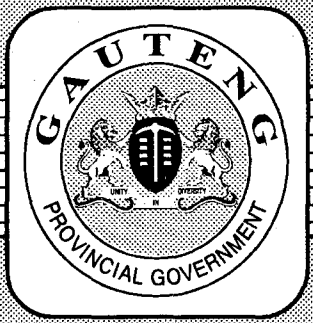


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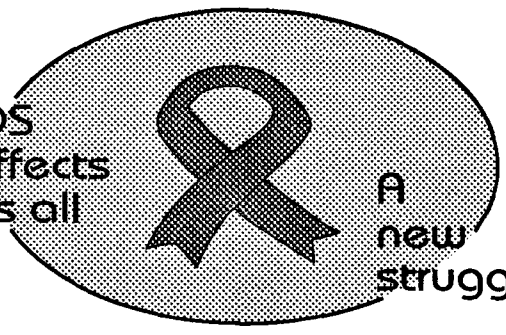
Vol. 9

PRETORIA, 11 APRIL 2003

No. 130

We all have the power to prevent AIDS

AIDS
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DEPARTMENT OF HEALTH



CONTENTS

<i>No.</i>	<i>Page No.</i>	<i>Gazette No.</i>
GENERAL NOTICE		
1064 Gauteng Education Policy Act (12/1998): Draft Regulations relating to Domestic and International Tours for Learners	3	130

GENERAL NOTICE

NOTICE 1064 OF 2003

GAUTENG DEPARTMENT OF EDUCATION

DRAFT REGULATIONS RELATING TO DOMESTIC AND INTERNATIONAL TOURS FOR LEARNERS

7 APRIL 2003

I, Ignatius Jacobs, Member of the Executive Council for Education in Gauteng, hereby publish these Draft Regulations for public comment in terms of section 18 (1) of the Gauteng Education Policy Act (Act 12 of 1998) to provide for the effective conduct of tours for learners, to provide for related matters, and to provide protection for the State against any unlawful claims made for any damage or loss caused as a result of any act or omission in connection with any educational activity conducted by a public school and for which such public school is liable in terms of sections 60 of the South African Schools Act (Act 84 of 1996), as amended.

Comments must reach Ms Sally Rowney, Senior Manager of the Strategic Policy Development Directorate of the Gauteng Department of Education, by no later than 16:00 on Friday 30 May 2003.

Ms Rowney's contact details are:

Office of the Senior Manager – Strategic Policy Development

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Ignatius Jacobs

Member of the Executive Council for Education: Gauteng

7 April 2003

SCHEDULE**1. Definitions**

(1) Subject to sub-regulation (2) and unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Gauteng Education Policy Act (Act 12 of 1998) or the South African Schools Act (Act 84 of 1996), as amended, shall have the same meaning in these regulations.

(2) In this Notice, unless the context indicates otherwise, the following definitions apply –

“in loco parentis” means a person acting in a parental capacity;

“mixed tour” means a tour in which both male and female learners are participants;

“relevant District Office” means the District Office in the educational district in which the public school is located;

“serious misconduct” means an act by an educator or learner deemed to be serious misconduct in terms of any law, regulations, policy or code of conduct;

“school” means a public school which falls under the jurisdiction of the Gauteng Department of Education, and includes a group of public schools;

“total school programme” means all curricular or co-curricular programmes or activities that are offered under the name of the school;

“tour” means a visit made by learners to another country or within the borders of South Africa made under the auspices of a public school, or group of public schools, in Gauteng, and includes learner exchange programmes organised by agencies other than institutions which fall under the jurisdiction of the Gauteng Department of Education, tours arranged as a result of international agreements, tours arranged as a result of invitations from foreign governments and tours initiated by the Gauteng Department of Education, but excludes one-day tours;

“tour fund” means a fund administered by the educator(s) accompanying a tour and which is used to fund all activities scheduled in the tour itinerary, which shall include meals and transport;

“tour manager” means an educator at the school, or one of the schools in a group, appointed by the school governing body or school governing bodies, as the case may be, who shall be accountable for the proper implementation of the relevant provisions of these regulations;

“unfair discrimination” means any discrimination in respect of selection for a tour that is not fair, where fair discrimination means the exclusion of learners from a tour on the basis of non-participation in the activity for which the tour is intended; and

“unlawful claims against the State” means any claims made against the State by persons who have no lawful grounds for claims.

2. Introduction

Since its return to the international community in 1994, South Africa has concluded many agreements that encourage co-operation in various socio-economic, cultural and political spheres. As a result of the various agreements, various international tours have become available to learners in Gauteng.

These tours offer learners an opportunity to exchange ideas and to learn from the experiences of the host countries.

Many learners are also afforded opportunities to undertake tours within the borders of South Africa. These tours, too, provide opportunities for learners to expand their horizons and broaden their experiences.

Furthermore, a school and the Gauteng Department of Education have a responsibility to develop the whole learner, and such tours provide opportunities for a school and the Department to meet this responsibility.

Developing the whole learner, in turn, implies making the total school programme accessible to all learners without any form of unfair discrimination being practised. Domestic and international tours for learners are to be seen to be part of the total school programme.

As a result it is important to make regulations that would standardize the participation of learners in tours.

3. Purpose

The purpose of the Domestic and International Tours Regulations for Learners is to

- (1) specify procedures for the planning and management of such a tour;
- (2) provide assurance that no learner will be excluded from a tour because of an inability to pay for such tour or because school fees have not been paid;
- (3) provide for the safety of learners on such a tour;
- (4) provide procedures for the selection of the learners and educators for such a tour;

- (5) specify the duties of educators accompanying a tour;
- (6) provide for tour reports on such a tour, once completed;
- (7) ensure that all school governing bodies develop a policy and procedures for the planning and organisation of school tours;
- (8) provide protection for the State against any unlawful claims made for any damage or loss caused as a result of any act or omission in connection with any tour made under the auspices of a public school and for which such public school is liable;
- (9) provide for the establishment and maintenance of Registers of Tours;
- (10) provide guidelines for schools to avoid unlawful claims;
- (11) provide for learner exchange programmes organised by agencies other than institutions which fall under the jurisdiction of the Gauteng Department of Education;
- (12) provide for tours arranged as a result of international agreements;
- (13) provide for tours arranged as a result of invitations from foreign governments and international agencies; and
- (14) provide for tours initiated by the Gauteng Department of Education.

4. **Procedures for the planning and management of tours**

- (1) A school may begin preliminary plans for a tour once the governing body of the school has approved such a tour and its budget.
- (2) Where a sporting tour, which will cross provincial or international boundaries is envisaged, a school must submit an application form, *Application for Approval to Undertake a Tour*, appended as Annexure A, for approval for such a tour to the United Schools' Sport Association of South Africa (USSASA) by no later than four months prior to the departure date of the tour.
- (3) A school must submit an application form, *Application for Approval to Undertake a Tour*, appended as Annexure A, to the District Senior Manager of the relevant District Office requesting permission to undertake a tour after permission from the United Schools' Sport Association of South Africa (USSASA), in terms of regulation 4 (2), has been obtained.
- (4) The application form must reach the District Office by no later than three months prior to the departure date of the tour.

- (5) A letter of invitation, where applicable, must accompany the applications to tour.
- (6) A school must take all reasonable precautions to ensure that
 - (a) learners on medication are not taking substances that are regarded as illegal in the country the school will be visiting, where applicable; and
 - (b) learners are aware that they may be subjected to tests for illegal substances when they are participating in sports and that they are aware of the consequences of being found guilty of taking such substances.
- (7) Final plans for a tour may only be made once the District Senior Manager in the relevant District Office has granted written approval for that tour.
- (8) The District Senior Manager must, in writing to the school governing body, grant or refuse approval for a tour within 30 days of receipt of the *Application for Approval to Undertake a Tour*, referred to in regulation 4 (3) above.
- (9) A school may not compel parents/legal guardians to sign indemnity forms that indemnify the school against negligence or legal action.
- (10) Failure to sign an indemnity form may not be used as a reason for preventing any eligible learner from participating in any tour.
- (11) Despite the provisions of regulations (9) and (10) above, the written approval of parents is required for learners to participate in a tour.
- (12) The United Schools' Sport Association of South Africa (USSASA) must, in writing to the school governing body, grant or refuse approval for a tour within 21 days of receipt of the *Application for Approval to Undertake a Tour*, referred to in regulation 4 (2) above.
- (13) Proof of this approval must be submitted to the Senior Manager in the relevant District Office together with the application form specified in regulation 4 (3).
- (14) A school must inform the parents/legal guardians of learners and the District Office in writing:
 - (a) of the purpose of the tour, accompanied by an invitation (where applicable);
 - (b) of the nature of activities learners will be engaged in and all the possible risks involved;

- (c) of the full itinerary with relevant contact details of all participants, hosts and accommodation service providers;
 - (d) of the number, names and contact details of educators, both at home and while on tour, accompanying the learners;
 - (e) of transport and accommodation arrangements and arrangements for set meals;
 - (f) of all travel documents, such as passports, visas and inoculation certificates (where applicable) which will be required and where they can be obtained;
 - (g) that all the documents referred to in regulation 14 (f) above must be in the possession of the participants at least seven days prior to departure;
 - (h) of the arrangements that will be made for the safekeeping of tour funds and learners' valuables;
 - (i) of the arrangements that will be made to ensure the safety of learners and educators while on tour;
 - (j) that no learner will be excluded from the tour because of the inability to pay for the tour;
 - (k) that no learner will be excluded from the tour because school fees have not been paid; and
 - (l) of all other requirements for the tour.
- (15) Parents/legal guardians and learners must be provided with the discipline and safety rules of the tour. The consequence for failing to comply with such rules that jeopardise the safety of staff and learners must be clearly stated and consistently enforced. Should any learner contravene these rules, the relevant regulations for disciplinary proceedings may be invoked.
- (16) A final list of participants and officials must be submitted to the relevant District and/or Head Office (where relevant) at least six weeks before the date of departure.
- (17) Tours should be planned in such a way that they will contribute to the learners' ability to contribute to community life, as well as to their overall educational, psychosocial and personal development.
- (18) Where reasonably practicable all tours must be undertaken during school vacation periods.

- (19) Tours should not interfere with or interrupt the learners' school programme or the school's normal educational programmes.
- (20) Where such programmes are compromised, the school must indicate how educators and/or the school will make up the lost time.

5. Assurance of access

- (1) Any learner admitted to a public school is admitted to the total school programme of that school.
- (2) The full costs of all tours planned for the following financial year must be provided for in the annual budget(s) of the school(s) concerned and no school may request any additional payments from parents in order to fund tours.
- (3) Any school undertaking a tour must provide written assurance to all parents and the District Senior Manager in the relevant district office that no learner will be excluded from a tour because of an inability to pay for the tour, an inability to provide learners with their own spending money or because school fees have not been paid.
- (4) In order to provide such assurance, schools must provide to the parents and the relevant District Senior Manager:
 - (a) details of the fund-raising activities to be undertaken by the school to fund, wholly or partially, the tour costs, or what sponsorships the school hopes to acquire or has acquired to fund the tour; and
 - (b) the total amount the school intends to raise by means of the fund-raising activities or sponsorships.

6. Safety of learners

- (1) Educators accompanying learners are acting *in loco parentis* and are responsible for the safety of the learners.
- (2) During tours learners must be under the supervision of the accompanying educator(s) at all times, where this is reasonably practicable.
- (3) A school should ensure that all travelling learners are insured against accidents, injuries, general medical expenses, hospitalisation and theft that could occur during tours.

- (4) Parents of learners should be encouraged to take out suitable private medical and travel insurance to cover any medical or travel eventuality that may occur while on tour.
- (5) No learner may be refused the right to participate in any tour on the strength of an inability or refusal to purchase any form of insurance.
- (6) Some medication may not be available internationally. If a learner is dependent on a particular medication, the parent and educator should make sure that the learner has sufficient quantities for the duration of the trip.
- (7) It may be necessary in certain instances for a learner to carry doctors' prescriptions for medication. In such cases it is the parents' responsibility to ensure that the learner and the tour manager are in possession of certified copies of such prescriptions.

7. Procedures for the selection of learners and educators for tours

- (1) The selection of learners for tours should be based on the principles of redress, equity and representivity.
- (2) No learner may be unfairly discriminated against in the selection of touring parties.
- (3) The educator:learner ratio for any primary or secondary school tour may not be larger than one educator for every ten learners.
- (4) In the case of a mixed tour, it is recommended that the educator:learner ratio for a primary or secondary school should be one male educator for every ten male learners or fewer and one female educator for every ten female learners or fewer.
- (5) Schools must ensure that all educators accompanying a tour are registered with the South African Council for Educators.

8. Duties of educators accompanying tours

- (1) The school governing body of a school undertaking a tour, or the school governing bodies of all the schools in a group undertaking a tour, as the case may be, must appoint a tour manager, who shall be an educator at the school or one of the schools in the group.
- (2) All educators accompanying a tour are on duty for the entire duration of the tour and
 - (a) are bound by all codes of conduct or dress as may be prescribed by a school's governing body; and

- (b) are bound by all codes of conduct as may be binding on the profession.
- (3) All educators accompanying a tour must accept that they are acting *in loco parentis* and must
- (a) ensure that all learners are accommodated in the lodgings specified in the tour itinerary;
 - (b) ensure that all learners are safely transported during the tour;
 - (c) make appropriate arrangements for the safekeeping of travel documents, such as passports, visas and inoculation certificates, tour funds and learners' valuables;
 - (d) take all necessary steps, within reason, to ensure the safety of learners at all times;
 - (e) enforce the discipline and safety rules of the tour at all times, as specified in regulation 4 (16), and take appropriate corrective action whenever necessary;
 - (f) supervise the activities of learners at all times where this is reasonable practicable;
 - (g) ensure that learners take their prescribed medication, where applicable, at the prescribed intervals, where this is reasonable practicable; and
 - (h) ensure that learners who fall ill or are injured receive the appropriate medical attention, which may include hospitalisation.
- (4) The tour manager, as specified in regulation 8 (1), must write a provisional tour report, containing the detail specified in regulation 9, and submit this report to the principal(s) of the school(s) concerned.

9. Tour report

- (1) A full report on the tour must be submitted by the principal of the school to the District Senior Manager of the relevant District Office and to the school governing body within one month after the conclusion of the tour.
- (2) The report must contain a full statement of income and expenditure indicating the funds derived from fund-raising activities or sponsorships, the contribution of the school, a statement of how all funds were spent, a statement of any surplus or deficit and an indication of what will be done about any surplus or deficit.

- (3) The report must contain an accident and injury report, where applicable.
- (4) An accident and injury report must contain
 - (a) the nature of the accident or injury;
 - (b) the date, time and place of the accident or injury;
 - (c) the procedures that were followed in dealing with the accident or injury;
 - (d) the name of the person(s) on duty at the time of the accident or injury; and
 - (e) how and when the accident or injury was reported to the parents.
- (5) The report must contain a report of any other serious incident, which may include acts of serious misconduct committed by learners and educators.

10. Responsibility of school governing bodies to develop a policy and procedures for the planning and organisation of school tours

- (1) All school governing bodies are responsible for developing policies and procedures for the planning and organisation of school tours. Such a policy should include
 - (a) how the school will ensure that the tour is adequately funded;
 - (b) what fund-raising activities or sponsorships to assist in the funding of the tour are permissible and how such activities or sponsorships will be administered and managed;
 - (c) the basis for selection of tour members;
 - (d) how the school will ensure that no learner will be unfairly discriminated against in the selection of members;
 - (e) a statement that the school will offer extra-mural activities, including tours, as a part of the school's developmental programme, wherever practicable; and
 - (f) the preferred means by which learners will carry their own spending money; and
 - (g) the responsibility of the school governing body to approve all tours undertaken by the school.

- (2) The provisions of regulation 19 (1) (f) do not apply to tour funds, which will be the responsibility of the accompanying educator(s).

11. Protection for the State against any unlawful claims made for any damage or loss caused as a result of any act or omission in connection with any educational activity conducted by a public school

- (1) In terms of section 60 of the South African Schools Act (Act 84 of 1996), as amended, the State is liable for any damage or loss caused as a result of any act or omission in connection with any educational activity conducted by a public school and for which such public school is liable but for the provisions of sub-regulations (4), (5) and (6).
- (2) The provisions of the State Liability Act, 1957 (Act 20 of 1957), apply to any claim under sub-regulation (1).
- (3) Any claim for damage or loss contemplated in sub-regulation (1) must be instituted against the Member of the Executive Council.
- (4) Despite the provisions of sub-regulation (1), the State is not liable for any damage or loss caused as a result of any act or omission in connection with any enterprise or business operated under the authority of a public school for purposes of supplementing the resources of the school, as contemplated in section 36 of the South African Schools Act, including the offering of practical educational activities relating to that enterprise or business.
- (5) Despite the provisions of sub-regulation (1), the State is not liable for any act or omission by the public school relating to its contractual responsibility as the employer in respect of staff employed by the school governing body and/or parent/s that accompany the tour. In such cases the responsibility will lie with the school governing body.
- (6) Despite the provisions of sub-regulation (1), the State is not liable for any act or omission by the public school relating to any damage or loss caused as a result of any act or omission in connection with any educational activity conducted by a public school in cases where the school can show beyond reasonable doubt that any such acts or omissions were not the result of negligence. In such cases the responsibility will lie with the parent(s) of the learner.
- (7) Any legal proceedings against a public school for any damage or loss contemplated in sub-regulation (4), or in respect of any act or omission relating to its contractual responsibility as employer as contemplated in section 20 (10) of the South African Schools Act may only be instituted after written notice of the intention to institute proceedings against the school has been given to the Head of Department for his or her information.

12. Registers of Tours

- (1) Each relevant District Office must establish and maintain a register of all tours undertaken by schools in the particular district.
- (2) The purpose of the Register of Tours, as contemplated in sub-regulation 12 (1), will be to track all tours undertaken by all schools in each district and to ensure accountability within the Gauteng Department of Education.
- (3) The Partnerships Unit of the Gauteng Department of Education Head Office must establish and maintain a register of all tours undertaken in terms of regulations 14, 15, 16 and 17.
- (4) The purpose of the Register of Tours, as contemplated in sub-regulation 12 (2), will be to track all tours undertaken in terms of regulations 14, 15, 16 and 17 and to ensure accountability within the Gauteng Department of Education.
- (5) The Registers of Tours must contain
 - (a) the name(s) of the school or group of schools which undertook each tour, where applicable;
 - (b) the destination(s) of each tour;
 - (c) the dates of departure and return of each tour;
 - (d) the purpose(s) of each tour;
 - (e) the name(s) of the principal(s) of the school(s) that undertook each tour, where applicable;
 - (f) the name of the tour manager of each tour;
 - (g) the numbers of male and female learners who participated in the tour;
 - (h) the names and Persal numbers of all educators who accompanied each tour;
 - (i) the date of receipt of the tour report for each tour;
 - (j) details of all claims made against the State or the school and the outcomes of all such claims in respect of each tour; and
 - (k) an appraisal of the level of compliance with these regulations achieved in each tour.

- (6) The official responsible for establishing and maintaining the Register of Tours in each District Office must be determined by the District Senior Manager.

13. Guidelines for a school to avoid claims

- (1) A school may be able to avoid unlawful claims being made against the State by
 - (a) following the procedures specified in regulations 4, 5, 6, 7, 8 and 9 of these regulations; and
 - (b) ensuring that the governing bodies have developed a policy as specified in regulation 10.
- (2) A school may be able to avoid claims being made against the school by
 - (a) ensuring that the purpose of the tour is not to supplement the resources of the school in any way;
 - (b) ensuring that at all educators accompanying a tour are registered with the South African Council for Educators;
 - (c) ensuring that no educator employed by the governing body accompanies the tour party in any position of accountability; and
 - (d) ensuring that no other person, other than an educator employed by the Gauteng Department of Education, accompanies the tour party in any position of accountability.

14. Learner exchange programmes organised by agencies other than institutions that fall under the jurisdiction of the Gauteng Department of Education

- (1) The provisions of regulation 14 apply to learner exchange programmes organised by agencies for learners in public schools in Gauteng, other than institutions which fall under the jurisdiction of the Gauteng Department of Education, who require the assistance of the Department in selecting learners.
- (2) Such agencies must approach the Head of Department for permission to organise such programmes.
- (3) The Head of Department will decide whether the envisaged programmes meet the strategic priorities of the Department and will base his or her decision on whether to permit such programmes on the extent to which they meet the strategic priorities of the Department.

- (4) The Head of Department will select the learners to be invited on such programmes on the basis of equity, redress and representivity.

15. Tours arranged as a result of international agreements

- (1) Such tours may involve government-to-government exchanges.
- (2) Proposals for such tours must be directed to the Partnerships Unit at the Gauteng Department of Education Head Office in order to verify whether international agreements exist and are recorded by the Protocol Unit located in the Office of the Premier.
- (3) Once confirmation has been received from the Protocol Unit located in the Office of the Premier, the Head of Department may grant permission for such tours.
- (4) The Head of Department will select the learners to be invited on such tours on the basis of equity, redress and representivity.

16. Tours arranged as a result of invitations from foreign governments and international agencies

- (1) These tours will be arranged in response to invitations from foreign governments or international agencies for learners to participate in events that may be international in character.
- (2) Proposals for such tours must be directed to the Partnerships Unit at the Gauteng Department of Education Head Office in order to verify whether international agreements exist and are recorded by the Protocol Unit located in the Office of the Premier.
- (3) Once confirmation has been received from the Protocol Unit located in the Office of the Premier, the Head of Department may grant permission for such tours.
- (4) The Head of Department will select the learners to be invited on such tours on the basis of equity, redress and representivity.

17. Tours initiated by the Gauteng Department of Education

- (1) These tours will be arranged by the Department, for learners to participate in events that may be either international or domestic in character, in response to invitations or to identified needs or which, in the opinion of the Head of Department, will be beneficial to the development of learners.
- (2) Proposals for such tours must be directed to the Partnerships Unit at the Gauteng Department of Education Head Office in order to verify

whether international agreements exist and are recorded by the Protocol Unit located in the Office of the Premier.

- (3) Domestic tours will be recorded as contemplated in sub-regulations 12 (3) and 12 (5)
- (4) Once confirmation has been received from the Protocol Unit located in the Office of the Premier the Head of Department may grant permission for such tours.
- (5) The Head of Department will select the learners to be invited on such tours on the basis of equity, redress and representivity.

18. Applicability

- (1) These regulations apply to all domestic and international tours, whether outside or within the borders of South Africa, made under the auspices of any public school in Gauteng, or made under the auspices of groups of public schools in Gauteng,
- (2) These regulations apply equally to learner exchange programmes organised by agencies other than institutions that fall under the jurisdiction of the Gauteng Department of Education, tours arranged as a result of international agreements, tours arranged as a result of invitations from foreign governments and international agencies, and tours initiated by the Gauteng Department of Education, provided that all responsibilities allocated to school principals or schools, District Senior Managers or district offices will become the responsibility of the Head of Department or such person(s) as may be delegated by the Head of Department.
- (3) These regulations do not apply to one-day tours or excursions.

19. Short title and commencement

These regulations are called the *Regulations Relating to Domestic and International Tours for Learners (2003)* and shall be effective as from a date determined by the Member of the Executive Council.

ANNEXURE A

Application for Approval to Undertake a Tour

Name of School:

Physical Address of School:

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Postal Address of School:

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District:

Name of School Principal:

Destination(s):

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Departure date:

Date of return:

Purpose(s) of tour:

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Learners' tour activities:

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.....

Racial and gender composition of the activity for which the tour is intended (percentages):

Black: Coloured: Indian: White:

Boy learners: Girl learners:

Racial and gender composition of tour party (percentages):

Black: Coloured: Indian: White:

Boy learners: Girl learners:

Name and Persal Number of tour manager:

.....

Names and Persal Numbers of accompanying educators:

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Arrangements for the safekeeping of tour funds, learners' valuables and travel documents:

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Details of funding arrangements:

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Documentation included:

◦ **Letter of invitation:** Yes/No (please delete that which is not applicable)

◦ **Full itinerary:** Yes/No (please delete that which is not applicable)

◦ **Discipline and safety rules:** Yes/No (please delete that which is not applicable)

◦ **Other (please specify):**

.....

.....

.....

TOUR APPROVAL

1. Principal

Name: **Signature:**
(Please print)

Date: **School Stamp**

oooooooo

2. Governing body

Name: **Designation:**
(Please print) (Please print)

Signature: **Date:**

oooooooo

3. United Schools' Sport Association of South Africa (USSASA) - where applicable

Tour approved/not approved (please delete that which is not applicable)

Name: **Designation:**
(Please print) (Please print)

Signature: **Date:**

oooooooo

4. District Senior Manager

Tour approved/not approved (please delete that which is not applicable)

Name: **Signature:**
(Please print)

Date: **District stamp**

IMPORTANT NOTICE

The
Gauteng Provincial Gazette Function
will be transferred to the
Government Printer in Pretoria
as from 2nd January 2002

NEW PARTICULARS ARE AS FOLLOWS:

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Pretoria

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Pretoria
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Mrs J. Wehmeyer Tel.: (012) 334-4753

Fax.: (012) 323-9574

This phase-in period is to commence from **November 2001** (suggest date of advert) and notice comes into operation as from **2 January 2002**.

Subscribers and all other stakeholders are advised to send their advertisements directly to the **Government Printing Works**, two weeks before the 2nd January 2002.

*In future, adverts have to be paid in advance
before being published in the Gazette.*

HENNIE MALAN

Director: Financial Management

Office of the Premier (Gauteng)

