

**PN 287 of 28 October 1999: Notice regarding the Registration of and Payment of Subsidies to  
Independent Schools  
(Provincial Gazette No. 5387)**

I, Eileen kaNkosi-Shandu, Minister of Education and Culture: KwaZulu-Natal, hereby give notice in terms of sections 46 (2), and 50 (1) of the South African Schools Act, 1996 (Act No. 84 of 1996), that I determined the provisions set out in the Schedule.

SCHEDULE

ARRANGEMENT OF SECTIONS

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**1. Definitions.**-In this notice any word or expression to which a meaning has been assigned in the Act bears the meaning so assigned to it and, unless the context otherwise indicates-

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

**"compulsory school age"** in relation to a learner, means the age between the limits of which the learner is by law subject to compulsory education;

**"constitution"** in relation to the governance of a registered independent school, means a document styled as a constitution or having a corresponding or similar name, in which the aim, funding and management of and other relevant matters relating to the control of an independent school are set out;

**"financial subsidy"** in relation to a registered independent school, means financial assistance by the State to any such school;

**"governing body"** means the body in which the control and management of the independent school is vested and who represents the owner;

**"Minister"** means the Member of the Executive Council responsible for education in the KwaZulu-Natal province;

**"South African Certification Council"** means the council established in terms of section 2 of the South African Certification Council Act, 1986 (Act No. 85 of 1986).

**2. Registration.**-(1) The Head of Department may grant registration to an independent school if it meets the following requirements-

- (a) the average number of learners enrolled at the independent school shall not be less than 20: Provided that the Head of the Department may approve deviations, in exceptional circumstances where, in his or her opinion, sufficient reasons exist for such deviation;
- (b) a professionally qualified teacher is employed in a full time capacity as the head of the independent school, and is personally responsible for the organisation, supervision and control of conduct at such school;
- (c) the buildings and grounds occupied by such school are of a suitable design and offers facilities that are sufficient in the opinion of the Head of the Department;
- (d) the applicant provides proof of tenure of the proposed school buildings and grounds for a minimum period of one year from the date of commencement of the independent school;
- (e) the school only admits learners who turn seven in the year in which they are first admitted to grade 1;
- (f) the school employs teachers persons who are in possession of professional teaching qualifications: Provided that, if the Head of the Department is convinced that the services of teachers, not qualified

as aforesaid, are essential for the school concerned, he or she may approve registration notwithstanding the applicant's failure to meet the foregoing provisions of this paragraph.

(2) The Head of the Department may determine the maximum number of learners who may be admitted to an independent school on the basis of the school buildings and grounds referred to in clause (1) (c).

(3) The Head of the Department may grant provisional registration subject to conditions determined by him or her-

- (a) pending the outcome of an application made in terms of clause 2 (1);
- (b) to enable an independent school to meet the above requirements.

**3. Withdrawal of Registration and Closure of Independent Schools.**-(1) The Head of the Department must, subject to the provisions of section 47 (1) of the Act, withdraw the registration of an independent school if he or she is convinced, on reasonable grounds, that such school-

- (a) does not comply with any registration requirement referred to in clause 2 (1);
- (b) admitted learners exceeding the maximum number of learners that may be admitted in terms of clause 2 (2); or
- (c) is managed or maintained in a manner or under circumstances that could be, in his or her opinion, harmful to the physical intellectual or spiritual well-being of the learners attending such school.

(2) The owner of an independent school who appeals to the Minister in terms of section 47 (2) of the Act, against a decision of the Head of the Department taken in terms of clause 3 (1), must lodge his or her appeal within 30 days of being informed of the decision.

(3) If the registration of an independent school is withdrawn as contemplated in clause 3 (1) (a), the owner may reapply for registration after having taken the necessary steps to ensure that the relevant registration requirements are complied with.

**4. Subsidies to Independent Schools.**-(1) The owner of a registered independent school may apply on or before 31 July of each year to the Head of the Department for a subsidy for the following year.

(2) An application for a subsidy shall be made on an application form determined by the Head of the Department.

(3) A subsidy is approved on an annual basis and payment will be made retroactively each quarter.

(4) The payment of a subsidy to the owner of a registered independent school may be considered if the school concerned meets the following requirements, namely that such school-

- (a) in the opinion of the Head of the Department maintains satisfactory scholastic standards;
- (b) determines a remuneration package of the teaching staff attached to such school in such a manner that it is, in the opinion of the Head of the Department, not more favourable than that of educators employed by the Department;
- (c) accommodates learners in the school buildings and on the school grounds in a manner which is, in the opinion of the Head of the Department satisfactory;
- (d) annually submits an audited financial report on the financial affairs of such school to the Head of the Department;
- (e) pays any subsidy received from the Department into a bank account which has been opened in the name of the school;
- (f) ensures that learners at the different points of exits comply with the requirements laid down by the South African Certification Council;
- (g) submits a certified copy of constitution and, where appropriate, the trust deed or memorandum and articles of association, according to which the school is managed to the Head of the Department;
- (h) complies with all such other educational requirements as may be determined by the Minister;
- (i) is owned by a religious or charitable trust or a company incorporated as an association not for gain in terms of section 21 of the Companies' Act, (Act No. 61 of 1973);
- (j) submits proof that the subsidy will be utilized for the provision of education at the school; and
- (k) has been in existence for at least one year after registration or provisional registration in terms of either clauses 2 (1) or 2 (3).

(5) No subsidy will be paid to independent schools for learners who are 20 years or older on the first day of the year in respect of which a subsidy is paid.

(6) The owner of the school or the governing body must forthwith inform the Head of the Department of any change of-

- (a) circumstances which may affect any subsidy granted for the benefit of the school; or
- (b) ownership of the school.

**5. Termination or reduction of subsidy to independent schools.**-(1) The Head of the Department, may terminate or reduce subsidy, subject to the provisions of section 48 (4) of the Act from a date determined by him or her if-

- (a) the owner or the governing body of the school no longer meets the requirements set out in clause 2 (1) 5 or national funding norms set out in Notice No. 2362 of 1998;
- (b) the owner has disposed of the school;
- (c) in the opinion of the Head of the Department, good reason exists therefore.

(2) The Head of the Department may recover a subsidy paid to an independent school-

- (a) that did not comply with the requirements set out in clause 4;
- (b) on wrong or misleading information provided by the school; or
- (c) due to an administrative error.

**6. Permission for learners to sit for examinations.**-The Head of the Department must-

- (a) allow pupils of a registered independent school to sit for any examination conducted by or under the supervision of the Department after the payment of examination fees determined by the Head of the Department; and
- (b) must ensure that the standards and conditions by which and under which such examinations will be conducted by the independent school concerned, are at least equal to those required of a public school for the same examination.

**7. Registers and other records to be kept by an independent school.**-The owner of an independent school or the governing body thereof must ensure that-

- (a) an enrolment register, record of academic progress and an attendance register of the learners attending such school is kept;
- (b) a register of educators employed at such school is kept in which their names, qualification and remunerations are recorded;
- (c) the Head of the Department or an official authorised by him or her is permitted to inspect the registers at anytime;
- (d) the Head of the Department is furnished with any information contained in the registers that he or she may require;
- (e) such other records as the Head of the Department may from time to time determine in general or in any particular case is kept; and
- (f) registers and records referred to in clauses (a), (b) and (e) are kept in the manner determined by the Head of the Department.

**8. Other matters to be observed by independent schools.**-The owner of an independent school or the governing body thereof must ensure that-

- (a) the average duration of a school day and the minimum number of school days per calendar year meets the minimum requirements determined by the Head of the Department; and
- (b) the core curriculum for learners in the various school phases at such school meets the minimum core curriculum in terms of national policy.

**9. Inspection of Independent Schools.**-(1) The Head of the Department, at any reasonable time, may order that an inspection be held at any independent school with regard to the premises, furniture and equipment at the school, the tuition provided, the way in which the school is managed, and any other matter which in the opinion of the Head of the Department should be inspected.

(2) Whenever the owner, governing body or principal of some registered independent school requests in writing that an inspection is held, the Head of the Department may cause such inspection to be held and cause a report to be forwarded to such owner, governing body or principal.

**10. Delegation of powers.**-The Head of the Department has authority to delegate the powers bestowed on him or her in terms of this notice.

**11. Repeal of Notice.**-Provincial Notice No. 261 of 1998 dated 10 September 1998 is hereby repealed.

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