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Act No. 2 of 2006

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Commencement:

Friday 12th May, 2006.

ACT

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, 2006.

2 Amendment of the long title 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 of "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 68;

"School Parents Assembly" means a School Parents Assembly established in terms of section 36";

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Section 21 of the principal Act is repealed and the following is substituted—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

(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 the fees and levies-

- (a) do 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; and
- (b) for day school students who are provided with meals are not more than forty *per centum* of the fees or levies paid by boarding students; and
- (c) 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) 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 therefor 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 thereof was granted in terms of subsection (2) or subsection (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 thereof 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 thereof, 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 or her 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 thereof 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 this section or fails to comply with any notice in terms of subsection (6) shall be guilty of an offence and liable to a fine equivalent to the excess amount charged or imprisonment for a period not exceeding six months or to both such fine and such imprisonment."

6 New section substituted for section 22 of Cap 25:04**"22 Appeals in relation to fees**

(1) Any responsible authority who is aggrieved by a decision of the Secretary in terms of section 21 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 or levy with reference to section 21(2) 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) 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.

(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 provided by the Government 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 Secretary."

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 is 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 find one, 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, he or she 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.

(5) 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 is 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 (n) of the following paragraph—

"(n1) 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).