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REPUBLIEK VAN SUID-AFRIKA

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Cape Town, 28 November 2002  
Kaapstad,

No. 24113

## THE PRESIDENCY

No. 1498

28 November 2002

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

No. 50 of 2002: Education Laws Amendment Act, 2002.

## DIE PRESIDENSIE

No. 1498

28 November 2002

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

No. 50 van 2002: Wysigingswet op Onderwyswette, 2002.

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**GENERAL EXPLANATORY NOTE:**

- [ ] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.
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*(English text signed by the President.)  
(Assented to 24 November 2002.)*

**BILL**

To amend the South African Schools Act, 1996, so as to provide for a national curriculum and the process for the assessment of learner achievement in public and independent schools; to make provision for the appointment of an intermediary to assist minor learners in disciplinary hearings; and to provide for admission age requirements for public and independent schools; to amend the Employment of Educators Act, 1998, so as to make provision for an appointment of an intermediary to assist minor learners in disciplinary hearings and for certain definitions; to amend the Further Education and Training Act, 1998, so as to provide for safety measures at public and private further education and training institutions; to provide for a national curriculum and the process for assessment of student achievement for public and private further education and training institutions; and to effect textual corrections relating to the registration of private further education and training institutions; to amend the Adult Basic Education and Training Act, 2000, so as to effect textual corrections; to provide for safety measures at public and private centres; and to provide for a national curriculum and the process for the assessment of learner achievement for public and private centres; to amend the General and Further Education and Training Quality Assurance Act, 2001, so as to effect textual corrections; and to provide for matters connected therewith.

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

**Amendment of section 1 of Act 84 of 1996**

1. Section 1 of the South African Schools Act, 1996 (hereinafter referred to as the Schools Act), is amended by the addition of the following subsection, the existing section becoming subsection (1):

“(2) Footnotes appearing in *this Act* must not be used in the interpretation of any provision of *this Act*.”.

**ALGEMENE VERDUIDELIKENDE NOTA:**

- [ ] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
- Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

(*Engelse teks deur die President geteken.*)  
*(Goedgekeur op 24 November 2002.)*

**WET**

Om die Suid-Afrikaanse Skolewet, 1996, te wysig ten einde voorsiening te maak vir 'n nasionale kurrikulum en die proses vir die evaluering van leerderprestasie in openbare en onafhanklike skole; om voorsiening te maak vir die aanstelling van 'n tussenganger om minderjarige leerders by te staan by tugverhore; en om voorsiening te maak vir vereistes vir die toelatingsouderdom tot openbare en onafhanklike skole; om die Wet op die Indiensneming van Opvoeders, 1998, te wysig ten einde voorsiening te maak vir die aanstelling van 'n tussenganger om minderjarige leerders by te staan by tugverhore en vir sekere woordomskrywings; om die Wet op Verdere Onderwys en Opleiding, 1998, te wysig ten einde voorsiening te maak vir veiligheidsmaatreëls by openbare en private inrigtings vir verdere onderwys en opleiding; om voorsiening te maak vir 'n nasionale kurrikulum en die proses vir die evaluering van leerderprestasie vir openbare en private inrigtings vir verdere onderwys en opleiding; en om teksregstellings met betrekking tot die registrasie van private inrigtings vir verdere onderwys en opleiding aan te bring; om die Wet op Basiese Onderwys en Opleiding vir Volwassenes, 2000, te wysig ten einde teksregstellings aan te bring; om voorsiening te maak vir veiligheidsmaatreëls by openbare en private sentrums; en om voorsiening te maak vir 'n nasionale kurrikulum en die proses vir die evaluering van leerderprestasie in openbare en private sentrums; om die Wet op Gehalteversekering in Algemene en Verdere Onderwys en Opleiding, 2001, te wysig ten einde teksregstellings aan te bring; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

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

**Wysiging van artikel 1 van Wet 84 van 1996**

1. Artikel 1 van die Suid-Afrikaanse Skolewet, 1996 (hierna die Skolewet genoem), word gewysig deur die volgende subartikel by te voeg, terwyl die bestaande artikel subartikel (1) word:

“(2) Voetnotas wat in *hierdie* Wet voorkom, moet nie in die uitleg van enige bepaling van *hierdie* Wet gebruik word nie.”

**Amendment of section 5 of Act 84 of 1996**

**2.** Section 5 of the Schools Act is amended by the substitution for subsection (4) of the following subsection:

“(4) (a) The admission age of a *learner* to a *public school* to—

(i) *grade R* is age four turning five by 30 June in the year of admission;

(ii) *grade 1* is age five turning six by 30 June in the year of admission.

(b) Subject to the availability of suitable *school* places and other educational resources, the *Head of Department* may admit a *learner* who—

(i) is under the age contemplated in paragraph (a) if good cause is shown; and

(ii) complies with the criteria contemplated in paragraph (c).

(c) The *Minister* may, by regulation, prescribe—

(i) criteria for the admission to a *public school*, at an age lower than the admission age, of an underage *learner* who complies with the criteria<sup>1</sup>;

(ii) age requirements for different *grades* at a public school.

(d) For the purpose of paragraph (b)(i), good cause shown means that—

(i) it can be shown that exceptional circumstances exist which necessitate the admission of an underage *learner* because admission would be in his or her best interest; and

(ii) the refusal to admit that *learner* would be severely detrimental to his or her development.”.

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**Insertion of section 6A in Act 84 of 1996**

**3.** The Schools Act is amended by the insertion after section 6 of the following section:

**“Curriculum and assessment**

**6A.** (1) The *Minister* must, by notice in the Government Gazette, 25 determine—

(a) a national curriculum statement indicating the minimum outcomes or standards; and

(b) a national process and procedures for the assessment of *learner* achievement.

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(2) The curriculum and the process for the assessment of *learner* achievement contemplated in subsection (1) must be applicable to *public* and *independent schools*.”.

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**Amendment of section 8 of Act 84 of 1996**

**4.** Section 8 of the Schools Act is amended by the addition after subsection (5) of the following subsections:

“(6) A *learner* must be accompanied by his or her *parent* or a person designated by the *parent* at disciplinary proceedings, unless good cause is shown by the *governing body* for the continuation of the proceedings in the absence of the *parent* or the person designated by the *parent*.

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(7) Whenever disciplinary proceedings are pending before any *governing body*, and it appears to such *governing body* that it would expose a witness under the age of 18 years to undue mental stress or suffering if he or she testifies at such proceedings, the *governing body* may, if practicable, appoint a competent person as

1. It is acknowledged that criteria for admission of an underage learner are complex and take some considerable time to develop. The criteria must be reliable and effective and their proper implementation will require the training of evaluators. The criteria must be based on an educationally sound basis in order to ensure that—

(a) learners are admitted on an equitable basis;

(b) there is no unfair discrimination to learners;

(c) the admission is fair to the individual learner as well as other learners in the classroom;

(d) recognition is given to the diversity of language, culture and economic background;

(e) notice is taken of the differences between urban and rural environments; and

(f) the physical, psychological and mental development of the child is taken into account.

## Wysiging van artikel 5 van Wet 84 van 1996

**2.** Artikel 5 van die Skolewet word gewysig deur subartikel (4) deur die volgende subartikel te vervang:

“(4) (a) Die toelatingsouderdom van ’n leerder tot ’n openbare skool in —

(i) graad R is vier jaar indien die leerder vyf word teen 30 Junie in die jaar van toelating;

(ii) graad 1 is vyf jaar indien die leerder ses word teen 30 Junie in die jaar van toelating.

(b) Behoudens die beskikbaarheid van geskikte plekke in *skole* en ander opvoedkundige hulpbronne kan die *Departementshoof* toelating verleen aan ’n *leerder* wat—

(i) onder die ouderdom in paragraaf (a) beoog, is, indien afdoende redes aangevoer kan word; en

(ii) voldoen aan die kriteria in paragraaf (c) beoog.

(c) Die *Minister* kan, by regulasie—

(i) kriteria voorskryf vir die toelating tot ’n *openbare skool* teen ’n ouerdom wat laer is as die toelatingsouderdom, van ’n onderouderdomleerde wat aan die kriteria<sup>1</sup> voldoen;

(ii) ouderdomsvereistes vir verskillende *grade* by ’n *openbare skool* voorskryf.

(d) By die toepassing van paragraaf (b)(i), beteken afdoende redes aangevoer dat—

(i) aangetoon kan word dat daar uitsonderlike omstandighede bestaan wat die toelating van ’n onderouderdomleerde noedsak aangesien toelating in sy of haar beste belang sou wees; en

(ii) die weiering om daardie *leerder* toe te laat tot ernstige nadeel van sy of haar ontwikkeling sou wees.”.

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## Invoeging van artikel 6A in Wet 84 van 1996

**3.** Die Skolewet word gewysig deur die volgende artikel na artikel 6 in te voeg:

### “Kurrikulum en evaluering

**6A.** (1) Die *Minister* bepaal by wyse van kennisgewing in die 30 Staatskoerant—

(a) ’n nasionale kurrikulumstelling wat die minimum uitkomste of standarde aandui; en

(b) ’n nasionale proses en procedures vir die evaluering van die leerderprestasie.

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(2) Die kurrikulum en die proses vir die evaluering van die leerderprestasie in subartikel (1) beoog moet op *openbare* en *onafhanklike skole* van toepassing wees.”.

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## Wysiging van artikel 8 van Wet 84 van 1996

**4.** Artikel 8 van die Skolewet word gewysig deur die volgende subartikels na 40 subartikel (5) by te voeg:

“(6) ’n Leerder moet by dissiplinêre verrigtinge deur sy of haar ouer of ’n persoon deur die ouer aangewys vergesel word, tensy afdoende redes deur die beheerliggaam aangevoer kan word vir die voortsetting van die verrigtinge in die afwesigheid van die ouer of die persoon deur die ouer aangewys.”.

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1. Daar word toegegee dat kriteria vir die toelating van ’n onderouderdomleerde ingewikkeld is en ’n geruime tyd neem om te ontwikkel. Die kriteria moet betroubaar en doeltreffend wees en die behoorlike implementering daarvan sal die opleiding van evaluateerders vereis. Die kriteria moet op ’n opvoedkundig betroubare grondslag gebaseer wees ten einde te verseker dat—

(a) leerders op ’n billike grondslag toegelaat word;

(b) daar geen onregverdig diskriminasie teen leerders is nie;

(c) die toelating regverdig is teenoor die individuele leerder sowel as ander leerders in die klaskamer;

(d) erkenning gegee word aan die diversiteit van taal, kultuur en ekonomiese agtergrond;

(e) kennis geneem word van verskille tussen stedelike en landelike omgewings; en

(f) die fisiese, psigologiese en verstandelike ontwikkeling van die kind in aanmerking geneem word.

an intermediary in order to enable such witness to give his or her evidence through that intermediary.

(8) (a) An examination, cross-examination or re-examination of a witness in respect of whom a *governing body* has appointed an intermediary under subsection (7), except examination by the *governing body*, must not take place in any manner other than through that intermediary. 5

(b) Such intermediary may, unless the *governing body* directs otherwise, convey the general purport of any question to the relevant witness.

(9) If a *governing body* appoints an intermediary under subsection (7), the *governing body* may direct that the relevant witness must give his or her evidence at any place which— 10

(a) is informally arranged to put that witness at ease;

(b) is arranged in a manner in which any person whose presence may upset that witness, is outside the sight and hearing of that witness; and

(c) enables the *governing body* and any person whose presence is necessary at the relevant proceedings to hear, through the medium of any electronic or other devices, that intermediary as well as that witness during his or her testimony.”. 15

#### **Insertion of section 10A in Act 84 of 1996**

5. The Schools Act is amended by the insertion after section 10 of the following 20 section:

##### **“Prohibition of initiation practices**

**10A.** (1) A person may not conduct or participate in any initiation practices against a *learner* at a *school* or in a hostel accommodating *learners* of a *school*. 25

(2) (a) Any person who contravenes subsection (1) is guilty of misconduct and disciplinary action must be instituted against such a person in accordance with the applicable code of conduct, prescribed in sections 8 and 18A of *this Act* and Schedule 2 to the Employment of Educators Act, 1998 (Act No. 76 of 1998). 30

(b) In addition to paragraph (a), a *learner* may institute civil action against a person or a group who manipulated and forced that *learner* to conduct or participate in any initiation practices.

(3) For the purposes of *this Act*, “initiation practices” means any act which in the process of initiation, admission into, or affiliation with, or as condition for continued membership of, a *school*, a group, intramural or extramural activities, interschools sports team, or organisation— 35

(a) endangers the mental or physical health or safety of a person;

(b) undermines the intrinsic worth of human beings by treating some as inferior to others;

(c) subjects individuals to humiliating or violent acts which undermine the constitutional guarantee to dignity in the Bill of Rights;

(d) undermines the fundamental rights and values that underpin the *Constitution*;

(e) impedes the development of a true democratic culture that entitles an individual to be treated as worthy of respect and concern; or

(f) destroys public or private property.

(4) In considering whether the conduct or participation of a person in any initiation practices falls within the definition of subsection (3), the relevant disciplinary authority referred to in subsection (2)(a) must take into account the right of the *learner* not to be subjected to such practices.”. 50

#### **Insertion of section 18A in Act 84 of 1996**

6. The Schools Act is amended by the insertion after section 18 of the following section:

(7) Wanneer dissiplinêre verringinge voor enige *beheerliggaam* hangende is en dit vir sodanige *beheerliggaam* voorkom dat dit 'n getuie onder die ouderdom van 18 jaar aan onbehoorlike geestelike spanning of lyding sal blootstel indien hy of sy tydens die verringinge getuenis lewer, kan die *beheerliggaam*, indien doenlik, 'n bevoegde persoon as tussenganger aanstel ten einde die getuie in staat te stel om sy of haar getuenis deur daardie tussenganger te lewer.

(8) (a) 'n Verhoor, kruisverhoor of herverhoor van 'n getuie ten aansien van wie 'n *beheerliggaam* kragtens subartikel (7) 'n tussenganger aangestel het, afgesien van verhoor deur die *beheerliggaam*, moet nie op enige wyse behalwe deur daardie tussenganger plaasvind nie.

(b) So 'n tussenganger kan, tensy die *beheerliggaam* anders bepaal, die algemene strekking van enige vraag aan die betrokke getuie oordra.

(9) Indien 'n *beheerliggaam* kragtens subartikel (7) 'n tussenganger aanstel, kan die *beheerliggaam* bepaal dat die betrokke getuie sy of haar getuenis moet lewer op enige plek wat—

(a) informeel ingerig is om die getuie op sy of haar gemak te stel;

(b) só ingerig is dat enige persoon wie se teenwoordigheid die getuie moontlik kan ontstel, buite sig- en hoorafstand van daardie getuie is; en

(c) die *beheerliggaam* en enige persoon wie se teenwoordigheid by die betrokke verringinge nodig is, in staat stel om deur die medium van elektroniese of ander toestelle daardie tussenganger sowel as daardie getuie tydens sy of haar getuenis te hoor.”

### Invoeging van artikel 10A in Wet 84 van 1996

5. Die Skolewet word gewysig deur die volgende artikel na artikel 10 in te voeg:

#### “Verbod op inisiasiepraktyke

**10A.** (1) 'n Persoon mag nie enige inisiasiepraktyke teen 'n *leerder* by 'n *skool* of in 'n koshuis wat *leerders* van 'n *skool* huisves, bedryf of daaraan deelneem nie.

(2) (a) Enige persoon wat subartikel (1) oortree, is skuldig aan wangedrag en tugstappe moet teen sodanige persoon ingestel word in ooreenstemming met die toepaslike gedragskode, voorgeskryf in artikels 8 en 18A van *hierdie Wet* en Bylae 2 by die Wet op die Indiensneming van Opvoeders, 1998 (Wet No. 76 van 1998).

(b) Bykomend tot paragraaf (a) kan 'n *leerder* 'n siviele aksie instel teen 'n persoon of 'n groep wat daardie *leerder* gemanipuleer en gedwing het om enige inisiasiepraktyke te bedryf of daaraan deel te neem.

(3) By die toepassing van *hierdie Wet* beteken “inisiasiepraktyke” enige handeling in die proses van inisiasie, toelating tot, of inlywing by, of as 'n voorwaarde vir voortgesette lidmaatskap van, 'n *skool*, 'n groep, binnemuurse of buitemuurse bedrywighede, interskoolse sportspan, of organisasie wat—

(a) die geestelike of fisiese gesondheid of veiligheid van 'n persoon in gevaar stel;

(b) die intrinsieke waarde van mense ondermyн deur sommiges as minderwaardig teenoor ander te behandel;

(c) individue onderwerp aan vernederende of geweldsdade wat die grondwetlike waarborg van waardigheid in die Handves van Menseregte ondermyн;

(d) die fundamentele regte en waardes wat die *Grondwet* rugsteun, ondermyн;

(e) die ontwikkeling van 'n ware demokratiese kultuur wat die individu die reg gee om waardig geag te word om met respek en sorg behandel te word; of

(f) openbare of private eiendom vernietig.

(4) Wanneer daar oorweeg word of die optrede of deelname deur 'n persoon aan enige inisiasiepraktyk binne die bepaling van subartikel (3) val, moet die betrokke dissiplinêre overheid in subartikel (2)(a) bedoel die reg van die leerder om nie aan sodanige praktyke onderwerp te word nie, in ag neem.”

**“Code of conduct of governing body**

**18A.** (1) The *Member of the Executive Council* must, by notice in the Provincial Gazette, determine a code of conduct for the members of the *governing body* of a *public school* after consultation with associations of *governing bodies* in that province, if applicable.

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(2) The code of conduct referred to in subsection (1) must be aimed at establishing a disciplined and purposeful *school* environment dedicated to the improvement and maintenance of a quality governance structure at a *public school*.

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(3) All members of a *governing body* must adhere to the code of conduct.

(4) The code of conduct must contain provisions of due process, safeguarding the interests of the members of the *governing body* in disciplinary proceedings.

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(5) The Head of Department may suspend or terminate the membership of a *governing body* member for a breach of the code of conduct after due process.

(6) A member of the *governing body* may appeal to the *Member of the Executive Council* against a decision of a *Head of Department* regarding the suspension or termination of his or her membership as a *governing body member*.<sup>1</sup>

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**Amendment of section 38 of Act 84 of 1996**

7. Section 38 of the Schools Act is amended by the addition after subsection (2) of the following subsection:

“(3) The notice contemplated in subsection (2) must also inform the *parents* that the budget will be available for inspection at the *school* at least 14 days prior to the meeting.”.

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**Insertion of section 45A in Act 84 of 1996**

8. The Schools Act is amended by the insertion after section 45 of the following section:

**“Admission age to independent school**

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**45A.** (a) The admission age of a *learner* to an *independent school* to—

- (i) *grade R* is age four turning five by 30 June in the year of admission;
- (ii) *grade 1* is age five turning six by 30 June in the year of admission.

(b) An *independent school* may admit a *learner* who—

- (i) is under the age contemplated in paragraph (a) if good cause is shown; and

- (ii) complies with the criteria contemplated in paragraph (c).

(c) The *Minister* may, by regulation, prescribe—

- (i) criteria<sup>2</sup> for the admission to an *independent school* at an age lower than the admission age of an underage *learner* who complies with the criteria;

- (ii) age requirements for different *grades* at an *independent school*.

(d) For the purpose of paragraph (b)(i), good cause shown means that—

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2. It is acknowledged that criteria for admission of an underage learner are complex and take some considerable time to develop. The criteria must be reliable, effective and their proper implementation will require the training of evaluators. The criteria must be based on an educationally sound basis in order to ensure that—

- (a) learners are admitted on an equitable basis;
- (b) there is no unfair discrimination to learners;
- (c) the admission is fair to the individual learner as well as other learners in the classroom;
- (d) recognition is given to the diversity of language, culture and economic background;
- (e) notice is taken of the differences between urban and rural environments; and
- (f) the physical, psychological and mental development of the child are taken into account.

## Invoeging van artikel 18A in Wet 84 van 1996

6. Die Skolewet word gewysig deur die volgende artikel na artikel 18 in te voeg:

### “Gedragskode van beheerliggaam

**18A.** (1) Die *Lid van die Uitvoerende Raad* moet, by wyse van kennisgewing in die Provinciale Koerant, 'n gedragskode vir die lede van die *beheerliggaam* van 'n *openbare skool* bepaal na oorlegpleging met verenigings van *beheerliggame* in daardie provinsie, indien van toepassing.

(2) Die gedragskode in subartikel (1) bedoel moet gemik wees op die vestiging van 'n gedissiplineerde en doelgerigte skoolomgewing wat toegewy is aan die verbetering en instandhouding van 'n beheerstruktuur van gehalte by 'n *openbare skool*.

(3) Alle lede van 'n *beheerliggaam* moet hulle hou by die gedragskode.

(4) Die gedragskode moet bepalings ten aansien van 'n behoorlike regspores bevat om die belang van lede van die *beheerliggaam* in dissiplinêre verrigtinge te beskerm.

(5) Die *Departementshoof* kan die lidmaatskap van 'n lid van 'n *beheerliggaam* ná 'n behoorlike regspores opskort of beëindig vir 'n verbreking van die gedragskode.

(6) 'n Lid van die *beheerliggaam* kan by die *Lid van die Uitvoerende Raad* appèl aanteken teen 'n beslissing van die *Departementshoof* ten aansien van die opskorting of beëindiging van sy of haar lidmaatskap as 'n lid van die *beheerliggaam*.".

## Wysiging van artikel 38 van Wet 84 van 1996

7. Artikel 38 van die Skolewet word gewysig deur die volgende artikel na subartikel (2) by te voeg:

“(3) Die kennisgewing in subartikel (2) beoog moet ook die ouers inlig dat die begroting minstens 14 dae voor die vergadering by die skool ter insae sal wees.”.

## Invoeging van artikel 45A in Wet 84 van 1996

8. Die Skolewet word gewysig deur die volgende artikel na artikel 45 in te voeg:

### “Toelatingsouderdom tot onafhanklike skool

**45A.** (a) Die toelatingsouderdom van 'n *leerder* tot 'n *onafhanklike skool* in—

(i) *graad R* is vier jaar indien die leerder vyf word teen 30 Junie in die jaar van toelating;

(ii) *graad 1* is vyf jaar indien die leerder ses word teen 30 Junie in die jaar van toelating.

(b) 'n *Onafhanklike skool* kan toelating verleen aan 'n *leerder* wat—

(i) onder die ouderdom in paragraaf (a) beoog is, indien afdoende redes aangevoer kan word; en

(ii) voldoen aan die kriteria in paragraaf (c) beoog.

(c) Die *Minister* kan, by regulasie—

(i) kriteria<sup>2</sup> voorskryf vir die toelating tot 'n *onafhanklike skool* teen 'n ouderdom wat laer is as die toelatingsouderdom, van 'n onderouderdomleerder wat aan die kriteria voldoen;

2. Daar word toegegee dat die kriteria vir die toelating van 'n onderouderdomleerder ingewikkeld is en 'n aansienlike tyd neem om te ontwikkel. Die kriteria moet betroubaar en doeltreffend wees en die behoorlike implementering daarvan sal die opleiding van evaluateerders vereis. Dié kriteria moet op 'n opvoedkundig betroubare grondslag gebaseer ten einde te verseker dat—

(a) leerders op 'n billike grondslag toegelaat word;

(b) daar geen onregverdigde diskriminasie teen leerders is nie;

(c) die toelating regverdig is teenoor die individuele leerder sowel as ander leerders in die klaskamer;

(d) erkenning gegee word aan die diversiteit van taal, kultuur en ekonomiese agtergrond;

(e) kennis geneem word van verskille tussen landelike en stedelike omgewings; en

(f) die fisiese, psigologiese en verstandelike ontwikkeling van die kind in aanmerking geneem word.

- (i) it can be shown that exceptional circumstances exist which necessitate the admission of an underage *learner* because admission would be in his or her best interest; and
- (ii) the refusal to admit that *learner* would be severely detrimental to his or her development.”.

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**Substitution of section 61 of Act 84 of 1996, as amended by section 5 of Act 53 of 2000**

**9.** Section 61 of the Schools Act is amended by the substitution for section 61 of the following section:

**“Regulations**

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**61. The Minister may make regulations—**

- (a) to provide for safety measures at *public and independent schools*;
- (b) on any matter which must or may be prescribed by regulation under *this Act*; [and]
- (c) to prescribe a national curriculum statement applicable to *public and independent schools*;
- (d) to prescribe a national process and procedures for the assessment of *learner achievement* in *public and independent schools*;
- (e) to prescribe a national process for the assessment, monitoring and evaluation of education in *public and independent schools*;
- (f) on initiation practices at *public and independent schools*;
- (g) to prescribe the age norm per grade in *public and independent schools*;
- (h) to provide for norms and minimum standards for school funding; and
- (i) on any matter which may be necessary or expedient to prescribe in order to achieve the objects of *this Act*.”.

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**Insertion of section 6A in Act 76 of 1998**

**10.** The Employment of Educators Act, 1998 (hereinafter referred to as the Educators Act), is amended by the insertion after section 6 of the following section:

**“First appointment or appointment after break in service of educator**

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**6A. (1)** Despite section 6(3)(a), in the case of a first appointment or an appointment after one or more years' break in service to any provincial department of education, the employer may—

- (a) receive applications from first-time applicants or applicants returning after a break in service;
- (b) process the applications and match applications to vacant posts; and
- (c) make appointments to a school subject to subsection (2).

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(2) The appointment contemplated in subsection (1) may only be made after the employer has—

- (a) consulted the relevant governing body on the specific post and the requirements thereof;
- (b) ensured that the applicant to be appointed matches the requirements of the post; and
- (c) ensured that the applicant has prescribed qualifications.”.

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**Amendment of section 8 of Act 76 of 1998, as amended by section 16 of Act 48 of 1999**

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**11.** Section 8 of the Educators Act is amended by the addition of the following subsection:

**“(7)** Despite section 6(3)(a), in the case of an educator who has been awarded a bursary by the employer to follow a course approved by the employer, the employer may transfer such an educator, with his or her consent, to any suitable post on the educator establishment of a public school, a further education and training institution or an adult basic education and training centre.”.

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- (ii) ouderdomsvereistes vir verskillende *grade* by 'n *onafhanklike skool* voorskryf.
- (d) By die toepassing van paragraaf (b)(i) beteken afdoende redes aangevoer dat—
- (i) aangetoon kan word dat daar uitsonderlike omstandighede bestaan wat die toelating van 'n onderouderdomleerdeerder noodaak aangesien toelating in sy of haar beste belang sou wees; en
- (ii) die weiering om daardie *leerdeer* toe te laat tot die ernstige nadeel van sy of haar ontwikkeling sou wees.”.

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**Vervanging van artikel 61 van Wet 84 van 1996, soos gewysig deur artikel 5 van 10  
Wet 53 van 2000**

9. Artikel 61 van die Skolewet word gewysig deur artikel 61 deur die volgende artikel te vervang:

**“Regulasies**

- 61. Die Minister** kan regulasies uitvaardig— 15
- (a) om voorsiening te maak vir veiligheidsmaatreëls by *openbare en onafhanklike skole*;
- (b) ten opsigte van enige aangeleentheid wat kragtens *hierdie Wet* deur regulasies voorgeskryf kan of moet word; [en]
- (c) om 'n nasionale kurrikulumstelling voor te skryf wat op *openbare en onafhanklike skole* van toepassing is; 20
- (d) om 'n nasionale proses en procedures vir die evaluering van leerderprestasie in *openbare en onafhanklike skole* voor te skryf;
- (e) om 'n nasionale proses vir die beraming, monitering en evaluering van onderwys in *openbare en onafhanklike skole* voor te skryf; 25
- (f) aangaande inisiasiepraktyle by *openbare en onafhanklike skole*;
- (g) om die ouderdomsnorm per *graad* in *openbare en onafhanklike skole* voor te skryf;
- (h) om voorsiening te maak vir norme en minimum standaarde vir die *finansiering van skole*; en 30
- (i) oor enige aangeleentheid wat nodig of dienstig is om voor te skryf ten einde die oogmerke van *hierdie Wet* te bereik.”.

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**Invoeging van artikel 6A in Wet 76 van 1998**

10. Die Wet op die Indiensneming van Opvoeders, 1998 (hierna die Opvoederswet genoem), word gewysig deur die volgende artikel na artikel 6 in te voeg: 35

**“Eerste aanstelling of aanstelling na 'n diensonderbreking van opvoeder**

- 6A.** (1) Ondanks artikel 6(3)(a), kan die werkewer in die geval van 'n eerste aanstelling of 'n aanstelling na 'n diensonderbreking van een of meer jare in enige provinsiale onderwysdepartement— 40
- (a) aansoeke ontvanger van aansoekers wat vir die eerste keer aansoek doen of van aansoekers wat na 'n diensonderbreking terugkeer;
- (b) die aansoeke prosesseer en aansoeke indeel by vakante poste waar hulle inpas; en
- (c) behoudens subartikel (2) aanstellings by 'n skool doen. 45
- (2) Die aanstelling in subartikel (1) beoog kan slegs gedoen word nadat die werkewer—
- (a) die betrokke beheerliggaam oor die spesifieke pos en die vereistes daarvan geraadpleeg het;
- (b) verseker het dat die applikant wat aangestel staan te word, voldoen aan die vereistes van die pos; en 50
- (c) verseker het dat die applikant oor die nodige kwalifikasies beskik.”.

**Amendment of item 2 of Schedule 1 to Act 76 of 1998**

**12.** Item 2 of Schedule 1 to the Educators Act is amended by the substitution for subitem (2) of the following subitem:

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“(2) Despite section 4 of this Act, the performance of educators must be evaluated according to performance standards [agreed upon by the parties to the Educators Labour Relations Council] which may be prescribed by the Minister.”.

**Amendment of item 7 of Schedule 2 to Act 76 of 1998**

**13.** Item 7 of Schedule 2 to the Educators Act, 1998, is amended—

(a) by the insertion after subitem (7) of the following subitem:

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“(7A)(a) The record referred to in subitem (7) includes an electronic recording of the proceedings.

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“(b) A transcript of electronic recordings or a portion of the transcript of a recording may be made on request of the educator or his or her representative on payment of the prescribed fee contemplated in section 22 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).; and

(b) by the insertion after subitem (10) of the following subitem:

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“(10A)(a) Whenever disciplinary proceedings are pending before any presiding officer, and it appears to him or her that it would expose a witness under the age of 18 years to undue mental stress or suffering if he or she testifies at such proceedings, the presiding officer may, if practicable, appoint a competent person as an intermediary in order to enable such witness to give his or her evidence through that intermediary.

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“(b) (i) An examination, cross-examination or re-examination of a witness in respect of whom the presiding officer has appointed an intermediary under paragraph (a), except examination by the presiding officer, must not take place in any manner other than through that intermediary.

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“(ii) Such intermediary may, unless the presiding officer directs otherwise, convey the general purport of any question to the relevant witness.

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“(c) If the presiding officer appoints an intermediary under paragraph (a), he or she may direct that the relevant witness must give his or her evidence at any place which—

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(i) is informally arranged to put that witness at ease;  
(ii) is arranged in a manner in which any person whose presence may upset that witness, is outside the sight and hearing of that witness; and

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(iii) enables the presiding officer and any person whose presence is necessary at the relevant proceedings to hear, through the medium of any electronic or other devices, that intermediary as well as that witness during his or her testimony.”.

**Amendment of section 1 of Act 98 of 1998**

**14.** Section 1 of the Further Education and Training Act, 1998 (hereinafter referred to as the Education and Training Act), is amended by—

(a) the insertion after the definition of “financial year” of the following definition:

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“(‘foreign juristic person’ means a person—

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(i) registered or established as a juristic person in terms of a law of a foreign country; and  
(ii) recognised or registered as an external company in terms of the Companies Act, 1973 (Act No. 61 of 1973);”;

(b) the substitution for paragraph (c) of the definition of “further education and training institution” of the following paragraph:

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“(c) registered or [conditionally] provisionally registered as a private further education and training institution under this Act;”;

**Wysiging van artikel 8 van Wet 76 van 1998, soos gewysig deur artikel 16 van Wet 48 van 1999**

**11.** Artikel 8 van die Opvoederswet word gewysig deur die volgende subartikel by te voeg:

“(7) Ondanks artikel 6(3)(a) kan die werkgewer, in die geval van ’n opvoeder aan wie ’n beurs deur die werkgewer toegeken is om ’n kursus te volg wat die werkgewer goedgekeur het, so ’n opvoeder, met die instemming van die opvoeder, verplaas na enige gesikte pos op die opvoederdienstaat van ’n openbare skool, inrigting vir verdere onderwys en opleiding of sentrum vir basiese verdere onderwys en opleiding vir volwassenes.”.

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**Wysiging van item 2 van Bylae 1 by Wet 76 van 1998**

**12.** Item 2 van Bylae 1 by die Opvoederswet word gewysig deur subitem (2) deur die volgende subitem te vervang:

“(2) [Die] Ondanks artikel 4 van hierdie Wet moet die prestasie van opvoeders [moet] geëvalueer word ooreenkomsdig die prestasiestandaarde soos [ooreengekom deur die partye in die Raad van Arbeidsverhoudinge vir Opvoeders] wat deur die Minister voorgeskryf kan word.”.

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**Wysiging van item 7 van Bylae 2 by Wet 76 van 1998**

**13.** Item 7 van Bylae 2 by die Opvoederswet word gewysig—

(a) deur die volgende subitem na subitem 7 in te voeg:

“(7A) (a) Die verslag bedoel in subitem (7) sluit ’n elektroniese opname van die verrigtinge in.

(b) ’n Transkripsie van elektroniese opnames of ’n gedeelte van die transkripsie van ’n opname kan gemaak word op die versoek van die opvoeder of sy of haar verteenwoordiger by betaling van die voorgeskrewe gelde beoog in artikel 22 van die Wet op Bevordering van Toegang tot Inligting, 2000 (Wet No. 2 van 2000).”; en

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(b) deur die volgende subitem na subitem (10) in te voeg:

“(10A) (a) Wanneer tugverrigtinge voor enige voorsittende beampete hangende is en dit vir hom of haar voorkom dat dit enige getuie onder die ouderdom van 18 jaar aan onbehoorlike geestelike spanning of lyding sal blootstel indien hy of sy tydens sodanige verrigtinge getuenis lewer, kan die voorsittende beampete, indien doenlik, ’n bevoegde persoon as tussenganger aanstel ten einde sodanige getuie in staat te stel om sy of haar getuenis deur daardie tussenganger te lewer.

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(b) (i) ’n Verhoor, kruisverhoor of herverhoor van ’n getuie ten aansien van wie die voorsittende beampete kragtens paragraaf (a) ’n tussenganger aangestel het, afgesien van verhoor deur die voorsittende beampete, moet nie op enige wyse behalwe deur daardie tussenganger plaasvind nie.

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(ii) Sodanige tussenganger kan, tensy die voorsittende beampete anders bepaal, die algemene strekking van enige vraag aan die betrokke getuie oordra.

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(c) Indien die voorsittende beampete kragtens paragraaf (a) ’n tussenganger aanstel, kan hy of sy bepaal dat die betrokke getuie sy of haar getuenis moet lewer op enige plek wat---

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(i) informeel ingerig is om die getuie op sy of haar gemak te stel;

(ii) só ingerig is dat enige persoon wie se teenwoordigheid die getuie moontlik kan ontstel, buite sig- en hoorafstand van daardie getuie is; en

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(iii) die voorsittende beampete en enige persoon wie se teenwoordigheid by die betrokke verrigtinge nodig is, in staat stel om deur die medium van elektroniese of ander toestelle daardie tussenganger sowel as daardie getuie tydens sy of haar getuenis te hoor.”.

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**Wysiging van artikel 1 van Wet 98 van 1998**

**14.** Artikel 1 van die Wet op Verdere Onderwys en Opleiding, 1998 (hierna die Onderwys- en Opleidingswet genoem), word gewysig deur—

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- (c) the insertion after the definition of "higher education" of the following definition:
- "local juristic person" means a person established as a juristic person in South Africa in terms of the Companies Act, 1973 (Act No. 61 of 1973);"
- (d) the substitution for the definition of "registrar" of the following definition:
- "registrar" means the registrar [designated by the Director-General] referred to in [terms of] section 23(1);"; and
- (e) the insertion after the definition of "this Act" of the following definition:
- "to provide further education and training" means—
- (a) the registering of students for all learning and training programmes leading to qualifications from levels 2 to 4 of the National Qualifications Framework contemplated in the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), which levels are above general education but below higher education; and
- (b) the taking of responsibility for the registration of students, the provision and delivery of the curriculum and assessment of students.".

#### **Insertion of section 16A in Act 98 of 1998**

**15.** The Education and Training Act is amended by the insertion after section 16 of the following section: 20

#### **"Prohibition of corporal punishment and initiation practices**

- 16A.** (1) A person may not administer corporal punishment to a student at a further education and training institution.
- (2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a sentence which may be imposed for assault.
- (3) A person may not conduct or participate in initiation practices at public and private further education and training institutions.
- (4) Any person who contravenes subsection (3) is guilty of misconduct and disciplinary action must be instituted against such a person.
- (5) In addition to subsection (4), a person may institute civil action against a person or a group who manipulated and forced that person to conduct or participate in any initiation practices.
- (6) For the purposes of this Act, "initiation practices" means any act which in the process of initiation, admission into, or affiliation with, or as condition for continued membership of, a further education and training institution, a group, intramural or extramural activities, inter-institution sports teams, or organisation—
- (a) endangers the mental or physical health or safety of a person;
- (b) undermines the intrinsic worth of human beings by treating some as inferior to others;
- (c) subjects individuals to humiliating or violent acts which undermine the constitutional guarantee to dignity in the Bill of Rights;
- (d) undermines the fundamental rights and values that underpin the Constitution;
- (e) impedes the development of a true democratic culture that entitles an individual to be treated as worthy of respect and concern; or
- (f) destroys public or private property.
- (7) In considering whether the conduct or participation of a person in any initiation practices falls within the definition of subsection (6), the relevant disciplinary authority referred to in subsection (4) must take into account the right of the student not to be subjected to such practices.".

#### **Amendment of section 23 of Act 98 of 1998**

**16.** Section 23 of the Education and Training Act is amended by the substitution for subsections (1) and (2) of the following subsections, respectively:

- "(1) The Director-General [must designate an employee of the Department as] is the registrar of private further education and training institutions. 55

(a) die volgende omskrywing na die omskrywing van "boekjaar" in te voeg: "buitelandse regspersoon" 'n persoon wat— (i) as 'n regspersoon geregistreer of gevestig is ingevolge 'n wet van 'n vreemde land; en (ii) as 'n buitelandse maatskappy erken word of geregistreer is ingevolge die Maatskappywet, 1973 (Wet No. 61 van 1973);";	5
(b) paragraaf (c) van die omskrywing van "inrigting vir verdere onderwys en opleiding" deur die volgende paragraaf te vervang: "(c) geregistreer [is] of [voorwaardelik] voorlopig geregistreer is as private inrigting vir verdere onderwys en opleiding kragtens hierdie Wet;";	10
(c) die volgende omskrywing na die omskrywing van "NRVOO" in te voeg: "om verdere onderwys en opleiding te verskaf"— (a) die registrasie van studente vir alle leer- en opleidingsprogramme wat lei tot kwalifikasies vanafvlakke 2 tot 4 van die Nasionale Kwalifikasieraamwerk beoog in die Wet op die Suid-Afrikaanse Kwalifikasie-owerheid, 1995 (Wet No. 58 van 1995), welkevlakke hoërt is as algemene onderwys maar laer as hoëer onderwys; en (b) die aanvaarding van verantwoordelikheid vir die registrasie van studente, dievoorsiening en lewering van die kurrikulum en evaluering van studente;";	15
(d) die volgende omskrywing na die omskrywing van "personeel" in te voeg: "plaaslike regspersoon" 'n persoon wat in Suid-Afrika as regspersoon gevestig is ingevolge die Maatskappywet, 1973 (Wet No. 61 van 1973);"; en	20
(e) die omskrywing van "registrator" deur die volgende omskrywing te vervang: "registrator" die registrator [deur die Direkteur-Generaal ingevolge in artikel 23(1) [aangewys] bedoel];".	25
<b>Invoeging van artikel 16A in Wet 98 van 1998</b>	30
<b>15.</b> Die Onderwys- en Opleidingswet word gewysig deur die volgende artikel na artikel 16 in te voeg:	
<b>"Verbod op lyfstraf en inisiasiepraktyke</b>	
<b>16A.</b> (1) 'n Persoon mag nie lyfstraf toedien aan 'n student by 'n inrigting vir verdere onderwys en opleiding nie.	35
(2) Enige persoon wat subartikel (1) oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n vonnis wat vir aanranding opgelê kan word.	40
(3) 'n Persoon mag nie inisiasiepraktyke by openbare en private inrigtings vir verdere onderwys en opleiding bedryf of daaraan deelneem nie.	45
(4) Enige persoon wat subartikel (3) oortree, is aan wangedrag skuldig en tugoptrede moet teen sodanige persoon ingestel word.	50
(5) Bykomend tot subartikel (4) kan 'n persoon 'n siviele aksie instel teen 'n persoon of 'n groep wat daardie persoon gemanipuleer en gedwing het om enige inisiasiepraktyke te bedryf of daaraan deel te neem.	55
(6) Vir die doeleindes van hierdie Wet beteken "inisiasiepraktyke" enige handeling wat in die proses van inisiasie, toelating tot, affiliasie met, of as voorwaarde vir voortgesette lidmaatskap van 'n inrigting vir verdere onderwys en opleiding, 'n groep, binnemuurse of buitemuurse bedrywighede, inter-inrigtingsportspanne, of organisasie— (a) die geestelike of fisiese welsyn of veiligheid van 'n persoon in gevaar stel; (b) die intrinsieke waarde van mense ondermyń deur sommige as minderwaardig teenoor ander te behandel;	55
(c) individue te onderwerp aan vernederende of gewelddadige handelinge wat die grondwetlike waarborg van waardigheid in die Handves vir Menseregte ondermyń;	55

(2) The [Director-General] Minister may designate any other employee of the Department of Education to assist the registrar in the performance of his or her functions in terms of this Act.”.

#### Substitution of section 24 of Act 98 of 1998

17. The following section is substituted for section 24 of the Education and Training Act: 5

##### **“Registration of private further education and training institution**

**24.** (1) A person other than a public further education and training institution or an organ of state may not provide further education and training unless that person is—

- (a) registered or recognised as a juristic person in terms of the Companies Act, 1973 (Act No. 61 of 1973); and
- (b) registered or provisionally registered as a private further education and training institution in terms of this Act.”.

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#### Amendment of section 26 of Act 98 of 1998

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18. Section 26 of the Education and Training Act is amended by the substitution for subparagraphs (ii) and (iii) of paragraph (b) of subsection (1) of the following subparagraphs, respectively:

- “(ii) will comply with the requirements of the General and Further Education and Training Quality Assurance Council; and
- (iii) complies with any other reasonable requirement prescribed by the Minister; and”.

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#### Amendment of section 27 of Act 98 of 1998

19. Section 27 of the Education and Training Act is amended by—

- (a) the substitution for subsection 1 of the following subsection:

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##### **“(1) The registrar—**

- (a) must consider any application for registration as a private further education and training institution and any further information, particulars or documents provided by the applicant;
- (b) may, when considering the application, differentiate between a foreign juristic person and local juristic person with regard to matters such as its scope and range of operations, its size and its institutional configuration; and
- (c) may register the applicant as a private further education and training institution if the requirements for registration contemplated in section 26 are fulfilled.”;

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- (b) the substitution for subsections (3) and (4) of the following subsections, respectively:

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“(3) Notwithstanding subsection (1), the registrar may [conditionally] provisionally register an applicant, other than a foreign juristic person, who does not fulfill the requirements for registration contemplated in section 26, if the registrar believes that the applicant will be able to fulfill the relevant requirements within a reasonable period.

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(4) If the registrar [conditionally] provisionally registers an applicant under subsection (3), the registrar must—

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- (a) determine the period within which the applicant must satisfy the requirements for registration;
- (b) enter the applicant's name in the appropriate register of private further education and training institutions;
- (c) issue a certificate of [conditional] provisional registration, stating the terms and the duration of such registration;
- (d) [furnish] provide the certificate of [conditional] provisional registration to the applicant; and
- (e) as soon as practicable after the decision, publish the certificate of [conditional] provisional registration in the *Gazette*.”; and

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- (d) die fundamentele regte en waardes wat die Grondwet ten grondslag lê, ondermy; 5  
 (e) die ontwikkeling van 'n ware demokratiese kultuur wat 'n individu die reg gee om met waardigheid en deernis behandel te word, aan bande lê; of  
 (f) openbare of private eiendom vernietig.  
 (7) Wanneer dit oorweeg word of die optrede of deelname van 'n persoon aan enige inisiasiepraktyke binne die definisie van subartikel (6) val, moet die betrokke dissiplinêre owerheid in subartikel (4) bedoel die reg van die student om nie aan sodanige praktyke onderwerp te word nie, in ag neem.”.

### Wysiging van artikel 23 van Wet 98 van 1998

**16.** Artikel 23 van die Onderwys- en Opleidingswet word gewysig deur subartikels (1) en (2) deur onderskeidelik die volgende subartikels te vervang:

“(1) Die Direkteur-generaal [moet 'n werknemer van die Departement aanwys as] is die registrateur van private inrigtings vir verdere onderwys en opleiding.

(2) Die [Direkteur-generaal] Minister kan enige ander werknemer van die Departement van Onderwys aanwys om die registrateur in die verrigting van sy of haar werkzaamhede ingevolge hierdie Wet by te staan.”.

### Vervanging van artikel 24 van Wet 98 van 1998

**17.** Artikel 24 van die Onderwys- en Opleidingswet word deur die volgende artikel vervang:

#### “Registrasie van private inrigting vir verdere onderwys en opleiding

**24.** (1) 'n Persoon, behalwe 'n openbare inrigting vir verdere onderwys en opleiding of 'n staatsorgaan, mag nie verdere onderwys en opleiding verskaf nie tensy daardie persoon—

- (a) geregistreer is of erken word as 'n regspersoon ingevolge die Maatskappywet, 1973 (Wet No. 61 van 1973); en  
 (b) geregistreer of voorlopig geregistreer is as 'n private inrigting vir verdere onderwys en opleiding ingevolge hierdie Wet.”.

### Wysiging van artikel 26 van Wet 98 van 1998

**18.** Artikel 26 van die Onderwys- en Opleidingswet word gewysig deur subparagrawe (ii) en (iii) van paragraaf (b) van subartikel (1) deur onderskeidelik die volgende subparagrawe te vervang:

“(ii) aan die vereistes van die Gehalteversekeringsraad vir Algemene en Verdere Onderwys en Opleiding sal voldoen;  
 (iii) voldoen aan enige ander redelike vereiste deur die Minister voorgeskryf; en”.

### Wysiging van artikel 27 van Wet 98 van 1998

**19.** Artikel 27 van die Onderwys- en Opleidingswet word gewysig deur—

- (a) subartikel (1) deur die volgende subartikel te vervang:

“(1) Die registrateur—

- (a) moet enige aansoek om registrasie as 'n private inrigting vir verdere onderwys en opleiding en enige verdere inligting, besonderhede of dokumente wat deur die applikant voorsien is, oorweeg; 45  
 (b) kan, in die oorweging van die aansoek, onderskeid tref tussen 'n buitelandse regspersoon en 'n plaaslike regspersoon ten aansien van aangeleenthede soos die omvang en reikwydte van bedrywighede, die grootte daarvan en die institusionele samestelling daarvan; en  
 (c) kan die applikant as 'n private inrigting vir verdere onderwys en opleiding registreer indien daar aan die vereistes vir registrasie beoog in artikel 26 voldoen is.”;

- (c) the substitution in subsection (6) for paragraph (b) of the following paragraph:  
 “(b) If, by the expiry of the period, the applicant fails to satisfy the requirements for registration specified by the registrar, the applicant’s [conditional] provisional registration lapses.”.

**Amendment of section 28 of Act 98 of 1998**

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- 20.** Section 28 of the Education and Training Act is amended by the substitution for subsections (1) and (2) of the following subsections, respectively:

**“Certificate of registration**

- 28.** (1) A private further education and training institution must conspicuously display—  
 (a) its certificate of registration or [conditional] provisional registration or a certified copy thereof on its premises; and  
 (b) its registration number and an indication that it is registered or [conditionally] provisionally registered on all its official documents.  
 (2) If the registrar has cancelled the registration or [conditional] provisional registration of a private further education and training institution in terms of section 35, the private further education and training institution must return the original certificate of registration or [conditional] provisional registration to the registrar within 14 days of such cancellation.”.

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**Amendment of section 31 of Act 98 of 1998**

- 21.** Section 31 of the Education and Training Act is amended by the substitution for the words preceding paragraph (a) of the following words:

“A private further education and training institution may apply to the registrar to amend its registration or [conditional] provisional registration—”.

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**Amendment of section 32 of Act 98 of 1998**

- 22.** Section 32 of the Education and Training Act is amended by the substitution for subparagraph (i) of subsection (3)(a) of the following subparagraph:

“(i) amend the certificate of registration or [conditional] provisional registration accordingly;”.

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**Amendment of section 33 of Act 98 of 1998**

- 23.** Section 33 of the Education and Training Act is amended by the substitution for paragraphs (b) and (c) of subsection (1) of the following paragraphs, respectively:

“(b) its [conditional] provisional registration; or  
 (c) any amendment of its registration or [conditional] provisional registration.”.

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**Amendment of section 35 of Act 98 of 1998**

- 24.** Section 35 of the Education and Training Act is amended by the substitution for subsection (1) of the following subsection:

“(1) Subject to section 36, the registrar may, on reasonable grounds, cancel any registration or [conditional] provisional registration in terms of this Act.”.

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**Amendment of section 37 of Act 98 of 1998**

- 25.** Section 37 of the Education and Training Act is amended by the deletion of subsection (4).

**Substitution of section 47 of Act 98 of 1998**

- 26.** Section 47 of the Education and Training Act is amended by the substitution for section 47 of the following section:

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- (b) subartikels (3) en (4) deur onderskeidelik die volgende subartikels te vervang:
- “(3) Ondanks subartikel (1) kan die registrator ’n applikant, behalwe ’n buitelandse regspersoon, wat nie aan die vereistes vir registrasie in artikel 26 beoog, voldoen nie, [behalwe ’n buitelandse regspersoon voorwaardelik] voorlopig regstreer indien die registrator van oordeel is dat die applikant binne ’n redelike tydperk aan die toepaslike vereistes sal kan voldoen.
- (4) Indien die registrator ’n applikant [voorwaardelik] voorlopig regstreer kragtens subartikel (3), moet die registrator—
- (a) die tydperk bepaal waarbinne die applikant aan die vereistes vir registrasie moet voldoen;
- (b) die applikant se naam in die toepaslike register van private inrigtings vir verdere onderwys en opleiding inskryf;
- (c) ’n sertifikaat van [voorwaardelike] voorlopige registrasie uitreik wat die voorwaardes en duur van [die] sodanige registrasie vermeld;
- (d) die sertifikaat van [voorwaardelike] voorlopige registrasie aan die applikant besorg; en
- (e) so gou doenlik na die besluit, die sertifikaat van [voorwaardelike] voorlopige registrasie in die *Staatskoerant* publiseer.”; en
- (c) paragraaf (b) van subartikel (6) deur die volgende paragraaf te vervang:
- “(b) Indien die applikant, by afloop van daardie tydperk, nie aan die vereistes vir registrasie deur die registrator uiteengesit voldoen het nie, verval die [voorwaardelike] voorlopige registrasie van die applikant.”.

### **Wysiging van artikel 28 van Wet 98 van 1998**

**20.** Artikel 28 van die Onderwys- en Opleidingswet word gewysig deur subartikels (1) en (2) deur onderskeidelik die volgende subartikels te vervang:

#### **“Registrasiesertifikaat**

**28.** (1) ’n Private inrigting vir verdere onderwys en opleiding moet—

- (a) sy sertifikaat van registrasie of [voorwaardelike] voorlopige registrasie of ’n gesertifiseerde afskrif daarvan opvallend op sy perseel vertoon; en
- (b) sy registrasienommer [of] en ’n aanduiding dat hy geregistreer of [voorwaardelik] voorlopig geregistreer is, opvallend op al sy amptelike dokumente vertoon.

(2) Indien die registrator die registrasie of [voorwaardelike] voorlopige registrasie van ’n private inrigting vir verdere onderwys en opleiding ingevolge artikel 35 kanselleer, moet die private inrigting vir verdere onderwys en opleiding die oorspronklike registrasiesertifikaat of sertifikaat van [voorwaardelike] voorlopige registrasie binne 14 dae na [die] sodanige kanselling aan die registrator terugbesorg.”.

### **Wysiging van artikel 31 van Wet 98 van 1998**

**21.** Artikel 31 van die Onderwys- en Opleidingswet word gewysig deur die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“ ’n Private inrigting vir verdere onderwys en opleiding kan by die registrator aansoek doen om die wysiging van sy registrasie of [voorwaardelike] voorlopige registrasie—”.

### **Wysiging van artikel 32 van Wet 98 van 1998**

**22.** Artikel 32 van die Onderwys- en Opleidingswet word gewysig deur subparagraaf (i) van subartikel (3)(a) deur die volgende subparagraaf te vervang:

“(i) die registrasiesertifikaat of sertifikaat van [voorwaardelike] voorlopige registrasie dienooreenkomsdig wysig.”.

**“Regulations**

**47.** [(1)] The Minister may make regulations consistent with this Act on—

- (a) safety measures at public and private further education and training institutions;
- (b) a national process and procedures for the assessment of student achievement for public and private further education and training institutions;
- (c) a national process for the assessment, monitoring and evaluation of education in public and private further education and training institutions;
- (d) initiation practices at public and private further education and training institutions;
- (e) any matter which the Minister is empowered or required to prescribe by regulation in terms of this Act; [and] or
- [(b)] (f) any other matter in respect of which regulations are necessary or expedient in order to achieve the purpose of this Act.”.

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**Insertion of section 18A in Act 52 of 2000**

**27.** The Adult Basic Education and Training Act, 2000 (hereinafter referred to as the Adult Basic Education and Training Act), is amended by the insertion after section 18 of the following section:

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**“Curriculum and assessment**

**18A.** (1) The Minister must, by notice in the *Government Gazette*, determine—

- (a) a national curriculum statement indicating the minimum outcomes or standards;
  - (b) a national process and procedures for the assessment of learner achievement.
- (2) The curriculum and process for the assessment contemplated in subsection (1) must be applicable to public and private centres.”.

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**Insertion of section 20A in Act 52 of 2000**

**28.** The Adult Basic Education and Training Act is amended by the insertion after section 20 of the following section:

**“Prohibition of corporal punishment and initiation practices**

**20A.** (1) A person may not administer corporal punishment to a learner at any adult basic education and training centre.

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(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a sentence which may be imposed for assault.

(3) A person may not conduct or participate in initiation practices at public and private centres.

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(4) Any person who contravenes subsection (3) is guilty of misconduct and disciplinary action must be instituted against such a person.

(5) In addition to subsection (4), a person may institute civil action against a person or a group who manipulated and forced that person to conduct or participate in any initiation practices.”.

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**Substitution of section 32 of Act 52 of 2000**

**29.** Section 32 of the Adult Basic Education and Training Act is amended by the substitution for section 32 of the following section:

**Wysiging van artikel 33 van Wet 98 van 1998**

**23.** Artikel 33 van die Onderwys- en Opleidingswet word gewysig deur paragrawe (b) en (c) van subartikel (1) deur onderskeidelik die volgende paragrawe te vervang:

- “(b) sy [**voorwaardelike**] voorlopige registrasie; of
- (c) enige wysiging van sy registrasie of [**voorwaardelike**] voorlopige registrasie.”.

**Wysiging van artikel 35 van Wet 98 van 1998**

**24.** Artikel 35 van die Onderwys- en Opleidingswet word gewysig deur subartikel (1) deur die volgende subartikel te vervang:

- “(1) Die registrator kan, behoudens artikel 36, op redelike gronde enige registrasie of [**voorwaardelike**] voorlopige registrasie ingevolge hierdie Wet kanselleer.”.

**Wysiging van artikel 37 van Wet 98 van 1998**

**25.** Artikel 37 van die Onderwys- en Opleidingswet word gewysig deur subartikel (4) te skrap.

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**Vervanging van artikel 47 van Wet 98 van 1998**

**26.** Artikel 47 van die Onderwys- en Opleidingswet word deur die volgende artikel vervang:

**“Regulasies**

**47.** Die Minister kan regulasies bestaanbaar met hierdie Wet uitvaardig oor—

- (a) veiligheidsmaatreëls by openbare en private inrigtings vir verdere onderwys en opleiding;
- (b) ‘n nasionale proses en procedures vir die evaluering van die prestasie van studente vir openbare en private inrigtings vir verdere onderwys en opleiding;
- (c) ‘n nasionale proses vir die beoordeling, monitering en evaluering van onderwys in openbare en private inrigtings vir verdere onderwys en opleiding;
- (d) inisiasieprakteke by openbare en private inrigtings vir verdere onderwys en opleiding;
- (e) enige aangeleenthed wat die Minister ingevolge hierdie Wet by regulasie kan of moet voorskryf; [**en**] of
- [b] (f) enige ander aangeleenthed ten opsigte waarvan regulasies nodig of dienstig is ten einde die doel van hierdie Wet te bereik.”.

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**Invoeging van artikel 18A in Wet 52 van 2000**

**27.** Die Wet op Basiese Onderwys en Opleiding vir Volwassenes, 2000, word gewysig deur die volgende artikel na artikel 18 in te voeg:

**“Kurrikulum en evaluering**

**18A.** (1) Die Minister moet by kennisgewing in die *Staatskoerant*—

- (a) ‘n nasionale kurrikulumstelling wat die minimum uitkomste of standaarde aandui, bepaal; en
  - (b) ‘n nasionale proses en procedures vir die evaluering van leerderprestasie bepaal.
- (2) Die kurrikulum en proses vir die evaluering in subartikel (1) beoog moet van toepassing wees op openbare en private sentrums.”.

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**Invoeging van artikel 20A in Wet 52 van 2000**

**28.** Die Wet op Basiese Onderwys en Opleiding vir Volwassenes, 2000, word gewysig deur die volgende artikel na artikel 20 in te voeg:

**“Quality assurance and promotion in adult basic education and training**

**32.** Quality assurance and promotion in adult basic education and training must be conducted as contemplated in the [South African Certification Council Act, 1986 (Act No. 85 of 1986)] General and Further Education and Training Quality Assurance Act, 2001 (Act No. 58 of 2001).".

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**Substitution of section 41 of Act 52 of 2000**

**30.** Section 41 of the Adult Basic Education and Training Act is amended by the substitution for section 41 of the following section:

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**“Regulations**

**41.** The Minister or the Member of the Executive Council, as the case may be, may make regulations consistent with this Act on [any]—

- (a) any matter which the Minister [and] or the Member of the Executive Council are empowered or required to prescribe by regulation in terms of this Act; [and]
- (b) any matter in respect of which regulations are necessary or expedient in order to achieve the purpose of this Act[.];
- (c) safety measures at public and private centres;
- (d) a national curriculum statement applicable to public and private centres;
- (e) a national process and procedures for the assessment of learner achievement for public and private centres;
- (f) a national process for the assessment, monitoring and evaluation of education in public and private centres;
- (g) initiation practices at public and private centres; or
- (h) norms and minimum standards for funding.”.

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**Amendment of section 5 of Act 58 of 2001**

**31.** Section 5 of the General and Further Education and Training Quality Assurance Act, 2001, is amended by the substitution for subsection (1) of the following subsection:

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“(1) The Council must be regarded as having been accredited by the South African Qualifications Authority in terms of section [5(1)(b)(i)] 5(1)(a)(ii)(bb) of the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), as the body responsible for [establishing education and training standards or qualifications for] quality assurance in respect of general and further education and training at education institutions contemplated in section 2.”.

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**Short title and commencement**

**32.** (1) This Act is called the Education Laws Amendment Act, 2002.  
 (2) Sections 2 and 8 come into operation on 1 January 2004.

**“Verbod op lyfstraf en inisiasiepraktyke**

**20A.** (1) 'n Persoon mag nie lyfstraf toedien aan 'n leerder by enige sentrum vir basiese verdere onderwys en opleiding vir volwassenes nie.

(2) Enige persoon wat subartikel (1) oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n vonnis wat vir aanranding opgelê kan word.

(3) 'n Persoon mag nie by openbare of private sentrums inisiasiepraktyke bedryf of daarana deelneem nie.

(4) Enige persoon wat subartikel (3) oortree, is aan wangedrag skuldig en dissiplinêre optrede moet teen sodanige persoon ingestel word.

(5) Bykomend tot subartikel (4) kan 'n persoon siviele aksie instel teen 'n persoon of 'n groep wat daardie persoon gemanipuleer en gedwing het om aan enige inisiasiepraktyke deel te neem.”.

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**Vervanging van artikel 32 van Wet 52 van 2000**

**29.** Artikel 32 van die Wet op Basiese Onderwys en Opleiding vir Volwassenes, 2000, 15 word deur die volgende artikel vervang:

**“Gehalteversekering en -bevordering in basiese onderwys en opleiding vir volwassenes**

**32.** Gehalteversekering en -bevordering in basiese onderwys en opleiding vir volwassenes moet geskied soos beoog in die [Wet op die Suid-Afrikaanse Sertifiseringsraad, 1986 (Wet No. 85 van 1986)] Wet op Gehalteversekering in Algemene en Verdere Onderwys en Opleiding, 2001 (Wet No. 58 van 2001).”.

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**Vervanging van artikel 41 van Wet 52 van 2000**

**30.** Artikel 41 van die Wet op Basiese Onderwys en Opleiding vir Volwassenes, 2000, 25 word deur die volgende artikel vervang:

**“Regulasies**

**41.** Die Minister [en] of die Lid van die Uitvoerende Raad, na gelang van die geval, kan regulasies uitvaardig wat bestaanbaar is met hierdie Wet oor [enige] —

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(a) enige aangeleentheid wat die Minister en die Lid van die Uitvoerende Raad by magte is of ten opsigte waarvan van hom of haar vereis word, om by regulasie ingevolge hierdie Wet voor te skryf; [en]

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(b) enige aangeleentheid ten aansien waarvan regulasies nodig of dienstig is ten einde die doel van hierdie Wet te bereik;

(c) veiligheidsmaatreëls by openbare en private sentrums;

(d) 'n nasionale kurrikulumstelling wat op openbare en private sentrums van toepassing is;

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(e) 'n nasionale proses en procedures vir die evaluering van leerderprestasie vir openbare en private sentrums;

(f) 'n nasionale proses vir die beoordeling, monitering en evaluering van onderwys in openbare en private sentrums;

(g) inisiasiepraktyke by openbare en private sentrums; of

(h) norme en minimum standarde vir finansiering.”.

**Wysiging van artikel 5 van Wet 58 van 2001**

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**31.** Artikel 5 van die Wet op Gehalteversekering vir Algemene en Verdere Onderwys en Opleiding, 2001, word gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Die Raad word geag ingevolge artikel [5(1)(b)(i)] 5(1)(a)(ii)(bb)] van die Wet op die Suid-Afrikaanse Kwalifikasie-owerheid, 1995 (Wet No. 58 van 1995), 50 deur die Suid-Afrikaanse Kwalifikasie-owerheid geakkrediteer te wees as die liggaam wat verantwoordelik is vir [die vasstelling van onderwys- en

**opleidingstandaarde of -kwalifikasies vir] gehalteversekering ten opsigte van algemene en verdere onderwys en opleiding by onderwysinrigtings in artikel 2 beoog.”.**

**Kort titel en inwerkingtreding**

- 32.** (1) Hierdie Wet is die Wysigingswet op Onderwyswette, 2002. 5  
(2) Artikels 2 en 8 tree op 1 Januarie 2004 in werking.

