

NOTICE 58 OF 2007

REGULATIONS RELATING TO THE REGISTRATION OF LEARNERS TO RECEIVE HOME EDUCATION

The Member of the Executive Council for Education in the North West Province has in terms of section 27 of the North West Schools Education Act, 1998 (Act No.3 of 1998) read with section 51 of the South African Schools Act, 1996 (Act No.84 of 1996) promulgated the regulations set out in the Schedule.

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CHAPTER 1

DEFINITIONS

1) ***Definitions***

In these regulations any word or expression to which a meaning has been assigned in the South African Schools Act, 1996 (Act No. 84 of 1996) has the same meaning and, unless the context otherwise indicates -

"accreditation" means accreditation or preliminary accreditation as determined by Umalusi;

"amendment" means an alteration in the conditions of registration of home education;

"applicant" means a parent who intends to register for home education;

"condition" means a stipulation or directive imposed by the Head of Department for home education;

"home education" means a programme of education that a parent of a learner may provide to his/her child at their own home (in addition a parent may, if necessary, enlist the specific services of a tutor for specific areas of the curriculum) or a legal' independent form of education, alternative to attendance at a public or independent school;

"parent" means the parent or guardian of the learner or the person legally entitled to custody of a learner or the person who undertakes to fulfill the obligations of the persons mentioned;

"registration" means the granting of an application to home education in terms of the Act;

"requirements" means the prescribed criteria contemplated in chapter 3 of these regulations or any other criteria prescribed in the Act that an applicant for home education must fulfill in order to register or maintain registration;

"the Act" means the South African Schools Act, (Act No.84 of 1996);

"Umalusi" means the council for quality assurance in the General and Further Education and Training Act, 2001 (Act No 58 of 2001).

CHAPTER 2

APPLICATION PROCESS

2. *Eligibility*

A parent of a learner proposing to provide home education as contemplated in the Act is eligible to apply for registration if the learner

- a) is of compulsory school going age; or
- b) with special educational needs as determined in section 3(2) of the Act and who is of compulsory school going age.

3. *Application for Registration*

1) An applicant who intends to register for home education must apply to the Head of Department in terms of these regulations.

2) An applicant for registration must -

- a) make the application for registration in writing on the prescribed form and address it to the Head of the Department;
- b) lodge the application with the relevant regional office by not later than 31 August of the year preceding the year of the proposed commencement of home education.

3) A separate application for registration must be completed for -

- a) each learner who is to receive education at home; and
- b) for each compulsory phase of education viz. Foundation Phase (Grades 1 to 3), Intermediate Phase (Grades 4 to 6), and Senior Phase (Grades 7 to 9).

4) The application must be accompanied by -

- a) a copy of the birth certificate of the learner;
- b) supporting arguments to substantiate that education at home will be in the best interest of the learner and that the learner will benefit from it;

- c) an undertaking that the learner will be taught at least as regularly and at the same quality as in a public school;
 - d) a declaration by the applicant of the highest education standard achieved by him/her;
 - e) a declaration by the applicant of the hours of the day and the minimum days per year during which the applicant plans to teach the learner;
 - f) information about the educational programme that will be followed;
 - g) information about the learning resources that will be available;
 - h) sufficient information regarding the curriculum(s) to be followed by the applicant;
 - i) In the application contemplated in regulations 3 and 4 an applicant must provide a written declaration that he/she will maintain a quality management system including assessment policies and procedures appropriate to each curriculum;
 - j) In the application contemplated in regulations 3 and 4 an applicant must submit a signed declaration that if registered -
 - i) a periodic evaluation of the home education by the Head of Department at intervals to be determined by the Head of Department;
 - ii) any other reasonable process arranged by the Head of Department after consultation with the applicant for the purpose of monitoring compliance with the requirements of the Act and the conditions of registration as imposed by the Head of Department.
- 5) The Head of Department must refuse to consider an application, which does not comply with the requirements of sub-paragraph (2), (3) and (4) above.
- 6) The Head of Department may require an applicant to clarify items on the application or submit additional information before the application is determined.
- 7) An applicant must promptly notify the Head of Department if there is any change in the information submitted in the application.

4. ***Application for Amendment***

- 1) Regulation 2(2) to 2(4) applies to the submission of an amendment application, except that it must be submitted at least twelve months before the proposed amendment is intended to come into effect.

2) The Head of Department may for good reason permit a later submission if requested in writing by the applicant.

5. ***Withdrawal of Application***

An application made in terms of regulations 3 and 4 may be withdrawn by notice in writing to the Head of Department, but no notice of withdrawal is valid if it is submitted after the Head of Department has notified the applicant in writing of the result of the application.

6. ***Subsequent Application for Registration***

- 1) An applicant whose
 - a) application has been denied; or
 - b) registration has been withdrawn in terms of regulation 5may submit a subsequent application not less than twelve months after the date of denial or withdrawal respectively.
- 2) Regulation 3 applies to the submission of a subsequent application.

CHAPTER 3

REQUIREMENTS FOR REGISTRATION

7. ***Compliance with Legislation***

- 1) The education provided at home must be consistent with the values contained in the Constitution of the Republic of South Africa.
- 2) In order to be registered an applicant must fulfill the requirements of the Act.

8. ***Accredited Curriculums***

- 1) An applicant must propose to offer only curriculums that comply with the National Curriculum Statements indicating the minimum outcomes or standards as determined by the Minister in terms of section 6A of the Act.
- 2) The curriculum must suit the age and ability of the learner.
- 3) The curriculum must comply with the minimum requirements of the curriculum on public schools and the standard of home education must not be inferior to the standard of education in public schools.
- 4) The curriculum must comply with the language policy specified for each of the educational phases.

9. **Quality Assurance**

In the application contemplated in regulations 3 and 4 an applicant must submit a signed declaration he/she has applied to Umalusi for accreditation, listing the curriculums for which he/she has applied for accreditation or preliminary accreditation.

10. **Assessment**

- 1) At the end of every phase completed by the learner, the applicant should appoint an independent, suitably qualified person(s), approved by the Head of Department, at the parent's own expense for the assessment of the learner's progress.
- 2) An applicant may ask the nearest school to do moderation of examination papers or tests for the learner at their own expense.
- 3) If the learner is not following the national curriculum, the parents must seek the necessary exemption certificate, which allows the Grade 9 learner not to write the equivalent public school examinations;
- 4) The applicant must submit a statement to the Head of Department confirming that the learner so assessed has indeed reached the required level.

11. **Monitoring and Evaluation**

- 1) The Head of Department may at any reasonable time order that official visits and quality assurance be done in respect of the applicant's premises, furniture and equipment, the teaching provided, the assessment and any other matter which in the opinion of the Head of Department should be monitored.
- 2) Whenever the applicant requests in writing that quality assurance be done, the Head of Department may allow the request and if so, a report will be forwarded to the applicant after the quality assurance has been done.
- 3) Should a complaint be lodged against the applicant by any interested party and/or departmental officials and/or members of the public, the Head of Department may, in writing request a written report with regard to the complaint from the applicant.
- 4) The applicant must within thirty (30) days of receipt of the written request referred to in sub-regulation (3) above, respond to the Head of Department in writing.
- 5) Should the Head of Department not be satisfied with the written response referred to sub-regulation (4) above, he/she may after

receipt of the written response, inform the applicant in writing of his/her decision, which may include an investigation.

- 6) In the event of an investigation departmental officials appointed by the Head of Department shall be granted access by the applicant to any the premises and any records at any reasonable time.

CHAPTER 4

REGISTRATION

12. ***Determination of an Applicant***

- 1) The Head of Department must consider and determine an application for registration
 - a) in accordance with section 51 of the Act and these regulations;
 - b) at least six (6) months before the applicants intends to commence operations.
- 2) In determining an application, the Head of Department must consider
 - a) all the information and declarations provided by the applicant and any other relevant information;
 - b) whether, if registered, the applicant in their entire curriculum will maintain acceptable standards that are not inferior to national standards;
 - c) whether the applicant has met all other relevant requirements of the Act and these regulations;
 - d) the rights of the general public, the learners and the applicant.
- 3) The Head of Department must consider and determine whether to register the applicant in terms of regulation 3 or deny the application.
- 4) In determining to grant registration as contemplated in sub-regulation (3) the Head of Department must approve the curriculum(s) to be offered by the applicant for home education.

13. ***Amendment of Registration***

- 1) The Head of Department must consider and determine an application for amendment in accordance with regulation 4 at least three months before the amendment is to come into effect.

- 2) The Head of Department must consider whether to
 - a) amend the registration;
 - b) impose a condition; or
 - c) deny the application for amendment.
- 3) In the case of sub-regulation 2(b) or (c), the Head of Department must notify the parent in writing, giving reasons.

14. ***Withdrawal of Registration***

- 1) Subject to section 51 of the Act, the Head of Department must withdraw the registration for home education if
 - a) the applicant ceases to
 - i) provide education as contemplated in the Act;
 - ii) meet the criteria of eligibility contemplated in regulation 2;
 - iii) fulfill the requirements for registration contemplated in chapter 3 of these regulations;
 - iv) comply with any condition imposed by the Head of Department;
 - v) operate all its curriculum; or
 - b) the applicant provides fraudulent, false or misleading information to the Head of Department
- 2) If Umalusi withdraws accreditation from one or more of an applicant's curriculum, the Head of Department must review the applicant's registration and determine whether reasonable grounds exist for withdrawal.
- 3) An applicant must request the Head of Department to withdraw the registration once a learner is admitted to a public or independent school.
- 4) If the Head of Department proposes to withdraw an applicant's registration, the Head of Department must
 - a) comply with section 51(4) of the Act;
 - b) consider any representation from the applicant or any interested person in relation to such action;

- c) inform the applicant of the decision taken and the reasons thereof.
- 5) If the final decision is to withdraw a registration the Head of Department must issue a notice in writing to the applicant that its registration is withdrawn and that the withdrawal takes effect on a date as determined by the Head of Department.

CHAPTER 5

RESPONSIBILITY OF AN APPLICANT(S)

15. *Maintenance of Registration*

- 1) In order to maintain registration an applicant must
 - a) continue to fulfill the requirements for registration contemplated in the Act and chapter 3 of these regulations;
 - b) discharge the responsibilities of an applicant in terms of this chapter;
 - c) comply with any condition imposed by the Head of Department;
 - d) comply with Umalusi with respect to the curriculum(s) he/she intends to follow;
 - e) notify the Head of Department of any changes in the information submitted in terms of the Act and these regulations;
 - f) undergo an evaluation by the Head of Department at intervals to be determined by the Head of Department;
 - g) comply with any reasonable process arranged by the Head of Department after consultation for the purpose of monitoring compliance with the requirements of the Act and the conditions of registration.

16. *File and or Records to be Kept*

- 1) An applicant shall keep
 - a) a certified copy of the learner's birth certificate;
 - b) an attendance record;
 - c) academic progress reports;

- d) transfer documents and or reports from previous public or independent school(s) attended;
- e) continuous assessment records of the learner's work, which reflects the learner's progress towards achieving the outcomes of the learning programme;
- f) a summarized assessment record at the end of the first year of home education and at the end of grades 3,6 & 9 stating whether or not the outcomes for these grades have been achieved;
- g) all relevant assessment results for three (3) years for monitoring by the Head of Department.

CHAPTER 6

APPEALS

17. Procedure

- 1) Subject to section 51 of the Act, a person who appeals against a decision of the Head of Department must lodge the appeal in writing with the Member of the Executive Council within thirty (30) days of the date of the Head of Department's decision.
- 2) An appeal document must specify
 - a) the decision being appealed;
 - b) the grounds for appeal; and
 - c) the remedy being sought.
- 3) The Member of the Executive Council must consider the appeal and must confirm or set aside the decision of the Head of Department within thirty (30) days of receiving the appeal and must
 - a) notify the appellant of his / her decision; and
 - b) provide the appellant with written reasons for his/her decision.
- 4) While the Member of the Executive Council is adjudicating the appeal, home education may continue until the Member of the Executive Council notifies the appellant of his/her decision.

CHAPTER 7

GENERAL ARRANGEMENTS

18. ***Delegation of Powers***

The Head of Department has the authority to delegate to any official in the Department the powers bestowed on him/her in terms of these regulations.

19. ***Offences***

An applicant who fails to comply with the provisions of section 3 of the Act regarding compulsory school attendance will, unless the learner is registered in terms of these regulations, be guilty of an offence as contemplated in section 3(6) of the Act.

20. ***Short Title and Commencement***

These regulations are the regulations for the registration of learners to receive home education, 2005 and will come into effect on the date of publication thereof.