

REPUBLIC OF SOUTH AFRICA

**SELECT COMMITTEE PROPOSED AMENDMENTS**

**TO**

**BASIC EDUCATION LAWS AMENDMENT BILL**

**[B 2B — 2022]**

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*(Select Committee on Education and Technology, Sports, Arts and Culture)*

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**[B 2C — 2022]**

**PROPOSED AMENDMENTS TO**

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BASIC EDUCATION LAWS AMENDMENT BILL

[B 2B — 2022]

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**CLAUSE 1**

1. On page 4, in line 44, to omit ";" and to substitute "and".
2. On page 4, after line 44, to add the following paragraph:

"(d) any acts which seek to belittle, humiliate, threaten, induce fear or ridicule the dignity and person of a learner;".
3. On page 4, after line 44, to add the following paragraph:

"(d) by the insertion in subsection (1) after the definition of "*Council of Education Ministers*" of the following definition:

'Criminal Procedure Act' means the Criminal Procedure Act, 1977 (Act No. 51 of 1977);".
4. On page 4, in line 45, to omit "(d)" and to substitute "(e)".
5. On page 5, in line 10, to omit "(e)" and to substitute "(f)".
6. On page 5, in line 15, to omit "(f)" and to substitute "(g)".

7. On page 5, in line 18, to omit "(g)" and to substitute "(h)".
8. On page 5, in line 29, to omit "(h)" and to substitute "(i)".
9. On page 5, in line 30, to omit "(i)" and to substitute "(j)".
10. On page 5, in line 34, to omit "(j)" and to substitute "(k)".
11. On page 5, in line 42, to omit "(k)" and to substitute "(l)".
12. On page 5, in line 52, to omit "(l)" and to substitute "(m)".
13. On page 5, in line 57, to omit "(m)" and to substitute "(n)".
14. On page 6, in line 30, to omit "(n)" and to substitute "(o)".

## **CLAUSE 2**

1. On page 6, in line 52, after "imprisonment" to insert ", alternatively a court may impose a sentence within the court's discretion as contemplated in terms of the Criminal Procedure Act".
2. On page 6, in line 57, after "imprisonment" to insert ", alternatively a court may impose a sentence within the court's discretion as contemplated in terms of the Criminal Procedure Act".

**CLAUSE 4**

1. On page 7, from line 47, to omit paragraphs "(a)" and "(b)".
2. On page 7, in line 52, to omit "(c)" and to substitute "(a)", and to omit "the Head of Department" and to substitute "the governing body".
3. On page 8, in line 8, to omit "(d)" and to substitute "(b)".
4. On page 8, in line 11, to omit "(e)" and to substitute "(c)".
5. On page 8, from line 15, to omit paragraph (e).
6. On page 8, in line 38, to omit "(f)" and to substitute "(e)".
7. On page 8, in line 43, to omit "(g)" and to substitute "(f)".

**CLAUSE 5**

1. On page 9, in line 5, to omit "(13)" and to substitute "(7)".
2. On page 9, from line 14, to omit subsections (5) and (6).
3. On page 9, in line 19, to omit "(7)" and to substitute "(5)".

4. On page 9, from line 19 to omit "The *Head of Department*, when considering the language policy of a *public school* or any amendment thereof for approval" and to substitute "The governing body of a public school, when determining the language policy of the school or any amendment thereof.".
5. On page 9, in line 34, to omit "(8)" and to substitute "(6)" and in line 36 to omit "(7)" and to substitute "(5)".
6. On page 9, from line 38, to omit subsections (9), (10), (11) and (12).
7. On page 9, in line 59, to omit "(13)" and to substitute "(7)" and in line 61, to omit "(7)" and to substitute "(5)".
8. On page 10, in line 1, to omit "(14)" and to substitute "(8)".
9. On page 10, in line 12, to omit "(15)" and to substitute "(9)" and to omit "(13)" and to substitute "(7)".
10. On page 10, in line 15, to omit "(13)" and to substitute "(7)".
11. On page 10, in line 38, to omit "(16)" and to substitute "(10)".
12. On page 10, in line 40, to omit "(13)" and to substitute "(7)".
13. On page 10, in line 41, to omit "(15)" and to substitute "(9)".

14. On page 10, in line 44, to omit "(17)" and to substitute "(11)" and to omit "(13)" and to substitute "(7)".
15. On page 10, from line 52, to omit subsection (18) and to substitute the following subsection:
- "(12) If the governing body is not satisfied with the directive of the Head of Department as contemplated in subsection (7), the governing body may appeal against the directive to the Member of the Executive Council within 14 days after receiving the directive."
16. On page 10, in line 58, to omit "(19)" and to substitute "(13)" and to omit "(18)" and to substitute "(12)".
17. On page 11, in line 1, to omit "(20)" and to substitute "(14)" and in line 2, after "policy" to insert "of the public school".

## CLAUSE 7

1. On page 11, from line 33, to omit "just cause shown" and to substitute "account of, but not limited to, the following circumstances that a learner may bring to the attention of the principal or governing body of the school:
- (i) cultural beliefs;
- (ii) religious observances; and
- (iii) medical grounds."

**CLAUSE 8**

1. On page 12, after line 19, to insert the following paragraph:

"(d) by the substitution in subsection (5) for paragraph (c) of the following paragraph:

"(c) handed over to the police immediately to dispose of it in terms of section 31 of the Criminal Procedure Act[, 1977 (Act No. 51 of 1977)]." "

2. On page 12, in line 20, to omit "(d)" and to substitute "(e)".
3. On page 12, from line 27, to omit ", 1977 (Act No. 51 of 1977)" and to substitute "**[, 1977 (Act No. 51 of 1977)]**".
4. On page 12, in line 29, to omit "(e)" and to substitute "(f)".
5. On page 12, in line 33, to omit "(f)" and to substitute "(g)".
6. On page 12, in line 39, to omit "(g)" and to substitute "(h)".
7. On page 12, in line 43, to omit "(h)" and to substitute "(i)".
8. On page 12, in line 49, to omit "(i)" and to substitute "(j)".

## CLAUSE 9

1. On page 12, from line 57, to omit subsection (1)(a) and to substitute the following subsection:
 

"(1) The *governing body* may, on reasonable grounds and as a precautionary measure, suspend a *learner* who is **[suspected]** accused of serious misconduct from attending *school*, but may only enforce such suspension **[only after the *learner* has been granted a reasonable opportunity to make representations to it in relation to such suspension.]** in the following manner:".
2. On page 13, in line 1, to omit "(b) Serious misconduct by a *learner* is defined as—" and to substitute "(a) Where a learner is accused of committing the following acts of serious misconduct—".
3. On page 13, in line 24, to omit ", 1977 (Act No. 51 of 1977),".
4. On page 13, in line 25, to omit " . ." and to substitute a comma.
5. On page 13, after line 25, to insert "such *learner* may be suspended only after the *learner* has been granted a reasonable opportunity to make representations in relation to the accusation of such serious misconduct; or".
6. On page 13, after line 25, to add the following paragraph:
 

(b) where a *learner* is accused of committing the following acts of serious misconduct —



- (i) murder and attempted murder;
- (ii) culpable homicide;
- (iii) any sexual offence against a child including rape;
- (iv) robbery;
- (v) theft;
- (vi) assault with intent to do grievous bodily harm;
- (vii) breaking or entering any premises with an intent to harm or actual harm to other persons;
- (viii) any offence under any law relating to illicit possession of any dependence-producing drugs; or
- (ix) conveyance or supply of dependence-producing drugs at school and to learners,  
which occurs on a school premises or at a school activity, and the learner has been formally charged by the South African Police Service, the governing body must suspend such learner immediately without granting the learner an opportunity to make representations in relation to the accusation of such serious misconduct."

## **CLAUSE 10**

1. On page 13, from line 32, to omit subsection (2) and to substitute the following subsection:

"(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a **[sentence which could be imposed for assault]** fine or to imprisonment, or to both such fine and imprisonment, which a court may, in its discretion, determine after considering the circumstances of each case.".

#### CLAUSE 14

1. On page 16, in line 16, after "standards" to omit the full stop and insert "; Provided that the governing body—
  - (a) may, subject to paragraph (b), procure identified learning and teaching support material from a supplier where such procurement will be more cost effective than the central procurement of such material by the Head of Department; and
  - (b) must provide the Head of Department with documentary proof that the procurement of the identified learning and teaching support material from the supplier referred to in paragraph (a) will be more cost effective than the central procurement thereof by the Head of Department.".

#### CLAUSE 20

1. On page 18, in line 49, after "personal" to insert "or financial".

#### CLAUSE 26

1. On page 21, in line 37, to omit "Member of the Executive Council" and to substitute "Head of Department".

**CLAUSE 54**

1. On page 31, in line 25, to omit "2022" and to substitute "2024".