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## PROVINCIAL NOTICE

No. 44  
30 August 2002

## DEPARTMENT OF EDUCATION

ADULT BASIC EDUCATION AND TRAINING ACT, 2000 (ACT No. 52 OF 2000):  
REGULATIONS RELATING TO THE REGISTRATION OF PRIVATE CENTRES

I, Stone Sizani, Member of the Executive Council responsible for Education in the Province of the Eastern Cape, acting in terms of section 27 (2) of the Adult Basic Education and Training Act, 2000 (Act No. 52 of 2000), hereby make regulations relating to the registration of private centres for adult basic education in the Province, as set out in the Schedule hereto.

STONE SIZANI, MEC: Department of Education

## SCHEDULE

## Definitions

1. In these regulations, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Adult Basic Education and Training Act, 2000 (Act No. 52 of 2000), retains that meaning, and-

"Act" means the Adult Basic Education and Training Act, 2000 (Act No. 52 of 2000);

"REQV" means Relative Education Qualification Value; and

"SACE" means the South African Council of Educators. Registration of private centres

2. (1) Any person who applies for the registration of a private centre, must submit his or her application to the Head of Department who must, subject to subregulation (2), upon such receipt, register the private centre.

(2) The Head of Department must before he or she registers the centre ensure that the centre complies with the requirements referred to in regulation 3.

(3) If the Head of Department decides not to register a centre, the procedure must be as follows:

- (a) the Head of Department must, within 90 days of receipt of an application for the registration of a private centre, notify the applicant in writing of the refusal;
- (b) an applicant who is aggrieved by the refusal of the Head of the Department to grant his or her application may, within 30 days after receiving notice of such refusal, appeal to the Member of the Executive Council, in writing, setting out the grounds of the appeal;
- (c) the Member of the Executive Council must consider the appeal and may confirm, vary or set aside the decision of the Head of the Department;
- (d) the Member of the Executive Council must as soon as may be reasonably practicable-
  - (i) notify the appellant of his or her decision; and
  - (ii) provide the appellant with written reasons for his or her decision.

(4) Subject to the provisions of section 29 of the Act, the registration of a private centre does not entitle it to receive a government subsidy.

#### Requirements for Registration of a private centre

3. The following requirements apply to an application to register a private centre with the Department:

- (1) (a) Applications for the registration of a private centre must be made in writing to the Head of Department on the form set out in Annexure A; and
  - (b) the completed form must be lodged with the district office in which the proposed centre is to be established by not later than the 31st August of the year preceding the year of the proposed operation.
- (2) The application must be accompanied by-
  - (a) a constitution for the centre covering all matters relating to the control of the centre including its ownership, character, aims, governance, funding and admission policy;
  - (b) a floor plan and site plan, which shall in the case of a multi-storey building, include a floor plan for each floor to be occupied, and which confirms that the proposed centre building and grounds comply with departmental guidelines;
  - (c) information on facilities required for the implementation of intended curriculum;
  - (d) proof of security of tenure over the proposed school buildings and grounds for a minimum of one year from the date of commencement of the centre;
  - (e) a certificate from the relevant health authorities confirming that the facilities at the centre meet the minimum health requirements;

- (f) proof that the centre will be financially viable for at least 12 months after registration;
- (g) where applicable, a needs analysis report on the area of the proposed centre;
- (h) submission of certified copies of academic records of all educators; and
- (i) where applicable, registration as a non-profit organisation and submission of such certificates.

(3) The plan and information contemplated in subregulations (b) and (c), respectively, must provide for the needs of learners with physical and other disabilities.

(4) No registration of a centre may be granted, unless-

- (a) it appears from the application that the centre will not discriminate directly or indirectly on the basis of race, creed, religion or sexual orientation;
- (b) it appears from the application that the centre will be able to maintain standards that are not inferior to the standards maintained in comparable public centres in the Province;
- (c) the existing centres in the area cannot cope with the resident learner population; and
- (d) the management and teaching staff are suitably qualified in accordance with regulation 4 (e).

#### Conditions governing registration

4. The following conditions of registration apply to any private centre that is registered with the Department:

- (a) The Head of the Department must, within 21 days, be notified of any change of ownership;
- (b) notice of at least three calendar months must be given to staff, learners and the Head of Department of any intention to close or suspend the operation of a centre;
- (c) a change of premises must be approved by the Head of the Department, who must be furnished with-
  - (i) the address of the proposed new location for the centre; and
  - (ii) all the documentation set out in paragraph (b) to (i) of regulation 3, reflecting any new circumstances caused by the change of address;
- (d) the Head of Department must be informed of all appointments of new educators and such appointments must be in accordance with the constitution of the centre;
- (e) educators appointed must satisfy the minimum qualification (REQV 13) requirement of the Department, unless, upon application by the centre, there is a reason to believe that the services of a specified person are of particular benefit to the centre;
- (f) at the head of the centre there shall be a centre manager who

must be a professional educator responsible for the organisation and supervision of the centre;

- (g) the number of learners attending the centre must not exceed a maximum number determined by the Head of Department on the basis of size of the centre buildings and grounds of the centre; and
- (h) the centre must-
  - (i) follow approved curricula of the Department; or
  - (ii) follow its own curricula that have been approved by the Head of Department;

#### Cancellation of registration

##### 5. (1) If-

- (a) A centre does not satisfy a requirement of registration which was at any time considered by the Head of Department as contemplated in regulation 2;
- (b) A centre does not satisfy a condition of registration contemplated in regulation 4; or
- (d) The owner of a centre fails to comply with the obligation imposed by regulation 2 (2),

the Head of Department must determine a reasonable period of time for compliance with the relevant requirement or condition and must advise the owner of the centre in writing.

(2) The Head of Department may cancel the registration of a private centre if the owner of the centre fails to comply with a requirement or condition contemplated.

(3) The owner of the centre must be granted an opportunity to make written representation against the cancellation of the centre's registration.

(4) If, despite the written representations of the owner of the centre, the Head of Department reasonably believes that the registration of a centre should be cancelled, he or she must furnish the governing body with a written notice of cancellation of registration together with reasons for his or her decision.

(5) The owner aggrieved by a decision of the Head of the Department under paragraph (b) may, within 30 days of receiving notice of the withdrawal of registration, appeal to the Member of the Executive Council in writing.

(6) Unless the Member of the Executive Council on good cause directs otherwise, the lodging of an appeal must have the effect of suspending the operation of a notice of withdrawal until the Member of the Executive Council has decided the appeal.

(7) The Member of the Executive Council must consider the appeal and must confirm, vary or set aside the decision of the Head of the Department.

#### Penalties for operating an unregistered center

##### 6. (1) No person may-

- (a) operate a private centre that has not been registered; or

(b) operate a centre for which the registration has been cancelled.

(2) Any person who contravenes sub-regulation (1) is guilty of an offence and is liable upon conviction to a fine or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

#### Keeping of registers and other documents

7. All registered private centres must keep, in such a form and manner as may from time to time be determined or required by the Head of Department, the following registers and documents:

- (a) an enrolment register and an attendance register of the learners enrolled at or attending the centre;
- (b) a record of results of learners as reflected in reports given to learners;
- (c) a file for each learner containing the following documents;
  - (i) a certified copy of the identity document;
  - (ii) the registration form; and
  - (iii) a copy of each report to the learner.
- (d) a register of the educators employed at the centre in which their names, qualifications and remunerations are recorded;
- (e) a file for each educator containing-
  - (i) a signed service contract;
  - (ii) proof of South African citizenship or a work permit;
  - (iii) a certified copy of an identity document; and
  - (iv) a certified copy of the educator's qualifications;
- (f) financial records, including an official receipt book, which records should be annually audited in accordance with such directions as may be issued from time to time by the Head of Department; and
- (g) such other records and documentation as the Head of the Department and NABABET may from time to time require.

#### Investigation

8. (1) The Member of the Executive Council may at his or her own instance or on the written request of the owner, governing body or of a centre order that an evaluation of a centre be made.

(2) The evaluation must be conducted within written terms of reference stipulated by the Member of the Executive Council and pertaining to an requirement or condition of registration.

(3) The evaluation must be conducted in accordance with section 36 of the Act.

(4) The Member of the Executive Council must Provide the centre with a written report of the evaluation within 60 days of its completion.

Short title

9. These regulations are called the Regulations to provide the Registration of Private Centres.



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