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GENERAL NOTICE ALGEMENE KENNISGEWING

NOTICE 502 OF 1996

MINISTRY OF EDUCATION

PROPOSED ALTERATIONS TO THE RIGHTS, POWERS AND FUNCTIONS OF PUBLIC SCHOOL GOVERNING BODIES

1. The *Proposed Alterations to the Rights, Powers and Functions of Public School Governing Bodies* are hereby published for the information of and comment from the governing bodies, management councils or similar authorities of departmental, community-managed or state-aided primary or secondary schools under laws which existed immediately before the commencement of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993).
2. All persons concerned are invited to comment in writing as requested in the above document and to send the comment to:

Director-General
Department of Education
Section 247
Private Bag X895
PRETORIA
0001

3. The comment may also be faxed to Fax Number (012) 328-3038 at the above address.
4. The comment must reach the Department of Education not later than **31 May 1996**.
5. Please also provide the name, address, telephone number and fax number of a person whom the Department of Education could contact concerning the comment.

DEPARTMENT OF EDUCATION

**PROPOSED ALTERATIONS TO THE RIGHTS, POWERS AND FUNCTIONS
OF PUBLIC SCHOOL GOVERNING BODIES****The purpose of this document**

1. The purpose of this document is to:

(1) Give formal notice to all public school governing bodies that it is the intention of the national government to alter their rights, powers and functions by means of an Act of Parliament presently known as the draft South African Schools Bill, 1996, a copy of which is appended to this document;

(2) Inform all public school governing bodies of the system of school organisation, governance and funding which the national government contemplates enacting in the Act of Parliament currently known as the draft South African Schools Bill, 1996; and

(3) Open the negotiation between the national government and public school governing bodies envisaged in section 247 of the Constitution of the Republic of South Africa (Act 200 of 1993), which is also referred to in this document as "the Interim Constitution".

Section 247 of the Interim Constitution

2. Section 247 of the Interim Constitution includes "Special provisions regarding existing educational institutions". Its relevant subsections read as follows:

"247. (1) The national government and the provincial governments as provided for in this Constitution shall not alter the rights, powers and functions of the governing bodies, management councils or similar authorities of departmental, community-managed or state-aided primary or secondary schools under laws existing prior to the commencement of this Constitution unless an agreement resulting from bona fide negotiation has been reached with such bodies and reasonable notice of any proposed alteration has been given....

"(3) Should agreement not be reached in terms of subsection (1)...., the national government and the provincial governments shall, subject to the other provisions of this Constitution, not be precluded from altering the rights, powers and functions of the governing bodies, management councils or similar authorities of departmental, community-managed or state-aided primary or secondary schools...., provided that interested persons and bodies

shall be entitled to challenge the validity of any such alteration in terms of this Constitution...."

Interpretation

3. For the purpose of this document,

(1) The term "public school" means any school, other than a private school, established under any law governing school education in the Republic of South Africa, and includes any school referred to in section 247 of the Interim Constitution;

(2) The term "governing body" includes the governing body, management council or similar authority of every public school, and includes every such body referred to in section 247 of the Interim Constitution.

Background

The development of national schools policy and legislation

4. First education white paper. The Government of National Unity is committed to overcome South Africa's inheritance of a racially and ethnically divided school system, with its extreme inequalities in educational provision. The Ministry of Education spelled out the basis of the government's policy on school organisation, governance and funding in its first white paper, *Education in a Democratic South Africa: First Steps to Develop a New System*, which was approved by the Cabinet in February 1995 after extensive public consultation.

5. Review Committee. The Minister of Education appointed a Review Committee, chaired by Professor Peter Hunter, to recommend in detail how a unified, non-racial national school system could be brought about, on the basis of the guiding principles set out in the first white paper. The Review Committee reported to the Minister on 31 August 1995.

6. Legal panel. The Minister appointed a legal panel to advise him on the legal and legislative implications of the report.

7. Second education white paper. A draft white paper was published in November 1995 by the Ministry of Education, which was based very largely on the recommendations of the Review Committee and incorporated the advice of the legal panel. After weighing the public response to the draft, the Ministry of Education revised it for submission to Cabinet. The new policy document, *The Organisation, Governance and Funding of Schools: Education White Paper 2* was approved by Cabinet in February 1996 and published in the *Government Gazette* (General Notice 130 of 1996). A drafting group comprising the Minister's legal panel and officials of the Department of Education then prepared the draft South African Schools Bill, 1996 which puts the new government policy into legislative form.

8. School Finance Task Team. Education White Paper 2 included an extensive discussion of school funding policy, but policy decisions were deferred pending the completion of an investigation by a School Finance Task Team comprising representatives of the Departments of Education, Finance and State Expenditure, the Financial and Fiscal Commission, and local and international consultants. The findings of the Task Team have been taken into account in the draft South African Schools Bill, 1996, and have been published in the *Government Gazette*, together with the draft Bill, for public comment.

9. Draft South African Schools Bill. The draft South African Schools Bill, 1996 puts into legislative form the national policy on school organisation, governance and funding which was approved by Cabinet in Education White Paper 2. In common with all members of the public, school governing bodies are, of course, welcome to send written comments to the Department of Education on any aspect of the draft Bill before the published deadline. After revision, the Minister of Education will submit the Bill to Cabinet for approval before it is tabled in Parliament. Additional revisions arising from the section 247 negotiations will be presented in the form of amendments when the Bill is under consideration by the Portfolio Committee on Education.

Negotiations in the Education Labour Relations Council

10. Provisions of the draft Bill relating to the employment of educators are subject to negotiation in the Education Labour Relations Council.

Education legislation before the Constitutional Court

11. The Constitutional Court has delivered its judgements on the constitutionality of major parts of the National Education Policy Bill, 1995 and some provisions of the Gauteng School Education Act, 1995. These matters had been referred to the Court on petition by members of minority parties in the National Assembly and in the Gauteng Legislature, respectively. The Court decided unanimously that the National Education Policy Bill, 1995 and the Gauteng School Education Act, 1995 are not unconstitutional on any of the grounds advanced by the respective petitioners.

12. Prior to the Court's judgments, the Minister of Education had offered an undertaking to Cabinet to take into account any implications of either judgement which affect the draft South African Schools Bill, 1996.

The new Constitution

13. The South African Schools Bill, 1996 is framed in terms of the Interim Constitution. At the time of writing, the new Constitution was still under consideration in the Constitutional Assembly.

Status of the proposed South African Schools Act, 1996

14. The government intends to enact the South African Schools Bill, 1996, during the current Parliamentary session. The question arises: "If the South African School Bill, 1996 is enacted, what status will it have in relation to schools legislation which is in force in the nine provinces?" The Interim Constitution prescribes what the legal situation would be in cases where both a national law and a provincial law deal with the same matter.

15. In terms of the Interim Constitution, the national Parliament and every provincial legislature is competent to pass laws on school education. A provincial law may apply only within that province, whereas a national law may apply throughout the country. Such laws, national and provincial, will co-exist and a court shall regard them as consistent with one another, unless, and only to the extent that, they are definitely or "by necessary implication" inconsistent with one another.

16. In such a case, the question arises as to which law, or part of a law, shall prevail in the province in question. The Interim Constitution states that the provincial law shall prevail over the national law in that province, except if the national law "applies uniformly in all parts of the Republic", and insofar as the national law satisfies one or more of the criteria which are especially provided in section 126. The relevant parts of section 126 are as follows:

"126. A law passed by a provincial legislature in terms of this Constitution shall prevail over an Act of Parliament which deals with a matter [in which both have legislative competence] except in so far as -

- (a) the Act of Parliament deals with a matter which cannot be regulated effectively by provincial legislation;
- (b) the Act of Parliament deals with a matter that, to be performed effectively, requires to be regulated or co-ordinated by uniform norms or standards that apply generally throughout the Republic;
- (c) the Act of Parliament is necessary to set minimum standards across the nation for the rendering of public services...."

17. The South African Schools Bill, 1996 when enacted, will provide for a uniform system of school organisation, governance and funding of schools, and establish norms and minimum standards in these matters which will apply uniformly across the country. It is therefore intended to prevail over any provincial law, or part of any provincial law, which may be inconsistent with it, in terms of section 126(3) of the Interim Constitution.

18. The development of the new policy, as well as the preparation of the draft Bill, have been undertaken in close consultation with the provincial Members of Executive Councils responsible for education, and the provincial heads of education departments, especially through the Council of Education

Ministers and the Heads of Education Departments Committee. When the South African Schools Bill, 1996 has been enacted by Parliament, the Ministry of Education will, where necessary, encourage provincial Members of the Executive Council (MECs) responsible for education to amend their provincial schools legislation to ensure consistency with the national Act.

Main aspects of the draft South African Schools Bill, 1996

Introduction

19. This section of the document summarises important aspects of the draft Bill which relate to the rights, powers and functions of public school governing bodies. It is not a complete summary of the contents of the draft Bill. The Ministry of Education advises members of public school governing bodies to read this section together with the draft Bill in order to achieve a full understanding of the government's intentions. While the Ministry of Education has aimed for scrupulous accuracy in summarising provisions of the draft Bill in this document, it is bound to state that the language of the draft Bill itself must prevail in any dispute over the meaning of any part of the draft Bill or this memorandum.

Policy basis

20. The basis of the government's new policy for school organisation, governance and funding was summarised in Education White Paper 2 as follows:

"The new structure of school organisation should create the conditions for developing a coherent, integrated, flexible national system which advances redress, the equitable use of public resources, an improvement in educational quality across the system, democratic governance, and school-based decision-making within provincial guidelines. The new structure must be brought about through a well-managed process of negotiated change, based on the understanding that each public school should embody a partnership between the provincial education authorities and a local community." (p. 10)

21. In respect to the matters under negotiation, the Ministry of Education emphasises three points. Firstly, when the draft South African Schools Bill, 1996 is enacted, this country will for the first time in its history have a national, non-racial system of public schools, all of which are governed by representative, democratically elected governing bodies. Secondly, the new measure will add significantly to the rights, powers and functions which the overwhelming majority of public school governing bodies currently possess. Thirdly, the concept of a public school as a partnership between a local school community and the provincial education department is given expression throughout the draft Bill.

22. The term "partnership" has not been used in the language of the Bill itself, because it has specific legal connotations which are not relevant to schools. Nevertheless, the idea that the provincial education authorities and each school community will be required to work together to identify the common interests and joint purpose of public schooling in each community, within the over-arching framework of provincial and national laws and the Constitution, is central to the scheme of the draft Bill. In the view of the Ministry of Education, this concept is essential to the reconstruction and development of public education in this country.

School organisation: public schools and independent schools

23. The draft Bill re-organises the national school system in two broad categories of schools: public schools and independent schools.

24. The *public schools* category, as described in paragraph 3 above, will include all schools which are currently known as community schools, farm schools, state schools, and state-aided schools (including state-aided specialised schools, church schools, Model C schools, mine schools and others). The characteristics inherited from the apartheid era will become progressively less important as the character of the new-style public schools becomes defined through the new system of governance and funding. The immovable property of formerly state-aided (Model C) schools will be repossessed by the State, subject to the Constitution and due process of law (see paragraph 45 below).

25. The only distinction among public schools recognised in the draft Bill is between *ordinary public schools* and *special public schools*. MECs may establish and maintain special public schools to provide education for learners with special education needs, but are required to provide education for such learners at ordinary public schools where reasonably practicable.

26. The *independent schools* will comprise all schools currently registered as private or independent schools.

27. The present document deals only with public schools.

Legal personality

28. The draft Bill provides that each public school shall be "a juristic person". In law, a juristic person, that is a legal person, is an entity which is by law allowed to acquire its own rights and incur its own duties and obligations. These are acquired or incurred for the body as a whole, and not the individual members.

Employment of educators at public schools

29. All educators appointed to public schools will be employed by the provincial education department, according to Schedule 2 of the draft Bill.

The draft Bill also provides that the provincial authorities may create posts at a public school which are additional to the establishment, but such posts shall be filled only on condition that the school pays the full cost to the department. (These and other employment matters are subject to negotiation in the Education Labour Relations Council.)

Establishment of public school governing bodies

30. The draft Bill provides that the governance of a public school shall be vested in its governing body. "Governance", which is the responsibility of the governing body, is distinguished from "professional administration" which is vested in the head of the provincial education department and may be delegated by the head to the principal of the school.

31. Each public school governing body shall comprise elected members of the constituencies making up the school community: parents of learners at the school, educators at the school, staff at the school who are not educators, the school principal, learners at the school (in the case of secondary schools) elected by the Students Representative Council, and members of the community co-opted by the governing body. The draft Bill provides that parents shall comprise the majority of members of the governing body.

32. The draft Bill requires each secondary school to have a Students' Representative Council, elected in terms of procedures published by the MEC for education.

33. The governing body of an ordinary public school which provides education for learners with special education needs is required to co-opt one or more persons with expertise in these matters, and establish a committee to advise the governing body on the provision of education to learners with special education needs.

34. The governing body of a special public school shall have the same composition as other public school governing bodies, but is required to include an official with expertise in special education needs. The governing body may also co-opt a representative of a sponsoring body, a parents' organisation, an organisation representing disabled people, or a member from the disabled community. In certain circumstances the MEC may waive the requirement for a secondary school to have a Students Representative Council.

Powers and functions of public school governing bodies

35. All governing bodies will have the duty to promote the best interests of the school and perform its functions in a responsible and accountable manner. In addition, the draft Bill provides a list of 18 powers and functions which public school governing bodies may exercise, subject to the provisions of the Act and the Constitution.

36. The MEC for education shall decide which powers and functions on the list may be performed by public schools in the province, and which powers and functions a governing body may apply for. An application by a governing body to exercise a power or function may only be refused if the provincial head of education is satisfied that the governing body concerned does not have the capacity to perform effectively. A provincial head of education may withdraw a power or function from a governing body in case of failure or inability on the part of the governing body.

37. However, each MEC is obliged to establish a programme of capacity building for governing bodies, to empower them to exercise their responsibilities effectively, and to promote the active participation and accountability of governing body members.

38. The list of governing body responsibilities which may be conferred in terms of the draft Bill includes the powers to:

- develop the mission, goals and objectives of the school;
- determine the admission policy of the school, with the concurrence of the MEC;
- determine the language policy of the school subject to the appropriate national and provincial policy;
- determine the policy for religious observance of the school;
- determine the school's extra-mural curriculum, and the school curriculum in terms of provincial policy and subject to the South African Qualifications Act, 1995; and
- recommend the appointment of educators and non-educators to the provincial authorities, subject to the appropriate labour laws.

39. Although governing bodies may have the power to determine the admission policy with the agreement of the MEC, in chapter 2 of the Bill, applicants for admission to public schools are given protection from unfair discrimination, and principals are given the responsibility to decide on individual admission applications subject to certain conditions and the right of an applicant to appeal to the MEC.

40. Governing bodies may have the power to determine the school's language policy, subject to national and provincial policies, but the learner's constitutional right to be taught in the language of his or her choice, where this is reasonably practicable, is also upheld in chapter 2 of the draft Bill.

41. Schedule 2 of the draft Bill, which deals with the employment of educators, provides that the provincial authorities shall accept the recommendation of a governing body to appoint an educator except if the candidate does not have the required qualifications, or has been found guilty of misconduct, or if there is evidence that the recommendation was based on improper influence. An educator appointed, on the recommendation of the governing body, to a post which is additional to the school's establishment, must be paid for in full by the governing body. He or she will be employed by

the province but appointed on contract. (These matters are subject to negotiation in the Education Labour Relations Council.)

42. In addition to the educational matters listed above, governing bodies may also be granted such financial responsibilities as to:

- determine and oversee the school budget;
- establish and administer a school fund;
- determine, charge and oversee the collection of any school fees payable by parents of learners at the school;
- raise voluntary contributions;
- purchase text books, educational materials and equipment;
- maintain the grounds and buildings of the school.

43. The proposals for school funding in the draft Bill are subject to further consultation between the national Department of Education and the financial departments of government. However, it is agreed that no child can be denied its right to basic education on the grounds of a parent's inability to pay school fees. A governing body may decide to charge school fees only if it has prepared a budget and a parents' meeting has accepted it. A decision to charge fees, based on a majority vote at a parents' meeting, must include arrangements to ensure that parents who are without the means to pay are exempted from payment. A governing body must decide on equitable procedures to exempt such parents. The Minister of Education and the provincial MEC for Education may set guidelines to assist governing bodies to exercise this responsibility. No parent who is exempt from payment of fees shall be obliged to pay.

44. Governing bodies which existed before the new South African Schools Act, 1996 comes into effect, will continue to function until the date when the election of all governing bodies in a province has been completed. This date will be set by the Minister of Education, after consultation with the MEC.

Ownership and expropriation of property

45. One of the "transitional provisions" in the draft Bill requires an MEC to expropriate the immovable property of former Model C schools, subject to the Constitution and other provisions in the draft Bill relating to expropriation. The Ministry of Education is advised that the government will not be liable to pay compensation for such assets which had been state property in the past and which will continue to be used for educational purposes.

46. Another section of the draft Bill gives the MEC the power, if it is in the public interest, to expropriate land and real rights in or over land for any purpose related to school education in a province. The owner of such land and real rights shall be entitled to compensation in terms of the Constitution, the Expropriation Act, 1975, and the provisions of the draft Bill. The draft Bill provides that, if the parties cannot reach agreement on compensation, either

party may refer the matter to a Court or they may agree to refer it to an arbitrator, whose determination shall be binding.

The negotiation process

47. The Ministry of Education welcomes the participation of all public school governing bodies in the process of negotiation required in terms of section 247 of the Constitution.

Written comments

48. Public school governing bodies are invited to give their views in writing on the Ministry of Education's proposals on public school governance, as provided in the draft South African Schools Bill, 1996 (which is enclosed). This document has summarised many important aspects of the draft Bill, but governing bodies are requested to consult the terms of the draft Bill itself. The terms of the negotiation required by section 247 of the Constitution relate to the national government's proposed alterations to the rights, powers and functions of public school governing bodies. However, governing bodies are welcome to comment on any aspect of the draft Bill.

49. **Written comments, signed by the chairperson of the governing body, and indicating the full name, postal address and province of the school, should reach the Department of Education by Friday, May 31, 1996. Please send them to the following address:**

Department of Education

Section 247

PB X895

Pretoria

0001

50. **Governing bodies are invited to write their comments in any of the official languages.**

51. **Any governing body is free to choose not to write to the Department of Education.**

Requests for discussions on the Ministry's proposals

52. Any governing body which wishes to meet representatives of the Ministry of Education to discuss the Ministry's proposals is welcome to make such a request. A governing body may indicate that it wishes to be represented in the discussion by an association of which it is a member.

53. **Requests to participate in a meeting with representatives of the Ministry of Education should be sent to the address given in paragraph**

49 by 31 May 1996. Governing bodies may use any official language in communicating such a request.

54. The Department of Education will arrange meetings for this purpose at centres in each province, and will publish the dates, times and venues of such meetings in the *Government Gazette* and the media. Such meetings will be open to the public.

55. All written and oral submissions by governing bodies will be carefully considered by the Ministry of Education with a view to making improvements to the draft Bill.

Progress of the draft South African Schools Bill, 1996

56. The Ministry of Education intends to seek Cabinet's approval for the South African Schools Bill to be passed before the end of the 1996 Parliamentary session. To do so, it must observe the deadlines for legislation established by the Leader of the House.

57. The Minister intends to publish the draft South African Schools Bill, 1996 in the *Government Gazette* in early April 1996, in order to permit the general public to make their views known on the Bill. The closing date for submissions by the general public is 15 May 1996. The draft Bill will be revised in the light of submissions received from the public and negotiations with the organised teaching profession, and submitted by the Minister of Education to Cabinet. The Minister intends to have the Bill tabled in Parliament before the end of June 1996.

58. Amendments arising out of the Ministry of Education's section 247 negotiation process with governing bodies will be tabled when the South African Schools Bill is under consideration in the Portfolio Committee on Education in Parliament.

Conclusion

59. In the development of its policy for schools, the Ministry of Education has at all times attempted to act transparently and in good faith. Within the framework of the Constitution and the policies of the Government of National Unity, the Ministry has treated all proposals seriously and on their merits. Public school governing bodies are assured that the Ministry of Education will seriously consider the views they express in the course of this negotiation in terms of section 247 of the Constitution, with the objective of achieving the highest level of agreement on a new system of governance for public schools throughout the country.

Pretoria
11 April 1996

KENNISGEWING 502 VAN 1996**MINISTERIE VAN ONDERWYS****VOORGESTELDE VERANDERINGE AAN DIE REGTE, BEVOEGDHEDE EN WERKSAAMHEDE VAN BEHEERLIGGAME VAN OPENBARE SKOLE**

1. Die *Voorgestelde Veranderinge aan die Regte, Bevoegdhede en Werkzaamhede van Beheerliggame van Openbare Skole* word hierby gepubliseer vir algemene inligting en kommentaar vanaf bestuursliggame, bestuursrade of soortgelyke owerhede van departementele, gemeenskap-beheerde of staatsondersteunde primêre of sekondêre skole kragtens wette wat onmiddellik voor die inwerkingtreding van die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993), bestaan het.
2. Bogenoemde belanghebbendes word uitgenooi om skriftelik op bogenoemde dokument kommentaar te lewer op dié wyse wat in die dokument vermeld is en dié kommentaar te rig aan:

Die Direkteur-generaal
Departement van Onderwys
Artikel 247
Privaatsak X895
PRETORIA
0001

3. Die kommentaar kan ook gefaks word na Faksnommer (012) 328-3038 by bogenoemde adres.
4. Die kommentaar moet die Departement van Onderwys nie later as **31 Mei 1996** bereik nie.
5. Die naam, adres, telefoonnommer en faksnommer van 'n persoon met wie die Departement van Onderwys kan skakel rakende die kommentaar, moet ook asseblief verstrek word.

DEPARTEMENT VAN ONDERWYS

**VOORGESTELDE VERANDERINGE AAN DIE REGTE, BEVOEGDHEDE EN
WERKSAAMHEDE VAN BEHEERLIGGAME VAN OPENBARE SKOLE****Die doel van hierdie dokument****1. Die doel van hierdie dokument is om:**

(1) Formele kennis te gee aan beheerliggame van alle openbare skole dat dit die voorneme van die nasionale regering is om hul regte, bevoegdhede en werksaamhede te verander by wyse van 'n Parlementêre Wet op die oomblik bekend as die konsep Suid-Afrikaanse Skolewetsontwerp, 1996, waarvan 'n kopie saam met hierdie dokument aangestuur word;

(2) Alle beheerliggame van openbare skole in te lig oor die stelsel van skoolorganisasie, beheer en befondsing wat die nasionale regering oorweeg om in die Parlements wet op die oomblik bekend as die konsep Suid-Afrikaanse Skolewetsontwerp, 1996, te verorden; en

(3) Die onderhandelinge tussen die nasionale regering en beheerliggame van openbare skole, soos in die vooruitsig gestel in artikel 247 van die Grondwet van die Republiek van Suid-Afrika (Wet 200 van 1993), waarna in hierdie dokument ook verwys word as "die Tussentydse Grondwet", aan te knoop.

Artikel 247 van die Tussentydse Grondwet

2. Artikel 247 van die Tussentydse Grondwet sluit "Spesiale bepalings betreffende bestaande opvoedkundige instellings" in. Die toepaslike subartikels lees soos volg:

"247. (1) Die nasionale regering en die provinsiale regerings soos bepaal in hierdie Grondwet verander nie die regte, bevoegdhede of werksaamhede van bestuursliggame, bestuursrade of soortgelyke owerhede van departementele, gemeenskap-beheerde of staatsondersteunde primêre of sekondêre skole kragtens wette wat onmiddellik voor die inwerkingtreding van hierdie Grondwet bestaan het nie, tensy 'n ooreenkoms wat voortvloei uit *bona fide*-onderhandeling, met daardie liggame bereik is en redelike kennis van enige voorgestelde verandering gegee is...

"(3) Indien 'n ooreenkoms nie ingevolge subartikel (1)... bereik word nie, word die nasionale regering en die provinsiale regerings, behoudens die ander bepalings van hierdie Grondwet, nie belet om die regte, bevoegdhede

en werksaamhede van bestuursliggame, bestuursrade of soortgelyke owerhede van departementele, gemeenskap-beheerde of staatsondersteunde primêre of sekondêre skole..., te verander nie, maar is belanghebbende persone en liggame daarop geregtig om die geldigheid van so 'n verandering ingevolge hierdie grondwet te toets."

Vertolking

3 Vir die doel van hierdie dokument,

(1) Die benaming "openbare skool" beteken enige skool, buiten 'n private skool, gestig kragtens enige wet wat skoolonderwys in die Republiek van Suid-Afrika beheer, en sluit in enige skool waarna in artikel 247 van die Tussentydse Grondwet verwys word;

(2) Die benaming "beheerliggaam" sluit in die beheerliggaam, bestuursraad of soortgelyke owerheid van elke openbare skool, en sluit in elke sodanige liggaam waarna verwys word in artikel 247 van die Tussentydse Grondwet.

Agtergrond

Die ontwikkeling van nasionale skoolbeleid en -wetgewing

4 Eerste onderwyswitskrif. Die Regering van Nasionale Eenheid is daartoe verbind om Suid-Afrika se erfenis van 'n ras- en etnies-verdeelde skoolstelsel, met sy uiterste ongelykhede in onderwysvoorsiening, te bowe te kom. Die Ministerie van Onderwys het die grondslag van die regering se beleid oor skoolorganisasie, -beheer en -befondsing in sy eerste witskrif, *Onderwys in 'n Demokratiese Suid-Afrika: Eerste Stappe om 'n Nuwe Stelsel te Ontwikkel*, wat in Februarie 1995 ná uitgebreide openbare raadpleging deur die Kabinet goedgekeur is, uitgespel.

5 Hersieningskomitee. Die Minister van Onderwys het 'n Hersieningskomitee, met professor Peter Hunter as voorsitter, aangestel om in besonderhede aanbevelings te doen oor hoe 'n verenigde, nie-rassige nasionale skoolstelsel teweeg gebring kan word, gegrond op die riglyne wat in die eerste witskrif uiteengesit is. Die Hersieningskomitee het op 31 Augustus 1995 aan die Minister verslag gedoen.

6 Regspaneel. Die Minister het 'n regspaneel aangestel om hom oor die regs- en wetgewende implikasies van die verslag te adviseer.

7 Tweede onderwyswitskrif. 'n Konsep witskrif, wat grootliks op die aanbevelings van die Hersieningskomitee gegrond was en die advies van die regspaneel ingesluit het, is in November 1995 deur die Ministerie van Onderwys gepubliseer. Ná opgewing van die openbare reaksie op die konsep, het die Ministerie van Onderwys dit vir voorlegging aan die Kabinet hersien. Die nuwe beleidsdokument, *Die Organisasie, Beheer en Befondsing*

van Skole: *Onderwyswetskrif 2* is in Februarie 1996 deur die Kabinet goedgekeur en in die *Staatskoerant* (Algemene Kennisgewing 130 van 1996) gepubliseer. 'n Span opstellers saamgestel uit die Minister se regspaneel en amptenare van die Departement het toe die konsep Suid-Afrikaanse Skolewetsontwerp, 1996 wat die nuwe regeringsbeleid in die vorm van wetgewing stel, voorberei.

8 Taakspan oor Skoolbefondsing. *Onderwyswetskrif 2* het 'n uitgebreide bespreking van skoolbeondsingsbeleid bevat, maar beleidsbesluite is uitgestel hangende die voltooiing van 'n ondersoek deur 'n Taakspan oor Skoolbefondsing saamgestel uit verteenwoordigers van die Departemente Onderwys, Finansies en Staatsbesteding, die Finansiële en Fiskale Kommissie, en plaaslike en internasionale konsultante. Die bevindings van die Taakspan is by die konsep Suid-Afrikaanse Skolewetsontwerp, 1996, in aanmerking geneem en is, saam met die konsep Wetsontwerp, vir openbare kommentaar in die *Staatskoerant* gepubliseer.

9 Konsep Suid-Afrikaanse Skolewetsontwerp. Die konsep Suid-Afrikaanse Skolewetsontwerp, 1996 stel die nasionale beleid oor skoolorganisasie, -beheer en -befondsing, wat in *Onderwyswetskrif 2* deur die Kabinet goedgekeur is, in die vorm van wetgewing. Saam met alle lede van die publiek, is skoolbeheerliggame welkom om skriftelike kommentaar oor enige aspek van die konsep wetsontwerp vóór die gepubliseerde keurdatum na die Departement aan te stuur. Ná hersiening, sal die Minister van Onderwys die wetsontwerp aan die Kabinet voorlê vir goedkeuring voordat dit in die Parlement ter tafel gelê word. Bykomende hersiening wat voortspruit uit die Artikel 247-onderhandelinge, sal aangebied word in die vorm van wysigings wanneer die Wetsontwerp voor die Portfeuljekomitee oor Onderwys dien.

Onderhandelinge in die Raad vir Arbeidsverhoudinge in die Onderwys

10 Bepalings van die konsep Wetsontwerp wat op die indiensneming van opvoeders betrekking het, is aan onderhandelinge in die Raad op Arbeidsverhoudinge in die Onderwys onderworpe.

Onderwyswetgewing voor die Konstitusionele Hof

11. Die Konstitusionele Hof het uitspraak gelewer oor die grondwetlikheid van groot gedeeltes van die Nasionale Onderwysbeleidswetsontwerp, 1995 en sommige bepalings van die Gautengse Skoolonderwyswet, 1995. Hierdie aangeleenthede is by wyse van petisie deur lede van minderheidspartye in die Nasionale Vergadering en die Gautengse Wetgewer onderskeidelik, na die Konstitusionele Hof verwys. Die Hof het eenparig bevind dat die Nasionale Onderwysbeleidswetsontwerp, 1995 en die Gautengse Skoolonderwyswet, 1995 geensins ongrondwetlik was op enige van die gronde wat deur die onderskeie petisionarisse aangevoer was nie.

12. Vóór die Hof se uitsprake, het die Minister van Onderwys 'n onderneming aan die Kabinet gegee om enige implikasies van beide uitsprake wat die konsep Suid-Afrikaanse Skolewetsontwerp, 1996 raak, in aanmerking te neem.

Die nuwe Grondwet

13. Die Suid-Afrikaanse Skolewetsontwerp, 1996 is in ooreenstemming met die Tussentydse Grondwet ontwerp. Teen die tyd wat hierdie geskryf is, was die nuwe Grondwet steeds onder oorweging in die Grondwetgewende Vergadering.

Status van die voorgestelde Suid-Afrikaanse Skolewetsontwerp, 1996

14 Die regering beoog om die Suid-Afrikaanse Skolewetsontwerp, 1996, tydens die huidige Parlementêre sessie te verorden. Die vraag ontstaan: "Indien die Suid-Afrikaanse Skolewetsontwerp, 1996 verorden word, wat sal die status daarvan wees betreffende skolewetgewing van krag in die nege provinsies?" Die Tussentydse Grondwet bepaal wat die wetlike posisie sal wees in gevalle waar sowel 'n nasionale as 'n provinsiale wet oor dieselfde aangeleentheid handel.

15 Ingevolge die Tussentydse Grondwet, is die nasionale Parlement en elke provinsiale wetgewer bevoeg om wette oor skoolonderwys te verorden. 'n Provinsiale wet kan net in daardie provinsie geld, terwyl 'n nasionale wet oor die hele land heen kan geld. Sodanige wette, nasionaal en provinsiaal, sal gelyktydig bestaan en 'n hof sal hulle bestaanbaar met mekaar ag, tensy, en net tot die mate waartoe, hulle beslis of "by noodsaaklike implikasie" onbestaanbaar met mekaar is.

16. In só 'n geval, ontstaan die vraag oor welke wet, of gedeelte van 'n wet, in die betrokke provinsie sal geld. Die Tussentydse Grondwet lui dat die provinsiale wet bo die nasionale wet in daardie provinsie voorrang sal geniet, tensy die nasionale wet "eenvormig in alle dele van die Republiek van toepassing is", en in soverre as wat die nasionale wet aan een of meer van die kriteria wat spesiaal in Artikel 126 bepaal is, voldoen. Die toepaslike gedeeltes van artikel 126 is soos volg:

"126. 'n Wet deur 'n provinsiale wetgewer ingevolge hierdie Grondwet aangeneem, geniet voorrang bo 'n Parlements wet wat met 'n aangeleentheid [waarin albei wetgewende bevoegdheid het) handel, behalwe in soverre-

(a) die Parlements wet met 'n aangeleentheid handel wat nie doeltreffend deur provinsiale wetgewing gereël kan word nie;

(b) die Parlements wet met 'n aangeleentheid handel wat, om doeltreffend uitgevoer te kan word, gereël en gekoördineer moet word deur eenvormige norme of standarde wat

algemeen geldend in die Republiek is;

- (c) die Parlements wet nodig is om regoor die land minimum standarde vir die lewering van openbare dienste vas te stel..."

17. Die Suid-Afrikaanse Skolewet, 1996, sal, wanneer verorden, voorsiening maak vir 'n eenvormige stelsel vir skoolorganisasie, -beheer en -befondsing, en norme en minimum standarde in hierdie aangeleenthede stel wat eenvormig oor die land sal geld. Dit is daarom bedoel om voorrang te geniet bo enige provinsiale wet, of gedeelte van enige provinsiale wet, wat daarmee onbestaanbaar kan wees, ingevolge artikel 126(3) van die Tussentydse Grondwet.

18. Sowel die ontwikkeling van nuwe beleid as die voorbereiding van die konsep Wetsontwerp, is in noue raadpleging met die provinsiale Lede van Uitvoerende Rade verantwoordelik vir onderwys, en die provinsiale hoofde van onderwysdepartemente, veral deur die Raad van Onderwysministers en die Komitee van Hoofde van Onderwysdepartemente onderneem. Wanneer die Suid-Afrikaanse Skolewetsontwerp, 1996 deur die Parlement verorden is, sal die Ministerie van Onderwys, waar nodig,, provinsiale Lede van die Uitvoerende Raad (LURe) verantwoordelik vir onderwys, aanmoedig om hul provinsiale skolewetgewing te wysig om bestaanbaarheid met die nasionale Wet te verseker.

Hoofaspekte van die konsep Suid-Afrikaanse Skolewetsontwerp, 1996

Inleiding

19. Hierdie gedeelte van die dokument som vername aspekte op van die konsep Wetsontwerp betreffende die regte, bevoegdhede en werksaamhede van beheerliggame van openbare skole. Dit is nie 'n volledige opsomming van die inhoud van die konsep Wetsontwerp nie. Die Ministerie van Onderwys doen aan die hand dat lede van beheerliggame van openbare skole hierdie gedeelte saam met die konsep Wetsontwerp lees om die regering se voornemens ten volle te verstaan. Terwyl die Ministerie van Onderwys noulettende akkuraatheid in die opsomming van die bepalings van die konsep Wetsontwerp in hierdie dokument nagestreef het, moet hy verklaar dat die taal van die konsep Wetsontwerp self voorrang moet geniet in enige dispuut oor die betekenis van enige gedeelte van die konsep Wetsontwerp of hierdie memorandum.

Beleidsgrondslag

20 Die grondslag van die regering se nuwe beleid vir skoolorganisasie, -beheer en -befondsing is in Onderwyswitskrif 2 soos volg opgesom:

"Die nuwe struktuur van skoolorganisasie moet die toestande skep vir die ontwikkeling van 'n samehangende, geïntegreerde, soepele nasionale stelsel wat herstel, die billike gebruik van hulpbronne, 'n

verbetering van onderwysgehalte dwarsdeur die stelsel, demokratiese bestuur en skoolgebaseerde besluitneming binne provinsiale riglyne bevorder. Die nuwe struktuur moet teweeg gebring word deur 'n goed bestuurse prosesse van onderhandelde verandering, gegrond op die verstandhouding dat elke openbare skool 'n vennootskap tussen die provinsiale onderwysowerhede en 'n plaaslike gemeenskap moet beliggaam."

21 Ten aansien van die aangeleentheid in onderhandelinge, benadruk die Ministerie drie punte. Eerstens, wanneer die konsep Suid-Afrikaanse Skolewetsontwerp, 1996 verorden word, sal hierdie land vir die eerste keer in sy geskiedenis 'n nasionale, nie-rassige openbare skoolstelsel hê, waarvan almal deur verteenwoordigende, demokratiese-verkose beheerliggame beheer word. Tweedens, die nuwe maatreël sal aansienlik byvoeg tot die regte, bevoegdheid en werksaamheid waarvoor die oorweldigende meerderheid openbare skoolbeheerliggame op die oomblik beskik. Derdens, word daar deurgaans in die konsep Wetsontwerp uiting gegee aan die gedagte van 'n openbare skool as 'n vennootskap tussen 'n plaaslike skoolgemeenskap en die provinsiale onderwysdepartement.

22 Die woord "vennootskap" is nie in die Wetsontwerp self gebruik nie, want dit het spesifieke regs konnotasies wat nie op skole betrekking het nie. Nietemin, is die gedagte dat daar van provinsiale onderwysowerhede en elke skoolgemeenskap verwag word om saam te werk om die gemeenskaplike belange en gesamentlike oogmerk van openbare onderwys in elke gemeenskap uit te ken, binne die oorhoofse raamwerk van provinsiale en nasionale wette en die Grondwet, die kern van die skema van die konsep Wetsontwerp. Die Ministerie van Onderwys is van mening dat dié gedagte noodsaaklik is vir die heropbou en ontwikkeling van openbare onderwys in hierdie land.

Skoolorganisasie: openbare skole en onafhanklike skole

23 Die konsep Wetsontwerp herorganiseer die nasionale skoolstelsel in twee breë skoolkategorieë: openbare skole en onafhanklike skole.

24. Die *openbare skool*-kategorie, soos beskryf in paragraaf 3 hierbo, sal alle skole insluit wat tans bekend staan as gemeenskapskole, plaasskole, staatskole, en staatsondersteunde skole (insluitend staatsondersteunde gespesialiseerde skole, kerkskole, Model C-skole, mynskole en ander). Die kenmerke wat van die apartheids-era oorgeërf is, sal progressief minder belangrik word na gelang die karakter van die nuwe-styl openbare skole gedefinieer word deur die nuwe beheer- en befondsingsstelsel. Die vaste eiendom van voormalige staatsondersteunde (Model) skole sal deur die Staat, behoudens die Grondwet en op geregtelike wyse, teruggeneem word (kyk paragraaf 45 hieronder).

25. Die enigste onderskeid tussen openbare skole wat in die konsep Wetsontwerp erken word, is tussen *gewone openbare skole* en *spesiale*

openbare skole. LUR kan spesiale openbare skole stig en in stand hou om onderwys te voorsien aan leerders met spesiale onderwysbehoefte, maar daar word van hulle vereis om, waar redelikerwys uitvoerbaar, onderwys aan sodanige leerders by gewone openbare skole te voorsien.

26. Die *onafhanklike skole* sal alle skole wat op die oomblik as private of onafhanklike skole geregistreer is, behels.

27. Die huidige dokument handel net oor openbare skole.

Regspersoon

28 Die konsep Wetsontwerp maak voorsiening daarvoor dat elke openbare skool "n regspersoon" sal wees. In die reg is 'n regspersoon 'n entiteit wat by wet toegelaat word om sy eie regte te verwerf, pligte te aanvaar en verpligtinge aan te gaan. Hierdie word deur die liggaam as 'n geheel verwerf en aangegaan, en nie deur individuele lede nie.

Indiensneming van opvoeders by openbare skole

29. Alle opvoeders wat by openbare skole aangestel word, sal in diens geneem word deur die provinsiale onderwysdepartement, ingevolge Skedule 2 van die konsep Wetsontwerp. Die konsep Wetsontwerp bepaal ook dat provinsiale departemente by 'n openbare skool poste kan skep wat bykomend tot die diensstaat is, maar sodanige poste sal net gevul word op die voorwaarde dat die skool die volle koste aan die departement betaal. (Hierdie en ander indiensnemingsaangeleenthede is onderworpe aan onderhandeling in die Raad vir Arbeidsverhoudinge in die Onderwys.)

Die stigting van beheerliggame by openbare skole

30 Die konsep Wetsontwerp bepaal dat die beheer van 'n openbare skool by sy beheerliggaam berus. "Beheer", wat die verantwoordelikheid van die beheerliggaam is, word onderskei van "professionele administrasie" wat by die hoof van die provinsiale onderwysdepartement berus en deur die hoof na die prinsipaal van die skool gedelegeer kan word.

31. Elke openbare skool se beheerliggaam sal bestaan uit verkose lede van die belangegroep waaruit die skoolgemeenskap bestaan: ouers van leerders by die skool, opvoeders by die skool, personeel by die skool wat nie opvoeders is nie, die skool se prinsipaal, leerders by die skool (in die geval van sekondêre skole) wat deur Verteenwoordigende Studenteraad verkies is, en lede van die gemeenskap wat deur die beheerliggaam gekoöpteer is. Die konsep Wetsontwerp bepaal dat die meerderheid van die lede van die bestuursliggaam ouers sal wees.

32. Die konsep Wetsontwerp vereis dat elke sekondêre skool 'n Verteenwoordigende Studenteraad sal hê, wat verkies is ingevolge prosedures wat deur die LUR vir onderwys gepubliseer is.

33. Die beheerliggaam van 'n gewone openbare skool wat onderwys voorsien aan leerders met spesiale onderwysbehoefte word verplig om een of meer persone met deskundigheid in hierdie aangeleenthede te koöpteer, en 'n komitee te stig om die beheerliggaam te adviseer oor die voorsiening van onderwys aan leerders met spesiale onderwysbehoefte.

34. Die beheerliggaam van 'n spesiale skool sal dieselfde samestelling hê as die beheerliggame van ander openbare skole, maar word verplig om 'n amptenaar met deskundigheid in spesiale onderwysbehoefte in te sluit. Die beheerliggaam kan ook 'n verteenwoordiger van 'n borgliggaam, 'n ouerorganisasie, 'n organisasie wat gestremdes verteenwoordig, of 'n lid van die gestremde gemeenskap koöpteer. In sommige omstandighede kan die LUR die vereiste vir 'n sekondêre skool om 'n Verteenwoordigende Studenteraad te hê, opsy sit.

Bevoegdhede en werksaamhede van beheerliggame van openbare skole

35. Alle beheerliggame sal die plig hê om die beste belange van die skool te bevorder en hul werksaamhede op verantwoordelike en verantwoordbare wyse uit te voer. Daarbenewens verskaf die konsep Wetsontwerp 'n lys van 18 bevoegdhede en werksaamhede wat beheerliggame van openbare skole kan uitvoer, behoudens die bepalings van die Wet en die Grondwet.

36. Die LUR vir Onderwys sal besluit welke bevoegdhede en werksaamhede op die lys deur openbare skole in die provinsie uitgevoer kan word, en welke bevoegdhede en werksaamhede 'n beheerliggaam voor aansoek kan doen. 'n Aansoek deur 'n beheerliggaam om 'n mag of funksie uit te voer kan net geweier word as die provinsiale onderwyshoof tevrede gestel is dat die betrokke beheerliggaam nie die vermoë het om doeltreffend op te tree nie. 'n Provinsiale onderwyshoof kan 'n mag of funksie van 'n beheerliggaam in die geval van versuim of onvermoë by die beheerliggaam.

37. Elke LUR is egter verplig om 'n program vir vermoëbou vir beheerliggame om hulle te bemagtig om hul verantwoordelikhede doetreffend uit te voer, en om die aktiewe betrokkenheid en verantwoordbaarheid van beheerliggame te bevorder, van stapel te laat loop.

38. Die lys van beheerliggaamverantwoordelikhede wat ingevolge die konsep Wetsontwerp toegeken kan word, sluit in die bevoegdhede om:

- die missie, doelwitte en doelstellings van die skool te ontwikkel;
- die toelatingsbeleid van die skool, met die instemming van die LUR, te bepaal;
- die taalbeleid van die skool behoudens die toepaslike nasionale en provinsiale beleid te bepaal;
- die beleid vir godsdiensoefening by die skool te bepaal;

- die skool se buitemuurse kurrikulum, en die skoolkurrikulum ingevolge provinsiale beleid en behoudens die Suid-Afrikaanse Kwalifikasie-owerheidswet, 1995, te bepaal; en
- die aanstelling van opvoeders en nie-opvoeders by die provinsiale owerhede, behoudens die toepaslike arbeidswette, aan te beveel.

39. Ofskoon beheerliggame oor die mag beskik om die toelatingsbeleid met die instemming van die LUR te bepaal, word in hoofstuk 2 van die Wetsontwerp aan aansoekers om toelating by openbare skole beskerming verleen teen onbillike diskriminasie, en die verantwoordelikheid om oor individuele aansoeke om toelating te besluit, word aan prinsipale toegeken, behoudens sekere voorwaardes en die aansoeker se reg op appèl na die LUR.

40. Beheerliggame kan oor die mag beskik om die skool se taalbeleid te bepaal, behoudens nasionale en provinsiale beleide, maar die leerder se konstitusionele reg om in die taal van sy of haar keuse onderrig te word, waar redelikerwys uitvoerbaar, word ook in hoofstuk 2 van die konsep Wetsontwerp gehandhaaf.

41. Skedule 2 van die konsep Wetsontwerp, wat oor die indiensneming van opvoeders handel, bepaal dat die provinsiale owerhede die aanbeveling van 'n beheerliggaam om 'n opvoeder aan te stel sal aanvaar, tensy die kandidaat nie oor die vereiste kwalifikasies beskik nie, of aan wangedrag skuldig bevind is, of as daar bewys is dat die aanbeveling op onbehoorlike beïnvloeding gegrond was. Vir 'n opvoeder wat op aanbeveling van die beheerliggaam aangestel is in 'n pos wat bykomend tot die skool se diensstaat is, moet daar ten volle deur die beheerliggaam betaal word. Hy of sy sal deur die provinsie in diens geneem word, maar op kontrakgrondslag aangestel word. (Hierdie aangeleenthede is onderworpe aan onderhandeling in die Raad vir Arbeidsverhoudinge in die Onderwys.)

42. Benewens die opvoedkundige aangeleenthede wat hierbo gelys word, kan sodanige finansiële verantwoordelikhede ook aan beheerliggame toegeken word as om:

- die skoolbegroting te bepaal en daaroor toesig te hou;
- 'n skoolfonds te stig en te administreer;
- enige skoolgeld betaalbaar deur ouers van leerders by die skool te bepaal, te hef en toesig te hou oor die insameling daarvan;
- vrywillige bydraes te werf;
- teksboeke, opvoedkundige materiaal en toerusting aan te koop;
- die grond en geboue van die skool in stand te hou.

43. Die voorstelle vir skoolbefondsing in die konsep Wetsontwerp is onderworpe aan verdere raadpleging tussen die nasionale Departement van Onderwys en die finansiële regeringsdepartemente. Daar word egter ooreengekom dat geen kind op grond van die ouer se onvermoë om skoolgeld te betaal, die reg op basiese onderwys ontsê kan word nie. 'n

Beheerliggaam kan net besluit om skoolgeld te hef as hy 'n begroting voorberei het en dit deur 'n ouervergadering aanvaar is. 'n Besluit om geld te hef, gegrond op 'n meerderheidstem by 'n ouervergadering, moet reëlins insluit om te verseker dat ouers wat nie oor die vermoë beskik nie, van betaling vrygestel kan word. 'n Beheerliggaam moet besluit oor billike prosedures om sodanige ouers vry te stel. Die Minister van Onderwys en die provinsiale LUR vir Onderwys kan riglyne opstel om beheerliggame by te staan om hoerdie verantwoordelikheid uit te voer. Geen ouer wat vrygestel is van die betaling van geld sal verplig word om te betaal nie.

44 Beheerliggame wat bestaan het voordat die nuwe Suid-Afrikaanse Skolewet, 1996 van krag word, sal voortgaan om te funksioneer tot op die datum waarop die verkiesing van alle beheerliggame in 'n provinsie afgehandel is. Hierdie datum sal deur die Minister ná raadpleging met die LUR bepaal word.

Eienaarskap en die onteiening van eiendom

45. Een van die "oorgangsbepalings" in die konsep Wetsontwerp vereis dat 'n LUR die vaste eiendom van voormalige Model C skole moet onteien, behoudens die Grondwet en ander bepalinge in die konsep Wetsontwerp betreffende onteiening. Die Ministerie van Onderwys is geadviseer dat die regering nie aanspreeklik sal wees om vergoeding te betaal vir sodanige bates wat in die verlede staatseiendom was en sal voortgaan om vir opvoedkundige doeleindes gebruik te word nie.

46. 'n Ander gedeelte van die konsep Wetsontwerp verleen aan die LUR die mag om, indien dit in die openbare belang is, grond en eiendomsreg in en oor grond vir enige doel betreffende skoolonderwys in 'n provinsie te onteien. Die eienaar van sodanige grond en eiendomsreg in en oor grond is geregtig wees op vergoeding behoudens die Grondwet, die Onteieningswet, 1975, en die bepalinge van die konsep Wetsontwerp. Die konsep Wetsontwerp bepaal dat, indien die partye nie ooreenkoms oor vergoeding kan bereik nie, een of die ander van die twee partye die saak na 'n Hof kan verwys of hulle kan ooreenkom om dit na 'n arbiter te verwys, wie se beslissing bindend sal wees.

Die onderhandelingsproses

47. Die Ministerie van Onderwys verwelkom die deelname van alle beheerliggame van openbare skole aan die onderhandelingsproses wat ingevolge artikel 247 van die Grondwet vereis word.

Geskrewe kommentaar

48. Beheerliggame van openbare skole word uitgenooi om hul standpunte oor die voorstelle van die Minister van Onderwys oor skoolbeheer, soos bepaal in die konsep SA Skolewetsontwerp, 1996 (hierby ingesluit), op skrif te verskaf. Hierdie dokument het talle vername aspekte van die konsep

Wetsontwerp opgesom, maar beheerliggame word versoek om op grond van die konsep Wetsontwerp self te raadpleeg. Die voorwaardes van die onderhandeling vereis deur artikel 247 van die Grondwet, het betrekking op die nasionale regering se voorgenome veranderings aan die regte, bevoegdhede en werksaamhede van beheerliggame van openbare skole. Beheerliggame is egter welkom om op enige aspek van die konsep Wetsontwerp kommentaar te lewer.

49. Geskrewe kommentaar, onderteken deur die voorsitter van die beheerliggaam, en wat die volle naam, posadres en provinsie van die skool aandui, moet die Departement teen Vrydag, 31 Mei, 1996 bereik. Stuur dit asseblief aan die volgende adres:

**Departement van Onderwys
Artikel 247
Privaatsak X895
PRETORIA
0001**

50. Beheerliggame word uitgenooi om hul kommentaar in enige van die amptelike tale te lewer.

51. Enige beheerliggaam is vry om te verkies om nie aan die Departement van Onderwys te skryf nie.

Versoeke om besprekings oor die Ministerie se voorstelle

52. Enige beheerliggaam wat verteenwoordigers van die Ministerie van Onderwys wil ontmoet om die Ministerie se voorstelle te bespreek, is welkom om so 'n versoek te rig. 'n Beheerliggaam kan aandui dat hy verkies om in die bespreking verteenwoordig te word deur 'n vereniging waarvan hy 'n lid is.

53. Versoeke om deel te neem aan 'n vergadering met verteenwoordigers van die Ministerie van Onderwys moet teen 31 Mei 1996 aan die adres in paragraaf 49 gestuur word. Beheerliggame kan enige amptelike taal gebruik in hul kommunikasie oor sulke versoeke.

54. Die Departement sal vergaderings vir hierdie doel reël by sentrums in elke provinsie, en sal die datums, tye en plekke van sodanige vergaderings in die *Staatskoerant* en die media publiseer. Sodanige vergaderings sal vir die publiek oop wees.

55. Alle skriftelike en mondelinge voorleggings deur beheerliggame sal sorgvuldig deur die Ministerie van Onderwys met die oog daarop om verbeterings aan die konsep Wetsontwerp aan te bring, oorweeg word.

Vordering van die konsep Suid-Afrikaanse Skolewetsontwerp, 1996

56. Die Ministerie van Onderwys beoog om vóór die einde van die 1996-sessie die Suid-Afrikaanse Skolewetsontwerp deur te voer. Om dit te doen, moet hy keurdatums wat deur deur die Leier van die Nasionale Vergadering neergelê word, nakom.

57. Die Minister beoog om die konsep Suid-Afrikaanse Skolewetsontwerp, 1996 vroeg in April 1996 te publiseer om die algemene publiek in staat te stel om hul standpunte oor die Wetsontwerp bekend te maak. Die sluitingsdatum vir voorleggings deur die publiek is 15 Mei 1996. Die konsep Wetsontwerp sal aangepas word in die lig van voorleggings wat van die publiek ontvang is en onderhandelinge met die georganiseerde onderwysberoep, en deur die Minister van Onderwys aan die Kabinet voorgelê word. Die Minister beoog om die Wetsontwerp vóór die einde van Junie 1996 in die Parlement ter tafel te lê.

58. Wysigings wat voortspruit uit die Ministerie se artikel 247-onderhandelingsproses met beheerliggame sal ter tafel gelê word wanneer die Suid-Afrikaanse Skolewetsontwerp deur die Parlementêre Portefeuljekomitee oor Onderwys oorweeg word.

Slot

59. Die Ministerie van Onderwys het in die ontwikkeling van sy beleid vir skole deurgaans geprobeer om deursigtig en te goeder trou op te tree. Binne die raamwerk van die Grondwet en die beleid van die Regering van Nasionale Eenheid, het die Ministerie alle voorstelle met erns gehanteer en op hul meriete oorweeg. Beheerliggame van openbare skole word die versekering gegee dat die Ministerie van Onderwys hul sienings wat hulle in die loop van hierdie onderhandeling ingevolge artikel 247 van die Grondwet oordra, ernstig sal oorweeg, met die oogmerk om die hoogste vlak van ooreenkoms oor 'n nuwe stelsel vir die beheer van openbare skole oor die hele land heen te behaal.

Pretoria
11 April 1996

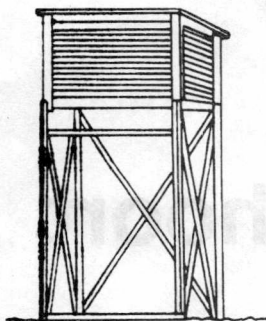
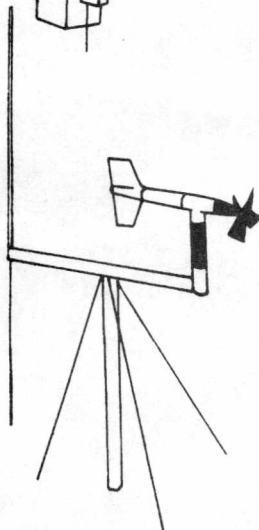
Save a drop — and save a million

Water conservation is very important to the community and industry to ensure their survival. So save water!

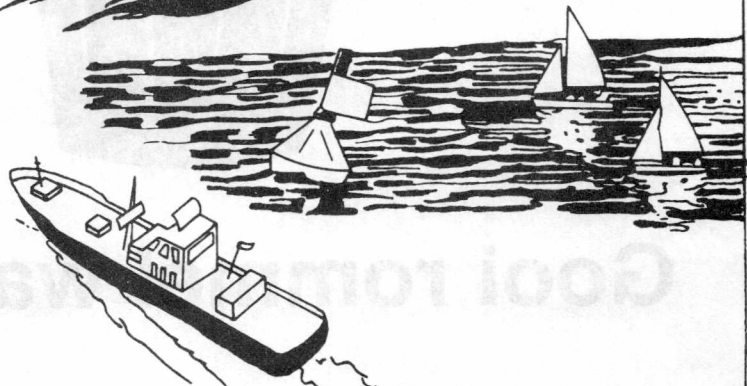
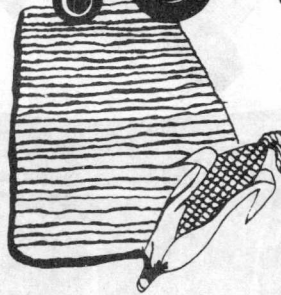
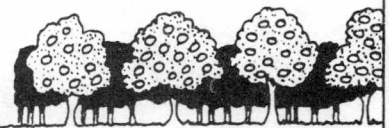
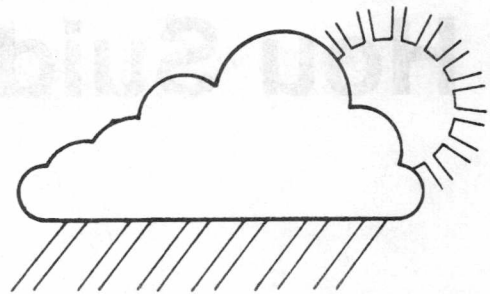


Spaar 'n druppel — en vul die dam

Indien almal van ons besparingsbewus optree, besnoei ons nie slegs uitgawes nie maar wen ook ten opsigte van ons kosbare water- en elektrisiteitsvoorraad

SA WEATHER BUREAU SA WEERBURO

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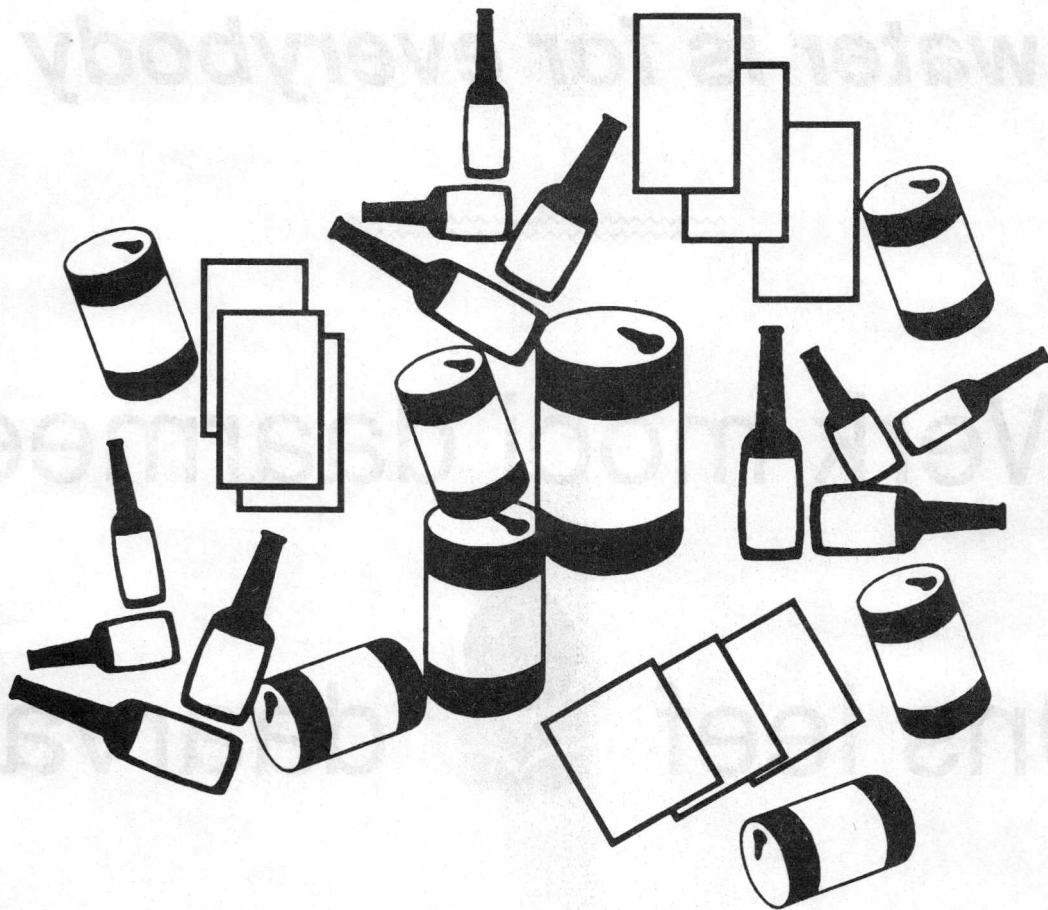
Hou Suid-Afrika Skoon



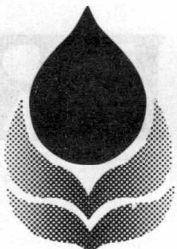
Gooi rommel waar dit hoort



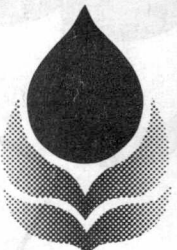
RECYCLE HERGEBRUIK



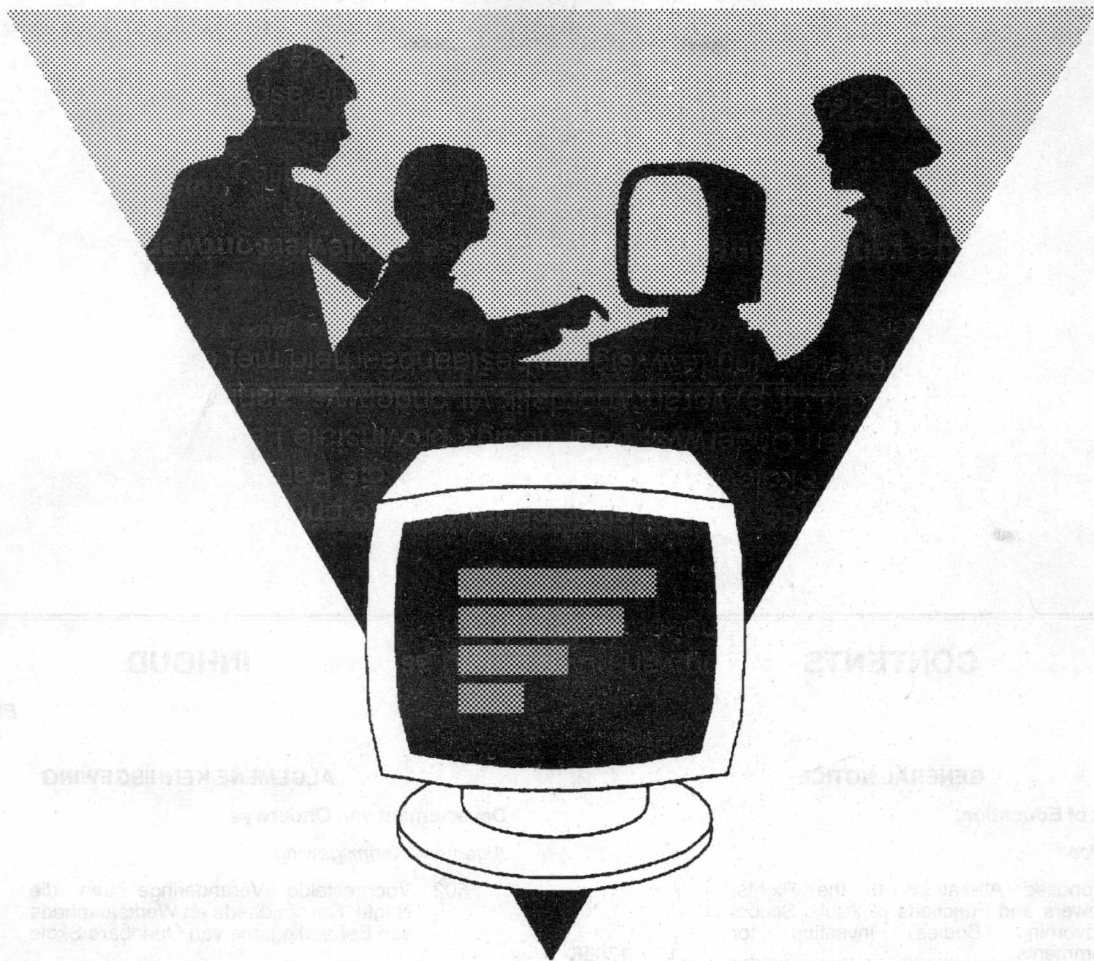
Department of Environment Affairs

Use it
Don't abuse  it

water is for everybody

Werk mooi daarmee
Ons leef  daarvan

water is kosbaar



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- ✓ Information available within two working days of publication
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