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PROKLAMASIE

*van die
President*

van die Republiek van Suid-Afrika

No. 138, 1994

RASIONALISERING VAN STAATSADMINISTRASIE
KRAGTENS DIE GRONDWET VAN DIE REPUBLIEK
VAN SUID-AFRIKA, 1993: VERVANGING VAN
SOMMIGE VAN DIE WETTE OP OPVOEDERS

Kragtens artikel 237 (3) van die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993), vervang ek hierby sommige van die wette op opvoeders deur die Wet in die Bylae.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria, op hede die Ses-entwintigste dag van Augustus Eenduisend Negehoenderd Vier-en-negentig.

N. R. MANDELA,
President.

Op las van die President-in-Kabinet:

S. M. BENGU,
Minister van die Kabinet.

PROCLAMATION

*by the
President*

of the Republic of South Africa

No. 138, 1994

RATIONALISATION OF PUBLIC ADMINISTRATION
UNDER THE CONSTITUTION OF THE REPUBLIC
OF SOUTH AFRICA, 1993: REPLACEMENT OF
SOME OF THE LAWS ON EDUCATORS

Under section 237 (3) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), I hereby replace some of the laws on educators with the Act in the Schedule.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Twenty-sixth day of August, One thousand Nine hundred and Ninety-four.

N. R. MANDELA,
President.

By Order of the President-in-Cabinet:

S. M. BENGU,
Minister of the Cabinet.

BYLAE

REPUBLIEK VAN SUID-AFRIKA

WET OP INDIENSNEMING VAN
OPVOEDERS, 1994

Woordomskriving

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

- (i) **“bedinge en voorwaardes van diens”** ook, maar is dit nie beperk nie tot, besoldiging, vergoeding en diensvoordele; (xix)
- (ii) **“besoldiging”** salarisse, lone, bonusse, toelaes en oortydbetaling betaalbaar aan opvoeders in ruil vir hulle dienste; (xiv)
- (iii) **“departementele onderwysinstelling”** 'n staatsonderwysinstelling wat bestuur, beheer en volledig gefinansier word deur die Staat; (iii)
- (iv) **“diensvoordele”** voorregte, *in natura*-items en gelde, uitgesonderd besoldiging en vergoeding, verskuldig aan 'n opvoeder ingevolge 'n ooreenkoms; (xv)
- (v) **“gesubsidieerde pos”** 'n pos by 'n staats-ondersteunde onderwysinstelling ten opsigte waarvan 'n subsidie ingevolge 'n wet deur die Staat betaal word; (xviii)
- (vi) **“Grondwet”** die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993); (iii)
- (vii) **“hierdie Wet”** ook 'n regulasie uitgevaardig kragtens hierdie Wet; (xx)
- (viii) **“Lid van die Uitvoerende Raad”** die lid van 'n Uitvoerende Raad belas met die portefeulje onderwys ingevolge artikel 149 (4) van die Grondwet, of die lid van 'n Uitvoerende Raad wat deur die Premier aangewys is om uitvoering te gee aan die bepalings van hierdie Wet in die betrokke provinsie; (xi)
- (ix) **“Minister”** die lid van die Kabinet verantwoordelik vir onderwys; (xii)
- (x) **“opvoeder”** 'n persoon wat ander persone leer, opvoed of oplei of professionele terapie verskaf by enige skool, tegniese kollege of onderwyskollege, of help om professionele dienste te lewer of onderwysbestuursdienste of onderwysshulpdienste lewer wat deur of in 'n onderwysdepartement verskaf word, en wie se diens deur hierdie Wet gereël word; (v)
- (xi) **“staatsondersteunde onderwysinstelling”** 'n ander staatsonderwysinstelling as 'n departementele onderwysinstelling; (xvi)

SCHEDULE

REPUBLIC OF SOUTH AFRICA

EDUCATORS' EMPLOYMENT ACT, 1994

Definitions

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

- (i) **“compensation”** means payments, reimbursements or services to an educator as compensation for financial loss suffered by him or her as a result of the performance of his or her duties; (xv)
- (ii) **“Constitution”** means the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993); (vi)
- (iii) **“departmental educational institution”** means a state educational institution which is managed, controlled and wholly funded by the State; (iii)
- (iv) **“Education Labour Relations Act”** means the Education Labour Relations Act, 1993 (Act No. 146 of 1993); (xvii)
- (v) **“educator”** means any person who teaches, educates or trains other persons or provides professional therapy at any school, technical college or college of education or assists in rendering professional services or performs education management services or educational auxiliary services provided by or in a department of education, and whose employment is regulated by this Act; (x)
- (vi) **“employee organisation”** means an organisation whose membership consists mainly of educators, and includes a federation of such organisations; (xx)
- (vii) **“employee member”** means an employee organisation that is a member of the Education Labour Relations Council established in terms of section 6 of the Education Labour Relations Act; (xix)
- (viii) **“employer”** means—
 - (a) in the case of a departmental educational institution or office, the head of a department; and
 - (b) in the case of a state-aided educational institution, the body which employs an educator; (xviii)
- (ix) **“Executive Council”** means an Executive Council of a province as contemplated in section 149 of the Constitution; (xiii)
- (x) **“fixed date”** means the date of the commencement of this Act; (xiv)

- (xii) **"staatsonderwysinstelling"** 'n instelling (met inbegrip van 'n kantoor wat so 'n instelling beheer), uitgesonderd 'n universiteit of teknikon, wat in die geheel of gedeeltelik deur die Staat befonds word en ten aansien waarvan die besoldiging en diensvoorwaardes van opvoeders by of kragtens 'n wet bepaal word, uitgesonderd 'n private skool en 'n private kollege; (xvii)
- (xiii) **"Uitvoerende Raad"** 'n Uitvoerende Raad van 'n provinsie soos beoog in artikel 149 van die Grondwet; (ix)
- (xiv) **"vasgestelde datum"** die datum waarop hierdie Wet in werking tree; (x)
- (xv) **"vergoeding"** betalings, terugbetalings of dienste aan 'n opvoeder as vergoeding vir finansiële verliese deur hom of haar gely as gevolg van die verrigting van sy of haar pligte; (i)
- (xvi) **"voorgeskrif"** by regulasie voorgeskryf; (xiii)
- (xvii) **"Wet op Arbeidsverhoudinge in die Onderwys"** die Wet op Arbeidsverhoudinge in die Onderwys, 1993 (Wet No. 146 van 1993); (iv)
- (xviii) **"werkgewer"**—
 - (a) in die geval van 'n departementele onderwysinstelling of kantoor, die hoof van 'n departement; en
 - (b) in die geval van 'n staatsondersteunde onderwysinstelling, die liggaam wat 'n opvoeder in diens neem; (viii)
- (xix) **"werknemerslid"** 'n werknemersorganisasie wat 'n lid is van die Raad vir Arbeidsverhoudinge in die Onderwys ingestel by artikel 6 van die Wet op Arbeidsverhoudinge in die Onderwys; (vii)
- (xx) **"werknemersorganisasie"** 'n organisasie wie se lede hoofsaaklik uit opvoeders bestaan, en sluit dit 'n federasie van sulke organisasies in. (vi)
- (xi) **"Member of the Executive Council"** means the member of an Executive Council entrusted with the portfolio of education in terms of section 149 (4) of the Constitution, or the member of an Executive Council designated by the Premier to give effect to the provisions of this Act in the province concerned; (viii)
- (xii) **"Minister"** means the member of the Cabinet responsible for education; (ix)
- (xiii) **"prescribed"** means prescribed by regulation; (xvi)
- (xiv) **"remuneration"** means salaries, wages, bonuses, allowances and payment for overtime payable to educators in exchange for their services; (ii)
- (xv) **"service benefits"** means privileges, *in natura* items and moneys, excluding remuneration and compensation, due to an educator in terms of any agreement; (iv)
- (xvi) **"state-aided educational institution"** means a state educational institution other than a departmental educational institution; (xi)
- (xvii) **"state educational institution"** means an institution (including an office controlling such an institution), other than a university or teknikon, which is wholly or partly funded by the State and in regard to which the remuneration and service conditions of educators are determined by or under a law, excluding a private school and private college; (xii)
- (xviii) **"subsidised post"** means a post at a state-aided educational institution in respect of which a subsidy is paid by the State in terms of any law; (v)
- (xix) **"terms and conditions of employment"** includes, but is not limited to, remuneration, compensation and service benefits; (i)
- (xx) **"this Act"** includes any regulation made under this Act; (vii)

Toepassing van Wet

2. Die bepalings van hierdie Wet is van toepassing op die indiensneming van opvoeders in die nasionale grondgebied van die Republiek van Suid-Afrika soos in die Grondwet omskryf.

Diensstate van staatsonderwysinstellings

3. (1) Ondanks andersluidende bepalings in enige ander wet, maar behoudens die Wet op die Nasionale Beleid vir Algemene Onderwys, 1984 (Wet No. 76 van 1984), bestaan die diensstate van 'n staatsonderwysinstelling uit die poste wat die Lid van die Uitvoerende Raad skep.

Application of Act

2. The provisions of this Act shall apply to the employment of educators in the national territory of the Republic of South Africa as defined in the Constitution.

Establishments of state educational institutions

3. (1) Notwithstanding anything to the contrary contained in any other law, but subject to the National Policy for General Education Affairs Act, 1984 (Act No. 76 of 1984), the establishment at a state educational institution shall consist of the posts which the Member of the Executive Council creates.

(2) Die werkgewer kan ongesubsidieerde poste skep bykomend by die diensstaat in subartikel (1) bedoel.

(3) Opvoeders kan bykomend by die diensstaat bedoel in subartikel (1) op 'n tydelike basis aangestel word met die goedkeuring van die Lid van die Uitvoerende Raad.

(4) 'n Pos bedoel in subartikel (1) kan hergradeer, herbenaam, omskep of afgeskaf word.

Aanstelling en bevordering van opvoeders

4. (1) Die kwalifikasies vir aanstelling en bevordering as opvoeders is soos voorgeskryf.

(2) Poste word gevul deur aanstelling, oorplasing of bevordering, en die bevoegdheid om 'n pos te vul wat kragtens artikel 3 geskep is, berus, behoudens die bepalings van hierdie Wet, by die werkgewer, wat sodanige bevoegdheid uitoefen met betrekking tot poste bedoel in artikel 3 (1), onderworpe aan die vooraf verkreeë goedkeuring van die Lid van die Uitvoerende Raad.

(3) 'n Opvoeder kan kragtens subartikel (2) aangestel word—

- (a) in 'n permanente hoedanigheid, met inbegrip van 'n aanstelling op die permanente aflosspersoneel, hetsy op proef al dan nie; of
- (b) tydelik op of spesiale kontrak, hetsy in 'n voltydse of deeltydse hoedanigheid.

(4) 'n Aanstelling, oorplasing of bevordering bedoel in subartikel (2) geskied op die wyse en onderworpe aan die voorwaardes wat die Minister bepaal.

(5) 'n Opvoeder aangestel kragtens 'n wet wat by hierdie Wet herroep word, word geag ingevolge hierdie Wet aangestel te wees in die toepaslike pos op die diensstaat van die betrokke staatsonderwysinstelling.

Bedinge en voorwaardes van diens

5. (1) Ondanks andersluidende bepalings in 'n ander wet, maar behoudens die bepalings van die Wet op die Nasionale Beleid vir Algemene Onderwys, 1984 (Wet No. 76 van 1984), die Wet op Arbeidsverhoudinge in die Onderwys en subartikel (2)—

- (a) word die salarisse, salarisskale en toelaes van opvoeders aangestel in, oorgeplaas na of bevorder tot poste bedoel in artikel 3 (1), deur die Minister bepaal;
- (b) word die ander bedinge en voorwaardes van diens en diensvoordele van die in paragraaf (a) bedoelde opvoeders deur die Minister voorgeskryf;
- (c) word die salarisse, salarisskale, toelaes en ander voorwaardes van diens bedoel in paragraaf (a) en (b) wat 'n finansiële implikasie het, bepaal deur die Minister in samewerking met die Minister verantwoordelik vir finansies op nasionale vlak; en

(2) The employer may create unsubsidised posts additional to the establishment referred to in subsection (1).

(3) Educators may be appointed on a temporary basis additional to the establishment referred to in subsection (1) with the approval of the Member of the Executive Council.

(4) A post referred to in subsection (1) may be regraded, redesignated, converted or abolished.

Appointment and promotion of educators

4. (1) The qualifications for appointment and promotion as an educator shall be prescribed.

(2) Posts shall be filled by appointment, transfer or promotion and the power to fill a post created under section 3 shall, subject to the provisions of this Act, vest in the employer, who shall exercise such power with regard to posts referred to in section 3 (1) subject to the prior approval of the Member of the Executive Council.

(3) An educator may be appointed under subsection (2)—

- (a) in a permanent capacity, which shall include an appointment to the permanent relief staff, whether on probation or not; or
- (b) temporarily or on special contract, whether in a full-time or part-time capacity.

(4) An appointment, transfer or promotion referred to in subsection (2) shall be effected in such manner and subject to such conditions as may be determined by the Minister.

(5) An educator appointed in terms of any law repealed by this Act shall be deemed to have been appointed in terms of this Act to the appropriate post on the establishment of the state educational institution in question.

Terms and conditions of employment

5. (1) Notwithstanding anything to the contrary contained in any other law, but subject to the provisions of the National Policy for General Education Affairs Act, 1984 (Act No. 76 of 1984), the Education Labour Relations Act and subsection (2)—

- (a) the salaries, salary scales and allowances of educators appointed, transferred or promoted to posts referred to in section 3 (1) shall be determined by the Minister;
- (b) the other terms and conditions of employment and service benefits of educators referred to in paragraph (a) shall be prescribed by the Minister; and
- (c) the salaries, salary scales, allowances and other terms and conditions of employment referred to in paragraphs (a) and (b) with a financial implication shall be determined by the Minister with the concurrence of the Minister responsible for finance at national level; and

(d) word die salarisse, salarisskale, toelaes en ander bedinge en voorwaardes van diens en diensvoordele van opvoeders aangestel in, oorgeplaas na of bevorder tot poste bedoel in artikel 3 (2), deur die werkgewer bepaal.

(2) (a) Ten einde die oorgang en rasionalisasie van onderwys te bewerkstellig soos beoog in artikels 236, 237 en 238 van die Grondwet, het die Minister, benevens enige bevoegdhede by of ingevolge enige ander wet aan hom of haar verleen, die bevoegdheid om, behoudens artikel 236 (5) en ander toepaslike bepalinge van die Grondwet en subartikel (2) (h) van hierdie Wet, bepalinge te maak en ondersoek te voer ten einde eenvormigheid daar te stel met betrekking tot die bedinge en voorwaardes van diens van die opvoeders in diens van 'n staatsonderwysinstelling.

(b) Ten einde die bevoegdhede ingevolge subartikel (2) (a) aan hom of haar verleen, uit te voer, het die Minister die bevoegdheid om—

- (i) die grondslag te omskryf vir die bepaling van algemeen geldende bedinge en voorwaardes van diens van toepassing op opvoeders; en
- (ii) die algemeen geldende bedinge en voorwaardes van diens te bepaal met betrekking tot opvoeders.

(c) By die bepaling van die algemeen geldende bedinge en voorwaardes met betrekking tot opvoeders moet die Minister die persentasie opvoeders waarop 'n bepaalde beding of voorwaarde van diens van toepassing is, in ag neem.

(d) Wanneer eenvormigheid in die bedinge en voorwaardes van diens of enige bepaalde beding of voorwaarde van diens van 'n opvoeder deur die Minister bewerkstellig is, het geen opvoeder, behoudens subartikels (2) (f) en (2) (g), die reg om 'n beding of voorwaarde van diens te behou wat meer voordelig is as sodanige eenvormige beding of voorwaarde van diens nie.

(e) In gevalle waar 'n bepaalde kontrak aangegaan is met 'n individu wat in diens is by 'n staatsonderwysinstelling en sodanige kontrak op sigself en nie by wyse van verwysing na algemene bedinge en voorwaardes van diens wat in 'n wet of 'n maatreël ingevolge 'n wet vervat is nie, spesifieke bedinge en voorwaardes van diens bevat wat verskil van die toepaslike eenvormige bedinge en voorwaardes van diens, het die Minister nie ingevolge hierdie subartikel die bevoegdheid om aan te beveel of te bepaal dat sodanige spesifieke bedinge en voorwaardes van diens verander word nie.

(f) Ondanks subartikels (2) (a) en (2) (b) het die Minister die bevoegdheid om te bepaal dat 'n opvoeder 'n spesifieke beding of voorwaarde van diens wat gunstiger is as die eenvormige beding of voorwaarde van diens van toepassing op opvoeders, behou of gedeeltelik behou, indien daar spesiale omstandighede is wat sodanige optrede regverdig: Met dien

(d) the salaries, salary scales, allowances and other terms and conditions of employment of educators appointed transferred or promoted to posts referred to in section 3 (2) shall be determined by the employer.

(2) (a) The Minister shall, in order to effect the transition and rationalisation of educators as contemplated in sections 236, 237 and 238 of the Constitution, in addition to any powers assigned to him or her by or under any other Act, have the power, subject to section 236 (5) and other relevant provisions of the Constitution and subsection (2) (h) of this section, to give directives and conduct inquiries in order to establish uniformity as regards the terms and conditions of employment of the educators employed by state educational institutions.

(b) In order to exercise the powers assigned to him or her in subsection (2) (a), the Minister shall have the power to—

- (i) define the basis for determining generally prevailing terms and conditions of employment applicable to education; and
- (ii) determine the generally prevailing terms and conditions of employment in regard to educators.

(c) In determining the generally prevailing terms and conditions of employment in regard to educators the Minister shall have due regard to the percentage of educators to which a particular term or condition of service is applicable.

(d) When uniformity of the terms and conditions of employment or any particular term or condition of employment of educators has been established by the Minister no educator shall, subject to subsections (2) (f) and (2) (g), have the right to retain a term or condition of employment which is more favourable than such uniform term or condition of employment.

(e) In cases where a specific contract has been entered into with an individual employed by a state educational institution and such contract, by itself and not by means of reference to general terms and conditions of employment embodied in a law or measure in terms of a law, contains particular terms and conditions of employment which differ from the applicable uniform terms and conditions of employment, the Minister shall not in terms of this subsection have the power to direct that such particular terms and conditions of employment be changed.

(f) Notwithstanding subsections (2) (a) and (2) (b), the Minister shall have the power to direct that an educator retain or partially retain a particular term or condition of employment that is more favourable than the uniform term or condition of employment applicable to educators where there are special circumstances which justify such action: Provided that any such

verstande dat so 'n behoud van sodanige gunstiger beding of voorwaarde nie vir langer as ses maande geld na die datum met ingang waarvan eenvormigheid van die betrokke beding of voorwaarde van diens ingevolge hierdie artikel bewerkstellig is nie.

(g) Die bevoegdhede aan die Minister by of ingevolge hierdie artikel verleen, verval op 27 April 1995, behalwe in soverre enige bepalings gemaak deur die Minister voor daardie datum, uitgevoer word asof hierdie paragraaf verorden was.

(h) Waar 'n bevoegdheid of werksaamheid van die Minister, 'n departement, uitvoerende gesag, hoof van 'n departement of ander persoon betrekking het op 'n aangeleentheid van onderlinge belang soos omskryf in artikel 1 van die Wet op Arbeidsverhoudinge in die Onderwys, moet hy of sy ten opsigte van so 'n aangeleentheid sodanige bevoegdheid uitoefen of werksaamheid verrig slegs kragtens 'n ooreenkoms beding oor sodanige aangeleentheid deur die Raad vir Arbeidsverhoudinge in die Onderwys of die betrokke provinsiale kamer daarvan.

(3) Dissiplinêre verrigtinge ingestel of beoog teen 'n opvoeder ingevolge 'n wet wat by hierdie Wet herroep word, ten opsigte van wangedrag wat hy of sy na bewering voor die vasgestelde datum gepleeg het, word ingevolge hierdie Wet afgehandel.

Oorplasing en sekondering van opvoeders

6. (1) Behoudens die bepalings van hierdie artikel en toepaslike bedinge en voorwaardes van diens kan 'n opvoeder in diens by 'n of departementele onderwysinstelling of kantoor, oorgeplaas word van die pos waarin hy of sy dien, na enige ander pos—

- (a) by dieselfde departementele onderwysinstelling of kantoor of 'n ander departementele onderwysinstelling of kantoor deur die Lid van die Uitvoerende Raad; of
- (b) by 'n departementele onderwysinstelling of kantoor in 'n ander provinsie deur die Lid van die Uitvoerende Raad met instemming van die Lid van die Uitvoerende Raad van sodanige ander provinsie.

(2) Behoudens die bepalings van hierdie artikel kan 'n opvoeder in diens by 'n staatsondersteunde onderwysinstelling met sy of haar toestemming oorgeplaas word uit die pos waarin hy of sy dien, na 'n ander pos by dieselfde of 'n ander staatsondersteunde onderwysinstelling of departementele onderwysinstelling—

- (a) in dieselfde provinsie deur die Lid van die Uitvoerende Raad, met die instemming van die betrokke werkgewer of werkgewers; of
- (b) in 'n ander provinsie deur die Lid van die Uitvoerende Raad, met die instemming van die Lid van die Uitvoerende Raad van sodanige ander provinsie en die betrokke werkgewers.

retention of such more favourable term or condition of employment shall not continue for more than six months after the date with effect from which uniformity of the relevant term or condition of employment was established in terms of this section.

(g) The powers conferred upon the Minister by or in terms of this section shall lapse on 27 April 1995, save in so far as any directive given by the Minister before that date shall be acted upon as if this paragraph had been enacted.

(h) Where a power or function of the Minister, any department, executive authority, head of department or any other person relates to a matter of mutual interest as defined in section 1 of the Education Labour Relations Act, he, she or it shall in respect of such a matter exercise such power or perform such function only in terms of an agreement negotiated on such matter by the Education Labour Relations Council or the relevant provincial chamber thereof.

(3) Any disciplinary proceedings instituted or contemplated against an educator in terms of a law repealed by this Act in respect of misconduct which he or she allegedly committed prior to the fixed date shall be dealt with in terms of this Act.

Transfer and secondment of educators

6. (1) Subject to the provisions of this section and applicable terms and conditions of employment, an educator employed in an office or departmental educational institution may be transferred from the post in which he or she serves to any other post—

- (a) at the same departmental educational institution or office or at another departmental educational institution or office by the Member of the Executive Council; or
- (b) at a departmental educational institution or office in a different province by the Member of the Executive Council, with the concurrence of the Member of the Executive Council of such other province.

(2) Subject to the provisions of this section, an educator employed at a state-aided educational institution may, with his or her consent, be transferred from the post in which he or she serves to any other post at the same or any other state-aided educational institution or departmental educational institution—

- (a) in the same province by the Member of the Executive Council, with the concurrence of the employer or employers concerned; or
- (b) in a different province by the Member of the Executive Council, with the concurrence of the Member of the Executive Council of such other province and the employers concerned.

(3) Behoudens die bepalings van hierdie artikel kan 'n opvoeder by 'n departementele instelling of kantoor, met sy of haar instemming, oorgeplaas word van die pos waarin hy of sy dien, na 'n ander pos by 'n staats-ondersteunde onderwysinstelling, en in so 'n geval is die bepalings van subartikel (2) *mutatis mutandis* van toepassing.

(4) 'n Oorplasing waarvoor daar in subartikels (1), (2) en (3) voorsiening gemaak word, kan geskied ongeag of die pos waarheen 'n opvoeder oorgeplaas word, van dieselfde, 'n laer of 'n hoër graad is: Met dien verstande dat—

- (a) die salaris en salarisskaal van 'n opvoeder nie sonder sy of haar toestemming verlaag mag word nie; en
- (b) paragraaf (a) nie van toepassing is nie ten opsigte van 'n opvoeder wat ingevolge artikel 19 (1) oorgeplaas is.

(5) 'n Opvoeder in diens in 'n permanente hoedanigheid by 'n staatsonderwysinstelling in 'n pos van 'n laer of hoër gradering as dié wat by sy of haar rang pas, word behoudens artikel 4 (4) oorgeplaas na 'n pos met 'n gradering wat by sy of haar rang pas, sodra 'n geskikte vakature ontstaan.

Beskikbaarheid van opvoeders

7. (1) 'n Opvoeder in diens by 'n staatsonderwysinstelling kan met sy of haar toestemming vir 'n besondere diens of vir 'n bepaalde tydperk en op die voorwaardes, benewens dié by of kragtens die een of ander wet voorgeskryf, wat die Minister bepaal, ter beskikking gestel word van 'n ander staatsonderwysinstelling, nasionale of provinsiale departement of 'n ander regering of 'n raad, instelling of liggaam wat by of kragtens 'n wet ingestel is, of 'n ander persoon.

(2) 'n Opvoeder bedoel in subartikel (1) bly onderworpe aan die bepalings van hierdie Wet terwyl hy of sy aldus beskikbaar gestel is.

Ontslag van opvoeders

8. (1) 'n Opvoeder kan, behoudens die bepalings van die Wet op Arbeidsverhoudinge in die Onderwys, deur die werkgewer ontslaan word—

- (a) weens voordurende swak gesondheid;
- (b) weens die afskaffing van sy of haar pos of 'n vermindering, reorganisasie of herindeling van die personeel by die betrokke staatsonderwysinstelling;
- (c) indien, om ander redes as sy of haar eie ongeskiktheid of onvermoë, sy of haar ontslag doeltreffendheid of besuiniging by die betrokke staatsonderwysinstelling sal bevorder;
- (d) weens ongeskiktheid vir die pligte wat aan sy of haar pos verbonde is of onvermoë om daardie pligte op 'n bekwame wyse uit te voer;

(3) Subject to the provisions of this section, an educator at departmental institution or office may, with his or her consent, be transferred from the post in which he or she serves to any other post at a state-aided educational institution, and in such a case the provisions of subsection (2) shall apply *mutatis mutandis*.

(4) A transfer provided for in subsections (1), (2) and (3) may be effected irrespective of whether the post to which an educator is transferred is of the same, a lower or higher grade: Provided that—

- (a) the salary and salary scale of an educator shall not be lowered without his or her consent; and
- (b) paragraph (a) shall not apply in respect of an educator transferred in terms of section 19 (1).

(5) An educator who is employed in a permanent capacity at a state educational institution in a post of a lower or higher grading than that appropriate to his or her rank shall, subject to section 4 (4), be transferred to a post with a grading appropriate to his or her rank as soon as a suitable vacancy arises.

Availability of educators

7. (1) An educator at a state educational institution may with his or her consent be made available to another state educational institution, national or provincial department or another government or a council, institution or body established by or under any law, or another person, for a particular service or for a fixed period and on such conditions, in addition to those prescribed by or under any law, as the Minister may determine.

(2) An educator referred to in subsection (1) shall remain subject to the provisions of this Act while he or she is so made available.

Discharge of educators

8. (1) An educator may, subject to the provisions of the Education Labour Relations Act, be discharged by the employer—

- (a) on account of continuous ill-health;
- (b) on account of the abolition of his or her post or a reduction in, reorganisation or readjustment of the staff at the state educational institution in question;
- (c) if, for reasons other than his or her own incompetence or incapacity, his or her discharge will promote efficiency or economy at the state educational institution in question;
- (d) on account of incompetence for the duties attached to his or her post or inability to perform those duties in an efficient manner;

(e) weens wangedrag; of

(f) indien hy of sy in die betrokke pos aangestel is op grond van 'n wanvoorstelling wat hy of sy met betrekking tot die een of ander voorwaarde vir aanstelling gemaak het.

(2) Indien 'n opvoeder bedoel in subartikel (1) kragtens paragraaf (f) van daardie subartikel ontslaan is, word hy of sy geag weens wangedrag ontslaan te wees.

(3) (a) Wanneer daar op redelike gronde vermoed word dat 'n opvoeder bedoel in subartikel (1) weens voortdurende swak gesondheid nie sy of haar pligte kan uitvoer nie, kan die werkgever 'n ondersoekspan van minstens twee geneeshere aanstel om sodanige opvoeder op koste van die werkgever te ondersoek en verslag oor sy of haar gesondheidstoestand te doen: Met dien verstande dat sodanige opvoeder daarop geregtig is om 'n geneesheer van sy of haar keuse op sy of haar eie koste as lid van sodanige ondersoekspan te benoem.

(b) Indien 'n opvoeder weier of versuim om hom of haar aan 'n ondersoek beoog in paragraaf (a) te onderwerp wanneer hy of sy deur die werkgever daartoe aangesê is, kan hy of sy ontslaan word, in welke geval hy of sy geag word weens wangedrag ontslaan te wees.

(c) Indien 'n opvoeder in subartikel (1) bedoel aansoek doen om ontslag weens voortdurende swak gesondheid, is paragraaf (a) *mutatis mutandis* van toepassing.

(4) Indien dit nie weselik is om die aanstelling, oorplasing of bevordering van 'n opvoeder op proef te bekragtig nie, kan die werkgever, ondanks andersluidende bepalings van hierdie Wet, maar behoudens subartikel (5) —

(a) die proeftydperk van die opvoeder verleng; of

(b) die opvoeder, na redelike kennis aan hom of haar, ontslaan na verstryking van die proeftydperk of enige verlenging daarvan:

Met dien verstande dat 'n aanstelling, oorplasing of bevordering op proef nie verleng mag word nie of 'n opvoeder aangestel op proef nie ontslaan mag word nie indien die opvoeder pligsgetrou was en sy of haar gedrag deurgaans bevredigend was en hy of sy in alle opsigte geskik is vir die pos wat hy of sy bekleed en hy of sy voldoen het aan al die voorwaardes wat op sy of haar aanstelling, oorplasing of bevordering van toepassing is.

(5) 'n Opvoeder wat in 'n permanente hoedanigheid by 'n staatsonderwysinstelling in diens is maar nie op proef nie, en wie se oorplasing of bevordering op proef nie bekragtig is nie, word oorgeplaas na die pos wat hy of sy voorheen bekleed het of na 'n pos van gelyke gradering.

(6) Die werkgever kan 'n opvoeder wat in 'n tydelike hoedanigheid by 'n staatsonderwysinstelling in diens is, ontslaan deur hom of haar redelike kennis van sodanige ontslag te gee.

(e) on account of misconduct; or

(f) if he or she was appointed to the post in question on the grounds of a misrepresentation made by him or her in relation to any condition of appointment.

(2) If an educator referred to in subsection (1) has been discharged under paragraph (f) of that subsection, he or she shall be deemed to have been discharged on account of misconduct.

(3) (a) When it is suspected on reasonable grounds that an educator referred to in subsection (1) is on account of continuous ill-health unable to perform his or her duties, the employer may appoint a team of examiners of at least two medical practitioners to examine such educator at the expense of the employer and to report on his or her state of health: Provided that such educator shall be entitled to nominate a medical practitioner of his or her choice at his or her own expense as a member of such team of examiners.

(b) If an educator refuses or fails to subject himself or herself to an examination contemplated in paragraph (a) when instructed to do so by the employer, he or she may be discharged in which case he or she shall be deemed to have been discharged on account of misconduct.

(c) If an educator referred to in subsection (1) applies for discharge on account of continuous ill-health, paragraph (a) shall *mutatis mutandis* apply.

(4) If it is not desirable to confirm the appointment, transfer or promotion of an educator on probation the employer may, notwithstanding anything to the contrary contained in this Act, but subject to subsection (5) —

(a) extend the probationary period of the educator; or

(b) after reasonable notice to the educator discharge him or her upon the lapse of the probationary period or any extension thereof:

Provided that an appointment, transfer or promotion on probation may not be extended and an educator appointed on probation may not be discharged if the educator has been diligent and his or her conduct uniformly satisfactory and he or she is in all respects suitable for the post which he or she holds and if he or she has complied with all the conditions applicable to his or her appointment, transfer or promotion.

(5) An educator employed in a permanent capacity at a state educational institution but is not on probation whose transfer or promotion on probation is not confirmed, shall be transferred to the post which he or she previously occupied or to a post of equal grading.

(6) The employer may discharge from his, her or its service an educator employed in a temporary capacity at a state educational institution by giving him or her reasonable notice of such discharge.

Aftrede

9. Die aftrede van opvoeders word voorgeskryf.

Sekere persone geag weens wangedrag ontslaan te wees

10. (1) 'n Opvoeder in 'n permanente hoedanigheid in diens by 'n staatsonderwysinstelling wat—

- (a) sonder die toestemming van die werkgewer vir 'n tydperk van meer as 14 opeenvolgende dae van die werk afwesig is;
- (b) terwyl hy of sy sonder die toestemming van die werkgewer van die werk afwesig is, diens in 'n ander betrekking aanvaar;
- (c) terwyl hy of sy geskors is, bedank of sonder die toestemming van die werkgewer diens in 'n ander betrekking aanvaar; of
- (d) terwyl dissiplinêre stappe wat teen hom of haar ingestel is, nog nie afgehandel is nie, bedank of diens in 'n ander betrekking aanvaar,

word, tensy die werkgewer anders gelas, geag weens wangedrag ontslaan te wees, in die geval waar—

- (i) paragraaf (a) of (b) van toepassing is, met ingang van die datum wat onmiddellik volg op die laaste dag waarop hy of sy teenwoordig was om sy of haar diens te verrig; of
- (ii) paragraaf (c) of (d) van toepassing is, met ingang van die dag waarop hy of sy bedank of diens in 'n ander betrekking aanvaar, na gelang van die geval.

(2) Indien 'n opvoeder wat ingevolge paragraaf (a) of (b) van subartikel (1) geag word weens wangedrag ontslaan te wees, hom of haar te eniger tyd vir diens aanmeld, kan die werkgewer, ondanks andersluidende bepalings van hierdie Wet, hom of haar in sy of haar vorige of 'n ander pos herstel op die voorwaardes wat die werkgewer bepaal, en in so 'n geval word die tydperk van sy of haar afwesigheid van diens geag afwesigheid met vakansieverlof sonder besoldiging te wees of verlof op die ander voorwaardes wat die werkgewer bepaal.

Bedanking van opvoeders

11. (1) 'n Opvoeder wat in 'n permanente hoedanigheid in diens is, kan uit sy of haar diens bedank deur een skoolkwartaal, of sodanige korter tydperk as wat die werkgewer goedkeur, skriftelik kennis te gee.

(2) 'n Opvoeder wat op proef of in 'n tydelike hoedanigheid in diens is, kan bedank deur 24 uur skriftelik kennis te gee.

(3) Indien die naam van 'n opvoeder geskrap word uit 'n register van opvoeders wat gehou word deur 'n liggaam wat deur die Minister erken word ingevolge die

Retirement

9. The retirement of educators shall be prescribed.

Certain persons deemed to be discharged on account of misconduct

10. (1) An educator employed in a permanent capacity at a state educational institution who—

- (a) is absent from work for a period exceeding 14 consecutive days without the consent of the employer;
- (b) while he or she is absent from work without the consent of the employer, assumes duty in another position;
- (c) while suspended, resigns or without the consent of the employer, assumes duty in another position; or
- (d) while disciplinary steps instituted against him or her have not yet been disposed of, resigns or assumes duty in another position,

shall, unless the employer directs otherwise, be deemed to have been discharged on account of misconduct, where—

- (i) paragraph (a) or (b) is applicable, with effect from the date following immediately upon the last day on which he or she was present to render service; or
- (ii) paragraph (c) or (d) is applicable, with effect from the date on which he or she resigns or assumes duty in another position, as the case may be.

(2) If an educator who is deemed to have been discharged on account of misconduct in terms of paragraph (a) or (b) of subsection (1) reports for duty at any time, the employer may, notwithstanding anything to the contrary contained in this Act, reinstate him or her in his or her former or any other post on such conditions as the employer may determine, and in such an event the period of his or her absence from duty shall be deemed to be absence on vacation leave without pay or leave on such other conditions as the employer may determine.

Resignation of educators

11. (1) An educator employed in a permanent capacity may resign by giving written notice of one school term or such shorter notice as the employer may approve.

(2) An educator on probation or employed in a temporary capacity may resign by giving 24 hours' written notice.

(3) If the name of an educator is struck off a register of educators kept by a body recognized by the Minister in terms of the National Policy for General Education

Wet op die Nasionale Beleid vir Algemene Onderwys-sake, 1984 (Wet No. 76 van 1984), word hy of sy, ondanks andersluidende bepalings in hierdie Wet, geag te bedank het met ingang van die datum wat volg onmiddellik op die dag waarop sy of haar naam so aldus geskrap is.

Omskrywing van wangedrag

12. (1) 'n Opvoeder is aan wangedrag skuldig indien hy of sy—

- (a) 'n bepaling van hierdie Wet of 'n wet met betrekking tot die onderwys oortree of versuim om daaraan te voldoen;
- (b) 'n handeling wat tot nadeel strek van die administrasie, dissipline of doeltreffendheid van die werkgewer, verrig, laat verrig of toelaat of oogluikend toelaat dat dit verrig word;
- (c) 'n wettige bevel wat aan hom of haar gegee is deur iemand wat die bevoegdheid daartoe het, nie gehoorsaam nie, dit verontagsaam of opsetlik in gebreke bly om dit uit te voer, of hom of haar deur woord of gedrag aan insubordinasie skuldig maak;
- (d) nalatig of traag is by die verrigting van sy of haar pligte;
- (e) sonder die toestemming van die werkgewer, enige private agentskap of private werk onderneem met betrekking tot 'n aangeleentheid wat met die verrigting van sy of haar ampspligte in verband staan;
- (f) probeer om deur middel van iemand wat nie in die diens van die Staat of 'n werknemerslid is nie, ingryping in verband met sy of haar posisie of diensvoorwaardes te verkry, tensy dit ingevolge die Wet op Arbeidsverhoudinge in die Onderwys gedoen word, of om herstel van 'n grief deur bemiddeling van 'n lid van die betrokke provinsiale werkgewer te verkry;
- (g) hom of haar op 'n skandelige, onbehoorlike of onbetaamlike wyse gedra of, terwyl hy of sy aan diens is, hom of haar aan growwe onbeleefdheid teenoor iemand skuldig maak;
- (h) onder die invloed van sterk drank of bedwelkende middels is terwyl hy of sy aan diens is of in 'n amptelike hoedanigheid optree;
- (i) sonder die vooraf verkreeë toestemming van die werkgewer, inligting wat hy of sy ingewin of bekom het as gevolg van sy of haar diens, openbaar maak anders as by die verrigting van sy of haar ampspligte, of sodanige inligting gebruik vir 'n ander doel as vir die verrigting van sy of haar ampspligte, hetsy hy of sy sodanige inligting openbaar maak al dan nie;

Affairs Act, 1984 (Act No. 76 of 1984), he or she shall, notwithstanding anything to the contrary contained in this Act, be deemed to have resigned with effect from the date following immediately upon the day on which his or her name was so struck off.

Definition of misconduct

12. (1) An educator shall be guilty of misconduct if he or she—

- (a) contravenes or fails to comply with any provision of this Act or any law relating to education;
- (b) performs or causes or permits to be performed, or connives at any act which is prejudicial to the administration, discipline or efficiency of the employer;
- (c) disobeys, disregards or wilfully defaults in carrying out a lawful order given to him or her by a person having the authority to give it, or by word or conduct displays insubordination;
- (d) is negligent or indolent in the performance of his or her duties;
- (e) undertakes, without the permission of the employer, any private agency or private work in relation to a matter connected with the performance of his or her official duties;
- (f) attempts, through a person not in the employ of the State or an employee member, to secure intervention in connection with his or her position or conditions of service, unless it is done in terms of the Education Labour Relations Act, or to obtain redress of any grievance through a member of the provincial legislature concerned;
- (g) conducts himself or herself in a disgraceful, improper or unbecoming manner, or while on duty is discourteous to any person;
- (h) is under the influence of intoxicating liquor or stupefying drugs while on duty or acting in an official capacity;
- (i) without the prior permission of the employer, discloses otherwise than in the performance of his or her official duties information gathered or obtained by him or her as a result of his or her employment or uses such information for any purpose other than for the performance of his or her official duties, whether or not he or she discloses such information;

- (j) sonder die vooraf verkreeë toestemming van die werkgever, enige kommissie, geld, geldelike of ander beloning waarop hy of sy uit hoofde van sy of haar amp nie geregtig is nie, aanneem of eis ten opsigte van die verrigting van sy of haar ampspligte of die versuim om dit te verrig, of versuim om die aanbod van sodanige kommissie, geld of beloning aan die werkgever te rapporteer;
- (k) hom of haar enige eiendom van die werkgever toe-eien of onbehoorlike gebruik daarvan maak in omstandighede wat nie op 'n misdryf neerkom nie;
- (l) 'n misdryf pleeg;
- (m) sonder verlof of 'n geldige rede van sy of haar kantoor of diens afwesig is; of
- (n) met die oog op die verkryging van enige voorreg of voordeel in verband met sy of haar amptelike posisie of pligte, of op die benadeling of skadeberokkening van die werkgever of van 'n medewerknemer, 'n valse of onjuiste verklaring aflê in die wete dat dit vals of onjuis is.

(2) Die vryspreking van 'n opvoeder van, of skuldigbevinding van 'n opvoeder aan, 'n misdryf deur 'n gereghof sluit nie uit dat dissiplinêre stappe ingevolge hierdie Wet teen hom of haar gedoen word nie, al sou die feite uiteengesit in die aanklag van wangedrag, indien dit bewys sou word, die misdryf uitmaak waar-aan hy of sy aldus vrygespreek is, skuldig bevind is of skuldig bevind kon gewees het.

(3) Indien die wangedrag waarvan 'n opvoeder aangekla word, neerkom op 'n misdryf waaraan hy of sy deur 'n gereghof skuldig bevind is, is 'n gewaarmerkte afskrif van die oorkonde van sy of haar verhoor of skuldigbevinding deur daardie hof, nadat hy of sy geïdentifiseer is as die persoon wat volgens die oorkonde skuldig bevind is, afdoende bewys dat hy of sy daardie misdryf gepleeg het, tensy—

- (a) die skuldigbevinding deur 'n bevoegde gereghof ter syde gestel is; of
- (b) die opvoeder bewys dat hy of sy in werklikheid verkeerdlik skuldig bevind is.

Voorlopige ondersoek

13. (1) Indien 'n opvoeder beskuldig word van wangedrag, ongeskiktheid of onvermoë, kan die werkgever iemand skriftelik as ondersoekbeampte aanwys om ondersoek in te stel na die aangeleentheid en getuienis in te samel ten einde te bepaal of daar gronde is vir 'n dissiplinêre ondersoek of 'n ondersoek betreffende ongeskiktheid of onvermoë en om 'n verslag in dié verband aan die werkgever te verskaf.

(2) Die ondersoekbeampte mag die betrokke opvoeder nie ondervra nie tensy hy of sy hom of haar inlig dat hy of sy op verteenwoordiging of bystand geregtig is, dat hy of sy nie verplig is om 'n verklaring af te lê nie en dat enige verklaring aldus afgelê, as getuienis teen hom of haar gebruik kan word.

- (j) without the permission of the employer, accepts or demands in respect of the performance of or the failure to perform his or her duties any commission, fee, pecuniary or other reward to which he or she is not entitled by virtue of his or her office, or fails to report to the employer the offer of any such commission, fee or reward;
- (k) misappropriates or makes improper use of property of the employer under circumstances not amounting to an offence;
- (l) commits an offence;
- (m) is absent from his or her office or duty without leave or a valid reason; or
- (n) with a view to obtaining any privilege or advantage in connection with his or her official position or duties or to causing any prejudice or damage to the employer or to a fellow employee, makes a false or incorrect statement knowing it to be false or incorrect.

(2) The acquittal or conviction of an educator of an offence by a court of law shall not preclude the taking of disciplinary steps against him or her in terms of this Act, even if the facts set out in the charge of misconduct, should they be proven, would constitute the offence of which he or she was so acquitted, convicted or could have been convicted.

(3) If the misconduct with which an educator is charged amounts to an offence of which he or she was convicted by a court of law, a certified copy of the record of his or her trial and conviction by that court shall, after he or she has been identified as the person who was convicted according to the record, be conclusive proof that he or she committed that offence unless—

- (a) the conviction has been set aside by a competent court of law; or
- (b) the educator proves that he or she was in fact erroneously convicted.

Preliminary investigation

13. (1) If an educator is accused of misconduct, incompetence or incapacity, the employer may in writing appoint a person as an investigating officer to conduct an investigation into the matter, to collect evidence in order to determine whether or not there are grounds for a disciplinary inquiry or an inquiry with regard to incompetence or incapacity and to furnish the employer with a report in this regard.

(2) The investigating officer shall not question the educator concerned unless he or she informs him or her that he or she has the right to representation or assistance, that he or she is not obliged to make any statement and that any statement so made be used in evidence against him or her.

Prosedure van dissiplinêre ondersoek in geval van wangedrag

14. (1) Die werkgewer kan, ongeag of 'n ondersoek beoog in artikel 13 plaasgevind het al dan nie, 'n opvoeder skriftelik onder sy of haar handtekening aankla van wangedrag indien voldoende gronde daarvoor bestaan.

(2) 'n Opvoeder kan te eniger tyd, voor of nadat hy of sy van wangedrag aangekla is, uit diens geskors word.

(3) 'n Aanklag bedoel in subartikel (1) moet op die voorgeskrewe wyse aan die opvoeder beteken word, en moet vergesel gaan van 'n aansegging waarby die aangeklaagde opvoeder aangesê word om binne 21 dae nadat die aanklag aan hom of haar beteken is, aan die werkgewer 'n skriftelike erkenning of ontekenning van die aanklag en, indien hy of sy dit verlang, 'n skriftelike verduideliking in verband met die aanklag voor te lê.

(4) Die werkgewer kan 'n aanklag van wangedrag te eniger tyd terugtrek.

(5) Indien die werkgewer in kennis gestel is dat 'n opvoeder wat van wangedrag aangekla word, 'n lid van 'n werknemerslid is, moet die werkgewer die betrokke werknemerslid skriftelik van die aanklag en van die besonderhede daarvan in kennis stel.

(6) Indien die opvoeder die aanklag erken, word hy geag skuldig bevind te wees aan die betrokke wangedrag op die datum waarop die werkgewer die erkenning ontvang het.

Verhoor deur dissiplinêre tribunaal

15. (1) Indien 'n opvoeder wat ingevolge artikel 14 (1) aangekla word, die aanklag ontken of versuim om te voldoen aan die aansegging beoog in artikel 14 (3), moet die werkgewer 'n dissiplinêre tribunaal aanstel bestaande uit 'n voorsitter en twee ander persone, van wie een genomineer word deur die werknemerslid waarvan sodanige opvoeder 'n lid is, om die aanklag te ondersoek.

(2) Die voorsitter van die dissiplinêre tribunaal bepaal na oorleg met die werkgewer die tyd en plek van die ondersoek, en die werkgewer gee aan die betrokke opvoeder, asook die betrokke werknemerslid, 14 dae skriftelike kennis van die tyd en plek aldus bepaal.

(3) Vir doeleindes van 'n ondersoek beoog in hierdie artikel kan 'n dissiplinêre tribunaal—

- (a) enigiemand dagvaar om voor hom te verskyn wat in staat is om inligting te verskaf wat van wesenlike belang is betreffende die aanklag wat ondersoek word, of van wie daar vermoed word dat hy of sy in sy of haar besit of sorg of onder sy of haar beheer 'n boek, stuk of ding het wat met daardie aanklag in verband kan staan;

Disciplinary inquiry in case of misconduct

14. (1) The employer may, regardless of whether or not an investigation contemplated in section 13 has been conducted, in writing under his or her hand charge an educator with misconduct if sufficient grounds therefor exist.

(2) An educator may at any time, before or after being charged with misconduct, be suspended from duty.

(3) A charge contemplated in subsection (1) shall be served on the educator in question in the prescribed manner and shall be accompanied by a notice calling on the accused educator to submit, within 21 days after the charge has been served on him or her, to the employer a written admission or denial of the charge and, should he or she so desire, a written explanation regarding the charge.

(4) The employer may at any time withdraw a charge of misconduct.

(5) If the employer has been informed that an educator charged with misconduct is a member of an employee member, the employer shall in writing notify the employee member concerned of the charge and of the particulars thereof.

(6) If the educator admits the charge, he shall be deemed to have been found guilty of the misconduct in question on the date on which the employer receives the admission.

Hearing by disciplinary tribunal

15. (1) If an educator charged in terms of section 14 (1) denies the charge or fails to comply with the notice contemplated in section 14 (3), the employer shall appoint a disciplinary tribunal consisting of a chairperson and two other persons, one of whom shall be nominated by the employee member of which such an educator is a member, to inquire into the charge.

(2) The chairman of the disciplinary tribunal shall, after consultation with the employer, fix the time and venue of the inquiry, and the employer shall give the educator concerned, and the employee member concerned 14 days' written notice of the time and place so fixed.

(3) For the purposes of an inquiry contemplated in this section, a disciplinary tribunal may—

- (a) subpoena to appear before it any person who in its opinion is able to furnish information of material importance concerning the charge being inquired into or who is suspected of having in his or her possession or care or under his or her control a book, document or thing that may have a bearing on that charge;

(b) iemand wat by die ondersoek teenwoordig is en wat ingevolge paragraaf (a) gedagvaar is of kon word, oproep en van hom of haar 'n eed of plegtige verklaring afneem; en

(c) iemand wat ingevolge paragraaf (b) opgeroep is, ondervra of gelas om 'n boek, stuk of ding in paragraaf (a) bedoel, oor te lê.

(4) 'n Dagvaarding beoog in subartikel (3) geskied in die voorgeskrewe vorm en word op die voorgeskrewe wyse aan daardie persoon beteken.

(5) Die regsreëls met betrekking tot privilegie wat geld in die geval van iemand wat gedagvaar is om getuienis te lewer voor 'n geregshof of om 'n boek, stuk of ding voor te lê, is van toepassing ten opsigte van die ondervraging of lasgewing bedoel in subartikel (3) (c).

Prosedure by dissiplinêre verhoor

16. (1) Die werkgever kan iemand aanwys om 'n ondersoek beoog in artikel 15 by te woon, om getuienis en argumente ter staving van die aanklag aan te voer en om iemand wat getuienis ter weerlegging van die aanklag afgelê het, in kruisondervraging te neem.

(2) By sodanige verhoor het die aangeklaagde opvoeder die reg om teenwoordig te wees, om deur iemand anders bygestaan of verteenwoordig te word, om getuienis af te lê en om, hetsy persoonlik of deur 'n verteenwoordiger—

(a) aangehoor te word;

(b) getuies op te roep;

(c) iemand wat as getuie opgeroep is ter staving van die aanklag, in kruisondervraging te neem; en

(d) insae te hê in stukke wat as getuienis voorgelê is.

(3) Die versuim van die aangeklaagde opvoeder om die verhoor by te woon maak nie die verrigtinge ongeldig nie.

(4) Die dissiplinêre tribunaal hou 'n oorkonde van die verrigtinge en van die getuienis.

Prosedure na dissiplinêre verhoor

17. (1) Na afsluiting van die verhoor beoog in artikel 15 bevind die dissiplinêre tribunaal met 'n meerderheidstem die aangeklaagde opvoeder skuldig of onskuldig aan die wangedrag, en die voorsitter verwittig die aangeklaagde opvoeder binne sewe dae daarna van die bevinding van die dissiplinêre tribunaal en meld die uitslag van die ondersoek aan die werkgever.

(b) call and administer an oath to or take an affirmation from any person who is present at the inquiry and who was or could have been subpoenaed in terms of paragraph (a); and

(c) question any person called in terms of paragraph (b), or order him or her to submit a book, document or thing referred to in paragraph (a).

(4) A subpoena contemplated in subsection (3) shall be in the prescribed form and shall be served on that person in the prescribed manner.

(5) The legal rules relating to privilege obtaining in the case of a person who has been subpoenaed to give evidence before a court of law or to submit a book, document or thing shall apply in respect of the questioning or order referred to in subsection (3) (c).

Procedure at disciplinary hearing

16. (1) The employer may appoint a person to attend a hearing contemplated in section 15, to adduce evidence and arguments in support of the charge and to cross-examine any person who has given evidence in rebuttal of the charge.

(2) At such hearing the accused educator shall have the right to be present, to be assisted or represented by any other person, to give evidence and, either personally or through a representative—

(a) to be heard;

(b) to call witnesses;

(c) to cross-examine any person called as a witness in support of the charge; and

(d) to inspect documents submitted in evidence.

(3) The failure of the accused educator to attend the hearing shall not invalidate the proceedings.

(4) The disciplinary tribunal shall keep a record of the proceedings and of the evidence.

Procedure after disciplinary hearing

17. (1) After the conclusion of the hearing contemplated in section 15, the disciplinary tribunal shall by majority decision find the accused educator guilty or not guilty of misconduct, and the chairperson shall within seven days thereafter notify the accused educator of the finding of the disciplinary tribunal and report the outcome of the inquiry to the employer.

(2) Indien die dissiplinêre tribunaal 'n aangeklaagde opvoeder skuldig bevind aan die wangedrag, lê die voorsitter aan die werkgewer voor—

- (a) die oorkonde van die verrigtinge, met inbegrip van al die getuienis wat afgelê is en alle stukke wat by die verhoor toegelaat is;
- (b) 'n skriftelike uiteensetting van die bevinding van die dissiplinêre tribunaal en die redes daarvoor;
- (c) enige opmerkings wat die dissiplinêre tribunaal in verband met die ondersoek wil maak; en
- (d) die aanbeveling van die dissiplinêre tribunaal in verband met die straf wat opgelê behoort te word.

Appel deur opvoeder

18. (1) Indien 'n opvoeder skuldig bevind word aan wangedrag, het hy of sy die reg om na die Lid van die Uitvoerende Raad teen die bevinding te appelleer.

(2) Die prosedure vir die aantekening van so 'n appel word voorgeskryf.

(3) Die Lid van die Uitvoerende Raad moet binne 30 dae nadat appel ingevolge subartikel (2) aangeteken is, 'n appêlraad aanstel om die appel aan te hoor.

(4) Die appêlraad word soos volg saamgestel:

- (a) Een lid aangestel deur die Lid van die Uitvoerende Raad, wat as voorsitter optree;
- (b) een lid wat deur die werkgewer benoem word; en
- (c) een lid wat deur die werknemerslid waarvan sodanige opvoeder 'n lid is, benoem word: Met dien verstande dat indien die betrokke werknemerslid versuim om binne 'n redelike tyd so 'n lid te benoem, die Lid van die Uitvoerende Raad daardie lid aanstel.

(5) Niemand wat gedien het in die dissiplinêre tribunaal wat die appellant skuldig bevind het, mag 'n lid van die appêlraad beoog in subartikel (4) wees nie.

(6) Die werkgewer moet al die stukke rakende die appel aan die appêlraad voorlê.

(7) Die bevoegdhede van die appêlraad, die prosedure by die aanhoor van 'n appel en die wyse waarop 'n oorkonde van die verrigtinge gehou moet word, word voorgeskryf.

(8) Die appêlraad kan na oorweging van die stukke met 'n meerderheidstem 'n aanbeveling aan die Lid van die Uitvoerende Raad maak, wat die appel kan handhaaf of verwerp.

Optrede teen opvoeders wat aan wangedrag skuldig bevind is

19. (1) Indien 'n opvoeder skuldig bevind is aan wangedrag en nie appelleer nie, of indien hy of sy appelleer en sy of haar appel in die geheel of gedeeltelik van die hand gewys word, kan die werkgewer, met

(2) If the disciplinary tribunal finds an accused educator guilty of misconduct, the chairperson shall submit to the employer—

- (a) the record of the proceedings, including all evidence given and all documents admitted at the hearing;
- (b) a written exposition of the finding of the disciplinary tribunal and the reasons therefor;
- (c) any comments which the disciplinary tribunal wishes to make in connection with the inquiry; and
- (d) the recommendations of the disciplinary tribunal in relation to the punishment to be imposed.

Appeal by educator

18. (1) If an educator is found guilty of misconduct he shall have the right to appeal to the Member of the Executive Council against the finding.

(2) The procedure for the noting of such an appeal shall be prescribed.

(3) The Member of the Executive Council shall, within 30 days after an appeal has been noted in terms of subsection (2), appoint a board of appeal to hear the appeal.

(4) The board of appeal shall be constituted as follows:

- (a) One member appointed by the Member of the Executive Council, who shall act as chairperson;
- (b) one member nominated by the employer; and
- (c) one member nominated by the employee member of which such educator is a member: Provided that if the employee member concerned fails to nominate such a member within a reasonable time, the Member of the Executive Council shall appoint the member.

(5) No person who served on the disciplinary tribunal that found the appellant guilty shall be a member of the board of appeal contemplated in subsection (4).

(6) The employer shall submit to the board of appeal all the documents relating to the appeal.

(7) The powers of the board of appeal, the procedure at the hearing of an appeal and the manner in which a record of the proceedings shall be kept shall be prescribed.

(8) The board of appeal may, after consideration of the documents, by majority decision make a recommendation to the Member of the Executive Council, who may uphold or dismiss the appeal.

Action against educators found guilty of misconduct

19. (1) If an educator is found guilty of misconduct and does not appeal, or if he or she appeals and his or her appeal is dismissed entirely or in part, the employer

inagneming van die stukke wat op die dissiplinêre verhoor en, waar van toepassing, die appèl betrekking het—

- (a) hom of haar waarsku of berispe;
- (b) hom of haar na 'n ander pos oorplaas sonder sy of haar toestemming;
- (c) sy of haar salaris of rang of sowel sy of haar salaris as rang tydelik of permanent verlaag; of
- (d) hom of haar ontslaan met ingang van 'n datum wat die werkgever bepaal.

(2) Behalwe in die geval van paragraaf (d) van subartikel (1) kan die werkgever een of meer van die strawwe beoog in subartikel (1) kumulatief opleë en een of meer daarvan opskort op die voorwaardes en vir die tydperk wat hy of sy bepaal.

Voorlegging van verslag van dissiplinêre verhoor

20. Die werkgever moet, in elke geval waar 'n opvoeder 'n ander straf as 'n waarskuwing of 'n berisping ingevolge hierdie Wet opgelê is, die oorkonde van die verhoor, met inbegrip van alle stukke en getuienis rakende die verhoor, voorlê aan die liggaam bedoel in artikel 12 van die Wet op die Nasionale Beleid vir Algemene Onderwysake, 1984 (Wet No. 76 van 1984).

Prosedure in gevalle van beweerde onbekwaamheid of onvermoë

21. Indien daar beweer word dat 'n opvoeder onbekwaam of onbevoeg is om die pligte te verrig wat met sy of haar pos verband hou, is die prosedures waarvoor daar by artikels 14, 15, 16, 17, 18 en 19 voorsiening gemaak word, *mutatis mutandis* van toepassing.

Oorplasing van opvoeders by verklaring van departementele onderwysinstellings tot staatsondersteunde onderwysinstellings

22. (1) 'n Opvoeder wat by 'n departementele onderwysinstelling in diens was onmiddellik voor die datum van die verklaring van sodanige instelling tot 'n staatsondersteunde onderwysinstelling, word, met ingang van daardie datum, met sy of haar instemming oorgeplaas na en aangestel in die diens van die betrokke staatsondersteunde onderwysinstellings.

(2) 'n Opvoeder wat ingevolge subartikel (1) oorgeplaas en aangestel is, word aangestel op die bedinge en voorwaarde van diens van toepassing op persone in die diens van staatsondersteunde onderwysinstellings: Met dien verstande dat—

- (a) sy of haar salaris nie sonder sy of haar instemming as gevolg van sodanige oorplasing en aanstelling verlaag word nie;

may, having regard to the documents relating to the disciplinary hearing and, where applicable, to the appeal—

- (a) warn or reprimand him or her;
- (b) transfer him or her to another post without his or her consent;
- (c) lower his or her salary or rank or both his or her salary and rank, either temporarily or permanently; or
- (d) discharge him or her with effect from a date determined by the employer.

(2) Except in the case of paragraph (d) of subsection (1), the employer may impose any one or more of the sanctions contemplated in subsection (1) cumulatively and suspend any one or more of them on such conditions and for such period as he may determine.

Submission of records of disciplinary hearing

20. The employer shall, in each case where a punishment other than a warning or a reprimand was imposed on an educator in terms of this Act, submit the record of the hearing, including all documents and evidence relating to the hearing, to the body referred to in section 12 of the National Policy for General Education Affairs Act, 1984 (Act No. 76 of 1984).

Procedure in cases of alleged incapacity or incompetence

21. If an educator is alleged to be incompetent or incapable of performing the duties attached to his or her post, the procedures provided for in sections 14, 15, 16, 17, 18 and 19 shall apply *mutatis mutandis*.

Transfer of educators on declaration of departmental educational institutions to be state-aided educational institutions

22. (1) An educator who was employed at a departmental educational institution immediately prior to the date of declaration of such institution to be a state-aided educational institution shall with effect from that date with his or her consent be transferred to and appointed in the service of the state-aided educational institution in question.

(2) An educator transferred and appointed under subsection (1) shall be appointed on the terms and conditions of employment applicable to persons in the service of state-aided educational institutions: Provided that—

- (a) his or her salary shall not be reduced without his or her consent as a result of such transfer and appointment;

- (b) vir doeleindes van bedoelde bedinge en voorwaardes van diens, met inbegrip van pensioen-voordele, sy of haar diens by 'n departementele onderwysinstelling geag word diens by die betrokke staatsondersteunde onderwysinstelling te wees;
- (c) siekte- of vakansieverlofkrediet wat deur hom of haar verwerf is as gevolg van sy of haar ononderbroke diens by 'n departementele onderwysinstelling, behoudens die voorwaardes wat deur die Minister bepaal, geag word deur hom of haar verwerf te wees as gevolg van sy of haar diens by die betrokke staatsondersteunde onderwysinstelling; en
- (d) enige dissiplinêre verrigtinge wat teen hom of haar ingestel is of ingestel staan te word ten opsigte van wangedrag wat hy of sy na bewering voor die datum beoog in subartikel (1) gepleeg het, afgehandel of ingestel word, na gelang van die geval, ingevolge hierdie Wet.

Oorplasing van opvoeders by verklaring van staatsondersteunde onderwysinstellings tot departementele onderwysinstellings

23. (1) 'n Opvoeder wat in 'n gesubsidieerde pos by 'n staatsondersteunde onderwysinstelling in diens was onmiddellik voor die datum van verklaring van sodanige instelling tot 'n departementele onderwysinstelling, word, met ingang van daardie datum, met sy of haar instemming oorgeplaas na en aangestel in die diens van die betrokke provinsiale regering.

(2) 'n Opvoeder wat ingevolge subartikel (1) oorgeplaas en aangestel word, word aangestel op die bedinge en voorwaardes van diens van toepassing op opvoeders in die diens van die betrokke provinsiale regering: Met dien verstande dat—

- (a) sy of haar salaris nie sonder sy of haar instemming as gevolg van sodanige oorplasing en aanstelling verlaag word nie;
- (b) vir doeleindes van bedoelde bedinge en voorwaardes van diens, met inbegrip van pensioen-voordele, sy of haar diens by die staatsondersteunde onderwysinstelling geag word diens by die betrokke provinsiale regering te wees;
- (c) siekte- of vakansieverlofkrediet wat deur hom of haar verwerf is as gevolg van sy of haar ononderbroke diens by die staatsondersteunde onderwysinstelling, behoudens die voorwaardes wat deur die Minister bepaal, geag word deur hom of haar verwerf te wees as gevolg van sy of haar diens by die betrokke provinsiale regering; en
- (d) enige dissiplinêre verrigtinge wat teen hom of haar ingestel is of ingestel staan te word ten opsigte van wangedrag wat hy of sy na bewering voor gemelde datum gepleeg het, afgehandel of ingestel word, na gelang van die geval, ingevolge hierdie Wet.

- (b) for the purposes of the said terms and conditions of employment, including pension benefits, his or her period in the service of the state-aided educational institution shall be deemed to be a period in the service of the provincial government concerned;
- (c) sick leave or vacation leave credit obtained by him or her as a result of his or her continuous service in a departmental educational institution shall be deemed, subject to the conditions determined by the Minister, to have been obtained by him or her as a result of his or her service at the state-aided educational institution in question; and
- (d) any disciplinary proceedings instituted or to be instituted against him or her in respect of misconduct which he or she allegedly committed prior to the date contemplated in subsection (1) shall be disposed of or instituted, as the case may be, in terms of this Act.

Transfer of educators on declaration of state-aided educational institutions to be departmental educational institutions

23. (1) An educator who was employed in a subsidised post at a state-aided educational institution immediately prior to the date of declaration of such institution to be departmental educational institution shall with effect from that date with his or her consent be transferred to and appointed in the service of the provincial government concerned.

(2) An educator transferred and appointed under subsection (1) shall be appointed on the terms and conditions of employment applicable to educators in the service of the provincial government concerned: Provided that—

- (a) his or her salary shall not be reduced without his or her consent as a result of such transfer and appointment;
- (b) for the purposes of the said terms and conditions of employment, including pension benefits, his or her period in the service of the state-aided educational institution shall be deemed to be a period in the service of the provincial government concerned;
- (c) sick or vacation leave credit obtained by him or her as a result of his or her continuous service at the state-aided educational institution shall be deemed, subject to the conditions determined by the Minister, to have been obtained by him or her as a result of his or her period in the service of the provincial government concerned; and
- (d) any disciplinary proceedings instituted or to be instituted against him or her in respect of misconduct allegedly committed prior to the said date shall be disposed of or instituted, as the case may be, in terms of this Act.

Verrigting van ander werk deur opvoeders

24. (1) Tensy sy of haar bedinge en voorwaardes van diens anders bepaal—

- (a) moet 'n opvoeder al sy of haar tyd ter beskikking van die werkgewer stel;
- (b) mag 'n opvoeder nie sonder die toestemming van die werkgewer besoldigde werk buite sy of haar diens verrig of hom of haar verbind om dit te verrig nie; en
- (c) kan geen opvoeder aanspraak maak op bykomende besoldiging ten opsigte van enige amptelike diens of werk wat hy of sy deur 'n bevoegde gesag beveel is om te verrig nie.

(2) Die werkgewer kan 'n opvoeder in sy of haar diens beveel om tydelik ander pligte te verrig as dié wat gewoonlik aan daardie opvoeder opgedra word en wat by die graad, benaming of indeling van sy of haar pos pas.

Toepassing van die bepalings van Wet 30 van 1941

25. Ondanks andersluidende bepalings van enige wet word 'n opvoeder in diens by 'n staatsondersteunde onderwysinstelling vir doeleindes van die Ongevallewet, 1941 (Wet No. 30 van 1941), geag 'n werksman in diens van die Staat te wees.

Delegering van bevoegdhede

26. (1) Die Minister kan, behoudens die voorwaardes wat hy of sy bepaal, enige van sy of haar bevoegdhede ingevolge hierdie Wet, uitgesonderd die bevoegdheid om regulasies uit te vaardig, delegeer en enige van sy of haar pligte ingevolge hierdie Wet opdra aan 'n beampte in die departement onder sy of haar beheer.

(2) 'n Lid van die Uitvoerende Raad kan, behoudens die voorwaardes wat hy of sy bepaal, enige van sy of haar bevoegdhede ingevolge hierdie Wet delegeer en enige van sy of haar pligte ingevolge hierdie Wet opdra aan 'n beampte in die departement onder sy of haar beheer.

(3) Die hoof van 'n departement kan, behoudens die voorwaardes wat hy of sy bepaal, enige van sy of haar bevoegdhede ingevolge hierdie Wet delegeer en enige van sy of haar pligte ingevolge hierdie Wet opdra aan 'n beampte, werknemer of opvoeder.

Misdrywe en strawwe

27. (1) Iemand wat—

- (a) ingevolge artikel 15 (3) (a) gedagvaar is en wat sonder voldoende rede versuim om—
 - (i) te verskyn op die tyd en plek in die dagvaarding genoem; of
 - (ii) by die ondersoek teenwoordig te bly tot dat hy of sy van verdere bywoning verskoon word;

Performance of other work by educators

24. (1) Unless his or her terms and conditions of employment provide otherwise—

- (a) an educator shall make all his or her time available to the employer;
- (b) an educator shall not without the consent of the employer perform or bind himself or herself to perform remunerative work outside his or her employment; and
- (c) no educator may claim additional remuneration in respect of any official duty or work which he or she has been ordered to perform by a competent authority.

(2) The employer may order an educator in his, her or its employ to perform duties on a temporary basis other than those ordinarily assigned to that educator which are appropriate to the grade, designation or classification of his or her post.

Application of the provisions of Act 30 of 1941

25. Notwithstanding anything to the contrary contained in any law, an educator employed at a state-aided educational institution shall, for the purposes of the Workmen's Compensation Act, 1941 (Act No. 30 of 1941), be deemed to be a workman in the employ of the State.

Delegation of powers

26. (1) The Minister may, subject to such conditions as he may determine, delegate any of his or her powers under this Act, except the power to make regulations, and assign any of his or her duties in terms of this Act to an officer in the department under his or her control.

(2) A Member of the Executive Council may, subject to such conditions as he or she may determine, delegate any of his or her powers under this Act to an officer in the department under his or her control.

(3) The head of a department may, subject to such conditions as he or she may determine, delegate any of his or her powers under this Act and assign any of his or her duties in terms of this Act to an officer, employee or educator.

Offences and penalties

27. (1) Any person who—

- (a) has been subpoenaed under section 15 (3) (a) and who without sufficient cause fails to—
 - (i) appear at the time and place mentioned in the subpoena; or
 - (ii) remain present at the inquiry until he or she is excused from further attendance;

(b) ingevolge artikel 15 (3) (b) opgeroep is en wat weier om beëdig te word of 'n plegtige verklaring as getuie af te lê; of

(c) sonder voldoende rede versuim—

- (i) om 'n vraag wat wettig kragtens artikel 15 (3) (c) aan hom of haar gestel word volledig en bevredigend te beantwoord; of
- (ii) om 'n boek, stuk of saak in sy of haar besit of bewaring of onder sy of haar beheer oor te lê soos wettig kragtens artikel 15 (3) (c) versoek,

is aan 'n misdryf skuldig,

(2) Iemand wat aan 'n misdryf ingevolge subartikel (1) skuldig bevind word, is strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens ses maande of met sowel 'n boete as sodanige gevangenisstraf.

Regulasies

28. Die Minister kan regulasies wat nie met die een of ander wet strydig is nie, uitvaardig betreffende—

- (a)
 - (i) die verhaal van enige beloning, toelae of besoldiging wat op onreëlmatige wyse deur 'n opvoeder ontvang is;
 - (ii) die verhaal van enige gedeelte van 'n toelae of salaris wat foutiewelik aan 'n opvoeder betaal is, of die staking of intrekking van enige ander voordeel wat foutiewelik toegeken is;
 - (iii) die uitbetaling of toekenning van enige gedeelte van, 'n toelae of salaris of enige ander voordeel wat foutiewelik van 'n opvoeder weerhou is;
- (b)
 - (i) die adverteer van poste;
 - (ii) die instelling, samestelling, bevoegd-hede, pligte en werksaamhede van keurraade om persone vir aanstelling, oorpasing of bevordering in sekere poste aan te beveel;
 - (iii) die kwalifikasies vir aanstelling as, die ampstermyn van en die ontruiming van hulle amp as, lede of tydelike lede van 'n keurraad, en die vul van toevallige vakatures in 'n keurraad;
 - (iv) die aanstelling van 'n voorsitter of 'n waarnemende voorsitter van 'n keurraad; en
 - (v) die byeenroeping van, die prosedure by en die kworum vir vergaderings van 'n keurraad en die wyse waarop besluite deur so 'n keurraad geneem moet word;

(c) 'n aangeleentheid wat kragtens hierdie Wet voorgeskryf word; en

(b) has been called under section 15 (3) (b), and who refuses to be sworn or to make an affirmation as a witness; or

(c) without sufficient cause fails to—

- (i) answer fully and satisfactorily any question lawfully put to him or her under section 15 (3) (c); or
- (ii) submit any book, document or thing in his or her possession or custody or under his or her control as lawfully requested under section 15 (3) (c),

shall be guilty of an offence.

(2) Any person convicted of an offence in terms of subsection (1) shall be liable to a fine or to imprisonment for a period not exceeding six months, or to both a fine and such imprisonment.

Regulations

28. The Minister may make regulations which are not inconsistent with any law, relating to—

- (a)
 - (i) the recovery of any reward, allowance or remuneration received in an irregular manner by an educator;
 - (ii) the recovery of any portion of an allowance or salary paid erroneously to an educator, or the discontinuance or withdrawal of any benefit awarded erroneously;
 - (iii) the payment or award of any portion of an allowance or salary or any other benefit erroneously withheld from an educator;
- (b)
 - (i) the advertising of posts;
 - (ii) the establishment, composition, powers, duties and functions of selection boards to recommend persons for appointment, transfer or promotion to certain posts;
 - (iii) the qualifications for appointment, the term of office and the vacation of office as members or temporary members of a selection board, and the filling of casual vacancies in a selection board;
 - (iv) the appointment of a chairperson or an acting chairperson of a selection board; and
 - (v) the convening of, the procedure at and the quorum for meetings of a selection board, and the manner in which resolutions shall be passed by such a selection board.

(c) any matter required to be prescribed under this Act; and

(d) in die algemeen, 'n aangeleentheid wat die Minister nodig of dienstig ag om voor te skryf ten einde die oogmerke van hierdie Wet te bereik, en die algemeenheid van hierdie paragraaf word nie deur die voorafgaande paragrafe beperk nie.

Herroeping van wette, en voorbehoud

29. (1) Behoudens die bepalings van subartikel (2) word die wette in die Bylae vermeld, hierby herroep in die mate in die derde kolom van die Bylae aangedui.

(2) Enigiets wat ingevolge 'n bepaling van 'n wet wat by subartikel (1) herroep word, gedoen is of geag word gedoen te wees en wat ingevolge hierdie Wet gedoen kan of moet word, word geag ingevolge die ooreenstemmende bepaling van hierdie Wet gedoen te wees.

(3) Alle wette, regulasies, kennisgewings en lasgewings uitgevaardig of uitgereik kragtens 'n wet wat by hierdie Wet herroep word, wat onmiddellik voor die inwerkingtreding van hierdie Wet, van krag was, bly ondanks sodanige herroeping van krag behalwe in soverre dit onbestaanbaar of strydig is met hierdie Wet, totdat dit deur die Minister herroep, ingetrek of gewysig word by regulasie, kennisgewing of lasgewing, na gelang van die geval, ingevolge hierdie Wet uitgevaardig of uitgereik.

Voorbehoude

30. (1) Die bepalings van hierdie Proklamasie doen nie afbreuk aan die in artikel 210 van die Grondwet bedoelde bevoegdhede en werksaamhede van die Staatsdienskommissie ingestel by artikel 209 van die Grondwet of aan die in artikel 213 van die Grondwet bedoelde bevoegdhede en werksaamhede van 'n provinsiale dienskommissie ingestel kragtens genoemde artikel 213 nie.

(2) Die werksaamhede wat deur 'n lid van die Uitvoerende Raad ingevolge hierdie Wet verrig word, word deur die Minister van Onderwys verrig totdat die betrokke Lid van die Uitvoerende Raad in staat is om die werksaamhede te verrig.

Korttitel

31. Hierdie Wet heet die **Wet op Indiensneming van Opvoeders, 1994.**

(d) in general, any matter which the Minister may deem necessary or expedient to prescribe in order to achieve the objects of this Act, and the generality of this paragraph shall not be limited by the preceding paragraphs.

Repeal of laws

29. (1) Subject to the provisions of subsection (2), the laws listed in the Schedule are hereby repealed to the extent indicated in the third column of the Schedule.

(2) Anything which was done or is deemed to have been done in terms of a provision of a law repealed by subsection (1) and which may or shall be done in terms of this Act shall be deemed to have been done in terms of the corresponding provision of this Act.

(3) All laws, regulations, notices and directives made or issued under any law repealed by this Act which were in force immediately prior to the commencement of this Act shall, notwithstanding such repeal, remain in force except in so far as they are incompatible with or in conflict with this Act, until they are repealed, withdrawn or amended by the Minister by regulation, notice or directive, as the case may be, made or issued under this Act.

Savings

30. (1) The provisions of this Act shall not derogate from the powers and functions, set out in section 210 of the constitution, of the Public Service Commission established by section 209 of the Constitution or from the powers and functions, set out in section 213 of the Constitution, of a provincial service commission established under section 213 of the Constitution.

(2) The functions to be carried out by a member of the Executive Council in terms of this Act shall be carried out by the Minister of Education until the Member of the Executive Council is able to carry out such functions.

Short title

31. This Act shall be called the **Educators' Employment Act, 1994.**

BYLAE

Nommer en jaar van wet	Titel	In hoeverre herroep
Wet No. 2 van 1979	Bophuthatswana Nasionale Onderwyswet, 1979 (Bophuthatswana)	Artikels 11 en 12
Wet No. 6 van 1974	Ciskeise Wet op Onderwys, 1974 (Ciskei)	Artikels 10 tot en met 25
Wet No. 26 van 1983	Transkei Education Act	Artikels 13 tot en met 32 en 35
Wet No. 3 van 1973	Venda-wet op Onderwys, 1973 (Venda)	Artikels 10 tot en met 25

Nommer en jaar van wet	Titel	In hoeverre herroep
Wet No. 61 van 1965	Wet op Onderwys vir Indiërs, 1965	Artikels 8 tot en met 20
Wet No. 47 van 1963	Wet op Onderwys vir Kleurlinge, 1963...	Artikels 8 tot en met 20
Wet No. 90 van 1979	Wet op Onderwys en Opleiding, 1979 ...	Artikels 11, 13 tot en met 29
Wet No. 70 van 1988	Wet op Onderwysaangeleenthede (Volksraad), 1988	Hoofstuk 7
Wet No. 104 van 1981	Wet op Tegniese Kolleges, 1981	Artikels 9, 10, 12 en 13
Wet No. 11 van 1990	Gazankulu- wet op Onderwys, 1990	Artikels 14 tot en met 32 en 35
Wet No. 90 van 1979	Wet op Onderwys en Opleiding, 1979 ...	Artikels 11, 13 tot en met 29 vir sover hulle van toepassing is in die regsgebied van die KaNgwane- Wetgewende Vergadering
Wet No. 90 van 1979	Wet op Onderwys en Opleiding, 1979 ...	Artikels 11, 13 tot en met 29 vir sover hulle van toepassing is in die regsgebied van die Kwa-Ndebele- Wetgewende Vergadering
Wet No. 7 van 1978	KwaZulu-wet op Onderwys, 1978 (Kwa-Zulu)	Artikels 11 tot en met 26
Wet No. 6 van 1974	Lebowa-wet op Onderwys, 1974 (Lebowa)	Artikels 10 tot en met 14
Wet No. 7 van 1987	Qwaqwa-wet op Onderwys, 1987 (Qwaqwa)	Artikels 10 tot en met 26 en artikel 30
Wet No. 13 van 1990	Qwaqwa-wet op Tersiêre Onderwys, 1990 (Qwaqwa)	Artikel 10
Ordonnansie No. 29 van 1953	Onderwysordonnansie, 1953 (Transvaal)	Vir sover die bepalings daarvan verband hou met die indienshouding van opvoeders by onderwysersopleidingskolleges
Ordonnansie No. 20 van 1956	Onderwysordonnansie, 1956 (Kaap).....	Vir sover die bepalings daarvan verband hou met die indienshouding van opvoeders by opleidingskolleges vir onderwysstudente
Ordonnansie No. 46 van 1969	Natale Onderwysordonnansie, 1969 ...	Vir sover die bepalings daarvan verband hou met die indienshouding van opvoeders by onderwysersopleidingskolleges
Ordonnansie No. 12 van 1980	Onderwysordonnansie, 1980 (Oranje-Vrystaat)	Vir sover die bepalings daarvan verband hou met die indienshouding van opvoeders by onderwysersopleidingskolleges

SCHEDULE

Number and year of law	Title	Extent of repeal
Act No. 2 of 1979	Bophuthatswana National Education Act, 1979 (Bophuthatswana)	Sections 11 and 12
Act No. 6 of 1974	Ciskeian Education Act, 1974 (Ciskei)	Section 10 up to and including section 25
Act No. 26 of 1983	Transkei Education Act	Section 13 up to and including section 32 and section 35
Act No. 3 of 1973	Venda Education Act, 1973 (Venda)	Section 10 up to and including section 25
Act No. 61 of 1965	Indians Education Act, 1965	Section 8 up to and including section 20
Act No. 47 of 1963	Coloured Persons Education Act, 1963	Section 8 up to and including section 20
Act No. 90 of 1979	Education and Training Act, 1979	Section 11, section 13 up to and including section 29
Act No. 70 of 1988	Education Affairs Act (House of Assembly), 1988	Chapter 7

Number and year of law	Title	Extent of repeal
Act No. 104 of 1981	Technical Colleges Act, 1981	Sections 9, 10, 12 and 13
Act No. 11 of 1990	Gazankulu Education Act, 1990 (Gazankulu)	Section 14 up to and including section 32 and section 35
Act No. 90 of 1979	Education and Training Act, 1979.....	Section 11, section 13 up to and including section 29 in so far as they are applicable in the area of jurisdiction of the Legislative Assembly of KaNgwane
Act No. 90 of 1979	Education and Training Act, 1979.....	Section 11, section 13 up to and including section 29 in so far as they are applicable in the area of jurisdiction of the Legislative Assembly of KwaNdebele
Act No. 7 of 1978	KwaZulu Education Act, 1978 (KwaZulu)	Section 11 up to and including section 26
Act No. 6 of 1974	Lebowa Education Act, 1974 (Lebowa)	Section 10 up to and including section 14
Act No. 7 of 1987	Qwaqwa Education Act, 1987 (Qwaqwa)	Section 10 up to and including section 26
Act No. 13 of 1990	Qwaqwa Act on Tertiary Education, 1990 (Qwaqwa)	Section 10
Ordinance No. 29 of 1953	Education Ordinance, 1953 (Transvaal)	To the extent that the provisions thereof relate to the employment of educators at teachers' training colleges
Ordinance No. 20 of 1956	Education Ordinance, 1956 (Cape)	To the extent that the provisions thereof relate to the employment of educators at training colleges for student teachers
Ordinance No. 46 of 1969	Natal Education Ordinance, 1969.....	To the extent that the provisions thereof relate to the employment of educators at teachers' training colleges
Ordinance No. 12 of 1980	Education Ordinance, 1980 (Oranje-Vrystaat)	To the extent that the provisions thereof relate to the employment of educators at teachers' training colleges

BELANGRIKE AANKONDIGING

Sluitingstye **VOOR VAKANSIEDAE** vir

WETLIKE KENNISGEWINGS
GOEWERMENSKENNISGEWINGS **1994**

Die sluitingstyd is stiptelik 15:00 op die volgende dae:

- ▶ **6 Oktober**, Donderdag, vir die uitgawe van Vrydag **14 Oktober**
- ▶ **8 Desember**, Donderdag, vir die uitgawe van Donderdag **15 Desember**
- ▶ **22 Desember**, Donderdag, vir die uitgawe van Vrydag **30 Desember**

Laat kennisgewings sal in die daaropvolgende uitgawe geplaas word. Indien 'n laat kennisgewing wel, onder spesiale omstandighede, aanvaar word, sal 'n dubbeltarief gehef word.

Wanneer 'n **APARTE Staatskoerant** verlang word moet die kopie drie kalenderweke voor publikasie ingedien word

IMPORTANT ANNOUNCEMENT

Closing times **PRIOR TO PUBLIC HOLIDAYS** for

LEGAL NOTICES
GOVERNMENT NOTICES **1994**

The closing time is 15:00 sharp on the following days:

- ▶ **6 October**, Thursday, for the issue of Friday **14 October**
- ▶ **8 December**, Thursday, for the issue of Thursday **15 December**
- ▶ **22 December**, Thursday, for the issue of Friday **30 December**

Late notices will be published in the subsequent issue, if under special circumstances, a late notice is being accepted, a double tariff will be charged

The copy for a **SEPARATE Government Gazette** must be handed in not later than three calendar weeks before date of publication

BELANGRIK!!

Plasing van tale:

Staatskoerante

1. Hiermee word bekendgemaak dat die omruil van tale in die *Staatskoerant* jaarliks geskied met die eerste uitgawe in Oktober.
2. Vir die tydperk 1 Oktober 1993 tot 30 September 1994 word Afrikaans EERSTE geplaas.
3. Hierdie reëling is in ooreenstemming met dié van die Parlement waarby koerante met Wette ens. die taalvolgorde deurgaans behou vir die duur van die sitting.
4. *Dit word dus van u, as adverteerder, verwag om u kopie met bogenoemde reëling te laat strook om onnodige omskakeling en stylredigering in ooreenstemming te bring.*

—oOo—

IMPORTANT!!

Placing of languages:

Government Gazettes

1. Notice is hereby given that the interchange of languages in the *Government Gazette* will be effected annually from the first issue in October.
2. For the period 1 October 1993 to 30 September 1994, Afrikaans is to be placed FIRST.
3. This arrangement is in conformity with Gazettes containing Act of Parliament etc. where the language sequence remains constant throughout the sitting of Parliament.
4. *It is therefore expected of you, the advertiser, to see that your copy is in accordance with the above-mentioned arrangement in order to avoid unnecessary style changes and editing to correspond with the correct style.*

INHOUD

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