

policy on the conditions of employment of teachers) and incidental matters.

69 Government's commitment to eradicate past inequalities is not only demonstrated by the comprehensive overhaul of the legal infrastructure. It is also borne out by substantial increases in education expenditure. Government spending on education comprises 6.4% of GDP in 1994, reaching a high of 6.8% in 1998 and remaining above 5% of the GDP by 2012. These overall statistics compares well with developing and developed countries, showing the government's commitment to education as a priority.

AD THE ALLEGATIONS CONTAINED IN THE FOUNDING AFFIDAVIT

70 I now proceed to deal with the allegations as contained in the Founding Affidavit. What is set out hereinafter should however be seen against the background of the allegations as made hereinbefore.

71 **AD PARAGRAPHS 1 AND 2 THEREOF**

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I take note hereof, save to again point out that no explanation has been given by the Applicants why they delayed from 9 October 2015 until 19 May 2016 to have launched this Application.

72 **AD PARAGRAPH 3 THEREOF**

The content hereof is denied insofar as it is not in consonance with what is stated in my affidavit.

73 **AD PARAGRAPH 4 THEREOF**

I take note hereof, but will, insofar as necessary deal with any Supporting Affidavit filed in support of the Application.

74 **AD PARAGRAPH 5 THEREOF**

74.1 I take note of the setting out of the structure of the Affidavit.

74.2 I again reiterate that the Application is indeed subject to the provisions of the PAJA for the reasons already set out hereinbefore.

75 **AD PARAGRAPHS 6, 7, 8, 9, 10, 11, 12, 13, 14 AND 15 THEREOF**

Although I do not possess personal knowledge regarding each and every allegation made herein, I take note of the allegations made herein.

*Paul
M.A.*

76 **AD PARAGRAPH 16 THEREOF**

I deny the allegation that there is a “*systemic crisis in education*”. Of course there is always room for improvement to ensure quality basic education for all, but to make an allegation of a “*systemic crisis in education*” is not only an overstatement but unfortunately made in order to create an atmosphere.

77 **AD PARAGRAPHS 17 AND 18 THEREOF**

I take note hereof.

78 **AD PARAGRAPH 19 THEREOF**

I take note hereof, and refer the above Honourable Court to what I have stated in this Affidavit hereinbefore.

79 **AD PARAGRAPH 20 THEREOF**

Save to again refer the above Honourable Court to the overview of the relief sought by the Applicants and the allegations made why the relief is incompetent, I take note of what the purpose of the Application is.

80 **AD PARAGRAPHS 21, 22, 23 AND 24 THEREOF**

I take note hereof.

81 **AD PARAGRAPH 25 THEREOF**

The allegations made herein predates the previous Application brought under Case No: 81/2012, and are therefore not relevant for purposes of this Application. The Respondents have been advised by their legal representatives, that once the Settlement Agreement had been entered into in the previous Application, and same being made an Order of Court, it brought finality to the previous Application, and whatever allegations were made in the previous Application, and the merits or demerits of the respective parties' cases, may not be revisited in this Application. If so required further argument will be advanced on behalf of the Respondents at the hearing of this Application.

82 **AD PARAGRAPH 26 THEREOF**

82.1 The allegation of the Applicants in the first sentence takes a too narrow view of the purpose of the Norms and Standards. In this regard it is important to point out the following to the above Honourable Court:

82.1.1 The prescribing of minimum uniform Norms and Standards for *inter alia* school infrastructure is my competence alone, to be issued according to my



discretion, subject of course to the Constitution and the relevant provisions of SASA;

82.1.2 In terms of Section 58C the respective Members of the Executive Councils of the Provinces are obliged, in accordance with an implementation protocol as contemplated in Section 35 of the Framework Act to ensure compliance with *inter alia* the Norms and Standards;

82.1.3 Prior to the prescribing of the Norms and Standards by Regulation R920 of 29 November 2013, it is not as if there were no clear and definite requirements and/or guidelines relating to Norms and Standards of education infrastructure;

82.1.4 For the sake of clarity, I annex hereunto as annexure "AM1" the Supplementary Opposing Affidavit deposed to by the then Director-General of the Department of Basic Education in the Application under Case No: 81/2012, which culminated in the Order of the above Honourable Court whereby the Settlement reached was made an Order of Court. In order not to unnecessarily

burden the record the annexures to the Supplementary Opposing Affidavit are omitted;

82.1.5 I specifically refer the above Honourable Court to the following paragraphs on this aspect, as it appears in the Affidavit of the former Director-General:

Paragraphs 23, 24, 25, 26, 28, 29, 31, 32, 33, 34, 35 and 36.

82.1.6 The contents of these paragraphs are repeated and incorporated herein, as if specifically stated in this Affidavit.

82.2 I have already dealt with the most unfortunate inequality caused by the apartheid system in education.

83 **AD PARAGRAPH 27 THEREOF**

The content hereof is admitted.

84 **AD PARAGRAPH 28 THEREOF**

It is denied that the Norms and Standards do not comply with the obligations under the Constitution and SASA, and in this regard the

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above Honourable Court is referred to the content of this Opposing Affidavit.

85 **AD PARAGRAPH 29 THEREOF**

85.1 With respect to the Applicants, their approach to the matter is not only misplaced in law, but also impracticable.

85.2 My competence extends to basic education, and basic education alone.

85.3 I have no competence regarding other fields of responsibility which is carried by other members of the Cabinet, such as the provision of water and sanitation, electricity, roads and/or the provision of law and order at schools.

85.4 For these obligations, other members of the Cabinet have been designated to carry out the responsibilities as contained in the Constitution and various other canons of legislation.

85.5 Mindful of the fact that an Organ of State may, in giving effect and carrying out the responsibilities and duties imposed by the Constitution and legislation, have to rely on the cooperation of other arms of government, provision has been made therefore in Chapter 3 of the Constitution. In this regard I have already referred the above Honourable Court



to the relevant provisions as contained in Section 41 of the Constitution.

85.6 Furthermore, I have already referred the above Honourable Court also to the relevant provisions of the Framework Act, and the manner in which the different arms of government or Organs of State, have to cooperate with each other.

85.7 I am not empowered to promulgate Regulations in an unqualified manner, which in fact encroaches upon the field of responsibility of other members of the Cabinet and other National and/or Provincial State Departments.

85.8 Therefore, the provisions contained in Regulation 4(5) are not only justifiable, rational and in accordance with the legal prescripts, but to have omitted the sub-regulation, would have rendered the Norms and Standards impracticable to carry out.

85.9 In my capacity as Minister of Basic Education I may not and cannot prescribe to the Minister of Energy and Eskom SOC Limited regarding the provision of electrical infrastructure and the supply of electricity to various schools. The same goes for water, sanitation, roads and the like. I therefore have to rely on the cooperation of these other members of Cabinet



and their Departments in order to give effect to the Norms and Standards.

85.10 To have stated so in Regulation 4(5) is not only rational, but compulsory.

86 **AD PARAGRAPH 30 THEREOF**

I deny that the Applicants are entitled to any relief.

PART C: THE RIGHT TO A BASIC EDUCATION AND THE DUTY TO PRESCRIBE MINIMUM UNIFORM NORMS AND STANDARDS FOR SCHOOL INFRASTRUCTURE

87 **AD PARAGRAPHS 31 AND 32 THEREOF**

87.1 The contents of these paragraphs are noted.

87.2 The importance of the right to a basic education in terms of section 29(1)(a) has been confirmed by the Constitutional Court, where it indicated that:

“a basic education’ as one of the socio-economic rights is directed, among other things, at promoting and developing a child’s personality, talents and mental and physical abilities to his or her fullest potential. Basic education also provides a



foundation for a child's lifetime learning and employment opportunities" (references omitted).

88 **AD PARAGRAPH 33 THEREOF**

88.1 I am advised that the Applicant is wrong in law to suggest "that the right to a basic education necessarily implies the right to an education that is of a reasonable quality". Applicant is introducing an undefined new standard of quality different to the one that is there in the enabling legislation. In fact, the right to a basic education is that of a progressively high quality for all learners and which the National Planning Commission indicated that *"by 2030, South Africa should have access to education...of the highest quality, leading to significantly improved learning outcomes"* (reference omitted). However, I am advised that the correct legal standard set by the Constitutional Court on numerous occasions is whether reasonable measures have been put in place by the State on any matter concerning the adjudication of any right in the Bill of Rights.

88.2 At first glance and the mere reading of section 29(1)(a) as opposed to other relevant rights in the Bill of Rights in the Constitution, the right is unqualified, immediately realisable and not subject to available resources. Of utmost importance

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is that the right to a basic education is not a stand-alone, absolute right and it is limited by the law of general application such as *Regulations Relating to Minimum Uniform Norms and Standards for Public School (Infrastructure Norms & Standards)* like any of the right in the Bill of Rights. I submit that the enabling legislation giving effect to the right points that basic education is progressively realisable like any of the other relevant rights and this resonates with the Constitutional Court's *dictum* in the *Ermelo* case by indicating that this is important and must be understood:

"within the broader constitutional scheme to make education progressively available and accessible to everyone, taking into consideration what is fair, practicable and enhances historical redress" (references omitted).

89 **AD PARAGRAPH 34 THEREOF**

89.1 In this present litigation, I deny the allegation made in this paragraph, save to admit that that the infrastructure at public schools varies greatly in quality from excellent to wholly inadequate, and that the difference runs broadly along racial lines. The Constitutional Court's *dictum* in the *Juma Masjid* case summed this up by indicating as follows:

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“The significance of education, in particular basic education for individual and societal development in our democratic dispensation in the light of the legacy of apartheid, cannot be overlooked. The inadequacy of schooling facilities, particularly for many blacks was entrenched by the formal institution of apartheid, after 1948, when segregation even in education and schools in South Africa was codified. Today, the lasting effects of the educational segregation of apartheid are discernible in the systemic problems of inadequate facilities and the discrepancy in the level of basic education for the majority of learners” (references omitted).

89.2 But I admit, as the Constitutional Court confirmed, that *“access to school – an important component of the right to a basic education guaranteed to everyone by section 29(1)(a) of the Constitution – is a necessary condition for the achievement of this right”* (emphasis added). Not the other way round as the applicant asserted.

89.3 However, the government of the day is committed in redressing the wrongs of the past and have unequivocally acknowledged in various main policy directives such the *“National Development Plan”* (NDP), a copy of which dealing with school infrastructure is attached hereto marked **“AM2”** and *“Action Plan to 2019 Towards the Realisation of*

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Schooling 2030” (Action Plan 2030), marked “**AM3** that many school environments are still not conducive to learning and in particular goal 24 of the Action Plan, Government is to ensure that the physical infrastructure and environment of every school inspire learners to want to come to school and learn, and teachers to teach. It is surprising that the Applicants do not refer to these important policy documents of the Government.

90 **AD PARAGRAPH 35 THEREOF**

Noted, however, this should also be applicable to the other rights in the Bill of Rights.

91 **AD PARAGRAPH 36 THEREOF**

91.1 The allegations contained in this paragraph are denied on the basis of the social and historical context of the right to a basic education. There is no factual basis laid by the applicant on how the inadequate infrastructure violates sections 10 and 28(2) of the Constitution. The Applicant fails to acknowledge that lacklustre schools will not be turned around overnight, and even tangible improvements will not necessarily translate immediately into other social sphere.

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91.2 The Constitutional Court in the cases of *Ermelo, Welkom High* and *Harmony High Schools* has acknowledged that “*while much remedial work has been done by the State since the advent of our Constitutional democracy, sadly deep social disparities and resultant social inequity remain with us. And, given the legacy of apartheid, the State’s obligations to ensure that the right to education is meaningfully realised for the people of South Africa is great indeed*” (references omitted). The Applicants do not bother to recognise that these unfortunate conditions are still discernible in our unequal society. In this regard I refer the Honourable Court to what has been set out above regarding the unfortunate legacy of apartheid.

92 **AD PARAGRAPHS 37 TO 39 THEREOF**

The contents of these paragraphs are noted and legal argument will be advanced at the hearing of this application in regard to the context in which the rights involved therein are to be interpreted and applied.

93 **AD PARAGRAPH 40 TO 47 THEREOF**

93.1 I deny these allegations for the purposes of the present application. I do so as the Applicants did not bother to have the courtesy to the Honourable Court by attaching the

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affidavits of the persons the Applicant relies on for the allegations made. As set out above these averments should be struck out.

93.2 The applicant is attempting to resuscitate the litigation which had run its course and reached finality when the Honourable Court granted the Applicants the order it sought on 11th July 2013. There is no proper legal basis for the Applicants to re-litigate issues pertaining substantially to prior issues which have been resolved in 2013.

93.3 The Applicants aver that they do not intend to further burden their papers by obtaining further affidavits from the persons they mentioned, and shall if necessary do so in reply. This assertion is legally flawed and untenable. The Applicants' papers are already unnecessarily over-burdened with copies of policy documents and legislation that could have just been easily referred to on papers without attaching them to the application. The Applicants have failed to make out a proper case and must stand or fall by its founding affidavit as its foundation of facts stated therein, because those are the facts which I am called upon to answer.



94.1 I repeat that government is committed in redressing the wrongs of the past and have unequivocally acknowledged in various main policy directives and legislation. Among them is the *National Policy for Equitable Provision of Enabling School Physical and Learning Environment* that the Applicants referred to and *Regulations Relating to Minimum Uniform Norms and Standards for Public School*. All these instruments, refer to the painful legacy of apartheid that Government is busy redressing.

94.2 One of the many additional factors addressed by Government is the poor school infrastructure inherited from the apartheid regime. It is not sufficiently clear to what extent the Applicants either invoke or recognise this. What is clear, however, is that infrastructure remains a challenge. This is a challenge which government has identified and has already started addressing meaningfully. This is demonstrated *inter alia* by improvements relating to the provision of running water and electricity.

94.3 Since 1996, the number of schools with no running water dropped from approximately 9,000 to approximately 1,700. The number of schools without electricity has dropped from 15,000 to 2,800. Furthermore, since 2011 the DBE has become more directly involved in infrastructure development,

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largely through the new Accelerated Schools Infrastructure Delivery Initiative (“ASIDI”). This initiative monitors the status of progress and ensures transparency by compiling lists identifying schools that are being targeted for infrastructure improvements (whether through national or provincial initiatives) on the DBE’s website. I annex hereunto as Annexure “AM4 a copy of the ASIDI Infrastructure Programme Management Plan and incorporate the content thereof herein through reference.

- 94.4 The debilitating everlasting effects of apartheid is recognised by the Constitutional Court where for instance, in the case of *Ermelo* it stated the following:

“Apartheid has left us with many scars. The worst of these must be the vast discrepancy in access to public and private resources. The cardinal fault line of our past oppression ran along race, class and gender. It authorised a hierarchy of privilege and disadvantage. Unequal access to opportunity prevailed in every domain. Access to private or public education was no exception. While much remedial work has been done since the advent of constitutional democracy, sadly deep social disparities and resultant social inequity are still with us. It is so that white public schools were hugely better resourced than black schools. They were lavishly

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treated by the apartheid government. It is also true that they served and were shored up by relatively affluent white communities. On the other hand, formerly black public schools have been and by and large remain scantily resourced. They were deliberately funded stingily by the apartheid government. Also, they serve in the main and were supported by relatively deprived black communities. That is why perhaps the most abiding and debilitating legacy of our past is an unequal distribution of skills and competencies acquired through education". (references omitted)

- 94.5 The DBE has acknowledged that significant numbers of schools lack the most basic resources: water, sanitation and electricity. Large numbers of schools face serious problems with class size, the quality of educators, and the availability of learning materials. These statistics are well documented in the *National Education Infrastructure Management System Reports ("NEIMS")* annexed hereto as annexure "**AM5**" of May 2011. NEIMS is a database of public schools derived from the first survey [School Register of Needs – "*SRN*"] conducted in 1996 and updated in 2000. According to the NEIMS study released by the DBE in 2011, there were **24,793** Ordinary Public schools and **359** Special Needs schools. The 2011 Report made the following findings:

- 94.5.1 3,544 schools had no electricity, 21,249 had electricity supply, while a further 804 schools had an unreliable electricity source; 1,886 had solar panel on site, 119 had generators on site, 19,840 had a municipal connection on site,
- 94.5.2 2,402 schools had no water supply, 22,391 had a reliable water supply, while a further 2,611 schools had an unreliable water supply; 9,242 had borehole/rain harvesting on site, 4,213 had a communal water supply on site, 1,198 had a mobile tankers water supply, and 9,788 had a municipal water supply on site,
- 94.5.3 913 schools did not have any ablution facilities, while 11,450 schools were using pit latrine toilets; 7,906 had municipal flush toilets, 2,492 had septic flush toilets, 1,294 had enviro flush toilets, 4,998 VIP and 155 chemical toilets,
- 94.5.4 19,541 schools did not have a space for a library; 5,252 had libraries and 1,855 had stocked libraries,

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- 94.5.5 21,021 schools did not have any laboratory facilities, 3,772 had laboratories, while only 1,231 schools had stocked laboratories;
- 94.5.6 2,730 schools had no fencing at all; 20,922 had wired fencing, 1,056 secondary and 730 combined schools had a palisade fence, 84 had a brick fencing and 83 electric fence, and
- 94.5.7 19,037 schools did not have a computer centres, whilst 5,756 had computer centres and 2,489 had computers stocked.
- 94.6 Twenty years after democracy, these ugly scars, deep social disparities and the resultant social inequity apartheid has left and the vast discrepancies in the availability of adequate public schools are still with us.
- 94.7 It is perspicuous from the attitude displayed by government, to acknowledge that the quality of education for most Black learners is inferior to most traditionally White schools. Through the NDP government also recognises that although as a country in two decades of democracy, South Africa remains a highly unequal society where too many people live in poverty and too few are employed.



94.8 It should be recognised that South Africa has made a remarkable transition from the old order system of an apartheid government to a democratic government, which in terms of its various education policies, legislation and programmes is committed to ameliorate the current situation. This is evident from the statistics quoted from NEIMS report of 2015 by the Applicants in paragraph 65 showing a concerted effort by Government to better the conditions of all public schools' infrastructure, even though the Applicants' statistics is reported in the negative.

94.9 Save as set out hereinbefore any allegation not in consonance with what has been stated, is denied.

PART D: SECTIONS 5A AND 58C OF SASA

95 AD PARAGRAPHS 67 TO 70 THEREOF

95.1 The allegations contained in these paragraphs as far as they relate to the provisions of Section 5A of SASA are admitted.

95.2 It is also admitted that Section 5A recognised that the making of Regulations would not be purely aspirational but would have real financial implications. It is therefore incumbent upon the DBE to ensure that all relevant government departments are involved and their co-operation is solicited



for the proper implementation of the prescribed Minimum Uniform Norms and Standards for school infrastructure.

96 **AD PARAGRAPHS 71 AND 72 THEREOF**

96.1 The allegations contained in these paragraphs are admitted.

96.2 I agreed to prescribe Minimum Uniform Norms and Standards for school infrastructure and impose time frames in that regard. It is indeed so that I prescribed the Minimum Uniform Norms and Standards for public school infrastructure in Government Gazette No. 37081 dated 29 November 2013. It is therefore not clear from the reading of these two paragraphs what the Applicants are really complaining about because I clearly delivered in terms of my obligations contained in Section 5A of SASA.

97 **AD PARAGRAPH 73 THEREOF**

The contents of this paragraph are admitted as it is a true quotation of Section 5A of SASA.

98 **AD PARAGRAPHS 74 TO 78 THEREOF**

98.1 In respect of the allegations pertaining to section 58C:

98.1.1 Save to deny that:

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98.1.1.1 the introduction of Section 58C (1) did not make the Regulations conditional on coordination with other organs of state in different governments;

98.1.1.2 And that it rather required that such coordination take place in order to give effect to the Regulations;

98.1.1.3 And also that it informed communities of their "*entitlements*";

98.1.1.4 And that the Regulations as presently formulated do not achieve this purpose;

98.1.2 the remainder of the averments contained in these paragraphs are admitted.

98.2 I further state that Section 35(1) of the Framework Act provides for the procedure and the regulation of relationships within different government departments where the different government departments co-operation is needed for the implementation of a policy.

98.3 It is therefore disingenuous of the Applicants to try and make out a case as if the implementation or the realisation of the implementation of the Minimum Uniform Norms and

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Standards for school infrastructure depends solely on the First Respondent. It should be borne in mind that for the Minimum Uniform Norms and Standards on school infrastructure to be implemented, the cooperation of the following government departments are needed:

- 98.3.1 The department of public works, which is responsible for all government immovable property, and in particular, for the physical construction of school buildings;
- 98.3.2 The department of water and sanitation, the government department which is responsible for the provision of water in the Republic of South Africa;
- 98.3.3 Both the department of energy and the department of public works, departments which are responsible for the supply of energy in government schools; and
- 98.3.4 The National Treasury, the department that is responsible for the financing of school infrastructure.
- 98.3.5 The department of rural development and land reform, responsible for land available for the construction of schools;



98.4 It is therefore impossible for me to work in isolation in the implementation of the Minimum Uniform Norms and Standards. It is also not competent for the above Honourable Court to give an order whereby the different government departments mentioned in the preceding paragraphs are ordered to deliver certain services when in fact they were not parties before court.

PART E: BACKGROUND

99 **AD PARAGRAPHS 79, 80 AND 81 THEREOF**

I take note hereof.

100 **AD PARAGRAPH 82 THEREOF**

These allegations have been dealt with in the previous Application, and it is not necessary to respond thereto. In fact it should be struck out.

101 **AD PARAGRAPHS 83 AND 84 THEREOF**

I admit that the correspondence, annexure "TM11" and "TM12" was exchanged.

102 **AD PARAGRAPH 85 THEREOF**



102.1 It is correct that the previous Application under Case No: 81/2012 was launched by the then Applicants, which culminated in the Settlement and the Order being made by the above Honourable Court.

102.2 Save as set out hereinbefore I deny any further allegation made herein.

103 **AD PARAGRAPH 86 THEREOF**

103.1 I have been advised that the current application is an application on its own, and the Applicant has to make out its case in the Affidavits filed in this matter. Therefore, the Applicants are not at liberty merely to refer to the previous application, by making it available and referring thereto during argument.

103.2 The Applicants are obliged to deal with the allegations they wish to incorporate from the previous application, by referring to the specific allegations made in the previous affidavits, so that the Respondents and their legal representatives can properly respond thereto and prepare the necessary argument.

104 **AD PARAGRAPH 87 THEREOF**



I admit that the guidelines referred to herein were published, but deny any further allegation made herein.

105 **AD PARAGRAPH 88 THEREOF**

105.1 The Applicants are again referring to events that predate the previous application and the Order made by the above Honourable Court.

105.2 The Respondents have been advised by their legal representatives that the Applicants may not rely on these allegations to sustain the relief currently sought by the Applicants.

105.3 Therefore, the allegations made herein are totally irrelevant for purposes of this Application, and at the hearing of the matter the Respondents will seek that the content of this paragraph be struck out.

106 **AD PARAGRAPH 89 THEREOF**

The Applicants did not refer to the fact that a Supplementary Opposing Affidavit was filed on my behalf, which is already annexed hereunto as annexure "AM1" (without the annexures).

107 **AD PARAGRAPH 90 THEREOF**



107.1 It is correct that the previous Application was settled in accordance to the Settlement recorded in annexure "TM13".

107.2 As already set out hereinbefore the effect of a Settlement is the same as a Judgment by Court (*res judicata*) and therefore the allegations made and events underlying the previous application are not relevant for the current application.

108 **AD PARAGRAPH 91 THEREOF**

Paragraph 4 of the Settlement Agreement speaks for itself.

109 **AD PARAGRAPH 92 THEREOF**

109.1 It is correct that the First Draft Regulations were published for comment as annexed to the Founding Affidavit as annexure "TM14".

109.2 Save as set out hereinbefore, and insofar as any allegation is not in consonance with the First Draft Regulations, the allegations are denied.

110 **AD PARAGRAPH 93 THEREOF**

In response to the Draft Regulations, I received comments from 35 entities. In this regard I again reiterate the content as contained in



the Supplementary Affidavit deposed to by the then Director-General of the Department of Basic Education, annexed hereunto as annexure "AM1", namely paragraph 15, including all its sub-paragraphs.

111 **AD PARAGRAPH 94 THEREOF**

I have no personal knowledge about the content hereof.

112 **AD PARAGRAPHS 95 AND 96 THEREOF**

112.1 I refer the above Honourable Court to the various comments as received.

112.2 In order to inform the above Honourable Court of what I had taken into consideration to have issued the Regulations pertaining to the Norms and Standards, I annex hereunto as annexure "AM6" a document entitled "**EVALUATION OF COMMENTS RECEIVED ON THE REGULATIONS RELATING TO MINIMUM UNIFORM NORMS AND STANDARDS FOR PUBLIC SCHOOL INFRASTRUCTURE**".

112.3 The above Honourable Court will note that the various comments are listed in the document and if so required will reference be made thereto during argument.

