

# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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WINDHOEK - 27 December 2001

No.2673

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### Government Notice

#### OFFICE OF THE PRIME MINISTER

No. 254      2001

#### PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 16 of 2001:      Education Act, 2001.

## ACT

- To provide for the provision of accessible, equitable, qualitative and democratic national education service; to provide for the establishment of the National Advisory Council on Education, National Examination Assessment and Certification Board, Regional Education Forums, School Boards, Education Development Fund; to provide for the establishment of schools and hostels; to provide for the establishment of the Teaching Service and the Teaching Service Committee; and to provide for incidental matters.

*(Signed by the President on 11 December 2001)*

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**SCHEDULE  
LAWS REPEALED**

**BE IT ENACTED** by the Parliament of the Republic of Namibia, as follows:

**PART I**

**PRELIMINARY PROVISIONS**

**Definitions**

1. (1) In this Act, unless the context otherwise indicates -

“adult education” means basic education provided to adults, including minors over the age of 16 years;

“Advisory Council” means the National Advisory Council on Education established by section 3;

“auditor” means a person registered as an accountant and auditor in terms of section 23 of the Public Accountants’ and Auditors’ Act, 1951 (Act No. 51 of 1951);

“basic education” means the formal education which is provided from the level of the first grade to the level of the twelfth grade, and includes -

- (a) adult education;
- (b) special education; and
- (c) education of any other nature which the Minister under subsection (2) declares to be basic education;

“Board” means the National Examination, Assessment and Certification Board established by section 6;

“Commission” means the Public Service Commission established in pursuance of Article 112 of the Namibian Constitution, by section 2(1) of the Public Service Commission Act ;

“Forum” means a Regional Education Forum established under section 4;

“Fund” means the Education Development Fund established by section 26;

“hostel” means a hostel established under section 33 for the purpose of providing accommodation to learners in a state school;

“learner” means any person who is registered and receiving basic education or a course of study in terms of this Act;

“Learners” Representative Council” means a body of learners established in terms of section 60;

“local authority area” means a local authority area as defined in section 1 of the Local Authorities Act, 1992 (Act No. 23 of 1992);

“local authority council” means a local authority council as defined in section 1 of the Local Authorities Act, 1992 (Act No. 23 of 1992);

“Minister” means the Minister responsible for basic education;

“Ministry” means the Ministry charged with the administration of affairs relating to basic education;

“parent” means a natural or an adoptive parent or a guardian of any learner, and includes any person taking care of or who assumes responsibility for any learner’s education;

“Permanent Secretary” means the Permanent Secretary of the Ministry;

“prescribed” means prescribed by regulation made under section 80;

“primary education” means the basic education provided at primary school level;

“primary school” means a school or part of a school in which basic education from the level of the first grade to the level of the seventh grade is provided;

“principal”, in relation to a school, means a teacher who holds the post as the head of the school and includes an acting principal;

“private school” means a school which is established and maintained at the owner’s expense, and is registered in terms of section 42;

“Public Service Act” means the Public Service Act, 1995 (Act No.13 of 1995);

“Public Service Commission Act” means the Public Service Commission Act, 1990 (Act No. 2 of 1990);

“region” means a region as defined in section 1 of the Regional Councils Act, 1992 (Act No. 22 of 1992);

“regional council” means a regional council as defined in section 1 of the Regional Councils Act, 1992 (Act No. 22 of 1992);

“school” means an establishment or place or that part of an establishment or place in or at which basic education is provided;

“school board” means a school board established in terms of section 16;

“school development fund” means a school development fund established under section 25;

“school parent” means a parent of a learner of a school;

“secondary school” means a school or part of a school in which basic education from the level of the eighth grade to the level of the twelfth grade is provided;

“socio-economically disadvantaged learner” means a learner whose parent is, directly or indirectly, socially and economically disadvantaged as a consequence of social, economic, educational or employment imbalances;

“special education” means a basic education of a specialized nature provided to learners with special education needs;

“special school” means a school or part of a school in which special education is provided;

“staff member” means a staff member as defined in section 1 of the Public Service Act;

“state school” means a school established under section 33;

“teacher”, in relation to state schools, means a staff member who is professionally qualified to teach others in formal education and whose occupation is teaching, and includes a professionally unqualified person whose occupation is teaching; and

“this Act” includes the regulations made under section 80 and the rules made under section 15.

(2) If the Minister considers it necessary or expedient, for the purposes of this Act, the Minister may by notice in the *Gazette* declare any education of any nature to be basic education.

### **Determination of basic education policy and control of system and activities**

2. (1) The Minister must-

- (a) determine the national policy on basic education and ensure that consultations with such consultative bodies established for this purpose in terms of this Act or any other law, or such organizations as the Minister may recognize for this purpose, are undertaken prior to the determination of policy;
- (b) secure the effective co-operation of all public and private bodies concerned with education in formulating and implementing the national policy on basic education in terms of this Act;
- (c) direct, co-ordinate, supervise and control the basic education system and related matters; and
- (d) promote basic education and the establishment and development of schools;

(2) Nothing in this section limits the Minister to consult whomsoever the Minister wishes for advice on the determination of education policy and related matters.

(3) The Minister must table the national policy on basic education in the National Assembly within 90 days after the determination of the policy, if the National Assembly is in session, or, if it is not in session, within 30 days after the commencement of its next session.

## **PART II**

### **NATIONAL ADVISORY COUNCIL ON EDUCATION**

#### **National Advisory Council on Education**

3. (1) There is established an advisory council to be known as the National Advisory Council on Education.

(2) The powers and functions of the Advisory Council are -

- (a) to advise the Minister on educational matters upon the Advisory Council's own initiative or any question referred to the Advisory Council by the Minister; and



- (b) to exercise and perform such other powers and functions conferred or imposed by or under this Act.
- (3) The Advisory Council consists of 24 members appointed by the Minister, and for the purposes of appointment, the Minister must select two staff members and one person each from amongst persons nominated under subsection (4).
- (4) The Minister must, for the purposes of selecting persons for appointment, by notice in the *Gazette* invite the following bodies to nominate persons for appointment -
  - (a) institutions of education higher than basic education;
  - (b) each Forum;
  - (c) non-governmental organizations;
  - (d) national employers' organizations;
  - (e) recognized associations and unions of teachers;
  - (f) representative bodies of learners and students;
  - (g) representative bodies of churches;
  - (h) private schools;
  - (i) the Council of Traditional Leaders established by section 2 of the Council of Traditional Leaders Act, 1997 (Act No. 13 of 1997); and
  - (j) the national organization for persons with disabilities.
- (5) The Minister must appoint two of the members from a list of four names selected by the members from amongst themselves to be the Chairperson and the Vice-Chairperson of the Advisory Council, respectively.
- (6) A member of the Advisory Council holds office for a term of three years and is eligible for re-appointment at the expiry of that term.
- (7) A member of the Advisory Council vacates office, if such member -
  - (a) is convicted of an offence and sentenced to imprisonment without the option of a fine;
  - (b) resigns from the Advisory Council after giving the Minister 30 days written notice of his or her intention to resign;
  - (c) has been absent for three meetings of the Advisory Council in a year, without the permission of the Chairperson;
  - (d) is withdrawn by the nominating body; or
  - (e) is removed by the Minister under subsection (8).
- (8) The Minister may remove a member of the Advisory Council, if such member -
  - (a) is guilty of misconduct;
  - (b) fails to comply with or contravenes this Act; or

- (c) is by reason of physical or mental illness or for any other reason incapable of acting as member.

(9) If a member of the advisory Council dies or vacates office, the vacancy must be filled for the unexpired portion of the term of office of that member in the manner contemplated in subsection (4).

(10) The Advisory Council must determine the Advisory Council's own rules and procedure governing meetings, but such rules and procedure may not be inconsistent with this Act.

(11) The expenses of the Advisory Council relating to the Advisory Council's functions must be defrayed out of money appropriated for this purpose by Parliament.

(12) The members of the Advisory Council who are not staff members may be paid such allowances as the Minister, with the concurrence of the Minister of Finance, may determine.

### PART III

## EDUCATION FORUMS AND OFFICES

### Regional Education Forums

4. (1) The Minister must establish a Forum to be known as the Regional Education Forum for a region and local authority areas in the region.

(2) The functions of a Forum are -

- (a) to advise the Minister, the regional council and local authority councils in that region on matters concerning education in the region and local authority areas in that region;
- (b) to advise school boards regarding educational matters and the functions of the school boards under this Act; and
- (c) to initiate and facilitate educational development in the region.

(3) A Forum advises upon any question referred to the Forum by the Minister, regional council, local authority council, school board or any interested person, or upon its own initiative as it may consider necessary.

(4) A Forum consists of -

- (a) the regional director of education assigned to the region who is an *ex officio* member and has no right to vote; and
- (b) 20 members appointed by the Minister on the ground of special knowledge, skill and expertise in educational matters from persons nominated under subsection (5).

(5) For the purposes of appointment under subsection (4), the Minister, by notice in the *Gazette*, must invite the following bodies to nominate persons -

- (a) three persons representing the regional council and local authority councils in the region;
- (b) three persons representing the school boards in the region;

- (c) three persons representing the recognized associations or unions of teachers, employees and employers;
  - (d) three persons representing the bodies of learners in the region;
  - (e) two persons representing the private schools in the region;
  - (f) two persons representing the churches;
  - (g) two persons representing the Council of Traditional Leaders established by section 2 of the Council of Traditional Leaders Act, 1997 (Act No. 13 of 1997); and
  - (h) two persons representing the national organization for persons with disabilities.
- (6) The members of a Forum must elect two persons from amongst the members as chairperson and vice-chairperson, respectively, who must not be staff members of the Ministry.
- (7) Subject to subsection (8), a member of a Forum holds office for a term of three years and is eligible for re-appointment at the expiration of that term.
- (8) A member of a Forum vacates office, if such member -
- (a) is convicted of an offence and sentenced to imprisonment without the option of a fine;
  - (b) resigns from a Forum after giving the Minister 30 days written notice of such member's intention to resign;
  - (c) has been absent for three meetings of a Forum in a year without the permission of the chairperson of the Forum;
  - (d) is withdrawn by the nominating body; or
  - (e) is removed by the Minister under subsection (9).
- (9) The Minister may remove a member of a Forum, if such member -
- (a) is guilty of misconduct;
  - (b) fails to comply with or contravenes this Act; or
  - (c) is by reason of physical or mental illness or for any other reason incapable of acting as member of a Forum.
- (10) If a member of a Forum dies or vacates office, the vacancy must be filled for the unexpired portion of the term of office of that member in the manner contemplated in subsection (4).
- (11) A Forum must -
- (a) subject to this Act, determine its own rules governing meetings and procedure at meetings; and
  - (b) submit an annual report on its activities to the Advisory Council.



(12) The expenses of a Forum relating to the performance of its functions must be defrayed out of money appropriated for this purpose by Parliament.

(13) Members of a Forum who are non-staff members may be paid such allowances, including travel and subsistence allowances as the Minister, with the concurrence of the Minister of Finance, may determine.

#### **Regional, local and district education offices**

5. (1) The Minister must, on the recommendation of the Commission and after consultation with the Advisory Council and the regional council or a local authority council, as the case may be, establish a regional education office for each region and a local or district education office.

(2) A staff member designated as regional director of education and culture administers, manages and controls the regional education office, and performs such functions under the supervision and direction of the Permanent Secretary.

(3) The regional education office is responsible for the administration of the affairs relating to education and culture as may be assigned to the office by or under this Act or any other law, which may include the provision of secretariat services to the Forum.

### **PART IV**

#### **NATIONAL EXAMINATION, ASSESSMENT AND CERTIFICATION BOARD**

##### **Establishment of National Examination, Assessment and Certification Board**

6. There is established a board to be known as the National Examination, Assessment and Certification Board.

##### **Constitution of Board**

7. (1) Subject to subsection (7), the Board consists of 28 members appointed by the Minister, as follows -

- (a) four persons selected by the Minister;
- (b) one person nominated by the Council of the University of Namibia referred to in section 9 of the University of Namibia Act, 1992 (Act No. 18 of 1992);
- (c) one person nominated by the Council of the Polytechnic of Namibia referred to in section 6 of the Polytechnic of Namibia Act, 1994 (Act No. 33 of 1994);
- (d) one person nominated by the Vocational Training Board established by section 5 of the National Vocational Training Act, 1994 (Act No. 18 of 1994);
- (e) one person nominated by the Board of Governors of the Namibian College of Open Learning referred to in section 7 of the Namibian College of Open Learning Act, 1997 (Act No. 1 of 1997);
- (f) one person nominated by the Council of the Namibia Qualifications Authority referred to in section 5 of the Namibia Qualifications Authority Act, 1996 (Act No. 29 of 1996);

- (g) one person nominated by recognized teachers' unions or associations;
- (h) one person nominated by the Colleges of Education;
- (i) 13 directors of regional education offices;
- (j) the Director and another staff member of the Directorate: National Examinations and Assessment of the Ministry;
- (k) the Director of the Directorate: National Institute for Educational Development of the Ministry; and
- (l) the Director of the Namibia Qualifications Authority referred to in section 10(1)(a) of the Namibia Qualifications Authority Act, 1996 (Act No. 29 of 1996).

(2) The Minister must, for the purposes of appointment of members of the Board in terms of subsection (1), in writing invite the bodies referred to in subsection (1)(b) to (h), inclusive, to nominate persons within a specified period.

(3) If a nomination referred to in subsection (2) is not received by the Minister within the period specified in the invitation, the Minister may appoint such person as the Minister thinks fit.

(4) The Minister must appoint two of the members referred to in paragraph (a) of subsection (1), and who must be staff members of the Ministry as chairperson and vice-chairperson of the Board, respectively.

(5) The Minister may, for each member of the Board, appoint an alternate member, and must, for the purposes of such appointment for the members contemplated in subsection (1)(b) to (h), inclusive, in writing invite the bodies referred to in subsection (1)(b) to (h), inclusive, to nominate persons within a specified period.

(6) If a nomination referred to in subsection (5) is not received by the Minister within the period specified in the invitation, the Minister may appoint such person as the Minister thinks fit.

(7) At least two of the persons referred to in paragraph (a) of subsection (1), must be females.

#### **Term of office of member of Board**

8. Subject to section 9, a member of the Board holds office for a term of three years and is eligible for re-appointment at the expiration of that term.

#### **Vacation of office and filling of casual vacancies**

9. (1) A member of the Board vacates office, if such member -
- (a) is convicted of an offence and sentenced to imprisonment without the option of a fine;
  - (b) resigns from the Board after giving the Minister 30 days written notice of such member's intention to resign;
  - (c) has been absent for three meetings of the Board in a year, without the permission of the chairperson of the Board;
  - (d) is withdrawn by the nominating body; or

(e) is removed by the Minister under subsection (2).

(2) The Minister may remove a member of the Board, if such member -

(a) is guilty of misconduct;

(b) fails to comply with or contravenes this Act; or

(c) is by reason of physical or mental illness or for any other reason incapable of acting as member of the Board.

(3) If a member of the Board dies or vacates office, the vacancy must be filled for the unexpired portion of the term of office of that member in the manner contemplated in section 7.

### **Secretariat to Board**

**10.** (1) There must be a component in the Ministry to act as the secretariat to the Board, consisting of -

(a) a staff member of the Ministry designated by the Permanent Secretary as the secretary to the Board; and

(b) such other staff members of the Ministry as the Permanent Secretary may designate, one of whom must be designated as the deputy-secretary to the Board.

(2) The functions of the secretariat are -

(a) to provide the required administrative and clerical assistance to the Board and any committee of the Board; and

(b) to provide all technical support required by the Board or any of the committees of the Board.

(3) The secretary must attend the meetings of the Board but has no right to vote on any matter before the Board.

(4) If the secretary is unable to attend any meeting of the Board or to act as secretary, the deputy-secretary may perform the functions of the secretary.

### **Committees of Board**

**11.** (1) The Board may establish one or more committees of the Board for the purpose of exercising and performing any power and function of the Board which the Board may delegate to the committee.

(2) A committee established under subsection (1) must consist of such members of the Board, including alternate members, as the Board may appoint to the committee.

(3) The Board may designate any member of a committee to be the chairperson of that committee.

(4) The Board is not divested of any power and function which has been delegated by it to a committee and may amend or set aside any decision of such a committee.



**Meetings and decisions of Board**

12. (1) The first meeting of the Board must be held at a place and time as the chairperson of the Board may determine and, subject to subsection (3), any meeting of the Board thereafter must be held at a place and time as the Board may determine.

(2) If the Board has determined the place and time of a meeting and there cannot for any reason be a meeting held at that place or time, the secretary of the Board must, in consultation with the chairperson of the Board, determine the place and time of the next meeting of the Board.

(3) The chairperson of the Board may at any time convene a special meeting of the Board.

(4) The majority of the members of the Board forms a quorum for any meeting of the Board.

(5) The chairperson of the Board or, in the absence of the chairperson, the vice-chairperson, presides at all meetings of the Board.

(6) If both the chairperson and the vice-chairperson of the Board are absent from any meeting, the members present must elect a member to preside at that meeting and that member may perform all the functions and exercise all the powers of the chairperson.

(7) The decision of the majority of the members present at any meeting of the Board constitutes a decision of the Board, and in the event of any equality of votes the member presiding has a casting vote in addition to a deliberative vote.

(8) The Board may, subject to this Act, determine rules of the Board governing meetings and procedure at meetings.

(9) The expenses relating to the functions of the Board must be defrayed from money appropriated for this purpose by Parliament.

**Payment of allowances to non-staff members**

13. Members of the Board who are non-staff members must be paid such allowances, including travel and subsistence allowances as the Minister, with the concurrence of the Minister of Finance, may determine.

**Functions of Board**

14. In relation to basic education, the functions of the Board are -

(a) to determine, by notice in the *Gazette* -

- (i) minimum requirements and minimum standards to which the courses of study, curriculums and syllabuses under which such education is provided must comply;
- (ii) minimum requirements and minimum standards for the conduct of examinations;
- (iii) minimum requirements and minimum standards for assessments and promotions;
- (iv) the form and manner of the issuing of certificates and diplomas in respect of examinations; and

- (b) to exercise such powers and perform such functions as may be conferred or imposed upon the Board by or under this Act.

### **Rules by Board**

**15.** Subject to this Act, the Board may, for the purpose of performing the Board's functions referred to in section 14, make rules relating to -

- (a) the conduct of examinations ;
- (b) the entering of candidates for examinations;
- (c) the conduct and discipline of candidates prior to, during and after examinations;
- (d) the issuing of certificates and diplomas;
- (e) the safeguarding of the security, confidentiality and validity of examinations and certificates and diplomas; and
- (f) the appointment, conduct, discipline, powers, duties and functions of examiners, moderators, invigilators and other persons whose services are necessary at examinations.

## **PART V**

### **SCHOOL BOARDS**

#### **Establishment of school boards for state schools**

**16.** (1) There is, for every state school, established a school board to administer the affairs and promote the development of the school and learners of the school.

(2) The Minister must, out of moneys appropriated for this purpose by Parliament, establish a program with the aim to promote accountability of, active participation, effective exercise of powers and performance of functions by, members of school boards.

#### **Powers and functions of school board**

**17.** Subject to this Act, the powers and functions of a school board are -

- (a) to develop the mission, goals and objectives of the school;
- (b) to advise the school's management on the extra-mural curriculum of the school;
- (c) to advise the regional director of education on educational needs and the curriculum of the school;
- (d) subject to the Public Service Act, to recommend to the Permanent Secretary the appointment of teachers and other staff members at the school;
- (e) subject to the restrictions imposed by the Permanent Secretary and upon conditions as the school board may determine, to allow the reasonable use of the school facilities for community purposes;

- (f) to consider any case of misconduct by a learner or staff member of the school with the aim to -
  - (i) ensure that such misconduct is properly investigated; and
  - (ii) recommend to the Permanent Secretary the appropriate disciplinary measures to be taken regarding serious misconduct of a learner; and
- (g) to exercise other powers and perform other duties and functions as may be authorized or imposed by or under this Act.

#### **Constitution of school board**

**18.** (1) A school board consists of the prescribed number of not less than five and not more than 13 voting members, who must be -

- (a) school parents who are not employed at the school;
- (b) teachers at the school;
- (c) the principal of the school; and
- (d) in the case of a secondary school, not more than two learners at the school nominated by the Learners' Representative Council.

(2) School parents must constitute the majority of members of a school board.

(3) The Minister may approve the constitution of a school board which differs from the constitution contemplated in subsection (1), if -

- (a) the school board has applied in writing to the Minister for a different constitution; and
- (b) the Minister is satisfied that such constitution is in the best interests of education at the school.

(4) If a member of a school board has a direct personal interest in any matter under discussion by the board, that member must not take part in any discussion or decision on the matter, or be present at a meeting at which the matter is being discussed.

#### **Election of members of school board**

**19.** (1) The election of parents and teachers to a school board must be conducted by a staff member designated by the Permanent Secretary and who is not employed at the school concerned.

(2) Elections conducted in terms of subsection (1), must be -

- (a) by secret ballot; or
- (b) where appropriate, with the approval of the Minister, by a show of hands.

(3) A school board must, from amongst its members, elect as office-bearers of the school board-

- (a) a chairperson;
- (b) a secretary; and



(c) a treasurer.

(4) A principal, teacher or learner of the school must not serve as chairperson of the school board.

(5) A member of a school board holds office for a term of three years and is eligible for re-election at the expiration of that term.

(6) A member of a school board must sign the prescribed oath of secrecy on the date of assumption of his or her duty as such member.

### **School board of special school and school providing special education**

**20.** (1) A school board of a school which is not a special school but which provides special education, must -

- (a) subject to subsection (3), co-opt at least one person with expertise in special education as a member of the school board; and
- (b) establish a committee to advise the school board on the provision of special education at the school.

(2) Subject to subsection (3), a school board of a special school may, in addition to those persons elected in terms of section 19, co-opt one or more of the following persons -

- (a) a representative of a sponsoring body for the school;
- (b) a representative of organizations of parents of learners with special education needs;
- (c) a representative of organizations of persons with disabilities;
- (d) a person with disability.

(3) A co-opted member of a school board has no right to vote at any meeting of a school board.

### **Committees of school board**

**21.** (1) A school board may establish one or more committees for the purpose of advising the school board on any matter which the school board may refer to the committee for advice.

(2) A school board may designate any member of a committee to be the chairperson of that committee.

### **Meetings and decisions of school board**

**22.** (1) The majority of the voting members of a school board forms a quorum for any meeting of a school board.

(2) The chairperson of the school board presides at all meetings of the school board.

(3) If the chairperson is absent from any meeting, the members present must elect a member to preside at that meeting and that member may perform all the functions and all the powers of the chairperson.

(4) The decision of the majority of the members present at any meeting of the school board constitutes a decision of the school board, and in the event of any equality of votes the member presiding has a casting vote in addition to a deliberative vote.

(5) A chairperson of a school board -

- (a) must convene any meeting of the school board after consultation with the principal of the school; and
- (b) may at any time convene a special meeting of the school board.

(6) Subject to this Act, a school board may make rules of the school board governing meetings and procedure at meetings.

(7) A member of a school board who, in the performance of his or her functions under this Act, obtains any confidential information in relation to the affairs of the school board may not disclose such information to any person, except -

- (a) for the purpose of the performance of his or her functions under this Act; or
- (b) when he or she is required to do so by a competent court of law or by or under any law.

#### **Vacation of office and filling of casual vacancies**

**23.** (1) A member of the school board vacates office, if such member -

- (a) is convicted of an offence and sentenced to imprisonment without the option of a fine;
- (b) fails to comply with or contravenes this Act;
- (c) resigns from the school board after giving the chairperson 30 days written notice of such member's intention to resign;
- (d) has been absent for three meetings of the school board in a year without the permission of the chairperson of the school board;
- (e) being a learner -
  - (i) is removed as member by the Learners' Representative Council by whom the learner was nominated; or
  - (ii) ceases to be a learner at the school.
- (f) being a co-opted member, is relieved from office by the school board;
- (g) being a teacher, leaves the service of the school; or
- (h) is removed from office by the school board under subsection (3).

(2) Despite section 18(1)(a) and unless the school board otherwise decides, a parent member of a school board does not vacate office on the reason only that such parent's child has ceased to be a learner at the school.

(3) A school board may, after consultation with the school parents at a meeting convened by the school board by at least 30 days' notice to such parents, remove a member of the school board from office, if such member -

- (a) is guilty of misconduct or fails to comply with or contravenes this Act; or
- (b) is by reason of physical or mental illness or for any other reason incapable of acting as member.

(4) If a member of the school board dies or vacates office, the vacancy must be filled for the unexpired portion of the term of office of that member in the manner contemplated in section 18.

#### **Dissolution of school board and appointment of administrators**

**24.** (1) When in the opinion of the Minister a school board of a state school fails to exercise the school board's functions properly under this Act, the Minister may -

- (a) appoint a staff member to investigate into the affairs of the school board and provide a report with recommendations to the Minister within a period not exceeding two months from the date of the appointment; and
- (b) dissolve the school board, if on the staff member's report the Minister is satisfied that the school board cannot function properly.

(2) If a school board is not constituted at a state school or is dissolved under subsection (1), the Minister must -

- (a) appoint three persons to administer the affairs of the school for a period not exceeding three months;
- (b) cause an election of a school board to be held within the period of three months from the date of the appointment of the persons referred to in paragraph (a); and
- (c) if an election cannot be held within the period of three months, extend the appointment and the election referred to in paragraphs (a) and (b), respectively, by a further period not exceeding three months.

#### **Establishment of school development fund by school board**

**25.** (1) Subject to section 81(2), a school board may, with the approval of the majority vote of the school parents present and voting at a meeting convened by the school board by at least 30 days' notice to such parents, establish a school development fund with the aim -

- (a) to provide, develop and improve reasonable and necessary facilities at school; and
- (b) to uplift and improve educational, sport and cultural activities at school.

(2) A school development fund consists of -

- (a) moneys received in respect of contributions referred to in subsection (9)(a);
- (b) moneys received from donations, bequests or any other source; and
- (c) interest earned on investments of money standing to the credit of the fund.

(3) A school development fund must not be used -

- (a) for any purpose which does not directly benefit the learners or the school; or



- (b) for providing loans or any kind of borrowing by any person.
- (4) The chairperson of the school board and the principal of the school must, after consultation with the school board, open a banking or savings account in the name of the school with -
  - (a) any banking institution or building society registered under the laws governing banking institutions and building societies in Namibia; or
  - (b) the Post Office Savings Bank established in terms of the Posts and Telecommunications Act, 1992 (Act No. 19 of 1992).
- (5) The treasurer of the school board must -
  - (a) under the supervision and control of the school board, control and manage the school development fund and keep all the books of accounts; and
  - (b) never be authorized to sign cheques or other form of withdrawals from the school development fund.
- (6) Any withdrawal from the school fund account must be made by means of a cheque or other withdrawal form co-signed by the school principal and the school board chairperson, or by any other two members of the school board specifically authorized by the school board.
- (7) The financial year of a school development fund ends on 31 December in each year.
- (8) The Minister must, by notice in the *Gazette*, prescribe guidelines which must be followed by school boards when determining the school development fund contribution amount, including the procedure for the full or partial exemption of parents who are unable to pay such contribution.
- (9) Subject to subsection (8), a school board must, annually and after consultation with the school parents at a meeting convened by the school board by at least 30 days' notice to the school parents, determine -
  - (a) the school development fund contribution amount payable by parents; and
  - (b) the procedure for the full or partial exemption of parents who are unable to pay the school development fund contribution.
- (10) Subject to subsection (9), the school board may, partially or fully exempt any parent from the payment of school development fund contribution.
- (11) If a parent is partially or fully exempted by the school board from the payment of the school development contribution, the school board may apply to the Fund for aid to pay such contribution.
- (12) If a parent refuses or fails to pay the school development fund contribution, a school board may exclude the learner of such parent from taking part in any activity financed with the school development fund contributions.
- (13) If a school development fund contribution amount determined in terms of subsection (9)(a) is too high and not determined in accordance with the prescribed guidelines referred to in subsection (8), the Minister may set aside such amount, and require the school board concerned to review such amount in light of any recommendation which the Minister may make.

- (14) A school board must -
- (a) prepare an annual estimation of income and expenditure and present it to the school parents at a general meeting convened by the school board by at least 30 days' notice to such parents, for further input and approval by the majority vote of such parents present and voting at such meeting;
  - (b) cause proper books of accounts in respect of the school development fund to be kept;
  - (c) for the purpose of auditing, prepare and submit the financial statements and books of account to -
    - (i) the auditor appointed by the school board; or
    - (ii) any other person approved by the Permanent Secretary and appointed by the school board;
  - (d) within three months after the end of each financial year, present an annual report, including the audited financial statements, at the school parents annual general meeting convened by the school board by at least 30 days' notice to such parents for -
    - (i) queries and comments by such parents; and
    - (ii) adoption by the majority vote of such parents present and voting at such meeting; and
  - (e) furnish a copy of the annual report adopted in terms of paragraph (d)(ii), to the Permanent Secretary.
- (15) A school board may not sell, exchange or otherwise encumber any movable or immovable property of a school acquired with the school development fund money without the Minister's approval.
- (16) Despite anything to the contrary in any law -
- (a) no tax or charge on income of a school development fund is payable by the fund; and
  - (b) no transfer duty, stamp duty or other related moneys is payable by a school development fund.

## PART VI

### EDUCATION DEVELOPMENT FUND

#### Establishment of Education Development Fund

26. There is established a fund to be known as the Education Development Fund.

#### Constitution of Fund

27. The Fund consists of -
- (a) moneys appropriated by Parliament for the Fund;
  - (b) moneys donated or accruing to the Fund from any source; and



- (c) interest derived from the investment of moneys standing to the credit of the Fund.

### **Object of Fund**

**28.** (1) The object of the Fund is, through financing by way of grants, loans or other assistance -

- (a) to provide for the establishment, upliftment, upgrading and improvement of educational facilities to the benefit of socio-economically disadvantaged learners;
- (b) to expand the assistance or aid including bursaries to socio-economically disadvantaged learners enrolled or to be enrolled at any school or institution of higher learning; and
- (c) to expand, improve, upgrade and uplift the educational programs for the socio-economically disadvantaged learners.

(2) Specific donations to the Fund may be utilized in a manner as agreed to between the Fund management and the donor.

### **Administration of Fund**

**29.** (1) The Permanent Secretary is, for the purposes of the State Finance Act, 1991 (Act No. 31 of 1991), the accounting officer of the Fund.

(2) The Permanent Secretary is responsible for the administration of the Fund, subject to the directions of the Minister given after consultation with the Advisory Council, and to the rules made under subsection (3).

(3) The Minister may, with the concurrence of the Minister of Finance, make rules relating to the administration of the Fund.

### **Banking account**

**30.** The Permanent Secretary must, subject to section 29, open and maintain a banking or savings account in the name of the Fund with -

- (a) any banking institution or building society registered under the laws governing banking institutions and building societies in Namibia; or
- (b) the Post Office Savings Bank established in terms of the Posts and Telecommunications Act, 1992 (Act No. 19 of 1992).

### **Financial year, bookkeeping and auditing of books of account**

**31.** (1) The financial year of the Fund ends on 31 March in each year.

(2) The Permanent Secretary must -

- (a) keep such books of account as are necessary to represent fairly the state of affairs and business of the Fund and to explain the transactions and financial position of the Fund; and
- (b) not later than three months after the end of each financial year, submit such accounts to the Auditor-General for audit.

(3) The Auditor-General must submit a report on the audit of the Fund to the Minister who must table the report in the National Assembly within 60 days, if the National Assembly is in session, or, if it is not in session, within 30 days after commencement of its next session.

(4) Any money of the Fund which is not required for immediate use may be invested as the Minister, with the concurrence of the Minister of Finance, may direct.

(5) Any unexpended balance in the Fund at the end of any financial year must be carried forward as a credit in the Fund to the ensuing financial year.

#### **Exemption from payment of tax and other charges**

32. No tax or charge on income or transfer or stamp duty imposed by or under any law is payable by the Fund.

### **PART VII**

#### **STATE SCHOOLS AND HOSTELS**

##### **Establishment and classification of state schools and hostels**

33. (1) The Minister, out of moneys appropriated for this purpose by Parliament, must -

- (a) establish and maintain state schools and classes for the provision of -
    - (i) primary education;
    - (ii) secondary education;
    - (iii) special education;
    - (iv) adult education; and
    - (v) education referred to in section 1(2); and
  - (b) establish and maintain hostels, teachers' resource centres, school clinics and other facilities which may be necessary for the benefit of learners and teachers in attendance at state schools and classes contemplated in paragraph (a).
- (2) The Minister may -
- (a) classify schools in categories or sections;
  - (b) divide an established school into sections;
  - (c) after consultation with the school boards and the Regional Educational Forum concerned, combine two or more established schools into one school; or
  - (d) name or rename any state school on the recommendation of the school board concerned.

##### **Closure of state school or hostel**

34. (1) The Minister may, after consultation with the Forum and the school board concerned, close or change the site of a state school or hostel.

(2) The Minister may temporarily close any state school, class or hostel on the ground of health or public interest.

(3) The temporary closure of a state school, class or hostel referred to in subsection (2), must -

- (a) not exceed four months; and
- (b) not continue after the ground on which it was based has ceased to exist.

#### **Medium of instruction in state school**

35. (1) Subject to subsections (3) and (4), the English language is the medium of instruction in every state school.

(2) Every state school must teach the English language as a subject from the level of the first grade.

(3) The Minister must determine the grade level for all state schools from which English must be used as medium of instruction, and may determine different grade levels for different categories of schools.

(4) The Minister, after consultation with the school board concerned and by notice in the *Gazette*, may declare a language other than English to be used as medium of instruction in any state school as the Minister may consider necessary.

#### **Provision of curricula, syllabuses, books and other materials**

36. The Minister, after consultation with the Advisory Council, must determine the curricula, syllabuses, books and other educational materials and, subject to such conditions as the Minister may determine, provide such curricula, syllabuses, books and other materials to all state schools.

#### **School calendar and hours of instruction**

37. (1) The Minister, after consultation with the Advisory Council, must determine -

- (a) the annual school calendar;
- (b) the minimum number of days in the year on which instruction must be given; and
- (c) the minimum hours of instruction.

(2) The Minister may approve a deviation from the school calendar determined under this section, either generally or for any particular school.

#### **Tuition, boarding and other fees**

38. (1) All tuition provided for primary and special education in state schools, including all school books, educational materials and other related requisites, must be provided free of charge to learners until the seventh grade, or until the age of 16 years, whichever occurs first.

(2) A learner to whom education, other than primary education, is provided in any state school, centre or class or the person responsible for such learner's education, must pay such fees as the Minister may determine.

(3) Any learner to whom boarding is provided in any hostel managed, controlled and maintained by the State, or the person responsible for such learner's maintenance, must pay such boarding fees as the Minister may determine.

(4) Different tuition, boarding or other fees may be determined for -

- (a) different state secondary schools or different grades at secondary school level;
- (b) any special course of study which does not form part of the normal school curriculum at a school;
- (c) different centres, or classes or different courses provided in such centres or classes;
- (d) different hostels or categories of hostels in which boarding is provided; and
- (e) different learners or categories of learners to whom education or boarding referred to in subsections (2) and (3), respectively, is provided.

#### **Exemption from payment of tuition, boarding or other fees**

39. The Minister, in the prescribed manner and form and on such conditions as the Minister may determine, may partially or fully exempt any learner or any category of learners from payment of tuition, boarding or any other fees.

#### **Freedom to practise religion at state school**

40. (1) A learner at a state school or hostel has the right to practise any religion which is not against public policy and to manifest such practice without fear or intimidation from anybody at the school or hostel.

(2) A school board may, after consultation with the school parents at a meeting convened by the school board by at least 30 days' notice to such parents, determine the conduct of religious observance at a school or hostel.

(3) A learner or staff member at a state school or hostel may attend religious observance at such learner's or staff member's own will.

### **PART VIII**

#### **PRIVATE SCHOOLS**

##### **Establishment of private school**

41. (1) A person has the right to establish and maintain a private school at such person's own expense, but is required to register such school in terms of section 42 before education is provided to any person at the school.

(2) The name of the owner of a private school, who may be a natural person, a body corporate, a trust, a church, or a registered welfare organization, and the name of the school must be clearly indicated in the register and on the school premises.

##### **Registration of private school**

42. (1) An application for the registration of a private school must be made to the Minister in the prescribed form.



- (b) to alter the school's power in respect of appointment, transfer or dismissal of teachers referred to in section 51;
- (c) to regulate the admission of learners to the school in accordance with section 54;
- (d) to draft and adopt a learners' code of conduct in accordance with section 55;
- (e) to establish a body of learners in accordance with section 60;
- (f) to offer any course of study instituted under section 61.

(2) The Minister may, by notice in the *Gazette*, categorize the private schools which receive aid under subsection (1), in accordance with the form of aid a school receives.

(3) If a condition subject to which aid was granted to a private school has not been complied with, the Minister may, subject to subsection (4), reduce or terminate the aid.

(4) The Minister may not under subsection (3) reduce or terminate any aid granted to a private school, unless the Minister has given the owner of the private school concerned a reasonable opportunity to make written representations giving reasons why the aid should not be reduced or terminated.

(5) Aid to a private school or hostel may be granted in the form of -

- (a) subsidy;
- (b) the provision of materials;
- (c) the provision of teachers who are staff members of the Ministry;
- (d) the combination of two or more of the forms of aid referred to in paragraphs (a), (b) and (c); or
- (e) any other form of aid determined by the Minister.

(6) As soon as practicable after the commencement of this Act, the Minister must review all existing aid granted to private schools before the commencement of this Act, and may, depending on the terms and conditions of the aid so reviewed -

- (a) extend the aid on improved terms and conditions in accordance with this Act; or
- (b) reduce or terminate the aid.

(7) The owner of a private school must be given a reasonable opportunity to make representations to the Minister before any aid is reduced or terminated under subsection (6)(b).

#### **Approval of curriculum, medium of instruction or examining body for private school**

**50.** (1) Subject to section 41, the Minister may upon application approve a curriculum, a language as medium of instruction, or an examining body for a private school, if such curriculum, medium of instruction or examining body differs from that applicable to state schools.

(2) The Minister may determine the minimum time to be allocated to the teaching of the English language, if the medium of instruction at a private school is not English.

#### **Powers of private school in relation to staff matters**

**51.** Subject to the Labour Act, 1992 (Act No. 6 of 1992), the power to appoint, transfer or dismiss teachers to or from posts on the establishment of a private school except teachers referred to in section 49(5)(c) -

- (a) vests in the owner or controlling body of the school; and
- (b) is subject to any restrictions determined in the conditions of registration or conditions of aid.

#### **Registration of learner for education at home**

**52.** (1) A parent may apply to the Minister for the registration of a learner to receive education at home.

(2) The Minister may only register a learner under subsection (1), if the Minister is satisfied that -

- (a) a situation exists that prevents the learner from attending or fully benefiting from the regular school attendance;
- (b) the registration is in the best interest of the learner;
- (c) the education to be received by the learner at home -
  - (i) meets the minimum requirements of the curriculum at state schools; and
  - (ii) is of a standard not inferior to the standard of education provided at state schools.

(3) The Minister may grant registration under subsection (2) subject to such conditions as the Minister may impose.

(4) The Minister may withdraw the registration referred to in subsection (1), if -

- (a) the situation contemplated in subsection (2)(a) ceases to exist;
- (b) the best interest of the learner is no longer served; or
- (c) the parent fails to comply with -
  - (i) the minimum requirements or standard referred to in subsection (2)(c); or
  - (ii) the conditions contemplated in subsection (3).

(5) The Minister may not withdraw the registration of a learner under subsection (4), unless the Minister -

- (a) has informed the parent of his or her intention to withdraw the registration and the reasons for such withdrawal; and
- (b) has granted to the parent a reasonable opportunity to make representations in relation to such withdrawal.

**PART IX****LEARNERS****Compulsory school attendance**

**53.** (1) Subject to subsection (2), school attendance is compulsory for every child from the beginning of the year in which the child attains the age of seven years, until -

- (a) the day the child completes primary education before reaching the age of 16 years; or
- (b) the last school day of the year in which the child reaches the age of 16 years.

(2) Notwithstanding the provision of subsection (1), the Minister may -

- (a) on grounds of health or other considerations pertaining to the public interest, by notice in the *Gazette* determine that during a specified period compulsory school attendance does not apply -

- (i) to children who reside in a geographic area which is specified in the notice; or

- (ii) to children of an age group which is specified in the notice; or

- (b) exempt a child entirely or partially from compulsory school attendance, if it is in the best interest of the child or in the public interest.

(3) Subject to subsection (2), the parent of a child for whom regular school attendance is compulsory, must ensure that such child is registered with a school and regularly attends school.

(4) The Minister may appoint any staff member to investigate the registration and the school attendance of any child for whom school attendance is compulsory.

(5) If the parent of a child referred to in subsection (3), fails or refuses to comply with subsection (3), the Minister must issue a notice in writing to the parent requesting the parent to comply with that subsection within the period specified in the notice.

**Admission of learner to state school**

**54.** (1) An application for admission of a learner to a state school must be made by the parent to the principal of the school in the prescribed form.

(2) The principal must inform the applicant in writing of the outcome of the application, whether successful or not, and if the application is unsuccessful, the reasons must be provided.

(3) The principal must notify the Minister in writing of any learner refused admission to the school on ground other than the school being full or the preferred subject choice not being offered at the school, and state that reason.

(4) The parent of a learner who has been refused admission to a state school may, within 14 days from the date of receipt by such parent of the letter of refusal, appeal in writing to the Minister against the principal's decision referred to in subsection (2).

(5) The Minister, within 20 days of receipt of the appeal referred to in subsection (4) and after considering the reasons and all the circumstances surrounding the matter and the representations made by the parent on appeal, may take any decision the Minister thinks fit.

#### **General rules of conduct and learners' code of conduct**

**55.** (1) The Minister must make general rules of conduct which must be incorporated into the learners' code of conduct of all state schools.

(2) Subject to subsection (1), a school board of a state school must, after consultation with the school parents, learners and teachers of the school, draft and adopt a learners' code of conduct.

#### **Corporal punishment upon learner**

**56.** (1) A teacher or any other person employed at a state school or hostel or private school or hostel commits misconduct, if such teacher or person, in the performance of his or her official duties imposes or administers corporal punishment upon a learner, or causes corporal punishment to be imposed or administered upon a learner.

(2) For the purposes of the Labour Act, 1992 (Act No. 6 of 1992), misconduct contemplated in subsection (1) constitutes a valid and fair reason for any disciplinary action.

#### **Suspension of learner from state school or hostel**

**57.** (1) If the principal of a state school has reason to believe that a learner at that school or accommodated in a hostel of that school is guilty of misconduct, the principal may charge the learner in writing with misconduct.

(2) The principal may suspend a learner from school or hostel or both at any time -

- (a) before the learner is charged with misconduct under subsection (1); or
- (b) after the learner is charged with misconduct under subsection (1), pending the conclusion of the disciplinary hearing in terms of subsection (6).

(3) A learner may be suspended only if-

- (a) the nature of the misconduct dictates that the learner be removed from school or hostel;
- (b) the possibility exists that the learner may interfere or tamper with witnesses or evidence; or
- (c) it is in the interest of the school or hostel community or public interest.

(4) The suspension of any learner may at any time be cancelled -

- (a) by the principal who has suspended the learner under subsection (2), if -
  - (i) in the principal's opinion all the reasons for the suspension have lapsed; or
  - (ii) the school board has recommended to the principal the cancellation thereof; or



- (b) by the Permanent Secretary, if in the Permanent Secretary's opinion no valid cause exists for the suspension.
- (5) The cancellation of a suspension of a learner does not affect any proceedings in connection with the charge of misconduct against the learner.
- (6) The disciplinary hearing on a charge of misconduct in terms of subsection (1) must be held before the school board within 20 days from the date the learner was charged, which may, upon a finding that the learner is guilty of misconduct -
  - (a) impose any prescribed penalty; or
  - (b) make a recommendation to the Permanent Secretary to expel the learner from school or hostel, if the learner is guilty of serious misconduct.
- (7) The chairperson of the school board must -
  - (a) in writing notify the parent of the decision of the school board made in terms of subsection (6), and if the learner is found guilty of misconduct, the reasons must be stated;
  - (b) at the request of the parent, made within seven days of receipt of the notification referred to in paragraph (a), furnish the parent with a copy of the record of proceedings, documentary evidence and reasons; or
  - (c) within seven days of the school board's finding and recommendation under subsection (6)(b), furnish the Permanent Secretary with the record of proceedings, documentary evidence, reasons and recommendation.
- (8) A parent may, within 14 days from the date of receipt of the copy of the record of proceedings, documentary evidence and reasons, appeal in writing to the Permanent Secretary against the finding of the school board, or any penalty imposed under subsection (6)(a) or against both.
- (9) The Permanent Secretary, within 20 days from the date of receipt of an appeal by the parent and after consideration of all the documents referred to in subsection (8) and the representations made by the parent, may -
  - (a) allow the appeal in whole or in part and vary or set aside the finding;
  - (b) dismiss the appeal and confirm the finding; or
  - (c) send the matter back to the school board to hold a further inquiry and to make a finding in terms of subsection (6).
- (10) A parent may, within 14 days from the date of receipt of the Permanent Secretary's decision under subsection (9)(b), appeal to the Minister against the decision of the Permanent Secretary, and the Minister may within 20 days of receipt of an appeal by the parent -
  - (a) allow the appeal in whole or in part and vary or set aside the decision; or
  - (b) dismiss the appeal and confirm the decision.

#### **Expulsion of learner from state school or hostel**

**58.** (1) The Permanent Secretary, within 14 days of receipt of the recommendation of the school board and all documents submitted to the Permanent Secretary in terms of section 57(7)(c) and after consideration of such recommendation and documents, may expel a learner from the state school or hostel.

- (2) The Permanent Secretary must -
- (a) in writing notify the parent of the Permanent Secretary's decision to expel the learner from the state school or hostel; or
  - (b) at the request of the parent made within seven days of receipt of the notification referred to in paragraph (a), furnish the parent with -
    - (i) a copy of the record of proceedings, documentary evidence, reasons and recommendation submitted to the Permanent Secretary in terms of section 57(7)(c); and
    - (ii) the Permanent Secretary's reasons.
- (3) A parent may, within 14 days from the date of receipt of the record of proceedings, documentary evidence, reasons and recommendation referred to in subsection (2)(b), appeal in writing to the Minister against -
- (a) the finding of the school board or the decision of the Permanent Secretary to expel the learner from the state school or hostel; or
  - (b) both the finding of the school board and the decision of the Permanent Secretary to expel the learner from school or hostel.
- (4) The Minister, within 20 days from the date of receipt of an appeal referred to in subsection (3) and after consideration of the documents referred to in that subsection, may -
- (a) allow the appeal in whole or in part and vary or set aside the finding of the school board, or the decision of the Permanent Secretary, or both; or
  - (b) dismiss the appeal and confirm the finding of the school board, and the decision of the Permanent Secretary.

### **Learner school reports**

**59.** (1) The principal of a state school must ensure that the parent of each learner is provided with regular reports in writing on the academic progress, general behaviour and conduct of the learner.

(2) Non-payment of the school development fund contribution contemplated in section 25(9)(a) in respect of any learner is not sufficient reason for withholding a report to be issued under subsection (1).

### **Learners' Representative Council**

**60.** (1) Every state secondary school must establish a body of learners to be known as the Learners' Representative Council in accordance with the prescribed guidelines which must determine the composition and duties and functions of such a council.

(2) The Minister, in the prescribed manner and form, may exempt a special school from complying with subsection (1), if it is not practically possible for a Learners' Representative Council to be established at the school.



**PART X****STUDY COURSES, EXAMINATIONS, CERTIFICATES  
AND DIPLOMAS****Institution of courses of study**

**61.** (1) Subject to subsection (2) and after consultation with the Advisory Council, the Minister may -

- (a) institute courses for the education, instruction or training of persons in state schools; or
- (b) abolish any course instituted under paragraph (a).

(2) The courses instituted under subsection (1) must comply with the minimum requirements and standards prescribed by the Board under section 14.

(3) The Minister must determine the nature and duration of, and the conditions for admission to, any course instituted under subsection (1).

**Examinations, certificates and diplomas**

**62.** (1) The Minister may cause -

- (a) examinations and other forms of assessment to be conducted in respect of courses instituted under section 61; and
- (b) certificates or diplomas to be issued to learners who have satisfied the minimum requirements and minimum standards prescribed by the Board in respect of such courses.

(2) No person may issue certificates or diplomas regarding any course of study in education or training provided for in this Act, except in accordance with this Act.

**Exemption from attending or conducting courses of study**

**63.** (1) The Minister may, on the recommendation of the Board, exempt -

- (a) a learner from attending any course instituted under section 61(1); or
- (b) a school from conducting any course instituted under section 61(1).

(2) The Minister may only grant an exemption under subsection (1), if the Minister is satisfied that -

- (a) the learner has already satisfied the minimum requirements in such course or another similar course and the examination or other form of assessment in such other similar course is equal to the minimum requirements and standards prescribed by the Board for such course;
- (b) the school is already conducting or proposes to conduct a course with similar minimum requirements and contents and the examination or other form of assessment in such other similar course is equal to the minimum requirements and standards prescribed by the Board for such course;
- (c) the exemption is in the public interest or the best interest of the learner, or the school concerned.

**PART XI****INSPECTION AND INVESTIGATION OF SCHOOLS****General inspections, investigation and information**

64. (1) All schools, classes, hostels and programs are subject to inspection and investigation to ascertain whether the provisions of this Act are being complied with.

(2) The principal or any other person in charge of a school, class, program or hostel must provide all the information required by the Minister in connection with the affairs of the school, class, program or hostel.

(3) Subject to subsection (4), the Minister may authorize any staff member to enter any school or hostel to inspect, investigate and monitor -

- (a) educational progress;
- (b) general administration;
- (c) services and facilities;
- (d) financial and other records;
- (e) teachers and other staff;
- (f) learners and boarders; or
- (g) any other matter which needs to be inspected or investigated.

(4) The inspection and investigation and monitoring of a private school must be on matters as determined by the terms and conditions of registration of the school.

(5) Any person carrying out any inspection or investigation referred to in subsection (3) or section 65(2), may at any reasonable time, with or without prior notification -

- (a) enter any school or hostel to which such inspection or investigation relates;
- (b) question any person who may be able to furnish any information which may be of any relevance for such inspection or investigation; or
- (c) by notice in writing direct any person who may be able to produce any material, book or document, or to furnish any information, which may be of any relevance to such inspection or investigation -
  - (i) to produce such material, book or document to such person; or
  - (ii) to furnish such information to such person.

**Health inspections and examinations**

65. (1) The Minister, after consultation with the Minister of Health and Social Services and after notification of school parents, may cause medical and dental examinations and inspections to be carried out in respect of learners and staff at any school or hostel.



(2) Subject to section 64(5), the Minister may, after consultation with the Minister of Health and Social Services, cause an inspection and examination of the premises, buildings and accessories of any school or hostel to be carried out regarding any health hazard.

(3) Subject to subsection (4), the Minister may, in consultation with the Minister of Health and Social Services, take such measures as may be necessary -

- (a) for the improvement of the physical and mental well-being of learners and staff referred to in subsection (1); and
- (b) for the promotion and preservation of hygienic conditions in, at or on the buildings and premises referred to in subsection (2).
- (4) A learner or staff member referred to in subsection (1) or the learner's parent -
  - (a) has the right to have examinations and inspections and measures referred to in subsections (1) and (3), respectively, carried out at such learner's or staff member's own cost by a private medical practitioner of such learner's or staff's own choice; and
  - (b) must provide proof of such examinations or inspections or measures within a period determined by the Minister.

#### **Reporting on inspections and examinations**

66. The person who carried out an inspection, investigation or examination in terms of section 64 or 65(2) must, within a period of 30 days -

- (a) issue a written report to the Minister on the findings and recommendations on such findings; and
- (b) furnish copies of the report to the principal, school board and any person in charge of the school or hostel so inspected or examined.

### **PART XII**

#### **ADULT EDUCATION**

##### **Adult education and literacy programs**

67. (1) The Minister, out of moneys appropriated for this purpose by Parliament and upon application by any community, may establish, maintain, and support adult education and literacy programs, and may prescribe -

- (a) minimum requirements for admission of minors over the age of 16 years;
- (b) the entitlement of adults to free or subsidized tuition;
- (c) the measures for the control, monitoring and evaluation of adults study groups;
- (d) curricula for and standards of courses of study;
- (e) the provision of staff training and materials development;
- (f) requirements and procedure for registration and subsidization of private and public sector bodies providing basic education to adults, including the manner of reporting on the progress of programs; and

- (g) the fees payable by persons enrolled for adult education or literacy programs or the fees payable in respect of any examinations or the issue of certificates to persons enrolled for such education or programs.

(2) The Minister may, after consultation with the Advisory Council, regional council and local authority councils and other bodies interested in education, establish such councils or other bodies for the co-ordination and efficient administration of adult education programs on a national, regional or local level.

### **PART XIII**

#### **CULTURAL INSTITUTIONS AND PRE-PRIMARY EDUCATION**

##### **Establishment of cultural institutions or organizations**

68. The Minister may, out of moneys appropriated for this purpose by Parliament -
- (a) establish cultural institutions or organizations, or facilitate or assist in the establishment of cultural institutions or organizations by private persons in order to promote culture and to ensure the enjoyment of cultural opportunities;
  - (b) cause cultural activities to take place at schools to enable the practice, maintenance and promotion of any culture, language or tradition;
  - (c) enter into agreements with any organization for the purpose of enhancing culture and related activities; and
  - (d) after consultation with the Advisory Council, regional and local authority councils and other bodies interested in culture, establish such councils or other bodies as may be necessary for the co-ordination and administration of cultural programs on national, regional or local level.

##### **Support for pre-primary education**

69. The Minister may provide support and assistance to any registered person or community providing pre-primary education, including -

- (a) professional advice and training of early childhood developers; and
- (b) the provision of appropriate programs and materials.

### **PART XIV**

#### **TEACHING SERVICE**

##### **Establishment of Teaching Service**

70. There is established a service to be known as the Teaching Service.

##### **Constitution of Teaching Service**

71. The Teaching Service consists of the persons employed in the Public Service, suitable and sufficient in number to provide education, both basic education and higher education, having regard to any arrangements for the utilization of persons who are teachers by qualification but employed otherwise than teachers.



**Object of Teaching Service**

72. The object of the Teaching Service is -

- (a) to secure the provision of education appropriate to the ages, abilities, aptitudes and needs of the persons receiving it; and
- (b) to serve the educational interests and the educational needs of all the people of the Republic of Namibia.

**Code of conduct for Teaching Service**

73. The Minister, in consultation with the Minister responsible for higher education, must, in addition to the regulations made by the Prime Minister under section 34(1)(i) of the Public Service Act, prescribe a code of conduct for the Teaching Service which determines, among others -

- (a) the professional conduct for teachers; and
- (b) the procedure to be followed and the measures to be taken in case of contravention of or failure to comply with any provision of the code.

**Establishment of Teaching Service Committee**

74. Notwithstanding the provisions of section 6(4)(a) of the Public Service Commission Act, the Commission must, in consultation with the Ministers responsible for education and the Prime Minister, establish a committee of the Commission to be known as the Teaching Service Committee to perform the functions referred to in section 75.

**Functions of Teaching Service Committee**

75. The functions of the Teaching Service Committee are -

- (a) to assist and advise the Commission on any matter concerning education ;
- (b) to assist and advise the Commission on any matter concerning the Teaching Service; and
- (c) to exercise any power and perform any function or duty which the Commission may delegate or assign to the Teaching Service Committee in relation to the Teaching Service.

**PART XV****GENERAL PROVISIONS****Prohibition of certain materials from schools or hostels**

76. The Minister may by notice in the *Gazette* prohibit any substance, article or publication from being distributed, traded, shown or used in or on the premises of a school or hostel to which this Act applies, if in the Minister's opinion such material is contrary to public interest or the best interest of learners.

**General offences and penalties**

77. (1) A person commits an offence, if such person -

- (a) discloses any confidential information on any examination conducted, or any certificate or diploma issued, in terms of section 62(1), in contravention

- of any rule made under section 15, or encourages another person to do so;
- (b) refuses to give information or knowingly gives false information relating to any matter of suspected breach of confidentiality regarding any examination conducted, or any certificate or diploma issued, in terms of section 62(1);
  - (c) falsifies or counterfeits or causes to be falsified or counterfeited any certificate or diploma purporting to have been issued in terms of section 62(1);
  - (d) presents or utters a false certificate or diploma purporting to have been issued in terms of section 62(1) knowing such certificate or diploma to be false;
  - (e) alters or tampers with, a certificate or diploma issued in terms of section 62(1);
  - (f) issues a certificate or diploma for any course of study in education or training provided under this Act in contravention of section 62(2);
  - (g) during the normal hours of school attendance employs, whether for remuneration or otherwise, or harbours a child who is subject to compulsory school attendance;
  - (h) refuses or fails -
    - (i) to furnish to any staff member appointed under section 53(4) to investigate the school attendance of any learner, any information relating to the investigation; or
    - (ii) to comply with the notice issued by the Minister under section 53(5);
  - (i) obstructs, hinders, handicaps or disturbs any staff member referred to in paragraph (h)(i) in the conduct of any investigation under section 53(4);
  - (j) obstructs, hinders, handicaps or disturbs any authorized person who carries out an inspection or investigation in terms of section 64(3);
  - (k) refuses or fails to allow any authorized person referred to in section 64(3) to enter any premises for inspection or investigation referred to in that section;
  - (l) refuses or fails to answer properly any question during any inspection or investigation referred to in Part XI;
  - (m) gives an answer to any question under section 64(5) which is false or incorrect in any material respect, knowing it to be so false or incorrect; or
  - (n) refuses or without reasonable excuse fails to produce any material, book or document, or to furnish any information in accordance with any directive referred to in subsection 64(5);
  - (o) distributes, trades, shows or uses in or on the premises of a school, or a hostel to which this Act applies, any substance, article or publication which has been prohibited by the Minister under section 76; or
  - (p) contravenes section 22 (7).
- (2) A person convicted of an offence -



- (a) in terms of subsection (1)(a) to (f), inclusive, is liable to a penalty not exceeding a fine of N\$12 000 or a period of four years imprisonment, or both such fine and such imprisonment; or
- (b) in terms of subsection (1)(g) to (p), inclusive, is liable to a penalty not exceeding a fine of N\$6 000 or a period of two years imprisonment, or both such fine and such imprisonment.

**Delegation of powers and assignment of duties or functions by Minister and Permanent Secretary**

**78.** (1) The Minister may -

- (a) by notice in the *Gazette*, delegate any power conferred upon the Minister by this Act, excluding the power to make regulations and to determine any appeal under this Act, to the Permanent Secretary or any staff member in the Ministry; and
- (b) in writing assign any duty or function imposed upon the Minister by this Act to the Permanent Secretary or any staff member in the Ministry.

(2) The Permanent Secretary may -

- (a) by notice in the *Gazette* delegate any power conferred upon the Permanent Secretary by this Act, excluding the power to determine any appeal under this Act, to any staff member in the Ministry; and
- (b) in writing assign any duty or function imposed upon the Permanent Secretary by this Act to any staff member in the Ministry.

(3) The Minister or Permanent Secretary -

- (a) is not divested of any power delegated or any duty or function assigned under subsection (1) or (2);
- (b) may vary or set aside any decision made under the power so delegated or perform any duty or function so assigned; and
- (c) at any time withdraw the delegation of any power or the assignment of any duty or function, as the case may be.

(4) If a decision varied or set aside under subsection (3)(b) relates to any person, that person may, within 14 days after the variation or setting aside of the decision, make written representation to the Minister or the Permanent Secretary, as the case may be, regarding such variation or setting aside.

**Limitation of legal proceedings**

**79.** (1) No legal proceedings of whatever nature may be brought in respect of anything done, omitted or purported to have been done or omitted in terms of this Act, unless such proceedings are brought within the period of 12 months from the date on which the claimant had knowledge of the claim, or might reasonably have been expected to have knowledge of the claim, whichever occurs first.

(2) No legal proceedings referred to in subsection (1) may be commenced before the expiry of 30 days after written notice of intention to bring such proceedings, containing full particulars of the claim, has been served on the defendant.

(3) If a notice contemplated in subsection (2) is given, the running of the period of 12 months referred to in subsection (1) is suspended during the period of 30 days referred to in subsection (2).

### Regulations

80. (1) The Minister may make regulations in relation to-
- (a) the minimum standards for the health and safety of learners and staff of schools and hostels;
  - (b) the inspection and investigation of schools and hostels;
  - (c) the measures for the provision of remedial and special education;
  - (d) the conditions and procedure under which grants, scholarships, bursaries, loans and other financial assistance may be granted, increased or withdrawn under section 28;
  - (e) the maximum fees and other charges payable in respect of learners at any state school;
  - (f) the appropriation of money of a school development fund and the manner of keeping records, books of accounts and stock taking;
  - (g) the appointment of auditors and related matters;
  - (h) the form of any application or agreement and further conditions, classification and procedures for registration, deregistration and re-registration of private schools;
  - (i) the records to be kept and the information and statistics to be provided by private schools;
  - (j) the requirements for admission of learners from private schools to examinations conducted by or under the supervision of the Ministry;
  - (k) the minimum and maximum age limit for learners to be admitted to state schools or to certain grades in such schools;
  - (l) the general criteria for admission of learners to state schools and the transfer of a learner from one school to another;
  - (m) the acts constituting misconduct by learners at state schools, including -
    - (i) procedures for dealing with cases of misconduct; and
    - (ii) responsibilities and powers of school principals, school boards and staff members of the Ministry in respect of misconduct;
  - (n) the qualification and nomination of candidates for, and procedure at, school board elections;
  - (o) any matter which in terms of this Act is required or permitted to be prescribed; and
  - (p) generally, any matter in respect of which the Minister considers it necessary or expedient to make regulations in order to achieve the objects of this Act.



(2) Any regulation made under this section may prescribe penalties not exceeding a fine of N\$2 000 or imprisonment not exceeding a period of six months, or both such fine and such imprisonment, for any contravention of or failure to comply with that regulation.

#### **Savings and transitional provisions**

81. (1) The school boards and school committees and other governing bodies for state schools which exist at the date of commencement of this Act must, within a period of 12 months from the date of commencement of this Act, be dissolved and constituted in terms of this Act.

(2) Any school fund, trust fund and other funds for a state school established in terms of any law repealed by this Act and existing at the date of commencement of this Act is deemed to be a school development fund established under section 25.

(3) A state school, class, hostel, teachers' resource centre, school clinic, and other facility, established under a law repealed by this Act and existing at the date of commencement of this Act, is deemed to have been established under this Act.

(4) a private school which has been registered in terms of any law repealed by this Act must be re-registered in terms of section 42 within the period of 12 months from the date of commencement of this Act.

(5) Unless otherwise provided in this Act, anything done under any law repealed by this Act, and which could have been done under a corresponding provision of this Act, is deemed to have been done under that corresponding provision.

#### **Application of Act**

82. This Act applies to basic education and related matters, and to all schools, classes, programs and other places in which educational activities, to which this Act applies, are performed.

#### **Repeal of laws**

83. The laws set out in the Schedule are repealed to the extent indicated in the third column thereof.

#### **Short title and commencement**

84. (1) This Act is called the Education Act, 2001, and comes into operation, subject to subsection (2), on a date to be determined by the Minister by notice in the *Gazette*.

(2) The provisions of paragraphs (g), (h) and (i) of subsection (1) of section 77 come into operation 12 months after the date determined under subsection (1).

**SCHEDULE****Repeal of laws***(Section 83)*

Number and year of law	Short title	Extent of repeal
Ordinance No. 27 of 1962	Education Ordinance, 1962	The whole
Act No. 24 of 1964	Black Special Education Act, 1964	The whole
Act No. 44 of 1970	Black Education Amendment Act, 1970	The whole
Act No. 63 of 1972	Coloured Persons in South-West Africa Education Amendment Act, 1972	The whole
Act No. 85 of 1972	Basters of Rehoboth Education Act, 1972	The whole
Act No. 86 of 1972	Nama in South-West Africa Education Act, 1972	The whole
Ordinance No. 21 of 1975	Education Ordinance, 1975	The whole
Act No. 30 of 1976	Coloured Persons in South-West Africa Education Amendment Act, 1976	The whole
Act No. 31 of 1976	Basters of Rehoboth Education Amendment Act, 1976	The whole
Act No. 32 of 1976	Nama in South-West Africa Education Amendment Act, 1976	The whole
Ordinance No. 16 of 1976	Education Amendment Ordinance, 1976	The whole
Act No. 56 of 1977	Black Education Amendment Act, 1977	The whole
Ordinance No. 3 of 1978	Education Amendment Ordinance, 1978	The whole
Act No. 67 of 1978	Black Education Amendment Act, 1978	The whole
Proclamation AG. No. 76 of 1978	Mentally Retarded Coloured, Baster and Nama Children's Training Proclamation, 1978	The whole
Ordinance No. 7 of 1979	Education Amendment Ordinance, 1979	The whole
Ordinance No. 15 of 1979	Second Education Amendment Ordinance, 1979	The whole
Act No. 30 of 1980	National Educational Act, 1980	The whole in so far as it applies to schools and education other than tertiary education.
Ordinance No. 3 of 1986	Education Ordinance, 1986	The whole
Act No. 12 of 1988	National Education Amendment Act, 1988	The whole in so far as it applies to schools and education other than tertiary education.







# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

N\$7.76

WINDHOEK - 27 December 2001

No.2673

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### Government Notice

#### OFFICE OF THE PRIME MINISTER

No. 254

2001

#### PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 16 of 2001:    Education Act, 2001.

**MINISTRY OF BASIC EDUCATION, SPORT AND CULTURE**

No. 187

2002

**REGULATIONS MADE UNDER THE EDUCATION ACT, 2001**

The Minister of Basic Education, Sport and Culture, under section 80 of the Education Act, 2001 (Act No. 16 of 2001), has -

- (a) made the regulations set out in the Schedule; and
- (b) repealed the Regulations made under the National Education Act, 1980 (Act No. 30 of 1980), published under Government Notices Nos. AG. 73 of 15 May 1982, AG. 74 of 15 May 1982 and 215 of 28 December 1987.

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#### PART I SCHOOL BOARD AT STATE SCHOOL

##### **Definitions**

1. In these regulations a word or an expression defined in the Act has that meaning, and -

“auditor” means a person appointed in terms of section 25(14) of the Act;



“chairperson” means the chairperson of the school board in question;

“hostel committee” means a hostel committee of a school board established under section 21 of the Act;

“presiding officer”, in relation to an election of a school board election, means the staff member designated in terms of section 19 of the Act;

“service point” means a teachers’ resource centre, a community learning and development centre, an arts centre, a cultural centre, a community library, or any other establishment of the Ministry, not being a school, where service is provided to assist learners, teachers and other members of public in any field of teaching, learning and entertainment;

“superintendent” means a teacher designated as superintendent of a hostel in terms of regulation 38;

“the Act” means the Education Act, 2001, (Act No. 16 of 2001); and

“user” means a user of a service point registered in terms regulation 49.

### **Qualifications for school parent to serve as member of school board**

2. (1) A school parent may not be elected as a member of a school board in terms of regulation 3, if such parent -

- (a) has been convicted of an offence and sentenced to a period of imprisonment without the option of a fine, except that he or she has received a free pardon in respect of such offence, or such period of imprisonment has expired at least five years prior to the date of his or her election as a member of the school board;
- (b) is employed as a staff member in the management cadre in the Ministry or as an inspector of education at the national or regional level;
- (c) is not a Namibian citizen or ordinarily resident in Namibia for at least two years;
- (d) is the spouse of a teacher who is attached to the state school for which the school board is to be elected; or
- (e) despite the fact that he or she has a child at the school for which the school board is to be elected, is a member of a school board of another state school.

### **Election of members of school board**

3. (1) Subject to section 81 of the Act, the Permanent Secretary, must determine the date for the election of members of school boards, and subsequent elections must be held 30 days before the expiry of a three years term of office of a school board.

(2) A staff member designated by the Permanent Secretary in terms of section 19 of the Act must act as presiding officer at every school board election.

(3) Whenever a subsequent election contemplated in subregulation (1) is due, the chairperson of the school board concerned must inform the Permanent Secretary in writing of the expiry date of the term of office of that school board.

(4) The number of members of a school board are determined on the basis of the number of learners receiving tuition at the school as set out in Annexure A.

(5) For the purpose of holding an election of school parents and teachers for representation on a school board, the presiding officer, as soon as possible after his or

her appointment, must convene a meeting of the parents and teachers of the state school concerned by means of a 14 days' written notice served on the school, and, if necessary, also broadcasted over the radio and published in newspapers circulating in the area, indicating the date, time, purpose and venue of the meeting.

- (6) (a) The quorum of a meeting referred to in subregulation (5) must be 10 per cent of the school parents and the majority of the teachers of the school.
- (b) If a quorum is not present at such meeting, the presiding officer must convene a second meeting within 30 days from the date of the meeting referred to in paragraph (a).
- (c) If the quorum requirement referred to in paragraph (a) is not met at the second meeting referred to in paragraph (b), the parents and teachers of the school present at that meeting constitute a quorum for the parents and teachers, respectively.
- (d) If at meeting convened under this regulation the parents and teachers of the school both form quorums as required under this regulation, the election as members of the school board must be held simultaneously, and only in cases where either the school parents or the school teachers do not form a quorum at that meeting.
- (7) (a) After a notice of a meeting of school parents and teachers has been given in terms of subregulation (5), the school parents and teachers, respectively, may submit to the presiding officer the names of school parents and teachers, respectively, as candidates for the election as members of the school board.
- (b) A nomination of a parent or teacher of a school for election as member of a school board must be in writing and signed by a nominator and two seconders, who must also provide, on the nomination form, their names and the names of their children enrolled as learners at the school.
- (c) Only a school parent or teacher of the school may nominate a candidate for election as member of a school board or second a nomination.
- (d) A nominee who accepts the nomination as a candidate for election as member of a school board must put the acceptance of nomination in writing.
- (8) (a) If on a date of the election of members of a school board at a meeting properly constituted in terms of subregulation (6) the presiding officer realized that the nominees for that election do not meet the required number candidates, the presiding officer must call for further nominations of school parents or teachers, whatever the case may be, and any nomination so made must comply with subregulation (7)(b) and (c).
- (b) After having satisfied himself or herself that every nominated school parent or teacher is qualified to be elected as member of the school board and that the nominees meet the required number of candidates, the presiding officer must declare the nominations closed and announce the names of the duly nominated candidates.
- (9) If, after the closing of nominations, the number of candidates for election as members of the school board -
  - (a) is equal the number of members determined in terms of subregulation (4), the presiding officer must declare the candidates as duly elected members of the school board; and



- (b) is more than the number of members determined in terms of subregulation (4) for the school parents and teachers, the presiding officer must conduct an election for school parents or teachers, as the case may be, or both such parents and teachers, in accordance with subregulations (10), (11) and (12).

(10) In the event of an election of school board members, every school parent present at a meeting properly constituted in terms of subregulation (6) -

- (a) is entitled to vote in that election; and
- (b) may cast a number of votes equal to the number of members to be elected, but may not cast more than one vote in respect of any particular candidate.

(11) The presiding officer in the election held in terms of subregulation (9)(b), must -

- (a) announce whether the election is to be conducted by secret ballot or whether there is a prior approval of the Minister for the election to be conducted by a show of hands; and
- (b) determine the procedure to be followed in that election and assign a sufficient number of persons to count the votes.

(12) After ascertaining the results of an election held in terms of this regulation, the presiding officer -

- (a) must declare the candidates who received the highest number of votes, but not exceeding the number of members determined in terms of subregulation (4) for representation of school parents and teachers on the school board, as duly elected members of the school board; and
- (b) in the event of an equality of votes resulting in more members than the number of members determined in terms of subregulation (4) for representation of school parents and teachers on the school board, must announce a re-election between the candidates who received equal number of votes, and the candidate, or where applicable the candidates, who receive the highest number of votes in such re-election must be declared duly elected member or members of the school board.

(13) Before an election for a school board members starts, in the case of a secondary school, the Head of the Learners' Representative Council must furnish the presiding officer with the names of one or two learners nominated to represent learners on the school board.

(14) An oath of secrecy referred to in section 19(6) of the Act, and which must be kept on record with other classified documents, must be in the form of Form 2 set out in Annexure C.

#### **Election of school board office-bearers**

4. (1) After having declared the candidates duly elected in terms of subregulation (12), the presiding officer must then preside over the election of the school board office-bearers, the chairperson, secretary and treasurer as referred to in section 19(3) of the Act.

(2) The secretary of the school board, within 14 days after the first meeting of a school board, must submit to the Permanent Secretary the names and addresses of the chairperson, secretary, treasurer and other school board members.

**Meetings of school board and committee of school board**

5. (1) A school board or committee of school board must hold at least one meeting in each school term.

(2) The chairperson in consultation with the principal must convene the first meeting of the school board and any subsequent meeting must be held on a date and at a time and place determined by the school board.

(3) The chairperson of the school board or committee of school board may convene a special meeting of the school board or committee on his or her own initiative or on written request of at least one third of the members of the school board or committee, as the case may be.

(4) A secretary must notify the members of a school board or committee of the school board in writing of the date, time and place of any meeting of the school board at least eight days before the meeting.

(5) If a school board has not made rules for conducting its meetings as contemplated in section 22(6) of the Act, the chairperson or any other person who acts as chairperson must determine the procedure at the meeting over which he or she presides.

(6) (a) If members of a school board or committee of a school board present at a meeting which has been properly convened do not form a quorum, the school board or committee of the school board must postpone the meeting to a venue and a date not less than eight days, but not exceeding 14 days.

(b) The secretary must give all members of the school board or committee of the school board notice in writing of the date and venue of a meeting determined in terms of paragraph (a).

(7) A school board or committee of a school board may allow any person, who in its opinion is able to furnish it with information on a matter which falls within its powers, to attend a meeting of the school board or committee of the school board, and while so attending such person may take part in the deliberations of that matter, but is not entitled to vote.

(8) When requested thereto by a school board or committee of the school board a staff member of the state school concerned must attend a meeting of the school board or committee of the school board, but may not be compelled to furnish information or reply to a charge against him or her.

(9) The Permanent Secretary may attend, or nominate a staff member in the Ministry, to attend any meeting of a school board or committee of a school board as observer or in an advisory capacity.

(10) (a) A secretary must keep minutes of every meeting of a school board or committee of a school board in a book kept for this purpose, and, at every meeting of such school board or committee of such school board, must record in that book the names of the members of the school board or committee of the school board who are present and absent, as the case may be.

(b) The minutes of each meeting must be laid before the school board or committee of the school board at its next meeting for adoption.

(c) If requested thereto by the Permanent Secretary, the secretary must forward to him or her a copy of the minutes of any meeting referred to in paragraph (a).



- (d) A member of a school board or committee of a school board or a duly authorized staff member in the Ministry has access to the minutes of any meeting of the school board or committee of the school board.

(11) The validity of any act, decision or proceedings of a school board or committee of a school board may not be invalidated by the reason that there was a vacancy amongst its members or by any defect in the appointment of any of its members.

(12) A member of a school board or committee of a school board may not receive remuneration for being such a member, or be entitled to transport or accommodation allowance, but such member may be compensated for expenses incurred by him or her to which the school development fund is liable, if the school board or committee has given a prior approval.

### **Confidentiality**

6. Where a school board or committee of a school board has decided that an information before it is of a confidential nature, a board or committee member who may disclose such information pursuant to section 22(7)(a) of the Act may only do so after having obtained permission of the school board or committee of the school board in writing.

### **Powers and functions of school board**

7. In addition to the powers and functions referred to in section 17 of the Act, a school board -

- (a) functions as the body through which the community of the school is able to participate in the administration of the school and its activities;
- (b) advises and makes recommendations to the Permanent Secretary regarding matters which concern the welfare and interest of the school;
- (c) subject to the Public Service Act, makes recommendations to the Permanent Secretary with regard to the promotion and transfer of teachers and other staff members;
- (d) investigates any complaint affecting the school, and, if necessary, refers such complaint to the Permanent Secretary;
- (e) considers inspection reports referred to in section 66 of the Act and, where necessary, makes recommendations to the Permanent Secretary on any matter mentioned in or resulting from such reports.
- (f) is responsible for the supervision of buildings, sites, fencing and accessories of the school concerned, and advises the Permanent Secretary on any shortcomings regarding such buildings, sites, fencing and accessories; and
- (g) performs any task which the Permanent Secretary may direct school boards in general or a school board in particular to perform.

### **Expenses incurred by school board or committee of school board**

8. Expenses incurred by a school board or committee of school board in the performance of its functions or in the exercise of its powers may be paid from moneys available in the school development fund of the state school concerned.

## PART II

## SCHOOL DEVELOPMENT FUND

**Failing or refusing to pay school development fund contribution**

9. Subject to sections 25(12) and 59 of the Act, a principal or teacher of a state school may not, in any way, prejudice a learner or discriminate against a learner on the reason that a parent has failed or refused to pay the school development fund contribution for such learner.

**Guidelines for determination of school development fund contribution amount**

10. (1) Subject to subregulation (3), a school development fund contribution amount determined under section 25(9) of the Act by a school board may not exceed N\$500 for secondary school, or N\$250 for primary school, per learner per year.

(2) Any school development fund contribution which is higher than the amount referred to in subregulation (1) at the commencement of these regulations may not be increased without the Minister's written approval obtained in the manner referred to in subregulation (3).

(3) If a school board wish to determine a school development fund contribution amount higher than the amount referred to in subregulation (1), or contemplated in subregulation (2), the school board, after consultation with the school parents at a meeting convened for that purpose by the school board by at least 30 days' notice to such parents, may apply in writing to the Minister for written approval to determine such higher contribution amount.

(4) The written application referred to in subregulation (3) must include -

- (a) the fully detailed estimates of income and expenditure of the state school for the current and the following year and a financial statement of the previous year;
- (b) a statement from a bank, building society or the Post Office Savings Bank referred to in section 25(4) of the Act, reflecting the current balance on the school development fund account;
- (c) a certified statement fully reflecting all monies invested with any institution to the benefit of the school development fund;
- (d) a statement motivating all projects, additional services, amenities or materials to be financed by the school development fund in the following years;
- (e) any further motivation to justify a school development fund contribution amount exceeding the amount referred to in subregulation (1) or contemplated in subregulation (2); and
- (f) the list of names and signatures of school parents who attended the meeting referred to in subregulation (3).

(5) The Minister, within 30 days of receipt of the application contemplated in subregulation (3), may -

- (a) grant the application with or without conditions;
- (b) dismiss the application; or
- (c) recommend an appropriate amount.

**Procedure for exemption from payment of school development fund contribution**

11. (1) A school board that considers to fully or partially exempt a parent from payment of the school development fund contribution under section 25(10) of the Act, apart from the procedure the school board may determine under section 25(9)(b) of the Act, must follow the procedure set out in this regulation.

(2) A parent may apply to the school board in writing for full or partial exemption on a form determined by the school board, and must provide the following information -

- (a) the name, grade and date of birth of his or her child or children enrolled at the school;
- (b) the name, grade and date of birth of other children enrolled at other schools in a form of statement written under oath that he or she is responsible for such other children's school development fund contributions and other fees applicable to them.
- (c) the name, residential address, postal address and alternative contact details of the parent;
- (d) occupation, employer and annual or monthly income of the parent, or both parents, where applicable, or particular of any other income the parent receives;
- (e) immovable and moveable property owned by the parent;
- (f) a motivation for the application for full or partial exemption; and
- (g) the parent's ability to make a school development fund contribution in kind as referred to in subregulation (7).

(3) Except where it is written under oath, a statement of annual or monthly income required under subregulation (2)(d) which is not a salary slip must be substantiated by documentation from the employer of the parent, or a signed statement from a community leader, church leader or any reliable person who is familiar with the social and financial position of the parent.

(4) In the case where both biological parents of a learner are deceased the learner is classified as an orphan and the school board must fully exempt the learner from payment of contribution to the school development fund, if there is proof that there is no provision for the learner's education.

(5) After considering the application for exemption referred to in subregulation (2), the school board -

- (a) may fully or partly exempt, or not exempt, the applicant from the payment of contribution to the school development fund;
  - (b) may approve payment of school development fund contribution in kind; and
  - (c) must inform the applicant in writing of its decision within 60 days of receipt of the application.
- (6) (a) A parent, whether partly exempted or not, must be given an option to pay school development fund contribution, either for the full year, per school term or monthly, and the school board must ensure that an effective bookkeeping system is maintained when recording all payments and issuing receipts.



- (b) A learner may not be denied enrolment at a state school solely on the ground that the parent fails to pay the full annual contribution to the school development fund for the previous year.
- (c) Despite paragraph (b), a parent who fails to pay the full annual contribution to the school development fund is held liable for all contributions in arrear and must commit himself or herself to one of the methods of payment referred to in paragraph (a), otherwise a civil action may be taken against the parent.

(7) The school board may accept a contribution in kind in the case where a parent is unable to make a financial contribution, but offers to render services to the school which may include -

- (a) the maintenance and renovation work on the buildings and equipments of the school and hostel and the cleaning of the school and hostel premises;
- (b) working with or assisting, school staff during bazaars, sport days or other occasions;
- (c) assisting with coaching of sport teams, or cultural activities of learners; or
- (d) any other service or contribution which the school board considers to be beneficial to the school and the learners.

#### **Utilization of school development fund**

12. A school development fund may be utilized for -

- (a) the purchase of educational materials and books;
- (b) the provision of sporting and cultural requisites;
- (c) the erection of buildings, stadiums and other structures, and the building of swimming-pools, the laying out of sports fields and the maintenance thereof, with the approval of the Permanent Secretary and the Ministry of Works, Transport and Communication.
- (d) the establishment of libraries and the maintenance thereof with the approval of the Permanent Secretary;
- (e) the undertaking of educational, sports and cultural tours;
- (f) the purchase, maintenance and operating of vehicles;
- (g) the payment of auditor's fees;
- (h) the payment of expenses incurred by the school board in the performance of its duties;
- (i) purposes which a school board thinks it necessary to promote the welfare and interests of a state school or the learners of the school.

#### **School development fund accounts and investment**

13. (1) All moneys received on behalf of a school development fund must be deposited in the account contemplated in section 25(4) of the Act within a period of 14 days of receipt.

(2) Moneys standing to the credit of a school development fund account and which is not required for immediate use or as a reasonable working balance must be invested in such manner as a school board may determine.

**Bookkeeping**

14. (1) The principal of a state school is responsible for the issue of all receipts for all moneys received on behalf of a school development fund, the keeping of cash registers and all receipt books, and for the safe custody of all books of account, including banking books, vouchers, certificates and other related documents.

- (2) (a) A receipt must be issued for any money received on behalf of a school development fund or for any cash payment made out of the school development fund.
- (b) Receipts must be made out in duplicate with carbon paper in serial number order and no alterations to the name or amount in words or figures thereon is be permissible.
- (c) If an error is made on a receipt, that receipt and its duplicate must be cancelled and another receipt issued.
- (d) A duplicate of a receipt which has been issued and the original of a cancelled receipt together with its duplicate must be kept safely in their original positions in the receipt book for inspection and auditing.
- (3) (a) Particulars of receipts issued must be entered weekly into the cash book.
- (b) The cash book must be balanced and reconciled with the school development fund account at the end of every month.

(4) The principal of a state school in consultation with the treasurer must determine and maintain an effective control system for the collection of school development fund contributions from parents by ensuring that -

- (a) a receipt is issued to a parent on payment; and
- (b) a staff member is designated to receive all payments and issue receipts, or alternatively, implement effective control measures to reconcile monies received with receipts and the lists of learners in cases where contributions are received by more than one staff member.

**Function arranged in aid of school development fund**

15. Whenever a function is arranged in aid of a school development fund by a state school or school board, the principal and the secretary of the school board, as soon as possible after the conclusion of such function, must jointly check the expenditure and revenue in regard thereto and draw up and sign a statement in connection therewith for submission to the school board.

**Payment from school development fund**

16. (1) The principal of a state school may keep a petty cash not exceeding N\$500 obtained by way of an advance from the school development fund.

(2) Payment from a school development fund which is not in accordance with the estimate of expenditure approved by the school board in terms of section 25(14) of the Act, may only be made -

- (a) with special authorization of the school board;
- (b) in urgent cases, with the approval of the chairperson in which case the approval of the chairperson must be put on the agenda of the next school board meeting for confirmation;



(3) No installment sale transaction as defined in section 1 of the Credit Agreements Act, 1980 (Act No. 75 of 1980), may be entered into on behalf of a school development fund.

(4) A school board that wants to effect any expenditure of not less than N\$5000 for the acquisition of goods or services for its school must obtain three quotations from the goods or service providers from which the school board may choose the best quotation.

(5) A person who contrary to the Act or these regulations approves any expenditure or makes any payment from a school development fund may be held liable for any loss the school development fund may incur as a result.

#### **Stores register, inventory and stock-taking**

17. (1) The principal of a state school must keep a stores register and inventory in which all stores, equipment and other movable property over which a school board exercises control must be entered.

(2) The Permanent Secretary must determine the manner in which the stores register and inventory referred to in subregulation (1) must be kept.

(3) A voucher must be made out in duplicate whenever stores, equipment or other movable property referred to in subregulation (1) are to be issued out and subsequently returned or consumed, and such voucher must be retained for inspection.

(4) (a) The principal and the treasurer of a school board must take stock of all stores, equipment and other movable property over which the school board exercises control not later than 30 November in each year.

(b) The principal and the treasurer must draw up and sign a certificate stating that stock has been taken, and reflect any shortage or surplus in stock, equipment or other movable property, as well as any worn, unserviceable, damaged or redundant stores, equipment and other movable property found during such stock-taking.

(c) The certificate referred to in paragraph (b) must be retained for inspection and auditing and a copy of the certificate must be forwarded to the regional director concerned and another copy to the school board.

(5) If the principal resigns or leaves his or her post for one reason or another, a person who takes over the principal's position, either on permanent or temporary basis, may only accept the responsibilities referred to in regulation 14, after having satisfied himself or herself as to the position of all the registers, books of account, petty cash and inventory referred to in regulations 14 and 16 and this regulation.

#### **Writing off and selling of certain assets**

18. A school board may not write off or alienate any asset over which the school board exercises control without the Minister's approval as referred to in section 25(15) of the Act, and such assets may only be sold at a public auction or by a procedure approved by the Permanent Secretary, and the proceeds must accrue to the school development fund concerned.

#### **Appointment of auditor**

19. (1) Subject to subregulation (2), a school board, at the beginning of every financial year, must appoint an auditor to audit the books and accounts of the school development fund for that year.

(2) If a school board is of the opinion that circumstances are such that the appointment of registered auditor is not practicable or desirable, the school board may



ask the Permanent Secretary to approve the appointment as auditor of any other suitable person with adequate knowledge of bookkeeping.

(3) A member of a school board does not qualify for appointment as auditor for the school development fund of the school to which he or she is a member of the school board.

#### **Inspection by staff member of Ministry**

20. (1) A staff member of the Ministry authorized in writing by the Permanent Secretary may at all reasonable times and without notice call upon the principal of a state school to submit the books of account, receipts books, registers, vouchers, certificates, other documents, cheque books, bank books, and cash on hand with regard to the school development fund for inspection by him or her.

(2) The staff member must submit the findings on the inspection referred to in subregulation (1) to the Permanent Secretary, the regional director and the chairperson of the school board concerned.

(3) If it appears that any loss or shortfall of cash, stores, equipment or other movable property over which a school board exercises control has been caused, or that any improper or unauthorized payment from a school development fund has occurred, in circumstances which indicate the commission of an offence, the staff member who did the inspection must notify the regional director and the school board not later than five days from the date the staff member finished with the inspection.

#### **Handover of assets when state school closed**

21. (1) If a state school is closed as contemplated in section 34 of the Act, the school board, on a date and in the manner determined by the regional director concerned, must hand over to the regional director or a staff member designated by the regional director -

- (a) all books of account, receipt books, registers, vouchers, certificates, cash in hand, cheque books, bank statement, bank books and the other documents in connection with the school development fund; and
- (b) inventory relating to stores, equipment and other movable property over which the school board concerned exercises control.

(2) The regional director must acknowledge in writing receipt of all documents and moneys referred to in subregulation (1).

(3) Any costs incurred in connection with the handing over in terms of this regulation must be charged against the school development fund concerned.

#### **Using of certain government property by school board**

22. A school or school board may not use government stores, including stationery and official franking facility for the business of the school board or the benefit of its school development fund.

### **PART III**

#### **LEARNER IN STATE SCHOOL**

##### **Admission to state school**

23. (1) An application for admission of a learner to a state school referred to in section 54(1) of the Act must be in the form of Form 1 set out in Annexure C.

(2) A child who is older than 10 years of age may not be admitted to the first grade in a state school without the approval of the Permanent Secretary.

(3) If the child referred to in subregulation (2) is under 16 years of age and the Permanent Secretary has not approved such child's admission to a state school, the Ministry must admit such child to an alternative learning programme.

(4) A child may not be admitted to a state school without the approval of the Permanent Secretary -

- (a) unless the child reaches the age of six years before January of the year in which the child's admission is applied for; or
- (b) at any other stage than during the course of the first 10 school days of the first school term of the year concerned, unless such child -
  - (i) has already been admitted to one school during the course of those days and is only being transferred to another school;
  - (ii) for health reason or other reason approved by the Permanent Secretary, was unable to attend state school or another school during the course of those days; or
  - (iii) is subject to compulsory school attendance in terms of section 53 of the Act.

(5) A person who is older than 21 years of age may not be admitted to any grade in a state school, unless such person had already been enrolled in a state school the previous year and was promoted to the next grade, but rather be admitted to an adult education referred to in section 67 of the Act or proceed with his or her education with a private education institution.

### **School attendance**

**24.** (1) If a learner is absent from a state school, it is the responsibility of the parent or the superintendent in the case of a boarder to inform the principal of the school of the learner's absence.

(2) If the learner is absent for more than two consecutive school days because of illness, the principal of a state school may require a certificate by a medical practitioner or senior nurse on the establishment of a medical centre, hospital or clinic, which -

- (a) indicates the nature of the learner's illness; and
- (b) declares that the learner is unable to attend school during a specified period.

(3) If a learner is absent from a state school for five consecutive school days, the principal must ascertain the cause for the learners absence, if it is not known.

(4) If the cause contemplated in subregulation (3) is that the parent of the learner referred to in that subregulation has taken that learner out of the state school contrary to the Act or these regulations or that the learner is absent from a state school without good cause, the principal must direct the parent of the learner in writing to return such learner to the state school within 3 days from the date of receipt of the direction.

(5) If a parent fails or refuses to comply with the written direction referred to in subregulation (4), -

- (a) the principal must refer the matter to the Minister to be dealt with in terms of section 53(5) of the Act, if the learner referred to in subregulation (3) is under compulsory school attendance in terms of that section; and



- (b) the learner is deemed to have been dismissed from the state school, if he or she is not under compulsory school attendance in terms of section 53 of the Act.

#### **Transfer of learner**

25. (1) The Permanent Secretary, -

- (a) after consultation with the parents, may transfer learners from one state school to another state school as a result of any division, classification or combination of schools as contemplated in section 33 of the Act; or the closure of a school in terms of section 34 of the Act; or
- (b) after consultation with the parent, transfer a child in need of special education from an ordinary state school to a special state school.

(2) The Permanent Secretary must advise a parent in writing of any learner transferred from a state school to another state school in terms of this regulation.

#### **Misconduct by learners, suspension and disciplinary hearing**

26. (1) A learner commits a misconduct, if such learner -

- (a) fails or refuses to comply with the general rules of conduct or learners' code of conduct made in terms of section 55(1) and (2) of the Act, respectively, or these regulations or the Act; or
- (b) is convicted of a criminal offence in a court of law and sentenced to a period of imprisonment or to a fine exceeding N\$100.

(2) When a principal is of the opinion that a learner is guilty of misconduct as contemplated in section 57(1) of the Act, the principal may charge the learner in writing with misconduct, and may suspend such learner from the school or hostel or both school and hostel in terms of section 57(2) of the Act by denying the learner further access to the school or hostel.

(3) Suspension of a learner from a school or hostel in terms of subregulation (2) may, in addition to conditions set out in section 57(3) of the Act, be done in circumstances where the principal is convinced that the further presence of the learner -

- (a) poses a threat to the safety and well-being of other learners or staff, or to the property of the school or other persons; or
- (b) is detrimental or possibly detrimental to the good order and discipline of the school or hostel and to the progress of other learners.

(4) When a principal charges a learner with misconduct as contemplated in subregulation (2), the principal must -

- (a) within 3 days from the date the learner was charged, notify the parent in writing of the charge, and of the suspension, if the learner is suspended, and attach a copy of the charge and inform the parent that a disciplinary hearing in terms of section 57(6) of the Act must be held within 20 days from the date the learner was charged and that the school board will advise the parent as to the date, time and place of hearing accordingly;
- (b) advise the chairperson of the school board to convene a meeting of the school board, not later than 10 days after the charge of a learner, and provide, in writing, to the school board at that meeting -



- (i) the name, age and grade of the learner;
- (ii) the nature of the misconduct;
- (iii) the circumstances under which the misconduct took place;
- (iv) the previous disciplinary record of the learner and any steps taken to correct the learner's previous conduct, if any; and
- (v) any additional information and particulars that the school board may require in connection with the misconduct.

(5) At the meeting referred to in subregulation (4)(a), the school board must decide on the date, time and place of the hearing, and thereafter notify the parent and the learner accordingly.

- (6) At a hearing -
  - (a) a school board may lead evidence in support of the charge, and also cross-examine the witnesses which a learner may call in support of his or her defence;
  - (b) a learner or parent may cross-examine any witness who gave evidence in support of the charge;
  - (c) after having closed its case, a school board must grant the learner charged an opportunity to state his or her case and to present witnesses in support of his or her defence, and grant the parent an opportunity to make a written or verbal submission to the school board;
  - (d) after the learner charged having closed his or her case, the school board must then consider, in camera, all the evidence presented and any argument and submission made for and against the charge, and deliberate on the merit of the charge; and
  - (e) after deliberation, the school board may find the learner guilty or not guilty of misconduct and must inform the learner and the parent of the finding forthwith.
  - (f) If a learner is found guilty for a contravention of any of the general rules of conduct or the Learners' code of conduct made in terms of section 55(1) and (2) of the Act, respectively, a school board, apart from a recommendation it may make to the Permanent Secretary to expel a learner from school or hostel as referred to in section 57(6)(b) of the Act -
    - (i) may impose any of the following disciplinary measures -
      - (aa) a final written warning;
      - (bb) a deprivation of a privilege to the learner for a specified period; or
      - (cc) suspension of the learner from school or hostel for a specified period; and
    - (ii) must inform the parent of the appeal procedure referred to in section 57(8), (9) and (10) of the Act.

### **Learners' Representative Council**

**27.** (1) A Learners Representative Council established in terms of section 60(1) of the Act; and which may be referred to as LRC in short, must be constituted annually during the last school term and before the final examinations start, and must conduct its affairs in terms of its constitution and these regulations.

(2) The LRC must be composed as follows -

- (a) an equal number of elected boys and girls, except where a school enrolls only boys or only girls, and which number is one member for every 40 learners of the school, rounded off to the nearest even number;
- (b) a teacher designate by the principal from amongst the senior staff members of the school to be the liaison teacher between LRC and the school management, and who may attend any meeting of the LRC, but has no right to vote.

(3) Annually, within seven days after the election of members of the LRC, the elected members must meet under the chairmanship of the liaison teacher and, by secret ballot and simple majority vote, elect LRC office-bearers of whom at least one must be a female -

- (a) a chairperson;
- (b) treasurer; and
- (c) a secretary.

### **Election committee**

- 28.** (a) The principal must appoint an election committee consist of four members, a senior teacher as chairperson and another teacher, both nominated by the teaching staff, and two learners nominated by the learners.
- (b) The election committee must organize and conduct the election referred to in regulation 30, count the votes and announce the results of the election at a time and place approved by the principal.

### **Nomination and election of members of the LRC**

- 29.** (1) (a) The election committee referred to in regulation 28, after consultation with the teaching staff of the school and the learners, must determine the procedure for the nomination and election of candidates for the election as members of the LRC.
- (b) A learner who has been charged with misconduct as contemplated in regulation 7 during the preceding 12 months, may not be nominated.
- (c) Only a learner who will be in one of the two highest grades at the school in the following year may be nominated.
- (d) A learner who is a member of the existing LRC may also nominate a candidate, and be nominated for re-election.

(2) The nomination and election of members of the LRC is an internal matter of the school and no campaigning, influence or involvement by a person, organization or group from outside the school is allowed.

**Powers and functions of LRC**

30. (1) The LRC, as a highest body of elected leaders of the learners of the school, must

- (a) promote the best interest and welfare of the school and its learners;
- (b) liaise between learners and the school management;
- (c) with approval of the principal, undertake projects and programmes aimed at -
  - (i) improving and maintaining the school environment and facilities;
  - (ii) providing cultural, sport and social activities for learners; and
  - (iii) improving the health and welfare of learners;
- (d) assist the principal and teachers to ensure adherence to the code of conduct of the school by all learners so as to create and maintain an orderly and disciplined school environment conducive to learning; and
- (e) perform any other reasonable tasks assigned to the LRC by the principal.

(2) The LRC may establish committees for specific functions or projects of the LRC, which may include learners who are not members of the LRC as members, and must designate a member of the LRC as chairperson of such committee.

**Vacation of LRC office**

31. (1) A member of the LRC vacates office, if such member is found guilty of misconduct under these regulations, or resign from office after giving a 30 days' notice to the chairperson of the LRC, or ceases to be a learner of the school.

(2) Any vacancy on the LRC that occurs during the term of the elected LRC must be filled by a learner selected by the principal in consultation with the teaching staff from a list of three learners nominated by the LRC.

**Meetings and decision of LRC**

32. (1) A Learners' Representative Council must hold at least two meetings during each school term.

(2) The secretary of the LRC must keep minutes of the proceedings of all meetings of the LRC and must present such minutes at the next meeting for adoption.

(3) The chairperson must chair all meetings of the LRC, and in the absence of the chairperson, the members present may elect any member to chair that meeting.

(4) The majority of all the members of the LRC forms a quorum for any meeting and the majority vote of members present at any meeting constitute a decision of the LRC.

**PART IV****HOSTEL AT STATE SCHOOL****Hostel committee**

33. (1) Every school board of a state school with a hostel must, for the efficient running of a hostel, establish a hostel committee under section 21 of the Act, consist of



not less than three and not more than five members as the school board may designate from its membership to the committee, and may include parents of learners boarding at the hostel concerned as the school board may appoint.

- (2) A member of a hostel committee holds office -
  - (a) for as long as such member is a member of the school board concerned; or
  - (b) for such period, not exceeding three years, as the school board may determine in writing at the time of the member's appointment, in case of a member who is not a school board member.
- (3) Where learners from more state schools are boarding and lodging in a hostel, each school board of every such school must designate an equal number of their members to the hostel committee of that hostel, and members of such committee may appoint an additional member from the school parents of such learners.
- (4) A school parent may not be appointed as member of a hostel committee if such parent is the spouse of a staff member who is on the establishment of that state hostel.
- (5)
  - (a) Subject to paragraph (b), the superintendent of a hostel is an *ex officio* member of the hostel committee, and may take part in the deliberations of any matter before such committee, but has no right to vote.
  - (b) A hostel committee may exclude the superintendent of a hostel or any other member of the committee from attending any meeting of the committee for any reason, including a conflict of interests.
- (6) A school board, under section 21 of the Act, must designate any member of the hostel committee to be the chairperson of the committee.
- (7) A hostel committee must appoint one of its members as secretary of the committee.
- (8) The secretary of a hostel committee, within 14 days of his or her appointment, must submit to the Permanent Secretary his or her name and address and the names and addresses of the chairperson and other hostel committee members.

#### **Vacation of office of member of hostel committee**

34. (1) A school parent member of a hostel committee vacates office, if such member -
- (a) has been absent from three consecutive meetings of that committee without the prior approval of the chairperson of the committee; or
  - (b) resigns from office after giving a 30 days' written notice to the chairperson of the committee, and if such member is the chairperson of the hostel committee, written notice to the chairperson of the school board.
- (2) A school board may remove from office a school parent member of a hostel committee, if the school board is satisfied that such member -
- (a) is physically or mentally incapable of performing his or her duties;
  - (b) has conducted himself or herself dishonestly or in a disgraceful manner; or
  - (c) has neglected his or her duty.

**Vacancies on hostel committee**

35. (1) Any vacancy on a hostel committee arising from any circumstance referred to in section 23 of the Act or regulation 34 must be filled for the unexpired portion in the manner referred to in regulation 33.

(2) If the office of an office-bearer referred to in regulation 33(7) becomes vacant on a hostel committee, the members of that committee must elect a member from amongst themselves to fill the vacancy for the unexpired portion of that member's term of office.

(3) The secretary of the hostel committee, within 14 days of the appointment referred to in subregulation (1), must furnish the Permanent Secretary with the name and address of any member of a hostel committee who has been so appointed.

**Functions of hostel committee**

36. (1) The functions of a hostel committee in relation to a hostel concerned are -

- (a) to advise the superintendent of a hostel and the school board in matters pertaining to the hostel;
- (b) to receive regular reports on the affairs of the hostel;
- (c) to inform itself on the conditions of hostel facilities, and advise the school board concerned in respect thereof;
- (d) to receive representations of boarders and parents of boarders and advise the superintendent with regard to such representations;
- (e) to investigate and advise upon such matters as the school board concerned or the Permanent Secretary may refer to it for investigation and report;
- (f) to exercise overall control over the management, bookkeeping and affairs of the hostel fund, where a hostel fund is opened by the school board, subject to the provisions of the Act regarding school development fund which apply with necessary change to hostel funds;
- (g) to recommend hostel rules and a code of conduct for boarders to the school board; and
- (h) to promote the general health, welfare and hygiene of boarders.

(2) Nothing contained in subregulation (1) may be construed as giving a hostel committee or any member thereof any powers to instruct any hostel staff to perform or refrain from performing any act.

(3) For the purposes of regulation (2) "hostel staff" means a person designated in terms of regulation 37 or 39, or a person appointed in terms of the Public Service Act to perform functions at a hostel, and includes household staff that perform domestic functions in such hostel.

**Superintendent**

37. (1) The Permanent Secretary, subject to the Public Service Act and upon such remuneration, allowances and conditions of service approved by the Public Service Commission, must designate a teacher on the establishment of a state school for which a hostel has been established to be a superintendent for that hostel.

(2) Subject to subregulations (4) and (5), a superintendent is designated for such period, not exceeding three years, as the Permanent Secretary may determine, and may be re-designated at the expiration of such period.

(3) The superintendent -

- (a) subject to these regulations, has direct supervision and control over the staff, boarders, buildings, equipment and materials of the hostel;
- (b) works under the direction supervision and control of the principal of the state school concerned; and
- (c) may recommend rules for the internal management and behavior of boarders, including periods of study to the hostel committee.

(4) The superintendent of a hostel must determine effective measures and procedures to control access of persons to the hostel to ensure the safety and security of boarders and staff of the hostel and the protection of properties.

(5) Subject to the Public Service Act, the Permanent Secretary may terminate the service of a superintendent, if the Permanent Secretary is reasonably satisfied that such superintendent is not performing his or her duties to the best interest of the boarders.

(6) A superintendent -

- (a) is suspended from his or her position as superintendent, if he or she is suspended as teacher in terms of the Public Service Act; or
- (b) vacates office, if found guilty of misconduct in terms of the Act or the Public Service Act.

### **Lodging of superintendent**

38. (1) A superintendent may lodge in the hostel for which he or she has been designated as superintendent, or in a residence on the premises of the state school or hostel concerned.

(2) Subject to subregulation (3), a superintendent may lodge in the official accommodation with his or her dependant children under the age of seven years free of charge and is entitled to free meals and all hostel supplies and services.

(3) During school holidays the persons referred to in subregulation (2) are entitled to official accommodation free of charge, but is not entitled to free meals or the use of hostel supplies or services, except the use of electricity and water.

(4) The spouse, dependant children of seven years of age and older or other relatives of a superintendent sharing accommodation in a state hostel with the superintendent must pay for such accommodation, and provide for their own meals, supplies and services.

(5) If a superintendent is granted leave other than sick leave for a period of more than 30 days he or she, with the written permission of the Permanent Secretary, may -

- (a) retain the position of superintendent; or
- (b) continue lodging and boarding with his or her family referred to in subregulation (2) in the official accommodation free of charge, but if such leave is a period longer than one school term he or she and his or her family must vacate such official accommodation on the day such leave commences.



(6) If a superintendent is granted sick leave in terms of the Public Service Act for a period exceeding 60 days, he or she, with the written permission of the Permanent Secretary, may continue lodging and boarding with his or her family in the official accommodation free of charge for such period as the Permanent Secretary may determine.

### **Supervisory teacher or person**

39. (1) The Permanent Secretary, in consultation with the principal of a state school and the superintendent of the hostel concerned, and based on the staffing norms for supervisors in a state hostel, may -

(a) designate, from amongst the teaching staff on the establishment of that school, a teacher or teachers to assist as supervisory teacher in that hostel; or

(b) subject to the Public Service Act, appoint on contract any other person to assist as supervisory person in that hostel.

(2) A person designated or appointed in terms of subregulation (1) must be of the same gender as the boarders accommodated in the hostel for which he or she has been designated or appointed, as the case may be.

(3) The Permanent Secretary may, in consultation with the principal of a state school and the superintendent of the hostel, at any time terminate a designation or appointment made in terms of subregulation (1), after giving the person concerned an opportunity to be heard.

(4) A supervisory teacher or person must perform his or her functions under the direction and control of the superintendent of the hostel concerned, and comply with all reasonable instructions given by the superintendent in relation to his or her duties as supervisory teacher or person.

(5) A supervisory teacher or person is entitled to such remuneration and allowances and conditions, for his or her services as may be determined in accordance with the Public Service Act.

(6) The supervisory teacher or person must lodge in the hostel for which he or she has been appointed, or in a residence on the premises of such hostel and is entitled to free meals and all hostel supplies and services, and his or her children under the age of seven years are also entitled to the same benefits.

(7) A spouse, dependant children of seven years of age and older or other relatives of a supervisory teacher or person sharing accommodation in a state hostel with the supervisory teacher must pay for such accommodation, and provide for their own meals, supplies and services.

(8) During school holidays a supervisory teacher or person and his or her dependant children under seven years of age are entitled to free lodging in the official accommodation, but are not entitled to free meals or use of hostel supplies or services, except the use of electricity and water.

(9) If a supervisory teacher or person is granted leave other than sick leave for a period longer than 30 days, he or she, with the written permission of the Permanent Secretary, may retain the position of supervisory teacher or person and continue lodging and boarding with his family in the official accommodation, but if such leave is for a period longer than one school term he and his family must vacate the official accommodation.

(10) If a supervisory teacher or person is granted sick leave in terms of the Public Service Act, for a period exceeding two months, he or she, with the written permission of the Permanent Secretary may continue lodging and boarding with his or her family in the official accommodation for such period as the Permanent Secretary may determine.

**Household staff, hostel matrons and institutional workers**

40. (1) (a) Posts of chief hostel matron, matron and institutional workers are created, retained or abolished on the establishment of each hostel according to quota's approved by the Public Service Commission.
- (b) The chief hostel matron and, in the case of hostels that accommodate primary learners, the hostel matron (child care) and their dependant children under the age of seven years are entitled to free lodging in the hostel, and regulation 38(3), (4), (5), (6) apply with necessary change.
- (2) (a) In terms of section 65 of the Act, all household staff in a hostel, on assumption of duty and annually thereafter, must be medically examined for tuberculosis and other infections or contagious diseases, but a staff member may exercise the option referred to in section 65(4) of the Act.
- (b) The superintendent must immediately notify the Permanent Secretary of any case of tuberculosis, any infections or contagious disease found during medical examination of household staff members, and the Permanent Secretary must determine the appropriate steps to be taken, subject to the Public Service Act.
- (3) (a) Except staff members mentioned in paragraph (b) of subregulation (1), all matrons and institutional workers may receive free meals at the hostel only when they are both on duty and physically present at the hostel during regular meal times.
- (b) All meals provided at a hostel must be taken in the dining room or another suitable place designated by the superintendent, or in another place by a person entitled to such meals if such person is unable to take meals at the designated place due to illness.
- (c) The superintendent, supervisors and other staff of a state hostel or any other person may not remove any food, supplies, accessories, equipment or other hostel property from the hostel or the hostel premises, unless written authorization is obtained from the Permanent Secretary.

**Quotas for boarding in state hostel**

41. The Permanent Secretary must determine the number of boarders in a state hostel, and such number may not be exceeded without the written approval of the Permanent Secretary.

**Criteria for admission of boarders in state hostel**

42. (1) Subject to regulations 38, 39 and 40, only learners may board in a state hostel.

(2) A learner may board in a state hostel, if such learner is a learner of the school to which the hostel is attached, and -

- (a) his or her parent is ordinarily resident in Namibia, or resident outside Namibia and the learner is in possession of a valid study permit and a written approval of the school board; and
- (b) does not live within a five kilometer radius from the hostel, or within the same local authority area in which the hostel is located.

(3) Upon a written application by a parent, learner or any concerned person and on the recommendation of a social worker, the Permanent Secretary, after consultation with the superintendent of a hostel, may approve a learner to board in a hostel, if such learner is a learner -



- (a) whose parent is absent from home for a considerable period and there is no other person to take care of the learner;
  - (b) with disability that warrants hostel accommodation;
  - (c) who is an orphan and does not receive proper guardianship at a place where he or she lives;
  - (d) who is being neglected or abused in one way or the other at a place where he or she lives; or
  - (e) who lives in unsafe conditions.
- (4) A parent whose learner desires accommodation in a hostel may apply to the superintendent for admission of the learner in the form of Form 1 set out in Annexure C.
- (5) A parent whose learner has been admitted in a state hostel must pay the boarding fees as set out in Annexure B.
- (6) A parent whose learner is boarding in a hostel and who cannot afford to pay boarding fees in terms of section 38(3) of the Act, may apply to the Minister for partial or full exemption from payment of boarding fees in the form of Form 3 set out in Annexure C.
- (7) The Minister may grant the exemption referred to in subregulation (6) upon such conditions as the Minister may determine under section 39 of the Act.

#### **Control over boarders**

43. (1) A superintendent must act in the place of parents and has control over, and apply discipline to, the boarders in the hostel for which he or she has been designated.

(2) A superintendent exercises the powers referred to in subregulation (1) during the period commencing on the date of a boarder's arrival for boarding in a hostel up to and including the date of such boarder's departure from such hostel at the close of each school term, whether or not such boarder is inside or outside the hostel premises or school premises.

#### **Medical attention of boarders**

44. (1) The parents of a boarder is responsible for the boarder's medical attention and expenses.

(2) Despite subregulation (1), the Permanent Secretary may provide to the superintendent for use by boarders in his or her hostel such medical supplies or first aid equipment as he or she may think necessary.

#### **Accommodation during school holidays**

45. (1) Boarders may only board in a hostel during a school holiday with a prior written approval of the Permanent Secretary.

(2) A learner boarding in a hostel during a school holiday in terms of subregulation (1) must pay boarding fees as set out in Annexure B.

#### **Accommodation of persons other than learners**

46. (1) The Permanent Secretary, at the request of the principal of a state school or the superintendent of a hostel and after consultation with the school board, may grant written approval that persons other than boarders may temporarily be granted boarding or lodging in that hostel.



(2) Persons referred to in subregulation (1) must pay such fees for the boarding and lodging referred to in that subregulation as the Minister, in consultation with the Minister of Finance, may determine.

## PART V

### BASIC EDUCATION AND CULTURE SERVICE POINT

#### Establishment of service point

47. (1) Before establishing a service point under section 33(1)(b) or 68 of the Act to provide learning resources, cultural activities, and related services to learners, teachers and other members of public, the Minister -

- (a) must consult with the regional authority or local authority in which the service point will be located;
- (b) may collaborate with any ministry, an educational institution, or a non-governmental body having similar objectives to those of the Ministry.

(2) The Permanent Secretary must keep and maintain a register of service points referred to in subregulation (1), indicating at least the name, location, facilities available, and contact details of the service point.

#### Head of service point

48. (1) The Permanent Secretary, for each service point, must appoint a staff member to be the head of service point, and such staff member is responsible for the administration of the service point and must carry out duties assigned to him or her in by this regulation or the Permanent Secretary in writing.

(2) The head of service point is an *ex officio* member of the committee of service point referred to in regulation 5, but has no right to vote on any matter at any meeting of the committee, and serves as a secretary to the committee.

#### User of service point

49. (1) A person may apply for registration as a user of a service point for any period not more than 12 months in a form determined by the service point concerned.

(2) A user may be issued with an identification card to give him or her access to a service point in a form determined by the service point concerned, and a user who is not in possession of such card may be refused access to the service point.

#### Service point user fees

50. A user of a service point may be charged fees as determined by the committee of service point -

- (a) for registration as user;
- (b) for the use of specified facilities at a service point;
- (c) for specified service rendered by staff and volunteers at a service point; and
- (d) as fines for non-compliance with the rules of a service point.

#### Committee of service point

51. (1) Each service point must have a committee to assist the head of service point in the running of the service point.

- (2) A committee of service point consists of seven members elected by users of a service point -
- (a) four members are to be elected at an annual general meeting of the users of the service point;
  - (b) three members are appointed by the Permanent Secretary from a list of responsible persons in the local community submitted 30 days before the Annual General Meeting of users by the head of service point, after consultation with the Governor of the Region in which the service point is located.
- (4) The members of a committee of service must elect a chairperson, deputy-chairperson and treasurer.
- (5) Elected members of a committee of service point may serve until the next annual general meeting.
- (6) The secretary of committee of service point must convene the first meeting of the committee within 14 days after the annual general meeting.
- (7) Members of the committee of service point are not entitled to any remuneration or allowances for attendance at meetings of the committee.
- (8) A committee of a service point must determine rules of the service point, subject to such guidelines and restrictions as the Permanent Secretary may determine.
- (9) A committee of a service point may recruit and utilize volunteers to assist in the work of the service point, and such volunteers may not receive any monetary reward.
- (10) A committee of service point may enter into agreements or contracts to further the work of the service point, and if there are any financial implications, such agreement or contract must first be approved by the Permanent Secretary.
- (11) The secretary of the committee of service point must keep minutes of all meetings of the committee, and the Permanent Secretary may at any time request copies of the minutes of any meeting of the committee.
- (12) The Permanent Secretary may attend, or nominate a staff member of the Ministry to attend, any meeting of the committee of service point as an observer or advisor.
- (13) The majority of the members of a committee of service point forms a quorum for a meeting of the committee, and the majority members present at a meeting constitutes a decision of the committee, and in the event of an equality of votes on any question the chairperson of the committee has a casting vote, in addition to his or her deliberative vote.
- (14) Meetings of a committee of service point must be held at times and places as determined by the chairperson of the committee.
- (15) A committee of service point must meet at least three times per year.
- (16) A committee of service point must open a banking or post office savings bank account for the purposes of a service point development fund established in terms of regulation 53.
- (17) Should any member of the committee of service point resign from the committee, or die, or otherwise vacate his or her office, the committee must appoint a suitable person to replace him or her for the remainder of the period up to the next annual general meeting, and -

(19) Any negotiable instrument to be issued on behalf of a service point development fund must be signed by the head of service point and the chairperson of the committee of service point, and if one of them is not available, the committee may designate treasurer or any other member of the committee to sign on his or her behalf.

(20) Any person who contrary to these regulations approves, authorizes or incurs any expenditure from a service point development fund or approves, authorizes or makes any payment from a service point development fund may be held liable for any loss suffered by the service point development fund.

#### **Handover of accounts and other financial documents**

**54.** (1) When a new head of service point is appointed to a service point, the outgoing head must arrange for the handover of all moneys, account books, bank statements and documents relating to the development fund, and after joint checking of such records and accounts, a certificate of such handover in a form determined by the service point concerned must be signed by both the incoming and outgoing heads of service point.

(2) If, due to death or other serious cause, the head of a service point is unable to perform the handover, the treasurer of the committee of service point must perform that function on behalf of the head of service point.

(3) Copies of the certificate referred to in subregulation (1) must be forwarded to the chairperson of the committee of the service point concerned and the Permanent Secretary.

#### **Closure of service point**

**55.** (1) If a service point is closed for whatever reason, the head of service point, on a date and in the manner determined by the Permanent Secretary, must hand over to the Permanent Secretary or a staff member designated by the Permanent Secretary -

- (a) all account-books, receipt books, registers, vouchers, accounts, certificates, cheque-books, bank-books and statements and other documents connected to the service point development fund; and
- (b) all cash in hand, stores, equipment and other movable property over which the committee of service point concerned exercises control.

(2) If, due to death or other serious cause, the head of service point is unable to perform the handover as contemplated in this regulation, the treasurer of the committee of service point must perform such function on behalf of the head of service point.

(3) The Permanent Secretary must in writing acknowledge receipt of all documents and money referred to in subregulation (1).

(4) Any costs incurred in connection with a handover in terms of this regulation must be paid from service point development fund concerned.

### **PART VI**

#### **PRIVATE SCHOOLS**

##### **Registration of private school**

**56.** (1) An application for registration of a private school referred to in section 42(1) of the Act must -

- (a) be in the form of Form 4 set out in Annexure C;



- (b) be accompanied by a motivation letter for the establishment of the private school detailing some of the factors referred to in subsection (2) of that section, and other supporting documentation, if any; and
  - (c) be submitted to the regional director concerned who will submit it to the Minister.
- (2) Upon receipt of the application referred to in subregulation (1), the Minister must verify every detail of the application, evaluate the application, motivation letter and other documents, and may ask for any missing information to be furnished to him or her.
- (3) In determining the standard of education referred to in section 42(2)(b)(iii) of the Act, the Minister must consider -
- (a) the experience and competence of the owner or members of the controlling body of the school with regard to education and the management of a school;
  - (b) the availability, number and suitability of physical facilities of the school, including classrooms, laboratories, libraries, workshops, offices, store rooms, toilets and other relevant structures;
  - (c) the curriculum to be offered by the school, with special consideration of the weekly and daily hours of tuition, the number and combination of subjects offered in each grade, the syllabus of each subject offered and the policy, method and frequency of assessment;
  - (d) the qualifications, teaching experience and competency of teachers of the school; and
  - (e) the availability and suitability of textbooks and other teaching and learning materials.
- (4) Upon registration, the Minister must issue to the owner of the private school so registered a reference number, and a certificate of registration in the form of Form 5 set out in Annexure C.
- (5) The register of private schools referred to in section 43 of the Act must be in the form of Form 6 set out in Annexure C, and the reference number referred to in subregulation (4), the name of the owner of a private school and the name of the school contemplated in section 41 (2) of the Act must be entered and clearly indicated in that register.
- (6) If the Minister declines any application for registration as private school that does not meet the requirements in terms of the Act and these regulations, the Minister must inform the applicant in writing of the reasons for his or her decision, and grant the applicant an opportunity to make further presentations in support of the application.

#### **Further conditions for registration as private school**

**57.** A private school that applies for registration in terms of section 42 of the Act, apart from the conditions referred to in that section, must meet the following further conditions before it is registered -

- (a) the school may not carry out or pursue any objectives or activities other than those which are purely educational or allowed under the Act;
- (b) the school must furnish any applicant with full details concerning school fees and the conditions of payment, before a learner is enrolled at the school;

### **Participation of private schools in national and regional training programmes and competitions**

**61.** (1) A teacher who teaches at a private school and who is not a staff member of the Ministry may, at the written request of the owner or principal of the private school, participate in in-service training and professional upgrading programmes managed by the Ministry, but the Permanent Secretary may determine that all costs of such participation may be covered by the private school.

(2) All private schools, their teachers and learners may participate in any national or regional programme, event or competition organized by or in cooperation with the Ministry, but the Permanent Secretary may determine that the cost of such participation may be covered by the school, in the case of a private school that does not receive aid or state-aided private school that receives subsidy for teachers salaries.

### **Inspection of private school**

**62.** (1) The owner or the principal of a private school, or state-aided private school that receives subsidy for teachers salaries may, in writing, request the Minister to conduct an inspection or investigation of the school in order to monitor the educational standard and quality of teaching and learning at the school, and the Minister may determine that the cost of such inspection or investigation requested by the school be paid by the school.

(2) All state-aided private schools, except a state-aided private school that receives only subsidy for teachers salaries, are subject to inspections, investigation and the provision of advisory services on the same basis as is applicable to state schools.

## **ANNEXURE A**

TABLE FOR DETERMINATION OF NUMBER OF  
SCHOOL BOARD MEMBERS  
(Regulation 3(4))

Number of learners at school	Number of members of school board
Less than 100	5
100 to 199	7
200 to 399	9
400 to 599	11
600 and more	13

## ANNEXURE B

BOARDING AND LODGING FEES  
(Section 38, regulations 42(5) and 45 )

## PART I

## Boarding fees for learners in state school hostels

HOSTEL GRADE	HOSTEL FEES					
	1 CHILD N\$	2 CHILD N\$	3 CHILD N\$	4 CHILD N\$	5 CHILD N\$	MORE THAN 5 CHILDREN N\$
<b>A</b>						Amount for 5 children divided by 5
Per year	198	356	475	554	594	119
Per trimester	65	119	158	185	198	40
Per month	16	33	40	46	50	10
<b>B</b>						
Per year	248	446	595	694	744	149
Per trimester	83	149	198	231	248	50
Per month	21	37	50	58	62	12
<b>C</b>						
Per year	298	536	715	834	894	179
Per trimester	99	179	238	278	298	60
Per month	23	45	60	70	75	15
<b>D</b>						
Per year	619	1 114	1 486	1 733	1 857	371
Per trimester	206	371	495	578	619	124
Per month	52	93	124	144	155	31
<b>E</b>						
Per year	825	1 486	1 980	2 310	2 475	495
Per trimester	279	495	660	770	825	169
Per month	69	124	165	193	206	41



## Annexure B

## PART II

## Tariffs for meals and accommodation for essential boarders in state school hostels

PERSONS MAKING USE OF ACCOMMODATION		TARIFFS
1	<b>ESSENTIAL BOARDERS</b>	
1.1	<b>Superintendent, husband/wife and legally dependent children</b>	
1.1.1	Superintendent	Free
1.1.2	Spouse	Full hostel fees as applicable for that hostel
1.1.3	Children, 0-6 years of age	Free
1.1.4	Children, 7 years and older, accommodated in same allocated quarters as the superintendent	Full hostel fees as applicable for that hostel
1.1.5	Children, 7 years and older, accommodated outside allocated quarters as the superintendent	Full hostel fees as applicable for that hostel
1.2	<b>Supervisory personnel, husband/wife and legally dependent children</b>	
1.2.1	Supervisor	Free
1.2.2	Spouse	Full hostel fees as applicable for that hostel
1.2.3	Children, 0-6 years of age	Free
1.2.4	Children, 7 years and older, accommodated in same allocated quarters as the supervisor	Full hostel fees as applicable for that hostel
1.2.5	Children, 7 years and older, accommodated outside allocated supervisor quarters	Full hostel fees as applicable for that hostel
1.3	<b>Chief hostel matron and hostel matron (child care)</b>	
1.3.1	Chief hostel matron and hostel matron (child care)	Free
1.3.2	Spouse	Full hostel fees as applicable for that hostel
1.3.3	Children, 0-6 years of age	Free
1.3.4	Children, 7 years and older, accommodated outside allocated matrons quarters	Full hostel fees as applicable for that hostel
1.4	<b>Hostel matrons, other than the hostel matron (child care) if space is available and with the permission of the regional director</b>	Pay house rent in terms of tariffs approved by PSC. Children pay the same amounts as children of chief hostel matron

## Annexure B

## PART III

## Tariffs of meals and accommodation for non-essential boarders in state school hostels

PERSONS MAKING USE OF ACCOMMODATION		TARIFFS
1.	<b>Non-essential boarders (only teachers)</b>	
1.1	Adult non-essential boarder	House rent in terms of tariffs approved by PSC plus N\$ 10.00 per day per person for 3 meals
1.2	Children of non-essential boarders under 3 years of age	Free lodging, parents are responsible for their needs
1.3	Children of non-essential boarders over 3 years of age	Full hostel fees as applicable for the hostel
2.	<b>Adult visitors during school terms (only groups and individuals for educational purposes will be accommodated)</b>	
2.1	Per meal	N\$10.00
2.2	Meal per day	N\$30.00
2.3	Tea/Coffee	N\$2.00
2.4	Tea/Coffee with snacks	N\$3.00

PERSONS MAKING USE OF ACCOMMODATION		TARIFFS
2.5	Overnight per bed	N\$30.00
2.6	Accommodation per day (meals included)	N\$60.00
2.7	Accommodation per week	N\$420.00
2.8	Accommodation per month (meals included)	N\$1600.00
3.	<b>Adult visitors during school holidays when personnel have to be specially on duty (only groups and individuals for educational purposes will be accommodated)</b>	
3.1	Lodging per day (meals excluded)	N\$40.00
3.2	Accommodation per day (meals included)	N\$70.00
4.	<b>Visiting children and supervisory staff</b>	
4.1	Namibian learners (Admission members of hostel boarders needed for exemption)	
4.2	Children and learners from outside Namibia	
4.3	Namibian learners	
	(a) Per meal	N\$3.00
	(b) Meals per day	N\$9.00
	(c) Coffee/Tea	N\$1.00
	(d) Tea/Coffee with snacks	N\$1.50
	(e) Overnight per bed	N\$5.00
	(f) Accommodation per day (meals included)	N\$14.00
	(g) Accommodation per week (meals included)	N\$90.00
5.	<b>Guests of essential and non-essential boarders (if accommodation is available and provided that guests only accepted with the knowledge and approval of the superintendent)</b>	
5.1	Lodging per day during school terms and holidays (meals excluded)	N\$20.00
5.2	Accommodation per day during school terms (meals included)	N\$30.00

## ANNEXURE C

### FORMS

#### ARRANGEMENT OF FORMS

Form	Regulation
1. Application for admission of learner to state school and hostel	23 and 42(4)
2. Oath of secrecy by school board member	3
3. Application for partial or full exemption from payment of boarding fees	42(6)
4. Application for registration of private school	56(1)(a)
5. Certificate of registration as private school	56(3)
6. Register of private schools	56(4)

## FORM 1



## MINISTRY OF BASIC EDUCATION, SPORT AND CULTURE

EDUCATION ACT, 2001:  
APPLICATION FOR ADMISSION OF LEARNER  
TO STATE SCHOOL AND HOSTEL  
(Section 54, regulation 23 and 42(4))

## PART A

## A. APPLICATION FOR ADMISSION OF LEARNER TO STATE SCHOOL

Name of School: .....

School's Address: .....

Tel. No.: .....

Fax No.: .....

B. Application for Admission to Grade : .....

For the year : .....

C. Particulars of Learner

Surname: .....

Male

☐

First Name(s): .....

Female

☐
Date of Birth: 

--	--	--	--

 Y 

--	--

 M 

--	--

 D

Nationality: .....

Language which learner knows best: .....

Current grade (where applicable): .....

Name of current school: .....

Current school's: Postal address: .....

Tel. no. ....

Fax no. ....



Brothers and Sisters enrolled at the school for which application is made -

Name

Grade

1. ....
2. ....
3. ....

**D. Additional information on learner**

General Health condition / allergies: .....

Learning difficulties (if any): .....

Grades repeated at school: .....

Pre-primary school attended (Gr. 1 only): .....

Means of Transport to / from school: .....

Religion or church:.....

**E. Particulars of Parents**

**FATHER / GUARDIAN**

Title (Mr/Dr. etc) ..... Initials .....

Surname: .....

Telephone:      Home: .....  
                            Work: .....  
                            Cell: .....

Residential Address .....

Postal Address .....

Occupation: .....

**MOTHER / GUARDIAN**

Title (Mr/Dr. etc) ..... Initials .....

Surname: .....

Telephone:      Home: .....  
                            Work: .....  
                            Cell: .....

Residential Address .....

Postal Address .....

Occupation: .....

Mark X in the appropriate block: Send correspondence to

Both parents

☐

Father

☐

Mother

☐

Learner lives with: Both parents

☐

..

☐

Father..

☐

Mother .....

☐

Guardian

Persons to be contacted in case of an emergency if parents are not available -

Name .....

Telephone number ..... (H) ..... (W)

Signature of ..... Father/Mother/Guardian

Date: .....

1. This application is only valid for the current year, no waiting lists will be kept for the following year.
2. You will be notified in writing regarding this application.
3. Misleading or false information will result in the immediate cancellation / disqualification of this application.
4. ONLY APPLICATIONS WITH THE FOLLOWING WILL BE PROCESSED:
  - A) A certified copy of the Birth Certificate / passport of the learner.
  - B) A certified copy of the previous term's report (if this is applicable)
5. Photocopies WILL NOT be made at the school.
6. THIS APPLICATION DOES NOT GUARANTEE A PLACE AT THIS SCHOOL & PARENTS SHOULD ALSO APPLY AT OTHER SCHOOLS.
7. The number on the application is only for administrative purposes and does not indicate order of priority, as preference will be given in order of the following criteria:  
Namibian, proximity to the school, Gr. 1's turning 6 before 31 December, siblings at the school.

**F. ADMINISTRATIVE INFORMATION (to be completed by the school)**Application number: Date received  Y  M  DProve of learner's age: Birth certificate ☐ Yes ☐ NoBaptism certificate ☐ Yes ☐ NoLatest school report / proof of promotion to next grade ☐ Yes ☐ NoProof of Namibian citizenship ☐ Yes ☐ NoIf not a Namibian citizen, documentary proof of one of the following -(a) Parent's status as legal resident on valid work permit ☐ Yes ☐ Noor (b) Parent's status as foreign diplomat ☐ Yes ☐ Noor (c) Learner's valid study permit ☐ Yes ☐ No

## Form 1

## PART B

## APPLICATION FOR ADMISSION OF LEARNER TO STATE SCHOOL HOSTEL

(Application for admission to hostel must be submitted annually before 31 July, to the superintendent of the hostel concerned).

1. Name of parent/guardian: .....

2. Particulars of children for whom applications is made:

(separate forms must be completed for children of the same household accommodated in different hostels)

Name	Surname	Sex	Date of birth	Name of hostel/s which admission is desired	Period for which residence is sought	Previous/ present hostel were children were/are admitted	Present grade of learner

3. Name of nearest appropriate state school: .....

4. Distance between your residence and this school: .....

5. I/we undertake to:

- (i) pay the hostel fees monthly/ trimesterly/yearly in advance; and
- (ii) abide by the hostel rules.

Postal address .....

Residential address .....

District/town .....

6. Signature of parent/guardian: .....

You are kindly requested to:

- 1. ascertain beforehand from the superintendent whether accommodation is available;
- 2. pay hostel fees strictly in advance at the beginning of each trimester;
- 3. give a three months' notice if you wish to remove your child from the hostel (on failure you are liable for a trimester's fees);
- 4. advice the regional office, principal and superintendent of any change of residential or postal address/.



**CONTROL** (for office use only)

First term			Second term			Third term		

Remarks:

.....

.....

.....

Application approved/not approved

Signature: Superintendent ..... Date.....

*Official Stamp*

## FORM 2



## MERGEFORMAT

## MINISTRY OF BASIC EDUCATION, SPORT AND CULTURE

EDUCATION ACT, 2001:  
OATH OF SECRECY BY SCHOOL BOARD MEMBER  
(Section 19(6), regulation 3)

"I, ..... , hereby solemnly swear / affirm that I will not divulge to a third person any confidential information obtained in the course of my involvement as a member of the school board of ..... school; unless duly authorized thereto by the chairperson of the school board, or an authorized staff member of the Ministry, or a court of law."

.....  
Member's name

.....  
Member's signature

.....  
Date

.....  
Witness's name

.....  
Witness's signature

.....  
Date

## FORM 3



## MINISTRY OF BASIC EDUCATION, SPORT AND CULTURE

EDUCATION ACT, 2001:  
APPLICATION FOR PARTIAL OR FULL EXEMPTION  
FROM PAYMENT OF BOARDING FEES  
(Section 39, regulation 42(6))

Name of parent/guardian: .....

Address of parent/guardian: .....

Address of employer: .....

Occupation: .....

<b>Note:</b> Paragraph A to be completed by all parents/guardians Paragraph B to be completed by all bona-fide farmers and communal farmers						
<b>PARAGRAPH A:</b> Proof of the undermentioned income and expenditure must be attached						
		<b>SELF</b>		<b>SPOUSE</b>		<b>TOTAL</b>
1	Gross salary per month					
2	Pension/annuity					
3	Maintenance payable in respect of children					
4	Any other income or value of benefits (specify)					
<b>GROSS INCOME TOTAL</b>						
<b>Less household expenses as specified on attached list compiled by parent</b>						
<b>NETTO INCOME</b>						
<b>PARAGRAPH B:</b> This form to be filled in by bona-fide and communal farmers						
<b>Assets</b>		<b>N\$</b>	<b>C</b>	<b>Liabilities</b>	<b>N\$</b>	<b>C</b>
a.	(i) Present market value of farms, plots and erven			a. Bond on farms		
	(ii) State size			Name/s and address of bond-holders		
b.	Present market value of other immovable property			.....		
c.	Livestock			.....		
	Number of cattle .... present market value			.....		
	Number of calves .... present market value			.....		



	Number of cattle .... present market value			.....		
	Number of calves .... present market value			.....		
	Number of sheep ..... present market value			b. Advances of land Bank only		
	Number of lambs .... present market value			c. Other loans		
	Number of goats .... present market value			Name/s and address/es of creditors		
	Number of horses.... present market value			.....		
	Number of mules..... present market value			.....		
	Number of poultry .. present market value			.....		
	Number of pigs ..... present market value			.....		
d.	Value of farm implements and machines Cash on hand, in bank, building society, savings acc.			.....		
e.	Cash on hand, in bank, building society, savings acc.					
f.	Amount due to me/us					
g.	Insurance policies maturing within a year.					
h.	Moneys deposited with Master of Supreme Court on behalf of children					
i.	Vehicles (specify)					
j.	Other assets (specify)					
	<b>TOTAL</b>					

**Declaration:** I/we hereby apply for partial/full exemption from payment of boarding (hostel) fees  
I/we solemnly declare that the above particulars are to the best of my/our knowledge and belief true and correct; that I/we have no objection to taking the oath; that I/we regard the oath as binding on my/our conscience, so help me/us God.

Signature of parent/s 1..... 2.....Date: .....

**Commissioner of Oaths:**

I declare that the applicant/s has/have declared and signed this application before me; and that I impress on him/her/them that a false declaration is punishable by law.

Signature: Commissioner of Oaths ..... Date: .....

Full names: ..... Capacity .....

Address .....

## FORM 4



## MINISTRY OF BASIC EDUCATION, SPORT AND CULTURE

EDUCATION ACT, 2001:  
APPLICATION FOR REGISTRATION OF PRIVATE SCHOOL  
(Section 42(1), regulation 56(1)(a))

1. Name of Private School			
2. Postal Address			
3. Address where the school is situated			
4. Telephone Number (including code)		5. Magisterial District	
6. Full name and address of applicant			
7. Capacity of applicant (Please attach constitution)			
8. If applicant is manager, supply name and address of owner/organization that will control school [Attach the constitution of the organization]			
9. Names and addresses of any other educational institutions or schools Operated by the same manager/owner/organization			
10. Details of curriculum to be followed			
10.1 Levels			
Lower Primary	Yes/No	Government Curriculum	Yes/No
(Grades 1 to 4)		Other Curriculum (Details attached)	
Upper Primary	Yes/No	Government Curriculum	Yes/No
(Grades 5 to 7)		Other Curriculum (Details attached)	
Junior Secondary	Yes/No	Government Curriculum	Yes/No
(Grades 8 to 10)		Other Curriculum (Details attached)	
Senior Secondary	Yes/No	IGCSE	Yes/No
(Grades 11 and 12)		Other Curriculum (Details attached)	Yes/No

10.2	Subjects to be offered Attach a schedule setting out optional subjects at Junior Secondary and Senior Secondary levels.															
10.3	Medium of instruction Lower Primary levels  <div style="display: flex; justify-content: space-between;"> <span>Upper Primary</span> <span>Promotion subjects</span> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <span>_____</span> <span>Other subjects</span> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <span>Secondary</span> <span>_____</span> </div>															
11.	Number of hours instruction per week as applicable to government schools.  Other (specify) _____															
12.	School Calendar As applicable to Government schools  Other (specify) _____															
13.	Nearest school offering similar Instruction <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <span>Name _____</span> <span>Distance _____</span> </div>															
14.	Reasons for the establishment of the school															
15.	Expected enrolment figures															
		Gr.1	Gr.2	Gr.3	Gr.4	Gr.5	Gr.6	Gr.7	Gr.8	Gr.9	Gr.10	Gr.11	Gr.12	Other Specify	Total	
	Initially															
	Ultimately															
15.1	How will these numbers be calculated?															
16.	Which school(s) are these learners presently attending?															
17.	Ages of learners enrolled At the school						Minimum				Maximum					
18.	Principal and teaching staff: Attach a schedule setting out the Following information															
	Name	Sex	Qualifications				Years of experience		Subjects Taught			Nationality				
	(a) Principal Teachers	M/F	Academic		Professional		Teaching		Other							
				Teaching	Other											
19.	Hostel accommodation		Number of boarders that can be accommodated				Distance of hostel from school in kilometres									
			Boys		Girls											



20.	Buildings: Attach ground and floor plans of school and hostel buildings already in existence and of planned buildings. (Sketch plan with dimensions will be acceptable. Indicate clearly which buildings exist and which have still to be erected).					
21.	Describe specialist rooms, facilities and equipment that will be available.					
22.	Give particulars of sources of finance.					
23.	Fees payable annually by learners					
	Registration	Tuition	Hostel	Examination	Other	Are books, stationery, instruments, etc. supplied and covered by the fees payable?
24.	Are pupils/students required to enter into an agreement with the school? (If so, attach copy (copies) of such contract(s))					
25.	Government subsidy If the applicant wishes the school to be considered for a government subsidy, a motivated Application should be attached.					
26.	Admission policy					
26.1	Attach details of admission requirements for grade 1 learners.					
26.2	Will learners applying for admission at any level higher than grade 1 be subjected to any Requirements other than having passed the previous grade? YES/NO  (If "YES", supply details)					
27.	To the best of my knowledge, the information supplied is true, correct and complete.					
	..... SIGNATURE APPLICANT		..... PLACE		..... DATE	

## FORM 5



## MINISTRY OF BASIC EDUCATION, SPORT AND CULTURE

EDUCATION ACT, 2001:  
CERTIFICATE OF REGISTRATION AS PRIVATE SCHOOL  
(Regulation 56(3))

This is to certify that .....Private School, Reference Number..... has been registered on .....in terms of section 42 of the Education Act, 2001 (Act No. 16 of 2001) as private school.

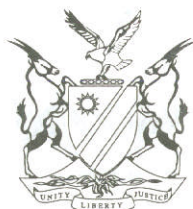
The school must offer primary education (Grades 1 to 7) or secondary education (Grades 8-12) or both primary and secondary education as per registration.

This Certificate of Registration applies only to the type of education as specified. If at any time it is intended to offer education other than that specified in this Certificate, a new application must be made.

.....  
**PERMANENT SECRETARYMINISTRY OF  
BASIC EDUCATION, SPORT AND CULTURE**

.....  
**DATE**

## FORM 6



## MINISTRY OF BASIC EDUCATION, SPORT AND CULTURE

EDUCATION ACT, 2001:  
REGISTER OF PRIVATE SCHOOLS  
(Section 43, regulation 56(4))

Name of school .....

School reference number .....

Owner of school .....

Date of registration .....

Postal Address .....

Physical Address .....

Category if the school becomes state-aided .....

Date the school becomes state-aided .....

## MINISTRY OF BASIC EDUCATION, SPORT AND CULTURE

No. 188

2002

## EDUCATION ACT, 2001: CATEGORIES OF STATE-AIDED PRIVATE SCHOOLS

Under the powers vested in me by section 49(2) of the Education Act, 2001 (Act No. 16 of 2001), I hereby categorize the private schools which receive aid under subsection (1) of that section set out in the Table.

TABLE

School	Form of aid the school receives	Category
State-aided private school	Annual subsidy for teachers salaries based on the average salary scales for teachers of the school not exceeding the number of teachers and salary scales applicable to state schools.	A-Category
State-aided private school	Teachers who are staff members of the Ministry the number of which is based on the staffing norms for state schools;  Annual subsidy for the maintenance of school buildings, based on the number of class rooms used at the school;	B-Category



State-aided private school	Teachers who are staff members of the Ministry, teaching and learning materials and all running costs of the school, on the same basis and level as state schools, only buildings are the property of the school.	C-Category
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**J. MUTORWA**  
**MINISTER OF BASIC EDUCATION,**  
**SPORT AND CULTURE**

Windhoek, 9 October 2002

## **MINISTRY OF BASIC EDUCATION, SPORT AND CULTURE**

No. 189

2002

### **EDUCATION ACT: GENERAL RULES OF CONDUCT**

The Minister of Basic Education, Sport and Culture, under section 55(1) of the Education Act, 2001 (Act No. 16 of 2001), has made the general rules of conduct set out in the Schedule which must be incorporated into the learners' code of conduct of all state schools.

### **SCHEDULE**

#### **GENERAL RULES OF CONDUCT FOR LEARNERS AT STATE SCHOOLS**

- 1.** a learner at a state school -
  - (a) must regularly and punctually attend school, class sessions on the school timetable, study sessions and other compulsory activities as determined by the school;
  - (b) must carry out and obey all lawful instructions of the principal, teachers, staff members and learners of the school or hostel;
  - (c) must dedicate himself or herself to his or her studies and complete all legitimate curriculum tasks and assignments;
  - (d) must respect the dignity, person and property of teachers, learners and members of the public;
  - (e) must accept and respect the multi-cultural diversity of learners and teachers of the school;
  - (f) must abide by and comply with the rules of the school or hostel as approved by the school board;
  - (g) must maintain a high standard of personal hygiene and a clean, decent and neat appearance;
  - (h) may not behave himself or herself in a disgraceful, improper or indecent manner;
  - (i) may not bring onto the school or hostel premises, or have in his possession any firearm, bow and arrow, panga, knife or any other dangerous weapon.
  - (j) may not, on or off the school premises, use intoxicating liquor or narcotic substances without the written prescription of a medical practitioner registered in terms of the Medical and Dental Professions Act, 1993 (Act No. 21 of 1993);

- (k) may not have in his possession, or bring onto the school or hostel premises, distribute or sell to another person in the school or hostel premises, intoxicating liquor, or narcotic substances without the written prescription of a medical practitioner registered in terms of the Medical and Dental Professions Act, 1993 (Act No. 21 of 1993);
- (l) may not have access to the sleeping quarters or hostel dormitories of learners of the opposite sex without the permission of the hostel superintendent;
- (m) may not willfully damage, destroy or vandalize the property of government, the school or another person;
- (n) may not act in such a manner that is disruptive to normal school programmes or detrimental to the good discipline and learning progress of other learners;
- (o) may not practice or participate in any form of initiating ceremonies of new learners that may cause physical harm or emotional distress to such new learners; or
- (p) may not, by his actions or behaviour encourage or influence other learners to disobey the rules of the school.

2. The principal of a state school must ensure that the learners' code of conduct referred to in section 55 of the Act -

- (a) is prominently displayed on the school and hostel premises; and
- (b) is effectively communicated to all learners and parents.

3. (a) A school board of a state school may establish a disciplinary committee under section 21 of the Act to advise on cases of misconduct of learners or serious contravention of school rules.

- (b) The disciplinary committee must consider cases of misconduct or contravention of school rules referred to the committee and advise the principal or the school board on appropriate disciplinary action or measure to be taken.

4. A school board of a state school must ensure that written record is kept of the conduct, contravention of rules, and disciplinary action and measure taken regarding each learner of the school.

5. Depending on the record of previous contravention of a learner, a disciplinary action or measure in minor cases which do not warrant a disciplinary action or measure by the school board may take the form of -

- (a) a reprimand of the learner by a teacher;
- (b) giving a learner specific additional tasks related to the contravention;
- (c) referring the learner to the head of department, deputy principal or principal;
- (d) consultation of the principal with the learner and the parent regarding the learners' conduct; or
- (e) first, second and third written warning to the learner, a copy of which must be given to the parent.

(6) If, after a disciplinary hearing in terms of the Education Act, 2001, a learner is found guilty for contravention of any of these rules or a learners' code of conduct made under that Act, a school board, apart from a recommendation it may make to the

Permanent Secretary to expel a learner from school or hostel as referred to in section 57(6) of that Act, may impose any of the following disciplinary measures -

- (a) a final written warning;
  - (b) a deprivation of a privilege of a learner for a specified period; or
  - (c) suspension of a learner from school
-



