



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 10c Prys  
Overseas 15c Oorsee  
POST FREE—POSVRY

ISBN 0 621 00225 9

CAPE TOWN, 28TH JUNE, 1972.

KAAPSTAD, 28 JUNIE 1972.

[No. 3589.]

DEPARTMENT OF THE PRIME MINISTER.

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 1121. 28th June, 1972.

No. 1121. 28 Junie 1972.

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

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

No. 86 of 1972: Nama in South West Africa Education Act, 1972.

No. 86 van 1972: Wet op Onderwys vir Namas in Suidwes-Afrika, 1972.

Wet No. 86, 1972

WET OP ONDERWYS VIR NAMAS IN SUIDWES-  
AFRIKA, 1972.

# WET

**Om voorsiening te maak vir die beheer oor onderwys vir Namas in die gebied Suidwes-Afrika en vir aangeleenthede wat daarmee in verband staan.**

*(Afrikaanse teks deur die Staatspresident geteken.)  
(Goedgekeur op 14 Junie 1972.)*

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

Woord-  
omskrywing.

**1.** In hierdie Wet, tensy uit die samehang anders blyk, beteken—

- (i) „beampte” ’n beampte soos omskryf in artikel 1 van die Staatsdienswet, 1957 (Wet No. 54 van 1957); (xiv)
- (ii) „beroepskool” ’n skool, of ’n klas verbonde aan ’n ander skool, vir die verskaffing van beroepsonderwys aan Namas; (xxxi)
- (iii) „beroepsonderwys” onderwys of opleiding wat die Minister by kennisgewing in die *Staatskoerant* tot beroepsonderwys vir die doeleindes van hierdie Wet verklaar; (xxx)
- (iv) „bestuursliggaam”, met betrekking tot ’n kollege, skool, tehuis, klas of koshuis, die persoon wat die kollege, skool, tehuis, klas of koshuis bestuur; (vii)
- (v) „buitengewone onderwys” onderwys van ’n gespesialiseerde aard wat verskaf word om by die behoeftes van gestremde kinders aan te pas, en ook algemene kulturele onderwys, beroepsvoorligting, beroepsonderwys en mediese, tandheelkundige en geestelike ondersoek en behandeling asook versorging in ’n koshuis, wanneer dit verskaf word aan of geskied ten opsigte van sodanige kinders; (xx)
- (vi) „Departement” die Departement van Kleurlingbetrekkinge en Rehoboth-aangeleenthede; (iv)
- (vii) „die gebied” die gebied Suidwes-Afrika; (xxvi)
- (viii) „die ordonnansie” die Onderwysordonnansie 1962 (Ordonnansie No. 27 van 1962), van die gebied; (xxv)
- (ix) „gestremde kind” ’n Nama tussen die ouderdomme van drie en drie-en-twintig jaar wat volgens die oordeel van die Sekretaris in staat is om aanmerklike voordeel uit ’n geskikte onderwyskursus te put, maar wat in so ’n mate in liggaam, verstand of gedrag van die meerderheid van persone van sy ouderdom afwyk dat hy—
  - (a) nie voldoende voordeel kan put uit die onderrig wat gewoonlik in die normale loop van onderwys verskaf word nie; of

NAMA IN SOUTH WEST AFRICA EDUCATION  
ACT, 1972.

Act No. 86, 1972

**ACT**

**To provide for the control of education for Nama in the territory of South-West Africa and for matters incidental thereto.**

*(Afrikaans text signed by the State President.)  
(Assented to 14th June, 1972.)*

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

**1. In this Act, unless the context otherwise indicates—**

**Definitions.**

- (i) "calendar month" means a period extending from the first to the last day, both days inclusive, of any of the twelve months of a calendar year; (xiv)
- (ii) "calendar quarter" means a period of three consecutive calendar months beginning on the first day of January, the first day of April, the first day of July or the first day of October; (xiii)
- (iii) "calendar year" means a year ending on the thirty-first day of December; (xii)
- (iv) "Department" means the Department of Coloured Relations and Rehoboth Affairs; (vi)
- (v) "education" means any education other than education provided by a university established by any law, and includes vocational education and special education not so provided; (xx)
- (vi) "employee" means any person who is an employee as defined in section 1 of the Public Service Act, 1957 (Act No. 54 of 1957); (xxxi)
- (vii) "governing body", in relation to any college, school, home, class or hostel, means the person managing such college, school, home, class or hostel; (iv)
- (viii) "handicapped child" means a Nama between the ages of three and twenty-three years who, in the opinion of the Secretary, is capable of deriving appreciable 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—
  - (a) cannot derive sufficient benefit from the instruction normally provided in the ordinary course of education; or
  - (b) requires special education in order to facilitate his adaptation to the community; or
  - (c) should not attend an ordinary class in an ordinary school, because such attendance may be harmful to himself or to the other pupils in such class; (ix)

## Wet No. 86, 1972

WET OP ONDERWYS VIR NAMAS IN SUIDWES-  
AFRIKA, 1972.

- (b) buitengewone onderwys nodig het om sy aanpassing by die gemeenskap te vergemaklik; of
- (c) nie 'n gewone klas in 'n gewone skool behoort by te woon nie, omdat sodanige bywoning vir hom of vir die ander leerlinge in daardie klas nadelig kan wees; (viii)
- (x) „hierdie Wet” ook 'n regulasie; (xxvii)
- (xi) „hoërskool” 'n skool vir die onderwys van Namas tot en met die tiende standerd; (ix)
- (xii) „kalenderjaar” 'n jaar wat op die een-en-dertigste dag van Desember eindig; (iii)
- (xiii) „kalenderkwartaal” 'n tydperk van drie agtereenvolgende kalendermaande wat begin op die eerste dag van Januarie, die eerste dag van April, die eerste dag van Julie of die eerste dag van Oktober; (ii)
- (xiv) „kalendermaand” 'n tydperk wat van die eerste tot en met die laaste dag van enigeen van die twaalf maande van 'n kalenderjaar strek; (i)
- (xv) „kleuterskool” 'n skool vir die onderwys van Namas wat ouer as twee jaar is maar nog nie die ouderdom bereik het waarop hulle tot 'n gewone skool toegelaat kan word nie; (xiii)
- (xvi) „laerskool” 'n skool vir die onderwys van Namas tot en met die sesde standerd; (xvi)
- (xvii) „middelbare skool” 'n skool vir die onderwys van Namas tot en met die agste standerd; (xviii)
- (xviii) „Minister” die Minister van Kleurlingsake; (xi)
- (xix) „Nama” iemand wat inderdaad 'n lid van die Nama-volk van die gebied is of gewoonlik daarvoor deurgaang; (xii)
- (xx) „onderwys” ander onderwys as onderwys wat verskaf word deur 'n universiteit wat by 'n wet ingestel is, en ook beroepsonderwys en buitengewone onderwys wat nie aldus verskaf word nie; (v)
- (xxi) „opleidingskollege” 'n inrigting vir die onderwys en opleiding van leerlingonderwysers wat Namas is en die eksamen vir die tiende standerd, of 'n gelykwaardige eksamen, met goeie gevolg afgelê het; (xxviii)
- (xxii) „opleidingskool” 'n inrigting vir die onderwys en opleiding van leerlingonderwysers wat Namas is en die eksamen vir die agste standerd, of 'n gelykwaardige eksamen, met goeie gevolg afgelê het; (xxix)
- (xxiii) „regulasie” 'n regulasie kragtens hierdie wet uitgevaardig en van krag; (xvii)
- (xxiv) „Sekretaris” die Sekretaris van Kleurlingbetrekkinge en Rehoboth-aangeleenthede; (xix)
- (xxv) „spesiale skool” 'n skool waarin gestremde kinders buitengewone onderwys ontvang, hetsy op 'n voltydse of deeltydse grondslag, en ook 'n klas wat aan 'n gewone skool verbonde is en waarin sodanige kinders buitengewone onderwys ontvang; (xxi)
- (xxvi) „Staatskool” 'n kollege, skool, tehuis of klas wat kragtens artikel 3 ingestel is of wat ingevolge dié artikel of artikel 5 geag word daarkragtens ingestel te wees; (xxiv)
- (xxvii) „Staatsondersteunde koshuis” 'n koshuis ten opsigte waarvan hulptoelae ingevolge artikel 4 betaal word of ingevolge daardie artikel geag word ingevolge

NAMA IN SOUTH WEST AFRICA EDUCATION  
ACT, 1972.

Act No. 86, 1972

- (ix) "high school" means a school for the education of Nama up to and including the tenth standard; (xi)
- (x) "home" means an institution in which handicapped children exhibiting undesirable behavioural characteristics are accommodated and cared for and receive education; (xxix)
- (xi) "Minister" means the Minister of Coloured Affairs; (xviii)
- (xii) "Nama" means a person who in fact is or is generally accepted as a member of the Nama nation of the territory; (xix)
- (xiii) "nursery school" means a school for the education of Nama above the age of two years who have not yet attained the age at which they may be admitted to an ordinary school; (xv)
- (xiv) "officer" means an officer as defined in section 1 of the Public Service Act, 1957 (Act No. 54 of 1957); (i)
- (xv) "prescribed" means prescribed by regulation; (xxx)
- (xvi) "primary school" means a school for the education of Nama up to and including the sixth standard; (xvi)
- (xvii) "regulation" means a regulation made and in force under this Act; (xxiii)
- (xviii) "secondary school" means a school for the education of Nama up to and including the eighth standard; (xvii)
- (xix) "Secretary" means the Secretary for Coloured Relations and Rehoboth Affairs; (xxiv)
- (xx) "special education" means education of a specialized nature provided to suit the needs of handicapped children, and includes general cultural education, vocational guidance, vocational education and medical, dental and mental examination and treatment, as well as care in a hostel, when provided to or taking place in respect of such children; (v)
- (xxi) "special school" means a school in which handicapped 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; (xxv)
- (xxii) "State-aided hostel" means a hostel in respect of which grants-in-aid are paid in terms of section 4 or deemed in terms of that section to be paid in terms thereof, or in respect of which a loan was granted in terms of that section or is deemed in terms of that section to have been granted in terms thereof; (xxvii)
- (xxiii) "State-aided school" means a college, school, home or class in respect of which grants-in-aid are paid in terms of section 4 or deemed in terms of that section to be paid in terms thereof, or in respect of which a loan was granted in terms of that section or is deemed in terms of that section to have been granted in terms thereof; (xxviii)
- (xxiv) "State school" means a college, school, home or class established under section 3 or deemed in terms of that section or section 5 to have been established thereunder; (xxvi)

## Wet No. 86, 1972

WET OP ONDERWYS VIR NAMAS IN SUIDWES-  
AFRIKA, 1972.

daarvan betaal te word, of ten opsigte waarvan 'n lening ingevolge daardie artikel toegestaan is of ingevolge daardie artikel geag word ingevolge daarvan toegestaan te wees; (xxii)

(xxviii) „Staatsondersteunde skool” 'n kollege, skool, tehuis of klas ten opsigte waarvan hulptoelaes ingevolge artikel 4 betaal word of ingevolge daardie artikel geag word ingevolge daarvan betaal te word, of ten opsigte waarvan 'n lening ingevolge daardie artikel toegestaan is of ingevolge daardie artikel geag word ingevolge daarvan toegestaan te wees; (xxiii)

(xxix) „tehuis” 'n inrigting waarin gestremde kinders wat onwenslike gedragseienskappe toon, gehuisves en versorg word en onderwys ontvang; (x)

(xxx) „voorgeskrewe” of „voorgeskryf” by regulasie voorgeskryf; (xv)

(xxxi) „werknemer” iemand wat 'n werknemer is soos omskryf in artikel 1 van die Staatsdienswet, 1957 (Wet No. 54 van 1957). (vi)

Beheer oor  
onderwys vir  
Namas.

2. Vanaf die datum van inwerkingtreding van hierdie Wet word, behoudens die bepalinge van genoemde Wet, onderwys vir Namas in die gebied deur die Departement ingevolge die bepalinge van genoemde Wet beheer.

Instelling,  
oprigting en  
instandhouding  
van skole vir  
Namas.

3. (1) Die Minister kan in oorleg met die Minister van Finansies en uit geld wat die Parlement vir dié doel bewillig het, in die gebied—

(a) opleidingskolleges, opleidingskole, hoërskole, middelbare skole, laerskole, beroepskole, spesiale skole en tehuse instel, oprig en in stand hou;

(b) deeltydse klasse vir die onderwys van Namas instel en in stand hou;

(c) koshuise, kwartiere vir onderwysers, skoolklinieke en ander toebehore in verband met Staatskole instel, oprig en in stand hou.

(2) 'n Skool of klas vir die onderwys van Namas wat by die datum van inwerkingtreding van hierdie Wet kragtens die bepalinge van die ordonnansie in stand gehou word, en 'n koshuis, kwartiere vir onderwysers, skoolkliniek of ander toebehore wat kragtens die ordonnansie ingestel of opgerig is en in verband met so 'n skool of klas gebruik word, word geag kragtens die toepaslike bepaling van subartikel (1) van hierdie artikel ingestel of opgerig te wees.

(3) Die Minister kan te eniger tyd, na oorlegpleging met die betrokke raad, komitee of ander liggaam ingevolge artikel 34 (1) ingestel, 'n Staatskool of 'n koshuis, kwartiere vir onderwysers, 'n skoolkliniek of ander toebehore wat in verband met 'n Staatskool gebruik word, sluit of die instelling daarvan intrek.

Toekenning van  
hulptoelaes en  
lenings ten  
opsigte van private  
kolleges, skole,  
tehuise, koshuise  
en voortsettings-  
klasse.

4. (1) Behoudens die bepalinge van subartikel (2), kan die Minister uit geld wat die Parlement vir dié doel bewillig het, hulptoelaes en lenings toeken aan die bestuursliggaam van 'n kollege, skool, tehuis of voortsettingsklasse in die gebied vir die onderwys van Namas, met inbegrip van 'n kleuterskool, of van 'n koshuis in die gebied vir die huisvesting van Namas aan wie onderwys verskaf word.

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

(3) 'n Subsidie of bystand of 'n hulptoekenning wat by die datum van inwerkingtreding van hierdie Wet kragtens die ordonnansie aan 'n skool of klas vir die onderwys van Namas verleen word, en finansiële bystand wat ter ondersteuning van

NAMA IN SOUTH WEST AFRICA EDUCATION  
ACT, 1972.

Act No. 86, 1972

- (xxv) "the ordinance" means the Education Ordinance, 1962 (Ordinance No. 27 of 1962), of the territory; (viii)
- (xxvi) "the territory" means the territory of South-West Africa; (vii)
- (xxvii) "this Act" includes any regulation; (x)
- (xxviii) "training college" means an institution for the education and training of student teachers who are Nama and have passed the examination for the tenth standard or an equivalent examination; (xxi)
- (xxix) "training school" means an institution for the education and training of student teachers who are Nama and have passed the examination for the eighth standard or an equivalent examination; (xxii)
- (xxx) "vocational education" means education or training which the Minister by notice in the *Gazette* declares to be vocational education for the purposes of this Act; (iii)
- (xxxi) "vocational school" means a school, or a class attached to another school, for the provision of vocational education to Nama. (ii)

2. As from the date of commencement of this Act education for Nama in the territory shall, subject to the provisions of the said Act, be controlled by the Department in terms of the provisions of the said Act. Control of education for Nama.

3. (1) The Minister may in consultation with the Minister of Finance and out of moneys appropriated by Parliament for the purpose— Establishment, erection and maintenance of schools for Nama.

- (a) establish, erect and maintain training colleges, training schools, high schools, secondary schools, primary schools, vocational schools, special schools and homes;
- (b) establish and maintain part-time classes for the education of Nama;
- (c) establish, erect and maintain hostels, teachers' quarters, school clinics and any other accessories in connection with State schools,

in the territory.

(2) Any school or class for the education of Nama which at the date of commencement of this Act is being maintained under the ordinance, and any hostel, teachers' quarters, school clinic or other accessories established or erected under the ordinance and used in connection with any such school or class, shall be deemed to have been established or erected under the appropriate provision of subsection (1) of this section.

(3) The Minister may at any time, after consultation with the board, committee or other body concerned established in terms of section 34 (1), close or disestablish any State school or any hostel, teachers' quarters, school clinic or other accessories used in connection with a State school.

4. (1) Subject to the provisions of subsection (2) the Minister may, out of moneys appropriated by Parliament for the purpose, award grants-in-aid and loans to the governing body of any college, school, home or continuation classes in the territory for the education of Nama, including a nursery school, or of a hostel in the territory for the accommodation of Nama to whom education is provided. Award of grants-in-aid and loans in respect of private colleges, schools, homes, hostels and continuation classes.

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

(3) Any subsidy or assistance or grant-in-aid which at the date of commencement of this Act is being granted under the ordinance to any school or class for the education of Nama, and any financial support being given to any hostel at any such

## Wet No. 86, 1972

WET OP ONDERWYS VIR NAMAS IN SUIDWES-  
AFRIKA, 1972.

'n koshuis by so 'n skool by genoemde datum kragtens die ordonnansie verleen word, word geag hulptoelaes te wees wat ten opsigte van sodanige skool, klas of koshuis ingevolge hierdie artikel betaal word, of 'n lening wat ten opsigte van sodanige skool of koshuis ingevolge hierdie artikel toegestaan is, na gelang van die geval, en wel met ingang van genoemde datum.

Oordrag van bestuur van en beheer oor Staatsondersteunde skole aan die Departement.

5. (1) Die Minister kan, in oorleg met die Minister van Finansies en na onderhandeling en ooreenkoms met die bestuursliggaam van 'n Staatsondersteunde skool, by kennisgewing in die *Staatskoerant* die bestuur van en beheer oor dié skool aan die Departement oordra met ingang van 'n datum in daardie kennisgewing vasgestel.

(2) Die skool waarop 'n kennisgewing, uitgereik ingevolge subartikel (1) van hierdie artikel, betrekking het, word geag kragtens die toepaslike bepaling van subartikel (1) van artikel 3 ingestel te wees, en wel op die datum in daardie kennisgewing vasgestel.

(3) Vanaf die datum aldus vasgestel, het die betrokke bestuursliggaam nie langer enige regte, bevoegdhede of pligte ten opsigte van die betrokke skool nie.

Registrasie en bestuur van private skole.

6. (1) Niemand mag in die gebied 'n skool vir die onderwys van Namas, wat nie 'n Staatskool of 'n Staatsondersteunde skool is nie en waarby meer as veertien leerlinge ingeskryf is, bestuur nie—

(a) tensy die skool by die Departement op die voorgeskrewe wyse geregistreer is en aan die voorgeskrewe vereistes voldoen; en

(b) anders as ooreenkomstig die voorgeskrewe voorwaardes.

(2) Iemand wat die bepalings van subartikel (1) oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens honderd rand of met gevangenisstraf vir 'n tydperk van hoogstens drie maande.

Toelating van persone tot en hul ontslag uit Staatskole en Staatsondersteunde skole.

7. Die toelating van persone tot Staatskole en Staatsondersteunde skole geskied onder die voorgeskrewe omstandighede en onderworpe aan die voorgeskrewe voorwaardes, en iemand wat aldus tot so 'n skool toegelaat is, kan onder die voorgeskrewe omstandighede daaruit ontslaan word.

Bepaling van diensstaat van 'n Staatskool of Staatsondersteunde skool.

8. Ondanks andersluidende bepalings van enige ander wet, maar behoudens die bepalings van artikel 9, word die diensstaat van 'n Staatskool of 'n Staatsondersteunde skool deur die Minister bepaal, en wel op 'n grondslag wat hy van tyd tot tyd in oorleg met die Minister van Finansies en op aanbeveling van die Staatsdienskommissie vasstel.

Indeling van sekere poste as poste in die Staatsdiens.

9. Die Minister kan op aanbeveling van die Staatsdienskommissie 'n pos wat inbegrepe is by die diensstaat van 'n Staatskool of 'n Staatsondersteunde skool en wat nie 'n onderwyspos is nie, 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 genoemde Wet van toepassing is.

Aanstelling, bevordering, oorpasing en ontslag van personeel by Staatskole en Staatsondersteunde skole.

10. Ondanks andersluidende bepalings van enige ander wet, maar behoudens die bepalings van hierdie Wet, berus die bevoegdheid om iemand aan te stel in 'n onderwyspos wat inbegrepe is by die diensstaat van 'n Staatskool of 'n Staatsondersteunde skool en om iemand wat so 'n pos beklee, te bevorder, oor te plaas of te ontslaan, by die Minister.

Bepalings omtrent personeel by sekere bestaande skole.

11. (1) Iemand (behalwe 'n beampte of werknemer) wat onmiddellik vóór die inwerkingtreding van hierdie Wet ingevolge die bepalings van die ordonnansie in diens was by 'n skool vermeld in artikel 3 (2) of 4 (3) van hierdie Wet, word geag

NAMA IN SOUTH WEST AFRICA EDUCATION  
ACT, 1972.

Act No. 86, 1972

school at the said date under the ordinance, shall be deemed to be grants-in-aid being paid in respect of such school, class or hostel in terms of this section, or a loan granted in respect of such school or hostel in terms of this section, as the case may be, with effect from the said date.

5. (1) The Minister may, in consultation with the Minister of Finance and after negotiation and agreement with the governing body of a State-aided school, by notice in the *Gazette* transfer the management and control of such school to the Department with effect from a date fixed in that notice.

Transfer of management and control of State-aided schools to the Department.

(2) The school to which a notice issued in terms of subsection (1) of this section relates shall be deemed to have been established under the appropriate provision of subsection (1) of section 3 on the date fixed in that notice.

(3) As from the date so fixed the governing body in question shall no longer have any rights, powers or duties in respect of the school in question.

6. (1) No person shall in the territory manage any school for the education of Nama which is not a State school or a State-aided school and at which more than fourteen pupils are enrolled—

Registration and management of private schools.

- (a) unless such school is registered with the Department in the prescribed manner and complies with the prescribed requirements; and
- (b) otherwise than in accordance with the prescribed conditions.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred rand or to imprisonment for a period not exceeding three months.

7. The admission of persons to State 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.

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

8. Notwithstanding anything to the contrary contained in any other law, but subject to the provisions of section 9, the establishment of any State school or State-aided school shall be determined by the Minister on such basis as he may fix from time to time in consultation with the Minister of Finance and on the recommendation of the Public Service Commission.

Determination of establishment of a State school or State-aided school.

9. The Minister may, on the recommendation of the Public Service Commission, designate any non-teaching post included in the establishment of a State school or 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.

Classification of certain posts as posts in the public service.

10. Notwithstanding anything to the contrary contained in any other law but subject to the provisions of this Act, the power to appoint any person to any post included in the establishment of any State school or State-aided school, and to promote, transfer or discharge any person occupying such post, shall be vested in the Minister.

Appointment, promotion, transfer and discharge of staff at State schools and State-aided schools.

11. (1) Any person (other than an officer or an employee) who immediately prior to the commencement of this Act was employed in terms of the provisions of the ordinance at a school referred to in section 3 (2) or 4 (3) of this Act, shall be deemed

Provisions regarding staff at certain existing schools.

## Wet No. 86, 1972

## WET OP ONDERWYS VIR NAMAS IN SUIDWES-AFRIKA, 1972.

ingevolge die bepalings van hierdie Wet aangestel te wees in 'n pos wat inbegrepe is by die diensstaat van dié skool, en wel op die datum van sodanige inwerkingtreding.

(2) 'n Beampte of werknemer wat onmiddellik voor die inwerkingtreding van hierdie Wet ingevolge die bepalings van die ordonnansie in diens was by 'n skool vermeld in artikel 3 (2) of 4 (3) van hierdie Wet, word geag ingevolge die bepalings van die Staatsdienswet, 1957 (Wet No. 54 van 1957), aangestel te wees in 'n pos wat inbegrepe is by die diensstaat van dié skool, en wel op die datum van sodanige inwerkingtreding.

Oorplasing van persone in diens by 'n Staatsondersteunde skool na die diens van die Departement, ingeval van oordrag van dié skool.

12. Iemand wat onmiddellik vóór die datum waarop die bestuur van en beheer oor 'n Staatsondersteunde skool aan die Departement ingevolge artikel 5 (1) oorgedra word, 'n pos beklee het wat inbegrepe is by die diensstaat van dié skool, word vanaf daardie datum na die diens van die Departement oorgeplaas en word, behoudens die bepalings van hierdie Wet, geag ingevolge die bepalings van dié Wet in dié pos aangestel te wees, en wel op daardie datum.

Diensvoorwaardes van persone in diens by Staatskole en Staatsondersteunde skole.

13. (1) Ondanks andersluidende bepalings van enige ander wet, maar behoudens die bepalings van subartikels (2) en (3) van hierdie artikel, word die diensvoorwaardes, salarisse, salarisskaal, toelaes en verlofvoorregte van persone, (behalwe beamptes en werknemers) in diens in poste wat inbegrepe is by die diensstaat van 'n Staatskool of 'n Staatsondersteunde skool, deur die Minister in ooreenstemming met die Minister van Finansies en op aanbeveling van die Staatsdienskommissie bepaal.

(2) Die salaris, salarisskaal, toelaes, verlofvoorregte en ander diensvoorwaardes van iemand wat uit hoofde van die bepalings van artikel 11 (1) geag word in 'n pos aangestel te wees ingevolge die bepalings van hierdie Wet, bly dieselfde asof hy aangebly het in die pos wat hy onmiddellik voor die inwerkingtreding van hierdie Wet beklee het, tensy die Minister met sy toestemming bepaal dat die bepalings van subartikels (1) en (3) van hierdie artikel op hom van toepassing is.

(3) Vanaf die datum waarop iemand ingevolge die bepalings van artikel 12 na die diens van die Departement oorgeplaas word, word sy salaris aangepas by die salarisskaal wat op sy pos van toepassing is, en wel op die kerf van daardie skaal wat die Minister bepaal.

(4) Behoudens die bepalings van hierdie Wet word die ononderbroke voltydse diens van iemand vermeld in artikel 12 by 'n Staatsondersteunde skool onmiddellik vóór die datum in daardie artikel vermeld, vir verlofdoeleindes geag diens by die Departement te wees: Met dien verstande dat siekte- en oplopende vakansieverlof waarop so iemand op genoemde datum geregtig is, geag word, onderworpe aan die voorwaardes wat die Minister op aanbeveling van die Staatsdienskommissie bepaal, verlof te wees wat ingevolge hierdie Wet verdien is.

Pensioenregte en leeftye vir uitdiens-treding.

14. (1) Ondanks andersluidende bepalings van enige ander wet, word iemand (behalwe 'n beampte) wat op 'n voltydse grondslag en in 'n vaste hoedanigheid in diens is by, of wat vir diens op sodanige grondslag en in sodanige hoedanigheid aangestel word by, 'n Staatskool of 'n Staatsondersteunde skool, vir pensioendoeleindes geag in voorgeskrewe diens, soos in artikel 1 van die Provinsiale en die Gebiedsdienspensioenwet, 1969 (Wet No. 14 van 1969), omskryf, te wees.

(2) By die toepassing van subartikel (1)—

(a) word iemand op wie artikel 11 (1) van hierdie Wet van toepassing is, geag 'n persoon in subartikel (1) van hierdie artikel bedoel, te wees;

(b) word diens ingevolge die ordonnansie of hierdie Wet gelewer deur 'n persoon in subartikel (1) bedoel, by die toepassing van die Provinsiale en die Gebiedsdienspensioenwet, 1969, geag voorgeskrewe diens in daardie subartikel bedoel, te wees;

NAMA IN SOUTH WEST AFRICA EDUCATION  
ACT, 1972.

Act No. 86, 1972

to have been appointed in terms of the provisions of this Act and on the date of such commencement, to a post included in the establishment of such school.

(2) Any officer or employee who immediately prior to the commencement of this Act was employed in terms of the ordinance at a school referred to in section 3 (2) or 4 (3) of this Act, shall be deemed to have been appointed in terms of the provisions of the Public Service Act, 1957 (Act No. 54 of 1957), and on the date of such commencement, to a post included in the establishment of such school.

12. Any person who immediately prior to the date on which the management and control of a State-aided school is transferred to the Department in terms of section 5 (1) occupied a post included in the establishment of such school, shall, as from that date, be transferred to the service of the Department and shall, subject to the provisions of this Act, be deemed to have been appointed in terms of the provisions of the said Act to such post on that date.

Transfer of persons employed at a State-aided school to the service of the Department, in the event of the transfer of such school.

13. (1) Notwithstanding anything to the contrary contained in any other law but subject to the provisions of subsections (2) and (3) of this section, the conditions of service, salaries, salary scales, allowances and leave privileges of persons (other than officers and employees) employed in posts included in the establishment of a State school or State-aided school, shall be determined by the Minister in consultation with the Minister of Finance and on the recommendation of the Public Service Commission.

Conditions of service of persons employed at State schools and State-aided schools.

(2) The salary, salary scale, allowances, leave privileges and other conditions of service of any person who is, by virtue of the provisions of section 11 (1), deemed to have been appointed to a post in terms of the provisions of this Act, shall remain the same, as if he had continued occupying the post occupied by him immediately prior to the commencement of this Act, unless the Minister, with his consent, determines that the provisions of subsections (1) and (3) of this section shall apply in respect of him.

(3) As from the date on which a person is in terms of the provisions of section 12 transferred to the service of the Department, his salary shall be adjusted to the salary scale applicable to his post, at such notch on that scale as the Minister may determine.

(4) Subject to the provisions of this Act any continuous full-time employment of any person referred to in section 12 at any State-aided school immediately prior to the date referred to in that section, shall, for leave purposes, be deemed to be employment in the service of the Department: Provided that any sick and accumulative vacation leave to which such person is entitled on that date shall, subject to such conditions as the Minister on the recommendation of the Public Service Commission may determine, be deemed to be leave earned in terms of this Act.

14. (1) Notwithstanding anything to the contrary contained in any other law, any person (other than an officer) employed on a full-time basis and in a permanent capacity at, or appointed for duty on such basis and in such capacity at, a State school or a State-aided school, shall for purposes of pension be deemed to be in prescribed service, as defined in section 1 of the Provincial and the Territory Service Pension Act, 1969 (Act No. 14 of 1969).

Pension rights and ages for retirement.

(2) For the purposes of subsection (1)—

(a) any person to whom section 11 (1) of this Act applies, shall be deemed to be a person referred to in subsection (1) of this section;

(b) service rendered by any person referred to in subsection (1), in terms of the ordinance or this Act, shall, for the purposes of the Provincial and the Territory Service Pension Act, 1969, be deemed to be prescribed service referred to in that subsection;

Wet No. 86, 1972

WET OP ONDERWYS VIR NAMAS IN SUIDWES-  
AFRIKA, 1972.

- (c) word 'n verwysing in daardie Wet na die administrasie van die gebied uitgelê as 'n verwysing na die Departement;
  - (d) word 'n verwysing in daardie Wet na die Administrateur van die gebied uitgelê as 'n verwysing na die Minister.
- (3) Ondanks andersluidende bepalings van enige ander wet, tree iemand in subartikel (1) bedoel met pensioen af en moet hy aldus afgedank word by bereiking van die leeftyd van vyf-en-sestig jaar: Met dien verstande dat—
- (a) sodanige persoon wat op die sewentiende dag van Junie 1969 in diens van die Departement was en voor die een-en-dertigste dag van Desember 1969 aldus verkies het—
    - (i) in die geval van 'n manspersoon, by bereiking van die leeftyd van drie-en-sestig jaar; of
    - (ii) in die geval van 'n vrouspersoon, by bereiking van die leeftyd van agt-en-vyftig jaar, aldus aftree en afgedank moet word;
  - (b) sodanige persoon wat op die een-en-dertigste dag van Mei 1959 in diens van die Departement van Onderwys van die administrasie van die gebied was en—
    - (i) in die geval van 'n manspersoon, voor die dertigste dag van September 1959 en die een-en-dertigste dag van Desember 1969 aldus verkies het, by bereiking van die leeftyd van sestig jaar; of
    - (ii) in die geval van 'n vrouspersoon, voor die dertigste dag van September 1959 en die een-en-dertigste dag van Desember 1969 aldus verkies het, by bereiking van die leeftyd van vyf-en-vyftig jaar, aldus aftree en afgedank moet word.
- (4) Behoudens die goedkeuring van die Minister, kan iemand in subartikel (3) bedoel, na kennisgewing van minstens 'n kalenderkwartaal aan die Departement, hoogstens vyf jaar voor die datum waarop hy ingevolge daardie subartikel aftree of afgedank word, vrywillig met pensioen uit diens tree.
- (5) Ondanks andersluidende bepalings van hierdie Wet kan die Minister, indien hy van oordeel is dat dit in die openbare belang of in belang van die onderwys is, iemand in subartikel (1) bedoel wat die leeftyd van vyf-en-vyftig jaar bereik het, met pensioen afdank.

Aanstellings-  
vereistes.

15. (1) Behoudens die bepalings van artikel 10 geskied elke vaste aanstelling in 'n pos wat inbegrepe is by die diensstaat van 'n Staatskool of 'n Staatsondersteunde skool op proef, en word niemand in 'n vaste hoedanigheid in so 'n pos aangestel nie tensy—

- (a) hy in besit is van kwalifikasies soos deur die Minister bepaal en bevredigende bewys in dié verband kan voorlê;
  - (b) hy van goeie karakter is;
  - (c) hy vry is van enige verstandelike of liggaamlike gebrek, siekte of swakheid wat waarskynlik die behoorlike uitvoering van sy pligte sal belemmer of sy uitdiens-treding voordat hy sy pensioenleeftyd soos bedoel in artikel 14 (3) bereik, sal noodsaak;
  - (d) in die geval van 'n vrouspersoon, sy ongetroud is; en
  - (e) hy 'n Suid-Afrikaanse burger is.
- (2) Ondanks die bepalings van subartikel (1) (a), (1) (d) of (1) (e) kan die Minister goedkeur dat iemand anders as 'n beampte of werknemer—
- (a) wat nie deur die Minister bepaalde kwalifikasies besit nie, maar ander kwalifikasies besit wat volgens die oordeel van die Minister sodanige persoon in staat sal stel om bevredigende diens te lewer;
  - (b) wat 'n getroude vrouspersoon is, maar wie se vaste aanstelling volgens die oordeel van die Minister in belang van die onderwys is;

NAMA IN SOUTH WEST AFRICA EDUCATION  
ACT, 1972.

Act No. 86, 1972

- (c) any reference in that Act to the administration of the territory shall be construed as a reference to the Department;
  - (d) any reference in that Act to the Administrator of the territory shall be construed as a reference to the Minister.
- (3) Notwithstanding anything to the contrary contained in any other law, any person referred to in subsection (1) shall retire on pension and shall be so retired on attaining the age of sixty-five years: Provided that—
- (a) such person who was in the service of the Department on the seventeenth day of June, 1969, and who prior to the thirty-first day of December, 1969, had so elected, shall so retire and shall be so retired—
    - (i) in the case of a male, on attaining the age of sixty-three years; or
    - (ii) in the case of a female, on attaining the age of fifty-eight years;
  - (b) such person who was in the service of the Department of Education of the administration of the territory on the thirty-first day of May, 1959, and—
    - (i) in the case of a male, had so elected before the thirtieth day of September, 1959, and the thirty-first day of December, 1969, shall so retire and shall be so retired on attaining the age of sixty years; or
    - (ii) in the case of a female, had so elected before the thirtieth day of September, 1959, and the thirty-first day of December, 1969, shall so retire and shall be so retired on attaining the age of fifty-five years.
- (4) Subject to the approval of the Minister, any person referred to in subsection (3) may, after not less than a calendar quarter's notice to the Department given not more than five years prior to the date on which he shall retire or be retired in terms of that subsection, voluntarily retire on pension.
- (5) Notwithstanding anything to the contrary contained in this Act the Minister may, if he considers it to be in the public interest or in the interests of education, retire on pension any person referred to in subsection (1) who has attained the age of fifty-five years.
15. (1) Subject to the provisions of section 10 every permanent appointment to a post included in the establishment of a State school or a State-aided school shall be on probation, and no person shall be appointed in a permanent capacity to any such post unless—
- Requirements for appointment.
- (a) he is in possession of qualifications as determined by the Minister and is able to submit satisfactory evidence in this regard;
  - (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 referred to in section 14 (3);
  - (d) in the case of a female person, she is unmarried; and
  - (e) he is a South African citizen.
- (2) Notwithstanding the provisions of subsection (1) (a), (1) (d) or (1) (e) the Minister may approve that any person other than an officer or employee—
- (a) who does not possess the qualifications determined by the Minister, but possesses other qualifications which, in the opinion of the Minister, will enable such person to render satisfactory service;
  - (b) who is a married female, but whose permanent appointment will, in the opinion of the Minister, be in the interests of education;

## Wet No. 86, 1972

WET OP ONDERWYS VIR NAMAS IN SUIDWES-  
AFRIKA, 1972.

(c) wat nie 'n Suid-Afrikaanse burger is nie,  
in 'n vaste hoedanigheid aangestel word.

Tydlike en  
deeltydse aan-  
stellings.

16. Indien 'n onderwyspos wat inbegrepe is by die diens-  
staat van 'n Staatskool of 'n Staatsondersteunde skool nie deur  
'n vaste aanstelling ingevolge artikel 15 gevul kan word nie, kan  
sodanige pos, behoudens die bepalings van artikel 10, deur die  
aanstelling op 'n voltydse of 'n deeltydse grondslag van 'n  
geskikte persoon in 'n tydelike hoedanigheid gevul word.

Aanstellings wat  
oorplasing geag  
word te wees.

17. Indien iemand wat op 'n voltydse grondslag in diens is—  
(a) van die Suid-Afrikaanse Spoorweë en Hawens;  
(b) by die Staatsdelwerye;  
(c) van 'n provinsiale onderwysdepartement;  
(d) van of by 'n universiteit of universiteitskollege of 'n  
klas, onderwys- of ander inrigting in die Republiek  
of in die gebied wat by of kragtens 'n wet ingestel is of  
wat kragtens 'n wet hulptoelaes ontvang;  
(e) van 'n provinsiale administrasie of die administrasie  
van die gebied ingevolge 'n ordonnansie; of  
(f) van 'n Staatsdepartement,

sonder onderbreking van diens ingevolge die bepalings van  
hierdie Wet op 'n voltydse grondslag by 'n Staatskool of 'n  
Staatsondersteunde skool aangestel word, word sy aanstelling  
vir die doeleindes van verlof, verblyftoelaes, oorplasingkoste en  
vervoervoorregte geag 'n oorplasing te wees, tensy die Minister  
anders bepaal.

Aanvaarding van  
ander werk of  
vergoeding deur  
persone in diens  
by Staatskole en  
Staatsondersteunde  
skole.

18. (1) Iemand vermeld in artikel 21 (1)—

- (a) moet sover doenlik al sy tyd ter beskikking stel van  
die skool waarby hy in diens is;
- (b) mag nie sonder die toestemming van die Minister  
ander besoldigde werk verrig of hom verbind om  
sodanige werk te verrig nie; en
- (c) is nie geregtig op bykomende besoldiging ten opsigte  
van diens of werk wat hy op las van 'n bevoegde gesag  
verrig nie.

(2) Indien iemand vermeld in subartikel (1) besoldiging of  
'n toelaes ontvang anders as ingevolge of uit hoofde van die  
bepalings van hierdie Wet of 'n ander wet, moet hy dit in die  
Gekonsolideerde Inkomstefonds stort, en indien hy versuim  
om dit te doen, kan die Minister van Finansies dit deur middel  
van geregtelike stappe of op die ander wyse wat dié Minister  
goedvind, op hom verhaal en in daardie fonds stort.

Oorplasing en  
tydelike afstaan  
van sekere persone  
in diens by  
Staatskole o.  
Staatsondersteunde  
skole.

19. (1) Iemand (behalwe 'n beampte of werknemer) wat 'n  
pos beklee wat inbegrepe is by die diensstaat van 'n Staatskool  
of 'n Staatsondersteunde skool kan, behoudens die bepalings  
van subartikels (2), (3) en (6), oorgeplaas word na enige ander  
pos in genoemde skool of enige ander sodanige skool, of in  
enige ander inrigting onder beheer van die Departement, hetsy  
dit ingevolge hierdie Wet of 'n ander wet ingestel is, en hetsy  
dit 'n oorplasing na 'n pos met 'n laer graad is of nie, en sodanige  
oorplasing kan op proef geskied.

(2) Indien 'n oorplasing ingevolge subartikel (1) 'n ver-  
mindering van die betrokke persoon se pensioengewende  
verdiensle vir die doeleindes van 'n wet sal meebring, mag  
sodanige oorplasing nie sonder sy toestemming geskied nie,  
tensy dit geskied ten gevolge van 'n verlaging van rang kragtens  
artikel 23 of 24 of ingevolge subartikel (6) van hierdie artikel.

(3) Indien iemand ingevolge subartikel (1) sonder ver-  
mindering van sy pensioengewende verdiensle vir die doeleindes  
van 'n wet oorgeplaas word na 'n pos met 'n graad laer as  
dié van die pos wat hy beklee het, moet hy, sodra 'n geskikte  
vakature ontstaan, weer oorgeplaas word na 'n pos met 'n  
graad wat by sy salaris pas.

NAMA IN SOUTH WEST AFRICA EDUCATION  
ACT, 1972.

Act No. 86, 1972

(c) who is not a South African citizen,  
be appointed in a permanent capacity.

16. If a teaching post included in the establishment of a State school or a State-aided school cannot be filled by a permanent appointment in terms of section 15, such post may, subject to the provisions of section 10, be filled by the appointment on a full-time or part-time basis of a suitable person in a temporary capacity.

Temporary and  
part-time  
appointments.

17. If any person employed on a full-time basis—
- (a) by the South African Railways and Harbours;
  - (b) at the State Diggings;
  - (c) by a provincial education department;
  - (d) by or at a university or university college or a class, an educational or other institution in the Republic or in the territory established by or under any law or which is in receipt of grants-in-aid under any law;
  - (e) by a provincial administration or the administration of the territory in terms of an ordinance; or
  - (f) by a Department of State,

Appointments  
deemed to be  
transfers.

is appointed at a State school or State-aided school without a break in service, in terms of the provisions of this Act, on a full-time basis, his appointment shall for the purposes of leave, subsistence allowance, transfer costs and transport facilities be deemed to be a transfer, unless the Minister determines otherwise.

18. (1) Any person referred to in section 21 (1)—

- (a) shall, as far as is practicable, place the whole of his time at the disposal of the school at which he is employed;
- (b) shall not, without the permission of the Minister, perform or bind himself to perform other remunerative work; and
- (c) shall not be entitled to additional remuneration in respect of any duty or work performed by him by order of a competent authority.

Acceptance of  
other employment  
or remuneration  
by persons  
employed at  
State schools  
and State-aided  
schools.

(2) If any person referred to in subsection (1) receives any remuneration or allowance otherwise than in terms or by virtue of the provisions of this Act or any other law, he shall pay it into the Consolidated Revenue Fund, and if he fails to do so, the Minister of Finance may recover it from him by legal proceedings or in such other manner as the said Minister may deem fit, and pay it into that fund.

19. (1) Any person (other than an officer or an employee) occupying a post included in the establishment of a State school or a State-aided school may, subject to the provisions of subsections (2), (3) and (6), be transferred to any other post at the said school or any other such school, or at any other institution under the control of the Department, whether established under this Act or any other law, and whether or not it is a transfer to a post of a lower grade, and such transfer may be on probation.

Transfer and  
secondment of  
certain persons  
at State schools  
and State-aided  
schools.

(2) If a transfer in terms of subsection (1) will involve a reduction of the pensionable emoluments of the person concerned for the purposes of any law, such transfer shall not be made without his consent, unless it is made in consequence of a reduction of rank under section 23 or 24 or in terms of subsection (6) of this section.

(3) If a person is in terms of subsection (1) transferred, without a reduction of his pensionable emoluments for the purposes of any law, to a post of a grade lower than that of the post which he occupied, he shall, as soon as a suitable vacancy occurs, be re-transferred to a post of a grade appropriate to his salary.

## Wet No. 86, 1972

WET OP ONDERWYS VIR NAMAS IN SUIDWES-  
AFRIKA, 1972.

(4) Iemand vermeld in subartikel (1) kan met sy toestemming en, behoudens die bepalings van subartikel (5), deur die Minister op die voorwaardes wat die Minister in oorleg met die Minister van Finansies bepaal, tydelik afgestaan word—

(a) op aanbeveling van die Staatsdienskommissie, aan die diens van die Staat of die administrasie van die gebied of die diens van die Staat in 'n ander hoedanigheid; of

(b) aan die diens van die regering van 'n ander land of van 'n persoon.

(5) Indien iemand aldus afgestaan word, raak dit nie die toepassing, ten opsigte van hom, van 'n wet wat ten opsigte van hom van toepassing sou gewees het indien hy sy pos by die betrokke skool bly beklee het nie.

(6) Die bepalings van hierdie Wet bly van toepassing ten opsigte van iemand wat ingevolge die bepalings van subartikel (1) oorgeplaas word na 'n onderwysinrigting onder beheer van die Departement en ingevolge die bepalings van 'n ander wet ingestel, tensy die oorplasing op sy eie versoek of met sy skriftelike toestemming geskied, in welke geval, tensy die Minister anders gelas, die bepalings van die wet ingevolge waarvan die betrokke inrigting ingestel is, ten opsigte van hom van toepassing is.

**Bevordering van  
persone in diens by  
Staatskole en  
Staatsondersteunde  
skole.**

20. (1) Behoudens die bepalings van artikel 10, geskied die bevordering van iemand (behalwe 'n beampte of werknemer) wat 'n pos beklee wat inbegrepe is by die diensstaat van 'n Staatskool of 'n Staatsondersteunde skool, op proef.

(2) Indien iemand se bevordering op proef ingevolge subartikel (1) van hierdie artikel nie bekragtig word nie, keer hy, ondanks die bepalings van artikel 19 (2), terug na die pos wat hy voor sy bevordering op proef beklee het of na 'n pos van gelyke gradering en na die salaris wat hy in sy vorige pos sou bereik het.

(3) Indien daar nie 'n gelykwaardige pos bestaan waarin sodanige persoon opgeneem kan word nie, word hy teen 'n laer of hoër gegradeerde pos in diens gehou tot tyd en wyl hy gepas opgeneem kan word.

**Ontslag van  
persone in diens by  
Staatskole en  
Staatsondersteunde  
skole.**

21. (1) Iemand (behalwe 'n beampte) wat op 'n voltydse grondslag en in 'n vaste hoedanigheid 'n pos beklee wat inbegrepe is by die diensstaat van 'n Staatskool of 'n Staatsondersteunde skool, kan deur die Minister ontslaan word—

(a) weens bereiking van die pensioenleeftyd bedoel in artikel 14 (3);

(b) weens voortdurende swak gesondheid;

(c) weens die afskaffing van sy pos of 'n vermindering, reorganisasie of herindeling van die personeel van die betrokke skool;

(d) behoudens die bepalings van artikel 24, weens ongeskiktheid vir sy pligte of onvermoë om hulle op 'n bekwame wyse uit te voer;

(e) behoudens die bepalings van artikel 23, weens wangedrag soos omskryf in artikel 22;

(f) in die geval van 'n vrouspersoon, indien sy in die huwelik tree.

(2) Iemand vermeld in subartikel (1) wat sonder verlof van die Sekretaris of die hoof of bestuursliggaam van die betrokke skool—

(a) vir langer as 'n maand van sy diens afwesig is; of

NAMA IN SOUTH WEST AFRICA EDUCATION  
ACT, 1972.

Act No. 86, 1972

(4) Any person referred to in subsection (1) may with his consent and, subject to the provisions of subsection (5) and upon such conditions as the Minister in consultation with the Minister of Finance may determine, be seconded by the Minister—

- (a) upon the recommendation of the Public Service Commission, to the service of the State or the administration of the territory or the service of the State in any other capacity; or
- (b) to the service of the government of any other country or of any person.

(5) If any person is so seconded such secondment shall not affect the application in respect of him of any law which would have applied in respect of him had he continued to occupy his post at the school in question.

(6) The provisions of this Act shall continue to apply in respect of any person who is transferred in terms of subsection (1) to an educational institution under the control of the Department and established in terms of the provisions of any other law, unless the transfer is at his own request or with his written consent, in which case the provisions of the law in terms of which the institution in question was established, shall apply in respect of him, unless the Minister directs otherwise.

20. (1) Subject to the provisions of section 10, the promotion of any person (other than an officer or an employee) who occupies a post included in the establishment of a State school or a State-aided school, shall be on probation.

Promotion of persons employed at State schools and State-aided schools.

(2) If the promotion on probation of any person, in terms of subsection (1) of this section, is not confirmed, he shall, notwithstanding the provisions of section 19 (2), return to the post which he occupied before his promotion on probation or to a post of equal grading, and to the salary he would have attained in his former post.

(3) If there is no equivalent post which such person can occupy, he shall be retained in service in a lower or higher graded post until such time as he can be suitably placed.

21. (1) Any person (other than an officer) occupying on a full-time basis and in a permanent capacity a post included in the establishment of a State school or a State-aided school may be discharged by the Minister—

Discharge of persons employed at State schools and State-aided schools.

- (a) on account of attaining the pensionable age referred to in section 14 (3);
- (b) on account of continued ill-health;
- (c) on account of the abolition of his post or a reduction, reorganization or rearrangement of the staff of the school in question;
- (d) subject to the provisions of section 24, on account of unfitness for his duties or incapacity to perform them efficiently;
- (e) subject to the provisions of section 23, on account of misconduct as defined in section 22;
- (f) in the case of a female, if she marries.

(2) Any person referred to in subsection (1) who without the permission of the Secretary or the head or governing body of the school in question—

- (a) is absent from duty for a period exceeding one month; or

Wet No. 86, 1972

WET OP ONDERWYS VIR NAMAS IN SUIDWES-  
AFRIKA, 1972.

(b) van sy diens afwesig is en ander werk aanvaar het, word, behoudens die bepalinge van subartikel (3), geag ingevolge subartikel (1) weens wangedrag ontslaan te wees, en wel met ingang van die datum wat onmiddellik volg op die laaste dag waarop hy diens verrig het.

(3) Indien iemand 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, so iemand in sy vorige pos herstel of in 'n ander pos vermeld in subartikel (1) aanstel, en in so 'n geval word die tydperk van afwesigheid van diens geag afwesigheid te wees met vakansieverlof sonder betaling of verlof op die ander voorwaardes wat die Minister bepaal.

Omskrywing van  
wangedrag.

22. Iemand vermeld in artikel 21 (1) is aan wangedrag skuldig en aan die bepalinge van artikel 23 onderhewig indien—

- (a) hy 'n bepaling van hierdie Wet wat hy moet nakom, oortree of versuim om daaraan te voldoen;
- (b) hy 'n wettige bevel wat aan hom gegee is deur iemand wat die bevoegdheid besit om dit te gee, nie gehoorsaam nie of verontagsaam, of opsetlik versuim om dit uit te voer, of deur woord of gedrag hom aan weerspannigheid skuldig maak;
- (c) hy by die vervulling van sy pligte nalatig of traag is;
- (d) hy sonder die toestemming van die Minister 'n private agentskap of private werk onderneem in verband met 'n aangeleentheid wat in verband staan met die verrigting van sy werksaamhede of die uitvoering van sy pligte;
- (e) hy in die openbaar, behalwe op 'n vergadering belê deur 'n vereniging wat deur die Minister kragtens artikel 26 erken is, kritiek uitoefen aangaande die administrasie van, die Departement;
- (f) hy deur middel van iemand wat nie in die diens van die Departement is nie, ingryping in verband met sy posisie en diensvoorwaardes probeer verkry, tensy dit geskied om herstel van 'n grief deur bemiddeling van die Parlement te verkry;
- (g) hy hom op 'n skandelige, onbehoorlike of onbetaamlike wyse gedra of, terwyl hy diens doen, hom aan growwe onbeleefdheid teenoor 'n ander skuldig maak;
- (h) hy buitensporige gebruik van sterk drank of bedwelkende middels maak;
- (i) hy insolvent word of 'n akkoord met sy skuldeisers aangaan, of daar 'n bevel tot siviele gyseling deur 'n geregshof teen hom uitgereik word, tensy daar bewys word dat sy insolvensie of dié akkoord of die uitreiking van dié bevel teen hom deur onvermydelike teenspoed veroorsaak is;
- (j) hy in geldelike moeilikheid raak, tensy daar bewys word dat sy geldelike moeilikheid nie die gevolg is van 'n onversigtige of ander laakbare handeling of versuim van sy kant, en nie nadelig vir die getroue uitvoering van sy pligte is nie;
- (k) hy, sonder om eers die toestemming van die Sekretaris te verkry, inligting wat hy ingewin of bekom het as gevolg van sy diens in die Departement of by 'n Staatskool of 'n Staatsondersteunde skool, openbaar

NAMA IN SOUTH WEST AFRICA EDUCATION  
ACT, 1972.

Act No. 86, 1972

- (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 in terms of subsection (1) with effect from the date immediately following the last day on which he was on duty.

(3) If any person 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 person in his former post or appoint him to any other post referred to in subsection (1), and in that event the period of 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.

22. Any person referred to in section 21 (1) shall be guilty of misconduct and shall be subject to the provisions of section 23, if— Definition of misconduct.

- (a) he contravenes or fails to comply with any provision of this Act with which he is obliged to comply;
- (b) he disobeys, disregards or makes wilful default in carrying out a lawful order given to him by a person having authority to give it, or by word or conduct displays insubordination;
- (c) he is negligent or indolent in the discharge of his duties;
- (d) he, without the permission of the Minister, undertakes any private agency or private work in connection with any matter connected with the performance of his functions or the carrying out of his duties;
- (e) he, otherwise than at a meeting convened by an association recognized by the Minister under section 26, publicly criticizes the administration of the Department;
- (f) he attempts to secure intervention, through any person who is 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;
- (g) he conducts himself in a disgraceful, improper or unbecoming manner or, whilst on duty, is grossly discourteous to any person;
- (h) he uses intoxicants or stupefying drugs excessively;
- (i) he becomes insolvent or compromises with his creditors or if a decree of civil imprisonment is made against him by any court of law, unless it is shown that his insolvency or the composition or the making of such decree against him has been occasioned by unavoidable misfortune;
- (j) he becomes pecuniarily embarrassed, unless it is shown that his pecuniary embarrassment is not due to any imprudent or other reprehensible act or omission on his part and is not prejudicial to the faithful performance of his duties;
- (k) he, without first having obtained the permission of the Secretary, and otherwise than in the discharge of his duties, discloses information gathered or obtained by him through his employment in the Department

## Wet No. 86, 1972

WET OP ONDERWYS VIR NAMAS IN SUIDWES-  
AFRIKA, 1972.

maak anders as by die vervulling van sy pligte, of sodanige inligting gebruik vir 'n ander doel as die vervulling van sy pligte, hetsy hy dié inligting openbaar maak of nie;

- (l) iemand hom op korrupte wyse enige geskenk of vergoeding aanbied ten opsigte van of vir die uitvoering of nalating van sy pligte, en hy versuim om dit so spoedig doenlik aan die Sekretaris mee te deel;
- (m) hy hom eiendom van die Staat wederregtelik toeëien of onbehoorlike gebruik daarvan maak, en sodanige toeëiening of gebruik nie 'n misdryf uitmaak nie;
- (n) hy 'n kriminele misdryf pleeg;
- (o) hy sonder verlof of grondige rede van sy diens afwesig is;
- (p) hy met die oog op die verkryging van 'n voorreg of voordeel met betrekking tot sy posisie of sy pligte in die diens van die Departement of 'n Staatsondersteunde skool, of op die veroorsaking van enige nadeel of skade aan die Staat of so 'n skool of iemand in diens van die Departement of so 'n skool, 'n vals of onjuiste verklaring aflê terwyl hy weet dat dit vals of onjuis is;
- (q) hy 'n handeling verrig wat waarskynlik 'n gees van vyandigheid tussen die verskillende bevolkingsgroepe van die gebied sal aanwakker;
- (r) hy enigiets ten nadele van die administrasie, dissipline of doeltreffendheid van die Departement, 'n kantoor of inrigting van die Staat of 'n Staatsondersteunde skool doen of laat doen of toelaat, of oogluikend toelaat, dat dit gedoen word.

Prosedure in geval  
van wangedrag.

23. (1) Indien iemand vermeld in artikel 21 (1) 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.

(2) Die persoon wat die aanklag onderteken het, moet dit aan die aangeklaagde bestel deur dit aan hom te laat oorhandig of te laat stuur per aangetekende pos of dit te laat afgee by sy woonplek of die plek waar, sover bekend, hy die laaste gewoon het.

(3) Die aanklag moet 'n aansegging bevat of van 'n aansegging gepaard gaan waarby die aangeklaagde aangesê word om binne '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 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 beampte in die Departement, kan iemand wat beskuldig word van wangedrag soos in artikel 22 omskryf, in sy diens skors, hetsy hy van wangedrag aangekla is of nie.

(5) Die Minister of die ander persoon wat iemand kragtens 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.

(6) Iemand wat kragtens subartikel (4) in sy diens geskors is, is nie op 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.

(7) As geen aanklag kragtens hierdie artikel ingebring word nie teen iemand wat aldus in sy diens geskors is, moet hy

NAMA IN SOUTH WEST AFRICA EDUCATION  
ACT, 1972.

Act No. 86, 1972

or at a State school or a State-aided school, or uses such information for any purpose other than the discharge of his duties, whether or not he discloses such information;

- (l) any person corruptly offers him any gift or consideration in respect of or for the discharge or neglect of his duties, and he fails to report it as soon as possible to the Secretary;
- (m) he misappropriates or improperly uses property of the State, and such misappropriation or use does not constitute an offence;
- (n) he commits a criminal offence;
- (o) he absents himself from duty without leave or valid reason;
- (p) he makes a false or incorrect statement, knowing it to be false or incorrect, with a view to obtaining any privilege or advantage in relation to his position or duties in the employment of the Department or any State-aided school, or to causing prejudice or injury to the State or such a school or any person in the employment of the Department or such a school;
- (q) he performs an act likely to encourage feelings of hostility among the different population groups of the territory;
- (r) he does or causes or permits to be done or connives at anything which is prejudicial to the administration, discipline or efficiency of the Department, an office or institution of the State or a State-aided school.

23. (1) If any person referred to in section 21 (1) 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. Procedure in case of 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, 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 under subsection (4), may at any time cancel the suspension, but the cancellation of the suspension shall not affect any proceedings in connection with the accusation of misconduct.

(6) A person who has been suspended from duty under 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

## Wet No. 86, 1972

WET OP ONDERWYS VIR NAMAS IN SUIDWES-  
AFRIKA, 1972.

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.

- (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 aanseggings vermeld in subartikel (3), moet die Sekretaris iemand aanstel om ondersoek na die aanklag in te stel.
- (c) Die Sekretaris kan een of meer persone aanstel om in 'n raadgewende hoedanigheid as assessor of assessore saam te sit met die persoon wat die ondersoek moet instel.
- (9) (a) Die persoon wat die ondersoek moet instel, 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 by bewys van goeie gronde die ondersoek kan uitstel.
- (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 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 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, iemand wat as getuie ter stawing van die aanklag opgeroep is, onder kruisverhoor te neem, stukke wat as getuienis voorgelê is, in te sien, en ander persone as getuies op te roep, en kan hy self getuienis aflê.
- (b) Die versuim van die aangeklaagde om persoonlik of 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, die pleeg van 'n misdryf is 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 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 kragtens 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 veertien dae ná die datum waarop hy van die bevinding verwittig is, na die Minister daarteen appelleer deur aan die persoon wat die ondersoek ingestel het, 'n skriftelike kennisgewing van appél te oorhandig

NAMA IN SOUTH WEST AFRICA EDUCATION  
ACT, 1972.

Act No. 86, 1972

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 enquire into the charge.
- (c) The Secretary may appoint one or more persons to sit in an advisory capacity as assessor or assessors with the person who is to hold the enquiry.
- (9) (a) The person who is to hold the enquiry shall, in consultation with the person who signed the charge, fix the time and place of the enquiry, 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 may postpone the enquiry 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 enquiry: Provided that subpoenas to procure the attendance of witnesses thereat shall be issued by the person who is to hold the enquiry.
- (10) The person who signed the charge may authorize any person to be present at the enquiry 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 enquiry 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 through a representative, and may give evidence himself.
- (b) The failure of the person charged to be present at the enquiry, either personally or by a representative, shall not invalidate the proceedings.
- (c) The person holding the enquiry shall keep a record of the proceedings at the enquiry and of the evidence given thereat.
- (12) If the misconduct with which any person is charged, is 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 enquiry shall after the conclusion thereof decide whether the person charged is guilty or not guilty of the misconduct with which he has been charged and inform him and the Secretary of his decision.
- (14) If the person holding the enquiry finds that the person charged is not guilty of the misconduct with which he was charged, and the person charged was suspended from duty under 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 enquiry finds that the person charged is guilty of the misconduct with which he is charged, the person charged may within fourteen days after the date on which he was informed of the finding, appeal therefrom to the Minister by delivering or posting to the person who held

Wet No. 86, 1972

WET OP ONDERWYS VIR NAMAS IN SUIDWES-  
AFRIKA, 1972.

of te pos waarin die gronde waarop die appèl gebaseer is, volledig uiteengesit word.

(16) Indien die persoon wat die ondersoek instel, bevind dat die aangeklaagde 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 appellant 'n afskrif van sy redes vir die bevinding verstrek.

(17) Indien die appellant binne sewe 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 appellant kan, indien hy 'n aansoek ingevolge subartikel (17) gedoen het, binne veertien dae ná die datum waarop die betrokke afskrif aan hom verstrek is, of, indien hy nie aldus aansoek gedoen het nie, binne een-en-twintig dae ná die datum waarop die afskrif van die redes vir die bevinding aan hom verstrek is, skriftelike versoë ter stawing van sy appèl aan die Sekretaris voorlê, en die Sekretaris moet na ontvangs daarvan of, indien hy geen sodanige versoë binne die voorgeskrewe 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 die betrokke notule en ander stukke kan die Minister die appèl geheel en al of ten dele toestaan en die bevinding ter syde stel of wysig, die appèl van die hand wys en die bevinding bekragtig, of, voordat hy tot 'n finale beslissing oor die appèl kom, 'n 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) Wanneer die Minister tot 'n finale beslissing oor die appèl gekom het, moet hy dié beslissing skriftelik aan die appellant en die Sekretaris mededeel.

(22) Indien die Minister die appèl toestaan en die appellant kragtens 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 voorgeskrewe tydperk daarteen geappelleer het nie, of daarteen geappelleer het en dié appèl geheel en al of ten dele van die hand gewys is kragtens hierdie artikel, moet die Sekretaris behoudens die bepalings van subartikel (24) by die Minister aanbeveel dat—

- (a) die aangeklaagde gewaarsku of berispe word;
- (b) die aangeklaagde 'n boete van hoogstens tweehonderd rand opgelê word;
- (c) die aangeklaagde na 'n ander pos oorgeplaas word;

NAMA IN SOUTH WEST AFRICA EDUCATION  
ACT, 1972.

Act No. 86, 1972

the enquiry a written notice of appeal in which are set forth fully the grounds on which the appeal is based.

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

- (a) after the expiry of the period referred to in subsection (15), forward to the Secretary—
  - (i) the record of the proceedings at the enquiry;
  - (ii) the documentary evidence admitted thereat;
  - (iii) a statement of his finding and his reasons therefor;
  - (iv) any observations 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 enquiry and of the documentary evidence admitted thereat, within seven 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 fourteen days after the date upon which he was furnished with the copy in question, or, if he did not make such an application, within twenty-one 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 prescribed period, after the expiry of such period, submit to the Minister the record of the proceedings at the enquiry, the other documents in his possession which relate to the enquiry or appeal, and his recommendation concerning the appeal.

(19) After consideration of the record and other documents in question 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 enquiry to the person who held the enquiry and direct him to report thereon or to hold a further enquiry and to arrive at a finding thereon.

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

(21) When 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 was suspended from duty under 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 is contemplated in subsection (3), or if he has been found guilty of misconduct in terms of subsection (13) and has not appealed therefrom within the period prescribed, or has appealed therefrom and the appeal has been dismissed wholly or in part under 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;
- (b) a fine, not exceeding two hundred rand, be imposed upon the person charged;
- (c) the person charged be transferred to another post;

## Wet No. 86, 1972

WET OP ONDERWYS VIR NAMAS IN SUIDWES-  
AFRIKA, 1972.

- (d) die aangeklaagde se besoldiging of rang of sy besoldiging sowel as sy rang verlaag word; of
- (e) die aangeklaagde uit die diens van sy werkgewer ontslaan word of gelas word om daaruit te bedank.
- (24) (a) Behalwe wanneer die Sekretaris 'n aanbeveling kragtens paragraaf (a) of (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 drie maande uitstel.
- (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.
- (b) Indien iemand kragtens 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.
- (c) Indien die Minister iemand kragtens hierdie subartikel ontslaan, tree die ontslag in werking op 'n datum wat die Minister bepaal.
- (d) Indien die Minister iemand kragtens hierdie subartikel 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 uit dié diens kragtens hierdie subartikel ontslaan te wees met ingang van daardie datum.
- (26) Indien iemand kragtens subartikel (4) in sy diens geskors 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 paragraaf (b) van subartikel (24), 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 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 paragraaf (d) van subartikel (23), 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: 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 kragtens hierdie artikel geskors of van 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 dié diens ontslaan te wees met ingang van 'n datum wat die Minister bepaal, tensy, voordat sy kennisgewing 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 aan die pleeg van 'n misdryf bevind is, belet nie dat enige stappe teen so iemand ingevolge hierdie artikel gedoen word nie.
- (29) (a) Indien iemand vermeld in artikel 21 (1) wat geag word ingevolge die bepalings van hierdie Wet in sy pos aangestel te wees, hom voor die inwerkingtreding van hierdie Wet skuldig gemaak het aan wangedrag in stryd met die bepalings van die ordonnansie, kan stapp weens dié wangedrag ingevolge hierdie artikel teen hom ingestel of voortgesit word, en daarkragtens met hom gehandel word.

NAMA IN SOUTH WEST AFRICA EDUCATION  
ACT, 1972.

Act No. 86, 1972

- (d) the emoluments or grade or both the emoluments and grade of the person charged be reduced; or
  - (e) the person charged be discharged from the service of his employer or be called upon to resign therefrom.
- (24) (a) Except where the Secretary makes a recommendation under paragraph (a) or (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 three months the making of a recommendation under 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 subsection.
- (b) If a fine is imposed upon any person under this subsection, such fine may be recovered by deducting it from his emoluments in such instalments as the Minister may determine.
- (c) If the Minister discharges any person under this subsection, the discharge shall take effect on a date fixed by the Minister.
- (d) If the Minister under this subsection calls upon any person to resign from the service of his employer and such person fails so to resign with effect from a date fixed by the Minister, he shall be deemed to have been discharged under this subsection from such service with effect from that date.
- (26) If any person has been suspended from duty under 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 paragraph (b) of subsection (24), such person shall be allowed to resume duty in an appropriate post 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: Provided that if the emoluments or grade of such person is reduced as is contemplated in paragraph (d) of subsection (23), his emoluments in respect of the period of his suspension shall be calculated on the basis of the reduced emoluments or grade, as the case may be: 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 misconduct under 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 Minister, unless prior to 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 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.
- (29) (a) If any person referred to in section 21 (1) who is deemed to have been appointed to a post in terms of the provisions of this Act, committed, prior to the commencement of this Act, any misconduct in contravention of the provisions of the ordinance, proceedings on account of such misconduct may, in terms of this section, be instituted or continued against him and he may be dealt with thereunder.

## Wet No. 86, 1972

WET OP ONDERWYS VIR NAMAS IN SUIDWES-  
AFRIKA, 1972.

- (b) Indien iemand vermeld in paragraaf (a) vóór die inwerkingtreding van hierdie Wet 'n straf weens wangedrag opgelê is wat by sodanige inwerkingtreding nog van krag is, bly dié straf van krag tensy die Minister anders gelas.

Optrede in die  
geval van onbe-  
kwame persone  
in diens by  
Staatskole en  
Staatsondersteunde  
skole.

24. (1) Indien beweer word dat iemand vermeld in artikel 21 (1) ongeskik is vir die pligte wat aan sy betrekking 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 Sekretaris kan een of meer persone aanstel om in 'n raadgewende hoedanigheid as assessor of assessore saam te sit met die persoon wat die ondersoek moet instel.

(3) Die bepalings van subartikels (9), (10), (11), (13), (15) tot en met (21), en (23), paragrawe (a) en (c) van subartikel (25) en paragraaf (a) van subartikel (29) van artikel 23 is *mutatis mutandis* van toepassing ten opsigte van 'n ondersoek vermeld in subartikel (1) van hierdie artikel en die persoon 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 persoon uit die diens van sy werkgever ontslaan word of dat sy rang verlaag en sy besoldiging tot die maksimum vir die verlaagde rang verminder word.

Bekleding van  
ampte deur  
persone in  
diens by  
Staatskole en  
Staatsondersteunde  
skole.

25. (1) Iemand vermeld in artikel 21 (1) mag nie sonder die Minister se toestemming lid van 'n statutêre komitee, raad, bestuur of liggaam wees of word nie: Met dien verstande dat die Minister te eniger tyd sodanige toestemming kan intrek.

(2) Iemand vermeld in artikel 21 (1) mag nie 'n amp beklee wat volgens die oordeel van die Minister die uitvoering van sy pligte in die diens van die betrokke skool sal belemmer nie.

(3) As 'n geskil ontstaan tussen die Staat en 'n in subartikel (1) bedoelde statutêre komitee, raad, bestuur of liggaam, mag iemand vermeld in artikel 21 (1) wat lid van sodanige komitee, raad, bestuur of liggaam is, nie aan die bespreking of stemming oor daardie geskilpunt deelneem nie.

(4) Indien iemand vermeld in artikel 21 (1) hom as lid van die Parlement, 'n provinsiale raad, die Wetgewende Vergadering vir die gebied of die Verteenwoordigende Kleurlingraad van die Republiek van Suid-Afrika verkiesbaar stel, word hy geag uit die diens van die Departement te getree het met ingang van die datum waarop hy ooreenkomstig die bepalings van die Wet tot Konsolidasie van die Kieswette, 1946 (Wet No. 46 van 1946), of van daardie Wet gelees met die Wysigingswet op Aangeleenthede van Suidwes-Afrika, 1949 (Wet No. 23 van 1949), of die Wet op die Verteenwoordigende Kleurlingraad, 1964 (Wet No. 49 van 1964), na gelang van die geval, as kandidaat vir die betrokke verkiesing genomineer is.

Erkenning van  
personeel-  
verenigings.

26. Die Minister kan, ooreenkomstig die voorgeskrewe voorwaardes, verenigings erken as verteenwoordigend van persone vermeld in artikel 21 (1).

Kursusse vir die  
onderwys of  
opleiding van  
persone in  
Staatskole en  
Staatsondersteunde  
skole, en afneem  
van eksamens.

27. (1) Die Minister kan kursusse vir die onderwys of opleiding van persone in Staatskole en Staatsondersteunde skole instel, en 'n kursus aldus ingestel, afskaf.

(2) Die Minister bepaal die aard en duur van en die voorwaardes vir toelating tot 'n kursus wat kragtens subartikel (1) ingestel is.

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

(4) Die Minister kan in oorleg met die Minister van Finansies die gelde wat betaalbaar is ten opsigte van die bywoning van

NAMA IN SOUTH WEST AFRICA EDUCATION  
ACT, 1972.

Act No. 86, 1972

- (b) If any penalty on account of misconduct was prior to the commencement of this Act imposed upon any person referred to in paragraph (a), and such penalty is still in force at such commencement, it shall remain in force unless the Minister otherwise directs.

24. (1) If it is alleged that any person referred to in section 21 (1) is unfit for, or is incapable of performing efficiently, the duties attached to his post from 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 enquire into the allegation.

Action in the case of inefficient persons employed at State schools and State-aided schools.

(2) The Secretary may appoint one or more persons to sit in an advisory capacity as assessor or assessors with the person who is to hold the enquiry.

(3) The provisions of subsections (9), (10), (11), (13), (15) to (21), inclusive, and (23), paragraphs (a) and (c) of subsection (25) and paragraph (a) of subsection (29) of section 23 shall *mutatis mutandis* apply in respect of any enquiry referred to in subsection (1) of this section and the person in respect of whom the allegation was made: Provided that in the application of the said subsection (23) the Secretary shall only have the power to recommend that the person in question be discharged from the service of his employer or that his grade be reduced and his emoluments be reduced to the maximum for the reduced grade.

25. (1) A person referred to in section 21 (1) shall not be or become a member of any statutory committee, council, authority or body without the consent of the Minister: Provided that the Minister may, at any time, withdraw such consent.

Holding of office by persons employed at State schools and State-aided schools.

(2) A person referred to in section 21 (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 a statutory committee, council, authority or body referred to in subsection (1), a person referred to in section 21 (1) who is a member of such committee, council, authority or body, shall not take part in the discussion or voting regarding that dispute.

(4) If any person referred to in section 21 (1) seeks election as a member of Parliament, a provincial council, the Legislative Assembly of the territory, or the Coloured Persons Representative Council of the Republic of South Africa, he shall be deemed to have resigned from the service of the Department with effect from the date upon which, in accordance with the provisions of the Electoral Consolidation Act, 1946 (Act No. 46 of 1946), or of the said Act read with the South-West Africa Affairs Amendment Act, 1949 (Act No. 23 of 1949), or the Coloured Persons Representative Council Act, 1964 (Act No. 49 of 1964), as the case may be, he was nominated as a candidate for the election concerned.

26. The Minister may, in accordance with the prescribed conditions, recognize associations as representative of persons referred to in section 21 (1).

Recognition of staff associations.

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

Courses for the education or training of persons in State schools and State-aided schools, and conducting of examinations.

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

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

(4) The Minister may in consultation with the Minister of Finance determine the fees payable in respect of the attendance

Wet No. 86, 1972

WET OP ONDERWYS VIR NAMAS IN SUIDWES-  
AFRIKA, 1972.

kursusse kragtens subartikel (1) ingestel en ten opsigte van eksamens, diplomas en sertifikate vermeld in subartikel (3), en die vrystelling van betaling van sodanige gelde, bepaal.

Inspeksie van  
Staatskole,  
Staatsondersteunde  
skole, en koshuise,  
en onder-  
soeke in verband  
met aangeleenthede  
wat op skole of  
koshuise betrekking  
het.

28 (1) Die Sekretaris of 'n beamppte deur die Sekretaris daartoe gemagtig, kan 'n Staatskool of 'n Staatsondersteunde skool of 'n koshuis wat in verband met 'n Staatskool gebruik word, inspekteer, of ondersoek instel na 'n aangeleentheid wat op so 'n skool of koshuis betrekking het, en kan eis dat die hoof van of iemand anders in diens by so 'n skool aan hom die inligting verstrek waaroor dié hoof of so iemand beskik en wat volgens sy oordeel nodig is vir die uitoefening van sy bevoegdhede, die verrigting van sy werksaamhede en die uitvoering van sy pligte ingevolge hierdie Wet.

(2) Iemand wat kragtens subartikel (1) 'n skool of koshuis inspekteer of 'n ondersoek instel, kan—

(a) indien hy rede het om te vermoed dat iemand in staat is om getuienis af te lê of om 'n stuk of ander voorwerp oor te lê wat by 'n inspeksie of ondersoek kragtens subartikel (1) ter sake sal wees, so iemand deur middel van 'n dagvaarding deur hom onderteken, dagvaar om op 'n tyd en plek vermeld in die dagvaarding, voor hom te verskyn om ondervra te word of om daardie stuk of ander voorwerp oor te lê; en

(b) iemand wat by so 'n inspeksie of ondersoek teenwoordig is en wat kragtens paragraaf (a) gedagvaar is of gedagvaar kon gewees het, as getuie oproep, van hom 'n eed of bevestiging afneem en hom ondervra en aansê om 'n stuk of ander voorwerp oor te lê wat in sy besit of bewaring of onder sy beheer is, en ten opsigte waarvan sodanige eersgenoemde persoon rede het om te vermoed dat dit by die inspeksie of ondersoek ter sake sal wees.

(3) Die reg met betrekking tot getuies en getuienis wat geld in verband met strafsake in 'n landdroshof, geld *mutatis mutandis* ten opsigte van iemand wat ingevolge subartikel (2) (b) as getuie opgeroep word.

(4) Iemand wat iemand anders verhinder om ooreenkomstig 'n dagvaarding uitgereik ingevolge paragraaf (a) van subartikel (2), te verskyn op die betrokke tyd en plek, of 'n stuk of ander voorwerp oor te lê soos kragtens paragraaf (b) van genoemde subartikel vereis, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens vyftig rand of met gevangenisstraf vir 'n tydperk van hoogstens drie maande.

Verpligte  
skoolbesoek.

29. (1) Indien die Minister oortuig is dat daar voldoende en geskikte skoolruimte beskikbaar is, kan hy by kennisgewing in die *Staatskoerant* verklaar dat gereelde besoek aan 'n soort Staatskool of Staatsondersteunde skool vermeld in dié kennisgewing, verpligtend is vir elke Nama wat behoort tot 'n ouderdomsgroep en woonagtig is in 'n gebied aldus vermeld.

(2) Indien 'n ouer of die voog van iemand wat uit hoofde van die bepalinge 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 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 strafbaar, by 'n eerste skuldigbevinding, met 'n boete van hoogstens vyftig rand of met gevangenisstraf vir 'n tydperk van hoogstens drie maande en, by 'n tweede of daaropvolgende skuldigbevinding, met 'n boete van hoogstens honderd rand of met gevangenisstraf vir 'n tydperk van hoogstens ses maande.

NAMA IN SOUTH WEST AFRICA EDUCATION  
ACT, 1972.

Act No. 86, 1972

of courses instituted under subsection (1) and in respect of examinations, diplomas and certificates referred to in subsection (3), and the exemption from the payment of such fees.

28. (1) The Secretary or any officer authorized thereto by the Secretary may inspect any State school or State-aided school, or any hostel used in connection with any State school, or enquire into any matter relating to any such school or hostel, and may require the head of or any other person employed at such school to furnish him with such information at the disposal of such head or person as, in his opinion, may be necessary for the exercise of his powers and the performance of his functions and duties in terms of this Act.

Inspection of State Schools, State-aided schools and hostels, and enquiries in connection with matters relating to schools or hostels.

(2) Any person who inspects any school or hostel or holds an enquiry under subsection (1) may—

(a) if he has reason to believe that any person is able to give evidence or to produce any document or other article which will be relevant to any inspection or enquiry under subsection (1), summon such person by a subpoena under his hand, to appear before him at a time and place specified in the subpoena, to be interrogated or to produce that document or other article; and

(b) call as a witness and administer an oath or affirmation to any person present at such inspection or enquiry who was or might have been summoned under paragraph (a), interrogate such person and require him to produce any document or other article in his possession or custody or under his control which such first-mentioned person has reason to believe may be relevant to the inspection or enquiry.

(3) The law relating to witnesses and evidence which applies in connection with criminal cases in a magistrate's court shall *mutatis mutandis* apply in respect of any person called as a witness in terms of subsection (2) (b).

(4) Any person who prevents any other person from appearing in accordance with a subpoena issued in terms of paragraph (a) of subsection (2) at the time and place in question, or from producing any document or other article as required under paragraph (b) of the said subsection, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty rand or to imprisonment for a period not exceeding three months.

29. (1) If the Minister is satisfied that sufficient and suitable school accommodation is available he may by notice in the *Gazette* declare that regular attendance at such kind of State school or State-aided school as may be specified in such notice, shall be compulsory for every Nama belonging to an age group and resident in an area so specified.

Compulsory school attendance.

(2) If a parent or the 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 a first conviction to a fine not exceeding fifty rand or to imprisonment for a period not exceeding three months, and on a second or subsequent conviction to a fine not exceeding one hundred rand or to imprisonment for a period not exceeding six months.

## Wet No. 86, 1972

WET OP ONDERWYS VIR NAMAS IN SUIDWES-  
AFRIKA, 1972.

Finansiële en ander  
hulp aan leerlinge  
van sekere skole  
en studente  
van 'n universiteit.

30. Die Minister kan uit geld wat die Parlement vir dié doel bewillig het, en op die grondslag en voorwaardes wat hy in oorleg met die Minister van Finansies bepaal, finansiële of ander materiële hulp of finansiële sowel as ander materiële hulp verleen aan 'n leerling van 'n Staatskool of 'n Staatsondersteunde skool, of aan 'n Nama wat 'n student van 'n by wet ingestelde universiteit is.

Betaling van skool-  
en losiesgelde.

31. (1) Iemand wat tot 'n Staatskool toegelaat is, of die persoon wat vir die onderhoud van so iemand verantwoordelik is, moet die skoolgelde (indien daar is) en, indien losies deur die Departement aan so iemand verskaf word, die losiesgelde betaal wat die Minister in oorleg met die Minister van Finansies bepaal.

(2) Verskillende gelde kan ingevolge subartikel (1) ten opsigte van verskillende kategorieë persone bepaal word, en die Minister kan in oorleg met die Minister van Finansies enige persoon of enige kategorie persone geheel en al of ten dele op die wyse wat die Minister goetvind, vrystel van die betaling van gelde aldus bepaal.

Oorgang van  
sekere eiendom en  
verpligtings op  
Staat by oordrag  
van Staatsonder-  
steunde skool aan  
Departement.

32. (1) Vanaf die datum waarop die bestuur van en beheer oor 'n Staatsondersteunde skool ingevolge artikel 5 aan die Departement oorgedra word, gaan alle goedere wat onmiddellik vóór daardie datum aan die bestuursliggaam van daardie skool behoort het en uitsluitend vir die doeleindes van dié skool gebruik was of bestem was om aldus gebruik te word, op die Staat oor, en ná genoemde datum verkry die Staat alle goedere wat aan sodanige bestuursliggaam vir genoemde doeleindes sou toegeval het, indien hierdie Wet nie aangeneem was nie.

(2) Indien goedere wat uit hoofde van 'n trust, skenking of bemaking aan 'n bestuursliggaam behoort het of sou toegeval het, ingevolge subartikel (1) op die Staat oorgaan, moet die Sekretaris met dié goedere ooreenkomstig die voorwaardes van dié trust, skenking of bemaking handel.

(3) Vanaf die datum in subartikel (1) vermeld, gaan die regte en verpligtings wat die betrokke bestuursliggaam vir die doeleindes van of in verband met die betrokke skool verkry of opgeleë het, op die Staat oor.

(4) Geen hereregte, seëlregte of registrasiegelde is betaalbaar nie ten opsigte van die verkryging van enige goedere of regte deur die Staat ingevolge hierdie artikel.

Uitsluiting van  
bepalings van  
Ongevallewet,  
1941.

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

Instelling van  
rade, komitees of  
ander liggame vir  
deelname aan  
bestuur van  
sekere skole.

34. (1) Ten einde die ouers of voogde van leerlinge van Staatskole en Staatsondersteunde skole in staat te stel om deel te neem aan die bestuur van sodanige skole, kan die Minister vir enige sodanige skool of skole 'n raad, komitee of ander liggaam instel op die wyse by regulasie voorgeskryf.

(2) Die samestelling, bevoegdheide, pligte en werksaamhede, en die ampstermyne van lede van 'n raad, komitee of ander liggaam ingestel ingevolge subartikel (1), is soos voorgeskryf.

(3) Die Minister bepaal in oorleg met die Minister van Finansies die toelaes (indien daar is) wat betaalbaar is aan lede van 'n raad, komitee of ander liggaam ingevolge subartikel (1) ingestel.

Oordrag van  
bevoegdheide deur  
die Minister.

35. Die Minister kan 'n bevoegdheid by hierdie Wet aan hom verleen, uitgesonderd die bevoegdheide aan hom verleen by artikels 29, 36 en 37, aan die Sekretaris of 'n ander beampste in die Departement in die algemeen of in 'n besondere geval oordra.

NAMA IN SOUTH WEST AFRICA EDUCATION  
ACT, 1972.

Act No. 86, 1972

30. The Minister may out of moneys appropriated by Parliament for the purpose and on such basis and subject to such conditions as he may in consultation with the Minister of Finance determine, grant financial or other material assistance or both financial and other material assistance to a pupil at a State school or a State-aided school, or to a Nama who is a student of a university established by any law.

Financial and other assistance to pupils at certain schools and students of a university.

31. (1) Any person admitted to a State school or the person liable for the maintenance of any such person, shall pay such school fees (if any) and, if such person is being provided with board by the Department, such boarding fees as the Minister in consultation with the Minister of Finance may determine.

Payment of school and boarding fees.

(2) Different fees may in terms of subsection (1) be determined in respect of different classes of persons, and the Minister may in consultation with the Minister of Finance exempt in such manner as the Minister may deem fit any person or any class of persons wholly or partly from the payment of fees so determined.

32. (1) As from the date on which the management and control of a State-aided school is, in terms of section 5, transferred to the Department, all the property which immediately prior to that date was vested in the governing body of that school and used or intended to be used exclusively for the purposes of such school, shall vest in the State, and after the said date all the property which would have accrued to such governing body for such purposes if this Act had not been passed, shall vest in the State.

Passing of certain property and obligations to State on transfer of State-aided school to Department.

(2) If any property which by trust, donation or bequest was vested in or would have accrued to any governing body, vests in the State in terms of subsection (1), the Secretary shall deal with such property in accordance with the conditions of such trust, donation or bequest.

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

(4) No transfer duty, stamp duty or registration fees shall be payable in respect of the acquisition of any property or rights by the State in terms of this section.

33. No pupil at a State 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 under the said Act or some other person entitled to payment thereunder.

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

34. (1) For the purpose of enabling the parents or guardians of pupils at State schools and State-aided schools to participate in the management of such schools, the Minister may in the manner prescribed by regulation establish for any such school or schools a board, committee or other body.

Establishment of boards, committees or other bodies for participating in management of certain schools.

(2) The constitution, powers, duties and functions, and the periods of office of members of a board, committee or other body established in terms of subsection (1) shall be as prescribed.

(3) The Minister shall in consultation with the Minister of Finance determine the allowances (if any) payable to members of a board, committee or other body established in terms of subsection (1).

35. The Minister may delegate, either generally or in any particular case, any power conferred upon him by this Act, other than the powers conferred upon him by sections 29, 36 and 37, to the Secretary or any other officer in the Department.

Delegation of powers by Minister.

Wet No. 86, 1972

WET OP ONDERWYS VIR NAMAS IN SUIDWES-  
AFRIKA, 1972.

Medium van  
onderrig in  
Staatskole en  
Staatsondersteunde  
skole.

36. Die medium van onderrig en godsdiensoonderrig in Staatskole en Staatsondersteunde skole is soos voorgeskryf: Met dien verstande dat die Minister bepaal in watter mate Nama die medium van sodanige onderrig in sodanige skole is: Met dien verstande voorts dat 'n ouer of voog die reg het om finaal te besluit oor die medium van onderrig (uitgesonderd Nama) van 'n kind van so 'n ouer of voog waar daar twyfel oor die huistaal van so 'n kind bestaan.

Regulasies.

37. (1) Die Minister kan regulasies uitvaardig—

- (a) betreffende aangeleenthede wat ingevolge hierdie Wet by regulasie voorgeskryf moet of kan word;
- (b) wat aan die Sekretaris en ander beamptes in die Departement bevoegdhede verleen en pligte oplê in verband met die uitvoering van die bepalings van hierdie Wet;
- (c) betreffende die instelling, oprigting, instandhouding en bestuur van en beheer oor Staatskole en koshuise, kwartiere vir onderwysers, skoolklinieke en ander toebehore in verband met sodanige skole;
- (d) betreffende die toelating van persone tot, die beheer van leerlinge by en hul ontslag uit Staatskole en Staatsondersteunde skole, en die skorsing van of die oplegging of toediening van ander strawwe aan leerlinge van sodanige skole;
- (e) behoudens die bepalings van artikels 9 en 13, betreffende die aanstelling van persone vir diens by Staatskole en Staatsondersteunde skole en die grade-ring, bevordering, verplasing, ontslag, tug, gedrag, bevoegdhede, pligte, diensure, verlofvoorregte en ander diensvoorwaardes van, die bewoning van kwartiere vir onderwysers deur, en die betaling van reis-, verblyf- en ander toelaes en vergoeding vir diens buite die voorgeskrewe diensure aan, persone ingevolge hierdie Wet vir diens by sodanige skole aangestel en persone wat geag word ingevolge hierdie Wet aangestel te wees;
- (f) wat voorsiening maak vir die registrasie van Namas wat hulle as onderwysers bekwaam het;
- (g) betreffende die mediese ondersoek van onderwysers in diens by en leerlinge van Staatskole en Staatsondersteunde skole, en die uitreiking van sertifikate in verband met sodanige ondersoeke;
- (h) betreffende die geestelike, liggaamlike of ander ondersoek van iemand wat, na vermoed word, 'n gestremde kind is en ingevolge artikel 29 verplig is om 'n skool gereeld te besoek;
- (i) betreffende die skool wat iemand vir die doeleindes van artikel 29 moet besoek, en vrystelling van die verpligting om 'n skool aldus te besoek;
- (j) betreffende onderwys- en opleidingskursusse in Staatskole en Staatsondersteunde skole;
- (k) betreffende die inspeksie van Staatskole en Staatsondersteunde skole, van koshuise, kwartiere, klinieke en ander toebehore wat in verband met sodanige skole gebruik word, en van leerlinge van sodanige skole;
- (l) betreffende die afneem van eksamens van en die toekenning van diplomas en sertifikate aan persone wat 'n onderwys- of opleidingskursus in 'n Staatskool of 'n Staatsondersteunde skool gevolg het;
- (m) betreffende losies verskaf deur die Departement;
- (n) betreffende beheer oor geld wat vir 'n Staatskool of 'n Staatsondersteunde skool ingesamel word;
- (o) betreffende enige ander aangeleentheid, oor die algemeen, ten opsigte waarvan die Minister dit nodig of dienstig ag om regulasies uit te vaardig ten einde die oogmerke van hierdie Wet te bereik.

NAMA IN SOUTH WEST AFRICA EDUCATION  
ACT, 1972.

Act No. 86, 1972

36. The medium of instruction and religious instruction at State schools and State-aided schools shall be as prescribed: Provided that the Minister may determine to what extent Nama shall be the medium of instruction in such schools: Provided further that any parent or guardian shall have the right of final decision regarding the medium of instruction (except Nama) of a child of such parent or guardian where any doubt exists as to the home language of such child.

Medium of instruction in state schools and State-aided schools.

37. (1) The Minister may make regulations—

Regulations.

- (a) as to any matters which by this Act are required or permitted to be prescribed by regulation;
- (b) conferring powers and imposing duties upon the Secretary and other officers in the Department in connection with the administration of the provisions of this Act;
- (c) as to the establishment, erection, maintenance, management and control of State schools and hostels, teachers' quarters, school clinics and any other accessories in connection with such schools;
- (d) as to the admission of persons to, the control of pupils at, and their discharge from, State schools and State-aided schools, and the suspension of or the imposition or infliction of other punishments upon pupils at such schools;
- (e) subject to the provisions of sections 9 and 13 as to the appointment of persons for duty at State schools and State-aided schools and the grading, promotion, transfer, discharge, discipline, behaviour, powers, duties, hours of attendance, leave privileges and other conditions of service of, the occupation of teachers' quarters by, and the payment of travelling, subsistence and other allowances and remuneration for services outside the prescribed hours of attendance to, persons appointed for duty at such schools in terms of this Act and persons deemed to be appointed in terms of this Act;
- (f) providing for the registration of Nama qualified as teachers;
- (g) as to the medical examination of teachers employed at, and of pupils at, State schools and State-aided schools, and the issue of certificates in connection with such examinations;
- (h) as to the mental, bodily or other examination of any person who is suspected of being a handicapped child and is in terms of section 29 required to attend a school regularly;
- (i) as to the school which any person is to attend for the purposes of section 29, and exemption from the obligation so to attend a school;
- (j) as to the courses of education and training in State schools and State-aided schools;
- (k) as to the inspection of State schools and State-aided schools, of hostels, quarters, clinics and other accessories used in connection with such schools, and of pupils at such schools;
- (l) as to the conducting of examinations in respect of and the awarding of diplomas and certificates to persons who attended a course of education or training at a State school or State-aided school;
- (m) as to board provided by the Department;
- (n) as to the control of moneys collected for any State school or any State-aided school;
- (o) as to any other matter, generally, in respect of which the Minister may deem it necessary or expedient to make regulations in order to achieve the objects of this Act.

Wet No. 86, 1972

WET OP ONDERWYS VIR NAMAS IN SUIDWES-  
AFRIKA, 1972.

(2) Die algemeenheid van die bevoegdheid by paragraaf (o) van subartikel (1) verleen, word nie deur die bepalinge van die ander paragrawe van genoemde subartikel beperk nie.

(3) Verskillende regulasies kan kragtens subartikel (1) ten opsigte van verskillende skole of verskillende soorte skole uitgevaardig word.

(4) Regulasies kragtens subartikel (1) kan met terugwerkende krag uitgevaardig word vanaf 'n datum wat nie vroeër is nie as die datum van inwerkingtreding van hierdie Wet.

(5) Regulasies kragtens subartikel (1) uitgevaardig, kan ten opsigte van 'n oortreding daarvan of versuim om daaraan te voldoen, 'n straf voorskryf van 'n boete van hoogstens vyftig rand of gevangenisstraf vir 'n tydperk van hoogstens drie maande.

Herroeping  
van wette.

38. Die wette van die gebied in die Bylae vermeld, word hierby herroep in die mate in die derde kolom van die Bylae uiteengesit.

Kort titel en  
inwerkingtreding.

39. Hierdie Wet heet die Wet op Onderwys vir Namas in Suidwes-Afrika, 1972, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

## Bylae.

## WETTE HERROEP.

| No. en Jaar van Wet.                                               | Titel of Onderwerp van Wet.                                                                             | In hoeverre herroep. |
|--------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|----------------------|
| Ordonnansie No. 27 van 1962.                                       | Onderwysordonnansie 1962.                                                                               | Hoofstuk X.          |
| Proklamasie No. 84 van 1963 van die Administrateur van die gebied. | Datum van inwerkingtreding van die Onderwysordonnansie 1962, en toepassing van sekere artikels daarvan. | Paragraaf (iii).     |
| Proklamasie No. 22 van 1965 van die Administrateur van die gebied. | Wysiging van paragraaf (iii) van genoemde Proklamasie No. 84 van 1963.                                  | Die geheel.          |

NAMA IN SOUTH WEST AFRICA EDUCATION  
ACT, 1972.

Act No. 86, 1972

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

(3) Different regulations may under subsection (1) be made in respect of different schools or different kinds of schools.

(4) Regulations under subsection (1) may be made with retrospective effect from a date not earlier than the date of commencement of this Act.

(5) Regulations made under subsection (1) may prescribe, in respect of any contravention thereof or failure to comply therewith, a penalty of a fine not exceeding fifty rand or imprisonment for a period not exceeding three months.

38. The laws of the territory set out in the Schedule are hereby repealed to the extent specified in the third column thereof. Repeal of laws.

39. This Act shall be called the Nama in South-West Africa Education Act, 1972, and shall come into operation on a date to be fixed by the State President by proclamation in the Gazette. Short title and commencement.

**Schedule.**

LAWS REPEALED.

| No. and Year of Law.                                               | Title or Subject of Law.                                                                            | Extent of Repeal. |
|--------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|-------------------|
| Ordinance No. 27 of 1962.                                          | Education Ordinance, 1962.                                                                          | Chapter X.        |
| Proclamation No. 84 of 1963 of the Administrator of the territory. | Date of commencement of the Education Ordinance, 1962, and application of certain sections thereof. | Paragraph (iii).  |
| Proclamation No. 22 of 1965 of the Administrator of the territory. | Amendment of paragraph (iii) of the said Proclamation No. 84 of 1963.                               | The whole.        |

