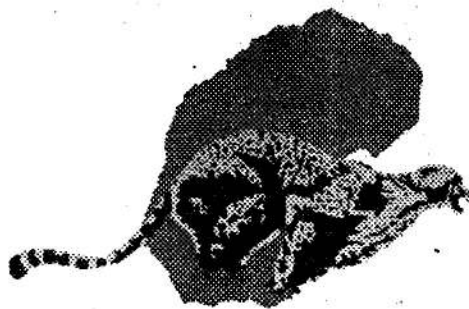




FREE STATE PROVINCE

PROVINCIAL GAZETTE

PROVINSIALE KOERANT

PROVINSIE VRYSTAAT

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GENERAL NOTICE 18 OF 1998

PUBLICATION OF THE FREE STATE SCHOOL EDUCATION BILL, 1998

It is notified for general information and comment that the above-mentioned Bill is hereby published in terms of Rule 124(a) of the Rules and Orders of the Free State Legislature.

Any comments or remarks must be submitted to the Secretary: Free State Legislature, Private Bag X20561, Bloemfontein, to reach her not later than 28 September 1998.

E ROCKMAN
SECRETARY: FREE STATE LEGISLATURE

ALGEMENE KENNISGEWING 18 VAN 1998

PUBLIKASIE VAN DIE VRYSTAAT SKOOLONDERWYSWETSONTWERP, 1998

Dit word vir algemene kennisname en kommentaar bekendgemaak dat bostaande Wetsontwerp hierby gepubliseer word in terme van Reël 124(a) van die Reëls en Orders van die Vrystaatse Wetgewer.

Enige kommentaar of opmerkings moet gestuur word aan die Sekretaris: Vrystaatse Wetgewer, Privaatsak X20561, Bloemfontein, om haar nie later as 28 September 1998 te bereik nie.

E ROCKMAN
SEKRETARIS: VRYSTAATSE WETGEWER

BILL

To provide for a uniform system for the provision and control of school education in the Province; to repeal certain laws relating to education; and to provide for matters connected therewith.

PREAMBLE

WHEREAS the School Education Act, 1996, was promulgated before the coming into operation of the South African Schools Act, 1996, and because provincial education legislation should accord with national norms and standards; and

WHEREAS the need exists to provide for education in the Province in conformity with the Constitution of the Republic of South Africa, 1996, and the South African Schools Act, 1996, as well as to eliminate limitations and inconsistencies in the present provincial legislation on education;

BE IT THEREFORE ENACTED by the Provincial Legislature of the Free State Province, as follows :—

ARRANGEMENT OF SECTIONS

CHAPTER	CONTENTS	SECTION	PAGE	
1	Definitions and Application of this Act	1-2	2	5
2	Objectives of this Act	3	6	10
3	Education Councils and Examination Board	4-6	7	
4	Public Schools	7-17	9	15
5	Independent Schools	18-25	13	
6	Home-based Education	26	17	
7	Learners	27-35	18	20
8	Governance and Professional Management of Public Schools	36-47	21	
9	Funding of Public Schools	48-55	25	25
10	Powers and duties of the responsible Member and Head of Education	56-57	27	
11	Transitional Provisions	58-63	29	30
12	General Provisions	64-69	31	

WETSONTWERP

Om voorsiening te maak vir 'n eenvormige stelsel vir die voorsiening en beheer van skoolonderwys in die Provinsie; om sekere onderwyswette te herroep; en om voorsiening te maak vir aangeleenthede in verband daarmee.

NADEMAAL die Wet op Skoolonderwys, 1996, afgekondig is voordat die Suid-Afrikaanse Skolewet, 1996, in werking getree het, en omdat provinsiale onderwyswetgewing ooreen moet stem met nasionale norme en standaarde; en

NADEMAAL die behoefte bestaan om voorsiening te maak vir onderwys in die Provinsie wat ooreenstem met die Grondwet van die Republiek van Suid-Afrika, 1996, en die Suid-Afrikaanse Skolewet, 1996, asook om beperkings en teenstrydighede in die huidige provinsiale wetgewing op onderwys, uit te skakel;

WORD DAAR DERHALWE BEPAAL deur die Provinsiale Wetgewer van die Vrystaat Provinsie soos volg bepaal :—

INDELING VAN ARTIKELS

5	HOOFSTUK	INHOUD	ARTIKEL	BLADSY
	1	Woordomskrywing en toepassing van Wet	1-2	2
10	2	Doelstellings van hierdie Wet	3	6
	3	Onderwysrade en Eksamenraad	4-6	7
	4	Openbare skole	7-17	9
15	5	Onafhanklike skole	18-25	13
	6	Tuisonderrig	26	17
20	7	Leerders	27-35	18
	8	Beheer en professionele bestuur van openbare skole	36-47	21
25	9	Befondsing van openbare skole	48-55	25
	10	Bevoegdhede en werksaamhede van verantwoordelike Lid en Onderwyshoof	56-57	27
	11	Oorgangsbepalings	58-61	29
	12	Algemene bepalinge	62-67	31

CHAPTER 1

DEFINITIONS AND APPLICATION OF THIS ACT

Definitions

1. In this Act, unless the context indicates otherwise –

“assessment” means a continuous procedure that would reflect learner performance at any given point in time;

“barriers to learning and development” means those factors which lead to the inability of the system to accommodate diversity, that lead to learning breakdown or which prevent learners from accessing educational provision;

“centre of learning” means a public institution for the education of learners other than a school;

“combined school” means a school providing education in all grades falling under a primary school as well as all grades falling under a secondary school;

“Constitution” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

“Council” means the Provincial Education and Training Council established under section 4;

“Department” means the Department of Education, mentioned in the first column of the Schedule to the Exchequer Act, 1994 (Act No. 1 of 1994);

“education” means instruction, teaching or training provided to learners in terms of this Act;

“education centre” means a provincial resource centre which addresses specific needs through skills-orientated enrichment programmes and projects for –

(a) gifted, talented and committed learners;

(b) educator in-service training;

(c) the wider community,

and includes a public school;

HOOFSTUK 1

WOORDOMSKRYWINGS EN TOEPASSING VAN WET

5 Woordomskrywings

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken –

10 “algemene onderwys” die verpligte onderwys bywoningsfase;

“beampte” ‘n werknemer van die Departement wat ingevolge die Wet op Indiensneming van Opvoeders, 1994 (Proklamasie No. 138 van 1994) of die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994) aangestel is;

15 “beheerliggaam” die beheerliggaam van ‘n openbare skool wat ingevolge hierdie Wet ingestel is om die deelname van die inwoners van die Provinsie in die beheer van openbare skole te bevorder;

20 “Departement” die Departement van Onderwys, genoem in die eerste kolom van die Bylae tot die Skatkiswet, 1994 (Wet No. 1 van 1994);

“evalueringsproses” ‘n deurlopende proses wat leerderprestasie op enige gegewe tydstip sal weerspieël;

25 “gecombineerder skool” ‘n skool wat onderwys voorsien in alle grade wat onder ‘n primêre skool sowel as alle grade wat onder ‘n sekondêre skool resorteer;

“gewone openbare skool” ‘n skool wat onderwys aan alle leerders verskaf;

30 “gespesialiseerde onderwys” onderwys van ‘n gespesialiseerde aard verskaf om te voorsien in die behoeftes van leerders wat –

(a) nie voldoende kan baat by onderwys verskaf in die gewone loop van onderwys nie;

35 (b) gespesialiseerde onderwys benodig om hulle aanpassing in die gemeenskap te vergemaklik;

(c) nie ‘n gewone klas in ‘n gewone skool behoort by te woon nie, aangesien daardie bywoning nie in hul beste belang of die beste belang van die ander leerders in daardie klas is nie;

40

en sluit ook in –

(i) die sielkundige, mediese, tandheelkundige, paramediese en terapeutiese behandeling, insluitende die uitvoer van operasies, op daardie leerders;

FREE STATE SCHOOL EDUCATION BILL

- “educator”** means a person who teaches, educates or trains other persons or provides professional educational services including professional therapy and educational support services at an educational institution, and whose employment and terms and conditions of employment are regulated by the Educators’ Employment Act, 1994 (Proclamation No. 138 of 1994); 5
- “Executive Council”** means the Executive Council of the Free State Province referred to in section 132 of the Constitution; 10
- “expulsion”** means the permanent prohibition of a learner to attend a particular school or a hostel of such school, as the case may be; 10
- “further education and training”** means all learning programmes leading to qualifications from grade 10 to grade 12 or their equivalent in terms of the National Qualifications Framework as contemplated in the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995); 15
- “general education”** means the compulsory school attendance phase; 20
- “governing body”** means a governing body of a public school established in terms of this Act to promote the participation of the people of the Province in the governance of public schools; 20
- “grade”** means that part of an educational programme in a school, or another educational programme which the Head of Education may deem to be equivalent thereto, which a learner may complete in one school year; 25
- “Head of Education”** means the Head of Education in the Province mentioned in the second column of the Schedule to the Exchequer Act, 1994 (Act No. 1 of 1994); 30
- “home-based education”** means education which provides for the needs of a learner at the learner’s home; 30
- “home learner”** means a learner who receives education at home; 35
- “hostel”** means an institution attached to a school for the residential accommodation of learners; 35
- “independent school”** means a school registered or deemed to be registered in terms of section 19; 40
- “industrial school”** means a public school for the reception, care and education of learners referred or transferred thereto in terms of the Child Care Act, 1983 (Act No. 74 of 1983); 45
- “intermediate school”** means a school for primary and secondary education up to a grade not higher than grade 9; 45

- (ii) die verskaffing van kunsmatige mediese hulpmiddels en apparaat aan daardie leerders;
- (iii) die versorging van daardie leerders in 'n hospitaal, koshuis of ander instelling;
- (iv) die verskaffing van vervoer, begeleiding en daardie ander dienste wat die verantwoordelike Lid nodig mag ag vir daardie leerders; en

- (v) die voorsiening van voorligting aan die ouers van daardie leerders, met inbegrip van die ouers van daardie leerders wat nog nie onderworpe is aan verpligte skoolbywoning nie, met die oog op die onderrig, onderwys, opleiding of behandeling van daardie leerders.

"graad" daardie gedeelte van 'n opvoedkundige program in 'n skool, of enige ander opvoedkundige program wat die Onderwyshoof as gelykwaardig daaraan mag beskou, wat 'n leerder in een skooljaar kan voltooi;

"Grondwet" die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 180 van 1996);

"hierdie Wet" ook alle regulasies en kennisgewings afgekondig;

"hindernisse tot leer en ontwikkeling" daardie faktore wat tot die onvermoë van die stelsel om verskeidenheid te akkommodeer lei, wat tot leeronderbreking lei of wat leerders verhinder om toegang tot onderwysvoorsiening te kry;

"koshuis" 'n instelling, toegevoeg tot 'n skool vir die huisvesting van leerders;

"leerder" 'n persoon wat onderwys ontvang of verplig is om onderwys te ontvang ingevolge hierdie Wet;

"leersentrum" 'n openbare instelling, anders as 'n skool, vir die onderwys van leerders;

"middelbare skool" 'n skool vir primêre en sekondêre onderwys tot 'n graad nie hoër as graad 9 nie;

"nasionale beleid" nasionale onderwysbeleid bepaal deur 'n bevoegde gesag binne die regsbevoegdheid van die nasionale regering;

"Nasionale Wet" die Suid-Afrikaanse Skolewet, 1996 (Wet No. 84 van 1996);

"nywerheidsskool" 'n openbare skool vir die opname, versorging en onderwys van leerders wat kragtens die Wet op Kindersorg, 1983 (Wet No. 74 van 1983) daarheen verwys of oorgeplaas is;

"onafhanklike skool" 'n skool geregistreer of geag geregistreer te wees ingevolge artikel 19;

"language policy" means the policy adopted by the governing body of a school regarding the language or languages that may be studied, used as medium of instruction, used as medium of communication at the school, and the support a school offers to learners whose language of choice is not one in which instruction take place at the school;

5

"learner" means a person receiving education or obliged to receive education in terms of this Act;

"medium of instruction" means the language used for education, instruction or training at a school;

10

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

"national policy" means national education policy determined by a competent authority within the jurisdiction of the national government;

15

"officer" means an employee of the Department appointed in terms of the Education Employment Act, 1994 (Proclamation No. 138 of 1994), or the Public Service Act, 1994 (Proclamation No. 103 of 1994);

20

"ordinary public school" means a public school which provides education for all learners;

"parent" means –

(a) the parent or guardian of a learner;

25

(b) the person legally entitled to custody of a learner; or

(c) the person who undertakes to fulfil the obligations of a person referred to in paragraphs (a) and (b) towards the learner's education at school;

30

"pre-primary school" means a school which provides education for children of the age of three years and above but below the age at which they must be admitted to a school which enrolls learners in grade 1;

35

"primary school" means a school which provides education for learners from grade R or grade 1 up to a grade not higher than grade 7;

"principal" means an educator appointed permanently or temporarily as head of a school or acting as such;

40

"Province" means the Free State Province as provided for in section 103 of the Constitution;

“onderrigmedium” die taal gebruik vir onderwys, onderrig of opleiding by ‘n skool;

“onderwys” onderrig, opvoeding of opleiding wat ingevolge hierdie Wet aan leerders verskaf word;

“Onderwyshoof” die Hoof van Onderwys in die Provinsie genoem in die tweede kolom van die Bylae tot die Skatkiswet, 1994 (Wet No. 1 van 1994);

“onderwyssentrum” ‘n provinsiale hulpbronsentrum wat bepaalde behoeftes deur vaardigheid geïntereerde verrykingsprogramme en projekte aanspreek vir -

(a) begaafde, talentvolle en toegewyde leerders;

(b) opvoeder indiensopleiding;

(c) die breër gemeenskap; en

sluit ‘n openbare skool in;

“openbare skool” ‘n skool, gefinansier deur die Provinsiale Wetgewer, wat ‘n gewone openbare skool of ‘n openbare skool vir gespesialiseerde onderwys insluit;

“opvoeder” enige persoon wat ander persone opvoed of oplei of professionele onderwysdienste, insluitende professionele terapie en onderwyshulpdienste by enige onderwysinstelling voorsien en wie se indiensneming en diens tyd en diensvoorwaardes deur die Wet op Indiensneming van Opvoeders, 1994 (Proklamasie No. 138 van 1994) beheer word;

“ouer” -

(a) die ouer of voog van ‘n leerder;

(b) die persoon met wettige aanspraak op sorg vir ‘n leerder; of

(c) die persoon wat onderneem om ten opsigte van die leerder se opvoeding op skool, die verpligtinge van ‘n persoon waarna in paragrawe (a) en (b) verwys word, te vervul;

“preprimêre skool” ‘n skool wat onderwys verskaf aan kinders van die ouderdom van drie jaar en ouer maar onder die ouderdom waarop hulle tot ‘n skool wat leerders in graad 1 inskryf, toegelaat moet word;

FREE STATE SCHOOL EDUCATION BILL

"public school" means a school financed by the Provincial Legislature and may be an ordinary public school or a public school for specialised education;

"reform school" means a public school for the reception, care, education and training of learners sent thereto in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), or transferred thereto in terms of the Child Care Act, 1983 (Act No. 74 of 1983);

"regulation" means a regulation made under this Act;

"responsible Member" means the Member of the Executive Council of the Province who is responsible for Education;

"school" means a public school or an independent school which provides education for learners in one grade or more grades from grade R to grade 12;

"school attendance officer" means an officer designated by the responsible Member to oversee the compulsory attendance of learners at schools;

"school fees" means an amount of money determined in terms of section 51 by the parents of learners of a public school, payable to the school's school fund by parents of learners admitted to that school;

"school for specialised education" means a public school which provides specialised education;

"school fund" means a fund established and administered by the governing body of a public school in accordance with the directions issued by the Head of Education and into which all money received by or on behalf of such school, including school fees and voluntary contributions, must be paid;

"secondary school" means a school which provides education for learners from grade 8 to grade 12;

"specialised education" means education of a specialised nature provided to address the needs of learners who –

(a) cannot benefit sufficiently from the teaching provided in the ordinary course of education;

(b) require specialised education to facilitate their adaptation in the community; or

(c) should not attend an ordinary class in an ordinary school, because such attendance will not be in their best interest or not in the best interest of the other learners in that class;

"primêre skool" 'n skool wat onderwys verskaf aan leerders vanaf graad R of graad 1 tot hoogstens graad 7;

5 **"prinsipaal"** 'n opvoeder wat tydelik of permanent as hoof van 'n skool aangestel is of as sodanig waarneem;

"Provinsie" die Provinsie Vrystaat soos ingestel by artikel 103 van die Grondwet;

"Raad" die Provinsiale Onderwys- en Opleidingsraad kragtens artikel 4 ingestel;

"regulasie" 'n regulasie uitgevaardig kragtens hierdie Wet;

15 **"sekondêre skool"** 'n skool wat onderwys aan leerders verskaf vanaf graad 8 tot graad 12;

"skool" 'n openbare skool of 'n onafhanklike skool wat onderwys voorsien aan leerders in een graad of meer grade vanaf graad R tot graad 12;

20 **"skool vir gespesialiseerde onderwys"** 'n openbare skool wat gespesialiseerde onderwys voorsien;

"skoolbywoningsbeampte" 'n beampte wat deur die verantwoordelike Lid benoem is om toesig te hou oor die verpligte bywoning van leerders by skole;

25 **"skoolfonds"** 'n fonds, gestig en bestuur deur die beheerliggaam van 'n openbare skool in ooreenstemming met die voorskrifte uitgevaardig deur die Onderwyshoof en waarin al die geld deur of namens die skool ontvang, insluitende skoolgeld en vrywillige bydraes, inbetaal moet word;

30 **"skoolgelde"** 'n bedrag geld wat deur die ouers van leerders van 'n openbare skool ingevolge artikel 51 vasgestel is, wat deur die ouers van leerders toegelaat tot daardie skool, betaalbaar is aan die skool se skoolfonds;

35 **"skorsing"** die tydelike verbod op 'n leerder om 'n bepaalde skool of koshuis van daardie skool, na gelang van die geval, by te woon;

40 **"taalbeleid"** die beleid deur die beheerliggaam van 'n skool aanvaar ten opsigte van die taal of tale wat by die skool bestudeer kan word, as onderrigmedium gebruik word, as medium van kommunikasie gebruik word en die ondersteuning wat 'n skool aanbied aan leerders waarvan die taalkeuse nie een is waarin onderrig by die skool plaasvind nie;

"tuisleerder" 'n leerder wat onderwys tuis ontvang;

and includes –

- (i) the psychological, medical, dental, paramedical and therapeutic treatment of, including the performance of operations on those learners; 5
- (ii) the provision of artificial medical aids and apparatus to those learners;
- (iii) the care of those learners in a hospital, hostel or other institution;
- (iv) the provision of transport, escort and such other services the responsible Member may deem necessary for those learners; and 10
- (v) the provision of guidance to the parents of those learners, including the parents of those learners who are not yet subject to compulsory school attendance, with a view to the instruction, teaching, training or treatment of those learners; 15

“suspension” means the temporary prohibition of a learner to attend a particular school or a hostel of that school, as the case may be;

“this Act” includes all regulations and notices. 20

Application of Act

- 2. Subject to the Constitution, this Act shall apply to education in the Province. 25

CHAPTER 2

OBJECTIVES OF THIS ACT

Objectives of Act 30

- 3. The responsible Member shall, taking into account financial constraints, aim to achieve the following objectives with education and training in the Province:
 - (a) To provide for the fundamental right to education as set out in the Constitution. 35
 - (b) To effect a system of educational provision and support which serves the needs and the interests of all the people of the Province.
 - (c) To effect the full and active participation in education of various interest groups, in particular educators, parents, learners, workers, employers and the broader community. 40
 - (d) To co-ordinate education policy through uniform norms and minimum standards which apply generally throughout the Province. 45

"tuisonderrig" onderwys wat in die behoeftes van 'n leerder by die leerder se huis voorsien;

"uitsetting" die permanente verbod op 'n leerder om 'n bepaalde skool of 'n koshuis van daardie skool, na gelang van die geval, by te woon;

"Uitvoerende Raad" die Uitvoerende Raad van die Provinsie Vrystaat bedoel in artikel 132 van die Grondwet;

"verantwoordelike Lid" die Lid van die Uitvoerende Raad van die Provinsie wat verantwoordelik is vir Onderwys;

"verbeteringskool" 'n openbare skool vir die ontvangs, sorg, onderwys en opleiding van leerders wat ingevolge die Strafproseswet, 1977 (Wet No. 51 of 1977) daarheen verwys is, of ingevolge die Wet op Kindersorg, 1983 (Wet No. 74 van 1983), daarheen oorgeplaas is;

"verdere onderwys en opleiding" alle leerprogramme wat lei tot kwalifikasie vanaf graad 10 tot graad 12 of hul ekwivalent ingevolge die Nasionale Kwalifikasieraamwerk bedoel in die Wet op die Suid-Afrikaanse Kwalifiseringsgesag, 1995 (Wet No. 58 van 1995).

Toepassing van Wet

2. Ondergeskik aan die Grondwet, geld hierdie Wet vir onderwys in die Provinsie.

HOOFSTUK 2

DOELSTELLINGS VAN HIERDIE WET

Doelstellings van Wet

3. Met inagneming van finansiële beperkings, moet die verantwoordelike Lid daarna streef om die volgende doelstellings met onderwys en opleiding in die Provinsie te bereik:

- (a) Om te voorsien in die fundamentele reg op onderwys soos uiteengesit in die Grondwet.
- (b) Om 'n stelsel van onderwysvoorsiening en -ondersteuning wat in die behoeftes en belange van al die mense van die Provinsie voorsien, te bewerkstellig.
- (c) Om die volle en aktiewe deelname in onderwys van verskeie belangegroep te bewerkstellig, in die besonder opvoeders, ouers, leerders, werkers, werkgewers en die breër gemeenskap.
- (d) Om onderwysbeleid deur eenvormige norme en minimum standaarde wat in die algemeen deur die Provinsie van toepassing is, te koördineer.

FREE STATE SCHOOL EDUCATION BILL

- (e) To enhance the dignity, stature and status of educators in schools while developing an effective culture of teaching, learning, service and professional commitment.
- (f) To place emphasis on school facilities as basis for community learning. 5
- (g) To reflect demographic realities in the placement and utilization of all support systems.
- (h) To sensitize the community to maintain a balance between academic and vocational skills acquisition necessary for developing practical and income-generating initiatives. 10

CHAPTER 3

EDUCATION COUNCILS AND EXAMINATION BOARD 15

Establishment of Provincial Education and Training Council

- 4. (1) The responsible Member must, by notice in the *Provincial Gazette*, establish a Provincial Education and Training Council. 20
- (2) The Council referred to in subsection (1) shall advise the responsible Member regarding any matter relating to education referred to it by the responsible Member, or any such matter which the Council, of its own accord, wishes to bring to the attention of the responsible Member. 25
- (3) The Council shall have further powers and duties entrusted to it by or under this Act.
- (4) The responsible Member must, by notice in the *Provincial Gazette*, determine – 30
 - (a) the composition of the Council;
 - (b) the procedure for the election or the appointment of members and office-bearers of the Council; 35
 - (c) the procedure for the disqualification or removal of a member of the Council and the dissolution of the Council, for sufficient reason;
 - (d) the procedure for the filling of a vacancy on the Council; 40
 - (e) the term of office of members and office-bearers of the Council;
 - (f) the powers and duties of the Council; 45
 - (g) guidelines for meetings of the Council;

(e) Om die waardigheid, statuur en status van opvoeders in skole te verhoog, terwyl 'n effektiewe kultuur van onderrig, leer, diens en professionele toegewydheid ontwikkel word.

5 (f) Om die klem te plaas op skoolgeriewe as grondslag van gemeenskapsonderwys.

(g) Om demografiese realiteite te weerspieël in die plasing en benutting van alle ondersteuningstelsels.

10 (h) Om die gemeenskap gevoelig te maak om 'n balans te handhaaf tussen die verwerwing van akademiese en beroepsvaardighede wat noodsaaklik is vir die ontwikkeling van praktiese en inkomste genererende inisiatiewe.

HOOFSTUK 3

15

ONDERWYSGRADE EN EKSAMENRAAD

Instelling van Provinsiale Onderwys- en Opleidingsraad

20 4. (1) Die verantwoordelike Lid moet, by kennisgewing in die *Provinsiale Koerant*, 'n Provinsiale Onderwys- en Opleidingsraad instel.

25 (2) Die Raad bedoel in subartikel (1) adviseer die verantwoordelike Lid oor enige saak rakende onderwys wat deur die verantwoordelike Lid na die Raad verwys of enige sodanige saak wat die Raad uit eie beweging onder die aandag van die verantwoordelike Lid wil bring.

30 (3) Die Raad het die verdere bevoegdhede en werksaamhede daaraan toevertrou, by of kragtens hierdie Wet.

(4) Die verantwoordelike Lid bepaal by kennisgewing in die *Provinsiale Koerant* -

(a) die samestelling van die Raad;

35 (b) die prosedure vir die verkiesing of die aanstelling van lede en ampsdraers van die Raad;

(c) die prosedure vir die diskwalifisering of ontslag van 'n lid van die Raad en die ontbinding van die Raad, met voldoende rede in elke geval;

40

(d) die prosedure vir die vulling van 'n vakature op die Raad;

(e) die ampstermyn van lede en ampsdraers van die Raad;

45

(f) die bevoegdhede en werksaamhede van die Raad;

(g) riglyne vir vergaderings van die Raad;

FREE STATE SCHOOL EDUCATION BILL

- (h) guidelines for the composition and functions of committees, including an executive committee, of the Council; and
- (i) any other matter relating to the Provincial Education and Training Council which must or may be prescribed in terms of this Act.

5

Establishment of District or Regional Education and Training Councils

5. (1) The responsible Member may, by notice in the *Provincial Gazette* –

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- (a) divide the Province into districts or regions and determine the boundaries thereof;
- (b) change the boundaries of such districts or regions at any time, should he or she deem it in the best interest of education in the Province;
- (c) establish a District or Regional Education and Training Council for each district or region; or
- (d) suspend or dissolve a District or Regional Educational Training Council established in terms of paragraph (c).

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- (2) The responsible Member may, by notice in the *Provincial Gazette*, determine the composition, powers or duties of the District or Regional Education and Training Council and any other matters related thereto.

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Establishment of a Provincial Examination Board

6. (1) The responsible Member must, by notice in the *Provincial Gazette*, establish a Provincial Examination Board.

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- (2) The responsible Member must, by notice in the *Provincial Gazette*, determine the following –

- (a) the composition of the Provincial Examination Board;

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- (b) the procedure for the election or the appointment of members and office-bearers of the Provincial Examination Board;

- (c) the procedure for the disqualification or removal of a member of the Board and the dissolution of the Provincial Examination Board, for sufficient reason in each case;

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- (d) the procedure for the filling of a vacancy on the Provincial Examination Board;

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- (e) the term of office of members and office-bearers of the Provincial Examination Board;

(h) riglyne vir die samestelling en funksies van komitees, insluitende 'n uitvoerende komitee, van die Raad; en

(i) enige ander aangeleentheid rakende die Provinsiale Onderwys- en Opleidingsraad wat ingevolge hierdie Wet voorgeskryf moet of kan word.

Instelling van Distrik of Streek Onderwys- en Opleidingsrade

5. (1) Die verantwoordelike Lid kan, by kennisgewing in die *Provinsiale Koerant* -

(a) die Provinsie in distrikte of streke te verdeel en die grense daarvan te bepaal;

(b) die grense van daardie distrikte of streke te enige tyd verander indien hy of sy dit in die beste belang van onderwys in die Provinsie nodig ag;

(c) 'n Distrik of Streek Onderwys- en Opleidingsraad vir elke distrik of streek instel; of

(d) 'n Distrik of Streek Onderwys- en Opleidingsraad, ingestel ingevolge paragraaf (c), opskort of ontbind.

(2) Die verantwoordelike Lid kan, by kennisgewing in die *Provinsiale Koerant*, die samestelling, die bevoegdhede en werksaamhede van die Distrik of Streek Onderwys- en Opleidingsrade en enige ander verwante aangeleentheid, bepaal.

Instelling van 'n Provinsiale Eksamenraad

6. (1) Die verantwoordelike Lid moet by kennisgewing in die *Provinsiale Koerant*, 'n Provinsiale Eksamenraad instel.

(2) Die verantwoordelike Lid moet, by kennisgewing in die *Provinsiale Koerant*, die volgende bepaal -

(a) die samestelling van die Provinsiale Eksamenraad;

(b) die prosedure vir die verkiesing of die aanstelling van lede en ampsdraers van die Provinsiale Eksamenraad;

(c) die prosedure vir die diskwalifisering of verwydering van 'n lid van die Provinsiale Eksamenraad en die ontbinding van die Provinsiale Eksamenraad met voldoende rede in elke geval;

(d) die prosedure vir die vulling van 'n vakature op die Provinsiale Eksamenraad;

(e) die ampstermyn van lede en ampsdraers van die Provinsiale Eksamenraad;

FREE STATE SCHOOL EDUCATION BILL

- (f) the powers and duties of the Provincial Examination Board;
- (g) guidelines for meetings of the Provincial Examination Board;
- (h) guidelines for the composition and functions of committees, including an executive committee, of the Provincial Examination Board; and 5
- (i) any other matter relating to the Provincial Examination Board which must or may be prescribed in terms of this Act. 10

CHAPTER 4

PUBLIC SCHOOLS

Status of public schools

- 7. (1) Every public school is a juristic person, with legal capacity to perform its functions in terms of this Act. 15
- (2) Notwithstanding subsection (1), a public school may not, without the concurrence of the responsible Member, dispose of or alienate in any manner, any immovable property acquired with the financial assistance of the State or grant to any person any real right therein or servitude thereon. 20

Provision of public schools

- 8. (1) The responsible Member must, out of funds appropriated for this purpose by the Provincial Legislature, establish and maintain public schools for the education of all learners. 25
- (2) The provision of public schools referred to in subsection (1) may include the provision of hostels. 30
- (3) The responsible Member may, by notice in the *Provincial Gazette*, reclassify or combine existing categories of public schools referred to in section 54, or register new categories of public schools, if he or she deems it necessary for education in the Province. 35
- (4) The responsible Member must, where reasonably possible, provide relevant educational support services to all educators and learners. 40
- (5) The responsible Member must take all reasonable measures to ensure that the physical facilities at public schools are accessible to disabled persons.
- (6) Nothing in this Act prohibits the provision of gender-specific public schools. 45

- (f) die bevoegdhede en werksaamhede van die Provinsiale Eksamenraad;
- (g) riglyne vir vergaderings van die Provinsiale Eksamenraad;
- 5 (h) riglyne vir die samestelling en funksies van komitees, insluitende 'n uitvoerende komitee, van die Provinsiale Eksamenraad; en
- (i) enige ander aangeleentheid rakende die Provinsiale Eksamenraad wat ingevolge hierdie Wet voorgeskryf moet of kan word.

HOOFSTUK 4

OPENBARE SKOLE

15 Status van openbare skole

- 7. (1) Elke openbare skool is 'n regspersoon met die wetlike bevoegdheid om sy funksies ingevolge hierdie Wet, te verrig.
- 20 (2) Nieteenstaande subartikel (1), mag 'n openbare skool nie, sonder die medewerking van die verantwoordelike Lid, enige onroerende eiendom wat verkry is met finansiële bystand van die Staat, op enige wyse mee wegdoen of vervreem nie of aan enige persoon enige saaklike reg daarin of serwituut daaroor verleen nie.

25 Voorsiening van openbare skole

- 8. (1) Die verantwoordelike Lid moet openbare skole vir die onderwys van alle leerders voorsien en in stand hou uit fondse wat vir hierdie doel deur die Provinsiale Wetgewer bewillig is.
- 30 (2) Die voorsiening van openbare skole beoog in subartikel (1) kan die voorsiening van koshuise insluit.
- 35 (3) Die verantwoordelike Lid kan, by kennisgewing in die *Provinsiale Koerant*, bestaande kategorieë van skole bedoel in artikel 54, herklassifiseer of kombineer, of nuwe kategorieë openbare skole registreer indien hy of sy dit nodig ag vir onderwys in die Provinsie.
- 40 (4) Die verantwoordelike Lid moet, waar redelikerwys moontlik, toepaslike opvoedkundige ondersteuningsdienste vir alle opvoeders en leerders voorsien.
- (5) Die verantwoordelike lid moet alle redelike maatreëls tref om te verseker dat fisiese geriewe by openbare skole toeganklik is vir gestremde persone.
- 45 (6) Geen bepaling in hierdie Wet belet die voorsiening van geslag-spesifieke openbare skole nie.

Public schools on State property

9. (1) A public school which occupies immovable property owned by the State has the right, for the duration of the school's existence, to occupy and use the immovable property for the benefit of the school for educational purposes at or in connection with the school. 5
- (2) Notwithstanding the right referred to in subsection (1), the Head of Education has the right to use the facilities of a public school under reasonable and fair conditions for educational programmes not conducted by the school. 10
- (3) The right referred to in subsection (1) is enforceable against any successor in title of the owner of the immovable property in question.
- (4) The right referred to in subsection (1) may only be restricted by the responsible Member – 15
- (a) if the immovable property is not utilised by the school in the interest of education; or 20
- (b) if he or she is of the opinion that the further existence of such school will not be in the best interest of education.
- (5) The responsible Member may not act under subsection (4) unless he or she has – 25
- (a) informed the governing body of the school concerned of his or her intention so to act and the reasons therefor;
- (b) granted the governing body of the school a reasonable opportunity to make representations to him or her in relation to such action; and 30
- (c) duly considered any such representations received.
- (6) The provisions of the Deeds Registries Act, 1937 (Act No. 47 of 1937), do not apply to the right referred to in subsection (1). 35

Public schools on private property

10. (1) Subject to the Constitution and this Act, a public school may be provided and maintained on private property only in terms of an agreement between the responsible Member and the owner of the private property. 40
- (2) The responsible Member must, by notice in the *Provincial Gazette*, provide for the agreement referred to in subsection (1) for the establishment and maintenance of public schools on private property. 45

Openbare skole op Staatseiendom

9. (1) 'n Openbare skool wat vaste eiendom okkupeer wat deur die Staat besit word, het die reg om, vir die duur van die skool se bestaan, die vaste eiendom te beset en te gebruik tot voordeel van die skool vir opvoedkundige doeleindes by of in verband met die skool.
- (2) Nieteenstaande die reg bedoel in subartikel (1), het die Onderwyshoof die reg om die geriewe van 'n openbare skool onder redelike en regverdige omstandighede vir opvoedkundige programme wat nie deur die skool aangebied word nie, te gebruik.
- (3) Die reg bedoel in subartikel (1) is afdwingbaar teen enige regsopvolger van die eienaar van die betrokke vaste eiendom.
- (4) Die reg bedoel in subartikel (1) kan slegs deur die verantwoordelike Lid beperk word -
 - (a) indien die vaste eiendom nie deur die skool in die belang van onderwys benut word nie; of
 - (b) indien hy of sy van mening is dat die verdere bestaan van daardie skool nie in die beste belang van onderwys sal wees nie.
- (5) Die verantwoordelike Lid kan nie kragtens subartikel (4) optree nie tensy hy of sy -
 - (a) die beheerliggaam van die skool in kennis gestel het van sy of haar voorneme om op dié wyse op te tree en die redes daarvoor;
 - (b) die beheerliggaam van die skool 'n redelike geleentheid gebied het om vertoë tot hom of haar te rig in verband met daardie optrede; en
 - (c) enige sodanige vertoë wat ontvang is, behoorlik oorweeg het.
- (6) Die bepalinge van die Wet op die Registrasie van Aktes, 1937 (Wet No. 47 van 1937), is nie van toepassing op die reg bedoel in subartikel (1) nie.

Openbare skole op private eiendom

10. (1) Behoudens die Grondwet en hierdie Wet kan 'n openbare skool op private eiendom voorsien en in stand gehou word slegs ingevolge 'n ooreenkoms tussen die verantwoordelike Lid en die eienaar van die private eiendom.
- (2) Die verantwoordelike Lid moet, by kennisgewing in die *Provinsiale Koerant*, voorsiening maak vir die ooreenkoms bedoel in subartikel (1) vir die stigting en in standhouding van openbare skole op private eiendom.

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- (3) The provisions of the Deeds Registries Act, 1937 (Act No. 47 of 1937), do not apply to a real right, excluding ownership, acquired by the State, a public school or another party in terms of an agreement contemplated in this section.
- (4) The right referred to in subsection (3) is enforceable against any successor in title to the owner of the immovable property in question. 5
- (5) Despite subsection (3), a Registrar of a deeds registry must endorse on the title deed of the affected property that the property is subject to an agreement referred to in this section, if the Registrar of deeds receives – 10
- (a) an application for such endorsement by the owner of the property, or the responsible Member or any other holder of a right contemplated in subsection (3), together with the title deed of the property; and 15
- (b) affidavits by the owner of the property and the responsible Member stating that an agreement contemplated in this section has been concluded.

Merger of public schools

11. (1) If the responsible Member considers it necessary, he or she must, after reasonable consultation with the governing bodies of the public schools concerned and the communities concerned, by notice in the *Provincial Gazette*, declare that the schools in question shall be merged from a date mentioned in the notice. 20
- (2) The merger referred to in subsection (1) includes the merging of different general education phases, as well as the further education and training phase presented in public schools. 25
- (3) The responsible Member must, by notice in the *Provincial Gazette*, determine procedures for reasonable consultation and the criteria for the merger referred to in subsection (1). 30

Termination of classes and temporary closure of public schools

12. (1) The responsible Member may terminate the tuition of certain classes of a public school or close a public school, temporarily. 35
- (2) The responsible Member may only act under subsection (1) if he or she is of the opinion that – 40
- (a) the safety of the learners or members of staff of such class or school is in jeopardy;
- (b) vandalism of property may occur; or 45

(3) Die bepalings van die Wet op die Registrasie van Aktes, 1937 (Wet No. 47 van 1937), is nie van toepassing op 'n saaklike reg, met uitsluiting van eiendomsreg, wat deur die Staat, 'n openbare skool of 'n ander party verkry word ingevolge 'n ooreenkoms in hierdie artikel beoog nie.

(4) Die reg beoog in subartikel (3) is afdwingbaar teen enige regsopvolger van die eienaar van die betrokke eiendom.

(5) Ondanks subartikel (3) moet 'n Registrateur van aktes op die eiendomsakte van die geaffekteerde eiendom 'n endossement aanbring dat die eiendom onderworpe is aan 'n ooreenkoms in hierdie artikel bedoel, indien die registrateur in ontvangs is van -

(a) 'n aansoek van daardie endossement deur die eienaar van die eiendom, of die verantwoordelike Lid of enige ander houer van 'n reg bedoel in subartikel (3), tesame met die eiendomsakte van die eiendom; en

(b) beëdigde verklarings van die eienaar van die eiendom en die verantwoordelike Lid wat verklaar dat 'n ooreenkoms beoog in hierdie artikel gesluit is.

Samesmelting van openbare skole

11. (1) Indien die verantwoordelike Lid dit nodig ag, moet hy of sy, na redelike raadpleging met die beheerliggame van die betrokke openbare skole en die betrokke gemeenskappe, by kennisgewing in die *Provinsiale Koerant*, verklaar dat die betrokke skole sal saamsmelt vanaf 'n datum genoem in daardie kennisgewing.

(2) Die samesmelting bedoel in subartikel (1), sluit die samesmelting van verskillende algemene onderwysfases sowel as die openbare verdere onderwys en opleidingsfase in openbare skole aangebied, in.

(3) Die verantwoordelike Lid, moet by kennisgewing in die *Provinsiale Koerant*, prosedure vir redelike onderhandeling en die maatstawwe vir die samesmelting bedoel in subartikel (1), bepaal.

Opskorting van klasse en tydelike sluiting van openbare skole

12. (1) Die verantwoordelike Lid kan tydelik, die onderrig van sekere klasse van 'n openbare skool opskort of 'n openbare skool sluit.

(2) Die verantwoordelike lid kan slegs kragtens subartikel (1) handel indien hy of sy van mening is dat -

(a) die veiligheid van die leerders of die personeel van daardie klas of skool in gevaar is;

(b) vandalisme van eiendom kan voorkom; of

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- (c) the situation in a class, classes or such school is no longer conducive to teaching.

- (3) The responsible Member may only act under subsection (1) after consultation with the governing body of the school concerned. 5

- (4) The responsible Member must, by notice in the *Provincial Gazette*, provide for the procedures to be followed for the termination of classes and the closure of a public school under subsection (1). 10

Closure of public schools

13. (1) If the responsible Member considers it necessary, he or she must, after reasonable consultation with the governing body of the public school, by notice in the *Provincial Gazette*, declare that the school concerned shall be closed from a date mentioned in the notice. 15

- (2) The responsible Member must, by notice in the *Provincial Gazette*, provide for procedures to be followed for the closure of a public school under subsection (1). 20

- (3) If a public school is closed in terms of subsection (1), all assets and liabilities of such school must, subject to the conditions of any donation, bequest or trust, devolve on the State, unless otherwise agreed between the responsible Member and the governing body of the school. 25

Registration of home-based learners at public schools

14. (1) The governing body of a public school may not refuse an application for the registration of a home-based learner if the school has the capacity to provide the services requested at a negotiated and reasonable fee. 30

- (2) The public school concerned shall not benefit from the registration of home-based learners in terms of educator-learner ratio for the purpose of educator provisioning. 35

Medium of instruction at public schools

15. The Head of Education shall approve the medium of instruction of a public school or a centre of learning.

Language and admission policy of public schools 40

16. (1) Subject to section 15 the language policy of a public school may be determined by the governing body of the school within the norms and standards determined by section 6(1) of the National Act.

(c) die toestand in 'n klas, klasse of daardie skool nie meer bevorderlik vir onderrig is nie.

(3) Die verantwoordelike Lid kan slegs kragtens subartikel (1) optree na onderhandelig met die beheerliggaam van die betrokke skool.

(4) Die verantwoordelike Lid moet, by kennisgewing in die *Provinsiale Koerant*, voorsiening maak vir die prosedure wat gevolg moet word vir die opskorting van klasse en die sluiting van 'n openbare skool kragtens subartikel (1).

Sluiting van openbare skole

13. (1) Indien die verantwoordelike Lid dit nodig ag, moet hy of sy, na redelike raadpleging met die beheerliggaam van die openbare skool, by kennisgewing in die *Provinsiale Koerant*, verklaar dat die betrokke skool gesluit sal word vanaf 'n datum genoem in daardie kennisgewing.

(2) Die verantwoordelike Lid moet, by kennisgewing in die *Provinsiale Koerant*, voorsiening maak vir die prosedure wat gevolg moet word vir die sluiting van 'n openbare skool kragtens subartikel (1).

(3) Indien 'n openbare skool ingevolge subartikel (1) gesluit word, moet alle bates en laste van daardie skool, behoudens die voorwaardes van enige skenking, bemaking of trust, die Staat toeval tensy anders ooreengekom tussen die verantwoordelike Lid en die beheerliggaam van die skool.

Registrasie van tuisleerders by 'n openbare skool

14. (1) Die beheerliggaam van 'n openbare skool mag nie 'n aansoek van 'n aansoeker om registrasie van 'n tuisleerder weier nie indien die skool oor die kapasiteit beskik om die dienste soos versoek, teen onderhandelde en redelike vergoeding te lewer.

(2) Die betrokke openbare skool trek nie voordeel uit die registrasie van tuisleerders ingevolge van opvoeder-leerder verhouding vir die doel van opvoeder voorsiening nie.

Medium van onderrig by openbare skole

15. Die Onderwyshoof keur die medium van onderrig by 'n openbare skool of 'n leersentrum goed.

Taal- en toelatingsbeleid van openbare skole

16. (1) Behoudens artikel 15 kan die taalbeleid van 'n openbare skool, binne die norme en standarde bepaal in artikel 6(1) van die Nasionale Wet, deur die beheerliggaam van die skool bepaal word.

FREE STATE SCHOOL EDUCATION BILL

- (2) A recognised sign language has the status of an official language for purposes of learning at a public school.
- (3) Subject to this Act and the National Act, the admission policy of a public school shall be determined by the governing body of that school. 5
- (4) The responsible Member may, by notice in the *Provincial Gazette*, determine the following – 10
 - (a) the guidelines for admission policy;
 - (b) the procedure to be followed when a learner is denied admission to a public school.
- (5) No form of unfair discrimination may be practised in implementing policy determined under this section. 15

Freedom of conscience and of religion

- 17. (1) Freedom of conscience and of religion shall be respected in all public schools. 20
- (2) Subject to the Constitution and any applicable provincial law, religious observances may be conducted at a public school under rules issued by the governing body if such observances are conducted on an equitable basis and attendance thereof is free and voluntary. 25

CHAPTER 5**INDEPENDENT SCHOOLS****Establishment of an independent school**

- 18. Any person may, at his or her own cost, establish and maintain an independent school that – 30
 - (a) does not discriminate on the basis of race; 35
 - (b) maintains standards that are not inferior to the standards at comparable public schools; and 40
 - (c) is registered by the Head of Education.

Registration as an independent school

- 19. (1) No person may establish, operate or maintain an independent school, unless it is registered by the Head of Education. 45

(2) 'n Erkende gebaretaal het die status van 'n amptelike taal vir die doeleindes van onderrig in 'n openbare skool.

(3) Behoudens hierdie Wet en die Nasionale Wet, word die toelatingsbeleid van 'n openbare skool deur die beheerliggaam van daardie skool bepaal.

(4) Die verantwoordelike Lid kan, by kennisgewing in die *Provinsiale Koerant*, die volgende bepaal -

(a) die riglyne vir toelatingsbeleid;

(b) die prosedure wat gevolg moet word indien 'n leerder toelating tot 'n openbare skool geweier word.

(5) Geen vorm van onbillike diskriminasie mag in die uitvoering van beleid wat kragtens hierdie artikel bepaal is, plaasvind nie.

Vryheid van gewete en godsdiens in openbare skole

17. (1) Vryheid van gewete en van godsdiens word in alle openbare skole eerbiedig.

(2) Behoudens die Grondwet en enige toepaslike provinsiale wet kan godsdiensbeoefening by 'n openbare skool gehou word ingevolge reëls wat deur die beheerliggaam uitgevaardig is, indien daardie beoefening op 'n billike wyse geskied en die bywoning daarvan vry en vrywillig is.

HOOFSTUK 5

ONAFHANKLIKE SKOLE

Stigting van 'n onafhanklike skool

18. (1) Enige persoon kan, op eie koste, 'n onafhanklike skool stig en onderhou wat -

(a) nie op grond van ras diskrimineer nie;

(b) standarde handhaaf wat nie minderwaardig aan die standarde in vergelykbare openbare skole is nie; en

(c) deur die Onderwyshoof geregistreer is.

Registrasie van 'n onafhanklike skool

19. (1) Geen persoon mag 'n onafhanklike skool stig, bedryf of onderhou, tensy dit deur die Onderwyshoof geregistreer is nie.

- (2) The responsible Member must, by notice in the *Provincial Gazette*, determine the conditions on which the registration of an independent school may be granted or refused by the Head of Education.
- (3) An applicant for the registration of an independent school shall furnish such additional particulars in connection with his or her application as the Head of Education may require. 5
- (4) If in relation to an application in terms of subsection (1), the Head of Education is satisfied that – 10
- (a) the application is *bona fide*,
 - (b) the standards to be maintained by the school will not be inferior to the standards in comparable public schools; 15
 - (c) the admission policy of the school does not discriminate on the grounds of race; and
 - (d) the school complies with the conditions for registration referred to in subsection (2), 20
- he or she shall register the independent school.
- (5) If the Head of Education refuses to grant permission for registration, he or she must notify the applicant in writing of the refusal and the reasons therefore. 25
- (6) Any person who contravenes subsection (1) is guilty of an offence and upon conviction liable to a fine or imprisonment for a period of three months. 30

Withdrawal of registration and closure of an independent school

20. (1) If a condition subject to which registration of an independent school was granted has not been complied with, the Head of Education may withdraw that registration and close the school from a date determined by him or her. 35
- (2) No withdrawal of the registration of an independent school is valid unless –
- (a) the owner of such independent school has been furnished by the Head of Education with a notice of intention to withdraw the registration, stating the reasons why the withdrawal is contemplated; 40
 - (b) the owner of such independent school has been granted an opportunity to make written representations to the Head of Education as to why the registration should not be withdrawn; and 45
 - (c) any representations received have been duly considered.

(2) Die verantwoordelike Lid moet, by kennisgewing in die *Provinsiale Koerant*, die voorwaardes bepaal waarvolgens die registrasie van 'n onafhanklike skool deur die Onderwyshoof toegestaan of geweier kan word.

(3) 'n Aansoeker vir die registrasie van 'n onafhanklike skool verskaf sodanige addisionele besonderhede in verband met sy of haar aansoek, soos deur die Onderwyshoof verlang.

(4) Indien, met betrekking tot 'n aansoek bedoel in subartikel (1), die Onderwyshoof tevrede is dat -

(a) die aansoek *bona fide* is;

(b) die standaard wat deur die skool gehandhaaf sal word nie minderwaardig vergeleke met die standaard by vergelykbare openbare skole sal wees nie;

(c) die toelatingsbeleid van die skool nie op grond van ras diskrimineer nie; en

(d) en die skool aan die voorwaardes vir registrasie soos bedoel in subartikel (2), voldoen,

registreer hy of sy die onafhanklike skool.

(5) Indien die Onderwyshoof weier om toestemming vir registrasie te verleen, moet hy of sy die aansoeker skriftelik verwittig van daardie weiering en die redes daarvoor.

(6) Enige persoon wat subartikel (1) oortree, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van drie maande.

Intrekking van registrasie en sluiting van 'n onafhanklike skool

(1) Indien 'n voorwaarde onderhewig waaraan die registrasie van 'n onafhanklike skool verleen is, nie aan voldoen is nie, kan die Onderwyshoof daardie registrasie intrek en die skool sluit vanaf 'n datum deur hom of haar bepaal.

(2) Geen intrekking van die registrasie van 'n onafhanklike skool is geldig nie tensy -

(a) die eienaar van daardie onafhanklike skool deur die Onderwyshoof van kennisgewing van voorneme om die registrasie in te trek, voorsien is met uiteensetting van redes waarom daardie intrekking beoog word;

(b) die eienaar van daardie onafhanklike skool die geleentheid gebied is om skriftelike verhoër tot die Onderwyshoof te rig met opgawe van redes waarom die registrasie van die onafhanklike skool nie ingetrek behoort te word nie; en

(c) enige verhoër wat ontvang is, behoorlik oorweeg is.

- (3) The responsible Member must, by notice in the *Provincial Gazette*, determine the procedures for the withdrawal of registration and closure of an independent school.
- (4) The owner of an independent school may appeal to the responsible Member against the withdrawal of the registration and closure of the independent school. 5

Management of independent schools

- 21. The owner of an independent school may manage the school himself or herself, or he or she may appoint or authorise any person to manage the school on his or her behalf, subject to the provisions of this Act. Provided that the owner of the school shall, for the purposes of this Act, remain responsible for compliance with the prescribed requirements and any condition subject to which approval was granted for registration of the school. 10

Subsidies to registered independent schools

- 22. (1) The owner of an independent school may apply annually in a prescribed manner for a subsidy to the responsible Member. 15
- (2) The responsible Member may, subject to the norms and standards determined in section 48(1) of the National Act, by notice in the *Provincial Gazette*, determine provincial guidelines relating to subsidies for independent schools. 20
- (3) In relation to an application referred to in subsection (1), the responsible Member may, subject to norms and standards referred to in section 48(1) of the National Act and the Provincial guidelines referred to in subsection (2), out of funds appropriated by the Provincial Legislature for that purpose, grant a subsidy to an independent school. 25
- (4) No subsidy shall be granted to an independent school which does not comply with the prescribed norms, standards and guidelines for receiving a subsidy. 30
- (5) If a condition subject to which a subsidy was granted has not been complied with, the Head of Education may terminate or reduce the subsidy from a date determined by him or her. 35
- (6) The Head of Education may not terminate or reduce a subsidy under subsection (5) unless – 40
 - (a) the owner of the independent school has been furnished by the Head of Education with a notice of intention to terminate or reduce the subsidy and the reasons therefore;

- (3) Die verantwoordelike Lid moet, by kennisgewing in die *Provinsiale Koerant*, die prosedure vir die intrekking en sluiting van 'n onafhanklike skool bepaal.
- (4) Die eienaar van 'n onafhanklike skool kan by die verantwoordelike Lid appèl aanteken teen die intrekking van registrasie en die sluiting van die onafhanklike skool.

Bestuur van onafhanklike skole

21. Die eienaar van 'n onafhanklike skool kan self die skool bestuur of hy of sy kan enige persoon aanwys of magtig om die skool namens hom of haar te bestuur, onderworpe aan die bepalings van hierdie Wet. Met dien verstande dat die eienaar van die skool, vir die doeleindes van hierdie Wet, verantwoordelik bly om te voldoen aan die voorgeskrewe vereistes of enige voorwaarde onderworpe waaraan toestemming vir registrasie van die skool verleen is.

Subsidies aan geregistreerde onafhanklike skole

22. (1) Die eienaar van 'n onafhanklike skool kan jaarliks, op 'n voorgeskrewe wyse, by die verantwoordelike Lid aansoek doen vir 'n subsidie.
- (2) Die verantwoordelike Lid kan, onderhewig aan die norme en standaarde bepaal in artikel 48(1) van die Nasionale Wet, by kennisgewing in die *Provinsiale Koerant*, provinsiale riglyne met betrekking tot subsidies vir onafhanklike skole, bepaal.
- (3) Met betrekking tot 'n aansoek bedoel in subartikel (1), kan die verantwoordelike Lid, onderworpe aan norme en standaarde bedoel in artikel 48(1) van die Nasionale Wet en die Provinsiale riglyne bedoel in subartikel (2), uit fondse vir daardie doel beskikbaar gestel deur die Provinsiale Wetgewer, 'n subsidie aan 'n onafhanklike skool toestaan.
- (4) Geen subsidie sal toegestaan word aan 'n onafhanklike skool wat nie voldoen aan die voorgeskrewe norme, standaarde en riglyne vir die ontvangs van 'n subsidie nie.
- (5) Indien 'n voorwaarde onderworpe waaraan 'n subsidie verleen is, nie nagekom is nie, kan die Onderwyshoof met ingang van 'n datum deur hom of haar bepaal, die subsidie staak of verminder.
- (6) Die Onderwyshoof kan nie 'n subsidie kragtens subartikel (5) staak of verminder nie, tensy -
- (a) die eienaar van die onafhanklike skool deur die Onderwyshoof van 'n kennisgewing van die voorneme om die subsidie te staak of te verminder en die redes daarvoor voorsien is;

FREE STATE SCHOOL EDUCATION BILL

	(b)	the owner has been granted an opportunity to make written representations to the Head of Education as to why the subsidy should not be terminated or reduced; and	
	(c)	representations received have been duly considered.	5
(7)		The owner of an independent school may appeal to the responsible Member against the termination or reduction of a subsidy to the independent school.	
Guarantee Fund			10
23.	(1)	The responsible Member may, by notice in the <i>Provincial Gazette</i> , establish a fund to be known as the Independent Schools Guarantee Fund.	
	(2)	The administration of the fund referred to in subsection (1) shall vest in the Head of Education and shall, subject to his or her general or specific direction, be applied to defray any expenses that may be incurred by the Department in ensuring that acceptable standards of education are maintained in all independent schools.	15
Annual Registration Fee and Guarantee Fee			20
24.	(1)	The responsible Member may, by notice in the <i>Provincial Gazette</i> , determine that the owner of an independent school –	
	(a)	shall annually, not later than a prescribed date, pay to the Head of Education a prescribed annual registration fee; or	25
	(b)	shall, in addition to the registration fee referred to in paragraph (a), annually pay to the Head of Education for the benefit of the Independent Schools Guarantee Fund referred to in section 23, a prescribed annual guarantee fee.	30
	(2)	The moneys of the fees referred to in subsection (1) shall be paid into the Independent Schools Guarantee Fund.	
Regulations relating to independent schools			35
25.	(1)	The responsible Member must, by notice in the <i>Provincial Gazette</i> , determine requirements for –	
	(a)	admission of learners of an independent school to examinations conducted by or under the supervision of the Department;	40
	(b)	the keeping of registers or other documents by an independent school;	
	(c)	the manner in which any subsidy, if the application therefore has been granted, shall be payable to a registered independent school;	45

(b) die eienaar die geleentheid gebied is om vertoë met opgawe van redes waarom die subsidie nie gestaak of verminder moet word nie aan die Onderwyshoof te rig; en

(c) vertoë ontvang, behoorlik oorweeg is nie.

(7) Die eienaar van 'n onafhanklike skool kan by die verantwoordelike Lid appèl aanteken teen die staking of vermindering van 'n subsidie aan die onafhanklike skool.

Waarborgfonds

23. (1) Die verantwoordelike Lid kan, by kennisgewing in die *Provinsiale Koerant*, 'n fonds bekend as die Onafhanklike Skole Waarborgfonds, instel.

(2) Die administrasie van die fonds bedoel in subartikel (1), vestig in die Onderwyshoof en sal, onderworpe aan sy of haar algemene of spesifieke lasgewing, aangewend word om enige uitgawes te bestry wat deur die Departement aangegaan kon wees ten einde te verseker dat aanvaarbare standaarde van onderwys in alle onafhanklike skole gehandhaaf word.

Jaarlikse registrasiegeld en waarborggeld

24. (1) Die verantwoordelike Lid kan, by kennisgewing in die *Provinsiale Koerant*, bepaal dat die eienaar van 'n onafhanklike skool -

(a) jaarliks, nie later as 'n voorgeskrewe datum nie, 'n voorgeskrewe jaarlikse registrasiegeld aan die Onderwyshoof betaal; of

(b) bykomend tot die registrasiegeld bedoel in paragraaf (a), jaarliks die voorgeskrewe jaarlikse waarborggeld ten bate van die Onafhanklike Skole Waarborgfonds bedoel in artikel 23, aan die Onderwyshoof betaal.

(2) Die gelde bedoel in subartikel (1) sal in die Onafhanklike Skole Waarborgfonds inbetaal word.

Regulasies betreffende onafhanklike skole

25. (1) Die verantwoordelike Lid moet, by kennisgewing in die *Provinsiale Koerant*, vereistes stel vir -

(a) toelating van leerders van 'n onafhanklike skool tot eksamens beheer deur of onder die toesig van die Departement;

(b) die byhou van registers of ander dokumente deur 'n onafhanklike skool;

(c) die wyse waarop enige subsidie, indien die aansoek daarvoor toegestaan is, betaalbaar is aan 'n geregistreerde onafhanklike skool;

FREE STATE SCHOOL EDUCATION BILL

- (d) the lapse or withdrawal of the registration of an independent school; and
 - (e) any other matter relating to independent schools which must or may be prescribed by him or her.
- (2) Different regulations may be made under subsection (1) in respect of different independent schools.

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CHAPTER 6

HOME-BASED EDUCATION

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Registration of a learner for home-based education

26. (1) A parent may apply to the Head of Education for the registration of a learner to receive education at the learner's home.
- (2) The Head of Education must register a learner referred to in subsection (1) if he or she is satisfied that –
- (a) the registration is in the best interest of the learner;
 - (b) the education likely to be received by the learner at home –
 - (i) will meet the minimum requirements of the curriculum at public schools;
 - (ii) will be of a standard not inferior to the standard of education provided at public schools;
 - (c) the parent will comply with any other reasonable conditions set by the Head of Education; and
 - (d) the prescribed requirements for registration have been complied with.
- (3) On application, the parent must provide the Head of Education with an assessment procedure which confirms that the home-based education meet the minimum requirements of the curriculum and would not be of a standard inferior to the standard of education provided at public schools.
- (4) The responsible Member must, by notice in the *Provincial Gazette*, determine the following –
- (a) minimum requirements for the registration of a learner for home-based education;
 - (b) procedures for the registration;

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- (d) die verstryking of terugtrekking van die registrasie van 'n onafhanklike skool; en
- (e) enige ander aangeleentheid met betrekking tot onafhanklike skole wat deur hom of haar voorgeskryf moet of kan word.

- (2) Verskillende regulasies kan kragtens subartikel (1) ten opsigte van verskillende onafhanklike skole uitgevaardig word.

HOOFSTUK 6

TUISONDERRIG

Registrasie van 'n leerder vir tuisonderrig

- 26. (1) 'n Ouer kan by die Onderwyshoof aansoek doen om die registrasie van 'n leerder om by die leerder se huis onderwys te ontvang.
- (2) Die Onderwyshoof moet 'n leerder soos beoog in subartikel (1) registreer indien hy of sy oortuig is dat -
 - (a) die registrasie in die belang van die leerder is;
 - (b) die onderwys wat die leerder waarskynlik tuis sal ontvang -
 - (i) aan die minimum vereistes van die kurrikulum van openbare skole sal voldoen;
 - (ii) van 'n standaard sal wees wat nie minderwaardig is aan die standaard van onderwys wat in openbare skole aangebied word nie;
 - (c) die ouer aan enige ander redelike voorwaardes wat deur die Onderwyshoof gestel word, sal voldoen; en
 - (d) aan die voorgeskrewe vereistes vir registrasie voldoen is.
- (3) Die ouer moet met aansoek, die Onderwyshoof voorsien van 'n evalueringsprosedure wat bevestig dat die tuisonderrig aan die minimum vereistes van die kurrikulum voldoen en nie minderwaardig aan die standarde van onderwys aangebied by openbare skole sal wees nie.
- (4) Die verantwoordelike Lid moet, by kennisgewing in die *Provinsiale Koerant* die volgende bepaal -
 - (a) minimum vereistes vir die registrasie van 'n leerder vir tuisonderrig;
 - (b) prosedure vir registrasie;

- (c) due process for the withdrawal or refusal of the registration;
 - (d) relevant documents for the application, registration and withdrawal of the registration of a home learner; 5
 - (e) criteria for the assessment procedure for home learners; and
 - (f) any other matter relating to home-based education.
- (5) The Head of Education must, within 30 calendar days of receipt of an application for the registration of a learner as a home learner referred to in subsection (1), inform the applicant of the outcome of his or her decision. 10
- (6) If an application referred to in subsection (1) is successful, the learner may, if the parent of such learner so chooses, register at a public school. 15
- (7) The Head of Education may, subject to subsection (8), withdraw the registration referred to in subsection (1). 20
- (8) The Head of Education may not withdraw a registration referred to in subsection (1) unless he or she –
- (a) has informed the parent of his or her intention so to act and the reasons therefore; 25
 - (b) has granted the parent an opportunity to make representations to him or her in relation to the action; and
 - (c) has duly considered any representations received. 30
- (9) A parent may appeal to the responsible Member against the withdrawal or the refusal to register a learner in terms of this section. 35

CHAPTER 7

LEARNERS

Compulsory school attendance

27. (1) School attendance during school hours, shall be compulsory for a learner from the first school day of the year in which he or she reaches the age of seven years until the last school day of the year in which he or she reaches the age of fifteen years or the day on which he or she completes grade 9, whichever occurs first. 40

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- (c) behoorlike regsproses vir die intrekking of weiering vir registrasie;
- (d) toepaslike dokumente vir aansoek, registrasie en intrekking van die registrasie van 'n tuisleerder;
- (e) maatstawwe vir die evalueringsprosedure vir tuisleerders; en
- (f) enige ander aangeleentheid in verband met tuisonderrig.
- 10
- (5) Die Onderwyshoof moet binne 30 kalenderdae van ontvangs van 'n aansoek vir die registrasie van 'n leerder as tuisleerder bedoel in subartikel (1), die aansoeker in kennis stel van die uitslag van sy of haar beslissing.
- 15
- (6) Indien 'n aansoek bedoel in subartikel (1), suksesvol is, kan die leerder, indien die ouer van daardie leerder so verkies, by 'n openbare skool registreer.
- (7) Die Onderwyshoof kan, behoudens subartikel (8), die registrasie bedoel in subartikel (1) intrek.
- 20
- (8) Die Onderwyshoof kan nie 'n registrasie bedoel in subartikel (1) intrek nie, tensy hy of sy -
- (a) die ouer van sy of haar voorneme om op hierdie wyse op te tree en die redes daarvoor verwittig het;
- 25
- (b) aan die ouer die geleentheid gebied het om vertoë tot hom of haar te rig in verband met daardie optrede; en
- (c) enige vertoë wat ontvang is, behoorlik oorweeg het.
- 30
- (9) 'n Ouer kan by die verantwoordelike Lid appèl aanteken teen die intrekking van 'n registrasie of die weiering om 'n leerder ingevolge hierdie artikel te registreer.

HOOFSTUK 7

LEERDERS

Verpligte skoolbywoning

- 40
27. (1) Skoolbywoning gedurende skoolure is verpligtend vir 'n leerder vanaf die eerste skooldag van die jaar waarin hy of sy die ouderdom van sewe jaar bereik tot die laaste skooldag van die jaar waarin hy of sy die ouderdom van vyftien jaar bereik of die dag waarop hy of sy graad 9 voltooi, wat ookal die eerste gebeur.

FREE STATE SCHOOL EDUCATION BILL

- (2) Notwithstanding the provisions of subsection (1), the responsible Member may, if the Department lacks the material or administrative resources to provide for compulsory school attendance in accordance with subsection (1), by notice in the *Provincial Gazette* provide that in the calendar year in which the notice is issued or in the following calendar year, compulsory school attendance shall not apply to learners who fall within age-groups which are specified in the notice. 5
- (3) Notwithstanding the provisions of this section, the responsible Member may allow a learner to attend a school, even if he or she does not satisfy the age requirements prescribed in respect of the school concerned. 10

School attendance officers

28. In order to ensure compulsory school attendance, the responsible Member may designate officers on the establishment of the Department to act as school attendance officers and he or she may determine their powers and duties. 15

Duties of principals relating to compulsory school attendance

29. (1) Where a learner is repeatedly absent from school without reasonable cause, the principal or an educator designated by him or her shall consult jointly with the learner and his or her parent in order to reach an agreement on the appropriate measures to remedy the problem. 20
- (2) Where it is impossible to reach an agreement referred to in subsection (1), or where after reaching such an agreement, there is no material improvement in the school attendance of the learner, the principal shall report the matter to the Head of Education. 25

Offences relating to compulsory school attendance 30

30. (1) If a parent of a learner who is subject to compulsory school attendance in terms of section 27 fails, without reasonable cause and after a written warning by the Head of Education, to cause such learner to attend an appropriate school regularly, he or she shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months. 35
- (2) A person who, during school hours, employs a learner who is subject to compulsory school attendance in terms of section 27, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months. 40
- (3) A person who hinders or obstructs a school attendance officer in the performance of his or her functions, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months.

(2) Ongeag die bepalings van subartikel (1), kan die verantwoordelike Lid, indien die Departement 'n gebrek het aan materiaal of administratiewe hulpbronne om te voorsien in die verpligte skoolbywoning kragtens subartikel (1), by kennisgewing in die *Provinsiale Koerant*, bepaal dat die kalenderjaar waarin die kennisgewing uitgereik word of in die volgende kalenderjaar, verpligte skoolbywoning nie van toepassing is op leerders in die ouderdomsgroepe wat in die kennisgewing gespesifiseer word nie.

(3) Ongeag die bepalings van hierdie artikel, kan die verantwoordelike Lid 'n leerder toelaat om 'n skool by te woon, selfs al voldoen hy of sy nie aan die ouderdomvereistes voorgeskryf ten opsigte van die betrokke skool nie.

Skoolbywoningsbeampte

28. Ten einde verpligte skoolbywoning te verseker, kan die verantwoordelike Lid beamptes op die diensstaat van die Departement aanwys om as skoolbywoningsbeamptes op te tree en hy of sy kan hulle bevoegdhede en werksaamhede bepaal.

Pligte van prinsipale met betrekking tot verpligte skoolbywoning

29. (1) Waar 'n leerder herhaalde male sonder redelike oorsaak afwesig is van die skool, pleeg die prinsipaal of 'n opvoeder deur hom of haar aangewys gesamentlik oorleg met die leerder en sy of haar ouer ten einde 'n ooreenkoms te bereik oor geskikte maatreëls om die probleem op te los.

(2) Waar dit onmoontlik is om 'n ooreenkoms bedoel in subartikel (1) te bereik, of waar daar nadat daardie ooreenkoms bereik is, geen werklike verbetering in die skoolbywoning van die leerder is nie, meld die prinsipaal die aangeleentheid by die Onderwyshoof aan.

Oortredings met betrekking tot verpligte skoolbywoning

30. (1) Indien 'n ouer van enige leerder wat kragtens artikel 27 onderhewig is aan verpligte skoolbywoning, sonder redelike oorsaak en na 'n skriftelike waarskuwing deur die Onderwyshoof, versuim om daardie leerder 'n geskikte skool gereeld te laat bywoon, is hy of sy skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens ses maande.

(2) 'n Persoon wat 'n leerder wat kragtens artikel 27 onderhewig is aan verpligte skoolbywoning gedurende skoolure in diens hou, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens ses maande.

(3) 'n Persoon wat 'n skoolbywoningsbeampte in die uitvoering van sy of haar pligte verhinder of dwarsboom, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens ses maande.

Exemption from compulsory school attendance

31. (1) The Head of Education may, on receipt of a written application, exempt a learner entirely, partially or conditionally from compulsory school attendance if it is in the best interest of the learner and education to be so exempted. 5
- (2) If the Head of Education acts under subsection (1), he or she must notify the parents of the learner in writing of his or her decision.
- (3) The Head of Education must maintain a register of all learners exempted from compulsory school attendance. 10

Code of conduct for learners

32. (1) The governing body of a public school must adopt a code of conduct for learners after consultation with the learners, parents and the members of staff of the school within the guidelines determined in terms of section 8(3) of the National Act. 15
- (2) The code of conduct referred to in subsection (1) must be aimed at establishing a disciplined and purposeful school environment, dedicated to the improvement and maintenance of the quality of the learning process. 20
- (3) Nothing contained in this Act exempts a learner from the obligation to comply with the code of conduct of the school attended by that learner. 25
- (4) A code of conduct must contain provisions of due process safeguarding the interests of the learner and any other party involved in disciplinary proceedings.

Prohibition of corporal punishment

33. (1) No person shall administer corporal punishment to a learner at a school. 30
- (2) A person who contravenes subsection (1) is guilty of an offence and liable on conviction to a sentence which could be imposed for assault. 35

Suspension and expulsion of learners from public schools

34. (1) The governing body of a public school may, after a fair hearing, suspend a learner from attending that school as correctional measure for a period not longer than five school days. 40
- (2) The governing body may, if it is of the opinion that the learner referred to in subsection (1) is guilty of serious misconduct, recommend to the Head of Education that the learner be expelled from the school concerned.

Vrystelling van verpligte skoolbywoning

- 5 31. (1) Die Onderwyshoof kan, met ontvangs van 'n skriftelike aansoek, 'n leerder heeltemal, gedeeltelik of voorwaardelik van verpligte skoolbywoning vrystel indien dit in die beste belang van die leerder en onderwys is om so vrygestel te word.
- (2) Indien die Onderwyshoof kragtens subartikel (1) optree, moet hy of sy die ouers van die leerder skriftelik van sy of haar besluit in kennis stel.
- 10 (3) Die Onderwyshoof moet 'n register byhou van alle leerders wat van verpligte skoolbywoning vrygestel is.

Gedragkode vir leerders

- 15 32. (1) Die beheerliggaam van 'n openbare skool moet na raadpleging met die leerders, ouers en personeellede 'n gedragkode vir leerders, binne die riglyne ingevolge artikel 8(3) van die Nasionale Wet bepaal, aanvaar.
- 20 (2) 'n Gedragkode bedoel in subartikel (1) moet daarop gemik wees om 'n gedissiplineerde en doelgerigte skoolomgewing wat toegewy is aan die bevordering en instandhouding van die gehalte van die leerproses, te vestig.
- 25 (3) Geen bepaling van hierdie Wet stel 'n leerder vry van die verpligting om die gedragkode van die skool wat deur daardie leerder bygewoon word, na te kom nie.
- (4) 'n Gedragkode moet bepalings van 'n behoorlike regsproses bevat om die belange van die leerder en enige ander party wat by die dissiplinêre handeling betrokke is, te beskerm.

30 Verbod op lyfstraf

- 35 33. (1) Geen persoon mag by 'n skool lyfstraf aan 'n leerder toedien nie.
- (2) 'n Persoon wat subartikel (1) oortree, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n vonnis wat vir aanranding opgelê kan word.

Skorsing en uitsetting van leerders uit openbare skole

- 40 34. (1) Die beheerliggaam van 'n openbare skool kan, na 'n regverdige verhoor, as korrektiewe maatreël, 'n leerder vir 'n periode van nie langer as vyf skooldae skors van bywoning van daardie skool.
- 45 (2) Die beheerliggaam kan, indien van mening dat die leerder bedoel in subartikel (1), skuldig is aan ernstige wangedrag, by die Onderwyshoof aanbeveel dat die leerder uit die betrokke skool uitgesit moet word.

FREE STATE SCHOOL EDUCATION BILL

- (3) A learner may be expelled only by the Head of Education if he or she has been found guilty of serious misconduct after a fair hearing.
- (4) A learner or the parent of a learner who has been expelled from a public school may appeal against the decision of the Head of Education to the responsible Member. 5
- (5) If a learner who is subject to compulsory school attendance in terms of section 27 is expelled from a school, the Head of Education must make an alternative arrangement for that learner's placement at another public school. 10
- (6) The responsible Member must, by notice in the *Provincial Gazette*, determine the following –
- (a) the behaviour by a learner at a school which may constitute serious misconduct; 15
 - (b) disciplinary procedures to be followed in cases of suspension and expulsion;
 - (c) procedures for a fair hearing; and 20
 - (d) provisions of due process safeguarding the interests of the learner and any other party involved in disciplinary proceedings.

Representative council of learners

35. (1) A representative council of learners must be established at every public school enrolling learners in the eighth grade or higher. 25
- (2) The responsible Member may, by notice in the *Provincial Gazette*, – 30
- (a) determine guidelines for the establishment and composition of the council;
 - (b) determine guidelines for the election and functions of the council; and
 - (c) exempt certain public schools for specialised education from complying with subsection (1) if it is not practically possible for a representative council of learners to be established at the school. 35

CHAPTER 8**GOVERNANCE AND PROFESSIONAL MANAGEMENT OF PUBLIC SCHOOLS** 40**Governing body of a public school**

36. (1) There shall be a governing body for every public school. 45

- (3) 'n Leerder kan slegs deur die Onderwyshoof uit 'n openbare skool uitgesit word indien hy of sy na 'n regverdige verhoor skuldig bevind is aan ernstige wangedrag.
- (4) 'n Leerder of die ouer van 'n leerder wat uit 'n openbare skool gesit is, kan teen die beslissing van die Onderwyshoof appèl aanteken by die verantwoordelike Lid.
- (5) Indien 'n leerder wat ingevolge artikel 27 aan verpligte skoolbywoning onderhewig is, uit 'n openbare skool gesit word, moet die Onderwyshoof 'n alternatiewe reëling tref vir daardie leerder se plasing by 'n ander openbare skool.
- (6) Die verantwoordelike Lid moet, by kennisgewing in die *Provinsiale Koerant* die volgende bepaal -
- (a) die gedrag van 'n leerder by 'n skool wat as ernstige wangedrag beskou kan word;
 - (b) dissiplinêre prosedure wat in gevalle van skorsing en uitsetting gevolg moet word;
 - (c) prosedure vir 'n regverdige verhoor; en
 - (d) bepalinge van 'n behoorlike regsproses om die belange van die leerder en enige ander party wat by die dissiplinêre handeling betrokke is, te beskerm.

Verteenwoordigende raad van leerders

- (1) 'n Verteenwoordigende raad van leerders moet by elke openbare skool wat leerders in die agste graad of hoër inskryf, ingestel word.
- (2) Die verantwoordelike Lid kan, by kennisgewing in die *Provinsiale Koerant*, -
- (a) riglyne vir die instelling en samestelling van die raad bepaal;
 - (b) riglyne vir die verkiesing en funksies van die raad bepaal; en
 - (c) sekere openbare skole vir gespesialiseerde onderwys vrystel om aan subartikel (1) te voldoen indien die instelling van 'n verteenwoordigende raad van leerders by die skool nie prakties moontlik is nie.

HOOFSTUK 8

BEHEER EN PROFESSIONELE BESTUUR VAN OPENBARE SKOLE

Beheerliggaam van 'n openbare skool

- (1) Daar is 'n beheerliggaam vir elke openbare skool.

- (2) If, in the opinion of the responsible Member, it is not expedient to place a hostel under the supervision of the governing body of a particular public school, he or she may establish a separate governing body for one or more of those hostels.

Governance and professional management of public schools

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37. (1) Subject to this Act, the governance of a public school is vested in its governing body.
- (2) A governing body stands in a position of trust towards the school. 10
- (3) Subject to this Act, the professional management of a public school must be undertaken by the principal under the authority of the Head of Education.
- (4) The Head of Education may determine guidelines to distinguish between governance and professional management of public schools. 15

Governing body serving two or more schools

38. (1) The responsible Member may determine that the governance of two or more public schools must vest in a single governing body if it is in the best interest of education at the schools in question. 20
- (2) The responsible Member may not act under subsection (1), unless he or she has –
- (a) given notice in the *Provincial Gazette* of his intention so to act; 25
- (b) given interested parties an opportunity to make written submissions within a period of not less than 30 days; and 30
- (c) considered all the submissions.

Composition of governing body of an ordinary public school

39. Subject to the National Act and this Act, the membership of the governing body of an ordinary public school comprises – 35
- (a) elected members;
- (b) the principal, in his or her official capacity; and 40
- (c) co-opted members.

- (2) Indien dit na die mening van die verantwoordelike Lid nie gerade is om 'n koshuis onder toesig van die beheerliggaam van 'n besondere skool te plaas nie, kan hy of sy 'n afsonderlike beheerliggaam vir een of meer van daardie koshuise instel.

5 Beheer en professionele bestuur van openbare skole

37. (1) Behoudens hierdie Wet setel die beheer van 'n openbare skool in sy beheerliggaam.
- (2) 'n Beheerliggaam staan in 'n vertrouensposisie teenoor die skool.
- (3) Behoudens hierdie Wet, moet die professionele bestuur van 'n openbare skool deur die prinsipaal onder die gesag van die Onderwyshoof onderneem word.
- (4) Die Onderwyshoof kan riglyne bepaal om tussen beheer en professionele bestuur van 'n openbare skool te onderskei.

Beheerliggaam wat twee of meer skole bedien

38. (1) Die verantwoordelike Lid kan bepaal dat die beheer van twee of meer skole in 'n enkele beheerliggaam moet setel indien dit in die beste belang van onderwys by die betrokke skole is.
- (2) Die verantwoordelike Lid tree nie ingevolge subartikel (1) op nie, tensy hy of sy -
- (a) in die *Provinsiale Koerant* kennis gegee het van sy of haar voorneme om op dié wyse op te tree;
- (b) aan belanghebbendes die geleentheid gebied het om binne 'n tydperk van minstens 30 dae skriftelik vertoë te rig; en
- (c) alle vertoë oorweeg het.

Samestelling van beheerliggaam van 'n gewone openbare skool

39. Behoudens die Nasionale Wet en hierdie Wet, bestaan die lidmaatskap van 'n beheerliggaam van 'n gewone openbare skool uit -
- (a) verkose lede;
- (b) die prinsipaal in sy of haar amptelike hoedanigheid; en
- (c) gekoöpteerde lede.

Composition of governing body of a public school for learners with special education needs

40. Subject to the National Act and this Act, the membership of the governing body of a public school for learners with special education needs comprises – 5
- (a) elected members;
 - (b) the principal, in his or her official capacity; 10
 - (c) appointed members; and
 - (d) co-opted members.

Membership of governing body of a public school 15

41. Subject to the National Act and this Act, the responsible Member must, by notice in the *Provincial Gazette*, determine the following regarding the membership of governing bodies of public schools – 20
- (a) the different categories of members;
 - (b) conditions for membership;
 - (c) the status of members who are minors; 25
 - (d) the status of co-opted members; and
 - (e) the recusal of members. 30

General powers and duties of governing bodies

42. (1) The governing body of a public school shall be the official mouthpiece of the parents, educators and learners of the school on matters other than those relating to the professional administration of the school. 35
- (2) Subject to the National Act and within the framework of the following principles, the responsible Member must, by notice in the *Provincial Gazette*, determine the general powers and duties, as well as allocated powers and duties, of the governing body of a public school: 40
- (a) State involvement in school governance should be limited to the minimum level required for legal accountability.
 - (b) The professional administration of a school falls within the ambit of the principal and his or her staff. 45

Samestelling van beheerliggaam van 'n openbare skool vir leerders met spesiale onderwysbehoefte

5 40. Behoudens die Nasionale Wet en hierdie Wet, bestaan die lidmaatskap van 'n beheerliggaam van 'n openbare skool vir leerders met spesiale onderwysbehoefte uit -

(a) verkose lede;

10 (b) die prinsipaal in sy of haar amptelike hoedanigheid;

(c) aangestelde lede; en

(d) gekoöpteerde lede.

15 **Lidmaatskap van beheerliggaam van 'n openbare skool**

41. Behoudens die Nasionale Wet en hierdie Wet, moet die verantwoordelike Lid by kennisgewing in die *Provinsiale Koerant*, die volgende betreffende die lidmaatskap van beheerliggame van openbare skole bepaal -

20 (a) die verskillende kategorieë van lede;

(b) voorwaardes vir lidmaatskap;

25 (c) die status van minderjarige lede;

(d) die status van gekoöpteerde lede; en

(e) die onttrekking van lede.

30 **Algemene bevoegdhede en werksaamhede van beheerliggame**

42. (1) Die beheerliggaam van 'n openbare skool is die amptelike mondstuk van die ouers, opvoeders en leerders van die skool oor ander aangeleenthede as dié betreffende die professionele administrasie van die skool.

35 (2) Behoudens die Nasionale Wet en binne die raamwerk van die volgende beginsels moet die verantwoordelike Lid die algemene bevoegdhede en werksaamhede sowel as die toegewese bevoegdhede en werksaamhede van die beheerliggaam van 'n openbare skool bepaal:

40 (a) Staatsbetrokkenheid in skoolbeheer behoort tot die laagste vlak vereis vir regspraaklikheid beperk te word.

(b) Die professionele administrasie van 'n skool val binne die bevoegdheidsfeer van die prinsipaal en sy of haar personeel.

Allocated powers and duties of governing bodies

43. (1) A governing body may apply to the Head of Education in writing to be assigned any of the allocated powers and duties. 5
- (2) The Head of Education may approve the application.
- (3) The responsible Member may, by notice in the *Provincial Gazette*, determine that some governing bodies may exercise one or more allocated powers and duties without submitting an application referred to in subsection (1), if – 10
- (a) he or she is satisfied that the governing bodies concerned have the capacity to perform such function effectively; and
- (b) there is a reasonable and equitable basis for doing so. 15

Capacity building of members of governing bodies

44. (1) For the purposes of promoting efficiency and active participation in decentralised school and hostel governance, the responsible Member may institute courses and training programmes for the training of members of governing bodies of public schools. 20
- (2) The responsible Member may provide for members of a governing body to attend particular courses or training programmes established in terms of subsection (1). 25

Constitution of governing body

45. (1) The governing body of a public school must function in terms of a constitution. 30
- (2) The responsible Member must, by notice in the *Provincial Gazette*, determine the following –
- (a) the minimum requirements for the constitution of a governing body; and 35
- (b) and any other matters relating to the constitution of a governing body.

Election and appointment of members of a governing body

46. The responsible Member must, by notice in the *Provincial Gazette*, determine the following – 40
- (a) the electoral process for the election of members;
- (b) the appointment and co-option of members;

Toegewese bevoegdhede en werksaamhede van beheerliggame

- 5 43. (1) 'n Beheerliggaam kan skriftelik by die Onderwyshoof aansoek doen om enige van die toegewese bevoegdhede en werksaamhede toegedeel te word.
- (2) Die onderwyshoof kan die aansoek goedkeur.
- 10 (3) Die verantwoordelike Lid kan, by kennisgewing in die *Provinsiale Koerant*, bepaal dat sekere beheerliggame een of meer van die toegewese bevoegdhede en werksaamhede kan uitoefen sonder om 'n aansoek bedoel in subartikel (1) in te dien, indien -
- (a) hy of sy tevrede is dat die betrokke beheerliggame oor die vermoë beskik om daardie funksie doeltreffend uit te voer; en
- 15 (b) daar 'n redelike en billike basis daarvoor bestaan.

Ontwikkeling van vermoëns van beheerliggaamslede

- 20 44. (1) Vir die doeleindes van bevordering van doeltreffendheid en aktiewe deelname in gedesentraliseerde skool- en koshuisbeheer, kan die verantwoordelike Lid kursusse en opleidingsprogramme vir die opleiding van lede van beheerliggame van openbare skole instel.
- 25 (2) Die verantwoordelike Lid kan voorsiening maak dat lede van 'n beheerliggaam bepaalde kursusse of opleidingsprogramme ingestel kragtens subartikel (1), bywoon.

Grondwet van beheerliggaam

- 30 45. (1) Die beheerliggaam van 'n openbare skool moet ingevolge 'n grondwet funksioneer.
- (2) Die verantwoordelike Lid moet, by kennisgewing in die *Provinsiale Koerant*, die volgende bepaal -
- 35 (a) die minimum vereistes vir die grondwet van 'n beheerliggaam; en
- (b) enige ander aangeleenthede in verband met die grondwet van 'n beheerliggaam.

Verkiesing en aanstelling van lede van 'n beheerliggaam

- 40 46. Die verantwoordelike Lid moet, by kennisgewing in die *Provinsiale Koerant* die volgende bepaal -
- (a) die verkiesingsprosedure vir die verkiesing van lede;
- 45 (b) die aanstelling en die koöptering van lede;

FREE STATE SCHOOL EDUCATION BILL

- (c) a formula or formulae for the calculation of the number of members of the governing body to be elected in each of the categories contemplated in section 41(a), but such formula or formulae must provide reasonable representation for each category and must be applicable to the different sizes of and circumstances at public schools; 5
- (d) the filling of incidental vacancies in a governing body;
- (e) the election of office-bearers; 10
- (f) the term of office of members and office-bearers; and
- (g) the establishment of committees of a governing body, which shall include an executive committee, and a committee responsible to address barriers to learning and development and to facilitate partnerships with consumer organisations. 15

Failure by governing body to perform functions

47. (1) If a governing body has ceased to perform its functions, the Head of Education must appoint sufficient persons to perform those functions for a period not exceeding three months. 20
- (2) The Head of Education may extend the period referred to in subsection (1), by further periods of three months each, but the total period may not exceed one year. 25
- (3) The Head of Education must ensure that a governing body is elected in terms of this Act within a year after the appointment of persons contemplated in subsection (1). 30

CHAPTER 9**FUNDING OF PUBLIC SCHOOLS****The responsibility of the Department**

48. (1) The Head of Education must finance public schools out of funds appropriated for this purpose by the Provincial Legislature on an equitable basis in order to ensure the proper exercise of the rights of learners to education and the redress of past inequalities in education provision. 35
- (2) The Head of Education must provide sufficient information to public schools regarding the funding referred to in subsection (1) on an annual basis to enable these schools to prepare their budget for the following financial year. 40

- (c) 'n formule of formules vir die berekening van die aantal lede van die beheerliggaam wat in elk van die kategorieë beoog in artikel 41(a) verkies moet word, maar daardie formule of formules moet in staat wees tot toepassing op die verskillende omvang van en omstandighede by openbare skole;
- (d) die vulling van toevallige vakatures op 'n beheerliggaam;
- (e) die verkiesing van ampsdraers;
- (f) die ampstermyn van lede en ampsdraers; en
- (g) die stigting van komitees van 'n beheerliggaam, wat 'n uitvoerende komitee en 'n komitee wat verantwoordelik is om hindernisse tot leer en ontwikkeling aan te spreek en verbruikersorganisasies vennootskappe vergemaklik, insluit.

Versuim deur beheerliggaam om werksaamhede te verrig

47. (1) Indien 'n beheerliggaam opgehou het om sy werksaamhede te verrig, moet die Onderwyshoof voldoende persone aanstel om daardie werksaamhede vir 'n tydperk van hoogstens drie maande te verrig.
- (2) Die Onderwyshoof kan die tydperk bedoel in subartikel (1) met verdere tydperke van hoogstens drie maande elk verleng, maar die totale tydperk mag nie een jaar oorskry nie.
- (3) Die Onderwyshoof moet verseker dat 'n beheerliggaam ingevolge hierdie Wet verkies word binne een jaar na die aanstelling van persone in subartikel (1), beoog.

HOOFSTUK 9

BEFONDSING VAN OPENBARE SKOLE

Die verantwoordelikheid van die Departement

48. (1) Die Onderwyshoof moet openbare skole op 'n billike basis finansier uit fondse wat vir daardie doel deur die Provinsiale Wetgewer bewillig is om die behoorlike uitoefening van die regte van leerders op onderwys en die regstelling van ongelykhede van die verlede in die voorsiening van onderwys te verseker.
- (2) Die Onderwyshoof moet, op 'n jaarlikse basis, voldoende inligting in verband met die befondsing bedoel in subartikel (1) aan openbare skole voorsien om dié skole in staat te stel om hul begrotings vir die volgende boekjaar voor te berei.

Norms and standards for funding of public schools

49. Public schools shall be funded within the norms and standards determined in terms of section 35 of the National Act.

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Responsibility of the governing body of a public school

50. (1) The governing body of a public school must take all reasonable measures within its means to supplement the resources supplied by the Department in order to improve the quality of education provided by the school to all learners attending the school.
- (2) The governing body of a public school must –
- (a) prepare a budget each year, according to guidelines determined by the responsible Member, which shows the estimated income and expenditure of the school for the following financial year;
 - (b) establish a school fund and administer it in accordance with directions issued by the Head of Education;
 - (c) open and maintain a banking account;
 - (d) keep records of funds received and spent by the school and of its assets, liabilities and financial transactions in accordance with directions issued by the Head of Education; and
 - (e) implement a resolution adopted at a meeting referred to in section 51(1).

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School fees at public schools

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51. (1) School fees may be determined and charged at a public school only if a resolution to do so has been adopted by the majority of parents of learners of such school attending a general meeting convened for consideration and approval of the schools' annual budget.
- (2) The resolution referred to in subsection (1) must be determined in terms of the equitable criteria and procedures referred to in section 39(4) of the National Act.

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Parents' liability for payment of school fees

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52. (1) A parent of a learner attending a public school, is liable to pay the school fees determined in terms of section 51, unless or to the extent that he or she has been exempted by the governing body from payment in terms of this Act.
- (2) A parent may appeal to the Head of Education against a decision of a governing body regarding the exemption of that parent from payment of school fees.

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Norme en standarde vir die befondsing van openbare skole

- 5 49. Openbare skole word befonds binne die norme en standarde bepaal ingevolge artikel 35 van die Nasionale Wet.

Verantwoordelikheid van die beheerliggaam van 'n openbare skool

- 10 50. (1) Die beheerliggaam van 'n openbare skool moet alle redelike maatreëls binne sy vermoë tref om die hulpbronne deur die Departement voorsien aan te vul ten einde die gehalte van onderwys wat deur die skool aangebied word aan alle leerders by die skool, te verhoog.
- 15 (2) Die beheerliggaam van 'n openbare skool moet -
- (a) elke jaar 'n begroting wat die beraamde inkomste en uitgawe van die skool vir die volgende finansiële jaar aandui, in ooreenstemming met die riglyne wat deur die verantwoordelike Lid bepaal is, voorberei;
- 20 (b) 'n skoolfonds instel en dit administreer ooreenkomstig voorskrifte deur die Onderwyshoof uitgereik;
- (c) 'n bankrekening open en in stand hou;
- 25 (d) rekords hou van fondse ontvang en bestee deur die skool en van sy bates, laste en finansiële transaksies in ooreenstemming met riglyne uitgereik deur die Onderwyshoof; en
- 30 (e) 'n besluit by 'n vergadering bedoel in artikel 51(1) geneem, implementeer.

Skoolgeld by openbare skole

- 35 51. (1) Skoolgeld kan by 'n openbare skool vasgestel en gehef word alleenlik indien 'n besluit om dit te doen deur 'n meerderheid van ouers tydens 'n algemene vergadering belê vir die goedkeuring van die skool se jaarlikse begroting aanvaar is.
- (2) Die besluit bedoel in subartikel (1) moet bepaal word ingevolge die billike maatstawwe en prosedure bedoel in artikel 39(4) van die Nasionale Wet.

Verpligting op ouers om skoolgeld te betaal

- 40 52. (1) 'n Ouer van 'n leerder wat 'n openbare skool bywoon, is aanspreeklik vir die betaling van die skoolgeld ingevolge artikel 51 bepaal, tensy en tot die mate waartoe hy of sy van betaling deur die beheerliggaam vrygestel is ingevolge hierdie Wet.
- (2) 'n Ouer kan by die Onderwyshoof appelleer teen 'n beslissing van 'n beheerliggaam in verband met die vrystelling van daardie ouer van die betaling van skoolgeld.

FREE STATE SCHOOL EDUCATION BILL

- (3) In deciding an appeal referred to in subsection (2), the Head of Education must follow due process which safeguards the interest of the parent and the governing body.

Enforcement of payment of school fees

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53. The governing body of a public school may by process of law enforce the payment of school fees by parents who are liable to pay in terms of section 51.

Financial records and statements of public schools

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54. The responsible Member must, by notice in the *Provincial Gazette*, determine guidelines –

- (a) for the keeping of financial statements and records;
- (b) regarding the audit or examination of financial records and statements; and
- (c) relating to the school fund.

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Financial year of a public school

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55. The financial year of a public school commences on the first day of January and ends on the last day of December of each year.

CHAPTER 10

25

POWERS AND DUTIES OF THE RESPONSIBLE MEMBER AND HEAD OF EDUCATION**Powers and duties of responsible Member**

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56. (1) The responsible Member may, by notice in the *Provincial Gazette*, determine an education policy for the Province, which must be adhered to by the Head of Education and all educators in the Province.
- (2) In order to further the objects of this Act, the responsible Member may enter into agreements with other government departments and with non-governmental organisations, but no agreement placing financial obligations on the Department shall be entered into without the concurrence of the member of the Executive Council responsible for Finance and Expenditure.
- (3) Subject to any norms and standards applying nationally, the responsible Member may certify, and withdraw the certification of –
- (a) the syllabi of and conditions for admission to educational and training programmes at any education centre;
 - (b) the contents of and conditions for admission to educational and training programmes at any education centre.

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- (3) In die beslissing oor 'n appèl bedoel in subartikel (2) moet die Onderwyshoof 'n behoorlike regsproses volg wat die belange van die ouer en die beheerliggaam beskerm.

Afdwing van die betaling van skoolgeld

53. Die beheerliggaam van 'n openbare skool kan die betaling van skoolgeld deur ouers wat ingevolge artikel 51 daarvoor aanspreeklik is, deur regsproses afdwing.

Finansiële rekords en state van openbare skole

54. Die verantwoordelike Lid moet by kennisgewing in die *Provinsiale Koerant*, riglyne bepaal -
- (a) vir die hou van finansiële state en rekords;
 - (b) ten opsigte van die ouditering of ondersoeking van die finansiële rekords en state; en
 - (c) met betrekking tot die skoolfonds.

Boekjaar van openbare skole

55. Die boekjaar van 'n openbare skool begin op die eerste dag van Januarie en eindig op die laaste dag van Desember van elke jaar.

HOOFSTUK 10

BEVOEGDHEDE EN WERKSAMHEDE VAN DIE VERANTWOORDELIKE LID EN ONDERWYSHOOF

56. (1) Die verantwoordelike Lid kan, deur 'n kennisgewing in die *Provinsiale Koerant*, 'n onderwysbeleid vasstel vir die Provinsie wat deur die Onderwyshoof en alle opvoeders in die Provinsie onderhou moet word.
- (2) Ten einde die doelstellings van hierdie Wet te bevorder, kan die verantwoordelike Lid ooreenkomste met ander staatsdepartemente en met nie-regeringsorganisasies aangaan, maar geen ooreenkoms wat finansiële verpligtinge op die Departement plaas, mag aangegaan word sonder die instemming van die lid van die Uitvoerende Raad verantwoordelik vir Finansies en Uitgawe nie.
- (3) Behoudens enige norme en standaarde wat landwyd geld, kan die verantwoordelike Lid sertifisering voorsien en onttrek van -
- (a) die sillabusse van en voorwaardes vir toelating tot onderwys- en opleidingsprogramme aan enige onderwyssentrum;
 - (b) die inhoud van en voorwaardes vir toelating tot onderwys- en opleidingsprogramme aan enige onderwyssentrum.

Powers and duties of Head of Education

57. (1) The Head of Education shall, in consultation with the responsible Member, take such steps as may be necessary to carry into effect the provincial and national policy. 5
- (2) In addition to the other functions assigned to him or her, the Head of Education may, in consultation with the responsible Member and subject to norms and standards applying nationally –
- (a) approve educational programmes for learners; 10
 - (b) approve education and training programmes for learners with special education needs;
 - (c) determine the conditions for admission to such education and training programmes, as well as the evaluation, by means of inspection or otherwise, of the effectiveness of the teaching and training provided in accordance therewith; 15
 - (d) approve courses for the provision of education, including specialised education; 20
 - (e) determine the conditions for admission to, and the syllabi of those courses;
 - (f) in respect of those courses – 25
 - (i) cause examinations to be conducted and certificates to be issued to learners who passed those examinations; and
 - (ii) cause other approved forms of assessment to be conducted; 30
 - (g) make rules as to –
 - (i) the conducting of examinations referred to in paragraph (f), the entering of candidates for those examinations, the conduct and discipline of candidates prior to, during and after those examinations, and the issue of certificates referred to in that paragraph; and 35
 - (ii) the appointment, conduct, discipline, powers, duties and functions of examiners, moderators, invigilators and other persons whose services are necessary in connection with the conducting of those examinations; 40
 - (h) make arrangements for medical, psychological or dental examinations of learners and of persons employed at schools and hostels; 45

Bevoegdhede en werksaamhede van Onderwyshoof

57. (1) Die Onderwyshoof neem, in oorleg met die verantwoordelike Lid, die stappe wat nodig is om die provinsiale en nasionale beleid ten uitvoer te bring.
- 5 (2) Bykomend by die ander werksaamhede opgedra aan hom of haar, kan die Onderwyshoof, in oorleg met die verantwoordelike Lid en onderworpe aan norme en standarde wat landwyd van toepassing is –
- 10 (a) onderwysprogramme vir leerders goedkeur;
- (b) onderwys- en opleidingsprogramme vir leerders met spesiale onderwysbehoefte goedkeur;
- 15 (c) die voorwaardes vir toelating tot sodanige onderwys- en opleidingsprogramme vasstel, asook deur middel van inspeksie of andersins die evaluering van die doeltreffendheid van die onderrig en opleiding wat daarkragtens voorsien word;
- 20 (d) kursusse vir die voorsiening van onderwys, met inbegrip van gespesialiseerde onderwys, goedkeur;
- (e) die voorwaardes vir toelating tot en die sillabusse van sodanige kursusse vasstel;
- 25 (f) met betrekking tot daardie kursusse –
- (i) eksamens laat afneem en sertifikate laat uitreik aan leerders wat daardie eksamens geslaag het; en
- 30 (ii) ander goedgekeurde vorme van waardebepaling laat geskied;
- (g) reëls neerlê rakende –
- 35 (i) die aflê van eksamens in paragraaf (f) bedoel, die inskryf van kandidate vir daardie eksamens, die gedrag en dissipline van kandidate voor, tydens en na daardie eksamens, en die uitreik van sertifikate in die paragraaf bedoel; en
- 40 (ii) die aanstelling, gedrag, dissipline, bevoegdhede, pligte en werksaamhede van eksaminatore, moderatore, toesighouers en ander persone wie se dienste nodig is in verband met die afneem van sodanige eksamens;
- 45 (h) reëlins tref vir mediese, sielkundige of tandheelkundige ondersoeke van leerders en van persone in diens by skole en koshuise;

FREE STATE SCHOOL EDUCATION BILL

- (1) determine the school calendar, school holidays and the minimum length of the school day.
- (3) Different programmes, courses, school calendars, school holidays and lengths of the school day may be approved or determined, as the case may be, in respect of different schools. 5

CHAPTER 11

TRANSITIONAL PROVISIONS 10

Transitional provisions relating to schools other than private schools

58. Any school which was established or was deemed to be established in terms of any law governing school education in the Province and which existed immediately prior to the commencement of this Act, other than a private school referred to in section 60 is deemed to be a public school. 15

Categories of public schools 20

59. Any of the following categories of public schools –
- (a) pre-primary schools;
 - (b) primary schools; 25
 - (c) secondary schools;
 - (d) intermediate schools; 30
 - (e) combined schools;
 - (f) schools for specialised education;
 - (g) industrial schools; 35
 - (h) reform schools; and
 - (i) any other category of school, 40
- which was established or registered or was deemed to be established or registered in terms of any law governing school education in the Province and which existed immediately prior to the commencement of this Act, shall still apply in terms of this Act.

- (i) die skoolkalender, skoolvakansies en die minimum lengte van die skooldag bepaal.

- (3) Verskillende programme, kursusse, skoolkalenders, skoolvakansies en lengtes van die skooldag kan goedgekeur of bepaal word, na gelang van die geval, ten opsigte van verskillende skole.

HOOFSTUK 11

OORGANGSBEPALINGS

Oorgangsbepalings wat op skole anders as private skole betrekking het

58. Enige skool wat ingestel is of geag was ingestel te gewees het ingevolge enige wet wat skoolonderwys in die Provinsie beheer het en wat onmiddelik voor die inwerkingtreding van hierdie Wet bestaan het, anders as 'n private skool bedoel in artikel 60, word geag 'n openbare skool te wees.

Kategorieë van openbare skole

59. Enige van die volgende kategorieë van openbare skole -

- (a) preprimêre skole;
- (b) primêre skole;
- (c) sekondêre skole;
- (d) middelbare skole;
- (e) gekombineerde skole;
- (f) skole vir gespesialiseerde onderwys;
- (g) nywerheidskole;
- (h) verbeteringskole; en
- (i) enige ander kategorie van skool,

wat ingestel of geregistreer was of wat geag word ingestel of geregistreer te gewees het ingevolge enige wet wat skoolonderwys in die Provinsie reël, en wat bestaan het onmiddelik voor die inwerkingtreding van hierdie Wet, is nog van toepassing ingevolge hierdie Wet.

Transitional provisions relating to private schools

60. A private school which was registered or deemed to be registered under the provisions of a law regulating school education in the Province and which existed immediately prior to the commencement of this Act, is deemed to be an independent school. 5

Transitional provisions relating to public schools on private property

61. If an agreement referred to in section 10 does not exist at the commencement of this Act in respect of a school on private property and which is deemed to be a public school in terms of section 58, the responsible Member must take reasonable measures to conclude such an agreement within six months of the commencement of this Act. 10

Transitional provisions relating to school attendance officers

62. Any school attendance officer appointed or deemed to have been appointed under the provisions of an act repealed by this Act, shall be deemed to have been appointed under this Act. 15

Transitional provisions relating to governing bodies and representative councils of learners

63. (1) A governing body established in terms of the National Act, shall be deemed to be established in terms of this Act. 20
- (2) Measures or guidelines regarding the composition and electoral process of governing bodies which were issued or published in terms of any law governing school education and which existed immediately prior to the commencement of this Act, is deemed to be issued in terms of this Act. 25
- (3) Measures or guidelines regarding the composition and electoral process of representative councils of learners which were issued or published in terms of any law governing school education and which existed immediately prior to the commencement of this Act, is deemed to be issued in terms of this Act. 30
- (4) A reference to Head of Department in the measures or guidelines referred to in subsections (2) and (3) is construed as a reference to Head of Education and a word or expression used in that measures or guidelines is interpreted in accordance with the meaning assigned to it by this Act. 35

Oorgangsbepalings wat op private skole betrekking het

- 5 60. 'n Private skool wat geregistreer was of geag word geregistreer te gewees het kragtens die bepaling van 'n wet wat skoolonderwys in die Provinsie reël, en wat bestaan het onmiddelik voor die inwerkingtreding van hierdie Wet, word geag 'n onafhanklike skool te wees.

Oorgangsbepalings met betrekking tot openbare skole op private eiendom

- 10 61. Indien 'n ooreenkoms bedoel in artikel 10 nie met die inwerkingtreding van hierdie Wet met betrekking tot 'n skool wat op private eiendom staan, en wat geag 'n openbare skool ingevolge artikel 58 te wees, bestaan nie, moet die verantwoordelike Lid redelike maatreëls tref om daardie ooreenkoms binne ses maande na die inwerkingtreding van hierdie Wet aan te gaan.

Oorgangsbepalings met betrekking tot skoolbywoningsbeampte

- 20 62. Enige skoolbywoningsbeampte aangestel of geag aangestel te gewees het ingevolge die bepaling van 'n wet wat herroep is deur hierdie Wet, sal geag word ingestel te wees kragtens hierdie Wet.

Oorgangsbepalings met betrekking tot beheerliggame en verteenwoordigende rade van leerders

- 25 63. (1) 'n Beheerliggaam wat ingestel is ingevolge die Nasionale Wet, sal geag ingestel te wees ingevolge hierdie Wet.
- 30 (2) Maatreëls of riglyne met betrekking tot die samestelling en verkiesingsprosedure van beheerliggame wat uitgevaardig of gepubliseer is ingevolge enige wet wat skoolonderwys beheer en wat bestaan het onmiddelik voor die inwerkingtreding van hierdie Wet, word geag uitgevaardig te wees ingevolge hierdie Wet.
- 35 (3) Maatreëls of riglyne met betrekking tot die samestelling en verkiesingsprosedure van verteenwoordigende rade van leerders wat uitgevaardig of gepubliseer is ingevolge enige wet wat skoolonderwys beheer en wat bestaan het onmiddelik voor die inwerkingtreding van hierdie Wet, word geag uitgevaardig te wees ingevolge hierdie Wet.
- 40 (4) 'n Verwysing na Departementshoof in die maatreëls of riglyne bedoel in subartikels (2) en (3) word uitgelê as 'n verwysing na Onderwyshoof en 'n woord of uitdrukking in daardie maatreëls of riglyne gebruik, word uitgelê ooreenkomstig die betekenis wat hierdie Wet daaraan heg.

FREE STATE SCHOOL EDUCATION BILL

CHAPTER 12

GENERAL PROVISIONS

Duty of schools to provide information 5

64. (1) Every school must provide such information about the school as is reasonably required by the Head of Education.
- (2) A school must make information available for inspection by any person, insofar as such information is required for the exercise and protection of that person's rights. 10

Regulations

65. The responsible Member may make regulations on any matter which must or may be prescribed by regulation under this Act and any other matter which may be necessary or expedient to prescribe in order to achieve the objectives of this Act. 15

Delegation of powers

66. (1) The responsible Member may, subject to the conditions as he or she may determine, delegate any power conferred upon him or her by or under this Act to the Head of Education or an officer, except the power to publish a notice in the *Provincial Gazette*, the power to make a regulation or the power to decide an appeal lodged with him or her in terms of this Act. 20
- (2) The Head of Education may, subject to the conditions as he or she may determine, delegate to an officer any of his or her powers in terms of this Act or delegated to him or her in terms of subsection (1). 25
- (3) A delegation under subsection (1) or (2) does not prevent the responsible Member or the Head of Education, as the case may be, from exercising that power or performing that duty. 30

Liability of State 35

67. (1) The State is liable for any damage or loss caused as a result of any act or omission in connection with any educational activity conducted by a public school and for which that public school would have been liable but for the provisions of this section. 40
- (2) The provisions of the State Liability Act, 1957 (Act No. 20 of 1957), apply to any claim under subsection (1).

HOOFTUK 12**ALGEMENE BEPALINGS****5 Plig van skole om inligting te verstrek**

64. (1) Elke skool moet daardie inligting aangaande die skool wat redelikerwys deur die Onderwyshoof vereis word, voorsien.
- 10 (2) 'n Skool moet inligting beskikbaar stel vir inspeksie deur enige persoon, vir sover daardie inligting vir die uitoefening en beskerming van daardie persoon se regte vereis word.

Regulasies

- 15 65. Die verantwoordelike Lid kan regulasies uitvaardig ten opsigte van enige aangeleentheid wat kragtens hierdie Wet deur regulasie voorgeskryf kan of moet word en enige aangeleentheid wat nodig of dienstig is om voor te skryf ten einde die oogmerke van hierdie Wet te bereik.

Delegasie van bevoegdhede

- 20 66. (1) Die verantwoordelike Lid kan, behoudens die voorwaardes wat hy of sy bepaal, enige bevoegdheid wat by of kragtens hierdie Wet aan hom of haar opgedra is, met uitsondering van die bevoegdheid om 'n kennisgewing in die *Provinsiale Koerant* te publiseer, die bevoegdheid om 'n regulasie uit te vaardig of die bevoegdheid om te beslis oor enige appèl wat ingevolge hierdie Wet by hom of haar aangeteken word, aan die Onderwyshoof of 'n beampte deleger.
- 25 (2) Die Onderwyshoof kan, behoudens die voorwaardes wat hy of sy bepaal, enige van sy of haar bevoegdhede by of ingevolge hierdie Wet of gedeleger kragtens subartikel (1) aan 'n beampte deleger.
- 30 (3) Delegasie ingevolge subartikel (1) of (2) belet nie die verantwoordelike Lid of die Onderwyshoof, na gelang van die geval, om daardie bevoegdheid self uit te oefen of daardie plig self uit te voer nie.

35

Aanspreeklikheid van die Staat

- 40 67. (1) Die Staat is aanspreeklik vir enige skade of verlies wat veroorsaak word as gevolg van enige daad of versuim in verband met enige opvoedkundige aktiwiteit wat deur 'n openbare skool bedryf word en waarvoor daardie openbare skool aanspreeklik sou gewees het by gebrek aan die bepalings van hierdie artikel.
- (2) Die bepalings van die Wet op Staatsaanspreeklikheid, 1957 (Wet No. 20 van 1957), is op 'n eis kragtens subartikel (1) van toepassing.

FREE STATE SCHOOL EDUCATION BILL

Repeal of laws, and savings

68. (1) The laws listed in the first column of the Schedule are hereby repealed to the extent indicated in the third column of the Schedule.

5

(2) Anything done or deemed to have been done in terms of a provision of a law repealed by subsection (1), and which may or shall be done in terms of this Act, shall be deemed to have been done in terms of the corresponding provision of this Act.

10

Short title

69. This Act shall be called the Free State School Education Act, 1998.

Herroeping van wette en voorbehoud

68. (1) Die wette in kolom een van die Bylae vermeld, word hiermee herroep in die mate uiteengesit in kolom drie van die Bylae.

5

(2) Enigiets wat ingevolge 'n bepaling van 'n wet wat by subartikel (1) herroep word, gedoen is of geag word gedoen te gewees het en wat ingevolge hierdie Wet gedoen kan of moet word, word geag ingevolge die ooreenstemmende bepaling van hierdie Wet gedoen te gewees het.

10

Kort titel

69. Hierdie Wet heet die Vrystaat Skoolonderwyswet, 1998.

FREE STATE SCHOOL EDUCATION BILL

SCHEDULE

Number and year of law	Short title of law	Extent of repeal
Act No. 70 of 1988	Education Affairs Act (House of Assembly), 1988	All sections relating to state-aided schools
Act No. 1 of 1996	School Education Act, 1996	The whole

BYLAE

Nommer en jaar van Wet	Kort titel van Wet	Omvang van herroeping
Wet No. 70 van 1988	Wet op Onderwysaangeleenthede (Volksraad), 1988	Al die artikels met betrekking tot staatsondersteunde skole
Wet No. 1 van 1996	Wet op Skoolonderwys, 1996	Die geheel

MEMORANDUM

1. BACKGROUND

Prior to the enactment of the School Education Act, 1996 (Act No. 1 of 1996), education in the Province was regulated by seven different acts. The School Education Act of this Province however, commenced prior to the enactment of the South African Schools Act, 1996. The School Education Act, 1996 was therefore not quite in line with the South African Schools Act and this situation gave rise to many practical problems. In many instances these two acts are in conflict. Since the commencement of the South African Schools Act, 1996, for practical reasons, education in the Province was regulated in terms of the Constitution and the South African Schools Act, 1996 (Act No. 84 of 1996) and the School Education Act, 1996 was not used. The South African Schools Act, 1996, however, does not cater for all the unique problems of the Province. The adoption of this Bill will rectify the above by giving the responsible Member the power to ensure a uniform system for the provision and control of school education in the Province, within the national norms and standards laid down by the South African Schools Act, 1996.

2. OBJECTIVES OF THE BILL

The primary objective of the Bill is to align the School Education Act, 1996 with the Constitution and the South African Schools Act, 1996 and to provide the necessary legislative powers to the responsible Member and the Head of Education for the implementation and provisioning of an effective educational system in the Province.

3. CLAUSE-BY-CLAUSE ANALYSIS

3.1 Clause 1 - Definitions

This clause contains a number of definitions which are required to clarify the intention of the Bill.

3.2 Clause 2 - Application of Act

This clause provides for the status of the Bill.

3.3 Clause 3 - Objectives of Act

This clause provides for education as fundamental right and the needs of all the people of the Province, to effect full and active participation of all stakeholders, to promote a Culture of Learning, Teaching and Service and to reflect demographic realities in the placement and utilisation of all support systems.

MEMORANDUM

1. AGTERGROND

Voor die aanvaarding van die Wet op Skoolonderwys, 1996 (Wet No. 1 van 1996), is onderwys in die Provinsie deur sewe verskillende wette beheer. Die Wet op Skoolonderwys van dié Provinsie het egter voor die verordening van die Suid-Afrikaanse Skolewet, 1996 in werking getree. Die Wet op Skoolonderwys, 1996 was dus nie heeltemal in ooreenstemming met die Suid-Afrikaanse Skolewet nie en hierdie situasie het tot menige praktiese probleme aanleiding gegee. In baie gevalle is hierdie twee wette in konflik. Vanaf die inwerkingtreding van die Suid-Afrikaanse Skolewet, 1996, is onderwys in die Provinsie vir praktiese redes ingevolge die Grondwet en die Suid-Afrikaanse Skolewet, 1996 (Wet No. 84 van 1996) geregleer en die Wet op Skoolonderwys, 1996 is nie gebruik nie. Die Suid-Afrikaanse Skolewet, 1996 voorsien egter nie in al die eiesoortige probleme van die Provinsie nie. Die aanvaarding van die Wetsontwerp sal bostaande regstel deur die verantwoordelike Lid die magtiging te verskaf om, binne die nasionale norme en standaarde neergelê deur die Suid-Afrikaanse Skolewet, 1996, 'n eenvormige stelsel vir die voorsiening en beheer van skoolonderwys in die Provinsie te verseker.

2. DOELSTELLINGS VAN DIE WETSONTWERP

Die primêre doelstelling is die doelstelling van die Wetsontwerp om die Wet op Skoolonderwys, 1996, in ooreenstemming met die Grondwet en die Suid-Afrikaanse Skolewet, 1996, te bring en om aan die verantwoordelike Lid en die Onderwyshoof die nodige wetgewende magte te voorsien vir die instelling en voorsiening van 'n effektiewe onderwysstelsel in die Provinsie.

3. UITEENSETTING PER KLOUSULE

3.1 Klousule 1 - Woordomsrywings

Hierdie klousule bevat 'n aantal woordomsrywings wat nodig is om die bedoeling van die Wetsontwerp duidelik te maak.

3.2 Klousule 2 - Toepassing van Wet

Hierdie klousule maak voorsiening vir die status van die Wetsontwerp.

3.3 Klousule 3 - Doelstellings van Wet

Hierdie klousule maak voorsiening vir onderwys as fundamentele reg en die behoeftes van al die mense van die Provinsie, om volle en aktiewe deelname van alle betrokkenes te verseker, om 'n Kultuur van Leer, Onderrig en Diens te bevorder en om demografiese werklikhede in die plasing en benutting van alle ondersteuningsstelsels te weerspieël.

FREE STATE SCHOOL EDUCATION BILL

3.4 Clause 4 - Establishment of Provincial Education and Training Council

This clause provides for the establishment of a Provincial Education and Training Council which will act in an advisory capacity for the responsible Member.

3.5 Clause 5 - Establishment of District or Regional Education and Training Councils

This clause makes provision for the responsible Member to establish a District or Regional Education and Training Councils if he or she deems it necessary for education in the Province.

3.6 Clause 6 - Establishment of a Provincial Examination Board

This clause provides for the establishment of a Provincial Examination Board which will control all external examinations and matters related thereto.

3.7 Clause 7 - Status of public schools

This clause confirms the legal status of public schools.

3.8 Clause 8 - Provision of public schools

This clause provides for the establishment and registration of different categories of public schools for all learners. Provision is also made for reasonable measures to be taken to make all schools accessible for disabled persons.

3.9 Clause 9 - Public schools on State property

This clause regulates the respective rights of the responsible Member, the Head of Education and the school regarding the immovable property of the school.

3.10 Clause 10 - Public schools on private property

This clause provides for the provisioning and maintenance of public schools on private property in term of an agreement between the responsible Member and the owner of the property. It also provides for matters related to the title deed of the affected property.

3.11 Clause 11 - Merger of public schools

This clause entitles the responsible Member to merge certain public schools or different education phases, which includes the further education and training phase presented in public schools, if he or she deems it necessary for education. It also provides for the procedures to be followed under these circumstances.

3.4 Klousule 4 - Instelling van Provinsiale Onderwys- en Opleidingsraad

Hierdie klousule maak voorsiening vir die instelling van 'n Provinsiale Onderwys- en Opleidingsraad wat in 'n raadgewende hoedanigheid vir die verantwoordelike Lid sal optree.

3.5 Klousule 5 - Instelling van Distrik of Streek Onderwys- en Opleidingsrade

Hierdie klousule maak voorsiening dat die verantwoordelike Lid 'n Distrik of Streek Onderwys- en Opleidingsraad kan instel indien hy of sy dit nodig ag vir onderwys in die Provinsie.

3.6 Klousule 6 - Instelling van 'n Provinsiale Eksamenraad

Hierdie klousule voorsien vir die instelling van 'n Provinsiale Eksamenraad wat eksterne eksamens en verwante aangeleenthede sal beheer.

3.7 Klousule 7 - Status van openbare skole

Hierdie klousule bevestig die regstatus van openbare skole.

3.8 Klousule 8 - Voorsiening van openbare skole

Hierdie klousule voorsien vir die stigting en registrasie van verskillende kategorieë van openbare skole vir alle leerders. Voorsiening is ook gemaak vir die tref van redelike maatreëls om alle skole toeganklik te maak vir gestremde persone.

3.9 Klousule 9 - Openbare skole op Staatseiendom

Hierdie klousule reguleer die onderskeie regte van die verantwoordelike Lid, die Onderwyshef en die skool betreffende die onroerende eiendom van die skool.

3.10 Klousule 10 - Openbare skole op private eiendom

Hierdie klousule maak voorsiening vir die voorsiening en onderhoud van openbare skole op private eiendom ingevolge 'n ooreenkoms tussen die verantwoordelike Lid en die eienaar van die eiendom. Dit maak ook voorsiening vir aangeleenthede met betrekking tot die eiendomsakte van die geaffekteerde eiendom.

3.11 Klousule 11 - Samesmelting van openbare skole

Hierdie klousule bemaatig die verantwoordelike Lid om sekere openbare skole of verskillende onderwysfasies, wat die verdere onderwys en opleidingsfasies deur openbare skole aangebied word, saam te smelt indien hy of sy dit nodig ag vir onderwys. Dit maak ook voorsiening vir die prosedure wat gevolg moet word onder hierdie omstandighede.

3.12 Clause 12 - Termination of classes and temporary closure of public schools

This clause provides for the criteria to be taken into account and the proceedings to be followed when the responsible Member consider the termination of classes or the temporary closure of public schools.

3.13 Clause 13 - Closure of public schools

This clause provides for the right of the responsible Member to close a public school and the proceedings to be followed under such circumstances.

3.14 Clause 14 - Registration of home-based learners at public schools

This clause determines the criteria for the registration of home-based learners at public schools.

3.15 Clause 15 - Medium of instruction at public schools

This clause provides for the right of the Head of Education to approve the adopted language policy of a public school.

3.16 Clause 16 - Language and admission policy of public schools

This clause provides for the criteria under which a governing body of a public school may determine the language policy of the school and it also acknowledges the status of a recognised sign language. It further regulates matters regarding the admission policy of public schools.

3.17 Clause 17 - Freedom of conscience and of religion

This clause confirms, subject to the Constitution and any applicable provincial law, the freedom of conscience and religion at public schools.

3.18 Clause 18 - Establishment of an independent school

This clause reflects the constitutional right of a person to establish and maintain an independent school at his or her own cost.

3.19 Clause 19 - Registration as an independent school

This clause determines the conditions under which an independent school may be registered.

3.12 Klousule 12 - Opskorting van klasse en tydelike sluiting van openbare skole

Hierdie klousule maak voorsiening vir die kriteria wat in ag geneem moet word en die handeling wat gevolg moet word wanneer die verantwoordelike Lid die opskorting van klasse of die tydelike sluiting van openbare skole oorweeg.

3.13 Klousule 13 - Sluiting van openbare skole

Hierdie klousule maak voorsiening vir die reg van die verantwoordelike Lid om openbare skole te sluit en die handeling wat gevolg moet word onder sulke omstandighede.

3.14 Klousule 14 - Registrasie van tuisleerders by 'n openbare skool

Hierdie klousule bepaal die kriteria vir die registrasie van tuisleerders by openbare skole.

3.15 Klousule 15 - Medium van onderrig by openbare skole

Hierdie klousule maak voorsiening vir die reg van die Onderwyshoof om die aanvaarde taalbeleid van 'n openbare skool, goed te keur.

3.16 Klousule 16 - Taal- en toelatingsbeleid van openbare skole

Hierdie klousule maak voorsiening vir die kriteria waaronder 'n beheerliggaam van 'n openbare skool die taalbeleid van die skool kan bepaal en erken ook die status van 'n erkende gebare taal. Dit reël verder aangeleenthede met betrekking tot die toelatingsbeleid van openbare skole.

3.17 Klousule 17 - Vryheid van gewete en godsdiens in openbare skole

Behoudens die Grondwet en enige toepaslike provinsiale wet, bevestig hierdie klousule die vryheid van gewete en godsdiens by openbare skole.

3.18 Klousule 18 - Stigting van 'n onafhanklike skool

Hierdie klousule gee uiting aan die grondwetlike reg van 'n persoon om op eie koste 'n onafhanklike skool te stig en te onderhou.

3.19 Klousule 19 - Registrasie as 'n onafhanklike skool

Hierdie klousule bepaal die voorwaardes waaronder 'n onafhanklike skool geregistreer kan word.

3.20 Clause 20 - Withdrawal of registration and closure of an independent school

This clause provides for the responsibility of the responsible Member to determine the procedure for the withdrawal of the registration and closure of independent schools. It also determines the conditions under which the Head of Education may withdraw the registration of an independent school or the closure thereof.

3.21 Clause 21 - Management of independent schools

This clause regulates the management of independent schools.

3.22 Clause 22 - Subsidies to independent schools

This clause provides for the application for subsidies, the right of the responsible Member to issue guidelines related to subsidies for independent schools, the right of the Head of Education to terminate or reduce subsidies and the procedure to be followed under these circumstances.

3.23 Clause 23 - Guarantee Fund

This clause provides for the establishment and administration of a guarantee fund.

3.24 Clause 24 - Annual Registration Fee and Guarantee Fee

This clause provides for the annual payment of the registration fee and guarantee fee. It also determines the administration of these fees.

3.25 Clause 25 - Regulations relating to independent schools

This clause provides for the obligation of the responsible Member to determine regulations relating to independent schools.

3.26 Clause 26 - Registration of a learner for home-based education

This clause provides for a person to apply to the Head of Education for the registration of learner to receive education at the learner's home. It also provides for the procedures and conditions under which the Head of Education must register a learner for home-based education. It further provides for the obligation of the responsible Member to determine minimum requirements and procedures to be followed and due process for the withdrawal or refusal for such registration.

3.20 Klousule 20 - Intrekking van registrasie en sluiting van 'n onafhanklike skool

Hierdie klousule maak voorsiening vir die verantwoordelikheid van die verantwoordelike Lid om die prosedure vir die intrekking van die registrasie en die sluiting van onafhanklike skole te bepaal. Dit bepaal ook die voorwaardes waaronder die Onderwyshoof registrasie van 'n onafhanklike skool kan intrek of dit kan sluit.

3.21 Klousule 21 - Bestuur van onafhanklike skole

Hierdie klousule reguleer die bestuur van onafhanklike skole.

3.22 Klousule 22 - Subsidies aan geregistreerde onafhanklike skole

Hierdie klousule voorsien vir die aansoek van subsidies, die reg van die verantwoordelike Lid om riglyne in verband met subsidies aan onafhanklike skole uit te vaardig, die reg van die Onderwyshoof om subsidies op te kort of te verminder en die prosedure wat gevolg moet word in hierdie omstandighede.

3.23 Klousule 23 - Waarborgfonds

Hierdie klousule maak voorsiening vir die instelling en die administrasie van 'n waarborgfonds.

3.24 Klousule 24 - Jaarlikse registrasiegeld en waarborggeld

Hierdie klousule maak voorsiening vir die jaarlikse betaling van die registrasiegeld en waarborggeld. Dit bepaal ook die administrasie van hierdie gelde.

3.25 Klousule 25 - Regulasies betreffende onafhanklike skole

Hierdie klousule maak voorsiening vir die verantwoordelikheid van die verantwoordelike Lid om regulasies in verband met onafhanklike skole te bepaal.

3.26 Klousule 26 - Registrasie van 'n leerder vir tuisonderrig

Hierdie klousule maak voorsiening dat 'n persoon by die Onderwyshoof kan aansoek doen vir die registrasie van 'n leerder om by die leerder se huis onderwys te ontvang. Dit maak ook voorsiening vir die handeling en die voorwaardes waaronder die Onderwyshoof 'n leerder vir tuisonderrig moet registreer. Dit maak verder voorsiening vir die verantwoordelikheid van die verantwoordelike Lid om minimum vereistes en handeling vir 'n regseldige proses vir die intrekking of weiering van sodanige registrasie te bepaal.

3.27 Clause 27 - Compulsory school attendance

This clause determines the compulsory school attendance age and provides for the right of the Head of Education to deviate from this determination in certain cases. It also provide for the right of the responsible Member to determine by notice in the *Provincial Gazette*, that, in a specific calendar year, compulsory school attendance shall not apply for learners in certain age-groups.

3.28 Clause 28 - School attendance officers

This clause makes provision for the responsible Member to appoint school attendance officers.

3.29 Clause 29 - Duties of principals relating to compulsory school attendance

This clause determines the responsibility of the principal to remedy problems regarding regular absence of learners and to report unsolved problems to the Head of Education.

3.30 Clause 30 - Offences relating to compulsory school attendance

This clause determines the consequences regarding offences relating to compulsory school attendance.

3.31 Clause 31 - Exemption from compulsory school attendance

This clause makes provision for the right of the Head of Education to exempt a learner from compulsory school attendance and the procedures to be followed by the Head of Education under these circumstances.

3.32 Clause 32 - Code of conduct for learners

This clause provides for the adoption of a code of conduct for learners by the governing body of a public school and the conditions related to the code of conduct.

3.33 Clause 33 - Prohibition of corporal punishment

This clause provides for the prohibition of corporal punishment and the consequences for the violation of this clause.

3.27 Klousule 27 - Verpligte skoolbywoning

Hierdie klousule bepaal die verpligte skoolbywoningsouderdom en maak voorsiening vir die reg van die Onderwyshoof om in sekere gevalle van hierdie bepaling af te wyk. Dit maak ook voorsiening vir die reg van die verantwoordelike Lid om by kennisgewing in die *Provinsiale Koerant*, af te kondig dat verpligte skoolbywoning nie op leerders van sekere ouderdomsgroepe van toepassing sal wees vir 'n bepaalde kalenderjaar nie.

3.28 Klousule 28 - Skoolbywoningsbeampte

Hierdie klousule maak voorsiening vir die verantwoordelike Lid om skoolbywoningsbeamptes aan te stel.

3.29 Klousule 29 - Pligte van prinsipale met betrekking tot verpligte skoolbywoning

Hierdie klousule bepaal die verantwoordelikheid van die prinsipaal om probleme in verband met gereelde afwesigheid van leerders reg te stel en onopgeloste probleme by die Onderwyshoof aan te meld.

3.30 Klousule 30 - Oortredings met betrekking tot verpligte skoolbywoning

Hierdie klousule bepaal die gevolge van oortredings met betrekking tot verpligte skoolbywoning.

3.31 Klousule 31 - Vrystelling van verpligte skoolbywoning

Hierdie klousule maak voorsiening vir die reg van die Onderwyshoof om 'n leerder vry te stel van verpligte skoolbywoning en die handeling wat deur die Onderwyshoof onder hierdie omstandighede gevolg moet word.

3.32 Klousule 3.32 - Gedragskode vir leerders

Hierdie klousule maak voorsiening vir die aanvaarding van 'n gedragskode vir leerders deur die beheerliggaam van 'n openbare skool en die voorwaardes met betrekking tot die gedragskode.

3.33 Klousule 33 - Verbod op lyfstraf

Hierdie klousule maak voorsiening vir die verbod op lyfstraf en die gevolge van die verbreking van hierdie klousule.

3.34 Clause 34 - Suspension and expulsion of learners from public schools

This clause determines the conditions and proceedings to be followed when a learner is suspended or expelled from a public school. It also provides for the obligation of the responsible Member to determine, by notice in the *Provincial Gazette*, behaviour which may constitute serious misconduct, disciplinary proceedings to be followed, proceedings for a fair hearing and due process to safeguard the interests of the learner and any other party involved in disciplinary proceedings.

3.35 Clause 35 - Representative council of learners

This clause provides for establishment of a representative council of learners at a public school and the obligation of the responsible Member to determine, by notice in the *Provincial Gazette*, guidelines for the establishment, composition, election and functions of the council.

3.36 Clause 36 - Governing body of a public school

This clause provides for the establishment of governing bodies for public schools.

3.37 Clause 37 - Governance and professional management of public schools

This clause provides for the determination of the distinction between governance and professional management of a public school and the status of the governing body.

3.38 Clause 38 - Governing body serving two or more schools

This clause determines that the responsible Member may determine that the governance of two or more public schools may vest in a single governing body.

3.39 Clause 39 - Composition of governing body of an ordinary public school

This clause determines the composition of a governing body of an ordinary public school.

3.40 Clause 40 - Composition of governing body of a public school for learners with special education needs

This clause determines the composition of a governing body of a public school for learners with special education needs.

3.34 Klousule 34 - Skorsing en uitsetting van leerders uit openbare skole

Hierdie klousule bepaal die voorwaardes en handeling wat gevolg moet word wanneer 'n leerder geskors of uitgesit word uit 'n openbare skool. Dit maak ook voorsiening vir die verpligtinge van die verantwoordelike Lid om by kennisgewing in die *Provinsiale Koerant*, gedrag wat as ernstige wangedrag geag kan word, dissiplinêre handeling wat gevolg moet word, handeling vir 'n regverdige verhoor en prosedure vir 'n behoorlike regsproses om die belange van die leerder en enige ander betrokke party betrokke in die dissiplinêre handeling te beskerm, te bepaal.

3.35 Klousule 35 - Verteenwoordigende raad van leerders

Hierdie klousule maak voorsiening vir die instelling van 'n verteenwoordigende raad van leerders by 'n openbare skool en die verpligting van die verantwoordelike Lid om by kennisgewing in die *Provinsiale Koerant*, riglyne vir die instelling, samestelling, verkiesing en funksies van die raad te bepaal.

3.36 Klousule 36 - Beheerliggaam van 'n openbare skool

Hierdie klousule maak voorsiening vir die instelling van beheerliggame vir openbare skole.

3.37 Klousule 37 - Beheer en professionele bestuur van openbare skole

Hierdie klousule maak voorsiening vir die bepaling van die onderskeid tussen beheer en professionele bestuur van 'n openbare skool en die status van die beheerliggaam.

3.38 Klousule 38 - Beheerliggaam wat twee of meer skole bedien

Hierdie klousule bepaal dat die verantwoordelike Lid kan bepaal dat die beheer van twee of meer openbare skole in 'n enkele beheerliggaam kan setel.

3.39 Klousule 39 - Samestelling van beheerliggaam van 'n gewone openbare skool

Hierdie klousule bepaal die samestelling van 'n beheerliggaam van 'n gewone openbare skool.

3.40 Klousule 40 - Samestelling van beheerliggaam van 'n openbare skool vir leerders met spesiale onderwysbehoefes

Hierdie klousule bepaal die samestelling van 'n beheerliggaam van 'n openbare skool vir leerders met spesiale onderwysbehoefes.

3.41 Clause 41 - Membership of governing body of a public school

This clause provides for the obligation of the responsible Member to determine the different categories of members, the conditions of membership, the status of co-opted members, the recusal of members of a governing body of a public school and the status of members who are minors.

3.42 Clause 42 - General powers and duties of governing bodies

This clause determines the powers and duties of governing bodies and the conditions by which some governing bodies may exercise one or more allocated powers and duties.

3.43 Clause 43 - Allocated powers and duties of governing bodies

This clause determines the procedures to be followed to exercise allocated powers and functions.

3.44 Clause 44 - Capacity building of members of governing bodies

This clause provides for the obligation of the responsible Member to institute training programmes for members of governing bodies.

3.45 Clause 45 - Constitution of governing body

This clause determines the responsibility of a governing body to function in accordance with a constitution and the obligation of the responsible Member to determine minimum requirements for such constitution.

3.46 Clause 46 - Election and appointment of members of a governing body

This clause regulates the electoral process for members of governing bodies or appointment of members.

3.47 Clause 47 - Failure by governing body to perform functions

This clause provides for procedures to be followed when a governing body fails to perform its functions.

3.48 Clause 48 - The responsibility of the Department

This clause determines the responsibility of the Head of Education to finance public schools and to provide in good time sufficient information to governing bodies in this regard to enable them to prepare their budgets for the following financial year.

3.41 Klousule 41 - Lidmaatskap van beheerliggaam van 'n openbare skool

Hierdie klousule maak voorsiening vir die verpligting van die verantwoordelike Lid om verskillende kategorieë lede, die voorwaardes vir lidmaatskap, die status van gekoöpteerde lede, die terugtrekking van lede van 'n beheerliggaam van 'n openbare skool en die status van lede wat minderjarig is, te bepaal.

3.42 Klousule 42 - Algemene bevoegdhede en werksaamhede van beheerliggaam

Hierdie klousule bepaal die magte en werksaamhede van beheerliggame en die voorwaardes waarby sommige beheerliggame een of meer toegewese bevoegdhede en werksaamhede kan beoefen.

3.43 Klousule 43 - Toegewese bevoegdhede en werksaamhede van beheerliggaam

Hierdie klousule bepaal die prosedures wat gevolg moet word om toegewese bevoegdhede en werksaamhede te beoefen.

3.44 Klousule 44 - Ontwikkeling van vermoëns van beheerliggaamslede

Hierdie klousule voorsien vir die verpligting van die verantwoordelike Lid om opleidingsprogramme vir lede van beheerliggame in te stel.

3.45 Klousule 45 - Grondwet van beheerliggaam

Hierdie klousule bepaal die verantwoordelikheid van 'n beheerliggaam om in ooreenstemming met 'n grondwet te funksioneer en die verpligting van die verantwoordelike Lid om minimum vereistes vir sodanige grondwet te bepaal.

3.46 Klousule 46 - Verkiesing en aanstelling van lede van 'n beheerliggaam

Hierdie klousule reguleer die verkiesingsproses vir lede van beheerliggame of die aanstelling van lede.

3.47 Klousule 47 - Versuim van beheerliggaam om werksaamhede te verrig

Hierdie klousule maak voorsiening vir die prosedure wat gevolg moet word wanneer 'n beheerliggaam versuim om sy funksies te verrig.

3.48 Klousule 48 - Die verantwoordelikheid van die Departement

Hierdie klousule bepaal die verantwoordelikheid van die Onderwyshoof om openbare skole te finansier en tydig in hierdie verband van voldoende inligting aan beheerliggame te voorsien om hulle in staat te stel om hul begrotings vir die volgende boekjaar voor te berei.

3.49 Clause 49 - Norms and standards for funding of public schools

This clause confirms the funding of public schools in accordance with national norms and standards.

3.50 Clause 50 - Responsibility of the governing body of a public school

This clause determines the obligation of governing bodies to supplement the resources supplied by the Department in order to improve the quality of education provided at a public school and to manage the finances of the school.

3.51 Clause 51 - School fees at public schools

This clause provides for the determination of school fees at a public school in terms of the equitable criteria and procedures referred to in section 39(4) of the National Act.

3.52 Clause 52 - Parents' liability for payment of school fees

This clause provides for the liability of a parent to pay the prescribed school fees and the right of the parent to appeal to the Head of Education against a decision of the governing body regarding the exemption of payment of school fees. It also determines the obligation of the Head of Education to follow due process to safeguard the interests of all parties involved.

3.53 Clause 53 - Enforcement of payment of school fees

This clause provides for the right of a governing body to enforce the payment of school fees by process of law.

3.54 Clause 54 - Financial records and statements of public schools

This clause determines the obligation of the responsible Member to determine guidelines for the control of the finances of a public school.

3.55 Clause 55 - Financial year of a public school

This clause determines the financial year of a public school.

3.56 Clause 56 - Powers and duties of the responsible Member

This clause determines further powers and duties of the responsible Member, for example, to determine education policy.

3.49 Klousule 49 - Norme en standarde vir die befondsing van openbare skole

Hierdie klousule bevestig die befondsing van openbare skole in ooreenstemming met nasionale norme en standarde.

3.50 Klousule 50 - Verantwoordelikheid van die beheerliggaam van 'n openbare skool

Hierdie klousule bepaal die verpligting van beheerliggame om die hulpbronne deur die Departement voorsien, aan te vul ten einde die gehalte van onderwys voorsien by 'n openbare skool te verbeter en om die finansies van die skool te bestuur.

3.51 Klousule 51 - Skoolgeld by openbare skole

Hierdie klousule maak voorsiening vir die bepaling van skoolgeld by 'n openbare skool ingevolge die billike maatstawwe en prosedures bedoel in artikel 39(4) van die Nasionale Wet.

3.52 Klousule 52 - Verpligting op ouers om skoolgeld te bepaal

Hierdie klousule maak voorsiening vir die verpligting van 'n ouer om die voorgeskrewe skoolgeld te betaal en die reg van die ouer om by die Onderwyshoof appèl aan te teken teen die besluit van die beheerliggaam betreffende die vrystelling van die betaling van skoolgeld. Dit bepaal ook die verpligting van die Onderwyshoof om billike regsproses te volg om die belange van alle betrokke partye te beskerm.

3.53 Klousule 53 - Afdwing van die betaling van skoolgeld

Hierdie klousule maak voorsiening vir die reg van 'n beheerliggaam om betaling van skoolgeld deur regsproses af te dwing.

3.54 Klousule 54 - Finansiële rekords en state van openbare skole

Hierdie klousule maak voorsiening vir die verpligting van die verantwoordelike Lid om riglyne vir die beheer van die finansies van 'n openbare skool te bepaal.

3.55 Klousule 55 - Boekjaar van openbare skole

Hierdie klousule bepaal die boekjaar van openbare skole.

3.56 Klousule 56 - Bevoegdhede en werksaamhede van die verantwoordelike Lid

Hierdie klousule bepaal verdere bevoegdhede en werksaamhede van die verantwoordelike Lid, byvoorbeeld, om onderwysbeleid te bepaal.

3.57 Clause 57 – Powers and duties of the Head of Education

This clause determines further powers and duties of the Head of Education, for example, to determine the school calendar, school holidays and the minimum length of the school day.

3.58 Clause 58 - Transitional provisions relating to schools other than private schools

This clause determines that any school established prior to the commencement of this Act, other than a private school, is deemed to be a public school.

3.59 Clause 59 - Categories of public schools

This clause determines that any category of school established prior to the commencement of this Act is deemed to be a public school.

3.60 Clause 60 - Transitional provisions relating to private schools

This clause determines that a private school which was registered prior to the commencement of this Act, is deemed to be an independent school.

3.61 Clause 61 - Transitional provisions relating to public schools on private property

This clause regulates the procedures to be followed regarding an agreement between the responsible Member and the owner of private property.

3.62 Clause 62 - Transitional provisions relating to school attendance officers

This clause provides for the status of a school attendance officer which was appointed prior to the commencement of this Act.

3.63 Clause 63 - Transitional provisions relating to governing bodies

This clause provides for the status of governing bodies established prior to the commencement of this Act. It further determines that measures or guidelines regarding the composition and electoral process for a governing body or a representative council for learners is deemed to be issued in terms of this Act.

3.64 Clause 64 - Duty of schools to provide information

This clause determines that schools must provide such information as is reasonably required by the Head of Education.

3.57 Klousule 57 – Bevoegdhede en werksaamhede van die Onderwyshoof

Hierdie klousule bepaal verdere bevoegdhede en werksaamhede van die Onderwyshoof, byvoorbeeld, om die skoolkalender, skoolvakansies en die minimum lengte van die skooldag te bepaal.

3.58 Klousule 58 - Oorgangsbepalings wat op skole anders as private skole betrekking het

Hierdie klousule bepaal dat enige skool anders as 'n private skool, wat voor die inwerkingtreding van hierdie Wet ingestel is, geag word 'n openbare skool te wees.

3.59 Klousule 59 - Kategorieë van openbare skole

Hierdie klousule bepaal dat enige kategorie skool wat voor die inwerkingtreding van hierdie Wet ingestel is, geag word 'n openbare skool te wees.

3.60 Klousule 60 - Oorgangsbepalings wat op private skole betrekking het

Hierdie klousule bepaal dat 'n private skool wat voor die inwerkingtreding van hierdie Wet geregistreer is, geag word 'n onafhanklike skool te wees.

3.61 Klousule 61 - Oorgangsbepalings wat betrekking het op openbare skole op private eiendom

Hierdie klousule reguleer die prosedures wat gevolg moet word betreffende 'n ooreenkoms tussen die verantwoordelike Lid en die eienaar van private eiendom.

3.62 Klousule 62 - Oorgangsbepalings met betrekking tot skoolbywoningsbeamptes

Hierdie klousule maak voorsiening vir die status van 'n skoolbywoningsbeampte wat aangestel is voor die inwerkingtreding van hierdie Wet.

3.63 Klousule 63 - Oorgangsbepalings met betrekking tot beheerliggame en verteenwoordigende rade van leerders

Hierdie klousule maak voorsiening vir die status van beheerliggame ingestel voor die inwerkingtreding van hierdie Wet. Dit bepaal verder dat maatreëls of riglyne betreffende die samestelling en verkiesingsproses vir 'n beheerliggaam of 'n verteenwoordigende raad van leerders, geag word om uitgevaardig te gewees het ingevolge hierdie Wet.

3.64 Klousule 64 - Plig van skole om inligting te verstrek

Hierdie klousule bepaal dat skole sodanige inligting moet verstrek as wat redelikerwys deur die Onderwyshoof vereis word.

3.65 Clause 65 - Regulations

This clause provides for the right of the responsible Member to make regulations regarding any matter which must or may be prescribed by regulation under this Act.

3.66 Clause 66 - Delegation of powers

This clause provides for the delegation of powers by the responsible Member and the Head of Education.

3.67 Clause 67 - Liability of State

This clause confirms the liability of the State for any damage or loss as a result of any act or omission in connection with any educational activity conducted by a public school. The State Liability Act, 1957 (Act No. 20 of 1957) is applicable.

3.68 Clause 68 - Repeal of laws, and savings

This clause determines the repeal of laws regulating school education in the Province prior to the commencement of this Act. It also determines the status of all actions taken under laws repealed by this Act.

3.69 Clause 69 - Short title

This clause contains the short title of the Act.

3.65 Klousule 65 - Regulasies

Hierdie klousule voorsien vir die reg van die verantwoordelike Lid om regulasies uit te vaardig ten opsigte van enige aangeleentheid wat kragtens hierdie Wet voorgeskryf moet of kan word.

3.66 Klousule 66 - Delegasie bevoegdhede

Hierdie klousule voorsien vir die delegasie van bevoegdhede deur die verantwoordelike Lid en die Onderwyshoof.

3.67 Klousule 67 - Aanspreeklikheid van die Staat

Hierdie klousule bevestig die aanspreeklikheid van die Staat vir enige skade verlies veroorsaak as gevolg van enige daad of versuim in verband met enige opvoedkundige aktiwiteit deur 'n openbare skool bedryf. Die Wet op Staatsaanspreeklikheid, 1957 (Wet No. 20 van 1957) is van toepassing.

3.68 Klousule 68 - Herroeping van wette en voorbehoud

Hierdie klousule bepaal die herroeping van wette wat skoolonderwys in die Provinsie geregleer het voor die inwerkingtreding van hierdie Wet. Dit bepaal ook die status van alle handeling uitgevoer kragtens wette wat deur hierdie Wet herroep is.

3.69 Klousule 69 - Kort titel

Hierdie klousule bevat die kort titel van die Wet.

PROVINCIAL GAZETTE

(Published every Friday)

All correspondence, advertisements, etc. must be addressed to the Officer in charge of the Provincial Gazette, P.O. Box 517, Bloemfontein. Free Voucher copies of the Provincial Gazette or cuttings of advertisements are NOT supplied. If copies of the Provincial Gazette are required, R4,70 must be sent for each copy.

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