

**ON 30 of 27 July 2001: Regulations concerning the Registration of Independent Schools
(Provincial Gazette No. 630)**

I, Tina Monica Joemat-Pettersson, Member of the Executive Council for Education in the Northern Cape Legislature, hereby make regulations in the Schedule in terms of section 68 (1) of the Northern Cape School Education Act, 1996, read with section 50 (1) of the South African Schools Act, 1996, regarding the registration of independent schools.

SCHEDULE

ARRANGEMENT OF REGULATIONS

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1. Definitions.-In these regulations any word or expression to which a meaning has been assigned in the Act, shall have the same meaning to assigned to it and, unless the context otherwise indicates-

"Member of the Executive Council" means Member of the Executive Council responsible for education;

"independent school" means an independent school referred to in Chapter 5 of the South African Schools Act, 1996;

"the Act" means the Northern Cape School Education Act, 1996 (Act No. 6 of 1996).

2. Requirements and conditions for registration.-(1) An applicant for the registration of an independent school shall satisfy the Head of Department that-

- (a) the school shall be headed by a principal, who shall be responsible for the professional management of the school;
- (b) the school buildings and grounds offer the space, design, facilities and comply with the safety standards that are adequate in the opinion of the Head of Department;
- (c) the learner enrolment of the school will not be less than 20 in any year of registration.

(2) The registration of an independent school shall be subject to the following conditions:

- (a) The Head of Department shall determine the maximum number of learners who may be admitted to the school in relation to its physical size.
- (b) A learner shall not be admitted to grade 1 in the school unless he or she complies with the national norms for school-going age.
- (c) The national policy relating to compulsory school attendance applicable to learners in public schools shall apply to learners attending independent schools.
- (d) The admission of a learner with special education needs shall be reported to the Head of Department.
- (e) No education and training activities shall take place in the school unless the school is duly registered.
- (f) Appointment of educators shall be done by the owner of the school, who shall notify the Head of Department of any such appointment, the qualifications and experience of any educator appointed.
- (g) The owner of the school shall ensure that-
 - (i) the average duration of a school day and the minimum number of school days per calendar year are as approved by the Head of Department;
 - (ii) the curriculum for learners in the various school phases (including the curriculum for learners with special education needs) at such school shall be in accordance with the curriculum approved by the Member of the Executive Council; and
 - (iii) the curriculum that such school wishes to offer shall comply with the curriculum policy determined

by the Minister, and shall lead to a qualification which is on the National Qualification Framework, or is recognised by the South African Qualification Authority as a South African qualification.

3. Procedure for application.-(1) The owner of the independent school shall apply for registration to the Head of Department in prescribed form at least 180 days prior to the commencement of education and training activities at such school.

(2) The application shall be accompanied by-

- (a) a comprehensive indication of the system of quality assurance for learning and development; and
- (b) all such other documents as may be required by the Head of Department.

(3) The Head of Department may grant the application for registration if he or she is of the opinion that the prescribed requirements have been complied with.

(4) If the Head of Department refuses such application, he or she shall notify the applicant of the refusal in writing, stating the reasons for the refusal.

4. Keeping of registers and other documents.-(1) The owner shall at all times maintain on the school premises-

- (a) a manual enrolment register and a daily attendance register per class of all learners attending at the school; and
- (b) a register of all educators employed at the school reflecting their names, qualifications, remuneration and employment contracts.

(2) The owner shall provide the Head of Department annually with the school's calendar which shall reflect and honour public holidays and ensure that the number of school days and average duration of a school day are not less than those approved for comparable public schools.

(3) The principal of the school shall compile and keep at all times a personal file for each learner in which the following documents shall be kept:

- (a) A certified copy of the learner's birth certificate;
- (b) admission form;
- (c) copies of progress reports and correspondence with parents; and
- (d) all current disciplinary records.

(4) The Head of Department or any officer authorised by him or her may at any time carry out reasonable surveys and inspect any required prescribed document.

(5) The owner shall submit to the Head of Department prescribed quarterly reports and surveys and shall supply any other document or information reasonably requested by the Head of Department;

(6) The owner shall comply with all prescribed requirements concerning the administration and management of schools as may from time to time be determined.

5. Subsidies to registered schools.-(1) An independent school may be considered for subsidy if it-

- (a) is duly registered in terms of the Act;
- (b) has made application for subsidy to the Head of Department in the prescribed manner;
- (c) has been operational for one full school year;
- (d) is not operated for profit;
- (e) is managed successfully according to a management checklist determined by the Head of Department;
- (f) agrees to unannounced inspection visits by officials authorised by the Head of Department;
- (g) has not been established in direct competition with a nearby uncrowded public school of equivalent quality;
- (h) maintains in the opinion of the Head of Department, satisfactory scholastic standards;
- (i) determines the remuneration package of the educators attached to the independent school in such a manner that it is, in the opinion of the Head of Department, not more favourable than the packages of educators serving in posts of the same grade in public schools;

- (j) ensures that learners at the different points of exit comply with the requirements laid down by the South African Certification Council;
 - (k) accommodates learners in and on the school buildings and grounds in a manner which is in the opinion of the Head of Department satisfactory;
 - (l) annually submits to the Head of Department an audited financial report on the financial affairs of the school;
 - (m) pays any subsidy received from the department into a bank or building society account established in terms of the Banks Act, 1990 (Act No. 94 of 1990), which has been opened in the name of the independent school;
 - (n) submits the constitution of the independent school which identifies its corporate existence to the Head of Department; and
 - (o) submits a certificate issued by the local authority where the independent school is situated that its facilities comply with health regulations.
- (2) In addition to the conditions in paragraph (1) an independent secondary school may be considered for subsidy if-
- (a) its grade 12 pass rate is 50% or more of full-time candidates writing the examination in the previous year;
 - (b) the repetition rate in grades 11 and 12 is not more than 20%; and
 - (c) it does not engage in practices that are calculated to artificially increase the school's grade 12 pass rate.
- (3) The Head of Department may, on good cause shown, vary any of the conditions in paragraphs (1) and (2).
- (4) In addition to any other condition prescribed in these regulations the school shall satisfy the Head of Department that it is able to manage public funding responsibly.
- (5) An independent school shall direct its application for a subsidy to the Head of Department: Provided that-
- (a) an application for subsidy shall be submitted annually on or before 31 March of the preceding year;
 - (b) a subsidy shall be paid only in respect of those learners of school-going age who are following the curriculum in grade one to grade twelve, unless the Head of Department determines otherwise.
- (6) In addition to any matter specifically prescribed in these regulations, funding to independent schools shall comply with national norms and standards for school funding.

6. Admission of learners to examinations conducted by the Department.-The National Policy on the Conduct of the Senior Certificate Examination or such other policy as may from time to time be determined for admission of learners to any examination conducted or supervised by the Department, shall apply to any learner of an independent school who enrolls to be admitted to any such examination.

7. Withdrawal of registration of independent schools.-(1) The Head of Department may, subject to the provisions of subregulation (2), withdraw the registration of an independent school if-

- (a) the school fails to comply with the requirements of the Act or the South African Schools Act, the National Education Policy Act or regulations made in terms thereof or these regulations;
- (b) the school or any of its policies contravenes the Constitution or any other law;
- (c) there is a change in the ownership of the school;
- (d) the school fails or ceases to comply with any conditions determined for its registration;
- (e) the learner enrolment of the school is less than 20; or
- (f) in his or her opinion, it is in the public interest or the interests of education that registration be withdrawn.

(2) The Head of Department shall not act in terms of subregulation (1) unless-

- (a) he or she has given the owner of the independent school concerned reasonable written notice of his or her intention to withdraw its registration, and has stated reasons for the contemplated withdrawal;
- (b) he or she has, in such notice, given the owner of such independent school a reasonable opportunity to make written representations to the Head of Department as to why its registration should not be withdrawn; and

(d) he or she has duly considered the written representations.

(3) If the registration of an independent school is withdrawn in terms of subregulation (1), the Head of Department shall order the owner of the independent school concerned to close the school within the period determined by him or her.

8. Appeals to the Member of the Executive.-(1) The applicant for the registration of an independent school referred to in regulation 3 whose application has been refused by the Head of Department in terms of subregulation 3 (4), or the owner of the independent school whose registration has been withdrawn in terms of regulation 7 may, within 30 days of receiving notification of the refusal of the application or the withdrawal of registration as the case may be, appeal in writing to the Member of the Executive against the decision of the Head of Department, setting out the grounds upon which the appeal is based.

(2) In the event of an appeal against the withdrawal of the registration of an independent school, the decision of the Head of Department shall not take effect until the appeal has been decided by the Member of the Executive Committee.

(3) The Member of the Executive may, when considering an appeal contemplated in subregulation (1), request the appellant or the Head of Department to furnish him or her with such further information as he or she may require.

(4) The Member of the Executive Council shall within a reasonable time notify the appellant of his or her decision and reasons therefor.

9. Commencement.-These regulations shall come into operation upon publication in the *Provincial Gazette*.
