

AMENDMENTS TO THE BASIC EDUCATION BILL [BILL NO. 4 OF 2018]

THAT:

1. In clause - 1

- (a) substitute the following definition for the definition of “basic education”:

““basic education” means the formal education which is provided from the level of pre-primary to the last grade of secondary education, and includes -

- (a) adult and continuing education;
- (b) special education; and
- (c) education of any other nature which the Minister under subsection (2) declares to be basic education;”;

- (b) substitute the following definition for the definition of “care-giver”:

““care-giver” means any person other than a parent or guardian, who takes primary responsibility for the day-to-day care of a child and includes -

- (a) a foster parent;
- (b) a kinship care-giver, including a child who is the head of a child-headed household;
- (c) a primary caretaker;
- (d) a person who cares for a child while the child is in a place of safety;
and
- (e) a person who is the head of a facility where a child has been placed;”;

- (c) substitute the following definition for the definition of “home schooling”:

““home schooling” means educational instruction in which parents and care-givers or other privately appointed tutors or service providers teach a learner in a legally approved academic curriculum at home instead of at a public or private school;”;

- (d) insert the following definition after the definition of “resource school”:

““satellite school” in relation to a registered private school, is a branch of the registered private school that is physically at a distance from the original school area either in the same region or a different region, under the same registration and at times under the same name;”;

- (e) substitute the following definition for the definition of “the Act”:

““this Act”, includes the regulations made under section 125.”.

2. **In the Bill**, substitute clause 3 with the following clause:

“3. In determining any policy or making any decision relating to basic education or implementing any provision of this Act, a person must observe the right of a child to education and give due regard to the following principles -

- (a) the best interests of a child;
- (b) the protection and promotion of the well-being of all children;
- (c) the rights of children as contained in the Namibian Constitution;
- (d) the obligations of Namibia concerning the well-being, development and protection of children in terms of the United Nations Convention on the Rights of the Child, the African Charter on the Rights and Welfare of the Child and other international agreements binding on Namibia;
- (e) the education that is inclusive, learner-centred, focusing on the needs of the learner who are encouraged to express his or her own view or opinion on a matter which concerns or affects him or her;
- (f) the school environment that is safe and conducive to teaching and learning;
- (g) the preference that is given to the mother tongue of the learner as medium of learning and instruction at school in accordance with section 15;
- (h) the prevention of any form of discrimination or any form of child abuse;
- (i) the decentralisation of management and administration of education to regions, local communities and schools;

- (j) the recognition of the needs of a child for development and to engage in play and other recreational activities appropriate to the age of a child;
- (k) the provision of reasonable access to universal quality education to all children in Namibia; and
- (l) the prioritisation of continuous teachers professional development.”.

3. In clause 12, substitute paragraph (g) of subclause (2) with the following paragraph:

“(g) learners with disabilities, special needs in education and those from disadvantaged socio-economic backgrounds, vulnerable families and orphans are provided with, at least, one nutritious meal per day through the school feeding programme.”.

4. **In clause 13**, substitute the following subclause for subclause (4):

- “(4) The Minister must ensure that any person who impregnates a learner -
- (a) where such a learner is under the age of 16, is reported to the relevant authorities in accordance with the relevant laws; and
 - (b) in the case of a staff member, is, in addition to paragraph (a), charged in accordance with the Public Service Act or any other law.”.

5. In clause 23 -

- (a) substitute paragraph (a) of subclause (4) for the following paragraph:

“(a) before the learner is charged with misconduct under subsection (1) pending investigation; or”;

- (b) substitute the following subclause for subclause (6):

“(6) A learner may be suspended if -

- (a) the behaviour of such learner is of such a nature that it is putting the lives of learners, teachers and other staff members at risk, or poses a threat to their safety;
- (b) the possibility exists that the learner may interfere or tamper with witnesses or evidence;
- (c) poses a threat to the safety of property of the school or hostel; or
- (d) is detrimental or possibly detrimental to the good order and discipline of the school or hostel and the progress of other learners.”;

- (c) substitute the following subclause for subclause (9):

“(9) The disciplinary hearing on a charge of misconduct in terms of subsection (1) is led by a pro forma complainant appointed as prescribed, and is held before the school board, within 20 days from the date the learner was charged, which may, upon a finding that the learner is guilty of misconduct -”.

6. **In clause 26**, substitute the following subclause for subclause (4):

“(4) A learner or staff member at a State school or hostel may attend religious observance but it may not interfere with the normal school programme or any period as may be prescribed.”.

7. **In clause 35**, substitute the following subclause for subclause (14):

“(14) The Minister, with the consent of the Minister responsible for health,
must -”.

8. In clause 37 -

- (a) substitute the phrase “Permanent Secretary” for the phrase “regional director” in subclause (1);
- (b) substitute the following subclause for subclause (2):

“(2) A person who seeks to obtain approval to conduct the activities mentioned in subsection (1) at a school must, in the prescribed manner and form, submit a request for such approval through the principal to the regional director or directly to the regional director.”;

- (c) add the following subclause after subclause (3):

“(4) A person who is aggrieved by the decision of the regional director in subsection (1) may appeal against such decision to the Permanent Secretary and the decision of the Permanent Secretary is final.”.

9. In clause 69, substitute the following subclause for subclause (2):

- “(2) A school development fund consists of -
- (a) money appropriated by Parliament for the benefit of the school development fund;
 - (b) money raised by or on the authority of the school board in accordance with section 70;
 - (c) voluntary contributions made to the State school by any person and such contributions may include fund-raising campaigns or official school related activities approved by the principal and the school board;
 - (d) money received from donations, bequests or any other source, provided that the school or school board may not actively engage in soliciting any donations or bequests; and
 - (e) money derived from any other lawful source including interest on any investment made by the State school under subsection (4).”.

10. In **clause 91**, substitute the following subclause for subclause (2):

“(2) The monitoring and evaluation of a private school, apart from compliance with this Act, are directed on matters as determined by the terms and conditions of registration of the school.”.

11. In clause 124 -

- (a) substitute the following subclause for subclause (1):

“(1) The Minister may -

- (a) by notice in the *Gazette*, delegate any power conferred upon the Minister by or under this Act, excluding the power to make regulations and to determine any appeal under this Act, to -

(i) the Permanent Secretary;

(ii) any staff member in the Ministry; or

- (b) in writing assign any function imposed upon the Minister by this Act to the Permanent Secretary or any staff member in the Ministry.”;

- (b) substitute paragraph (b) of subclause (2) for the following paragraph:

“(b) in writing assign any duty or function imposed upon the Permanent Secretary by or under this Act to a regional director or to any staff member in the Ministry.”.

12. In clause 125, delete paragraph ^S(i) and renumber the rest of the paragraphs.