



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

### GOVERNMENT GAZETTE NO 36062

#### 1. INTRODUCTORY REMARKS

- 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 It is assumed that the various typographic and linguistic errors in the document will receive editorial attention and the SAOU therefore refrains from making comment on these aspects.
- 1.3 The point of departure of the SAOU in analysing the proposed Regulations is –
  - 1.3.1 that Regulations have a legal force greater than that of policy and should be couched in terms which admit of no misunderstanding;
  - 1.3.2 that they must in every respect be consistent with the Constitution of the Republic of South Africa;
  - 1.3.3 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;
  - 1.3.4 that they should be clear and precise, and
  - 1.3.5 that they should leave as little room for doubt or multiple interpretations as is possible.
- 1.4 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.
- 1.5 The SAOU also analyses the terms norms and standards by examining them in the light of the usually accepted definitions of these terms:
  - 1.5.1 that is, that a norm can be taken to mean *a model or pattern*; and
  - 1.5.2 that a standard can be taken to mean *a criterion in terms of which qualitative judgment can be passed on whether or not there is compliance with a norm*.

1.6 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 qualitative judgment can be passed on whether or not there has been compliance with the norm*.

1.7 A further basis for analysis is the expression of the intention behind the Regulations, as expressed in paragraph 2 on page 6 of the Notice, under the heading *Objects of the Regulations*. There are five objects listed, each of which can be sought in the document to hand, and it can be established with reasonable certainty whether or not these objects has actually been achieved.

## 2 PARAGRAPH 2: DO THE REGULATIONS PUBLISHED MEET THE OBJECTS AS PUBLISHED?

2.1 Note: Wouldn't it be more correct to rather refer to "objectives" instead of "objects"?

2.2 *Par 2: The objects of these Regulations are to:*

(1) *Provide*

(a) *Minimum uniform norms and standards for school infrastructure; (and)*

(b) *Measures of ensuring progressive realisation of the provisioning of basic school infrastructure for quality education within available resources.*

2.2.1 It is presumed that with respect to *norms* paragraphs 4 and possibly 5 may have some sort of relevance. If a norm is a *model or pattern*, however, the frequent recurrence of terms such as "adequate" (how defined?), "some form of" (how assessed?), "reasonably practicable" (as established by what standard?) fails to demonstrate the levels of precision required to enable a strict assessment of what is available.

2.2.2 As to the matter of *standards* as defined in sub 2(1), it is the view of the SAOU that the document is nowhere sufficiently definitive to enable determination of whether or not there has been compliance with the vague norms laid down, and that the quest for uniformity is therefore in effect rendered null and void.

2.2.3 As to sub (b) above, it is presumed that paragraph 5 represents an attempt to indicate the *measures* to be taken to enable progressive realisation of the goals within the context of available resources. It is the view of the SAOU, in short, that the proposals fail to accomplish the purpose implicit in 2(b) above.

2.3 *To address school infrastructure backlogs within available resources and over a period of time*

2.3.1 It must be stated that the proposals do little more than refer to the above matter as requiring attention. It is assumed that paragraphs 7 (b) and (c) are intended to address the issue of backlogs. In their current form, these

paragraphs do not address the issue in a meaningful way – the use of the term *over a period of time* in 7(c) is so vague as to be of little value in furnishing a coherent standard to enable adjudication of whether a norm has been met.

2.3.2 The conclusion of the SAOU is therefore that this object of the Regulations is not adequately addressed.

#### 2.4 *Ensure that new school infrastructure complies with the infrastructure minimum norms and standards for infrastructure*

2.4.1 It is assumed that the intention of paragraph 4 is to furnish some indication of what might be intended by norms that have not been fully developed in the document. Omissions would include a lack of recognition of the differentiated nature of teaching spaces depending upon the subject to be taught, the nature of the pupils (including their age levels), the support materials required in the learning and teaching space, and so on.

2.4.2 From paragraph 5 it may be concluded that the MEC in each province must *devise a plan for providing the facilities to the schools in his or her province*, with a list of factors to be taken into account. It is the view of the SAOU that the devising of a plan (i) without any suggestion as to how such plan is to be adjudicated, (ii) whether and, if so, how it matches standards which would enable its objective adjudication, as well as (iii) without any form of time-scale within which the necessary actions are to be undertaken, falls far short of the meaning inherent in the word *ensure*. Nothing in the paragraph suggests that the actions to be taken will ensure or guarantee that facilities complying with minimum norms and standards will be provided with a specific time-frame.

2.4.3 The SAOU therefore concludes that the published document does not meet this objective.

#### 2.5 *Promote accountability and reporting on school infrastructure development*

2.5.1 No explicit provisions for promoting accountability or reporting on school infrastructure development are to be found in the document. It might be considered that an implicit requirement is that the MEC must *develop a plan*.

2.5.2 There is no suggestion that such plan is to be submitted for interrogation at any point in the education or political governance system, while the onus placed on the Minister to publish a document within 18 months of the date of the Regulations – as outlined in paragraph 8 – can hardly be seen as discharging the responsibility inherent in the object of the regulations as outlined in this paragraph.

- 2.5.3 The conclusion of the SAOU is that the document fails entirely to address the issue implicit in this object of the Regulations.

2.6 *Enhance the quality of infrastructure and services to redress deficiencies inherited from the past*

- 2.6.1 The SAOU heartily endorses the need that deficiencies inherited from the past should be redressed. It is in the essential interest of the nation that they be attended to in a directed and rapid way. In addition to that general necessity, it can be pointed out that many of the members of the SAOU are employed in schools which exhibit these deficiencies, and their children not infrequently attend schools where such deficiencies are to be encountered.
- 2.6.2 The question is whether the proposed Regulations speak either to the question of the quality of infrastructure or that of *services*.
- 2.6.2.1 The term *Services* is nowhere defined in the document, and the proposed regulations in the opinion of the SAOU fail to address the question of services in any direct fashion at all.
- 2.6.2.2 If the references to *water supply, sanitation, some form of energy and some form of connectivity* are intended to be a reference to *services*, it is not at all clear that the question of *enhancing the quality* of such services is dealt with in the document. Indeed, the SAOU is of the view that the issue is not dealt with.
- 2.6.2.3 As to the quality of infrastructure and the redress of past deficiencies, it is so that although these terms are more than once employed, it is not made clear as to how the issues concerned are to be addressed. No specific time scales or methodologies are suggested, and a statement such as *the provision of these facilities shall be progressively realised upon availability of resources* (as at 4(8)) it is argued that there is such vagueness and absence of a rigorous timescale that the purpose of the object listed is not achieved.
- 2.6.3 Additional objective: It must be borne in mind that the proposed regulations will also apply to existing schools, and therefore, it is proposed that an additional objective be inserted, i.e: "Ensure that existing schools are utilised effectively"

### 3 PARAGRAPH 4: PROVISION OF TEACHING AND LEARNING ENVIRONMENT

- 3.1 The definition of "educational space" is vitally important, and must include the following:
- 3.1.1 Example of Grades 4 – 12:
- 3.1.1.1 The required square metres per learner that should include space for the chair, desk, and case. It could range from 1.33m<sup>2</sup> to 1.45m<sup>2</sup> per learner;
- 3.1.1.2 Space for the educator to teach effectively, i.e. in class of 50m<sup>2</sup>, the teacher requires at least 7m (width of class) x 1.5m. This space

would then include space for the educator desk, chair and space to teach;

3.1.1.3 Space for a cupboard: 1m x 2m = 2m<sup>2</sup>;

3.1.1.4 Space between rows must be at least 0.5m to 1m;

3.1.2 Grades 1 to 3: It must be borne in mind that a carpet is vitally important, and therefore sufficient space should be provided. In general, such classes could be larger by up to 36m<sup>2</sup>;

3.1.3 Laboratories and technical subjects: The space per learner could be as high as 1.8m<sup>2</sup>;

3.1.4 ELSEN:

3.1.4.1 The required space per learner per disability must be determined, and will by necessity be higher than the above;

3.1.4.2 Access to classes for wheel chairs will also have to be considered; and

3.1.5 Climatic circumstances must also be considered.

3.2 The reference to *adequate sanitation facilities* in sub (3) is vague and does not assist. It is proposed that a toilet ratio be determined for learners, sub-divided between girls and boys, as well as for the staff of the school;

3.3 Likewise the references to *water supply* and *energy* in sub (4) and (5) is too vague.

3.4 It is presumed that paragraph 4(6) refers to "*internet connectivity*", and therefore it is proposed that the paragraph be augmented accordingly.

3.5 The SAOU accepts that provision must be made for temporary structures as referred to sub (7), but then a proviso should be inserted, i.e. "... provided that such temporary structure must comply with the required health and safety prescriptions".

3.6 No reference in this paragraph 4 is made to health and safety requirements. The SAOU deems it an absolute necessity.

#### **4 PARAGRAPH 5: PROVISION OF FACILITIES TO A SCHOOL**

4.1 The Union agrees that a plan should be developed to providing facilities, but such plan should include at least the following:

4.1.1 What facilities should be regarded as minimum facilities;

4.1.2 The time scale for providing such facilities; and

4.1.3 What will the position of the school be in the absence of such minimum required facilities;

4.2 The plan should furthermore require that a contemporaneous report will be provided annually to the provincial legislature and the Parliamentary Portfolio Committee for Education.

#### **5 PARAGRAPH 6: SPORT AND RECREATIONAL FACILITIES**

5.1 The reference to ... *the provision of the following facilities* ... in sub (3) needs further elucidation.

## **6 PARAGRAPH 7: IMPLEMENTATION OF REGULATIONS**

6.1 A new term is used in sub (a), i.e. ... *basic minimum* ...!

6.2 It is unclear how this differs from “minimum” but the assumption is that is even less than minimum – further clarification is required.

6.3 The Union proposes that consideration should be given to an updated audit in terms of the envisaged norms and standards.

## **7 TECHNICAL ISSUES AND TIME SCALES**

7.1 Paragraph 8 of the proposals constitutes a potential basis for a thorough-going point of departure relating to norms and standards.

7.2 A full description of minimum square metres per learner in learning spaces of various kinds, of the number of toilets required in a school of a given size, of the carrying capacity of a given space or physical area, and many other matters related thereto, would constitute a starting point for a meaningful methodology for addressing the issues the Minister seeks to address.

7.3 The SAOU is of the view that paragraph 8 should therefore be materially expanded, that specific numbers should be given, and that the provision should then be linked to workable time scales, budgetary provisions (related if necessary to ring-fenced amounts), and made the basis for a set of norms, assessment of which could be undertaken in terms of objective numerical criteria which are known and understood by all the parties concerned.

7.4 The headings listed in Paragraph 8 are far from comprehensive, and the list there given needs very substantial fleshing out. But it could be considered to hold the embryo of a useful point of departure.

7.5 The SAOU cannot accept the 18-month time scale proposed by the document. A very great number of the public schools in South Africa are in urgent need of attention to issues relating amongst other things to the carrying capacity of a school, to the health, hygiene and safety questions which are prominent, and to the current demands which relate to the provision of an adequate built environment for public schools.

7.6 The SAOU therefore earnestly requests, in the strongest possible terms, that the time-scale proposed in paragraph 8 be drastically shortened, and that this issue be treated as a matter of the most urgent national priority.

## **8 CONCLUSIONS AND RECOMMENDATIONS**

8.1 The SAOU regrets that it cannot endorse the proposals in their present form.

8.2 The proposals are vague and in many instances unenforceable, there is a notable absence of time-scales, no provision whatever is made for reporting or the enhancement of accountability, and little direction as to actual steps to be taken, goals to be achieved, and the application of standards to assess the attainment of those goals, is given.

8.3 The SAOU is of the view that paragraph 8, more fully dealt with, could constitute a basis for Regulations and that much of what is currently included in the document more properly might belong in a policy document.

8.4 The SAOU therefore proposes that the Minister withdraw the proposed Regulations and that a working group be set up to engage with Paragraph 8 of the document with a view to making appropriate recommendations to the Minister.

**Comment prepared by**

**SAOU  
PO Box 90120  
GARSFONTEIN  
0042**