

**NORTH WEST
NOORDWES**

**EXTRAORDINARY
PROVINCIAL GAZETTE**

**BUITENGEWONE
PROVINSIALE KOERANT**

Vol. 251

**30 JULY
JULIE 2008**

No. 6517

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OFFICIAL NOTICES

OFFICIAL NOTICE 15 OF 2008
NORTH WEST PROVINCE
NORTH WEST SCHOOLS EDUCATION ACT
(ACT 3 OF 1998)

**REGULATIONS RELATING TO THE REGISTRATION AND WITHDRAWAL OF
REGISTRATION AND SUBSIDIES TO INDEPENDENT SCHOOLS**

I, Oabetswe Johannes Tselapedi, the Member of the Executive Council for Education in the North West Province has in terms of sections 46(2), 47 and 50 of the South African Schools Act, 1996 (Act No. 84 of 1996) and section 15 of the North West Schools Education Act, 1998 (Act No. 3 of 1998) and with the concurrence of the financial head, promulgated the regulations set out in the Schedule.



Oabetswe Johannes Tselapedi
MEC for Education, North West Province

REGULATIONS RELATING TO THE REGISTRATION AND WITHDRAWAL OF REGISTRATION AND SUBSIDIES TO INDEPENDENT SCHOOLS

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CHAPTER 1 DEFINITIONS

1. Definitions

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

“accreditation” means accreditation or preliminary accreditation as determined by Umalusi;

“amendment” means an alteration in the conditions of registration or provisional registration of an independent school;

“application for conversion” means an application to convert from provisional registration to full registration;

“condition” means a stipulation or directive imposed by the Head of Department on an independent school;

“independent school” means a school established in terms of section 46 of the Act, which is privately owned and not registered with the department as a public school;

“registration” means the granting of an application to operate as an independent school in terms of the Act;

“requirements” means the prescribed criteria contemplated in chapter 3 of these regulations or any other criteria prescribed in the Act that an applicant or independent school must fulfill in order to be registered or maintain registration;

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

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

CHAPTER 2 APPLICATION PROCESS

2. Eligibility

- (1) A person proposing to provide education as contemplated in the Act is eligible to apply for registration if-
- (a) registered as a juristic person in terms of the Companies Act, 1973 (Act No. 61 of 1973); or
 - (b) recognized as an external company in terms of the Companies Act, 1973 (Act No. 61 of 1973), as amended.
- (2) A person who purports to operate an independent school is guilty of an offence in terms of section 46 of the Act, and is not eligible to apply for registration except in terms of regulation 8(4).

3. Application for registration

- (1) Anyone who intends to establish and maintain an independent school must apply to the Head of the Department in terms of these regulations.
- (2) Sub-regulation (1) also applies to
- (a) a juristic person established through a merger between independent schools, with a resultant loss of the juristic personality of the old independent school and the creation of a new juristic person;
 - (b) a juristic person or an external company who intends to change the name of their independent school.
- (3) An applicant for registration must-
- (a) make the application in writing on the prescribed application form and address it to the Head of the Department;
 - (b) submit the application to the regional office in which the proposed independent school is to be established by not later than 30 January of the

year preceding the year of the proposed opening of the independent school.

(4) The application must be accompanied by-

(a) a constitution for the independent school covering all matters relating to the control of the independent school including its ownership, character, aims, governance, funding, admission, religion and language policy;

(b) a floor and site plan, which shall in the case of a multi-storied building include a floor plan for each floor to be occupied;

(c) details of any additional facilities, which will be made available for the implementation of the curriculum and for co-curricular and extra-curricular activities;

(d) details of the facilities which will be made available to serve the needs of learners with disabilities;

(e) proof of security of tenure over the proposed school buildings and grounds for a minimum of one year from the date of registration of the independent school;

(f) a certified copy of a certificate from the relevant health authorities confirming that the proposed facilities at the independent school will meet the minimum health and safety requirements;

(g) a certified copy of a certificate from the relevant municipality confirming that the proposed facilities will meet the requirements of the municipal by-laws;

(h) proof in the form of a legally binding surety that the independent school will be financially viable for a minimum period of 12 months after registration;

(i) certified copies of the constitutive instruments of the relevant juristic person or external company; and

(k) a list of the educators proposed to be employed at the independent school as well as their South African Council of Educators registration numbers;

- (l) sufficient information regarding the curriculum(s) to be followed by the independent school;
 - (m) detailed information of the different grades to be offered by the independent school; and
 - (n) a declaration that by the owner that the independent school will maintain an enrollment of a minimum of twenty (20) learners for the period of registration.
- (5) The Head of Department must refuse to consider an application, which does not comply with the requirements of sub-paragraph (3) and (4) above.
- (6) (a) The Head of the Department may require an applicant to clarify items in the application or submit additional information before the application is determined.
- (b) The applicant must submit the additional requested information within three months of receiving the request from the Head of Department.
- (7) An applicant must promptly notify the Head of Department if there is any change in the information submitted in the application.

4. Application for amendment

- (1) Regulation 3(3) to 3(5) applies to the submission of an amendment application, except that it must be submitted at least twelve months before the proposed amendment is intended to come into effect.
- (2) The Head of the Department may for good reason permit a later submission if requested in writing by the applicant.

5. Application for provisional registration

- (1) Regulation 3(3) to 3(5) applies to the submission of an application for provisional registration.
- (2) The submission must be accompanied by a statement of the applicant

indicating the areas where the applicant is lacking full compliance with the regulations and an indication as to when the applicant will be in a position to comply with the regulations.

6. Application for conversion

Regulation 3(3) to 3(5) applies to the submission of a conversion application.

7. Withdrawal of application

(1) An application made in terms of regulations 3,4,5 or 6 may be withdrawn by notice in writing to the Head of the Department.

(2) On receipt of a valid notice of withdrawal the registrar must forthwith return the application documents to the applicant.

8. Subsequent application for registration

(1) An applicant that has withdrawn an application in terms of regulation 7(1) may submit a subsequent application to the Head of Department not less than twelve months after the date of withdrawal.

(2) An applicant whose-

- (a) application has been denied other than in terms of regulation 16(5); or
- (b) provisional registration has lapsed; or
- (c) registration has been cancelled

may submit a subsequent application not less than thirty six months after the date of denial, lapsing or cancellation respectively.

(3) An applicant whose application has been denied in terms of regulation 16(5) may submit a subsequent application not less than sixty months after the notification of such denial of registration has been issued by the Head of Department.

(4) Despite sub-regulation (2) a person who has been found guilty of an offence in terms of section 46 of the Act may submit a subsequent application not less than sixty months after paying the fine or serving the term of imprisonment as the case may be.

(5) Regulation 3 applies to the submission of a subsequent application.

CHAPTER 3 REQUIREMENTS FOR REGISTRATION

9. Compliance with the Act

In order to be registered an applicant must fulfill the requirements of the Act.

10. Name of applicant

An applicant must apply for registration in the same name under which it is registered or recognized in terms of the Companies Act, 1973 (Act No. 61 of 1973), and must declare the name under which the independent school, if registered, will trade.

11. Prohibition of discrimination

An applicant must include a signed declaration that the independent school, if registered, will not discriminate on the basis of race and that it will comply with the provisions of section 9(4) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996).

12. Accredited curricula

(1) An applicant must propose to offer only **curricula** that comply with the national curriculum statements indicating the minimum outcomes or standards as determined by the Minister in terms of section 6A of the Act.

(2) An applicant must comply with the national process and procedure for the assessment of learner achievement as determined by the Minister in terms of section 6A of the Act.

13. Quality assurance

(1) In the application contemplated in regulations 3, 4, 5 and 6 an applicant must submit a signed declaration that it has applied to Umalusi for accreditation, listing the **curricula** for which it has applied for accreditation or preliminary accreditation.

(2) In the application contemplated in regulations 3, 4, 5 and 6, an applicant must provide a written declaration that it-

- (a) will maintain the necessary academic and support staff with appropriate academic or professional qualifications and experience to achieve the objectives of each curriculum;
- (b) will maintain a quality management system including assessment policies and procedures appropriate to each curriculum;
- (c) will maintain sufficient space, equipment and instructional material to provide education and training of sufficient standard to achieve the objectives of each curriculum;
- (d) will maintain full records of each learner's admission, academic progress and assessment of learning in respect of each curriculum;
- (e) will ensure that the hours allocated to each Learning Area are adequately observed and approved by the Head of Department.

14. Finance

(1) In the application contemplated in regulation 3, 4, 5 and 6 an applicant must submit proof that-

- (a) its income is or will be sufficient to sustain its curriculum in an acceptable manner; and
- (b) it has or will have a stable financial position that will enable it to maintain operational continuity.

(2) In the application contemplated in regulations 3, 4, 5 and 6 an applicant must submit proof that it has established financial surety or guarantees to

ensure that the independent school meets its obligations to its enrolled learners.

15. Monitoring and evaluation

(1) In the application contemplated in regulations 3, 4, 5 and 6, an applicant must submit a signed declaration that if registered or provisionally registered the independent school will comply with-

- (a) a periodic evaluation of the independent school by the Head of Department at intervals to be determined by the Head of Department;
- (b) any other reasonable process arranged by the Head of Department after consultation with the independent school for the purpose of monitoring compliance with the requirements of the Act and the conditions of registration as imposed by the Head of Department in terms of section 46 of the Act.

(2) The Head of Department may at any reasonable time order that official visits and quality assurance be done at any independent school in respect of the premises, furniture and equipment of the independent school, the teaching provided, the way in which the independent school is managed, and any other matter which in the opinion of the Head of Department should be monitored.

(3) Whenever the owner or principal of an independent school requests in writing that quality assurance be done, the Head of Department may allow the request and if so, a report will be forwarded to the owner or principal after the quality assurance has been done.

(4) Should a complaint be lodged against the school by parents or guardians of learners enrolled at the school and/or departmental officials and/or members of the public, the Head of Department may, in writing to the principal or owner of such a school, request a written report with regard to the complaint.

(5) The principal or owner must within 30 days of receipt of the written request referred to in sub-regulation (4) above, respond to the Head of Department in writing.

(6) Should the Head of Department not be satisfied with the written response referred to in sub-regulation (5) above, he/she may after receipt of the written response, inform the principal or owner in writing of his/her decision, which may include an investigation.

(7) In the event of an investigation departmental officials appointed by the Head of Department shall be granted access to the school premises or any records at any reasonable time.

CHAPTER 4 REGISTRATION

16. Determination of an application

(1) The Head of Department must consider and determine an application for registration-

- (a) in accordance with section 46 of the Act and these regulations;
- (b) at least six months before the applicant intends to commence operations.

(2) In determining an application, the Head of Department must consider-

- (a) all the information and declarations provided by the applicant and any other relevant information;
- (b) whether, if registered, the applicant in all its curriculums will maintain acceptable standards that are not inferior to national standards;
- (c) whether the applicant has met all other relevant requirements of the Act and these regulations;
- (d) regulation 21 concerning the registration name;
- (e) the rights of the general public, the learners and the applicant.

(3) The Head of Department must determine whether to-

- (a) register the applicant in terms of regulation 3;
- (b) grant provisional registration in terms of regulation 5, stating-
 - (i) the terms of provisional registration;
 - (ii) the date by which the independent school must comply with

the terms mentioned in (i) above; or

- (c) deny the application.

(4) In determining to grant registration or provisional registration as contemplated in sub-regulation (3) the Head of Department must approve the curriculum(s) to be offered by the independent school.

(5) Despite sub-regulation (3), if an applicant is found to have knowingly submitted fraudulent, false or misleading information the Head of Department

must deny the application and refer the matter to the South African Police Service for investigation.

17. Conversion of provisional registration

(1) The Head of Department must consider and determine an application for the conversion of provisional registration submitted in terms of regulation 5 in accordance with regulation 16(3).

(2) The Head of Department must determine whether to-

- (a) register the applicant in accordance with regulation 16(3) from the expiry date;
- (b) impose a condition and if so, state in writing what condition and the reasons why it has been imposed; or
- (c) deny the application for conversion and, if denied, the provisional registration lapses.

(3) If the Head of Department does not receive an application submitted in terms of regulation 5, or if registration is denied in terms of sub-regulation (2), the Head of Department must notify the independent school in writing that its provisional registration will lapse at the end of the academic year, giving reasons.

18. Amendment of registration

(1) The Head of Department must consider and determine an application for amendment in accordance with regulation 16(3) at least three months before the amendment is to come into effect.

(2) The Head of Department must determine whether to-

- (a) amend the registration or provisional registration; or
- (b) impose a condition; or
- (c) deny the application for amendment.

(3) In the case of sub-regulation (2)(b) or (c), the Head of Department must notify the independent school in writing, giving reasons.

19. Withdrawal of registration

(1) Subject to section 47 of the Act, the Head of Department must withdraw the registration or provisional registration of an independent school if-

- (a) the independent school ceases to-
 - (i) provide education as contemplated in the Act;
 - (ii) meet the criteria of eligibility contemplated in regulation 2;
 - (iii) fulfill the requirements for registration contemplated in chapter 3 of these regulations;
 - (iv) comply with any condition imposed by the Head of Department;
 - (v) operate all its curriculum.
- (b) the independent school provides fraudulent, false or misleading information-
 - (i) to the Head of Department; or
 - (ii) in any of its public documents or advertising and marketing material;
- (c) the independent school is liquidated; or
- (d) the owner(s) or director(s) involved is convicted of an offence in terms of section 46 of the Act.

(2) If Umalusi withdraws accreditation from one or more of an independent school's **curricula**, the Head of Department must review the independent school's registration or provisional registration and determine whether reasonable grounds exist for withdrawal.

(3) If the Head of Department proposes to cancel an independent school's registration or provisional registration, the Head of Department must-

- (a) comply with section 47 of the Act;

- (b) consider any representation from the independent school or an interested person in relation to such action;
 - (c) inform the independent school of the decision taken and the reasons therefore.
- (4) If the final determination is to cancel a registration or provisional registration, the Head of Department must issue a notice in writing to the independent school that its registration or provisional registration is cancelled and that the cancellation takes effect on a date as determined by the Head of Department.

20. Publication of registration notices

- (1) The Head of Department must publish every decision made in terms of this chapter by notice in the Provincial Government Gazette.
- (2) The Head of Department must keep a public record of registered or provisionally registered independent schools, together with copies of the registration certificates.
- (3) The independent school must take reasonable steps to ensure that a notice dealing with the lapsing or cancellation of registration is brought to the attention of parents or guardians of learners enrolled at the independent school.

CHAPTER 5 REGISTRATION CERTIFICATE

21. Registration name

(1) Subject to this regulation, if the Head of Department grants registration or provisional registration, the independent school must be registered under its legal name, but the Head of Department may include in the registration certificate such translations, abbreviations, acronyms or trade names that uniquely identify the independent school.

(2) Despite sub-regulation (1), the Head of Department must not register an independent school-

- (a) under a name that the Head of Department considers to be fraudulent, false or misleading; or
- (b) under the same name as another independent school, or include in two certificates of registration the same translation, abbreviation, acronym or trade name.

(3) In the case of sub-regulation (2)(a) or (b), the Head of Department must agree on an acceptable alternative with the applicant.

22. Certificate of registration

(1) The certificate of registration or provisional registration must include the following-

- (a) the registered name of the independent school and, where applicable, any approved translation, abbreviation, acronym or trade name;
- (b) the independent school's registration number;
- (c) registered curriculum(s);
- (d) the registered grades;
- (d) the physical address of the independent school;

- (e) the date by which all the requirements for registration must be met, if the independent school is provisionally registered;
 - (f) any condition imposed; and
 - (g) the Head of Department's name, signature and date of signature.
- (2) If an independent school's registration is amended or a new condition is imposed or a condition is amended, the Head of Department must issue an amended certificate of registration to the independent school.
- (3) On receipt of the amended certificate of registration, the independent school must within 14 days return the previous certificate of registration to the Head of Department.
- (4) A certificate of registration is not transferable from one independent school to another.

CHAPTER 6 RESPONSIBILITY OF AN INDEPENDENT SCHOOL

23. Maintenance of registration

In order to maintain its registration an independent school must-

- (a) continue to fulfill the requirements for registration contemplated in the Act and chapter 3 of these regulations;
- (b) discharge the responsibilities of a registered independent school in terms of this chapter;
- (c) comply with any condition imposed by the Head of Department;
- (d) comply with the national curriculum statements indicating the minimum outcomes or standards as determined by the Minister in terms of section 6A of the Act;
- (e) notify the Head of Department of any change in the information submitted in terms of the Act and these regulations;
- (f) undergo an evaluation by the Head of Department at intervals to be determined by the Head of Department;
- (g) comply with any other reasonable process arranged by the Head of Department after consultation with the independent school for the purpose of monitoring compliance with the requirements of the Act and the conditions of registration;
- (h) ensure that it
 - (i) maintains the necessary academic and support staff with appropriate academic or professional qualifications and experience to achieve the objectives of each curriculum;
 - (ii) maintains a quality management system including assessment policies and procedures appropriate to each curriculum;

- (iii) maintains sufficient space, equipment and instructional material to provide education and training of sufficient standard to achieve the objectives of each curriculum;
- (iv) does not exceed the enrolment that the facilities and equipment can reasonably accommodate;
- (v) maintains full records of each learner's admission, academic progress and assessment of learning in respect of each curriculum;
- (i) report immediately to the Head of Department:
 - (i) loss of any physical facility necessary for the proper conduct of a curriculum;
 - (ii) loss of any supporting service to a curriculum; or
 - (iii) any significant reduction in the financial or personnel resources needed to sustain a curriculum.

24. Display of registration status

An independent school must display-

- (a) its registration certificate or a certified copy in a prominent place accessible to the public and to all learners;
- (b) the following statement in full on its letterhead and official documents-
 - (i) if the independent school is registered, "Registered with the Department of Education as an independent school under the South African Schools Act, 1996. Registration certificate no. [state number on certificate]" or
 - (ii) if the independent school is provisionally registered, "Provisionally registered with the Department of Education until [expiry date] as an independent school under the South African Schools Act, 1996. Registration certificate no. [state number on certificate]"

25. Registered curricula

- (1) An independent school must offer only such curricula as approved by the Head of Department and included in the registration certificate.
- (2) An independent school must ensure that any registered curriculum is continued long enough to enable any cohort of learners to complete the full curriculum, but if unavoidable circumstances prevent this-
- (a) the Head of Department must be informed without delay;
 - (b) the independent school must make reasonable arrangements to enable the affected learners to complete the curriculum at a comparable public or independent school.
- (3) An independent school must submit an application for amendment to the Head of Department in terms of regulation 4 if it intends to withdraw, indefinitely suspend or add a curriculum.

26. Registers and other records to be kept

- (1) An independent school shall –
- (a) keep an enrolment register and an attendance register of the learners attending the independent school;
 - (b) keep a register of the educators employed at the independent school in which their names, SACE registration numbers, qualifications and remuneration are recorded;
 - (c) keep financial records, including an annually audited report;
 - (d) the constitution of the independent school which clearly reflects the vision and mission statement of the school and it must not be contrary to or in conflict with the Constitution of the Republic of South Africa Act no 108 of 1996 and other relevant legislation both nationally and provincially;
 - (e) a disciplinary code of conduct for learners and educators;
 - (f) a policy governing suspension and expulsion of learners; and

- (g) a policy on recovering of school fees and how non-payment of school fees will be dealt with.
- (h) keep such other records as the Head of Department may from time to time require in general or in any particular case.
- (2) Furnish the Head of Department with any information contained in the registers that he or she may require
- (3) Permit the Head of Department or an official authorized by him or her to inspect the registers at any time.
- (4) Keep the registers and records in such a way as may from time to time be determined or required by the Head of Department.

27. Files to be kept

- (1) An independent school shall –
 - (a) keep a learner profile file for each learner containing-
 - (i) a certified copy of the learner's birth certificate;
 - (ii) an admission form;
 - (iii) academic progress reports;
 - (iv) correspondence pertaining to the learner;
 - (v) disciplinary records;
 - (vi) transfer documents and/or report form the previous school attended;
 - (vii) any other relevant documentation pertaining to the learner's achievements as may from time to time be directed by the Department.
 - (b) a file in respect of each educator containing:-
 - (i) a signed service contract;
 - (ii) proof of South African citizenship / permanent residency or a work permit;
 - (iii) a certified copy of an identity document;
 - (iv) certified copy of SACE registration certificate;

- (iv) certified copies of educational qualifications.

28. Lapse or cancellation of registration

An independent school that has been notified by the Head of Department that its provisional registration has lapsed in terms of regulation 17(3) or that its provisional registration or registration has been cancelled in terms of regulation 19 must-

- (a) inform its learners within 14 days from the date of the Head of Department's notice that its registration has lapsed or been cancelled and notify the learners of the arrangements that will be made to safeguard their interests in terms of this regulation;
- (b) issue to each enrolled learner a copy of his or her academic record; reimburse or compensate any enrolled learner who has a lawful claim on the independent school as a consequence of its ceasing to operate from funds established as contemplated in regulation 14(2);
- (c) make adequate arrangements for affected learners to complete their curriculum(s) at a comparable public or independent school; and
- (d) cease operating before or at the end of the academic year, and any institution that fails to comply is guilty of an offence in terms of section 46 of the Act.

29. Permission of Learners to sit for Examinations of public schools.

(1) The Head of Department may allow learners at independent schools to sit for any examination conducted by or under the supervision of the education department.

(2) The independent school who wants to register as an exam centre to write exams on the departmental curriculum must make an application to the Head of the Department by October of the preceding year.

(3) The Department shall notify the applicant within 90 days of receipt of the application of the outcome thereof.

(4) If the application is successful, the independent school will enter into a service contract with the department.

CHAPTER 7 SUBSIDIES

30. Eligibility

An independent school may be considered for a subsidy if it complies with the requirements set in the National Norms and Standards for School Funding published in Government Gazette No. 19347 dated 12 October 1998 or any amendment thereto.

31. Process of application

(1) An independent school shall direct its application for a subsidy to the Member of the Executive Council for Education on the application forms that will be made available by the department for this purpose.

(2) An application for a subsidy shall be submitted annually on or before the 31st of March of the preceding year to the department.

32. Determination of application

(1) The Member of the Executive Council must consider and determine an application for subsidy-

- (a) in accordance with section 48 of the Act and these regulations;
- (b) within three months of date of receipt of the application.

(2) In determining an application, the Member of the Executive Council must consider if the independent school-

- (a) meet the requirements for registration of an independent school;
- (b) has satisfactorily complies with the responsibilities of an independent school as determined in Chapter 6 of these regulations;

- (c) maintains, in the opinion of the Head of Department, satisfactory scholastic standards;
 - (d) meets, in the opinion of the Head of Department, the educational and cultural needs of a cultural or religious group which are not adequately met by public schools;
 - (e) pays any subsidy received from the education department into a bank account as contemplated in the Banks Act, 1990 (Act No. 94 of 1990), which has been opened in the name of the independent school;
 - (f) ensures that the learners at the different points of exit comply with the requirements laid down by the National Qualifications Framework;
- (3) Any person who in or in connection with an application for a subsidy to an independent school willfully furnishes false information or makes a statement which is false or misleading, shall be guilty of an offence and upon conviction liable to a fine or imprisonment for a period of three months.

33. Quantification of subsidy

- (1) The subsidy shall be determined annually by the Head of Department in accordance with paragraph 150 and 151 of the National Norms and Standards for School Funding.
- (2) A subsidy shall be payable only in respect of those learners of school-going age who are following the curriculum in grade one to grade twelve, unless the Head of Department determines otherwise in the case of learners with special educational needs.

34. Withdrawal of a subsidy

(1) If an independent school to which a subsidy has been granted at any time no longer complies with the regulations in Chapter 2 and/or Chapter 3 of these regulations, the Head of Department shall give the independent school written notice thereof-

- (a) indicating which regulation has not been complied with; and
- (b) instructing the independent school to satisfy this regulation within a specified period determined by the Head of Department.

(2) If, after the expiry of the period contemplated in (1)(b), the independent school still does not comply with the regulation, the subsidy shall be withdrawn and the Head of the Department shall duly inform the independent school thereof and the reasons for the decision.

CHAPTER 8 APPEALS

35.Procedure

(1) Subject to section 47 of the Act, a person who appeals against a decision of the Head of Department must lodge the appeal in writing with the Member of the Executive Council within 30 days of the date of the Head of Department's decision.

(2) An appeal document must specify-

- (a) the decision being appealed;
- (b) the grounds for appeal;
- (c) the remedy being sought.

(3) The Member of the Executive Council must consider the appeal and must confirm or set aside the decision of the Head of the Department within 30 days of receiving the appeal and must-

- (a) notify the appellant of his or her decision; and
- (b) provide the appellant with written reasons for his or her decision.

(4) While the Member of the Executive Council is adjudicating the appeal the independent school will continue to function until the Member of the Executive Council notifies the appellant of his or her decision.

CHAPTER 9 GENERAL AND TRANSITIONAL ARRANGEMENTS

36. Delegation of powers

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

37. Transitional arrangements

(1) Subject to the Act, all independent schools whether registered or not prior to the promulgation of these regulations must apply for registration and/or subsidies in terms of these regulations within two years of the date of promulgation of the regulations.

(2) If an independent school fails to apply for registration as contemplated in sub-regulation (1) above, then regulation 28 will come into force and effect.

38. Short title and commencement

These regulations are the Regulations for the Registration of Independent schools, 2007 and come into effect on date of publication thereof.

OFFICIAL NOTICE 16 OF 2008
NORTH WEST PROVINCE
NORTH WEST SCHOOLS EDUCATION ACT
(ACT 3 OF 1998)

**REGULATIONS RELATING TO THE REGISTRATION OF LEARNERS TO RECEIVE
HOME EDUCATION**

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



Oabetswe Johannes Tselapedi
MEC for Education, North West Province

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CHAPTER 1

DEFINITIONS

1) *Definitions*

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

“accreditation” means accreditation or preliminary accreditation as determined by Umalusi;

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

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

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

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

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

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

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

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

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

CHAPTER 2

APPLICATION PROCESS

2. *Eligibility*

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

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

3. *Application for Registration*

- 1) An applicant who intends to register for home education must apply to the Head of Department in terms of these regulations.
- 2) An applicant for registration must -
 - a) make the application for registration in writing on the prescribed form and address it to the Head of the Department;
 - b) lodge the application with the relevant regional office by not later than 31 August of the year preceding the year of the proposed commencement of home education.
- 3) A separate application for registration must be completed for -
 - a) each learner who is to receive education at home; and
 - b) for each compulsory phase of education viz. Foundation Phase (Grades 1 to 3), Intermediate Phase (Grades 4 to 6), and Senior Phase (Grades 7 to 9).
- 4) The application must be accompanied by -

- a) a copy of the birth certificate of the learner;
- b) supporting arguments to substantiate that education at home will be in the best interest of the learner and that the learner will benefit from it;
- c) an undertaking that the learner will be taught at least as regularly and at the same quality as in a public school;
- d) a declaration by the applicant of the highest education standard achieved by him/her;
- e) a declaration by the applicant of the hours of the day and the minimum days per year during which the applicant plans to teach the learner;
- f) information about the educational programme that will be followed;
- g) information about the learning resources that will be available;
- h) sufficient information regarding the curriculum(s) to be followed by the applicant;
- i) In the application contemplated in regulations 3 and 4 an applicant must provide a written declaration that he/she will maintain a quality management system including assessment policies and procedures appropriate to each curriculum;
- j) In the application contemplated in regulations 3 and 4 an applicant must submit a signed declaration that if registered -
 - i) a periodic evaluation of the home education by the Head of Department at intervals to be determined by the Head of Department;
 - ii) any other reasonable process arranged by the Head of Department after consultation with the applicant for the purpose of monitoring compliance with the requirements of the Act and the conditions of registration as imposed by the Head of Department.

- 5) The Head of Department must refuse to consider an application, which does not comply with the requirements of sub-paragraph (2), (3) and (4) above.
- 6) The Head of Department may require an applicant to clarify items on the application or submit additional information before the application is determined.
- 7) An applicant must promptly notify the Head of Department if there is any change in the information submitted in the application.

4. ***Application for Amendment***

- 1) Regulation 2(2) to 2(4) applies to the submission of an amendment application, except that it must be submitted at least twelve months before the proposed amendment is intended to come into effect.
- 2) The Head of Department may for good reason permit a later submission if requested in writing by the applicant.

5. ***Withdrawal of Application***

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

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

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

CHAPTER 3

REQUIREMENTS FOR REGISTRATION

7. *Compliance with Legislation*

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

8. *Accredited Curriculums*

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

9. *Quality Assurance*

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

10. Assessment

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

11. Monitoring and Evaluation

- 1) The Head of Department may at any reasonable time order that official visits and quality assurance be done in respect of the applicant's premises, furniture and equipment, the teaching provided, the assessment and any other matter which in the opinion of the Head of Department should be monitored.
- 2) Whenever the applicant requests in writing that quality assurance be done, the Head of Department may allow the request and if so, a report will be forwarded to the applicant after the quality assurance has been done.
- 3) Should a complaint be lodged against the applicant by any interested party and/or departmental officials and/or members of the public, the Head of Department may, in writing request a written report with regard to the complaint from the applicant.
- 4) The applicant must within thirty (30) days of receipt of the written request referred to in sub-regulation (3) above, respond to the Head of Department in writing.

- 5) Should the Head of Department not be satisfied with the written response referred to sub-regulation (4) above, he/she may after receipt of the written response, inform the applicant in writing of his/her decision, which may include an investigation.
- 6) In the event of an investigation departmental officials appointed by the Head of Department shall be granted access by the applicant to any the premises and any records at any reasonable time.

CHAPTER 4

REGISTRATION

12. *Determination of an Applicant*

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

- 4) In determining to grant registration as contemplated in sub-regulation (3) the Head of Department must approve the curriculum(s) to be offered by the applicant for home education.

13. ***Amendment of Registration***

- 1) The Head of Department must consider and determine an application for amendment in accordance with regulation 4 at least three months before the amendment is to come into effect.
- 2) The Head of Department must consider whether to
 - a) amend the registration;
 - b) impose a condition; or
 - c) deny the application for amendment.
- 3) In the case of sub-regulation 2(b) or (c), the Head of Department must notify the parent in writing, giving reasons.

14. ***Withdrawal of Registration***

- 1) Subject to section 51 of the Act, the Head of Department must withdraw the registration for home education if
 - a) the applicant ceases to
 - i) provide education as contemplated in the Act;
 - ii) meet the criteria of eligibility contemplated in regulation 2;
 - iii) fulfill the requirements for registration contemplated in chapter 3 of these regulations;
 - iv) comply with any condition imposed by the Head of Department;
 - v) operate all its curriculum; or
 - b) the applicant provides fraudulent, false or misleading information to the Head of Department

- 2) If Umalusi withdraws accreditation from one or more of an applicant's curriculum, the Head of Department must review the applicant's registration and determine whether reasonable grounds exist for withdrawal.
- 3) An applicant must request the Head of Department to withdraw the registration once a learner is admitted to a public or independent school.
- 4) If the Head of Department proposes to withdraw an applicant's registration, the Head of Department must
 - a) comply with section 51 (4) of the Act;
 - b) consider any representation from the applicant or any interested person in relation to such action;
 - c) inform the applicant of the decision taken and the reasons thereof.
- 5) If the final decision is to withdraw a registration the Head of Department must issue a notice in writing to the applicant that its registration is withdrawn and that the withdrawal takes effect on a date as determined by the Head of Department.

CHAPTER 5

RESPONSIBILITY OF AN APPLICANT(S)

15. *Maintenance of Registration*

- 1) In order to maintain registration an applicant must
 - a) continue to fulfill the requirements for registration contemplated in the Act and chapter 3 of these regulations;
 - b) discharge the responsibilities of an applicant in terms of this chapter;
 - c) comply with any condition imposed by the Head of Department;
 - d) comply with Umalusi with respect to the curriculum(s) he/she intends to follow;
 - e) notify the Head of Department of any changes in the information submitted in terms of the Act and these regulations;

- f) undergo an evaluation by the Head of Department at intervals to be determined by the Head of Department;
- g) comply with any reasonable process arranged by the Head of Department after consultation for the purpose of monitoring compliance with the requirements of the Act and the conditions of registration.

16. ***File and or Records to be Kept***

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

CHAPTER 6

APPEALS

17. ***Procedure***

- 1) Subject to section 51 of the Act, a person who appeals against a decision of the Head of Department must lodge the appeal in writing with the Member of the Executive Council within thirty (30) days of the date of the Head of Department's decision.
- 2) An appeal document must specify
 - a) the decision being appealed;
 - b) the grounds for appeal; and
 - c) the remedy being sought.

- 3) The Member of the Executive Council must consider the appeal and must confirm or set aside the decision of the Head of Department within thirty (30) days of receiving the appeal and must
 - a) notify the appellant of his / her decision; and
 - b) provide the appellant with written reasons for his/her decision.
- 4) While the Member of the Executive Council is adjudicating the appeal, home education may continue until the Member of the Executive Council notifies the appellant of his/her decision.

CHAPTER 7

GENERAL ARRANGEMENTS

18. *Delegation of Powers*

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

19. *Offences*

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

20. *Short Title and Commencement*

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