



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

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No. 10458

KANTOOR VAN DIE STAATSPRESIDENT

No. 1969.

24 September 1986

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

No. 104 van 1986: Wet op Private Skole (Volksraad), 1986.

STATE PRESIDENT'S OFFICE

No. 1969.

24 September 1986

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

No. 104 of 1986: Private Schools Act (House of Assembly), 1986.

WET

Om voorsiening te maak vir die registrasie van, die beheer oor,
en die verlening van geldelike toekennings aan, private skole,
en vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 10 September 1986.)

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

Woordomskrywing.

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

- (i) "beroepsonderwys" beroepsonderwys soos in artikel 1 5
van die Wet op Onderwysdienste, 1967 (Wet No. 41
van 1967), omskryf; (xii)
- (ii) "Departement" die Departement van Onderwys en
Kultuur; (i)
- (iii) "hierdie Wet" ook 'n regulasie; (xi) 10
- (iv) "Minister" die Minister van Onderwys en Kultuur; (v)
- (v) "onderwys" onderwys waarvoor 'n provinsiale onder-
wysdepartement verantwoordelik is, maar nie ook pre-
primêre onderwys, beroepsonderwys of onderwysers-
opleiding nie; (ii) 15
- (vi) "Onderwyshoof" die hoof van die Departement; (iv)
- (vii) "onderwysordonnansie" die Onderwysordonnansie,
1956 (Ordonnansie No. 20 van 1956 van die Kaap die
Goeie Hoop), die Ordonnansie op Spesiale Onderwys,
1968 (Ordonnansie No. 25 van 1968 van die Kaap die
Goeie Hoop), die Natalse Onderwysordonnansie, 1969
(Ordonnansie No. 46 van 1969), die Onderwysordon-
nansie, 1953 (Ordonnansie No. 29 van 1953 van Trans-
vaal), die Ordonnansie op Spesiale Onderwys, 1968
(Ordonnansie No. 20 van 1968 van Transvaal), of die 25
Ordonnansie op Onderwys, 1980 (Ordonnansie No. 12
van 1980 van die Oranje-Vrystaat), en ook 'n regulasie
daarkragtens uitgevaardig; (iii)
- (viii) "private skool" 'n ander skool as 'n skool wat deur 'n
provinsiale onderwysdepartement in stand gehou, be- 30
stuur en beheer word, maar—
 - (a) nie ook 'n laer kerkskool, plaasskool of private
spesiale skool of klas in 'n onderwysordonnansie
genoem nie; en
 - (b) by die toepassing van artikels 2, 3, 4, 5 en 7, nie 35
ook 'n private skool wat deur minder as twintig
leerlinge besoek word nie; (vii)
- (ix) "provinsiale onderwysdepartement" die uitvoerende
komponent van die Departement wat vir die onderrig,
opvoeding en opleiding van blankes in 'n provinsie ver- 40
antwoordelik is; (viii)

ACT

To provide for the registration of, the control over, and the making of financial grants to, private schools, and for matters connected therewith.

*(English text signed by the State President.)
(Assented to 10 September 1986.)*

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

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

Definitions.

- 5 (i) "Department" means the Department of Education and Culture; (ii)
- (ii) "education" means education for which a provincial education department is responsible, but does not include pre-primary education, vocational education or teacher training; (v)
- 10 (iii) "education ordinance" means the Education Ordinance, 1956 (Ordinance No. 20 of 1956 of the Cape of Good Hope), the Special Education Ordinance, 1968 (Ordinance No. 25 of 1968 of the Cape of Good Hope), the Natal Education Ordinance, 1969 (Ordinance No. 46 of 1969), the Education Ordinance, 1953 (Ordinance No. 29 of 1953 of the Transvaal), the Special Education Ordinance, 1968 (Ordinance No. 20 of 1968 of the Transvaal), or the Education Ordinance, 1980 (Ordinance No. 12 of 1980 of the Orange Free State), and includes any regulation made thereunder;
- 15 (vii)
- (iv) "Head of Education" means the head of the Department; (vi)
- (v) "Minister" means the Minister of Education and Culture; (iv)
- 25 (vi) "prescribed" means prescribed by regulation; (xii)
- (vii) "private school" means any school other than a school maintained, managed and controlled by a provincial education department, but—
- 30 (a) does not include a church primary school, farm school or private special school or class mentioned in an education ordinance; and
- (b) for the purposes of sections 2, 3, 4, 5 and 7, does not include a private school attended by less than
- 35 twenty pupils; (viii)
- (viii) "provincial education department" means the executive component of the Department responsible for the instruction, teaching and training of white persons in a province; (ix)
- 40 (ix) "regulation" means a regulation made under section 9 (1); (x)

Wet No. 104, 1986

WET OP PRIVATE SKOLE (VOLKSRAAD), 1986

- (x) "regulasie" 'n regulasie kragtens artikel 9 (1) uitgevaardig; (ix)
- (xi) "skool" 'n onderwysinrigting of 'n deel van 'n onderwysinrigting waar onderwys aan leerlinge verskaf word; (x)
- (xii) "voorgeskryf" by regulasie voorgeskryf. (vi) 5
- Verbod op instandhouding van private skole tensy geregistreer.
2. Niemand mag 'n private skool in stand hou nie tensy daardie private skool ingevolge hierdie Wet geregistreer is.
- Aansoeke om registrasie van private skole.
3. (1) Iemand wat van voorneme is om 'n private skool in stand te hou, moet skriftelik by die Onderwyshoof om die registrasie van daardie private skool aansoek doen. 10
- (2) 'n Aansoeker om die registrasie van 'n private skool moet die bykomende besonderhede in verband met sy aansoek verstrek wat die Onderwyshoof vereis.
- Oorweging van aansoeke om registrasie van private skole.
4. (1) Die Onderwyshoof kan na goeë dunnke 'n aansoek be- 15
doel in artikel 3 toestaan of van die hand wys, maar hy staan nie 'n aansoek toe nie indien hy van oordeel is dat die private skool nie aan die voorgeskrewe vereistes voldoen nie.
- (2) Indien die Onderwyshoof 'n aansoek bedoel in artikel 3 van die hand wys, moet hy die aansoeker skriftelik van so 'n af- 20
wysing en die redes daarvoor in kennis stel.
- Registrasie van private skole.
5. (1) Indien die Onderwyshoof 'n aansoek bedoel in artikel 3 toestaan, moet hy die betrokke private skool registreer en 'n registrasiesertifikaat in die vorm wat hy bepaal, aan die aansoeker uitreik. 25
- (2) Die registrasie van 'n private skool is onderworpe aan die voorgeskrewe voorwaardes.
- (3) Die registrasie van 'n private skool ingevolge hierdie Wet onthef nie iemand van enige ander verpligting ten opsigte van registrasie ingevolge 'n ander wet nie. 30
- Geldelike toekennings aan geregistreerde private skole.
6. (1) 'n Geregistreerde private skool kan jaarliks op of voor die voorgeskrewe datum skriftelik by die Onderwyshoof om die voorgeskrewe geldelike toekenning aansoek doen.
- (2) Die Onderwyshoof kan na goeë dunnke 'n aansoek bedoel in subartikel (1) toestaan of van die hand wys, maar hy staan nie 'n aansoek toe nie indien hy van oordeel is dat die geregistreerde private skool nie aan die voorgeskrewe vereistes vir die geldelike toekenning voldoen nie. 35
- Misdrywe en strawwe.
7. Iemand wat—
- (a) 'n bepaling van artikel 2 oortree, of 'n private skool 40
wat nie ingevolge hierdie Wet geregistreer is nie, bestuur of beheer; of
- (b) in of in verband met 'n aansoek om die registrasie van 'n private skool opsetlik inligting verstrek of 'n verklaring doen wat vals of misleidend is, 45
- is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R4 000 of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar of met sowel daardie boete as daardie gevangenisstraf.
- Appel na Minister teen afwysing van aansoek deur Onderwyshoof.
8. (1) Iemand wat hom veronreg voel deur die afwysing van 'n 50
aansoek deur die Onderwyshoof kragtens artikel 4 (1), kan op die voorgeskrewe wyse en binne die voorgeskrewe tydperk teen so 'n afwysing na die Minister appelleer.
- (2) Die Minister moet 'n appel wat ooreenkomstig subartikel (1) by hom aangeteken word op die voorgeskrewe wyse oor- 55
weeg, en kan—
- (a) die appel handhaaf en die betrokke aansoek toestaan; of
- (b) die appel van die hand wys.
- (3) 'n Beslissing deur die Minister kragtens subartikel (2) (a) 60
geneem, word by die toepassing van artikel 5 (1) geag 'n beslissing te wees wat deur die Onderwyshoof geneem is.

PRIVATE SCHOOLS ACT (HOUSE OF ASSEMBLY), 1986

Act No. 104, 1986

- (x) "school" means any educational institution or any part of an educational institution at which education is provided to pupils; (xi)
- (xi) "this Act" includes a regulation; (iii)
- 5 (xii) "vocational education" means vocational education as defined in section 1 of the Educational Services Act, 1967 (Act No. 41 of 1967). (i)
2. No person shall maintain a private school unless that private school is registered in terms of this Act. Maintenance of private schools prohibited unless registered.
- 10 3. (1) Any person intending to maintain a private school shall apply to the Head of Education in writing for the registration of that private school. Applications for registration of private schools.
- (2) An applicant for the registration of a private school shall furnish such additional particulars in connection with his application as the Head of Education may require.
- 15 4. (1) The Head of Education may at his discretion grant or refuse an application referred to in section 3, but he shall not grant any application if he is of the opinion that the private school does not comply with the prescribed requirements. Consideration of applications for registration of private schools.
- 20 (2) If the Head of Education refuses an application referred to in section 3, he shall notify the applicant in writing of any such refusal and the reasons therefor.
5. (1) If the Head of Education grants an application referred to in section 3, he shall register the private school in question and issue to the applicant a registration certificate in such form as he may determine. Registration of private schools.
- 25 (2) The registration of a private school shall be subject to the prescribed conditions.
- (3) The registration of a private school in terms of this Act shall not exempt any person from any other duty in respect of registration in terms of any other law.
- 30 6. (1) A registered private school may annually on or before the prescribed date apply to the Head of Education in writing for the prescribed financial grant. Financial grants to registered private schools.
- 35 (2) The Head of Education may at his discretion grant or refuse an application referred to in subsection (1), but he shall not grant any application if he is of the opinion that the registered private school does not comply with the prescribed requirements for the financial grant.
- 40 7. Any person who— Offences and penalties.
- (a) contravenes a provision of section 2, or manages or controls a private school not registered in terms of this Act; or
- 45 (b) in or in connection with an application for the registration of a private school wilfully furnishes information or makes a statement which is false or misleading, shall be guilty of an offence and liable on conviction to a fine not exceeding R4 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.
- 50 8. (1) Any person aggrieved by the refusal of an application by the Head of Education under section 4 (1), may in the prescribed manner and within the prescribed period appeal against any such refusal to the Minister. Appeal to Minister against refusal of application by Head of Education.
- (2) The Minister shall in the prescribed manner consider an appeal lodged with him in accordance with subsection (1), and may—
- (a) allow the appeal and grant the application in question; or
- (b) disallow the appeal.
- 60 (3) A decision taken by the Minister under subsection (2) (a) shall for the purposes of section 5 (1) be deemed to be a decision taken by the Head of Education.

Wet No. 104, 1986

WET OP PRIVATE SKOLE (VOLKSRAAD), 1986

Regulasies.

9. (1) Die Minister kan regulasies uitvaardig betreffende—
- (a) die toelating van leerlinge tot 'n geregistreerde private skool;
 - (b) die toelating van sodanige leerlinge tot eksamens wat deur of onder toesig van 'n provinsiale onderwysdepartement afgeneem word; 5
 - (c) die aanstelling van onderwysers by 'n geregistreerde private skool;
 - (d) die hou van registers of ander stukke deur 'n geregistreerde private skool; 10
 - (e) die inspeksie van 'n geregistreerde private skool en die ondersoek van sodanige registers of stukke;
 - (f) die wyse waarop 'n geldelike toekenning, indien die aansoek daarom goedgekeur is, aan 'n geregistreerde private skool betaalbaar is; 15
 - (g) die verval of intrekking van die registrasie van 'n private skool;
 - (h) 'n aangeleentheid wat by hierdie Wet by regulasie voorgeskryf moet of kan word; en
 - (i) in die algemeen, 'n aangeleentheid wat die Minister nodig of dienstig ag om voor te skryf ten einde die oogmerke van hierdie Wet te verwesenlik. 20
- (2) Verskillende regulasies kan kragtens subartikel (1) ten opsigte van verskillende provinsiale onderwysdepartemente uitgevaardig word. 25
- (3) Regulasies kragtens subartikel (1) uitgevaardig, kan—
- (a) strawwe vir 'n oortreding daarvan of versuim om daaraan te voldoen, voorskryf wat 'n boete van R4 000 of gevangenisstraf vir 'n tydperk van twee jaar nie te bowe gaan nie; of 30
 - (b) met terugwerkende krag uitgevaardig word vanaf 'n datum wat nie vroeër is nie as die datum van inwerking-treding van hierdie Wet.

Opdrag van werksaamhede deur Onderwyshoof.

10. (1) Die Onderwyshoof kan—
- (a) aan die hoof van 'n provinsiale onderwysdepartement 'n bevoegdheid by hierdie Wet aan die Onderwyshoof verleen, delegeer; of 35
 - (b) so 'n hoof magtig om 'n plig by hierdie Wet aan die Onderwyshoof opgedra, te verrig.
- (2) 'n Delegering kragtens subartikel (1) (a) belet nie die uitoefening van die betrokke bevoegdheid deur die Onderwyshoof self nie. 40

Uitsluiting van bepalinge van onderwysordonnansies.

11. (1) Behoudens die bepalinge van hierdie artikel hou 'n bepaling van 'n onderwysordonnansie op om van krag te wees vir sover dit handel oor 'n aangeleentheid wat in hierdie Wet gereël word. 45
- (2) 'n Private skool wat geregistreer is ingevolge 'n bepaling van 'n onderwysordonnansie wat op grond van subartikel (1) ophou om van krag te wees, word geag ingevolge artikel 5 (1) van hierdie Wet geregistreer te wees. 50
- (3) 'n Verwysing in 'n onderwysordonnansie—
- (a) na 'n private skool wat geregistreer is ingevolge 'n bepaling wat op grond van subartikel (1) ophou om van krag te wees, word, tensy dit met die samehang onbestaanbaar of andersins duidelik onvanpas is, uitgelê as 'n verwysing na 'n private skool wat in die betrokke provinsie geleë en ingevolge hierdie Wet geregistreer is; 55
 - (b) na sodanige private skool wat kragtens 'n bepaling van daardie onderwysordonnansie hulptoelae ontvang of gesubsidieer of ondersteun word, word, tensy dit met die samehang onbestaanbaar of andersins duidelik onvanpas is, uitgelê as 'n verwysing na 'n private skool wat in die betrokke provinsie geleë is en waaraan 'n geldelike toekenning kragtens hierdie Wet verleen word. 60 65

Kort titel en inwerking-treding.

12. Hierdie Wet heet die Wet op Private Skole (Volksraad), 1986, en word geag op 1 April 1986 in werking te getree het.

PRIVATE SCHOOLS ACT (HOUSE OF ASSEMBLY), 1986

Act No. 104, 1986

9. (1) The Minister may make regulations as to—

Regulations.

- (a) the admission of pupils to a registered private school;
- (b) the admission of such pupils to examinations conducted by or under the supervision of a provincial education department;
- (c) the appointment of teachers at a registered private school;
- (d) the keeping of registers or other documents by a registered private school;
- (e) the inspection of a registered private school and the examination of such registers or documents;
- (f) the manner in which any financial grant, if the application therefor has been granted, shall be payable to a registered private school;
- (g) the lapse or cancellation of the registration of a private school;
- (h) any matter required or permitted by this Act to be prescribed by regulation; and
- (i) in general, any matter which the Minister may consider necessary or expedient to prescribe in order that the objects of this Act may be achieved.

(2) Different regulations may be made under subsection (1) in respect of different provincial education departments.

(3) Regulations made under subsection (1) may—

- (a) prescribe penalties for any contravention thereof or failure to comply therewith not exceeding a fine of R4 000 or imprisonment for a period of two years; or
- (b) be made with retrospective effect from a date not earlier than the date of commencement of this Act.

10. (1) The Head of Education may—

Assignment of functions by Head of Education.

- (a) delegate to the head of a provincial education department any power conferred upon the Head of Education by this Act; or
- (b) authorize any such head to perform any duty assigned to the Head of Education by this Act.

(2) Any delegation under subsection (1) (a) shall not prevent the exercise of the relevant power by the Head of Education himself.

11. (1) Subject to the provisions of this section, any provision of an education ordinance shall cease to be of force in so far as it deals with any matter provided for in this Act.

Exclusion of provisions of education ordinances.

(2) Any private school registered in terms of any provision of an education ordinance which ceases to be of force by reason of subsection (1) shall be deemed to be registered in terms of section 5 (1) of this Act.

(3) A reference in any education ordinance—

- (a) to a private school registered in terms of any provision which ceases to be of force by reason of subsection (1), shall, unless inconsistent with the context or otherwise clearly inappropriate, be construed as a reference to a private school situated in the relevant province and registered in terms of this Act;
- (b) to such private school receiving grants-in-aid or subsidized or aided under any provision of that education ordinance, shall, unless inconsistent with the context or otherwise clearly inappropriate, be construed as a reference to a private school situated in the relevant province and to which any financial grant is made under this Act.

12. This Act shall be called the Private Schools Act (House of Assembly), 1986, and shall be deemed to have come into operation on 1 April 1986.

Short title and commencement.

