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Aan: Adjunk-direkteurs-generaal, Hoofdirekteure, Direkteure (Hoofkantoor en distrikskantore), Adjunkdirekteure, Hoofonderwyskundiges, Hoofde: Kurrikulumondersteuning, Kringbestuurders, Hoofde: Bestuur en Beheer, Adjunk-hoofonderwyskundiges, Vakadviseurs, Prinsipale van openbare skole en Voorsitters van beheerliggame

Kort opsomming: *Bekendstelling van die Wes-Kaapse Provinsiale Wysigingswet op Skoolonderwys, 2018 (Wet 4 van 2018).*

Onderwerp: Die Wes-Kaapse Provinsiale Wysigingswet op Skoolonderwys, 2018 (Wet 4 van 2018)

1. Die Wes-Kaapse Provinsiale Wet op Skoolonderwys, 1997 (Wet 12 van 1997) (die Hoofwet), het op 16 Januarie 1998 in werking getree. Die Hoofwet is in 2010 gewysig en is onlangs weer deur die Wes-Kaapse Provinsiale Wysigingswet, 2018 (Wet 4 van 2018) gewysig ná die verordening daarvan deur die Provinsiale Wetgewer op 22 November 2018.

2. Die Wes-Kaap Provinsiale Wysigingswet op Skoolonderwys, 2018 (Wet 4 van 2018) is in *Buitengewone Provinsiale Koerant* No. 8010 op 29 November 2018 gepubliseer en word nou aan skole gesirkuleer om alle persone en inrigtings te help om voor te berei vir die implementering en toepassing van die bepalings van hierdie Wet wanneer dit deur die Premier geproklameer is.

3. Die doel van die 2018 Wysigingswet is om onder andere—
   (a) omskrywings te skrap en ander in te voeg en te vervang;
   (b) kruisverwysings na sekere wetlike bepalings te wysig;
   (c) verwysings na volwasse onderwys te verwyder;
   (d) voorsiening te maak vir die sentrale verkryging van goedere en dienste in verband met onderwys in die provinsie;
   (e) monitering en ondersteuning van kurrikulumlewering in die klaskamer by openbare skole te reguleer;

(f) die Wes-Kaap Onderwysraad te magtig om raadgewende verslae aan die Provinsiale Minister te verskaf;
(g) voorsiening te maak vir die instelling en werksaamhede van 'n skoolevalueringsgesag;
(h) voorsiening te maak vir die instelling van saamwerkskole en donateurbefondste openbare skole;
(i) voorsiening te maak vir die instelling van intervensiefasiliteite waarna leerders verwys kan word as alternatief vir skorsing in sekere omstandighede;
(j) weg te doen met die vereistes dat die instemming van die Provinsiale Minister verantwoordelik vir finansies ten opsigte van sekere ooreenkomste verkry moet word;
(k) 'n bepaling te skrap wat die sluiting van 'n gedeelte van 'n openbare skool magtig;
(l) verder voorsiening te maak vir die Provinsiale Minister verantwoordelik vir onderwys om regulasies te maak;
(m) 'n uitgediende bepaling in verband met die bevoegdhede van 'n kinderhof te herroep;
(n) sekere toetse te magtig in verband met die toelating van 'n leerder tot 'n openbare skool vir leerders met spesiale onderwysbehoeftes en skole met 'n doelgerigte fokus;
(o) voorsiening te maak rakende die verbruik en verkoop van alkoholiese drank deur enige persoon buiten 'n leerder tydens skoolaktiwiteite buite of binne die skoolperseel behoudens voorwaardes;
(p) te bepaal dat 'n openbare skool die voorafgekreë skriftelike toestemming van 'n ouer moet bekom wat die leerder se bywoning van 'n skoolaktiwiteit buite die skoolperseel magtig;
(q) verdere misdrywe te skep; en
(r) voorsiening vir verwante sake te maak.

4. Die Provinsiale Minister sal kragtens die 2018 Wysigingswet regulasies oor die volgende kwessies uitvaardig:
(a) skoolevalueringsgesag;
(b) befondsings- en bestuursmodelle vir saamwerkskole en donateurbefondste openbare skole;
(c) norme en standaarde vir die toestaan van subsidies aan onafhanklike skole;
(d) norme en standaarde vir 'n intervensiefasiliteit;
(e) toelating van leerders tot openbare skole;
(f) verkryging van goedere en dienste in verband met onderwys in die provinsie;
(g) monitering van, en toegang tot, 'n onafhanklike skool; en
(h) prosedure vir registrasie as 'n onafhanklike skool.

5. Die Hoof van die Departement sal kragtens die 2018 Wysigingswet die volgende uitvaardig:

(a) riglyne vir die verbruik of verkoop van alkoholiese drank op skoolpersele of by 'n skoolaktiwiteit en die teenwoordigheid van leerders wanneer alkoholiese drank op 'n skoolperseel of by 'n skoolaktiwiteit verbruik of verkoop word; en
(b) reëls vir monitering en ondersteuning in die klaskamer.

6. Indien daar enige verdere navrae oor hierdie aangeleentheid is, kontak gerus vir adv. Lynn Coleridge-Zils by telno. 021 483 6560/6577.

7. Aangeheg is 'n elektroniese weergawe van die Wes-Kaapse Provinsiale Wysigingswet op Skoolonderwys, 2018 (Wet 4 van 2018).

8. Bring asseblief die inhoud van hierdie omsendbrief onder die aandag van alle personeel.

GETEKEN: BK SCHREUDER
HOOF: ONDERWYS
DATUM: 2019-02-09

Western Cape Government • Wes-Kaapse Regering • URhulumente weNtshona Koloni

PROVINCE OF THE WESTERN CAPE

Provincial Gazette Extraordinary

8010

Thursday, 29 November 2018

PROVINSIE WES-KAAP

Buitengewone Provinsiale Koerant

8010

Donderdag, 29 November 2018

IPHONDO LENTSHONA KOLONI

Tsongezelelo kwiGazethi yePhondo

8010

Lwesine, 29 Novemba 2018

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*(*Copies are obtainable at Room M21, Provincial Legislature Building, 7 Wale Street, Cape Town 8001.)*

OFFICE OF THE PREMIER OF THE PROVINCE OF THE WESTERN CAPE

P.N. 148/2018 29 November 2018

It is hereby notified that the Premier of the Province of Western Cape has assented to the following Act which is hereby published for general information:—

No. 4 of 2018: Western Cape Provincial School Education Amendment Act, 2018.

As 'n nuusblad by die Poskantoor geregistreer

*(*Afskrifte is verkrygbaar by Kamer M21, Provinsiale Wetgewer-gebou, Waalstraat 7, Kaapstad 8001.)*

KANTOOR VAN DIE PREMIER VAN DIE PROVINSIE WES-KAAP

P.K. 148/2018 29 November 2018

Hiermee word bekend gemaak dat die Premier van die Provinsie Wes-Kaap die onderstaande Wet, wat hierby ter algemene inligting gepubliseer word, bekragtig het:—

Nr. 4 van 2018: Wes-Kaapse Provinsiale Wysigingswet op Skoolonderwys, 2018.

Ibhaliswe ePosini njengePhephandaba

*(*Iikopi zifumaneka kwigumbi M21, kwiSakhiwo seNdlu yoWiso Mthetho yePhondo, e7 Wale Street, eKapa 8001.)*

I-OFISI YENKULUMBUSO YEPHONDO LENTSHONA KOLONI

I.S. 148/2018 29 Novemba 2018

Kwenziwa isaziso apha sokuba iNkulumbuso yePhondo leNtshona Koloni iwamkele ngokusemthethweni lo Mthetho ulandelayo opapashelwe ulwazi gabalala:—

Nomb 4 ka-2018: UMthetho woLungiso weMfundo weZikolo zePhondo leNtshona Koloni, 2018.

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.

(English text signed by the Premier)
(Assented to 22 November 2018)

AMENDMENT ACT

To amend the Western Cape Provincial School Education Act, 1997, so as to delete a definition and to insert and substitute others; to amend cross references to certain statutory provisions; to remove references to *adult education*; to make provision for goods and services relating to *education* in the *province* to be centrally procured; to regulate monitoring and support of curriculum delivery at *public schools*; to authorise the Western Cape *Education Council* to provide advisory reports; to make provision for the establishment and functions of a *Schools Evaluation Authority*; to make provision for the establishment of *collaboration schools* and *donor funded public schools*; to make provision for the establishment of *intervention facilities* to which *learners* may be referred in certain circumstances; to do away with requirements for the concurrence of the *Provincial Minister* responsible for finance to be obtained in respect of certain agreements; to delete a provision that authorises the closure of part of a *public school*; to make further provision for the *Provincial Minister* responsible for *education* to make *regulations*; to regulate further the power of the *Provincial Minister* to determine certain norms and standards and the functions and procedures for the establishment and election of representative councils of learners; to repeal an obsolete provision relating to the powers of a children's court; to authorise certain tests related to the admission of a *learner* to a *public school* for *learners with special education needs*; to make provision regarding the consumption and sale of alcoholic liquor on *school* premises or during *school activities* subject to conditions; to provide that a *public school* must obtain the prior written consent of a *parent* authorising the *learner* to attend a *school activity* outside of the *school* premises; to create further offences; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Parliament of the Western Cape, as follows:—

Amendment of section 1 of Act 12 of 1997, as amended by section 2 of Act 7 of 2010

1. Section 1 of the Western Cape Provincial School Education Act, 1997 (the principal Act), is amended by—

(a) the deletion of the definition of ***"adult education"***;

(b) the insertion after the definition of ***"basic education"*** of the following definitions:

"***'Chief Evaluator'*** means the chief evaluator of *schools* appointed in terms of section 11A(2);
'circuit manager' means the head of a circuit office in an *education* district, who executes functions that have been allocated by the *district director* or the *Head of Department*;
'collaboration school' means a *public school* contemplated in section 12C;";

(c) the insertion after the definition of ***"dangerous object"*** of the following definitions:

"***'district director'*** means the head of a district office who executes functions under authority delegated by the *Head of Department*;
'donor' means a person contemplated in section 12C(2)*(a)* or 12D(1) who provides funds or property to a *collaboration school* or a *donor funded public school* for the purposes of improving the delivery of education in the province;
'donor funded public school' means a *public school* contemplated in section 12D;";

(d) the substitution for the definition of ***"educator"*** of the following definition:

"***'educator'*** means any person, excluding a person who is appointed to perform extracurricular duties exclusively, who teaches, educates or trains other persons or who provides professional educational services, including professional therapy and education psychological services, at a *school*;";

(e) the insertion after the definition of ***"Employment of Educators Act"*** of the following definition:

"***'Evaluator'*** means an evaluator of schools appointed in terms of section 11A(4)*(b)*;";

(f) the insertion after the definition of ***"intermediate school"*** of the following definitions:

"***'intervention facility'*** means a facility contemplated in section 12E;
'Lead Evaluator' means the lead evaluator of schools appointed in terms of section 11A(4)*(a)*;";

(g) the insertion after the definition of ***"officer"*** of the following definition:

"***'operating partner'*** means a non-profit organisation that is authorised to place its capacity, skills or resources at the disposal of a *collaboration school* to empower the *governing body*, *school* management team and *educators* at the *school* to develop systems, structures, cultures and capacities necessary to deliver quality *education*;";

(h) the insertion after the definition of ***"school for learners with special education needs"*** of the following definitions:

"***'school improvement plan'*** means a plan which defines a *public school's* targeted priorities for improved educational outcomes and for shaping the direction and development of the *school*;
'Schools Evaluation Authority' means the Western Cape Schools Evaluation Authority contemplated in section 11A(1);"; and

(i) the insertion after the definition of ***"specialised education"*** of the following definition:

"***'subject advisor'*** means a specialist office-based *educator* in a district office or circuit office whose function is to facilitate curriculum implementation and improve the environment and process of learning and teaching by visiting *schools*, and consulting with and advising *principals and educators* on curriculum matters;".

Amendment of section 3 of Act 12 of 1997, as amended by section 3 of Act 7 of 2010

2. Section 3 of the principal Act is amended by the substitution in subsection (1) for the words preceding paragraph *(a)* of the following words:

"Subject to the provisions of **[the *South African Schools Act* and]** the *Constitution*, the *Provincial Minister* may, where necessary, from time to time determine the policy which is to be pursued in respect of *education* in *schools* in the *province*, taking into account the following principles, namely that—".

Amendment of section 4 of Act 12 of 1997

3. Section 4 of the principal Act is amended by the deletion of paragraph *(b)* of subsection (1).

Repeal of section 7A of Act 12 of 1997, as inserted by section 5 of Act 7 of 2010

4. Section 7A of the principal Act is repealed.

Insertion of section 8A in Act 12 of 1997

5. The following section is inserted in the principal Act after section 8:

“**Procurement of goods and services**

8A. Notwithstanding section 8(1)*(a)*, *(c)* and *(d)* and section 8(2) or any other law to the contrary, the *Head of Department* may, after consultation with the *governing body* contemplated in section 8(1)*(a)*, *(c)* and *(d)*, centrally procure goods and services relating to *education* in the *province* if he or she considers this to be in the interests of *education* in the *province*, including the efficient, effective and economic utilisation of public funds.”.

Insertion of section 9A in Act 12 of 1997

6. The following section is inserted in the principal Act after section 9:

“**Monitoring and support of curriculum delivery**

9A. (1) The *Head of Department*, a *district director*, the *principal* of a *public school* or an authorised representative of an *operating partner* in respect of a *public school* to which their duties relate may conduct monitoring and support of curriculum delivery by an *educator* in the classroom of a *public school*, or may authorise such monitoring and support by—

(a) a *subject advisor*;
(b) a deputy principal;
(c) a departmental head; or
(d) a subject head.

(2) The *Head of Department*, the *district director*, the *circuit manager* if authorised to do so by the *district director*, or an authorised representative of an *operating partner*, may conduct monitoring and support of curriculum delivery by the *principal* of a *public school*.

(3) The *Head of Department* may make rules for monitoring and support in terms of this section.”.

Amendment of section 11 of Act 12 of 1997, as substituted by section 7 of Act 7 of 2010

7. Section 11 of the principal Act is amended by—

(a) the substitution for paragraph *(b)* of subsection (4) of the following paragraph:

“*(b)* the *prescribed* number of **[persons]** *officers* designated by the *Head of Department* from his or her staff;”; and

(b) the addition of the following subsection:

“(9)*(a)* The *Education Council* must provide the *Provincial Minister* with an advisory report.

(b) The *Provincial Minister* must consider the advisory report and inform the chairperson of the *Education Council* of his or her decision in respect thereof.”.

Insertion of sections 11A, 11B, 11C, 11D, 11E, 11F, 11G and 11H in Act 12 of 1997

8. The following sections are inserted in the principal Act after section 11:

''**Establishment of Schools Evaluation Authority**

11A. (1) The *Provincial Minister* may establish an evaluation authority, to be known as the Western Cape Schools Evaluation Authority, to conduct independent evaluations of *schools*.

(2) The *Provincial Minister* may appoint to the *Schools Evaluation Authority* a *Chief Evaluator* of *schools*.

(3) The *Chief Evaluator* shall be appointed for a non-renewable term of four years.

(4) The *Chief Evaluator* may appoint to the *Schools Evaluation Authority*—

(a) *Lead Evaluators* of *schools*; and

(b) *Evaluators* of *schools*.

Eligibility for appointment as Chief Evaluator, Lead Evaluator or Evaluator

11B. To be eligible for appointment as *Chief Evaluator*, *Lead Evaluator* or *Evaluator* a person shall—

(a) be a citizen of the Republic;

(b) not be an unrehabilitated insolvent;

(c) not at any time have been convicted of—

(i) an offence for which he or she was sentenced to imprisonment without the option of a fine;

(ii) a sexual offence against a child; or

(iii) theft, fraud, forgery, the uttering of a forged document, perjury, any offence in terms of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004), or any offence of which dishonesty is an element; and

(d) possess appropriate knowledge of or experience in *education* and *school* management.

Removal from office

11C. (1) The *Provincial Minister* may, after due process, remove the *Chief Evaluator* from office—

(a) if he or she no longer meets the eligibility criteria contemplated in section 11B; or

(b) on any reasonable ground, including misconduct, incapacity or incompetence.

(2) The *Chief Evaluator* may, after due process, remove a *Lead Evaluator* or an *Evaluator* from office—

(a) if he or she no longer meets the eligibility criteria contemplated in section 11B; or

(b) on any reasonable ground, including misconduct, incapacity or incompetence.

Functions of Schools Evaluation Authority

11D. (1) The *Chief Evaluator* shall keep the *Provincial Minister* informed in the prescribed manner of the following in respect of *schools*:

(a) the quality of *education* provided at the *school*;

(b) the extent to which *education* at the *school* meets the diverse needs of the *learners* through a holistic approach;

(c) the educational standards achieved at the *school*;

(d) the quality of leadership and management at the *school*;

(e) the financial resources made available at the *school* and whether they are managed economically, efficiently and effectively;

(f) the extent to which the *school* is developing internal procedures of self-evaluation in terms of its *school improvement plans*;

(g) the safety, behaviour and attendance of *learners* and staff at the *school*;

(h) the social and cultural development of *learners* at the *school*;

(i) the performance management and development of *educators*; and

(j) the relationship between *parents*, the community and the *school*.

(2) Upon written request by the *Provincial Minister*, the *Chief Evaluator* shall—

(a) advise the *Provincial Minister* on any matter specified in the request; and

(b) evaluate and report on a *school*, or class in a *school*, specified in the request.

(3) The *Chief Evaluator* shall compile and publish reports as prescribed, which shall include empirical findings and, where applicable, recommendations for improvement.

(4) The *Chief Evaluator*, a *Lead Evaluator* or an *Evaluator* may—

(a) on two *school* days' written notice to the *district director*, *principal* and *governing body*, obtain access to and evaluate a *school* and any classroom in a *school*, observe lessons and gather first-hand evidence to inform his or her recommendations;

(b) on two *school* days' written notice, conduct an interview with a *governing body* or any member thereof, an *official* of the Department, a *member of staff* of a *school*, a *learner* or a *parent*;

(c) submit a written request for documentation to the *principal* of a *school*;

(d) without notice, enter a *school* and seize financial records, statements and documents, regardless of form or medium, if he or she has—

  (i) *prima facie* proof of financial mismanagement at the *school*; and

  (ii) a reasonable suspicion that the records and documents will be hidden, destroyed or tampered with if notice is given; and

(e) at any time make recommendations to the *Provincial Minister* on any matter concerning a *school*.

(5) The powers contemplated in subsection (4)*(a)* and *(b)* may be exercised without notice if the *Chief Evaluator* has reasonable grounds to believe that this is necessary for the effective performance of the functions of the *Schools Evaluation Authority*.

(6)*(a)* The *Provincial Minister* may, after consultation with the *Chief Evaluator*, authorise him or her to perform additional duties or exercise additional powers if the *Provincial Minister* has reason to believe that—

  (i) the *Chief Evaluator* has the capacity to perform those additional duties or exercise those additional powers; and

  (ii) it would be in the public interest for the *Chief Evaluator* to do so.

(b) The *Provincial Minister* may, after consultation with the Chief *Evaluator*, revoke the authority given to the *Chief Evaluator* in terms of paragraph *(a)* if the Provincial Minister has reason to believe that—

  (i) the *Chief Evaluator* no longer has the capacity to perform that additional duty or exercise that additional power; or

  (ii) it would be in the public interest for the *Provincial Minister* to do so.

(c) The *Provincial Minister* may, after consultation with the *Chief Evaluator*—

  (i) exempt the *Chief Evaluator* from performing a duty imposed by subsection (1); or

  (ii) revoke a power conferred on the *Chief Evaluator*, a *Lead Evaluator* or an *Evaluator* by subsection (4).

Remuneration and allowances

11E. The *Chief Evaluator*, *Lead Evaluators* and *Evaluators* shall be paid the remuneration and allowances determined by the *Provincial Minister* after consultation with the financial head.

Functions of Head of Department regarding Schools Evaluation Authority

11F. (1) The *Head of Department* shall provide the *Schools Evaluation Authority* with general support and the necessary resources to perform its functions, including administrative support and infrastructure support.

(2) The *Head of Department* shall designate *officials* of the *Western Cape Education Department* to provide administrative support to the *Schools Evaluation Authority* as contemplated in subsection (1).

(3) The *Head of Department* shall consider the findings and recommendations referred to in section 11D(3) and implement appropriate measures to facilitate improvement.

Dissolution

11G. (1) The *Provincial Minister* may dissolve the *Schools Evaluation Authority* with effect from a date determined by the *Provincial Minister* if the *Schools Evaluation Authority* fails to perform its functions in a satisfactory manner, is no longer effective, or acts in a manner which is not in the best interests of *education*.

(2) The *Provincial Minister* may not act under subsection (1) unless he or she has—

(a) given reasonable notice to the *Schools Evaluation Authority* of his or her intention to do so and his or her reasons therefor;
(b) granted the *Schools Evaluation Authority* a reasonable opportunity to make representations to him or her in relation to such action; and
(c) given due consideration to any representations received.

Regulations regarding Schools Evaluation Authority

11H. The *Provincial Minister* may make *regulations* on—

(a) procedures for the appointment of the *Chief Evaluator*, *Lead Evaluators* and *Evaluators* and the filling of vacancies;
(b) the terms and conditions of appointment of the *Chief Evaluator*, *Lead Evaluators* and *Evaluators*;
(c) procedures for the removal of the *Chief Evaluator*, *Lead Evaluators* and *Evaluators*;
(d) procedures for the exercise of the powers referred to in section 11D(4);
(e) the manner in which the *Chief Evaluator* shall inform the *Provincial Minister* of the matters set out in section 11D(1);
(f) the preparation and publication of reports by the *Schools Evaluation Authority*; and
(g) any other matter which may be necessary or expedient to prescribe in order to achieve the objects of the *Schools Evaluation Authority.*''.

Amendment of section 12 of Act 12 of 1997

9. Section 12 of the principal Act is amended by the insertion in subsection (1) after paragraph *(e)* of the following paragraphs:

''*(e*A*) collaboration schools;*
*(e*B*) donor funded public schools;*''.

Amendment of section 12A of Act 12 of 1997, as inserted by section 8 of Act 7 of 2010

10. Section 12A of the principal Act is amended by the substitution for paragraph *(b)* of subsection (6) of the following paragraph:

"*(b)* The interim *governing body* shall decide on the budget and differences in codes of conduct and *school fees*, as well as any issue that is relevant to the merger or which is *prescribed*, until a new *governing body* is constituted **[in terms of sections 23 and 28 of the *South African Schools Act*]** in the manner *prescribed* under section 24.".

Insertion of sections 12C, 12D and 12E in Act 12 of 1997

11. The following sections are inserted in the principal Act after section 12B:

"**Collaboration schools**

12C. (1) The *Provincial Minister* may identify a *public school* contemplated in section 12(1)*(a)* to *(f)* for declaration as a *collaboration school* if he or she is satisfied that such declaration will be in the interests of education at the school, having regard to relevant reports on the school, including reports on the performance of the school.

(2) Subject to subsection (1), the *Provincial Minister* may, on the recommendation of the *Head of Department*, enter into an agreement with—

(a) a *donor*;
(b) an *operating partner*; and
(c) the *governing body* of a *public school*,

in terms of which an existing *public school* contemplated in section 12(1)*(a)* to *(f)* is to be declared a *collaboration school*.

(3) The *Provincial Minister* may, on the recommendation of the *Head of Department*, enter into an agreement with a *donor* and an *operating partner* for the establishment of a new *collaboration school* and establish the *school*.

(4) The agreements contemplated in subsections (2) and (3) shall contain the minimum requirements *prescribed* by the *Provincial Minister*.

(5) On conclusion of an agreement contemplated in subsection (2), the *Provincial Minister* may, by notice in the *Provincial Gazette*, declare the *public school* concerned to be a *collaboration school*.

(6) The *Provincial Minister* may not make a declaration contemplated in subsection (5) unless he or she has called for public comment in respect of the intended declaration and given due consideration to any comments received.

(7) If an agreement with an *operating partner* or *donor* contemplated in subsection (2)*(a)* or *(b)* or subsection (3) is terminated, the *Provincial Minister* may, on the recommendation of the *Head of Department*, enter into a new agreement with a new *operating partner* or *donor*, as the case may be, and the *school* may retain its status as a *collaboration school*.

(8) If a new agreement is not entered into as contemplated in subsection (7)—

(a) the *school* concerned shall cease to be a *collaboration school*;
(b) the *Provincial Minister* shall, by notice in the *Provincial Gazette*, declare the *school* to be the applicable type of *public school* contemplated in section 12(1)*(a)* to *(f)*; and
(c) a new *governing body* shall be composed in the *prescribed* manner.

(9) The membership of the *governing body* of a *collaboration school* shall comprise 50 per cent of representatives of the *operating partner*, with voting rights, and 50 per cent of the other members of the *governing body*, with voting rights: Provided that the *Provincial Minister* may, on good cause shown, declare that the *governing body* of a particular *collaboration school* shall comprise more than 50 per cent of the other members of the *governing body* with voting rights.

(10) In the event of an equality of votes at a meeting of a *governing body* of a *collaboration school* where the *operating partner* with voting rights comprises 50 per cent of that governing body, the matter must be determined by a majority vote at a general meeting of *parents* present and voting.

(11) The *Western Cape Education Department* must maintain the employment of *educators* and non-educators who, at the time of the declaration of a *collaboration school* in terms of subsection (5), are employed at the *school* in posts established in terms of the *Employment of Educators Act* or the Public Service Act, 1994 (Proclamation 103 of 1994), in accordance with the conditions of employment applicable to those posts for as long as those *educators* and non-educators remain in those posts.

(12) Subject to the Public Finance Management Act, 1999 (Act 1 of 1999), the *Western Cape Education Department* may make transfer payments to a *collaboration school* equivalent to the amounts required for the funding of—

(a) posts contemplated in subsection (11) which become vacant;

(b) new posts determined by the *Head of Department* for—

(i) *educators* in terms of section 5(2) of the *Employment of Educators Act*;

(ii) non-educators in terms of the *Western Cape Education Department*'s Norms and Standards for Support Staff Provision at Ordinary Public Schools,

subject to the available resources of the *Western Cape Education Department*.

(13) Subject to the *regulations* contemplated in subsection (17)*(b)*, the *governing body* of a *collaboration school* may, from the funds contemplated in subsection (12), employ *educators* and non-educators in accordance with the staff establishment, and terms and conditions of employment, determined by the *governing body*.

(14) A *collaboration school* shall be the employer of *educators* and non-educators contemplated in subsection (13).

(15) The employment of *educators* and non-educators by a *governing body* contemplated in subsection (13) is subject to the Labour Relations Act, 1995, and the Basic Conditions of Employment Act, 1997 (Act 75 of 1997);

(16) Despite section 60 of the *South African Schools Act*, the State is not liable for any act or omission by a *collaboration school* relating to its contractual responsibility as the employer in respect of staff employed in terms of subsection (13).

(17) The *Provincial Minister* must make *regulations* regarding—

(a) transfer payments contemplated in subsection (12); and

(b) the utilisation of funds by a *governing body* for the purposes contemplated in subsection (13),

but such regulations may not be interpreted so as to make the State the joint employer of such staff.

(18) Save as provided for in this section, the provisions of *this Act* and any other applicable law regulating *public schools* apply to *collaboration schools*.

Donor funded public schools

12D. (1) The *Provincial Minister* may enter into an agreement with—

(a) a *donor*; and

(b) the *governing body* of a *public school*,

in terms of which an existing *public school* contemplated in section 12(1)*(a)* to *(f)* is to be declared a *donor funded public school*, provided that the *Provincial Minister* is satisfied that such declaration will be in the interests of *education* at the *school*.

(2) The *Provincial Minister* may enter into an agreement with a *donor* for the establishment of a new *donor funded public school* and establish the *school*.

(3) The agreements contemplated in subsections (1) and (2) shall contain the minimum requirements *prescribed* by the *Provincial Minister*.

(4) On conclusion of an agreement contemplated in subsection (1), the *Provincial Minister* may, by notice in the *Provincial Gazette*, declare the *public school* concerned to be a *donor funded public school*.

(5) The *Provincial Minister* may not make a declaration contemplated in subsection (4) unless he or she has called for public comment in respect of the intended declaration and given due consideration to any comments received.

(6) In the event of the termination of an agreement contemplated in subsection (1) or (2)—

(a) the *school* concerned shall cease to be a *donor funded public school*;

(b) the *Provincial Minister* shall, by notice in the *Provincial Gazette*, declare the *school* to be the applicable type of *public school* contemplated in section 12(1)*(a)* to *(f)*; and

(c) a new *governing body* shall be composed in the *prescribed* manner.

(7) The membership of the *governing body* of a *donor funded public school* may include representatives of the *donor*, with voting rights, up to a maximum of 50 per cent;

(8) In the event of an equality of votes at a meeting of a *governing body* of a *donor funded public school* where the representatives of the *donor* with voting rights comprise 50 per cent of that *governing body*, the matter must be determined by a majority vote at a general meeting of *parents* present and voting.

(9) The *Provincial Minister* may, on good cause shown, declare that the *governing body* of a particular *donor funded public school* shall comprise more than 50 per cent of the representatives of the *donor* with voting rights.

(10) Save as provided for in this section, the provisions of *this Act* and any other applicable law regulating *public schools* apply to *donor funded schools*.

Intervention facility

12E. (1) Subject to the available resources of the *Western Cape Education Department*, the *Provincial Minister* may establish an *intervention facility* for *learners* who have been found guilty of serious misconduct.

(2) An *intervention facility* shall provide for—

(a) therapeutic programmes and intervention strategies in order to address the serious misconduct; and

(b) curriculum delivery equivalent to the standard provided in legislation and policies applicable to public schools.

(3) An *intervention facility* may include residential care.''.

Amendment of section 13 of Act 12 of 1997, as substituted by section 9 of Act 7 of 2010

12. Section 13 of the principal Act is amended by the substitution for subsection (7) of the following subsection:

''(7) If a new *public school* is **[provided in terms of section 12 of the *South African Schools Act*]** established, the governance of that *school* shall vest in the *Head of Department* until a *governing body* has been constituted in terms of **[that]** this Act.''.

Amendment of section 14 of Act 12 of 1997

13. Section 14 of the principal Act is amended by the substitution for subsection (1) of the following subsection:

''(1) Subject to the *Constitution* and *this Act*, a *public school* may be provided on private property only in terms of an agreement between the *Provincial Minister*

[with the concurrence of the *financial head*,] and the owner of the private property.''.

Amendment of section 16 of Act 12 of 1997

14. Section 16 of the principal Act is amended by the substitution for subsection (6) of the following subsection:

''(6) No immovable property owned by the State and occupied by a *public school* may be alienated unless an agreement has been concluded between the *Provincial Minister*, with the concurrence of the **[*financial head*]** Provincial Minister responsible for public works, and the prospective owner of the immovable property.''.

Substitution of section 18 of Act 12 of 1997

15. The following section is substituted for section 18 of the principal Act:

''**Closure of public schools**

18. The *Provincial Minister* may at any time close a *public school* **[or a part thereof]** in terms of section 33 of the *South African Schools Act*.''.

Amendment of section 20B of Act 12 of 1997, as inserted by section 11 of Act 7 of 2010

16. Section 20B of the principal Act is amended by the substitution in subsection (1) for the words preceding paragraph *(a)* of the following words:

''Subject to any applicable national norms and standards contemplated in section 146(2) of the *Constitution*, the *Provincial Minister* may **[, after consultation with the *Education Council*,]** prescribe by *regulation* minimum uniform norms and standards for—''.

Amendment of section 21A of Act 12 of 1997, as inserted by section 12 of Act 7 of 2010

17. Section 21A of the principal Act is amended by—

(a) the deletion of subsection (7);

(b) the substitution for subsection (11) of the following subsection:

''(11) **[Subject to any applicable national norms and standards determined by the *National Minister* in terms of section 20(11) of the *South African Schools Act*, the]** The *Provincial Minister* may determine norms and standards by notice in the *Provincial Gazette* regarding the funds used for the employment of staff referred to in subsections (4) and (5), but such norms and standards may not be interpreted so as to make the State a joint employer of such staff.''.

Substitution of section 31 of Act 12 of 1997

18. The following section is substituted for section 31 of the principal Act:

''**Subsidies to registered independent schools**

31. [Subject to the provisions of section 48 of the *South African Schools Act*, the] The granting of subsidies to registered *independent schools* shall be dealt with as *prescribed* by the *Provincial Minister*, with the concurrence of the *financial head*.''.

Repeal of section 40 of Act 12 of 1997

19. Section 40 of the principal Act is repealed.

Amendment of section 41 of Act 12 of 1997, as substituted by section 15 of Act 7 of 2010

20. Section 41 of the principal Act is amended by the substitution for subsection (2) of the following subsection:

"(2) The *governing body* of a *public school* may not administer any test related to the admission of a *learner* to a *public school* or direct or authorise the *principal* of the *school* or any other person to administer such a test, except in the case of the admission of a *learner* to a *public school* contemplated in section 20A.".

Amendment of section 45 of Act 12 of 1997, as amended by section 18 of Act 7 of 2010

21. Section 45 of the principal Act is amended—

(a) by the substitution for paragraph *(b)* of subsection (5) of the following paragraph:

"*(b)* make a recommendation to the *Head of Department* to—

(i) refer the *learner* to an *intervention facility* for a specified period not exceeding 12 months at any one time, if the *parents consent to the referral*; or

(ii) expel the *learner* from the *public school*.";

(b) by the substitution for subsection (6) of the following subsection:

"(6) The *Head of Department* shall, within 14 days after receiving a recommendation contemplated in subsection (5)*(b)*—

(a) in the case of a recommendation contemplated in subsection (5)*(b)*(i), decide whether or not to refer the *learner* to an *intervention facility* for a period not exceeding 12 months at any one time, if the *parents* consent to the referral; or

(b) in the case of a recommendation contemplated in subsection (5)*(b)*(ii), decide whether or not to expel the *learner*.";

(c) by the substitution for subsection (7) of the following subsection:

"(7) A *governing body* may suspend or extend the suspension of a *learner* for a period not longer than 14 *school* days pending the decision by the *Head of Department* whether or not to expel the *learner* from the *public school* or whether to refer the learner to an *intervention facility*.";

(d) by the insertion after subsection (14) of the following subsections:

"(14A) The sanction referred to in subsection (14) may include, on the recommendation of the *governing body* and with the consent of the *parents* of the *learner*, referral to an *intervention facility* for a specified period, which may not exceed 12 months at any one time.

(14B) A *learner* who has been referred to an *intervention facility* in terms of subsection (6)*(a)* or (14A) shall, after the lapse of the specified period contemplated in those subsections, be admitted to the same *public school* that he or she attended prior to the referral.".

Amendment of section 45A of Act 12 of 1997, as inserted by section 19 of Act 7 of 2010

22. Section 45A of the principal Act is amended by the insertion after subsection (1) of the following subsection:

"(1A) Subsection (1) does not apply to the lawful consumption of alcoholic liquor by a person other than a learner at a *school activity* that is held off *school* premises.".

Insertion of sections 45B and 45C in Act 12 of 1997

23. The following sections are inserted in the principal Act after section 45A:

"**Exception to prohibition of alcoholic liquor on school premises or during school activities**

45B. (1) Notwithstanding the prohibition of alcoholic liquor on *school* premises or during any *school activity* contemplated in section 45A(1),

the *Head of Department* may, on application in writing, authorise a *governing body* or, in the case of a staff function, a *principal* of a *public school* to permit the consumption or sale of alcoholic liquor on *school* premises or at any *school activity* or *school activities* held on *school* premises.

(2) In considering an application contemplated in subsection (1), the *Head of Department* must have due regard to policies of the Western Cape Government regarding alcohol harms reduction.

(3) A *governing body* or *principal* who has been given the authority contemplated in subsection (1) may permit the consumption or sale of alcoholic liquor on the *school's* premises or at any *school activity* or *school activities* held on the *school's* premises.

(4) The consumption or sale of alcoholic liquor as contemplated in this section is subject to—

(a) the Western Cape Liquor Act, 2008, and any conditions imposed in terms of that Act; and

(b) any conditions set by—

 (i) the *governing body*;

 (ii) the *principal* in the case of a staff function; and

 (iii) the *Head of Department*.

(5) Notwithstanding subsections (1) and (3), the consumption and sale of alcoholic liquor on *school* premises or at a *school activity* held on *school* premises are not permitted during *school* hours.

(6) The *Head of Department* may, on reasonable grounds, withdraw the approval contemplated in subsection (1).

(7) The *Head of Department* may not withdraw the approval contemplated in subsection (1) unless he or she has—

(a) informed the *governing body* or the *principal* of his or her intention to do so and the reasons therefor;

(b) granted the *governing body* or *principal* a reasonable opportunity to make representations to him or her relating thereto; and

(c) duly considered any representations received.

(8) In cases of urgency, the *Head of Department* may withdraw an approval contemplated in subsection (1) without complying with subsection (7), provided that the *Head of Department*—

(a) furnishes the *governing body* or *principal* with reasons for his or her decision;

(b) gives the *governing body* or *principal* a reasonable opportunity to make representations relating to his or her decision; and

(c) duly considers any representations received.

(9) The *Head of Department* may, on good cause shown by the *school*, reverse or suspend his or her decision contemplated in subsection (6) or (8).

(10) Any person aggrieved by a decision of the *Head of Department* in terms of this section may appeal against the decision to the *Provincial Minister*.

(11) The *Head of Department*—

(a) may issue guidelines to *schools* for the consumption or sale of alcoholic liquor on *school* premises or at a *school activity* in accordance with this section; and

(b) must issue guidelines to *schools* regarding the presence of *learners* when alcoholic liquor is consumed or sold on *school* premises or at a school activity in accordance with this section.

Consent for school outings

45C. A *public school* must obtain the prior written consent of a *parent* authorising the *learner* to attend a *school activity* outside of the *school* premises, excluding routine sporting activities.''.

Amendment of section 48 of Act 12 of 1997, as substituted by section 21 of Act 7 of 2010

24. Section 48 of the principal Act is amended by the substitution for subsection (2) of the following subsection:

"(2) **[Subject to policy made in terms of section 3(4)*(g)* of the National Education Policy Act, 1996 (Act 27 of 1996), the]** The *Provincial Minister* shall, by notice in the *Provincial Gazette,* determine the functions and the procedures for the establishment and election of *representative councils of learners*.".

Amendment of section 58 of Act 12 of 1997

25. Section 58 of the principal Act is amended by the insertion after paragraph *(a)* of the following paragraph:

"*(aA)* hinders or obstructs the *Chief Evaluator*, a *Lead Evaluator* or an *Evaluator* in the performance of his or her functions in terms of *this Act*;".

Insertion of section 59A in Act 12 of 1997

26. The following section is inserted in the principal Act after section 59:

"**Offences relating to activities on school premises**

59A. Any person who contravenes section 45A(1) or section 45B(4) shall be guilty of an offence.".

Amendment of section 60 of Act 12 of 1997

27. Section 60 of the principal Act is amended by the addition to subsection (1) of the following paragraph:

"*(c)* in the case of an offence referred to in section 59A, to a fine not exceeding R600 000.".

Amendment of section 63 of Act 12 of 1997, as amended by section 26 of Act 7 of 2010

28. Section 63 of the principal Act is amended—

(a) by the substitution in subsection (1) for the words preceding paragraph *(a)* of the following words:

"The *Provincial Minister* may make *regulations* **[which are not inconsistent with any law,]** and, where applicable, subject to any national norms and standards contemplated in section 146(2) of the *Constitution*, as to—"; and

(b) by the insertion after paragraph *(cH)* of subsection (1) of the following paragraphs:

"*(cI)* the funding and governance models for *collaboration schools* and *donor funded public schools*;

(cJ) the norms and standards for the granting of subsidies to *independent schools*;

(cK) the promotion and progression of *learners* at *public schools*;

(cL) the norms and standards for an *intervention facility*;

(cM) the admission of learners to *public schools*;

(cN) the procurement of goods and services relating to education in the *province*;

(cO) the monitoring of, and access to, an *independent school*;

(cP) the procedure for registration as an *independent school*;".

Short title and commencement

29. This Act is called the Western Cape Provincial School Education Amendment Act, 2018, and comes into operation on a date determined by the *Premier* by proclamation in the *Provincial Gazette*.

ALGEMENE VERDUIDELIKENDE NOTA:

[ ]	Woorde in vetdruk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
______	Woorde met 'n volstreep daaronder dui invoegings in bestaande verordenings aan.

(Engelse teks deur die Premier onderteken)
(Bekragtig op 22 November 2018)

WYSIGINGSWET

Om die Wes-Kaapse Provinsiale Wet op Skoolonderwys, 1997, te wysig ten einde 'n omskrywing te skrap en ander in te voeg en te vervang; om kruisverwysings na sekere wetlike bepalings te wysig; om verwysings na *volwasse onderwys* te verwyder; om voorsiening te maak vir die sentrale verkryging van goedere en dienste in verband met *onderwys* in die *provinsie*; om monitering en ondersteuning van kurrikulumlewering by *openbare skole* te reguleer; om die Wes-Kaapse *Onderwysraad* te magtig om raadgewende verslae te verskaf; om voorsiening te maak vir die instelling en werksaamhede van 'n *Skoolevalueringsgesag*; om voorsiening te maak vir die instelling van *saamwerkskole* en *donateurbefondsde openbare skole*; om voorsiening te maak vir die instelling van *intervensiefasiliteite* waarna *leerders* in sekere omstandighede verwys kan word; om weg te doen met vereistes dat die instemming van die *Provinsiale Minister* verantwoordelik vir finansies ten opsigte van sekere ooreenkomste verkry moet word; om 'n bepaling te skrap wat die sluiting van 'n gedeelte van 'n *openbare skool* magtig; om verder voorsiening te maak vir die *Provinsiale Minister* verantwoordelik vir *onderwys* om *regulasies* te maak; om die mag van die *Provinsiale Minister* om sekere norme en standaarde asook die werksaamhede en prosedures vir die instelling en verkiesing van verteenwoordigende rade van leerders te bepaal, verder te reguleer; om 'n uitgediende bepaling in verband met die bevoegdhede van 'n kinderhof te herroep; om sekere toetse te magtig in verband met die toelating van 'n *leerder* tot 'n *openbare skool* vir *leerders met spesiale onderwysbehoeftes*; om voorsiening te maak rakende die verbruik en verkoop van alkoholiese drank op skoolpersele of gedurende *skoolaktiwiteite* behoudens voorwaardes; om te bepaal dat 'n *openbare skool* die voorafverkreë skriftelike toestemming van 'n *ouer* moet bekom wat die *leerder* se bywoning van 'n *skoolaktiwiteit* buite die skoolperseel magtig; om verdere misdrywe te skep; en om voorsiening vir verwante sake te maak.

DAAR WORD BEPAAL deur die Provinsiale Parlement van die Wes-Kaap, soos volg:—

Wysiging van artikel 1 van Wet 12 van 1997, soos gewysig by artikel 2 van Wet 7 van 2010

1. Artikel 1 van die Wes-Kaapse Provinsiale Wet op Skoolonderwys, 1997 (die Hoofwet), word gewysig—

(a) deur voor die omskrywing van **"*basiese onderwys*"** die volgende omskrywing in te voeg:

"**'*Adjunkhoofevalueerder*'** die leidende evalueerder van skole aangestel ingevolge artikel 11A(4)*(a)*;";

(b) deur ná die omskrywing van ***"beampte"*** die volgende omskrywing in te voeg:

" ***'bedryfsvennoot'*** 'n organisasie sonder winsoogmerk wat gemagtig is om sy kapasiteit, vaardighede of hulpbronne beskikbaar stel aan 'n *saamwerkskool* om die *beheerliggaam*, skoolbestuurspan en *opvoeders* by die *skool* te bemagtig om die nodige stelsels, strukture, kulture en kapasiteite te ontwikkel om gehalteonderwys te lewer;";

(c) deur ná die omskrywing van ***"Departementshoof"*** die volgende omskrywings in te voeg:

" ***'distriksdirekteur'*** die hoof van 'n distrikskantoor, wat werksaamhede verrig kragtens bevoegdhede gedelegeer deur die *Departementshoof*;

'donateur' 'n persoon beoog in artikel 12C(2)*(a)* of 12D(1) wat fondse of eiendom aan 'n *saamwerkskool* of 'n *donateurbefondsde openbare skool* verskaf ten einde die lewering van *onderwys* in die *provinsie* te verbeter;

'donateurbefondsde openbare skool' 'n *openbare skool* beoog in artikel 12D;

'Evalueerder' 'n evalueerder van skole wat ingevolge artikel 11A(4)*(b)* aangestel is;";

(d) deur ná die omskrywing van ***"hierdie Wet"*** die volgende omskrywings in te voeg:

" ***'Hoofevalueerder'*** die hoofevalueerder van skole, aangestel ingevolge artikel 11A(2);

'intervensiefasiliteit' 'n fasiliteit beoog in artikel 12E;";

(e) deur ná die omskrywing van ***"koshuis"*** die volgende omskrywing in te voeg:

" ***'kringbestuurder'*** die hoof van 'n kringkantoor in 'n onderwysdistrik wat werksaamhede verrig wat deur die *distriksdirekteur* of die *Departementshoof* toegewys is;";

(f) deur die omskrywing van ***"opvoeder"*** deur die volgende omskrywing te vervang:

" ***'opvoeder'*** enige persoon, buiten iemand wat aangestel is om uitsluitlik buitemuurse pligte te verrig, wat ander persone by 'n *skool* onderrig, opvoed of oplei of wat professionele onderwysdienste verskaf, met inbegrip van professionele terapie en opvoedkundig sielkundige dienste;";

(g) deur ná die omskrywing van ***"regulasie"*** die volgende omskrywing in te voeg:

" ***'saamwerkskool'*** 'n openbare skool beoog in artikel 12C;";

(h) deur voor die omskrywing van ***"skoolgeld"*** die volgende omskrywing in te voeg:

" ***'Skoolevalueringsgesag'*** die Wes-Kaapse Skoolevalueringsgesag beoog in artikel 11A(1);";

(i) deur voor die omskrywing van ***"Suid-Afrikaanse Skolewet"*** die volgende omskrywing in te voeg:

'skoolverbeteringsplan' 'n plan wat 'n *openbare skool* se mikpuntprioriteite omskryf vir verbeterde onderwysuitkomstes en om vorm aan die rigting en ontwikkeling van die *skool* te gee;";

(j) deur voor die omskrywing van ***"vasgestelde datum"*** die volgende omskrywing in te voeg:

" ***'vakadviseur'*** 'n kantoorgebaseerde spesialisopvoeder in 'n distrikskantoor of kringkantoor wie se werk dit is om kurrikulumimplementering te fasiliteer en die omgewing en proses van leer en onderrig te verbeter deur *skole* te besoek en met *prinsipale* en *opvoeders* oorleg te pleeg en hulle raad te gee oor kurrikulumaangeleenthede;"; en

(k) deur die omskrywing van ***"volwasse onderwys"*** te skrap.

Wysiging van artikel 3 van Wet 12 van 1997, soos gewysig by artikel 3 van Wet 7 van 2010

2. Artikel 3 van die Hoofwet word gewysig deur in subartikel (1) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"Behoudens die bepalings van **[die *Suid-Afrikaanse Skolewet* en]** die *Grondwet*, kan die *Provinsiale Minister*, indien nodig, van tyd tot tyd die beleid bepaal wat ten opsigte van *onderwys* in *skole* in die *provinsie* gevolg moet word, met inagneming van die volgende beginsels, naamlik dat—".

Wysiging van artikel 4 van Wet 12 van 1997

3. Artikel 4 van die Hoofwet word gewysig deur paragraaf *(b)* van subartikel (1) te skrap.

Herroeping van artikel 7A van Wet 12 van 1997, soos ingevoeg by artikel 5 van Wet 7 van 2010

4. Artikel 7A van die Hoofwet word herroep.

Invoeging van artikel 8A in Wet 12 van 1997

5. Die volgende artikel word ná artikel 8 van die Hoofwet ingevoeg:

"**Verkryging van goedere en dienste**

8A. Ondanks artikel 8(1)*(a)*, *(c)* en *(d)* en artikel 8(2) of enige andersluidende wet, kan die *Departementshoof*, ná oorlegpleging met die *beheerliggaam* beoog in artikel 8(1)*(a)*, *(c)* en *(d)*, goedere en dienste in verband met *onderwys* in die *provinsie* sentraal verkry indien hy of sy dit in die belang van *onderwys* in die *provinsie* ag, met inbegrip van die doelmatige, doeltreffende en ekonomiese aanwending van openbare fondse.".

Invoeging van artikel 9A in Wet 12 van 1997

6. Die volgende artikel word ná artikel 9 in die Hoofwet ingevoeg:

"**Monitering en ondersteuning van kurrikulumlewering**

9A. (1) Die *Departementshoof*, 'n *distriksdirekteur*, die *prinsipaal* van 'n *openbare skool* of 'n gemagtigde verteenwoordiger van 'n *bedryfsvennoot* ten opsigte van 'n *openbare skool* wat met hul pligte verband hou, kan monitering en ondersteuning van kurrikulumlewering deur 'n *opvoeder* in die klaskamer van 'n *openbare skool* uitvoer of kan sodanige monitering en ondersteuning deur die volgende persone magtig:

(a) 'n *vakadviseur*;
(b) 'n adjunkprinsipaal;
(c) 'n departementele hoof; of
(d) 'n vakhoof.

(2) Die *Departementshoof*, die *distriksdirekteur*, die *kringbestuurder* indien gemagtig deur die *distriksdirekteur* om dit te doen of 'n gemagtigde verteenwoordiger van 'n *bedryfsvennoot* kan monitering en ondersteuning van kurrikulumlewering deur die *prinsipaal* van 'n *openbare skool* uitvoer.

(3) Die *Departementshoof* kan reëls vir monitering en ondersteuning ingevolge hierdie artikel maak.".

Wysiging van artikel 11 van Wet 12 van 1997, soos vervang by artikel 7 van Wet 7 van 2010

7. Artikel 11 van die Hoofwet word gewysig—

(a) deur paragraaf *(b)* van subartikel (4) deur die volgende paragraaf te vervang:

"*(b)* die *voorgeskrewe* getal **[persone]** beamptes deur die *Departementshoof* uit sy of haar personeel aangewys;"; en

(b) deur die volgende subartikel by te voeg:

"(9)*(a)* Die *Onderwysraad* moet 'n raadgewende verslag aan die *Provinsiale Minister* verskaf.

(b) Die *Provinsiale Minister* moet die raadgewende verslag oorweeg en die voorsitter van die *Onderwysraad* van sy of haar besluit ten opsigte daarvan in kennis stel.".

Invoeging van artikels 11A, 11B, 11C, 11D, 11E, 11F, 11G en 11H in Wet 12 van 1997

8. Die volgende artikels word ná artikel 11 in die Hoofwet ingevoeg:

"**Instelling van Skoolevalueringsgesag**

11A. (1) Die *Provinsiale Minister* kan 'n evalueringsgesag instel, wat as die Wes-Kaapse *Skoolevalueringsgesag* bekend staan, om onafhanklike evaluerings van *skole* uit te voer.

(2) Die *Provinsiale Minister* kan 'n *Hoofevalueerder* van *skole* in die *Skoolevalueringsgesag* aanstel.

(3) *Die Hoofevalueerder* word vir 'n onhernubare termyn van vier jaar aangestel.

(4) Die *Hoofevalueerder* kan die volgende persone in die *Skoolevalueringsgesag* aanstel:

(a) *Adjunkhoofevalueerders* van *skole*; en

(b) *Evalueerders* van *skole*.

Geskiktheid vir aanstelling as Hoofevalueerder, Adjunkhoofevalueerder of Evalueerder

11B. Om in aanmerking te kan kom vir aanstelling as *Hoofevalueerder*, *Adjunkhoofevalueerder* of *Evalueerder* moet 'n persoon—

(a) 'n burger van die Republiek wees;

(b) nie 'n ongerehabiliteerde insolvent wees nie;

(c) nie te eniger tyd skuldig bevind gewees het nie aan—

(i) 'n misdryf waarvoor hy of sy tot gevangenisstraf sonder die opsie van 'n boete gevonnis is;

(ii) 'n seksuele misdryf teen 'n kind; of

(iii) diefstal, bedrog, vervalsing, die uitgee van 'n vervalste dokument, meineed, enige misdryf ingevolge die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004 (Wet 12 van 2004), of enige misdryf waarvan oneerlikheid 'n element is; en

(d) toepaslike kennis van of ondervinding in *onderwys* en skoolbestuur hê.

Verwydering uit amp

11C. (1) Die *Provinsiale Minister* kan, nadat die behoorlike prosedure gevolg is, die *Hoofevalueerder* uit sy of haar amp verwyder—

(a) indien hy of sy nie meer aan die aanstellingskriteria vermeld in artikel 11B voldoen nie; of

(b) op enige redelike grond, met inbegrip van wangedrag, onvermoë of onbekwaamheid.

(2) Die *Hoofevalueerder* kan, nadat die behoorlike prosedure gevolg is, 'n *Adjunkhoofevalueerder* of 'n *Evalueerder* uit sy of haar amp verwyder—

(a) indien hy of sy nie meer aan die aanstellingsvereistes beoog in artikel 11B voldoen nie; of

(b) op enige redelike grond, met inbegrip van wangedrag, onvermoë of onbekwaamheid.

Werksaamhede van Skoolevalueringsgesag

11D. (1) Die *Hoofevalueerder* moet die *Provinsiale Minister* op die voorgeskrewe wyse op hoogte hou van die volgende ten opsigte van *skole*:

(a) die gehalte van *onderwys* wat by die *skool* verskaf word;

(b) die mate waarin *onderwys* by die *skool* aan die uiteenlopende behoeftes van die *leerders* deur 'n holistiese benadering voldoen;

(c) die onderwysstandaarde wat by die *skool* bereik word;

(d) die gehalte van leierskap en bestuur by die *skool*;

(e) die finansiële hulpbronne wat by die *skool* beskikbaar gestel word en of dit spaarsamig, doelmatig en doeltreffend bestuur word;

(f) die mate waarin die *skool* interne prosedures van selfevaluering ontwikkel ingevolge sy *skoolverbeteringsplanne*;

(g) die veiligheid, gedrag en bywoning van *leerders* en personeel by die *skool*;

(h) die sosiale en kulturele ontwikkeling van *leerders* by die *skool*;

(i) die prestasiebestuur en ontwikkeling van *opvoeders*; en

(j) die verhouding tussen *ouers*, die gemeenskap en die *skool*.

(2) Op skriftelike versoek deur die *Provinsiale Minister* moet die *Hoofevalueerder*—

(a) die *Provinsiale Minister* raad gee oor enige aangeleentheid wat in die versoek vermeld word; en

(b) 'n *skool*, of klas in 'n *skool*, vermeld in die versoek evalueer en daaroor verslag doen.

(3) Die *Hoofevalueerder* moet verslae soos voorgeskryf opstel en publiseer, wat empiriese bevindings en, waar van toepassing, aanbevelings vir verbetering moet bevat.

(4) Die *Hoofevalueerder*, 'n *Adjunkhoofevalueerder* of 'n *Evalueerder* kan—

(a) met twee skooldae se skriftelike kennisgewing aan die *distriksdirekteur*, *prinsipaal* en *beheerliggaam*, toegang tot 'n *skool* en enige klaskamer in 'n *skool* verkry en dit evalueer, lesse observeer en eerstehandse bewyse insamel om ten grondslag aan sy of haar aanbevelings te lê;

(b) met twee skooldae skriftelike kennisgewing 'n onderhoud met 'n *beheerliggaam* of enige lid daarvan, 'n *beampte* van die Departement, 'n *personeellid* van 'n *skool*, 'n *leerder* of 'n *ouer* voer;

(c) 'n skriftelike versoek om dokumentasie aan die *prinsipaal* van 'n *skool* voorlê;

(d) 'n *skool* sonder kennisgewing betree en op finansiële rekords, state en dokumente beslag lê, ongeag die vorm of medium daarvan, indien hy of sy—

  (i) *prima facie*-bewys het van finansiële wanbestuur by die *skool*; en

  (ii) 'n redelike vermoede het dat die rekords en dokumente versteek, vernietig of mee geknoei sal word indien kennisgewing gegee word; en

(e) te eniger tyd aanbevelings aan die *Provinsiale Minister* maak oor enige aangeleentheid rakende 'n *skool*.

(5) Die bevoegdhede beoog in subartikel (4)*(a)* en *(b)* kan sonder kennisgewing uitgeoefen word indien die *Hoofevalueerder* redelike gronde het om te glo dat dit nodig is vir die doeltreffende verrigting van die werksaamhede van die *Skoolevalueringsgesag*.

(6)*(a)* Die *Provinsiale Minister* kan, ná oorleg met die *Hoofevalueerder*, hom of haar magtig om bykomende pligte te verrig of bykomende bevoegdhede uit te oefen indien die *Provinsiale Minister* rede het om te glo dat—

(i) die *Hoofevalueerder* die vermoë het om daardie bykomende pligte te verrig of daardie bykomende bevoegdhede uit te oefen; en

(ii) dit in die openbare belang sal wees dat die *Hoofevalueerder* dit doen.

(b) Die *Provinsiale Minister* kan, ná oorleg met die *Hoofevalueerder*, die magtiging wat ingevolge paragraaf *(a)* aan die *Hoofevalueerder* gegee is, terugtrek indien die *Provinsiale Minister* rede het om te glo dat—

(i) die *Hoofevalueerder* nie meer die vermoë het om daardie bykomende plig te verrig of daardie bykomende bevoegdheid uit te oefen nie; of

(ii) dit in die openbare belang sal wees dat die *Provinsiale Minister* dit doen.

(c) Die Provinsiale Minister kan, ná oorleg met die Hoofevalueerder—

(i) die *Hoofevalueerder* vrystel van die verrigting van ’n plig wat by subartikel (1) opgelê is; of

(ii) ’n bevoegdheid terugtrek wat by subartikel (4) aan die *Hoofevalueerder*, ’n *Adjunkhoofevalueerder* of ’n *Evalueerder* verleen is.

Vergoeding en toelaes

11E. Die *Hoofevalueerder*, *Adjunkhoofevalueerders* en *Evalueerders* moet die vergoeding en toelaes betaal word wat die *Provinsiale Minister* ná oorlegpleging met die finansiële hoof bepaal.

Werksaamhede van Departementshoof rakende Skoolevalueringsgesag

11F. (1) Die *Departementshoof* moet die *Skoolevalueringsgesag* voorsien van algemene steun en die nodige hulpbronne om sy werksaamhede te verrig, met inbegrip van administratiewe steun en infrastruktuursteun.

(2) Die *Departementshoof* moet *beamptes* van die *Wes-Kaapse Onderwysdepartement* aanwys om administratiewe steun soos beoog in subartikel (1) aan die *Skoolevalueringsgesag* te verskaf.

(3) Die *Departementshoof* moet die bevindings en aanbevelings bedoel in artikel 11D(3) oorweeg en gepaste maatreëls implementeer om verbetering te fasiliteer.

Ontbinding

11G. (1) Die *Provinsiale Minister* kan die *Skoolevalueringsgesag* ontbind met ingang van ’n datum bepaal deur die *Provinsiale Minister* indien die *Skoolevalueringsgesag* versuim om sy werksaamhede voldoende te verrig, nie meer doeltreffend is nie of op ’n wyse handel wat nie in die beste belang van *onderwys* is nie.

(2) Die *Provinsiale Minister* mag nie kragtens subartikel (1) optree nie tensy hy of sy—

(a) redelike kennis aan die *Skoolevalueringsgesag* gegee het van sy of haar voorneme om dit te doen en sy of haar redes daarvoor;

(b) die *Skoolevalueringsgesag* ’n redelike geleentheid gegee het om vertoë aan hom of haar te rig in verband met sodanige optrede; en

(c) enige vertoë wat ontvang is, behoorlik oorweeg het.

Regulasies rakende Skoolevalueringsgesag

11H. Die *Provinsiale Minister* kan *regulasies* maak oor—

(a) prosedures vir die aanstelling van die *Hoofevalueerder*, *Adjunkhoofevalueerders* en *Evalueerders* en die vul van vakatures;

(b) die bepalings en voorwaardes van aanstelling van die *Hoofevalueerder*, *Adjunkhoofevalueerders* en *Evalueerders*;
(c) prosedures vir die verwydering van die *Hoofevalueerder*, *Adjunkhoofevalueerders* en *Evalueerders*;
(d) prosedures vir die uitoefening van die bevoegdhede bedoel in artikel 11D(4);
(e) die wyse waarop die *Hoofevalueerder* die *Provinsiale Minister* in kennis moet stel van die aangeleenthede uiteengesit in artikel 11D(1);
(f) die opstel en publisering van verslae deur die *Skoolevalueringsgesag*; en
(g) enige ander aangeleentheid wat die *Provinsiale Minister* nodig of dienstig ag ten einde die doelwitte van die *Skoolevalueringsgesag* te bereik.''.

Wysiging van artikel 12 van Wet 12 van 1997

9. Artikel 12 van die Hoofwet word gewysig deur in subartikel (1) die volgende paragrawe ná paragraaf *(e)* in te voeg:
''*(eA)* saamwerkskole;
(eB) donateurbefondsde skole;''.

Wysiging van artikel 12A van Wet 12 van 1997, soos ingevoeg by artikel 8 van Wet 7 van 2010

10. Artikel 12A van die Hoofwet word gewysig deur paragraaf *(b)* van subartikel (6) deur die volgende paragraaf te vervang:
''*(b)* Die tussentydse *beheerliggaam* besluit oor die begroting en verskille in gedragskodes en *skoolgeld*, asook oor enige aangeleentheid wat relevant is vir die samesmelting of wat *voorgeskryf* word, totdat 'n nuwe *beheerliggaam* **[ingevolge artikels 23 en 28 van die *Suid-Afrikaanse Skolewet*]** op die wyse voorgeskryf kragtens artikel 24 saamgestel is.''.

Invoeging van artikels 12C, 12D en 12E in Wet 12 van 1997

11. Die volgende artikels word ná artikel 12B in die Hoofwet ingevoeg:

''**Saamwerkskole**

12C. (1) Die *Provinsiale Minister* kan 'n *openbare skool* beoog in artikel 12(1)*(a)* tot *(f)* identifiseer vir verklaring as 'n *saamwerkskool* indien hy of sy tevrede is dat sodanige verklaring in die belang van *onderwys* by die *skool* sal wees, met inagneming van tersaaklike verslae oor die *skool*, met inbegrip van verslae oor die prestasie van die *skool*.

(2) Behoudens subartikel (1) kan die *Provinsiale Minister*, op die aanbeveling van die *Departementshoof*, 'n ooreenkoms aangaan met—
(a) 'n *donateur*;
(b) 'n *bedryfsvennoot*; en
(c) die *beheerliggaam* van 'n *openbare skool*,
ingevolge waarvan 'n bestaande *openbare skool* beoog in artikel 12(1)*(a)* tot *(f)* tot 'n *saamwerkskool* verklaar staan te word.

(3) Die *Provinsiale Minister* kan, op die aanbeveling van die *Departementshoof*, 'n ooreenkoms met 'n *donateur* en 'n *bedryfsvennoot* aangaan vir die instelling van 'n nuwe *saamwerkskool* en die *skool* instel.

(4) Die ooreenkomste beoog in subartikels (2) en (3) moet die minimumvereistes *voorgeskryf* deur die *Provinsiale Minister* bevat.

(5) By die sluiting van 'n ooreenkoms beoog in subartikel (2) kan die *Provinsiale Minister*, by kennisgewing in die *Provinsiale Koerant*, die betrokke *openbare skool* tot 'n *saamwerkskool* verklaar.

(6) Die *Provinsiale Minister* mag nie 'n verklaring beoog in subartikel (5) maak nie, tensy hy of sy 'n oproep om openbare kommentaar ten opsigte van die voorgenome verklaring gedoen het en enige kommentaar wat ontvang is, behoorlik oorweeg het.

(7) Indien 'n ooreenkoms met 'n *bedryfsvennoot* of *donateur* beoog in subartikel (2)*(a)* of *(b)* of subartikel (3) beëindig word, kan die *Provinsiale Minister*, op aanbeveling van die *Departementshoof*, 'n nuwe ooreenkoms met 'n nuwe *bedryfsvennoot* of *donateur*, na gelang van die geval, aangaan en kan die *skool* sy status as 'n *saamwerkskool* behou.

(8) Indien 'n nuwe ooreenkoms nie soos beoog in subartikel (7) aangegaan word nie—

(a) is die betrokke *skool* nie meer 'n *saamwerkskool* nie;

(b) moet die *Provinsiale Minister*, by kennisgewing in die *Provinsiale Koerant*, die *skool* tot die toepaslike tipe *openbare skool* beoog in artikel 12(1)*(a)* tot *(f)* verklaar; en

(c) moet 'n nuwe *beheerliggaam* op die voorgeskrewe wyse saamgestel word.

(9) Die lidmaatskap van die *beheerliggaam* van 'n *saamwerkskool* moet bestaan uit 50 persent verteenwoordigers van die *bedryfsvennoot* met stemreg en 50 persent ander lede van die *beheerliggaam* met stemreg: Met dien verstande dat die *Provinsiale Minister*, by aanvoering van grondige redes, mag verklaar dat die *beheerliggaam* van 'n bepaalde *saamwerkskool* meer as 50 persent uit ander lede van die *beheerliggaam* met stemreg bestaan.

(10) In die geval van 'n staking van stemme by 'n vergadering van 'n *beheerliggaam* van 'n *saamwerkskool* waar die *bedryfsvennoot* met stemregte 50 persent van daardie *beheerliggaam* uitmaak, moet die aangeleentheid beslis word deur 'n meerderheidstem by 'n algemene vergadering van *ouers* wat teenwoordig is en stem.

(11) Die *Wes-Kaapse Onderwysdepartement* moet die indiensneming van *opvoeders* en nie-opvoeders handhaaf wat ten tyde van die verklaring van 'n *saamwerkskool* ingevolge subartikel (5) in diens is by die *skool* in poste wat ingevolge die *Wet op die Indiensneming van Opvoeders* of die Staatsdienswet, 1994 (Proklamasie 103 van 1994), ingestel is, ooreenkomstig die indiensnemingsvoorwaardes van toepassing op daardie poste vir so lank as wat daardie *opvoeders* en nie-opvoeders in daardie poste aanbly.

(12) Behoudens die Wet op Openbare Finansiële Bestuur, 1999 (Wet 1 van 1999), kan die *Wes-Kaapse Onderwysdepartement* oordragbetalings na 'n *saamwerkskool* maak gelykstaande aan die bedrae wat benodig word vir die befondsing van—

(a) poste beoog in subartikel (11) wat vakant geraak het;

(b) nuwe poste bepaal deur die *Departementshoof* vir—

(i) *opvoeders* ingevolge artikel 5(2) van die *Wet op Indiensneming van Opvoeders*;

(ii) nie-opvoeders ingevolge die *Wes-Kaapse Onderwysdepartement* se Norme en Standaarde vir Steunpersoneelverskaffing by Gewone Openbare Skole,

onderhewig aan die beskikbare hulpbronne van die *Wes-Kaapse Onderwysdepartement*.

(13) Behoudens die *regulasies* beoog in subartikel (17)*(b)*, kan die *beheerliggaam* van 'n *saamwerkskool*, uit die fondse beoog in subartikel (12), *opvoeders* en nie-opvoeders aanstel ooreenkomstig die diensstaat, en bepalings en voorwaardes van indiensneming, bepaal deur die *beheerliggaam*.

(14) 'n *Saamwerkskool* is die werkgewer van *opvoeders* en nie-opvoeders beoog in subartikel (13).

(15) Die indiensneming van *opvoeders* en nie-opvoeders deur 'n *beheerliggaam* beoog in subartikel (13) is onderhewig aan die Wet op Arbeidsverhoudinge, 1995, en die Wet op Basiese Diensvoorwaardes, 1997 (Wet 75 van 1997).

(16) Ondanks artikel 60 van die *Suid-Afrikaanse Skolewet*, is die Staat nie aanspreeklik vir enige handeling of versuim deur 'n *saamwerkskool* ten opsigte van sy kontraktuele verantwoordelikheid as die werknemer ten opsigte van personeel wat ingevolge subartikel (13) in diens geneem is nie.

(17) Die *Provinsiale Minister* moet *regulasies* uitvaardig rakende—

(a) oordragbetalings beoog in subartikel (12); en

(b) die aanwending van fondse deur 'n *beheerliggaam* vir die doeleindes beoog in subartikel (13),

maar sodanige *regulasies* mag nie vertolk word asof dit die Staat die medewerkgewer van sodanige personeel maak nie.

(18) Behalwe soos voor voorsiening gemaak in hierdie artikel, is die bepalings van *hierdie Wet* en enige ander toepaslike wet wat *openbare skole* reguleer, van toepassing op *saamwerkskole*.

Donateurbefondsde openbare skole

12D. (1) Die *Provinsiale Minister* kan 'n ooreenkoms aangaan met—

(a) 'n *donateur*; en

(b) die *beheerliggaam* van 'n *openbare skool*,

ingevolge waarvan 'n bestaande *openbare skool* beoog in artikel 12(1)*(a)* tot *(f)* tot 'n *donateurbefondsde openbare skool* verklaar staan te word, mits die *Provinsiale Minister* tevrede is dat sodanige verklaring in die belang van *onderwys* by die *skool* sal wees.

(2) Die *Provinsiale Minister* kan 'n ooreenkoms met 'n *donateur* aangaan vir die instelling van 'n nuwe *donateurbefondsde openbare skool* en die *skool* instel.

(3) Die ooreenkomste beoog in subartikels (1) en (2) moet die minimumvereistes *voorgeskryf* deur die *Provinsiale Minister* bevat.

(4) By die sluiting van 'n ooreenkoms beoog in subartikel (1) kan die *Provinsiale Minister*, by kennisgewing in die *Provinsiale Koerant*, die betrokke *openbare skool* tot 'n *donateurbefondsde openbare skool* verklaar.

(5) Die *Provinsiale Minister* mag nie 'n verklaring beoog in subartikel (4) maak nie tensy hy of sy 'n oproep om openbare kommentaar ten opsigte van die voorgenome verklaring gedoen het en enige kommentaar wat ontvang is, behoorlik oorweeg het.

(6) In die geval van die beëindiging van 'n ooreenkoms beoog in subartikel (1) of (2)—

(a) is die betrokke *skool* nie meer 'n *donateurbefondsde openbare skool* nie;

(b) moet die *Provinsiale Minister*, by kennisgewing in die *Provinsiale Koerant*, die *skool* tot die toepaslike tipe *openbare skool* beoog in artikel 12(1)*(a)* tot *(f)* verklaar; en

(c) moet 'n nuwe *beheerliggaam* op die *voorgeskrewe* wyse saamgestel word.

(7) Die lidmaatskap van die *beheerliggaam* van 'n *donateurbefondsde openbare skool* kan verteenwoordigers van die *donateur* met stemreg, tot 'n maksimum van 50 persent, bevat.

(8) In die geval van 'n staking van stemme by 'n vergadering van 'n *beheerliggaam* van 'n *donateurbefondsde openbare skool* waar die *donateur* met stemreg 50 persent van daardie *beheerliggaam* uitmaak, moet die aangeleentheid beslis word deur 'n meerderheidstem by 'n algemene vergadering van *ouers* wat teenwoordig is en stem.

(9) Die *Provinsiale Minister* kan, by aanvoering van grondige redes, verklaar dat die *beheerliggaam* van 'n bepaalde *donateurbefondsde skool* uit meer as 50 persent van die verteenwoordigers van die *donateur* met stemreg bestaan.

(10) Behalwe soos voor voorsiening gemaak in hierdie artikel, is die bepalings van *hierdie Wet* en enige ander toepaslike wet wat *openbare skole* reguleer, van toepassing op *donateurbefondsde skole*.

Intervensiefasiliteit

12E. (1) Behoudens die beskikbare hulpbronne van die *Wes-Kaapse Onderwysdepartement* kan die *Provinsiale Minister* 'n *intervensiefasiliteit* instel vir *leerders* wat aan ernstige wangedrag skuldig bevind is.

(2) ’n *Intervensiefasiliteit* moet voorsiening maak vir—

(a) terapeutiese programme en intervensiestrategieë ten einde op die ernstige wangedrag in te gaan; en

(b) kurrikulumlewering gelykstaande aan die standaard waarvoor voorsiening gemaak word in wetgewing en beleide van toepassing op openbare skole.

(3) ’n *Intervensiefasiliteit* kan verblyfsorg insluit.”.

Wysiging van artikel 13 van Wet 12 van 1997, soos vervang by artikel 9 van Wet 7 van 2010

12. Artikel 13 van die Hoofwet word gewysig deur subartikel (7) deur die volgende subartikel te vervang:

“(7) Indien ’n nuwe *openbare skool* **[ingevolge artikel 12 van die *Suid-Afrikaanse Skolewet* voorsien]** ingestel word, setel die beheer van daardie *skool* in die *Departementshoof* totdat ’n *beheerliggaam* ingevolge **[daardie]** hierdie Wet ingestel is.”.

Wysiging van artikel 14 van Wet 12 van 1997

13. Artikel 14 van die Hoofwet word gewysig deur subartikel (1) deur die volgende artikel te vervang:

“(1) **[Onderworpe aan]** Behoudens die *Grondwet* en *hierdie Wet* kan ’n *openbare skool* op private eiendom **[geleë wees en]** voorsien word slegs **[kragtens]** ingevolge ’n ooreenkoms tussen die *Provinsiale Minister* **[met die instemming van die *finansiële hoof*]** en die eienaar van die private eiendom.”.

Wysiging van artikel 16 van Wet 12 van 1997

14. Artikel 16 van die Hoofwet word gewysig deur subartikel (6) deur die volgende subartikel te vervang:

“(6) Geen vaste eiendom wat deur die Staat besit word en deur ’n *openbare skool* beset word, mag vervreem word nie, tensy ’n ooreenkoms tussen die *Provinsiale Minister*, met die instemming van die **[*finansiële hoof*]** Provinsiale Minister verantwoordelik vir openbare werke, en die voornemende eienaar van die vaste eiendom aangegaan is.”.

Vervanging van artikel 18 van Wet 12 van 1997

15. Artikel 18 van die Hoofwet word deur die volgende artikel vervang:

“**Sluiting van openbare skole**

18. Die *Provinsiale Minister* kan, te eniger tyd ’n *openbare skool* **[of ’n deel daarvan]** sluit ingevolge artikel 33 van die *Suid-Afrikaanse Skolewet*.”.

Wysiging van artikel 20B van Wet 12 van 1997, soos ingevoeg by artikel 11 van Wet 7 van 2010

16. Artikel 20B van die Hoofwet word gewysig deur in subartikel (1) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

“Behoudens enige toepaslike nasionale norme en standaarde wat in artikel 146(2) van die *Grondwet* beoog word, kan die *Provinsiale Minister* **[, ná oorlegpleging met die *Onderwysraad*,]** by *regulasie* minimum eenvormige norme en standaarde voorskryf vir—”.

Wysiging van artikel 21A van Wet 12 van 1997, soos ingevoeg by artikel 12 van Wet 7 van 2010

17. Artikel 21A van die Hoofwet word gewysig—

(a) deur subartikel (7) te skrap;

(b) deur subartikel (11) deur die volgende subartikel te vervang:

"(11) **[Behoudens enige toepaslike nasionale norme en standaarde wat deur die *Nasionale Minister* ingevolge artikel 20(11) van die *Suid-Afrikaanse Skolewet* bepaal is, kan die]** Die *Provinsiale Minister* kan by kennisgewing in die *Provinsiale Koerant* norme en standaarde bepaal betreffende die fondse wat gebruik word vir die aanstelling van personeel genoem in subartikels (4) en (5), maar sodanige norme en standaarde mag nie vertolk word as sou die Staat 'n medewerkgewer van sodanige personeel wees nie.".

Vervanging van artikel 31 van Wet 12 van 1997

18. Artikel 31 van die Hoofwet word deur die volgende artikel vervang:

"**Subsidies aan geregistreerde onafhanklike skole**

31. [Behoudens die bepalings van artikel 48 van die *Suid-Afrikaanse Skolewet*, word die] Die toestaan van subsidies aan geregistreerde *onafhanklike skole* moet hanteer word soos *voorgeskryf* deur die *Provinsiale Minister* met die instemming van die *finansiële hoof*."

Herroeping van artikel 40 van Wet 12 van 1997

19. Artikel 40 van die Hoofwet word herroep.

Wysiging van artikel 41 van Wet 12 van 1997, soos vervang by artikel 15 van Wet 7 van 2010

20. Artikel 41 van die Hoofwet word gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Die *beheerliggaam* van 'n *openbare skool* mag geen toets afneem in verband met die toelating van 'n *leerder* tot 'n *openbare skool* of die *prinsipaal* van die *skool* of enige ander persoon aansê of magtig om sodanige toets af te neem nie, behalwe in die geval van die toelating van 'n *leerder* tot 'n *openbare skool* beoog in artikel 20A.".

Wysiging van artikel 45 van Wet 12 van 1997, soos gewysig by artikel 18 van Wet 7 van 2010

21. Artikel 45 van die Hoofwet word gewysig—

(a) deur paragraaf *(b)* van subartikel (5) deur die volgende paragraaf te vervang:

"*(b)* 'n aanbeveling aan die *Departementshoof* maak om—

(i) die *leerder* na 'n *intervensiefasiliteit* te verwys vir 'n bepaalde tydperk van hoogstens 12 maande op 'n keer, indien *die ouers* tot die verwysing instem; of

(ii) die *leerder* uit die *openbare skool* te sit.";

(b) deur subartikel (6) deur die volgende subartikel te vervang:

"(6) Die *Departementshoof* moet, binne 14 dae ná ontvangs van 'n aanbeveling beoog in subartikel (5)*(b)*—

(a) in die geval van 'n aanbeveling beoog in subartikel (5)*(b)*(i), besluit om die *leerder* na 'n *intervensiefasiliteit* te verwys al dan nie, vir 'n tydperk van hoogstens 12 maande op 'n keer, indien die *ouers* tot die verwysing instem; of

(b) in die geval van 'n aanbeveling beoog in subartikel (5)*(b)*(ii), besluit om die leerder uit te sit al dan nie.";

(c) deur subartikel (7) deur die volgende subartikel te vervang:

"(7) 'n *Beheerliggaam* kan 'n *leerder* skors of die skorsing van 'n leerder verleng vir 'n tydperk van hoogstens 14 skooldae in afwagting van die besluit deur die *Departementshoof* om die leerder uit die *openbare skool* te sit al dan nie, of om die leerder na 'n *intervensiefasiliteit* te verwys al dan nie.";

(d) deur ná subartikel (14) die volgende subartikels in te voeg:

"(14A) Die sanksie bedoel in subartikel (14) kan, op die aanbeveling van die *beheerliggaam* en met die instemming van die *ouers* van die *leerder*, verwysing insluit na 'n *intervensiefasiliteit* vir 'n bepaalde tydperk, wat nie 12 maande op 'n keer mag oorskry nie.

(14B) 'n *Leerder* wat ingevolge subartikel (6)*(a)* of (14A) verwys is na 'n *intervensiefasiliteit* moet, by die verval van die bepaalde tydperk beoog in daardie subartikels, by dieselfde *openbare skool* toegelaat word wat hy of sy voor die verwysing bygewoon het.".

Wysiging van artikel 45A van Wet 12 van 1997, soos ingevoeg by artikel 19 van Wet 7 van 2010

22. Artikel 45A van die Hoofwet word gewysig deur die volgende artikel ná subartikel (1) in te voeg:

"(1A) Subartikel (1) is nie van toepassing nie op die wetlike verbruik van alkoholiese drank deur 'n persoon wat nie 'n leerder is nie by 'n *skoolaktiwiteit* wat buite die skoolperseel gehou word.".

Invoeging van artikels 45B en 45C in Wet 12 van 1997

23. Die volgende artikels word ná artikel 45A in die Hoofwet ingevoeg:

"**Uitsondering op verbod op alkoholiese drank op skoolpersele of gedurende skoolaktiwiteite**

45B. (1) Ondanks die verbod op alkoholiese drank op skoolpersele of gedurende enige *skoolaktiwiteit* beoog in artikel 45A(1) kan die *Departementshoof*, by skriftelike aansoek, 'n *beheerliggaam* of, in die geval van 'n personeelfunksie, 'n *prinsipaal* van 'n *openbare skool* magtig om die verbruik of verkoop van alkoholiese drank op die skoolperseel of by 'n *skoolaktiwiteit* of *skoolaktiwiteite* wat op die skoolperseel gehou word, toe te laat.

(2) By die oorweging van 'n aansoek beoog in subartikel (1) moet die *Departementshoof* die beleide van die Wes-Kaapse Regering rakende alkoholskadevermindering behoorlik in ag neem.

(3) 'n *Beheerliggaam* of *prinsipaal* aan wie die magtiging beoog in subartikel (1) gegee is, mag die verbruik of verkoop van alkoholiese drank toelaat op die skoolperseel of by enige *skoolaktiwiteit* of *skoolaktiwiteite* wat op die skoolperseel gehou word.

(4) Die verbruik of verkoop van alkoholiese drank soos beoog in hierdie artikel is onderhewig aan—

(a) die Wes-Kaapse Drankwet, 2008, en enige voorwaardes wat ingevolge daardie Wet opgelê word; en

(b) enige voorwaardes opgelê deur—

(i) die *beheerliggaam*;

(ii) die *prinsipaal* in die geval van 'n personeelfunksie; en

(iii) die *Departementshoof*.

(5) Ondanks subartikels (1) en (3) word die verbruik en verkoop van alkoholiese drank op 'n skoolperseel of by 'n *skoolaktiwiteit* nie gedurende skoolure toegelaat nie.

(6) Die *Departementshoof* kan, op redelike gronde, die magtiging beoog in subartikel (1) terugtrek.

(7) Die *Departementshoof* kan nie die magtiging beoog in subartikel (1) terugtrek nie tensy hy of sy—

(a) die *beheerliggaam* of *prinsipaal* in kennis gestel het van sy of haar voorneme om dit te doen en die redes daarvoor;

(b) die *beheerliggaam* of *prinsipaal* 'n redelike geleentheid gegee het om vertoë in verband daarmee aan hom of haar te rig; en

(c) enige vertoë wat ontvang is, behoorlik oorweeg het.

(8) In dringende gevalle kan die *Departementshoof* 'n magtiging beoog in subartikel (1) terugtrek sonder om aan subartikel (7) te voldoen, mits die *Departementshoof*—

(a) redes vir sy of haar besluit aan die *beheerliggaam* of *prinsipaal* verskaf;

(b) die *beheerliggaam* of *prinsipaal* 'n redelike geleentheid gee om vertoë te rig betreffende sy of haar besluit; en

(c) enige vertoë wat ontvang word, behoorlik oorweeg.

(9) Die *Departementshoof* kan, by aanvoering deur die *skool* van grondige redes, sy of haar besluit beoog in subartikel (6) of (8) omkeer of opskort.

(10) Enige persoon wat deur 'n besluit van die *Departementshoof* ingevolge hierdie artikel gegrief is, kan teen die besluit by die *Provinsiale Minister* appelleer.

(11) Die *Departementshoof*—

(a) kan aan *skole* riglyne ooreenkomstig hierdie artikel uitreik vir die verbruik of verkoop van alkoholiese drank op 'n skoolperseel of by 'n *skoolaktiwiteit*; en

(b) moet aan *skole* riglyne ooreenkomstig hierdie artikel uitreik rakende die teenwoordigheid van *leerders* wanneer alkoholiese drank op 'n skoolperseel of by 'n *skoolaktiwiteit* verbruik of verkoop word.

Toestemming vir skooluitstappies

45C. 'n *Openbare skool* moet die vooraf verkreë skriftelike toestemming van 'n *ouer* bekom wat die leerder se bywoning van 'n *skoolaktiwiteit* buite die skoolperseel, behalwe roetine-sportaktiwiteite, magtig.''.

Wysiging van artikel 48 van Wet 12 van 1997, soos vervang by artikel 21 van Wet 7 van 2010

24. Artikel 48 van die Hoofwet word gewysig deur subartikel (2) deur die volgende subartikel te vervang:

''(2) Die *Provinsiale Minister* moet, **[behoudens beleid wat ingestel is ingevolge artikel 3(4)*(g)* van die Wet op Nasionale Onderwysbeleid, 1996 (Wet 27 van 1996),]** by kennisgewing in die *Provinsiale Koerant*, die werksaamhede en prosedures vir die vestiging en verkiesing van *verteenwoordigende rade van leerders* bepaal.''.

Wysiging van artikel 58 van Wet 12 van 1997

25. Artikel 58 van die Hoofwet word gewysig deur ná paragraaf *(a)* die volgende paragraaf in te voeg:

''*(aA)* die *Hoofevalueerder*, 'n *Adjunkhoofevalueerder* of 'n *Evalueerder* in die verrigting van sy of haar werksaamhede ingevolge *hierdie Wet* hinder of belemmer;''.

Invoeging van artikel 59A van Wet 12 van 1997

26. Die volgende artikel word ná artikel 59 in die Hoofwet ingevoeg:

''**Misdrywe met betrekking tot aktiwiteite op skoolpersele**

59A. Enige persoon wat artikel 45A(1) of artikel 45B(4) oortree, is skuldig aan 'n misdryf.''.

Wysiging van artikel 60 van Wet 12 van 1997

27. Artikel 60 van die Hoofwet word gewysig deur die volgende paragraaf by subartikel (1) te voeg:

"*(c)* in die geval van 'n misdryf in artikel 59A bedoel, met 'n boete van hoogstens R600 000.".

Wysiging van artikel 63 van Wet 12 van 1997, soos gewysig by artikel 26 van Wet 7 van 2010

28. Artikel 63 van die Hoofwet word gewysig—

(a) deur in subartikel (1) die woorde wat paragraaf *(a)* voorafgaan, deur die volgende woorde te vervang:

"Die *Provinsiale Minister* kan *regulasies* **[wat nie met die een of ander wet strydig is nie, en]**, indien toepaslik, behoudens enige nasionale norme en standaarde wat in artikel 146(2) van die *Grondwet* beoog word, uitvaardig betreffende—"; en

(b) deur in subartikel (1) ná paragraaf *(c*H*)* die volgende paragrawe in te voeg:

"*(cI)* die befondsings- en bestuursmodelle vir *saamwerkskole* en *donateurbefondsde openbare skole*;

(cJ) die norme en standaarde vir die toestaan van subsidies aan *onafhanklike skole*;

(cK) die bevordering en vordering van *leerders* by *openbare skole*;

(cL) die norme en standaarde vir 'n *intervensiefasiliteit*;

(cM) die toelating van *leerders* tot *openbare skole*;

(cN) die verkryging van goedere en dienste in verband met *onderwy*s in die *provinsie*;

(cO) die monitering van, en toegang tot, 'n *onafhanklike skool*;

(cP) die prosedure vir registrasie as 'n onafhanklike skool;".

Kort titel en inwerkingtreding

29. Hierdie Wet heet die Wes-Kaapse Provinsiale Wysigingswet op Skoolonderwys, 2018, en tree in werking op 'n datum wat die *Premier* by proklamasie in die *Provinsiale Koerant* bepaal.

AMAGQABANTSHINTSHI ACACISAYO:

[ ]	Amagama abhalwe ngqindilili akwizikwere abonisa oko kucinyiweyo kwimithetho ekhoyo.
______	Amagama akrwelwe ngomgca ongqindilili abonisa oko kufakelweyo kwimithetho ekhoyo.

(Uxwebhu lwesiNgesi lutyikitywe yiNkulumbuso)
(Lwamkelwa ngowama-22 Novemba 2018)

UMTHETHO WOLUNGISO

Ukufakela izilungiso kuMthetho weMfundo weZikolo zePhondo leNtshona Koloni, 1997, ukuze kucinywe inkcazelo kuze kufakwe yaye kutshintshaniswe nezinye; ukufakela izilungiso kwizalathiso ezibhekisele kwimigaqo ethile yezomthetho; ukususa izinto ezibhekisele kwimfundo yabadala; ukwenza imigaqo yokuthengwa kweempahla neenkonzo ezinxulumene *nezemfundo kwiphondo* ukuba zithengwe ndaweninye; ukulawula ukubekwa esweni nokunikwa inkxaso kokufundiswa kwekharityhulam *kwizikolo zikarhulumente*; ukugunyazisa *iBhunga lezeMfundo* leNtshona Koloni ukuba linike iingxelo zeengcebiso; ukwenza imigaqo yokusekwa nemisebenzi *kaGunyaziwe woHlolo lweZikolo*; ukwenza imigaqo yokusekwa *kwezikolo zentsebenziswano nezikolo zikarhulumente ezifumana inkxaso*; ukwenza imigaqo yokusekwa *kweefasithili zongenelelo ngoncedo* ekunokuthunyelwa kuzo *abafundi* kuxhomekeke kwiimeko ezithile; ukususa imiqathango enyanzelisa ukuba kufunyanwe imvume *yoMphathiswa wePhondo* ojongene nezemali ekufuneka zifunyenwe ngokuhambelana nezivumelwano ezithile; ukucima umgaqo ogunyazisa ukuvalwa kwenxenye *yesikolo sikarhulumente*; ukongeza omnye umgaqo *kuMphathiswa wePhondo* ojongene *nezemfundo* ukuba abeke *imiqathango*; ukulawula kwakhona amagunya *oMphathiswa wePhondo* ukuba amisele imimiselo nemigangatho kunye nemisebenzi kwaneenkqubo zokusekwa nokunyulwa kwamabhunga amele abafundi; ukutshitshisa umgaqo ongasasebenziyo omalunga namagunya enkundla yabantwana; ukugunyazisa ukuba kwenziwe iimvavanyo ezithile ezimalunga nokwamkelwa *komfundi kwisikolo sikarhulumente sabafundi abaneemfuno zemfundo ezizodwa*; kumasango okanye ngexesha lokuqhubeka *kwemisebenzi yesikolo* ngokuxhomekeke kwimimiselo ethile; ukwenza imigaqo emalunga nokuthengiswa kotywala *kumasango esikolo* okanye xa kwenziwa *imisebenzi yezikolo*; ukulungiselela ukuba *isikolo sikarhulumente* masifumane imvume ebhaliweyo kwangaphambili yomzali yokuya kumsebenzi wesikolo oqhubekela ngaphandle kwamasango esikolo; ukwenza ezinye izenzo zolwaphulo-mthetho; ukwenza eminye imigaqo nokuchaza eminye imiba ehambelana naleyo.

NGOKO KE KUQINGQWA UMTHETHO yiPalamente yePhondo leNtshona Koloni, ngolu hlobo lulandelayo:—

Ukufakelwa kwezilungiso kwicandelo 1 loMthetho 12 ka-1997, njengoko lifakelwe izilungiso kwicandelo 2 loMthetho 7 ka-2010

1. Icandelo 1 loMthetho weMfundo weZikolo zePhondo leNtshona Koloni, ka-1997 (uMthetho oyintloko), ufakelwa izilungiso—

(a) ngokucinywa kwenkcazelo yebinzana ***"imfundo yabadala"***;

(b) ngokufakelwa emva kwenkcazelo yebinzana ***"imfundo esisiseko"*** kwezi nkcazelo zilandelayo:

" ***'UMhloli oyiNtloko'*** uthetha *umhloli oyintloko wezikolo oqeshwe* ngokwecandelo 11A(2);

'umphathi wesekethe' uthetha intloko ye-ofisi yesekethe kwisithili *semfundo*; eyenza imisebenzi ayabelwe *ngumlawuli wesithili* okanye *yiNtloko yeSebe*;

'isikolo sentsebenziswano' sithetha *isikolo sikarhulumente* esichatshazelwe kwicandelo 12C;";

(c) ngokufakelwa emva kwenkcazelo yebinzana ***"isixhobo esiyingozi"*** kwezi nkcazelo zilandelayo:

" ***'umlawuli wesithili'*** uthetha intloko ye-ofisi yesithili, eyenza imisebenzi phantsi kwegunya elidluliselwe kuyo *yiNtloko yeSebe*;

" ***'umxhasi'*** uthetha umntu ochatshazelwe kwicandelo 12C(2)*(a)* okanye 12D(1) obonelela ngezimali okanye ngepropathi *kwisikolo sentsebenziswano okanye kwisikolo sikarhulumente esifumana inkxaso* ngeenjongo zokuphucula ukubonelela ngemfundo kwiphondo;

'isikolo sikarhulumente esifumana inkxaso' sithetha *isikolo sikarhulumente* esichatshazelwe kwicandelo 12D;";

(d) ngokutshintshaniswa kwenkcazelo yebinzana ***"katitshala"*** yale nkcazelo ilandelayo:

" ***'utitshala'*** uthetha nawuphi na umntu, kungaqukwa umntu oqeshelwe ngokukodwa imisebenzi eyenziwa emva kweyokufundisa, ofundisayo, ohlohlayo okanye oqeqesha abanye abantu okanye obonelela ngeenkonzo zemfundo oqeqeshiweyo kuqukwa neenkonzo zonyango nezesayikholoji kwezemfundo, *kwisikolo* eso;";

(e) ngokufakelwa emva kwenkcazelo yebinzana ***"uMthetho weNgqesho yooTitshala"*** kwale nkcazelo yebinzana ilandelayo:

" ***'uMhloli'*** uthetha umhloli wezikolo oqeshwe ngokwecandelo 11A(4)*(b)*;";

(f) *ngokufakelwa emva kwenkcazelo yebinzana* ***"isikolo sesigaba esiphakathi"*** kwezi nkcazelo zilandelayo:

" ***'ifasilithi yongenelelo ngoncedo'*** ithetha ifasilithi echatshazelweyo kwicandelo 12E;";

'UMhloli oyiNkokeli' uthetha umhloli oyintloko wezikolo oqeshwe ngokwecandelo 11A(4)*(a)*;";

(g) ngokufakelwa emva kwenkcazelo yebinzana ***"igosa"*** kule nkcazelo ilandelayo:

" ***'ihlakani elisebenzisana nezikolo'*** lithetha umbutho ongenzi nzuzo ogunyaziselwe ukubonelela ngabasebenzi, ngezakhono okanye ngezibonelelo *kwisikolo sentsebenziswano* ukuxhobisa *ibhunga lolawulo*, ikomiti yolawulo *yesikolo nootitshala esikolweni* ukumisela iinkqubo, izitraktsha, iindlela zokusebenza nangabasebenzi abayimfuneko ukubonelela *ngemfundo* esemgangathweni;";

(h) ngokufakela emva kwenkcazelo yebinzana ***"isikolo sabafundi abaneemfuno zemfundo ezizodwa"*** zezi nkcazelo zilandelayo:

" ***'isicwangciso sophuculo lwesikolo'*** sithetha isicwangciso esichaza izinto eziphambili *isikolo sikarhulumente* esinenjongo yokuziphumeza ukuphucula umgangatho weziphumo zemfundo nokuhlahla indlela kunye nophuhliso *lwesikolo*;

" ***'uGunyaziwe woHlolo lweZikolo'*** uthetha uGunyaziwe woHlolo lweZikolo zaseNtshona Koloni ochatshazelweyo kwicandelo 11A(1);"; kunye

(i) nokufakela emva kwenkcazelo yebinzana ***"imfundo eneemfuno ezizodwa"*** yale nkcazelo ilandelayo:

" ***'umcebisi wesifundo'*** uthetha *utitshala* oyingcali ose-ofisini kwi-ofisi yesithili okanye kwi-ofisi yesekethe, onomsebenzi wakhe okukuququzelela ukuphunyezwa kwekharityhulam nokuphuculwa kwendawo ekufundelwa kuyo kunye nenkqubo yokufunda nokufundisa ngokutyelela *izikolo*, kwanokuthetha-thethana kwakunye nokucebisa *iinqununu* kunye *nootitshala* ngemiba yezekharityhulam;".

Ukufakelwa kwezilungiso kwicandelo 3 loMthetho 12 ka-1997, njengoko lifakelwe izilungiso kwicandelo 3 loMthetho 7 ka-2010

2. Icandelo 3 loMthetho oyintloko lifakelwa izilungiso ngokutshintshaniswa kwicandelwana (1) kwamagama aphambi komhlathi *(a)* ze kufakelwe la magama alandelayo:

''Phantsi kwemigaqo **[*yoMthetho weZikolo zaseMzantsi* Afrika kunye]** *noMgaqo-siseko*, *uMphathiswa wePhondo* unokuthi, apho kuyimfuneko, amaxesha ngamaxesha, amisele umgaqo-nkqubo oya kulandelwa ngokumalunga ne*mfundo* kw*izikolo ezikwiphondo*, ethathela ingqalelo le migqaliselo ilandelayo, eyile yokuba—''.

Ukufakelwa kwezilungiso kwicandelo 4 loMthetho 12 ka-1997

3. Icandelo 4 loMthetho oyintloko lifakelwa izilungiso ngokucinywa komhlathi *(b)* wecandelwana (1).

Ukutshitshiswa kwecandelo 7A loMthetho 12 ka-1997, njengoko ufakelweyo ngecandelo 5 loMthetho 7 ka-2010

4. Icandelo 7A loMthetho oyintloko liyatshitshiswa.

Ukufakelwa kwecandelo 8A kuMthetho 12 ka-1997

5. Eli candelo lilandelayo lifakelwa kuMthetho oyintloko emva kwecandelo 8:

''**Ukuthengwa kweempahla neenkonzo**

8A. Nangona icandelo 8(1)*(a)*, *(c)* no-*(d)* necandelo 8(2) okanye nawo nawuphi na omnye umthetho ochasene nalo, *iNtloko yeSebe* inokuthi, emva kokuthetha-thethana *nebhunga lolawulo* okuchatshazelweyo kwicandelo 8(1)*(a)*, *(c)* no-*(d)*, ithenge zibe ndaweninye iimpahla neenkonzo ezinxulumene *nemfundo kwiphondo* ukuba ikuthatha oku njengento eluncedo *kwimfundo kwiphondo*, kuqukwa nokusetyenziswa ngobuchule, ngempumelelo nangoqoqosho kweemali zikarhulumente.''.

Ukufakelwa kwecandelo 9A kuMthetho 12 ka-1997

6. Eli candelo lilandelayo lifakwa kuMthetho oyintloko emva kwecandelo 9:

''**Ukubeka esweni nokunika inkxaso ekufundisweni kwekharityhulam**

9A. (1) *INtloko yeSebe*, *umlawuli wesithili*, *inqununu yesikolo sikarhulumente* okanye *ihlakani elisebenzisana nezikolo* ngokumalunga *nesikolo sikarhulumente* abanxulunyaniswa naso yimisebenzi abayenzayo, bangabeka esweni okanye baxhase ukufundiswa kwekharityhulam *ngutitshala* eklasini *yesikolo sikarhulumente*, okanye bangagunyazisa oko kubekwa esweni naloo nkxaso emayenziwe—

(a) *ngumcebisi wesifundo*;
(b) lisekela-nqununu;
(c) yintloko yecandelo; okanye
(d) yintloko yesifundo.

(2) *INtloko yeSebe*, *umlawuli wesithili*; umphathi wesekethe ukuba ugunyaziswe ukwenza njalo *ngumlawuli wesithili*, okanye ngummeli ogunyazisiweyo wehlakani elisebenzisana *nezikolo* unokuthi, aqhube ngokubeka esweni nokunika inkxaso yokufundiswa kwekharityhulam yinqununu *yesikolo sikarhulumente*, okanye angagunyazisa oko kubeka esweni nokunika inkxaso kokufundiswa kwekharityhulam *yinqununu yesikolo sikarhulumente*.

(3) *INtloko yeSebe* inokwenza imigaqo yokubekwa esweni nokunikwa kwenkxaso ngokungqinelana neli candelo.''.

Ukufakelwa kwezilungiso kwicandelo 11 loMthetho 12 ka-1997, njengoko kutshintshaniswe ngecandelo 7 loMthetho 7 ka-2010

7. Icandelo 11 loMthetho oyintloko lifakelwa izilungiso—

(a) ngokufakela endaweni yomhlathi *(b)* wecandelwana (4) lalo mhlathi ulandelayo:

“*(b)* inani *elimiselweyo* **[labantu]** lamagosa atyunjwe *yiNtloko yeSebe leMfundo* kubasebenzi bayo;”; kunye

(b) nokufakelwa kweli candelwana lilandelayo:

“(9)*(a) IBhunga lezeMfundo* malinike *uMphathiswa wePhondo* ingxelo eyingcebiso.

(b) UMphathiswa wePhondo makanike ingqalelo ingxelo eyingcebiso aze azise usihlalo *weBhunga lezeMfundo* ngesigqibo sakhe ngokumalunga noko.”.

Ukufakelwa kwamacandelo 11A, 11B, 11C, 11D, 11E, 11F, 11G no-11H kuMthetho 12 ka-1997

8. La macandelo alandelayo afakelwa kuMthetho oyintloko emva kwecandelo 11:

“**Ukusekwa kukaGunyaziwe woHlolo lweZikolo**

11A. (1) *UMphathiswa wePhondo* angamisela ugunyaziwe wohlolo, oya kwaziwa ngokuba nguGunyaziwe woHlolo lweZikolo zaseNtshona Koloni, ukuba aqhube iimvavanyo ezizimeleyo.

(2) *UMphathiswa wePhondo* angaqesha umntu kulo *Gunyaziwe woHlolo lweZikolo uMhloli oyiNtloko wezikolo*.

(3) *UMhloli oyiNtloko* uya kuqeshwa ithuba leminyaka emine ngesivumelwano esingayi kuphinda sihlaziywe kwakhona—

(4) *UMhloli oyiNtloko* angaqesha *kuGunyaziwe woHlolo lweZikolo*—

(a) *ABahloli abaziiNkokeli bezikolo*; kunye

(b) *NaBahloli bezikolo.*

Izinto ezenza ukuba ubani alungele ukuqeshwa njengoMhloli oyiNtloko, uMhloli oyiNkokeli okanye uMhloli

11B. Ukuze umntu alungele ukuqeshwa *njengoMhloli oyiNtloko, uMhloli oyiNkokeli okanye uMhloli* kufuneka umntu lowo—

(a) abe ngummi weRiphablikhi;

(b) abe ngongazange wantyumpa-ntyumpeka ematyaleni;

(c) abe ngongazange abanjwe ngalo naliphi na ixesha ngenxa—

(i) yolwaphulo-mthetho awathi ngalo wagwetyelwa ukuba avalelwe entolongweni enganikwanga thuba lokukhetha ukuba ahlawule isohlwayo;

(ii) yolwaphulo-mthetho ngezesondo olubhekiswe kumntwana; okanye

(iii) ngobusela, ubuqhophololo, ukufoja izinto, ukufunda ngokuvakalayo uxwebhu olufojiweyo, isifungo sobuxoki, naluphi na ulwaphulo-mthetho olwenzeke ngokomthetho i*Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004)*, okanye naluphi na ulwaphulo-mthetho olunophawu lokungathembeki; yaye

(d) abe unolwazi olufanelekileyo okanye amava *kwezemfundo* nakwezolawulo *lwesikolo*.

Ukususwa esikhundleni

11C. (1) *UMphathiswa wePhondo* unokuthi, emva kokulandela inkqubo esemthethweni, amsuse *uMhloli oyiNtloko* kwisikhundla sakhe—

(a) ukuba akasazifezekisi iinkqubo ezo zokulungela kwakhe isikhundla ezichatshazelwe kwicandelo 11B; okanye

(b) nangaziphi na isizathu esivakalayo, esiquka ukuziphatha kakubi nokhubazeko okanye ukungabi nasakhono sokwenza umsebenzi.

(2) *UMhloli oyiNtloko* unokuthi, emva kokulandela inkqubo esemthethweni, amsuse *uMhloli oyiNkokeli* okanye *uMhloli* esikhundleni—

(a) ukuba akasazifezekisi iinkqubo zokulungela isikhundla ezo zichatshazelwe kwicandelo 11B; okanye

(b) nangaziphi na izizathu ezivakalayo, esiquka ukuziphatha kakubi, ukhubazeko okanye ukungabi nasakhono sokwenza umsebenzi.

Imisebenzi kaGunyaziwe woHlolo lweZikolo

11D. (1) *UMhloli oyiNtloko* uya kuthi gqolo esazisa *uMphathiswa wePhondo* ekwenza oko ngokumiselweyo ngezi zinto zilandelayo zimalunga *nezikolo*:

(a) umgangatho wemfundo enikwa *kwisikolo* eso;

(b) indlela *imfundo kwisikolo* ehlangabezana ngayo neemfuno ezahlukileyo *zabafundi* isebenzisa inkqubo yokuphuhlisa izakhono ngokupheleleyo;

(c) imigangatho yemfundo ephunyezwe *kwisikolo eso*;

(d) umgangatho wobunkokeli nowolawulo *kwisikolo eso*;

(e) imithombo yemali efumanekayo *kwisikolo* ingaba ilawulwa ngendlela enoqoqosho na yaye imali isetyenziswa ngobuchule nangengqiqo na;

(f) siziphuhlisa kangakanani na iinkqubo zangaphakathi zokuzivavanya *isikolo* eso *ngokwezicwangciso zophuculo lwesikolo* eso;

(g) ukhuseleko, ukuziphatha kwabafundi nokuhamba isikolo *kwabafundi* nootitshala *kwisikolo* eso;

(h) uphuhliso lwezentlalo nezenkcubeko *lwabafundi kwisikolo* eso; kunye

(i) nobudlelane phakathi *kwabazali*, uluntu *nesikolo*.

(2) Xa efake isicelo esibhaliweyo *uMphathiswa wePhondo*, *uMhloli oyiNtloko* uya kuthi—

(a) acebise *uMphathiswa wePhondo* ngawo nawuphi umba ochazwe kwisicelo eso; yaye

(b) ahlole aze anike ingxelo malunga *nesikolo*, okanye iklasi *esikolweni* eso, ekhankanywe kwisicelo eso.

(3) *UMhloli oyiNtloko* uya kubhala aze apapashe iingxelo njengoko kumiselweyo, eziya kuquka iziphumo zophando ezinokungqinisiswa kunye, apho kuyimfuneko, neengcebiso zophuculo.

(4) *UMhloli oyiNtloko*, *uMhloli oyiNkokeli* okanye *uMhloli* banokuthi—

(a) emva kokukhupha isaziso esibhaliweyo seentsuku ezimbini *zesikolo* esiya *kumlawuli wesithili*, *kwinqununu nebhunga lolawulo*, bafumane imvume yokungena neyokuhlola *isikolo*, nalo naliphi na igumbi lokufundela *elisesikolweni*, baqaphele xa kuqhutywa izifundo kwanokuqokelela ubungqina bokwenzekayo ukuxhasa iingcebiso zakhe;

(b) emva kokukhupha isaziso esibhaliweyo seentsuku ezimbini *zesikolo*, baqhube udliwano-ndlebe *nebhunga lolawulo* okanye naliphi ilungu lalo, *igosa* leSebe, *umsebenzi kwisikolo* eso, *umfundi* okanye *umzali*;

(c) bangenise isicelo esibhaliweyo njengobungqina obungamaxwebhu *kwinqununu yesikolo*;

(d) bengakhange bakhuphe saziso, bangene *esikolweni* bahluthe iingxelo zemali, iziteyitimenti namaxwebhu, nokuba zikweyiphi na imo, ukuba ngaba—

(i) unobungqina obuphathekayo bolawulo gwenxa lwezemali *esikolweni* eso; yaye

(ii) kurhaneleka ngezizathu ezivakalayo ukuba iirekhodi zamaxwebhu ziya kufihlwa, zitshatyalaliswe okanye

zitshintshwe apha naphaya ukuba kuye kwakhutshwa isaziso; yaye

(e) nangaliphi na ixesha kunikwe iingcebiso *kuMphathiswa wePhondo* nangawuphi na umba omalunga *nesikolo*.

(5) Amagunya achatshazelwe kwicandelwana (4)*(a)* no-*(b)* angasetyenziswa kungakhutshwanga isaziso ukuba ngaba *uMhloli oyiNtloko* unezizathu ezivakalayo zokukhokelwa ukuba oku kuyimfuneko ukuze enze umsebenzi *kaGunyaziwe woHlolo lweZikolo* ngempumelelo.

(6)*(a) UMphathiswa wePhondo* unokuthi, emva kokuthetha-thethana *noMhloli oyiNtloko*, amgunyazise ukuba enze imisebenzi eyongeziweyo okanye amnike amagunya ongeziweyo ukuba *uMphathiswa wePhondo* ukholelwa ukuba—

(i) *uMhloli oyiNtloko* uyakwazi ukwenza loo misebenzi yongeziweyo okanye ukusebenzisa loo magunya ongeziweyo; yaye

(ii) oko iya kuba yinto eya kunceda uluntu ukuba *uMhloli oyiNtloko* akwenze oko.

(b) UMphathiswa wePhondo unokuthi, emva kokuthetha-thethana *noMhloli oyiNtloko*, arhoxise amagunya anikwe *uMhloli oyiNtloko* ngokomhlathi *(a)* ukuba *uMphathiswa wePhondo* unesizathu sokukholelwa ukuba—

(i) *uMhloli oyiNtloko* akasakwazi ukwenza loo msebenzi wongeziweyo okanye asebenzise loo magunya ongeziweyo; okanye

(ii) oko iya kuba yinto eya kunceda uluntu ukuba *uMphathiswa wePhondo* akwenze oko.

(c) UMphathiswa wePhondo angathi, emva kokuthetha-thethana *noMhloli oyiNtloko*—

(i) amkhulule *uMhloli oyiNtloko* ekwenzeni umsebenzi onyanzeliswa licandelwana (1); okanye

(ii) arhoxise amagunya anikwe *uMhloli oyiNtloko*, *uMhloli oyiNkokeli* okanye *uMhloli* licandelwana (4).

Ukuhlawulwa kwemivuzo neemali zezibonelelo

11E. *UMhloli oyiNtloko*, *aBahloli abaziiNkokeli* okanye *aBahloli* baya kuhlawulwa imivuzo nezibonelelo ezimiselwe ng*uMphathiswa wePhondo* emva kokuthetha-thethana nentloko yezemali.

Imisebenzi yeNtloko yeSebe ngokumalunga noGunyaziwe woHlolo lweZikolo

11F. (1) *INtloko yeSebe* iya kunika *uGunyaziwe woHlolo lweZikolo* inkxaso ngokubanzi nezibonelelo ezifanelekileyo zokwenza umsebenzi wakhe, kuqukwa inkxaso yezolawulo neziseko zophuhliso.

(2) *INtloko yeSebe* iya kutyumba amagosa *eSebe leMfundo leNtshona Koloni* ukuba anike inkxaso yezolawulo *kuGunyaziwe woHlolo lweZikolo* njengoko kuchatshazelweyo kwicandelwana (1).

(3) *INtloko yeSebe* iya kuthathela ingqalelo iziphumo neengcebiso ekubhekiswa kuzo kwicandelo 11D(3) ize ithathe amanyathelo afanelekileyo ukulungiselela ukuphucula inkxaso.

Ukuchithwa kukaGunyaziwe woHlolo lweZikolo

11G. (1) *UMphathiswa wePhondo* angamchitha *uGunyaziwe woHlolo lweZikolo* ukususela kumhla obekwe ng*uMphathiswa wePhondo* ukuba *uGunyaziwe woHlolo lweZikolo* usilele ukwenza imisebenzi yakhe ngokwanelisayo, naxa engasasebenzi ngempumelelo okanye esebenze ngokungeloncedo *kwezemfundo*.

(2) *UMphathiswa wePhondo* akanakuthatha manyathelo phantsi kwecandelwana (1) ngaphandle kokuba—

(a) unike isaziso esinezizathu ezivakalayo *uGunyaziwe woHlolo lweZikolo* esimalunga neenjongo zakhe kunye nezizathu zoko;

(b) unike *uGunyaziwe woHlolo lweZikolo* ithuba elaneleyo lokuvakalisa ezabo izimvo ngaloo ntshukumo; yaye
(c) abe uthathele ingqalelo eyiyo naziphi na izimvo azifumeneyo.

Imimiselo emalunga noGunyaziwe woHlolo lweZikolo

11H. *UMphathiswa wePhondo* angenza *imimiselo* malunga—
(a) neenkqubo zokutyumba *aBahloli abaziiNtloko*, *aBahloli abaziiNkokeli naBahloli* kwakunye nokuzaliswa kwezithuba;
(b) nemimiselo nemiqathango yokuqesha *aBahloli abaziiNtloko*, *aBahloli abaziiNkokeli naBahloli*;
(c) neenkqubo zokususa *aBahloli abaziiNtloko*, *aBahloli abaziiNkokeli naBahloli*;
(d) neenkqubo zokusetyenziswa kwamagunya ekubhekiswa kuwo kwicandelo 11D(1);
(e) nendlela *uMhloli oyiNtloko* aya kumazisa ngayo *uMphathiswa wePhondo* ngemiba ecaciswe kwicandelo 11D(1);
(f) malunga nokuqulunqwa nokupapashwa kweengxelo *nguGunyaziwe woHlolo lweZikolo*; yaye
(g) nawuphi na umba ongomnye onokuba yimfuneko okanye omawumiselwe ngokungxamisekileyo ukufikelela kwiinjongo zikaGunyaziwe woHlolo lweZikolo.”.

Ukufakelwa kwezilungiso kwicandelo 12 loMthetho 12 ka-1997

9. Icandelo 12 loMthetho oyintloko lifakelwa izilungiso ngokufakelwa kwicandelwana (1) emva komhlathi *(e)* kwale mihlathi ilandelayo:
“*(eA)* izikolo zentsebenziswano;
(eB) izikolo zikarhulumente ezifumana inkxaso;”.

Ukufakelwa kwezilungiso kwicandelo 12A loMthetho 12 ka-1997, ngokufakelwa kwecandelo 8 loMthetho 7 ka-2010

10. Icandelo 12A loMthetho oyintloko lifakelwa izilungiso ngokutshintshaniswa komhlathi *(b)* wecandelwana (6) lalo mhlathi ulandelayo:
“*(b) Ibhunga lolawulo* lethutyana liya kwenza izigqibo ngebhajethi nezinto ezingumahluko kwimigaqo yokuziphatha *(codes of conduct)* kunye neefizi zesikolo, kwakunye nangawo nawuphi na umba ofanelekileyo koko kudityaniswa kwezikolo okanye okumiselwe ngumthetho, kude kwakhiwe *ibhunga lolawulo* elitsha elenziwe **[ngokwamacandelo 23 no-28 o*Mthetho weZikolo zaseMzantsi Afrika*]** ngokwendlela *emiselweyo* phantsi kwecandelo 24.”.

Ukufakelwa kwamacandelo 12C, 12D no-12E kuMthetho 12 ka-1997

11. La macandelo alandelayo afakelwa kuMthetho oyintloko emva kwecandelo 12B:

“**Izikolo zentsebenziswano**

12C. (1) *UMphathiswa wePhondo* angachonga *isikolo sikarhulumente* esichazwe kwicandelo 12(1)*(a)* ukuya ku-*(f)* ukuba sibhengezwe *njengesikolo sentsebenziswano* ukuba wanelisekile ukuba olo bhengezo luya kunceda ezemfundo kweso sikolo ethathele ingqalelo iingxelo ezingesikolo eso, eziquka iingxelo ngendlela esiqhuba ngayo sikolo eso.

(2) Ngokuxhomekeke kwicandelwana (1), *uMphathiswa wePhondo* unokuthi, ngengcebiso *yeNtloko yeSebe*, angene kwisivumelwano—
(a) *nomxhasi*;
(b) *ihlakani elisebenzisana nezikolo*; kunye
(c) *nebhunga lolawulo lesikolo sikarhulumente*,
apho *isikolo sikarhulumente* esichazwe kwicandelo 12(1)*(a)* ukuya ku*(f)* siya kubhengezwa *njengesikolo sentsebenziswano*.

(3) *UMphathiswa wePhondo* angenza isivumelwano ngengcebiso *yeNtloko yeSebe nomxhasi* kunye *nehlakani elisebenzisana nezikolo* ngokusekwa *kwesikolo sentsebenziswano* esitsha aze aisiseke *isikolo*.

(4) Izivumelwano ezichatshazelwe kumacandelo (2) no-(3) ziya kuqulatha eyona mimiselo isezantsi *emiselwe nguMphathiswa wePhondo*.

(5) Kwakugqitywa ngesivumelwano esixelwe kwicandelwana (2), *uMphathiswa wePhondo* unokuthi, ngesaziso *esikwiGazethi yePhondo*, abhengeze *isikolo sikarhulumente* esichaphazelekayo ukuba *sisisikolo sentsebenziswano*.

(6) *UMphathiswa wePhondo* akavumelekanga ukwenza isibhengezo esichatshazelwe kwicandelwana (5) ngaphandle kokuba uqale wafuna izimvo zoluntu ngesibhengezo azimisele ukusenza yaye abe unike ingqalelo eyiyo zonke izimvo azifumeneyo.

(7) Apho kupheliswe isivumelwano *nehlakani elisebenzisana nezikolo* okanye *nomxhasi* abachatshazelwe kwicandelwana (2)*(a)* okanye *(b)* okanye kwicandelwana (3), *uMphathiswa wePhondo* unokuthi ngengcebiso *yeNtloko yeSebe* enze isivumelwano esitsha *nehlakani elisebenzisana nezikolo* okanye *nomxhasi*, ngokwaloo meko kuyiyo, yaye *isikolo* sinokuyigcina imeko yaso yokuba *sisikolo sentsebenziswano*—

(8) Ukuba akukho sivumelwano sitsha kungenwe kuso njengoko kuchatshazelweyo kwicandelwana (7)—

(a) *isikolo* esichaphazelekayo siya kuyeka ukuba *sisikolo sentsebenziswano*;

(b) *uMphathiswa wePhondo* uya kuthi ekhuphe isaziso *kwiGazethi yePhondo*, abhengeze *isikolo* njengohlobo *lwesikolo sikarhulumente* esichazwe kwicandelo 12(1)*(a)* ukuya ku-*(f)*; yaye

(c) *ibhunga lolawulo* elitsha liya kwakhiwa ngendlela *emiselweyo*.

(9) Amalungu e*bhunga lolawulo esikolo sentsebenziswano* aya kuba nepesenti engu-50 yabameli *behlakani elisebenzisana nezikolo* anamalungelo okuvota nepesenti engu-50 yamanye amalungu *ebhunga lolawulo* anamalungelo okuvota: Kuxhomekeke ekubeni *uMphathiswa wePhondo* unokuthi, ngesizathu esivakalayo, abhengeze ukuba *ibhunga lolawulo lesikolo sentsebenziswano* esithile liya kuba nepesenti engaphezulu kwe-50 yabameli *behlakani elisebenzisana nezikolo* kunye nepesenti engu-50 yamanye amalungu *ebhunga lolawulo* anamalungelo okuvota.

(10) Kwimeko yokulingana kweevoti kwintlanganiso *yebhunga lolawulo yesikolo sentsebenziswano* apho *ihlakani elisebenzisana nezikolo* linamalungelo okuvota epesenti engu-50 welo *bhunga lolawulo*, umba lowo mawugqitywe ngevoti yesininzi kwintlanganiso kawonkewonke *yabazali* abakhoyo nabanelungelo lokuvota.

(11) *ISebe leMfundo leNtshona Koloni* malibagcine *ootitshala* nabangezotitshala ababeqeshwe ngexesha lokubhengezwa kwesikolo *njengesikolo sentsebenziswano* ngokwecandelwana (5), abaqeshwa esikolweni kwizithuba zengqesho ngokoMthetho weNgqesho yooTitshala okanye ngokoMthetho weNkonzo kaRhulumente, ka-1994 (isiBhengezo 103 sika-1994), ngokuhambelana neemeko zengqesho ezisebenza kwezo zithuba kangangelo thuba abo *titshala nabo bangezotitshala basekwezo zithuba.*

(12) Phantsi koMthetho woLawulo lweMali kaRhulumente, ka-1999 (uMthetho 1 ka-1999), *iSebe leMfundo leNtshona Koloni* linokwenza iintlawulo ngoomatshini eziya *kwisikolo sentsebenziswano* ezilingana izixa ezifunekayo ekuxhaseni ngemali—

(a) kwezithuba ezichatshazelwe kwicandelwana (10) ezingenabantu;

(b) izithuba ezitsha ezimiselwe *yiNtloko yeSebe*—

(i) *zootitshala* ngokwecandelo 5(2) *loMthetho weNgqesho yooTitshala*;

(ii) zabangezotitshala ngokwe *Western Cape Education Department's Norms and Standards for Support Staff provision at Ordinary Public Schools*, ngokuxhomekeke ekufumanekeni kwezibonelelo zoncedo *zeSebe leMfundo leNtshona Koloni*.

(13) Phantsi *kwemiqathango* echatshazelweyo kwicandelwana (17)*(b)*, *ibhunga lolawulo lesikolo sentsebenziswano* linokuthi kwiimali

ezichatshazelwe kwicandelwana (12), liqeshe *ootitshala* nabangezotitshala ngokungqinelana namanani ezithuba ezabelwe izikolo, neemeko zengqesho ezimiselwe *libhunga lolawulo*.

(14) *Isikolo sentsebenziswano* siya kuba ngumqeshi *wootitshala* nabangezotitshala abachatshazelwe kwicandelwana (13).

(15) Ukuqeshwa *kootitshala* nabangezotitshala *libhunga lolawulo* okuchatshazelwe kwicandelwana (13) kuxhomekeke kumthetho i*Labour Relations Act, 1995*, nakumthetho i*Basic Conditions of Employment Act, 1997 (Act 75 of 1997)*;

(16) Nakuba kukho icandelo 60 *loMthetho weZikolo zaseMzantsi Afrika*, uRhulumente akanatyala ngaso nasiphi na isenzo okanye imposiso eyenziwe *sisikolo sentsebenziswano* ngoxanduva lwekhontraki esinalo njengomqeshi wabasebenzi abaqeshwe ngokwecandelwana (13).

(17) *UMphathiswa wePhondo* makenze *imigaqo* emalunga—

(a) neentlawulo ngoomatshini ezichatshazelwe kwicandelwana (12); kunye

(b) nokusetyenziswa kweemali *libhunga lolawulo* ngeenjongo ezichatshazelwe kwicandelwana (13),

kodwa loo miqathango mayingatolikwa njengento emenza uRhulumente abe ngumqeshi ngokuhlanganyeleneyo wabo basebenzi.

(18) Ngaphandle kokuba oku kuchaziwe kweli candelo, imiqago *yalo Mthetho* nawo nawuphi na umthetho olawula *izikolo zikarhulumente* uyasebenza *kwizikolo zentsebenziswano*.

Izikolo zikarhulumente ezifumana inkxaso

12D. (1) *UMphathiswa wePhondo* angenza isivumelwano—

(a) *nomxhasi*; kunye

(b) *nebhunga lolawulo lesikolo sikarhulumente*,

apho *isikolo sikarhulumente* esichatshazelwe kwicandelo 12(1)*(a)* ukuya ku-*(f)* siya kubhengezwa *njengesikolo sikarhulumente esifumana inkxaso* ukuba *uMphathiswa wePhondo* wanelisekile ukuba olo bhengezo luya kunceda *zemfundo kwisikolo* eso.

(2) *UMphathiswa wePhondo* angenza isivumelwano *nomxhasi* sokusekwa k*wesikolo sikarhulumente esitsha esifumana inkxaso* aze asiseke *isikolo* eso.

(3) Izivumelwano ezichatshazelwe kumacandelwana (1) no-(2) ziya kuqulatha eyona miqathango isezantsi *emiselwe nguMphathiswa wePhondo*.

(4) sakugqitywa isivumelwano esichatshazelwe kwicandelwana (1), *uMphathiswa wePhondo* unokuthi, ekhuphe isaziso *kwiGazethi yePhondo*, abhengeze *isikolo sikarhulumente* esichaphazelekayo ukuba *sisikolo sikarhulumente esifumana inkxaso*.

(5) *UMphathiswa wePhondo* akavumelekanga ukwenza isibhengezo esichatshazelwe kwicandelwana (4) ngaphandle kokuba uqale wafuna izimvo zoluntu ngesibhengezo azimisele ukusenza yaye abe unike ingqalelo eyiyo naziphi na izimvo azifumeneyo.

(6) Apho kupheliswe isivumelwano esixelwe kwicandelwana (1) okanye (2)—

(a) *isikolo* esichaphazelekayo siya kuyeka ukuba *sisikolo sikarhulumente esifumana inkxaso*;

(b) *uMphathiswa wePhondo* uya kuthi ekhuphe isaziso *kwiGazethi yePhondo*, abhengeze *isikolo* njengohlobo *lwesikolo sikarhulumente* esichatshazelwe kwicandelo 12(1)*(a)* ukuya ku-*(f)*; yaye

(c) *ibhunga lolawulo* elitsha liya kwakhiwa ngendlela emiselweyo.

(7) Amalungu *ebhunga lolawulo lesikolo sikarhulumente esifumana inkxaso* angaquka abameli *bomxhasi*, abanamalungelo okuvota, ayokufikelela kubuninzi bepesenti engu-50.

(8) Kwimeko yokulingana kweevoti kwintlanganiso *yebhunga lolawulo lesikolo sikarhulumente esifumana inkxaso* apho *umxhasi* onamalungelo okuvota ayipesenti engu-50 yelo *bhunga lolawulo*, umba lowo mawugqitywe ngevoti yesininzi kwintlanganiso jikelele *yabazali* abakhoyo nabanelungelo lokuvota.

(9) *UMphathiswa wePhondo*, angabhengeza ukuba *ibhunga lolawulo lesikolo* esithile *esixhaswa ngemali ngumxhasi* othile siya kuba nabameli abangaphezulu kweepesenti ezingama-50 *bomxhasi* abanamalungelo okuvota.

(10) Ngaphandle kokuba oku kuchaziwe kweli candelo, imiqago *yalo Mthetho* nawuphi na omnye umthetho olawula *izikolo zikarhulumente* uyasebenza *kwizikolo zikarhulumente ezifumana inkxaso.*

Ifasilithi yongenelelo ngoncedo

12E. (1) Ngokuxhomekeke kwizibonelelo ezifumanekayo *zeSebe leMfundo leNtshona Koloni, uMphathiswa wePhondo* angaseka *ifasilithi yongenelelo ngoncedo* yabafundi abafunyenwe benetyala lokuziphatha kakubi kakhulu.

(2) *ifasilithi yongenelelo* iza kubonelela ngoku—

(a) iinkqubo zonyango namaqhinga ongenelelo ukuze kuhoywane nokungaziphathi kakuhle okuqatseleyo; kunye

(b) nonikezelo lwekharityhulam olufana nomgangatho obonelelwa kumthetho nemigaqo-nkqubo esebenza kwizikolo zikarhulumente.

(3) *ifasilithi yongenelelo* ingaquka inkathalelo yendawo yokuhlala.''.

Ukufakelwa kwezilungiso kwicandelo 13 loMthetho 12 ka-1997, njengoko kutshintshaniswe ngecandelo 9 loMthetho 7 ka-2010

12. Icandelo 13 loMthetho oyintloko lifakelwa izilungiso ngokutshintshaniswa kwecandelwana (7) neli candelwana lilandelayo:

''(7) Ukuba kusekwe *isikolo sikarhulumente* esitsha **[esichaziweyo ngokwesiqendu 12 soMthetho weZikolo zaseMzantsi Afrika]**, ulawulo lwesikolo eso luya kuthweswa i*Ntloko yeSebe* kude kube kusekwe i*bhunga lolawulo* **[ngokwaloo]** ngokwalo Mthetho.''.

Ukufakelwa kwezilungiso kwicandelo 14 loMthetho 12 ka-1997

13. Icandelo 14 loMthetho oyintloko lifakelwa izilungiso ngokutshintshaniswa kwecandelwana (1) leli candelwana lilandelayo:

''(1) Phantsi *koMgaqo-siseko* naphantsi *kwalo Mthetho, isikolo sikarhulumente* sinokuba kwipropathi yabucala kuphela ngemvumelwano ephakathi *koMphathiswa wePhondo* **[ngokuvumelana *nentloko yezemali,*]** nomnini-propathi yabucala.''.

Ukufakelwa kwezilungiso kwicandelo 16 loMthetho 12 ka-1997

14. Icandelo 16 loMthetho oyintloko lifakelwa izilungiso ngokutshintshaniswa kwecandelwana (6) leli candelwana lilandelayo:

''(6) Akukho propathi engenakushenxiswa kaRhulumente nekumi kuyo *isikolo sikarhulumente* inokutshintsha ubumnini bayo ngaphandle kokuba kukho imvumelwano eyenziwe phakathi ko*Mphathiswa wePhondo*, ngokuvumelana **[*nentloko yezemali,*]** noMphathiswa wePhondo ojongene nemisebenzi yoluntu, nalowo uya kuba ngumnini wale propathi ingenakushenxiswa.''.

Ukutshintshaniswa kwecandelo 18 loMthetho 12 ka-1997

15. Eli candelo lilandelayo litshintshaniswe necandelo 18 loMthetho oyintloko:

''**Ukuvalwa kwezikolo zikarhulumente**

18. *UMphathiswa wePhondo* unako nanini na ukuvala *isikolo sikarhulumente* **[okanye inxenye yaso]** ngokwecandelo 33 *loMthetho weZikolo zaseMzantsi Afrika*.''.

Ukufakelwa kwezilungiso kwicandelo 20B loMthetho 12 ka-1997, njengoko lifakelwe licandelo 11 loMthetho 7 ka-2010

16. Icandelo 20B loMthetho oyintloko lifakelwa izilungiso ngokutshintshaniswa kwicandelwana (1) kwamagama aphambi komhlathi *(a)* ngala magama alandelayo:

''Phantsi kwayo nayiphi na imimiselo nemigangatho kazwelonke esebenzayo echatshazelweyo kwicandelo 146(2) *soMgaqo-siseko*, *uMphathiswa wePhondo* unokuthi **[, emva kokuthetha-thethana ne*Bhunga lezeMfundo*,]** amisele *ngommiselo* imimiselo nemigangatho esezantsi efanayo—''.

Ukufakelwa kwezilungiso kwecandelo 21A loMthetho 12 ka-1997, njengoko ufakelweyo ngecandelo 12 loMthetho 7 ka-2010

17. Icandelo 21A loMthetho oyintloko lifakelwa izilungiso ngokuthi—

(a) ucinywe icandelwana (7);

(b) ngokutshintshaniswa kwecandelwana (11) leli candelwana lilandelayo:

''(11) **[Phantsi kwayo nayiphi na imimiselo nemigangatho kazwelonke emiselwe *nguMphathiswa kaZwelonke esebenzayo* ngokwecandelo 20(11) *loMthetho weZikolo zaseMzantsi Afrika*, *u*]** UMphathiswa wePhondo unokumisela imimiselo nemigangatho ngokukhupha isaziso *kwiGazethi yePhondo* ngokumalunga neemali ezisetyenzisiweyo ukuqesha abasebenzi ekubhekiswa kubo kumacandelwana (4) no-(5), kodwa loo mimiselo nemigangatho mayingatolikwa njengaleyo yenza ukuba uRhulumente abe ngumqeshi ngokuhlanganyeleneyo wabo basebenzi.''.

Ukutshintshaniswa kwecandelo 31 loMthetho 12 ka-1997

18. Eli candelo lilandelayo litshintshaniswa necandelo 31 loMthetho oyintloko:

''**Iinkxaso-mali kwizikolo ezizimeleyo**

31. **[Phantsi kwemigaqo yecandelo 48 loMthetho weZikolo zaseMzantsi Afrika, u]** Ukunika iinkxaso-mali *izikolo ezizimeleyo* kuya kujongwana nako njengoko *kumiselweyo nguMphathiswa wePhondo*, ngesivumelwano *nentloko yezemali*.''.

Ukupheliswa kwecandelo 40 loMthetho 12 ka-1997

19. Icandelo 40 loMthetho oyintloko liyapheliswa.

Ukupheliswa kwecandelo 41 loMthetho 12 ka-1997, njengoko litshintshaniswe ngecandelo 15 loMthetho 7 ka-2010

20. Icandelo 41 loMthetho oyintloko lifakelwa izilungiso ngokutshintshaniswa necandelwana (2) leli candelwana lilandelayo:

''(2) *Ibhunga lolawulo lesikolo sikarhulumente* alivumelekanga ukuqhuba naluphi na uvavanyo olunxulumene nolwamkelo *lomfundi kwisikolo sikarhulumente* okanye liyalele okanye ligunyazise *inqununu yesikolo* okanye naye nawuphi na omnye umntu ukuba aqhube uvavanyo, ngaphandle kwemeko yolwamkelo *lomfundi kwisikolo sikarhulumente* esichatshazelweyo kwicandelo 20A.''.

Ukufakelwa kwezilungiso kwecandelo 45 loMthetho 12 ka-1997, njengoko lifakelwe izilungiso licandelo 18 loMthetho 7 ka-2010

21. Icandelo 45 loMthetho oyintloko lifakelwe izilungiso—

(a) ngokutshintshaniswa komhlathi *(b)* wecandelwana (5) lalo mhlathi ulandelayo:

''*(b)* ukwenza ingcebiso *kwiNtloko yeSebe*—

(i) yokuthumela *umfundi kwifasilithi* yongenelelo ngoncedo kangangethuba elichaziweyo elingadlulanga kwiinyanga eziyi-12 ngalo naliphi na ixesha elinye ukuba *abazali* bayayivuma loo nkqubo yokuthunyelwa kwakhe; okanye

(ii) ukugxotha *umfundi kwisikolo sikarhulumente*.'';

(b) ngokutshintshaniswa kwecandelwana (6) leli candelwana lilandelayo:

"(6) *INtloko yeSebe* iya kuthi, zingadlulanga iintsuku eziyi-14 emva kokufumana ingcebiso echatshazelweyo kwicandelwana (5)*(b)*—

(a) kwimeko yengcebiso echatshazelweyo kwicandelwana (5)*(b)*(i), igqibe ukuba ngaba iza kumthumela okanye hayi *umfundi kwifasilithi yongenelelo ngoncedo*, ithuba elingadlulanga kwiinyanga eziyi-12 ngalo naliphi na ixesha elinye, ukuba *abazali* bayayivuma inkqubo yokuthunyelwa kwakhe; okanye

(b) kwimeko yengcebiso echatshazelweyo kwicandelwana (5)*(b)*(ii), igqiba ekubeni imgxothe okanye ingamgxothi na *umfundi.*";

(c) ngokutshintshaniswa kwecandelwana (7) leli candelwana lilandelayo:

"(7) *Ibhunga lolawulo* lingamnqumamisa okanye landise ukunqunyanyiswa *komfundi* kangangethuba elingadlulanga kwiintsuku *zesikolo* eziyi-14 ngokuxhomekeke kwisigqibo *seNtloko yeSebe* sokuba ngaba uyamgxotha okanye akamgxothi na *umfundi kwisikolo sikarhulumente*, okanye ingaba makathumele umfundi *kwifasilithi yongenelelo ngoncedo*.";

(d) ngokufakelwa emva kwecandelwana (14) lala macandelwana alandelayo:

"(14A) Isohlwayo ekubhekiswa kuso kwicandelwana (14) sinokuquka, ngokwengcebiso *yebhunga lolawulo* nangemvumelwano *yabazali bomfundi*, ukuthunyelwa *kwifasilithi yongenelelo ngoncedo* kangangethuba elikhankanyiweyo, ekungafunekanga ukuba ligqithe kwiinyanga eziyi-12 ngalo naliphi na ixesha elinye.

(14B) *Umfundi* ekubhekiswa kuye *kwifasilithi yongenelelo ngoncedo* ngokwecandelwana (6)*(a)* okanye u-(14A) uya kuthi, emva kokugqitha kwethuba elikhankanyiweyo elichatshazelwe kuloo macandelwana, uya kwamkelwa kwakweso *sikolo sikarhulumente* ebekhe wafunda kuso phambi kokuba bamthumele kwiziko elo.".

Ukufakelwa kwezilungiso zecandelo 45A loMthetho 12 ka-1997, njengoko kufakelweyo ngecandelo 19 loMthetho 7 ka-2010

22. Icandelo 45A loMthetho oyintloko lifakelwa izilungiso ngokufakelwa emva kwecandelo (1) kweli candelwana lilandelayo:

"(1A) Icandelwana (1) alisebenzi ekusetyenzisweni ngokusemthethweni kotywala ngumntu ongengomfundi *kumsebenzi wesikolo* owenzelwa ngaphandle kwamasango *esikolo*.".

Ukufakelwa kwamacandelo 45B no-45C kuMthetho 12 ka-1997

23. La macandelo alandelayo afakelwa kuMthetho oyintloko emva kwecandelo 45A:

"**Isinxaxhi ekuthintelweni kotywala kumasango esikolo okanye kwimisebenzi yesikolo**

45B. (1) Nangona kukho ukuthintelwa kotywala kumasango *esikolo* okanye kuwo nawuphi na *umsebenzi wesikolo* ochatshazelweyo kwicandelo 45A(1), *iNtloko yeSebe*, ingathi kwisicelo esibhaliweyo, igunyazise *ibhunga lolawulo*, okanye, malunga nefankshini yootitshala *inqununu*, *yesikolo sikarhulumente* ikuvumele ukusetyenziswa okanye ukuthengiswa kotywala kumasango *esikolo* okanye *kumsebenzi wesikolo* obanjelwe kumasango *esikolo.*

(2) Ekuqwalaseleni isicelo esichatshazelwe kwicandelwana (1) *iNtloko yeSebe* mayithathele ingqalelo eyiyo imigaqo-nkqubo kaRhulumente waseNtshona Koloni engokuncitshiswa komonakalo owenziwa butywala.

(3) *Ibhunga lolawulo* okanye *inqununu* enikwe igunya elichatshazelwe kwicandelwana (1) lingakuvumela ukusetyenziswa okanye ukuthengiswa kotywala kumasango *esikolo* okanye *kwimisebenzi yesikolo* eyenzelwa kumasango *esikolo*.

(4) Ukusetyenziswa okanye ukuthengiswa kotywala njengoko kuchatshazelweyo kweli candelo kuxhomekeke—

(a) kumthetho i*Western Cape Liquor Act*, ka-2008 nayo nayiphi na imimiselo enyanzeliswe ngokwaloo Mthetho; kunye

(b) nayo nayiphi imimiselo eqingqwe—

(i) *libhunga lolawulo*;

(ii) *yinqununu* ngokumalunga nefankshini yootitshala; kunye

(iii) *neNtloko yeSebe*.

(5) Ngaphandle kwamacandelwana (1) no-(3), ukuthengiswa nokusetyenziswa kotywala kumasango *esikolo* okanye kumsebenzi *wesikolo* akuvumelekanga ngeeyure *zesikolo*.

(6) *INtloko yeSebe* inokuthi, phantsi kwezizathu ezivakalayo, iyirhoxise imvume echatshazelweyo kwicandelwana (1).

(7) *INtloko yeSebe* ayivumelekanga ukurhoxisa imvume echatshazelweyo kwicandelwana (1) ngaphandle kokuba—

(a) ilazisile *ibhunga lolawulo* okanye *inqununu* ngenjongo yayo yokwenjenjalo kwanezizathu zoko;

(b) inike *ibhunga lolawulo* okanye *inqununu* ithuba elaneleyo lokuvakalisa izimvo zakhe ngokunxulumene noko; yaye

(c) iqwalasele ngokukuko naziphi na izimvo ezifunyenweyo.

(8) Kwimeko yongxamiseko, iNtloko yeSebe ingayirhoxisa imvume echatshazelweyo kwicandelwana (1) ngaphandle kokuthobela icandelwana (7), ukuba ngaba *iNtloko yeSebe*—

(a) inike *ibhunga lolawulo* okanye *inqununu* izizathu zesigqibo sayo;

(b) inike *ibhunga lolawulo* okanye *inqununu* ithuba elaneleyo lokuvakalisa izimvo ezinxulumene nesigqibo sayo; ize

(c) iqwalasele ngokukuko naziphi na izimvo ezifunyenweyo.

(9) *INtloko yeSebe* inokuthi, ngenxa yenjongo yayo entle eboniswe *sisikolo* eso, isirhoxise okanye isinqumamise isigqibo sayo esichatshazelwe kwicandelwana (6) okanye u-(8).

(10) Nuwuphi na umntu onesikhalazo ngesi sigqibo *seNtloko yeSebe* ngeli candelo angafaka isibheno kwisigqibo eso *kuMphathiswa wePhondo*.

(11) *INtloko yeSebe—*

(a) ingakhupha isikhokelo esiya *ezikolweni* esingokusetyenziswa okanye ukuthengiswa kotywala kumasango *esikolo* okanye *kumsebenzi wesikolo* ngokuhambelana neli candelo; kwaye

(b) kufuneka ikhuphe isikhokelo esiya *kwizikolo* esimalunga nobukho *babafundi* xa kuthengiswa okanye kusetyenziswa utywala kumasango *esikolo* okanye *kumsebenzi wesikolo* ngokuhambelana neli candelo.

Imvume yokuba abantwana mabaphume nesikolo

45C. *Isikolo sikarhulumente* masifumane imvume ebhaliweyo kwangaphambili yomzali egunyazisa umfundi ukuba makaye *kumsebenzi wesikolo* ongaphandle kwamasango *esikolo*, oku akuzichaphazeli ezemidlalo zemihla ngemihla.''.

Ukufakelwa kwezilungiso kwecandelo 48 loMthetho 12 ka-1997, njengoko kutshintshaniswe ngecandelo 21 loMthetho 7 ka-2010

24. Icandelo 48 loMthetho oyintloko litshintshaniswa necandelwana (2) leli candelwana lilandelayo:

''(2) **[Ngokuxhomekeke kumgaqo-nkqubo owenziwe ngokwecandelo 3(4)*(g)* lomthetho i*National Education Policy Act, 1996 (uMthetho 27 ka-1996*, u]** UMphathiswa wePhondo uya kuthi, ngokukhupha isaziso *kwiGazethi yePhondo*, athathe isigqibo kwaye amisele imisebenzi neenkqubo zokuseka nokunyulwa *kwamabhunga abameli babafundi.*''.

Ukufakelwa kwezilungiso zecandelo 58 loMthetho 12 ka-1997

25. Icandelo 58 loMthetho oyintloko lifakelwa izilungiso ngokufakelwa komhlathi *(a)* walo mhlathi ulandelayo:

"*(aA)* uthintela okanye unqanda *uMhloli oyiNtloko, uMhloli oyiNkokeli* okanye *uMhloli* ekwenzeni umsebenzi okanye imisebenzi yakhe *ngokwalo Mthetho*;".

Ukufakelwa kwecandelo 59A kuMthetho 12 ka-1997

26. Eli candelo lilandelayo lifakwa kuMthetho oyintloko emva kwecandelo 59:

"**Ulwaphulo-mthetho olunxulumene nemisebenzi eyenzeka kumasango esikolo**

59A. Nawuphi na umntu owaphula u-45A(1) okanye icandelo 45B(4) uya kuba netyala lolwaphulo-mthetho.".

Ukufakelwa kwezilungiso kwecandelo 60 loMthetho 12 ka-1997

27. Icandelo 60 loMthetho oyintloko lifakelwa izilungiso ngokongeza kwicandelwana (1) lalo mhlathi ulandelayo:

"*(c)* kwimeko yolwaphulo-mthetho ekubhekiswa kulo kwicandelwana 59A ukuya kutsho kwisohlwayo esingagqithanga kwi-R600 000.".

Ukufakelwa kwezilungiso kwicandelo 63 loMthetho 12 ka-1997, njengoko lifakelwe izilungiso kwicandelo 26 loMthetho 7 ka-2010

28. Icandelo 63 loMthetho oyintloko lifakelwa izilungiso—

(a) ngokutshintshaniswa kwicandelwana (1) kwamagama aphambi komhlathi *(a)* kufakelwe la magama alandelayo endaweni yawo:

"*UMphathiswa wePhondo* unokwenza *imimiselo* **[engakhabhaniyo nawo nawuphi na umthetho,]** yaye, apho kusebenzayo oku, phantsi kwayo nayiphi na imimiselo nemigangatho kazwelonke echatshazelweyo kwicandelo 146(2) *loMgaqo-siseko* emalunga—"; kunye

(b) nokufakelwa emva komhlathi *(c*H*)* wecandelwana (1) lale mihlathi ilandelayo:

"*(cI)* nenkqubo yokuxhaswa ngemali nolawulo *lwezikolo zentsebenziswano nezikolo zikarhulumente* ezifumana inkxaso;

(cJ) nemimiselo nemigangatho yokunikwa kweenkxaso-mali *kwizikolo ezizimeleyo*;

(cK) nokupasa kunye nokugqithela kwibakala elilandelayo *kwabafundi kwizikolo zikarhulumente*;

(cL) nemimiselo nemigangatho *yefasilithi yongenelelo ngoncedo*;"

(cM) nokwamkelwa kwabafundi *kwizikolo zikarhulumente*;

(cN) nokuthengwa kweempahla neenkonzo ezingemfundo *kwiphondo*;

(cO) nokubekwa esweni, kwanokungena, *kwisikolo esizimeleyo*;

(cP) nomgaqo wokubhalisa *njengesikolo esizimeleyo*.".

Isihloko esifutshane nokuqala kokusebenza kwalo Mthetho

29. Lo Mthetho ubizwa ngokuba nguMthetho woLungiso weMfundo weZikolo zePhondo leNtshona Koloni, 2018, noya kuqala ukusebenza ngomhla ogqitywe *yiNkulumbuso* ngokuthi yenze isibhengezo *kwiGazethi yePhondo.*

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