



PROVINSIALE KOERANT

PROVINSIE VRYSTAAT

FREE STATE PROVINCE

PROVINCIAL GAZETTE

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KANTOOR VAN DIE PREMIER

OFFICE OF THE PREMIER

No. 2

14 April 2000

Hierby word bekend gemaak dat die Premier die onderstaande Wet bekragtig het, wat hierby ter algemene inligting gepubliseer word:-

No. 2 van 2000: Wet op Vrystaat Skoolonderwys, 2000

No. 2

14 April 2000

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

No. 2 of 2000: Free State School Education Act, 2000

WET

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

AANHEF

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

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

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

*(Engelse teks deur die Premier geteken)
(Bekragtig op 11 April 2000)*

5

INDELING VAN ARTIKELS

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ACT

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

PREAMBLE

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

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

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

(English text signed by the Premier)
(Assented to 11 April 2000)

ARRANGEMENT OF SECTIONS

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HOOFSTUK 1

WOORDOMSKRYWINGS EN TOEPASSING VAN WET

Woordomskrywings	5
1. In hierdie Wet, tensy uit die samehang anders blyk, beteken –	
“algemene onderwys” die onderwysbywoningsfase vanaf graad R tot graad 9;	10
“beampte” ‘n werknemer van die Departement wat ingevolge die Wet op die Indiensneming van Opvoeders, 1998 (Wet No 76 van 1998) of die Staatsdienswet, 1994 (Proklamasie No 103 van 1994) aangestel is;	
“beheerliggaam” die beheerliggaam van ‘n openbare skool wat ingevolge hierdie Wet ingestel is;	15
“Departement” die Departement van Onderwys, genoem in die eerste kolom van Bylae 2 van die Staatsdienswet, 1994 (Proklamasie No 103 van 1994);	20
“evalueringsproses” ‘n deurlopende proses wat leerderprestasie op enige gegewe tydstip sal weerspieël;	
“gekombineerde skool” ‘n skool wat onderwys voorsien in alle grade wat onder ‘n primêre skool sowel as alle grade wat onder ‘n sekondêre skool resorteer;	25
“gewone openbare skool” ‘n openbare skool wat onderwys aan alle leerders verskaf;	
“graad” daardie gedeelte van ‘n opvoedkundige program in ‘n skool, of enige ander opvoedkundige program wat die verantwoordelike Lid as gelykwaardig daaraan mag beskou, wat ‘n leerder in een skooljaar kan voltooi;	30
“Grondwet” die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No 108 van 1996);	35
“hierdie Wet” sluit alle regulasies en kennisgewings in;	
“klas” ‘n aantal leerders van dieselfde of verskillende grade wat op dieselfde tydstip saam gegroepeer is om onderrig in spesifieke leerinhoud te ontvang;	40
“koshuis” ‘n instelling, toegevoeg tot ‘n skool vir die huisvesting van leerders;	
“leerder” ‘n persoon wat onderwys ontvang of verplig is om onderwys te ontvang ingevolge hierdie Wet;	45
“middelbare skool” ‘n skool vir primêre en sekondêre onderwys tot ‘n graad nie hoër as graad 9 nie;	

CHAPTER 1

DEFINITIONS AND APPLICATION OF THIS ACT

5 Definitions

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

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

“**class**” means a number of learners from the same grade or different grades who are at the same time grouped together to receive tuition in specific learning context;

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

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

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

25 “**Department**” means the Department of Education, mentioned in the first column of Schedule 2 of the Public Service Act, 1994 (Proclamation No 103 of 1994);

“**education**” means instruction, teaching or training provided to learners in terms of this Act or any other applicable law;

30 “**educational programme**” means a pre-arranged course or activity related to education;

“**educational support services**” means all education related health and social work, general and counselling guidance, psychological programmes and services provided to all learners;

35 “**educator**” means a person, excluding a person who is appointed to exclusively perform extra-curricular duties, who teaches, educates or trains other persons or who provides professional educational services, including professional therapy and education support services at schools;

40 “**Executive Council**” means the Executive Council of the Free State Province referred to in section 132 of the Constitution;

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

45 “**further education and training**” means all learning and training programmes leading to qualifications from levels 2 to 4 of the National Qualifications Framework as contemplated in the South African Qualifications Authority Act, 1995 (Act No 58 of 1995), which levels are above general education, but below higher education;

“nasionale beleid” nasionale onderwysbeleid bepaal deur ‘n bevoegde gesag binne die regsbevoegdheid van die nasionale regering;

“Nasionale Wet” die Suid-Afrikaanse Skolewet, 1996 (Wet No 84 van 1996);

5

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

“onafhanklike skool” ‘n skool geregistreer of geag geregistreer te wees ingevolge artikel 20;

10

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

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

15

“Onderwyshoof” die Hoof van Onderwys in die Provinsie genoem in die tweede kolom van die Bylae 2 van die Staatsdienswet, 1994 (Proklamasie No 103 van 1994);

20

“openbare skool” ‘n skool, gefinansier deur die Provinsiale Wetgewer, wat ‘n gewone openbare skool of ‘n spesiale openbare skool kan wees;

“opvoeder” enige persoon, met uitsondering van ‘n persoon wat aangestel is om uitsluitlik buite-kurrikulêre werksaamhede te verrig, wat ander persone leer, opvoed of oplei of professionele opvoedkundige dienste, insluitende professionele terapie en opvoedkundige ondersteuningsdienste by skole, lewer;

25

“opvoedkundige ondersteuningsdienste” alle onderwys verwante gesondheids- en sosiale werk, algemene en konsulerende voorligting, psigiologiese programme en -dienste verskaf aan alle leerders;

30

“opvoedkundige program” ‘n voorafbepaalde kursus of aktiwiteit wat met onderwys verband hou;

35

“ouer” -

(a) die ouer of voog van ‘n leerder;

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

40

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

“preprimêre skool” ‘n skool wat onderwys verskaf aan kinders van die ouderdom van drie jaar en ouer maar onder die ouderdom van 7 jaar;

45

“primêre skool” ‘n skool wat onderwys verskaf aan leerders vanaf graad R of graad 1 tot hoogstens graad 7;

“general education” means the school attendance phase from grade R to grade 9;

“governing body” means a governing body of a public school established in terms of this Act;

“grade” means that part of an educational programme in a school, or another educational programme which the responsible Member may deem to be equivalent thereto, which a learner may complete in one school year;

“Head of Education” means the Head of Education in the Province mentioned in the second column of Schedule 2 of the Public Service Act, 1994 (Proclamation No 103 of 1994);

“home-based education” means education which provides for the educational needs of a learner at the learner’s home;

“home learner” means a learner who receives education at home;

“hostel” means an institution attached to a school for the residential accommodation of learners;

“independent school” means a school registered or deemed to be registered in terms of section 20;

“industrial school” means a public school for the reception, care and education of learners referred or transferred thereto in terms of the Child Care Act, 1983 (Act No 74 of 1983);

“intermediate school” means a school for primary and secondary education up to a grade not higher than grade 9;

“language policy” means the policy regarding the language or languages that are used as medium of instruction, used as medium of communication at the school, as well as the support a school offers to learners whose language of choice is not one in which instruction takes place at the school;

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

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

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

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

“officer” means an employee of the Department appointed in terms of the Employment of Educators Act, 1998 (Act No 76 of 1998), or the Public Service Act, 1994 (Proclamation No 103 of 1994);

- “prinsipaal”** ‘n opvoeder wat tydelik of permanent as hoof van ‘n skool aangestel is of as sodanig waarneem;
- “Provinsie”** die Provinsie Vrystaat soos ingestel by artikel 103 van die Grondwet; 5
- “Raad”** die Provinsiale Onderwys- en Opleidingsraad kragtens artikel 4 ingestel;
- “regulasie”** ‘n regulasie uitgevaardig kragtens hierdie Wet;
- “sekondêre skool”** ‘n skool wat onderwys aan leerders verskaf vanaf graad 8 tot graad 12; 10
- “skool”** ‘n openbare skool of ‘n onafhanklike skool wat onderwys voorsien aan leerders in een of meer grade vanaf graad R tot graad 12;
- “skoolbywoningsbeampte”** ‘n beampte wat deur die verantwoordelike Lid benoem is om toesig te hou oor die verpligte bywoning van leerders; 15
- “skoolfonds”** ‘n fonds, gestig en bestuur deur die beheerliggaam van ‘n openbare skool in ooreenstemming met die voorskrifte uitgevaardig deur die Onderwyshoof en waarin al die geld deur of namens die skool ontvang, insluitende skoolgeld en vrywillige bydraes, inbetaal moet word; 20
- “skoolgelde”** ‘n bedrag geld wat deur die ouers van leerders van ‘n openbare skool ingevolge artikel 57 vasgestel is, wat deur die ouers van leerders toegelaat tot daardie skool, betaalbaar is aan die skool se skoolfonds; 25
- “skorsing”** die tydelike verbod op ‘n leerder om ‘n bepaalde skool of koshuis van daardie skool, na gelang van die geval, by te woon;
- “spesiale openbare skool”** ‘n openbare skool wat koste-intensiewe addisionele hulpbronne verskaf aan leerders met spesiale onderwysbehoefte; 30
- “taalbeleid”** die beleid ten opsigte van die taal of tale wat by die skool as onderrigmedium gebruik word, as medium van kommunikasie in die skool gebruik word sowel as die ondersteuning wat ‘n skool bied aan leerders wie se taalkeuse nie een is waarin onderrig by die skool plaasvind nie; 35
- “tuisleerder”** ‘n leerder wat onderwys tuis ontvang;
- “tuisonderrig”** onderwys wat in die onderwysbehoefte van ‘n leerder by die leerder se huis voorsien; 40
- “uitsetting”** die permanente verbod op ‘n leerder om ‘n bepaalde skool of ‘n koshuis van daardie skool, na gelang van die geval, by te woon; 45
- “Uitvoerende Raad”** die Uitvoerende Raad van die Provinsie Vrystaat bedoel in artikel 132 van die Grondwet;

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

“parent” means –

- (a) the parent or guardian of a learner;
- (b) the person legally entitled to custody of a learner; or
- (c) the person who undertakes to fulfil the obligations of a person referred to in paragraphs (a) and (b) towards the learner’s education at school;

“pre-primary school” means a school which provides education for children of the age of three years and above but below the age of 7 years;

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

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

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

“public school” means a school financed by the Provincial Legislature, that may be an ordinary public school or a special public school;

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

“regulation” means a regulation made under this Act;

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

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

“school attendance officer” means an officer designated by the responsible Member to supervise the compulsory attendance of learners;

“school fees” means an amount of money determined in terms of section 57 by the parents of learners of a public school, payable to the school’s school fund by parents of learners admitted to that school;

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

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

“verbeteringskool” ‘n openbare skool vir die ontvangs, sorg, onderwys en opleiding van leerders wat ingevolge die Strafproseswet, 1977 (Wet No 51 of 1977) daarheen verwys is, of ingevolge die Wet op Kindersorg, 1983 (Wet No 74 van 1983), daarheen oorgeplaas is; 5

“verdere onderwys en opleiding” alle leer- en opleidingsprogramme wat lei tot kwalifikasies vanaf vlakke 2 tot 4 van die Nasionale Kwalifikasieraamwerk bedoel in die Wet op die Suid-Afrikaanse Kwalifiseringsgesag, 1995 (Wet No 58 van 1995), welke vlakke hoër as algemene onderwys, maar laer as hoër onderwys is. 10

Toepassing van Wet

2. Ondergeskik aan die Grondwet, geld hierdie Wet vir onderwys in die Provinsie. 15

HOOFSTUK 2

DOELSTELLINGS VAN HIERDIE WET

Doelstellings van Wet

3. Die verantwoordelike Lid moet uit fondse wat deur die Provinsiale Wetgewer bewillig is, daarna streef om die volgende doelstellings met onderwys en opleiding in die Provinsie te bereik: 20
- (a) Om te voorsien in die fundamentele reg op onderwys soos uiteengesit in die Grondwet. 25
 - (b) Om ‘n stelsel van onderwysvoorsiening en –ondersteuning wat in die behoeftes en belange van al die mense van die Provinsie voorsien, te bewerkstellig. 30
 - (c) Om die volle en aktiewe deelname in onderwys van verskeie belangegroepes te bewerkstellig, in die besonder opvoeders, ouers, leerders, werkers, werkgewers en die breër gemeenskap. 35
 - (d) Om onderwysbeleid deur eenvormige norme en minimum standaarde wat in die algemeen deur die Provinsie van toepassing is, te koördineer. 40
 - (e) Om die waardigheid, statuur en status van opvoeders in skole te verhoog, terwyl ‘n effektiewe kultuur van onderrig, leer, diens en professionele toegewydheid ontwikkel word. 45
 - (f) Om skoolgeriewe as ‘n grondslag van gemeenskapsonderwys te beklemtoon. 50
 - (g) Om demografiese realiteite te weerspieël in die plasing en benutting van alle ondersteuningstelsels.
 - (h) Om die gemeenskap vatbaar te maak om ‘n balans te handhaaf tussen die verwerwing van akademiese en beroepsvaardighede wat noodsaaklik is vir die ontwikkeling van praktiese en inkomste genererende inisiatiewe.

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

“special public school” means a public school providing cost-intensive additional resources for learners with special education needs;

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

“this Act” includes all regulations and notices.

Application of Act

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

CHAPTER 2

OBJECTIVES OF THIS ACT

Objectives of Act

3. The responsible Member must, out of funds appropriated by the Provincial Legislature, aim to achieve the following objectives with education and training in the Province:

- (a) To provide for the fundamental right to education as set out in the Constitution.
- (b) To effect a system of educational provision and support which serves the needs and the interests of all the people of the Province.
- (c) To effect the full and active participation in education of various interest groups, in particular, educators, parents, learners, workers, employers and the broader community.
- (d) To co-ordinate education policy through uniform norms and minimum standards which apply generally throughout the Province.
- (e) To enhance the dignity, stature and status of educators in schools, while developing an effective culture of teaching, learning, service and professional commitment.
- (f) To emphasise school facilities as a basis for community learning.
- (g) To reflect demographic realities in the placement and utilisation of all support systems.
- (h) To sensitise the community to maintain a balance between the acquisition of academic and vocational skills necessary for developing practical and income-generating initiatives.

HOOFSTUK 3

ONDERWYSRADE EN EKSAMENRAAD

Instelling van Provinsiale Onderwys- en Opleidingsraad 5

4. (1) Die verantwoordelike Lid moet, by kennisgewing in die *Provinsiale Koerant*, 'n Provinsiale Onderwys- en Opleidingsraad instel.
- (2) Die Provinsiale Onderwys- en Opleidingsraad wat ingevolge artikel 6 van die Wet op Skoolonderwys, 1996 (Wet No 1 van 1996) aangestel is, funksioneer tot sodanige tyd dat 'n Raad ingevolge subartikel (1) aangestel word. 10
- (3) Die Raad bedoel in subartikel (1) adviseer die verantwoordelike Lid oor enige saak rakende onderwys wat deur die verantwoordelike Lid na die Raad verwys word of enige sodanige saak wat die Raad uit eie beweging onder die aandag van die verantwoordelike Lid wil bring. 15
- (4) Die verantwoordelike Lid bepaal by kennisgewing in die *Provinsiale Koerant* - 20
- (a) die samestelling van die Raad;
- (b) die prosedure vir die verkiesing of die aanstelling van lede en ampsdraers van die Raad; 25
- (c) die prosedure vir die diskwalifisering of ontslag van 'n lid van die Raad en die ontbinding van die Raad, met voldoende rede in elke geval;
- (d) die prosedure vir die vulling van 'n vakature op die Raad; 30
- (e) die ampstermyn van lede en ampsdraers van die Raad;
- (f) die bevoegdhede en werksaamhede van die Raad;
- (g) riglyne vir vergaderings van die Raad; 35
- (h) riglyne vir die samestelling en funksies van komitees, insluitende 'n uitvoerende komitee, van die Raad; en
- (i) enige ander aangeleentheid rakende die Provinsiale Onderwys- en Opleidingsraad wat ingevolge hierdie Wet voorgeskryf moet of kan word. 40

Instelling van Distrik Onderwys- en Opleidingsrade

5. (1) Die verantwoordelike Lid kan, indien hy of sy dit in belang van onderwys in die Provinsie ag, by kennisgewing in die *Provinsiale Koerant* - 45

CHAPTER 3**EDUCATION COUNCILS AND EXAMINATION BOARD****Establishment of Provincial Education and Training Council**

4. (1) The responsible Member must, by notice in the *Provincial Gazette*, establish a Provincial Education and Training Council.
- (2) The Provincial Education and Training Council established in terms of section 6 of the School Education Act, 1996 (Act No 1 of 1996) shall function until such time that a Council is established in terms of subsection (1).
- (3) The Council referred to in subsection (1) shall advise the responsible Member regarding any matter relating to education referred to it by the responsible Member, or any such matter which the Council, of its own accord, wishes to bring to the attention of the responsible Member.
- (4) The responsible Member must, by notice in the *Provincial Gazette*, determine –
- (a) the composition of the Council;
 - (b) the procedure for the election or the appointment of members and office-bearers of the Council;
 - (c) the procedure for the disqualification or removal of a member of the Council and the dissolution of the Council, for sufficient reasons in each case;
 - (d) the procedure for the filling of a vacancy on the Council;
 - (e) the term of office of members and office-bearers of the Council;
 - (f) the powers and duties of the Council;
 - (g) guidelines for meetings of the Council;
 - (h) guidelines for the composition and functions of committees, including an executive committee, of the Council; and
 - (i) any other matter relating to the Provincial Education and Training Council which must or may be prescribed in terms of this Act.

Establishment of District Education and Training Councils

5. (1) The responsible Member may, if he or she deems it in the interest of education in the Province, by notice in the *Provincial Gazette* –

- (a) die Provinsie in distrikte verdeel en die grense daarvan bepaal;
 - (b) die grense van daardie distrikte te enige tyd verander;
 - (c) 'n Distrik Onderwys- en Opleidingsraad vir 'n distrik instel; of 5
 - (d) 'n Distrik Onderwys- en Opleidingsraad, ingestel ingevolge paragraaf (c), opskort of ontbind.
- (2) Die bepalings van artikel 4(4), is *mutatis mutandis* op Distrik Onderwys- en Opleidingsrade 10 van toepassing nadat hulle ingevolge subartikel (1)(c) ingestel is.

Instelling van 'n Provinsiale Eksamenraad

6. (1) Die verantwoordelike Lid moet, by kennisgewing in die *Provinsiale Koerant*, 'n Provinsiale 15 Eksamenraad instel.
- (2) Die Eksamenraad bedoel in subartikel (1) -
- (a) adviseer die verantwoordelike Lid oor enige saak rakende eksamens wat deur die 20 verantwoordelike Lid na die Raad verwys word of enige sodanige saak wat die Raad uit eie beweging onder die aandag van die verantwoordelike Lid wil bring; en
 - (b) fasiliteer die proses van beleidsformulering met betrekking tot eksamens en 25 verwante aangeleenthede.
- (3) Die verantwoordelike Lid moet, by kennisgewing in die *Provinsiale Koerant*, die volgende bepaal -
- (a) die samestelling van die Provinsiale Eksamenraad; 30
 - (b) die prosedure vir die verkiesing of die aanstelling van lede en ampsdraers van die Provinsiale Eksamenraad;
 - (c) die prosedure vir die diskwalifisering of verwydering van 'n lid van die Provinsiale 35 Eksamenraad en die ontbinding van die Provinsiale Eksamenraad, met voldoende rede in elke geval;
 - (d) die prosedure vir die vulling van 'n vakature op die Provinsiale Eksamenraad; 40
 - (e) die ampstermyn van lede en ampsdraers van die Provinsiale Eksamenraad;
 - (f) die bevoegdhede en werksaamhede van die Provinsiale Eksamenraad;
 - (g) riglyne vir vergaderings van die Provinsiale Eksamenraad; 45
 - (h) riglyne vir die samestelling en funksies van komitees, insluitende 'n uitvoerende komitee, van die Provinsiale Eksamenraad; en

- (a) divide the Province into districts and determine the boundaries thereof;
- (b) change the boundaries of such districts;
- 5 (c) establish a District Education and Training Council for a district; or
- (d) suspend or dissolve a District Education Training Council established in terms of paragraph (c).
- 10 (2) The provisions of section 4(4) apply *mutatis mutandis* to District Education and Training Councils after they have been established in terms of subsection (1)(c).

Establishment of a Provincial Examination Board

- 15 6. (1) The responsible Member must, by notice in the *Provincial Gazette*, establish a Provincial Examination Board.
- (2) The Examination Board referred to in subsection (1) shall –
- 20 (a) advise the responsible Member regarding any matter relating to examinations referred to it by the responsible Member, or any such matter which the Council, of its own accord, wishes to bring to the attention of the responsible Member; and
- 25 (b) facilitate the process of policy formulation on examinations and related matters.
- (3) The responsible Member must, by notice in the *Provincial Gazette*, determine the following –
- 30 (a) the composition of the Provincial Examination Board;
- (b) the procedure for the election or the appointment of members and office-bearers of the Provincial Examination Board;
- 35 (c) the procedure for the disqualification or removal of a member of the Board and the dissolution of the Provincial Examination Board, for sufficient reason in each case;
- 40 (d) the procedure for the filling of a vacancy on the Provincial Examination Board;
- (e) the term of office of members and office-bearers of the Provincial Examination Board;
- 45 (f) the powers and duties of the Provincial Examination Board;
- (g) guidelines for meetings of the Provincial Examination Board;
- 50 (h) guidelines for the composition and functions of committees, including an executive committee, of the Provincial Examination Board; and

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

Instelling van 'n Provinsiale Prinsipaalsraad

7. (1) Die verantwoordelike Lid kan, by kennisgewing in die *Provinsiale Koerant*, 'n Provinsiale Prinsipaalsraad instel. 5
- (2) Die Prinsipaalsraad bedoel in subartikel (1) adviseer die Onderwyshoof oor enige saak rakende onderwys wat deur die Onderwyshoof na die Prinsipaalsraad verwys word of enige sodanige saak wat die Prinsipaalsraad uit eie beweging onder die aandag van die Onderwyshoof wil bring. 10
- (3) Die verantwoordelike Lid moet by kennisgewing in die *Provinsiale Koerant*, die volgende bepaal – 15
- (a) die samestelling van die Prinsipaalsraad;
- (b) die prosedure vir die verkiesing of die aanstelling van lede en ampsdraers van die Prinsipaalsraad; 20
- (c) die prosedure vir die diskwalifisering of ontslag van 'n lid van die Prinsipaalsraad en die ontbinding van die Prinsipaalsraad, met voldoende rede in elke geval;
- (d) die prosedure vir die vulling van 'n vakature op die Prinsipaalsraad; 25
- (e) die ampstermyn van lede en ampsdraers van die Prinsipaalsraad;
- (f) die bevoegdhede en werksaamhede van die Prinsipaalsraad; 30
- (g) riglyne vir vergaderings van die Prinsipaalsraad;
- (h) riglyne vir die samestelling en funksies van komitees, insluitende 'n uitvoerende komitee, van die Prinsipaalsraad; en 35
- (i) enige ander aangeleentheid rakende die Provinsiale Prinsipaalsraad wat ingevolge hierdie Wet voorgeskryf moet of kan word.

Instelling van Provinsiale en Distrik Beheerliggaamsrade

8. (1) Die verantwoordelike Lid kan, by kennisgewing in die *Provinsiale Koerant*, 'n Provinsiale en Distrik Beheerliggaamsrade instel. 40
- (2) Die Beheerliggaamsrade bedoel in subartikel (1) adviseer die Onderwyshoof oor enige saak rakende onderwys wat deur die Onderwyshoof na die Beheerliggaamsrade verwys word of enige sodanige saak wat die Beheerliggaamsrade uit eie beweging onder die aandag van die Onderwyshoof wil bring. 45
- (3) Die verantwoordelike Lid moet by kennisgewing in die *Provinsiale Koerant*, die volgende bepaal – 50
- (a) die samestelling van die Beheerliggaamsrade;

- (i) any other matter relating to the Provincial Examination Board which must or may be prescribed in terms of this Act.

Establishment of Provincial Principals' Council

7. (1) The responsible Member may, by notice in the *Provincial Gazette*, establish a Provincial Principals' Council.
- (2) The Principals' Council referred to in subsection (1) shall advise the Head of Education regarding any matter relating to education referred to it by the Head of Education, or any such matter which the Council of its own accord wishes to bring to the attention of the Head of Education.
- (3) The responsible Member must, by notice in the *Provincial Gazette*, determine –
- (a) the composition of the Principals' Council;
 - (b) the procedure for the election or the appointment of members and office-bearers of the Principals' Council;
 - (c) the procedure for the disqualification or removal of a member of the Principals' Council and the dissolution of the Principals' Council, for sufficient reasons in each case;
 - (d) the procedure for the filling of a vacancy on the Principals' Council;
 - (e) the term of office of members and office-bearers of the Principals' Council;
 - (f) the powers and duties of the Principals' Council;
 - (g) guidelines for meetings of the Principals' Council;
 - (h) guidelines for the composition and functions of committees, including an executive committee, of the Principals' Council; and
 - (i) any other matter relating to the Provincial Principals' Council which must or may be prescribed in terms of this Act.

Establishment of Provincial and District Governing Body Councils

8. (1) The responsible Member may, by notice in the *Provincial Gazette*, establish a Provincial and District Governing Body Councils.
- (2) The Governing Body Councils referred to in subsection (1) shall advise the Head of Education regarding any matter relating to education referred to it by the Head of Education, or any such matter which the Governing Body Councils of their own accord wishes to bring to the attention of the Head of Education.
- (3) The responsible Member must, by notice in the *Provincial Gazette*, determine –
- (a) the composition of the Governing Body Councils;

- (b) die prosedure vir die verkiesing of die aanstelling van lede en ampsdraers van die Beheerliggaamsrade; 5
- (c) die prosedure vir die diskwalifisering of ontslag van 'n lid van die Beheerliggaamsrade en die ontbinding van die Beheerliggaamsrade, met voldoende rede in elke geval;
- (d) die prosedure vir die vulling van 'n vakature op die Beheerliggaamsrade; 10
- (e) die ampstermyn van lede en ampsdraers van die Beheerliggaamsrade;
- (f) die bevoegdhede en werksaamhede van die Beheerliggaamsrade; 15
- (g) riglyne vir vergaderings van die Beheerliggaamsrade;
- (h) riglyne vir die samestelling en funksies van komitees, insluitende 'n uitvoerende komitee, van die Beheerliggaamsrade; en 20
- (i) enige ander aangeleentheid rakende die Beheerliggaamsrade wat ingevolge hierdie Wet voorgeskryf moet of kan word.

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OPENBARE SKOLE

Status van openbare skole 30

- 9. (1) Elke openbare skool is 'n regspersoon met die regsbevoegdheid om sy funksies ingevolge hierdie Wet te verrig.
- (2) Nieteenstaande subartikel (1), mag 'n openbare skool nie, sonder die medewerking van die verantwoordelike Lid, enige onroerende eiendom wat verkry is met finansiële bystand van die Staat, op enige wyse mee wegdoen of vervreem nie of aan enige persoon enige saaklike reg daarin of serwituut daaroor verleen nie. 35

Voorsiening van openbare skole 40

- 10. (1) Die verantwoordelike Lid moet openbare skole vir die onderwys van alle leerders voorsien en in stand hou uit fondse wat vir hierdie doel deur die Provinsiale Wetgewer bewillig is. 40
- (2) Die voorsiening van openbare skole beoog in subartikel (1) kan die voorsiening van koshuise insluit. 45
- (3) Die verantwoordelike Lid kan, behoudens artikels 13 en 15, by kennisgewing in die *Provinsiale Koerant*, bestaande kategorieë of fases van skole, herklassifiseer of nuwe kategorieë van openbare skole registreer indien hy of sy dit nodig ag vir onderwys in die Provinsie. 50

- (b) the procedure for the election or the appointment of members and office-bearers of the Governing Body Councils;
- (c) the procedure for the disqualification or removal of a member of the Governing Body Councils and the dissolution of the Governing Body Councils, for sufficient reasons in each case;
- (d) the procedure for the filling of a vacancy on the Governing Body Councils;
- (e) the term of office of members and office-bearers of the Governing Body Councils;
- (f) the powers and duties of the Governing Body Councils;
- (g) guidelines for meetings of the Governing Body Councils;
- (h) guidelines for the composition and functions of committees, including an executive committee, of the Governing Body Councils; and
- (i) any other matter relating to the Governing Body Councils which must or may be prescribed in terms of this Act.

CHAPTER 4

PUBLIC SCHOOLS

Status of public schools

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

Provision of public schools

10. (1) The responsible Member must, out of funds appropriated for this purpose by the Provincial Legislature, establish and maintain public schools for the education of all learners.
- (2) The provision of public schools referred to in subsection (1) may include the provision of hostels.
- (3) Subject to sections 13 and 15, the responsible Member may, by notice in the *Provincial Gazette*, reclassify existing categories or phases of public schools, or register new categories of public schools, if he or she deems it necessary for education in the Province.

- (4) Die verantwoordelike Lid kan nie kragtens subartikel (3) optree nie, tensy hy of sy – 10
- (a) die beheerliggaam van die skool in kennis gestel het van sy of haar voorneme om op die wyse op te tree en die redes daarvoor;
 - (b) die beheerliggaam van die skool 'n redelike geleentheid gebied het om vertoë tot hom of haar te rig in verband met daardie optrede; en
 - (c) enige sodanige vertoë wat ontvang is, behoorlik oorweeg het.
- (5) Die verantwoordelike Lid moet, waar redelikerwys moontlik, toepaslike opvoedkundige ondersteuningsdienste vir alle opvoeders en leerders voorsien.
- (6) Die verantwoordelike lid moet alle redelike maatreëls tref om te verseker dat fisiese geriewe by openbare skole toeganklik is vir persone met gestremdhede. 15
- (7) Geen bepaling in hierdie Wet belet die voorsiening van geslag-spesifieke openbare skole nie.

Openbare skole op Staatseigendom

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11. (1) Behoudens artikel 41(1)(k) het 'n openbare skool wat vaste eiendom okkupeer wat deur die Staat besit word, die reg om, vir die duur van die skool se bestaan, die vaste eiendom te beset en te gebruik tot voordeel van die skool vir opvoedkundige doeleindes by of in verband met die skool. 25
- (2) Die reg bedoel in subartikel (1) is afdwingbaar teen enige regsopvolger van die eienaar van die betrokke vaste eiendom.
- (3) Die reg bedoel in subartikel (1) kan slegs deur die verantwoordelike Lid beperk word indien die vaste eiendom nie deur die skool in die belang van onderwys benut word nie. 30
- (4) Die verantwoordelike Lid kan nie kragtens subartikel (3) optree nie, tensy hy of sy –
- (a) die beheerliggaam van die skool in kennis gestel het van sy of haar voorneme om op die wyse op te tree en die redes daarvoor; 35
 - (b) die beheerliggaam van die skool 'n redelike geleentheid gebied het om vertoë tot hom of haar te rig in verband met daardie optrede; en 40
 - (c) enige sodanige vertoë wat ontvang is, behoorlik oorweeg het.
- (5) Geen vaste eiendom wat deur die Staat besit word en deur 'n openbare skool beset word, mag vervreem word nie, tensy 'n ooreenkoms bedoel in artikel 12 aangegaan is tussen die verantwoordelike Lid en die voornemende eienaar van die vaste eiendom. 45
- (6) Die Registrateur van Aktes mag nie 'n akte van oordrag ten opsigte van die betrokke vaste eiendom verly, attesteer of registreer nie, tensy die eienaar die registrateur van bewys van die ooreenkoms in subartikel (5) bedoel, voorsien het.

- (4) The responsible Member may not act under subsection (3), unless he or she has –
- (a) informed the governing body of the school concerned of his or her intention so to act and the reasons therefor;
- 5 (b) granted the governing body of the school a reasonable opportunity to make representations to him or her in relation to such action; and
- (c) duly considered any such representations received.
- 10 (5) The responsible Member must, where reasonably possible, provide relevant educational support services to all educators and learners.
- (6) The responsible Member must take all reasonable measures to ensure that the
- 15 physical facilities at public schools are accessible to persons with disabilities.
- (7) Nothing in this Act prohibits the provision of gender-specific public schools.

Public schools on State property

- 20 11. (1) Subject to section 41(1)(k), a public school which occupies immovable property owned by the State has the right, for the duration of the school's existence, to occupy and use the immovable property for the benefit of the school for educational purposes at or in connection with the school.
- 25 (2) The right referred to in subsection (1) is enforceable against any successor in title of the owner of the immovable property in question.
- 30 (3) The right referred to in subsection (1) may only be restricted by the responsible Member if the immovable property is not utilised by the school in the interest of education.
- (4) The responsible Member may not act under subsection (3), unless he or she has –
- 35 (a) informed the governing body of the school concerned of his or her intention so to act and the reasons therefor;
- (b) granted the governing body of the school a reasonable opportunity to make representations to him or her in relation to such action; and
- 40 (c) duly considered any such representations received.
- (5) No immovable property owned by the State and occupied by a public school may be alienated unless an agreement contemplated in section 12 has been concluded
- 45 between the responsible Member and the prospective owner of the immovable property.
- (6) The Registrar of deeds may not execute, attest to or register a transfer deed in respect of the immovable property in question, unless the owner has provided the
- 50 registrar with proof of the agreement contemplated in subsection (5).

- (7) Die bepalings van die Wet op die Registrasie van Aktes, 1937 (Wet No 47 van 1937), is nie van toepassing op die reg bedoel in subartikel (1) nie.

Openbare skole op private eiendom

12. (1) Behoudens die Grondwet en hierdie Wet kan 'n openbare skool op private eiendom voorsien en in stand gehou word slegs ingevolge 'n ooreenkoms tussen die verantwoordelike Lid en die eienaar van die private eiendom. 5
- (2) 'n Ooreenkoms in subartikel (1) beoog, moet strook met hierdie Wet en moet in die besonder voorsiening maak vir – 10
- (a) die verskaffing van onderwys en die verrigting van die gewone werksaamhede van 'n openbare skool; 15
- (b) beheer van die skool, met inbegrip van die verhouding tussen die beheerliggaam van die skool en die eienaar; 15
- (c) toegang tot die eiendom waarop die skool staan, deur alle belanghebbendes; 20
- (d) die sekerheid van okkupasie en gebruik van die eiendom deur die skool; 20
- (e) instandhouding en verbetering van die skoolgeboue en die eiendom waarop die skool staan en die voorsiening van die nodige dienste; en 25
- (f) die beskerming van die eienaar se regte met betrekking tot die eiendom wat deur die skool geokkupeer, geaffekteer of gebruik word.
- (3) Die bepalings van die Wet op die Registrasie van Aktes, 1937 (Wet No 47 van 1937), is nie van toepassing op 'n saaklike reg, met uitsluiting van eiendomsreg, wat deur die Staat, 'n openbare skool of 'n ander party verkry word ingevolge 'n ooreenkoms in hierdie artikel beoog nie. 30
- (4) 'n Reg beoog in subartikel (3) is afdwingbaar teen enige regsopvolger van die eienaar van die betrokke eiendom. 35
- (5) Ondanks subartikel (3) moet 'n Registrateur van aktes op die eiendomsakte van die geaffekteerde eiendom 'n endossement aanbring dat die eiendom onderworpe is aan 'n ooreenkoms in hierdie artikel bedoel, indien die registrateur in ontvangs is van – 40
- (a) 'n aansoek van daardie endossement deur die eienaar van die eiendom, of die verantwoordelike Lid of enige ander houer van 'n reg beoog in subartikel (3), tesame met die eiendomsakte van die eiendom; en
- (b) beëdigde verklarings van die eienaar van die eiendom en die verantwoordelike Lid wat verklaar dat 'n ooreenkoms beoog in hierdie artikel gesluit is. 45
- (6) Die Registrateur van Aktes kan enige endossement wat aangebring is ooreenkomstig subartikel (5) kanselleer, indien die eienaar van die eiendom 'n beëdigde verklaring vanaf die verantwoordelike lid indien tot die effek dat sodanige openbare skool ingevolge artikel 15 gesluit is. 50

- (7) The provisions of the Deeds Registries Act, 1937 (Act No 47 of 1937), do not apply to the right contemplated in subsection (1).

Public schools on private property

- 5
12. (1) Subject to the Constitution and this Act, a public school may be provided and maintained on private property only in terms of an agreement between the responsible Member and the owner of the private property.
- 10 (2) An agreement contemplated in subsection (1) must be consistent with this Act and in particular must provide for –
- 15 (a) the provision of education and the performance of the normal functions of a public school;
- (b) governance of the school, including the relationship between the governing body of the school and the owner;
- 20 (c) access by all interested parties to the property on which the school stands;
- (d) security of occupation and use of the property by the school;
- 25 (e) maintenance and improvement of the school buildings and the property on which the school stands and the supply of necessary services; and
- (f) protection of the owner's rights in respect of the property occupied by the school.
- 30 (3) The provisions of the Deeds Registries Act, 1937 (Act No 47 of 1937), do not apply to a real right, excluding ownership, acquired by the State, a public school or another party in terms of an agreement contemplated in this section.
- (4) A right contemplated in subsection (3) is enforceable against any successor in title to the owner of the immovable property in question.
- 35 (5) Despite subsection (3), a Registrar of a deeds must endorse on the title deed of the affected property that the property is subject to an agreement referred to in this section, if the Registrar of deeds receives –
- 40 (a) an application for such endorsement by the owner of the property, or the responsible Member or any other holder of a right contemplated in subsection (3), together with the title deed of the property; and
- 45 (b) affidavits by the owner of the property and the responsible Member stating that an agreement contemplated in this section has been concluded.
- (6) The Registrar of deeds may cancel any endorsement made in accordance with subsection (5), if the owner of the property submits an affidavit from the responsible Member to the effect that such public school has been closed in terms of section 15.
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- (7) Enige hereregte, seëlregte, gelde of kostes wat ten opsigte van die registrasie van 'n reg ingevolge subartikel (3) betaalbaar is, kan ten volle of gedeeltelik uit fondse wat vir dié doel deur die provinsiale wetgewer bewillig is, betaal word, maar die openbare skool beoog in subartikel (1) is nie aanspreeklik vir sodanige regte, gelde of kostes nie.

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Samesmelting van openbare skole

13. (1) Die verantwoordelike Lid kan, by kennisgewing in die *Provinsiale Koerant*, bepaal dat betrokke openbare skole vanaf 'n datum genoem in daardie kennisgewing saamsmelt.

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- (2) Die verantwoordelike Lid kan slegs kragtens subartikel (1) optree nadat –

(a) hy of sy die beheerliggame van die betrokke skole kennis gegee het van sy of haar voorneme om op hierdie wyse op te tree en die redes daarvoor;

15

(b) hy of sy aan die beheerliggame van die betrokke skole 'n redelike geleentheid gebied het om vertoë tot hom of haar te rig;

(c) 'n openbare verhoor met redelike kennisgewing gehou is om dit moontlik te maak dat die gemeenskappe vertoë aan hom of haar kan rig;

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(d) hy of sy sodanige vertoë behoorlik oorweeg het; en

(e) hy of sy tevrede is dat die werkgewers van personeel by die openbare skole hulle verpligtings ingevolge die toepaslike arbeidswetgewing nagekom het.

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

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- (4) Indien die openbare skole wat kragtens subartikel (1) moet saamsmelt, openbare skole op privaat eiendom is, kan die verantwoordelike Lid alleenlik optree nadat hy of sy –

(a) die eienaars van die betrokke privaat eiendomme skriftelik in kennis gestel het van die voorneme om die skole saam te smelt;

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(b) onderhandelings aangegaan het met die betrokke beheerliggame en gemeenskappe;

(c) die kontraktuele verpligtinge ingevolge die ooreenkoms beoog in artikel 12 onderhandel het met die eienaars van die betrokke privaat eiendomme;

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(d) 'n nuwe ooreenkoms beding het ingevolge artikel 12, indien van toepassing; en

(e) tevrede is dat die werkgewers van die personeel van die openbare skole voldoen het aan die verpligtinge ingevolge die betrokke arbeidswetgewing.

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- (7) Any transfer duty, stamp duty, fees or costs payable in respect of the registration of a right in terms of subsection (3) may be paid in full or in part from funds appropriated by the provincial legislature for that purpose, but the public school contemplated in subsection (1) is not responsible for such duties, fees or costs.

Merger of public schools

13. (1) The responsible Member may, by notice in the *Provincial Gazette*, determine that certain public schools merge from a date mentioned in the notice.
- (2) The responsible Member may only act under subsection (1) after –
- (a) he or she has given to the governing bodies of the schools concerned notice of his or her intention so to act and the reasons therefor;
 - (b) he or she has granted the governing bodies of the schools concerned a reasonable opportunity to make representations to him or her;
 - (c) a public hearing with reasonable notice has been conducted to enable the communities to make representations to him or her;
 - (d) he or she has given due consideration to such representations received; and
 - (e) he or she is satisfied that the employers of staff at the public schools have complied with their obligations in terms of the applicable labour law.
- (3) The merger contemplated in subsection (1) includes the merging of different general education phases, as well as the further education and training phase presented in public schools.
- (4) If the public schools that are to be merged under subsection (1) are public schools on private property, the responsible Member may only act after he or she –
- (a) has notified the owners of the private properties in question and the schools concerned in writing of the intention to merge the schools;
 - (b) has entered into negotiations with the governing bodies and the communities concerned;
 - (c) has negotiated with the owners of the private properties in question regarding the contractual obligations in terms of their agreements contemplated in section 12;
 - (d) has negotiated a new agreement in terms of section 12, if applicable; and
 - (e) is satisfied that the employers of the staff at the public schools on private property have complied with their obligations in terms of the applicable labour law.

- (5) Indien openbare skole saamsmelt, moet alle bates en laste van daardie skole, behoudens die voorwaardes van enige skenking, bemaking of trust, die saamgesmelte skool toeval, tensy anders ooreengekom tussen die verantwoordelike Lid en die beheerliggame van die betrokke skole.

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

Opskorting van klasse en tydelike sluiting van openbare skole

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

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

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

(b) vandalisme van eiendom kan voorkom; of

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(c) die toestand nie meer bevorderlik vir onderrig is nie.

- (3) Die verantwoordelike Lid kan slegs kragtens subartikel (1) handel na onderhandeling met die beheerliggaam van die betrokke skool.

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

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Sluiting van openbare skole

15. (1) Die verantwoordelike Lid kan, by kennisgewing in die *Provinsiale Koerant*, 'n openbare skool sluit vanaf 'n datum genoem in die kennisgewing.

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- (2) Die verantwoordelike Lid kan nie kragtens subartikel (1) optree nie tensy hy of sy -

(a) die beheerliggaam van die skool en indien dit 'n openbare skool op privaat eiendom is die eienaar van die eiendom, in kennis gestel het van sy of haar voorneme om op die wyse op te tree en sy of haar redes daarvoor;

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(b) die beheerliggaam van die skool en indien dit 'n openbare skool op privaat eiendom is die eienaar van die eiendom, 'n redelike geleentheid gebied het om vertoë rakende sodanige optrede tot hom of haar te rig;

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(c) 'n openbare verhoor met redelike kennisgewing belê het om die gemeenskap in staat te stel om vertoë rakende sodanige optrede tot hom of haar te rig; en

(d) enige sodanige vertoë wat ontvang is, behoorlik oorweeg het.

- (5) If public schools merge, all assets and liabilities of those schools must, subject to the conditions of any donation, bequest or trust, devolve upon the merged school, unless otherwise agreed between the Member of the Executive Council and the governing bodies of the schools concerned.

- (6) The responsible Member must, by notice in the *Provincial Gazette*, determine procedures for reasonable consultation and the criteria for the merger contemplated in subsection (1).

10 Suspension of classes and temporary closure of public schools

14. (1) The responsible Member may suspend the tuition of certain classes of a public school or close a public school, temporarily.

- (2) The responsible Member may only act under subsection (1) if he or she is of the opinion that –

(a) the safety of the learners or members of staff of such class or school is in jeopardy;

(b) vandalism of property may occur; or

(c) the situation is no longer conducive to teaching.

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

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

Closure of public schools

15. (1) The responsible Member may, by notice in the *Provincial Gazette*, close a public school from a date mentioned in the notice.

- (2) The responsible Member may not act under subsection (1) unless he or she has –

(a) informed the governing body of the school and if it is a public school on private property, the owner of the property, of his or her intention so to act and his or her reasons therefor;

(b) granted the governing body of the school and if it is a public school on private property, the owner of the property, a reasonable opportunity to make representations to him or her in relation to such action;

(c) conducted a public hearing with reasonable notice, to enable the community to make representations to him or her in relation to such actions; and

(d) given due consideration to any such representations received.

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

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Inskrywing van tuisleerders by 'n openbare skool

16. (1) Die beheerliggaam van 'n openbare skool mag nie 'n aansoek vir die inskrywing van 'n tuisleerder vir addisionele onderwys hulp by sodanige skool weier nie indien die skool oor die vermoë beskik om die dienste soos versoek, teen onderhandelde en redelike vergoeding, te lewer. 10
- (2) Die betrokke openbare skool trek nie voordeel uit die inskrywing van tuisleerders ingevolge opvoeder-leerder-verhouding vir die doel van opvoedervoorsiening nie. 15

Taal- en toelatingsbeleid van openbare skole

17. (1) Behoudens subartikel (3) kan die taalbeleid van 'n openbare skool, binne die norme en standarde bepaal in artikel 6(1) van die Nasionale Wet, deur die beheerliggaam van die skool bepaal word. 20
- (2) Suid-Afrikaanse Gebaretaal het die status van 'n amptelike taal vir die doeleindes van leer en onderrig in 'n openbare skool.
- (3) Die Onderwyshoof verseker hom- of haarself dat die medium van onderrig by 'n openbare skool bepaal is binne die norme en standarde soos voorgeskryf in artikel 6(1) van die Nasionale Wet. 25
- (4) Behoudens hierdie Wet en die Nasionale Wet, word die toelatingsbeleid van 'n openbare skool deur die beheerliggaam van daardie skool bepaal. 30
- (5) 'n Openbare skool moet leerders toelaat en hul opvoedkundige behoeftes dien sonder om op enige wyse onregverdig te diskrimineer.
- (6) Die beheerliggaam van 'n openbare skool mag nie enige toets, uitgesonderd psigologiese assesseringstoetse, goedgekeur deur die Raad op Sielkunde, wat verband hou met die toelating van 'n leerder tot 'n openbare skool toepas, of die prinsipaal van die skool of enige ander persoon opdrag gee of magtig om sodanige toets toe te pas nie. 35
- (7) Geen leerder mag toelating tot 'n openbare skool geweier word nie op grond daarvan dat sy of haar ouer – 40
- (a) nie in staat is nie of versuim het om skoolgeld soos deur die beheerliggaam kragtens artikel 57 bepaal, te betaal; 45
- (b) nie die missiestelling van die skool onderskryf nie; of
- (c) geweier het om 'n kontrak waarkragtens die ouer afstand doen van enige eis vir skadevergoeding wat uit die opvoeding van die leerder voortspruit, aan te gaan.

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

Enrolment of home-based learners at public schools

16. (1) The governing body of a public school may not refuse an application for the enrolment of a home-based learner at such school for additional educational support if the school has the capacity to provide the services requested at a negotiated and reasonable fee.
- (2) The public school concerned shall not benefit from the enrolment of home-based learners in terms of educator-learner ratio for the purpose of educator provisioning.

Language and admission policy of public schools

17. (1) Subject to subsection (3) the language policy of a public school may be determined by the governing body of the school within the norms and standards determined by section 6(1) of the National Act.
- (2) The South African Sign Language has the status of an official language for purposes of learning and teaching at a public school.
- (3) The Head of Education shall assure him- or herself that the medium of instruction of a public school is determined within the norms and standards as determined by section 6(1) of the National Act.
- (4) Subject to this Act and the National Act, the admission policy of a public school shall be determined by the governing body of that school.
- (5) A public school must admit learners and serve their educational requirements without unfairly discriminating in any way.
- (6) The governing body of a public school may not administer any test related to the admission of a learner to a public school, or direct, or authorise the principal of the school, or any other person, to administer such test, excluding psychological assessment tests approved by the Board on Psychology.
- (7) No learner may be refused admission to a public school on the grounds that his or her parent –
- (a) is unable to pay or has not paid the school fees determined by the governing body under section 57;
 - (b) does not subscribe to the mission statement of the school; or
 - (c) has refused to enter into a contract in terms of which the parent waives any claim for damages arising out of the education of the learner.

- (8) Tydens die plasing van 'n leerder met spesiale onderwysbehoefte, moet die Onderwyshoof en die prinsipaal die regte en wense van die ouers van sodanige leerder inagneem.
- (9) Die verantwoordelike Lid kan, by kennisgewing in die *Provinsiale Koerant*, die volgende bepaal - 5
- (a) die riglyne vir toelatingsbeleid;
 - (b) die wyse hoe 'n aansoek vir toelating tot 'n openbare skool gedoen moet word; 10
 - (c) die prosedure wat gevolg moet word indien 'n leerder toelating tot 'n openbare skool geweier word.
- (10) Enige leerder of die ouers van 'n leerder wat toelating tot 'n openbare skool geweier word, kan teen die besluit appèl aanteken by die verantwoordelike Lid. 15

Vryheid van gewete en godsdiens in openbare skole

18. (1) Vryheid van gewete en van godsdiens word in alle openbare skole eerbiedig. 20
- (2) Behoudens die Grondwet en enige toepaslike wet kan godsdiensbeoefening by 'n openbare skool gehou word ingevolge reëls wat deur die beheerliggaam uitgevaardig is, indien daardie beoefening op 'n billike wyse geskied en die bywoning daarvan vry en vrywillig is. 25

HOOFTUK 5

ONAFHANKLIKE SKOLE

Stigting van 'n onafhanklike skool

19. Enige natuurlike persoon, regspersoon of trust kan, op eie koste, 'n onafhanklike skool stig en onderhou wat - 35
- (a) nie op grond van ras diskrimineer nie;
 - (b) standarde handhaaf wat nie minderwaardig aan die standarde in vergelykbare openbare skole is nie; en 40
 - (c) deur die Onderwyshoof geregistreer is.

Registrasie van 'n onafhanklike skool

20. (1) Geen persoon mag 'n onafhanklike skool stig, bedryf of onderhou, tensy dit deur die Onderwyshoof geregistreer is nie. 45
- (2) Die verantwoordelike Lid moet, by kennisgewing in die *Provinsiale Koerant*, die voorwaardes bepaal waarvolgens die registrasie van 'n onafhanklike skool deur die Onderwyshoof toegestaan of geweier kan word. 50

(8) In determining the placement of a learner with special education needs, the Head of Education and the principal must take into account the rights and wishes of the parents of such learner.

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

(a) the guidelines for admission policy;

10 (b) the manner by which an application for admission of a learner to a public school must be made;

(c) the procedure to be followed when a learner is denied admission to a public school.

15 (10) Any learner or the parent of a learner who has been refused admission to a public school may appeal against the decision to the responsible Member.

Freedom of conscience and of religion in public schools

20 18. (1) Freedom of conscience and of religion shall be respected in all public schools.

(2) Subject to the Constitution and any applicable law, religious observances may be conducted at a public school under rules issued by the governing body if such observances are conducted on an equitable basis and attendance thereof is free and voluntary.

30 CHAPTER 5

INDEPENDENT SCHOOLS

Establishment of an independent school

35 19. Any natural person, judicial person or trust may, at his or her own expense, establish and maintain an independent school that –

(a) does not discriminate on the basis of race;

40 (b) maintains standards that are not inferior to the standards at comparable public schools; and

(c) is registered by the Head of Education.

45 Registration as an independent school

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

50 (2) The responsible Member must, by notice in the *Provincial Gazette*, determine the conditions on which the registration of an independent school may be granted or refused by the Head of Education.

- (3) 'n Aansoeker vir die registrasie van 'n onafhanklike skool verskaf sodanige addisionele besonderhede in verband met sy of haar aansoek soos deur die Onderwyshoof verlang.
- (4) Indien, met betrekking tot 'n aansoek bedoel in subartikel (1), die Onderwyshoof tevrede is dat - 5
- (a) die aansoek *bona fide* is;
- (b) die standaard wat deur die skool gehandhaaf sal word nie minderwaardig aan die standaard by vergelykbare openbare skole sal wees nie; 10
- (c) die toelatingsbeleid van die skool nie op grond van ras diskrimineer nie; en
- (d) die skool aan die voorwaardes vir registrasie soos bedoel in subartikel (2), voldoen, registreer hy of sy die onafhanklike skool. 15
- (5) Indien die Onderwyshoof weier om toestemming vir registrasie te verleen, moet hy of sy die aansoeker skriftelik verwittig van daardie weiering en die redes daarvoor.
- (6) Enige persoon wat subartikel (1) oortree, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van drie maande. 20

Intrekking van registrasie en sluiting van 'n onafhanklike skool

21. (1) Indien 'n voorwaarde onderhewig waaraan die registrasie van 'n onafhanklike skool verleen is, nie aan voldoen is nie, kan die Onderwyshoof daardie registrasie intrek en die skool sluit vanaf 'n datum deur hom of haar bepaal. 25
- (2) Geen intrekking van die registrasie van 'n onafhanklike skool is geldig nie tensy - 30
- (a) die Onderwyshoof die eienaar van daardie onafhanklike skool voorsien het van 'n kennisgewing van voorneme om die registrasie in te trek, met uiteensetting van redes vir die beoogde intrekking; 35
- (b) die eienaar van daardie onafhanklike skool die geleentheid gebied is om skriftelike vertoë tot die Onderwyshoof te rig met opgawe van redes waarom die registrasie van die onafhanklike skool nie ingetrek behoort te word nie; en
- (c) enige vertoë wat ontvang is, behoorlik oorweeg is. 40
- (3) Die verantwoordelike Lid moet, by kennisgewing in die *Provinsiale Koerant*, die prosedure vir die intrekking en sluiting van 'n onafhanklike skool bepaal.
- (4) Die eienaar van 'n onafhanklike skool kan by die verantwoordelike Lid appèl aanteken teen die intrekking van registrasie en die sluiting van die onafhanklike skool. 45

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

Withdrawal of registration and closure of an independent school

21. (1) If a condition subject to which registration of an independent school was granted has not been complied with, the Head of Education may withdraw that registration and close the school from a date determined by him or her.
- (2) No withdrawal of the registration of an independent school is valid unless –
- (a) the Head of Education has furnished the owner of that independent school with a notice of intention to withdraw the registration, stating the reasons for the intended withdrawal;
 - (b) the owner of such independent school has been granted an opportunity to make written representations to the Head of Education as to why the registration should not be withdrawn; and
 - (c) any representations received have been duly considered.
- (3) The responsible Member must, by notice in the *Provincial Gazette*, determine the procedures for the withdrawal of registration and closure of an independent school.
- (4) The owner of an independent school may appeal to the responsible Member against the withdrawal of the registration and closure of the independent school.

Verklaring van onafhanklike skool tot openbare skool

22. (1) Die Lid van die Uitvoerende Raad kan, met die instemming van die Lid van die Uitvoerende Raad verantwoordelik vir Finansies, 'n ooreenkoms met die eienaar van 'n onafhanklike skool aangaan ingevolge waarvan sodanige onafhanklike skool tot openbare skool verklaar word. 5
- (2) Kennisgewing van die verandering in status in subartikel (1) beoog moet in die Provinsiale Koerant gepubliseer word. 10

Bestuur van onafhanklike skole

23. Die eienaar van 'n onafhanklike skool kan self die skool bestuur of hy of sy kan enige persoon aanwys of magtig om die skool namens hom of haar te bestuur, onderworpe aan die bepalings van hierdie Wet. Met dien verstande dat die eienaar van die skool, vir die doeleindes van hierdie Wet, verantwoordelik bly om te voldoen aan die voorgeskrewe vereistes of enige voorwaarde onderworpe waaraan toestemming vir registrasie van die skool verleen is. 15

Subsidies aan geregistreerde onafhanklike skole

24. (1) Die eienaar van 'n onafhanklike skool kan jaarliks, op 'n voorgeskrewe wyse, by die verantwoordelike Lid aansoek doen vir 'n subsidie. 20
- (2) Die verantwoordelike Lid kan, onderhewig aan die norme en standaarde bepaal in artikel 48(1) van die Nasionale Wet, by kennisgewing in die *Provinsiale Koerant*, provinsiale riglyne met betrekking tot subsidies vir onafhanklike skole bepaal. 25
- (3) Met betrekking tot 'n aansoek bedoel in subartikel (1), kan die verantwoordelike Lid, onderworpe aan norme en standaarde bedoel in artikel 48(1) van die Nasionale Wet en die Provinsiale riglyne bedoel in subartikel (2), uit fondse vir daardie doel beskikbaar gestel deur die Provinsiale Wetgewer, 'n subsidie aan 'n onafhanklike skool toestaan. 30
- (4) Geen subsidie word aan 'n onafhanklike skool wat nie voldoen aan die voorgeskrewe norme, standaarde en riglyne vir die ontvangs van 'n subsidie, toegeken nie. 35
- (5) Indien 'n voorwaarde onderworpe waaraan 'n subsidie verleen is, nie nagekom is nie, kan die Onderwyshoof met ingang van 'n datum deur hom of haar bepaal, die subsidie staak of verminder. 40
- (6) Die Onderwyshoof kan nie 'n subsidie kragtens subartikel (5) staak of verminder nie, tensy -
- (a) die eienaar van die onafhanklike skool deur die Onderwyshoof van 'n kennisgewing van die voorneme om die subsidie te staak of te verminder en die redes daarvoor voorsien is; 45
- (b) die eienaar die geleentheid gebied is om verhoër met opgawe van redes waarom die subsidie nie gestaak of verminder moet word nie aan die Onderwyshoof te rig; en

Declaration of independent school as public school

22. (1) The responsible Member may, with the concurrence of the Member of the Executive Council responsible for Finance, enter into an agreement with the owner of an independent school or his or her representative in terms whereof such independent school is declared to be a public school on private property.
- (2) Notice of the change of status contemplated in subsection (1) must be published in the *Provincial Gazette*.

Management of independent schools

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

Subsidies to registered independent schools

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

(c) vertoë ontvang, behoorlik oorweeg is nie.

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

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Regulasies betreffende onafhanklike skole

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

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

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

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

(d) die verstryking of terugtrekking van die registrasie van 'n onafhanklike skool; en

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(e) enige ander aangeleentheid met betrekking tot onafhanklike skole wat ingevolge hierdie Wet deur hom of haar voorgeskryf moet of kan word.

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

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HOOFSTUK 6

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TUISONDERRIG

Registrasie van 'n leerder vir tuisonderrig

26. (1) 'n Ouer kan by die Onderwyshoof aansoek doen om die registrasie van 'n leerder om by die leerder se huis onderwys te ontvang.

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- (2) Die Onderwyshoof moet 'n leerder soos bedoel in subartikel (1) registreer indien hy of sy oortuig is dat –

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(a) die registrasie in die belang van die leerder is;

(b) die onderwys wat die leerder waarskynlik tuis sal ontvang –

(i) aan die minimum vereistes van die kurrikulum van openbare skole sal voldoen;

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(ii) van 'n standaard sal wees wat nie minderwaardig is aan die standaard van onderwys wat in openbare skole aangebied word nie;

50

- (c) die ouer aan enige ander redelike voorwaardes wat deur die Onderwyshoof gestel word, sal voldoen; en

(c) representations received have been duly considered.

(7) The owner of an independent school may appeal to the responsible Member against the termination or reduction of a subsidy to the independent school.

Regulations relating to independent schools

25. (1) The responsible Member must, by notice in the *Provincial Gazette*, determine requirements for –

- (a) the admission of learners of an independent school to examinations conducted by or under the supervision of the Department;
- (b) the keeping of registers or other documents by an independent school;
- (c) the manner in which any subsidy, if the application therefore has been granted, shall be payable to a registered independent school;
- (d) the lapse or withdrawal of the registration of an independent school; and
- (e) any other matter relating to independent schools which must or may be prescribed by him or her in terms of this Act.

(2) Different regulations may be made under subsection (1) in respect of different independent schools.

CHAPTER 6

HOME-BASED EDUCATION

Registration of a learner for home-based education

26. (1) A parent may apply to the Head of Education for the registration of a learner to receive education at the learner's home.

(2) The Head of Education must register a learner referred to in subsection (1) if he or she is satisfied that –

- (a) the registration is in the best interest of the learner;
- (b) the education likely to be received by the learner at home –
 - (i) will meet the minimum requirements of the curriculum at public schools;
 - (ii) will be of a standard not inferior to the standard of education provided at public schools;
- (c) the parent will comply with any other reasonable conditions set by the Head of Education; and

- (d) aan die voorgeskrewe vereistes vir registrasie voldoen is.
- (3) Die ouer moet met aansoek die Onderwyshoof voorsien van 'n evalueringsprosedure wat bevestig dat die tuisonderrig aan die minimum vereistes van die kurrikulum voldoen en nie minderwaardig aan die standaarde van onderwys aangebied by openbare skole sal wees nie. 5
- (4) Die verantwoordelike Lid moet, by kennisgewing in die *Provinsiale Koerant* die volgende bepaal - 10
- (a) minimum vereistes vir die registrasie van 'n leerder vir tuisonderrig;
- (b) prosedure vir registrasie;
- (c) behoorlike regsproses vir die intrekking of weiering van registrasie; 15
- (d) toepaslike dokumente vir aansoek, registrasie en intrekking van die registrasie van 'n tuisleerder;
- (e) maatstawwe vir die evalueringsprosedure vir tuisleerders; en 20
- (f) enige ander aangeleentheid in verband met tuisonderrig.
- (5) Die Onderwyshoof moet binne 30 kalenderdae van ontvangs van 'n aansoek vir die registrasie van 'n tuisleerder bedoel in subartikel (1), die aansoeker in kennis stel van die uitslag van sy of haar beslissing. 25
- (6) Indien 'n aansoek bedoel in subartikel (1), suksesvol is, kan die leerder, indien die ouer van daardie leerder so verkies, by 'n openbare skool inskryf om addisionele onderwyshulp te verkry. 30
- (7) Die Onderwyshoof kan, behoudens subartikel (8), die registrasie bedoel in subartikel (1) intrek.
- (8) Die Onderwyshoof kan nie 'n registrasie bedoel in subartikel (1) intrek nie, tensy hy of sy - 35
- (a) die ouer van sy of haar voorneme om op hierdie wyse op te tree en die redes daarvoor verwittig het; 40
- (b) aan die ouer die geleentheid gebied het om vertoë tot hom of haar te rig in verband met daardie optrede; en
- (c) enige vertoë wat ontvang is, behoorlik oorweeg het. 45
- (9) 'n Ouer kan by die verantwoordelike Lid appèl aanteken teen die intrekking van 'n registrasie of die weiering om 'n leerder ingevolge hierdie artikel te registreer.

(d) the prescribed requirements for registration have been complied with.

(3) On application, the parent must provide the Head of Education with an assessment procedure which confirms that the home-based education meets the minimum requirements of the curriculum and would not be of a standard inferior to the standard of education provided at public schools.

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

(a) minimum requirements for the registration of a learner for home-based education;

(b) procedures for the registration;

(c) due process for the withdrawal or refusal of the registration;

(d) relevant documents for the application, registration and withdrawal of the registration of a home learner;

(e) criteria for the assessment procedure for home learners; and

(f) any other matter relating to home-based education.

(5) The Head of Education must, within 30 calendar days of receipt of an application for the registration of a home learner referred to in subsection (1), inform the applicant of the outcome of his or her decision.

(6) If an application referred to in subsection (1) is successful, the learner may, if the parent of such learner so chooses, enrol at a public school to obtain additional educational support.

(7) The Head of Education may, subject to subsection (8), withdraw the registration referred to in subsection (1).

(8) The Head of Education may not withdraw a registration referred to in subsection (1), unless he or she –

(a) has informed the parent of his or her intention so to act and the reasons therefor;

(b) has granted the parent an opportunity to make representations to him or her in relation to the action; and

(c) has duly considered any representations received.

(9) A parent may appeal to the responsible Member against the withdrawal of a registration or the refusal to register a learner in terms of this section.

HOOFSTUK 7

LEERDERS

Verpligte skoolbywoning	5
27. (1) Skoolbywoning gedurende skoolure is verpligtend vir 'n leerder vanaf die eerste skooldag van die jaar waarin hy of sy die ouderdom van sewe jaar bereik tot die laaste skooldag van die jaar waarin hy of sy die ouderdom van vyftien jaar bereik of die dag waarop hy of sy graad 9 voltooi, wat ook al die eerste plaasvind.	10
(2) Ongeag die bepalings van subartikel (1), kan die verantwoordelike Lid, indien die Departement 'n gebrek het aan materiaal of administratiewe hulpbronne om te voorsien in die verpligte skoolbywoning kragtens subartikel (1), by kennisgewing in die <i>Provinsiale Koerant</i> , bepaal dat die kalenderjaar waarin die kennisgewing uitgereik word of in die volgende kalenderjaar, verpligte skoolbywoning nie van toepassing is op leerders in die ouderdomsgroepe wat in die kennisgewing gespesifiseer word nie.	15
Skoolbywoningsbeampte	20
28. Ten einde verpligte skoolbywoning te verseker, kan die verantwoordelike Lid beamptes op die personeel diensstaat van die Departement aanwys om as skoolbywoningsbeamptes op te tree en hy of sy kan hulle bevoegdhede en werksaamhede bepaal.	
Pligte van prinsipale en die Onderwyshoof met betrekking tot verpligte skoolbywoning	25
29. (1) Waar 'n leerder wat kragtens artikel 27(1) onderhewig is aan verpligte skoolbywoning, sonder redelike oorsaak, versuim om skool by te woon of herhaaldelik afwesig is, moet die prinsipaal –	30
(a) die omstandighede van die leerder se afwesigheid van die skool ondersoek;	
(b) met die leerder en sy of haar ouers gesamentlik oorleg pleeg ten einde 'n ooreenkoms te bereik oor geskikte maatreëls om die probleem op te los;	35
(c) waar dit onmoontlik is om 'n ooreenkoms bedoel in paragraaf (b) te bereik, of waar daar nadat daardie ooreenkoms bereik is, geen werklike verbetering in die skoolbywoning van die leerder is nie, meld die prinsipaal die aangeleentheid by die Onderwyshoof aan.	40
(2) Waar 'n leerder wat kragtens artikel 27(1) onderhewig is aan verpligte skoolbywoning, nie ingeskryf is by 'n skool nie of versuim om dit by te woon, kan die Onderwyshoof –	
(a) die omstandighede van die leerder se afwesigheid van die skool ondersoek;	45
(b) toepaslike stappe doen om die aangeleentheid reg te stel; en	
(c) by gebrek aan sodanige regstelling, 'n skriftelike kennisgewing aan die ouer van die leerder rig om nakoming van subartikel 27(1) te vereis.	

CHAPTER 7**LEARNERS****5 Compulsory school attendance**

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

(2) Notwithstanding the provisions of subsection (1), the responsible Member may, if the Department lacks the material or administrative resources to provide for compulsory school attendance in accordance with subsection (1), by notice in the *Provincial Gazette*, provide that in the calendar year in which the notice is issued or in the following calendar year, compulsory school attendance shall not apply to learners who fall within age-groups which are specified in the notice.

School attendance officers

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

Duties of principals and the Head of Education regarding compulsory school attendance

29. (1) Where a learner who is subject to compulsory school attendance in terms of section 27(1) fails to attend school or is repeatedly absent from school without reasonable cause, the principal must –

- (a) investigate the circumstances of the learner's absence from school;
- (b) consult jointly with the learner and his or her parent in order to reach an agreement on the appropriate measures to remedy the situation;
- (c) where it is impossible to reach an agreement referred to in paragraph (b), or where after reaching such an agreement, there is no material improvement in the school attendance of the learner, the principal shall report the matter to the Head of Education.

(2) Where a learner who is subject to compulsory school attendance in terms of section 27(1) is not enrolled at or fails to attend a school, the Head of Education may –

- (a) investigate the circumstances of the learner's absence from school;
- (b) take appropriate measures to remedy the situation; and
- (c) failing such a remedy, issue a written notice to the parent of the learner requiring compliance with section 27(1).

Oortredings met betrekking tot verpligte skoolbywoning

30. (1) Indien 'n ouer van enige leerder wat kragtens artikel 27(1) onderhewig is aan verpligte skoolbywoning, sonder redelike oorsaak en na 'n skriftelike waarskuwing deur die Onderwyshoof, versuim om daardie leerder 'n geskikte skool gereeld te laat bywoon, is hy of sy skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens ses maande. 5
- (2) 'n Persoon wat 'n leerder wat kragtens artikel 27(1) onderhewig is aan verpligte skoolbywoning gedurende skoolure in diens hou, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens ses maande. 10
- (3) 'n Persoon wat 'n skoolbywoningsbeampte in die uitvoering van sy of haar pligte verhinder of dwarsboom, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens ses maande. 15

Vrystelling van verpligte skoolbywoning

31. (1) Die Onderwyshoof kan, met ontvangs van 'n skriftelike aansoek, 'n leerder heeltemal, gedeeltelik of voorwaardelik van verpligte skoolbywoning vrystel indien dit in die beste belang van die leerder en onderwys is om so vrygestel te word. 20
- (2) Indien die Onderwyshoof kragtens subartikel (1) optree, moet hy of sy die ouers van die leerder skriftelik van sy of haar besluit in kennis stel. 25
- (3) Die Onderwyshoof moet 'n register byhou van alle leerders wat van verpligte skoolbywoning vrygestel is. 30

Gedragkode vir leerders

32. (1) Die beheerliggaam van 'n openbare skool moet na raadpleging met die leerders, ouers en personeellede 'n gedragkode vir leerders, binne die riglyne ingevolge artikel 8(3) van die Nasionale Wet bepaal, aanvaar. 35
- (2) 'n Gedragkode bedoel in subartikel (1) moet daarop gemik wees om 'n gedissiplineerde en doelgerigte skoolomgewing wat toegewy is aan die bevordering en instandhouding van die gehalte van die leerproses, te vestig. 40
- (3) Geen bepaling van hierdie Wet stel 'n leerder vry van die verpligting om die gedragkode van die skool wat deur daardie leerder bygewoon word, na te kom nie. 45
- (4) 'n Gedragkode moet bepalinge van 'n behoorlike regsproses bevat om die belange van die leerder en enige ander party wat by die dissiplinêre handeling betrokke is, te beskerm. 50

Verbod op lyfstraf

33. (1) Geen persoon mag by 'n skool lyfstraf aan 'n leerder toedien nie. 50
- (2) 'n Persoon wat subartikel (1) oortree, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n vonnis wat vir aanranding opgelê kan word.

Offences relating to compulsory school attendance

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

Exemption from compulsory school attendance

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

Code of conduct for learners

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

Prohibition of corporal punishment

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

Skorsing en uitsetting van leerders uit openbare skole

34. (1) Die beheerliggaam van 'n openbare skool kan, na 'n regverdige verhoor 'n leerder skors van bywoning van daardie skool – 5
- (a) as 'n korrektiewe maatreël vir 'n tydperk van nie meer as 5 skooldae nie; of
- (b) in konsultasie met die Onderwyshoof in afwagting van 'n beslissing of die leerder uit die skool gesit moet word deur die Onderwyshoof. 10
- (2) 'n Leerder kan slegs uitgesit word –
- (a) deur die Onderwyshoof; en
- (b) indien hy of sy na 'n regverdige verhoor skuldig bevind is aan ernstige wangedrag. 15
- (3) 'n Leerder of die ouer van 'n leerder wat uit 'n openbare skool gesit is, kan teen die beslissing van die Onderwyshoof appèl aanteken by die verantwoordelike Lid.
- (4) Indien 'n leerder wat ingevolge artikel 27(1) aan verpligte skoolbywoning onderhewig is, uit 'n openbare skool gesit word, moet die Onderwyshoof 'n alternatiewe reëling tref vir daardie leerder se plasing by 'n ander openbare skool. 20
- (5) Die verantwoordelike Lid moet, by kennisgewing in die *Provinsiale Koerant*, die volgende ten opsigte dissipline by 'n openbare skool bepaal – 25
- (a) die gedrag van 'n leerder by 'n skool wat as ernstige wangedrag beskou kan word;
- (b) dissiplinêre prosedure wat in gevalle van skorsing en uitsetting gevolg moet word; 30
- (c) prosedure vir 'n regverdige verhoor; en
- (d) bepalinge van 'n behoorlike regsproses om die belange van die leerder en enige ander party wat by die dissiplinêre handeling betrokke is, te beskerm. 35
- (6) Die beheerliggaam van 'n openbare skool kan, na 'n regverdige verhoor, as korrektiewe maatreël, 'n leerder uit 'n koshuis van die skool skors vir 'n tydperk van nie meer as vyf skooldae nie.
- (7) Die beheerliggaam van 'n openbare skool kan 'n leerder, wat na 'n regverdige verhoor skuldig bevind is aan ernstige wangedrag, uit die koshuis van die skool sit. 40
- (8) 'n Leerder of die ouer van 'n leerder wat uit 'n koshuis van 'n openbare skool gesit is, kan teen die beslissing van die beheerliggaam appèl aanteken by die Onderwyshoof. 45
- (9) 'n Leerder wat uit 'n koshuis geskors of uitgesit is, is nie noodwendig uit die betrokke skool geskors of uitgesit nie.

Suspension and expulsion of learners from public schools

34. (1) The governing body of a public school may, after a fair hearing, suspend a learner from attending that school –
- 5 (a) as correctional measure for a period not longer than five school days; or
- (b) in consultation with the Head of Education pending a decision as to whether the learner is to be expelled from the school by the Head of Education.
- 10 (2) A learner may be expelled only –
- (a) by the Head of Education; and
- 15 (b) if he or she is found guilty of serious misconduct after a fair hearing.
- (3) A learner or the parent of a learner who has been expelled from a public school may appeal against the decision of the Head of Education to the responsible Member.
- 20 (4) If a learner who is subject to compulsory school attendance in terms of section 27(1) is expelled from a school, the Head of Education must make an alternative arrangement for that learner's placement at another public school.
- 25 (5) The responsible Member must, by notice in the *Provincial Gazette*, determine the following in regard to discipline at a public school –
- (a) the behaviour by a learner which may constitute serious misconduct;
- 30 (b) disciplinary procedures to be followed in cases of suspension and expulsion;
- (c) procedures for a fair hearing; and
- 35 (d) provisions of due process safeguarding the interests of the learner and any other party involved in disciplinary proceedings.
- (6) The governing body of a public school may, after a fair hearing, suspend a learner from a hostel of the school as correctional measure for a period not longer than five school days.
- 40 (7) The governing body of a public school may expel a learner from a hostel of the school if he or she is found guilty of serious misconduct after a fair hearing.
- 45 (8) A learner or the parent of a learner who has been expelled from a hostel of a public school may appeal against the decision of the governing body of the school to the Head of Education.
- 50 (9) A learner who is suspended or expelled from a hostel is not necessarily suspended or expelled from the school concerned.

(10) Die beheerliggaam moet in 'n gedragskode vir leerders by 'n koshuis, voorsiening maak vir –

(a) die gedrag van 'n leerder by 'n koshuis wat as ernstige wangedrag beskou kan word;

(b) dissiplinêre prosedure wat in gevalle van skorsing en uitsetting uit 'n koshuis gevolg moet word;

(c) prosedure vir 'n regverdige verhoor; en

(d) bepalinge van 'n behoorlike regsproses om die belange van die leerder en enige ander party wat by die dissiplinêre handeling betrokke is, te beskerm.

Verteenwoordigende raad van leerders

35. (1) 'n Verteenwoordigende raad van leerders moet by elke openbare skool wat leerders in die agste graad of hoër inskryf, ingestel word.

(2) Die verantwoordelike Lid kan, by kennisgewing in die *Provinsiale Koerant*, –

(a) riglyne vir die instelling en samestelling van die raad bepaal;

(b) riglyne vir die verkiesing en funksies van die raad bepaal; en

(c) Sekere spesiale openbare skole vrystel om aan subartikel (1) te voldoen indien die instelling van 'n verteenwoordigende raad van leerders by die skool nie prakties moontlik is nie.

HOOFSTUK 8

BEHEER EN PROFESSIONELE BESTUUR VAN OPENBARE SKOLE

Beheerliggaam van 'n openbare skool

36. Daar is 'n beheerliggaam vir elke openbare skool.

Beheer en professionele bestuur van openbare skole

37. (1) Behoudens hierdie Wet setel die beheer van 'n openbare skool in sy beheerliggaam.

(2) 'n Beheerliggaam staan in 'n vertrouensposisie teenoor die skool.

(3) Behoudens hierdie Wet, moet die professionele bestuur van 'n openbare skool deur die prinsipaal onder die gesag van die Onderwyshoof onderneem word.

(4) Die Onderwyshoof kan riglyne bepaal om tussen beheer en professionele bestuur van 'n openbare skool te onderskei.

(10) The governing body must, in the code of conduct for learners at a hostel, provide for –

- (a) the behaviour by a learner which may constitute serious misconduct;
- (b) disciplinary procedures to be followed in cases of suspension and expulsion;
- (c) procedures for a fair hearing; and
- (d) provisions of due process safeguarding the interests of the learner and any other party involved in the disciplinary proceedings.

Representative council of learners

35. (1) A representative council of learners must be established at every public school enrolling learners in the eighth grade or higher.

(2) The responsible Member may, by notice in the *Provincial Gazette*, –

- (a) determine guidelines for the establishment and composition of the council;
- (b) determine guidelines for the election and functions of the council; and
- (c) exempt certain special public schools from complying with subsection (1) if it is not practically possible for a representative council of learners to be established at the school.

CHAPTER 8

GOVERNANCE AND PROFESSIONAL MANAGEMENT OF PUBLIC SCHOOLS

Governing body of a public school

36. There shall be a governing body for every public school.

Governance and professional management of public schools

37. (1) Subject to this Act, the governance of a public school is vested in its governing body.

(2) A governing body stands in a position of trust towards the school.

(3) Subject to this Act, the professional management of a public school must be undertaken by the principal under the authority of the Head of Education.

(4) The Head of Education may determine guidelines to distinguish between governance and professional management of public schools.

Beheerliggaam wat twee of meer openbare skole bedien

38. (1) Die verantwoordelike Lid kan bepaal dat die beheer van twee of meer skole in 'n enkele beheerliggaam moet setel indien dit in die beste belang van onderwys by die betrokke skole is. 5
- (2) Die verantwoordelike Lid tree nie ingevolge subartikel (1) op nie, tensy hy of sy -
- (a) in die *Provinsiale Koerant* kennis gegee het van sy of haar voorneme om op dié wyse op te tree; 10
- (b) aan belanghebbendes die geleentheid gebied het om binne 'n tydperk van minstens 30 dae skriftelik vertoë te rig; en
- (c) alle vertoë behoorlik oorweeg het. 15

Lidmaatskap van beheerliggaam van gewone openbare skool

39. (1) Behoudens hierdie Wet, bestaan die lidmaatskap van 'n beheerliggaam van 'n gewone openbare skool uit - 20
- (a) verkose lede;
- (b) die prinsipaal, in sy of haar amptelike hoedanigheid; en 25
- (c) gekoöpteerde lede.
- (2) Verkose lede van 'n beheerliggaam bestaan uit 'n lid of lede van die volgende kategorieë:
- (a) ouers van leerders aan die skool; 30
- (b) opvoeders van die skool;
- (c) personeel van die skool wat nie opvoeders is nie; en 35
- (d) leerders in die agste graad of hoër aan die skool.
- (3) 'n Ouer wat in diens van die skool is, kan nie kragtens subartikel 2(a) ouers op die beheerliggaam verteenwoordig nie. 40
- (4) Die verteenwoordigende raad van leerders bedoel in artikel 35 verkies die leerder of leerders bedoel in subartikel 2(d).
- (5) Die beheerliggaam van 'n gewone openbare skool wat onderwys voorsien aan leerders met spesiale onderwysbehoefte moet, waar prakties moontlik, 'n persoon of persone met kundigheid betreffende die spesiale onderwysbehoefte van sulke leerders koöpteer. 45
- (6) 'n Beheerliggaam kan 'n lid of lede van die gemeenskap koöpteer om behulpsaam te wees in die verrigting van sy funksies.

Governing body serving two or more public schools

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

Membership of governing body of ordinary public school

39. (1) Subject to this Act, the membership of the governing body of an ordinary public school comprises–
- (a) elected members;
 - (b) the principal, in his or her official capacity;
 - (c) co-opted members.
- (2) Elected members of the governing body shall comprise a member or members of each of the following categories:
- (a) parents of learners at the school;
 - (b) educators at the school;
 - (c) members of staff at the school who are not educators; and
 - (d) learners in the eighth grade or higher at the school.
- (3) A parent who is employed at the school may not represent parents on the governing body in terms of subsection (2)(a).
- (4) The representative council of learners referred to in section 35 must elect the learner or learners referred to in subsection (2)(d).
- (5) The governing body of an ordinary public school which provides education to learners with special education needs must, where practically possible, co-opt a person or persons with expertise regarding the special education needs of such learners.
- (6) A governing body may co-opt a member or members of the community to assist it in discharging its functions.

- (7) Die beheerliggaam van 'n openbare skool beoog in artikel 12 kan die eienaar van die eiendom wat deur die skool beset word of die genomineerde verteenwoordiger van sodanige eienaar koöpteer.
- (8) Behoudens subartikel (10) het gekoöpteerde lede nie stemreg op die beheerliggaam nie. 5
- (9) Die getal ouerlede bestaan uit een meer as die gekombineerde totaal van ander lede van die beheerliggaam wat stemreg het.
- (10) Indien die getal ouers op enige tydstip nie meer is as die gekombineerde totaal van ander lede met stemreg nie, moet die beheerliggaam, totdat die vakature gevul is soos beoog in artikel 46, ouers met stemreg koöpteer. 10

Lidmaatskap van beheerliggaam van spesiale openbare skool

- 40. (1) Die volgende kategorieë van persone moet in die beheerliggaam van 'n spesiale openbare skool verteenwoordig word, in elke geval deur 'n lid of lede van die bepaalde kategorie: 15
 - (a) ouers van leerders van die skool, indien redelik uitvoerbaar; 20
 - (b) opvoeders van die skool;
 - (c) personeellede van die skool wat nie opvoeders is nie;
 - (d) leerders in die agste graad of hoër, indien redelik uitvoerbaar; 25
 - (e) verteenwoordigers van borgliggame indien toepaslik;
 - (f) Verteenwoordigers van organisasies van ouers van leerders met spesiale onderwysbehoefte, indien toepaslik; 30
 - (g) verteenwoordigers van organisasies vir persone met gestremdhede, indien toepaslik;
 - (h) persone met gestremdhede, indien toepaslik; 35
 - (i) deskundiges in toepaslike velde van spesiale behoefte onderwys; en
 - (j) die prinsipaal in sy of haar amptelike hoedanigheid.
- (2) Behoudens hierdie Wet, moet die verantwoordelike Lid by kennisgewing in die *Provinsiale Koerant*, die getal lede in elke kategorie bedoel in subartikel (1) en die wyse van verkiesing of aanstelling van sodanige lede by elke spesiale skool bepaal. 40
- (3) 'n Kennisgewing beoog in subartikel (2) moet aan die belanghebbendes die geleentheid bied om binne 'n tydperk van minstens 30 dae vertoë te rig. 45
- (4) Die verantwoordelike Lid moet all sodanige vertoë oorweeg, en kan daarna die kennisgewing beoog in subartikel (2) wysig.

(7) The governing body of a public school contemplated in section 12 may co-opt the owner of the property occupied by the school or the nominated representative of such owner.

5 (8) Subject to subsection (10), co-opted members do not have voting rights on the governing body.

(9) The number of parent members must comprise one more than the combined total of other members of a governing body who have voting rights.

10 (10) If the number of parents at any stage is not more than the combined total of other members with voting rights, the governing body must, until the vacancies are filled as contemplated in section 46, co-opt parents with voting rights.

15 **Membership of governing body of special public school**

40. (1) The following categories of persons must be represented on the governing body of a special public school, in each case by a member or members of the respective category:

20 (a) parents of learners at the school, if reasonably practicable;

(b) educators at the school;

25 (c) members of staff at the school who are not educators;

(d) learners attending the eighth grade or higher, if reasonably practicable;

(e) representatives of sponsoring bodies, if applicable;

30 (f) representatives of organisations of parents of learners with special education needs, if applicable;

(g) representatives of organisations of persons with disabilities, if applicable;

35 (h) persons with disabilities, if applicable;

(i) experts in appropriate fields of special education needs; and

40 (j) the principal in his or her official capacity.

(2) Subject to this Act, the responsible Member must, by notice in the *Provincial Gazette*, determine the number of members in each category referred to in subsection (1) and the manner of election or appointment of such members at every special public school.

45 (3) A notice contemplated in subsection (2) must give interested parties an opportunity to make written submissions within a period of not less than 30 days.

50 (4) The responsible Member must consider all such submissions, and thereafter may alter the notice contemplated in subsection (2).

Funksies van alle beheerliggame

41. (1) Behoudens hierdie Wet moet die beheerliggaam van 'n openbare skool –
- (a) die beste belange van die skool bevorder en poog om die ontwikkeling daarvan te verseker deur die voorsiening van onderwys van gehalte aan alle leerders in die skool; 5
 - (b) 'n grondwet aanvaar; 10
 - (c) die missiestelling van die skool ontwikkel;
 - (d) 'n gedragskode vir leerders by die skool aanvaar;
 - (e) die prinsipaal, opvoeders en ander personeel van die skool ondersteun in die verrigting van hul professionele werksaamhede; 15
 - (f) die tye van die skooldag bepaal in ooreenstemming met enige toepaslike diensvoorwaardes van personeel by die skool; 20
 - (g) die skool se eiendom, asook die geboue en gronde deur die skool beset, met inbegrip van koshuise indien van toepassing, administreer en beheer;
 - (h) ouers, leerders, opvoeders en ander personeel van die skool aanmoedig om vrywillige dienste aan die skool te lewer; 25
 - (i) die aanstelling van opvoeders by die skool by die Onderwyshoof aanbeveel, behoudens die Wet op die Indiensneming van Opvoeders, 1998 (Wet No 76 van 1998), en die Wet op Arbeidsverhoudinge, 1995 (Wet No 66 van 1995); 30
 - (j) die aanstelling van nie-opvoederpersoneel by die skool by die Onderwyshoof aanbeveel, onderworpe aan die Staatsdienswet, 1994 (Proklamasie No 103 van 1994), en die Wet op Arbeidsverhoudinge, 1995 (Wet No 66 van 1995);
 - (k) op versoek van die Onderwyshoof die redelike gebruik onder regverdige omstandighede van die fasiliteite van die skool toelaat vir opvoedkundige programme wat nie deur die skool aangebied word nie; 35
 - (l) alle ander werksaamhede wat by of kragtens hierdie Wet aan die beheerliggaam opgelê word, verrig; en 40
 - (m) ander werksaamhede in ooreenstemming met hierdie Wet uitvoer, soos deur die verantwoordelike Lid by kennisgewing in die *Provinsiale Koerant* bepaal.
- (2) Die beheerliggaam kan die redelike gebruik van die fasiliteite van die skool vir gemeenskaps-, sosiale en skoolfonds-insamelingsdoeleindes toelaat, onderworpe aan sodanige redelike en billike voorwaardes as wat die beheerliggaam mag bepaal, wat die heffing van gelde of tariewe vir die skool se voordeel kan insluit. 45
- (3) Die beheerliggaam kan by 'n vrywillige vereniging wat beheerliggame van openbare skole verteenwoordig, aansluit. 50

Functions of all governing bodies

41. (1) Subject to this Act, the governing body of a public school must-

- 5 (a) promote the best interests of the school and strive to ensure its development through the provision of quality education for all learners at the school;
- 10 (b) adopt a constitution;
- (c) develop the mission statement of the school;
- (d) adopt a code of conduct for learners at the school;
- 15 (e) support the principal, educators and other staff of the school in the performance of their professional functions;
- (f) determine times of the school day consistent with any applicable conditions of employment of staff at the school;
- 20 (g) administer and control the school's property, and buildings and grounds occupied by the school, including school hostels, if applicable;
- (h) encourage parents, learners, educators and other staff at the school to render voluntary services to the school;
- 25 (i) recommend to the Head of Education the appointment of educators at the school, subject to the Employment of Educators Act, 1998 (Act No 76 of 1998), and the Labour Relations Act, 1995 (Act No 66 of 1995);
- 30 (j) recommend to the Head of Education the appointment of non-educator staff at the school, subject to the Public Service Act, 1994 (Proclamation No 103 of 1994), and the Labour Relations Act, 1995 (Act No 66 of 1995);
- 35 (k) at the request of the Head of Education, allow the reasonable use under fair conditions of the facilities of the school for educational programmes not conducted by the school;
- 40 (l) discharge all other functions imposed upon the governing body by or under this Act; and
- (m) discharge other functions consistent with this Act as determined by the responsible Member by notice in the *Provincial Gazette*.
- 45 (2) The governing body may allow the reasonable use of the facilities of the school for community, social and school fund-raising purposes, subject to such reasonable and equitable conditions as the governing body may determine, which may include the charging of fees or tariffs which accrues to the school.
- 50 (3) The governing body may join a voluntary association representing governing bodies of public schools.

- (4) Behoudens hierdie Wet, die Wet op Arbeidsverhoudinge, 1995 (Wet No 66 van 1995), en enige ander toepaslike wet kan 'n openbare skool poste vir opvoeders instel en opvoeders in diens neem bykomstig tot die diensstaat deur die verantwoordelike Lid bepaal ingevolge die Wet op die Indiensneming van Opvoeders, 1998 (Wet No 76 van 1998). 5
- (5) Behoudens hierdie Wet, die Wet op Arbeidsverhoudinge, 1995 (Wet No 66 van 1995), en enige ander toepaslike wet kan 'n openbare skool poste vir nie-opvoeders instel en nie-opvoederpersoneel in diens neem bykomstig tot die diensstaat wat ingevolge die Staatsdienswet, 1994 (Proklamasie No 103 van 1994), bepaal is. 10
- (6) 'n Opvoeder en 'n nie-opvoeder wat in 'n pos wat ingevolge subartikel (4) of (5) ingestel is, aangestel word, moet voldoen aan die vereistes wat gestel word vir indiensneming by openbare skole ingevolge hierdie Wet, die Wet op Arbeidsverhoudinge, 1995 (Wet No 66 van 1995), en enige ander toepaslike wet. 15
- (7) 'n Openbare skool kan 'n opvoeder in 'n pos ingestel ingevolge subartikel (4) aanstel slegs indien sodanige opvoeder as opvoeder geregistreer is by die Suid-Afrikaanse Raad van Opvoeders. 20
- (8) Die personeel beoog in subartikels (4) en (5) moet ooreenkomstig die basiese waardes en beginsels bedoel in artikel 195 van die Grondwet in diens geneem word, en die faktore wat in berekening gebring word by die aanstellings, moet insluit, maar is nie beperk nie tot – 25
- (a) die bekwaamheid van die kandidaat;
- (b) die beginsel van billikheid;
- (c) die behoefte om ongeregtheid van die verlede reg te stel; en 30
- (d) die behoefte om verteenwoordigend te wees.
- (9) Wanneer die jaarlikse begroting soos beoog in artikel 56 aangebied word, moet die beheerliggaam van 'n openbare skool voldoende besonderhede van enige poste wat beoog word ingevolge subartikels (4) en (5) aanbied, met inbegrip van die geskatte koste betreffende die aanstelling van personeel in sodanige poste en die manier waarop die voorgestelde koste betaal sal word. 35
- (10) Ondanks artikel 74 is die Staat nie aanspreeklik vir enige handeling of late by 'n openbare skool wat voortspruit uit sy kontraktuele verantwoordelikheid as werkgever teenoor die personeel aangestel ingevolge subartikels (4) en (5) nie. 40

Toegewese funksies van beheerliggame

42. (1) Behoudens hierdie Wet, kan 'n beheerliggaam skriftelik by die Onderwyshoof aansoek doen om enige van die volgende werksaamhede toegewys te word: 45
- (a) die instandhouding en verbetering van die skool se eiendom, asook die geboue en gronde deur die skool beset, met inbegrip van koshuise, indien van toepassing; 50
- (b) die bepaling van die buitemuurse kurrikulum van die skool en die keuse van vakopsies ingevolge die provinsiale kurrikulumbeleid;

- (4) Subject to this Act, the Labour Relations Act, 1995 (Act No 66 of 1995), and any other applicable law, a public school may establish posts for educators and employ educators additional to the establishment determined by the responsible Member in terms of the Employment of Educators Act, 1998 (Act No 76 of 1998).
- (5) Subject to this Act, the Labour Relations Act, 1995 (Act No 66 of 1995), and any other applicable law, a public school may establish posts for 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).
- (6) An educator and a non-educator employed in a post established in terms of subsection (4) or (5) must comply with the requirements set for employment in public schools in terms of this Act, the Labour Relations Act, 1995 (Act No 66 of 1995), and any other applicable law.
- (7) A public school may only employ an educator in a post established in terms of subsection (4) if such educator is registered as an educator with the South African Council of Educators.
- (8) The staff contemplated in subsections (4) and (5) 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 include, but are not limited to-
- (a) the ability of the candidate;
 - (b) the principle of equity;
 - (c) the need to redress past injustices; and
 - (d) the need for representativity.
- (9) When presenting the annual budget contemplated in section 56, the governing body of a public school must provide sufficient details of any posts envisaged in terms of subsections (4) and (5), including the estimated costs relating to the employment of staff in such posts and the proposed manner in which such costs will be met.
- (10) Despite section 74, the State is not liable for any act or omission by the public school relating to its contractual responsibility as the employer in respect of staff employed in terms of subsections (4) and (5).

Allocated functions of governing bodies

42. (1) Subject to this Act, a governing body may apply to the Head of Education in writing to be allocated any of the following functions:
- (a) to maintain and improve the school's property, and buildings and grounds occupied by the school, including school hostels, if applicable;
 - (b) to determine the extra-mural curriculum of the school and the choice of subject options in terms of provincial curriculum policy;

- (c) die aankoop van handboeke, opvoedkundige materiaal of toerusting vir die skool;
 - (d) betaling vir dienste aan die skool; 5
 - (e) behoudens enige toepaslike wet, die voorsiening van 'n klas of 'n sentrum vir basiese onderwys en opleiding vir volwassenes; of
 - (f) ander werksaamhede in ooreenstemming met hierdie Wet en enige toepaslike wet. 10
- (2) Die Onderwyshoof kan 'n aansoek in subartikel (1) beoog, slegs weier indien die betrokke beheerliggaam nie oor die vermoë beskik om sodanige werksaamheid doeltreffend te verrig nie.
- (3) Die Onderwyshoof kan sodanige aansoek onvoorwaardelik of onderhewig aan voorwaardes goedkeur. 15
- (4) Die beslissing van die Onderwyshoof oor sodanige aansoek moet skriftelik aan die betrokke beheerliggaam oorgedra word en hy of sy moet die redes verstrek indien die aansoek geweier is. 20
- (5) Enige persoon wat deur 'n beslissing van die Onderwyshoof ingevolge hierdie artikel gegrief is, kan teen die beslissing by die verantwoordelike Lid appelleer.
- (6) Die verantwoordelike Lid kan, by kennisgewing in die *Provinsiale Koerant*, bepaal dat sekere beheerliggame een of meer werksaamhede kan uitoefen sonder om 'n aansoek beoog in subartikel (1) in te dien, indien – 25
- (a) hy of sy tevrede is dat die betrokke beheerliggame oor die vermoë beskik om sodanige werksaamhede doeltreffend uit te voer; en 30
 - (b) daar 'n redelike en billike basis daarvoor bestaan.

Terugtrekking van funksies van beheerliggame

43. (1) Die Onderwyshoof kan, op redelike gronde, 'n werksaamheid van 'n beheerliggaam intrek. 35
- (2) Die Onderwyshoof kan nie ingevolge subartikel (1) optree nie tensy hy of sy –
- (a) Die beheerliggaam in kennis gestel het van sy of haar voorneme om op hierdie wyse op te tree en die redes daarvoor; 40
 - (b) Aan die beheerliggaam 'n redelike geleentheid gebied het om vertoë tot hom of haar te rig in verband met sodanige voorneme; en 45
 - (c) Alle vertoë behoorlik oorweeg het.
- (3) In dringende gevalle kan die Onderwyshoof ingevolge subartikel (1) optree sonder vooraf skakeling met sodanige beheerliggaam, maar die Onderwyshoof moet daarna –

- (c) to purchase textbooks, educational materials or equipment for the school;
- (d) to pay for services to the school;
- 5 (e) to provide an adult basic education and training class or centre subject to any applicable law; or
- (f) other functions consistent with this Act and any applicable law.

10 (2) The Head of Education may refuse an application contemplated in subsection (1) only if the governing body concerned does not have the capacity to perform such function effectively.

15 (3) The Head of Education may approve such application unconditionally or subject to conditions.

(4) The decision of the Head of Education on such application must be conveyed in writing to the governing body concerned and he or she must state the reasons if the application is refused.

20 (5) Any person aggrieved by a decision of the Head of Education in terms of this section may appeal to the responsible Member.

25 (6) The responsible Member may, by notice in the *Provincial Gazette*, determine that some governing bodies may exercise one or more functions without making an application contemplated in subsection (1), if-

(a) he or she is satisfied that the governing bodies concerned have the capacity to perform such function effectively; and

(b) there is a reasonable and equitable basis for doing so.

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Withdrawal of functions from governing bodies

43. (1) The Head of Education may, on reasonable grounds, withdraw a function of a governing body.

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(2) The Head of Education may not act in terms of subsection (1) unless he or she has –

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(a) informed the governing body of his or her intention so to act and the reasons therefor;

(b) granted the governing body a reasonable opportunity to make representations to him or her relating to such intention; and

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(c) duly considered all representations.

(3) In urgent cases the Head of Education may act in terms of subsection (1) without prior communication to such governing body, but the Head of Education must thereafter -

- (a) aan die beheerliggaam redes vir sy of haar optrede verstrek;
 - (b) aan die beheerliggaam 'n redelike geleentheid bied om vertoë in verband met sodanige optrede te rig; en 5
 - (c) alle vertoë wat ontvang word, behoorlik oorweeg.
- (4) Die Onderwyshoof kan, met afdoende rede, sy of haar besluit om 'n funksie in te trek herroep, opskort of wysig. 10
- (5) Enige persoon wat veronreg voel deur 'n besluit van die Onderwyshoof ingevolge hierdie artikel kan teen die besluit by die verantwoordelike Lid appèl aanteken.

Opbou van vermoëns van beheerliggaamslede

- (a) 44. (1) Die Onderwyshoof moet, uit fondse wat deur die provinsiale wetgewer bewillig is, 'n program vestig om –inleidende opleiding aan nuut verkose beheerliggame te voorsien om hulle in staat te stel om hul werksaamhede te verrig; en 15
- (b) voortgesette opleiding aan beheerliggame te voorsien ten einde die doeltreffende verrigting van hul werksaamhede te bevorder of om hulle in staat te stel om bykomende werksaamhede aan te neem. 20
- (2) Die Onderwyshoof moet verseker dat prinsipale en ander beamptes van die onderwysdepartement alle nodige hulp aan beheerliggame by die verrigting van hul werksaamhede ingevolge hierdie Wet voorsien. 25

Grondwet van beheerliggaam

45. (1) Behoudens hierdie Wet moet die beheerliggaam van 'n openbare skool ingevolge 'n grondwet wat aan die minimum vereistes deur die verantwoordelike Lid by kennisgewing in die *Provinsiale Koerant* bepaal, funksioneer. 30
- (2) 'n Grondwet beoog in subartikel (1) moet voorsiening maak vir – 35
- (a) 'n vergadering van die beheerliggaam minstens een keer elke skoolkwartaal;
 - (b) vergaderings van die beheerliggaam met ouers, leerders, opvoeders en ander personeel, onderskeidelik, minstens een keer per jaar; 40
 - (c) die afneem en hou van notules van vergaderings van die beheerliggaam;
 - (d) die beskikbaarstelling van sodanige notules vir inspeksie deur die Onderwyshoof; en 45
 - (e) die lewering van 'n verslag oor sy aktiwiteite aan ouers, leerders, opvoeders en ander personeel van die skool minstens een keer per jaar.

- (a) furnish the governing body with reasons for his or her actions;
- (b) give the governing body a reasonable opportunity to make representations relating to such actions; and
- (c) duly consider all representations.
- (4) The Head of Education may for sufficient reason reverse, suspend or amend his or her decision to withdraw a function.
- (5) Any person aggrieved by a decision of the Head of Education in terms of this section may appeal against the decision to the responsible Member.

Enhancement of capacity of governing bodies

44. (1) Out of funds appropriated by the provincial legislature, the Head of Education must establish a programme to –
- (a) provide introductory training for newly elected governing bodies to enable them to perform their functions; and
- (b) provide continuous training to governing bodies to promote the effective performance of their functions or to enable them to assume additional functions.
- (2) The Head of Education must ensure that principals 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.

Constitution of governing body

45. (1) Subject to this Act, the governing body of a public school must function in terms of a constitution which complies with minimum requirements determined by the responsible Member by notice in the *Provincial Gazette*.
- (2) A constitution contemplated in subsection (1) must provide for-
- (a) a meeting of the governing body at least once every school term;
- (b) meetings of the governing body with parents, learners, educators and other staff at the school, respectively, at least once a year;
- (c) recording and keeping of minutes of governing body meetings;
- (d) making available such minutes for inspection by the Head of Education; and
- (e) rendering a report on its activities to parents, learners, educators and other staff of the school at least once a year.

- (3) Die beheerliggaam moet binne 90 dae na sy verkiesing 'n afskrif van sy grondwet aan die Onderwyshoof voorlê.

Verkiesing en aanstelling van lede van 'n beheerliggaam

46. Die verantwoordelike Lid moet, by kennisgewing in die *Provinsiale Koerant*, die volgende bepaal - 5
- (a) die verkiesingsprosedure vir die verkiesing van lede van die beheerliggaam; 10
 - (b) die aanstelling en die koöptering van lede van die beheerliggaam;
 - (c) 'n formule of formules vir die berekening van die aantal lede van die beheerliggaam wat in elk van die kategorieë beoog in artikel 39(2) verkies moet word en sodanige formule of formules moet voorsiening maak vir redelike verteenwoordiging van elke kategorie en moet verband hou met die verskillende groottes van en omstandighede by openbare skole; 15
 - (d) die vulling van toevallige vakatures op 'n beheerliggaam; 20
 - (e) die verkiesing van ampsdraers;
 - (f) die ampstermyn van lede en ampsdraers;
 - (g) die stigting van komitees van 'n beheerliggaam, wat 'n uitvoerende komitee en komitees wat verantwoordelik is om onderwys vir leerders met spesiale onderwysbehoefte aan te spreek en om verbruikersorganisasies vennootskappe te vergemaklik, insluit; 25
 - (h) die aanwysing van 'n beampte om die proses van die nominasie en verkiesing van lede van die beheerliggaam te hanteer; en 30
 - (i) die prosedure vir die diskwalifikasie of verwydering van 'n lid van 'n beheerliggaam of die ontbinding van 'n beheerliggaam met afdoende rede in elke geval.

Versuim deur beheerliggaam om funksies te verrig 35

47. (1) Indien 'n beheerliggaam opgehou het om sy funksies te verrig, moet die Onderwyshoof voldoende persone aanstel om daardie funksies vir 'n tydperk van hoogstens drie maande te verrig. 40
- (2) Die Onderwyshoof kan die tydperk bedoel in subartikel (1) met verdere tydperke van hoogstens drie maande elk verleng, maar die totale tydperk mag nie een jaar oorskry nie.
- (3) Die Onderwyshoof moet verseker dat 'n beheerliggaam ingevolge hierdie Wet verkies word binne een jaar na die aanstelling van persone in subartikel (1) beoog. 45

Onttrekking deur lede van beheerliggaam

48. 'n Lid van 'n beheerliggaam moet van 'n vergadering van die beheerliggaam onttrek vir die duur van die bespreking van en die besluitneming oor enige aangeleentheid waarby die lid 'n persoonlike belang het. 50

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

Election and appointment of members of a governing body

46. The responsible Member must, by notice in the *Provincial Gazette*, determine the following –

- (a) the electoral process for the election of members of a governing body;
- (b) the appointment and co-option of members of a governing body;
- (c) a formula or formulae for the calculation of the number of members of the governing body to be elected in each of the categories contemplated in section 39(2) and such formula or formulae must provide reasonable representation for each category and must relate to the different sizes of and circumstances at public schools;
- (d) the filling of incidental vacancies in a governing body;
- (e) the election of office-bearers of a governing body;
- (f) the term of office of members and office-bearers of a governing body;
- (g) the establishment of committees of a governing body, which shall include an executive committee, and a committee responsible for addressing education for learners with special education needs and to facilitate partnerships with consumer organisations;
- (h) the designation of an officer to conduct the process for the nomination and election of members of the governing body; and
- (i) the procedure for the disqualification or removal of a member of the governing body or the dissolution of a governing body, with sufficient reason in each case.

Failure by governing body to perform functions

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

Recusal by members of governing body

48. 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.

Terugbetaling van lede van beheerliggaam

49. (1) Noodsaaklike onkoste deur 'n lid van 'n beheerliggaam in die uitvoering van sy of haar pligte aangegaan, mag vergoed word. 5
- (2) Geen lid van 'n beheerliggaam mag op enige wyse vergoed word deur die beheerliggaam vir die uitvoering van sy of haar pligte nie. 10

Ampsdraers van beheerliggame

50. (1) 'n Beheerliggaam moet uit sy geledere ampsdraers verkies wat minstens 'n voorsitter, 'n tesourier en 'n sekretaris insluit. 15
- (2) Slegs 'n ouerlid van 'n beheerliggaam wat nie by die openbare skool werksaam is nie mag as die voorsitter van die beheerliggaam dien. 20
- (3) Die bepalinge van subartikel (2) is nie van toepassing op 'n spesiale skool nie: Met dien verstande dat die voorsitter van die beheerliggaam verkies word vanuit die aangestelde lede beoog in artikel 40(2). 25

Komitees van beheerliggaam

51. (1) 'n Beheerliggaam kan – 25
- (a) komitees instel, met inbegrip van 'n uitvoerende komitee; en
- (b) persone wat nie lede van die beheerliggaam is nie in sodanige komitees aanstel op grond van kundigheid, maar 'n lid van die beheerliggaam moet as voorsitter van elke komitee optree. 30
- (2) Die beheerliggaam van 'n gewone openbare skool wat onderwys verskaf aan leerders met spesiale onderwysbehoefte, moet 'n komitee vir spesiale onderwysbehoefte instel. 35
- (3) Die beheerliggaam van 'n skool waarby 'n koshuis geheg is, moet 'n koshuiskomitee instel wat koshuisouers of gekoöpteerde koshuisouers insluit. 40

Ampstermyn van lede en ampsdraers van beheerliggame

52. (1) Die ampstermyn van 'n lid van 'n beheerliggaam wat nie 'n leerder is nie, mag nie drie jaar te bowe gaan nie. 40
- (2) Die ampstermyn van 'n lid van 'n beheerliggaam wat 'n leerder is, mag nie een jaar te bowe gaan nie. 45
- (3) Die ampstermyn van 'n ampsdraer van 'n beheerliggaam mag nie een jaar te bowe gaan nie. 50
- (4) 'n Lid of ampsdraer van 'n beheerliggaam kan herkies of gekoöpteer word, na gelang van die geval, ná verstryking van sy of haar ampstermyn. 50

Reimbursement of members of governing body

49. (1) Necessary expenses incurred by a member of a governing body in the performance of his or her duties 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 duties.

Office-bearers of governing bodies

50. (1) A governing body must, from amongst its members, elect office-bearers, who must include at least a chairperson, a treasurer and a secretary.
- (2) Only a parent member of a governing body who is not employed at the public school may serve as the chairperson of the governing body.
- (3) The provisions of subsection (2) do not apply to a special public school: Provided that the chairperson of the governing body is elected from the appointed members contemplated in section 40(2).

Committees of governing body

51. (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.
- (2) A governing body of an ordinary public school which provides education to learners with special education needs must establish a committee on special education needs.
- (3) The governing body of a school to which a hostel is attached, must establish a hostel committee which includes hostel parents or co-opted hostel parents.

Term of office of members and office-bearers of governing bodies

52. (1) The term of office of a member of a governing body other than a learner may not exceed three years.
- (2) The term of office of a member of a governing body who is a learner may not exceed one year.
- (3) The term of office of an office-bearer of a governing body may not exceed one year.
- (4) A member or office-bearer of a governing body may be re-elected or co-opted, as the case may be, after the expiry of his or her term of office.

Status van minderjarige lede van beheerliggame van openbare skole

53. (1) 'n Lid van 'n beheerliggaam wat 'n minderjarige is, mag nie namens 'n openbare skool kontrakteer nie. 5
- (2) 'n Lid van 'n beheerliggaam wat 'n minderjarige is, mag nie stem oor besluite van 'n beheerliggaam wat aanspreeklikheid op derde partye of op die openbare skool plaas nie.
- (3) 'n Lid van 'n beheerliggaam wat 'n minderjarige is, loop geen persoonlike aanspreeklikheid vir enige gevolg van sy of haar lidmaatskap van die beheerliggaam op nie. 10
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HOOFSTUK 9

BEFONDSING VAN OPENBARE SKOLE 20

Die verantwoordelikheid van die Departement

54. (1) Die Onderwyshoof moet openbare skole op 'n billike basis finansier uit fondse wat vir daardie doel deur die Provinsiale Wetgewer bewillig is om die behoorlike uitoefening van die regte van leerders op onderwys en die regstelling van ongelykhede van die verlede in die voorsiening van onderwys te verseker. 25
- (2) Die Onderwyshoof moet op 'n jaarlikse basis voldoende inligting in verband met die befondsing bedoel in subartikel (1) aan openbare skole voorsien om dié skole in staat te stel om hul begrotings vir die volgende boekjaar voor te berei. 30

Norme en standaarde vir die befondsing van openbare skole

55. Openbare skole word befonds binne die norme en standaarde bepaal ingevolge artikel 35 van die Nasionale Wet. 35

Verantwoordelikheid van die beheerliggaam van 'n openbare skool

56. (1) Die beheerliggaam van 'n openbare skool moet alle redelike maatreëls binne sy vermoë tref om die hulpbronne deur die Departement voorsien aan te vul ten einde die gehalte van onderwys wat deur die skool aangebied word aan alle leerders by die skool, te verhoog. 40
- (2) Die beheerliggaam van 'n openbare skool moet - 45
- (a) elke jaar 'n begroting voorberei wat die geraamde inkomste en uitgawe van die skool vir die volgende finansiële jaar aandui, in ooreenstemming met die riglyne wat deur die verantwoordelike Lid bepaal is;
- (b) 'n skoolfonds instel en dit administreer ooreenkomstig voorskrifte deur die Onderwyshoof uitgereik; 50

Status of minors on governing bodies of public schools

53. (1) A member of a governing body who is a minor may not contract on behalf of a public school.
- (2) A member of a governing body who is a minor may not vote on resolutions of a governing body which impose liabilities on third parties or on the public school.
- (3) A member of a governing body who is a minor incurs no personal liability for any consequence of his or her membership of the governing body.

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

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

Norms and standards for funding of public schools

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

Responsibility of the governing body of a public school

56. (1) The governing body of a public school must take all reasonable measures within its means to supplement the resources supplied by the Department in order to improve the quality of education provided by the school to all learners attending the school.
- (2) The governing body of a public school must –
- (a) prepare a budget each year, according to guidelines determined by the responsible Member, which shows the estimated income and expenditure of the school for the following financial year;
- (b) establish a school fund and administer it in accordance with directions issued by the Head of Education;

- (c) 'n bankrekening open en in stand hou;
- (d) rekords hou van fondse ontvang en bestee deur die skool en van sy bates, laste en finansiële transaksies in ooreenstemming met riglyne uitgereik deur die Onderwyshoof; en 5
- (e) 'n besluit by 'n vergadering bedoel in artikel 57(1) geneem, implementeer.

Skoolgeld by openbare skole

- 57. (1) Skoolgeld kan by 'n openbare skool vasgestel en gehef word alleenlik indien 'n besluit om dit te doen deur 'n meerderheid van ouers van leerders by daardie skool tydens 'n algemene vergadering belê vir die goedkeuring van die skool se jaarlikse begroting aanvaar is. 10
- (2) 'n Besluit beoog in subartikel (1) moet voorsiening maak vir – 15
 - (a) die bedrag van gelde wat gehef staan te word; en
 - (b) billike maatstawwe en prosedures vir die algehele, gedeeltelike of voorwaardelike vrystelling van ouers wat nie in staat is om skoolgeld te betaal nie. 20
- (3) Die besluit bedoel in subartikel (1) moet voorsiening maak vir die billike maatstawwe en prosedure bedoel in artikel 39(4) van die Nasionale Wet. 25

Verpligting op ouers om skoolgeld te betaal

- 58. (1) 'n Ouer van 'n leerder wat 'n openbare skool bywoon, is aanspreeklik vir die betaling van die skoolgeld ingevolge artikel 57 bepaal, tensy en tot die mate waartoe hy of sy ingevolge hierdie Wet van betaling deur die beheerliggaam vrygestel is. 30
- (2) 'n Ouer kan by die Onderwyshoof appelleer teen 'n beslissing van 'n beheerliggaam in verband met die vrystelling van daardie ouer van die betaling van skoolgeld.
- (3) In die beslissing oor 'n appèl bedoel in subartikel (2) moet die Onderwyshoof 'n behoorlike regsproses volg wat die belange van die ouer en die beheerliggaam beskerm. 35

Afdwing van die betaling van skoolgeld

- 59. (1) Die beheerliggaam van 'n openbare skool kan die betaling van skoolgeld deur ouers wat ingevolge artikel 57 daarvoor aanspreeklik is, deur regsproses afdwing. 40
- (2) Daar mag teen geen leerder gediskrimineer word op grond van die onvermoë of die versuim van die ouer om skoolgeld te betaal nie. 45

Finansiële rekords en state van openbare skole

- 60. Die verantwoordelike Lid moet by kennisgewing in die *Provinsiale Koerant*, maatreëls bepaal –
 - (a) vir die hou van finansiële state en rekords; 50

- (c) open and maintain a banking account;
- (d) keep records of funds received and spent by the school and of its assets, liabilities and financial transactions in accordance with directions issued by the Head of Education; and
- (e) implement a resolution adopted at a meeting referred to in section 57(1).

School fees at public schools

57. (1) School fees may be determined and charged at a public school only if a resolution to do so has been adopted by the majority of parents of learners of that school at a general meeting convened for consideration and approval of the annual budget of the school.
- (2) A resolution contemplated in subsection (1), must provide for –
- (a) The amount of fees to be charged; and
 - (b) Equitable criteria and procedures for total, partial or conditional exemption of parents who are unable to pay school fees.
- (3) The resolution referred to in subsection (1) must provide for the equitable criteria and procedures contemplated in section 39(4) of the National Act.

Parents' liability for payment of school fees

58. (1) A parent of a learner attending a public school is liable to pay the school fees determined in terms of section 57, unless or to the extent that he or she has been exempted by the governing body from payment in terms of this Act.
- (2) A parent may appeal to the Head of Education against a decision of a governing body regarding the exemption of that parent from payment of school fees.
- (3) In deciding an appeal referred to in subsection (2), the Head of Education must follow due process which safeguards the interest of the parent and the governing body.

Enforcement of payment of school fees

59. (1) The governing body of a public school may by process of law enforce the payment of school fees by parents who are liable to pay in terms of section 57.
- (2) No learner may be discriminated against on the ground of the parent's inability or failure to pay school fees.

Financial records and statements of public schools

60. The responsible Member must, by notice in the *Provincial Gazette*, determine measures –
- (a) for the keeping of financial statements and records;

- (b) ten opsigte van die ouditering of ondersoeking van die finansiële rekords en state; en
- (c) met betrekking tot die skoolfonds.

Boekjaar van openbare skole

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

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HOOFSTUK 10

**BEVOEGDHEDE EN WERKSAAMHEDE VAN DIE VERANTWOORDELIKE LID
EN ONDERWYSHOOF**

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Bevoegdhede en werksaamhede van die verantwoordelike Lid

62. (1) Die verantwoordelike Lid kan, deur 'n kennisgewing in die *Provinsiale Koerant*, 'n onderwysbeleid vasstel vir die Provinsie wat deur die Onderwyshoof en alle opvoeders in die Provinsie onderhou moet word. 20
- (2) Die verantwoordelike Lid kan nie kragtens subartikel (1) optree voordat hy of sy nie gekonsulteer het met – 25
- (a) die Provinsiale Onderwys- en Opleidingsraad;
 - (b) provinsiale onderwys vakbonde; 30
 - (c) die Provinsiale Prinsipaalsraad; en
 - (d) alle ander toepaslike belanghebbendes.
- (3) Ten einde die doelstellings van hierdie Wet te bevorder, kan die verantwoordelike Lid ooreenkomste met ander staatsdepartemente en met nie-regeringsorganisasies aangaan, maar geen ooreenkoms wat finansiële verpligtinge op die Departement plaas, mag aangegaan word sonder die instemming van die Lid van die Uitvoerende Raad verantwoordelik vir Finansies nie. 35
- (4) Behoudens enige norme en standaarde wat landwyd geld, kan die verantwoordelike Lid sertifisering voorsien en onttrek van – 40
- (a) die sillabusse van en voorwaardes vir toelating tot onderwys- en opleidingsprogramme aan enige onderwyssentrum; 45
 - (b) die inhoud van en voorwaardes vir toelating tot onderwys- en opleidingsprogramme.
- (5) Die verantwoordelike Lid moet regulasies proklameer betreffende die gedrag en dissipline - 50

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

5 Financial year of a public school

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

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CHAPTER 10

15 POWERS AND DUTIES OF THE RESPONSIBLE MEMBER AND HEAD OF EDUCATION

Powers and duties of responsible Member

- 20 62. (1) The responsible Member may, by notice in the *Provincial Gazette*, determine an education policy for the Province, which must be adhered to by the Head of Education and all educators in the Province.
- 25 (2) The responsible Member may not act under subsection (1) before he or she has consulted with –
- (a) the Provincial Education and Training Council;
 - (b) provincial educator unions;
 - 30 (c) the Provincial Principals' Council; and
 - (d) all other relevant interested parties.
- 35 (3) In order to further the objects of this Act, the responsible Member may enter into agreements with other government departments and with non-governmental organisations, but no agreement placing financial obligations on the Department shall be entered into without the concurrence of the Member of the Executive Council responsible for Finance.
- 40 (4) Subject to any norms and standards applying nationally, the responsible Member may certify and withdraw the certification of –
- 45 (a) the syllabi of and conditions for admission to education and training programmes;
 - (b) the contents of and conditions for admission to education and training programmes.
- 50 (5) The responsible Member must promulgate regulations regarding the conduct and discipline –

- (a) van kandidate voor, gedurende en na eksamens beoog in artikel 63(2)(e); en
- (b) van eksaminatore, moderatore, toesighouers en ander persone wie se dienste noodsaaklik is rakende die afneem van eksamens beoog in artikel 63(2)(e). 5

Bevoegdhede en werksaamhede van Onderwyshoof

63. (1) Die Onderwyshoof neem, in oorleg met die verantwoordelike Lid, die stappe wat nodig is om die provinsiale en nasionale beleid ten uitvoer te bring. 10
- (2) Bykomend by die ander werksaamhede opgedra aan hom of haar, kan die Onderwyshoof, in oorleg met die verantwoordelike Lid en onderworpe aan norme en standaard wat landwyd van toepassing is – 15
- (a) onderwysprogramme vir leerders goedkeur;
 - (b) die voorwaardes vir toelating tot sodanige onderwys- en opleidingsprogramme vasstel, asook deur middel van inspeksie of andersins die evaluering van die doeltreffendheid van die onderrig en opleiding wat daarkragtens voorsien word; 20
 - (c) kursusse vir die voorsiening van onderwys goedkeur;
 - (d) die voorwaardes vir toelating tot en die sillabusse van sodanige kursusse vasstel; 25
 - (e) met betrekking tot daardie kursusse –
 - (i) eksamens laat afneem en sertifikate laat uitreik aan leerders wat daardie eksamens geslaag het; en 30
 - (ii) ander goedgekeurde vorme van waardebepaling laat geskied;
 - (f) reëls neerlê rakende - 35
 - (i) die aflê van eksamens in paragraaf (e) bedoel, die inskryf van kandidate vir daardie eksamens en die uitreik van sertifikate in daardie paragraaf bedoel; en
 - (ii) die aanstelling, bevoegdhede, pligte en werksaamhede van eksaminatore, moderatore, toesighouers en ander persone wie se dienste nodig is in verband met die afneem van sodanige eksamens; 40
 - (g) reëlins tref vir mediese, sielkundige of tandheelkundige ondersoeke van leerders en van persone in diens by skole en koshuise; 45
 - (h) die skoolkalender, skoolvakansies en die minimum lengte van die skooldag bepaal.
- (3) Verskillende programme, kursusse, skoolkalenders, skoolvakansies en lengtes van die skooldag kan goedgekeur of bepaal word, na gelang van die geval, ten opsigte van verskillende skole. 50

- (a) of candidates prior to, during and after examinations contemplated in section 63(2)(e); and
- (b) of examiners, moderators, invigilators and other persons whose services are necessary in connection with the conducts of examinations contemplated in section 63(2)(e).

Powers and duties of Head of Education

63. (1) The Head of Education shall, in consultation with the responsible Member, take such steps as may be necessary to carry into effect the provincial and national policy.
- (2) In addition to the other functions assigned to him or her, the Head of Education may, in consultation with the responsible Member and subject to norms and standards applying nationally –
- (a) approve education programmes for all learners;
 - (b) determine the conditions for admission to such education and training programmes, as well as the evaluation, by means of inspection or otherwise, of the effectiveness of the teaching and training provided in accordance therewith;
 - (c) approve courses for the provision of education;
 - (d) determine the conditions for admission to, and the syllabi of those courses;
 - (e) in respect of those courses –
 - (i) cause examinations to be conducted and certificates to be issued to learners who passed those examinations; and
 - (ii) cause other approved forms of assessment to be conducted;
 - (f) make rules as to –
 - (i) the conducting of examinations referred to in paragraph (e), the entering of candidates for those examinations and the issue of certificates referred to in that paragraph; and
 - (ii) the appointment, powers, duties and functions of examiners, moderators, invigilators and other persons whose services are necessary in connection with the conducting of those examinations;
 - (g) make arrangements for medical, psychological or dental examinations of learners and of persons employed at schools and hostels;
 - (h) determine the school calendar, school holidays and the minimum length of the school day.
- (3) Different programmes, courses, school calendars, school holidays and lengths of the school day may be approved or determined, as the case may be, in respect of different schools.

HOOFSTUK 11

OORGANGSBEPALINGS

Oorgangsbepalings wat op skole anders as private of onafhanklike skole betrekking het 5

64. Enige skool wat ingestel is of geag was ingestel te gewees het ingevolge enige wet wat skoolonderwys in die Provinsie beheer het en wat onmiddellik voor die inwerkingtreding van hierdie Wet bestaan het, anders as 'n private of onafhanklike skool bedoel in artikel 66, word geag 'n openbare skool ingevolge hierdie Wet te wees. 10

Kategorieë van openbare skole

65. Enige van die volgende kategorieë van openbare skole - 15

- (a) preprimêre skole;
- (b) primêre skole;
- (c) sekondêre skole; 20
- (d) middelbare skole;
- (e) gekombineerde skole; 25
- (f) skole vir spesiale onderwys;
- (g) nywerheidskole;
- (h) verbeteringskole; en 30
- (i) enige ander kategorie van skool,

wat ingestel of geregistreer was of wat geag word ingestel of geregistreer te gewees het ingevolge enige wet wat skoolonderwys in die Provinsie reël, en wat bestaan het onmiddellik voor die inwerkingtreding van hierdie Wet, is nog van toepassing ingevolge hierdie Wet. 35

Oorgangsbepalings wat op private of onafhanklike skole betrekking het

66. 'n Private of onafhanklike skool wat geregistreer was of geag word geregistreer te gewees het kragtens die bepalings van 'n wet wat skoolonderwys in die Provinsie reël, en wat bestaan het onmiddellik voor die inwerkingtreding van hierdie Wet, word geag 'n onafhanklike skool geregistreer ingevolge hierdie Wet te wees. 40

Oorgangsbepalings met betrekking tot openbare skole op private eiendom 45

67. Indien 'n ooreenkoms bedoel in artikel 12 nie met die inwerkingtreding van hierdie Wet met betrekking tot 'n skool wat op private eiendom staan, en wat geag 'n openbare skool ingevolge artikel 64 te wees, bestaan nie, moet die verantwoordelike Lid redelike maatreëls tref om daardie ooreenkoms aan te gaan. 50

CHAPTER 11

TRANSITIONAL PROVISIONS

5 Transitional provisions relating to schools other than private or independent schools

64. Any school which was established or was deemed to be established in terms of any law governing school education in the Province and which existed immediately prior to the commencement of this Act, other than a private or independent school referred to in section 66, is deemed to be a public school in terms of this Act.

Categories of public schools

65. Any of the following categories of public schools –

- (a) pre-primary schools;
- (b) primary schools;
- (c) secondary schools;
- (d) intermediate schools;
- (e) combined schools;
- (f) schools for special education;
- (g) industrial schools;
- (h) reform schools; and
- (i) any other category of school,

which were established or registered or were deemed to be established or registered in terms of any law governing school education in the Province and which existed immediately prior to the commencement of this Act, shall still apply in terms of this Act.

Transitional provisions relating to private or independent schools

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

45 Transitional provisions relating to public schools on private property

67. If an agreement referred to in section 12 does not exist at the commencement of this Act in respect of a school on private property and which is deemed to be a public school in terms of section 64, the responsible Member must take reasonable measures to conclude such an agreement.

Herroeping van wette en voorbehoud

75. (1) Die wette gelys in kolom een van die Bylae word hiermee herroep in die mate uiteengesit in kolom drie van die Bylae.

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

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Kort titel

76. Hierdie Wet heet die Vrystaat Skoolonderwyswet, 2000.

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BYLAE

Nommer en jaar van Wet	Kort titel van Wet	Omvang van herroeping
Wet No 70 van 1988	Wet op Onderwys-aangeleenthede (Volksraad), 1988	Al die artikels met betrekking tot staats-ondersteunde skole
Wet No 1 van 1996	Wet op Skoolonderwys, 1996	Die geheel

Repeal of laws, and savings

75. (1) The laws listed in the first column of the Schedule are hereby repealed to the extent indicated in the third column of the Schedule.
- (2) Anything done or deemed to have been done in terms of a provision of a law repealed by subsection (1), and which may or shall be done in terms of this Act, shall be deemed to have been done in terms of the corresponding provision of this Act.

Short title

76. This Act shall be called the Free State School Education Act, 2000.

SCHEDULE

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

PROVINCIAL GAZETTE

(Published every Friday)

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

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PROVINSIALE KOERANT

(Verskyn elke Vrydag)

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Kennisgewings wat volgens Wet in die Provinsiale Koerant geplaas moet word: R2,00 per sentimeter of deel daarvan, enkelkolom.

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