

| PRESIDENT'S OFFICE  | KANTOOR VAN DIE PRESIDENT  |
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| No. 697.  | 24 April 1996  |
| <p>It is hereby notified that the President has assented to the following Act which is hereby published for general information:—</p> <p>No. 27 of 1996: National Education Policy Act, 1996.</p> | <p>Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—</p> <p>No. 27 van 1996: Wet op Nasionale Onderwysbeleid, 1996.</p> |

**GENERAL EXPLANATORY NOTE:**

Words underlined with a solid line indicate insertions in existing enactments.

**ACT**

**To provide for the determination of national policy for education; to amend the National Policy for General Education Affairs Act, 1984, so as to substitute certain definitions; to provide afresh for the determination of policy on salaries and conditions of employment of educators; and to provide for matters connected therewith.**

**PREAMBLE**

**WHEREAS** it is necessary to adopt legislation to facilitate the democratic transformation of the national system of education into one which serves the needs and interests of all the people of South Africa and upholds their fundamental rights;

*(Afrikaans text signed by the President.)  
(Assented to 16 April 1996.)*

**B**E IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

**Definitions**

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| 1. In this Act, unless the context indicates otherwise—   |    |
| (i) “Committee” means the Heads of Education Departments Committee established by section 10; (vii)   | 5  |
| (ii) “consultative body” means a consultative body contemplated in section 11; (xiv)  |    |
| (iii) “Council” means the Council of Education Ministers established by section 9; (xiii)   | 10 |
| (iv) “Department” means the Department of Education; (iii)  |    |
| (v) “Director-General” means the Director-General: Education; (iv)  |    |
| (vi) “education” means any education and training provided by an education institution, other than training as defined in section 1 of the Manpower Training Act, 1981 (Act No. 56 of 1981); (viii)   | 15 |
| (vii) “education department” means the Department and a department of any provincial government which is responsible for education; (ix)  |    |
| (viii) “education institution” means any institution providing education, whether early childhood education, primary, secondary, further or higher education, other than a university or technikon, and also an institution providing specialised, vocational, adult, distance or community education; (x)  | 20 |
| (ix) “educator” means any person who teaches, educates or trains other persons at an education institution or assists in rendering education services or education auxiliary or support services provided by or in an education department, but does not include any officer or employee as defined in section 1 of the Public Service Act, 1994 (Proclamation No. 103 of 1994); (xi) | 25 |

**ALGEMENE VERDUIDELIKENDE NOTA:**

Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordeninge aan.

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**WET**

**Om voorsiening te maak vir die bepaling van nasionale beleid vir die onderwys; tot wysiging van die Wet op die Nasionale Beleid vir Algemene Onderwyssake, 1984, ten einde sekere woordomskrywings te vervang; nuwe voorsiening te maak vir die bepaling van beleid oor salarisse en diensvoorraadse van opvoeders; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.**

**AANHEF**

**NADEMAAL** dit nodig is om wetgewing aan te neem om die demokratiese omskepping van die nasionale onderwysstelsel in 'n stelsel wat in die behoeftes voorsien en die belang dien van al die mense van Suid-Afrika en hulle fundamentele regte handhaaf;

*(Afrikaanse teks deur die President geteken.)  
(Goedgekeur op 16 April 1996.)*

**WORD DAAR DERHALWE BEPAAL** deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

**Woordomskrywing**

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
  - 5 (i) "belanghebbende" 'n organisasie of liggaam met 'n direkte en voortgesette belang in die tersaaklike onderwysinrigting, program, fase of sektor; (xv)
  - (ii) "beleidsdokument" die beleidsdokument in artikel 7 bedoel; (xii)
  - (iii) "Departement" die Departement van Onderwys; (iv)
  - (iv) "Direkteur-generaal" die Direkteur-generaal: Onderwys; (v)
  - 10 (v) "georganiseerde onderwysberoep" 'n organisasie of unie wat 'n lid is van die Raad vir Arbeidsverhoudinge in die Onderwys, ingestel by artikel 6 van die Wet op Arbeidsverhoudinge in die Onderwys, 1993 (Wet No. 146 van 1993), en wat vir die doeleindes van hierdie Wet deur die Minister erken is; (xi)
  - (vi) "Komitee" die Komitee van Onderwysdepartementshoofde by artikel 10 ingestel; (i)
  - 15 (vii) "Minister" die Minister van Onderwys; (x)
  - (viii) "onderwys" enige onderwys en opleiding deur 'n onderwysinrigting verskaf, behalwe opleiding soos omskryf in artikel 1 van die Wet op Mannekrag-opleiding, 1981 (Wet No. 56 van 1981); (vi)
  - 20 (ix) "onderwysdepartement" die Departement en 'n departement van 'n provinsiale regering wat vir onderwys verantwoordelik is; (vii)
  - (x) "onderwysinrigting" enige inrigting wat onderwys verskaf, hetso vroeë kinderonderwys, primêre, sekondêre, verdere of hoër onderwys, behalwe 'n

- (x) "Minister" means the Minister of Education; (vii)
- (xi) "organised teaching profession" means an organisation or union which is a member of the Education Labour Relations Council established by section 6 of the Education Labour Relations Act, 1993 (Act No. 146 of 1993), and is recognised by the Minister for the purposes of this Act; (v)
- (xii) "policy instrument" means the policy instrument referred to in section 7; (ii)
- (xiii) "provincial political head of education" means the member of an Executive Council responsible for education in a province; (xii)
- (xiv) "school" means a pre-primary, primary or secondary school; (xv)
- (xv) "stakeholder" means an organisation or body with a direct and continuing interest in the education institution, programme, phase or sector in question; (i)
- (xvi) "student" means any person enrolled in an education institution; (xvi)
- (xvii) "subcommittee" means a subcommittee of the Committee. (xvii)

**Objectives of Act**

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2. The objectives of the Act are to provide for—
  - (a) the determination of national education policy by the Minister in accordance with certain principles;
  - (b) the consultations to be undertaken prior to the determination of policy, and the establishment of certain bodies for the purpose of consultation;
  - (c) the publication and implementation of national education policy;
  - (d) the monitoring and evaluation of education.

**Determination of national education policy by Minister**

3. (1) The Minister shall determine national education policy in accordance with the provisions of the Constitution and this Act.

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(2) In determining national policy for education at education institutions, the Minister shall take into account the competence of the provincial legislatures in terms of section 126 of the Constitution, and the relevant provisions of any provincial law relating to education.

(3) Whenever the Minister wishes a particular national policy to prevail over the whole or a part of any provincial law on education, the Minister shall inform the provincial political heads of education accordingly, and make a specific declaration in the policy instrument to that effect.

(4) Subject to the provisions of subsections (1) to (3), the Minister shall determine national policy for the planning, provision, financing, staffing, co-ordination, management, governance, programmes, monitoring, evaluation and well-being of the education system, and without derogating from the generality of this section, may determine national policy for—

- (a) education management information systems, including the provision of data in accordance with the international obligations of the government;
- (b) the organisation, management and governance of the national education system;
- (c) facilities, finance and development plans for education, including advice to the Financial and Fiscal Commission;
- (d) innovation, research and development in education;
- (e) the ratio between educators and students;
- (f) the professional education and accreditation of educators;
- (g) the organisation, management, governance, funding, establishment and registration of education institutions;
- (h) compulsory school education;
- (i) the admission of students to education institutions, which shall include the determination of the age of admission to schools;
- (j) the minimum number of hours per day and days per year during which education shall be provided for different phases of education in education institutions;
- (k) co-ordination of the dates of school terms among provinces;
- (l) curriculum frameworks, core syllabuses and education programmes, learning standards, examinations and the certification of qualifications, subject to the provisions of any law establishing a national qualifications framework or a certifying or accrediting body;

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- universiteit of technikon, en ook 'n inrigting wat gespesialiseerde, beroeps-, volwassene-, afstands- of gemeenskapsonderrig verskaf; (viii)
- (xi) "opvoeder" iemand wat ander persone by 'n onderwysinrigting leer, onderrig of oplei, of bystand verleen by die verskaffing van professionele dienste of onderwyshulpdienste wat deur of in 'n onderwysdepartement voorsien word, maar nie ook 'n beampte of werknemer nie soos omskryf in artikel 1 van die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994); (ix)
- 5 (xii) "provinsiale politieke onderwyshoof" die lid van 'n Uitvoerende Raad verantwoordelik vir onderwys in 'n provinsie; (xiii)
- 10 (xiii) "Raad" die Raad van Onderwysministers by artikel 9 ingestel; (iii)
- (xiv) "raadgewende liggaam" 'n raadgewende liggaam in artikel 11 beoog; (ii)
- (xv) "skool" 'n preprim  re, prim  re of sekond  re skool; (xiv)
- (xvi) "student" iemand wat by 'n onderwysinrigting ingeskryf is; (xvi)
- (xvii) "subkomitee" 'n subkomitee van die Komitee. (xvii)

## 15 Doelwitte van Wet

2. Die doelwitte van die Wet is om voorsiening te maak vir—
- (a) die bepaling van nasionale onderwysbeleid deur die Minister in ooreenstemming met sekere beginsels;
- 20 (b) die oorlegpleging waaraan uitvoering gegee moet word voordat beleid bepaal word en die instelling van sekere liggame vir die doeleindeste van oorlegpleging;
- (c) die afkondiging en implementering van nasionale onderwysbeleid;
- (d) die monitering en evaluering van onderwys.

### Bepaling van nasionale onderwysbeleid deur Minister

- 25 3. (1) Die Minister bepaal nasionale onderwysbeleid ooreenkomsdig die bepalings van die Grondwet en hierdie Wet.
- (2) By die bepaling van nasionale beleid vir onderwys by onderwysinrigtings hou die Minister rekening met die bevoegdhede van die provinsiale wetgewers uit hoofde van artikel 126 van die Grondwet en die toepaslike bepalings van die een of ander provinsiale Wet met betrekking tot onderwys.
- 30 (3) Wanneer die Minister verlang dat 'n besondere nasionale beleid voorrang moet geniet oor die geheel of 'n gedeelte van 'n provinsiale wet oor onderwys, verwittig die Minister die provinsiale politieke onderwyshoofde dienooreenkomsdig, en maak hy of sy 'n spesifieke verklaring te dien effekte in die beleidsdokument.
- 35 (4) Behoudens die bepalings van subartikels (1) tot (3), bepaal die Minister nasionale beleid vir die beplanning, voorsiening, finansiering, personeelvoorsiening, koördinering, bestuur, beheer, programme, monitering, evaluering en welsyn van die onderwysstelsel, en sonder om afbreuk te doen aan die algemeenheid van hierdie artikel, kan die Minister nasionale beleid bepaal vir—
- 40 (a) inligtingstelsels vir onderwysbestuur, met inbegrip van die voorsiening van gegewens ooreenkomsdig die internasionale verpligte van die regering;
- (b) die organisasie van en, bestuur en beheer oor die nasionale onderwysstelsel;
- (c) fasiliteite en finansiering van en ontwikkelingsplanne vir onderwys, met inbegrip van advies aan die Finansi  le en Fiskale Kommissie;
- 45 (d) innovasie, navorsing en ontwikkeling in die onderwys;
- (e) die verhouding opvoeder tot student;
- (f) die professionele opvoeding enakkreditering van opvoeders;
- (g) die organisasie, bestuur, beheer, befondsing, diensstaat en registrasie van onderwysinrigtings;
- 50 (h) verpligte skoolonderwys;
- (i) die toelating van studente tot onderwysinrigtings, met inbegrip van die bepaling van die ouderdom vir toelating tot skole;
- (j) die minimum getal ure per dag en dae per jaar waarbinne onderwys vir verskillende fases van onderwys in onderwysinrigtings voorsien moet word;
- 55 (k) die koördinasie van die datums van skooltermyne onder provinsies;
- (l) kurrikulumraamwerke, kernsillabusse en onderwysprogramme, leerstandaarde, eksamens en die sertifisering van kwalifikasies, onderworpe aan die bepalings van die een of ander wet wat 'n nasionale kwalifikasieraamwerk of 'n sertifiserings- of akkrediteringsliggaam instel;

- (m) language in education;
- (n) control and discipline of students at education institutions: Provided that no person shall administer corporal punishment, or subject a student to psychological or physical abuse at any education institution;
- (o) education support services, including health, welfare, career and vocational development, counselling and guidance for education institutions, within the functional responsibility of a department of education;
- (p) co-operation between the Department and—
  - (i) other state departments;
  - (ii) provincial education departments;
  - (iii) local government; and
  - (iv) non-government organisations,
 with a view to advancing the national education policy contemplated in this section and the Reconstruction and Development Programme;
- (q) international relations in the field of education;
- (r) executive functions required to implement national education policy determined in terms of this Act, including the implementation of measures to address past discriminatory practices.

#### Directive principles of national education policy

- 4. The policy contemplated in section 3 shall be directed toward—
  - (a) the advancement and protection of the fundamental rights of every person guaranteed in terms of Chapter 3 of the Constitution, and in terms of international conventions ratified by Parliament, and in particular the right—
    - (i) of every person to be protected against unfair discrimination within or by an education department or education institution on any ground whatsoever;
    - (ii) of every person to basic education and equal access to education institutions;
    - (iii) of a parent or guardian in respect of the education of his or her child or ward;
    - (iv) of every child in respect of his or her education;
    - (v) of every student to be instructed in the language of his or her choice where this is reasonably practicable;
    - (vi) of every person to the freedoms of conscience, religion, thought, belief, opinion, expression and association within education institutions;
    - (vii) of every person to establish, where practicable, education institutions based on a common language, culture or religion, as long as there is no discrimination on the ground of race;
    - (viii) of every person to use the language and participate in the cultural life of his or her choice within an education institution;
  - (b) enabling the education system to contribute to the full personal development of each student, and to the moral, social, cultural, political and economic development of the nation at large, including the advancement of democracy, human rights and the peaceful resolution of disputes;
  - (c) achieving equitable education opportunities and the redress of past inequality in education provision, including the promotion of gender equality and the advancement of the status of women;
  - (d) endeavouring to ensure that no person is denied the opportunity to receive an education to the maximum of his or her ability as a result of physical disability;
  - (e) providing opportunities for and encouraging lifelong learning;
  - (f) achieving an integrated approach to education and training within a national qualifications framework;

- (m) taalgebruik in die onderwys;
- (n) die beheer en tug van studente by onderwysinrigtings: Met dien verstande dat niemand lyfstraf mag toedien nie, of 'n student by enige onderwysinrigting aan sielkundige of liggaamlike mishandeling mag onderwerp nie;
- 5 (o) onderwysondersteuningsdienste, met inbegrip van gesondheids-, welsyns-, loopbaan- en beroepsontwikkeling, beradings- en leidingsdienste vir onderwysinrigtings, binne die funksionele verantwoordelikheid van 'n onderwysdepartement;
- (p) samewerking tussen die Departement en—
  - (i) ander Staatsdepartemente;
  - (ii) provinsiale onderwysdepartemente;
  - (iii) plaaslike regering; en
  - (iv) nie-regeringsinstansies,
 met die oog op die bevordering van die nasionale onderwysbeleid in hierdie artikel beoog en die Heropbou- en Ontwikkelingsprogram;
- 15 (q) internasionale betrekkinge op die terrein van die onderwys;
- (r) uitvoerende werksaamhede nodig vir die implementering van die nasionale onderwysbeleid ooreenkomsdig hierdie Wet bepaal, met inbegrip van die implementering van maatreëls om die diskriminerende optrede van die verlede aan te spreek.

#### Rigtinggewende beginsels van nasionale onderwysbeleid

4. Die beleid in artikel 3 beoog word gerig op—
  - (a) die bevordering en beskerming van die fundamentele regte van elke persoon gewaarborg ingevolge Hoofstuk 3 van die Grondwet en ingevolge internationale konvensies deur die Parlement bekratig, en in besonder die reg—
    - (i) van elke persoon om beskerm te word teen onbillike diskriminasie binne of deur 'n onderwysdepartement of 'n onderwysinrigting op watter gronde ook al;
    - (ii) van elke persoon tot basiese onderwys en gelyke toegang tot onderwysinrigtings;
    - (iii) van 'n ouer of voog ten opsigte van die onderwys van sy of haar kind of bevoogde;
    - (iv) van elke kind ten opsigte van sy of haar onderwys;
    - (v) van elke student om onderrig te word in die taal van sy of haar keuse waar dit redelikerwys uitvoerbaar is;
    - (vi) van elke persoon op die vryheid van gewete, godsdiens, denke, geloof, mening, uitdrukking en assosiasie binne onderwysinrigtings;
    - (vii) van elke persoon om, waar dit uitvoerbaar is, onderwysinrigtings gegrond op 'n gemeenskaplike taal, kultuur of geloof in te stel, mits daar geen diskriminasie op grond van ras is nie;
    - (viii) van elke persoon om die taal van sy of haar keuse te gebruik en om aan die kulturele lewe van sy of haar keuse binne 'n onderwysinrigting deel te neem;
  - (b) die instaatstelling van die onderwysstelsel om tot die volle persoonlike ontwikkeling van elke student by te dra, en tot die morele, maatskaplike, kulturele, politieke en ekonomiese ontwikkeling van die nasie in die algemeen, met inbegrip van die bevordering van die demokrasie, menseregte en die vredesame beslegting van geskille;
  - (c) die bereiking van billike onderwysgeleenthede en die regstelling van ongelykheid in onderwysvoorsiening in die verlede, met inbegrip van die bevordering van geslagsgelykheid en die verhoging van die status van die vrou;
  - (d) die beywering om te verseker dat geen persoon, as gevolg van liggaamlike gestremdheid, die geleentheid ontsê word om 'n opvoeding tot die maksimum van sy of haar vermoëns te ontvang nie;
  - (e) die voorsiening van geleenthede vir en die aanmoediging van 'n lewenslange leerlingesteldheid;
  - (f) die bereiking van 'n geïntegreerde benadering tot onderwys en opleiding binne 'n nasionale kwalifikasieraamwerk;

- (g) cultivating skills, disciplines and capacities necessary for reconstruction and development;
  - (h) recognising the aptitudes, abilities, interests, prior knowledge and experience of students;
  - (i) encouraging independent and critical thought;
  - (j) promoting a culture of respect for teaching and learning in education institutions;
  - (k) promoting enquiry, research and the advancement of knowledge;
  - (l) enhancing the quality of education and educational innovation through systematic research and development on education, monitoring and evaluating education provision and performance, and training educators and education managers;
  - (m) ensuring broad public participation in the development of education policy and the representation of stakeholders in the governance of all aspects of the education system;
  - (n) achieving the cost-effective use of education resources and sustainable implementation of education services;
  - (o) achieving close co-operation between the national and provincial governments on matters relating to education, including the development of capacity in the departments of education, and the effective management of the national education system.
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#### **Consultation on national education policy**

- 5.** (1) Policy contemplated in section 3 shall be determined by the Minister after consultation with such appropriate consultative bodies as have been established for that purpose in terms of section 11 or any applicable law, and with—
- (a) the Council;
  - (b) such national organisations representing college rectors as the Minister may recognise for this purpose;
  - (c) the organised teaching profession;
  - (d) such national organisations representing parents as the Minister may recognise for this purpose;
  - (e) such national organisations representing students as the Minister may recognise for this purpose;
  - (f) such other national stakeholder bodies as the Minister may recognise for this purpose.
- (2) The policy contemplated in section 3 shall be determined by the Minister with the concurrence of the Minister of Finance in so far as it involves expenditure from the State Revenue Fund.
- (3) Nothing in this section shall limit the discretion of the Minister to consult whomsoever he or she wishes for advice on the determination of national education policy.
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#### **Consultation on legislation**

- 6.** Legislation on a matter referred to in section 3 shall be introduced in Parliament or, in the case of regulations, be published in the *Gazette* only after consultation between the Minister and—
- (a) the Council, in respect of education at education institutions; and
  - (b) all the parties in the Education Labour Relations Council established by section 6 of the Education Labour Relations Act, 1993 (Act No. 146 of 1993), in respect of any matter falling within the objectives of that Act.
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#### **Publication of national education policy**

- 7.** The Minister shall within 21 days after determining policy in terms of section 3—
- (a) give notice of such determination in the *Gazette* and indicate in such notice where the policy instrument issued with regard thereto may be obtained;
  - (b) table the policy instrument referred to in paragraph (a) in Parliament within 21 days after the notice has appeared in the *Gazette*, if Parliament is then in session.
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- (g) die ontwikkeling van vaardighede, dissiplines en vermoëns wat nodig is vir heropbou en ontwikkeling;
- (h) die erkenning van die aanlegte, vermoëns, belangstellings, voorafkennis en ondervinding van studente;
- 5 (i) die aanmoediging van selfstandige en kritiese denke;
- (j) die bevordering van 'n kultuur van respek vir onderriggewing en geleerdheid in onderwysinrigtings;
- (k) die bevordering van ondersoek, navorsing en kennis;
- (l) die verhoging van die gehalte van onderwys en onderwyskundige vernuwing deur stelselmatige navorsing en ontwikkeling op die onderwysgebied, monitering en die evaluering van onderwysvoorsiening en -prestasie en die opleiding van opvoeders en onderwysbestuurders;
- 10 (m) die bereiking van breë openbare deelname in die ontwikkeling van onderwysbeleid en die verteenwoordiging van belanghebbendes in die beheer van alle aspekte van die onderwysstelsel;
- (n) die bereiking van koste-effektiewe gebruik van onderwyshulpbronne en volhoubare implementering van onderwysdienste;
- (o) die bereiking van noue samewerking tussen die nasionale en provinsiale regerings oor aangeleenthede met betrekking tot onderwys, met inbegrip van die ontwikkeling van kapasiteit in die onderwysdepartemente, en die doeltreffende bestuur van die nasionale onderwyssisteem.

### Oorlegpleging oor nasionale onderwysbeleid

5. (1) Beleid in artikel 3 beoog, word deur die Minister bepaal na oorlegpleging met die toepaslike raadgewende liggeme wat vir dié doel kragtens artikel 11 of enige 25 toepaslike wet ingestel is, en met—

- (a) die Raad;
- (b) die nasionale organisasies wat kollegerektore verteenwoordig en wat die Minister vir hierdie doel erken;
- (c) die georganiseerde onderwysberoep;
- 30 (d) die nasionale organisasies wat ouers verteenwoordig en wat die Minister vir hierdie doel erken;
- (e) die nasionale organisasies wat studente verteenwoordig en wat die Minister vir hierdie doel erken;
- (f) die ander nasionale liggeme van belanghebbendes wat die Minister vir hierdie doel erken.

35 (2) Die beleid in artikel 3 beoog, word deur die Minister bepaal met die instemming van die Minister van Finansies vir sover dit uitgawes uit die Staatsinkomstefonds meebring.

(3) Niks in hierdie artikel vervat, beperk die diskresie van die Minister nie om 40 enigiemand na goeddunke te raadpleeg vir advies in verband met die bepaling van nasionale onderwysbeleid.

### Oorlegpleging oor wetgewing

6. Wetgewing oor 'n aangeleenthed in artikel 3 bedoel, word by die Parlement ingedien, of, in die geval van regulasies, in die *Staatskoerant* aangekondig slegs na 45 oorlegpleging tussen die Minister en—

- (a) die Raad, ten opsigte van onderwys by onderwysinrigtings; en
- (b) al die partye in die Raad vir Arbeidsverhoudinge in die Onderwys ingestel by artikel 6 van die Wet op Arbeidsverhoudinge in die Onderwys, 1993 (Wet No. 146 van 1993), ten opsigte van enige aangeleenthed wat binne die doelwitte 50 van daardie Wet ressorteer.

### Afkondiging van nasionale onderwysbeleid

7. Die Minister moet binne 21 dae na die bepaling van beleid ingevolge artikel 3—

- (a) in die *Staatskoerant* kennis gee van daardie bepaling en in daardie kennisgewing aandui waar die beleidsdokument wat met betrekking daartoe uitgereik is, verkrygbaar is;
- 55 (b) die beleidsdokument in paragraaf (a) bedoel in die Parlement ter Tafel lê binne 21 dae nadat die kennisgewing in die *Staatskoerant* verskyn het, indien die Parlement dan in gewone sessie is, of, indien die Parlement nie in gewone

ordinary session, or, if Parliament is not in ordinary session, within 21 days after the commencement of the first ensuing ordinary session of Parliament.

### **Monitoring and evaluation of education**

**8. (1)** The Minister shall direct that the standards of education provision, delivery and performance throughout the Republic be monitored and evaluated by the Department annually or at other specified intervals, with the object of assessing progress in complying with the provisions of the Constitution and with national education policy, particularly as determined in terms of section 3(3). 5

(2) Each directive issued in terms of subsection (1) shall comply with the provisions of any law establishing a national qualifications framework, and shall be formulated after consultation with the bodies referred to in section 5(1). 10

(3) The Department shall undertake the monitoring and evaluation contemplated in subsection (1) by analysis of data gathered by means of education management information systems, or by other suitable means, in co-operation with provincial departments of education. 15

(4) The Department shall fulfill its responsibilities in terms of subsections (1) to (3) in a reasonable manner, with a view to enhancing professional capacities in monitoring and evaluation throughout the national education system, and assisting the competent authorities by all practical means within the limits of available public resources to raise the standards of education provision and performance. 20

(5) The Department shall prepare and publish a report on the results of each investigation undertaken in terms of subsection (3) after providing an opportunity for the competent authority concerned to comment, which comment shall be published with the report. 25

(6) If a report prepared in terms of subsection (5) indicates that the standards of education provision, delivery and performance in a province do not comply with the Constitution or with the policy determined in terms of section 3(3), the Minister shall inform the provincial political head of education concerned and require the submission within 90 days of a plan to remedy the situation. 30

(7) A plan required by the Minister in terms of subsection (6) shall be prepared by the provincial education department concerned in consultation with the Department, and the Minister shall table the plan in Parliament with his or her comments within 21 days of receipt, if Parliament is then in ordinary session, or, if Parliament is not in ordinary session, within 21 days after the commencement of the first ensuing ordinary session of Parliament. 35

### **Council of Education Ministers**

**9. (1)** There is hereby established a council, called the Council of Education Ministers, consisting of—

- (a) the Minister, who shall be the chairperson;
- (b) the Deputy Minister of Education, if such Deputy Minister is appointed, who in the absence of the Minister shall be designated by the Minister as chairperson; and
- (c) every provincial political head of education.

(2) The Director-General shall attend meetings of the Council in order to report on the proceedings of the Committee, and to advise on any other matter relating to the responsibilities of the Department. 45

(3) The chairpersons of the Portfolio Committee on Education in the National Assembly and the Select Committee on Education in the Senate may attend meetings of the Council. 50

(4) The functions of the Council shall be to—

- (a) promote a national education policy which takes full account of the policies of the government, the principles contained in section 4, the education interests and needs of the provinces, and the respective competence of Parliament and the provincial legislatures in terms of section 126 of the Constitution;
- (b) share information and views on all aspects of education in the Republic; and

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sessie is nie, binne 21 dae na die aanvang van die eersvolgende gewone sessie van die Parlement.

### **Monitering en evaluering van onderwys**

**8.** (1) Die Minister gelas dat die standaarde van onderwysvoorsiening, -oordrag en -prestasie jaarliks of by ander gespesifiseerde tussenposes regdeur die Republiek gemoniteer en geëvalueer word met die doel om vordering met die nakoming van die bepalings van die Grondwet en nasionale onderwysbeleid, veral dié kragtens artikel 3(3) bepaal, te beoordeel.

(2) Elke lasgewing ingevolge subartikel (1) gemaak, moet voldoen aan die bepalings van die een of ander wet wat 'n nasionale kwalifikasieraamwerk instel en word geformuleer na oorlegpleging met die liggende in artikel 5(1) bedoel.

(3) Die Departement onderneem die monitering en evaluering in subartikel (1) beoog, deur die ontleding van gegewens deur middel van onderwysbestuursinligtingsstelsels versamel of deur 'n ander geskikte metode, in samewerking met provinsiale onderwysdepartemente.

(4) Die Departement vervul sy verantwoordelikhede ooreenkomsdig subartikels (1) tot (3) op 'n redelike wyse, met die oog daarop om professionele vermoëns in monitering en evaluering regdeur die nasionale onderwysstelsel te verhoog, en om die bevoegde gesagsinstansies met alle praktiese middelle binne die perke van beskikbare openbare hulpbronne by te staan om die standaarde van onderwysvoorsiening en -prestasie te verhoog.

(5) Die Departement moet 'n verslag oor die uitslag van elke ondersoek ooreenkomsdig subartikel (3) uitvoer, opstel en publiseer nadat die geleentheid aan die betrokke bevoegde gesag verleen is om daarop kommentaar te lewer, welke kommentaar saam met die verslag gepubliseer moet word.

(6) Indien 'n verslag ooreenkomsdig subartikel (5) opgestel, daarop dui dat die standaarde van onderwysvoorsiening, -oordrag en -prestasie in 'n provinsie nie voldoen aan die Grondwet of aan die beleid kragtens artikel 3(3) bepaal nie, stel die Minister die betrokke provinsiale politieke onderwyshoof aldus in kennis en verlang die Minister dat 'n plan om die situasie te remedieer binne 90 dae voorgelê word.

(7) 'n Plan wat kragtens subartikel (6) deur die Minister verlang word, word deur die betrokke provinsiale onderwysdepartement in oorleg met die Departement voorberei en word binne 21 dae na ontvangs daarvan deur die Minister in die Parlement ter Tafel gelê tesame met sy of haar kommentaar, indien die Parlement dan in gewone sessie is, of, indien die Parlement nie in gewone sessie is nie, binne 21 dae na die aanvang van die eersvolgende gewone sessie van die Parlement.

### **Raad van Onderwysministers**

**9.** (1) Daar word hierby 'n raad ingestel wat die Raad van Onderwysministers heet en wat bestaan uit—

(a) die Minister, wat die voorsitter is;

(b) die Adjunkminister van Onderwys, indien so 'n Adjunkminister aangestel is, wat in die afwesigheid van die Minister deur die Minister as voorsitter aangewys word; en

(c) elke provinsiale politieke onderwyshoof.

(2) Die Direkteur-generaal woon die vergaderings van die Raad by ten einde oor die verrigtinge van die Komitee verslag te doen en om advies te verleen oor enige ander aangeleenthed wat op die verantwoordelikhede van die Departement betrekking het.

(3) Die voorsitters van die Portefeuiljekomitee oor Onderwys in die Nasionale Vergadering en die Gekose Komitee oor Onderwys in die Senaat kan vergaderings van die Raad bywoon.

(4) Die werksaamhede van die Raad is om—

(a) 'n nasionale onderwysbeleid te bevorder wat ten volle die beleid van die regering, die beginsels vervat in artikel 4, die onderwysbelange en -behoeftes van die provinsies en die onderskeie bevoegdhede van die Parlement en die provinsiale wetgewers ingevolge artikel 126 van die Grondwet, in ag neem; en

(b) inligting en menings oor alle aspekte van onderwys in die Republiek te deel; en

(c) co-ordinate action on matters of mutual interest to the national and provincial governments.

(5) The Council may draw up such rules regarding the convening of its meetings, the frequency of its meetings, the procedure at its meetings, including the quorum for its meetings, and any other matter it may deem necessary or expedient for the proper performance of its functions or the exercise of its powers. 5

(6) The proceedings of the Council shall not be invalid merely by virtue of the fact that there is a vacancy in the Council.

#### Heads of Education Departments Committee

**10.** (1) There is hereby established a committee called the Heads of Education 10 Departments Committee consisting of—

- (a) the Director-General, who shall be the chairperson;
- (b) the Deputy Directors-General of the Department; and
- (c) the heads of the provincial education departments.

(2) The functions of the Committee shall be to— 15

- (a) facilitate the development of a national education system in accordance with the objectives and principles provided for in this Act;
- (b) share information and views on national education;
- (c) co-ordinate administrative action on matters of mutual interest to the education departments; and
- (d) advise the Department on any matter contemplated in sections 3, 4, 5, 6, 7, 8 and 11 in respect of education, or on any other matter relating to the proper functioning of the national education system.

(3) The Committee may establish subcommittees to assist it in the performance of its functions, and— 20

- (a) may appoint persons who are not members of the Committee to be members of a subcommittee: Provided that the organised teaching profession shall be invited to nominate representatives as members of each subcommittee;
- (b) designate the chairperson of a subcommittee or direct that the chairperson be appointed by the subcommittee from among its members.

(4)(a) Meetings of the Committee shall be held at such times and places as the chairperson of the Committee may determine. 25

(b) The proceedings of the Committee shall not be invalid merely by virtue of the fact that there is a vacancy in the Committee.

(c) If the chairperson of the Committee is absent from a meeting of the Committee, one of the Deputy Directors-General designated for this purpose by the chairperson shall take the chair at that meeting. 30

(5) The Committee may draw up rules regarding the procedure at its meetings, including the quorum for its meetings, and any other matter it may deem necessary or expedient for the proper performance of its functions or the exercise of its powers: 40 Provided that not less than four meetings per year shall be held.

#### Consultative bodies

**11.** (1) The Minister may, subject to any applicable law, by regulation establish such bodies as may be necessary to advise him or her on matters contemplated in section 3: Provided that the Minister shall establish— 45

- (a) a body to be known as the National Education and Training Council, whose membership shall reflect the main national stakeholders in the national education system, to advise on broad policy and strategy for the development of the national education system and the advancement of an integrated approach to education and training; 50
- (b) such other bodies as may be necessary to represent the interests of particular sectors of the education system.

(2) The composition, qualifications for membership, duties, powers and functions of a body established in terms of subsection (1), and the term of office of its members, shall be as prescribed by regulation: Provided that the bodies referred to in section 5(1)(c), 55

(c) optrede met betrekking tot aangeleenthede van onderlinge belang vir die nasionale en provinsiale regerings te koördineer.

(5) Die Raad kan die reëls opstel met betrekking tot die belê van sy vergaderings, die gereeldheid van sy vergaderings, die prosedure by sy vergaderings, met inbegrip van 5 die kworum vir sy vergaderings, en enige ander aangeleenthed wat hy noodsaaklik of dienstig ag vir die behoorlike verrigting van sy werksaamhede of die uitoefening van sy bevoegdhede.

(6) Die verrigtinge van die Raad is nie ongeldig bloot op grond van die feit dat daar 'n vakature in die Raad bestaan nie.

## 10 Komitee van Onderwysdepartementshoofde

**10. (1)** Daar word hierby 'n komitee ingestel wat die Komitee van Onderwysdepartementshoofde heet en wat bestaan uit—

- (a) die Direkteur-generaal, wat voorsitter is;
- (b) die Adjunk-direkteurs-generaal van die Departement; en
- 15 (c) die hoofde van die provinsiale onderwysdepartemente.

(2) Die werksaamhede van die Komitee is om—

- (a) die ontwikkeling van 'n nasionale onderwysstelsel ooreenkomsdig die doelwitte en beginsels vervat in hierdie Wet te bevorder;
- (b) inligting en menings oor nasionale onderwys te deel;
- 20 (c) administratiewe optrede met betrekking tot aangeleenthede van onderlinge belang vir die onderwysdepartemente te koördineer; en
- (d) die Departement oor enige aangeleenthed beoog in artikels 3, 4, 5, 6, 7, 8 en 11 ten opsigte van onderwys te adviseer, of oor enige ander aangeleenthed wat met die behoorlike funksionering van die nasionale onderwysstelsel in verband staan.

(3) Die Komitee kan subkomitees instel om hom by die verrigting van sy werksaamhede by te staan, en—

- (a) persone wat nie lid van die Komitee is nie, as lede van 'n subkomitee aanstel: Met dien verstande dat die georganiseerde onderwysberoep uitgenooi word om verteenwoordigers as lede van elke subkomitee te nomineer;
- 30 (b) die voorsitter van 'n subkomitee aanwys of gelas dat die voorsitter deur die subkomitee uit die gelede van sy lede aangestel word.

(4)(a) Vergaderings van die Komitee word gehou op die tye en plekke wat die voorsitter van die Komitee bepaal.

35 (b) Die verrigtinge van die Komitee is nie ongeldig bloot op grond van die feit dat daar 'n vakture in die Komitee bestaan nie.

(c) Indien die voorsitter van die Komitee van 'n vergadering van die Komitee afwesig is, sit een van die Adjunk-direkteurs-generaal wat vir dié doel deur die voorsitter aangewys is, by daardie vergadering voor.

40 (5) Die Komitee kan reëls opstel met betrekking tot die prosedure by sy vergaderings, met inbegrip van die kworum vir sy vergaderings, en enige ander aangeleenthed wat hy noodsaaklik of dienstig ag vir die behoorlike verrigting van sy werksaamhede of die uitoefening van sy bevoegdhede: Met dien verstande dat minstens vier vergaderings per jaar gehou word.

## 45 Raadgewende liggeme

**11. (1)** Die Minister kan, behoudens enige toepaslike wet, by regulasie die liggame instel wat nodig is om hom of haar te adviseer oor aangeleenthede beoog in artikel 3: Met dien verstande dat die Minister—

- (a) 'n liggaaam wat die Nasionale Raad vir Onderwys en Opleiding heet, waarvan die lidmaatskap die nasionale hoofbelanghebbendes in die nasionale onderwysstelsel moet weerspieël, moet instel om te adviseer oor die breë beleid en strategie vir die ontwikkeling van die nasionale onderwysstelsel en die bevordering van 'n geïntegreerde benadering tot onderwys en opleiding;
- 50 (b) die ander liggame wat nodig is om die belang van bepaalde sektore van die onderwysstelsel te verteenwoordig, moet instel.

(2) Die samestellings, kwalifikasies vir lidmaatskap, pligte, bevoegdhede en werkzaamhede van 'n liggaaam kragtens subartikel (1) ingestel, en die ampstermy van sy lede, word by regulasie voorgeskryf: Met dien verstande dat die liggame in artikel

shall be invited to nominate representatives to any such consultative body within their respective spheres of interest.

(3) Different regulations may be made in respect of different bodies established under subsection (1).

**Allowances and remuneration of members of subcommittees and consultative bodies** 5

**12.** A member of a subcommittee or a consultative body, who is not in the full-time employment of the State may, in respect of the services rendered by that member in connection with the affairs of the subcommittee or consultative body, from money appropriated for that purpose by Parliament, be paid such travelling and subsistence and other allowances, as the Minister, with the concurrence of the Minister of Finance, may determine. 10

**Administrative functions of Council, Committee, and consultative bodies**

**13.** (1) The administrative functions of the Council, Committee and each consultative body shall be performed by officials of the Department who are designated by the Director-General for that purpose. 15

(2) The Director-General shall in respect of the Council, Committee and each consultative body designate a Secretary under whose direction the other officials shall perform their functions.

**Amendment of Act 76 of 1984** 20

**14.** (1) Subject to the provisions of subsection (2), the National Policy for General Education Affairs Act, 1984 (Act No. 76 of 1984), is hereby amended to the extent set out in the Schedule.

(2) Anything done under a provision of the National Policy for General Education Affairs Act, 1984, prior to the amendment thereof by subsection (1), shall remain in force as if such amendment had not been made. 25

**Short title**

**15.** This Act shall be called the National Education Policy Act, 1996.

5(1)(c) bedoel, uitgenooi word om verteenwoordigers in enige sodanige raadgewende liggaaam binne hul onderskeie belangesfere te benoem.

(3) Verskillende regulasies kan ten opsigte van verskillende liggame kragtens subartikel (1) ingestel, afgekondig word.

### 5 Toelaes en besoldiging van lede van subkomitees en raadgewende liggame

12. Daar kan aan 'n lid van 'n subkomitee of 'n raadgewende liggaaam wat nie in die heeltydse diens van die Staat is nie, ten opsigte van die dienste deur so 'n lid in verband met sake van die subkomitee of raadgewende liggaaam verrig, uit geld deur die Parlement vir dié doel bewillig, die reis, verblyf en ander toelaes betaal word wat die 10 Minister, met die instemming van die Minister van Finansies, bepaal.

### Administratiewe werksaamhede van die Raad, Komitee en raadgewende liggame

13. (1) Die administratiewe werksaamhede van die Raad, Komitee en elke raadgewende liggaaam word deur amptenare van die Departement wat vir daardie doel deur die Direkteur-generaal aangewys is, verrig.

15 (2) Die Direkteur-generaal wys ten opsigte van die Raad, Komitee en elke raadgewende liggaaam 'n Sekretaris aan onder wie se leiding die ander amptenare hul werksaamhede verrig.

### Wysiging van Wet 76 van 1984

14. (1) Behoudens die bepalings van subartikel (2), word die Wet op die Nasionale Beleid vir Algemene Onderwyssake, 1984 (Wet No. 76 van 1984), hierby gewysig in die mate in die Bylae vermeld.

(2) Enigets wat gedoen is kragtens 'n bepaling van die Wet op die Nasionale Beleid vir Algemene Onderwyssake, 1984, voor die wysiging daarvan deur subartikel (1), bly van krag asof sodanige wysiging nie aangebring is nie.

### 25 Kort titel

15. Hierdie Wet heet die Wet op die Nasionale Onderwysbeleid, 1996.

**Act No. 27, 1996****NATIONAL EDUCATION POLICY ACT, 1996****SCHEDULE**

| <b>Number and year<br/>of law</b> | <b>Short title</b>                                | <b>Extent of repeal</b>   |
|-----------------------------------|---|---|
| Act No. 76 of 1984                | National Policy for General Education Affairs Act | <p>1. The substitution for section 1 of the following section:</p> <p><b>Definitions</b></p> <p><b>1.</b> <u>In this Act, unless the context indicates otherwise—</u><br/> <u>‘department of education’ means the departments of the national and provincial governments which are responsible for education;</u><br/> <u>‘educator’ means any person who teaches, educates or trains other persons at any school, technical college or teachers’ training college, or assists in rendering professional services or educational auxiliary services provided by or in a department of education, but does not include any officer or employee, as defined in section 1 of the Public Service Act, 1994 (Proclamation No. 103 of 1994);</u><br/> <u>‘Minister’ means the Minister of Education.”.</u></p> <p>2. The substitution for section 2 of the following section:</p> <p><b>“Determination of policy on salaries and conditions of employment of educators</b></p> <p><b>2.</b> <u>(1) Subject to the provisions of this section and the provisions of any law regarding the financing of education, the Minister may determine the national policy to be applied in respect of the salaries and conditions of employment of educators.</u><br/> <u>(2) The policy contemplated in subsection (1) shall be determined by the Minister in accordance with the provisions of the Education Labour Relations Act, 1993 (Act No. 146 of 1993), and, if it involves expenditure from the State Revenue Fund, with the concurrence of the Minister of Finance.”.</u></p> <p>3. The repeal of sections 3, 4, 5, 6, 7, 8, 9 and 10.</p> |

## BYLAE

| Nommer en jaar van wet | Kort titel  | In hoeverre herroep  |
|------------------------|---|--|
| Wet No. 76 van 1984    | Wet op die Nasionale Beleid vir Algemene Onderwyssake | <p>1. Die vervanging van artikel 1 deur die volgende artikel:</p> <p><b>“Woordomskrywing</b></p> <p><b>1.</b> In hierdie Wet, tensy daar uit die samehang anders blyk, beteken—</p> <p>‘Minister’ die Minister van Onderwys;</p> <p>‘onderwysdepartement’ die departemente van die nasionale en die provinsiale regerings wat vir onderwys verantwoordelik is;</p> <p>‘opvoeder’ iemand wat ander persone by ‘n skool, tegniese kollege of onderwysersopleidingskollege leer, onderrig of oplei, of bystand verleen by die verskaffing van professionele dienste of onderwyshulpdienste wat deur of in ‘n onderwysdepartement voorsien word, maar nie ook ‘n beampie of werknemer nie soos omskryf in artikel 1 van die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994).”.</p> <p>2. Die vervanging van artikel 2 deur die volgende artikel:</p> <p><b>“Bepaling van beleid ten opsigte van salarisse en diensvoorraades van opvoeders</b></p> <p><b>2. (1)</b> Behoudens die bepalings van hierdie artikel en die bepalings van enige wet betreffende die finansiering van onderwys, kan die Minister die nasionale beleid bepaal wat met betrekking tot die salarisse en diensvoorraades van opvoeders gevolg moet word.</p> <p>(2) Die beleid beoog in subartikel (1) word deur die Minister bepaal ooreenkomsdig die bepalings van die Wet op Arbeidsverhoudinge in die Onderwys, 1993 (Wet No. 146 van 1993), en, indien dit uitgawes uit die Staatsinkomstefonds meebring, met die instemming van die Minister van Finansies.”.</p> <p>3. Die herroeping van artikels 3, 4, 5, 6, 7, 8, 9 en 10.</p> |

**Act No. 27, 1996****NATIONAL EDUCATION POLICY ACT, 1996**

| Number and year of law | Short title | Extent of repeal  |
|------------------------|-------------|---|
|                        |             | <p>4. The substitution for section 11 of the following section:</p> <p><b>“Short title</b></p> <p><u>11. This Act shall be called the National Policy on the Salaries and Conditions of Employment of Educators Act, 1984.”.</u></p> <p>5. The substitution for the long title of the following long title:</p> <p><u>“To provide for the determination of national policy in respect of salaries and conditions of employment of educators; and for matters connected therewith.”.</u></p> |

| Nommer en jaar van wet | Kort titel | In hoeverre herroep   |
|------------------------|------------|---|
|                        |            | <p>4. Die vervanging van artikel 11 deur die volgende artikel:</p> <p><b>"Kort titel</b></p> <p><u>11. Hierdie Wet heet die Wet op die Nasionale Beleid vir die Salarisse en Diensvoorwaardes van Opvoeders, 1984.</u>".</p> <p>5. Die vervanging van die lang titel deur die volgende lang titel:</p> <p><u>"Om voorsiening te maak vir die bepaling van nasionale beleid betreffende die salarisse en diensvoorwaardes van opvoeders; en vir aangeleenthede wat daarmee in verband staan."</u>.</p> |

