

NASIONALE WETGEWING RAKENDE ONDERWYS TUIS

TWEE DOKUMENTE IS BELANGRIK:

1. Suid-Afrikaanse Skolewet, Wet no. 84 van 1996 (klousule 51 & 3)

https://www.gov.za/sites/default/files/gcis_document/201409/act84of1996.pdf

Vol. 377	CAPE TOWN, 15 NOVEMBER 1996 KAAPSTAD, 15 NOVEMBER 1996	No. 17579
PRESIDENT'S OFFICE	KANTOOR VAN DIE PRESIDENT	
No. 1867. 15 November 1996	No. 1867. 15 November 1996	
It is hereby notified that the President has assented to the following Act which is hereby published for general information:— No. 84 of 1996: South African Schools Act, 1996.	Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:— No. 84 van 1996: <u>Suid-Afrikaanse Skolewet, 1996.</u>	

AFRIKAANS (klousule 51)

51 Registrasie van leerder vir onderwys tuis

- (1) 'n Ouer kan by die Departementshoof aansoek doen om die registrasie van 'n leerder om by die leerder se huis onderwys te ontvang.
- (2) Die Departementshoof moet 'n leerder soos beoog in subartikel (1) registreer indien hy of sy oortuig is dat-
 - (a) die registrasie in die belang van die leerder is;
 - (b) die onderwys wat die leerder waarskynlik tuis sal ontvang-
 - (i) aan die minimum vereistes van die kurrikulum van openbare skole sal voldoen; en
 - (ii) van 'n standaard sal wees wat nie minderwaardig is aan die standaard van onderwys wat in openbare skole aangebied word nie; en
 - (c) die ouer aan enige ander redelike voorwaardes wat deur die Departementshoof gestel word, sal voldoen.
- (3) Die Departementshoof kan, behoudens subartikel (4), die registrasie bedoel in subartikel (1) intrek.
- (4) Die Departementshoof kan nie die registrasie intrek nie alvorens hy of sy-
 - (a) die ouer van sy of haar voorneme om op hierdie wyse op te tree en die redes daarvoor verwittig het;
 - (b) aan die ouer die geleentheid gebied het om verhoër tot hom of haar te rig in verband met sodanige optrede; en
 - (c) enige sodanige verhoër wat ontvang is, behoorlik oorweeg het.
- (5) 'n Ouer kan by die Lid van die Uitvoerende Raad appèl teen die intrekking van 'n registrasie of die weiering om 'n leerder ingevolge hierdie Wet te registreer, aanteken.

ENGELS (klousule 51)

51. Registration of learner for education at home.—(1) A *parent* may apply to the *Head of Department* for the registration of a *learner* to receive education at the *learner's* home.

(2) The *Head of Department* must register a *learner* as contemplated in [subsection \(1\)](#) if he or she is satisfied that—

- (a) the registration is in the interests of the *learner*;
- (b) the education likely to be received by the *learner* at home—
 - (i) will meet the minimum requirements of the curriculum at *public schools*; and
 - (ii) will be of a standard not inferior to the standard of education provided at *public schools*; and
- (c) the *parent* will comply with any other reasonable conditions set by the *Head of Department*.

(3) The *Head of Department* may, subject to [subsection \(4\)](#), withdraw the registration referred to in [subsection \(1\)](#).

(4) The *Head of Department* may not withdraw the registration until he or she—

- (a) has informed the *parent* of his or her intention so to act and the reasons therefor;
- (b) has granted the *parent* an opportunity to make representations to him or her in relation to such action; and
- (c) has duly considered any such representations received.

(5) A *parent* may appeal to the *Member of the Executive Council* against the withdrawal of a registration or a refusal to register a *learner* in terms of *this Act*.

CHAPTER 2

LEARNERS

Compulsory attendance

3. (1) Subject to *this Act* and any applicable provincial law, every *parent* must cause

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GOVERNMENT GAZETTE, 15 NOVEMBER 1996

Act No. 84, 1996

SOUTH AFRICAN SCHOOLS ACT, 1996

every *learner* for whom he or she is responsible to attend a *school* from the first *school* day of the year in which such *learner* reaches the age of seven years until the last *school* day of the year in which such *learner* reaches the age of fifteen years or the ninth *grade*, whichever occurs first.

(2) The *Minister* must, by notice in the Government Gazette, determine the ages of 5 compulsory attendance at *school* for *learners* with special education needs.

(3) Every *Member of the Executive Council* must ensure that there are enough *school* places so that every child who lives in his or her *province* can attend *school* as required by subsections (1) and (2).

(4) If a *Member of the Executive Council* cannot comply with subsection (3) because 10 of a lack of capacity existing at the date of commencement of this Act, he or she must take steps to remedy any such lack of capacity as soon as possible and must make an annual report to the *Minister* on the progress achieved in doing so.

(5) If a *learner* who is subject to compulsory attendance in terms of subsection (1) is 15 not enrolled at or fails to attend a *school*, the *Head of Department* may—

- (a) investigate the circumstances of the *learner's* absence from *school*;
- (b) take appropriate measures to remedy the situation; and
- (c) failing such a remedy, issue a written notice to the *parent* of the *learner* requiring compliance with subsection (1).

(6) Subject to *this Act* and any other applicable law— 20

- (a) any *parent* who, without just cause and after a written notice from the *Head of Department*, fails to comply with subsection (1), is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months; or
- (b) any other person who, without just cause, prevents a *learner* who is subject to 25 compulsory attendance from attending a *school*, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months.

2. Nasionale Onderwys Beleid

Hierdie dokument verklaar net bogenoemde Artikel 51 van die Wet, is 4 bladsye lank en kan bestel word by die Staatsdrukkery (012) 334 4500.

<https://www.elrc.org.za/sites/default/files/documents/NEPA.pdf>

Beleid titel:

**“National Education Policy Act” 1996 (no. 27 van 1996).
POLICY FOR THE REGISTRATION OF LEARNERS FOR HOME EDUCATION**

Read with section 51 of the SA Schools Act, 1996, (No. 84 of 1996)

No. 1411

23 November 1999

GOVERNMENT NOTICE

DEPARTMENT OF EDUCATION

No. 1411

23 November 1999

NATIONAL EDUCATION POLICY ACT, 1996 (NO. 27 OF 1996)

POLICY FOR THE REGISTRATION OF LEARNERS FOR HOME EDUCATION

The Minister of Education, after consultation with each Member of the Council of Education Ministers, hereby gives notice in terms of section 3(4)(g) of the National Education Policy Act, 1996 (No. 27 of 1996) of the policy for the registration of learners for home education as set out in the schedule. This policy must be read with section 51 of the South African Schools Act, 1996 (No. 84 of 1996).

MINISTER OF EDUCATION
NOVEMBER 1999

SCHEDULE

POLICY FOR THE REGISTRATION OF LEARNERS FOR HOME EDUCATION

Interpretation

1. In this policy any expression to which a meaning has been assigned in the South African Schools Act, 1996 (No. 84 of 1996), (hereafter referred to as the Act), has that meaning.

Scope

2. This policy applies uniformly in all provincial departments of education as national norms and standards pertaining to home education.

Administration of home education

3. The Head of Department is responsible for the administration of the registration of learners to receive education at home and for the monitoring thereof. The Head of Department may delegate the responsibility to an official of the Department designated for the purpose.

Home education

4. Home education as contemplated in section 51 of the Act is –
 - (a) a programme of education that a parent (1) of a learner(s) may provide to his/her own child at their own home. In addition the parent may, if necessary, enlist the specific services of a tutor for specific areas of the curriculum; or
 - (b) a legal, independent form of education, alternative to attendance at a public or an independent school.

(1) "parent" means-

- (a) the parent or guardian of a learner;
- (b) the person legally entitled to custody of a learner; or
- (c) the person who undertakes to fulfil the obligations of a person referred to in paragraphs (a) and (b) towards the learner's education at school.

Application for registration

5. A parent of a learner of compulsory school-going age, must apply to the Head of Department to register each learner(s) to receive education at home, for the following compulsory phases of education: Foundation Phase (grades 1-3), Intermediate Phase (grades 4-6), Senior Phase (grades 7-9). The age grade norms determined by the Minister in terms of the Act apply to a learner in home education (Government Notice No. 2433 of 1998). A parent of a learner, who is no longer of compulsory school-going age or grade as contemplated in section 3 of the Act, need not apply for registration for home education.
6. A parent of a learner with special education needs referred to in section 3(2) of the Act, who wishes to register his or her child for home education must also apply for registration.
7. A parent must complete the prescribed application form for home education, which should be made available to him or her by the Head of Department or a duly authorised official, together with the conditions for registration. The contact address of a person from whom information pertaining to the provincial curriculum for the school phase of the learner, which also specifies the minimum standard of education, must also be provided to the parent. The parent must forward the completed form and a copy of the birth certificate of the learner to the Head of Department or the designated official. A *pro forma* application form is hereto attached for the guidance of provincial departments of education.

Conditions for registration of a learner for education at home

8. (a) The Head of Department, before setting conditions and considering registration in terms of section 51(2) of the Act, must obtain at least the following information from the parent pertaining to:
 - (i) supporting arguments to substantiate that education at home will be in the interest of the learner and that the learner will benefit from it, will be able to exercise his or her fundamental right to education, and will be taught at least as regularly and as well as in a public school. To determine what would be in the best interest of the learner, the parent must declare the highest education standard achieved by him or her, the hours of the day and the minimum days per year during which the parent plans to teach the learner, information about the programme that will be followed and the learning resources that will be available; and
 - (ii) the proposed curriculum to be used for home education for approval.
- (b) The learner programme must suit the age and ability of the learner. It will comply with the minimum requirements⁷ of the curriculum in public schools of the province and will not be inferior to the standard of education provided at public schools. The curriculum must comply with the language policy and the outcomes (standards) specified for each of the phases.
- (c) The learner will receive at least 3 hours contact teaching time per school day.

- (d) The education provided at home must be consistent with the values contained in the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996) and the Act. Parents who choose home education for reasons related to curriculum, philosophy and pedagogy must not instill unfair discrimination, racism or religious intolerance in learners. The education must be consistent with the values contained in the Constitution that all role-players must adhere to.

Registration of a learner for home education

9. The Head of Department must take all reasonable steps to respond within 30 days after receipt of the application on the prescribed form. If he or she is satisfied that all conditions have been complied with, the Head of Department must register the learner for home education and provide the parent with a certificate of registration. If not, he or she must inform the parent in writing of the reasons for the application not being successful.
10. The registration under paragraph 9 remains in force until the learner reaches the end of each phase or until it is revoked. If a learner was educated at a public or independent school prior to being educated at home, the parent must obtain a transfer certificate from the school.
11. If the Head of Department refuses to register the learner, the parent must be informed that he or she may appeal in writing to the Member of the Executive Council in terms of section 51(4) of the Act.
12. The procedures prescribed in section 3(5) or (6) of the Act must be applied against a parent of a learner of compulsory school-going age who, for whatever reasons, is not registered for home education, and is not enrolled at a public school of a registered independent school, or is exempted from compulsory school attendance in terms of section 4 of the Act.

Duties of the parent for the monitoring of home education

13. After the learner has been registered for home education, the parent must perform the following duties:
- (a) A record of attendance must be kept.
- (b) A portfolio of the work of a learner must be kept. Up-to-date records of progression of a learner must be maintained. A portfolio of the work of the learner with evidence of intervention and other education support given to the learner must be kept. Such records must be made available for inspection by a duly authorised official of the provincial department of education.
- (c) The parent must keep evidence of continuous assessment of the learner's work, which reflects the learner's progress towards achieving the outcomes of the learning programme. Evidence must also be kept of assessment/examinations at the end of each year of home education and at the end of grades 3, 6 and 9 stating whether or not the outcomes for these grades have been achieved.

- (d) The parent must keep all relevant assessment results for a period of three years for monitoring by the Head of Department.
- (e) At the end of every phase, the parent should appoint an independent, suitably qualified person(s) approved by the Head of Department at the parent's own expense for the assessment of the learner's progress at the end of the phase that the learner is completing. A parent may approach a public school or a registered independent school for assistance in obtaining such services. The person(s) must submit a statement to the Head of Department confirming that the learner so assessed has indeed reached the required level.
- (f) Should a learner be admitted to a public school or registered independent school, the parent must request the Head of Department in writing to terminate the learner's registration for home education.

Withdrawal of registration

14. The Head of Department may withdraw the registration of a learner who is receiving education at home, after having made a reasonable effort to obtain or verify relevant information, if-
 - (a) any information contained in the application is false;
 - (b) any of the conditions in paragraph 8 is not complied with; or
 - (c) any of the criteria set in section 51 (2)(b) of the Act is no longer complied with.
15. In accordance with section 51(4) of the Act, the registration may be withdrawn only after the Head of Department has-
 - (a) informed the parent in writing of his or her intention to take action and the reasons therefor;
 - (b) granted the parent an opportunity to make representations to him or her in relation to such action; and
 - (c) has considered any such representations.
16. The Head of Department must inform the parent in terms of section 51 (4) of the Act, that he or she may, in writing, appeal to the Member of the Executive Council against the withdrawal of registration.
17. If a learner is within the compulsory school attendance age when the registration contemplated in terms of section 51 of the Act is withdrawn, such learner must then attend a school (either public or independent). A parent who fails to comply with the provisions of section 3 of the Act regarding compulsory school attendance will, unless the learner is properly registered in terms of section 51 of the Act, be guilty of an offence as contemplated in section 3(6).