

(15 November 2002 – to date)

## **EMPLOYMENT OF EDUCATORS ACT 76 OF 1998**

*Government Notice 1245 in Government Gazette 19320, dated 2 October 1998. Commencement date: 2 October 1998.*

### **REGULATIONS FOR THE CREATION OF EDUCATOR POSTS IN A PROVINCIAL DEPARTMENT OF EDUCATION AND THE DISTRIBUTION OF SUCH POSTS TO THE EDUCATIONAL INSTITUTIONS OF SUCH A DEPARTMENT**

*Government Notice R1676 in Government Gazette 19627, dated 18 December 1998. Commencement date: 18 December 1998.*

**as amended by:**

*Government Notice 1451 in Government Gazette 24077, dated 15 November 2002. Commencement date: 15 December 2002.*

I, Sibusiso Mandlenkosi Emmanuel Bengu, Minister of Education-

- (a) in terms of section 35 of the Employment of Educators Act, 1998 (Act No. 76 of 1998), hereby withdraw regulations No. R. 593 and No. R. 594, published in Regulation Gazette No. 6159 on 17 April 1998;
- (b) in terms of section 5(1), read with section 35, of the Employment of Educators Act, 1998, make regulation 1 as set out in the Schedule; and
- (c) in terms of section 5(2), read with section 35, of the Employment of Educators Act, 1998, make regulation 2 as set out in the Schedule.

**S. M. E. BENGU**

**Minister of Education**

### **SCHEDULE**

#### **1. DETERMINATION OF EDUCATOR POST ESTABLISHMENT OF PROVINCIAL DEPARTMENT OF EDUCATION BY MEMBER OF EXECUTIVE COUNCIL CONCERNED**

- (a) In this regulation, unless the context indicates otherwise, a word or expression has the same meaning as in the Employment of Educators Act, 1998 (Act No. 76 of 1998), hereinafter called the Act.

Prepared by:

- (b) The Member of the Executive Council responsible for education in a province must determine the educator post establishment of the provincial department of education in terms of section 5(1)(b) of the Act, in accordance with any applicable policy made in terms of the National Education Policy Act, 1996.
- (c) In determining the post establishment of a provincial department of education, the Member of the Executive Council must-
  - (i) consult with the trade unions in that province which are members of the Education Labour Relations Council (hereinafter called the ELRC) and governing body organisations which are active in that province; and
  - (ii) take into account the -
    - (aa) the budget of the provincial department of education;
    - (bb) the effect that the post establishment will have on the employment security of educators;
    - (cc) the need for redress in the implementation and promotion of curriculum policy in keeping with the basic values and principles set out in section 195 of the Constitution;
    - (dd) the fact that the division between expenditure on personnel and non-personnel costs in the budget should be educationally and financially justifiable and in accordance with national policy that may exist in this regard; and
    - (ee) the fact that the division between expenditure on educator and non-educator personnel costs in the budget should be educationally, administratively and financially justifiable and in accordance with national policy that may exist in this regard.
- (d) In determining the educator post establishment of the provincial department of education, the Member of the Executive Council must take into account the terms and conditions of employment of educators that may be affected by the post establishment, including provisions for leave, substitution and remuneration-related issues and may not vary any of these terms and conditions of employment.

## **2. Determination of the educator post establishments of schools by a Head of a Provincial Department of Education**

Prepared by:

- (a) In this regulation, unless the context indicates otherwise, a word or expression has the same meaning as in the Act.
- (b) The head of a provincial department of education must, in terms of section 5(2) of the Act, determine the educator post establishment of each public school in the province in question -
  - (i) by applying the post provisioning model set out in Annexure 1; and
  - (ii) by taking into account:
    - (aa) the post establishment of the provincial department of education as contemplated in regulation 1; and
    - (bb) the need for redress in the implementation and promotion of curriculum policy. The head of a provincial department of education must determine an annual programme in this regard after consultation with trade union parties to the ELRC and the governing body organisations that are active in that province.

*(Regulation 2 substituted by GN 1451 of 2002)*

## **ANNEXURE1**

### **POST DISTRIBUTION MODEL FOR THE ALLOCATION OF EDUCATOR POSTS TO SCHOOLS**

#### **PRINCIPLES ON WHICH THE MODEL IS BASED**

1. The model is based on the principle that available posts are distributed among schools, proportionally to their number of weighted learners.
2. The concept of "weighted learner", instead of actual learner, is used to enable schools to compete on an equal footing for posts. As some learners and some learning areas require more favourable post allocations than others, each learner is given a certain weighting that reflects its relative need in respect of post provisioning. Other factors like the size of the school, the need to redistribute resources and the need to ensure equal access to the curriculum may require that additional weighted learners be allocated to some schools. A weighted learner enrollment for each school is determined, which, in relation to the total learner enrollment of the province, reflects its relative claim to the total pool of available posts in the province.

#### **FACTORS THAT ARE BEING TAKEN INTO ACCOUNT IN DETERMINING THE POST PROVISIONING NEEDS OF SCHOOLS AND LEARNERS**

3. Educational and administrative factors that impact differently on the post provisioning needs of learners and of schools for which specific provision is made in the model are the following:

Prepared by:

- The maximum ideal class size applicable to a specific learning area or phase. This ideal maximum value also takes into account complicating factors that may apply, such as additional contact time required between educator and learner and the requirement to attend to learners in more than one place at the same time. Although the situation in South Africa is such that ideal maximum class sizes cannot be complied with, these ideal values form a basis of comparison between the requirements of all the learning areas and grades.
- Period load of educators. It is common practice that educators in the secondary school phases have a lower period load than educators in the primary school phases. This is mainly as a result of more complex time tables and subject combinations. A lower period load implies a more favourable overall learner-educator ratio. The norms used in this regard are based on average prevailing practices and do not represent workload policy.
- Need to promote a learning area. By providing a more favourable learner-educator ratio in respect of a learning area in grades 10 to 12, schools can be motivated to promote such a learning area. This may only be done in terms of national or provincial policy in this regard.
- The size of the school. The smaller a school, the more difficult it is to manage with a certain learner-educator ratio and the more favourable it should be. This matter is addressed by adding a certain constant number of weighted learners to each school. The constant additional number of weighted learners could be seen as providing for a school's principal post, or for part of it, independently from the number of learners. It could also be seen as providing for posts to deal with certain basic responsibilities that each school has, irrespective of its size.
- The number of grades. Especially in respect of smaller schools, it is more complex to manage a school with a relatively large number of grades than a similar sized school with only a few grades. This matter is addressed by linking the additional number of weighted learners, referred to under the previous point, to the number of grades. A further increase in the number of weighted learners of a combined school is required to compensate for the management complexity of such a school.
- More than one language medium of instruction. In order to deal with this complicating factor, the number of weighted learners that is granted per grade in terms of the previous point, is increased if more than one language medium of instruction is used in the particular grade. A head of department may set a certain minimum number or percentage of the learners in a grade that must receive tuition in a second language before recognition is given in this way.
- Disabilities of learners. These learners require additional support from various categories of personnel. Norms in this regard still need to be determined. For the year 2003 a field-testing project will be conducted that will be aimed at determining norms with regard to the staffing of special and full-service schools and also incorporating schools with special/remedial/aid and/or

pre-vocational classes, as well as district support teams. This project will be conducted in a number of districts where the allocation of posts will take place in accordance with the objectives of the field-testing project. In the other districts the status quo will remain for the time being. In order to manage the transformation and field-testing processes, all posts currently allocated to LSEN schools are to be top-sliced from the pool of posts to be distributed by means of the post distribution model. Schools in districts where the field-testing will not take place will retain their current establishments unless circumstances require otherwise. The top-sliced posts currently allocated to LSEN schools, as well as to other institutions or offices in the districts where the field-testing will take place will be allocated on the basis of criteria and outcomes of the field-testing process.

- Access to the Curriculum. In order to ensure affordable and fair access of learners to the curriculum, the numbers of learners that are fully funded in respect of subjects that are more expensive to offer need to be regulated. (Certain subjects are more expensive than others because they require smaller classes` and/or special equipment and facilities.) A head of department, therefore, may identify specific schools at which the offering of such subjects should take place as well as the maximum number of learners at such schools that should take the subjects concerned. This means that a maximum number (or percentage) of learners may be set in respect of a particular subject at a particular school. Should a school exceed such a limit, the excess learners will be funded in terms of the norms applicable to the least expensive-subject. It is possible that the maximum number of learners that will be counted as taking a particular subject at a particular school may be specified as zero even though such a subject was considered for post provisioning purposes in the past. This would mean that all such learners taking such a subject would be counted as if they are taking the least expensive subject for purposes of post provisioning.

In order to assist a school to introduce such a subject, a certain minimum number of learners may be counted for post provisioning purposes during a phasing in period, even though the actual number of learners taking the subject is lower than this number. The implementation of these measures must be in accordance with a department's policy on redress in the implementation and promotion of the curriculum.

- Poverty. In order to compensate for the negative impact that poverty has on learning, the poverty grading of a school is also taken into account.
- Level of funding. Policy may require that different phases be funded at different levels. Currently, all grades are set at a 100% funding level while Grade R is set at a funding level of 0%. This is merely a tool that could be used if and when required.
- Ad Hoc factors. Certain factors that are not considered above, such as an unexpected growth in learner numbers, may exist at a particular school and may justify the allocation of additional

posts to such a school. These posts must be allocated from an additional pool of posts that need to be created for this purpose.

## WEIGHTING NORMS

4. The following norms and principles will apply in respect of all learners:

(a) Grades 1 to 9:

Based on the principle that uniform curricula apply to learners in schools in all phases up to grade 9, the following formula is used to determine the weighting of a learner:

$c$  divided by the ideal maximum class size, divided by the average prevailing period load, multiplied by the funding level.

$$(w = c/m/l \times f)$$

The value of  $c$  is set at 40 and refers to the highest ideal maximum class - size in relation to which others are expressed.

Grade	Max Class Size	Period load (%)	Funding level	Weight
	(m)	(l)	(f)	(w)
R	35	100	0	0
1 to 4	35	98	100	1,166
5 to 6	40	98	100	1,02
7	37	98	100	1,103
8 to 9	37	88	100	1,229

(b) Grades 10 to 12:

- In view of the variety of learning areas, each learner is weighted separately in terms of his or her curriculum.
- Within the limits of the maximum number of learners recognized for post provisioning purposes, a weighting (subject-learner weighting (slw)) is determined for each subject taken by a learner by means of the following formula:

$c$  (where  $c = 40$ ) divided by the ideal maximum class size, multiplied by the promotion factor; divided by the average period load, multiplied by the funding level, divided by 7. The following norms apply:

$$(slw = c/m \times p/l \times f/7)$$

Subject	Ideal maximum class size	Promotion factor	Period load (%)	Funding level (%)
	(m)	(p)	(l)	(f)
All agricultural subjects with a practical component (Farm Mechanics, Animal Husbandry, Field Husbandry, etc.)	16	1	84	100
All Technical subjects excluding Technical Drawing	16	1	84	100
Technical Drawing	27	1	84	100
Woodwork, Metalwork, Industrial Arts, etc.	25	1	84	100
Home Economics, Needlework and clothing	25	1	84	100
Hotel-keeping and Catering	19	1	84	100
Art (Including Design, Painting, Sculpture, etc.)	12	1	84	100
Dance (Ballet, etc.)	12	1	84	100
Music (First Instrument)	6	1	84	100
Music Performance (Second Instrument)	6	1	84	100
Speech and Drama	12	1	84	100
Biology	32	1	84	100
Physical Science	32	1	84	100
Mathematics	38	1	84	100
Computer Studies	28	1	84	100
Typing (Including Computyping)	28	1	84	100
Shorthand/Snelskrif	28	1	84	100
All other examinable subjects	38	1	84	100
Provision for non-examinable subjects	38	1	84	100

Note: The values that appear in the table as promotion factors are all set as 1. This means that no provision is made in the table for the promotion of any of these subjects. Should provision be made in policy that a certain subject should be promoted by, say 7%, the value of "1" would become "1,07". The promotion factor per subject should be included in the provincial curriculum policy and would apply equally to all learners counted in the subject.

- A total number of weighted learners is determined in respect of each examinable subject by multiplying the number of learners taking the subject (subject-learners) with the

relevant subject-learner weighting (slw). If a subject has a limit in respect of the number or percentage of learners that may take such a subject, all learners exceeding this limit will be subtracted from this number of subject-learners and added to the total number of subject-learners in respect of "all other examinable subjects". If the actual number of learners taking a subject is lower than what is provided as a minimum in order to assist the school to phase in the particular subject, the provided minimum will be counted in respect of the subject concerned. The difference between the provided minimum and the actual number must be subtracted from the number of learners in respect of "all other examinable subjects". A total number of weighted learners for all the examinable subjects is then determined.

- Each learner is allowed to take 6 examinable subjects. If the total value that is obtained by multiplying the number of learners in a particular grade by the number of subjects taken by these learners exceeds 6 times the number of learners, the total weighted learners will be adjusted accordingly.
  - Provision is also made for a combination of non-examinable subjects, which, together, are given the same weighting as one "ordinary" examinable subject. A total number of non-examinable subject-learners is determined by multiplying the actual number of learners with the non-examinable slw. This is done automatically, irrespective of whether or not learners at a particular school take non-examinable subjects.
  - A total number of weighted learners is then determined by adding the total numbers of examinable and non-examinable weighted learners together.
- (c) A further distinction between schools is made based on the size of the school, the number of grades and whether or not more than one language medium of instruction is used. Provision for this is made by adding a certain number of weighted learners to a school's weighted enrollment linked to each recognized language group (maximum of 2 language groups) and each grade provided for at the school. The following values apply:
- A base number of weighted learners must be added to each school. Any value from 10 to 20, in accordance with a department's needs in this regard, will apply. A head of a provincial department must select a value that will ensure a proper balance in the allocation of posts to institutions of different sizes.
  - Additional weighted learners must be added in respect of each grade in which learners are enrolled. If learners in a particular grade are taught in more than one language medium, a further additional weighting will apply in respect of that grade. (A minimum number (or percentage) of learners in a particular grade receiving tuition in a second language may be specified before the additional provision applies. This additional



weighting only applies once, irrespective of the number of additional languages that may apply):

Grades	1	2	3	4	5	6	7	8	9	10	11	12
Primary language group	2	2	2	2	2	2	2	3	3	3	3	3
Second language group	4	4	4	4	4	4	4	6	6	6	6	6

Any of the values in the table may be increased by a maximum of 2, provided that the head of a provincial department is satisfied that such an increase would lead to a more equitable allocation of posts.

- (d) In respect of a combined school, the base number of 10 to 20 weighted learners that is granted to a school in terms of paragraph (c), is granted in respect of both the primary school phase and the secondary school phase that the school has. For this purpose the secondary school phase must include learners in any of grades 10 to 12.

5.

- (a) The total number of weighted learners in each school is then adjusted in terms of its poverty ranking. The head of a provincial department must set aside a certain percentage of its available posts for poverty redress based on the department's relative level of internal inequality. The Minister may from time to time set the maximum percentage that provincial departments may use for this purpose. Until this limit is revised, it is set at 5%.
- (b) The redress posts are to be distributed to schools based on the relative poverty of the learners of a school, using an appropriate index within the framework of the indices utilized by the province in the National Norms and Standards for School Funding. The basis on which the redress posts are to be distributed among schools is as follows:

School quintiles	Allocation from redress pool of posts
Poorest 20%	35% of posts
Next 20%	25% of posts
Next 20%	20% of posts
Next 20%	15% of posts
Least poor 20%	5% of posts

## DISTRIBUTION FORMULA

6. After the total number of weighted learners for each school has been determined, the number of posts to be allocated to a school is determined by means of the following formula:

Posts = Total number of posts available, multiplied by weighted learners of school, divided by total weighted learners of all schools.

### **PHASING IN OF THE MODEL**

7. The total effect that the implementation of the model has on the post allocations to individual schools should be phased in over a reasonable period. In phasing in the effects of the model, heads of departments should take into account all relevant factors that apply. These factors include the importance of maintaining stability in schools, the employment interests of educators and the need to provide classrooms, equipment and other facilities that schools require in terms of their curricula and their numbers of learners and posts.

### **COMMUNICATION OF NEW POST ESTABLISHMENTS WITH SCHOOLS**

8. Where a school's establishment is likely to change in any school year, the adjusted post establishment should, as far as possible, be communicated to the school on or before 30 September preceding the school year.

### **ROLE OF THE NATIONAL DEPARTMENT OF EDUCATION (DOE)**

9. Provincial departments are required to adhere to the intent and spirit of these norms. Where a province deviates from any of these norms it needs to justify such deviation to the DOE. The DOE may require information from time to time from provinces in order to ensure that these norms are being implemented. Provinces are thus required to comply with these requests.

### **TRANSITIONAL ARRANGEMENT**

10. For the 2003 school year, departments must communicate final or interim staff establishments of schools on or before 1 January 2003.

*(Annexure 1 substituted by GN 1451 of 2002)*