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This Act was gazetted and came into force on 6th March 2020 - Veritas.



ZIMBABWE

# ACT

To amend the Education Act [*Chapter 25:04*]; and to provide for matters connected with or incidental the foregoing.

“WHEREAS section 75 of the Constitution provides as follows:

*75 Right to education*

*(1) Every citizen and permanent resident of Zimbabwe has a right to—*

- (a) a basic State-funded education, including adult basic education; and*
- (b) further education, which the State, through reasonable legislative and other measures, must make progressively available and accessible.*

*(2) Every person has the right to establish and maintain, at their own expense, independent educational institutions of reasonable standards, provided they do not discriminate on any ground prohibited by this Constitution.*

*(3) A law may provide for the registration of educational institutions referred to in subsection (2) and for the closing of any such institutions that do not meet reasonable standards prescribed for registration.*

*(4) The State must take reasonable legislative and other measures, within the limits of the resources available to it, to achieve the progressive realisation of the right set out in subsection (1).*

NOW, THEREFORE, be it enacted by the Parliament and President of Zimbabwe as follows—”.

## PART I

### PRELIMINARY

#### 1 Short title

This Act may be cited as the Education Amendment Act, 2020.

#### 2 Amendment of section 2 of Cap 25:04

Section 2 (“Interpretation”) of the Education Act [*Chapter 25:04*] (hereinafter called the “principal Act”) is amended—

(a) by the insertion of the following definitions—

“adult basic education” means any educational training for a person beyond the age of a child of school-going age”;

“basic education” means education from early childhood education up to the fourth form and any other category as may be declared as such by the Minister by Notice in the *Gazette* from time to time;

“basic state funded education” means

- (a) education from early childhood education up to form four; or
- (b) adult education up to form four; or
- (c) any other category as may be declared as such by the Minister by notice in the *Gazette* from time to time;

for which pupils shall not be required to pay fees or levies and the State shall provide them with learning and teaching material, facilities, infrastructure and resources subject to the provisions of section 75 of the Constitution;

“formal education” means education conducted in terms of the curriculum and procedures determined by the Secretary in accordance with the provisions of section 63;

“further education” means education from Advanced Level and all studies above that including vocational training, degree and diploma programmes across all subject disciplines;

“Government school” means a school administered and controlled by the national Government, local authority or any tier of Government as established in section 5 of the Constitution;

“non-formal education” means educational instructions received by persons who are not in the formal education system including adult education;

“special needs education” means specially designed instructional arrangements which are designed to meet the unique needs of pupils with disability;

(b) by the repeal of the definition of “Pre-school” and the substitution of the following—

““Early Childhood Development” means the physical, mental and social development of children between the ages of four and five years.”.

### **3 Amendment of section 4 of Cap 25:04**

Section 4 (“Children’s fundamental right to education in Zimbabwe”) is amended—

- (a) by the insertion of the following subsection after subsection (1)—

“(1a) The State shall ensure the provision of sanitary ware and other menstrual health facilities to girls in all schools to promote menstrual health.”;

- (b) subsection (2)(b) of the Principal Act is repealed and substituted with the following—

“(b) be discriminated against by the imposition of onerous terms and conditions in regard to his or her admission to, suspended, excluded or expelled from any school on the grounds of his or her nationality, race, colour, tribe, place of birth, ethnic or social origin, language, class religious belief, political affiliation, opinion, custom, culture, sex, gender, marital status, age, pregnancy, disability or economic or social status, or whether they were born in or out of wedlock.”.

### **4 New section substituted for section 5 of Cap 25:04**

Section 5 (“Compulsory education”), of the principal Act is repealed and substituted with the following—

“5 Compulsory education

(1) Every child shall be entitled to compulsory basic state funded education.

(2) Any parent who deprives their child the right to basic state funded education shall be guilty of an offence and liable to a fine not exceeding level 6 or to imprisonment for a period not exceeding two years.”.

### **5 Amendment of section 8 of Cap 25:04**

Section 8 (“General duty of local authorities”) is amended by the insertion of the following subsection after subsection (1)—

“(2) Every local authority in Zimbabwe shall provide land for school infrastructure.”.

### **6 New section substituted for section 10 of Cap 25:04**

Section 10 (“Children’s entitlement to enrolment at schools”) of the principal Act is repealed and substituted with the following—

“10 Enrolment at schools

(1) In this section “school” means government school.

(2) Every child of school going age shall be entitled to be enrolled at the primary or secondary school, as the case may be, nearest to the place where he or she is ordinarily resident, unless such primary or secondary school is fully enrolled.

(3) Where the primary or secondary school at which a child of school going age has sought enrolment in terms of subsection (2) is unable to enrol the child because the school is fully enrolled, the head of that school shall forthwith issue to the child a certificate in writing certifying that fact:

Provided that—

- (i) the head of the school shall not issue such certificate where it is apparent that the enrolment of such child at the next nearest school is impossible due to the inaccessibility of such nearest school;
- (ii) the head of the school who has not issued a certificate in terms of paragraph (i) shall enrol the child.

(4) Where a child who has been issued with a certificate in terms of subsection (3) applies for enrolment at the next nearest school and produces such certificate, it shall be *prima facie* evidence of the facts stated therein.”.

## **7 Repeal of section 11 of Cap 25:04**

Section 11 of the Principal Act is repealed.

## **8 Amendment of section 13 of Cap 25:04**

Section 13 (“Prescribing of fees at Government schools”)(4) of the principal Act is repealed and substituted with the following—

“(4) In prescribing fees in terms of subsection (1) the Minister shall take into consideration the location and status of school.”.

## **9 Amendment of section 15 of Cap 25:04**

Section 15 (“Registration of non-Government schools”) of the principal Act is amended by the insertion after section (6) of the following section—

“(7) Every school other than a government or local authority school or non-profit making faith-based school shall pay a registration and an annual fee as may be prescribed from time to time by the Minister.

(8) Any person or responsible authority who operates a school other than a government or local authority school or non-profit making faith based school without paying the registration and annual fees as prescribed in subsection (7) shall be guilty of an offence and liable to a fine not exceeding level 6 or to imprisonment for a period not exceeding two years.”.

## **10 Amendment of section 21 of Cap 25:04**

Section 21 (“Fees and levies payable at non-Government schools”) of the principal Act is amended by the repeal of subsection (1) and the substitution of the following—

“(1) In this section—

“Commission” means the National Competitiveness Commission established in terms of the National Competitiveness Act [Chapter 14:36].”.

## **11 Amendment of section 25 of Cap 25:04**

Section 25 (“Adult education”) of the principal Act is amended by the insertion after paragraph (b) of the following paragraph—

“(c) every school shall endeavour to offer non formal education including adult education.

**12 Amendment of section 33 of Cap 25:04**

Section 33 (“Meetings and Procedure of Board”)(1) of the principal Act is repealed and substituted with following section—

“(1) Subject to this section and to any directions given to it by the Minister, the Board shall meet quarterly, or any other shorter period as the Minister may fix, for the dispatch of its business and adjourn, close and otherwise regulate its meetings and procedures as it thinks fit.”.

**13 Amendment of section 62 of Cap 25:04**

Section 62(“Languages to be taught in schools”) of the principal Act is repealed and the following is substituted—

“62 Languages to be taught in schools

(1) Every school shall endeavour to—

- (a) teach every officially recognised language;
- (b) ensure that the language of instruction shall be the language of examination;
- (c) ensure that the mother tongue is to be used as a medium of instruction at early childhood education.

(2) School curricula shall as far as possible reflect the culture of the people of every language used or taught in terms of this section.

**14 Amendment of section 64 of Cap 25:04**

Section 64(“Health in schools”) of the principal Act is amended by the insertion after paragraph (j) of the following paragraph—

“(k) the appointment of sexual and reproductive health personnel.”.

**15 Amendment of section 69 of Cap 25:04**

Section 69(“Regulations”) of the principal Act is amended by the insertion after paragraph (n1) of the following paragraphs—

“(n2) the use of emerging technologies in education;

(n3) the manner in which feeding schemes may be conducted at schools;

(n4) manage sexual abuse cases in schools.”.

**16 New sections inserted after section 68 of Cap 25:04**

The Principal Act is amended by the insertion of the following sections after section 68—

“68A Pupil discipline

(1) The responsible authority of every school shall draw up a disciplinary policy for the school in accordance with standards set out in regulations prescribed by the Minister for the purpose.

(2) The regulations and any disciplinary policy shall—

(a) not permit any treatment which—

- (i) does not respect the human dignity of a pupil; or
- (ii) amounts to physical or psychological torture, or to cruel, inhuman or degrading treatment or punishment;

(b) prescribe the manner in which any punishment may be administered.

(3) Disciplinary measures must be moderate, reasonable and proportionate in the light of the conduct, age, sex, health and circumstances of the pupil concerned and the best interests of the child shall be paramount.

(4) No pupil may be suspended from school without first being granted a reasonable opportunity, with the support of his or her parents, to make representations with respect to the proposed suspension.

(5) Under no circumstance is a teacher allowed to beat a child.

#### **68B Pupil with disability**

(1) Every registered school shall provide infrastructure, subject to availability of resources, suitable for use by pupils with disabilities.

(2) The Secretary shall monitor and enter premises of every registered school for the purposes of ascertaining whether the rights of pupils with disabilities are taken into account during teaching and learning.

(3) For the purposes of fees approval, the Secretary shall require every registered school to submit a plan highlighting how the school shall advance the rights of pupils with disabilities.

#### **68C Non exclusion of pupils from school**

(1) No pupil shall be excluded from school for non-payment of school fees or on the basis of pregnancy.”.