



# Government Gazette

**REPUBLIC OF SOUTH AFRICA**

Vol. 458   Pretoria   11   August   2003   **No. 25342**



**AIDS HELPLINE: 0800-0123-22 Prevention is the cure**

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**GOVERNMENT NOTICE**

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**DEPARTMENT OF EDUCATION****No. 1173****11 August 2003****CALL FOR COMMENT ON THE DRAFT  
REGULATIONS FOR SAFETY MEASURES AT INDEPENDENT SCHOOLS**

The Minister of Education, after consultation with the Council of Education Ministers, hereby publishes the draft regulations relating to safety measures at independent schools for comment in terms of section 61(a) of the South African Schools Act, 1996 (Act No. 84 of 1996), as set out in the Schedule.

Comments from interested parties are invited, and should reach the Department not later than 8 September 2003

Comments should be directed to the Director-General, Private Bag X895, Pretoria, 0001, for attention: Ms M Locke. Comments may also be faxed to (012) 326-9128 or sent by E-mail to [Locke.M@doe.gov.za](mailto:Locke.M@doe.gov.za).

The name, address, telephone number and fax number of the person, governing body or organisation responsible for submitting comments must also be provided.

**PROFESSOR KADER ASMAL, MP  
MINISTER OF EDUCATION**

**SCHEDULE****Definitions**

1. In these Regulations any word or expression to which a meaning has been assigned in the Act, must have that meaning and, unless the context indicates otherwise-

“dangerous object” means-

- (a) any explosive material or device;
- (b) any firearm or gas weapon;
- (c) any article, object or instrument which may be employed to cause bodily harm to a person, or to render a person temporarily paralysed or unconscious, or to cause damage to property; or
- (d) any object which the Minister may by notice in the Gazette declare to be a dangerous object for the purposes of these regulations;

unless such objects are used for education purposes;

“HOD” means the Head of Education Department in a province.

“illegal drug” means any unlawful intoxicating or stupefying substance;

“independent school premises” includes a building, structure, hall, room, office, convenience, land, enclosure, which is under the control of an independent school, to which a member of the public has a right of access, or is usually admitted, or to which he or she may be admitted;

“owner” means a person in whose name an independent school is registered in terms of section 46 of the South African Schools Act, 1996 (Act No. 84 of 1996).

### **Scope of applicability**

2. These regulations apply to all independent schools.

### **Application of other laws**

3. Notwithstanding the provisions of these Regulations, an independent school is not exempted from complying with the provisions of any other applicable law and these Regulations are intended to supplement such applicable laws.

**Violence and drug free independent schools**

4. (1) All independent schools are hereby declared drug free and dangerous object free zones.
- (2) No person may -
- (a) allow any dangerous object in the independent school premises;
  - (b) carry any dangerous object in the independent school premises;
  - (c) store any dangerous object in the independent school premises except in officially designated places identified by the principal;
  - (d) possess illegal drugs on independent school premises;
  - (e) enter independent school premises while under the influence of an illegal drug or alcohol;
  - (f) cause any form of violence or disturbances which can negatively impact on any independent school activities;
  - (g) wittingly condone, connive, hide, abet, encourage possession of dangerous objects or refuse, fail, neglect to report the sighting or presence of any dangerous objects to the principal, HOD or the police as soon as possible;
  - (h) directly or indirectly cause harm to anyone, who exposes another person who makes an attempt to frustrate the prevention of the dangerous objects and activities.
- (3) A police official or in his absence, the principal or delegate may, without warrant-
- (a) search any independent school premises if he or she has a reasonable suspicion that a dangerous object or illegal drugs may be present in the independent school premises in contravention of the regulations;
  - (b) search any person present on the independent school premises if he or she has a reasonable suspicion that such a person has in his or her possession a dangerous object or illegal drugs; and
  - (c) seize any dangerous object or illegal drugs present on independent school premises or on the person in contravention of these regulations.

**Access to independent school premises**

5. (1) Subject to the Constitution, laws and national and provincial policies, the owner, principal or HOD of any independent school may and for such timeframes as may be necessary-
- (a) take such steps as he or she may consider necessary for the safeguarding of the independent school premises, as well as for the protection of the people therein; and
  - (b) direct that the school may only be entered in accordance with the provisions of subregulation (2).
- (2) No person may, without the permission of the owner, principal or HOD, enter into any independent school premises in respect of which a direction has been issued under subregulation (1)(a), and for the purpose of the granting of that permission the owner, principal or HOD may require of the person concerned to-
- (a) furnish his or her name, address and any other relevant information required by the owner, principal or HOD;
  - (b) produce proof of his or her identity to the satisfaction of the owner, principal or HOD if necessary;
  - (c) declare whether he or she has any dangerous object or illegal drugs in his or her possession or custody or under his or her control;
  - (d) declare what the contents are of any vehicle, suitcase, attaché case, bag, handbag, folder, envelope, parcel or container of any nature which he or she has in his or her possession or custody or under his or her control, and show those contents to him or her;
  - (e) subject himself or herself and anything which he or she has in his or her possession or custody or under his or her control to a search by a person of the same gender, an examination by an electronic device, sniffer dogs or other apparatus in order to determine the presence of any dangerous object or illegal drug; and

- (f) hand to the owner, principal or HOD anything which he or she has in his or her possession or custody or under his or her control for examination or custody until he or she leaves the premises.
- (3) Without derogation of the provisions of the Trespass Act, 1959 (Act No. 6 of 1959), the owner, principal or HOD may at any time remove any person from any independent school premises if-
- (i) that person enters the independent school premises concerned without the permission contemplated in subregulation (2);
  - (ii) that person refuses or fails to observe any steps contemplated in subregulation (1)(a); and
  - (iii) the owner, principal or HOD considers it necessary for the safeguarding of the independent school premises concerned or for the protection of the people thereon.
- (4) If it is not practicable to examine or keep in custody, on or in the independent school premises concerned, anything which may be examined, or kept in custody under subregulation (2), it may be removed to a suitable place for that purpose.

#### **Exemption of certain persons**

6. The provisions of regulation 5 do not apply in respect of any member of a police service established by or under any law, a member of the South African Defence Force, the Minister of Education, the Member of the Executive Council responsible for education in a province or an official of the Department or provincial departments of Education who is required in the performance of his or her functions to enter into any independent school premises and who produces proof of his or her identity to the satisfaction of the owner, principal or HOD concerned.

**Visits to independent schools by public and political office bearers**

7. (1) Members of the public and political office bearers, public representatives and the media have a right to visit independent schools in the interests of public accountability, but this right must be regulated to ensure that schools are not disrupted by such visits, and to avoid the politicisation of such visits. This right is subjected to reasonable controls to ensure the proper functioning of education.
- (2) If such visits are desired, the person intending to visit must request and obtain written permission from the owner, principal or HOD prior to the visit. The request must be made at least thirty days before the intended visit, unless there are sound reasons for a shorter notification period. This request must clearly indicate the date, time and purpose of the visit, the names of all participants, and the aspects which are intended to be looked at. The owner or principal of the independent school must not refuse reasonable access to a person who has such written permission.
- (3) In cases where the written permission is granted by the HOD, the HOD, before granting such permission must consult the owner or principal of the independent school to be visited, to determine whether it is feasible for them to receive such a visit, and whether or not the school programme is likely to be seriously affected thereby.
- (4) Wherever possible a Departmental office-based representative should accompany such visitors.

**Visits to independent schools by parents**

8. (1) Parents have the right to visit the independent school where their children have been admitted, but such visits may not disrupt any of the school activities.

- (2) Parents are required to make an appointment with the principal of the school for a personal appointment with him or her prior to the visit and must state the reason for the visit and the persons who may be involved during the visit.

### General

9. (1) All independent schools must display clear signs at the entrance that any person who enters the school may be subjected to a search.
- (2) Any person who contravenes these regulations may be removed from the independent school premises.
- (3) Independent schools must cooperate with police stations to ensure that visible policing is present during all sporting and cultural events at the school.
- (4) Independent schools must encourage governing board members and parents to participate in community policing forums.
- (5) Independent schools must develop action plans to counter threats of violence which have the potential to have a negative impact on school activities and to implement regulation 4(1).
- (6) The plans in subregulation (5) must ensure the safety of all learners, staff members and parents during school activities.
- (7) Independent schools must engage in advocacy campaigns to communicate to the public the status of the schools concerning the regulations and the right to protection against violence.
- (8) The HOD must provide guidelines to assist the independent schools in developing the action plans contemplated in subregulations (5) to (7).



- (9) The HOD must be provided with action plans contemplated in subregulations (5) to (7) within 6 months after the commencement of the Regulations.

**Short title**

10. These regulations are called the *Regulations for Safety Measures at Independent Schools*.
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