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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.

Clause 5

This clause seeks to amend section 21 of the principal Act in several respects. Firstly it replaces subsection (1) by making it specific that the Minister will prescribe fees and levies or the increase thereof charged by non-government schools in a Statutory Instrument. Secondly it replaces subsections (3) and (4) with one subsection which gives the Secretary power to fix the fees or levies to be charged by a responsible authority after considering an application made in terms of subsection (2). Thirdly, it amends subsection (5) by adding four more penalties that can be meted out on a school that fails to comply with subsection (1). Fourthly, it replaces subsection (6) in order to increase the fine for contravening subsection (1) to an amount equivalent to the excess amount charged.

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 establishment a School Parents Assembly for each school. The School Parents Assembly will in turn

elect a School Development Committee which will be vested with the control and management of the financial affairs of the school.

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 provided by the Government into the School Services Fund established in terms of the Audit and Exchequer Act [*Chapter 22:03*].

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 non-government schools. The provision also gives the Secretary power to vet the qualifications of all teachers to be employed by non-government 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 62 of the principal Act. The new provision proposes the teaching of all the three main languages of Zimbabwe namely English, Shona and Ndebele and such other local language in all schools on an equal-time basis. Prior to form one, either of these languages may be used as the medium of instruction depending on which language is better understood by the pupils. There is also 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.

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 and associations of teachers.

Clause 15 and Schedule

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

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 Preamble 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 deletion of the following definitions—

""fixed date";

"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", "responsible authority" 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;

"responsible authority" in relation to a school means the person, body, organisation responsible for the establishment or management of the school and includes any person delegated by such person, body or authority to be the responsible authority;

"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 Amendment of section 21 of Cap 25:04

Section 21 of the principal Act is amended—

(a) by the repeal of subsection (1) and the substitution of—

"(1) The Minister shall, by statutory instrument, prescribe the amount or percentage of the fees and levies to be charged by non-government schools in a given school year and no responsible authority shall—

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

by more than the amount or percentage so prescribed in respect of any pupil attending a non-government school, unless the fee or levy or increase therein, as the case may be, has been approved by the Secretary.";

(b) by the repeal of subsections (3) and (4) and the substitution of—

"(3) The Secretary shall, without delay, consider any application made in terms of subsection (2) and, after 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 fee or levy or increase therein; and
- (d) any other relevant economic factors justifying the proposed fee or levy or increase therein;

he shall—

- (i) grant the application; or
- (ii) refuse the application; or
- (iii) fix the amount of any fee and additionally, or alternatively, any levy that may be charged by the responsible authority concerned.";

(c) in subsection (5)—

- (i) by the insertion after paragraph (b) of the following paragraph—

- "(c) a non-government school has contravened subsection (1).";
- (ii) by the insertion after subparagraph (iii) of the following subparagraphs—
 - "(iv) dissolve the School Development Committee;
 - (v) place the school under the direct management of the Ministry for a specified period;
 - (vi) cause the excess amount collected to be forfeited to the State;
 - (vii) deregister the school;"
- (d) by the repeal of subsection (6) and the substitution of—
 - "(6) Any person who contravenes subsection (1), or who contravenes or fails to comply with any notice in terms of subsection (5), shall be guilty of an offence and liable to imprisonment for a period not exceeding twelve 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, shall—
 - (a) grant the appeal; or
 - (b) refuse the appeal; or
 - (c) fix the amount of any fee and 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 High Court, which may give such decision in the matter as it considers ought to have been given or may dismiss the appeal."

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 responsible authority of every school shall establish a school parents assembly consisting of all parents whose children attend the school.
- (2) A school parents assembly shall elect a school development committee which shall be vested with the control and management of the financial affairs of the school for which it has been elected.
- (3) The powers, functions and duties of school parents assemblies and powers, functions, duties and composition of school development committees shall be as prescribed."

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

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

"38 Fees to be paid into the School Services Fund

Subject to section *fourteen* all fees 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*]."

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 Qualifications of teachers who are not members of the Public Service

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

(2) Every responsible authority of a non-government school shall, before or no later than thirty days after employing any teacher, 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 the teacher's qualifications comply with the minimum qualifications that have been prescribed for that teacher's post under subsection (1).

(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.

(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, the three main languages of Zimbabwe, namely, Shona, Ndebele, English and such other local language, shall be taught on an equal-time basis in all schools.

(2) Prior to form one, either of the languages referred to in subsection (1) 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) Membership of any association recognised in terms of subsection (1) shall be restricted to serving members of the teaching profession only.

(3) 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 os 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 paragraphs—

"(p) school uniforms;

(q) association of teachers."

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).