



COMMENT ON REGULATIONS RELATING TO MINIMUM UNIFORM NORMS AND STANDARDS FOR PUBLIC SCHOOL INFRASTRUCTURE

GOVERNMENT GAZETTE NO 36837

1. INTRODUCTION

- 1.1 The SAOU welcomes the publication for public comment of the Draft Regulations by the Minister of Basic Education and appreciates the opportunity to make comment.
- 1.2 The point of departure of the SAOU in analysing the proposed Regulations is -
- (i) that Regulations have a legal force greater than that of policy and should be couched in terms which admit of no misunderstanding;
 - (ii) that they must in every respect be consistent with the Constitution of the Republic of South Africa;
 - (iii) that they must be consistent with legislation pertaining to education and any other related matters within the corpus of legislation signed into law by the Head of State;
 - (iv) that they should be clear and precise, and
 - (v) that they should leave as little room for doubt or multiple interpretations as is possible.

Given that the intention of the Minister is to ensure uniform norms and standards for public school infrastructure and that the intention is that such norms and standards shall be applied in public schools administered by nine provinces, it is an imperative that the Regulations conform at least to the criteria noted above.

- 1.3 The SAOU also analyses the terms norms and standards by examining them in the light of the usually accepted definitions of these terms: that is, that a norm can be taken to mean *a model or pattern*; and that a standard can be taken to mean *a criterion in terms of which judgment can be passed on whether or not there is compliance with a norm*.
- 1.4 The analysis by the SAOU therefore seeks to establish whether the proposed regulations furnish an adequate understanding of what the *model or pattern* for public school infrastructure is considered to be; and, thereafter, for the *criteria in terms of which judgment can be passed on whether or not there has been compliance with the norm*.

2. COMMENT

1. Definitions

No comment.

2. Scope and Application

No comment.

3. Implementation of Regulations

- (i) The time scales proposed in 3 (1) (b) (i) and (ii) do not enable any relief for existing schools which do not comply with the proposed norms and standards. A ten-year time scale in the first instance, and a seventeen-year time scale in the second, fails totally to address the existing dire straits in which many schools currently find themselves.
- (ii) The provision in 3 (3) which qualifies the nature of the resources to be made available, in effect makes no commitment at all and potentially demolishes the improvements which the Regulations would be intended to bring about. While the SAOU appreciates that various organs of State are involved in the provisioning and maintenance of schools, the complete absence of any commitment to a long-term programme of financial provisioning for schools must be seen as a serious omission which in the view of the SAOU must be rectified.
- (iii) Sub-regulation (4) places no obligation on the Minister to consider the plans, and furnishes no remedy should there be failure to comply.
- (iv) Sub-regulation (5) fails to indicate what the Minister is compelled to do once the prescribed Report has been received.
- (v) The SAOU is opposed to the notion in sub-regulation (6) that the prioritization of the norms and standards with regard to the categories mentioned should be left in the hands of the nine MECs for Education. If uniformity in provisioning is the goal, it is problematical to create a situation where one MEC could decide that security is more important than water supply, and another that sanitation is more important than some other aspect, for example. In the view of the SAOU it would make more sense were the Minister to indicate what the priorities are.
- (vi) It can be noted that in some provinces a situation exists where well over 90% of the budget for education in the province is applied to personnel expenditure. The provision in sub-regulation (7) that the norms and standards should be applied as part of standard budgeting procedures is one which, in the view of the SAOU, is inadequate. The SAOU is of the view that earmarked funding for the building of schools is imperative.

4. Types of schools

- (i) It is doubtful whether Schools of Skill and Technical Schools as contemplated by the DBE in its most recent policy documentation can necessarily be accommodated within the descriptions furnished in regulation 4.
- (ii) While it is noted that clause 4 applies to schools to be constructed after the date of promulgation of the Regulations, it is furthermore the view of the SAOU that the absence of transitional measures as to how, for example, existing middle schools and combined schools, are to be translated into the

framework contemplated, is a serious omission: how, within the time cycle contemplated, are provinces to ensure uniformity in this area?

- (iii) The SAOU is also of the view that schools for persons with severe physical and intellectual challenges cannot necessarily be read into the existing categorisation.
- (iv) The current legislation in a province such as the Eastern Cape makes provision for seventeen (17) different types of schools. It needs to be pointed out that the application of these regulations, even by 2030, would pose very great challenges in that Province.
- (v) The SAOU therefore believes that regulation 4 should be re-visited, revised and strengthened.

5. Universal access

- (i) The SAOU is in general support of the provisions.
- (ii) It is the view of the SAOU, however, that specific prescripts should be included which deal with matters such as the number of access ramps to be provided at certain types of schools, including their optimal angle of inclination; the specifications for lift or elevator assistance in multi-storey schools for learners or educators with physical disabilities; and with space requirements in ordinary public schools for learners and educators with disabilities who require additional space for items such as wheel chairs, prostheses and the like.

6. Site and identification of school

- (i) The SAOU believes that “appropriate topography” (1) is a vague statement vaguely applied and that it needs to be re-visited.
- (ii) The SAOU questions the need for GPS co-ordinates to be publicly displayed (2) (c), and questions both the relevance of such information and its potential security implications. While recognising that there are areas where mapping has lagged, it can be assumed that the provincial authorities will know where their schools are to be found, as will the school community they serve.

7. Categories of key school areas and their size

- (i) The SAOU cannot accept the provision in (3) that existing schools are constrained by the ten- and seventeen-year time scales mentioned in paragraph 3 above.

8. Classrooms

- (i) The provisions at (1) take no account of the need for teacher space or for storage in the classroom. This is a serious omission which should be rectified.
- (ii) The size provisions take no note of the provisions of legislation such as the National Occupational Safety Act, which applies to spaces such as laboratories and workshops. It can be noted as an example that a laboratory which furnishes the minimum of 1.5 m² per learner and takes the maximum of 40 learners would need a minimum of 60m² of space, excluding teaching space and storage space. Annexure A indeed provides for this area – excluding teaching and storage space. This is but one example – there are others – of a proposal that in practice excludes some of the considerations that need to be taken into account when determining the final areas for the spaces to be used.

9. Electricity

The SAOU concurs with the sentiment of the provisions. It must be pointed out, however, that they are vague in the extreme. At the very least there should be provisions as to which persons or agencies will determine the nature of the most appropriate form of power supply, and what sanctions would apply if the provisions of the regulation are not implemented.

10. Water

The comment of the SAOU on this provision is essentially the same as that above. While it is recognised that the provision of water supplies to schools may straddle a number of authorities, it is the view of the SAOU that it lies within the legal capacity of the Minister to indicate with which agencies responsible for water supply interactions shall be held; what the nature of the time scales should be; what mechanisms are to be put in place for dealing with bottlenecks in terms of water supply, and similar matters.

11. Sanitation

- (i) The SAOU will comment on annexure D as a separate item.
- (ii) The essential comment of the SAOU on the further provisions of the regulation is in principle the same as that related to electricity and water supply. The Minister is urged to be more explicit and directing on this issue, as suggested at paragraph 10 above.

12. Library

- (i) The SAOU heartily endorses the provision that all schools must have a library facility or media centre.
- (ii) The regulation is, however, highly non-specific in that it assigns no responsibility to any person or agency for dealing with the matter, makes no comment on the financial provisioning which must be made, draws no distinction between the types of holdings libraries should have, and makes no statement on how reference works are to be dealt with in instances where it is envisaged that facilities should be shared.
- (iii) The SAOU cannot endorse the regulation in its present form.

13. Laboratories for science, technology, mathematics and life sciences

- (i) The point of departure in (1) is a puzzling one – science-related subjects are offered throughout the Junior and Intersen phases, as well as in the FET phase. There is therefore no school which does not offer in some or other form the subjects contemplated.
- (ii) Some form of distinction needs to be drawn between primary and secondary schools, as the needs and approaches differ.
- (iii) It is recommended that the proposals in (2) and (3) be re-visited in terms of applicable legislation, relating inter alia to the possession and safekeeping of chemicals; the appropriate ventilation of spaces where certain substances are stored and housed; and that national and international prescripts in this regard be used as the benchmark.

- (iv) It is submitted that especially in the FET phase, where experiments and practical work in the physical and life sciences sometimes take many hours to set up, it would be quite impossible simply to combine the spaces in which these activities are undertaken, and in addition to share these with other subjects. It is the submission of the SAOU that the combination into a single room of the subjects referred to is not merely impractical, but that it is impossible and would be highly dangerous, and it is therefore proposed that (4) be deleted and the approach be re-thought.

14. Sport and recreation facilities

The SAOU has no comment on this provision, other than to point out that the practicalities involved in the sharing of facilities are complex and not infrequently cause the initiatives to fail.

15. Electronic connectivity at a school

- (i) The SAOU concurs with the notion that connectivity is important. However, it must be pointed out that there is a close connection between the nature of the connectivity and the decisions taken as a result of the provisions of regulation 9. Electronic connectivity is sensitive to the nature of the electricity supply.
- (ii) (2) is very vague: who must provide the various categories listed, at whose expense? What arrangements have to be made with regard to bandwidth in the case of the Internet connectivity and are there prescripts with regard to the preferred service providers? These are some of the questions which arise.

16. Perimeter security and school safety

- (i) The SAOU once again endorses the sentiment, but once again finds the wording vague and insufficiently detailed. (2) (b) is used as an example: on what grounds is a security guard arrangement reached? Who decides? What are the criteria to be met? Who meets the expenses? All of this needs to be articulated.

17. Design considerations for core education areas and education support areas

The SAOU has no comment on this provision, other than to point out that there are certain areas of the country where natural ventilation (17) (2) is problematical, as for example in areas which have extremes of heat or cold, or both.

18. Review of the regulations

- (i) It is the view of the SAOU that (1) should be more specific as to time scale – “periodically” is a vague term, nowhere defined.
- (ii) The SAOU endorses the view that any deviations should be an improvement.

ANNEXURE A

- (i) The SAOU repeats its comment that the spaces proposed make no provision for space in which the educator can operate, and that additional provision should be made therefor.

- (ii) The dimensions of some of the spaces are simply not practical – for example, a dance studies room restricted to the m² proposed, but conforming to the pupil number requirement set out in regulation 8, would be dangerous if the entire class were in movement simultaneously.

ANNEXURE B

- (i) The SAOU is of the view that the provisions of the Annexure raise more questions than they resolve. It is inadequate, for example, simply to refer to “Storage areas”. How many, and how related to the size of the school?
- (ii) Simply to state that rooms for physiotherapy and other therapeutic interventions are “critical in special schools” does not address adequately the normative component and sets no standards at all.
- (iii) The SAOU revises strongly that this Annexure be re-visited and re-worked.

ANNEXURE C

- (i) The general comment of the SAOU on this annexure is also that it needs re-working.
- (ii) Once again, a single example. Provision is made for a pastoral care room with sick rooms and counselling rooms. Nowhere is it stipulated what number of these spaces must be furnished, what their sizes are, and how they relate to the overall enrolment of the school.
- (iii) The SAOU cannot endorse the Annexure in its present form.

ANNEXURE D

- (i) The SAOU has undertaken its own research into this matter and takes this opportunity to attach it to this submission for consideration.
- (ii) The Annexure makes no provision for incinerators in the female ablution facilities, and it is impossible to determine what the approach is to be in the case of schools which have many physically disabled pupils.
- (iii) It is one thing to indicate what the number of sanitary items installed should be. It is quite another to specify the access and related size requirements where, for example, wheel chair mobility and similar forms of assisted mobility are involved.

As a general comment on the Annexures as a whole, the SAOU is of the view that there are still too many gaps which would need to be dealt with before the Minister would have the assurance that the norms and standards are indeed uniform.

3. OMISSIONS

The following matters are not dealt with in the draft document and should in the view of the SAOU receive attention:

- (i) No mention is made of hostels, room size and capacity or ablutions.
- (ii) No reference is made to heating inside classrooms or the use of heaters.
- (iii) Many schools have asbestos classrooms still in use. No mention is made of the illegality thereof or of steps to be taken to replace these.
- (iv) In what manner will responsibility be taken for Service Level Agreements for service providers for sanitation, water and electricity, and security?
- (v) No mention is made of the ‘safe area’ at schools for gathering in case of fire, hostage situation, security breaches.

- (vi) No mention is made of visibility/ signs of entrance and exit gates of schools from without and within.
- (vii) The provision of classrooms and furniture in cases where the Provincial Education Department allows more learners than the capacity of the school permits is a serious issue which the Norms and Standards should also address.

4. CONCLUSION

- 4.1 The SAOU is of the view that the draft norms and standards as now proposed are a considerable advance on those proposed in March 2013, and wishes to felicitate the Minister and her Department on the progress which has been made in that regard.
- 4.2 The SAOU is not insensitive to the fiscal and other constraints which determine the framework within which the education authorities are required to operate, and is therefore not in principle opposed to approaches based on notions of fiscal discipline.
- 4.3 The cumbersome nature of the various bureaucracies which are involved in schools has in an important sense given rise to the difficulties which continue to be experienced in regard to the provision of physical facilities. Without minimising the complexities of the matter, the SAOU nevertheless is of the view that in the absence of timescales and tight mandates, the progress these draft regulations are seeking to bring about may, in fact, not happen.
- 4.4 All agencies involved in education and schooling have a responsibility in the matter of facilities and it is hoped that the initiatives taken by the Minister and her Department together with other relevant organs of State will, together, take this matter forward.

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