



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

PRICE + 1c GST 20c PRYS + 1c AVB
ABROAD 30c BUITELANDS
POST FREE · POSVRY

Vol. 168]

CAPE TOWN, 29 JUNE 1979

[No. 6539

KAAPSTAD, 29 JUNIE 1979

DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1411.

29 June 1979.

No. 1411.

29 June 1979.

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 90 of 1979: Education and Training Act, 1979.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 90 van 1979: Wet op Onderwys en Opleiding, 1979.

ACT

To provide for the control of education for Blacks by the Department of Education and Training; and to provide for matters incidental thereto.

*(English text signed by the State President.)
(Assented to 20 June 1979.)*

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Definitions.

1. In this Act, unless the context otherwise indicates—
- (i) "advanced technical education" means technical education and training of a standard which is higher than the standard ordinarily required for an examination for standard ten or any equivalent examination and which the Minister declares to be advanced technical education for the purposes of this Act; (viii) 5
 - (ii) "Black" or "Black person" means a Black as defined in section 1 of the Population Registration Act, 1950 (Act No. 30 of 1950); (xxviii) 10
 - (iii) "Black state" means any area for which a legislative assembly has been established in terms of section 1 of the Black States Constitution Act, 1971 (Act No. 21 of 1971); (xxvii) 15
 - (iv) "community school" means a school referred to in section 6; (vi)
 - (v) "Council" means the Council for Education and Training referred to in section 4; (xviii) 20
 - (vi) "Department" means the Department of Education and Training; (iv)
 - (vii) "education" means any education or training, including— 25
 - (a) special education;
 - (b) advanced technical education;
 - (c) technical and trade training;
 - (d) adult education; and
 - (e) education provided in any nursery school, 30
 but does not include—
 - (i) education provided by a university or university college established by or under any law; and
 - (ii) "training" as defined in the Black Employees' In-Service Training Act, 1976 (Act No. 86 of 1976); (xiii) 35
 - (viii) "governing body", in relation to any state-aided school or private school, means the owner or the person managing such school in terms of section 8 (8); (ii)
 - (ix) "handicapped child" means a person between the ages of 3 and 23 years who in the opinion of the Secretary is capable of deriving benefit from a suitable course of education, but deviates to such an extent from the majority of persons of his age in body, mind or behaviour that he— 45

WET

Om voorsiening te maak vir die beheer oor onderwys vir Swartes deur die Departement van Onderwys en Opleiding; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 20 Junie 1979.)*

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

1. Tensy uit die samehang anders blyk, beteken in hierdie Woordomskrywing.
- 5 Wet—
- (i) „beampte” ’n beampte of werknemer soos omskryf in artikel 1 van die Staatsdienswet, 1957 (Wet No. 54 van 1957); (xiv)
 - 10 (ii) „bestuursliggaam” met betrekking tot ’n Staatsondersteunde skool of ’n private skool, die eienaar of die persoon wat daardie skool ingevolge artikel 8 (8) bestuur; (viii)
 - 15 (iii) „buitengewone onderwys” onderwys of opleiding van gespesialiseerde aard en ook—
 - (a) die sielkundige, mediese, tandheelkundige, paramediese en terapeutiese behandeling (met inbegrip van die uitvoer van operasies);
 - (b) die voorsiening van kunsmatige mediese hulpmiddels en apparaat;
 - 20 (c) die versorging en onderhoud in ’n skoolkoshuis, hospitaal of ander inrigting; en
 - (d) die vervoer en begeleiding en die ander dienste, wat verskaf word om in die behoeftes van ’n gestremde of geestesvertraagde kind te voorsien; (xxiii)
 - 25 (iv) „Departement” die Departement van Onderwys en Opleiding; (vi)
 - (v) „geestesvertraagde kind” iemand tussen die ouderdomme van 3 en 23 jaar wat volgens die oordeel van die Sekretaris nie voldoende voordeel uit ’n onderwyskursus kan trek nie, maar nogtans opgelei kan word en in staat is om voordeel uit ’n geskikte opleidingsprogram te trek; (xi)
 - 30 (vi) „gemeenskapskool” ’n skool bedoel in artikel 6; (iv)
 - 35 (vii) „gestremde kind” iemand tussen die ouderdomme van 3 en 23 jaar wat volgens die oordeel van die Sekretaris in staat is om voordeel uit ’n geskikte onderwyskursus te trek, maar wat in so ’n mate in liggaam, verstand of gedrag van die meerderheid van persone van sy ouderdom afwyk dat hy—

Act No. 90, 1979

EDUCATION AND TRAINING ACT, 1979.

- (a) cannot derive sufficient benefit from the instruction normally provided in the ordinary course of education;
- (b) requires special education to facilitate his adaptation to the community; and 5
- (c) should not attend an ordinary class in an ordinary school because such attendance may be harmful to him or to other pupils in that class, but is nevertheless educable and will derive sufficient benefit from education referred to in paragraph (b); (vii) 10
- (x) "independent state" means a territory which formed part of the Republic and which became an independent state in terms of an Act of Parliament; (xii)
- (xi) "mentally retarded child" means a person between the ages of 3 and 23 years who in the opinion of the Secretary is not capable of deriving benefit from a course of education, but who is nevertheless capable of being trained and is capable of deriving benefit from a suitable training program; (v) 15
- (xii) "Minister" means the Minister of Education and Training; (xi) 20
- (xiii) "nursery school" means a school for the education of children of the age of 3 years and above but below the age at which they may be admitted to a primary school; (x) 25
- (xiv) "officer" means an officer or employee as defined in section 1 of the Public Service Act, 1957 (Act No. 54 of 1957); (i)
- (xv) "prescribe" means prescribe by regulation; (xxix)
- (xvi) "primary school" means a school for education up to a standard not higher than the fifth standard; (xvi) 30
- (xvii) "private school" means a school other than a State school, a community school or a State-aided school; (xvii)
- (xviii) "regulation" means a regulation made under this Act; (xix) 35
- (xix) "school" means any school, special school, nursery school, class, part-time class, night school, college, centre, institute or any other institution for the education of Black persons; (xxii) 40
- (xx) "school attendance officer" means an officer charged with the duty to ensure that children who are in terms of section 37 (1) required to attend a school, attend a school regularly; (xxiii)
- (xxi) "secondary school" means a school for education up to a standard higher than the fifth standard but not higher than the tenth standard; (xx) 45
- (xxii) "Secretary" means the Secretary for Education and Training; (xxi)
- (xxiii) "special education" means education or training of a specialized nature, including— 50
- (a) such psychological, medical, dental, paramedical and therapeutic treatment (including the performance of operations);
- (b) such provision of artificial medical aids and apparatus; 55
- (c) such care and maintenance in a school hostel, hospital or other institution; and
- (d) such transport and escort and other services, as are provided to meet the needs of a handicapped or mentally retarded child; (iii) 60
- (xxiv) "special school" means a school in which handicapped or mentally retarded children receive special education, either on a full-time or on a part-time basis, and includes a class which is attached to an ordinary school and in which such children receive special education; (xxiv) 65
- (xxv) "State-aided school" means a school in respect of which grants-in-aid or subsidies are made in terms of

WET OP ONDERWYS EN OPLEIDING, 1979.

Wet No. 90, 1979

- (a) nie voldoende voordeel kan trek uit die gewone onderrig wat in die normale loop van onderwys verskaf word nie;
- (b) buitengewone onderwys nodig het om sy aanpassing by die gemeenskap te vergemaklik; en
- (c) nie 'n gewone klas in 'n gewone skool behoort by te woon nie, omdat sodanige bywoning vir hom of vir ander leerlinge in daardie klas skadelik kan wees,
- 10 maar nogtans opvoedbaar is en voldoende baat sal vind by onderwys bedoel in paragraaf (b); (ix)
- (viii) „gevorderde tegniese onderwys” tegniese onderwys en opleiding van 'n peil wat hoër is as die peil wat gewoonlik vir 'n eksamen vir standerd tien of 'n
- 15 gelykwaardige eksamen vereis word en wat deur die Minister vir die doeleindes van hierdie Wet tot gevorderde tegniese onderwys verklaar word; (i)
- (ix) „hierdie Wet” ook 'n regulasie; (xxix)
- (x) „kleuterskool” 'n skool vir die onderwys van kinders van 3 jaar en ouer maar onder die ouderdom waarop hulle tot 'n primêre skool toegelaat kan word; (xiii)
- (xi) „Minister” die Minister van Onderwys en Opleiding; (xii)
- (xii) „onafhanklike staat” 'n gebied wat deel van die Republiek uitgemaak het en wat ingevolge 'n Wet van die Parlement 'n onafhanklike staat geword het; (x)
- 25 (xiii) „onderwys” enige onderwys of opleiding, met inbegrip van—
- (a) buitengewone onderwys;
- 30 (b) gevorderde tegniese onderwys;
- (c) tegniese en ambagsopleiding;
- (d) onderwys vir volwassenes; en
- (e) onderwys verskaf in 'n kleuterskool, maar omvat dit nie—
- 35 (i) onderwys wat verskaf word deur 'n universiteit of universiteitskollege wat by of kragtens 'n wet ingestel is nie; en
- (ii) „opleiding” soos omskryf in die Wet op Indiensopleiding van Swart Werknemers, 1976 (Wet No. 86 van 1976), nie; (vii)
- 40 (xiv) „onderwyser” ook die prinsipaal of enige lid van die onderwyspersoneel van 'n skool; (xxvii)
- (xv) „Onderwysersraad” die Onderwysersraad vir Onderwys en Opleiding bedoel in artikel 31; (xxviii)
- 45 (xvi) „primêre skool” 'n skool vir onderwys tot 'n standerd nie hoër nie as die vyfde standerd; (xvi)
- (xvii) „private skool” 'n skool wat nie 'n Staatskool, 'n gemeenskapskool of 'n Staatsondersteunde skool is nie; (xvii)
- 50 (xviii) „Raad” die Raad vir Onderwys en Opleiding vermeld in artikel 4; (v)
- (xix) „regulasie” 'n regulasie kragtens hierdie Wet uitgevaardig; (xviii)
- (xx) „sekondêre skool” 'n skool vir onderwys tot 'n standerd hoër as die vyfde standerd, maar nie hoër nie as die tiende standerd; (xxi)
- 55 (xxi) „Sekretaris” die Sekretaris van Onderwys en Opleiding; (xxii)
- (xxii) „skool” enige skool, spesiale skool, kleuterskool, klas, deelytse klas, aandskool, kollege, sentrum, instituut of enige ander inrigting vir die onderwys van Swart persone; (xix)
- 60 (xxiii) „skoolbesoekbeampte” 'n beampte wat belas is met die plig om toe te sien dat kinders vir wie skoolbesoek ingevolge artikel 37 (1) verpligtend is, gereeld 'n skool besoek; (xx)
- 65 (xxiv) „spesiale skool” 'n skool waarin gestremde of geestesvertraagde kinders buitengewone onderwys ontvang,

Act No. 90, 1979

EDUCATION AND TRAINING ACT, 1979.

section 9 or in respect of which a loan was granted in terms of that section; (xxv)

(xxvi) "State school" means a school referred to in section 5; (xxvi)

(xxvii) "teacher" means the principal or any member of the 5 teaching staff of a school; (xiv)

(xxviii) "Teachers' Council" means the Teachers' Council for Education and Training referred to in section 31; (xv)

(xxix) "this Act" includes any regulation. (ix)

Control and administration of education, and organizing of and report on activities of Department.

2. (1) It shall be the function of the Department under the 10 direction and control of the Minister to perform all the work necessary for or incidental to the general administration of education for Blacks.

(2) The Department may organize its activities or any part thereof in regions and inspection circuits determined by the Minister from 15 time to time.

(3) The Secretary shall after the end of each year submit a report on the activities of the Department to the Minister, and the Minister shall lay such report on the Table in the Senate and in the 20 House of Assembly.

Determination of education policy.

3. The Minister may after consultation with, or consideration of proposals made by, the Council, from time to time determine the general policy to be pursued in regard to education in schools within the framework of the following principles, namely—

(a) that education in schools maintained, managed and 25 controlled or subsidized by the Department shall have a Christian character, but that the religious conviction of the parents and the pupils shall be respected in regard to religious instruction and religious ceremonies;

(b) that the universally accepted educational principle of the 30 use of the mother-tongue as the medium of instruction be observed: Provided that this principle shall be applied at least up to and including standard two: Provided further that the wishes of the parents shall be taken into consideration in the application of this principle after 35 standard two, and also in the choice of one of the official languages as the medium of instruction where the mother-tongue cannot be used as the medium of instruction after standard two;

(c) that it shall be the aim and objective with the 40 co-operation of the parents to introduce compulsory school attendance and free tuition (including free school books) in all areas;

(d) that in the provision of education the ability, aptitude and interest of the pupil as well as the training needs of 45 the country shall be taken into account, and that appropriate guidance shall be given to pupils in this regard;

(e) that there shall be co-ordination with the other depart- 50 ments of education with regard to syllabuses, courses and examination standards, and that the matriculation or senior certificate or an equivalent examination of either the Department of National Education or the Joint Matriculation Board shall be conducted;

(f) that recognition be given to the active involvement of 55 the parents and the communities in the education system through parent-teachers' associations, local or domestic committees or councils or in any similar authoritative manner; and

(g) that school health services be introduced in conjunction 60 with the Department of Health.

Council for Education and Training.

4. (1) There shall be a Council for Education and Training consisting of not fewer than 20 members to be appointed by the Minister.

WET OP ONDERWYS EN OPLEIDING, 1979.

Wet No. 90, 1979

hetsy op 'n heelydse of op 'n deelydse grondslag, en ook 'n klas wat verbonde is aan 'n gewone skool en waarin sodanige kinders buitengewone onderwys ontvang; (xxiv)

- 5 (xxv) „Staatsondersteunde skool” ’n skool ten opsigte waarvan hulptoelaes of subsidies ingevolge artikel 9 toegeken word of ten opsigte waarvan 'n lening ingevolge gemelde artikel toegestaan is; (xxv)
- (xxvi) „Staatskool” ’n skool bedoel in artikel 5; (xxvi)
- 10 (xxvii) „Swart staat” ’n gebied waarvoor 'n wetgewende vergadering kragtens artikel 1 van die Grondwet van die Swart State, 1971 (Wet No. 21 van 1971), ingestel is; (iii)
- (xxviii) „Swarte” of „Swart persoon” ’n Swarte soos omskryf in artikel 1 van die Bevolkingsregistrasiewet, 1950 (Wet No. 30 van 1950); (ii)
- 15 (xxix) „voorskryf” by regulasie voorskryf. (xv)

2. (1) Die Departement onder leiding en beheer van die Minister is belas met die verrigting van al die werksaamhede wat 20 nodig is vir of in verband staan met die algemene administrasie van onderwys vir Swartes.

Beheer oor en administrasie van onderwys, en organisering van en verslag oor werksaamhede van Departement.

(2) Die Departement kan sy werksaamhede of enige deel daarvan in streke en inspeksiekringe wat die Minister van tyd tot tyd bepaal, organiseer.

25 (3) Die Sekretaris moet ná die einde van elke jaar 'n verslag oor die werksaamhede van die Departement aan die Minister voorlê, en die Minister moet die verslag in die Senaat en in die Volksraad ter Tafel lê.

3. Die Minister kan na oorlegpleging met, of na oorweging van 30 voorstelle van, die Raad van tyd tot tyd die algemene beleid wat ten opsigte van onderwys in skole gevolg moet word, bepaal, en wel binne die raamwerk van die volgende beginsels, naamlik—

Bepaling van onderwysbeleid.

35 (a) dat die onderwys in skole wat deur die Departement in stand gehou, bestuur en beheer of gesubsidieer word 'n Christelike karakter moet hê, maar dat die geloofsoortuiging van die ouers en die leerlinge geëerbiedig moet word wat betref godsdiensonderrig en godsdiensstige plegtighede;

40 (b) dat die universeel aanvaarde opvoedkundige beginsel van die gebruik van die moedertaal as die medium van onderrig nageleef word: Met dien verstande dat hierdie beginsel ten minste tot en met standerd twee toegepas word: Met dien verstande voorts dat die wense van die ouers in ag geneem moet word by die toepassing van dié beginsel ná standerd twee, en ook by die keuse van een van die amptelike tale as medium van onderrig waar die moedertaal ná standerd twee nie as medium van onderrig gebruik kan word nie;

45 (c) dat dit dié doel en strewe is om met die samewerking van die ouers verpligte skoolbesoek en gratis onderrig (met inbegrip van gratis skoolboeke) in alle gebiede in te voer;

50 (d) dat daar by die verskaffing van onderwys rekening gehou moet word met die bekwaamheid, aanleg en belangstelling van die leerling en die opleidingsbehoefte van die land, en dat gepaste voorligting in dié verband aan leerlinge verstrekkend word;

55 (e) dat daar koördinasie met ander onderwysdepartemente moet wees ten opsigte van sillabusse, kursusse en eksamenstandaarde, en dat die matrikulasie- of seniorsertifikaatsamen of 'n gelykwaardige eksamen, van of die Departement van Nasionale Opvoeding of die Gemeenskaplike Matrikulasieraad afgeneem moet word;

60 (f) dat erkenning verleen word aan die aktiewe betrokkenheid van die ouers en die gemeenskappe in die onderwysstelsel deur middel van ouer-onderwysverenigings, plaaslike of huishoudelike komitees of rade, of op 'n soortgelyke gesaghebbende wyse; en

65 (g) dat skoolgesondheidsdienste in samewerking met die Departement van Gesondheid ingevoer word.

4. (1) Daar is 'n Raad vir Onderwys en Opleiding wat bestaan uit minstens 20 lede wat deur die Minister aangestel moet word.

Raad vir Onderwys en Opleiding.

Act No. 90, 1979

EDUCATION AND TRAINING ACT, 1979.

(2) The Council shall advise the Minister in regard to the general policy that should be pursued in connection with education in schools and teacher training, in so far as the professional aspects and guiding principles of such education and training are concerned. 5

(3) The constitution, duties, powers, privileges and functions of and the quorum for and procedure at meetings of the Council, the executive committee and other committees of the Council and the period of office of the chairman, vice-chairman and other members of the said Council and the constitution of committees of the Council shall be as prescribed. 10

(4) The Department shall place a full-time secretary at the disposal of the Council with such remuneration and allowances, if any, as may be determined by the Minister with the concurrence of the Minister of Finance and on the recommendation of the Public Service Commission. 15

(5) The fees and allowances, if any, payable to a member of the Council who is not in the full-time service of the State, shall be determined by the Minister with the concurrence of the Minister of Finance. 20

(6) The Advisory Council for Black Education established in terms of the Black Education Act, 1953 (Act No. 47 of 1953), shall continue to function until the term of office of its members expires and shall, during such period, be deemed for the purposes of this Act to be the Council established under this section. 25

Establishment,
erection and
maintenance of
State schools.

5. (1) The Minister may out of moneys appropriated by Parliament for this purpose establish, erect and maintain—

- (a) primary and secondary schools;
- (b) schools where education or training is provided in any trade, technical, commercial, agricultural, domestic science, homecraft or any other vocational direction; 30
- (c) colleges providing advanced technical training;
- (d) teacher training schools and colleges;
- (e) special schools;
- (f) centres for adult education; 35
- (g) hostels, quarters for teachers and caretakers of school buildings, school clinics and any other appurtenances of schools; and
- (h) any other type of school which he deems necessary for education. 40

(2) State schools may be classified by the Minister in such categories or sections of schools as may be determined by him, and he may combine two or more such categories or sections in one school.

(3) Any State school established or deemed to have been established as such in terms of any law repealed by section 45 and in existence at the commencement of this Act shall be deemed to have been established under subsection (1). 45

(4) The Minister may at any time close or disestablish a State school but, if a council, committee, board or other body has been established for such school in terms of section 7, only after consultation with such council, committee, board or other body. 50

(5) The Minister may, if he deems it to be in the interests of education and after consultation with or at the request of the council, committee, board or other body concerned, convert a State school into a community school. 55

Establishment,
erection and
maintenance of
community schools.

6. (1) With a view to providing for the educational needs of a particular community the Minister may out of moneys appropriated by Parliament for the purpose establish, erect and maintain— 60

- (a) nursery, primary and secondary schools;
- (b) hostels, quarters for teachers and caretakers of school buildings, school clinics and other appurtenances of schools; and
- (c) any other type of school which he deems necessary for the education of a particular community. 65

(2) Community schools may be classified by the Minister into such categories or sections of schools as may be determined by

WET OP ONDERWYS EN OPLEIDING, 1979.

Wet No. 90, 1979

- (2) Die Raad adviseer die Minister oor die algemene beleid wat in verband met onderwys op skool en onderwysersopleiding gevolg behoort te word vir sover dit die professionele aspekte van en riglyne vir sodanige onderwys en opleiding betref.
- 5 (3) Die samestelling, pligte, bevoegdhede, voorregte en werksaamhede van en kworum vir en prosedure op vergaderings van die Raad, die uitvoerende komitee en ander komitees daarvan en die ampstermyn van die voorsitter, vise-voorsitter en ander lede van die Raad en die samestelling van komitees van die Raad is 10 soos voorgeskryf.
- (4) Die Departement stel 'n heeltydse sekretaris tot beskikking van die Raad, met die besoldiging en toelaes, as daar is, wat deur die Minister met die instemming van die Minister van Finansies en op aanbeveling van die Staatsdienskommissie bepaal word.
- 15 (5) Die geld en toelaes, as daar is, betaalbaar aan 'n lid van die Raad wat nie in die heeltydse diens van die Staat is nie, word deur die Minister met die instemming van die Minister van Finansies bepaal.
- (6) Die Adviesraad vir Swart Onderwys wat ingevolge die Wet 20 op Swart Onderwys, 1953 (Wet No. 47 van 1953), ingestel is, gaan voort om te funksioneer totdat die ampstermyn van die lede verstryk en word gedurende dié tydperk vir die doeleindes van hierdie Wet geag die Raad te wees wat kragtens hierdie artikel ingestel is.
- 25 5. (1) Die Minister kan uit geld deur die Parlement vir dié doel bewillig—
- Instelling, oprigting en instandhouding van Staatskole.
- (a) primêre en sekondêre skole;
- (b) skole waar onderwys of opleiding in 'n ambags-, tegniese-, handels-, landbou-, huishoudkunde-, huisvlyt- of 'n ander beroepsrigting aangebied word;
- 30 (c) kolleges wat gevorderde tegniese onderwys aanbied;
- (d) onderwysersopleidingskole en -kolleges;
- (e) spesiale skole;
- (f) sentrums vir die onderwys van volwassenes;
- 35 (g) koshuise, kwartiere vir onderwysers en opsigters van skoolgeboue, skoolklinieke en ander toebehoorsels van skole; en
- (h) enige ander tipe skool wat hy vir die onderwys nodig ag, instel, oprig en in stand hou.
- 40 (2) Staatskole kan deur die Minister ingedeel word in die kategorieë of afdelings van skole wat hy bepaal, en hy kan twee of meer sodanige kategorieë of afdelings in een skool kombineer.
- (3) 'n Staatskool ingestel of wat geag word as sodanig ingestel te wees ingevolge 'n wet herroep by artikel 45 en wat by die 45 inwerkingtrede van hierdie Wet bestaan, word geag ingestel te wees kragtens subartikel (1).
- (4) Die Minister kan te eniger tyd 'n Staatskool sluit of die instelling daarvan intrek, maar indien 'n raad, komitee, bestuur of ander liggaam vir die skool ingevolge artikel 7 ingestel is, slegs 50 ná oorlegpleging met sodanige raad, komitee, bestuur of ander liggaam.
- (5) Die Minister kan, indien hy dit in belang van die onderwys ag, en na oorlegpleging met of op versoek van die betrokke raad, komitee, bestuur of ander liggaam, 'n Staatskool in 55 'n gemeenskapskool omskep.
6. (1) Met die doel om in die onderwysbehoefes van 'n besondere gemeenskap te voorsien, kan die Minister uit geld deur die Parlement vir dié doel bewillig—
- Instelling, oprigting en instandhouding van gemeenskapskole.
- (a) kleuter-, primêre en sekondêre skole;
- 60 (b) koshuise, kwartiere vir onderwysers en opsigters van skoolgeboue, skoolklinieke en ander toebehoorsels van skole; en
- (c) enige ander tipe skool wat hy vir die onderwys van 'n besondere gemeenskap nodig ag,
- 65 instel, oprig en in stand hou.
- (2) Gemeenskapskole kan deur die Minister ingedeel word in die kategorieë of afdelings van skole wat hy bepaal, en hy kan

Act No. 90, 1979

EDUCATION AND TRAINING ACT, 1979.

him, and he may combine two or more such categories or sections in one school.

(3) Any community school or other school registered or deemed to have been registered in terms of the Black Education Act, 1953 (Act No. 47 of 1953), controlled in terms of that Act by a school board and in existence immediately before the commencement of this Act, shall be deemed to have been established in terms of subsection (1). 5

(4) The Minister may at any time close or disestablish any community school but, if a council, committee, board or other body has been established for such school in terms of section 7, only after consultation with such council, committee, board or other body. 10

(5) The Minister may at any time, if he deems it to be in the interests of education and after consultation with or at the request of the council, committee, board or other body concerned, convert a community school into a State school. 15

Establishment of councils, committees, boards and other bodies for State schools and community schools, and conferring of certain powers in regard to community schools upon certain other bodies.

7. (1) With a view to providing for the active involvement by parents and the community in education and in order to make provision that the Secretary shall be advised regarding prescribed matters in connection with the control and management of State schools and community schools, the Minister may for any such school or schools establish such local or domestic councils, committees, boards or other bodies as he may deem expedient, and he may accord representation on such council, committee, board or other body to any person. 20 25

(2) The constitution, qualifications for membership, duties, powers, functions and term of office of, and the allowances, if any, payable to, members of councils, committees, boards or other bodies established in terms of subsection (1) shall be as prescribed. 30

(3) The Minister may at any time disestablish any council, committee, board or other body established in terms of subsection (1), or withdraw such duties, powers or functions determined by him in a particular case from such council, committee, board or other body: Provided that before exercising his discretion in terms of this subsection the Minister shall afford to the council, committee, board or other body concerned an opportunity of making representations in such manner as the Minister may determine relating to the proposed disestablishment or withdrawal. 35 40

(4) The Minister may in regard to the management of a community school impose or confer upon or assign to any body established by or in terms of any Act of Parliament any duty, power or function referred to in subsection (2), as well as such other duty, power or function as he may determine in a particular case: Provided that such imposition, conferment or assignment shall only take place after consultation with the Minister or authority under whose jurisdiction such other body is functioning and that such body shall carry out, exercise or perform such duty, power or function subject to the provisions of this Act and in so far as such carrying out, exercise or performance is not contrary to the provisions of the Act by or in terms of which such body was established. 45 50

Registration and management of private and State-aided schools.

8. (1) Any person who wishes to provide education to a Black person, except at a State school or a community school, shall apply to the Department for the registration of a school, and he shall not provide such education before the school has been registered in terms of this section. 55

(2) The Minister may after consideration of an application referred to in subsection (1) in his discretion register a school as a State-aided or private school and he may classify such school at such registration in such categories or sections of schools as he may determine, and he may combine two or more categories or sections in one school. 60

(3) The provisions of subsection (1) shall not apply to— 65

(a) a correspondence college registered in terms of the Correspondence Colleges Act, 1965 (Act No. 59 of 1965), and providing a course exclusively by means of correspondence;

WET OP ONDERWYS EN OPLEIDING, 1979.

Wet No. 90, 1979

twee of meer sodanige kategorieë of afdelings in een skool kombineer.

(3) 'n Gemeenskapskool of ander skool wat ingevolge die Wet op Swart Onderwys, 1953 (Wet No. 47 van 1953), geregistreer is of wat aldus geag word geregistreer te wees, wat ingevolge daardie Wet deur 'n skoolraad beheer word en wat onmiddellik voor die inwerkingtreding van hierdie Wet bestaan, word geag ingevolge subartikel (1) ingestel te wees.

(4) Die Minister kan te eniger tyd 'n gemeenskapskool sluit of die instelling daarvan intrek, maar indien 'n raad, komitee, bestuur of ander liggaam vir die skool ingevolge artikel 7 ingestel is, slegs ná raadpleging met sodanige raad, komitee, bestuur of ander liggaam.

(5) Die Minister kan te eniger tyd indien hy dit in belang van die onderwys ag en na oorlegpleging met of op versoek van die betrokke raad, komitee, bestuur of ander liggaam, 'n gemeenskapskool in 'n Staatskool omskep.

7. (1) Ten einde voorsiening te maak vir die aktiewe betrokkenheid deur die ouers en die gemeenskap in die onderwys en ten einde voorsiening te maak dat die Sekretaris oor voorgeskrewe aangeleenthede in verband met die beheer en bestuur van Staatskole en gemeenskapskole geadviseer word, kan die Minister vir enige sodanige skool of skole die plaaslike of huishoudelike rade, komitees, besture of ander liggame wat hy dienstig ag, instel, en kan hy verteenwoordiging in so 'n raad, komitee, bestuur of ander liggaam aan iemand verleen.

Instelling van rade, komitees, besture en ander liggame vir Staatskole en gemeenskapskole, en verlening van sekere bevoegdhede oor gemeenskapskole aan sekere ander liggame.

(2) Die samestelling, vereistes vir lidmaatskap, pligte, bevoegdhede, werksaamhede en ampstermyn van, en die toelaes, as daar is, betaalbaar aan, lede van rade, komitees, besture of ander liggame ingestel ingevolge subartikel (1) is soos voorgeskryf.

(3) Die Minister kan te eniger tyd 'n ingevolge subartikel (1) ingestelde raad, komitee, bestuur of ander liggaam afskaf of die pligte, bevoegdhede of werksaamhede wat hy in 'n besondere geval bepaal van sodanige raad, komitee, bestuur of ander liggaam wegneem: Met dien verstande dat die Minister voordat hy sy diskresie ingevolge hierdie subartikel uitoefen, die betrokke raad, komitee, bestuur of ander liggaam die geleentheid moet bied om op die wyse wat hy bepaal verhoër betrefende die voorgenome afskaffing of wegname tot hom te rig.

(4) Die Minister kan in verband met die bestuur van 'n gemeenskapskool aan enige liggaam ingestel deur of ingevolge 'n Wet van die Parlement enige plig, bevoegdheid of werksaamheid in subartikel (2) vermeld, sowel as die ander plig, bevoegdheid of werksaamheid wat hy in 'n besondere geval bepaal, ople, verleen of opdra: Met dien verstande dat sodanige oplegging, verlening of opdrag slegs geskied na raadpleging van die Minister of gesag onder wie se jurisdiksie sodanige ander liggaam optree en dat sodanige liggaam sodanige plig, bevoegdheid of werksaamheid moet uitvoer, uitoefen of verrig onderworpe aan die bepalings van hierdie Wet en vir sover sodanige uitvoering, uitoefening of verrigting nie strydig is met die bepalings van die Wet deur of ingevolge waarvan daardie liggaam ingestel is nie.

8. (1) Iemand wat onderwys aan 'n Swart persoon wil verskaf, behalwe by 'n Staatskool of by 'n gemeenskapskool, moet by die Departement om die registrasie van 'n skool aansoek doen, en hy mag nie sodanige onderwys verskaf voordat die skool ingevolge hierdie artikel geregistreer is nie.

Registrasie en bestuur van private en Staatsondersteunde skole.

(2) Die Minister kan na oorweging van 'n aansoek bedoel in subartikel (1) 'n skool na goeë dunks as 'n Staatsondersteunde of private skool registreer en hy kan die skool by sodanige registrasie indeel in die kategorieë of afdelings van skole wat hy bepaal, en hy kan twee of meer kategorieë of afdelings in een skool kombineer.

(3) Die bepalings van subartikel (1) is nie van toepassing nie op—

(a) 'n korrespondensiekollege wat ingevolge die Wet op Korrespondensiekolleges, 1965 (Wet No. 59 van 1965), geregistreer is en wat 'n kursus uitsluitlik deur middel van korrespondensie aanbied;

Act No. 90, 1979

EDUCATION AND TRAINING ACT, 1979.

- (b) a school established, maintained or controlled by a church solely for the purpose of providing purely theological training to prospective ministers of religion or evangelists, and any school providing exclusively religious tuition; 5
- (c) any person providing without reward informal education which does not lead to the acquisition of any diploma, certificate or statement; or
- (d) a school registered or approved by another education department and providing education to a Black person whose enrolment at such school has been approved by such department. 10
- (4) Any registration under subsection (2) may be made subject to such conditions as the Minister may deem fit, and the Minister may at any time— 15
- (a) withdraw or amend any such condition or impose further conditions as he may deem fit;
- (b) withdraw any registration under subsection (2) if he is of the opinion that any condition imposed in respect thereof has not been complied with or that other good and sufficient reasons for such withdrawal exist: 20

Provided that the Minister shall not act under paragraph (a) or (b) unless he has first afforded the governing body concerned a reasonable opportunity of submitting in such manner as the Minister may determine, representations to him in regard to the proposed action. 25

(5) Any person who contravenes the provisions of subsection (1), whether as a member of the governing body or owner of such school or as a teacher thereat, or any person who admits any Black person to a school which is not registered or exempted from registration in terms of this Act, shall be guilty of an offence and liable on conviction to a fine not exceeding R500 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment. 30

(6) Any person who has been convicted of an offence referred to in subsection (5) and who at any time after such conviction carries on the activities in respect of which he was so convicted may again be charged and punished in respect of such activities. 35

(7) Any State-aided or private school which is in existence at the commencement of this Act and registered or approved or deemed to have been registered or approved as such in terms of any law repealed by section 45, shall be deemed to have been registered in terms of the provisions of subsection (2), and any condition to which the registration or approval of such school is subject at such commencement shall be deemed to have been imposed under this Act. 40 45

(8) The owner of any State-aided or private school registered or deemed to have been registered in terms of this section, may manage such school himself or he may, subject to the approval of the Secretary, appoint or authorize any person to manage such school on his behalf and subject to the provisions of this Act, and such person shall for the purposes of this Act be known as a governing body. 50

Making of grants-in-aid or subsidies and loans in respect of State-aided schools.

9. (1) The Minister may out of moneys appropriated by Parliament for the purpose make grants-in-aid or subsidies and loans to the owner or governing body of any school (including any hostel attached thereto) registered or deemed to have been registered in terms of section 8. 55

(2) The making of grants-in-aid or subsidies and loans in terms of subsection (1) shall be effected on such basis and subject to such conditions as the Minister with the concurrence of the Minister of Finance may in every particular case determine, and subject to such other conditions as may be prescribed. 60

(3) Any grant-in-aid, subsidy or loan in existence immediately before the commencement of this Act and made in respect of any State-aided school or hostel under any law repealed by section 45, shall be deemed to have been made in respect of such school in terms of subsection (1) with effect from such commencement, and 65

WET OP ONDERWYS EN OPLEIDING, 1979.

Wet No. 90, 1979

- (b) 'n skool wat ingestel, in stand gehou of beheer word deur 'n kerk uitsluitlik met die doel om suiwer teologiese opleiding aan voornemende predikante of evangeliste te verskaf, en enige skool wat uitsluitlik godsdiensoonderrig gee;
- (c) iemand wat sonder beloning informele onderwys wat nie lei tot die verwerwing van 'n diploma, sertifikaat of verklaring nie, verskaf; of
- (d) 'n skool wat deur 'n ander onderwysdepartement geregistreer of goedgekeur is en wat onderwys verskaf aan 'n Swart persoon wie se inskrywing by so 'n skool deur bedoelde departement goedgekeur is.

(4) Enige registrasie ingevolge subartikel (2) kan onderworpe gemaak word aan die voorwaardes wat die Minister goedvind, en die Minister kan te eniger tyd—

- (a) enige sodanige voorwaarde intrek of wysig of verdere voorwaardes opelê soos hy goedvind;
- (b) enige registrasie ingevolge subartikel (2) intrek indien hy van oordeel is dat enige voorwaarde wat ten opsigte daarvan opgelê is, nie nagekom is of word nie of dat daar ander goeie en genoegsame redes vir die intrekking bestaan:

Met dien verstande dat die Minister nie ingevolge paragraaf (a) of (b) ootree nie tensy hy vooraf aan die betrokke bestuursliggaam 'n redelike geleentheid gegee het om op die wyse wat die Minister bepaal in verband met die voorgestelde optrede vertoë tot hom te rig.

(5) Iemand wat die bepaling van subartikel (1) ootree, hetsy as lid van die bestuursliggaam of as eienaar van so 'n skool of as 'n onderwyser daarvan, of iemand wat 'n Swart persoon tot 'n skool toelaat wat nie kragtens hierdie Wet geregistreer of van registrasie vrygestel is nie, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R500 of gevangenisstraf vir 'n tydperk van hoogstens een jaar of met sowel daardie boete as daardie gevangenisstraf.

(6) Iemand wat aan 'n misdryf bedoel in subartikel (5) skuldig bevind is en wat te eniger tyd na daardie skuldigbevinding voortgaan met die handeling ten opsigte waarvan hy aldus skuldig bevind is, kan weer ten opsigte van daardie handeling aangekla en gestraf word.

(7) 'n Staatsondersteunde of private skool wat by die inwerkingtreding van hierdie Wet bestaan en as sodanig geregistreer of goedgekeur is of geag word geregistreer of goedgekeur te wees kragtens 'n wet herroep by artikel 45, word geag ingevolge die bepaling van subartikel (2) geregistreer te wees, en enige voorwaarde waaraan die registrasie of goedkeuring van sodanige skool by sodanige inwerkingtreding onderworpe is, word geag kragtens hierdie Wet opgelê te wees.

(8) Die eienaar van 'n Staatsondersteunde of private skool wat ingevolge hierdie artikel geregistreer is of geag word geregistreer te wees, kan sodanige skool self bestuur of hy kan iemand met die goedkeuring van die Sekretaris aanstel of magtig om die skool namens hom en onderworpe aan die bepaling van hierdie Wet te bestuur, en so 'n persoon heet vir die doeleindes van hierdie Wet 'n bestuursliggaam.

9. (1) Die Minister kan uit geld wat die Parlement vir dié doel bewillig het, hulptoelae of subsidies en lenings toeken aan die eienaar of bestuursliggaam van 'n skool (met inbegrip van 'n koshuis daaraan verbonde) wat kragtens artikel 8 geregistreer is of geag word geregistreer te wees.

(2) Die toekenning van hulptoelae of subsidies en lenings ingevolge subartikel (1) moet geskied op die grondslag en onderworpe aan die voorwaardes wat die Minister met die instemming van die Minister van Finansies in elke besondere geval bepaal, en onderworpe aan die ander voorwaardes wat voorgeskryf word.

(3) 'n Hulptoelae, subsidie of lening wat onmiddellik vóór die inwerkingtreding van hierdie Wet ten opsigte van 'n Staatsondersteunde skool of koshuis bestaan en toegeken is kragtens 'n wet herroep by artikel 45, word geag toegeken te wees ten opsigte van sodanige Staatsondersteunde skool ingevolge subar-

Toekenning van hulptoelae of subsidies en lenings ten opsigte van Staatsondersteunde skole.

Act No. 90, 1979

EDUCATION AND TRAINING ACT, 1979.

any condition to which such grant-in-aid, subsidy or loan is subject immediately before such commencement shall be deemed to have been imposed under subsection (2).

(4) The Minister may at any time in his discretion terminate, reduce or withdraw any grant-in-aid, subsidy or loan made in respect of a State-aided school or hostel in terms of this section if the Minister is satisfied that the conditions of such grant-in-aid, subsidy or loan are not complied with or if there are other good and sufficient reasons for such termination, reduction or withdrawal: Provided that before exercising his discretion under this subsection, the Minister shall afford to the governing body or owner in question an opportunity of making representations relating to the proposed action in such manner as the Minister may determine.

Taking over of management and control of State-aided or private school by Minister.

10. (1) The Minister may with the concurrence of the Minister of Finance and with effect from a date determined by the Minister take over the management and control of a State-aided or a private school, or any part thereof, as a State school or a community school, if—

- (a) the owner or governing body of the school in question has agreed thereto; or
- (b) the registration of such school is withdrawn in terms of section 8 (4) (b).

(2) The taking over of the management and control of any such school shall be on such conditions concerning the take-over of the property of such school as may be agreed upon between the Minister and the owner or governing body concerned.

(3) As from the date of any such taking over the school concerned shall be deemed to be a State school established under section 5 or a community school established under section 6, as the Minister may determine, and the owner or governing body concerned shall cease to have any rights, powers or duties in regard to such school.

(4) If any property which by virtue of a trust, donation or bequest was vested in or would have accrued to any owner or governing body, devolves upon the Department, the Secretary shall deal with such property in accordance with the conditions of such trust, donation or bequest.

(5) As from the date referred to in subsection (1) the rights and liabilities acquired or incurred by the owner or governing body in question for the purposes of or in connection with the school concerned shall pass to the Department.

Establishment of, and appointment, promotion and discharge of teachers in, State schools.

11. (1) The teaching establishment at any State school shall be determined by the Minister on a basis to be laid down from time to time with the concurrence of the Minister of Finance and on the recommendation of the Public Service Commission.

(2) The power of appointment, promotion or discharge of teachers in State schools shall subject to the provisions of this Act vest in the Minister.

(3) Any teacher who immediately before the commencement of this Act occupies a post on the teaching establishment of any State school shall as from the said date be deemed to have been appointed in terms of this section.

(4) Any disciplinary proceedings in respect of misconduct by any teacher referred to in subsection (3) before the commencement of this Act may be continued or instituted by the Department as if such misconduct had been committed after the commencement.

Establishment of, and appointment, promotion and discharge of teachers in, community schools.

12. (1) The teaching establishment at any community school shall be determined by the Minister on the basis referred to in section 11 (1).

(2) The power of appointment, promotion or discharge of teachers in community schools shall subject to the provisions of this Act vest in the Minister.

(3) Any teacher who immediately before the commencement of this Act was employed by a school board established in terms of any law repealed by section 45, as a teacher in a post in respect

WET OP ONDERWYS EN OPLEIDING, 1979.

Wet No. 90, 1979

tikel (1) en wel met ingang van bedoelde inwerkingtreding, en enige voorwaarde waaraan sodanige hulptoelae, subsidie of lening onderworpe is onmiddellik voor bedoelde inwerkingtreding, word geag kragtens subartikel (2) opgelê te wees.

- 5 (4) Die Minister kan te eniger tyd na goëddunke 'n hulptoelae, subsidie of lening wat ten opsigte van enige Staatsondersteunde skool of koshuis kragtens hierdie artikel verleen word, staak, verminder of intrek indien die Minister oortuig is dat die voorwaardes van sodanige hulptoelae, subsidie of lening nie nagekom
10 word nie of indien daar ander goëie en genoegsame redes vir sodanige staking, vermindering of intrekking bestaan: Met dien verstande dat die Minister voordat hy sy diskresie kragtens hierdie subartikel uitoefen die betrokke bestuursliggaam of eienaar die geleentheid moet bied om verhoë betreffende die voorgenoeme
15 handeling te rig, op die wyse wat die Minister bepaal.

10. (1) Die Minister kan met die instemming van die Minister van Finansies en met ingang van 'n datum wat die Minister bepaal die bestuur en beheer oor 'n Staatsondersteunde skool of 'n private skool, of 'n gedeelte daarvan, as 'n Staatskool of 'n
20 gemeenskapskool oorneem, indien—

- (a) die eienaar of bestuursliggaam van die betrokke skool daartoe ingestem het;
(b) die registrasie van sodanige skool ingevolge artikel 8 (4) (b) ingetrek word.

- 25 (2) Die oorname van die bestuur en beheer oor so 'n skool geskied op die voorwaardes aangaande die oorname van die goed van die skool waarop deur die Minister en die betrokke eienaar of bestuursliggaam ooreengekom word.

- (3) Vanaf die datum van so 'n oorname word die betrokke skool
30 geag 'n Staatskool ingestel kragtens artikel 5, of 'n gemeenskapskool ingestel kragtens artikel 6, soos die Minister bepaal, te wees, en het die betrokke eienaar of bestuursliggaam geen verdere regte, bevoegdheede of pligte ten opsigte van daardie skool nie.

- (4) Indien goed wat uit hoofde van 'n trust, skenking of
35 bemaking by 'n eienaar of bestuursliggaam berus het of aan hom sou toegeval het, op die Departement oorgaan, moet die Sekretaris met sodanige goed handel ooreenkomstig die voorwaardes van bedoelde trust, skenking of bemaking.

- (5) Vanaf die datum in subartikel (1) vermeld, gaan die regte en
40 verpligtings wat die betrokke eienaar of bestuursliggaam vir die doeleindes van of in verband met die betrokke skool verkry of opgeloop het, op die Departement oor.

11. (1) Die onderwysdiensstaat by enige Staatskool word deur die Minister bepaal op 'n basis wat van tyd tot tyd met die
45 instemming van die Minister van Finansies en op aanbeveling van die Staatsdienskommissie bepaal word.

(2) Die bevoegdheid om onderwysers in Staatskole aan te stel, te bevorder of te ontslaan, berus behoudens die bepalinge van hierdie Wet by die Minister.

- 50 (3) 'n Onderwyser wat onmiddellik vóór die inwerkingtreding van hierdie Wet 'n pos beklee op die onderwysdiensstaat van 'n Staatskool word vanaf bedoelde datum geag ingevolge hierdie artikel aangestel te wees.

- (4) Enige dissiplinêre stappe ten opsigte van wangedrag wat
55 deur 'n in subartikel (3) bedoelde onderwyser vóór die inwerkingtreding van hierdie Wet gepleeg is, kan deur die Departement voortgesit of ingestel word asof die wangedrag ná die inwerkingtreding gepleeg was.

12. (1) Die onderwysdiensstaat by enige gemeenskapskool
60 word deur die Minister bepaal op die basis bedoel in artikel 11 (1).

(2) Die bevoegdheid om onderwysers in gemeenskapskole aan te stel, te bevorder of te ontslaan, berus behoudens die bepalinge van hierdie Wet by die Minister.

- 65 (3) 'n Onderwyser wat onmiddellik vóór die inwerkingtreding van hierdie Wet in diens is van 'n skoolraad ingestel ingevolge 'n wet herroep by artikel 45, as 'n onderwyser in 'n pos

Oorname van bestuur van en beheer oor Staatsondersteunde skool of private skool deur Minister.

Diensstaat van, en aanstelling, bevordering en ontslag van onderwysers in, Staatskole.

Diensstaat van, en aanstelling, bevordering en ontslag van onderwysers in, gemeenskapskole.

Act No. 90, 1979

EDUCATION AND TRAINING ACT, 1979.

of which a subsidy is paid by the State, on the teaching establishment of a community school shall as from the said commencement be deemed to have been appointed by the Minister in terms of subsection (2): Provided that any unqualified teacher and any teacher who at the said commencement has already attained the retiring age mentioned in section 21 (7), shall be deemed to have been so appointed on a temporary basis. 5

(4) Any disciplinary proceedings in respect of misconduct committed by any teacher referred to in subsection (3) before the commencement of this Act may be continued or instituted by the Department as if such misconduct had been committed after the said commencement. 10

Establishment of, and appointment, promotion and discharge of persons employed at, State-aided schools.

13. (1) Subject to the provisions of subsection (2)—

(a) the establishment at a State-aided school shall be determined by the Minister on the basis laid down from time to time with the concurrence of the Minister of Finance; 15

(b) the power to appoint any person at a State-aided school or to promote or discharge such a person shall be vested in the governing body in question, subject to the approval of the Minister: Provided that in the case of the discharge of such person such approval shall be previously granted; 20

(c) the salary, salary scale and allowances of any person appointed on a full-time basis under paragraph (b) in a post in respect of which a subsidy is paid by the State shall be determined by the Minister on the recommendation of the Public Service Commission and with the concurrence of the Minister of Finance; and 25

(d) the conditions of service and leave privileges of teachers employed full-time at a State-aided school in posts in respect of which subsidies are paid by the State shall be as prescribed. 30

(2) If in the opinion of the Minister a governing body fails to have a vacant subsidized teaching post referred to in subsection (1) suitably filled within a period regarded by the Minister as reasonable, and such failure is in the opinion of the Minister prejudicial to the State-aided school, the Minister may appoint a teacher to such post, and such appointment shall be deemed to have been made in terms of subsection (1) (b). 35 40

(3) Any teacher who immediately before the commencement of this Act is employed in a post at a State-aided school referred to in section 8 (7) shall be deemed to have been appointed in terms of subsection (1) (b) of this section to such post.

(4) Any disciplinary proceedings in respect of misconduct committed by any teacher referred to in subsection (3) before the commencement of this Act may be continued or instituted by the governing body as if such misconduct had been committed after such commencement. 45

(5) Any teacher employed in terms of this section in a subsidized post at a State-aided school shall, for the purposes of the Workmen's Compensation Act, 1941 (Act No. 30 of 1941), be deemed to be a Government employee, unless the Minister determines otherwise in any particular case. 50

(6) The services of a teacher in a post in respect of which a subsidy is paid by the State at a State-aided school shall be deemed to have been terminated by the governing body with effect from the first day of the month following the month in which he reaches the age of 65 years, in the case of a male teacher, and 60 years, in the case of a female teacher: Provided that such teacher may thereafter, subject to the provisions of subsection (1) (b), be appointed on a temporary basis. 55 60

Appointment of teachers additional to determined teaching establishments at State schools.

14. (1) The Minister may with the concurrence of the Minister of Finance and on the recommendation of the Public Service Commission appoint teachers additional to the teaching establishments at State schools determined in terms of section 11 (1), to perform such services and work as the Minister may from time to time determine. 65

WET OP ONDERWYS EN OPLEIDING, 1979.

Wet No. 90, 1979

ten opsigte waarvan 'n subsidie deur die Staat betaal word, op die onderwysdiensstaat van 'n gemeenskapskool, word vanaf bedoelde inwerkingtreëding geag ingevolge subartikel (2) deur die Minister aangestel te wees: Met dien verstande dat 'n ongekwalifiseerde onderwyser en 'n onderwyser wat by bedoelde inwerkingtreëding reeds die luidienstredingsouderdom vermeld in artikel 21 (7) bereik het, geag word aldus op 'n tydelike basis aangestel te wees.

(4) Enige dissiplinêre stappe ten opsigte van wangedrag wat deur 'n in subartikel (3) bedoelde onderwyser vóór die inwerkingtreëding van hierdie Wet gepleeg is, kan deur die Departement voortgesit of ingestel word asof die wangedrag ná bedoelde inwerkingtreëding gepleeg was.

13. (1) Behoudens die bepalings van subartikel (2)—

15 (a) word die diensstaat by 'n Staatsondersteunde skool deur die Minister bepaal op die basis wat van tyd tot tyd met die instemming van die Minister van Finansies bepaal word;

20 (b) berus die bevoegdheid om iemand by 'n Staatsondersteunde skool aan te stel of om so 'n persoon te bevorder of te ontslaan by die betrokke bestuursliggaam, onderworpe aan die goedkeuring van die Minister: Met dien verstande dat in die geval van die ontslag van so 'n persoon sodanige goedkeuring vooraf verleen moet word;

25 (c) word die salaris, salarisskaal en toelaes van iemand wat kragtens paragraaf (b) in 'n heeltidse hoedanigheid in 'n pos ten opsigte waarvan 'n subsidie deur die Staat betaal word, aangestel word, deur die Minister bepaal op aanbeveling van die Staatsdienskommissie en met die instemming van die Minister van Finansies; en

30 (d) is die diensvoorwaardes en verlofvoorregte van onderwysers heeltids in diens by 'n Staatsondersteunde skool in poste ten opsigte waarvan subsidies deur die Staat betaal word, soos voorgeskryf.

35 (2) As 'n bestuursliggaam na die oordeel van die Minister in gebreke bly om 'n gesubsidieerde onderwyspos bedoel in subartikel (1) wat vakant is, paslik te vul binne 'n tydperk wat die Minister as redelik beskou, en sodanige versuim na die oordeel van die Minister tot nadeel van die Staatsondersteunde skool strek, kan die Minister 'n onderwyser in sodanige pos aanstel, en sodanige aanstelling word geag ingevolge die bepalings van subartikel (1) (b) gedoen te wees.

45 (3) 'n Onderwyser wat onmiddellik vóór die inwerkingtreëding van hierdie Wet in 'n pos in diens is by 'n Staatsondersteunde skool bedoel in artikel 8 (7), word geag ingevolge die bepalings van subartikel (1) (b) van hierdie artikel in sodanige pos aangestel te wees.

50 (4) Enige dissiplinêre stappe ten opsigte van wangedrag wat deur 'n in subartikel (3) bedoelde onderwyser vóór die inwerkingtreëding van hierdie Wet gepleeg is, kan deur die bestuursliggaam voortgesit of ingestel word asof die wangedrag ná bedoelde inwerkingtreëding gepleeg was.

55 (5) 'n Onderwyser wat ingevolge hierdie artikel in 'n gesubsidieerde pos by 'n Staatsondersteunde skool in diens is, word vir die doeleindes van die Ongevallewet, 1941 (Wet No. 30 van 1941), as 'n Regeringswerknemer beskou, tensy die Minister in 'n besondere geval anders bepaal.

60 (6) Die dienste van 'n onderwyser in 'n pos ten opsigte waarvan 'n subsidie deur die Staat betaal word by 'n Staatsondersteunde skool word geag deur die bestuursliggaam beëindig te wees met ingang van die eerste dag van die maand wat volg op die maand waarin hy die ouderdom van 65 jaar, in die geval van 'n manlike onderwyser, en 60 jaar, in die geval van 'n vroulike onderwyser, bereik het: Met dien verstande dat so 'n onderwyser daarna behoudens die bepalings van subartikel (1) (b) in 'n tydelike hoedanigheid aangestel kan word.

14. (1) Die Minister kan met die instemming van die Minister van Finansies en op aanbeveling van die Staatsdienskommissie, onderwysers aanstel addisioneel tot die ingevolge artikel 11 (1) bepaalde onderwysdiensstate by Staatskole om die dienste en werksaamhede te verrig wat die Minister van tyd tot tyd bepaal.

Diensstaat van, en aanstelling bevordering en ontslag van persone in diens by, Staatsondersteunde skole.

Aanstelling van onderwysers addisioneel tot bepaalde onderwysdiensstate by Staatskole.

Act No. 90, 1979

EDUCATION AND TRAINING ACT, 1979.

(2) The provisions of sections 11 (2) and 17 (1) shall apply *mutatis mutandis* to teachers appointed under this section.

Secondment of certain teachers to service of others.

15. The Minister may with the consent of the teacher concerned second any teacher employed at a State school or a community school or any teacher appointed in terms of section 14, on such conditions (in addition to those prescribed by or under any law) as the Minister may approve with the concurrence of the Minister of Finance, to the service of any other government or any other State department, or of any council, institution or body established by or under any law, or of any other body or person, either for a particular service or a period of time, and such teacher shall, while he is so seconded, remain subject to the provisions of this Act. 5

Transfer of certain teachers employed at State schools and community schools.

16. (1) Any teacher employed at a State school or a community school may be transferred by the Minister from the post in which he is employed to any other post at the same school or at any other State school or community school or at any other institution under the control of the Department, whether or not such transfer is to a post of a lower grade: Provided that a transfer involving a reduction in such teacher's pensionable emoluments shall not be made without his consent, unless the transfer is in consequence of a reduction of rank imposed in connection with misconduct or inefficiency as a teacher. 15

(2) A teacher who has been transferred to a post of a grade higher than a grade to which his own rank is appropriate shall not by reason only of such transfer and service in such post be entitled to the higher salary applicable to that post. 20

Salaries, salary scales, allowances and conditions of service of teachers employed at State schools and community schools.

17. (1) Notwithstanding anything to the contrary contained in any other law but subject to the provisions of this Act the Minister shall, with the concurrence of the Minister of Finance and on the recommendation of the Public Service Commission, determine the salaries, salary scales and allowances, if any, and prescribe the conditions of service, including leave privileges, of teachers employed in a permanent, temporary or part-time capacity at any State school or community school. 30

(2) Any teacher who immediately before the date on which the management and control of any State-aided or private school is transferred to the Department in terms of section 10 (1) occupies a post on the establishment of such school shall, subject to the requirements for appointment referred to in section 19 and unless the Minister directs otherwise, as from that date— 40

- (a) be transferred to the service of the Department; and
- (b) be deemed to have been appointed to such post on probation in terms of and subject to the provisions of this Act.

(3) As from the date on which a teacher is transferred to the service of the Department in terms of subsection (2), his salary shall be adjusted to such notch on the salary scale applicable to his post as the Minister may with the concurrence of the Public Service Commission determine. 45

(4) Any continuous, full-time employment of any teacher referred to in subsection (2) at any State-aided school immediately before such transfer shall for leave purposes be deemed to have been employment in the service of the Department: Provided that any sick and accumulative vacation leave to which such teacher is entitled on the date of such transfer shall, subject to such conditions as the Minister on the recommendation of the Public Service Commission may determine, be deemed to be leave accrued in terms of this Act. 50

(5) Any continuous, full-time employment of any teacher referred to in section 12 (3) who immediately before the commencement of this Act was employed by a school board established in terms of any law repealed by section 45 shall for leave purposes be deemed to have been employment in the service of the Department: Provided that any sick and accumulative 55

WET OP ONDERWYS EN OPLEIDING, 1979.

Wet No. 90, 1979

(2) Die bepalings van artikels 11 (2) en 17 (1) is *mutatis mutandis* van toepassing op onderwysers kragtens hierdie artikel aangestel.

- 15 15. Die Minister kan 'n onderwyser in diens by 'n Staatskool of 'n gemeenskapskool of 'n onderwyser aangestel kragtens artikel 14 met die betrokke onderwyser se toestemming en op die voorwaardes (benewens dié wat by of kragtens die een of ander wet voorgeskryf word) wat die Minister met die instemming van die Minister van Finansies goedkeur, aan die diens van 'n ander regering of ander Staatsdepartement of van 'n raad, inrigting of liggaam wat by of kragtens die een of ander wet ingestel is, of van enige ander liggaam of persoon, afstaan, hetsy vir 'n besondere diens of vir 'n tydperk, en sodanige onderwyser bly, terwyl hy aldus afgestaan is, onderworpe aan die bepalings van hierdie Wet.
16. (1) 'n Onderwyser wat by 'n Staatskool of 'n gemeenskapskool in diens is, kan deur die Minister verplaas word van die pos waarin hy diens doen na enige ander pos in dieselfde skool of enige ander Staatskool of gemeenskapskool of in enige ander inrigting onder die beheer van die Departement, hetsy daardie 20 verplasing na 'n pos met 'n laer graad is al dan nie: Met dien verstande dat 'n verplasing wat 'n vermindering in so 'n onderwyser se pensioengewende verdienste meebring nie sonder sy toestemming geskied nie, tensy die verplasing geskied as gevolg van 'n verlaging van rang wat na aanleiding van wangedrag of onbekwaamheid as onderwyser opgelê word. 25
- (2) 'n Onderwyser wat verplaas is na 'n pos met 'n hoër graad as 'n graad wat by sy eie rang pas, is nie uit hoofde alleen van dié verplasing en diens in sodanige pos geregtig op die hoër salaris wat op daardie pos van toepassing is nie.
- 30 17. (1) Ondanks andersluidende bepalings van enige ander wet, maar behoudens die bepalings van hierdie Wet, moet die Minister met die instemming van die Minister van Finansies en op aanbeveling van die Staatsdienskommissie, die salarisse, salarisskaal en toelaes, as daar is, van onderwysers wat permanent, 35 tydelik of deelyds by 'n Staatskool of 'n gemeenskapskool in diens is, bepaal en die diensvoorwaardes, met inbegrip van verlofvoorregte, van sulke onderwysers voorskryf.
- (2) 'n Onderwyser wat onmiddellik voor die datum waarop die bestuur van en beheer oor 'n Staatsondersteunde of private skool 40 ingevolge artikel 10 (1) aan die Departement oorgedra word, 'n pos op die diensstaat van so 'n skool beklee, word, behoudens die aanstellingsvereistes vermeld in artikel 19 en tensy die Minister anders gelas, met ingang van bedoelde datum—
- (a) na die diens van die Departement oorgeplaas; en 45 (b) geag in sodanige pos op proef aangestel te wees ingevolge en onderworpe aan die bepalings van hierdie Wet.
- (3) Vanaf die datum waarop 'n onderwyser ingevolge subartikel (2) na die diens van die Departement oorgeplaas word, word sy 50 salaris aangepas by die salarisskaal wat op sy pos van toepassing is, en wel op die kerf van daardie skaal wat die Minister met die instemming van die Staatsdienskommissie bepaal.
- (4) Enige ononderbroke, heeltydse diens van 'n onderwyser vermeld in subartikel (2) by 'n Staatsondersteunde skool onmiddellik vóór sodanige oorplasing, word vir verlofdoeleindes geag 55 diens by die Departement te wees: Met dien verstande dat siekten oplopende vakansieverlof waarop sodanige onderwyser op die datum van sodanige oorplasing geregtig is, geag word, onderworpe aan die voorwaardes wat die Minister op aanbeveling van die Staatsdienskommissie bepaal, verlof te wees wat ingevolge 60 hierdie Wet opgeloop is.
- (5) Die ononderbroke, heeltydse diens van 'n onderwyser bedoel in artikel 12 (3) wat onmiddellik vóór die inwerkingtreding van hierdie Wet in diens was van 'n skoolraad ingestel kragtens 'n wet 65 herroep by artikel 45, word vir verlofdoeleindes geag diens by die Departement te wees: Met dien verstande dat siekte en oplopende

Afstaan van sekere onderwysers aan diens van andere.

Verplasing van sekere onderwysers in diens by Staatskole en gemeenskapskole.

Salarisse, salarisskaal, toelaes en diensvoorwaardes van onderwysers in diens by Staatskole en gemeenskapskole.

Act No. 90, 1979

EDUCATION AND TRAINING ACT, 1979.

vacation leave to which such teacher is entitled on the date of his transfer to the Department shall be deemed to be leave accrued in terms of this Act.

Protection of
pension rights and
retirement benefits.

18. Subject to the provisions of the Government Service Pension Act, 1973 (Act No. 57 of 1973), or the Government non-White Employees Pension Act, 1966 (Act No. 42 of 1966), as the case may be, any teacher who at the commencement of this Act is employed in a permanent or temporary capacity at any State school, community school or State-aided school, shall retain all the rights and privileges and remain subject to all the obligations acquired or incurred by him for pension purposes under any law which applied to him immediately before the said date.

Requirements for
appointment.

19. (1) Subject to the provisions of sections 11 (3), 12 (3) and 13 (3), no person shall be appointed in a permanent capacity to a post included in the teaching establishment of a State school, community school or State-aided school, unless—

- (a) he is in possession of qualifications determined by the Minister after consultation with the Teachers' Council, and is able to submit satisfactory evidence thereof;
- (b) he is of good character;
- (c) he is free from any mental or physical defect, disease or infirmity likely to hamper the proper discharge of his duties or to necessitate his retirement before attaining his pensionable age;
- (d) he is a South African citizen or a citizen of an independent state; and
- (e) he is below the age of 55 years.

(2) Notwithstanding the provisions of subsection (1) (a) or (d), the Minister may approve that any person—

- (a) who does not possess the determined qualifications referred to in subsection (1) (a), but possesses other qualifications which in the opinion of the Minister will enable such person to render satisfactory service; or
- (b) who is not a South African citizen, but whose permanent appointment will in the opinion of the Minister be in the interests of education,

be appointed at such school in a permanent capacity.

(3) Appointments and promotions of persons in teaching posts at State schools and community schools shall be made on probation, and the period of probation shall be at least 12 calendar months, but the Secretary may extend the period to not more than 36 calendar months: Provided that if a teacher who is serving on probation is promoted to another post a shorter probationary period in the new post may be approved by the Secretary, which, together with the period of service on probation in his previous post, shall be not less than 12 calendar months: Provided further that the probationary period of a teacher shall be extended by the number of days' leave (excluding leave during school holidays) taken by him during the probationary period or any extension thereof.

Temporary and
part-time
appointments.

20. If a teaching post included in the establishment of a State school, a community school or a State-aided school cannot be filled by a permanent appointment in terms of section 19, such post may, subject to the provisions of sections 11, 12 and 13, be filled by the appointment on a full-time or part-time basis of a suitable person in a temporary capacity.

Discharge of
teachers employed
at State schools and
community schools.

21. (1) Any teacher employed at a State school or a community school may be discharged by the Minister from the service of the Department—

- (a) on account of continued ill-health;
- (b) owing to the abolition of his post or any reduction in or reorganization or readjustment of the staff of a State school or a community school;
- (c) if for reasons other than his own unfitness or incapacity his discharge will promote efficiency or economy in the school in question;

WET OP ONDERWYS EN OPLEIDING, 1979.

Wet No. 90, 1979

vakansieverlof waarop sodanige onderwyser op die datum van sy oorpasing na die Departement geregtig is, geag word verlof te wees wat ingevolge hierdie Wet opgeloopt is.

18. Behoudens die bepalings van die Regeringsdienspensioen-
5 wet, 1973 (Wet No. 57 van 1973), of die Wet op Pensioene vir
Nie-Blanke Regeringswerknemers, 1966 (Wet No. 42 van 1966),
na gelang van die geval, behou 'n onderwyser wat by die inwerking-
trekking van hierdie Wet permanent of tydelik by 'n Staatskool,
gemeenskapskool of Staatsondersteunde skool in diens is, al die
10 regte en voorregte en bly hy onderworpe aan al die verpligtings
wat hy vir pensioendoeleindes verkry of aangegaan het kragtens
die een of ander wetsbepaling wat onmiddellik voor genoemde
datum op hom van toepassing was.
19. (1) Behoudens die bepalings van artikels 11 (3), 12 (3) en
15 13 (3) word niemand in 'n pos wat inbegrepe is by die
onderwysdiensstaat van 'n Staatskool, gemeenskapskool of
Staatsondersteunde skool in 'n vaste hoedanigheid aangestel nie,
tensy—
- (a) hy in besit is van kwalifikasies soos deur die Minister
20 bepaal na oorlegpleging met die Onderwysersraad, en
bevredigende bewys daarvan kan voorlê;
- (b) hy van goeie karakter is;
- (c) hy vry is van enige verstandelike of liggaamlike gebrek,
25 siekte of swakheid wat waarskynlik die behoorlike
uitvoering van sy pligte sal belemmer of sy uitdienstreding
voordat hy sy pensioenleeftyd bereik, sal noodsaak;
- (d) hy 'n Suid-Afrikaanse burger of 'n burger van 'n
onafhanklike staat is; en
- (e) hy onder die ouderdom van 55 jaar is.
- 30 (2) Ondanks die bepalings van subartikel (1) (a) of (d) kan die
Minister goedkeur dat iemand—
- (a) wat nie die kwalifikasies in subartikel (1) (a) bedoel,
besit nie, maar ander kwalifikasies besit wat volgens die
oordeel van die Minister sodanige persoon in staat sal
35 stel om bevredigende diens te lewer; of
- (b) wat nie 'n Suid-Afrikaanse burger is nie, maar wie se
vaste aanstelling volgens die oordeel van die Minister in
belang van die onderwys is,
in 'n vaste hoedanigheid by so 'n skool aangestel word.
- 40 (3) Aanstellings en bevorderings van persone in onderwysposte
by Staatskole en gemeenskapskole geskied op proef en die
proeftydperk is minstens 12 kalendermaande, maar die Sekretaris
kan die tydperk tot hoogstens 36 kalendermaande verleng: Met
dien verstande dat indien 'n onderwyser wat op proef diens doen,
45 bevorder word na 'n ander pos, 'n korter proeftydperk in die nuwe
pos deur die Sekretaris goeagekeur kan word, wat, saam met die
proeftyd in diens in die vorige pos, minstens 12 kalendermaande
moet wees: Met dien verstande voorts dat die proeftyd van 'n
onderwyser verleng word met die getal dae verlof (uitgesonderd
50 verlof gedurende skoolvakansies) wat hy gedurende die proeftyd-
perk of enige verlenging daarvan geneem het.
20. Indien 'n onderwyspos wat inbegrepe is by die diensstaat
van 'n Staatskool, 'n gemeenskapskool of 'n Staatsondersteunde
skool nie deur 'n vaste aanstelling ingevolge artikel 19 gevul kan
55 word nie, kan sodanige pos, behoudens die bepalings van artikels
11, 12 en 13, deur die aanstelling op 'n heeltydse of deelydse
grondslag van 'n geskikte persoon in 'n tydelike hoedanigheid
gevuul word.
21. (1) 'n Onderwyser in diens by 'n Staatskool of 'n
60 gemeenskapskool kan deur die Minister uit die diens van die
Departement ontslaan word—
- (a) weens voortdurende swak gesondheid;
- (b) weens die afskaffing van sy pos of vermindering of
reorganisasie of herreëling van die personeel van 'n
65 Staatskool of 'n gemeenskapskool;
- (c) as om ander redes as sy eie ongeskiktheid of onver-
moë, sy ontslag doeltreffendheid of besuiniging by die
betrokke skool sal bevorder;

Beskerming van
pensioenregte en
uitdienstredings-
voordele.

Aanstellings-
vereistes.

Tydlike en
deelydse
aanstellings.

Ontslag van
onderwysers in
diens by
Staatskole en
gemeenskapskole.

Act No. 90, 1979

EDUCATION AND TRAINING ACT, 1979.

- (d) subject to the provisions of section 24, on account of unfitness for his duties, or incapacity to carry them out efficiently;
- (e) subject to the provisions of section 23, on account of misconduct as defined in section 22; or 5
- (f) if, in the case of a teacher appointed on probation, his appointment is not confirmed.
- (2) Any teacher employed at a State school or a community school who without the permission of the Secretary—
- (a) is absent from duty for a period exceeding fourteen 10 days; or
- (b) is absent from duty and has accepted other employment, shall, subject to the provisions of subsection (3), be deemed to have been discharged on account of misconduct with effect from the day immediately succeeding the last day on which he was on 15 duty.
- (3) If any teacher referred to in paragraph (a) of subsection (2) reports for duty at any time after the expiry of the period referred to in the said paragraph, the Minister may, on such conditions as he may determine, reinstate such teacher in 20 employment and, in that event, the period of his absence from duty shall be deemed to have been absence on vacation leave without pay, or leave on such other conditions as the Minister may determine.
- (4) For the purposes of paragraph (a) of subsection (1) the 25 Minister may at any time require any teacher appointed in a permanent capacity at a State school or community school to undergo examination by a district surgeon on a specified date, and any teacher who fails or refuses to undergo such examination shall be deemed to be guilty of misconduct as defined in paragraph (c) 30 of section 22 and shall *mutatis mutandis* be subject to the provisions of subsections (23) to (27), inclusive, of section 23.
- (5) A teacher appointed in a permanent capacity at a State school or a community school may terminate his services by giving written notice of one school quarter, or such shorter notice 35 as may be acceptable to the Secretary.
- (6) The services of a teacher employed in a temporary or part-time capacity at a State school or a community school may be terminated by the Minister or the teacher by 24 hours' notice in writing. 40
- (7) The services of a teacher referred to in subsection (1) shall be deemed to have been terminated by the Department with effect from the first day of the month following the month in which he reaches the age of 65 years, in the case of a male teacher, or 60 years, in the case of a female teacher: Provided that such teacher 45 may thereafter be appointed on a temporary basis.

Definition of misconduct.

22. A teacher employed at a State school or a community school shall be guilty of misconduct and may be dealt with in accordance with the provisions of section 23 if he—
- (a) contravenes or fails to comply with any provision of this 50 Act, with which it is his duty to comply;
- (b) does, or causes, or permits to be done, or connives at, any act which is prejudicial to the administration, discipline or efficiency of a school, department, office or institution of the Government; 55
- (c) disobeys, disregards or makes wilful default in carrying out a lawful order given to him, or by word or conduct displays insubordination;
- (d) is negligent or indolent in the discharge of his duties;
- (e) undertakes, without the permission of the Secretary, any 60 private agency or private work in connection with any matter connected with the performance of his official functions or the discharge of his official duties;
- (f) publicly, otherwise than at a meeting convened by an association of teachers recognized in terms of section 65 30, criticizes derogatively the administration of the Department;

WET OP ONDERWYS EN OPLEIDING, 1979.

Wet No. 90, 1979

- (d) behoudens die bepalings van artikel 24, weens ongeskiktheid vir sy pligte of onvermoë om hulle op bekwame wyse uit te voer;
- 5 (e) behoudens die bepalings van artikel 23, weens wangedrag soos omskryf in artikel 22; of
- (f) as, in die geval van 'n onderwyser wat op proef aangestel is, sy aanstelling nie bekragtig word nie.
- (2) 'n Onderwyser in diens by 'n Staatskool of 'n gemeenskapsskool wat, sonder verlof van die Sekretaris—
- 10 (a) langer as veertien dae van sy diens afwesig is; of
- (b) van sy diens afwesig is en ander werk aanvaar het, word, behoudens die bepalings van subartikel (3), geag weens wangedrag ontslaan te wees met ingang van die dag wat onmiddellik volg op die laaste dag waarop hy diens verrig het.
- 15 (3) Indien 'n onderwyser vermeld in paragraaf (a) van subartikel (2) hom te eniger tyd na verstryking van die tydperk vermeld in genoemde paragraaf vir diens aanmeld, kan die Minister op die voorwaardes deur hom bepaal sodanige onderwyser in diens herstel en, in so 'n geval, word die tydperk van
- 20 afwesigheid van diens geag afwesigheid met vakansieverlof sonder betaling, of verlof op die ander voorwaardes wat die Minister bepaal, te wees.
- (4) By die toepassing van paragraaf (a) van subartikel (1) kan die Minister 'n onderwyser wat in 'n vaste hoedanigheid by 'n
- 25 Staatskool of gemeenskapsskool aangestel is, gelas om op 'n bepaalde datum deur 'n distriksgeneesheer ondersoek te word, en 'n onderwyser wat versuim of weier om aldus ondersoek te word, word geag skuldig te wees aan wangedrag soos omskryf in paragraaf (c) van artikel 22 en is *mutatis mutandis* onderworpe
- 30 aan die bepalings van subartikels (23) tot en met (27) van artikel 23.
- (5) 'n Onderwyser wat in 'n vaste hoedanigheid aangestel is by 'n Staatskool of 'n gemeenskapsskool, kan sy dienste beëindig deur een skoolkwartaal skriftelik kennis te gee of sodanige korter
- 35 kennisgewing as wat vir die Sekretaris aanneemlik is.
- (6) Die diens van 'n onderwyser in 'n tydelike of deelydse hoedanigheid in diens by 'n Staatskool of 'n gemeenskapsskool kan deur die Minister of die onderwyser met 24 uur skriftelike kennisgewing beëindig word.
- 40 (7) Die diens van 'n onderwyser bedoel in subartikel (1) word geag deur die Departement beëindig te wees met ingang van die eerste dag van die maand wat volg op die maand waarin hy die ouderdom van 65 jaar, in die geval van 'n manlike onderwyser, of 60 jaar, in die geval van 'n vroulike onderwyser, bereik het: Met
- 45 dien verstande dat sodanige onderwyser daarna in 'n tydelike hoedanigheid aangestel kan word.
22. 'n Onderwyser in diens by 'n Staatskool of 'n gemeenskapsskool is skuldig aan wangedrag en daar kan ooreenkomstig die bepalings van artikel 23 met hom gehandel word as hy—
- 50 (a) 'n bepaling van hierdie Wet wat hy moet nakom, oortree of versuim om daaraan te voldoen;
- (b) 'n daad wat nadelig is vir die administrasie, dissipline of doeltreffendheid van 'n skool, departement, kantoor of inrigting van die Regering doen of laat doen of toelaat, of oogluikend toelaat dat dit gedoen word;
- 55 (c) 'n wettige bevel wat aan hom gegee is nie gehoorsaam nie of verontagsaam of opsetlik versuim om dit uit te voer, of hom deur woord of gedrag aan insubordinasie skuldig maak;
- 60 (d) nalatig of traag by die vervulling van sy pligte is;
- (e) sonder die toestemming van die Sekretaris 'n private agentskap of private werk onderneem in verband met 'n aangeleentheid wat in verband staan met die verrigting van sy amptelike werksaamhede of die uitvoering van sy ampspligte;
- 65 (f) in die openbaar, behalwe op 'n vergadering belê deur 'n vereniging van onderwysers wat kragtens artikel 30 erken is, neerhalende kritiek uitoefen op die administrasie van die Departement;

Omskrywing van wangedrag.

Act No. 90, 1979

EDUCATION AND TRAINING ACT, 1979.

- (g) attempts to secure intervention, through any person not in the employment of the Department, in relation to his position and conditions of service, unless it is done to obtain redress of any grievance through Parliament;
- (h) conducts himself in a disgraceful, improper or unbecoming manner, or, while on duty, is grossly discourteous to any person; 5
- (i) uses intoxicating liquor or stupefying drugs excessively, or, while he is or should be on duty, is under the influence of intoxicating liquor or stupefying drugs to an extent which is prejudicial to the school or the Department or to the efficient performance of his duties, unless it is proved that it is not due to any improper conduct or action on his part; 10
- (j) becomes insolvent or compromises with his creditors, unless it is shown that his insolvency or such composition or the making of such decree against him has been occasioned by unavoidable misfortune; 15
- (k) becomes pecuniarily embarrassed, unless it is shown that his pecuniary embarrassment has not been occasioned by imprudence or other reprehensible cause and is not prejudicial to the faithful performance of his duties; 20
- (l) without first having obtained the permission of the Secretary, discloses, otherwise than in the discharge of his official duties, information gathered or obtained by him through his employment at a school or in the Department, or uses such information for any purpose other than for the discharge of his official duties, whether or not he discloses such information; 25 30
- (m) accepts or demands in respect of the discharge of or the failure to discharge his duties any commission, fee or other reward, not being the emoluments payable to him in respect of his duties, or fails to report to the Secretary the offer of any such commission, fee or reward; 35
- (n) misappropriates or improperly uses any property of the State or the school, and such misappropriation or use does not constitute an offence;
- (o) is on conviction of any offence sentenced to imprisonment without the option of a fine; 40
- (p) absents himself from his school or duty without leave, unless he can prove a valid cause for his absence;
- (q) with a view to obtaining any privilege or advantage in relation to his official position or his duties, or to causing prejudice to the Government or a department of State or the educational service or a member of such service, makes a false or incorrect statement, knowing it to be false or incorrect; or 45
- (r) contravenes any provision of the rules of the constitution of a medical aid fund or medical aid society of which he is required to be a member in terms of the regulations, or fails to comply with any provision of the said rules with which it is his duty to comply by virtue of his membership of such medical aid fund or medical aid society. 55

Procedure in case of misconduct.

23. (1) If a teacher employed at a State school or a community school is accused of misconduct as defined in section 22, the Secretary or any person authorized thereto by the Secretary may charge him in writing under his hand with that misconduct.

(2) The person who signed the charge shall serve it upon the person charged by causing it to be delivered or sent by registered letter to him or to be left at his place of residence or last known place of residence.

(3) The charge shall contain or shall be accompanied by a direction calling upon the person charged to transmit or deliver, 65

WET OP ONDERWYS EN OPLEIDING, 1979.

Wet No. 90, 1979

- (g) deur middel van iemand wat nie in die diens van die Departement is nie, probeer om ingryping in verband met sy posisie en diensvoorwaardes te verkry, tensy dit geskied om herstel van 'n grief deur bemiddeling van die Parlement te probeer verkry;
- (h) hom op 'n skandelige, onbehoorlike of onbetaamlike wyse gedra of, terwyl hy diens doen, hom aan growwe onbeleefdheid teenoor 'n ander persoon skuldig maak;
- (i) buitensporig gebruik maak van sterk drank of bedwelgende middels, of, terwyl hy diens doen of behoort te doen, onder die invloed van sterk drank of bedwelgende middels is in 'n mate wat tot nadeel strek van die skool of Departement of van die doeltreffende verrigting van sy pligte, tensy daar bewys word dat dit nie aan onbetaamlike gedrag of optrede van sy kant te wyte is nie;
- (j) insolvent word of 'n akkoord met sy skuldeisers aangaan, tensy daar bewys word dat sy insolvensie of dié akkoord of die uitreiking van dié bevel teen hom deur onvermydelike teenspoed veroorsaak is;
- (k) in geldelike moeilikheid raak, tensy daar bewys word dat sy geldelike moeilikheid nie die gevolg is van onversigtigheid of 'n ander laakbare oorsaak nie, en nie nadelig is vir die getroue uitvoering van sy pligte nie;
- (l) sonder dat hy eers die toestemming van die Sekretaris verkry het, inligting wat hy ingewin of bekom het as gevolg van sy werk by 'n skool of in die Departement, openbaar maak anders as by die vervulling van sy ampspligte, of sodanige inligting gebruik vir 'n ander doel as vir die vervulling van sy ampspligte, hetsy hy sodanige inligting openbaar maak of nie;
- (m) enige kommissie, geld of ander beloning wat nie die emolumente is wat ten opsigte van sy pligte aan hom betaalbaar is nie, aanneem of eis ten opsigte van die uitvoering van sy pligte of die versuim om sy pligte uit te voer, of versuim om die Sekretaris van die aanbod van sodanige kommissie, geld of beloning te verwittig;
- (n) hom eiendom van die Staat of die skool wederregtelik toeëien of op onbehoorlike wyse daarvan gebruik maak, en sodanige toeëiening of gebruikmaking nie 'n misdryf uitmaak nie;
- (o) by skuldigbevinding aan 'n misdryf gevonnissen word tot gevangenisstraf sonder die keuse van 'n boete;
- (p) sonder verlof van sy skool of diens wegbly, tensy hy 'n geldige rede vir sy afwesigheid kan bewys;
- (q) met die oog op die verkryging van enige voorreg of voordeel met betrekking tot sy amptelike posisie of sy pligte, of op die veroorsaking van enige nadeel of skade aan die Regering of 'n Staatsdepartement of die onderwysdiens of 'n lid van so 'n diens, 'n valse of onjuiste verklaring affê terwyl hy weet dat dit vals of onjuis is; of
- (r) 'n bepaling van die reëls van die konstitusie van 'n mediese hulpfonds of mediese hulpvereniging waarvan hy ingevolge die regulasies verplig is om lid te wees, oortree, of versuim om te voldoen aan 'n bepaling van bedoelde reëls waaraan dit uit hoofde van sy lidmaatskap van sodanige mediese hulpfonds of mediese hulpvereniging sy plig is om te voldoen.
- 60 23. (1) Indien 'n onderwyser wat by 'n Staatskool of 'n gemeenskapsskool in diens is, beskuldig word van wangedrag soos in artikel 22 omskryf, kan die Sekretaris of iemand wat deur die Sekretaris daartoe gemagtig is, hom skriftelik onder sy handtekening van daardie wangedrag aankla. Prosedure in geval van wangedrag.
- 65 (2) Die persoon wat die aanklag onderteken het, moet dit aan die aangeklaagde beteken deur dit aan hom te laat oorhandig of per aangetekende brief te stuur of dit te laat afgee by sy woonplek of die plek waar, sover bekend, hy laas gewoon het.
- (3) Die aanklag moet 'n aansegging bevat of met 'n aansegging gepaard gaan waarby die aangeklaagde aangesê word om binne

within a period which is to be specified in such direction and is to be reasonable, to a person likewise specified, a written admission or denial of the charge and, if he so desires, a written explanation of the misconduct with which he is charged.

(4) The Minister or, if authorized thereto by the Minister either generally or in a particular case, the Secretary or any other officer in the Department, may suspend from duty any person accused of misconduct as defined in section 22, whether or not such person has been charged with misconduct.

(5) The Minister or the other person who suspended any person in terms of subsection (4) may at any time cancel the suspension, but the cancellation of the suspension shall not affect any proceedings in connection with the charge of misconduct.

(6) A person who has been suspended from duty in terms of subsection (4) shall not be entitled to any emoluments in respect of the period of his suspension: Provided that the Minister may order payment to the said person of the whole or a portion of his emoluments.

(7) If no charge under this section is preferred against a person who has been so suspended from duty, he shall be allowed to resume duty as soon as practicable and be paid his emoluments in respect of the period of his suspension in so far as it has not been done already.

(8) (a) If the person charged admits the charge, he shall be deemed to have been found guilty in terms of this section of the misconduct with which he has been charged.

(b) If the person charged denies the charge or fails to comply with the direction mentioned in subsection (3), the Secretary shall appoint a person to inquire into the charge.

(9) (a) The person who is to hold the inquiry shall in consultation with the person who signed the charge fix the time and place of the inquiry, and the person who signed the charge shall give the person charged reasonable written notice of the time and place so fixed: Provided that the Secretary shall have the power to postpone the inquiry on good cause shown.

(b) The law relating to witnesses and evidence which applies in connection with criminal cases in a magistrate's court, shall *mutatis mutandis* apply for the purposes of and at any such inquiry: Provided that subpoenae to procure the attendance of witnesses thereat shall be issued by the person who is to hold the inquiry.

(10) The person who signed the charge may authorize any person to be present at the inquiry and to adduce evidence and arguments in support of the charge and to cross-examine any person called as a witness for the defence.

(11) (a) At the inquiry the person charged may be present, shall have the right to be heard, to cross-examine any person called as a witness in support of the charge, to inspect any documents produced in evidence and to call other persons as witnesses, either personally or by a representative, and may give evidence himself.

(b) The failure of the person charged to be present at the inquiry, either personally or by a representative, shall not invalidate the proceedings.

(c) The person holding the inquiry shall keep a record of the proceedings at the inquiry and of the evidence given thereat.

(12) If the misconduct with which any person is charged, amounts to the commission of an offence and it is proved that he has been convicted thereof by a court of law, a certified copy of the record of his trial and conviction by that court shall be *prima facie* evidence of the commission by him of that offence.

(13) The person holding the inquiry shall after the conclusion thereof decide whether the person charged is guilty or not guilty

WET OP ONDERWYS EN OPLEIDING, 1979.

Wet No. 90, 1979

- 'n tydperk wat in die aansegging vermeld moet word en redelik moet wees, 'n skriftelike erkenning of ontkenning van die aanklag en, indien hy dit verlang, 'n skriftelike verduideliking van die wangedrag waarvan hy aangekla word, aan iemand insgelyks 5 vermeld, te stuur of te oorhandig.
- (4) Die Minister of, indien daartoe deur die Minister in die algemeen of in 'n besondere geval gemagtig, die Sekretaris of 'n ander beampste in die Departement, kan iemand wat beskuldig word van wangedrag soos in artikel 22 omskryf, in sy diens skors, 10 hetsy hy van wangedrag aangekla is of nie.
- (5) Die Minister of die ander persoon wat iemand ingevolge subartikel (4) geskors het, kan die skorsing te eniger tyd intrek, maar die intrekking van die skorsing raak geen verrigtings in verband met die beskuldiging van wangedrag nie.
- 15 (6) Iemand wat ingevolge subartikel (4) in sy diens geskors is, is op geen besoldiging ten opsigte van die tydperk van sy skorsing geregtig nie: Met dien verstande dat die Minister kan gelas dat aan so iemand sy volle besoldiging of 'n gedeelte daarvan betaal word.
- 20 (7) As geen aanklag kragtens hierdie artikel ingebring word nie teen iemand wat aldus in sy diens geskors is, moet hy toegelaat word om so spoedig doenlik sy diens te hervat, en moet sy besoldiging ten opsigte van die tydperk van sy skorsing aan hom betaal word, vir sover dit nie reeds gedoen is nie.
- 25 (8) (a) Indien die aangeklaagde die aanklag erken, word hy geag ingevolge hierdie artikel skuldig bevind te wees aan die wangedrag waarvan hy aangekla is.
- (b) Indien die aangeklaagde die aanklag ontken of versuim om te voldoen aan die aansegging vermeld in subartikel 30 (3), moet die Sekretaris iemand aanstel om ondersoek na die aanklag in te stel.
- (9) (a) Die persoon wat die ondersoek moet instel, 35 moet in oorleg met die persoon wat die aanklag onderteken het die tyd en plek van die ondersoek vasstel, en die persoon wat die aanklag onderteken het, moet die aangeklaagde redelike skriftelike kennis gee van die tyd en plek aldus vasgestel: Met dien verstande dat die Sekretaris die bevoegdheid het om die ondersoek uit te stel indien goeie redes daarvoor aangevoer word.
- 40 (b) Die reg met betrekking tot getuies en getuienis wat geld in verband met strafsake in 'n landdroshof, geld *mutatis mutandis* vir die doeleindes van en by so 'n ondersoek: Met dien verstande dat dagvaardings om die aanwesigheid van getuies daarby te verkry, uitgereik moet word 45 deur die persoon wat die ondersoek moet instel.
- (10) Die persoon wat die aanklag onderteken het, kan iemand magtig om by die ondersoek teenwoordig te wees en om getuienis en argumente ter stawing van die aanklag aan te voer, en om iemand wat as getuie vir die verweer opgeroep is, onder 50 kruisverhoor te neem.
- (11) (a) By die ondersoek kan die aangeklaagde teenwoordig wees, het hy die reg om persoonlik of deur 'n verteenwoordiger aangehoor te word, om iemand wat as getuie ter stawing van die aanklag opgeroep is, onder 55 kruisverhoor te neem, om stukke wat as getuienis voorgelê is, in te sien, en om ander persone as getuies op te roep, en kan hy self getuienis aflê.
- (b) Die versuim van die aangeklaagde om persoonlik of 60 deur 'n verteenwoordiger by die ondersoek teenwoordig te wees, maak nie die verrigtings ongeldig nie.
- (c) Die persoon wat die ondersoek instel, moet notule hou van die verrigtings by die ondersoek en van die getuienis wat daarby afgelê word.
- (12) Indien die wangedrag waarvan iemand aangekla word, op 65 die pleeg van 'n misdryf neerkom en daar bewys word dat hy deur 'n geregshof daaraan skuldig bevind is, is 'n gesertifiseerde afskrif van die notule van sy verhoor en skuldigbevinding deur daardie hof *prima facie*-bewys dat hy daardie misdryf gepleeg het.
- (13) Die persoon wat die ondersoek instel, moet na afloop daarvan beslis of die aangeklaagde skuldig of onskuldig is aan die

Act No. 90, 1979

EDUCATION AND TRAINING ACT, 1979.

of the misconduct with which he has been charged and inform him and the Secretary of his decision.

(14) If the person holding the inquiry finds that the person charged is not guilty of the misconduct with which he has been charged and the person charged was suspended from duty in terms of subsection (4), he shall be allowed to resume duty as soon as practicable and be paid his emoluments in respect of the period of his suspension in so far as it has not been done already.

(15) If the person holding the inquiry finds that the person charged is guilty of the misconduct with which he has been charged, the person charged may within 14 days after the date on which he was informed of the finding appeal to the Minister by delivering or posting to the person who held the inquiry a written notice of appeal setting forth fully the grounds of appeal.

(16) If the person holding the inquiry finds that the person charged is guilty of the misconduct with which he has been charged, he shall—

- (a) after expiry of the period referred to in subsection (15), forward to the Secretary—
 - (i) the record of the proceedings at the inquiry;
 - (ii) the documentary evidence admitted thereat;
 - (iii) a statement of his finding and his reasons therefor;
 - (iv) any observations which he may wish to make on the case; and
 - (v) if there is an appeal from his finding in terms of subsection (15), the notice of appeal; and
- (b) if there is such an appeal from his finding, furnish the appellant with a copy of his reasons for the finding.

(17) If the appellant applies to the Secretary for a copy of the record of the proceedings at the inquiry and of the documentary evidence admitted thereat within 7 days after the date upon which he was furnished with a copy of the reasons for the finding, the Secretary shall furnish him with it.

(18) The appellant may, if he has made an application in terms of subsection (17) within 14 days after the date upon which he was furnished with the copy in question, or if he did not make such an application, within 21 days after the date upon which he was furnished with the copy of the reasons for the finding, submit to the Secretary written representations in support of his appeal, and the Secretary shall after receipt thereof or, if he did not receive such representations within the fixed period, after the expiry of such period, submit to the Minister the record of the proceedings at the inquiry, the other documents in his possession which relate to the inquiry or appeal and his recommendation concerning the appeal.

(19) After consideration of such record and other documents the Minister may allow the appeal in whole or in part and set aside or vary the finding, dismiss the appeal and confirm the finding, or, before arriving at a final decision on the appeal, remit any matter in connection with the inquiry to the person who held the inquiry and direct him to report thereon or to hold a further inquiry and to arrive at a finding thereon.

(20) If the Minister has directed that a further inquiry be held, the provisions of subsections (9), (10) and (11) shall apply thereto.

(21) If the Minister has arrived at a final decision on the appeal, he shall convey that decision in writing to the appellant and the Secretary.

(22) If the Minister allows the appeal and the appellant has been suspended from duty in terms of subsection (4), he shall be allowed to resume duty as soon as practicable and be paid his emoluments in respect of the period of his suspension in so far as it has not been done already.

(23) If the person charged has admitted the charge of misconduct as contemplated in subsection (3), or if he has been found guilty of misconduct in terms of subsection (13) and has not

WET OP ONDERWYS EN OPLEIDING, 1979.

Wet No. 90, 1979

wangedrag waarvan hy aangekla is, en hom en die Sekretaris van sy beslissing verwittig.

(14) Indien die persoon wat die ondersoek instel, bevind dat die aangeklaagde onskuldig is aan die wangedrag waarvan hy aangekla is en die aangeklaagde ingevolge subartikel (4) in sy diens geskors is, moet hy toegelaat word om so spoedig doenlik sy diens te hervat en moet sy besoldiging ten opsigte van die tydperk van sy skorsing aan hom betaal word, vir sover dit nie reeds gedoen is nie.

(15) Indien die persoon wat die ondersoek instel, bevind dat die aangeklaagde skuldig is aan die wangedrag waarvan hy aangekla is, kan die aangeklaagde binne 14 dae ná die datum waarop hy van die bevinding verwittig is, na die Minister appelleer deur aan die persoon wat die ondersoek ingestel het, 'n skriftelike kennisgewing van appèl te oorhandig of te pos waarin die appèlgronde volledig uiteengesit word.

(16) Indien die persoon wat die ondersoek instel, bevind dat die aangeklaagde persoon skuldig is aan die wangedrag waarvan hy aangekla is, moet hy—

- (a) ná verstryking van die tydperk vermeld in subartikel (15), aan die Sekretaris stuur—
- (i) die notule van die verrigtings by die ondersoek;
 - (ii) die dokumentêre bewysstukke wat daarby toegelaat is;
 - (iii) 'n uiteensetting van sy bevinding en sy redes daarvoor;
 - (iv) enige opmerkings wat hy oor die saak wil maak; en
 - (v) indien teen sy bevinding ingevolge subartikel (15) geappelleer is, die kennisgewing van appèl; en
- (b) indien daar aldus teen sy bevinding geappelleer is, aan die appellans 'n afskrif van sy redes vir die bevinding verstrek.

(17) Indien die appellans binne 7 dae na die datum waarop 'n afskrif van die redes vir die bevinding aan hom verstrek is by die Sekretaris aansoek doen om 'n afskrif van die notule van die verrigtings by die ondersoek en die dokumentêre bewysstukke wat daarby toegelaat is, moet die Sekretaris dit aan hom verstrek.

(18) Die appellans kan, indien hy 'n aansoek ingevolge subartikel (17) gedoen het binne 14 dae ná die datum waarop die betrokke afskrif aan hom verstrek is, of, indien hy nie aldus aansoek gedoen het nie, binne 21 dae ná die datum waarop die afskrif van die redes vir die bevinding aan hom verstrek is, skriftelik verhoë ter stawing van sy appèl aan die Sekretaris voorlê, en die Sekretaris moet na ontvangs daarvan of, indien hy geen sodanige verhoë binne die vasgestelde tydperk ontvang het nie, ná verstryking van dié tydperk, die notule van die verrigtings by die ondersoek, die ander stukke in sy besit wat op die ondersoek of appèl betrekking het en sy aanbeveling omtrent die appèl, aan die Minister voorlê.

(19) Ná oorweging van sodanige notule en ander stukke kan die Minister dié appèl geheel en al of ten dele toestaan en die bevinding tersyde stel of wysig, die appèl van die hand wys en die bevinding bekragtig, of, voordat hy tot 'n finale beslissing oor die appèl kom, enige aangeleentheid in verband met die ondersoek terugverwys na die persoon wat die ondersoek ingestel het en hom gelas om verslag daaroor te doen of nadere ondersoek in te stel en 'n bevinding daaroor te doen.

(20) Indien die Minister gelas dat nadere ondersoek ingestel word, is die bepalings van subartikels (9), (10) en (11) ten opsigte daarvan van toepassing.

(21) Indien die Minister tot 'n finale beslissing oor die appèl gekom het, moet hy dié beslissing skriftelik meedeel aan die appellans en die Sekretaris.

(22) Indien die Minister dié appèl toestaan en die appellans ingevolge subartikel (4) in sy diens geskors is, moet hy toegelaat word om so spoedig doenlik sy diens te hervat en moet sy besoldiging ten opsigte van die tydperk van sy skorsing aan hom betaal word, vir sover dit nie reeds gedoen is nie.

(23) Indien die aangeklaagde die aanklag van wangedrag erken het soos in subartikel (3) beoog, of indien hy aan wangedrag skuldig bevind is ingevolge subartikel (13) en nie binne die

Act No. 90, 1979

EDUCATION AND TRAINING ACT, 1979.

appealed against it within the fixed period, or has appealed against it and the appeal has been dismissed wholly or in part in terms of this section, the Secretary shall subject to the provisions of subsection (24) recommend to the Minister that—

- (a) the person charged be cautioned or reprimanded; 5
 - (b) a fine, not exceeding R200, be imposed upon the person charged;
 - (c) the person charged be transferred to another post;
 - (d) the emoluments or rank or both the emoluments and the rank of the person charged be reduced; 10
 - (e) the person charged be discharged from the service of his employer or be called upon to resign therefrom; or
 - (f) the person charged shall not be appointed as a teacher for a period determined by the Minister.
- (24) (a) Except where the Secretary makes a recom- 15
mendation under paragraph (e) of subsection (23), he may make a recommendation under more than one of the other paragraphs of that subsection.
- (b) The Secretary may postpone for a period not exceeding 12 months the making of a recommendation under 20
subsection (23).
- (25) (a) The Minister may act in accordance with the recommendation of the Secretary in terms of subsection (23) or take any other action which he could have taken if the Secretary had recommended it in terms of that 25
subsection.
- (b) If a fine is imposed upon any person in terms of this subsection, such fine may be recovered by deducting it from his emoluments in such instalments as the Minister may determine. 30
- (c) If the Minister discharges any person in terms of this subsection, the discharge shall take effect on a date fixed by the Minister.
- (d) If the Minister calls upon any person in terms of this subsection to resign from the service of his employer 35
and such person fails so to resign with effect from a date fixed by the Minister, he shall be deemed to have been discharged in terms of this subsection from such service with effect from that date.
- (26) If any person has been suspended from duty in terms of 40
subsection (4) and the Minister deals with him in a manner contemplated in paragraph (a), (b), (c) or (d) of subsection (23), or the Secretary deals with him in accordance with subsection (24) (b), such person shall be allowed to resume duty in an appropriate post as soon as practicable and be paid his emoluments in respect 45
of the period of his suspension in so far as it has not been done already: Provided that if the emoluments or rank of such person is reduced as contemplated in subsection (23) (d), his emoluments in respect of the period of his suspension shall be calculated on the basis of the reduced emoluments or rank, as the case may be: 50
Provided further that if in respect of the period of his suspension emoluments in excess of the emoluments so calculated have already been paid to him in terms of subsection (6), he shall not be obliged to refund the excess.
- (27) If any person who has been suspended or charged with 55
misconduct in terms of this section resigns from the service of his employer or assumes other employment before the appropriate charge of misconduct has been disposed of under this section, he shall be deemed to have been discharged on account of misconduct from such service with effect from a date fixed by the 60
Minister, unless before the receipt of his notification of resignation or his assumption of other employment, he was notified that he would not be charged with misconduct or, as the case may be, that the charge of misconduct against him had been withdrawn.
- (28) The fact that a person has been convicted or acquitted by a 65
court of law of the commission of an offence shall not preclude the taking of any steps in terms of this section against such person.

WET OP ONDERWYS EN OPLEIDING, 1979.

Wet No. 90, 1979

- vasgestelde tydperk daarteen geappelleer het nie, of daarteen geappelleer het en die appèl geheel en al of ten dele van die hand gewys is ingevolge hierdie artikel, moet die Sekretaris behoudens die bepalinge van subartikel (24) by die Minister aanbeveel dat—
- 5 (a) die aangeklaagde gewaarsku of berispe word;
 (b) die aangeklaagde 'n boete van hoogstens R200 opgelê word;
 (c) die aangeklaagde na 'n ander pos oorgeplaas word;
 10 (d) die aangeklaagde se besoldiging of rang of sy besoldiging sowel as sy rang verlaag word;
 (e) die aangeklaagde uit die diens van sy werkgewer ontslaan word of gelas word om daaruit te bedank; of
 (f) die aangeklaagde vir 'n tydperk wat die Minister bepaal, nie as 'n onderwyser aangestel mag word nie.
- 15 (24) (a) Behalwe wanneer die Sekretaris 'n aanbeveling kragtens paragraaf (e) van subartikel (23) doen, kan hy 'n aanbeveling kragtens meer as een van die ander paragrawe van daardie subartikel doen.
 (b) Die Sekretaris kan die doen van 'n aanbeveling kragtens subartikel (23) vir 'n tydperk van hoogstens 12 maande uitstel.
- 20 (25) (a) Die Minister kan volgens die aanbeveling van die Sekretaris ingevolge subartikel (23) handel of enigiets anders doen wat hy sou kon gedoen het indien die Sekretaris dit ingevolge daardie subartikel aanbeveel het.
 25 (b) Indien iemand ingevolge hierdie subartikel 'n boete opgelê word, kan dié boete verhaal word deur dit van sy besoldiging af te trek in die paaieimente wat die Minister bepaal.
 30 (c) Indien die Minister iemand ingevolge hierdie subartikel ontslaan, tree die ontslag in werking op 'n datum wat die Minister bepaal.
 (d) Indien die Minister ingevolge hierdie subartikel iemand
 35 gelas om uit die diens van sy werkgewer te bedank en so iemand versuim om aldus te bedank met ingang van 'n datum wat die Minister bepaal, word hy geag ingevolge hierdie subartikel uit die diens ontslaan te wees met ingang van daardie datum.
- (26) Indien iemand ingevolge subartikel (4) in sy diens geskors
 40 is en die Minister met hom handel soos in paragraaf (a), (b), (c) of (d) van subartikel (23) beoog, of die Sekretaris met hom handel ooreenkomstig subartikel (24) (b), moet so iemand so spoedig doenlik toegelaat word om diens in 'n gepaste pos te hervat en moet sy besoldiging ten opsigte van die tydperk van sy skorsing
 45 aan hom betaal word vir sover dit nie reeds gedoen is nie: Met dien verstande dat indien so iemand se besoldiging of rang verlaag word soos beoog in subartikel (23) (d), sy besoldiging ten opsigte van die tydperk van sy skorsing bereken word op die grondslag van die verlaagde besoldiging of rang, na gelang van die geval:
 50 Met dien verstande voorts dat indien ten opsigte van die tydperk van sy skorsing reeds 'n hoër besoldiging aan hom ingevolge subartikel (6) betaal is as die besoldiging aldus bereken, hy nie verplig is om die verskil terug te betaal nie.
- (27) Indien iemand wat ingevolge hierdie artikel geskors of van
 55 wangedrag aangekla is, uit die diens van sy werkgewer bedank of ander werk aanvaar voordat die toepaslike aanklag van wangedrag kragtens hierdie artikel afgehandel is, word hy geag weens wangedrag uit sodanige diens ontslaan te wees met ingang van 'n datum wat die Minister bepaal, tensy, voordat sy kennisgewing
 60 van bedanking ontvang is of hy die ander werk aanvaar het, hy in kennis gestel is dat hy nie van wangedrag aangekla sal word nie, of, na gelang van die geval, dat die aanklag van wangedrag teen hom teruggetrek is.
- (28) Die feit dat iemand deur 'n geregshof skuldig of onskuldig
 65 aan die pleeg van 'n misdryf bevind is, belet nie dat stappe teen so iemand ingevolge hierdie artikel gedoen word nie.

Act No. 90, 1979

EDUCATION AND TRAINING ACT, 1979.

Action in case of inefficient teachers employed at State schools or community schools.

24. (1) If it is alleged that any teacher employed at a State school or community school is unfit for, or is incapable of performing efficiently, the duties attached to his post for causes not within his control and not attributable to the performance of his duties in the employment of the Department or the school in question, the Secretary may appoint a person to inquire into the allegation. 5

(2) The provisions of subsections (9), (10), (11), (13), (15) to (21), inclusive, and (23) and paragraphs (a) and (c) of subsection (25) of section 23 shall *mutatis mutandis* apply in respect of any inquiry referred to in subsection (1) and the teacher in respect of whom the allegation was made: Provided that in the application of the said subsection (23) the Secretary shall be empowered only to recommend that the teacher in question be discharged from the service of the Department or that his rank be reduced and, if his emoluments are more than the maximum for the reduced rank, such emoluments be reduced to that maximum. 15

Manner in which notice is to be given or statement is to be furnished.

25. Whenever by section 23 or 24 it is provided that—

(a) any notice, statement or other document is to be given or furnished to or served upon any person or that any matter is to be or may be conveyed to any person in writing, such notice, statement, document or writing may be sent by post in a registered letter or be delivered personally to him or left at his last known place of residence; or 25

(b) any person is to be informed of any decision or finding, he may be informed thereof orally or by a document sent by post in a registered letter or delivered personally to him or left at his last known place of residence: Provided that when a person is informed orally of a decision or finding, such decision or finding shall be confirmed in writing as provided in paragraph (a). 30

Misconduct and inefficiency of teachers employed at State-aided schools.

26. (1) The provisions of section 22 shall *mutatis mutandis* apply to all teachers employed on a full-time basis at State-aided schools in posts in respect of which subsidies are paid by the State: Provided that any reference in section 22 to any act which is or may be prejudicial to the Government, a department of State or the educational service shall, in such application, be deemed to include a reference to such an act in respect of the State-aided school or governing body in question. 40

(2) The procedure to be adopted in the case of a teacher referred to in subsection (1) who is alleged to be inefficient or whose conduct is alleged to be unsatisfactory shall be determined in the conditions of service referred to in section 13 (1) (d).

Holding of office by teachers employed at State schools, community schools and State-aided schools.

27. (1) Any teacher employed at a State school, a community school or a State-aided school shall not be or become a member of any committee, council, authority or body established by or in terms of any law, without the consent of the Minister: Provided that the Minister may at any time withdraw such consent. 45

(2) Any teacher referred to in subsection (1) shall not hold any office which in the opinion of the Minister will interfere with the performance of his duties in the service of the school concerned.

(3) If a dispute arises between the State and any committee, council, authority or body referred to in subsection (1), a teacher who is a member of such committee, council, authority or body in terms of subsection (1) shall not take part in the discussion or voting regarding that dispute. 55

(4) If any teacher employed at a State school, a community school or a State-aided school—

(a) accepts a nomination or a requisition as a candidate for election as a member of Parliament, a provincial council 60

WET OP ONDERWYS EN OPLEIDING, 1979.

Wet No. 90, 1979

24. (1) Indien beweer word dat 'n onderwyser in diens by 'n Staatskool of 'n gemeenskapskool ongeskik is vir die pligte wat aan sy pos verbonde is of nie in staat is om daardie pligte op bekwame wyse uit te voer nie weens oorsake wat buite sy beheer is en nie aan die uitvoering van sy pligte in die diens van die Departement of die betrokke skool toe te skryf is nie, kan die Sekretaris iemand aanstel om ondersoek na die bewering in te stel.
- (2) Die bepalings van subartikels (9), (10), (11), (13), (15) tot en met (21) en (23) en paragrawe (a) en (c) van subartikel (25) van artikel 23 is *mutatis mutandis* van toepassing ten opsigte van 'n ondersoek vermeld in subartikel (1) en die onderwyser ten opsigte van wie die bewering gedoen is: Met dien verstande dat by die toepassing van genoemde subartikel (23) die Sekretaris slegs kan aanbeveel dat die betrokke onderwyser uit die diens van die Departement ontslaan word of dat sy rang verlaag word en, indien sy besoldiging meer is as die maksimum vir die verlaagde rang, daardie besoldiging tot daardie maksimum verminder word.
25. Waar daar by artikel 23 of artikel 24 bepaal word dat—
- (a) enige kennisgewing, verklaring of ander stuk aan iemand gegee of verstrekk of beteken moet word, of dat enige aangeleentheid skriftelik aan iemand meegedeel moet of kan word, kan dié kennisgewing, verklaring, dokument of stuk per pos in 'n aangetekende brief aan hom gestuur word of aan hom persoonlik afgelewer word of gelaat word by die plek waar, sover bekend, hy laas gewoon het; of
- (b) 'n persoon van 'n beslissing of bevinding verwittig moet word, kan hy mondeling daarvan verwittig word, of deur middel van 'n geskrif wat per pos in 'n aangetekende brief aan hom gestuur word of aan hom persoonlik afgelewer word of by die plek waar, sover bekend, hy laas gewoon het, gelaat word: Met dien verstande dat wanneer iemand mondeling van 'n beslissing of bevinding verwittig word, sodanige beslissing of bevinding skriftelik bevestig moet word ooreenkomstig die bepalings van paragraaf (a).
26. (1) Die bepalings van artikel 22 is *mutatis mutandis* van toepassing op alle onderwysers wat in poste ten opsigte waarvan subsidie deur die Staat betaal word in 'n healtydse hoedanigheid by Staatsondersteunde skole in diens is: Met dien verstande dat 'n verwysing in artikel 22 na enige handeling wat tot nadeel van die Regering, 'n Staatsdepartement of die onderwysdiens strek of kan strek, by sodanige toepassing geag word ook 'n verwysing na sodanige handeling ten opsigte van die betrokke Staatsondersteunde skool of bestuursliggaam te wees.
- (2) Die prosedure wat gevolg moet word in die geval van 'n onderwyser bedoel in subartikel (1) wat na bewering onbekwaam is of wie se gedrag na bewering onbevredigend is, word bepaal in die diensvoorwaardes in artikel 13 (1) (d) bedoel.
27. (1) 'n Onderwyser in diens by 'n Staatskool, 'n gemeenskapskool of 'n Staatsondersteunde skool mag nie sonder die Minister se toestemming lid van 'n komitee, raad, bestuur of liggaam wat deur of ingevolge 'n wet ingestel is, wees of word nie: Met dien verstande dat die Minister te eniger tyd sodanige toestemming kan intrek.
- (2) 'n Onderwyser bedoel in subartikel (1) mag nie 'n amp beklee wat volgens die oordeel van die Minister die uitvoering van sy pligte in diens van die betrokke skool sal belemmer nie.
- (3) As 'n geskil ontstaan tussen die Regering en 'n in subartikel (1) bedoelde komitee, raad, bestuur of liggaam, mag 'n onderwyser wat ingevolge subartikel (1) 'n lid van sodanige komitee, raad, bestuur of liggaam is, nie aan die bespreking of stemming oor daardie geskilpunt deelneem nie.
- (4) As 'n onderwyser in diens by 'n Staatskool, 'n gemeenskapskool of 'n Staatsondersteunde skool—
- (a) 'n nominasie of rekwisisie aanvaar as kandidaat vir verkiesing tot lid van die Parlement, 'n provinsiale raad

Optrede in geval van onbekwame onderwysers in diens by Staatskole of gemeenskapskole.

Wyse waarop kennis gegee of verklaring verstrekk moet word.

Wangedrag en onbekwaamheid van onderwysers in diens by Staatsondersteunde skole.

Bekleding van ampte deur onderwysers in diens by Staatskole, gemeenskapskole en Staatsondersteunde skole.

Act No. 90, 1979

EDUCATION AND TRAINING ACT, 1979.

or a legislative body of a Black state or an independent state; or

(b) is nominated, designated or appointed as a member of a body referred to in paragraph (a),

he shall be deemed to have voluntarily retired from the service of his employer with effect from the date on which he accepted such nomination or requisition or on which he is so nominated, designated or appointed. 5

Performance of other work by teachers employed at State schools, community schools and State-aided schools.

28. (1) Unless it is otherwise provided in his conditions of service— 10

(a) every teacher employed at a State school, a community school or a State-aided school shall at all times be at the disposal of the Department or school at which he is employed;

(b) no teacher employed at a State school, a community school or a State-aided school shall perform or engage himself to perform remunerative work outside his employment at such school without the permission of the Secretary; and 15

(c) no teacher employed at a school referred to in paragraph (a) may claim as of right additional remuneration in respect of any official duty or work which he is required by competent authority to perform. 20

(2) The Secretary may require any teacher employed at a State school or a community school temporarily to perform duties other than those ordinarily assigned to such teacher or appropriate to the grade, designation or classification of his post. 25

Classification of certain posts on establishments of State schools, community schools, and State-aided schools as posts in the Public Service.

29. The Minister may on the recommendation of the Public Service Commission designate any post (other than a teaching post) included in the establishment of a State school, a community school or a State-aided school as a post which is to be classified in terms of the provisions of the Public Service Act, 1957 (Act No. 54 of 1957), under the fixed establishment as defined in section 1 of the said Act, and in respect of which the provisions of the said Act shall apply. 30 35

Recognition of teachers' associations.

30. The Minister may for the purpose of consultation recognize associations of teachers and may prescribe requirements for such recognition, and he may at any time withdraw a recognition in terms of this section if he is of the opinion that any requirement has not been satisfied. 40

Teachers' Council for Education and Training.

31. (1) The Minister may at the request of an association of teachers recognized by the Minister as representative of Black teachers attached to schools provided for in this Act, establish a juristic person to be known as the Teachers' Council for Education and Training. 45

(2) The object of the Teachers' Council shall be to uphold and promote esteem for education and the teaching profession and the prestige of those engaged in the teaching profession.

(3) Subject to the provisions of this Act—

(a) the Teachers' Council shall keep a register and shall upon an application, accompanied by the prescribed fee and particulars, enter therein the name of— 50

(i) every Black teacher holding a professional teacher's qualification determined by the Minister; and

(ii) every other Black person who is employed in terms of the provisions of this Act in a full-time permanent teaching post at a school; 55

(b) the Teachers' Council shall draw up a professional code of conduct for registered and provisionally registered persons in order to uphold and promote esteem for education and the teaching profession and the prestige of those engaged in the teaching profession; 60

(c) the Teachers' Council may, if a registered or provisionally registered person is, in terms of the regulations

WET OF ONDERWYS EN OPLEIDING, 1979.

Wet No. 90, 1979

- of 'n wetgewende liggaam van 'n Swart staat of 'n onafhanklike staat; of
- (b) benoem, aangewys of aangestel word as lid van 'n liggaam bedoel in paragraaf (a),
- 5 word hy geag vrywillig uit die diens van sy werkgewer te getree het met ingang van die datum waarop hy sodanige nominasie of rekwisisie aanvaar het of waarop hy aldus benoem, aangewys of aangestel is.
- 10 28. (1) Tensy in sy diensvoorwaardes anders bepaal word—
- (a) moet 'n onderwyser in diens by 'n Staatskool, 'n gemeenskapskool of 'n Staatsondersteunde skool te alle tye tot beskikking wees van die Departement of skool waar hy in diens is; Verrigting van ander werk deur onderwysers in diens by Staatskole, gemeenskapskole en Staatsondersteunde skole.
- 15 (b) mag 'n onderwyser in diens by 'n Staatskool, 'n gemeenskapskool of 'n Staatsondersteunde skool nie sonder die toestemming van die Sekretaris besoldigde werk buite sy werk in diens van sodanige skool verrig of hom verbind om sodanige werk te verrig nie; en
- 20 (c) kan geen onderwyser in diens by 'n skool bedoel in paragraaf (a) regtens aanspraak maak op bykomende betaling ten opsigte van enige amptelike diens of werk wat hy deur 'n bevoegde gesag aangesê is om te verrig nie.
- (2) Die Sekretaris kan 'n onderwyser verbonde aan 'n 25 Staatskool of 'n gemeenskapskool aansê om tydelik ander pligte te verrig as dié wat gewoonlik aan so 'n onderwyser opgedra word of wat by die graad, benaming of indeling van sy pos pas.
29. Die Minister kan op aanbeveling van die Staatsdiens- Indeling van sekere poste op die diensstate van Staatskole, gemeenskapskole en Staatsondersteunde skole as poste in die Staatsdiens.
- 30 kommissie 'n pos (uitgesonderd 'n onderwyspos) wat inbegrepe is by die diensstaat van 'n Staatskool, 'n gemeenskapskool of 'n Staatsondersteunde skool aanwys as 'n pos wat ingevolge die bepalings van die Staatsdienswet, 1957 (Wet No. 54 van 1957), ingedeel moet word by die vaste diensstaat soos in artikel 1 van daardie Wet omskryf, en ten opsigte waarvan die bepalings van 35 genoemde Wet van toepassing is.
30. Die Minister kan vir die doeleindes van raadpleging Erkenning van onderwysersverenigings.
- verenigings van onderwysers erken en hy kan vereistes vir sodanige erkenning voorskryf en 'n erkenning ingevolge hierdie artikel te eniger tyd intrek indien 'n vereiste na sy mening nie 40 nagekom is nie.
31. (1) Die Minister kan op versoek van 'n vereniging van Onderwysersraad vir Onderwys en Opleiding.
- onderwysers wat deur die Minister erken is as verteenwoordigend van Swart onderwysers verbonde aan skole waarvoor in hierdie Wet voorsiening gemaak word, 'n regspersoon met die naam die 45 Onderwysersraad vir Onderwys en Opleiding instel.
- (2) Die doelstelling van die Onderwysersraad is om agting vir die onderwys en die onderwysberoep en die aansien van diegene wat in die onderwysberoep staan, te handhaaf en te bevorder.
- (3) Behoudens die bepalings van hierdie Wet—
- 50 (a) hou die Onderwysersraad 'n register en skryf daarin op 'n aansoek wat vergesel gaan van die voorgeskrewe geld en besonderhede die naam van—
- (i) elke Swart onderwyser wat 'n professionele onderwyserskwalifikasie wat die Minister bepaal, besit; 55 en
- (ii) elke ander Swart persoon wat ingevolge die bepalings van hierdie Wet in diens is by 'n skool in 'n heeltydse permanente onderwyspos;
- 60 (b) stel die Onderwysersraad 'n professionele gedragskode op vir geregistreerde en voorwaardelik geregistreerde persone om agting vir die onderwys en die onderwysberoep en die aansien van diegene wat in die onderwysberoep staan, te handhaaf en te bevorder;
- 65 (c) kan die Onderwysersraad 'n geregistreerde of voorwaardelik geregistreerde persoon wat ingevolge die regula-

Act No. 90, 1979

EDUCATION AND TRAINING ACT, 1979.

contemplated in subsection (4), found guilty of contravening any provision of the code of conduct—

- (i) reprimand or caution or reprimand and caution such person;
 - (ii) impose on him a penalty not exceeding R50; or 5
 - (iii) remove his name from the register, after consultation with the Secretary if he is employed at a school;
- (d) the Teachers' Council may appoint a registrar and other staff to perform such functions as may be assigned to them by the Council. 10
- (4) The constitution, duties, powers and functions of the Teachers' Council, the term of office of its members and the quorum for and procedure at its meetings shall be as prescribed.
- (5) The Minister may after the constitution of the Teachers' Council in accordance with subsection (4) and after consultation with that Council, make regulations relating to— 15
- (a) membership, registration and provisional registration of teachers, refusal of registration and payment of registration and annual fees; 20
 - (b) appeals against refusal of registration and the removal of names from the register;
 - (c) offences relating to the registration of names and qualifications;
 - (d) committees of the Teachers' Council; 25
 - (e) the fees payable in respect of—
 - (i) entries in the register;
 - (ii) certificates of registration, extracts from the register or certified copies thereof;
 - (f) the exercise of the right to vote by a person who is a member of more than one recognized teachers' association; 30
 - (g) the manner in which complaints, charges or allegations against any person registered or provisionally registered in terms of this Act shall be lodged; 35
 - (h) the manner in which a person shall be summoned to appear at an inquiry into an alleged contravention of the code of conduct, and the steps which may be taken against any person if he fails to obey that summons or if he obstructs or interrupts the proceedings at any such inquiry; 40
 - (i) the form of subpoenae for the attendance of witnesses at an inquiry into alleged contraventions of the code of conduct, or for the production of a book, register, document or other thing thereat; 45
 - (j) the manner in which inquiries into alleged contravention of the code of conduct shall be instituted or the procedure to be followed thereat or any other matter connected with the institution thereof;
 - (k) generally, any other matter which the Minister may deem necessary for the proper functioning of the Teachers' Council and any matter connected therewith. 50
- (6) From a date determined by the Minister by notice in the *Gazette* no Black person who is not registered or provisionally registered as a teacher by the Teachers' Council, shall be appointed to a full-time, permanent teaching post at a State school, community school or State-aided school, or shall teach at such a school in a full-time, permanent capacity, except in a post determined by the Secretary. 55
- (7) Any person who contravenes subsection (6) shall be guilty of an offence and on conviction liable to a fine not exceeding R100 or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment. 60

Effect of removal of names of certain teachers from register of Teachers' Council.

32. (1) Any Black teacher who is employed in a full-time, permanent teaching post at a State school, a community school or a State-aided school where full-time education is provided and— 65

- (a) who is registered or provisionally registered by the Teachers' Council in terms of section 31 (3), and whose

WET OP ONDERWYS EN OPLEIDING, 1979.

Wet No. 90, 1979

- sies beoog in subartikel (4), skuldig bevind word aan 'n oortreding van die gedragskode—
- (i) berispe of waarsku of berispe en waarsku;
- (ii) 'n boete van hoogstens R50 oplê; of
- 5 (iii) se naam in die register skrap na raadpleging van die Sekretaris indien hy by 'n skool in diens is;
- (d) kan die Onderwysersraad 'n registrateur en ander personeel aanstel om die werksaamhede te verrig wat die raad aan hulle opdra.
- 10 (4) Die samestelling, pligte, bevoegdhede en werksaamhede van die Onderwysersraad, die ampstermyn van sy lede en die kworum vir en prosedure op sy vergaderings is soos voorgeskryf.
- (5) Die Minister kan na die samestelling van die Onderwysersraad soos beoog in subartikel (4) en na raadpleging van
- 15 daardie raad, regulasies uitvaardig betreffende—
- (a) lidmaatskap, registrasie en voorwaardelike registrasie van onderwysers, weiering van registrasie en betaling van registrasie- en jaargelde;
- (b) appêlle teen weiering van registrasie en die skrapping van name uit die register;
- 20 (c) misdrywe met betrekking tot die registrasie van name en kwalifikasies;
- (d) komitees van die Onderwysersraad;
- (e) die gelde betaalbaar opsigte van—
- 25 (i) inskrywings in die register;
- (ii) registrasiesertifikate, uittreksels uit die register of gesertifiseerde afskrifte daarvan;
- (f) die uitoefening van stemreg deur iemand wat lid van meer as een erkende onderwysersvereniging is;
- 30 (g) die wyse waarop klagtes, beskuldigings of bewerings teen iemand wat ingevolge hierdie Wet geregistreer of voorwaardelik geregistreer is, ingedien moet word;
- (h) die wyse waarop iemand gedagvaar moet word om by 'n ondersoek na beweerde oortredings van die gedragskode te verskyn, en die stappe wat teen iemand gedoen kan word indien hy versuim om aan bedoelde dagvaarding gehoor te gee of indien hy die verrigtings by so 'n
- 35 ondersoek belemmer of steur;
- (i) die vorm van dagvaardings vir die verskyning van getuies by 'n ondersoek na beweerde oortredings van die gedragskode of vir die oorlegging van 'n boek, register, stuk of ander voorwerp daarby;
- 40 (j) die wyse waarop 'n ondersoek na beweerde oortredings van die gedragskode ingestel moet word of die prosedure wat daarby gevolg moet word, of 'n ander aangeleentheid wat met die instel daarvan in verband staan;
- 45 (k) in die algemeen, enige ander aangeleentheid wat volgens die oordeel van die Minister nodig is vir die behoorlike funksionering van die Onderwysersraad en enige aangeleentheid wat daarmee in verband staan.
- (6) Vanaf 'n datum wat die Minister by kennisgewing in die *Staatskoerant* bepaal, mag geen Swart persoon wat nie deur die Onderwysersraad geregistreer of voorwaardelik geregistreer is as
- 55 'n onderwyser nie, in 'n healtydse, permanente onderwyspos by 'n Staatskool, gemeenskapskool of Staatsondersteunde skool aangel stel word, of in 'n healtydse, permanente hoedanigheid by so 'n skool onderwys gee nie, behalwe in 'n pos wat die Sekretaris bepaal.
- 60 (7) Iemand wat subartikel (6) oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R100 of met gevangenisstraf vir 'n tydperk van hoogstens drie maande of met sowel daardie boete as daardie gevangenisstraf.
32. (1) 'n Swart onderwyser wat in 'n healtydse, permanente
- 65 onderwyspos by 'n Staatskool, 'n gemeenskapskool of 'n Staatsondersteunde skool waar healtydse onderwys verskaf word, in diens is en—
- (a) wat ingevolge artikel 31 (3) deur die Onderwysersraad

Uitwerking van skrapping van name van sekere onderwysers uit register van Onderwysersraad.

geregistreer of voorwaardelik geregistreer is en wie se

Act No. 90, 1979

EDUCATION AND TRAINING ACT, 1979.

- name is, after the date referred to in section 31 (6), removed from the register of the Teachers' Council; or
 (b) in respect of whom registration was refused by the Teachers' Council before the date referred to in paragraph (a),

shall be deemed to have resigned from his employment with effect from the date immediately succeeding the day on which his name was so removed, or, in the case of a teacher in respect of whom registration was refused, on the date referred to in section 31 (6), as the case may be: Provided that if on the date on which his name is removed from the register, or, in the case of a teacher in respect of whom registration was refused, on the date referred to in section 31 (6), any charge of misconduct in terms of section 23 is pending against the teacher concerned, such teacher shall not be so deemed so to have resigned from his employment until the inquiry into such charge has been concluded, and he has not been discharged from his employment for misconduct in terms of the provisions of this Act, or is not deemed to have been so discharged.

(2) The provisions of subsection (1) shall *mutatis mutandis* apply to any White teacher whose name is struck off the register of the South African Teachers' Council for Whites in terms of the South African Teachers' Council for Whites Act, 1976 (Act No. 116 of 1976), or in respect of whom registration as a teacher was refused by such Council in terms of the said Act.

Inspection of schools.

33. (1) The Secretary or any officer authorized thereto by the Secretary may hold an inspection or an inquiry in regard to—

- (a) (i) the admission of pupils to and their dismissal from any State school, community school, State-aided school or private school;
 (ii) the provision of education for and guidance to and the care of pupils at such a school;
 (iii) the application and implementation of approved psychological and standardized tests or questionnaires in respect of such pupils;
 (b) the buildings, equipment, stores and finances of any State school, community school or State-aided school and any hostel attached to such school;
 (c) any other matter in connection with any State school, community school, State-aided school or private school which in his opinion ought to be investigated.

(2) Any person who interferes with or hinders or disturbs the Secretary or an officer authorized by him while he is engaged in the performance of his duties in terms of this section, shall be guilty of an offence and liable on conviction to a fine not exceeding R50 and in default of payment to imprisonment for a period not exceeding three months.

Admission of persons to and their discharge from State schools, community schools and State-aided schools.

34. The admission of persons to State schools, community schools and State-aided schools shall take place in the prescribed circumstances and subject to the prescribed conditions, and any person so admitted to any such school may be discharged therefrom in the prescribed circumstances.

Courses for education, instruction or training of persons in schools, establishment of examination board and conduct of examinations.

35. (1) The Minister may institute courses for the education, instruction or training of persons in schools and may abolish any course so instituted.

(2) The Minister shall determine the nature and duration of, and the conditions for admission to, any course instituted under subsection (1).

- (3) (a) The Minister shall establish an examination board for the Department and may also establish committees of such board.
 (b) The constitution, duties, powers and functions of the examination board and committees of such board shall be as prescribed.

WET OP ONDERWYS EN OPLEIDING, 1979.

Wet No. 90, 1979

- naam ná die datum in artikel 31 (6) bedoel, uit die register van die Onderwysersraad geskrap word; of
- (b) ten opsigte van wie voor die datum in paragraaf (a) bedoel, registrasie deur die Onderwysersraad geweier is,
- 5 word geag uit sy diens te bedank het met ingang van die datum wat onmiddellik volg op die dag waarop sy naam aldus geskrap is, of, in die geval van 'n onderwyser ten opsigte van wie registrasie geweier is, op die datum in artikel 31 (6) bedoel, na gelang van die geval: Met dien verstande dat indien op die datum waarop sy
- 10 naam uit die register geskrap word, of, in die geval van 'n onderwyser ten opsigte van wie registrasie geweier is, op die datum in artikel 31 (6) bedoel, 'n aanklag van wangedrag ooreenkomstig die bepalings van artikel 23 teen die betrokke onderwyser hangende is, sodanige onderwyser nie aldus geag
- 15 word uit sy diens te bedank het nie alvorens die ondersoek na sodanige aanklag afgehandel is, en hy nie ingevolge die bepalings van hierdie Wet weens wangedrag uit sy diens ontslaan is of geag word weens wangedrag aldus ontslaan te wees nie.
- (2) Die bepalings van subartikel (1) is *mutatis mutandis* van
- 20 toepassing op 'n Blanke onderwyser wie se naam van die register van die Suid-Afrikaanse Onderwysersraad vir Blankes ingevolge die Wet op die Suid-Afrikaanse Onderwysersraad vir Blankes, 1976 (Wet No. 116 van 1976), geskrap word of ten opsigte van
- 25 wie registrasie as onderwyser deur dié Raad ingevolge gemelde Wet geweier is.
33. (1) Die Sekretaris of 'n beampte deur die Sekretaris daartoe Inspeksie van Inspeksie van gemagtig kan 'n inspeksie hou of 'n ondersoek doen met skole. skole. betrekking tot—
- (a) (i) die toelating van leerlinge tot en hul ontslag uit
- 30 enige Staatskool, gemeenskapskool, Staatsondersteunde skool of private skool;
- (ii) die verskaffing van onderwys en voorligting aan en die versorging van die leerlinge by so 'n skool;
- (iii) die toepassing en implementering van goedge-
- 35 keurde sielkundige en gestandaardiseerde toetse of vraelyste ten opsigte van sodanige leerlinge;
- (b) die geboue, uitrusting, voorrade en finansies van 'n
- 40 Staatskool, 'n gemeenskapskool of 'n Staatsondersteunde skool en enige koshuis verbonde aan sodanige skool;
- (c) enige ander aangeleentheid in verband met 'n Staatskool, gemeenskapskool, Staatsondersteunde skool of
- 45 private skool wat na sy oordeel ondersoek behoort te word.
- (2) Iemand wat die Sekretaris of 'n deur hom gemagtigde beampte dwarsboom of hinder of steur terwyl hy besig is om sy pligte ingevolge hierdie artikel uit te voer, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R50 en by wanbetaling met gevangenisstraf vir 'n
- 50 tydperk van hoogstens drie maande.
34. Die toelating van persone tot Staatskole, gemeenskapskole Toelating van Toelating van persone tot en hul en Staatsondersteunde skole geskied onder die voorgeskrewe ontslag uit ontslag uit omstandighede en onderworpe aan die voorgeskrewe voor- Staatskole, Staatskole, waardes, en iemand wat aldus tot so 'n skool toegelaat is, kan gemeenskapskole gemeenskapskole en Staatsonder- en Staatsonder- en Staatsondersteunde skole. steunde skole.
- 55 onder die voorgeskrewe omstandighede daaruit ontslaan word.
35. (1) Die Minister kan kursusse vir die onderwys, onderrig of Kursusse vir Kursusse vir opleiding van persone in skole instel, en 'n kursus aldus ingestel, onderwys, onderwys, afskaf. onderrig of onderrig of
- (2) Die Minister bepaal die aard en duur van en die opleiding van opleiding van 60 voorwaardes vir toelating tot 'n kursus wat kragtens subartikel (1) persone in skole, persone in skole, ingestel is. instelling van instelling van
- (3) (a) Die Minister stel 'n eksamenraad vir die Departement in eksamenraad en eksamenraad en afneem van afneem van eksamens. eksamens.
- (b) Die samestelling, pligte, bevoegdhede en werksaamhede van die eksamenraad en komitees van sodanige raad is van die eksamenraad en komitees van sodanige raad is
- 65 soos voorgeskryf.

Act No. 90, 1979

EDUCATION AND TRAINING ACT, 1979.

(4) The Secretary shall determine the syllabus or syllabuses of a course instituted under subsection (1).

(5) The Minister may cause examinations to be conducted in respect of a course instituted under subsection (1) and may cause diplomas or certificates to be issued to persons who have passed such examinations. 5

(6) The Minister may with the concurrence of the Minister of Finance determine the fees, if any, to be paid respect of examinations, diplomas and certificates referred to in subsection (5), and may, with such concurrence, grant exemption from the payment of such fees. 10

School calendar, school holidays and periods of instruction.

36. The Secretary shall determine the school calendar, school holidays and periods of instruction, and he may determine different school calendars, school holidays and periods of instruction for different schools or schools in different areas. 15

Compulsory school attendance.

37. (1) The Minister may by notice in the *Gazette* declare that regular attendance at any kind of school specified in such notice, to such extent and under such circumstances as may be so specified, shall be compulsory for every Black person belonging to an age group and who is resident in an area so specified. 20

(2) If a parent or guardian or the person having the custody or charge of any person who by virtue of the provisions of subsection (1) is required to attend a school regularly, after a period of six months from the date of the notice referred to in that subsection fails, without reasonable cause and after a written warning by the Department, to cause such person to attend an appropriate school regularly, he shall be guilty of an offence and liable on conviction to a fine not exceeding R10 or to imprisonment for a period not exceeding one month on conviction of a first offence or to a fine not exceeding R40 or to imprisonment for a period not exceeding two months on conviction of a second or subsequent offence. 25

(3) Any person who during the usual hours of attendance at school utilizes in connection with any employment, whether for remuneration or otherwise, the services of a child who is in terms of subsection (1) required to attend a school regularly and who is not exempted from compulsory attendance in terms of the regulations, or harbours such child, or any person who neglects or refuses to furnish information to or who hinders or obstructs a school attendance officer in the lawful execution of his duties, shall be guilty of an offence and liable on conviction to a fine not exceeding R50 or in default of payment to imprisonment for a period not exceeding one month. 30

Financial and other assistance for education and training.

38. The Minister may out of moneys appropriated by Parliament for the purpose and on such basis and such conditions as he may with the concurrence of the Minister of Finance determine grant financial or other material assistance or both financial and other material assistance to— 45

(a) a pupil who is resident in the Republic and who has been admitted to a State school, a community school, a State-aided school or a school situated in a Black state designated by the Minister for the purposes of this section; 50

(b) a student at a university or university college established by or under any law;

(c) a person who is not such a pupil or student, for education and training approved by the Minister. 55

Payment of tuition and boarding fees.

39. (1) Subject to the provisions of subsections (2) and (4), no tuition fees for the attendance of State schools, community schools and State-aided schools shall be payable.

(2) The Minister may with the concurrence of the Minister of Finance determine tuition fees payable by persons at any State school or community school offering courses in advanced technical education or courses for the education of adults.

WET OP ONDERWYS EN OPLEIDING, 1979.

Wet No. 90, 1979

(4) Die Sekretaris bepaal die sillabus of sillabusse van 'n kursus wat kragtens subartikel (1) ingestel is.

(5) Die Minister kan eksamens laat afneem ten opsigte van 'n kursus kragtens subartikel (1) ingestel en kan diplomas of 5 sertifikate laat uitreik aan persone wat in sodanige eksamens geslaag het.

(6) Die Minister kan met die instemming van die Minister van Finansies die gelde, as daar is, bepaal wat betaalbaar is ten opsigte van eksamens, diplomas en sertifikate vermeld in subartikel (5) en 10 kan, met sodanige instemming, vrystelling van die betaling van sodanige gelde verleen.

36. Die Sekretaris bepaal die skoolkalender, skoolvakansies en tydperke van onderrig, en hy kan verskillende skoolkalenders, skoolvakansies en tydperke van onderrig vir verskillende skole of 15 skole in verskillende gebiede bepaal. Skoolkalender, skoolvakansies en tydperke van onderrig.

37. (1) Die Minister kan by kennisgewing in die *Staatskoerant* verklaar dat gereelde besoek aan 'n soort skool in die kennisgewing bepaal in die mate en onder die omstandighede aldus bepaal, verpligtend is vir elke Swart persoon wat behoort tot 'n 20 ouderdomsgroep en wat woonagtig is in 'n gebied aldus bepaal. Verpligte skoolbesoek.

(2) Indien 'n ouer of voog van iemand wat uit hoofde van die bepalings van subartikel (1) verplig is om 'n skool gereeld te besoek, of die persoon in wie se bewaring of onder wie se toesig so iemand is, na 'n tydperk van ses maande vanaf die datum van 25 die in daardie subartikel bedoelde kennisgewing sonder redelike oorsaak en na 'n skriftelike waarskuwing deur die Departement versuim om so iemand gereeld 'n gepaste skool te laat besoek, is hy aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n 30 boete van hoogstens tien rand of met gevangenisstraf vir 'n tydperk van hoogstens een maand by skuldigbevinding by 'n eerste oortreding of met 'n boete van hoogstens R40 of met gevangenisstraf vir 'n tydperk van hoogstens twee maande by skuldigbevinding by 'n tweede of daaropvolgende oortreding.

(3) Iemand wat gedurende die gewone ure van skoolbesoek in 35 verband met enige werk, hetsy teen vergoeding of andersins, gebruik maak van die dienste van 'n kind vir wie skoolbesoek ingevolge subartikel (1) verpligtend is en wat nie ingevolge die regulasies van verpligte skoolbesoek vrygestel is nie, of sodanige kind herberg, of iemand wat versuim of weier om inligting te 40 verstrek aan 'n skoolbesoekbeampte of hom by die wettige uitvoering van sy pligte hinder of belemmer, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete van hoogstens R50 of by wanbetaling met gevangenisstraf vir 'n tydperk van hoogstens een maand.

45 38. Die Minister kan uit geld wat die Parlement vir dié doel bewillig het en op die grondslag en voorwaardes wat hy met die instemming van die Minister van Finansies bepaal, finansiële of ander materiële hulp of finansiële sowel as ander materiële 50 hulp verleen aan— Finansiële en ander hulp vir onderrig en opleiding.

(a) 'n leerling wat woonagtig is in die Republiek en wat toegelaat is tot 'n Staatskool, 'n gemeenskapskool, 'n Staatsondersteunde skool of 'n skool geleë in 'n Swart staat en wat vir die doeleindes van hierdie artikel deur die Minister aangewys is;

(b) 'n student aan 'n universiteit of universiteitskollege wat by of kragtens 'n wet ingestel is; of

(c) 'n persoon wat nie so 'n leerling of student is nie, vir onderrig en opleiding deur die Minister goedgekeur.

39. (1) Behoudens die bepalings van subartikels (2) en (4) word 60 geen onderriggelde vir die bywoning van Staatskole, gemeenskapskole en Staatsondersteunde skole betaal nie. Betalings van onderrig- en losiesgelde.

(2) Die Minister kan met die instemming van die Minister van Finansies onderriggelde bepaal wat betaalbaar is deur persone aan enige Staatskool of gemeenskapskool wat kursusse in gevorderde 65 tegniese onderrig of kursusse vir die onderrig van volwassenes aanbied.

Act No. 90, 1979

EDUCATION AND TRAINING ACT, 1979.

(3) Any person who has been admitted to a State school or a community school or the person who is liable for the maintenance of any person so admitted shall, if the person so admitted is provided with board by the Department, pay such boarding fees as the Minister may determine with the concurrence of the Minister of Finance. 5

(4) If the parents or the person liable for the maintenance of a pupil who has been admitted to a State school, a community school or a State-aided school, are or is not resident in the Republic, his parents or such person shall pay such tuition fees, boarding fees and fees for books and educational aids which have been provided free of charge, as the Minister may determine with the concurrence of the Minister of Finance. 10

(5) (a) Different fees may be determined in respect of different categories of persons or different courses. 15

(b) The Minister may with the concurrence of the Minister of Finance exempt, in such manner as he may deem fit, any person or any category of persons wholly or partly from the payment of such fees.

Unauthorized persons may not visit certain schools or enter the school grounds or school premises.

40. (1) No person except— 20

- (a) a pupil, teacher or an employee of the school in question;
- (b) the Minister, the Secretary or any officer authorized in terms of section 33;
- (c) a member of the council, committee, board or other body established in terms of section 7 for the school in question who acts with the written approval of the chairman of such council, committee, board or other body; 25
- (d) a parent or guardian in connection with the education of his child, or for the purpose of attending a sports meeting, concert or any other event of the school in which his child has an interest; 30
- (e) a visitor from some other school for the purposes of participating in school sports or other school activities; 35
- or
- (f) members of the community who at the invitation of the principal attend a particular school activity, 35

may without the written permission of the Secretary visit a State school or a community school or any hostel attached to such school or enter the school grounds or premises of such school or hostel. 40

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding R100 or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment. 45

Health services in State schools, community schools and State-aided schools.

41. (1) The Secretary may in consultation with the Secretary for Health cause health services to be rendered at State schools, community schools and State-aided schools and hostels attached to such schools. 50

(2) Health services referred to in subsection (1) may include the medical, psychological and dental inspection of pupils, teachers and hostel staff, the inspection of school and hostel buildings and grounds, and the consideration of all matters pertaining to the health and physical well-being of pupils, teachers and hostel staff. 55

(3) The Minister may in consultation with the Minister of Health make regulations—

- (a) for the compulsory medical, psychological and dental examination of pupils;
- (b) for the compulsory medical examination of teachers and hostel staff whose state of health is reasonably suspected of being a source of danger to pupils; 60
- (c) for the inspection of school and hostel buildings and the grounds of schools and hostels from a health point of view;

WET OP ONDERWYS EN OPLEIDING, 1979.

Wet No. 90, 1979

- (3) 'n Persoon wat tot 'n Staatskool of 'n gemeenskapskool toegelaat is of die persoon wat verantwoordelik is vir die onderhoud van 'n persoon aldus toegelaat, moet, indien losies deur die Departement aan 'n persoon aldus toegelaat, verskaf word, die losiesgelde betaal wat die Minister met die instemming van die Minister van Finansies bepaal.
- (4) Indien die ouers of die persoon wat verantwoordelik is vir die onderhoud van 'n leerling wat tot 'n Staatskool, 'n gemeenskapskool of 'n Staatsondersteunde skool toegelaat is nie in die Republiek woon nie, moet sy ouers of daardie persoon die onderriggelde, losiesgelde en gelde vir boeke en onderwysmiddels wat gratis verskaf is, betaal wat die Minister met die instemming van die Minister van Finansies bepaal.
- (5) (a) Verskillende gelde kan ten opsigte van verskillende kategorieë persone of verskillende kursusse bepaal word.
- (b) Die Minister kan met die instemming van die Minister van Finansies enige persoon of enige kategorie persone geheel en al of ten dele, op die wyse wat hy goedvind, vrystel van die betaling van sodanige gelde.
40. (1) Niemand behalwe—
- (a) 'n leerling, onderwyser of werknemer van die betrokke skool;
- (b) die Minister, die Sekretaris of 'n beampte wat ingevolge artikel 33 gemagtig is;
- (c) 'n lid van die raad, komitee, bestuur of ander liggaam ingestel ingevolge artikel 7 vir die betrokke skool wat optree met die skriftelike goedkeuring van die voorsitter van sodanige raad, komitee, bestuur of ander liggaam;
- (d) 'n ouer of voog in verband met die onderwys van sy kind of ten einde 'n sportbyeenkoms, konsert of ander aktiwiteit van die skool waarby sy kind belang het, by te woon;
- (e) 'n besoeker van 'n ander skool met die doel om aan 'n sportbyeenkoms of ander skoolaktiwiteite deel te neem; of
- (f) lede van die gemeenskap wat op uitnodiging van die prinsipaal 'n bepaalde skoolaktiwiteit bywoon,
- mag sonder die skriftelike toestemming van die Sekretaris 'n Staatskool of 'n gemeenskapskool en enige koshuis verbonde aan sodanige skool besoek of die skoolterrein of perseel van sodanige skool of koshuis betree nie.
- (2) Iemand wat subartikel (1) oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R100 of met gevangenisstraf vir 'n tydperk van hoogstens drie maande of met daardie boete sowel as daardie gevangenisstraf.
41. (1) Die Sekretaris kan in oorleg met die Sekretaris van Gesondheid gesondheidsdienste in Staatskole, gemeenskapskole en Staatsondersteunde skole en koshuise verbonde aan sodanige skole, laat lewer.
- (2) Gesondheidsdienste bedoel in subartikel (1) kan die mediese, sielkundige en tandheelkundige ondersoek van leerlinge, onderwysers en koshuispersoneel, die inspeksie van skool- en koshuisgeboue en -terreine, en die oorweging van alle aangeleenthede betreffende die gesondheid en liggaamlike welstand van leerlinge, onderwysers en koshuispersoneel omvat.
- (3) Die Minister kan in oorleg met die Minister van Gesondheid regulasies uitvaardig—
- (a) vir die verpligte mediese, sielkundige en tandheelkundige ondersoek van leerlinge;
- (b) vir die verpligte mediese ondersoek van onderwysers en koshuispersoneel ten opsigte van wie daar redelik vermoed word dat hul gesondheid 'n bron van gevaar vir leerlinge is;
- (c) vir die inspeksie van skool- en koshuisgeboue en die terreine van skole en koshuise uit 'n gesondheidsoogpunt;

Ongemagtigde persone mag nie 'n skool besoek of die skoolgronde of skoolperseel betree nie.

Gesondheidsdienste in Staatskole, gemeenskapskole en Staatsondersteunde skole.

Act No. 90, 1979

EDUCATION AND TRAINING ACT, 1979.

- (d) for the right of access to a school or hostel in order to conduct inspections or examinations referred to in this section;
- (e) for the exclusion of any pupil, teacher or member of a hostel staff from any State school, community school or State-aided school or hostel on medical grounds or on grounds of failure to submit himself to a compulsory medical examination;
- (f) generally for the purposes of this section and the furtherance of its objects.

Delegation of duties, powers and functions by Minister and Secretary.

42. (1) The Minister may delegate, either generally or in any particular case, any duty, power or function imposed or conferred upon or assigned to him by this Act, other than the duties, powers or functions imposed or conferred upon or assigned to him by sections 3, 4, 8 (4) (b), 13 (1) (c) (in so far as it relates to the determination of salary scales and allowances), 17 (1) (in so far as it relates to the determination of salary scales and allowances), 23 (in so far as it relates to the discharge of a teacher and appeals), 30, 31, 35, 37 and 43, to the Secretary or any other officer in the Department on such conditions as the Minister may determine.

(2) The Secretary may delegate, either generally or in any particular case, any duty, power or function imposed or conferred upon or assigned to him by this Act, other than any duty, power or function delegated to him in terms of subsection (1), to any other officer in the Department on such conditions as he may determine.

(3) Any delegation in terms of this section may at any time be varied or withdrawn.

Exclusion of provisions of Workmen's Compensation Act, 1941.

43. No pupil at a State school, a community school or a State-aided school shall for the purposes of the Workmen's Compensation Act, 1941 (Act No. 30 of 1941), and in connection with his attendance at such school be regarded as a workman as contemplated in that Act or as some other person entitled to payment thereunder.

Regulations.

44. (1) The Minister may make regulations—

- (a) as to any matters which by this Act are required or permitted to be prescribed;
- (b) determining the duties and powers of the Secretary or any other officer of the Department in connection with the control, supervision and administration of education;
- (c) as to the establishment, maintenance, management, control and disestablishment of State schools and community schools;
- (d) as to the registration of State-aided and private schools and the exemption from registration of schools and the conditions of exemption;
- (e) as to the making of grants-in-aid or subsidies and loans to the owners or governing bodies of State-aided schools and the circumstances in which grants-in-aid, subsidies or loans may be terminated, reduced or withdrawn;
- (f) relating to the control and treatment of pupils at State schools, community schools and State-aided schools, and any hostel attached to such schools, and the suspension of, or the imposition or infliction of other punishments upon, pupils at such schools;
- (g) as to the medium of instruction in schools and the manner in which parents shall be consulted about this;
- (h) as to the appointment of teachers for duty at State schools, community schools and State-aided schools, and as to the grading, promotion, transfer, termination of services, discipline, behaviour, duties, powers and hours of attendance of such teachers, and the occupation of teachers' quarters by such teachers, and the payment to such teachers of transport, subsistence and other allowances and remuneration, if any, for services outside the prescribed hours of attendance;

WET OP ONDERWYS EN OPLEIDING, 1979.

Wet No. 90, 1979

- (d) vir die reg van toegang tot 'n skool of koshuis ten einde inspeksies en ondersoeke bedoel in hierdie artikel uit te voer;
- 5 (e) vir die uitsluiting van enige leerling, onderwyser of lid van 'n koshuispersoneel uit enige Staatskool, gemeenskapskool of Staatsondersteunde skool of koshuis op mediese grond of op gronde van versuim om hom aan 'n verpligte mediese ondersoek te onderwerp;
- 10 (f) in die algemeen vir die doeleindes van hierdie artikel en die bevordering van die oogmerke daarvan.

42. (1) Die Minister kan 'n plig, bevoegdheid of werksaamheid wat by hierdie Wet aan hom opgelê, verleen of opgedra is, uitgesonderd die pligte, bevoegdhede en werksaamhede aan hom opgelê, verleen of opgedra by artikels 3, 4, 8 (4) (b), 13 (1) (c) (vir sover dit betrekking het op die bepaling van salarisskale en toelaes), 17 (1) (vir sover dit betrekking het op die bepaling van salarisskale en toelaes), 23 (vir sover dit betrekking het op die ontslag van 'n onderwyser en appêlle) 30, 31, 35, 37 en 43, aan die Sekretaris of 'n ander beampte in die Departement hetsy in die algemeen of in 'n besondere geval delegeer op die voorwaardes wat hy bepaal.

Oordrag van pligte, bevoegdhede en werksaamhede deur Minister en Sekretaris.

(2) Die Sekretaris kan 'n plig, bevoegdheid of werksaamheid wat by hierdie Wet aan hom opgelê, verleen of opgedra is, uitgesonderd 'n plig, bevoegdheid of werksaamheid aan hom ingevolge subartikel (1) gedelegeer, aan 'n ander beampte in die Departement hetsy in die algemeen of in 'n besondere geval delegeer op die voorwaardes wat hy bepaal.

(3) 'n Delegasie kragtens hierdie artikel kan te eniger tyd gewysig of ingetrek word.

30 43. By die toepassing van die Ongevallewet, 1941 (Wet No. 30 van 1941), word geen leerling aan 'n Staatskool, 'n gemeenskapskool of 'n Staatsondersteunde skool in verband met sy bywoning van die skool beskou as 'n werksman soos beoog in genoemde Wet of as iemand anders wat daarkragtens op betaling geregtig is nie.

Uitsluiting van bepaling van Ongevallewet, 1941.

44. (1) Die Minister kan regulasies uitvaardig—

(a) betreffende aangeleenthede wat ingevolge hierdie Wet voorgeskryf moet of kan word;

40 (b) wat die pligte en bevoegdhede van die Sekretaris of enige ander beampte in die Departement in verband met die beheer en toesig oor en die administrasie van onderwys bepaal;

(c) betreffende die instelling, instandhouding, bestuur, beheer en sluiting van Staatskole en gemeenskapskole;

45 (d) betreffende die registrasie van Staatsondersteunde skole en private skole en die vrystelling van registrasie van skole en die voorwaardes van vrystelling;

(e) betreffende die toekenning van van hulptoelaes of subsidies en lenings aan die eienaars of bestuursliggame van Staatsondersteunde skole en die omstandighede waaronder hulptoelaes, subsidies of lenings gestaak, verminder of ingetrek kan word;

50 (f) betreffende die beheer oor of behandeling van leerlinge aan Staatskole, gemeenskapskole en Staatsondersteunde skole, en enige koshuis verbonde aan sodanige skole, en die skorsing van, of die oplegging of toediening van ander strawwe aan, leerlinge van sodanige skole;

55 (g) betreffende die medium van onderrig in skole en die wyse waarop ouers hieroor geraadpleeg moet word;

60 (h) betreffende die aanstelling van onderwysers vir diens by Staatskole, gemeenskapskole en Staatsondersteunde skole, en betreffende die gradering, bevordering, verplasing, diensbeëindiging, tug, gedrag, pligte, bevoegdhede en diensure van sodanige onderwysers, en die bewoning van onderwyserskwartiere deur sodanige onderwysers, en die betaling aan sodanige onderwysers van vervoer-, verblyf- en ander toelaes en vergoeding, as daar is, vir diens buite die voorgeskrewe diensure;

65

Regulasies.

Act No. 90, 1979

EDUCATION AND TRAINING ACT, 1979.

- (i) providing for the registration by the Department of persons qualified as teachers;
- (j) as to the medical examination (which may include psychological examination) of teachers employed at State schools, community schools and State-aided schools, and the issue of certificates in connection with such examinations and the circumstances in which medical examinations are required for the purposes of this Act; 5
- (k) as to religious instruction and religious ceremonies at schools; 10
- (l) as to the mental, physical or other examination of any child who is suspected of being a handicapped or mentally retarded child;
- (m) as to compulsory school attendance and the conditions subject to which a person may be exempted from such obligation; 15
- (n) as to the inspection of schools and hostels;
- (o) as to the conducting of examinations, including the appointment, discipline, conduct, duties and powers of examiners, moderators, invigilators and other persons whose services are required in connection therewith, the enrolment of candidates for examinations, the conduct and discipline of candidates before, during and after examinations and the issue of diplomas and certificates; 20 25
- (p) as to the recognition of teachers' associations in terms of section 30;
- (q) as to the management, control and maintenance of any State-aided school;
- (r) as to the control and management of, the admission of pupils to, and the requirements for appointment of teachers at, State-aided nursery schools; 30
- (s) as to the control of moneys collected for or in relation to any State school, community school or State-aided school; 35
- (t) as to the conditions and circumstances under which teachers employed at State schools, community schools and State-aided schools may be required to become and remain members of a medical aid fund or medical aid society; 40
- (u) as to the constitution, powers, duties and functions of a governing body of a State-aided special school;
- (v) as to the establishment, maintenance and control of any hostel attached to a school, and the treatment of pupils at such a hostel; 45
- (w) generally, as to any other matter in respect of which the Minister may deem it necessary or expedient to make regulations in order to achieve the objects of this Act.

(2) The generality of the power conferred by paragraph (w) of subsection (1) shall not be limited by the provisions of the other paragraphs of the said subsection. 50

(3) The Minister shall not make any regulations as to any fee or allowance payable to or by any person or as to the control of any moneys except with the concurrence of the Minister of Finance.

(4) Different regulations may be made in respect of different schools or kinds of schools or schools in different areas. 55

(5) The regulations may provide for penalties for any contravention thereof or failure to comply therewith, of a fine not exceeding R500 or in default of payment imprisonment for a period not exceeding twelve months. 60

Repeal of laws and savings.

45. (1) Subject to the provisions of this Act the laws specified in the Schedule are hereby repealed to the extent set out in the third column, except in so far as the said laws apply in the territory of South West Africa, including the Eastern Caprivi Zipfel.

WET OP ONDERWYS EN OPLEIDING, 1979.

Wet No. 90, 1979

- (i) wat voorsiening maak vir die registrasie deur die Departement van persone wat hulle as onderwysers bekwaam het;
- 5 (j) betreffende die mediese ondersoek (wat sielkundige ondersoek insluit) van onderwysers in diens by Staatskole, gemeenskapskole en Staatsondersteunde skole en die uitreiking van sertifikate in verband met sodanige ondersoeke en die omstandighede waaronder mediese ondersoeke by die toepassing van hierdie Wet vereis word;
- 10 (k) betreffende godsdiensonderrig en godsdiensstige plegtighede by skole;
- (l) betreffende die geestelike, fisiese of ander ondersoek van 'n kind wat, na vermoed word, 'n gestremde of
- 15 (m) geestesvertraagde kind is;
- (n) betreffende die inspeksie van skole en koshuise;
- 20 (o) betreffende die afneem van eksamens, met inbegrip van die aanstelling, tug, gedrag, pligte en bevoegdhede van eksaminatore, moderatore, opsieners en ander persone wie se dienste in verband daarmee nodig is, die inskrywing van kandidate vir eksamens, die gedrag en
- 25 (p) tug van kandidate voor, gedurende en na eksamens en die uitreiking van diplomas en sertifikate;
- (q) betreffende die erkenning van onderwysersverenigings ingevolge artikel 30;
- 30 (r) betreffende die beheer oor en die bestuur en instandhouding van 'n Staatsondersteunde skool;
- (s) betreffende die beheer oor en bestuur van, die toelating van leerlinge tot, en die aanstellingsvereistes vir onderwysers by, Staatsondersteunde kleuterskole;
- 35 (t) betreffende beheer oor geld wat vir of met betrekking tot 'n Staatskool, gemeenskapskool of 'n Staatsondersteunde skool ingesamel word;
- (u) betreffende die voorwaardes en omstandighede waaronder onderwysers in diens by Staatskole, gemeenskapskole en Staatsondersteunde skole verplig kan word om lede te word en te bly van 'n mediese hulpfonds of mediese hulpvereniging;
- 40 (v) betreffende die samestelling, pligte, bevoegdhede en werksaamhede van 'n bestuursliggaam van 'n Staatsondersteunde spesiale skool;
- 45 (w) betreffende die instelling en instandhouding van en beheer oor enige koshuis verbonde aan 'n skool, en die behandeling van leerlinge in sodanige koshuis;
- (w) in die algemeen, betreffende enige ander aangeleentheid ten opsigte waarvan die Minister dit nodig of dienstig ag om regulasies uit te vaardig ten einde die oogmerke van hierdie Wet te bereik.

(2) Die algemeenheid van die bevoegdheid by paragraaf (w) van subartikel (1) verleen, word nie deur die bepalings van die ander paragrawe van bedoelde subartikel beperk nie.

55 (3) Die Minister vaardig geen regulasie betreffende enige geld of toelae betaalbaar aan of deur iemand, of betreffende die beheer oor geld, uit nie behalwe met die instemming van die Minister van Finansies.

(4) Verskillende regulasies kan ten opsigte van verskillende skole of soorte skole of skole in verskillende gebiede uitgevaardig word.

(5) Die regulasies kan op enige oortreding daarvan of versuim om daaraan te voldoen, strawwe stel van 'n boete van hoogstens R500 of by wanbetaling gevangenisstraf vir 'n tydperk van 65 hoogstens twaalf maande.

45. (1) Behoudens die bepalings van hierdie Wet word die wette in die Bylae genoem hierby herroep in die mate in die derde kolom aangedui, behalwe vir sover genoemde wette in die gebied Suidwes-Afrika, met inbegrip van die Oostelike Caprivi Zipfel, van toepassing is.

Herroeping van wette en voorbehoude.

Act No. 90, 1979

EDUCATION AND TRAINING ACT, 1979.

(2) Anything done in terms of powers conferred by or by virtue of any provision of any law repealed by subsection (1), and any rights or obligations acquired or incurred in terms of any such provision, shall be deemed to have been done, acquired or incurred by the competent authority in terms of powers conferred 5 by or in terms of the corresponding provision of this Act.

(3) Until the Minister makes regulations in terms of section 44, the regulations in force under any law repealed by subsection (1) (hereinafter referred to as the existing regulations) shall, notwithstanding such repeal and in so far as the existing regulations can 10 be applied and are not inconsistent with the provisions of this Act, continue to apply: Provided that whenever the Minister makes regulations relating to any of the matters referred to in section 44, that part of the existing regulations relating to any matter dealt with in the regulations so made shall be deemed to have been 15 repealed.

Short title and commencement.

46. (1) This Act shall be called the Education and Training Act, 1979, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

(2) Different dates may be fixed under subsection (1) in 20 respect of different provisions of this Act.

Schedule

LAWS REPEALED

No. and year	Short title	Extent of repeal
Act No. 47 of 1953	Black Education Act, 1953	The whole
Act No. 44 of 1954	Black Education Amendment Act, 1954	The whole
Act No. 36 of 1956	Black Education Amendment Act, 1956	The whole
Act No. 33 of 1959	Black Education Amendment Act, 1959	The whole
Act No. 55 of 1961	Black Education Amendment Act, 1961	The whole
Act No. 24 of 1964	Black Special Education Act, 1964	The whole
Act No. 44 of 1970	Black Education Amendment Act, 1970	The whole
Act No. 57 of 1975	General Law Amendment Act, 1975	Section 22
Act No. 56 of 1977	Black Education Amendment Act, 1977	The whole
Act No. 67 of 1978	Black Education Amendment Act, 1978	The whole

WET OP ONDERWYS EN OPLEIDING, 1979.

Wet No. 90, 1979

(2) Enigiets wat gedoen is ingevolge bevoegdhede verleen deur of ingevolge 'n bepaling van 'n wet by subartikel (1) herroep, en enige regte of verpligtings verkry of aangegaan ingevolge so 'n bepaling, word geag deur die bevoegde gesag ingevolge bevoegd-
5 hede verleen deur of ingevolge die ooreenstemmende bepaling van hierdie Wet, gedoen, verkry of aangegaan te wees.

(3) Totdat die Minister kragtens artikel 44 regulasies uitvaardig, bly die regulasies wat ingevolge 'n wet herroep by subartikel (1) van krag is (hieronder die bestaande regulasies genoem),
10 ondanks sodanige herroeping van krag vir sover die bestaande regulasies toegepas kan word en nie met die bepalings van hierdie Wet onbestaanbaar is nie: Met dien verstande dat wanneer die Minister regulasies betreffende enige aangeleentheid vermeld in artikel 44 uitvaardig, daardie gedeelte van die
15 bestaande regulasies wat betrekking het op enige aangeleentheid behandel in die regulasies aldus uitgevaardig, geag word herroep te wees

46. (1) Hierdie Wet heet die Wet op Onderwys en Opleiding, Kort titel en
1979, en tree in werking op 'n datum wat die Staatspresident by inwerking-
20 proklamasie in die *Staatskoerant* bepaal. treding.

(2) Verskillende datums kan kragtens subartikel (1) ten opsigte van verskillende bepalings van hierdie Wet bepaal word.

Bylae

WETTE HERROEP

No. en jaar	Kort titel	Omvang van herroeping
Wet No. 47 van 1953	Wet op Swart Onderwys, 1953	Die geheel
Wet No. 44 van 1954	Wysigingswet op Swart Onderwys, 1954	Die geheel
Wet No. 36 van 1956	Wysigingswet op Swart Onderwys, 1956	Die geheel
Wet No. 33 van 1959	Wysigingswet op Swart Onderwys, 1959	Die geheel
Wet No. 55 van 1961	Wysigingswet op Swart Onderwys, 1961	Die geheel
Wet No. 24 van 1964	Wet op Buitengewone Onderwys vir die Swartes, 1964	Die geheel
Wet No. 44 van 1970	Wysigingswet op Swart Onderwys, 1970	Die geheel
Wet No. 57 van 1975	Algemene Regswysigingswet, 1975	Artikel 22
Wet No. 56 van 1977	Wysigingswet op Swart Onderwys, 1977	Die geheel
Wet No. 67 van 1978	Wysigingswet op Swart Onderwys, 1978	Die geheel

