectrum, that is, traditional or basic research, application-driven research, strategic research, and participation-based-research" (section 2.87).
5. The *National Plan for Higher Education*, on the other hand, highlights the need to "promote the kinds of research and other knowledge outputs required to meet national development needs, and which will enable the country to become competitive in a global context". The framework acknowledges what it considers "the weaknesses and limitations of the current policies and procedures to measure research outputs", more specifically, the "bias against certain disciplines in the arts and the humanities in



particular, as not all forms of creative outputs, such as music and drama are recognised” (section 5).

6. Section 4.4 of the *White Paper for Post-School Education and Training (2013)* states that “the focus of policy must be on growing research and innovation, improving the quality of research, ensuring coherence of the policy frameworks guiding these areas across the higher education and research communities and strengthening particular areas identified as important for national development”. Similarly, the *National Development Plan: Vision 2030 (2011)* highlights the need to improve research and innovation capacity to assist with the acceleration of transformation of South Africa’s academic and scientific communities.
7. The Policy on the Evaluation of Creative Outputs and Innovations Produced by Public Higher Education Institutions, therefore outlines the criteria for the evaluation of creative outputs innovations from public higher education institutions (HEIs) for purposes of subsidy.

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### **PURPOSE OF THE POLICY**

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8. The purpose of this policy is to recognise and reward quality creative outputs and innovations produced by public higher education institutions.

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### **SCOPE OF THE POLICY**

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9. The policy recognises:

9.1 creative outputs according to the following subfields:

- **Fine Arts and Visual Arts;**
- **Music;**
- **Theatre, Performance and Dance;**
- **Design;**
- **Film and Television; and**
- **Literary Arts.**

9.2 The innovations recognised in terms of this policy are patents and plant breeders' rights.

10. This policy acknowledges that there are other legitimate and worthwhile research practices which may not be covered in the above categories, or fall neatly within the parameters of "creative outputs". These often include practices falling within the realms of research undertaken by those in Journalism, for example, as well as activities such as translation and scholarly editing.
11. It should be noted that the Department's subsidy is aimed at universities and not individual scholars or academics. Only work that is germane to one of the core functions of an institution will be considered.

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## PRINCIPLES

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12. This policy aims to support and encourage scholarship. Institutions and academics must remember the importance of integrity when submitting their claims and are urged to focus on quality outputs and not maximum accrual of subsidy funds.
13. Similarly, when moving between institutions, author affiliation should reflect the institution where the work was created/ invented/ published, supported and funded.
14. Moreover, when submitting claims, institutions must ensure that the correct number of units are claimed.
15. Peer reviewers must assess the output according to stipulated criteria. Particular focus is placed on:
  - 15.1. *Originality*: whether the output contributes to fresh understanding and/ or stylistic, thematic or conceptual innovation in the discipline; and
  - 15.2. *Relevance*: whether the work demonstrates an intellectually and creatively informed response to the subject.
  - 15.3. *Newness*: should be understood to indicate a given work that has never been accredited for subsidy before.

16. All approved creative outputs and innovations recognised in terms of this policy will be awarded a maximum of **2 units**. In the case where authors are affiliated with two or more institutions, the subsidy will be shared between the claiming institutions.
17. The DHET evaluation process will be final, and there will be no recourse for appeals should the academics/ artists not be satisfied with the outcome.
18. As a general rule, research output emanating from commissioned or contracted work will not be subsidised by the Department. Commissioned work in this context refers to work paid for by contracting organisations or persons. It should also be noted that the Department's subsidy is aimed at universities and not individual researchers or academics.

## **CREATIVE OUTPUTS**

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### **PEER REVIEW**

19. Peer Review is understood to be the refereeing or evaluation of a complete creative output by independent experts in the field in order to ensure quality and determine whether the work or output qualifies for subsidy.
20. Institutions must choose peer reviewers who have appropriate academic qualifications and/or experience to assess submissions by creative practitioners working in a scholarly framework.
21. The following general submission procedure shall be followed by institutions:
  - 21.1. **Step one:** The applicant provides copies of material to the research office at his/her institution.
  - 21.2. **Step two:** The internal institutional mechanism screens the submitted material.
  - 21.3. **Step three:** The research office identifies three external peer reviewers and sends each a copy of the submitted material.
  - 21.4. **Step four:** The peer reviewers write their reports and submit these to the research office.
  - 21.5. **Step five:** The Research Office of the institution is responsible for arranging that peer reviewers attend live musical performances where this is deemed



appropriate and feasible; for dispatching to them all evidence subsequently submitted; and for providing said peer reviewers with clear guidelines for assessment.

22. Institutions are advised to constitute an internal evaluation committee of suitably qualified persons to assess submissions, and to establish whether they meet the criteria as set out in the policy document.

22.1. The internal evaluation committee must be chaired by the DVC: Research or equivalent and examine issues such as: the peer review process; quality of outputs; and address any matters pertaining to integrity.

22.2. The research office consolidates the peer reviews into a report with a recommendation for onward transmission to DHET for final assessment and allocation of units. If an institution receives at least two negative peer reviews, it should not secure further reviews and should not submit the application to DHET for potential subsidy. Such an application should be considered unsuccessful.

23. Creative Outputs and Innovation will be assessed by a panel of experts established by DHET.

## **FINE ARTS AND VISUAL ARTS**

### **FINE ARTS AND VISUAL ARTS OUTPUTS (PAINTINGS, SCULPTURES, ETC.)**

24. This category refers to the production of artwork featuring in a one-person exhibition or an installation; work exhibited in a two- or three-person show; a substantive single work/series included in a group exhibition.

### **CRITERIA FOR ASSESSMENT OF FINE AND VISUAL ARTS OUTPUTS**

25. The criteria for assessment are as follows:

25.1. A single work submitted to a group exhibition may not have been shown previously. Other exhibitions should comprise primarily of work that has not previously been submitted for accreditation.

- 25.2. Work must generate new knowledge or understanding.
- 25.3. Work must have contemporary relevance.
- 25.4. Work must be exhibited in the public domain.
- 25.5. Work must contribute to fresh understanding and/or stylistic, thematic or conceptual innovation.
- 25.6. Work must take place in the public domain such as reputable galleries or museums.

## MUSIC

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### DEFINITION OF MUSICAL OUTPUTS

26. Creative outputs in the case of music may be divided into four basic types, which for the purposes of this policy may broadly be defined as set out below. This categorisation is made with due cognisance that:

- they encompass outputs in all musical languages, including traditional and indigenous music, Western classical music, popular music and jazz.
- submissions may include cross-category outputs, in which case applications for subsidy should be motivated accordingly.
- submissions may include cross-disciplinary outputs, such as music for theatre, dance or film, in which case applications for accreditation should be made in any one relevant disciplinary category.

### MUSICAL OUTPUTS

27. The types of musical outputs qualifying for accreditation include the following:

- 27.1. **Composition:** The act of conceiving an original musical work, the primary musical domain for originality of thought and exceptional creative insights. It's research-informed or scholarly, discursive intent is predominantly evident in the extent to which it exhibits the sustained development of musical ideas and in its sensitivity to the intertextuality of its stylistic conventions.

**27.2. Solo Performance:** This is the domain of the virtuoso who exhibits prodigious technical mastery, invention, and charisma. Because the composer's musical score is but an incomplete guide to the musical work, for the truly outstanding performer this is also the domain of re-composition, originality of thought, exceptional creative insights, and research-informed performance practice, although the degree of re-composition or improvisation exhibited should be aligned with accepted performance practice in the genre performed. Solo performance may be unaccompanied or accompanied (as would be the case in concertos, lead roles in an opera, non-keyboard sonatas, etc.).

**27.3. Group Performance:** As in the case of solo performance, because the composer's musical score is but an incomplete guide to the musical work, for the truly outstanding individual musician within a group context, this is also the domain of re-composition, originality of thought, exceptional creative insights, and research-informed performance practice, although the degree of re-composition or improvisation exhibited should be aligned with accepted performance practice in the genre performed. Although it may be less demanding than solo performance in some respects, group performances require the additional ability to collaborate with co-performers towards a single interpretation of the musical work. This category includes a number of musical genres: chamber music, ensembles, bands, and orchestral music. However, because smaller groups usually place greater technical and musical demands on individual performers than do larger ones, the proposed quantitative rating distinguishes two categories of group performance on the following basis:

- Duos, trios, quartets and quintets.
- Significant contributions to performances in groups larger than a quintet, which may include lead roles in larger ensembles and bands, or principal positions in orchestras.

**27.4. Conducting/Directing:** As in the case of solo performance, because the composer's musical score is but an incomplete guide to the musical work, for the truly outstanding conductor/director this is also the domain of re-composition, originality of thought, exceptional creative insights, and research-informed performance practice. Although it may be less demanding than solo

performance in some respects, it requires the additional ability to co-ordinate and combine the technical and musical mastery of individual performing musicians towards a single musical interpretation. For the purposes of accreditation, the proposed quantitative rating distinguishes two categories of conducting/directing on the following basis:

- Musical direction of full-length, large-scale works such as symphonic, choral, operatic or other music theatrical works
- Musical direction of ensembles, excerpts from large-scale works, or shorter works for large-scale groups.

### **CRITERIA FOR ASSESSMENT OF MUSICAL OUTPUTS**

28. Provided they are accessible and re-accessible in the public domain, works:

- 28.1. Must be new in that they should not have been previously performed, recorded or been otherwise accessible in the public domain. In the case of composition, the designation "new" does not exclude the possibility that the works in question may have been composed prior to the year of application for accreditation, provided that they have not been previously accessible in the public domain.
- 28.2. Must be especially substantive and exhibit exceptional creative originality, interpretative insights, technical proficiency and research-informed practice.
- 28.3. Should be musical outputs that extend the particular performing arts discipline in order to qualify for subsidy, distinguishable from routine 'commercial' music, which should not qualify for subsidy.

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### **FILM AND TELEVISION**

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29. The work should have been screened publicly, either through theatrical release in commercial cinemas, at festivals or on broadcast television, in order to gauge critical and audience response. It should also be available for rescreening on DVD. Works in any of the following genres may be submitted:

- **Fiction:** full-length feature films, made for television feature films, episodes in series, situation comedy series (episodes or series); animated short or full-length features.



- **Documentary:** full-length documentary, series or genre episodes, investigative journalism.

#### FILM AND TELEVISION OUTPUTS

30. Film and television are interdisciplinary forms, *par excellence*, and several disciplinary contributions to the final product need to be recognised. Ideally, all categories should be orchestrated so that they contribute equally to the perfectly executed product, but it should be noted that there may be a disjuncture between one of the categories and the final product, e.g. one performance may be excellent even if the film as a whole is mediocre. Therefore categories will be rewarded independently.
31. Categories in film and television qualifying for accreditation include the following:
  - 31.1. **Script writing:** the complete text in acceptable format must be presented.
  - 31.2. **Directing:** only the main director will be assessed.
  - 31.3. **Producing:** in this case the producer will have to present the final film or television product, but will also have to present written evidence, which will include information on budgets, schedules, distribution, locations, contracts, and any other documentation that will contribute to the assessment process.
  - 31.4. **Acting:** lead and supporting actors as designated by writer, director and producer.
  - 31.5. **Cinematography:** Only the first camera will be considered. It is also generally accepted that cinematographers regularly do their own lighting design. In this case the cinematographer may not also apply for the lighting design category, but must indicate his or her involvement in the lighting aspect, so as to assist the assessors in their task.
  - 31.6. **Editing:** Editing will consider both the visual and the sound editing as one package.
  - 31.7. **Set design:** In this case relevant drawings, perspectives and the like need to be included. It is acknowledged that designing all the sets is a very large task, and so only one set piece needs to be presented in documentation form, with the relevant film or television product.



- 31.8. **Costume design:** For costume design, relevant drawings and renderings and the like need to be included in the assessment portfolio. It is acknowledged that designing all the costumes is a very large task, and so only four set pieces need to be presented in documentation form, with the relevant film or television product to indicate the rest of the work. In the case of specialised makeup, additions such as wigs, and animated characters developed through motion-capture or animatronics, the application will fall under the rubric of costume design.

#### **CRITERIA FOR ASSESSMENT OF FILM AND TV OUTPUTS**

32. Individual contributors to the film and TV art work, must adhere to the criteria and demonstrate the qualities listed below in respect of their disciplinary identities.
- 32.1. Assuming that the work has been publicly available as indicated above, it should also be new in that it should not have been previously available to viewers publicly.
- 32.2. It should never have been submitted for assessment.
- 32.3. It must be substantial and exhibit exceptional creative originality, interpretative insights and research-informed practice.
- 32.4. Evidence must be submitted of public standing, e.g. critical reviews, audience response, awards.
- 32.5. A brief written defence of the work must be submitted, with due cognisance of the above criteria taken into account.
- 32.6. Each film or television output should be at least 30 min in duration.

#### **THEATRE PERFORMANCE AND DANCE**

33. Theatre performance entails live, intimate connection with the audience. It is a collaborative form of fine art that uses live performers to present the experience art of movement of the body, usually rhythmically and to the music, using prescribed or improvised steps and gestures. As an art-form it can be analysed purely by its choreography, its repertoire of movements, or it may be classified according to its time or place of origin.

## THEATRE PERFORMANCE AND DANCE OUTPUTS

34. The categories falling under performance and dance outputs qualifying for subsidy include the following:

- 34.1. **Directing:** Direction of an extant text/script resulting in a demonstrably original interpretation or staging of that text/script.
- 34.2. **Theatre-making/Dramaturgy/Choreography:** Direction of a creative process resulting in the staging of an original performance work.
- 34.3. **Writing:** Literary production of an original written text/script intended for performance.
- 34.4. **Performance:** Performance of a role in a production that is deemed original either by virtue of having never been performed before.
- 34.5. **Scenography/Design/Performance Technology:** Original scenography/design for production whether of lighting, sound, costume, set, make-up, puppets or any other aspect OR a particular technological/material innovation for use in a production.

## CRITERIA FOR ASSESSMENT OF THEATRE PERFORMANCE AND DANCE OUTPUTS

35. The criteria for assessment are as follows:

- 35.1. **Originality:** the extent to which the output makes or is likely to make an original contribution to the discipline.
- 35.2. **Complexity/Significance:** this would include:
  - Quantitative factors such as the duration of the process; the scale or extent of the product itself in performance; the level of visibility of the output in the public domain with respect to length of time and nature of venue, appropriate to the nature of the particular project. (See section below).
  - Qualitative factors such as the intellectual scope or scale of the project: the depth of its insight and the importance of its contribution - the extent to which the output enhances or is likely to enhance knowledge, thinking, understanding and/or practice in the discipline. (See section below)

- 35.3. **Rigour:** the extent to which the output reflects technical or aesthetic accomplishment, systematic method, intellectual precision and/or integrity.
- 35.4. The performance must be a scheduled, advertised public performance and not simply part of student training within the institution.
- 35.5. A clear distinction should be made between routine 'commercial' performances, which do not qualify for subsidy, and those which extend the particular performing arts discipline and may therefore qualify for subsidy.
- 35.6. Winning a recognised national or international award/ prize/ medal/ competition will qualify such a performance for subsidy.

## DESIGN

- 36. Design is understood as the realisation of a concept or idea into a configuration, drawing, model mould, pattern plan or any specification (on which the actual or commercial production of an item is based) and which helps achieve the item's designated objectives.

### DESIGN OUTPUTS

- 37. Outputs which may qualify for subsidy include those from the following design disciplines:
  - 37.1. **Architectural Design:** is both the process and the product of planning, designing, and constructing buildings and other physical structures.
  - 37.2. **Built Environment Design:** encompasses the human-made surroundings that provide the setting for human activity, ranging in scale from buildings and parks or green space to neighbourhoods and cities that can often include their supporting infrastructure, such as water supply or energy networks.
  - 37.3. **Communication Design:** is a mixed discipline between design and information-development which is concerned with how media intermission such as printed, crafted, electronic media or presentations communicate with people.
  - 37.4. **Fashion Design:** Fashion design is the art of the application of design and aesthetics or natural beauty to clothing and accessories.

- 37.5. **Graphic Design:** is the methodology of visual communication, and problem-solving through the use of type, space and image.
- 37.6. **Industrial Design:** is a process of design applied to products that are to be manufactured through techniques of mass production. It includes the designing of anything and everything that is mass-produced, from once-off furniture items to mass-produced goods such as gaming consoles, kitchen appliances and mobile phones.
- 37.7. **Information Design:** Information design is the practice of presenting information in a way that fosters efficient and effective understanding of it. The output of an information design is sometimes expressed in written instructions, plans, sketches, drawings, or formal specifications.
- 37.8. **Interior Design:** is the art or process of designing the interior decoration of a room or building.
- 37.9. **Jewellery Design:** is the art or profession of planning, rendering, and/or fabricating, one of a kind, studio multiples, or production jewellery.
- 37.10. **Landscape Design:** is the art of designing outdoor spaces, such as parks, playgrounds, college campuses, and lawns and gardens for private residences, as well as planning the restoration and conservation of natural areas like forests and wetlands.
- 37.11. **Multimedia Design:** is the art of integrating multiple forms of media. Designers in the field of multimedia use imagery, typography, video, sound and computer-based interactivity to communicate. The field includes basic digital animation, computer graphics, storyboarding and digital interfaces for web design and design for interactivity.
- 37.12. **Textile Design:** is the art of creating designs for woven, knitted or printed fabrics. Textile designers are involved with the production of these designs, which are used, sometimes repetitively, in clothing and interior decor items.

#### **CRITERIA FOR ASSESSMENT OF DESIGN OUTPUTS**

- 38. A submission must meet the following criteria in the first instance:
- 41. Each work must be submitted as a collection in a form of a book, magazine or catalogue and/or other evidence of discursive engagement.



42. The work must be recognised as innovative. Design projects should lead to new or improved insights or to new or improved solutions, devices, products, processes or uses.
43. The work must have contemporary relevance.
44. The work must be in the public domain by way of production and dissemination/distribution OR exhibition/show.
45. Format of presentation must be acceptable within the relevant design discipline in terms of conceptualisation and process/production documentation.
46. The work must contribute to fresh understanding and stylistic, thematic or conceptual innovation.
47. The work must be substantive in scope.

### **LITERARY ARTS**

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47. Literary arts refers to any piece of writing that possesses literary merit, and language that foregrounds literariness, as opposed to ordinary language. Literature can be classified according to whether it is fiction or non-fiction and whether it is poetry or prose. It can further be distinguished according to major forms such as the novel, short-story or drama. The work is often categorised according to historical periods or adherence to certain aesthetic features or expectations (genre).

### **LITERARY ART OUTPUTS**

48. The types of literary art outputs which may qualify for subsidy in terms of this policy include the following:

- **Novels, novellas, poetry and short stories**
- **Oral performance and/or literature**
- **Creative non-fiction**

It excludes biographies, histories, critical works or any writings which would generally fall under the rubric of "conventional" research and which would thus not require special consideration. It also excludes theatre or drama scripts (which fall within the ambit of the Theatre, Performance and Dance category) as well as film scripts (which fall within the ambit of the Film and Television category).



## **CRITERIA FOR ASSESSMENT OF LITERARY ART OUTPUTS**

49. The criteria for assessment are as follows:

### **NOVELS, NOVELLAS, POETRY, PLAYS AND SHORT STORIES**

- 49.1. The output must be published by a credible publisher able to produce evidence that the work underwent a refereeing process. It may not have been self-published.
- 49.2. The output must contribute fresh/new knowledge and understanding.
- 49.3. The output must demonstrate the author's formal and technical proficiency and show a critical awareness of the conventions in which he or she is working.
- 49.4. Only novels, short story collections, plays and volumes of poetry will be recognised, not individual short stories or poems.

### **ORAL PERFORMANCE AND/OR LITERATURE**

- 49.5. A collection of oral literature must be published by a creditable publisher able to produce evidence that the work underwent a refereeing process. It may not have been self-published.
- 49.6. The output must contribute fresh/new knowledge and understanding.
- 49.7. The output must demonstrate the author's formal and technical proficiency and show a critical awareness of the conventions in which he or she is working.
- 49.8. It is only the collection by a single author rather than the single output that is eligible.

### **CREATIVE NON-FICTION**

- 49.9. The output must be published by a credible publisher able to produce evidence that the work underwent a refereeing process. It may not have been self-published.
- 49.10. The output must contribute fresh/new knowledge and understanding.
- 49.11. The output must demonstrate the author's formal and technical proficiency and show a critical awareness of the conventions in which he or she is working.
- 49.12. The output, whether a non-fiction novel, memoir or collection of essays, for example, would normally be a book. A stand-alone component of a book (such as an individual essay or a short story with non-fiction elements) must be substantive or complex in terms of its form and content to qualify for subsidy.

## INNOVATIONS

50. The National Development Plan ("NDP") identifies science and technology as one of the key drivers of change and, in particular, it notes that *"Developments in science and technology are fundamentally altering the way people live, connect, communicate and transact, with profound effects on economic development."* Furthermore, the NDP states that *"Innovation is the primary driver of technological growth and drives higher living standards"*. The term "innovation" may be described as a *"multi-stage process whereby organisations transform ideas into new/improved products, services or processes, in order to advance, compete and differentiate themselves successfully in the marketplace"*<sup>1</sup>.
51. It is universally accepted that intellectual property ("IP") and the associated rights are a critical aspect to innovation and economic growth and this link is aptly summed up as follows: *"IP rights include patents, copyrights, trade-marks, designs, plant breeders' rights and trade secrets, each of which is subject to separate laws in every country. IP laws evolved over centuries as a tool to derive public benefits from the innovation cycle. Because it is so tightly linked to innovation, intellectual property holds a key to our future"*<sup>2</sup>.
52. According to the Intellectual Property Rights from Publicly Financed Research and Development Act (No. 51 of 2008) IP is defined as *"any creation of the mind that is capable of being protected by law from use by any other person, whether in terms of South African law or foreign intellectual property law, and includes any rights in such creation, but excludes copyrighted works such as a thesis, dissertation, article, handbook or any other publication which, in the ordinary course or business, is associated with conventional academic work"*.

<sup>1</sup> Baregheh et al., (2009) Manage Decis, 47(8): 1323-1339

<sup>2</sup> <http://ipdigital.usembassy.gov/st/english/publication/2009/11/20091106141914ebyeessedo0.5504833.html#axzz36vvEkIZ9>

## FORMS OF INTELLECTUAL PROPERTY RIGHTS

53. For the purpose of this policy, only patents and plant breeders' rights will be recognised due to their established structure regarding their registration and accreditation.

53.1. **Patent:** A PATENT is a set of exclusive rights granted by a sovereign state to an inventor or assignee for a limited period of time in exchange for detailed public disclosure of an invention. An invention is a solution to a specific technological problem and is a product or a process.

53.2. **Plant Breeders' Right:** A Plant Breeders' Right (PBR), also known as a Plant Variety Right (PVR) are a form of intellectual property rights designed specifically to protect new varieties of plants. These rights are granted to the breeder of a new variety of plants, which will give the breeder exclusive control over the propagating material (including seed, cuttings, divisions, tissue culture) and harvested material (including cut flowers, fruit, foliage) for a number of years.

## CRITERIA FOR THE ASSESSMENT OF PATENTS

54. Only patents which satisfy the following criteria will be considered for subsidy:

54.1. Inventions, for which patents have been granted, must have been subjected to substantive examination (examination on the basis of novelty and non-obviousness) in a particular jurisdiction. Table 1 indicates the major jurisdictions that conduct substantive examination of patents. Should a granted right be obtained in a jurisdiction not contained in the table below, proof of substantive examination must be provided in the form of all the examination reports (also known as official actions) received and the response provided, including the correspondence indicating acceptance by the examiner in the relevant jurisdiction.

**Table 1: Major jurisdictions that conduct substantive examination of patent applications**

African Regional Intellectual Property Organisation contracting states	Malaysia
Australia	Malta
Brazil	Monaco
Canada	New Zealand
China	Philippines
Egypt	Republic of Korea
Ethiopia	Russian Federation
European Patent Organisation contracting states	Saudi Arabia
India	Singapore
Indonesia	Sri Lanka
Israel	Sweden
Japan	Switzerland
Jordan	United States of America
Libya	Vietnam

54.2. Only one member of a patent family will be considered for the purposes of the subsidy. In other words, the first patent application of a patent family granted in a particular substantive examination jurisdiction will qualify. For example, if complete or national phase applications are filed in South Africa, Japan and Australia, the South African patent will not qualify if granted as there was no substantive examination conducted. Whichever of the Japanese or Australian applications are granted first, will be eligible for a subsidy as both jurisdictions perform substantive examination.

54.3. A copy of the granted patent including the allowed claims together with any drawings (if applicable) must be submitted to the DHET committee for final assessment.

54.4. In addition, a copy of the Certificate of Issuance (such as a Patent Letter) must accompany the submission providing proof of grant.



- 54.5. It remains the responsibility of the institution to assist its staff members with the registration of patents. The DHET will only consider, for purposes of subsidy, registered patents and will not provide financial support to individual academics or universities towards the registration of their patents. This is the role of the National Intellectual Property Management Office (NIPMO).

#### **CRITERIA FOR THE ASSESSMENT OF PLANT BREEDERS' RIGHTS (PBRs)**

55. Only PBRs which satisfy the following criteria will be considered for subsidy by the Department of Higher Education and Training (DHET):

- 55.1. New plant varieties for which PBRs have been granted must have been subjected to examination in a particular jurisdiction. The International Convention for the Protection of New Varieties of Plants established the International Union for the Protection of New Varieties of Plants (UPOV) of which there are 72 parties as members and will qualify as a jurisdiction in which examination is conducted.

**Table 2: Major jurisdictions that conduct examination of plant breeders' rights applications**

African Regional Intellectual Property Organisation	Lithuania
Albania	Macedonia
Argentina	Mexico
Australia	Moldova
Austria	Morocco
Azerbaijan	Netherlands
Belgium	New Zealand
Bolivia	Nicaragua
Brazil	Norway
Bulgaria	Oman
Canada	Panama
Chile	Paraguay
China	Peru
Colombia	Poland
Costa Rica	Portugal
Czech Republic	Republic of Korea



Denmark	Romania
Dominian Republic	Russian Federation
Ecuador	Serbia
Estonia	Singapore
Finland	Slovakia
France	Slovenia
Georgia	South Africa
Germany	Spain
Guatemala	Sweden
Hungary	Switzerland
Iceland	Trinidad and Tobago
Ireland	Tunisia
Israel	Turkey
Italy	Ukraine
Japan	United Kingdom
Jordan	United States of America
Kenya	Uruguay
Kyrgyzstan	Uzbekistan
Latvia	Vietnam

55.2. Only one member of a PBR family will be considered for the purposes of the subsidy. In other words, the first PBR application of a PBR family granted in a particular examination jurisdiction will qualify.

55.3. A copy of the granted PBR including the technical questionnaire and illustrations must be submitted to the DHET committee for final assessment.

55.4. In addition, a copy of the Certificate of Registration must accompany the submission providing proof of grant.

55.5. It remains the responsibility of the institution to assist its staff members with the registration of PBRs. The DHET will only consider, for purposes of subsidy, registered PBRs and will not provide financial support to individual academics or universities towards the registration of their PBRs. This is the role of the National Intellectual Property Management Office (NIPMO).

## **GENERAL PROCEDURE FOR SUBMISSIONS**

56. In order to be considered for subsidy, creative outputs must have been exhibited, performed, published or be in the public domain. They must also be original, contribute to knowledge and enhance understanding in the field. The policy acknowledges the complex character of these disciplines, and therefore each subfield has its own accreditation criteria.
57. Recognised creative outputs meeting specified criteria are eligible for subsidisation. Below are the submission requirements for subsidising Fine/ Visual Arts; Music; Theatre, Performance and Dance; Design and Architecture; Film and Television; and Literary Arts.
58. Institutions must submit their creative output annually for the preceding year (n-1) for each reporting year. All claims must be submitted under the signature of the Vice Chancellor, or the Deputy Vice Chancellor for Research.
63. To enhance the efficacy and efficiency of policy implementation, institutions are required to:
  - 63.1. be fully acquainted with the policy;
  - 63.2. ensure all information submitted to the Department is accurate;
  - 63.3. submit all documents and information timeously;
  - 63.4. establish an institutional internal evaluation committee for screening of outputs in terms of this policy prior to submission to the Department;
  - 63.5. verify, by assessing peer-review reports, that all their outputs have undergone a rigorous peer-review process prior to submission to the Department; and
  - 63.6. the submission must be accompanied by a declaration signed by the DVC: Research, confirming that all outputs included in the submission went through the internal evaluation committee.
64. Late submissions for years prior to n-3 and/or submissions without an accompanying explanation will not be considered for subsidy.
65. This policy allows for a three year submission cycle, which means a researcher has up to three years from the time the work first appeared in the public domain to submit it for accreditation. A three-year submission period will enable the gleaning of more accurate

accounts of projects which travel or are shown/performed over a lengthy period or which receive numerous reviews. Also, projects which travel or are shown or performed over a long period are more likely to have been seen by a wider pool of potential reviewers, and the three-year cycle will enable institutions to take advantage of this.

66. Each creative art outputs submission must be accompanied by a written commentary by the artist or a collaborator to contextualise or elucidate the work. However, such contextualisation should not be overly elaborated or be seen as a replacement of the output itself, but rather information to provide background that could not be ascertained from an examination of the creative output alone.
67. Institutions must submit to the Department, on or before **15 November** of each reporting year (n), subsidy claims for creative outputs that have appeared in the public domain in the previous year (n-1).
68. The electronic submission to the Department must have a cover page with: Name of author/inventor/etc.; Institutional affiliation; Disciplinary affiliation; and Title and category of creative output.
69. Evidence of the creative outputs must be in the form of:
  - 65.1. A Book, Catalogue, CD or DVD recording or a musical score in the case of a musical composition; and
  - 65.2. Verifiable evidence of the accessibility and re-accessibility of the output, which includes any or all of the following forms of public domain:
    - 65.2.1. The venue(s) in which the output was exhibited/ performed or published in the case of literary arts
    - 65.2.2. The physical distribution network in the case of hard copy CD or DVD recordings and musical scores
    - 65.2.3. The electronic distribution network, with the relevant internet Uniform Resource Locator (URL), in the case of recorded works and musical scores available on the internet sites.

70. A brief framing statement of 500-700 words written by the author that sets out:

- The aims and purposes of the output
- The context in which it was created
- A description of its content
- The conceptual and scholarly framework in which it should be heard.

71. If available, supporting evidence of the reception history and standing of the creative output within the relevant community of scholars. This may include evidence of the work's commissioned status, the standing of the venue(s) in which it was exhibited/performed where this has relevance to the press reviews, and articles or other research-related interrogations of the output in question.

72. For innovations institutions are required to submit a certificate of registration in the said country.

73. Those outputs which cannot be sent to the Department due to their physical nature (e.g. Paintings and sculptures) should not be submitted. A panel of experts will evaluate them at their respective institutions. All visual and fine arts outputs must not be submitted to the Department. A panel of experts will evaluate them at their respective institutions.

74. The Department will establish a Creative Outputs Evaluation Panel comprising senior professionals from the higher education community to evaluate all creative outputs submitted by claiming institutions. This independent panel will be assisted by field-specific sub-panels to evaluate these outputs together with the relevant accompanying information.