

**PROVINCE OF KWAZULU – NATAL**

**DEPARTMENT OF EDUCATION AND CULTURE**

**MANUAL FOR THE REGISTRATION OF  
LEARNERS TO RECEIVE EDUCATION AT HOME**

**SEPTEMBER 2001.**

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**2006**

## FOREWORD by the Superintendent - General

This manual is intended as a guide for officials who are involved with the registration and monitoring of the process. It aims to provide guidelines concerning the procedures for application and approval for Home Education. It contains the legislation as contained in the South African Schools Act and the provincial regulations that for the control and guidance of all parents that intend educating their children at home.

The manual, therefore, makes an important contribution to the ongoing maintenance of quality education in KwaZulu-Natal.

**EXTRACTS FROM THE CONSTITUTION  
LEGISLATION AND REGULATIONS**

**FROM THE CONSTITUTION**

The Constitution (Section 29 of the Bill of Rights) upholds the right of everyone:

- 1) to basic education, including adult basic education, and
- 2) to receive education in the official language or languages of their choice in public educational institutions where that education is reasonably practicable.
- 3) to establish and maintain at their own expense, independent educational institutions that –
  - a) do not discriminate on the basis of race;
  - b) are registered with the state; and
  - c) maintain standards that are not inferior to standards of comparable public educational institutions.

Within this framework the South African Schools Act (No. 84 of 1996) provides for the registration of learners to receive education at home.

# FROM THE SOUTH AFRICAN SCHOOLS ACT

## CHAPTER 1 – DEFINITIONS

In this Act, unless the context indicates otherwise –

“Constitution” means the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993)

“Department” means the department responsible for education in the province;

“Head of Department” means the head of an education department;

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

“Member of the Executive Council” means the Member of the Executive Council of a province who is responsible for education in that province.

“parent” means –

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

“public school” means a school contemplated in Chapter 3 of the Act;

“school” means a public school or an independent school which enrolls learners in one or more grades between grade zero and grade twelve.

## CHAPTER 2 – LEARNERS

### Compulsory attendance

3. (1) Subject to this Act and any applicable provincial law, every parent must cause every learner for whom he or she is responsible to attend a school from the first school day of the year in which such a learner reaches the age of seven years until the last school day of the year in which such learner reaches the age of fifteen years or the ninth grade, whichever occurs first.
- (5) If a learner who is subject to compulsory attendance in terms of subsection (1) is not enrolled at or fails to attend a school, the Head of Department may –
  - a) investigate the circumstances of the learner’s absence from school,
  - b) take appropriate measures to remedy the situation; and
  - c) failing such a remedy, issue a written notice to the parent of the learner requiring compliance with subsection (1).
- (6) Subject to this Act and any other applicable law –
  - a) any parent who, without just cause and after a written notice from the Head of Department, fails to comply with subsection (1), is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months; or
  - b) any other person who, without just cause, prevents a learner, who is subject to compulsory attendance from attending a school, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months.

### **Exemption from compulsory attendance**

4. (1) A Head of Department may exempt a learner entirely, partially or conditionally from compulsory school attendance if it is in the best interests of the learner.
- (2) Every Head of Department must maintain a register of all learners exempted from compulsory school attendance.

## **CHAPTER 5 – INDEPENDENT SCHOOLS**

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

51. (1) A parent may apply to the Head of Department for the registration of a learner to receive education at the learner's home.
- (2) The Head of the Department must register a learner as contemplated in subsection if he or she is satisfied that –
  - a) the registration is in the interests of the learner;
  - b) the education likely to be received by the learner at home –
    - i) will meet the minimum requirements of the curriculum at public schools; and
    - ii) will be of a standard not inferior to the standard of education provided at public schools; and
  - c) the parent will comply with any other reasonable conditions set by the Head of the Department.
- (3) The Head of the Department may, subject to subsection (4), withdraw the registration referred to in subsection (1).
- (4) The Head of Department may not withdraw the registration until he or she –
  - a) has informed the parent of his or her intention so to act and the reasons therefor;
  - b) has granted the parent an opportunity to make representations to him or her in relation to such action; and
  - c) has duly considered any such representations received.
- (5) A parent may appeal to the Member of the Executive Council against the withdrawal of a registration or a refusal to register a learner in terms of this Act.

# **FROM THE KWAZULU-NATAL SCHOOL EDUCATION ACT, NO.3 OF 1996**

## **CHAPTER 9 – LEARNERS**

### **Compulsory school attendance**

60. The minister shall introduce and implement compulsory school attendance in accordance with national and provincial policy.

### **EXEMPTION FROM COMPULSORY SCHOOL ATTENDANCE**

61. The Secretary (Head of Department) may, either entirely or for such period and on such conditions as he / she may determine, exempt a child in writing from compulsory school attendance envisaged under section 60, if –

- a) he or she is of the opinion –
  - (i) that the child is not yet ready to follow the educational programme concerned;
  - (ii) that the child is can derive no further benefit from an educational programme at a school;
  - (iii) that the child is receiving suitable education or treatment at a place other than a school; or
  - (iv) that the child, as a result of continuous ill-health, is not capable of attending a school;
- b) the child is pregnant;
- c) the child marries; or
- d) for any other reason it will be in the interest of the child to be so exempted.

# THE KWAZULU-NATAL REGULATIONS

## REGULATIONS RELATING TO THE REGISTRATION OF LEARNERS TO RECEIVE EDUCATION AT HOME AND MATTERS RELATED THERETO

The Minister of Education and Culture, KwaZulu-Natal, has under section 72 of the KwaZulu-Natal Education Act (Act No. 3 of 1996) made the regulations set out in the Schedule.

### SCHEDULE

#### Definitions

1. In these regulations any word or expression to which meaning has been assigned in the Act, shall have the meaning assigned to it, unless the context indicates otherwise.-  
“**Act**” means the KwaZulu-Natal School Education Act No. 3 of 1996;  
“**compulsory phase**” means a period of three years encompassing grades one to three, grades four to six or grades seven to nine;  
“**Constitution**” means the Constitution of the Republic of South Africa Act 1996 (Act No. 108 of 1996);  
“**learner**” for the purposes of the regulation means a person of compulsory school-going age who receives education in terms of the KwaZulu-Natal School Education Act, 1996 (Act No. 3 of 1996);  
“**liaison school**” means a school that –
  - i) agrees to render services in terms of the regulation 4(5);
  - ii) offers tuition at the appropriate level; and
  - iii) is approved by the Secretary to render services in terms of the regulation 4(5);“**parent**” bears the meaning assigned to it in the South African Schools Act , 1996 (Act No. 84 of 1996)  
“**transfer certificate**” means a certificate issued by a school on the departure of a learner to another school recording the name of the learner, personal particulars and particulars regarding the school grade passed by the learner concerned; and  
“**year**” means the calendar year.

#### Application for registration

1. (1) Only a parent may apply for registration to instruct a learner or learners in his or her home.  
(2) Before a learner is allowed to receive education at his or her home, registration shall be obtained from the Secretary.  
(3) An application for registration to allow a learner to receive education shall be made in the manner determined by the Secretary.  
(4) Separate registration shall be obtained to instruct learners at home in respect of each compulsory school phase.  
(5) An application to instruct learners shall be accompanied by –
  - (a) a written motivation stating why it is in the interests of the learner to be instructed at home and not at school.
  - (b) a written undertaking by the parent that –

- (i) subject to the provisions of regulation 3(3), he or she personally undertakes to educate the learner;
  - (ii) the learner's education at home will take place during normal school hours;
  - (iii) all educational instruction will be in accordance with the objectives of the Constitution of the Republic of South Africa, 1996 (Act no. 108 of 1996);
  - (iv) the parent will keep a record of attendance;
  - (v) the parent will keep an up-to-date portfolio of the learner's work and records of progression and that these will be made available for inspection by a duly authorised official of the department;
  - (vi) the parent will keep suitable evidence of continuous assessment of the learner's work which reflects his or her progress towards achieving the outcomes of the learning; and
  - (vii) the parent will keep all assessment results for a period of three years;
- (c) the name of the liaison school with a written undertaking by the principal of the liaison school that the progress of the learner will be monitored and evaluated;
  - (d) the last school report of the learner (if applicable);
  - (e) particulars of –
    - (i) the hours during which educational instruction will take place;
    - (ii) the educational qualifications of the parent who will be responsible for the instruction of the learner;
    - (iii) the instructional methods and resource materials to be used;
    - (iv) the educational programme to be followed in the instruction of the learner concerned; and
    - (v) the methods of assessment to be used, the frequency of assessment and the method of evaluation to be followed; and
  - (f) the birth certificate of the learner.
6. The Secretary may call for further information and documentation in order to decide whether or not to grant the application.
  7. The Secretary must take all reasonable steps to respond within 30 days after receipt of the application.

### **Registration**

3. (1) The Secretary shall, if all the requirements for registration have been complied with, grant registration to the parent to educate a learner or learners at home and provide him or her with a registration certificate.
- (2) The Secretary shall maintain a register of all learners who are registered as learners who are being educated at home.
- (3) Registration to educate a learner at home is granted in respect of a particular learner to follow a particular school programme during a particular school phase under the guidance of a particular parent.
- (4) No deviation from the approved programme may be made unless prior written approval by the Secretary has been obtained.

- (5) The Secretary may permit a parent to enlist the services of a tutor approved by him or her for specified areas of the curriculum.
- (6) The parent of a learner who is educated at home shall present to the liaison school a transfer certificate, if applicable.
- (7) Registration granted to a parent to educate a learner or learners at home is always subject to the parent complying with existing laws, regulations and notices applicable to the education of learners.

### **Liaison School**

4. (1) No registration to educate a learner at home maybe granted without a school having agreed to assume the duties of a liaison school as set out in these regulations.
- (2) A school that agrees to assume the duties of a liaison school may charge a fee, determined by its governing body, for the provision of such service to the applicant.
- (3) A school that agrees to assume the duties of a liaison school may be required to provide information pertaining to the provincial curriculum for the phase of the learner.
- (4) A liaison school shall –
  - (a) evaluate a learner quarterly to determine if the learner is making satisfactory academic progress;
  - (b) provide annual reports to the Secretary on a form to be determined by him or her;
  - (c) forward copies of all reports to the parent of the learner concerned.

### **Home visits by departmental officials**

5. (1) An official of the department may visit the home of a parent who is registered to provide education at home at any time during official hours of school attendance, without prior notice, to evaluate if education is taking place in accordance with the registration granted to the parent.
- (2) An official who conducts a home visit, is required to produce a certificate, signed by the Secretary, authorising the official concerned to make home visits in accordance with Regulation 5(1).
- (3) An official who made a visit shall report within 14 days to the Secretary on the findings and provide the parent with a copy of the report.
- (4) A parent may respond to the Secretary regarding the findings of the official concerned.

### **Revocation of registration to educate a learner at home**

6. (1) The Secretary may revoke any registration granted to a parent to educate a learner or learners at home by withdrawing the registration if –
  - (a) such education is, in the opinion of the Secretary no longer in the interests of the learner concerned;
  - (b) the parent failed to inform the Secretary of a change in his or her residential or postal address within 14 days after such change was made;

- (c) the parent provided false information in support of his or her application for registration;
  - (d) the parent failed to abide any applicable law or regulation;
  - (e) the parent failed to honour his or her obligations in terms of any undertaking made by him or her regarding the education of a learner.
- (2) Before revoking registration granted to a parent to educate a learner at home, the Secretary shall forward a written notice to the parent. The notice shall give the parent concerned at least 14 days to give reasons why registration granted to educate a learner at home should be withdrawn.
- (3) A parent may apply at any stage for admission of a learner to a school. After admission the parent shall inform the Secretary of the name and address of the school. Registration granted to a parent to educate a learner at home automatically falls away on the admission of such learner to a school.

### **Delegation**

7. (1) The Secretary, subject to such conditions as he or she may determine, may delegate his or her powers in terms of these regulations to a person employed by the department.
- (2) A delegation in terms of Regulation 7(1) shall not prevent the Secretary from exercising such power, or performing such duty, as the case may be.

## PROCEDURES REGARDING HOME EDUCATION

1. A parent (as defined in the South African Schools Act No. 84 of 1996) may send a request for an application form to the office of the School Affairs - Sub-Directorate office of the KwaZulu-Natal Department of Education. The office is situated in  
188 Pietermaritz Street  
Metropolitan Building  
Office G 37 or G 43  
**PETERMARITZBURG**  
3201.
2. Application forms are detailed and require all the data relevant to the making of a decision by the Secretary or his delegated authority regarding the education of a learner at home. Application forms are sent to the parent with a copy of the policy as contained in the National Education Policy Act No.27 of 1996 and the Provincial KZN Regulations.

### Conditions under which registration may be granted

**The following conditions must be read in conjunction with the South African Schools Act (No 84 of 1996) and the regulations of the Province of KwaZulu-Natal.**

1. Parents apply to educate a learner at home for a single phase. e.g. Foundation Phase (grades 1 – 3), Intermediate Phase (grades 4 – 6) and Senior Phase (grades 7 – 9). They may, when necessary, apply to educate a learner at home for a single Grade within a phase. E.g. Grade 2 in the Foundation Phase.
2. Parents must make a new application to educate a learner at home at the end of each phase. If the learner is presently in the Foundation Phase they must make a new application for registration to educate a learner in the Intermediate Phase, and at the end of the Intermediate phase they must make a new application to educate the learner in the Senior Phase.
3. In accordance with section 3(1) of the South African Schools Act, parents who desire to educate a learner at home must apply to do so for the year in which the learner turns seven (or grade 1) and continue to do so for each phase until the end of the year in which the learner turns fifteen, or completes grade 9, whichever comes first.
4. **NOTE.** A parent may start home educating a learner before the compulsory school going age (i.e. before the age of seven) but may only apply to register the child in the year in which the learner is seven years of age. However, this can cause problems later when the parent may want to enrol the learner in a public school for the first time. In such case the child will be enrolled in the correct Grade according to the “age-grade” criteria (Age in Grade 1 is 5 turning 6 by 30 June).
5. A parent may only educate his or her own children at home. Other people’s children may not be educated in the home of another person. Parents who want to educate more than one learner may apply to register as an independent school that must have at least twenty learners. “Cottage schools” are not permitted in terms of the regulations or the South African Schools Act. “Cottage schools” are illegal.
6. The application for registration for Home Education cannot be approved, when both parents are working and the child / children are home alone during the day.

7. Parents that are self-employed must specify the hours that they will spend educating their children. The education of their children must take priority.
8. The curriculum used should be approved by the Department of Education and Culture.
9. The parents have negotiated a contract with a liaison school for the period that the learner is to be educated at home.

### 3.1 Certificate of Registration for Home Education

- (1) Once Registration for Home Education has been approved after all the conditions have been complied with, the learner is issued with a certificate of Registration (attached) and his or her name is entered in database with all the registered home learners in the province.
- (2) This Registration remains in force until the end of the phase, or until it is revoked or until the learner is readmitted to a school.
- (3) If all the conditions have not been complied with then the parent must be informed in writing of the reasons for the application not being successful. The parent must also be informed that he or she has a right to appeal in writing to the MEC in terms of section 51(4) of the Act.  
After submission of the appeal, the Head of the Department (or delegated representative) should consider the appeal and thereafter inform the parent of the final decision.
- (4) Action prescribed in section 3(5) or (6) of the Act may be taken against a parent of a learner of compulsory school going age who is not at a school, who is not exempted and does not register for Home Education.