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THE PRESIDENCY

No. 1355. 13 December 2000

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

No. 52 of 2000: Adult Basic Education and Training Act, 2000.

DIE PRESIDENSIE

No. 1355. 13 Desember 2000

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 52 van 2000: Wet op Basiese Onderwys en Opleiding vir Volwassenes, 2000.

*(English text signed by the President.)
(Assented to 5 December 2000.)*

ACT

To regulate adult basic education and training; to provide for the establishment, governance and funding of public adult learning centres; to provide for the registration of private adult learning centres; to provide for quality assurance and quality promotion in adult basic education and training; to provide for transitional arrangements; and to provide for matters connected therewith.

PREAMBLE

WHEREAS IT IS DESIRABLE TO—

ESTABLISH a national co-ordinated adult basic education and training system which promotes co-operative governance and provides for programme-based adult basic education and training;

RESTRUCTURE AND TRANSFORM programmes and centres to respond better to the human resources, economic and development needs of the Republic;

REDRESS past discrimination and ensure representivity and equal access;

ENSURE access to adult basic education and training and the workplace by persons who have been marginalised in the past, such as women, the disabled and the disadvantaged;

PROVIDE optimal opportunities for adult learning and literacy, the creation of knowledge and development of skills in keeping with international standards of academic and technical quality;

PROMOTE the values which underline an open and democratic society based on human dignity, equality and freedom;

ADVANCE strategic priorities determined by national policy objectives at all levels of governance and management within the adult basic education and training sector;

RESPECT and encourage democracy and foster a culture which promotes fundamental human rights and creates an appropriate environment for adult teaching and learning;

PURSUE excellence and to promote the full realisation of the potential of every learner and member of staff, tolerance of ideas and appreciation of diversity;

RESPOND to the needs of the Republic and the labour market and of the communities served by the centres;

COMPLEMENT the Skills Development Strategy in co-operation with the Department of Labour.

*(Engelse teks deur die President geteken.)
(Goedgekeur op 5 Desember 2000.)*

WET

Om basiese onderwys en opleiding vir volwassenes te reguleer; om voorsiening te maak vir die instelling, beheer en finansiering van openbare sentrums vir onderwys vir volwassenes; om voorsiening te maak vir die registrasie van private sentrums vir onderwys vir volwassenes; om voorsiening te maak vir gehalte-versekering en gehaltebevordering in basiese onderwys en opleiding vir volwassenes; om voorsiening te maak vir oorgangsmatreëls; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

AANHEF

AANGESIEN DIT WENSLIK IS OM—

'N NASIONALE GEKOÖRDINEERDE STELSEL van basiese onderwys en opleiding vir volwassenes in te stel om samewerkende beheer te bevorder en voorsiening te maak vir programgebaseerde basiese onderwys en opleiding vir volwassenes;

PROGRAMME EN SENTRUMS te herstruktureer en te omvorm ten einde beter te reageer op die behoefte aan menslike hulpbronne en op die ekonomiese en ontwikkelings-behoefte van die Republiek;

DISKRIMINASIE VAN DIE VERLEDE reg te stel en verteenwoordigendheid en gelyke toegang te verseker;

TOEGANG tot basiese onderwys en opleiding vir volwassenes en tot die werkplek te verseker vir persone wat in die verlede gemarginaliseer is, soos vroue, gestremdes en benadeeldes;

OPTIMALE GELEENTHEDE vir volwasse leer en geletterdheid, die skep van kennis en die ontwikkeling van vaardighede in ooreenstemming met internasionale standaarde van akademiese en tegniese gehalte te voorsien;

DIE WAARDES te bevorder wat 'n ope en demokratiese samelewing gebaseer op menswaardigheid, gelykheid en vryheid ten grondslag lê;

STRATEGIESE PRIORITEITE wat deur nasionale beleidsdoelwitte op alle vlakke van beheer en bestuur binne die sektor vir basiese onderwys en opleiding vir volwassenes bepaal is, te bevorder;

DEMOKRASIE te eerbiedig en te bevorder en 'n kultuur te kweek wat grondliggende menseregte bevorder en 'n gunstige omgewing vir onderwys en leer vir volwassenes skep;

UITNEMENDHEID na te streef, en die volle verwesenliking van die potensiaal van elke leerder en personeellid, verdraagsaamheid en waardering vir verskeidenheid te bevorder;

TE REAGEER op die behoeftes van die Republiek en die arbeidsmark en van die gemeenskappe wat deur die sentrums bedien word;

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa,
as follows:—

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DIE VAARDIGHEIDONTWIKKELINGSTRATEGIE in samewerking met die Departement van Arbeid aan te vul;

WORD DAAR DERHALWE deur die Parlement van die Republiek van Suid-Afrika, soos volg bepaal:—

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CHAPTER 1

DEFINITIONS AND APPLICATION OF ACT

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1. In this Act, unless the context indicates otherwise—
 - (i) “adult” means a person who is sixteen years or older;
 - (ii) “adult basic education and training” means all learning and training programmes for adults from level 1 to 4 where level 4 is equivalent to—
 - (a) grade 9 in public schools; or 30
 - (b) national qualifications framework level 1 as contemplated in the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995);
 - (iii) “auditor” means any person registered in terms of the Public Accountants’ and Auditors’ Act, 1991 (Act No. 80 of 1991);
 - (iv) “centre” means a public or private centre;
 - (v) “centre manager” means the head of a public centre appointed by the Head of Department in terms of the Employment of Educators Act, 1998 (Act No. 76 of 1998); 35
 - (vi) “Constitution” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996); 40
 - (vii) “Council of Education Ministers” means the Council established under section 9 of the National Education Policy Act, 1996 (Act No. 27 of 1996);
 - (viii) “Department” means the government department responsible for education at national level;
 - (ix) “Director-General” means the Director-General of the Department; 45
 - (x) “educator” means any person who teaches, educates or trains a learner, or provides professional educational services, including professional therapy and education psychological services, at a centre;

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1. In hierdie Wet, tensy uit die sinsverband anders blyk, beteken—

- (i) “basiese onderwys en opleiding vir volwasse nes” alle leer- en opleidings-
30 programme vir volwasse nes vanaf vlak 1 tot 4, waar vlak 4 gelyk is aan—
(a) graad 9 in openbare skole; of
(b) vlak 1 van die nasionale kwalifikasieraamwerk soos beoog in die Wet op
die Suid-Afrikaanse Kwalifikasie-owerheid, 1995 (Wet No. 58 van
1995);
- (ii) “beheerliggaam” ’n beheerliggaam in artikel 8 beoog;
- 35 (iii) “beleid” beleid bepaal deur die—
(a) Minister ingevolge die Wet op Nasionale Onderwysbeleid, 1996 (Wet
No. 27 van 1996); of
(b) Lid van die Uitvoerende Raad ingevolge ’n provinsiale wet;
- (iv) “Departement” die staatsdepartement verantwoordelik vir onderwys op
40 nasionale vlak;
- (v) “Departementshoof” die hoof van ’n provinsiale departement van onderwys;
- (vi) “Direkteur-generaal” die Direkteur-generaal van die Departement;
- (vii) “graad” ’n graad soos in artikel 1 van die Suid-Afrikaanse Skolewet, 1996
(Wet No. 84 van 1996) omskryf;
- 45 (viii) “Grondwet” die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet
No. 108 van 1996);
- (ix) “hierdie Wet” ook die regulasies kragtens hierdie Wet uitgevaardig;
- (x) “leerder” ’n persoon wat ingevolge hierdie Wet onderrig ontvang;

- (xi) "Employment Educators Act" means the Employment Educators Act, 1998 (Act No. 76 of 1998);
- (xii) "governing body" means a governing body contemplated in section 8;
- (xiii) "grade" means a grade as defined in section 1 of the South African Schools Act, 1996 (Act No. 84 of 1996); 5
- (xiv) "Head of Department" means the head of a provincial department of education;
- (xv) "learner" means any person receiving education in terms of this Act;
- (xvi) "Member of the Executive Council" means the member of the Executive Council of the province in question who is responsible for education in that province; 10
- (xvii) "Minister" means the Minister of Education;
- (xviii) "NABABET" means the National Advisory Board for Adult Basic Education and Training, established by regulation in terms of section 11 of the National Education Policy Act, 1996 (Act No. 27 of 1996); 15
- (xix) "organ of state" means an organ of state as defined in section 239 of the Constitution;
- (xx) "policy" means policy determined by the—
 - (a) Minister in terms of the National Education Policy Act, 1996 (Act No. 27 of 1996); or 20
 - (b) Member of the Executive Council in terms of a provincial law;
- (xxi) "private centre" means a private centre registered in terms of section 27 which offers adult basic education and training;
- (xxii) "provincial legislature" means a provincial legislature contemplated in section 104 of the Constitution; 25
- (xxiii) "public centre" means a public centre established in terms of section 3 which offers adult basic education and training;
- (xxiv) "this Act" includes the regulations made under this Act.

Application of Act

2. (1) This Act applies to any adult basic education and training offered at any centre in the Republic of South Africa. 30

(2) A Member of the Executive Council and Head of Department must exercise any power conferred upon them by or under this Act, after taking full account of the applicable policy determined in terms of the National Education Policy Act, 1996 (Act No. 27 of 1996). 35

CHAPTER 2

PUBLIC CENTRES

Establishment of public centre

3. (1) A Member of the Executive Council may, by notice in the Provincial *Gazette* and from money appropriated for that purpose by the provincial legislature in question, establish a public centre. 40

(2) Every public centre contemplated in subsection (1) must be a juristic person.

(3) A public centre which occupies immovable property owned by the State, has the right, for the duration of the centre's existence, to occupy and use the immovable property to the benefit of the centre for educational purposes. 45

(4) In this section, immovable property owned by the State includes immovable property held in trust on behalf of a tribe by a trust created by statute.

(5) The right referred to in subsection (3) may be restricted by the Head of Department if the immovable property is not used by the centre for educational purposes. 50

(6) The Head of Department may not act under subsection (5) unless he or she has—

- (a) informed the governing body of the centre of his or her intention and the reasons therefor;
- (b) granted the governing body of the centre a reasonable opportunity to make representations to him or her in relation to such action; and 55
- (c) duly considered any such representations received.

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- (xi) "Lid van die Uitvoerende Raad" die Lid van die Uitvoerende Raad van die betrokke provinsie wat verantwoordelik is vir onderwys in daardie provinsie;
- (xii) "Minister" die Minister van Onderwys;
- (xiii) "NARBOOV" die Nasionale Adviserende Raad vir Basiese Onderwys en Opleiding vir Volwasse nes by regulasie ingestel ingevolge artikel 11 van die Wet op Nasionale Onderwysbeleid, 1996 (Wet No. 27 van 1996);
- (xiv) "openbare sentrum" 'n openbare sentrum ingevolge artikel 3 ingestel wat basiese onderwys en opleiding vir volwasse nes aanbied;
- (xv) "opvoeder" 'n persoon wat 'n leerder onderrig, opvoed of oplei of wat professionele onderwysdienste, met inbegrip van professionele terapie en opvoedkundige sielkundige dienste, by 'n sentrum verskaf;
- (xvi) "ouditeur" 'n persoon wat ingevolge die Wet op Openbare Rekenmeesters en Ouditeurs, 1991 (Wet No. 80 van 1991), geregistreer is;
- (xvii) "private sentrum" 'n private sentrum ingevolge artikel 27 geregistreer wat basiese onderwys en opleiding vir volwasse nes aanbied;
- (xviii) "provinsiale wetgewer" 'n provinsiale wetgewer in artikel 104 van die Grondwet beoog;
- (xix) "Raad van Onderwysministers" die Raad ingestel kragtens artikel 9 van die Wet op Nasionale Onderwysbeleid, 1996 (Wet No. 27 van 1996);
- (xx) "sentrum" 'n openbare of 'n private sentrum;
- (xxi) "sentrumbestuurder" die hoof van 'n openbare sentrum wat deur die Departementshoof aangestel is ingevolge die Wet op die Indiensneming van Opvoeders, 1998 (Wet No. 76 van 1998);
- (xxii) "staatsorgaan" 'n orgaan van die staat soos in artikel 239 van die Grondwet omskryf;
- (xxiii) "volwassene" 'n persoon wat sestien jaar oud of ouer is;
- (xxiv) "Wet op die Indiensneming van Opvoeders" die Wet op die Indiensneming van Opvoeders, 1998 (Wet No. 76 van 1998).

Toepassing van Wet

2. (1) Hierdie Wet is van toepassing op enige basiese onderwys en opleiding wat by enige sentrum in die Republiek van Suid-Afrika aangebied word.
- (2) 'n Lid van die Uitvoerende Raad en 'n Departementshoof moet enige bevoegdheid wat by of kragtens hierdie Wet aan hulle opgedra word, uitoefen, na volle inagneming van die toepaslike beleid ingevolge die Wet op Nasionale Onderwysbeleid, 1996 (Wet No. 27 van 1996), bepaal is.

HOOFTUK 2**OPENBARE SENTRUMS****Instelling van openbare sentrum**

3. (1) 'n Lid van die Uitvoerende Raad kan, by kennisgewing in die *Provinsiale Koerant* en met geld vir dié doel deur die betrokke provinsiale wetgewer bewillig, 'n openbare sentrum instel.
- (2) Elke openbare sentrum in subartikel (1) beoog moet 'n regspersoon wees.
- (3) 'n Openbare sentrum wat op onroerende eiendom wat aan die Staat behoort, geleë is, het die reg, vir die duur van die bestaan van die sentrum, om die onroerende eiendom te beset en tot voordeel van die sentrum te gebruik vir opvoedkundige doeleindes.
- (4) In hierdie artikel sluit onroerende eiendom in besit van die Staat onroerende eiendom, in wat deur 'n trust by wyse van statuut geskep namens 'n stam in trust gehou word.
- (5) Die reg in subartikel (3) bedoel kan deur die Departementshoof beperk word indien die onroerende eiendom nie deur die sentrum vir onderwysdoeleindes gebruik word nie.
- (6) Die Departementshoof kan nie kragtens subartikel (5) optree nie tensy hy of sy—
- (a) die beheerliggaam van die sentrum in kennis gestel het van sy of haar voorneme en die redes daarvoor;
 - (b) die beheerliggaam 'n redelike geleentheid gebied het om vertoë tot hom of haar te rig in verband met die optrede; en
 - (c) enige sodanige vertoë wat ontvang is, behoorlik oorweeg het.

Provision of facilities

4. (1) The Head of Department must provide facilities for use by the public centre to perform its functions in terms of this Act.

(2) If no facilities are available to be used by the public centre, the Head of Department must in terms of section 20(1)(k) of the South African Schools Act, 1996 (Act No. 84 of 1996), request the governing body of a public school to allow reasonable use of the facilities of the school by the public centre. 5

(3) After the request contemplated in subsection (2) has been made, the Head of Department and the school governing body must enter into an agreement providing among other things for the— 10

- (a) amount of time, and the time of day or night that the school facilities may be used by the public centre;
- (b) manner in which resources and the costs must be shared between the school and the public centre;
- (c) responsible authority to be liable for payment of the costs referred to in paragraph (b); 15
- (d) maintenance and improvement of the school facilities;
- (e) access to school facilities by all interested persons;
- (f) security of the facility; and
- (g) relationship between the school governing body and the public centre governing body. 20

(4) The Head of Department must consult with the governing body of the public centre in question before entering into the agreement contemplated in subsection (3).

(5) The Minister may, after consultation with the Council of Education Ministers, make regulations regarding the minimum requirements for an agreement contemplated in subsection (3). 25

Merger of public centres

5. (1) Subject to subsection (2), the Member of the Executive Council may, by notice in the *Provincial Gazette*, merge two or more public centres into a single centre.

(2) Before merging two or more public centres, the Member of the Executive Council must— 30

- (a) give written notice to the centres in question of the intention to merge them;
- (b) publish a notice giving reasons for the proposed merger in one or more newspapers circulating in the area in which the centres are situated;
- (c) give the governing bodies of the centres in question and any other interested persons an opportunity to make representations within 90 days from the date of the notice referred to in paragraph (b); 35
- (d) consider such representations; and
- (e) be satisfied that the employers of staff at the public centres in question have complied with their obligations in terms of the applicable labour law. 40

(3) The assets, liabilities, rights and obligations of the centres that are merged vest in the single centre contemplated in subsection (1).

(4) The governing bodies of the centres referred to in subsection (1) must have a meeting before the merger to constitute a single interim governing body.

(5) The interim governing body must decide on the budget and differences in the code of conduct and fees, as well as any issue that is relevant to the merger or which is prescribed, until a new governing body is constituted in terms of section 8. 45

(6) The governing body of any public centre to be merged under subsection (1), may appeal to the Minister against the merger.

Voorsiening van fasiliteite

4. (1) Die Departementshoof moet fasiliteite vir die gebruik van die openbare sentrum voorsien om sy werksaamhede ingevolge hierdie Wet te verrig.

(2) Indien geen fasiliteite beskikbaar is om deur die openbare sentrum gebruik te word nie, moet die Departementshoof ingevolge artikel 20(1)(k) van die Suid-Afrikaanse Skolewet, 1996 (Wet No. 84 van 1996), die beheerliggaam van 'n openbare skool versoek om die redelike gebruik van die fasiliteite van die skool deur die openbare sentrum toe te laat.

(3) Nadat die versoek in subartikel (2) beoog, gerig is, moet die Departementshoof en die beheerliggaam van die skool 'n ooreenkoms aangaan om voorsiening te maak vir die—

- (a) hoeveelheid tyd en die tyd van die dag of nag wat die skoolfasiliteite deur die openbare sentrum gebruik mag word;
- (b) wyse waarop hulpbronne en die koste deur die skool en die openbare sentrum gedeel moet word;
- (c) verantwoordelike owerheid wat aanspreeklik sal wees vir die betaling van die koste in paragraaf (b) bedoel;
- (d) instandhouding en verbetering van die skoolfasiliteite;
- (e) toegang tot die skoolfasiliteite deur alle belanghebbende persone;
- (f) beveiliging van die fasiliteit; en
- (g) verhouding tussen die beheerliggaam van die skool en die beheerliggaam van die openbare sentrum.

(4) Die Departementshoof moet oorleg pleeg met die beheerliggaam van die betrokke openbare sentrum voordat enige ooreenkoms soos in subartikel (3) beoog, aangegaan word.

(5) Die Minister kan, na oorlegpleging met die Raad van Onderwysministers, regulasies uitvaardig vir die minimum vereistes van 'n ooreenkoms in subartikel (3) beoog.

Samesmelting van openbare sentrums

5. (1) Behoudens subartikel (2) kan die Lid van die Uitvoerende Raad by kennisgewing in die *Provinsiale Koerant* twee of meer openbare sentrums in 'n enkele sentrum saamsmelt.

(2) Alvorens twee of meer openbare sentrums saamgesmelt word, moet die Lid van die Uitvoerende Raad—

- (a) skriftelik aan die betrokke sentrums kennis gee van die voorneme om hulle saam te smelt;
- (b) 'n kennisgewing, publiseer met opgawe van redes vir die voorgename samesmelting in een of meer koerante wat versprei word in die gebied waarin die sentrums geleë is;
- (c) die beheerliggame van die betrokke sentrums en enige ander belanghebbendes die geleentheid bied om binne 90 dae vanaf die datum van die kennisgewing in paragraaf (b) bedoel, verhoë te rig;
- (d) die verhoë oorweeg; en
- (e) tevrede wees dat die werkgewers van personeel by die betrokke openbare sentrums hulle verpligtinge ingevolge die toepaslike arbeidswetgewing nagekom het.

(3) Die bates, laste, regte en verpligtinge van die sentrums wat saamsmelt moet setel in die enkele sentrum wat in subartikel (1) beoog word.

(4) Die beheerliggame van die sentrums in subartikel (1) bedoel moet voor die samesmelting 'n vergadering hou om 'n enkele tussentydse beheerliggaam saam te stel.

(5) Die tussentydse beheerliggaam moet besluit oor die begroting en verskille in die gedragskode en gelde, sowel as oor enige aangeleentheid wat die samesmelting raak of wat voorgeskryf is, tot tyd en wyl 'n nuwe beheerliggaam ingevolge artikel 8 saamgestel is.

(6) Die beheerliggaam van 'n openbare sentrum wat kragtens subartikel (1) saamgesmelt staan te word, kan by die Minister appèl aanteken teen die samesmelting.

Closure of public centre

6. (1) The Member of the Executive Council may, by notice in the *Provincial Gazette*, close a public centre.
- (2) Before closing a public centre, the Member of the Executive Council must—
- (a) inform the governing body of the centre of his or her intention and his or her reasons therefor; 5
 - (b) grant the governing body of the centre a reasonable opportunity to make representations to him or her in relation to such actions;
 - (c) conduct a public hearing after 90 days from the date of the notice referred in subsection (1) to enable the community to make representations to him or her in relation to such actions; and 10
 - (d) give due consideration to any such representations received.
- (3) If a public centre is closed down in terms of subsection (1), all assets and liabilities of such centre must be dealt with in accordance with the law by the Member of the Executive Council in consultation with the governing body, and any assets remaining after payment of all liabilities vest in the State. 15

CHAPTER 3**GOVERNANCE OF PUBLIC CENTRES****Governance and management of public centre**

7. (1) A public centre is governed by a governing body. 20
- (2) The governing body must stand in a position of trust towards the centre.
- (3) The management of a public centre must be undertaken by the centre manager under the authority of the Head of Department.

Governing body of public centre

8. (1) Every public centre must establish a governing body, except a public centre contemplated in section 21(1)(d) of the South African Schools Act, 1996 (Act No. 84 of 1996), or section 9 of the Further Education and Training Act, 1998 (Act No. 98 of 1998). 25
- (2) The governing body of a public centre must consist of—
- (a) elected members; 30
 - (b) the centre manager, in his or her official capacity;
 - (c) co-opted members;
 - (d) any representative of any sponsoring body;
 - (e) any representative of an organisation for disabled persons, where applicable; and 35
 - (f) any expert in the field of adult basic education and training, where applicable.
- (3) The members of a governing body contemplated in subsection (2)(a) must be elected from—
- (a) educators at the centre;
 - (b) members of staff who are not educators; and 40
 - (c) learners at the centre;
- (4) A member contemplated in—
- (a) subsection (3)(a) must be elected by the educators at the centre;
 - (b) subsection (3)(b) must be elected by members of the staff who are not educators at the centre; and 45
 - (c) subsection (3)(c) must be elected by the learners at the centre.
- (5) The members contemplated in subsections (2)(a), (b), (d), (e) and (f) must co-opt members contemplated in subsection (2)(c) from the community which the centre serves and such co-opted members may vote at any meeting of the governing body.
- (6) (a) The governing body contemplated in subsection (2) must co-opt as member of the governing body— 50
- (i) the chairperson of the governing body or any member designated by him or her; or
 - (ii) the principal or any educator designated by him or her, 55
- of the public school from which the centre operates.

Sluiting van openbare sentrum

6. (1) Die Lid van die Uitvoerende Raad kan by kennisgewing in die *Provinsiale Koerant* 'n openbare sentrum sluit.

(2) Alvorens 'n openbare sentrum gesluit word, moet die Lid van die Uitvoerende Raad—

- (a) die beheerliggaam van die sentrum van sy of haar voorneme om so op te tree en sy of haar redes daarvoor in kennis stel;
- (b) die beheerliggaam van die sentrum 'n redelike geleentheid bied om vertoë aan hom of haar te rig in verband met die optrede;
- 10 (c) na verloop van 90 dae vanaf die datum van die kennisgewing in subartikel (1) bedoel 'n openbare verhoor hou ten einde die gemeenskap in staat te stel om vertoë aan hom of haar te rig in verband met die optrede; en
- (d) enige sodanige vertoë wat ontvang is, behoorlik oorweeg.

(3) Indien 'n openbare sentrum ingevolge subartikel (1) gesluit word, moet die Lid van die Uitvoerende Raad in oorleg met die beheerliggaam van die sentrum met alle bates en laste van die sentrum handel in ooreenstemming met die wet, en enige oorblywende bates na aflossing van enige laste setel in die Staat.

HOOFTUK 3**BEHEER VAN OPENBARE SENTRUMS****20 Beheer en bestuur van openbare sentrum**

7. (1) 'n Openbare sentrum word deur 'n beheerliggaam beheer.

(2) Die beheerliggaam moet in 'n vertrouensposisie teenoor die sentrum staan.

(3) Die bestuur van 'n openbare sentrum word deur die sentrumbestuurder onderneem onder die gesag van die Departementshoof.

25 Beheerliggaam van openbare sentrum

8. (1) Elke openbare sentrum moet 'n beheerliggaam instel, behalwe 'n openbare sentrum in artikel 21(1)(dA) van die Suid-Afrikaanse Skolewet, 1996 (Wet No. 84 van 1996), of in artikel 9 van die Wet op Verdere Onderwys en Opleiding, 1998 (Wet No. 98 van 1998), beoog.

30 (2) Die beheerliggaam van 'n openbare sentrum bestaan uit—

- (a) verkose lede;
- (b) die sentrumbestuurder in sy of haar amptelike hoedanigheid;
- (c) gekoöpteerde lede;
- (d) enige verteenwoordiger van enige borgliggaam;
- 35 (e) enige verteenwoordiger van 'n organisasie vir gestremde persone, waar van toepassing; en
- (f) enige kundige op die gebied van basiese onderwys en opleiding vir volwassenes, waar van toepassing.

(3) Die verkose lede van 'n beheerliggaam in subartikel (2)(a) bedoel moet verkies word uit—

- (a) opvoeders by die sentrum;
- (b) personeellede wat nie opvoeders is nie; en
- (c) leerders by die sentrum.

(4) 'n Lid beoog in—

- 45 (a) subartikel (3)(a) moet deur die opvoeders by die sentrum verkies word;
- (b) subartikel (3)(b) moet, verkies word deur personeellede wat nie opvoeders by die sentrum is nie; en
- (c) subartikel (3)(c) moet deur die leerders by die sentrum verkies word.

(5) Die lede in subartikels (2)(a), (b), (d), (e) en (f) beoog moet lede in subartikel 50 (2)(c) beoog uit die gemeenskap wat deur die sentrum bedien word, koöpteer, en die gekoöpteerde lede kan by enige vergadering van die beheerliggaam stem.

(6) (a) Die beheerliggaam in subartikel (2) beoog, moet—

- (i) die voorsitter van die beheerliggaam of 'n lid deur hom of haar aangewys; of
- (ii) die hoof of 'n opvoeder deur hom of haar aangewys,
- 55 van die openbare skool vanwaar die sentrum bedryf word, as lid van die beheerliggaam koöpteer.

(b) The member contemplated in paragraph (a) may not vote at a meeting of the governing body.

(7) The governing body of a public centre functions in terms of a constitution which must comply with minimum requirements determined by the Member of the Executive Council by notice in the *Provincial Gazette*.

(8) A constitution contemplated in subsection (7) must provide for—

- (a) a meeting of the governing body at least four times a year and the procedures to be followed at such meetings;
- (b) recording and keeping minutes of governing body meetings; and
- (c) the making available of such minutes for inspection by the Head of Department.

(9) The governing body must submit a copy of its constitution to the Head of Department within 90 days of its election.

(10) If a public centre is established in terms of section 3, the governance of that centre vests in the Head of Department until a governing body has been established in terms of this Act.

Election of members to governing body

9. The Member of the Executive Council must, by notice in the *Provincial Gazette*, determine—

- (a) the term of office of members and office-bearers of a governing body;
- (b) which officer must conduct the process for the nomination and election of members of the governing body;
- (c) the procedure for the disqualification or removal of a member of the governing body or the dissolution of a governing body, for sufficient reason in each case;
- (d) the procedure for the filling of a vacancy in the governing body;
- (e) guidelines for the achievement of representivity of members of the governing body;
- (f) a formula for the calculation of the number of members of the governing body in each of the categories referred to in section 8(3), and such formula must provide reasonable representation for each category and must be capable of application to the different sizes and circumstances of public centres; and
- (g) any other matters necessary for the election, appointment or assumption of office of members of the governing body.

Single governing body for two or more public centres

10. (1) The Member of the Executive Council may determine that the governance of two or more public centres must vest in a single governing body if—

- (a) it is in the best interest of education and the centres;
- (b) it is in the public interest; or
- (c) he or she was so requested by the governing bodies of such centres, if such governing bodies exist.

(2) Before making a determination under subsection (1), the Member of the Executive Council must—

- (a) give notice in the *Provincial Gazette* of his or her intention so to act;
- (b) give interested parties an opportunity to make written submissions within a period of not less than 30 days; and
- (c) consider all such submissions.

(3) The Member of the Executive Council must, by notice in the *Provincial Gazette*, determine the composition of the single governing body in a manner that ensures that each centre is equitably represented.

(4) Any governing body which is the subject of a notice in terms of subsection (2) continues to exist until the first meeting of the governing body constituted in terms of this section.

Functions of governing body

11. (1) The governing body of a public centre must—

(7) Die beheerliggaam van 'n openbare sentrum funksioneer ingevolge 'n grondwet wat voldoen aan die minimum vereistes deur die Lid van die Uitvoerende Raad by kennisgewing in die *Provinsiale Koerant* bepaal is.

(8) 'n Grondwet in subartikel (7) beoog moet voorsiening maak vir—

- 5 (a) 'n vergadering van die beheerliggaam minstens vier keer per jaar en die prosedures wat by die vergaderings gevolg moet word;
 - (b) verslaghouding en notules van vergaderings van die beheerliggaam; en
 - (c) die beskikbaarstelling van sodanige notules vir inspeksie deur die Departementshoof.
- 10 (9) Die beheerliggaam moet binne 90 dae na sy verkiesing 'n afskrif van sy grondwet aan die Departementshoof voorlê.
- (10) Indien 'n openbare sentrum ingevolge artikel 3 ingestel word, setel die beheer van daardie sentrum in die Departementshoof totdat 'n beheerliggaam ingestel is ingevolge hierdie Wet.

15 Verkiesing van lede van beheerliggaam

9. Die Lid van die Uitvoerende Raad bepaal by kennisgewing in die *Provinsiale Koerant*—

- (a) die ampstermyn van lede en ampsdraers van 'n beheerliggaam;
- 20 (b) watter beampte die proses vir die nominasie en verkiesing van lede van die beheerliggaam moet uitvoer;
- (c) die prosedure vir die diskwalifikasie of verwydering van 'n lid van die beheerliggaam of die ontbinding van 'n beheerliggaam, om afdoende redes in elke geval;
- (d) die prosedure vir die vul van 'n vakature in die beheerliggaam;
- 25 (e) riglyne vir die bereiking van verteenwoordigheid van lede van die beheerliggaam;
- (f) 'n formule vir die berekening van die getal lede van die beheerliggaam in elk van die kategorieë in artikel 8(3) bedoel, en die formule moet voorsiening maak vir redelike verteenwoordiging vir elke kategorie en moet hom leen tot
- 30 toepassing op die verskillende groottes en omstandighede van openbare sentrums; en
- (g) enige ander aangeleenthede wat nodig is vir die verkiesing, aanstelling of ampsaanvaarding van lede van die beheerliggaam.

Enkele beheerliggaam vir twee of meer openbare sentrums

- 35 10 (1) Die Lid van die Uitvoerende Raad kan bepaal dat die beheer van twee of meer openbare sentrums in 'n enkele beheerliggaam moet setel indien—
- (a) dit in die beste belang van die onderwys en die sentrums is;
 - (b) dit in die openbare belang is; of
 - 40 (c) hy of sy daartoe versoek is deur die beheerliggame van die sentrums, indien die beheerliggame bestaan.
- (2) Alvorens die Lid van die Uitvoerende Raad 'n bepaling doen kragtens subartikel (1), moet hy of sy—
- (a) in die *Provinsiale Koerant* kennis gee van sy of haar voorneme om aldus op te tree;
 - 45 (b) belanghebbendes 'n geleentheid bied om binne 'n tydperk van minstens 30 dae skriftelike voorleggings te doen; en
 - (c) al die voorleggings oorweeg.
- (3) Die Lid van die Uitvoerende Raad moet by kennisgewing in die *Provinsiale Koerant* die samestelling van die enkele beheerliggaam bepaal op 'n wyse wat verseker
- 50 dat elke sentrum billik verteenwoordig is.
- (4) 'n Beheerliggaam wat die onderwerp van 'n kennisgewing ingevolge subartikel (2) is, bly voortbestaan tot die eerste vergadering van die beheerliggaam wat ingevolge hierdie artikel saamgestel is.

Wersaamhede van beheerliggaam

- 55 11. (1) Die beheerliggaam van 'n openbare sentrum moet—

- (a) promote the best interest of the public centre and strive to ensure its development through the provision of quality education for all learners at the public centre;
 - (b) develop a business plan for the public centre;
 - (c) provide any information pertaining to the public centre and its activities at the request of the Head of Department; 5
 - (d) be responsible for the budgeting and financial management systems of the public centre;
 - (e) promote the activities and the programmes of the public centre;
 - (f) supplement the procurement of the learning support material for the public centre; 10
 - (g) ensure that a conducive learning environment exists for learners;
 - (h) elicit public support for the public centre;
 - (i) keep proper records of all governing body meetings;
 - (j) develop the vision and mission statement of the public centre; 15
 - (k) subject to policy, determine the language policy of the public centre;
 - (l) recommend the appointment of educators of the public centre in terms of the Employment of Educators Act;
 - (m) establish and administer a public centre fund from voluntary contributions;
 - (n) adopt a constitution; 20
 - (o) adopt a code of conduct for learners at the public centre;
 - (p) discharge all other functions imposed upon a governing body by or under this Act; and
 - (q) discharge all other functions consistent with the Act as determined by the Minister by notice in the *Government Gazette*, or by the Member of the Executive Council by notice in the *Provincial Gazette*. 25
- (2) A public centre may establish posts for—
- (a) educators and employ educators additional to the establishment determined by the Member of the Executive Council in terms of section 5 of the Employment of Educators Act; and 30
 - (b) non-educators and employ non-educator staff additional to the establishment determined in terms of the Public Service Act, 1994 (Proclamation No. 103 of 1994).
- (3) A public centre may only employ an educator in a post referred to in subsection (2)(a) if such educator is registered as an educator with the South African Council for Educators. 35
- (4) The staff contemplated in subsection (2) must be employed in compliance with the basic values and principles referred to in section 195 of the Constitution, and the factors to be taken into account when making appointments must at least include the—
- (a) ability of the candidate; 40
 - (b) principle of equity;
 - (c) need to redress past injustices; and
 - (d) need for representivity.
- (5) When presenting the annual budget contemplated in section 24 the governing body of a public centre must provide sufficient details of any posts envisaged in terms of subsection (2), including the estimated costs relating to the employment of staff in such posts and the manner in which it is proposed that such costs will be met. 45
- (6) The State is not liable for any act or omission by the public centre relating to its contractual responsibility as the employer in respect of staff employed in terms of subsection (2). 50
- (7) After consultation as contemplated in section 5 of the National Education Policy Act, 1996 (Act No. 27 of 1996), the Minister may determine norms and standards by notice in the *Government Gazette* regarding the funds used for the employment of staff referred to in subsection (2), but such norms and standards may not be interpreted so as to make the State a joint employer of such staff. 55

Staff employed by State at public centre

12. (1) The educator establishment of a public centre is determined by the allocation of posts by the Head of Department from the provincial educator post establishment

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- (a) die beste belange van die openbare sentrum bevorder en daarna strew om sy ontwikkeling te verseker deur die verskaffing van gehalteonderwys aan alle leerders by die openbare sentrum;
- 5 (b) 'n besigheidsplan vir die openbare sentrum ontwikkel;
- (c) enige inligting rakende die openbare sentrum en sy aktiwiteite op versoek van die Departementshoof verskaf;
- (d) verantwoordelik wees vir die begroting en finansiële bestuurstelsels van die openbare sentrum;
- 10 (e) die aktiwiteite en die programme van die openbare sentrum bevorder;
- (f) die verkryging van leerondersteuningsmateriaal vir die openbare sentrum aanvul;
- (g) verseker dat daar 'n bevorderlike leeromgewing vir leerders bestaan;
- (h) openbare steun vir die openbare sentrum verkry;
- 15 (i) behoorlik verslag hou van alle vergaderings van die beheerliggaam;
- (j) die visie- en missiestelling van die openbare sentrum ontwikkel;
- (k) behoudens beleid, die taalbeleid van die openbare sentrum bepaal;
- (l) die aanstelling van opvoeders by die openbare sentrum aanbeveel ingevolge die Wet op die Indiensneming van Opvoeders;
- 20 (m) 'n openbare sentrumfonds uit vrywillige bydraes stig en administreer;
- (n) 'n grondwet aanvaar;
- (o) 'n gedragkode vir leerders by die openbare sentrum aanvaar;
- (p) alle ander werksaamhede, verrig wat by of kragtens hierdie Wet aan 'n beheerliggaam opgedra word; en
- 25 (q) alle ander werksaamhede verrig wat in ooreenstemming met die Wet deur die Minister bepaal is by kennisgewing in die *Staatskoerant* of deur die Lid van die Uitvoerende Raad by kennisgewing in die *Provinsiale Koerant*.
- (2) 'n Openbare sentrum kan poste instel vir—
- (a) opvoeders en opvoeders aanstel bykomstig tot die diensstaat soos deur die Lid van die Uitvoerende Raad bepaal ingevolge artikel 5 van die Wet op die
- 30 Indiensneming van Opvoeders; en
- (b) nie-opvoeders en nie-opvoeders aanstel bykomstig tot die diensstaat soos bepaal ingevolge artikel 5 van die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994).
- (3) 'n Openbare sentrum kan 'n opvoeder in 'n pos in subartikel (2) bedoel in diens
- 35 neem slegs indien die opvoeder by die Suid-Afrikaanse Raad van Opvoeders as 'n opvoeder geregistreer is.
- (4) Die personeel in subartikel (2) beoog moet in diens geneem word in ooreenstemming met die basiese waardes en beginsels in artikel 195 van die Grondwet bedoel, en die faktore wat in ag geneem moet word by die doen van aanstellings sluit minstens
- 40 in die—
- (a) bekwaamheid van die kandidaat;
- (b) beginsel van gelykheid;
- (c) nodigheid om ongeregthede van die verlede reg te stel; en
- (d) nodigheid vir verteenwoordigheid.
- 45 (5) Wanneer die jaarlikse begroting in artikel 24 beoog voorgelê word, moet die beheerliggaam van 'n openbare sentrum voldoende besonderhede van enige poste wat ingevolge subartikel (2) beoog word, verstrek, met inbegrip van die geraamde koste ten aansien van die indiensneming van personeel in sodanige poste en die wyse wat voorgestel word om die koste te dek.
- 50 (6) Die Staat is nie aanspreeklik vir enige daad of versuim van die openbare sentrum ten aansien van sy kontraktuele verantwoordelikheid as die werkgever teenoor personeel wat ingevolge subartikels (2) in diens geneem word nie.
- (7) Na oorlegpleging soos in artikel 5 van die Wet op Nasionale Onderwysbeleid, 1996 (Wet No. 27 van 1996), beoog, kan die Minister by kennisgewing in die
- 55 *Staatskoerant* norme en standaarde bepaal ten aansien van die fondse wat gebruik word vir die indiensneming van personeel in subartikel (2) bedoel, maar die norme en standaarde mag nie vertolk word as sou die Staat 'n medewerkgever van sodanige personeel wees nie.

Personeel in diens van Staat by openbare sentrum

- 60 12. (1) Die opvoederdiensstaat van 'n openbare sentrum word bepaal deur die toewysing van poste deur die Departementshoof uit die provinsiale postediensstaat deur

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created by the Member of the Executive Council in terms of section 5 of the Employment of Educators Act and educators appointed in such posts are employed in terms of that Act.

(2) The non-educator establishment of a centre is determined in terms of the Public Service Act, 1994 (Proclamation No. 103 of 1994).

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Enhancement of capacity of governing bodies

13. (1) Out of funds appropriated for this purpose by the provincial legislature, the Head of Department must establish a programme to provide—

(a) introductory training for newly elected governing bodies to enable them to perform their functions; and

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(b) continuing training to governing bodies to promote the effective performance of their functions or to enable them to assume additional functions.

(2) The Head of Department must ensure that the centre manager and other officers of the education department render all necessary assistance to governing bodies in the performance of their functions in terms of this Act.

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Failure by governing body to perform functions

14. (1) If a governing body has ceased or failed to perform its functions, the Head of Department must dissolve the governing body and appoint one or more persons to perform those functions for a period not exceeding three months.

(2) The Head of Department may extend the period referred to in subsection (1) for further periods not exceeding three months at a time, but the total period may not exceed one year.

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(3) The Head of Department must ensure that a governing body is elected in terms of this Act within a year after the appointment of the person or persons contemplated in subsection (1).

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Recusal by members of governing body

15. A member of a governing body must withdraw from a meeting of the governing body for the duration of the discussion and decision-making on any issue in which the member has a personal interest.

Reimbursement of members of governing body

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16. (1) Necessary expenses incurred by a member of a governing body in the performance of his or her functions may be reimbursed by the governing body.

(2) No member of a governing body may be remunerated in any way for the performance of his or her functions.

Committees of governing body

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17. (1) A governing body may—

(a) establish committees, including an executive committee; and

(b) appoint persons who are not members of the governing body to such committees on grounds of expertise, but a member of the governing body must chair each committee.

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(2) A governing body of a public centre which provides education to learners with special education needs must establish a committee on special education needs.

Admission to public centre

18. (1) A public centre must admit learners and serve their educational requirements without unfairly discriminating in any way.

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(2) An application for admission to a public centre must be made to the Head of Department in a manner determined by him or her.

die Lid van die Uitvoerende Raad ingevolge artikel 5 van die Wet op die Indiensneming van Opvoeders geskep, en opvoeders wat in die poste aangestel word. is ingevolge daardie Wet in diens.

(2) Die nie-opvoederdiensstaat van 'n sentrum word bepaal ingevolge die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994).

Opbou van vermoë van beheerliggame

13. (1) Uit fondse wat vir dié doel deur die provinsiale wetgewer bewillig is, moet die Departementshoof 'n program instel om voorsiening te maak vir—

- 10 (a) inleidende opleiding vir nuut verkose beheerliggame om hulle in staat te stel om hulle werksaamhede te verrig; en
- (b) voortgesette opleiding aan beheerliggame om die effektiewe verrigting van hulle werksaamhede te verseker of om hulle in staat te stel om bykomende werksaamhede te aanvaar.

(2) Die Departementshoof moet verseker dat die sentrumbestuurder en ander 15 beamptes van die onderwysdepartement alle nodige bystand lewer aan beheerliggame in die verrigting van hulle werksaamhede ingevolge hierdie Wet.

Versuim van beheerliggaam om werksaamhede te verrig

14. (1) Indien 'n beheerliggaam ophou of versuim om sy werksaamhede te verrig, moet die Departementshoof die beheerliggaam ontbind en een of meer persone aanstel 20 om dié werksaamhede te verrig vir 'n tydperk van hoogstens drie maande.

(2) Die Departementshoof kan die tydperk in subartikel (1) bedoel, verleng vir verdere tydperke van hoogstens drie maande op 'n keer, maar die totale tydperk mag nie een jaar oorskry nie.

(3) Die Departementshoof moet verseker dat 'n beheerliggaam ingevolge hierdie 25 Wet verkies word binne 'n jaar na die aanstelling van die persoon of persone in subartikel (1) beoog.

Onttrekking deur lede van beheerliggaam

15. 'n Lid van 'n beheerliggaam moet van 'n vergadering van die beheerliggaam onttrek vir die duur van 'n bespreking en besluitneming oor enige aangeleentheid 30 waarby die lid 'n persoonlike belang het.

Vergoeding van lede van beheerliggaam

16. (1) Noodsaaklike uitgawes deur 'n lid van 'n beheerliggaam aangegaan in die verrigting van sy of haar werksaamhede kan deur die beheerliggaam betaal word.

(2) Geen lid van 'n beheerliggaam mag op enige wyse vergoed word vir die 35 verrigting van sy of haar werksaamhede nie.

Komitees van beheerliggaam

17. (1) 'n Beheerliggaam kan—

- 40 (a) komitees instel, met inbegrip van 'n bestuurskomitee; en
- (b) persone wat nie lede van die beheerliggaam is nie, op grond van kundigheid op sodanige komitees aanstel, maar 'n lid van die beheerliggaam moet die voorsitter van elke komitee wees.

(2) 'n Beheerliggaam van 'n openbare sentrum wat onderwys aan leerders met spesiale onderwysbehoefte verskaf, moet 'n komitee vir spesiale onderwysbehoefte instel.

45 Toelating tot openbare sentrum

18. (1) 'n Openbare sentrum moet leerders toelaat en hulle onderwysbehoefte dien sonder om op enige wyse onregverdig te diskrimineer.

(2) Aansoek om toelating tot 'n openbare sentrum moet by die Departementshoof gedoen word op 'n wyse deur hom of haar bepaal.

(3) If an application referred to in subsection (2) is refused, the Head of Department must inform the learner in writing of such refusal and the reasons therefor.

(4) Any learner who has been refused admission to a public centre may appeal against the decision of the Head of Department to the Member of the Executive Council.

Representative council of learners

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19. (1) A representative council of learners must be established at every public centre.

(2) The Member of the Executive Council may, by notice in the *Provincial Gazette*, determine guidelines for the establishment, election and functions of representative councils of learners.

Disciplinary measures

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20. (1) Every learner at a public centre is subject to such code of conduct, disciplinary measures and procedures as may be determined by the governing body subject to provincial policy.

(2) The policy contemplated in subsection (1) must in particular deal with measures to curb racism, sexual violence and sexual harassment.

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(3) A code of conduct must contain provisions of due process safeguarding the interest of the learner in disciplinary procedures.

CHAPTER 4

FUNDING OF PUBLIC CENTRES

Responsibility of State

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21. (1) The Member of the Executive Council must from money appropriated for this purpose by the provincial legislature fund public adult basic education and training on a fair, equitable and transparent basis.

(2) The Member of the Executive Council may, subject to the norms and standards determined in terms of section 22, impose—

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- (a) any reasonable condition in respect of an allocation of funding contemplated in subsection (1); and
- (b) different conditions in respect of different centres and different adult basic education and training programmes, if there is a reasonable basis for such differentiation.

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(3) The Member of the Executive Council must, on an annual basis, provide sufficient information to public centres regarding the funding referred to in subsection (1) to enable the public centre to prepare its budget for the next financial year.

Norms and standards for funding public centre

22. The Minister must, in terms of the National Education Policy Act, 1996 (Act No. 27 of 1996), determine norms and standards for funding of public centres, after consultation with the Council of Education Ministers, the Minister of Finance and NABABET.

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Funds of public centre

23. The funds of a public centre consist of—

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- (a) funds allocated by the State;
- (b) any donations or contributions received by the centre;
- (c) money raised by the centre;
- (d) money payable by learners for adult basic education and training provided by the centre; and
- (e) other funds from any other source.

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(3) Indien 'n aansoek in subartikel (2) bedoel, geweier word, moet die Departementshoof die leerder skriftelik in kennis stel van die weiering en die redes daarvoor.

(4) Enige leerder wat toelating tot 'n openbare sentrum geweier is, kan teen die besluit van die Departementshoof appèl aanteken by die Lid van die Uitvoerende Raad.

5 Verteenwoordigende raad van leerders

19. (1) 'n Verteenwoordigende raad van leerders moet by elke openbare sentrum ingestel word.

(2) Die Lid van die Uitvoerende Raad kan by kennisgewing in die *Provinsiale Koerant* riglyne vir die instelling, verkiesing en werksaamhede van verteenwoordigende rade van leerders bepaal.

Tugmaatreëls

20. (1) Elke leerder by 'n openbare sentrum is onderworpe aan 'n gedragkode en tugmaatreëls en -prosedures wat deur die beheerliggaam bepaal word behoudens provinsiale beleid.

15 (2) Die beleid in subartikel (1) beoog moet in die besonder handel oor maatreëls om rassisme, seksuele geweld en seksuele teistering te bekamp.

(3) 'n Gedragkode moet voorskrifte ten aansien van behoorlike regsproses bevat om die belange van 'n leerder in tugprosedures te beskerm.

HOOFTUK 4

20 FINANSIERING VAN OPENBARE SENTRUMS

Verantwoordelikheid van Staat

21. (1) Die Lid van die Uitvoerende Raad moet uit geld wat vir dié doel deur die provinsiale wetgewer bewillig word, openbare basiese onderwys en opleiding vir volwassenes op 'n regverdige, billike en deursigtige grondslag finansier.

25 (2) Die Lid van die Uitvoerende Raad kan, behoudens die norme en standaarde wat ingevolge artikel 22 bepaal is—

(a) enige redelike voorwaarde stel ten aansien van die toewysing van finansiering in subartikel (1) beoog; en

30 (b) verskillende voorwaardes stel ten aansien van verskillende sentrums en verskillende programme vir openbare basiese onderwys en opleiding vir volwassenes, indien daar 'n redelike grondslag vir sodanige differensiasie bestaan.

(3) Die Lid van die Uitvoerende Raad moet op 'n jaarlikse grondslag voldoende inligting aan openbare sentrums verskaf ten aansien van die finansiering in subartikel

35 (1) bedoel om die openbare sentrum in staat te stel om sy begroting vir die volgende boekjaar voor te berei.

Norme en standaarde vir finansiering van openbare sentrum

22. Die Minister moet ingevolge die Wet op Nasionale Onderwysbeleid, 1996 (Wet No. 27 van 1996), norme en standaarde bepaal vir die finansiering van openbare sentrums, na oorlegpleging met die Raad van Onderwysministers, die Minister van Finansies en die NARBOOV.

Fondse van openbare sentrums

23. Die fondse van 'n openbare sentrum bestaan uit—

- 45 (a) fondse deur die Staat bewillig;
- (b) enige skenkings of bydraes deur die sentrum ontvang;
- (c) geld deur die sentrum ingesamel;
- (d) geld deur leerders betaalbaar vir basiese onderwys en opleiding vir volwassenes deur die sentrum verskaf; en
- (e) ander fondse uit enige ander bron.

Financial records and statements of public centre

24. (1) The governing body of a public centre, in the manner determined by the Member of the Executive Council—

- (a) must keep complete accounting records of all assets, liabilities, income and expenses and any other financial transactions of the public centre as a whole, of its substructures and of other bodies operating under its authority; 5
- (b) must in each financial year, at such time and in such manner as the Member of the Executive Council may determine, submit a statement of its estimated income and expenditure for the ensuing financial year to the Member of the Executive Council for his or her approval granted with the concurrence of the Member of the Executive Council responsible for finance in that province; 10
- (c) must in any financial year, submit adjusted statements of its estimated income and expenditure to the Member of the Executive Council for his or her approval, granted with the concurrence of the Member of the Executive Council responsible for Finance in that province; and 15
- (d) may not incur any expenditure which exceeds the total amount approved in terms of paragraphs (b) and (c).

(2) If the Member of the Executive Council does not approve the governing body's statement of its estimated income and expenditure, the Member of the Executive Council must require the governing body to provide a revised statement to him or her within a specified period. 20

(3) The governing body of a public centre must, in respect of the preceding financial year and by a date or dates and in the manner determined by the Member of the Executive Council, provide the Member of the Executive Council with a—

- (a) report on the overall governance of the centre; 25
- (b) duly audited or examined statement of income and expenditure; and
- (c) balance sheet and cash flow statement.

(4) The governing body of a public centre must provide the Member of the Executive Council with such additional information as the Member of the Executive Council may reasonably require. 30

(5) The governing body of a public centre must appoint a person registered as an accountant and auditor in terms of the Public Accountants' and Auditors' Act, 1991 (Act No. 80 of 1991), to audit the records and financial statements referred to in subsection (1). 35

(6) If the audit referred to in subsection (5) is not reasonably practicable, the governing body of a public centre must appoint a person to examine and report on the records and financial statements referred to in subsection (1) who—

- (a) is qualified to perform the duties of an accounting officer in terms of section 60 of the Close Corporations Act, 1984 (Act No. 69 of 1984); or
- (b) is approved by the Member of the Executive Council for this purpose. 40

(7) No person who has a financial interest in the affairs of the public centre may be appointed under this section.

(8) If the Member of the Executive Council deems it necessary, he or she may request the Auditor-General to undertake an audit of the records and financial statements of a public centre. 45

Failure of governing body to comply with Act

25. (1) If the governing body of a centre fails to comply with any provision of this Act under which allocation from money appropriated by the provincial legislature is paid to the public centre, or with any condition subject to which any allocation is paid to the public centre, the Member of the Executive Council may call upon the governing body to comply with the provision or condition within a specified period. 50

(2) If the governing body thereafter fails to comply with the provision or condition timeously, the Member of the Executive Council may withhold payment of any portion of any allocation appropriated by the provincial legislature in respect of the public centre in question. 55

Finansiële rekords en state van openbare sentrum

24. (1) Die beheerliggaam van 'n openbare sentrum, op die wyse deur die Lid van die Uitvoerende Raad bepaal—

- 5 (a) moet volledige rekeningkundige rekords hou van alle bates, laste, inkomste en uitgawes en enige ander finansiële transaksies van die openbare sentrum as 'n geheel, van sy substrukture en van ander liggame wat onder sy gesag bedryf word;
- 10 (b) moet in elke boekjaar, op die tyd en op die wyse wat die Lid van die Uitvoerende Raad bepaal, 'n staat van sy geraamde inkomste en uitgawes vir die volgende boekjaar aan die Lid van die Uitvoerende Raad voorlê vir sy of haar goedkeuring, wat met die instemming van die Lid van die Uitvoerende Raad verantwoordelik vir finansies in daardie provinsie gegee word;
- 15 (c) moet in enige boekjaar aangepaste state van sy geraamde inkomste en uitgawes aan die Lid van die Uitvoerende Raad voorlê vir sy of haar goedkeuring, wat met die instemming van die Lid van die Uitvoerende Raad vir Finansies in daardie provinsie gegee word; en
- (d) mag nie enige uitgawe wat meer is as die totale bedrag wat ingevolge paragrawe (b) en (c) goedgekeur is, aangaan nie.

20 (2) Indien die Lid van die Uitvoerende Raad nie die beheerliggaam se staat van sy geraamde inkomste en uitgawes goedkeur nie, moet die Lid van die Uitvoerende Raad van die beheerliggaam vereis om binne 'n vermelde tydperk 'n hersiene staat aan hom of haar te verskaf.

(3) Die beheerliggaam van 'n openbare sentrum moet, ten aansien van die voorafgaande boekjaar en teen 'n datum of datums en op die wyse deur die Lid van die

25 Uitvoerende Raad bepaal die Lid van die Uitvoerende Raad voorsien van 'n—

- (a) verslag oor die oorhoofse beheer van die sentrum;
- (b) behoorlik geouditeerde of gekontroleerde staat van inkomste en uitgawes; en
- (c) balansstaat en 'n kontantvloeistaat.

(4) Die beheerliggaam van 'n openbare sentrum moet die Lid van die Uitvoerende

30 Raad voorsien van die bykomstige inligting wat die Lid van die Uitvoerende Raad redelikerwys vereis.

(5) Die beheerliggaam van 'n openbare sentrum moet 'n persoon wat as 'n rekenmeester en ouditeur geregistreer is ingevolge die Wet op Openbare Rekenmeesters en Ouditeurs, 1991 (Wet No. 80 van 1991) aanstel om die rekords en

35 finansiële state in subartikel (1) bedoel, te ouditeer.

(6) Indien die oudit in subartikel (5) bedoel nie redelikerwys uitvoerbaar is nie, moet die beheerliggaam van 'n openbare sentrum 'n persoon aanstel om die rekords en finansiële state in subartikel (1) bedoel na te gaan en daarvoor verslag te doen, en die persoon moet—

40 (a) gekwalifiseer wees om die pligte van 'n rekenpligtige beampte uit te voer ingevolge artikel 60 van die Wet op Beslote Korporasies, 1984 (Wet No. 69 van 1984); of

(b) deur die Lid van die Uitvoerende Raad goedgekeur wees vir dié doel.

(7) Geen persoon wat 'n finansiële belang by die sake van die openbare sentrum het,

45 mag kragtens hierdie artikel aangestel word nie.

(8) Indien die Lid van die Uitvoerende Raad dit nodig ag, kan hy of sy die Ouditeur-generaal versoek om 'n oudit van die rekords en finansiële state van 'n openbare sentrum uit te voer.

Versuim van beheerliggaam om aan Wet te voldoen

50 25. (1) Indien die beheerliggaam van 'n openbare sentrum versuim om te voldoen aan enige bepaling van hierdie Wet waarkragtens toewysing van geld deur die provinsiale wetgewer bewillig aan die openbare sentrum betaal word, of aan enige voorwaarde onderhewig waaraan enige toewysing aan die openbare sentrum betaal word, kan die Lid van die Uitvoerende Raad 'n beroep doen op die beheerliggaam om

55 binne 'n vermelde tydperk aan die bepaling of voorwaarde te voldoen.

(2) Indien die beheerliggaam daarna versuim om betyds aan die bepaling of voorwaarde te voldoen, kan die Lid van die Uitvoerende Raad betaling van enige gedeelte van enige toewysing, terughou wat deur die provinsiale wetgewer ten aansien van die betrokke openbare sentrum bewillig is.

- (3) Before taking action under subsection (2), the Member of the Executive Council must—
- (a) give notice to the governing body of the public centre in question of the intention so to act;
 - (b) give such governing body a reasonable opportunity to make representations; 5
 - and
 - (c) consider such representations.
- (4) If the Member of the Executive Council acts under subsection (2), a report regarding the action must be tabled in the provincial legislature by the Member of the Executive Council or as soon as reasonably practical after the action. 10

CHAPTER 5

PRIVATE CENTRES

Establishment of private centre

26. Subject to section 27, any person may, at his or her own cost, establish and maintain a private centre. 15

Registration of private centre

27. (1) No person may establish or maintain a private centre unless it is registered by the Head of Department.
- (2) The Member of the Executive Council must, by notice in the *Provincial Gazette*, determine the grounds on which the registration of a private centre may be granted or withdrawn by the Head of Department. 20
- (3) The Head of Department must register a private centre if he or she is satisfied that the—
- (a) standards to be maintained by such a private centre will not be inferior to the standard maintained in comparable public centres; 25
 - (b) admission policy of the private centre does not discriminate on the grounds of race; and
 - (c) private centre complies with the grounds for registration contemplated in subsection (2).

Withdrawal of registration of private centre 30

28. (1) No withdrawal of the registration of private centre is valid unless—
- (a) the owner of such a private centre has been furnished by the Head of Department with a notice of the intention to withdraw the registration, stating the reasons why such withdrawal is contemplated;
 - (b) the owner of such centre has been granted an opportunity to make written representation to the Head of Department as to why the registration of the private centre should not be withdrawn; and 35
 - (c) any such representations received have been duly considered.
- (2) The owner of the private centre may appeal to the Member of the Executive Council against the withdrawal of the registration of such a private centre. 40

Subsidies to registered private centre

29. (1) The Minister may, by notice in the *Government Gazette*, determine norms and standards or conditions for the granting of subsidies to private centres after consultation with the Council of Education Ministers and with the concurrence of the Minister of Finance. 45
- (2) The Member of the Executive Council may, out of funds appropriated by the provincial legislature for that purpose, grant a subsidy to a private centre subject to subsection (1).
- (3) If conditions contemplated in subsection (1) under which a subsidy was granted have not been complied with, the Head of Department may terminate or reduce the subsidy from a date determined by him or her. 50
- (4) The Head of Department may not terminate or reduce a subsidy under subsection (3) unless—

(3) Alvorens kragtens subartikel (2) opgetree word, moet die Lid van die Uitvoerende Raad—

- (a) aan die beheerliggaam van die betrokke openbare sentrum kennis gee van die voorneme om aldus op te tree;
- 5 (b) die beheerliggaam 'n redelike geleentheid bied om vertoë te rig; en
- (c) die vertoë oorweeg.

(4) Indien die Lid van die Uitvoerende Raad kragtens subartikel (2) optree, moet 'n verslag ten aansien van die optrede deur die Lid van die Uitvoerende Raad in die provinsiale wetgewer ter tafel gelê word so gou as prakties moontlik na die optrede.

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HOOFSTUK 5

PRIVATE SENTRUMS

Instelling van private sentrum

26. (1) Behoudens artikel 27 kan enige persoon op sy of haar eie koste 'n private sentrum instel en in stand hou.

15 Registrasie van private sentrum

27. (1) Geen persoon mag 'n private sentrum instel of in stand hou nie tensy dit deur die Departementshoof geregistreer is.

- (2) Die Lid van die Uitvoerende Raad moet by kennisgewing in die *Provinsiale Koerant* die gronde bepaal waarop die registrasie van 'n private sentrum deur die
- 20 Departementshoof toegestaan of ingetrek kan word.

(3) Die Departementshoof moet 'n private sentrum registreer indien hy of sy oortuig is dat die—

- (a) standarde wat by die private sentrum gehandhaaf sal word, nie minderwaardig sal wees teenoor die standaard by vergelykbare openbare sentrums nie;
- 25 (b) toelatingsbeleid van die private sentrum nie op grond van ras diskrimineer nie; en
- (c) private sentrum voldoen aan die gronde vir registrasie in subartikel (2) beoog.

Intrekking van registrasie van private sentrum

- 30 28. (1) Geen intrekking van die registrasie van 'n private sentrum is geldig nie tensy—

- (a) die eienaar van die private sentrum deur die Departementshoof voorsien is van 'n kennisgewing van voorneme om die registrasie in te trek, met opgawe van redes waarom die intrekking beoog word;
- 35 (b) die eienaar van die private sentrum 'n geleentheid gegee is om skriftelike vertoë waarom die registrasie van die private sentrum nie ingetrek moet word nie, aan die Departementshoof te rig; en
- (c) enige sodanige vertoë wat ontvang is, behoorlik oorweeg is.

- (2) Die eienaar van die private sentrum kan by die Lid van die Uitvoerende Raad
- 40 appél aanteken teen die intrekking van die registrasie van sodanige private sentrum.

Subsidies aan geregistreerde private sentrum

29. (1) Die Minister kan by kennisgewing in die *Staatskoerant* norme en standarde bepaal vir die toekenning van subsidies aan private sentrums na oorlegpleging met die Raad van Onderwysministers en met die instemming van die Minister van Finansies.

- 45 (2) Die Lid van die Uitvoerende Raad kan behoudens subartikel (1) uit fondse wat deur die provinsiale wetgewer vir 'die doel bewillig word, 'n subsidie aan 'n private sentrum toeken.

- (3) Indien voorwaardes in subartikel (1) beoog waarop 'n subsidie toegeken is, nie nagekom word nie, kan die Departementshoof vanaf 'n datum deur hom of haar bepaal
- 50 die subsidie staak of verminder.

(4) Die Departementshoof kan nie 'n subsidie kragtens subartikel (3) staak of verminder nie tensy—

- (a) the owner of such private centre has been furnished with a notice of the intention to terminate or reduce the subsidy and the reasons therefor;
- (b) such owner has been granted an opportunity to make written representations as to why the subsidy should not be terminated or reduced; and
- (c) any such representations received have been duly considered. 5

(5) The owner of a private centre may appeal to the Member of the Executive Council against the termination or reduction of a subsidy to such centre.

Declaration of private centre as public centre

30. (1) The Member of the Executive Council may, with the concurrence of the Member of the Executive Council responsible for Finance in that province, enter into an agreement with the owner of a private centre in terms whereof such a centre is declared to be a public centre. 10

(2) Notice of the change of status contemplated in subsection (1) must be published in the *Provincial Gazette*.

Functions of Member of Executive Council relating to private centre 15

31. (1) The Member of the Executive Council may, by notice in the *Provincial Gazette*, determine requirements for—

- (a) the admission of learners of a private centre to examinations conducted by or under the supervision of the education department;
- (b) the keeping of registers and other documents by such a private centre; 20
- (c) criteria of eligibility, conditions and manner of payment of any subsidy to such a centre; and
- (d) any other matter relating to such a centre which must or may be prescribed in terms of this Act.

(2) Different requirements may be made under subsection (1) in respect of different centres. 25

(3) The Member of the Executive Council must allow the affected parties a reasonable period to comment on any requirement he or she intends determining under subsection (1).

CHAPTER 6 30

QUALITY ASSURANCE AND PROMOTION

Quality assurance and promotion in adult basic education and training

32. Quality assurance and promotion in adult basic education and training must be conducted as contemplated in the South African Certification Council Act, 1986 (Act No. 85 of 1986). 35

Advice by NABABET

33. (1) NABABET must advise the Minister on quality promotion and assurance.

(2) The Minister must—

- (a) consider any advice given by NABABET; and
- (b) provide reasons in writing to NABABET if the Minister does not accept the advice. 40

(3) The Minister may act without the advice of NABABET if—

- (a) the matter is urgent; or
- (b) NABABET has failed to provide the advice within 14 days after such a request was made. 45

(4) If the Minister acts as contemplated in subsection (3) he or she must—

- (a) notify NABABET of such action; and
- (b) provide reasons in writing to NABABET for such action.

WET OP BASIESE ONDERWYS EN OPLEIDING
VIR VOLWASSENES, 2000

Wet No. 52, 2000

- (a) die eienaar van die private sentrum van 'n kennisgewing van voorneme om die subsidie te staak of te verminder, voorsien is, en van die redes daarvoor;
- (b) die eienaar 'n geleentheid gegee is om skriftelike verhoë, te rig waarom die registrasie van die subsidie nie gestaak of verminder moet word nie; en
- 5 (c) enige sodanige verhoë wat ontvang is, behoorlik oorweeg is.
- (5) Die eienaar van 'n private sentrum kan by die Lid van die Uitvoerende Raad appél aanteken teen die staking of vermindering van 'n subsidie aan sodanige sentrum.

Verklaring van private sentrum tot openbare sentrum

- 30. (1) Die Lid van die Uitvoerende Raad kan met die instemming van die Lid van
10 die Uitvoerende Raad verantwoordelik vir finansies in daardie provinsie 'n ooreenkoms
ingevolge waarvan die sentrum tot openbare sentrum verklaar word, met die eienaar
van 'n private sentrum aangaan.

(2) 'n Kennisgewing van die verandering in status in subartikel (1) beoog, moet in die *Provinsiale Koerant* gepubliseer word.

15 Werksaamhede van Lid van Uitvoerende Raad ten aansien van private sentrum

31. (1) Die Lid van die Uitvoerende Raad kan by kennisgewing in die *Provinsiale Koerant* vereistes bepaal vir—

- (a) die toelating van leerders van 'n private sentrum tot 'n eksamen wat deur of
20 onder die toesig van die onderwysdepartement aangebied word;
- (b) die byhou van registers en ander dokumente deur sodanige private sentrum;
- (c) maatstawwe vir kwalifisering vir, voorwaardes en wyse van betaling van
enige subsidie aan sodanige sentrum; en
- (d) enige ander aangeleentheid ten aansien van sodanige sentrum wat ingevolge
hierdie Wet kan of moet voorgeskryf word.

- 25 (2) Verskillende vereistes kan kragtens subartikel (1) ten aansien van verskillende
sentrums gestel word.

(3) Die Lid van die Uitvoerende Raad moet die partye wat geraak word 'n redelike tyd gee om kommentaar te lewer op enige vereiste wat hy of sy van plan is om kragtens subartikel (1) te bepaal.

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HOOFSTUK 6**GEHALTEVERSEKERING EN -BEVORDERING****Gehalteversekering en -bevordering in basiese onderwys en opleiding vir volwassenes**

- 32. Gehalteversekering en -bevordering in basiese onderwys en opleiding vir
35 volwassenes moet geskied soos beoog die Wet op die Suid-Afrikaanse Sertifiserings-
raad, 1986 (Wet No. 85 van 1986).

Advies deur NARBOOV

33. (1) Die NARBOOV moet die Minister van advies dien oor gehaltebevordering en -versekering.

- 40 (2) Die Minister moet—

- (a) enige advies deur die NARBOOV gegee, oorweeg; en
- (b) skriftelike redes aan die NARBOOV verskaf indien die Minister nie die
advies aanvaar nie.

- (3) Die Minister kan sonder die advies van die NARBOOV optree indien—

- 45 (a) die saak dringend is; of
- (b) die NARBOOV versuim het om die advies te verskaf binne 14 dae na
sodanige versoek gerig is.

- (4) Indien die Minister optree soos in subartikel (3) beoog, moet die Minister—

- 50 (a) die NARBOOV van die optrede verwittig; en
- (b) skriftelike redes aan die NARBOOV verskaf vir die optrede.

Report on quality assurance

34. An annual report on the quality of adult basic education and training must be made to the Minister within 90 days after the end of the academic year by—

- (a) NABABET in respect of the country as a whole; and
- (b) the Member of the Executive Council in respect of the relevant province. 5

CHAPTER 7**GENERAL****Duty of centres to provide information**

35. (1) A centre must make information available for inspection by any person, in so far as such information is required for the exercise and protection of such person's rights. 10

(2) Every centre must provide such information about the centre as is reasonably required by the Head of Department, or the Director-General in consultation with the Head of Department.

(3) The Head of Department, Director-General and any centre which offers adult basic education and training must provide such information about the centre or quality of adult basic education and training as is reasonably required by NABABET. 15

Investigation at public centre

36. (1) The Member of the Executive Council may appoint a person to conduct an investigation at a public centre if— 20

- (a) the governing body of the public centre requests the appointment of such a person;
- (b) circumstances arise at the public centre that—
 - (i) involve financial or other maladministration of a serious nature; or
 - (ii) seriously undermine the effective functioning of the public centre; 25
- (c) the governing body of the public centre has failed to resolve circumstances contemplated in paragraph (b); or
- (d) the appointment is in the interest of adult basic education and training in an open democratic society.

(2) The person appointed in terms of subsection (1) must, within 30 days after appointment and on the terms of reference specified by the Member of the Executive Council— 30

- (a) conduct an investigation at the public centre concerned;
- (b) report in writing to the Member of the Executive Council on the findings of his or her investigation; and 35
- (c) suggest appropriate measures to resolve the matter.

(3) The Member of the Executive Council must as soon as practicable furnish a copy of the report referred to in subsection (2) to the governing body in question.

Name change of public centre

37. The governing body of a public centre may, with the approval of the Member of the Executive Council and by notice in the *Provincial Gazette*, change the name of the public centre. 40

Offences

38. (1) Any person other than an organ of state, who without the authority of a public or private adult centre— 45

- (a) offers or pretends to offer any adult basic education and training programme or part thereof;
- (b) confers a qualification which purports to have been granted by a centre, or in collaboration with a centre; or

Verslag oor gehalteversekering

34. 'n Jaarverslag oor die gehalte van basiese onderwys en opleiding vir volwasse nes moet binne 90 dae na die einde van die akademiese jaar aan die Minister gelewer word deur—

- 5 (a) die NARBOOV ten aansien van die land as geheel; en
- (b) die Lid van die Uitvoerende Raad ten aansien van die betrokke provinsie.

HOOFSTUK 7**ALGEMEEN****Plig van sentrum om inligting te verskaf**

- 10 35. (1) 'n Sentrum moet inligting beskikbaar stel vir inspeksie deur enige persoon, in die mate dat die inligting benodig word vir die uitoefening en beskerming van die persoon se regte.

- (2) Elke sentrum moet die inligting oor die sentrum verskaf wat redelikerwys deur die Departementshoof of deur die Direkteur-generaal in oorleg met die Departements-
15 hoof vereis word.

(3) Die Departementshoof, die Direkteur-generaal en enige sentrum wat basiese onderwys en opleiding vir volwasse nes aanbied, moet die inligting oor die sentrum of die gehalte van die basiese onderwys en opleiding vir volwasse nes wat redelikerwys deur die NARBOOV vereis word, verskaf.

20 Onderzoek by openbare sentrum

36. (1) Die Lid van die Uitvoerende Raad kan 'n persoon aanstel om 'n ondersoek by 'n openbare sentrum uit te voer indien—

- (a) die beheerliggaam van die openbare sentrum die aanstelling van so 'n persoon versoek;
- 25 (b) omstandighede by die openbare sentrum ontstaan wat—
 - (i) finansiële of ander wanadministrasie van 'n ernstige aard behels; of
 - (ii) die doeltreffende funksionering van die openbare sentrum ernstig ondermyn;
- (c) die beheerliggaam van die openbare sentrum versuim het om die omstan-
dighede in paragraaf (b) beoog uit die weg te ruim; en
- 30 (d) die aanstelling in die belang van algemene onderwys en opleiding vir volwasse nes in 'n ope demokratiese samelewing is.

(2) Die persoon wat ingevolge subartikel (1) aangestel word, moet binne 30 dae na aanstelling en binne die verwysingsraamwerk deur die Lid van die Uitvoerende Raad
35 gespesifiseer—

- (a) 'n ondersoek by die betrokke openbare sentrum uitvoer;
- (b) skriftelik aan die Lid van die Uitvoerende Raad verslag doen oor die bevindings van sy of haar ondersoek; en
- (c) toepaslike maatreëls voorstel om die aangeleentheid te beredder.
- 40 (3) Die Lid van die Uitvoerende Raad moet so gou as wat prakties moontlik is 'n afskrif van die verslag in subartikel (2) bedoel aan die betrokke beheerliggaam verskaf.

Naamsverandering van openbare sentrum

37. Die beheerliggaam van 'n openbare sentrum kan met die goedkeuring van die Lid van die Uitvoerende Raad en by kennisgewing in die *Provinsiale Koerant* die naam
45 van die openbare sentrum verander.

Misdrywe

38. (1) Enige persoon behalwe 'n staatsorgaan, wat sonder die gesag van 'n openbare of private sentrum—

- 50 (a) programme, of gedeeltes daarvan, vir basiese onderwys en opleiding vir volwasse nes aanbied of voorgee om dit aan te bied;
- (b) 'n kwalifikasie wat voorgee om deur 'n sentrum, of in samewerking met 'n sentrum, toegeken te wees, toeken; of

(c) purports to perform an act on behalf of a centre, is guilty of an offence and is liable on conviction to any sentence which may be imposed for fraud.

(2) Any person who pretends that a qualification has been awarded to him or her by a centre whereas in fact no such qualification has been so awarded, is guilty of an offence and is liable on conviction to any sentence which may be imposed for fraud. 5

(3) Any person who contravenes section 27(1), is guilty of an offence and is liable on conviction to a fine or imprisonment not exceeding five years or to both such fine and imprisonment.

Limitation of liability

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39. Neither the State, the NABABET nor any person appointed in terms of this Act is liable for any loss or damage suffered by any person as a result of any act performed or omitted in good faith in the course of performing any function for which that person was appointed in terms of this Act.

Delegation of powers

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40. (1) The Minister may, on such conditions as he or she may determine, delegate the exercise of any of his or her powers under this Act, except the power to make regulations, and the performance of any of his or her duties in terms of this Act to—

(a) NABABET;

(b) any employee of the Department; or

(c) any organ of state.

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(2) The Member of the Executive Council may, on such conditions as he or she may determine, delegate the exercise of any of his or her powers under this Act, except the power to make regulations under section 41, and the performance of his or her duties in terms of this Act to any—

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(a) employee in a provincial department responsible for education and training; or

(b) organ of state.

(3) The Director-General may, on such conditions as he or she may determine, delegate the exercise of any of his or her powers under this Act and the performance of any of his or her duties in terms of this Act to any employee in the Department. 30

(4) The Head of Department may, on such conditions as he or she may determine, delegate the exercise of any of his or her powers under this Act and the performance of any of his or her duties in terms of this Act to any employee in the provincial department of education. 35

(5) A delegation in terms of this Act does not prevent the Minister, Member of the Executive Council, the Director-General or the Head of Department, as the case may be, from exercising such powers or performing such duties.

Regulations

41. The Minister or the Member of the Executive Council, as the case may be, may make regulations consistent with this Act on any— 40

(a) matter which the Minister and the Member of the Executive Council are empowered or required to prescribe by regulation in terms of this Act; and

(b) matter in respect of which regulations are necessary or expedient in order to achieve the purpose of this Act. 45

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(c) voorgee om namens 'n sentrum 'n handeling uit te voer, is skuldig aan 'n misdryf en is by skuldigbevinding strafbaar met enige vonnis wat weens bedrog opgelê kan word.

5 (2) Enige persoon wat voorgee dat 'n kwalifikasie deur 'n sentrum aan hom of haar toegeken is terwyl geen sodanige kwalifikasie in werklikheid aldus toegeken is nie, is skuldig aan 'n misdryf en is by skuldigbevinding strafbaar met enige vonnis wat vir bedrog opgelê kan word.

10 (3) Enige persoon wat artikel 27(1) oortree, is skuldig aan 'n misdryf en is by skuldigbevinding strafbaar met 'n boete of tronkstraf van hoogstens vyf jaar of aan sowel die boete as die tronkstraf.

Beperking van aanspreeklikheid

39. Nóg die Staat, nóg die NARBOOV nóg enige persoon wat ingevolge hierdie Wet aangestel is, is aanspreeklik vir enige verlies of skade deur enige persoon gelyk as gevolg van enige handeling te goeder trou verrig of nagelaat in die loop van die
15 verrigting van enige werksaamheid waarvoor daardie persoon ingevolge hierdie Wet aangestel is.

Delegering van bevoegdhede

40. (1) Die Minister kan, op die voorwaardes wat hy of sy bepaal, die uitoefening van enige van sy of haar bevoegdhede kragtens hierdie Wet, behalwe die bevoegdheid
20 om regulasies uit te vaardig, en die verrigting van enige van sy of haar pligte ingevolge hierdie Wet deleger aan—

- (a) die NARBOOV;
- (b) 'n werknemer van die Departement; of
- (c) 'n staatsorgaan.

25 (2) Die Lid van die Uitvoerende Raad kan, op die voorwaardes wat hy of sy bepaal, die uitoefening van enige van sy of haar bevoegdhede kragtens hierdie Wet, behalwe die bevoegdheid om regulasies uit te vaardig kragtens artikel 41, en die verrigting van enige van sy of haar pligte ingevolge hierdie Wet deleger aan 'n—

- (a) werknemer in 'n provinsiale departement verantwoordelik vir onderwys en
30 opleiding; of
- (b) staatsorgaan.

(3) Die Direkteur-generaal kan, op die voorwaardes wat hy of sy bepaal, die uitoefening van enige van sy of haar bevoegdhede kragtens hierdie Wet, en die verrigting van enige van sy of haar pligte ingevolge hierdie Wet aan 'n werknemer in
35 die Departement deleger.

(4) Die Departementshoof kan, op die voorwaardes wat hy of sy bepaal, die uitoefening van enige van sy of haar bevoegdhede kragtens hierdie Wet, en die verrigting van enige van sy of haar pligte ingevolge hierdie Wet aan 'n werknemer in die provinsiale departement van onderwys deleger.

40 (5) 'n Delegasie ingevolge hierdie Wet ontnem nie die Minister, die Lid van die Uitvoerende Raad, die Direkteur-generaal of die Departementshoof, na gelang van die geval, die reg om sodanige bevoegdhede uit te oefen of sodanige pligte te verrig nie.

Regulasies

41. (1) Die Minister en die Lid van die Uitvoerende Raad kan regulasies uitvaardig
45 wat bestaanbaar is met die Wet oor enige—

- (a) aangeleentheid wat die Minister en die Lid van die Uitvoerende Raad by magte is, of ten opsigte waarvan van hom of haar vereis word, om by regulasie ingevolge hierdie Wet voor te skryf; en
- (b) aangeleentheid ten aansien waarvan regulasies nodig of dienstig is ten einde
50 die doel van hierdie Wet te bereik.

CHAPTER 8

TRANSITIONAL AND OTHER ARRANGEMENTS

Existing centres, structures and bodies

42. (1) Any public adult basic education and training centre which existed immediately before the commencement of this Act must be regarded as having been established in terms of this Act. 5

(2) Any structure or body which existed at a public centre prior to the commencement of this Act continues to exist until it is replaced by a structure contemplated in this Act.

Exemption of existing private centre

43. Section 38(3) does not apply to a person who was providing adult basic education and training programmes at a private centre immediately prior to the date of commencement of this Act until a date determined by the Member of the Executive Council by notice in the Provincial *Gazette*. 10

Short title

44. This Act is called the Adult Basic Education and Training Act, 2000. 15

HOOFSTUK 8**OORGANGS- EN ANDER REËLINGS****Bestaande sentrums, strukture en liggame**

- 5 **42.** (1) Enige openbare sentrum vir basiese onderwys en opleiding vir volwassenes wat onmiddellik voor die inwerkingtreding van hierdie Wet bestaan het, word geag 'n openbare sentrum te wees wat ingevolge hierdie Wet ingestel is.

(2) Enige struktuur of liggaam wat by 'n openbare sentrum bestaan het voor die inwerkingtreding van hierdie Wet, gaan voort om te bestaan tot tyd en wyl dit deur 'n struktuur in hierdie Wet beoog, vervang word.

10 Vrystelling van bestaande private sentrum

43. Artikel 38(3) is nie van toepassing op 'n persoon wat onmiddellik voor die datum van inwerkingtreding van hierdie Wet programme vir basiese onderwys en opleiding vir volwassenes by 'n private sentrum aangebied het nie, tot op 'n datum deur die Lid van die Uitvoerende Raad bepaal by kennisgewing in die *Provinsiale Koerant*.

15 Kort titel

44. Hierdie Wet is die Wet op Basiese Onderwys en Opleiding vir Volwassenes, 2000.