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

Kort opsomming: *Die oorweging van aansoeke vir die vrystelling van ouers van die betaling van skoolgeld deur beheerliggame by openbare skole wat skoolgeld vra.*

**Onderwerp: Die betaling van skoolgeld en die vrystelling van ouers van die betaling van skoolgeld**

1. Hierdie omsendbrief is aanvullend tot, en moet saamgelees word met, die volgende omsendbriewe:
  - a) Omsendbrief 0016/2007, gedateer 26 Maart 2007, wat die definisie van skoolgeld omskryf.
  - b) Omsendbrief 0036/2013, gedateer 05 Augustus 2013, wat handel oor onwettige praktyke ten opsigte van die betaling van skoolgeld en die heffing van ander gelde.
  - c) Omsendbrief 0012/2018, gedateer 14 Maart 2018, wat die Wes-Kaap Onderwysdepartement (WKOD) se begrip van die betekenis en praktiese implementering van voorwaardelike vrystellings uiteensit, soos vervat in die uitspraak en bevel van die Hoogste Hof van Appèl wat op 13 Desember 2017 gelewer is.
  - d) Omsendbrief 0034/2018, gedateer 21 September 2018, wat die standaard proses uiteensit vir ouers om vir voorwaardelike vrystelling van die betaling van skoolgeld aansoek te doen.

2. U word verder verwys na die **Regulations relating to the exemption of parents from payment of school fees in public schools** wat in *Staatskoerant* Nr. 29311 van 18 Oktober 2006 uitgereik is. 'n Afskrif van die voorvermelde regulasies uitgereik onder Omsendbrief 0058/2006, gedateer 09 November 2006, is vir u gerief hierby aangeheg.
3. Ingevolge artikel 40 van die Suid-Afrikaanse Skolewet (SASW), 1996 (Wet 84 van 1996), kan ouers wat nie in staat is om skoolgeld te betaal nie, aansoek doen vir die vrystelling van die betaling van skoolgeld. Die vrystellingsraamwerk erken dat nie alle ouers die finansiële koste verbonde aan hul kinders se onderwys kan dra nie, en in sulke gevalle word finansiële bystand in die vorm van gedeeltelike, algehele of voorwaardelike vrystelling verleen om ouers te help, sodat hul kinders se reg tot onderwys nie negatief beïnvloed word deur hul onvermoë om skoolgeld te betaal nie.
4. Die huidige *Regulations relating to the exemption of parents from the payment of school fees in public schools, 2006*, het egter toenemend omslagtig geword, aangesien dit sekere kwessies en omstandighede uitsluit wat in die samelewing voorkom en ouers se verpligting raak om skoolgeld te betaal. Om hierdie rede het die WKOD regsadvies van die Wes-Kaapse Provinsiale Regsadviesdienste ingewin om die verskillende uiteensettings van sekere bepalinge of die gebrek aan sekere bepalinge in die regulasies te hanteer.
5. Gedagtig aan die feit dat die WKOD steeds deur die Grondwet van die Republiek van Suid-Afrika, 1996, bestuur word, word beheerliggame vriendelik versoek om die volgende aspekte in ag te neem wanneer aansoeke vir die vrystelling van die betaling van skoolgeld oorweeg word en om te verseker dat elke aansoek op 'n billike, redelike en deursigtige wyse op sy eie meriete oorweeg word:
  - 5.1 **Die definisie van “ouer”**
    - 5.1.1 Paragraaf (c) van die definisie van “ouer” in artikel 1 van die SASW dek veel meer as om net finansiële verantwoordelikhede teenoor 'n leerder oor te neem. 'n Persoon wat aan paragraaf (c) voldoen, moet beskou word as iemand wat onderneem om die rol van die ouer oor te neem deur ouerlike verpligtinge na te kom, soos om die leerder na en van die skool te neem, die leerder te help met huiswerk, die leerder leiding te gee en skoolfunksies of sportsgebeure saam met die leerder by te woon. So 'n persoon voorsien die leerder van steun wat 'n biologiese of aanneem-ouer aan sy/haar kind sal bied.
    - 5.1.2 Gegewe die bewoording van paragraaf (c), moet die persoon wat die verantwoordelikhede teenoor 'n leerder oorneem, dit onder eed in 'n beëdigde verklaring staaf om die omvang van die verantwoordelikhede wat oorgeneem is, vas te stel. Daarbenewens moet 'n beëdigde verklaring van die ouer van die leerder

(of in wie se sorg die kind ingevolge die wet geplaas is), aan die skool voorgelê word wat die besonderhede van die persoon aandui wat die ouerlike verantwoordelikhede oorgeneem het en watter verantwoordelikhede oorgeneem is. Beheerliggame kan die bruto salaris of lone van die persoon wat aan paragraaf (c) van die definisie van ouer voldoen, in ag neem ten einde die persentasie vir die vrystelling van die betaling van skoolgeld te bereken.

- 5.1.3 In gevalle waar 'n skool voldoende gronde het om 'n persoon te ondervra wat aanspraak maak op paragraaf (c) van die definisie van 'n ouer, moet die kringbestuurder versoek word om 'n ondersoek te onderneem, vergesel deur 'n maatskaplike werker van die Departement van Maatskaplike Ontwikkeling, wat 'n huisbesoek en/of onderhoude kan voer met die leerder, ouer, en persoon wat die ouerlike verantwoordelikhede oorgeneem het.

## 5.2 **Sperdatums vir die indiening van aansoeke vir vrystelling**

Regulasie 6(11) van *the Regulations relating to the exemption of parents from the payment of school fees in public schools, 2006*, bepaal dat aansoeke vir die vrystelling deur ouers ingedien moet word en aan die begin van elke skooljaar voor die einde van die eerste kwartaal oorweeg moet word. Belangriker nog, is dat niks in die SASW of gemelde regulasies 'n ouer verhoed om later in die skooljaar vir vrystelling aansoek te doen indien hul finansiële posisie verander nie. Regulasie 7 van genoemde regulasies bemagtig ook beheerliggame om besluite te neem om vrystellings te wysig indien die ouer se finansiële posisie in die loop van die jaar verander. In die lig van die voorvermelde, word skole versoek om ouers te help wat aansoek wil doen vir die vrystelling van die betaling van skoolgeld na die sperdatum deur beheerliggaam vir logistieke redes bepaal is.

## 5.3 **Die verduideliking van "inkomste" of "bruto salaris of lone"**

- 5.3.1 Dit is belangrik om te weet dat die konteks en doel van die SASW en die raamwerk waarbinne vrystellings oorweeg moet word, heeltemal verskil van die doel en algemene konteks van die Inkomstebelastingwet, 1962 (Wet 58 van 1962), wat die invordering van inkomstebelasting vir inkomste doeleindes versamel. Beheerliggame moet daarop let dat dit onredelik is om te versoek dat ouers wat finansiële beperkings het, dokumentasie verskaf wat te duur is of nie verkry kan word nie, aangesien baie lae-inkomste gesinne op informele wyse 'n inkomste verdien en nie by die Suid-Afrikaanse Inkomstediens geregistreer is nie. Die versoek van sulke gesinne om geouditeerde finansiële state te verskaf, is nie binne die gees of voorstelling van die vrystellingstelsel as 'n geheel nie. Beheerliggame moet versoek dat ouers wat nie finansiële dokumentasie kan verskaf nie, 'n beëdigde verklaring in hierdie verband indien wat 'n inkomste- en uitgawestaat insluit wat die ouers self kan voorberei, wat hul inkomste en uitgawes bevestig. Die voorvermelde beëdigde verklaring moet deur die beheerliggaam aanvaar word, tensy die beheerliggaam

goeie rede het om te glo dat die finansiële inligting vervat in die beëdigde verklaring en/of die aansoek vir vrystelling vals is.

5.3.2 Nieteenstaande die bogenoemde, word beheerliggame aangeraai dat, waar 'n werknemer kies om 'n lid van die werkgewer se mediese fonds te word, en om sy/haar salaris te struktureer om 'n mediesefondsvoordeel in te sluit (wat die werknemer 'n belastingvoordeel sal gee omdat dit belasbare inkomste verminder), die werkgewer se mediesefondsbydrae deel sal uitmaak van hul bruto salaris.

5.3.3 Beheerliggame word verder aangeraai dat "bruto salaris en lone" geïnterpreteer word om kommissie en oortyd in te sluit. Hierdie interpretasie word versterk as daar oorweeg word dat indien slegs "vaste en gereelde betaling" van werkgewer tot werknemer streng as "inkomste" beskou word, die volgende bronne van inkomste buite rekening gelaat sal word vir die doeleindes van *Regulations relating to the exemption of parents from the payment of school fees in public schools, 2006*:

- a) Konsultante wat op 'n vryskutbasis werk, wie se inkomste projekgebaseerd is.
- b) Persone wat vir hulself werk, wie se inkomste maandeliks verskil.
- c) Persone wat 'n baie lae basiese salaris verdien of geen basiese salaris ontvang nie, maar wat groot kommissies verdien (soos eiendomsagente).

5.3.4 Die feit dat die bogenoemde persone nie 'n vaste maandelikse inkomste verdien nie, beteken nie dat hulle nie in staat is om skoolgeld te betaal nie.

#### 5.4 **Kennisgewing aan ouers ten opsigte van prosedures vir vrystelling**

5.4.1 Voorskrif 3.2.2(b) van die *Begrotingsvoorskrifte vir Openbare Skole*, gepubliseer in Provinsiale Koerant Nr. 6103 van 23 Januarie 2004, bepaal dat die kennisgewing en agenda minstens 30 dae voor die jaarlikse begrotingsvergadering aan ouers gestuur word, waarin die besonderhede en doel van die vergadering uiteengesit moet word, en ook kennis gee dat die kriteria en prosedures wat gevolg moet word vir vrystelling van skoolgeld, by die skool verkry kan word. Die WKOD wil 'n beroep doen op prinsipale en beheerliggame om te verseker dat die prosedure vir die vrystelling van ouers van die betaling van skoolgeld aan die ouers by die jaarlikse begrotingsvergadering verduidelik word en om te verseker dat ouers wat nie begrotingsvergaderings bywoon nie, ook skriftelik in kennis gestel sal word van die voormelde prosedures vir vrystelling. Bewyse van sodanige kennisgewings moet, indien moontlik, vir rekorddoeleindes bewaar word. Let asseblief daarop dat die SASW en die *Regulations relating to the exemption of parents from the payment of school fees in public schools, 2006* nie beheerliggame die reg gee om die aanvaarding en verwerking van aansoeke vir die vrystelling van ouers van die betaling van skoolgeld weens begrotingstekorte mag weier nie.

5.4.2 Let asseblief daarop dat skriftelike kennisgewings deur die beheerliggaam aan ouers voorsien moet word wat hulle inlig oor die uitkoms van hulle aansoeke vir die vrystelling van die betaling van skoolgeld, en hulle in kennis moet stel van hul reg om

binne 30 dae na ontvangs van sodanige kennisgewing, appèl aan te teken by die Departementshoof, indien hulle nie tevrede is met die beheerliggaam se besluit nie.

### 5.5 **Verhaling van uitstaande skoolgeld**

Dit is noodsaaklik dat beheerliggame aan die bepalings van artikels 41(4) en 41(5) van die SASW voldoen en verseker dat hierdie bepalings in die skool se finansieringsbeleid opgeneem word. Beheerliggame word versoek om te verseker dat regulasies 6(13), 6(14) en 7(3) van die *Regulations relating to the exemption of parents from the payment of school fees in public schools, 2006*, streng nagekom word en dat alle beheerliggaamlede en personeel wat aansoeke doen vir die vrystelling van die betaling van skoolgeld, behoorlike proses volg voordat hulle teen 'n ouer optree wat nie skoolgeld betaal het nie. Eers sodra 'n skool ten volle voldoen het aan artikels 41(4) en 41(5) van die SASW, mag dit voortgaan met die verhaling van uitstaande skoolgeld, hetsy deur die gebruik van prokureurs of skuldinvorderaars. Dit word beklemtoon dat geen leerder van sy/haar reg ontnem mag word om aan alle aspekte van die program van 'n openbare skool deel te neem nie, ondanks die nie-betaling van skoolgeld deur sy/haar ouers, en sodanige leerder mag op geen manier geviktimizeer word nie.

### 5.6 **Leerders wat maatskaplike toelae ontvang**

Die aandag van beheerliggame word gevestig op die *Regulations relating to the exemption of parents from the payment of school fees in public schools, 2006*, wat bepaal dat 'n persoon wat 'n maatskaplike toelae namens 'n kind ontvang, geregtig is op outomatiese voorwaardelike vrystelling van die betaling van skoolgeld ten opsigte van daardie kind. Alhoewel dit nie voorgeskryf is nie, sal dit vir ouditdoeleindes geskik wees vir sulke ouers om die skool jaarliks met skriftelike bevestiging van die Suid-Afrikaanse Maatskaplike Sekuriteitsagentskap te voorsien dat die betrokke leerder 'n begunstigde van 'n kindertoelae is.

### 5.7 **Aansoeke vir vrystelling deur nie-burgers**

Die WKOD is aangeraai dat die definisies van "ouer" en "leerder" wat in die SASW voorsien word, nie tussen burgers en nie-burgers onderskei nie en moet doelbewus geïnterpreteer word om vlugteling en asielsoekers in te sluit met artikel 22-permitte ('n asielversoekepermit uitgereik ingevolge artikel 22 van die Wet op Vlugteling, 1998 (Wet 130 van 1998)). Die verpligting van 'n openbare skool om 'n leerder te erken, selfs al is sy/haar ouer nie in staat om die skoolgeld te bekostig nie, is integraal om te verseker dat die kind se reg op basiese onderwys ontvang word, soos beskerm deur die Grondwet van die Republiek van Suid-Afrika, 1996, waar die belange van die kind uiters belangrik is. Vlugtelingouers en asielsoekerouers het ook 'n plig ingevolge artikel 34 van die Vlugteling Wet, 1998 (Wet 130 van 1998), saamgelees met artikel 3(1) van die SASW, om te verseker dat hul kinders skool toe gaan. Waar

so 'n ouer nie die skoolgeld kan bekostig nie, is hy/sy geregtig daarop om aansoek te doen om vrystelling van die betaling van skoolgeld, ongeag of sy/haar afhanklike kind om welke rede ook al die nodige dokumentasie het al dan nie.

## **5.8 Verhaling van skoolgeld deur geld te gebruik wat deur ouers vir ander doeleindes betaal word**

5.8.1 Die WKOD het bevind dat sekere skole betalings ontvang, ten opsigte van nasorg, leerdervoer of buitemuurse aktiwiteite, van ouers wat agterstallig is met hul skoolgeld en dan sodanige geld gebruik om agterstallige skoolgeld te vereffen. Hierdie voorgestelde skoolbeleid wat daarop gemik is om eenmalig geld te ontvang vir doeleindes wat nie verbonde is aan die betaling van skoolgeld vir die vereffening van agterstallige skoolgeld nie, sal teenstrydig wees met artikel 41(1) van die SASW wat 'n regsproses voorskryf vir die verhaling van agterstallige skoolgeldskuld.

5.8.2 Bogenoemde praktyk behels ook selfhulp wat die regsproses in artikel 34 van die Grondwet van die Republiek van Suid-Afrika, 1996, ondermyn wat 'n persoon se reg op toegang tot die howe waarborg en die reg beskerm om 'n geskil op te los deur die toepassing van die wet in 'n regverdige verhoor voor 'n onafhanklike en onpartydige tribunaal of forum.

## **5.9 Toekenning van beurse in die vorm van vrystelling van die betaling van skoolgeld**

5.9.1 Beheerliggame moet kennis neem dat 'n beheerliggaam ingevolge artikel 37(7)(c) van die SASW nie enige geld of bydraes van ouers mag invorder om die betaling van verpligte skoolgelde te onduik of te manipuleer nie. Dit het onder die WKOD se aandag gekom dat sekere openbare skole jaarliks vir buitensporige skoolgeldbedrae begroot wat gebruik word om beurse aan individuele leerders toe te ken wat akademies of in sport uitblink of om sulke leerders na die skole te lok. Hierdie beurse word toegeken in die vorm van vrystelling van die betaling van skoolgeld. Dit blyk dat die verlies aan inkomste weens hierdie vrystelling van die betaling van skoolgeld teengeweg word deur 'n styging in die skoolgeld wat deur ouers betaal word. Beheerliggame moet van hierdie praktyk afhou aangesien dit ontevredenheid onder ouers veroorsaak.

5.9.2 Ingevolge artikel 40(1) van die SASW, is 'n ouer aanspreeklik vir die skoolgeld wat ingevolge artikel 39 bepaal word, tensy of in die mate wat hy/sy ingevolge die SASW weens finansiële beperkings vrygestel is van die betaling van skoolgeld. Anders gestel, as 'n ouer kan bekostig om die skoolgeld te betaal, is sodanige ouer aanspreeklik vir die skoolgeld en moet hy/sy nie 'n beurs in plaas van skoolgeld ontvang nie. Die SASW maak nie voorsiening vir 'n openbare skool om beurse aan sekere leerders toe te ken en daarvoor te vergoed deur die skoolgeld van ander leerders te verhoog nie.

## 5.10 **Vrystelling van personeel van die betaling van skoolgeld**

Dit het onder die WKOD se aandag gekom dat sekere skole personeellede vrystelling van die betaling van skoolgeld verleen. Beheerliggame word aangeraai dat die vrystelling van personeellede van die betaling van skoolgelde nie ingevolge die SASW en die toepaslike regulasies toegelaat word nie. Indien so 'n personeellid die skoolgeld kan bekostig, is hy/sy wel aanspreeklik om te betaal en sodanige vrystellings moet deur die beheerliggaam bepaal word met inagneming van die regulasie ingevolge artikel 39 van die SASW.

## 5.11 **Oorplasing van leerders na ander skole**

Ingevolge artikel 1 van die SASW beteken "skoolgeld" skoolgeld soos bedoel in artikel 39 en sluit enige vorm van bydrae van 'n monetêre aard in wat deur 'n persoon of liggaam gemaak of betaal is rakende die bywoning of deelname deur 'n leerder in enige program van 'n openbare skool. Let asseblief daarop dat die bywoning en deelname deur 'n leerder in die skoolprogram verband hou met die leerder wat werklik fisies die skool bywoon en werklik aan die skoolprogram deelneem deur by die skool self teenwoordig te wees. Beheerliggame moet toesien dat hul beleid oor skoolgeld nie die SASW oortree deur ouers 'n boetebedrag te hef vir die nienakoming van 'n strafkennisperiode wanneer leerders deur die loop van die jaar na ander skole oorgeplaas word nie. Die ouers van 'n leerder wat deur die loop van die jaar by die skool onttrek het, is nie verplig om die skoolgeld vir die res of gedeelte van die skooljaar te vereffen nie.

6. Ter afsluiting word beheerliggame daaraan herinner dat hoewel die *Regulations relating to the exemption of parents from the payment of school fees in public schools, 2006*, nie spesifiek aandui dat beheerliggame die besluit van die Hoof van die Departement moet uitvoer nie, veral wanneer 'n appèl gehandhaaf word, het beheerliggame nie die gesag of diskresie om af te wyk van die besluit van die Hoof van die Departement as die appèl-owerheid nie.
7. Bring asseblief die inhoud van hierdie omsendbrief en die aangehegte *Regulations relating to the exemption of parents from the payment of school fees in public schools, 2006*, onder die aandag van distriksamptenare, beheerliggaamlede en skoolbestuurspanne.

**GETEKEN:** BK SCHREUDER

**HOOF:** ONDERWYS

**DATUM:** 2019-04-26

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**GOVERNMENT NOTICE**

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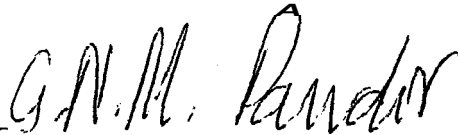
**DEPARTMENT OF EDUCATION**

No. R. 1052

18 October 2006

**SOUTH AFRICAN SCHOOLS ACT, NO. 84 OF 1996  
REGULATIONS RELATING TO THE EXEMPTION OF PARENTS FROM  
PAYMENT OF SCHOOL FEES IN PUBLIC SCHOOLS**

I, Grace Naledi Mandisa Pandor, Minister of Education, after consultation **with** the Council of Education Ministers and the Minister of Finance, and **in** terms of sections 39(4) **and** 61 of the **South** African Schools Act, 1996 (Act No. **84** of 1996), hereby publish the regulations in the Schedule for general information.



GRACE NALEDI MANDISA PANDOR, MP  
MINISTER OF EDUCATION

**DATE: 8-10-2006**

**SCHEDULE****1. Definitions**

In these regulations, any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned to it **and**, unless the context indicates otherwise –

“application” means an application by a parent for total, partial or conditional exemption from paying school fees;

“automatic exemption” means the total exemption available to –



- (a) a person who has the responsibility of a parent in respect of a child placed in –
  - (i) a foster home;
  - (ii) a youth care centre;
  - (iii) a place of safety; or
  - (iv) an orphanage;
- (b) a person who is a kinship caregiver of an orphan or of a child who –
  - (i) has been abandoned by his or her parents; and
  - (ii) is without any visible means of support;
- (c) a person who receives a social grant on behalf of a child; or
- (d) a child who heads a household;

“combined annual gross income of parents” means the annual gross income of the parents, calculated together, or, if a learner has only one parent, the total annual gross income of such parent;

“competent authority” includes a chief, minister of religion or headman, or a councillor of a local authority;

“conditional exemption” means the exemption granted to a parent who –

- (a) qualifies for partial exemption but, owing to personal circumstances beyond his or her control, cannot pay even the reduced amount; or
- (b) does not qualify for exemption but supplies information indicating his or her inability to pay school fees owing to personal circumstances beyond his or her control,

which exemption the school governing body grants with the proviso that the parent agrees to certain conditions for the payment of the school fees;

“exemption” means the total, partial or conditional exemption of parents who are unable to pay school fees from the payment of such fees;

“income” means –

- (a) gross salary or wages;
- (b) money received from investments; and

- (c) profit gained from any form of business undertaking;

“parent” means a parent as defined in the Act;

“partial exemption” means the financial concession granted to a parent in terms of which he or she is liable for the payment of only a portion of the school fees;

“the Act” means the South African Schools Act, 1996 (Act No. 84 of 1996); and

“total exemption” means the financial concession –

- (a) granted to a parent in accordance with the calculation result contemplated in regulation 6(3); or
- (b) available to a parent as a result of his or her qualifying for the automatic exemption contemplated in regulation 4(3).

## **2. Scope and application**

- (1) These regulations must be interpreted within the framework of the Act and of the National Norms and Standards for School Funding.
- (2) These regulations apply to all public schools except public schools that are declared no fee schools.

## **3. Obligations of governing bodies and principals when learner is admitted to public school**

- (1) The principal must notify a parent of the following:
  - (a) the amount of the annual school fees to be paid and procedures for applying for exemption;
  - (b) the fact that the parent is liable for the payment of school fees unless he or she has been exempted from the payment thereof;
  - (c) a form (Annexure A), contemplated in section 41(4)(c) of the Act, must be completed by the parent and signed by the principal of the school and by the parent, indicating that the parent has been informed about the provisions of paragraphs (a) and (b);
  - (d) one copy of the signed form contemplated in paragraph (c) will be handed over to the parent when the learner is admitted to the public

school, another will be submitted to the Head of Department or his or her delegate as soon as possible, and the original will be filed at the school; and

(e) if a parent is in arrears by one month or more, the governing body will investigate whether the parent qualifies for exemption before acting in terms of section 41(1) of the Act.

- (2) The governing body must cause a copy of these regulations to be displayed at the school in a conspicuous place.
- (3) The governing body must, on request, provide the parent with a copy of these regulations.
- (4) The governing body must treat as confidential all information that a parent provides in support of his or her application, and may not divulge such information to a third party without the consent of the parent, except to the Head of Department or his or her delegate.

#### **4. Obligations of parents**

- (1) A parent who wishes to be exempted from the payment of school fees for a child at a particular school must apply annually to the chairperson of the governing body in writing, by completing the form contained in Annexure B of these regulations, supplied by the principal.
- (2) An applicant must furnish such relevant further particulars as the governing body may request.
- (3) A parent qualifies for automatic exemption if he or she submits to the governing body sufficient proof of eligibility for such exemption by providing documentary evidence in the form of -
  - (a) an affidavit;
  - (b) a confirmation affidavit from a social worker or from any other competent authority; or
  - (c) a court order.

## 5. Categories for purposes of exemption

The following categories apply for purposes of exempting a parent from the payment of school fees:

- (1) Total exemption;
- (2) partial exemption;
- (3) conditional exemption, and
- (4) no exemption.

## 6. Procedure according to which governing body must consider application

- (1) The governing body must consider the application subject to these Regulations and must make a decision within 30 days after receipt of the application.
- (2) (a) The governing body must apply the following formula when considering the application for exemption:

$$E = 100 \left( \frac{F + A}{C} \right)$$

where -

E = school fees as a proportion of the income of a parent.

F = annual school fees, for one child, that a school charges in terms of section 39 of the Act.

A = additional monetary contributions paid by a parent in relation to a learner's attendance of, or participation in any programme of, a public school.

C = combined annual gross income of parents.

100 = the number by which the answer arrived at in the brackets is multiplied so as to convert it into a percentage.

- (b) The annual school fees of only one learner must be used in the formula.

- (c) If a parent has more than one child at the same school and the school fees are not the same for all of them, the highest school fees must be used in the formula.
- (3) If E is equal to or greater than 10%, the parent qualifies for total exemption.
- (4)
  - (a) If E is equal to 3,5%, the parent qualifies for partial exemption.
  - (b) If E is equal to 2,5%, the parent does not qualify for any exemption, unless he or she has three or more other children at the same public school or at another public school that has not been declared a no fee school.
  - (c) If E is equal to 3,0%, the parent does not qualify for any exemption, unless he or she has one or more children at the same public school or at another public school that has not been declared a no fee school.
- (5)
  - (a) If E is less than 2,0%, the parent does not qualify for any exemption.
  - (b) If E is equal to 2,0%, the parent does not qualify for any exemption, unless he or she has five or more other children at the same public school or at another public school that has not been declared a no fee school.
- (6)
  - (a) The table below determines the level of exemption.
  - (b) The table applies only to a parent who qualifies for partial exemption.
  - (c) Column one of the table applies to a parent who has only one child at a public school.
  - (d) Columns two to 10 apply to a parent who has more than one child at the same public school or at more than one public school that have not been declared no fee schools.
  - (e) The governing body must take into account all the learners contemplated in paragraph (d) when applying the table.

E =	NUMBER OF LEARNERS									
	1	2	3	4	5	6	7	8	9	10
2.0%	0%	0%	0%	0%	0%	11%	20%	27%	33%	38%
2.5%	0%	0%	0%	14%	25%	33%	40%	45%	50%	54%
3.0%	0%	7%	22%	33%	42%	48%	53%	58%	61%	64%
3.5%	7%	26%	38%	47%	54%	59%	63%	66%	69%	71%
4.0%	25%	40%	50%	57%	63%	67%	70%	73%	75%	77%
4.5%	39%	51%	59%	65%	69%	73%	76%	78%	80%	81%
5.0%	50%	60%	67%	71%	75%	78%	80%	82%	83%	85%
5.5%	59%	67%	73%	77%	80%	82%	84%	85%	86%	87%
6.0%	67%	73%	78%	81%	83%	85%	87%	88%	89%	90%
6.5%	73%	78%	82%	85%	87%	88%	89%	90%	91%	92%
7.0%	79%	83%	86%	88%	89%	90%	91%	92%	93%	93%
7.5%	83%	87%	89%	90%	92%	93%	93%	94%	94%	95%
8.0%	88%	90%	92%	93%	94%	94%	95%	95%	96%	96%
8.5%	91%	93%	94%	95%	96%	96%	96%	97%	97%	97%
9.0%	94%	96%	96%	97%	97%	98%	98%	98%	98%	98%
9.5%	97%	98%	98%	98%	99%	99%	99%	99%	99%	99%
10.0%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

- (7) In the case of conditional exemption, the governing body may attach to an exemption granted to an applicant such conditions as it may deem reasonable.
- (8) An applicant must, if he or she so requests, be afforded an opportunity to present his or her application in person or through a representative designated by him or her.
- (9) The governing body must, in writing and within seven days after its decision is taken, notify each applicant of the decision and the reason therefor.

- (10) The governing body must, in writing and within seven days after considering the documentary evidence contemplated in regulation 4(3), notify a parent whether or not he or she qualifies for automatic exemption.
- (11) A governing body must, at or before the end of the first school term each year, submit to the Head of Department or his or her delegate a provisional table indicating -
- (a) the number of applications for exemption of parents from the payment of school fees considered;
  - (b) the number of total exemptions granted;
  - (c) the number of partial exemptions granted; and
  - (d) the number of applications not granted.
- (12) A final table must be submitted on or before 30 November of each year.
- (13) If an application contemplated in regulation 4(1) is declined or a parent does not qualify for automatic exemption, the notices contemplated in subregulations (9) and (10) must include the right of appeal in terms of section 40(2) of the Act.
- (14) If a parent does not qualify for exemption, the governing body may take steps in terms of section 41 of the Act against him or her only after -
- (a) notifying the parent in terms of subregulation (9) or (10), as the case may be; and
  - (b) considering reasonable forms of payment other than cash.
- (15) Illustrations with regard to the application of the formula are reflected in Annexure C.

## **7. Alteration of decision**

- (1) If a governing body has granted a parent exemption and later obtains information that the financial position of the parent has since changed substantially, the governing body may –
  - (a) reconsider the decision to grant exemption; and
  - (b) amend the amount that the parent must pay from the date on which the change took place.
- (2) The amended amount that the parent must pay is the amount for the full year less the amount of exemption that had been granted to him or her.
- (3) Before taking action in terms of subregulation (1), the governing body must –
  - (a) notify the parent concerned of the intended action and of the information on which it will be based; and
  - (b) afford the parent the opportunity to rebut, if need be, the information and to show cause why the exemption should not be reconsidered.
- (4) Despite subregulation (1), the amount that the parent must pay must be calculated from the date on which his or her financial position changed.

## **8. Procedure for appeal**

- (1) A parent who is dissatisfied with the decision referred to in regulation 6(1) may, in writing and within 30 days after receipt of the notification of that decision, appeal to the Head of Department against the decision.
- (2) The appellant contemplated in subregulation (1) must furnish the Head of Department with –
  - (a) the reasons for the appeal; and
  - (b) all relevant information pertaining to the appeal.
- (3) The Head of Department must, within 14 days after receipt of the documentation referred to in subregulation (2) –



- (a) notify the chairperson of the governing body concerned that –
    - (i) the appeal has been lodged; and
    - (ii) the governing body must take no action in terms of section 41 of the Act against the parent until the appeal has been finalised;
  - (b) furnish the chairperson with a copy of the appellant's reasons for the appeal; and
  - (c) request the chairperson to forward to him or her, within 14 days after receipt of the request –
    - (i) a copy of the minutes of the meeting of the governing body at which the application was discussed and decided upon;
    - (ii) any comments the governing body wishes to make with regard to the appellant's reason for the appeal; and
    - (iii) any other information relevant to the appeal.
- (4) After consideration of all information referred to in subregulations (2) and (3)(c), the Head of Department must, within 14 days of receipt of the documentation –
- (a) uphold the appeal; or
  - (b) dismiss the appeal.
- (5) Within seven days of deciding the appeal, the Head of Department must, in writing, notify the appellant and the chairperson of the governing body concerned of his or her decision and the reasons therefor.
- (6) A parent has the right to appeal to the Head of Department if he or she is not satisfied about the notice contemplated in regulation 6(10).

## **9. Assistance to parents**

- (1) A parent who, for whatever reason, needs assistance in applying for exemption or lodging an appeal may request an educator or any other person to assist him or her in making the application or lodging the appeal.

- (2) If no assistance is given to the parent after he or she has requested it as contemplated in subregulation (1), the principal of the school concerned must assist the parent with such application or appeal, if so requested by the parent.
- (3) No applicant may be disqualified on the ground that his or her application form is either incomplete or incorrectly completed.
- (4) The principal or the educator who is a member of the governing body of the school concerned must help parents with any application forms that have not been completed properly.

#### **10. Assistance to schools**

- (1) The provincial education department must develop measures for assisting schools in applying the formula contemplated in regulation 6.
- (2) A public school may approach the provincial education department for assistance in applying the formula.

#### **11. Voluntary contributions**

Nothing in the Regulations prevents a parent who has been granted any type of exemption from making a voluntary contribution to the school fund.

#### **12. Revocation of Regulations**

The Exemption of Parents from the Payment of School Fees Regulations, 1998 (*Government Gazette* 19347 of 12 October 1998), are hereby revoked in their entirety.

#### **13. Short title and commencement**

These Regulations may be cited as the Regulations for the Exemption of Parents from the Payment of School Fees, 2005, and will come into effect on the date of publication in the *Government Gazette*. The implementation date is 1 January **2007**.

## ANNEXURE A

**SOUTH AFRICAN SCHOOLS ACT, NO. 84 OF 1996**  
**REGULATIONS FOR THE EXEMPTION OF PARENTS FROM PAYMENT**  
**OF SCHOOL FEES**  
**CHECKLIST FORM \***

(Mark with a cross in applicable box,)

- |   |  |     |    |
|---|--|-----|----|
| 1. Has the principal informed you about the amount of the <b>annual</b> school fees to be paid?   | <table border="1" style="margin: auto; border-collapse: collapse;"> <tr> <td style="padding: 5px; text-align: center;">YES</td> <td style="padding: 5px; text-align: center;">NO</td> </tr> </table> | YES | NO |
| YES   | NO   |     |    |
| 2. Has the principal informed you that you are liable for the payment of school fees unless you are totally exempted from paying school fees? | <table border="1" style="margin: auto; border-collapse: collapse;"> <tr> <td style="padding: 5px; text-align: center;">YES</td> <td style="padding: 5px; text-align: center;">NO</td> </tr> </table> | YES | NO |
| YES   | NO   |     |    |
| 3. Has the principal informed you about your right to apply for exemption from paying school fees?  | <table border="1" style="margin: auto; border-collapse: collapse;"> <tr> <td style="padding: 5px; text-align: center;">YES</td> <td style="padding: 5px; text-align: center;">NO</td> </tr> </table> | YES | NO |
| YES   | NO   |     |    |
| 4. Do you wish to apply for such exemption?   | <table border="1" style="margin: auto; border-collapse: collapse;"> <tr> <td style="padding: 5px; text-align: center;">YES</td> <td style="padding: 5px; text-align: center;">NO</td> </tr> </table> | YES | NO |
| YES   | NO   |     |    |
| 5. Do you wish to be assisted in making such application?   |  |     |    |
| 6. Has the principal provided you with the form (Annexure B) for application for exemption?   | <table border="1" style="margin: auto; border-collapse: collapse;"> <tr> <td style="padding: 5px; text-align: center;">YES</td> <td style="padding: 5px; text-align: center;">NO</td> </tr> </table> | YES | NO |
| YES   | NO   |     |    |

\_\_\_\_\_  
Name of Principal

\_\_\_\_\_  
Name of Parent

\_\_\_\_\_  
Signature of Principal

\_\_\_\_\_  
Signature of Parent

Date: \_\_\_\_\_

Date: \_\_\_\_\_

School stamp:

- \* One copy of the signed form will be handed over to the parent, another will be submitted to the Head of Department or his or her delegate, and the original will be filed at the school.

ANNEXURE B

SOUTH AFRICAN SCHOOLS ACT, NO. 84 OF 1996

REGULATIONS FOR THE EXEMPTION OF PARENTS FROM PAYMENT OF SCHOOL FEES

APPLICATION FOR EXEMPTION

1. PARTICULARS OF SCHOOL

Name: .....

Postal address:

.....  
.....  
.....  
.....

Residential address:

.....  
.....  
.....  
.....

Tel.: .....

Fax: .....

2. PERSONAL PARTICULARS OF PARENT

Name of parent':

.....

Residential address:

.....  
.....

<sup>1</sup> "Parent" means (a) a natural parent or guardian of a learner; (b) a person legally entitled to custody of a learner; or (c) a person who undertakes to fulfil the obligations of a person referred to in paragraphs (a) and (b) towards a learner's education at school.

.....  
 .....  
**Tel.:** .....  
**Fax:** .....

**Name of learner for whom application is made:**

.....

**Name(s) of learner(s) at the same public school or at another public school that has not been declared a no fee school.**

<b>Name</b>	<b>ID no.</b>	<b>Grade</b>	<b>Amount of school fees</b>	<b>Additional monetary contribution</b>	<b>Name of school</b>	<b>Tel. no. of school</b>
(1)						
(2)						
(3)						
(4)						
(5)						
(6)						
(7)						
(8)						
(9)						
(10)						

**3. FINANCIAL PARTICULARS OF PARENT**

Parent must, where applicable, supply the following:

3.1 Combined annual gross income:

R. ....

(Attach salary advice, if applicable.)

3.2. Money received from investment:

R. ....



**5. MANNER OF DELIVERY OF THE APPLICATION FORM**

The application form and accompanying documents must be sealed in an envelope addressed to the chairperson of the governing body and must be delivered to the school concerned by hand or by registered post.

\_\_\_\_\_  
Name of Parent

\_\_\_\_\_  
Signature of Parent

Date: \_\_\_\_\_

\_\_\_\_\_  
Name of Chairperson

\_\_\_\_\_  
Signature of Chairperson

Date: \_\_\_\_\_

**School stamp:**



## ANNEXURE C

## SOUTH AFRICAN SCHOOLS ACT, NO. 84 OF 1996

REGULATIONS FOR THE EXEMPTION OF PARENTS FROM PAYMENT  
OF SCHOOL FEES1. Total exemption

## 1.1 Illustration

A parent has one child in the school in question. Annual school fees are R2 500, ~~annual~~ additional monetary contributions amount to R20, and the parent's annual gross income is R25 200.

To determine whether the parent qualifies for exemption, the following formula must be applied:

$$E = 100 \left( \frac{F + A}{C} \right)$$

$$\therefore E = 100 \left( \frac{2\,500 + 20}{C} \right)$$

$$\therefore E = 100 \left( \frac{2\,520}{25\,200} \right)$$

$$\therefore E = 100 \times 0,1$$

$$\therefore E = 10\%$$

Since E is equal to 10%, in terms of regulation 6(3) the parent qualifies for total exemption.

## 1.2 Illustration

A parent whose annual gross income is R20 000 applies for exemption from the annual school fees of R2 500 per learner at a school where the annual additional monetary contributions amount to R20.

To determine whether the parent qualifies for exemption, the following formula ~~must~~ be applied:

$$E = 100 \left( \frac{F + A}{C} \right)$$

$$\dots E = 100 \left( \frac{2\,500 + 20}{20\,000} \right)$$

$$\dots E = 100 \left( \frac{2\,520}{20\,000} \right)$$

$$\dots E = 100 \times 0,126$$

$$\dots E = 12,6\%$$

Since E is greater than 10%, in terms of regulation 6(3) the parent qualifies for total exemption.

---

## 1.3 Illustration

A couple ~~has~~ one child in the school in question and the annual school fees are R5 000. The annual additional monetary contributions amount to R500. The parents' annual gross income is R20 000.

To determine whether the parents qualify for exemption, the following formula must be applied

$$E = 100 \left( \frac{F + A}{C + A} \right)$$

$$\dots E = 100 \left( \frac{5\,000 + 500}{12\,000 + 8\,000} \right)$$

$$\dots E = 100 \left( \frac{5\,500}{20\,000} \right)$$

$$\dots E = 100 \times 0,275$$

$$\dots E = 27,5\%$$

Since E is greater than 10%, in terms of regulation 6(3) the parents qualify for total exemption.

## 2. Partial exemption

### 2.1 Illustration

A parent has one child in the school in question. The annual school fees are R2 500, annual additional monetary contributions amount to R20 and the parent's annual gross income is R30 000.

To determine whether the parent qualifies for exemption, the following formula must be applied:

$$E = 100 \left( \frac{F + A}{C + A} \right)$$

$$\dots E = 100 \left( \frac{2\,500 + 20}{30\,000} \right)$$

$$\dots E = 100 \left( \frac{2\,520}{30\,000} \right)$$

$$\dots E = 100 \times 0,84$$

$$\dots E = 8,4\% \text{ (rounded up to } 8,5\%)$$

$$\dots E < 10\%$$

Since E is less than 10%, in terms of regulation 6(4) the parent qualifies for partial exemption.

To determine the level of the exemption, the table in regulation 6(6) must be used.

Therefore, because the parent has one child in the school in question **and** the percentage of his or her expenditure over income is 8,5%, the parent qualifies for a 91% fee exemption.

Annual school fees	=	R2 500
Level of exemption	=	91%
91% of R2 500	=	R2 275

The **annual** school fees at the school in question minus the amount of exemption calculated above is the amount that the parent must pay, calculated **as** follows:

$$\begin{aligned} & 2\,500 \\ & - \underline{2\,275} \\ & = R225 \end{aligned}$$

The parent must therefore pay school fees of R225:

## 2.2 Illustration

A parent's annual gross income is R28 000. Annual school fees for one learner are R2 500 and the annual additional monetary expenses amount to R20. The parent also has one other child in the same school and two other children in another public school that has not been declared a no fee school.

To determine whether the parent qualifies for exemption, the formula must be applied in respect of one child, as follows:

$$E = 100 \left( \frac{F + A}{C} \right)$$

$$\dots E = 100 \left( \frac{2\,500 + 20}{28\,000} \right)$$

$$\dots E = 100 \left( \frac{2\,520}{28\,000} \right)$$

$$\dots E = 100 \times 0,09$$

$$\dots E = 9\%$$

$$\dots E < 10\%$$

Since E is less than 10%, the parent qualifies for partial exemption. To determine the level of the exemption, the table in regulation 6(6) must be used, but this time, all four children must be taken into account (that is, the parent must look in the fourth column under "Number of learners" in the table).

Annual school fees	=	R2 500
Level of exemption	=	97%
97% of R2 500	=	R2 425

The annual school fees at the school in question minus the level of exemption is the amount that the parent must pay, calculated as follows:

$$\begin{aligned} & 2\,500 \\ & - \underline{2\,425} \\ & = R75 \end{aligned}$$

The parent must therefore pay school fees of R75.

---

### 3. No exemption

#### 3.1 Illustration

A parent has one child in the school in question. The annual school fees are R2 500, annual additional monetary contributions amount to R20, and the parent's annual gross income is R126 000.

To determine whether the parent qualifies for exemption, the following formula must be applied:

$$E = 100 \left( \frac{F + A}{C} \right)$$

$$\dots E = 100 \left( \frac{2\,500 + 20}{126\,000} \right)$$

$$\dots E = 100 \left( \frac{2\,520}{126\,000} \right)$$

$$\dots E = 100 \times 0,02$$

$$\dots E = 2\%$$

$$\therefore E < 10\%$$

Since E is equal to 2%, in terms of regulation 6(5) the parent does not qualify for any exemption and must pay the full school fees. However, if the parent had six or more children at school, he or she would qualify for partial exemption.

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### 3.2 Illustration

A parent has one child in the school in question. The annual school fees are R2 500, annual additional monetary contributions amount to R20, and the parent's annual gross income is R150 000.

To determine whether the parent qualifies for exemption, the following formula must be applied:

$$E = 100 \left( \frac{F + A}{C} \right)$$

$$\therefore E = 100 \left( \frac{2\,500 + 20}{150\,000} \right)$$

$$\therefore E = 100 \left( \frac{2\,520}{150\,000} \right)$$

$$\therefore E = 100 \times 0,168$$

$$\therefore E = 1,68\%$$

$$\therefore E < 2\%$$

Therefore, since E is less than 2%, in terms of regulation 6(5) the parent does not qualify for any exemption and must pay the full school fees.