



**NEDLAC REPORT ON THE AMENDMENTS TO THE REGULATIONS RELATING TO
MINIMUM UNIFORM NORMS AND STANDARDS FOR PUBLIC SCHOOL
INFRASTRUCTURE 19 MAY 2023**

1. BACKGROUND

- 1.1. On 29 November 2013, the Minister of Basic Education (DBE) promulgated the Regulations relating to Minimum Uniform Norms and Standards for Public School Infrastructure (Norms and Standards) under Regulation Gazette No. 10067, in terms of the South African Schools Act, 1996.
- 1.2. Section 19 (1) of the Regulations required the Department of Basic Education (DBE) to periodically review the regulations on minimum norms and standards to ensure that they effectively and efficiently serve the needs of the teaching and learning process.
- 1.3. Furthermore, in the court judgement in the matter between Equal Education and the Minister of Basic Education and others, heard at the Bisho High Court of South Africa in the Eastern Cape (Case No 276/2016), the court ordered that some sections of the regulations be amended as they were not consistent with the Constitution of the Republic of South Africa.
- 1.4. In order to address the gaps raised by the Bisho High Court Judgement, the DBE reviewed the regulations. As part of the consultation during the review, the DBE tabled the regulations for engagement at Nedlac on 28 March 2023.
- 1.5. The Development Chamber established a task team, composed of representatives from Business, Labour, Government, and Community constituencies to engage on the regulations before they are submitted to Cabinet for approval.
- 1.6. The task team concluded its engagements and developed this Nedlac Report which provides a summary of the discussion at Nedlac.

2. PURPOSE OF THE REGULATIONS RELATING TO MINIMUM UNIFORM NORMS AND STANDARDS FOR PUBLIC SCHOOL INFRASTRUCTURE.

- 2.1. The regulations seek to, among others:
 - 2.1.1. Provide minimum uniform norms and standards for public school infrastructure and to ensure that they are consistent throughout all public schools;
 - 2.1.2. Ensure that there is compliance with the minimum uniform norms and standards in the design and construction of new schools and additions, alterations and improvements of schools which exist when these regulations are published; and
 - 2.1.3. Provide the timeframes within which school infrastructure backlogs must be eradicated.

3. PROCESS AT NEDLAC

- 3.1. On 21 September 2022, the Department of Basic Education presented the amended Regulations relating to Minimum Uniform Norms and Standards for Public School Infrastructure to the Nedlac Development Chamber. The chamber agreed to convene a workshop which would allow government to further unpack the amended provisions of the regulations and their socioeconomic impact thereof.
- 3.2. The chamber further established a task team comprising of representatives from Business, Labour, Government and Community constituencies.
- 3.3. The workshop was convened on 24 November 2022. In the workshop, social partners made input for consideration by Government.
- 3.4. The DBE subsequently tabled the regulations for engagement at the task team meeting of 28 March 2023.
- 3.5. The task team agreed to engage in a thematic approach.
- 3.6. At the end of the engagement process, the task team agreed with all the provisions of the regulations as proposed by the DBE, except for the proposed allocation of ablution facilities for schools.
- 3.7. Organised Labour disagreed with the proposed allocation of ablution facilities provided for learners and staff as the ratio does not keep pace with the rising number of learners and staff in large schools. Organised Labour believes that the ratio of ablution facilities should at the very least keep pace as the numbers of learners and teachers increase, and at the very least should not decrease in proportional terms. In this regard, Labour proposed that the Department of

Basic Education needs to reconsider this matter and Treasury should be engaged where additional funding is required to fulfil this mandate.

The regulations as tabled by the DBE are attached as Annexure B.

4. CONCLUSION

- 4.1. This report, therefore, concludes considerations at Nedlac on the Regulations relating to Minimum Uniform Norms and Standards for Public School Infrastructure.

Annexure A - Task Team Members

<u>Business</u>	<u>Labour</u>	<u>Community</u>	<u>Government</u>
Andile Kuzwayo	Matthew Parks	Lawrence Bale	Shalili Misser
Siobhan Leyden	Chris Klopper	Conti Matlakala	Ramasedi Mafoko
Sanelisiwe Jantjies	Boitumelo Molete	Mukovhe Masutha	Noluvuyo Gela
Mustak Ally	Sipho Ndhlovu	Mokgadi Rakabe	Ronald Sithole
Daniel Pretorius	Godfrey Selematsela	Palesa Lebenya	James Ndlebe
	Brenda Modise		
	Khusta Mafunda		
	Faseega Solomon		

Annexure B - Regulations Relating to Minimum Uniform Norms and Standards for Public School Infrastructure

GOVERNMENT NOTICE

NOTICE NO: _____ **DATE:** _____

SOUTH AFRICAN SCHOOLS ACT, 1996 (ACT NO. 84 OF 1996)

AMENDMENTS TO THE REGULATIONS RELATING TO MINIMUM UNIFORM NORMS AND STANDARDS FOR PUBLIC SCHOOL INFRASTRUCTURE

I, Angelina Matsie Motshekga, Minister of Basic Education, acting under section 5A (1) (a) of the South African Schools Act, 1996 (Act No. 84 of 1996) and after consultation with the Minister of Finance and the Council of Education Ministers, made the Regulations Relating to Minimum Uniform Norms and Standards for Public School Infrastructure, as set out in the Schedule.

SCHEDULE

GENERAL EXPLANATORY NOTE

[.....] Words in bold in square brackets indicate omissions from the existing regulation.

_____ Words underlined with a solid line indicate insertions into the existing regulation.

Definition

1. In this Schedule the “**Regulations**” means the Regulations Relating to Minimum Uniform Norms and Standards for Public School Infrastructure, as published under Government Notice No. R920, in Government Gazette No. 37081 of 29 November 2013.

Amendment of regulation 1 of the Regulations

2. Regulation 1 of the Regulations is hereby amended by the substitution of the definition of “**SANS 100/40**”, of the following definition—

““**SANS 10400**” means the South African National Standard with that number, issued by the South African Bureau of Standards in terms of the National Building Regulations;”;

Amendment of regulation 4 of the Regulations

3. Regulation 4 of the Regulations is hereby amended—

- (a) by the substitution for paragraph (a) in subregulation (1) of the following paragraph:

“(a) must, **[subject to subregulation 5 and as far as reasonably practicable,]** be applied to all new **[schools]** and **[additions,]** existing schools, additions, alterations and improvements **[to schools, with the exception of schools contemplated in subregulation (2)];** and”;

- (b) by the substitution for paragraph (b) in subregulation (1) of the following paragraph:

“(b) as far as schools contemplated in subregulation 4(1)(a) are concerned **[which exist when these regulations are published, must, subject to subregulations (5), and as far as reasonably practicable]** the following must be considered for planning and implementation—

- (i) **[with reference to the norms and standards mentioned in subregulation (3)(a) and (b), be complied with within a period of three years from the date of publication of these regulations;]** all schools that do not have access to any form of power supply, water supply or sanitation must comply with the norms and standards contemplated in regulations 10, 11 and 12 of the Regulations, and must within a period of 18 months from the date of publication of these Regulations be provided with any form of power supply, water supply or sanitation;

(ii) **[with reference to the norms and standards mentioned in subregulation (3)(c), be phased in over a period of seven years from the date of publication of these regulations;]** all schools and classrooms built entirely or substantially from mud as well as those schools built entirely or substantially from materials such as asbestos, metal and wood must be replaced with structures which accord with the Regulations, the National Building Regulations, SANS 10400 and Occupational Health and Safety Act 85 of 1993;

(iii) **[with reference to the norms and standards mentioned in subregulation (3)(d), be phased in over a period of ten years from the date of publication of these regulations; and]** all those schools that do not have sufficient classrooms to accommodate learners enrolled in the schools must be addressed and reviewed annually in accordance with school population as a result of, among others, enrolments, migration, admissions and effects of natural and manmade disasters;

(iv) **[with reference to all the other norms and standards contained in this regulations, be planned, prioritized and phased in before 31 December 2030.]** all those schools that do not have adequate perimeter fencing must comply with the norms and standards contemplated in regulations 17 of the Regulations and must be implemented within a period of 12 months from the date of publication of these Regulations; and”;

(c) by the insertion after item (iv) in subregulation (1) for paragraph (b) of the following item:

“(v) all schools that do not have the relevant minimum education areas as per Annexure A, for an enabling school environment,” must be included in the infrastructure plans of provincial departments as per sub-regulation 4(4) within a period of 12 months from the date of publication of these regulations and progress on the implementation be reported annually as per sub-regulation 4(5);”.

(d) by the substitution for subregulation (2) of the following subregulation:

“(2) [(a) New schools and additions, alterations and improvements to schools excluded from subregulation (1)(a) are those of which the planning and prioritisation with the current 2013-2014, 2014-2015 and 2015-2016 MTEF cycle have already been completed.

(b) The plans and prioritisation of the schools contemplated in paragraph (a) must, where possible and reasonably practicable, be revised and brought in line with these regulations.] In implementing these regulations alternative technologies maybe considered to give effect to the norms and standards contained in these regulations.”

(e) by the substitution for subregulation (3) of the following subregulation:

“(3) [As far as schools contemplated in subregulation (1)(b) are concerned –

(a) and for the purposes of subregulation (1)(b)(i), all schools built entirely from mud as well as those schools built from materials such as asbestos, metal and wood must be prioritised;

(b) and for the purposes of the subregulation (1)(b)(i), all those schools that do not have access to any form of power supply, water supply or sanitation must be prioritised;

(c) a Member of the Executive Council must, for the purposes of subregulation (1)(b)(ii), prioritise the norms and standards relating to the availability of classrooms, electricity, water, sanitation, electronic connectivity and perimeter security, and their plans contemplated in subregulation (6) must reflect such prioritisation; and

(d) a Member of the Executive Council must, for the purposes of subregulation (1)(b)(iii), specifically focus on the norms and standards relating to libraries and laboratories for science, technology and life sciences.] The Provincial Departments of Education must facilitate and co-ordinate the responsibilities of the government agencies and entities who have a role in the provision of infrastructure and related services.”

(f) by the substitution for sub-regulation (4) of the following regulation:

“(4) [In implementing these regulations every reasonable possible avenue must be explored and alternatives considered to give effect to the norms and standards contained in these regulations.] (a) Each Provincial Department of Education, must annually, 60 days after the beginning of the financial year, submit, a detailed infrastructure plan on the implementation of the infrastructure programme.

(b) These plans are to be published on the DBE and PED websites for access by the public, and shall contain the following:

- (i) Current supply of school infrastructure/Existing asset base;**
- (ii) Gap Analysis/demand assessment; (iii) Priorities and targets;**
and (iv) Budgets and funding;”.

(g) by the deletion of subregulation 5 (a):

“(5) [(a) The implementation of the norms and standards contained in these regulations is, where applicable, subject to the resources and co-operation of other government agencies and entities responsible for infrastructure in general and the making available of such infrastructure.]”;

(h) by the substitution for paragraph (b) in subregulation (5) of the following paragraph:

“(b) [The Department of Basic Education must, as far as practicable, facilitate and coordinate the responsibilities of the government agencies and entities contemplated in paragraph (a).] (i) Each Provincial Department of Education, must annually, 90 days after the end of the financial year, submit an End of Year Evaluation Report (EoY) on progress on the implementation of the programme.

(ii) These progress reports shall be published on the DBE and PED websites for access by the public and shall contain the following:

- (aa) Overall performance in the year under review of all projects implemented;
- (bb) Projects according to nature of investment and commitments;
- (cc) Financial allocation and expenditure against projects/programmes;
- (dd) Programme status as at the end of the financial year; and (ee)
Project pipeline for the new financial year.”.

(i) by the substitution for subregulation (6) of the following subregulation:

“(6) [(a) A Member of the Executive Council must, within a period of 12 months after the publication of the regulations and thereafter annually on a date and in the manner determined by the Minister, provide the Minister with detailed plans on the manner in which the norms and standards are to be implemented as far as schools referred to in subregulation (1) are concerned.

(b) The plans referred to in paragraph (a) are to make provision for, but not be limited to, the following:

- (i) The backlogs at district level that each province experiences in terms of the norms and standards;**
- (ii) costed short, medium and long-term plans with targets;**
- (iii) how new schools should be planned and maintained and how existing schools are to be upgraded and maintained; and**
- (iv) proposals in respect to procurement, implementation and monitoring.] Measures which are taken to comply with the norms and standards contained in these regulations must be funded through the relevant budgetary sources and processes for new facilities and the upgrading of existing facilities at schools.”.**

(j) by the deletion of subregulation 7:

“[(7) In addition to the requirements contained in section 58C of the Act, a Member of the Executive Council must, in the manner determined by the Minister, report annually to the Minister on the implementation of the plans required in terms of subregulation (6).].”.

4. Regulation 18 of the Regulations is hereby amended by the substitution of regulation 18 (15) with the following regulation—

“(15) Where the use of alternative or innovative building technologies are to be considered for the implementation of the norms and standards contained in these regulations, certification is required from Agrément South Africa or alternatively, all such must be signed off by a competent person, as per the National Building Regulations.”.

Amendment of Annexure G of the Regulations

5. Annexure G of the Regulations is amended by the substitution thereof of the following Annexure:

“ANNEXURE G

NORMS FOR SCHOOL SANITATION

TABLE G1 PRIMARY SCHOOLS: BOYS AND GIRLS TOILETS

PRIMARY SCHOOLS															
A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
TOTAL ENROLMENT	ENROLMENT PER GENDER	Girls' toilets	Girls' basins	Boys' toilets	Boys' urinals	Boys' basins	Unisex Grade R Toilets	Grade R basins	Unisex Disabled toilets & basins	Female staff toilets	Female staff basins	Male staff toilet	Male staff urinals	Male staff basins	Total toilets
	0 - 25	2	1	1	1	1									4
	50	3	2	1	2	1									6
	125	6	4	2	4	2									12
	225	8	6	4	4	2									16
	400	10	6	4	6	3									20

	500	12	8	6	6	4										24
	800	14	11	8	8	6										31
	1250	22	14	11	11	7										43
	1750	23	15	11	11	8										45

TABLE G2: PRIMARY SCHOOLS: GRADE R; DISABLED AND STAFF TOILETS

PRIMARY SCHOOLS															
A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
TOTAL ENROLMENT	ENROLMENT PER GENDER	Girls' toilets	Girls' basins	Boys' toilets	Boys' urinals	Boys' basins	Unisex Grade R Toilets	Grade R basins	Unisex Disabled toilets & basins	Female staff toilets	Female staff basins	Male staff toilet	Male staff urinals	Male staff basins	Total toilets
0 - 50							1	1	1	1	1	1	0	1	4
100							2	1	1	1	1	1	0	1	5
250							3	2	1	2	1	1	1	1	8
450							4	3	1	2	1	1	1	1	9
800							5	3	2	3	2	1	2	2	13
1000							5	3	2	3	2	1	2	2	13
1600							7	4	3	4	3	1	3	3	18
2500							9	5	4	5	4	2	4	4	23
3500							9	6	4	6	4	2	4	4	25

TABLE G3: SECONDARY SCHOOLS: BOYS AND GIRLS TOILETS

SECONDARY SCHOOLS													
A	B	C	D	E	F	G	H	I	J	K	L	M	N
TOTAL ENROLMENT	ENROLMENT PER GENDER	Girls' toilets	Girls' basins	Boys' toilets	Boys' urinals	Boys' basins	Unisex Disabled toilets & basins	Female staff toilets	Female staff basins	Male staff toilet	Male staff urinals	Male staff basins	Total toilets
	0 - 50	2	1	1	1	1							4
	75	4	2	2	2	2							8
	150	6	4	2	4	2							12
	250	8	6	4	4	3							16
	350	10	6	4	6	3							20
	450	12	8	4	6	3							22
	550	14	8	6	6	4							26

	800	17	10	7	7	5								31
	1250	25	14	11	11	7								47
	1750	26	15	11	11	8								49

TABLE G4 SECONDARY SCHOOLS: DISABLED LEARNERS AND STAFF TOILETS

SECONDARY SCHOOLS													
A	B	C	D	E	F	G	H	I	J	K	L	M	N
TOTAL ENROLMENT	ENROLMENT PER GENDER	Girls' toilets	Girls' basins	Boys' toilets	Boys' urinals	Boys' basins	Unisex Disabled toilets & basins	Female staff toilets	Female staff basins	Male staff toilet	Male staff urinals	Male staff basins	Total toilets
0 - 100							1	1	1	1	0	1	3
150							1	1	1	1	0	1	3
300							1	2	1	1	1	1	5
500							1	2	1	1	1	1	5
700							1	2	1	1	1	1	5
900							2	3	2	1	2	2	8
1100							2	3	2	1	2	2	8
1600							2	4	2	1	2	2	10
2500							4	5	4	2	4	4	14
3500							4	6	4	2	4	4	15

Commencement

6. These regulations are called the Regulations Relating to Minimum Uniform Norms and Standards for Public School Infrastructure Amendment Regulations and come into operation on the date of publication by the Minister in the Government Gazette.

