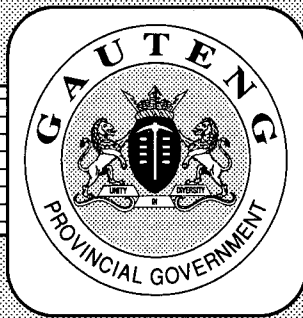


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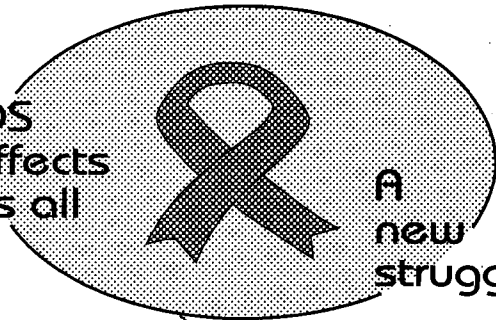
Vol. 8

PRETORIA, 31 JULY 2002
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No. 231

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GENERAL NOTICE

NOTICE 1997 OF 2002

GAUTENG DEPARTMENT OF EDUCATION DRAFT NOTICE REGARDING THE REGISTRATION AND WITHDRAWAL OF REGISTRATION OF INDEPENDENT SCHOOLS

All interested persons are invited to comment by 31 July 2002

All comments should be addressed to:

Ms. Tidimalo Nkotoe
111 Commissioner Street
Johannesburg
2001

E-mail : *Tidimalon@gpg.gov.za*

Tel. No. (011) 355-0812

Fax No: (011) 355-0640

I, Ignatius Jacobs, Member of the Executive Council for Education in Gauteng, hereby publish this Notice to give effect to sections 46 (2) and 47 of the South African Schools Act 1996 (Act 84 of 1996), as amended, and to section 66 (8) of the School Education Act (Act 6 of 1995).

SCHEDULE

1. Definitions

(1) Subject to sub paragraph (2) and unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act shall have the same meaning in this Notice.

(2) In this Notice, unless the context indicates otherwise, -

“Act” means the South African Schools Act No.84 of 1996, as amended;

“application” means an application to the Head of Department for the registration of an independent school in the prescribed manner;

“Department” means the Gauteng Department of Education;

“Head of Department” means the Head of the Gauteng Department of Education;

“person” means a natural and a juristic person;

“Province” means the Province of Gauteng.

2. Purpose

The purpose of this Notice is to

- (1) provide for the registration of existing independent schools;
- (2) provide for the refusal of registration of existing independent schools;

- (3) determine the grounds on which the registration of new independent schools may be granted;
- (4) provide an applicant with the right to appeal to the Member of the Executive Council against the refusal of registration of an independent school;
- (5) determine the requirements for the registration of independent schools;
- (6) determine any further obligations to be placed on independent schools;
- (7) determine the grounds on which the registration of independent schools may be withdrawn by the Head of Department and procedures to be followed;
- (8) determine the conditions under which the withdrawal of the registration of an independent school shall be invalid;
- (9) provide the owner of an independent school with the right to appeal to the Member of the Executive Council against the withdrawal of the registration of an independent school; and
- (10) determine the procedures for the application for re-registration after registration has been withdrawn.

3. Registration of existing independent schools

- (1) A school which is registered as an independent school under the provisions of any law predating these regulations, shall be deemed to be an independent school registered in terms of this Notice provided that it satisfies the requirements for registration as specified in paragraph 6 (3).

4. Refusal of registration of existing independent schools

- (1) If, in the opinion of the Head of the Department, the school referred to in sub paragraph 3 (1) does not satisfy the requirements for registration, as specified in paragraph 6 (3), he or she must ensure that there is compliance with the prescribed requirements within 30 days.
- (2) If, after the expiry of the period referred to in sub paragraph 4 (1), it is still the opinion of the Head of the Department that the school does not comply with the prescribed requirements for registration, the Head of the Department must decline to register the school and inform the owner of the school of his or her decision within 30 days.

5. Registration of new independent schools

- (ii) (ii) Any person or persons may apply to register an independent school with the Department.
- (2) On receipt of an application to register an independent school with the department, the Head of Department must

- (a) register the school, and issue a registration certificate to the applicant, if he or she is of the opinion that the school complies with the requirements for registration as specified in paragraph 6 (3); or
- (b) decline to register the school, if he or she is of the opinion that the school does not comply with the requirements for registration as specified in paragraph 6 (3), and inform the applicant in writing within 30 days of the decision.

6. Requirements for the registration of independent schools

- (1) The following requirements apply to an application to register a school with the Department in terms of paragraph 5 (1):
 - (a) applications for the registration of a school must be made in writing to the Head of Department; and
 - (b) the application must be lodged with the district office in which the proposed school is to be established by not later than 31 August of the year preceding the year of the proposed opening of the school and forwarded by the district office to the Head of Department within 14 days.
- (2) The application must be accompanied by
 - (a) a constitution for the school covering all matters relating to the control of the school including its ownership, character, aims, governance, funding and admission policy;
 - (b) a floor and site plan, which shall in the case of a multi- storeyed building include a floor plan for each floor to be occupied, and which confirms that the proposed school building and grounds comply with departmental guidelines;
 - (c) facilities which will be made available for the implementation of the curriculum;
 - (d) facilities which will be made available to serve the needs of learners with physical disabilities;
 - (e) proof of security of tenure over the proposed school buildings and grounds for a minimum of one year from the date of registration of the school;
 - (f) a certificate from the relevant health authorities confirming that the facilities at the school meet the minimum health requirements;
 - (g) proof that the school will be financially viable for a minimum period of 12 months after registration, which must include
 - (i) a register of fixed and moveable assets of the owner, board of trustees or other funders which will be used for the establishment of the school and as surety for the initial funding of the school; and

- (ii) a situational analysis of the community the school intends to serve as an indication of the need for such school.
 - (3) The Head of Department may grant registration to an existing or new independent school if
 - (a) a professionally qualified educator, registered with the South African Council of Educators, is or will be employed in a full-time capacity as the principal of the independent school, and is or will be responsible for the management, organisation, supervision and control of conduct at such school, as the case may be;
 - (b) the school employs or will employ educators who are in possession of professional teaching qualifications and are registered with the South African Council of Educators; provided that, if the Head of the Department is convinced that the services of educators who are not in possession of professional teaching qualifications and are not registered with the South African Council of Educators is or will be essential for the school concerned, he or she may register such school, as the case may be;
 - (c) the standards to be maintained by such school are or will not be inferior to the standards in comparable public schools, as the case may be;
 - (d) the admission policy of the school does not or will not discriminate on the grounds of race and does or will comply with national and provincial admission policies, as the case may be;
 - (e) the school does or will comply with all relevant national and provincial legislation, as the case may be;
 - (f) the buildings and grounds which are or will be occupied by the school are of a suitable design and offers facilities that are sufficient in the opinion of the Head of Department, as the case may be;
 - (g) the buildings and grounds which are or will be occupied by the school meet the requirements of the Department of Health and municipal by-laws, as the case may be; and
 - (h) the applicant provides proof of security of tenure of the school buildings and grounds for a minimum period of one year from the date of registration of the independent school.
 - (4) The Head of the Department may grant provisional registration to an independent school subject to conditions determined by him or her.
- 7. Right to appeal to the Member of the Executive Council against the refusal of registration of an independent school**
- (1) An applicant has the right to appeal to the Member of the Executive Council against the decision of the Head of Department to refuse the registration of an independent school.

- (2) An applicant who is aggrieved by the decision of the Head of the Department to refuse the registration of an independent school may, within 30 days of receiving notice of such refusal, appeal to the Member of the Executive Council in writing, setting out the grounds of the appeal.
- (3) The Member of the Executive Council must consider the appeal and must confirm or set aside the decision of the Head of the Department within 30 days of receiving the appeal and must
 - (a) notify the appellant of his or her decision; and
 - (b) provide the appellant with written reasons for his or her decision.
- (4) The decision of the Member of the Executive Council shall be final.

8. Further obligations placed on independent schools

- (1) Further obligations placed on independent schools include
 - (a) that the Head of the Department must, within 21 days, be notified of any change of ownership;
 - (b) that notice of at least three calendar months shall be given to parents, staff, learners and the Head of Department of any intention to close or suspend the operation of a school; and
 - (c) that a change of premises must be approved by the Head of the Department who must be furnished with -
 - (i) the address of the proposed new location for the school; and
 - (ii) all the documentation set out in paragraphs 6 (2) (b), 6 (2) (c), 6 (2) (d), 6 (2) (e), 6 (2) (f) and 6 (2) (g) reflecting any new circumstances caused by the change of address.
- (2) The provisions on compulsory school attendance in section 3 of the South African Schools Act of 84 of 1996 shall apply to learners attending an independent school.
- (3) The school must:
 - (a) follow the approved curriculum of the Department or its own curriculum that has been approved by the Head of Department; and
 - (b) ensure that the average duration of a school day and the minimum number of school days per annum are as approved by the Head of Department.
- (4) Failure to comply with the provisions of paragraphs 8 (1), 8 (2) and 8 (3) may result in the withdrawal of the registration of the independent school as contemplated in paragraph 9.

9. Grounds on which the registration of independent schools may be withdrawn by the Head of Department and procedures to be followed

- (1) The Head of Department may withdraw the registration of an independent school at any time if he or she is satisfied, after a full and proper investigation, that
 - (a) the school has employed a person as principal who is not a professionally qualified educator;
 - (b) the school has employed a person as principal who is not registered with the South African Council of Educators;
 - (c) the school has employed a person as principal who is not in full-time employment;
 - (d) the school has employed educators who are not in possession of professional teaching qualifications;
 - (e) the school has employed educators who are not registered with the South African Council of Educators;
 - (f) the school has employed persons who are not registered with the South African Council of Educators and the Head of the Department is not satisfied that the services of these persons are essential for the school concerned;
 - (g) the standards maintained by such school are inferior to the standards in comparable public schools;
 - (h) the admission policy of the school discriminates on the grounds of race and does not comply with national and provincial admission policies;
 - (i) the school does not comply with all relevant national and provincial legislation;
 - (j) the buildings and grounds of the school are unsuitable in design and are insufficient;
 - (k) the buildings and grounds do not meet the requirements of the Department of Health and municipal by-laws;
 - (l) the tenure of the school buildings and grounds is not secure; or
 - (m) the school fails to comply with the requirements of paragraph 8 (1), 8 (2) and 8 (3).
- (2) Should the Head of Department decide to withdraw the registration of an independent school, he or she must
 - (a) furnish the owner of such independent school with a notice of intention to withdraw the registration of the school, stating the reasons why such withdrawal is contemplated;

- (b) grant the owner of such independent school an opportunity to make written representations as to why the registration of the independent school should not be withdrawn;
- (3) The written representations referred in paragraph 9 (2) (b) must reach the Head of the Department within 30 days of the receipt of the notice contemplated in paragraph 9 (2) (a);
- (4) The Head of the Department must duly consider any such representations received; and
 - (a) must inform the owner of the school of his or her decision within 30 days of receiving the written representations contemplated in paragraph 9 (2) (b).

10. Conditions under which the withdrawal of the registration of an independent school shall be invalid

- (1) No withdrawal of the registration of an independent school is valid unless -
 - (a) the owner of such independent school has been furnished by the Head of Department with a notice of intention to withdraw the registration, stating the reasons why such withdrawal is contemplated;
 - (b) the owner of such independent school has been granted an opportunity to make written representations to the Head of Department as to why the registration of the independent school should not be withdrawn; and
 - (c) any such representations received have been duly considered.

11. Right to appeal to the Member of the Executive Council against the withdrawal of the registration of an independent school.

- (1) The owner of an independent school has the right to appeal to the Member of the Executive Council against the decision of the Head of Department to withdraw the registration of an independent school.
- (2) An owner of a school who is aggrieved by the decision of the Head of the Department to withdraw the registration of an independent school may, within 30 days of receiving notice of such a decision, appeal to the Member of the Executive Council in writing, setting out the grounds of the appeal.
- (3) The Member of the Executive Council must consider the appeal and must confirm or set aside the decision of the Head of the Department within 30 days of receiving the appeal and must
 - (a) notify the appellant of his or her decision; and
 - (b) provide the appellant with written reasons for his or her decision.
- (4) While the Member of the Executive Council is adjudicating the appeal the school will continue to function until the Member of the Executive Council announces his/her decision.
- (5) The decision of the Member of the Executive Council shall be final.

12. Application for re-registration after registration has been withdrawn

- (1) If the registration of an independent school has been withdrawn as contemplated in paragraph 9 (1) and the decision confirmed by the Member of the Executive Council as contemplated in paragraph 11 (3), the owner of the school may apply for re-registration after having taken the necessary steps to insure that the relevant registration requirements have been complied with as specified in paragraph 6 (1), 6 (2) and 6 (3).
-

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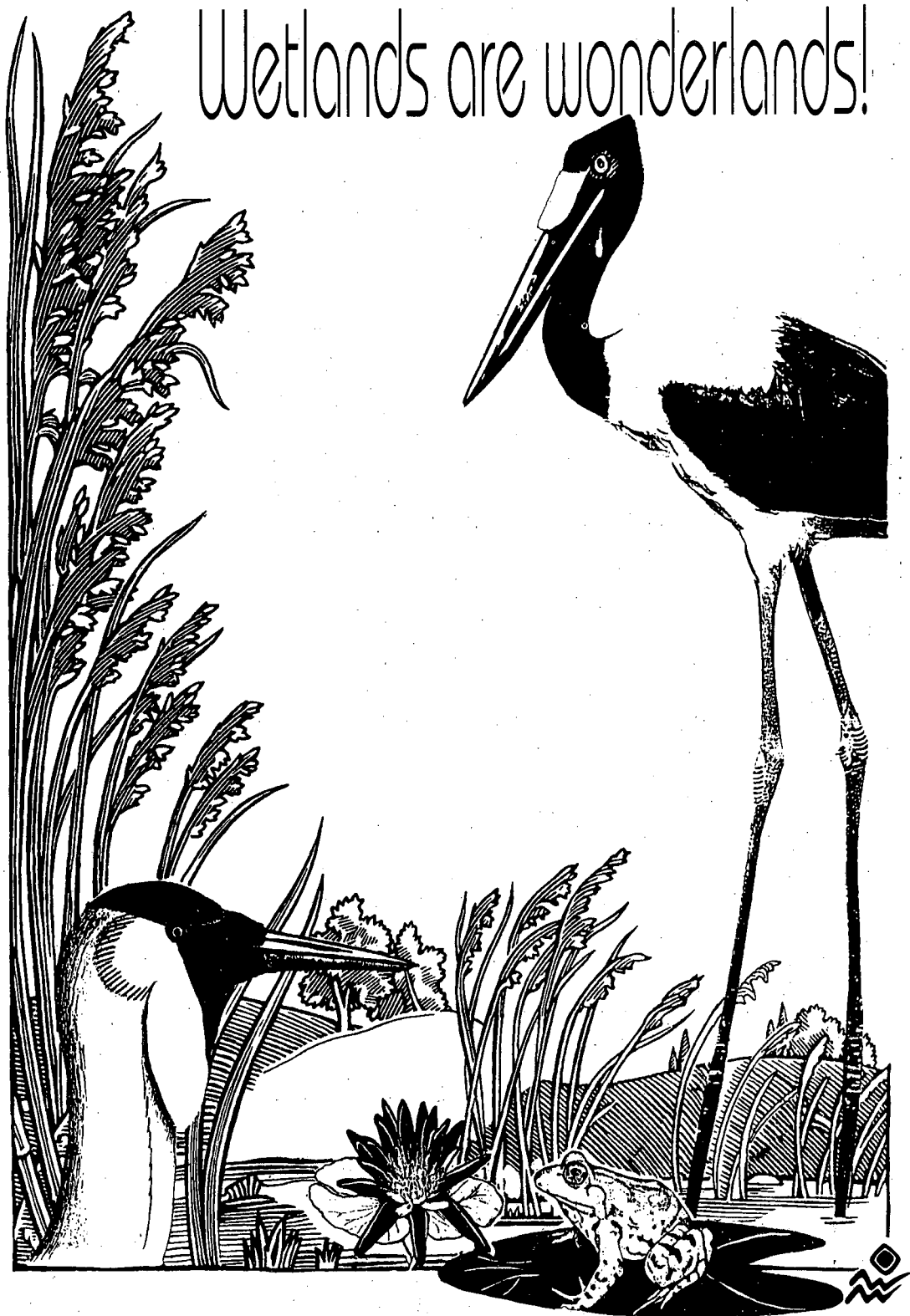
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