

**PROVINCE OF THE NORTHERN CAPE**

**PROFENSI YA KAPA-BOKONE**



**DIE PROVINSIE NOORD-KAAP**

**IPHONDO LOMNTLA-KAPA**

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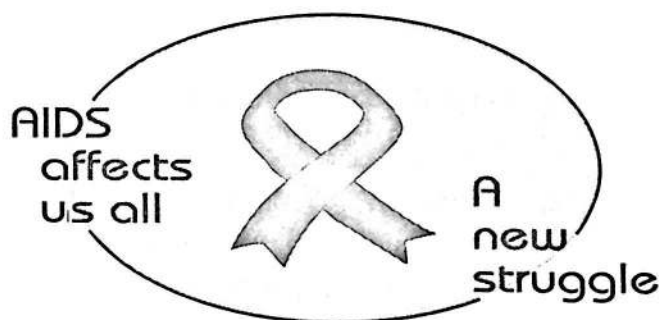
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## **GENERAL NOTICE**

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### **NOTICE 57 OF 1999**

#### **PROVINCE OF THE NORTHERN CAPE**

#### **PUBLICATION OF THE DRAFT EDUCATION LAWS AMENDMENT BILL, 1999**

The Member of the Executive Council for Education and Training intends to introduce the Education Laws Amendment Bill, 1999, in the Provincial Legislature of the Northern Cape. The said Bill is hereby published for general comment.

Any comments must be submitted to the Provincial Secretary, Northern Cape Legislature, Private Bag X5066, Kimberley, 8300, to reach him by no later than **30 September 1999**.

**M. G. MASHOPE**

**Provincial Secretary: Northern Cape Legislature**

# NORTHERN CAPE EDUCATION LAWS AMENDMENT BILL, 1999

## *General Explanatory Note:*

- [ ] Words in bold type in square brackets indicate omissions from existing enactments.  
\_\_\_\_\_ Words underlined with a solid line indicate insertions in existing enactments.

## BILL

To amend the Northern Cape School Education Act, 1996, so as to empower the Member of the Executive Council to cause examinations and approved assessment to be conducted; to issue certificates to learners who have passed such examination and assessments, and to establish an Examination and Assessment Board and matters connected therewith. To effect amendments relating to the suspension of learners, the merger of public schools, the temporary closure of a public school and the co-opting of members of the governing body and matters connected therewith

**B**E IT ENACTED by the Legislature of the Northern Cape Province as follows:—

### **Amendment of section 1 of Act No. 6 of 1996 (Northern Cape)**

#### **1. Definitions:**

Section 1 of the Northern Cape School Education Act, 1996, is hereby amended by the insertion of the following definition:

'Board' means the "Examinations and Assessment Board."

### **Amendment of section 5 of Act No. 6 of 1996 (Northern Cape)**

- 2.** Section 5 of the Northern Cape School Education Act, 1996, is hereby amended by the addition of the following subsections:

"(h) The Member of the Executive Council may—

- (i) cause examinations and approved assessments to be conducted and certificates to be issued to learners who passed the examinations and assessments. The procedure to conduct such examinations and assessments shall be prescribed;

- (ii) establish an Examination and Assessment Board to provide an efficient and equitable system for examinations and assessment of learners. The powers of the Board shall be prescribed.”.

**Amendment of section 22 of Act No. 6 of 1996 (Northern Cape)**

3. Section 22 of the Northern Cape School Education Act, 1996, is hereby amended by the substitution for paragraph (b) of subsection (3) of the following:

“(b) in consultation with the Head of Department, pending a decision as to whether the learner is to be expelled from the school by the Head of Department.”.

**Amendment of section 27 of Act No. 6 of 1996 (Northern Cape)**

4. Section 27 of the Northern Cape School Education Act, 1996, is hereby amended—

- (a) by the substitution for subsection (3) of the following subsection:

“(3) Members of the community may be co-opted by the governing body of a public school, provided that, subject to subsection (8), they shall not have voting rights on the governing body.”.

- (b) by the addition of the following subsections:

“(8) If the number of parents at any stage is not more than the combined total of other members with voting rights, the governing body must temporarily co-opt parents with voting rights.

(9) In the case where parents are co-opted with voting rights as contemplated in subsection (8), the co-option ceases when the vacancy or vacancies have been filled as contemplated in section 31(a).

(10) If a person elected as a member of a governing body ceases to fall within a category in respect of which he or she was elected as a member, he or she ceases to be a member of the governing body.”.

**Insertion of a new section in Act No. 6 of 1996 (Northern Cape)**

5. The Northern Cape School Education Act, 1996, is hereby amended by the insertion after section 48 of the following new section:

**“Merger of public schools**

48A (1) Subject to subsection (2), the Member of the Executive Council may, by notice in the *Provincial Gazette* merge two or more public schools into a single school.

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

- (a) give written notice to the schools in question of the intention to merge them;

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

(3) If one or more of the schools that are to be merged in terms of subsection (1) are public schools on private property, the Member of the Executive Council must also—

- (a) notify the owner of the private property of his or her intention to merge the schools concerned;
- (b) consider his or her contractual obligations in terms of the agreement contemplated in section 14 of the South African Schools Act, 1996;
- (c) renegotiate his or her obligations in terms of the existing agreement; and
- (d) negotiate a new agreement in terms of section 14 of the South African Schools Act, 1996, if the single school referred to in subsection (1) is situated on private property.

(4) The single school contemplated in subsection (1) is regarded as a public school provided under this Act.

(5) All assets, liabilities, rights and obligations of the schools that are merged, shall, subject to the conditions of any donation, bequest or trust contemplated in section 54 (3) vest in the single school."

**Amendment of section 49 of Act No. 6 of 1996 (Northern Cape)**

6. Section 49 of the Northern Cape School Education Act, 1996, is hereby amended by the addition of the following subsections:

- "(4) The Head of Department may close a public school temporarily in the case of an emergency if he or she believes on reasonable grounds that the lives of learners and staff are endangered or that there is a real danger of bodily injury to them or of damage to property.
- (5) When the Head of Department decides that the school should be reopened, he or she must inform the governing body and the principal of the date on which the school must reopen.
- (6) The principal must inform the educators and parents of the date contemplated in subsection (5)."

**Short title**

This Act is the Northern Cape Education Laws Amendment Act, 1999.

## **ALGEMENE KENNISGEWING**

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### **KENNISGEWING 57 VAN 1999**

#### **DIE PROVINSIE NOORD-KAAP**

#### **PUBLIKASIE VAN DIE KONSEPWYSIGINGSWETSONTWERP OP ONDERWYSWETTE, 1999**

Die Lid van die Uitvoerende Raad vir Onderwys en Opleiding is van voorneme om die Wysigingswetsontwerp op Onderwyswette, 1999, in die Provinsiale Wetgewer van die Noord-Kaap, in te dien.

Die gemelde Wetsontwerp word hiermee gepubliseer vir algemene kommentaar.

Enige kommentaar moet versend word aan die Provinsiale Sekretaris, Noord-Kaapse Wetgewer, Privaatsak X5066, Kimberley, 8300, om hom nie later as **30 September 1999** nie, te bereik.

**M. G. MASHOPE**

**Provinsiale Sekretaris: Noord-Kaapse Wetgewer**



## WYSINGSWETSONTWERP OP ONDERWYS-WETTE, 1999

### *Algemene verduidelikende nota:*

[ ] Woorde in vetdruk in vierkantige hakies dui aan weglatinge vanuit bestaande bepalings.

\_\_\_\_\_ Woorde onderstreep met 'n soliede lyn dui aan invoegings in bestaande bepalings.

## WETSONTWERP

Om die Noord-Kaapse Wet op Skoolonderwys, 1996 te wysig ten einde die Lid van die Uitvoerende Raad te magtig om eksamens en goedgekeurde aanslae te laat plaasvind, om sertifikate uit te reik aan leerders wat sodanige eksamens en aanslae geslaag het, en om 'n Raad op Eksamens en Aanslae tot stand te bring en aangeleenthede wat daarmee verband hou. Om wysigings aan te bring wat verband hou met die skorsing van leerlinge, die samesmelting van openbare skole, die tydelike sluiting van 'n openbare skool en die Koöptering van lede van 'n beheerliggaam en aangeleenthede wat daarmee verband hou.

**D**IT WORD BEPAAL deur die Wetgewer van die provinsie Noord-Kaap as volg:—

### **Wysiging van artikel 1 van Wet 6 van 1996 (Noord-Kaap)**

#### **1. Woordomskeywing**

Artikel 1 van die Noord-Kaapse Wet op Skoolonderwys, 1996, word hierby gewysig deur die invoeging van die volgende woordomskeywing:

**“Raad”** beteken die “Raad op Eksamens en Aanslae.”.

### **Wysiging van artikel 5 van Wet 6 van 1996 (Noord-Kaap)**

**2.** Artikel 5 van die Noord-Kaapse Wet op Skoolonderwys, 1996, hierby word gewysig deur die byvoeging van die volgende subartikels:

**“(h) Die Lid van die Uitvoerende Raad kan—**

- (i)** eksamens en goedgekeurde aanslae laat plaasvind en sertifikate laat uitreik aan leerders wat sodanige eksamens en aanslae slaag. Die prosedure om eksamens en aanslae te hou moet voorgeskryf word;

- (ii) 'n Raad op Eksamens en Aanslae tot stand bring om 'n effektiewe en billike stelsel vir die eksamentering en aanslag van leerders daar te stel. Die bevoeghede van die Raad moet voorgeskryf word."

#### **Wysiging van artikel 22 van Wet 6 van 1996 (Noord-Kaap)**

3. Artikel 22 van die Noord-Kaapse Wet op Skoolonderwys, 1996, word hierby gewysig deur die vervanging van paragraaf (b) van subartikel (3) met die volgende:

- "(b) in konsultasie met die Departementshoof, hangende 'n beslissing deur die Departementshoof of die leerder uit die skool gesit moet word."

#### **Wysiging van artikel 27 van Wet 6 van 1996 (Noord-Kaap)**

4. Artikel 27 van die Noord-Kaapse Wet op Skoolonderwys, 1996, word hierby gewysig—

- (a) deur die vervanging van subartikel (3) met die volgende subartikel:

"(3) Lede van die gemeenskap kan deur die beheerliggaam van 'n openbare skool gekoöpteer word: Met dien verstaande dat, behoudens subartikel (8), hulle nie stemreg in die beheerliggaam het nie."

- (b) deur die byvoeging van die volgende subartikels:

"(8) Indien die aantal ouers op enige stadium nie meer is as die gekombineerde totaal van ander lede met stemreg nie, moet die beheerliggaam tydelik ouers met stemreg koöpteer.

(9) In die geval waar ouers met stemreg gekoöpteer word soos bedoel in subartikel (8), hou die koöptering op wanneer die vakature of vakatures gevul is soos beoog in artikel 31(a).

(10) Indien 'n persoon wat verkies is as lid van 'n beheerliggaam ophou om te ressorteer onder 'n kategorie waarvoor hy of sy as 'n lid verkies was, dan hou hy of sy op om 'n lid van die beheerliggaam te wees."

#### **Invoeging van 'n nuwe artikel in Wet 6 van 1996 (Noord-Kaap)**

5. Die Noord-Kaapse Wet op Skoolonderwys, 1996, word hierby gewysig deur die invoeging na artikel 48 van die volgende nuwe artikel:

##### **"Samesmelting van openbare skole**

48A (1) Behoudens subartikel 2, kan die lid van die Uitvoerende Raad, by wyse van kennisgewing in die *Provinsiale Koerant*, twee of meer openbare skole saamsmelt in 'n enkele skool.

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

- (a) skriftelike kennis gee aan die betrokke skole van die voorneme om hulle saam te laat smelt;



- (b) 'n kennisgewing publiseer waarin die redes vir die voorgenome samesmelting uiteengesit word, in een of meer nuusblaaie wat sirkuleer in die gebied waarin die betrokke skole geleë is;
  - (c) aan die beheerliggame van die betrokke skole asook enige ander belanghebbendes 'n geleentheid bied om vertoë te rig binne ten minste 90 dae vanaf die datum van die kennisgewing waarna verwys word in paragraaf (b);
  - (d) sodanige vertoë oorweeg; en
  - (e) tevrede wees dat die werkgewers van personeel by die openbare skole hulle verpligtinge nagekom het ingevolge die toepaslike arbeidsreg.
- (3) Indien een of meer skole wat saamgesmelt gaan word ingevolge subartikel (1) openbare skole of privaateiendom is, moet die Lid van die Uitvoerende Raad ook—
- (a) die eienaar van die privaateiendom in kennis stel van sy of haar voorneme om die betrokke skole saam te smelt;
  - (b) sy of haar kontraktuele verpligtinge in terme van die ooreenkoms beoog in artikel 14 van die Suid-Afrikaanse Skolewet, 1996, oorweeg;
  - (c) sy of haar verpligtinge in terme van die bestaande ooreenkoms heronderhandel; en
  - (d) 'n nuwe ooreenkoms onderhandel ingevolge artikel 14 van die Suid-Afrikaanse Skolewet, 1996, indien die enkele skool waarna verwys word in subartikel (1) geleë is op privaateiendom.
- (4) Die enkele skool bedoel in subartikel (1) word beskou as 'n openbare skool soos bepaal in hierdie Wet.
- (5) Alle bates, laste, regte en verpligtinge van die skole wat saamgesmelt is, sal, behoudens die voorwaardes van skenking, bemaking of trust beoog in artikel 54(3), vestig in die enkele skool."

#### **Wysiging van artikel 49 van Wet 6 van 1996 (Noord-Kaap)**

6. Artikel 49 van die Noord-Kaapse Wet op Skoolonderwys, 1996, word hierby gewysig deur die byvoeging van die volgende subartikels:

- "(4) Die Departementshoof mag 'n openbare skool tydelik sluit in geval van nood indien hy of sy redelikerwys glo dat die lewens van leerders en personeel in gevaar is of dat daar 'n wesentlike gevaar van liggaamlike leed of skade aan eiendom bestaan.
- (5) Wanneer die Departementshoof besluit dat die skool heropen moet word, dan moet hy of sy die beheerliggaam en die prinsipaal in kennis stel van die datum waarop die skool moet heropen.
- (6) Die prinsipaal moet die opvoeders en ouers in kennis stel van die datum beoog in subartikel (5)."

#### **Kort titel**

Hierdie Wet is die Noord-Kaapse Wysigingswet op Onderwyswette, 1999.

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