This Education Amendment Bill, 2016, is designed to align the Education Act [Chapter 25:04] with the Constitution by taking account of the following rights and national objectives:

- the right to a basic State-funded education, including adult basic education, in respect of which the State is enjoined to take measures to progressively realise within the limits of the resources available to it (section 75 (1) (a) and (4) of the Constitution);
- as a national objective, the State is enjoined to take all practical measures to promote free and compulsory basic education for children (section 27 of the Constitution);
- the right to further education which the State is enjoined to make progressively available and accessible (section 75 (1)(b) of the Constitution);
- the paramountcy of best interests of the child (section 19 (1) of the Constitution), a child being a person under the age of 18 years (section 81 (1) of the Constitution);
- the rights of persons with disabilities to be provided with special facilities for their education and to State-funded education and training where necessary (section 83 (e) and (d) of the Constitution);
- as a national objective, the State is enjoined, within the limits of the resources available to it, to encourage the use and development of forms of communication suitable for persons with physical and mental disabilities (section 22(3)(c) of the Constitution);
- the right to human dignity (section 51 of the Constitution);
- the right to freedom from physical or psychological torture or cruel or inhuman and degrading treatment or punishment (section 53 of the Constitution);
- the right to equality and non-discrimination (section 56 of the Constitution);
- the right to language and culture (section 63 of the Constitution) as read with section 6 of the Constitution which prescribes the officially recognised languages.

In brief therefore, the Bill amends various provisions of the Act so that it complies with these various provisions of the Constitution. It is essential to note that, because some of the rights are subject to the availability to the State of resources necessary to enable the enjoyment of the rights, the amendments have been couched so as to take this into account. Similarly, it is also essential to take account of section 86 of the Constitution with respect to what extent legislation may limit any rights.

In more detail, the Bill provides as follows:

Clause 1 sets out the short title of the Bill.

Clause 2 amends the interpretation section by:

- re-defining “adult education to mean education of persons beyond the age of children beyond the school-going age;
- the repeal of the definitions of “child of school-going age” and “responsible authority” (which are both re-defined in later sections;
- the insertion of new definitions of:
  a. “basic State-funded education: which means primary school education;
b. “child” which takes its meaning from the Constitution;
c. “further education” which is education beyond basic education;
d. “learner” which is designed to take account of adults.

Clause 3 provides for new sections 2A and 2B which the meanings of the terms “child of school-going age” and “responsible authority” respectively in more detail. “Child of school-going age” essentially means a child between 6 and 12 years of age being the years during which a child would ordinarily go through primary school which is compulsory.

The term “responsible authority” is now defined to be specific as to who the responsible authority is in the case of a Government or a non-Government school, nursery school or college.

Clause 4 repeals section 4, 5 and 6 and substituted with new sections 4, 5 and 6.

The new section 4 sets out in some detail the principles to be observed in, and the objectives of, education. The principles and objectives encapsulate the various provisions of the Constitution which have a direct relevance to matters of education. Refusal of admission to any school is not permissible on the basis of stated grounds of discrimination which correspond with the grounds provided for in the Constitution. Refusal of admission is permissible in particularised instances where discrimination will be taken to be justifiable. It will be an offence to discriminate on any other basis.

The new section 5 requires the State to endeavour to ensure the realisation of the right to education, within the limits of the resources available to it, by removing financial barriers to basic education, by providing primary schools nearby, failing which, establishing boarding schools instead, by ensuring the provision of facilities for special education for learners with special educational needs and by making secondary school educational and vocational training readily accessible.

It must be understood that basic State-funded education means free basic education when the State can afford to provide it. If the State cannot afford State-funded basic education, inevitably the parents have to fund the education. This leads to the new section 6 which provides for fees for education. This section requires that tuition in schools be as low as is necessary for the maintenance of high standards of education. The Minister may assist with grants or subsidies in this respect. Where the State has no resources to fund basic education, fees may be prescribed to meet reasonable basic educational standards.

Clause 5 of the Bill repeals Part III of the Act and replaces it with a new Part III comprising of new sections 9 to 11B. The new section 9 provides for the classification of schools into Government and non-Government schools. Schools are further categorised as nursery, primary secondary or special schools. The Minister may prescribe further categories of schools. Government schools may be re-classified into a different category.

The new section 10 entitles children to be enrolled in schools nearest to where they are ordinarily resident failing which, upon a certificate of the head of that school to the effect that the school is fully enrolled, the child may seek enrolment at the nearest alternative school.

The new section 11 provides for the regulation of nursery schools. Subjects commonly taught in school may not be taught in nursery schools. The section will also provide for the regulation of the standards of tuition, the standard of the buildings, the conditions for registration and the inspection of nursery schools.

The new section 11A requires the Minister to make available adequate learning facilities for children with special educational needs, including the establishment of State-funded special schools and vocational training facilities as may be needed.
The new section 11B which replaces section 25 of the Act (Adult education) requires the Minister to make available facilities for the provision of basic State-funded adult education. The Minister may provide for the training of persons for the teaching of adults. The provision of basic State-funded adult education will depend on the availability of resources to the State. Facilities for adults only may also be established.

Clause 6 of the Bill repeals section 12 of the principal Act and replaces it with a new section 12 which, apart from restating the existing provisions, will also require consultation with education authorities and the local authority for the area before the Minister establishes any Government school in any area. The school facilities should comply with prescribed construction requirements.

Clause 7 of the Bill will amend section 13 which provides for the fixing of fees at Government schools by the Minister, to ensure that when seeking to compel the payment of fees, a child may not be excluded from school. Other measures may be taken to secure the payment of the fees by the parents and this includes allowing the parents time within which to pay or moving the child to another Government school where the child may appropriately attend. Fees may only be waived in full or partly with the consent of the school’s finance committee and the school development committee if satisfied that the parents concerned cannot afford the fees. Guidelines issued by the Minister for this purpose must be followed by the head of the school who must inform the Secretary of any action taken. Parents have a right of appeal to the Minister against the decision of the head of a school and the Minister may give him or her directions in the matter.

It must be noted that fees may be payable in respect of basic education, or any further education, if the State has no resources to fund free education.

Clause 8 of the Bill repeals section 25 of the Act which has been replaced by section 11B under clause 5 of this Bill.

Clause 9 of the Bill introduces a new Part VII (new sections 28A - 28C), which provides for the development and continuous assessment and review of school curricula covering key stages in the school years of children or learners, the attainment targets for each key stage, the programme of study and assessments to ascertain the attainment of the targets.

Under the new section 28A, school curricula should be balanced, broad-based and aimed to promote an all-rounded development which prepares learners for opportunities in life. Curricula development will also cover nursery schools, adult and special education. Curricula shall include sex education for secondary school children.

Under the new section 28B, it is the responsibility of the Secretary to determine the key educational stages and prescribe the frameworks for the development of curricula appropriate for each key stage.

Under the new section 28C, the Minister must specify the core subjects and other foundation subjects for which curricula must be developed. The curricula must take account of the requirement to instruct in, and the teaching of, officially recognised languages. School curricula must also reflect the national character whilst undergoing continuous review to keep in line with national and global changes as well as developments in education and knowledge.

Clause 10 of the Bill repeals section 62 of the Act and replaces it with a new section which recognises the officially recognised languages. It requires the teaching in and of any officially recognised language predominantly used in any area in Government schools in that particular area. Where necessary, if a language other than an officially recognised language is the predominant language in any area, instruction in that non-officially recognised language is permissible in addition to the use of any officially recognised language. School curricula must reflect the culture of the people used or taught in any area. The use of any officially recognised language is subject to the availability of the
necessary teachers, examiners, textbooks and other educational materials for the teaching of the language or instruction in that language. The clause entitles speakers of any language to establish private schools at their own expense at which languages of their choice may be used and taught.

**Clause 11** repeals section 63 of the Act which deals with curricula and examinations which is now provided for in the new Part VIIA under clause 9 of this Bill. The new section 63 deals with discipline in schools. The new section takes account of the new Constitutional imperatives with regard to dignity and requires the Minister to prescribe the standards of discipline which must be complied with by schools when drawing up their disciplinary policies. Discipline must respect the dignity of learners and it must not amount to physical or psychological torture, cruelty or inhuman or degrading treatment or punishment.

Learners must be given an opportunity to make representations before suspension or expulsion from school.

Disciplinary measures must be moderate, reasonable and proportionate in the light of the conduct concerned, the age, gender, health and circumstances of the learner, and the best interests of a child must be paramount.

It must be understood that the Constitution does not outlaw corporal punishment. It outlaws it if it amounts to torture, cruelty, inhuman and degrading punishment.

**Clause 12** repeals and replaces the long title of the Act.

**Clause 13** inserts a preamble and the words of enactment into the Act, the preamble being an extract of section 75 of the Constitution.
BILL

To amend the Education Act [Chapter 25:04], the Children’s Act [Chapter 5:06]; the Disabled Persons Act [Chapter 17:01]; and to provide for matters connected with or incidental the foregoing.

ENACTED by the President and the Parliament of Zimbabwe.

PART I
PRELIMINARY

1 Short title
This Act may be cited as the Education Amendment Act, 2016.

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 repeal of the definitions of “adult education” and the substitution of—
"adult education" means any educational training for a learner beyond the age of a child of school-going age;”;
(b) by the repeal of the definitions of “child of school-going age”, “responsible authority”;
(c) by the insertion of the following definitions—
"basic State-funded education” means primary school education and includes any education declared by the Minister to be basic State-funded education in respect of—
(i) adult education; and
(ii) education for children with special educational needs;
"child” means a learner under the age of eighteen years and “children” shall be construed accordingly;
“further education” means any education beyond basic education and includes technical and vocational training;
"learner” means a child or student attending or enrolled at a school or college;”.

3 New sections inserted in Cap 25:04
Part I (Preliminary) of the principal Act is amended by the insertion after section 2 of the following sections—
“2A  Meaning of child of school-going age

(1) Subject to subsection (2), a child shall be regarded as a child of school-going age for the purposes of this Act if he or she is of or over the age of six years and has not attained his or her twelfth birthday.

(2) A child who will attain the age of six years during a school year shall be regarded as a child of school-going age, and eligible for enrolment in the first grade, at the beginning of that year.

(3) For the avoidance of doubt, it is declared that children who have attained their twelfth birthday continue to be entitled to a school education.

“2B  Meaning of responsible authority

(1) Without derogation from the definition in section 2 of the Act, the term “responsible authority”, when used in these regulations in relation to—

(a) a non-Government school, college or nursery school, means the person, body or organisation responsible for the establishment and management of the school, college or centre;

(b) a Government school, including a nursery school established at a Government school, means the Government acting through the head of the school.

(2) The head of a Government school shall exercise the functions of responsible authority of the school in accordance with such general and specific directives as may be given to him or her by the District Education Officer, the Provincial Education Director or the Secretary.”.

4  New sections substituted for sections 4, 5 and 6 of Cap 25:04

Sections 4, 5 and 6 of the principal Act are repealed and the following are substituted—

“4  Fundamental principles and objectives in education

(1) Every person, including the Minister and the Secretary, shall pay due regard to the following principles and objectives whenever he or she, in the exercise of a function under this Act, makes a decision which affects or is likely to affect the interests of children or learners—

(a) the rights enshrined in the African Charter on the Rights of the Child, the United Nations Convention on the Rights of the Child and other international human-rights instruments to which Zimbabwe is a party shall be taken cognisance of;

(b) the best interests of a child are the primary consideration;

(c) a learner must be accorded such protection and care as is necessary for his or her well-being, and in the case of a school child, taking into account the rights and duties of his or her parents, legal guardians or other individuals responsible for him or her;

(d) if a learner is capable of forming his or her own views in a matter, he or she must be accorded the right to express those views and they must be given due weight in accordance with his or her age and maturity;

(e) the parents or legal guardian of a child have primary responsibility for his or her upbringing and development, and they must be given appropriate assistance in exercising this responsibility;

(f) a learner must be protected from all forms of physical, mental or psychological torture, cruelty, violence, injury or abuse, including sexual abuse, neglect or negligent treatment, maltreatment or exploitation;
(g) every learner has a right to basic State-funded education;
(h) primary education is compulsory for a child of school-going age and—
   (i) if the parents of a child or learner, as may be appropriate, cannot afford any fees payable at a Government or local authority school for basic education, the State must assist, within the limits of the resources available to it, in providing basic education;
   (ii) it shall be the duty of the parents or guardians of every child of school-going age to ensure that such child attends school;
(i) school discipline must be administered in a manner consistent with a learner’s rights and dignity;
(j) the education of a learner must be directed to—
   (i) the development of his or her personality, talents, capacity for critical thought and mental and physical abilities to their fullest potential; and
   (ii) the development of respect for national laws and institutions, human rights and fundamental freedoms, and for the principles enshrined in the Constitution; and
   (iii) the development of respect for his or her parents, his or her own cultural identity, language and values, for the national values of Zimbabwe, the country from which he or she may have originated, and for civilizations and cultures different from his or her own; and
   (iv) preparing him or her for responsible life in a free, multi-cultural and multi-lingual society, in the spirit of understanding, peace, tolerance, equality of sexes and races, and friendship among all peoples and all ethnic, national and religious groups; and
   (v) preparing him or her for full participation in the national economic life; and
   (vi) the development of respect for the natural environment.

(2) Subject to subsection (3), no learner shall—
   (a) be refused admission to any school; or
   (b) be discriminated against by the imposition of onerous terms and conditions in regard to his or her admission to any school;
on the grounds of nationality, race, colour, tribe, place of birth, ethnic or social origin, class religious belief, political affiliation, opinion, custom, culture, sex, gender, marital status, age, pregnancy, disability or economic or social status or whether they born in or out of wedlock.

(3) For the purposes of subsection (2), a term or condition shall be deemed to be onerous if it requires the learner upon whom it is imposed or the parent of a child—
   (a) to do or pay anything; or
   (b) to possess some quality, attribute or property;
which is not required to be done or possessed by learners or parents of children on the basis of discrimination on the grounds referred to in subsection (2).

(4) Any person who contravenes subsection (2) shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.
(5) It shall be a defence in any criminal proceedings for an offence under subsection (2) for the accused person to show that, though he or she committed the act alleged against him or her—

(a) he or she committed the act on the grounds of the creed of the learner against whom the act was committed, but he or she did so because the school concerned is controlled by a bona fide religious organization and members of that religious organization or adherents of a particular religious belief are accorded preference in admission to that school; or

(b) he or she committed the act on the grounds of the gender of the learner against whom the act was committed, but the act was reasonably—

(i) justified in view of physiological differences between learners of different genders; or

(ii) necessary in the interests of defence, public safety or public morality; or

(iii) justified because the school concerned was reserved for the admission of learners of one gender and the child against whom the act was committed is of the other gender; or

(c) he or she committed the act on the grounds of the age of the learner against whom the act was committed, but the act was reasonably justified in the best interests of children to be separated from adult learners for their protection and safety.

5 Realisation of right to education

(1) The Minister and the Secretary shall exercise their functions under this Act so as to realise the right to basic State-funded education, and to that end shall endeavour, within the limits of the resources available to the State—

(a) to remove financial barriers faced by learners or the parents of children to attend primary school; and

(b) to ensure the provision of primary schools within a reasonable distance of the places where such children live or, in the alternative, to establish boarding schools for such children; and

(c) to ensure the provision of facilities for special education for learners with special educational needs.

(2) The Minister and the Secretary shall take all appropriate measures under this Act to encourage further education through the development of secondary education and vocational training, so that it becomes readily accessible to all learners.

6 Fees for education

(1) Tuition in schools shall be provided for the lowest possible fees consistent with the maintenance of high standards of education and the Minister shall take measures, including the making of grants and other subsidies to schools.

(2) Without derogation from the right to basic State-funded education, the Minister shall, having regard to—

(a) the need to endeavour to achieve the progressive realisation of basic State-funded education;

(b) the limits of the resources available to the State to provide basic State-funded education; and
(c) the need to ensure that schools are able to meet reasonable basic educational standards; prescribe such fees and other charges as are necessary for the purposes of paragraph (c).

5 New Part substituted for Part III of Cap 25:04

Part III of the principal Act is repealed and the following is substituted—

“PART III

CLASSIFICATION OF SCHOOLS, NURSERY SCHOOLS, SPECIAL NEEDS EDUCATION AND RIGHT OF ADMISSION TO GOVERNMENT SCHOOLS

9 Classification of schools

(1) Schools are classified as—
(a) Government schools or non-Government schools; and
(b) nursery schools, primary schools, secondary schools, special schools or any other appropriate category that the Minister may prescribe, taking into account the social and economic standards of the communities in which the schools are located.

(2) The Minister may at any time—
(a) vary the categories of schools; or
(b) reclassify any government school into any of the categories set out in subsection (1)(b).

10 Children’s entitlement to enrolment at Government schools

(1) Every child of school-going age is entitled to be enrolled at the Government primary or secondary school nearest to where the child is ordinarily resident unless such school is fully enrolled.

(2) Where the Government school at which a child has sought enrolment is fully enrolled, the head of that school shall certify to that effect in writing to the child concerned.

(3) The certificate issued under subsection (2) shall entitle a child to seek enrolment at the nearest alternative school and the certificate shall be prima facie evidence of the facts stated therein.

11 Nursery schools

(1) The responsible authority of a nursery school shall ensure the implementation of curricula developed in terms of this Act for nursery schools.

(2) No subject commonly taught in schools shall be taught in nursery schools.

(3) The Minister may make regulations—
(a) requiring nursery schools to be registered;
(b) regulating the standards of tuition;
(c) subject to the standards prescribed in building by-laws of the local authority in whose area the nursery school is situated, providing specifications for premises for nursery schools;
(d) providing for the alteration of the conditions subject to which a nursery school was registered or for the cancellation of registration of nursery schools;
(e) providing for the inspection at all reasonable times of nursery schools for the purpose of ascertaining compliance with this Act.

11A Children with special educational needs

(1) In this section—

“special educational needs” means educational needs of learners who—

(a) have a significantly greater difficulty in learning, or in participating in sporting or cultural activities, than the majority of persons of his or her age; or

(b) have a disability which either prevents or hinders them from making use of educational facilities of a kind generally provided for other learners of similar age; or

(c) are unusually intelligent, talented and creative.

(2) The Minister shall ensure the provision at any Government school adequate learning facilities for learners with special educational needs resulting from—

(a) physical disabilities, including vision, hearing and motor disabilities;

(b) speech impediments; or

(c) mental health challenges.

(3) The responsible authority of any such school shall ensure the implementation of appropriate curricula developed in terms of this Act for learners with special educational needs.

(4) The Minister may make regulations setting out the procedure for determining, where it is necessary to do so, whether or not a learner is a person with special educational needs.

(5) The Minister may, if he considers it necessary to do so, establish special schools for basic education and facilities for further education for learners with special educational needs and such schools and further educational facilities may, without derogation from the State’s obligation to provide basic State-funded education, be State-funded.

11B Adult education

(1) The Minister shall, subject to the availability of resources for that purpose, ensure the provision of facilities for adult basic State-funded education and may provide for the training of persons for teaching adult basic education.

(2) A responsible authority shall ensure the implementation of appropriate curricula developed in terms of the Act for adult basic education.

(3) The Minister may establish facilities devoted to adult basic education at which adults only may be admitted.”.

6 New section substituted for section 12 of Cap 25:04

Section 12 of the principal Act is repealed and the following is substituted--

“12 Establishment and maintenance of Government schools and hostels

(1) The Minister may establish and maintain such Government schools, hostels and other facilities, including teachers’ accommodation, as he may consider necessary or desirable for educational purposes at the school.

(2) Before establishing a Government school, the Minister shall consult—
(a) the local authority for the area in which the school is to be established; and
(b) the National Education Advisory Board and the provincial education advisory board established for the province in which the school is to be established;

and shall pay due regard to any recommendations the local authority and the Board may make regarding the location of the school, its nature and size and the level of its staffing.

(3) When establishing a Government school, the Minister shall ensure that, in its construction and facilities, it complies with such requirements as may be prescribed.

(4) The Minister may, if he or she considers it necessary and appropriate to do so, close or relocate any Government school, hostels or other facilities.”.

7 Amendment of section 13 of Cap 25:04

Section 13 (“Prescribing of fees at Government schools”) of the principal Act is amended—

(a) in subsection (1), by the insertion before “The Minister” where it occurs for the first time, of “Except where State-funded education has been provided,”;

(b) by the repeal of subsections (4) and (5) and the substitution of—

“(4) The head of a Government school may, subject to the directions of the Secretary, take such action or measures as may be appropriate, other than the exclusion of the child from school, to require the parent or guardian of any child in respect of whom any fees payable in terms of this section, to pay the fees due.

(5) If, after proper inquiry, it appears to the head of the school that the parents of a child cannot afford any fee payable for tuition and, additionally or alternatively, accommodation at that school or at any other Government school which the child might appropriately attend, the head may, with the approval of the school’s finance committee and the school development committee—

(a) waive the fees, in whole or in part; or

(b) allow the parents time within which to pay the fees.

(6) In exercising his or her powers under subsection (5), the head of Government school shall comply with any written guidelines that may be issued by the Minister.

(7) After exercising his or her powers under subsection (5), the head of a Government school shall without delay notify the Secretary, in writing, of that fact and of his or her reasons for doing so.

(8) If the head of a Government school refuses a request by a parent to exercise his or her powers under subsection (5)—

(a) the head shall inform the parent that he or she may appeal to the Minister against the refusal; and

(b) the parent may send a written appeal to the Minister against the refusal, and the Minister may give the head such directions in the matter as he or she thinks appropriate.”.

8 Repeal of section 25 of Cap 25:04

Section 25 of the principal Act is repealed.
9 New Part inserted in Cap. 25:04

The principal Act is amended by the insertion after Part VII of the following Part—

“PART VIIA

SCHOOL CURRICULA

28A General requirements in relation to curriculum

(1) The Secretary shall determine and ensure the maintenance of school curricula for schools and pre-schools which is balanced, broadly based and—

(a) promotes the spiritual, moral mental and physical development of school children; and

(b) prepares learners for the opportunities, responsibilities and experiences of life in Zimbabwe and in the global community;

and in so doing, may determine different curricula and different examination systems for different schools based on whether they are Government or non-Government schools.

(2) The curriculum shall constitute the minimum school curriculum and shall comprise the core and other foundation subjects and specify in relation to each of them—

(a) the attainment targets being the knowledge, skills and understanding which pupils of different abilities and maturities are expected to have by the end of each key stage;

(b) the programmes of study being the matters, skills and processes which are required to be taught to pupils of different abilities and maturities; and

(c) assessment arrangements being the examinations or other arrangements for assessing pupils at or near the end of each key stage for the purpose of ascertaining what they have achieved in relation to the attainment targets for that stage.

(3) This section shall apply *mutatis mutandis* in relation to the development and maintenance of special curricula to address learners with special educational needs and adult basic education.

(4) The school curriculum shall include sex education for secondary school children in accordance with guidelines issued by the Secretary.

(4) Every responsible authority shall ensure that the school curriculum of its school or pre-school satisfies the requirements of this section and has a duty to ensure that it is implemented.

28B Key stages in school education

The Secretary shall, for the purposes of the development of the curricula appropriate at various stages in the school years of children, determine the key educational stages through which children must go during the school years and prescribe frameworks for the development of curricula appropriate to each key stage.

28C Curriculum requirements

(1) The curriculum requirements with respect to early learning stages shall encompass—

(a) personal, social and emotional development;

(b) communication, language and literacy;

(c) mathematical development;
knowledge and understanding of the world;
(e) physical development; and
(f) creative development.

(2) The Minister shall specify the core and other foundation subjects for which attainment targets, programmes of study and assessment arrangements for any of the key stages determined by the Minister for any of those stages shall be specified in the curriculum.

(3) School curricula shall take account of the requirement for instruction in, and the teaching of, officially recognised languages as they apply to public schools in any region as provided for under the law relating to languages.

(4) School curricula shall reflect the national character of Zimbabwe without compromising global competitiveness.

(5) The Minister shall ensure that there is continuous assessment and review of the school curricula to keep abreast with national and global changes and developments in education and knowledge.”.

10 Amendment of section 62 of Cap 25:04

Section 62 of the principal Act is repealed and the following is substituted--

“62 Languages to be taught in public schools

(1) Subject to subsection (2), officially recognised languages shall be taught and shall be used for instruction in Government schools in the regions in which the respective languages are predominantly spoken.

(2) Mother-tongue education in a language other than officially recognised languages shall be made available in any Government school in any area where such other language is predominantly spoken in addition to the use and teaching of any officially recognised language.

(3) School curricula shall reflect the culture of the people of any language used or taught in terms of this section.

(4) The use of any language in terms of subsections (1) and (2) shall be subject to—
   (a) the availability of resources to the State for giving effect to these provisions; and
   (b) the availability of teachers, examiners, textbooks and other educational materials necessary for instruction in and of any of the languages.

(5) Speakers of any officially recognised language or non-officially recognised language are entitled to establish private educational institutions at their own expense for instruction in and of any language of their choice.”.

11 New section substituted for section 63 of Cap 2:13

Section 63 of the principal Act is repealed and the following is substituted--

“63 Disciplinary standards

(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 that purpose.

(2) The regulations and any disciplinary policy shall—
   (a) not permit any treatment which—
      (i) does not respect the human dignity of a learner; or
(ii) amounts to physical or psychological torture, or to cruel, inhuman or degrading treatment or punishment.

(b) prescribe the manner in which any corporal 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 learner concerned and the best interests of a child shall be paramount.

(4) No learner 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) Any person who contravenes this section shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.”.

12 Amendment of the long title to Cap 25:04

The long title to the principal Act is repealed and the following is substituted—

“An Act to make provision about education and to provide for matters connected with or incidental to the foregoing.”.

13 Preamble inserted in Cap 25:04

The principal Act is amended by the insertion after the long title of the following—

“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).

AND WHEREAS it is desirable to make further provision in connection with the provision of education;

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

14 Amendment of Cap. 5:06

The Children’s Act [Chapter 5:06] is amended—
15 Amendment of Cap. 17:01

The Disabled Persons Act [Chapter 17:01] is amended—