

DISTRIBUTED BY VERITAS TRUST

**Tel: [263] [4] 794478 Fax & Messages [263] [4] 793592
E-mail: veritas@mango.zw**

**VERITAS MAKES EVERY EFFORT TO ENSURE THE PROVISION OF RELIABLE INFORMATION,
BUT CANNOT TAKE LEGAL RESPONSIBILITY FOR INFORMATION SUPPLIED.**

This is the Bill as passed by the Senate on Thursday 23rd February, 2006, incorporating the amendments made to clause 5 by the Senate.¹

The amended Bill must now be returned to the House of Assembly for consideration of the amendments made by the Senate..

We have endeavoured to highlight the amendments made by the Senate by the use of square brackets, red font, and underlining. See page 5, below.

EDUCATION AMENDMENT BILL, 2005

MEMORANDUM

The purpose of this Bill is to amend the Education Act [*Chapter 25:04*] ("the principal Act") with a view to update it and correct certain anomalies that have come to the attention of the Ministry.

The individual clauses of the Bill are explained more fully below.

Clause 1

This clause sets out the bill's short title.

Clause 2

This clause will amend the Preamble to the principal Act by deleting terms like "Government teachers colleges" and "teachers colleges" wherever they appear.

Clause 3

This clause seeks to amend the interpretation section of the principal Act. It will delete from the principal Act definitions of terms that are no longer in use for example "fixed date" and "school education". It will insert definitions of new terms that have been introduced in the principal Act. It repeals and substitute principal definitions of terms whose meanings in the Act have been found to have changed over the years.

Clause 4

This clause seeks to substitute section 3 by specifying the institutions to which the principal Act shall apply.

¹ The original Bill was H.B. 6, 2005. It received an adverse report from the Parliamentary Legal Committee. It was then replaced by a "new consolidated text", H.B. 6A, 2005, which promptly received a non-adverse report from the Parliamentary Legal Committee and was then passed by the House of Assembly with several amendments, and referred to the Senate as H.B. 6B, 2005.. Now, having been passed by the Senate with amendments to clause 5, it has become H.B. 6C, 2005 and must be returned to the House of Assembly for consideration of those amendments.

Clause 5

This clause seeks to **substitute section 21 of the principal Act. The new provision makes it mandatory for every responsible authority to first of all apply to the Secretary for his approval before charging any fee or levy or making any increase thereto. The Secretary is in turn obliged to approve the increase applied for where such increase does not exceed the percentage increase in the cost of living from the beginning to the end of the preceding term as indicated by the Consumer Price Index published by the Central Statistics Office. The clause also requires the responsible authority to get the approval of a majority of the parents at a meeting of the School Parents Assembly attended by not less than twenty *per centum* of the parents. The clause also requires the responsible authority to get the approval of a majority of the parents at a meeting of the School Parents Assembly attended by not less than twenty *per centum* of the parents, where the responsible authority seeks to increase fees or levies in excess of the level specified under subsection (2). The provision also outlines the details that are to be included in the application and the various decisions the Secretary can make.**

Clause 6

This clause seeks to substitute section 22 of the principal Act. The new provision gives the Minister additional powers in dealing with appeals in relation to fees to fix an appropriate fee or levy over and above granting or refusing an appeal.

Clause 7

This clause seeks to substitute section 36 of the principal Act. The new provision provides for the **constitution of a School Parents Assembly by parents with children at any school. The School Parents Assembly will in turn establish a School Development Committee whose composition, functions and duties will be as prescribed.**

Clause 8

This clause seeks to substitute section 38 of the principal Act. The new provision provides for the payment of all fees for educational facilities **into the School Services fund established in terms of the Audit and Exchequer Act [Chapter 22:03]. The provision makes it the duty of the responsible authority of every non-government school to establish a School Services Fund. The provision also states the purposes of the School Services Fund.**

Clause 9

This clause proposes to repeal sections 55, 56, 57 and 58 of the principal Act as they have been found to be no longer relevant.

Clause 10

This clause seeks to substitute section 59 of the principal Act. The new provision proposes to give the Minister power to prescribe the minimum qualifications of all teachers to be employed in **all schools**. The provision also gives the Secretary power to vet the qualifications of all teachers to be employed by **all schools** and direct any responsible authority to terminate the service of any teacher who is not properly qualified. This provision was necessitated by the fact that some non-government schools were employing teachers who were experienced in certain sporting activities without holding the necessary qualifications.

Clause 11

This clause seeks to substitute section 60 of the principal Act. The new provision proposes the making of regulations by the Minister to govern the conduct and behaviour of all teachers who are not members of the Public Service. Such regulations shall prevail over any other regulations, contract, rules or code of conduct. Such regulations are also supposed to be as nearly as possible similar in their substantive provisions to the regulations governing the conduct and behaviour of teachers who are members of the Public Service.

Clause 12

This clause seeks to substitute section 62 of the principal Act. The new provision proposes the teaching of all the three main languages of Zimbabwe namely English, Shona, Ndebele and such other

local language in all schools **up to form two level** on an equal-time basis. Prior to form one, **any of** these languages may be used as the medium of instruction depending on which language is better understood by the pupils. There is provision that sign language shall be the priority medium of instruction for the deaf and hard of hearing. This provision is meant to cater for the diverse needs throughout the country. **There is also provision for the teaching of foreign languages in schools where the Minister so authorises.**

Clause 13

This clause seeks to substitute section 68 of the principal Act. The new provision proposes the recognition of more than one association of teachers. This has been necessitated by the realisation that other associations have arisen and there is need to recognise them.

Clause 14

This clause proposes to amend section 69 of the principal Act by giving the Minister power to make regulations on school uniforms **in schools**.

Clause 15 and Schedule

This clause and the Schedule effect various small amendments to the principal Act.

PRESENTED BY THE MINISTER OF EDUCATION, SPORT AND CULTURE

BILL

To amend the Education Act [*Chapter 25:04*] and to provide for matters connected therewith or incidental thereto.

ENACTED by the President and the Parliament of Zimbabwe.

1 Short title

This Act may be cited as the Education Amendment Act, 2005.

2 Amendment of the Preamble to Cap 25:04

The **long title** to the Education Act [*Chapter 25:04*] is amended by the deletion of the terms "Government teachers colleges" and "teachers colleges" wherever they appear.

3 Amendment of section 2 of Cap 25:04

Section 2 of the Education Act [*Chapter 25:04*] (hereinafter called "the principal Act") is amended—

(a) by the **repeal** of the definitions "**fixed date**" and "**school education**";

(b) by the insertion of the following definitions—

""association" means an organised body of teachers established in terms of section *sixty-eight*;

"School Parents Assembly" means a School Parents Assembly established in terms of section *thirty-six*";

(c) by the repeal of the definitions of "nursery school" and "school" and the substitution of the following definitions—

""pre-school" means an institution which provides for early childhood education and care and the physical, mental and social development of children who are below school going age;

"school" means a pre-school, primary school or secondary school."

4 Amendment of section 3 of Cap 25:04

Section 3 of the principal Act is amended by the repeal of subsection (1) and the substitution of—

"(1) This Act shall apply to all government and non-government schools, and Correspondence and Independent Colleges."

5 New section substituted for section 21 of Cap 25:04

Section 21 of the principal Act is **repealed and the following is substituted—**

21 Fees and levies payable at non-Government schools

(1) Subject to this section, no responsible authority shall-

- (a) charge any fee or levy; or**
- (b) increase any fee or levy;**

in respect of any pupil attending a non-Government school, unless it makes prior application there of to the Secretary in writing, setting out the full details of the fee or levy or increase thereof, and the Secretary has approved the fee or levy or increase thereof, as the case may be.

~~**[Provided that this provision shall not apply to fees and levies existing on the day the provisions of this Amendment Act comes into effect.²]**~~

(2) The Secretary shall approve any increase of fees or levies if the increase is sought in respect of the next term of the non-Government school concerned and-

- (a) does not exceed the percentage increase in the cost of living from the beginning to the end of the preceding term as indicated bdy the Consumer Price Index published by the Central Statistics Office; and**
- (b) the fees or levies for day school students who are provided with meals at the school are not more than forty *per centum* of the fees or levies paid by boarding students; and**
- (c) the fees or levies for day school students who are not provided with meals at the school are not more than thirty *per centum* of the fees or levies paid by boarding students.³**

² **Clause 5.** The proviso to the new section 21(1) was inserted during the Committee Stage in the House of Assembly, on the motion of Prof. Ncube. It was deleted during the Committee Stage in the Senate, on the motion of the Minister of Education.

³ **Clause 5.** This subsection was substituted during the Committee Stage in the Senate, on the motion of the Minister; it replaced the following original wording in H.B. 6A, 2005--

"(2) The Secretary shall approve any increase of fees and levies if the increase is sought in respect of the next term of the non-Government school concerned and does not exceed the percentage increase in the cost of living from the beginning to the end of the preceding term as indicated by the Consumer Price Index published by the Central Statistics Office."

The new subsection is an expanded version of the old; the new elements are to be found in paragraphs (b) and (c); paragraph (a) merely repeats the effect of the wording replaced.

(3) No responsible authority of a non-Government school may seek to increase fees or levies in excess of the level specified under subsection (2) unless its proposal has been approved by a majority of the parents at a meeting of the School Parents Assembly attended by not less than twenty *per centum* of the parents.

(4) Where the responsible authority of a non-Government school proposes to increase fees or levies in excess of the level specified under subsection (2), it shall make prior application there of to the Secretary in writing, setting out the full details of the increase and the basis upon which it is calculated, together with proof that its proposal has been approved in accordance with subsection (3).

(5) The Secretary shall, without delay, consider any application made in terms of subsection (4) and, if he or she is satisfied that the proposed increase is fair and reasonable, having regard to-

- (a) the costs of operating and maintaining the school; and
- (b) any programme for improving the facilities provided at the school; and
- (c) any representations made by or on behalf of parents or pupils relating to the proposed increase; and
- (d) any other relevant economic factors justifying the proposed increase;

he or she may-

- (i) approve the increase; or
 - (ii) amend the figure representing the increase and fix a new figure which shall not be below the fee fixed in terms of subsection (2); or
 - (iii) reject the application for the increase.
- (6) If at any time the Secretary is satisfied that-
- (a) his or her approval of any fee or levy or increase therein was granted in terms of subsection (2) or (5) on the basis of false or incorrect information supplied by the responsible authority of the non-Government school concerned; or
 - (b) amounts received by a responsible authority by way of any fee or levy or increase therein approved in terms of subsection (2) or (5) have not been applied-
 - (i) to any purpose which was specified by the responsible authority in the application in terms of subsection (2) or (5) as the purpose to which the fee or levy or increase therein, as the case may be, would be applied; or
 - (ii) in the interests of pupils attending the non-Government school concerned;

or

- (c) the school has charged unauthorised fees or levies or both;

the Secretary may, by written notice to the responsible authority concerned, do any one or more of the following, as may appear to him or her to be appropriate-

- A. revoke his approval of the fee or levy or increase therein;
- B. fix the amount of any fee and additionally, or alternatively, any levy that may be charged by the responsible authority concerned;
- C. fix the purpose to which any fee or levy or increase therein may be applied by the responsible authority concerned;
- D. cause the excess amount to be refunded to parents or credited to the following term;

and the responsible authority concerned shall comply with any such notice.

(7) Any person who contravenes subsection (1), or who contravenes or fails to comply with any notice in terms of subsection (6), shall be guilty of an offence and liable to imprisonment for a period not exceeding ~~twelve~~ ^{six}⁴ months or a fine equivalent to the excess amount charged or to both such fine and such imprisonment."

6 New section substituted for section 22 of Cap 25:04

Section 22 of the principal Act is repealed and the following is substituted—

"22 Appeals in relation to fees

(1) Any responsible authority who is aggrieved by a decision of the Secretary in terms of section *twenty-one* may appeal against such decision to the Minister.

(2) The Minister, after due consideration of the appeal, may—

- (a) grant the appeal; or
- (b) refuse the appeal; or
- (c) fix the amount of any fee and **with reference to section 21(2)** additionally, or alternatively, any levy that may be charged by the responsible authority concerned;

(3) A responsible authority who is aggrieved by the decision of the Minister in terms of subsection (2) may appeal to the **Administrative Court**, which may confirm, vary or set aside the decision appealed against or give such other order as it considers just. "

7 New section substituted for section 36 of Cap 25:04

Section 36 of the principal Act is repealed and the following is substituted—

"36 **School Parents Assembly and School Development Committee**

(1) **The parents or guardians with children at any school shall constitute a School Parents Assembly.**

(2) **The responsible authority of any registered school shall cause the School Parents Assembly to establish a School Development Committee.**

⁴ **Clause 5.** Amendment moved by Minister. The effect is to reduce the maximum prison sentence for the offence.

(3) The composition, functions, duties, procedure and powers of the School Development Committee shall be as contained in the Constitution of the School Parents Assembly provided that where the School Parents Assembly has not made a Constitution satisfactory to the Minister, the composition, functions, duties, procedure and powers of the School Development Committee shall be as prescribed."

8 New section substituted for section 38 of Cap 25:04

Section 38 of the principal Act is repealed and the following is substituted—

"38 Fees and levies to be paid into the School Services Fund

(1) Subject to section 14, all fees and levies paid for educational facilities or for accommodation in connection therewith shall be paid into the School Services Fund established in terms of section 30 of the Audit and Exchequer Act [Chapter 22:03].

(2) The responsible authority of every non-Government school shall establish a School Services Fund into which all monies paid as fees or levies shall be deposited.

(3) The purposes of a School Services Fund for a non-Government school shall be specified in a constitution establishing the Fund or the school, and shall include-

- (a) payment of remuneration for the teaching and non-teaching staff employed by the school;**
- (b) maintenance and development of school facilities;**
- (c) purchase of equipment, books and any teaching material;**
- (d) payment of goods and services supplied in respect of the school.**

(4) All matters relating to the administration of a School Services Fund established for a non-Government school shall be specified in the constitution referred to in subsection (3).

(5) Any School Services Fund established in terms of this section shall be subject to audit by the Ministry of Education, Sport and Culture."

9 Repeal of sections 55, 56, 57 and 58 of Cap 25:04

Sections 55, 56, 57 and 58 of the principal Act are repealed.

10 New section substituted for section 59 of Cap 25:04

Section 59 of the principal Act repealed and the following is substituted—

"59 Minimum qualifications of teachers

(1) The Minister shall make regulations prescribing the minimum qualifications of all teachers to be employed in Government and non-Government schools;

Provided that, where a qualified teacher cannot be found after the school concerned has employed its best endeavours to do so, a relief or temporary teacher may be employed until such time as a qualified teacher can be found.

(2) Every responsible authority of a Government and non-Government school shall, not later than thirty days after employing any teacher, notify the Secretary of

the appointment and submit to the Secretary particulars of the teacher's qualifications.

(3) The Secretary shall, within a reasonable time after receiving the particulars referred to in subsection (2), make such inquiries as are necessary to ensure that-

- (a) the teacher's qualifications comply with the minimum qualifications that have been prescribed for that teacher's post under subsection (1); and
- (b) that the responsible authority has complied with the proviso to subsection (1) where a relief teacher has been employed.

(4) If the Secretary finds that any teacher referred to in subsection (2) is not qualified under this section to hold the post in question, the Secretary shall write to the responsible authority accordingly and the responsible authority shall if it has employed the teacher concerned, terminate the employment of that teacher."

11 New section substituted for section 60 of Cap 25:04

Section 60 of the principal Act is repealed and the following is substituted—

"60 Discipline of teachers who are not members of the Public Service

(1) The Minister shall make regulations governing the conduct and behaviour of all teachers who are not members of the Public Service

Provided that such regulations shall as nearly as possible be similar in their substantive provisions to the regulations governing the conduct and behaviour of teachers who are members of the Public Service.

(2) Regulations made in terms of subsection (1) may provide for a disciplinary code for teachers, procedures for examining complaints concerning breaches of such code and for the imposition of penalties and the taking of other disciplinary action in respect of such breaches.

(3) The penalties and other disciplinary actions that may be provided for in terms of regulations made in terms of subsection (1) may include monetary penalties and suspension or disqualification from teaching in schools.

(4) Regulations made in terms of subsection (1) shall, in the event of any conflict or inconsistency with—

- (a) regulations made in terms of the Labour Act [*Chapter 28:01*]; or
- (b) any contract of employment between the teacher and the school; or
- (c) any rules or code of conduct in force in the school concerned;

prevail over such regulations, contract, rules or code of conduct."

12 New section substituted for section 62 of Cap 25:04

Section 62 of the principal Act repealed and the following is substituted—

"62 Languages to be taught in schools

(1) Subject to this section, all the three main languages of Zimbabwe, namely, Shona, Ndebele and English shall be taught on an equal-time basis in all schools up to form two level.

(2) In areas where indigenous languages other than those mentioned in subsection (1) are spoken, the Minister may authorise the teaching of such languages in schools in addition to those specified in subsection (1).

(3) The Minister may authorise the teaching of foreign languages in schools.

(4) Prior to form one, any one of the languages referred to in subsection (1) and (2) may be used as the medium of instruction, depending upon which language is more commonly spoken and better understood by the pupils.

(3) Sign language shall be the priority medium of instruction for the deaf and hard of hearing."

13 New section substituted for section 68 of Cap 25:04

Section 68 of the principal Act repealed and the following is substituted—

"68 Recognition of associations of teachers

(1) The Minister may recognise such association or associations of teachers as he or she considers to be representative of teachers as a whole or of any significant group of teachers.

(2) Any association of teachers recognised by the Minister in terms of subsection (1) may advise and make representations to the Secretary and be consulted by the Minister on any matters pertaining to education in Zimbabwe to which this Act applies."

14 Amendment of section 69 of Cap 25:04

Section 69 of the principal Act is amended in subsection (2) by the insertion after paragraph (o) of the following paragraph—

"(p) the wearing of uniforms in schools;"

15 Minor amendments

The provisions of the principal Act specified in the first column of the Schedule are amended to the extent specified opposite thereto in the second column of the Schedule.

SCHEDULE

<i>Provision</i>	<i>Extent of amendment</i>
Section 8	By the insertion after "primary" wherever it occurs of "and secondary".
Section 10	By the deletion of "Government".
Section 21(5)(b)(ii)	By the insertion of "or" after "concerned".
Section 34	By the deletion of the word "Regional" wherever it occurs and the substitution of "Provincial".

- Section 35(1)(a) By the insertion of the word "eligible" after the word "every".
- Section 35(4) By the repeal of the proviso thereto.
- Section 67 By the deletion of "one thousand dollars" and the substitution of "level fourteen".
- Section 69(3)♣ By the deletion of "one thousand dollars" and the substitution of "level fourteen".
- Section 70 By the repeal of paragraph (e).