

The new Section 51 as proposed in the BELA Bill

Section 51 has 16 subsections numbered (1) to (16).

The following section is hereby substituted for section 51 of the South African Schools Act, 1996:

Home education

51. (1) If the parent of a learner who is subject to compulsory attendance as contemplated in section 3(1) chooses to educate the learner at home, such parent must apply to the Head of Department for the registration of the learner to receive home education.

(2) The Head of Department must approve the application and register the learner as contemplated in subsection (1)—

(a) if he or she is satisfied that—

- (i) education at home, as provided for in this Act, is in the best interests of the learner;
- (ii) the parent understands what home education entails and accepts full responsibility for the implementation of home education for the learner; and
- (iii) the proposed home education programme is suitable for the learner's age, grade level and ability and predominantly covers the acquisition of content and skills at least comparable to the relevant national curriculum determined by the Minister; and

(b) if the parent undertakes to—

- (i) make suitable educational resources available to support the learner's learning;
- (ii) monitor the learner's academic progress;
- (iii) arrange for the learner's educational attainment to be assessed by a competent assessor—
 - (aa) annually, up to the end of the year in which the learner reaches the age of 15 years or completes grade 9, whichever occurs first; and
 - (bb) against a standard that is not inferior to the standard determined in the National Curriculum Statement; and
- (iv) submit to the Head of Department, at the end of each phase and as evidence of the learner's educational attainment, the learner's assessment report, signed by the competent assessor.

(3) In considering the application, the Head of Department may require a delegated official to conduct a pre-registration home education site visit and consultation with the parents and learner to verify the information supplied in the application documentation and to provide support, where necessary, with the application process.

(4) If the Head of Department is satisfied that the parent does not meet the requirements set out in subsection (2), or if the outcome of the process set out in subsection (3) fails to satisfy the Head of Department that home education is in the best interests of the learner, the Head of Department must decline to register a learner to receive home education.

(5) If a parent educates a learner at home, and that learner has, at the time of the commencement of this section, not been registered as contemplated in this section, the parent must, within 30 days after the commencement of this section, apply to the Head of Department for the registration of the learner to receive home education.

(6) If the Head of Department does not respond within 60 days of receipt of an application for home education as contemplated in subsection (1) and subsection (5), the application shall be deemed to have been approved, on condition that the applicant must be able, on request, to produce proof that an application for registration to receive home education was submitted.

(7) A learner who is registered to receive home education is exempted from school attendance as contemplated in section 3 of the Act.

(8) The parent of a learner who has been registered as contemplated in subsection (1) or subsection (5) must notify the Head of Department at the end of the—

(a) Foundation Phase (grades R to 3);

(b) Intermediate Phase (grades 4 to 6); and

(c) Senior Phase (grades 7 to 9),

of his or her intention to continue educating the learner at home.

(9) A parent who wishes to continue educating a learner at home after the learner has reached the age of 15 years or has completed grade 9, whichever occurs first, or who wishes to start educating such learner at home at such time, is not required to apply for registration, as contemplated in subsections (1) and (5), or to notify the Head of Department, as contemplated in subsection (8).

(10) After a home-educated learner has completed grade 9 or has reached the age of 15 years, whichever occurs first, the parent may enrol the learner at a public school or an independent school for the completion of grades 10 to 12.

(11) If the parent of a learner contemplated in subsection (9) desires the learner to eventually write the National Senior Certificate examination, such parent must, before the learner embarks on any studies following grade 9, ensure that the learner complies with the requirements stipulated in regulation 7(4A) of the Regulations Pertaining to the Conduct, Administration and Management of the National Senior Certificate Examination (published under R872 in Gazette No. 31337 of 29 August 2008), for a learner receiving home education.

(12) The Head of Department must cancel a learner's registration to receive home education if, after investigation, the Head of Department is satisfied that home education is no longer in the best interests of the learner.

(13) The Head of Department may not decline to register a learner, as contemplated in subsection (4), or cancel the registration of a learner, as contemplated in subsection (12), before—

(a) informing the parent, in writing, of his or her intention so to act and the reasons therefore;

(b) granting the parent a reasonable opportunity to make representations to him or her, which opportunity must include discussions relating to such intention;

(c) giving due consideration to any such representations received; and

(d) providing the parent with written reasons for his or her decision.

(14) (a) The parent of a learner may appeal to the Member of the Executive Council, within 30 days of receiving notice—

- (i) that the Head of Department has declined the application to register the learner to receive home education; or
- (ii) that the Head of Department has cancelled the learner's registration to receive home education.

(b) If the parent of a learner is of the opinion that any decision of the Head of Department in relation to the home education of the learner in question is unreasonable, such parent may appeal to the Member of the Executive Council within 30_days of receiving notice of such decision.

(15) If an appeal contemplated in subsection (14) is received, the Member of the Executive Council must, within 30 days of receiving such appeal, consider and decide on the matter and, in writing, inform the parent of the outcome of the appeal.

(16) The Minister may make regulations relating to registration for, and the administration of home education."