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Government Gazette

REPUBLIC OF SOUTH AFRICA

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THE PRESIDENCY

No. 5212 **16 September 2024**

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

Act No. 32 of 2024: Basic Education Laws Amendment Act, 2024

DIE PRESIDENSIE

No. 5212 **16 September 2024**

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

Wet No. 32 va
op Basiese O

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AIDS HELPLINE: 0800-0123-22 Prevention is the cure

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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.

(English text signed by the President)
(Assented to 13 September 2024)

ACT

To amend—

- **the South African Schools Act, 1996, to insert and amend certain definitions; to provide that attendance of grade R is compulsory; to amend the penalty provision in the case where the parent of a learner, or any other person, without just cause, prevents a learner who is subject to compulsory attendance from attending school, and to create an offence in respect of the interruption, disruption or hindrance of official educational activities of a school; to enhance the authority of the Head of Department in relation to the admission of a learner to a public school, after consultation with the governing body of the school; to provide that the South African Sign Language has the status of an official language for purposes of learning at a public school, and that the Head of Department may direct a public school to adopt more than one language of instruction, where it is practicable to do so, and that, if the Head of Department issues such a directive, he or she must take all necessary steps to ensure that the public school receives the necessary resources to enable it to provide adequate tuition in the additional language of instruction; to provide the Minister with the authority to appoint a person, an organisation or a group of persons to advise on curriculum and assessment-related matters; to provide that the code of conduct of a public school must take into account the diverse cultural beliefs, religious observances and medical circumstances of learners at the school and to provide for the inclusion of an exemption clause in the code of conduct and for disciplinary proceedings to be dealt with in an age-appropriate manner and in the best interests of the learner; to refine the provisions relating to the possession of drugs on school premises or during school activities; to refine the provisions relating to suspension and expulsion from public school for misconduct; to provide for the prohibition of corporal punishment at school, during school activities and at hostels accommodating learners of a school; to prohibit initiation practices during school activities; to provide for the designation of a public school as a public school with a specialised focus on talent; to further regulate the merger of public schools; to provide for centralised procurement of identified learning and teaching support material for public schools; to further regulate the withdrawal of the functions of governing bodies; to provide that it is the Minister, and not the Member of the Executive Council, who must make certain determinations in regard to the composition, and related matters, of governing bodies of schools for learners with special education needs; to provide for the membership of a governing body of a public school that provides education with a specialised focus on talent, sports and performing or creative arts; to provide that the Head of Department may, on reasonable grounds, dissolve a governing body that has ceased to perform its functions; to provide that a member of a**

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ALGEMENE VERDUIDELIKENDE NOTA:

[ ]	Woorde in vetdruk in vierkantige hakies dui weglatings uit bestaande verordeninge aan.
______	Woorde met 'n volstreep daaronder dui invoegings in bestaande verordeninge aan.

(Engelse teks deur die President geteken)
(Goedgekeur op 13 September 2024)

WET

Tot wysiging van—

- **die Suid-Afrikaanse Skolewet, 1996, ten einde sekere woordomskrywings in te voeg en te wysig; om te bepaal dat bywoning van graad R verpligtend is; om die strafbepaling te wysig in die geval waar die ouer van 'n leerder, of enige ander persoon, sonder afdoende rede, 'n leerder wat aan verpligte bywoning onderworpe is, verhoed om skool by te woon, en om 'n misdryf te skep ten opsigte van die onderbreking, ontwrigting of belemmering van amptelike opvoedkundige aktiwiteite van 'n skool; die Departementshoof meer gesag met betrekking tot die toelating van 'n leerder tot 'n openbare skool, ná oorleg met die beheerliggaam van die skool, te gee; te bepaal dat Suid-Afrikaanse Gebaretaal die status van 'n amptelike taal het vir doeleindes van onderrig by 'n openbare skool, en dat die Departementshoof 'n openbare skool kan opdrag gee om meer as een onderrigtaal aan te neem, waar dit moontlik is, en dat, indien die Departementshoof so 'n opdrag uitreik, hy of sy alle nodige stappe moet doen om te verseker dat die openbare skool die nodige hulpbronne ontvang om die openbare skool in staat te stel om voldoende onderrig in die addisionele onderrigtaal te verskaf; om die Minister van die gesag te voorsien om 'n persoon, 'n organisasie of 'n groep persone aan te stel om advies te gee oor kurrikulum- en assesseringsverwante aangeleenthede; om te bepaal dat die gedragskode van 'n openbare skool die uiteenlopende kulturele oortuigings, godsdienstige voorskrifte en mediese omstandighede van leerders by die skool in ag moet neem en om voorsiening te maak vir die insluiting van 'n vrystellingsklousule in die gedragskode en die hantering van dissiplinêre prosedures op 'n ouderdomsgepaste wyse en in die beste belang van die leerder; om die bepalings met betrekking tot die besit van dwelms op skoolgronde of tydens skoolaktiwiteite te verbeter; die bepalings met betrekking tot skorsing en tydelike skorsing uit openbare skool te verbeter; voorsiening te maak vir die verbod op lyfstraf op skool, tydens skoolaktiwiteite en by koshuise waar leerders van 'n skool gehuisves word; ontgroeningspraktyke tydens skoolaktiwiteite te verbied; voorsiening te maak vir die aanwysing van 'n openbare skool as 'n openbare skool met 'n gespesialiseerde fokus op talent; die samesmelting van openbare skole verder te reguleer; om voorsiening te maak vir gesentraliseerde verkryging van geïdentifiseerde leer- en onderrigondersteuningsmateriaal vir openbare skole; die onttrekking van die werksaamhede van beheerliggame verder te reguleer; te bepaal dat dit die Minister is, en nie die Lid van die Uitvoerende Raad nie, wat sekere bepalings moet maak met betrekking tot die samestelling, en verwante aangeleenthede, van beheerliggame van skole vir leerders met spesiale onderrigbehoeftes; voorsiening te maak vir die lidmaatskap van 'n beheerliggaam van 'n openbare skool wat onderwys verskaf met 'n**

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governing body must declare a direct or indirect personal and financial interest that he or she or his or her family member may have in the recruitment or employment of staff at a public school, or in the procurement of goods and services for a public school, and that the member of the governing body must recuse himself or herself from a meeting of the governing body under such circumstances; to provide further clarity regarding the prohibition of the remuneration of members of governing bodies; to provide that it is the Minister, and not the Member of the Executive Council, who must make certain determinations in regard to the election of members of governing bodies of public schools; to provide that, where reasonably practicable, only a parent member of a governing body who is not employed by the public school may serve as chairperson of the finance committee; to make a technical amendment in regard to the status of learners serving on governing bodies of public schools; to extend and refine the provisions relating to the closure of a public school; to provide that lease agreements relating to a school's immovable property must be submitted to the Head of Department for approval and that, in the case of a lease for a period not exceeding 12 months, the approval of the Head of Department is not required; to further regulate and refine matters relating to the budget of a public school; to further regulate the circumstances under which a governing body may pay additional remuneration, or give any other financial benefit or benefit in kind, to a state employee; to provide that, where the parent of a learner applies for exemption from the payment of school fees and information cannot be obtained from the other parent of the learner, the parent may submit documentary evidence in the form of an affidavit or court order in relation to the other parent; to provide for financial record-keeping by the governing body of a public school, for the drawing up of financial statements, and for the presentation of these to a general meeting of parents; to extend the powers of the Head of Department to conduct an investigation into the financial affairs of a public school and to provide that the governing body of a public school must submit quarterly reports on all income and expenditure to the Head of Department; to increase the penalty provision in the case where a person establishes or maintains an independent school and fails to register it; to empower the Member of the Executive Council to determine conditions when granting a subsidy to an independent school and to provide for financial reporting, by such subsidised independent schools; to further regulate home education; to create an offence where a parent supplies a public school with false or misleading information or forged documents when applying for the admission of a learner or for exemption from the payment of school fees; to provide for a dispute resolution mechanism in the event of a dispute between the Head of Department or the Member of the Executive Council and a governing body; to further regulate the liability of the State for delictual or contractual damages; to extend the power of the Minister to make regulations and to provide for offences to be created in regulations made by the Minister; to amend the Preamble; and to provide for matters incidental thereto; and

- **the Employment of Educators Act, 1998, so as to amend certain definitions; to exclude further education and training centres, adult basic education centres and institutions, from the ambit of the Act; to prohibit an educator from conducting business with the State and to create an offence in relation thereto; to extend the powers of the Minister to make regulations; and to provide for matters incidental thereto.**

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gespesialiseerde fokus op talent, sport en uitvoerende of skeppende kunste; voorsiening te maak dat die Departementshoof, op redelike gronde, 'n beheerliggaam wat opgehou het om hul werksaamhede te verrig, kan ontbind; voorsiening te maak dat 'n lid van 'n beheerliggaam 'n direkte of indirekte persoonlike en finansiële belang moet verklaar wat hy of sy of sy of haar familielid mag hê in die werwing of indiensneming van personeel by 'n openbare skool, of in die verkryging van goedere en dienste vir 'n openbare skool, en dat die lid van die beheerliggaam hom- of haarself onder sodanige omstandighede van 'n vergadering van die beheerliggaam moet onttrek; verdere duidelikheid te verskaf oor die verbod op die besoldiging van lede van beheerliggame; om te bepaal dat dit die Minister is, en nie die Lid van die Uitvoerende Raad nie, wat sekere bepalings moet maak met betrekking tot die verkiesing van lede van beheerliggame van openbare skole; te bepaal dat, waar redelikerwys moontlik, slegs 'n ouerlid van 'n beheerliggaam wat nie in diens van die openbare skool is nie, as voorsitter van die finansiële komitee mag dien; 'n tegniese wysiging aan te bring ten opsigte van die status van leerders wat op beheerliggame van openbare skole dien; die bepalings met betrekking tot die sluiting van 'n openbare skool uit te brei en te verfyn; te bepaal dat huurooreenkomste met betrekking tot 'n skool se onroerende eiendom aan die Departementshoof voorgelê moet word vir goedkeuring en dat, in die geval van 'n huurkontrak vir 'n tydperk van hoogstens 12 maande, die goedkeuring van die Departementshoof nie benodig word nie; sake met betrekking tot die begroting van 'n openbare skool verder te reguleer en te verbeter; die omstandighede waaronder 'n beheerliggaam bykomende besoldiging kan betaal, of enige ander finansiële voordeel of goederevoordeel, aan 'n staatswerknemer kan gee, verder te reguleer; te bepaal dat, waar die ouer van 'n leerder aansoek doen om vrystelling van die betaling van skoolgeld en inligting nie van die ander ouer van die leerder verkry kan word nie, die ouer dokumentêre getuienis in die vorm van 'n beëdigde verklaring of hofbevel met betrekking tot die ander ouer mag indien; om voorsiening te maak vir finansiële rekordhouding deur die beheerliggaam van 'n openbare skool, vir die opstel van finansiële state, en vir die voorlegging daarvan aan 'n algemene vergadering van ouers; die bevoegdhede van die Departementshoof uit te brei om ondersoek na die finansiële sake van 'n openbare skool in te stel en te bepaal dat die beheerliggaam van 'n openbare skool kwartaallikse verslae oor alle inkomste en uitgawes aan die Departementshoof moet indien; die strafbepaling te verhoog in die geval waar 'n persoon 'n onafhanklike skool stig of onderhou en versuim om dit te registreer; die Lid van die Uitvoerende Raad te bemagtig om voorwaardes te bepaal wanneer 'n subsidie aan 'n onafhanklike skool toegestaan word en om voorsiening te maak vir finansiële verslagdoening deur sodanige gesubsidieerde onafhanklike skole; om tuisonderwys verder te reguleer; 'n misdryf te skep waar 'n ouer 'n openbare skool van vals of misleidende inligting of vervalste dokumente voorsien wanneer hy of sy aansoek doen om die toelating van 'n leerder of om vrystelling van die betaling van skoolgeld; voorsiening te maak vir 'n geskilbeslegtingsmeganisme in die geval van 'n dispuut tussen die Departementshoof of die Lid van die Uitvoerende Raad en 'n beheerliggaam; die aanspreeklikheid van die Staat vir deliktuele of kontraktuele skadevergoeding verder te reguleer; die bevoegdheid van die Minister uit te brei om regulasies te maak en om voorsiening te maak dat misdrywe geskep kan word in regulasies wat deur die Minister gemaak word; om die Aanhef te wysig; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan; en

- **die Wet op Indiensneming van Opvoeders, 1998, ten einde sekere woordomskrywings te wysig; verdere onderwys- en opleidingsentrums, sentrums vir basiese onderwys en instellings vir basiese onderwys vir volwassenes van die bestek van die Wet uit te sluit; 'n opvoeder te verbied om sake met die Staat te doen en om 'n misdryf in verband daarmee te skep; die bevoegdhede van die Minister om regulasies te maak, uit te brei; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.**

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BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 84 of 1996, as amended by section 1 of Act 100 of 1997, section 6 of Act 48 of 1999, section 1 of Act 50 of 2002, section 1 of Act 24 of 2005, section 4 of Act 31 of 2007 and section 4 of Act 15 of 2011

1. Section 1 of the South African Schools Act, 1996 (Act No. 84 of 1996), is hereby amended—

(a) by the insertion in subsection (1) before the definition of ''*Constitution*'' of the following definitions:

''***'basic education'*** includes *grade R* to grade 12, as evidenced in the National Curriculum Statement;

'benefit in kind' means any benefit offered or afforded to an employee employed in terms of the Employment of Educators Act, 1998 (Act No. 76 of 1998), or the Public Service Act, 1994 (Proclamation No. 103 of 1994), which is not a monetary benefit, including, but not limited to—

(a) exclusive private usage or ownership of a vehicle;
(b) free accommodation;
(c) free phone, including a cell phone;
(d) free holiday;
(e) groceries to the benefit of the employee; or
(f) garden services;

'competent assessor' means an *educator* registered with the South African Council for Educators as defined in the South African Council for Educators Act, 2000 (Act No. 31 of 2000), a recognised professional body in the field of education, or a person or body registered with the South African Qualifications Authority as defined in the National Qualifications Framework Act, 2008 (Act No. 67 of 2008);'';

(b) by the substitution in subsection (1) for the definition of ''*Constitution*'' of the following definition:

''***'Constitution'*** means the Constitution of the Republic of South Africa, 1996 **[(Act 108 of 1996)]**;'';

(c) by the insertion in subsection (1) after the definition of ''*Constitution*'' of the following definition:

''***'corporal punishment'*** means any deliberate act against a child that inflicts pain or physical discomfort, however light, to punish or contain the child, which includes, but is not limited to—

(a) hitting, smacking, slapping, pinching or scratching with the hand or any object;
(b) kicking, shaking, throwing, throwing objects at, burning, scalding, biting, pulling hair, boxing ears, pulling or pushing children;
(c) forcing children to stay in uncomfortable positions, forced ingestion, washing children's mouths out with soap, denying meals, heat and shelter, forcing a child to do exercises which are not in accordance with the curriculum applicable to the *learner* or denying or restricting a child's use of the toilet; and
(d) any acts which seek to belittle, humiliate, threaten, induce fear or ridicule the dignity and person of a *learner*;''.

(d) by the insertion in subsection (1) after the definition of ''*Council of Education Ministers*'' of the following definition:

''**'Criminal Procedure Act'** means the Criminal Procedure Act, 1977 (Act No. 51 of 1977);''.

(e) by the insertion in subsection (1) after the definition of ''*dangerous object*'' of the following definitions:

''***'Department of Basic Education'*** means the national department established in terms of section 7(2), read with Schedule 1, of the Public Service Act, 1994 (Proclamation No. 103 of 1994), responsible for *basic education*;

'drug' means any—

(a) intoxicating or stupefying substance that has a psychological or physiological effect;

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

Wysiging van artikel 1 van Wet 84 van 1996, soos gewysig deur artikel 1 van Wet 100 van 1997, artikel 6 van Wet 48 van 1999, artikel 1 van Wet 50 van 2002, artikel 1 van Wet 24 van 2005, artikel 4 van Wet 31 van 2007 en artikel 4 van Wet 15 van 2011

1. Artikel 1 van die Suid-Afrikaanse Skolewet, 1996 (Wet No. 84 van 1996), word hierby gewysig—

(a) deur in subartikel (1) die volgende omskrywings voor die omskrywing van "*beampte*" in te voeg:

"***'ander finansiële voordeel'*** enige voordeel van 'n geldelike aard, met inbegrip van, maar nie beperk nie tot—

(a) vrystelling van die betaling van skoolgelde aan die *skool* ten opsigte van die kind van 'n werknemer, maar nie ook vrystelling ingevolge die bepalings van artikels 39 tot 41 nie;

(b) 'n kredietkaart aan 'n werknemer gekoppel vir sy of haar persoonlike gebruik; of

(c) 'n petrolkaart aan 'n werknemer gekoppel vir sy of haar persoonlike gebruik wat nie met enige skoolaktiwiteit verband hou nie;

'basiese onderwys' ook *graad R* tot graad 12, soos uit die Nasionale Kurrikulumverklaring blyk;";

(b) deur in subartikel (1) die volgende omskrywing na die omskrywing van "*beampte*" in te voeg:

"***'bevoegde assessor'*** 'n *opvoeder* geregistreer by die Suid-Afrikaanse Raad vir Opvoeders soos omskryf in die Wet op die Suid-Afrikaanse Raad vir Opvoeders, 2000 (Wet No. 31 van 2000), 'n erkende professionele liggaam op die gebied van onderwys, of 'n persoon of liggaam geregistreer by die Suid-Afrikaanse Kwalifikasie-owerheid soos omskryf in die 'National Qualifications Framework Act, 2008' (Wet No. 67 van 2008);";

(c) deur die volgende omskrywing na die omskrywing van "*Departementshoof*" in te voeg:

"***'Departement van Basiese Onderwys'*** die nasionale departement ingevolge artikel 7(2), gelees met Bylae 1 van die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994), ingestel, wat vir *basiese onderwys* verantwoordelik is;

'drank' drank soos omskryf in artikel 1 van die Drankwet, 2003 (Wet No. 59 van 2003);

'dwelmmiddel' enige—

(a) bedwelmende of verdowende middel wat 'n sielkundige of fisiologiese uitwerking het;

(b) middel wat die uitwerking het in paragraaf *(a)* beoog en wat in stryd met die gedragskode van 'n *skool* of in stryd met die wette van die Republiek besit word;

(c) middel, waarvan die besit of gebruik, of die verhandeling daarvan, sonder 'n mediese voorskrif of wetlike magtiging verbied word; of

(d) prestasie-verbeterende middel, verbode prestasie-verbeterende middel, afhanklikheidsproduserende middel, gevaarlike afhanklikheidsproduserende middel, ongewenste afhanklikheidsproduserende middel, onwettige middel, verbode middel, onwettige middel, onwettige dwelm, of geskeduleerde middel,

beoog in enige Suid-Afrikaanse wetgewing wat handel oor die beheer van medisyne en verwante middels, met dwelmhandel, dwelmmisbruik in die algemeen, en met dwelmmisbruik in sport en in enige programme of beleid wat daarop gemik is om sosiale en sportverwante middelmisbruik te beperk, en in enige internasionale instrumente wat oor sulke aangeleenthede handel en waartoe Suid-Afrika onderskryf of 'n party is;";

(d) deur in subartikel (1) die volgende omskrywing na die omskrywing van "*gevaarlike voorwerp*" in te voeg:

"***'goederevoordeel'*** enige voordeel aangebied of verleen aan 'n werknemer wat ingevolge die Wet op Indiensneming van Opvoeders,

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(b) substance that has the effect contemplated in paragraph *(a)* and that is possessed contrary to the code of conduct of a *school* or contrary to the laws of the Republic;

(c) substance, the possession or use of which, or the dealing in which, is prohibited without a medical prescription or legal authorisation; or

(d) performance-enhancing drug, prohibited performance-enhancing substance, dependence-producing substance, dangerous dependence-producing substance, undesirable dependence-producing substance, unlawful substance, prohibited substance, illicit substance, illicit drug, or scheduled substance,

contemplated in any South African legislation that deals with the control of medicines and related substances, with drug trafficking, substance abuse in general, and with substance abuse in sport and in any programmes or policies aimed at curtailing social and sport-related substance abuse, and in any international instruments that deal with such matters and to which South Africa subscribes or is a party;'';

(f) by the insertion in subsection (1) after the definition of ''*education department*'' of the following definition:

''***'education district'*** means a district in an area of a province which is demarcated by the *Member of the Executive Council* for administrative purposes;'';

(g) by the insertion in subsection (1) after the definition of ''*grade*'' of the following definition:

''***'grade R'*** means the Reception grade;'';

(h) by the insertion in subsection (1) after the definition of ''*Head of Department*'' of the following definition:

''***'home education'*** means a purposeful programme of education for a *learner*, alternative to *school* attendance, which—

(a) is provided under the direction of the *learner's* parent, primarily in the environment of the *learner's* home;

(b) may include tutorial or other educational support, if necessary, secured by the *parent* on specific areas of the curriculum followed by the *learner*; and

(c) meets the requirements for *home education* contemplated in section 51 of *this Act*;'';

(i) by the deletion in subsection (1) of the definition of ''*illegal drug*'';

(j) by the insertion in subsection (1) after the definition of ''*learner*'' of the following definition:

''***'liquor'*** means liquor as defined in section 1 of the Liquor Act, 2003 (Act No. 59 of 2003);'';

(k) by the substitution in subsection (1) for the definition of ''*loan*'' of the following definition:

''***'loan'*** means any financial obligation based on agreement, which obligation renders a *school* liable for making payment, in one or more instalments, in favour of any person, but does not include the payment of employees appointed by the *governing body* in terms of section 20(4) or (5), or operational costs as determined in the annual budget contemplated in section 38;'';

(l) by the insertion in subsection (1) after the definition of ''*officer*'' of the following definition:

''***'other financial benefit'*** means any benefit of a monetary nature, including, but not limited to—

(a) exemption from the payment of *school fees* to the *school* in respect of the child of an employee, but excluding exemption in terms of the provisions of sections 39 to 41;

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1998 (Wet No. 76 van 1998), of die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994), in diens is, wat nie 'n geldelike voordeel is nie, insluitend, maar nie beperk nie tot—

(a) eksklusiewe private gebruik of eienaarskap van 'n voertuig;
(b) gratis verblyf;
(c) 'n gratis foon, insluitend 'n selfoon;
(d) gratis vakansie;
(e) kruideniersware ten behoewe van die werknemer; of
(f) tuindienste;";

(e) deur die volgende omskrywing na die omskrywing van "*graad*" in te voeg:

"***'graad R'*** die ontvangsgraad;";

(f) deur in subartikel (1) die omskrywing van "*Grondwet*" deur die volgende omskrywing te vervang:

"***'Grondwet'*** die Grondwet van die Republiek van Suid-Afrika, 1996 **[(Wet No. 108 van 1996)]**;";

(g) deur in subartikel (1) die omskrywing van "*lening*" deur die volgende omskrywing te vervang:

"***'lening'*** enige finansiële verpligting gegrond op 'n ooreenkoms, welke verpligting 'n *skool* aanspreeklik maak om betaling te doen, in een of meer paaiemente, ten gunste van enige persoon, maar sluit dit nie die betaling in van personeel wat ingevolge artikel 20(4) of (5) deur die *beheerliggaam* aangestel is nie, of bedryfskoste soos bepaal in die jaarlikse begroting in artikel 38 beoog;";

(h) deur die volgende omskrywing na die omskrywing van "*Lid van die Uitvoerende Raad*" in te voeg:

"***'lyfstraf'*** enige opsetlike daad teen 'n kind wat pyn of fisiese ongemak, hoe gering ook al, veroorsaak om die kind te straf of in te perk, wat insluit, maar nie beperk is nie tot—

(a) slaan, wiks, klap, knyp of krap met die hand of enige voorwerp;
(b) skop, skud, gooi, gooi van voorwerpe na, brand, skroei, byt, trek hare, boks ore, trek of stoot van kinders;
(c) om kinders te dwing om in ongemaklike posisies te bly, kinders te dwing om iets in te neem, kinders se monde met seep uit te was, etes, hitte en skuiling te weier, 'n kind te dwing om oefeninge te doen wat nie in ooreenstemming is met die kurrikulum wat op die *leerder* van toepassing is nie of om te weier dat die kind die toilet gebruik of die gebruik van die toilet beperk; en
(d) enige handelinge wat poog om 'n *leerder* te verkleineer, verneder, dreig, vrees by die *leerder* in te boesem of die waardigheid en persoon van 'n *leerder* te spot;";

(i) deur die volgende omskrywing na die omskrywing van "*onderwysdepartement*" in te voeg:

"***'onderwysdistrik'*** 'n distrik in 'n gebied van 'n provinsie wat vir administratiewe doeleindes deur die *Lid van die Uitvoerende Raad* afgebaken is;";

(j) deur in subartikel (1) die omskrywing van "*onwettige dwelm*" te skrap;

(k) deur in subartikel (1) in die omskrywing van "*ouer*" paragraaf *(c)* deur die volgende paragraaf te vervang:

"*(c)* die persoon wat onderneem om die verpligtinge van 'n persoon in paragrawe *(a)* en *(b)* ten opsigte van die *leerder* se opvoeding **[op *skool*]** na te kom;";

(l) deur die volgende omskrywings na die omskrywing van "*skoolgelde*" in te voeg:

"***'spesiale onderwysbehoeftes'*** onderwys wat ontwerp is om die onderrig te vergemaklik van individue wat, om 'n wye verskeidenheid redes, bykomende ondersteuning en aanpassende pedagogiese metodes nodig het ten einde aan 'n onderwysprogram deel te neem en leeroogmerke daarin te behaal;

'Strafproseswet' die Strafproseswet, 1977 (Wet No. 51 van 1977);

'tuisonderrig' 'n doelgerigte onderrigprogram vir 'n *leerder*, as 'n alternatief vir skoolbywoning, wat—

(a) onder leiding van die *leerder* se ouer voorsien word, hoofsaaklik in die omgewing van die *leerder* se tuiste;

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(b) a credit card linked to an employee for his or her personal use; or
(c) a petrol card linked to an employee for his or her personal use not related to any *school* activity;'';

(m) by the substitution in subsection (1) in the definition of ''*parent*'' for paragraph *(c)* of the following paragraph:

''*(c)* the person who undertakes to fulfil the obligations of a person referred to in paragraphs *(a)* and *(b)* towards the *learner's* education **[at *school*]**;'';

(n) by the insertion in subsection (1) after the definition of ''*registrar of deeds*'' of the following definition:

'' ***'required documents'*** for *learners* shall have the following meaning in relation to the following categories of *learners*:

(a) Where at least one or both biological or adoptive *parents* of a *learner* are South African citizens, the following documents:
(i) An unabridged birth certificate of the *learner*;
(ii) the South African identity documents or cards of the *learner's parents*; and
(iii) where either or both *parents* are deceased, the relevant death certificates;

(b) where both *parents* of the *learner* are foreign nationals and hold either permanent residence permits or temporary residence visas, the following documents:
(i) the *learner's* foreign issued birth certificate;
(ii) the *learner's* passport;
(iii) a study visa or permanent residence permit issued to the *learner*;
(iv) the *parents'* passports; and
(v) the *parents'* temporary residence visas or permanent residence permits;

(c) where the *parents* of the *learner* are refugees or asylum seekers, the following documents:
(i) the *parent's* asylum seeker or refugee visa;
(ii) the *learner's* asylum seeker or refugee visa;
(iii) the *learner's* birth certificate if the *learner* was born in the Republic; and
(iv) where asylum seeker visas are provided, a refugee or long term study visa must be provided within three years of admission of the *learner*; and

(d) where the *learner* is in alternative care, the following documents:
(i) the relevant court order granting guardianship or custody; and
(ii) the *learner's* unabridged birth certificate.''; and

(o) by the insertion in subsection (1) after the definition of ''*school fees*'' of the following definition:

''**'special education needs'** means education designed to facilitate the learning of individuals who, for a wide variety of reasons, require additional support and adaptive pedagogical methods in order to participate and meet learning objectives in an educational programme;''.

Amendment of section 3 of Act 84 of 1996

2. Section 3 of the South African Schools Act, 1996, is hereby amended—

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

''(1) Subject to *this Act* and any applicable provincial law, every *parent* must cause every *learner* for whom he or she is responsible to attend **[a]** *school*, **[from]** starting from *grade R* on the first *school* day of the year in which such *learner* reaches the age of **[seven]** six years and not leaving *school* until the last *school* day of the year in which such *learner* reaches the age of **[fifteen]** 15 years or **[the ninth]** will complete grade nine, whichever occurs first.'';

(b) by the substitution for subsection (6) of the following subsection:

''(6) Subject to *this Act* and any other applicable law—

(a) any *parent* who, without just cause and after a written notice from the *Head of Department*, fails to comply with subsection (1)**[,]** is

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(b) studieleiding of ander onderrigondersteuning kan insluit, indien nodig, wat deur die *ouer* gereël is, oor 'n spesifieke area van die kurrikulum wat die *leerder* volg; en

(c) voldoen aan die vereistes vir *tuisonderrig* in artikel 51 van *hierdie Wet* beoog;

'vereiste dokumente' vir *leerders* die volgende in verband met die volgende kategorieë *leerders*:

(a) Waar ten minste een of beide biologiese of aanneemouers van 'n *leerder* Suid-Afrikaanse burgers is, die volgende dokumente:
   (i) 'n volledige geboortesertifikaat van die *leerder*;
   (ii) die Suid-Afrikaanse identiteitsdokumente of -kaarte van die *leerder* se *ouers*; en
   (iii) waar een of beide *ouers* oorlede is, die tersaaklike doodsertifikate;

(b) waar beide *ouers* van die *leerder* buitelanders is en permitte vir permanente verblyf of visums vir tydelike verblyf hou, die volgende dokumente:
   (i) die *leerder* se geboortesertifikaat wat in die buiteland uitgereik is;
   (ii) die *leerder* se paspoort;
   (iii) 'n studentevisum of permit vir permanente verblyf wat aan die *leerder* uitgereik is;
   (iv) die *ouers* se paspoorte; en
   (v) die *ouers* se visums vir tydelike verblyf of permitte vir permanente verblyf;

(c) waar die *ouers* van die *leerder* vlugtelinge of asielversoekers is, die volgende dokumente:
   (i) die *ouer* se asielversoeker- of vlugtelingvisum;
   (ii) die *leerder* se asielversoeker- of vlugtelingvisum;
   (iii) die *leerder* se geboortesertifikaat as die *leerder* in die Republiek gebore is; en
   (iv) waar asielversoekervisums verstrek word, moet 'n vlugteling- of langtermynstudievisum verstrek word binne drie jaar sedert toelating van die *leerder*; en

(d) waar die *leerder* in alternatiewe sorg is, die volgende dokumente:
   (i) die tersaaklike hofbevel waarin voogskap of sorg toegestaan word; en
   (ii) die *leerder* se volledige geboortesertifikaat.''.

Wysiging van artikel 3 van Wet 84 van 1996

2. Artikel 3 van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig—

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

''(1) Behoudens *hierdie Wet* en enige toepaslike provinsiale wet moet elke *ouer* elke *leerder* vir wie hy of sy verantwoordelik is **['n]** *skool* laat bywoon vanaf *graad R* op die eerste skooldag van die jaar waarin sodanige *leerder* die ouderdom van **[sewe]** ses jaar bereik tot op die laaste skooldag van die jaar waarin sodanige *leerder* die ouderdom van **[vyftien]** 15 jaar **[of die negende graad]** bereik of graad nege sal voltooi, watter een ook al eerste plaasvind.'';

(b) deur subartikel (6) deur die volgende subartikel te vervang:

''(6) Behoudens *hierdie Wet* en enige ander toepaslike Wet—

(a) is enige *ouer* wat, sonder afdoende rede en ná 'n skriftelike kennisgewing van die *Departementshoof*, in gebreke bly om

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guilty of an offence and liable, on conviction, to a fine or to imprisonment for a period not exceeding **[six]** 12 months, or to both a fine and such imprisonment, alternatively a court may impose a sentence within the court's discretion as contemplated in terms of the Criminal Procedure Act; or

(b) any other person who, without just cause, prevents a *learner* who is subject to compulsory attendance from attending **[a]** *school***[,]** is guilty of an offence and liable, on conviction, to a fine or to imprisonment for a period not exceeding **[six]** 12 months, or to both a fine and such imprisonment, alternatively a court may impose a sentence within the court's discretion as contemplated in terms of the Criminal Procedure Act.''; and

(c) by the addition of the following subsection:

''(7) Any person who, unlawfully and intentionally interrupts, disturbs or hinders any official educational activity of a *school*, or hinders or obstructs any *school* in the performance of the *school's* official educational activities, is guilty of an offence and liable, on conviction, to a fine or to imprisonment for a period not exceeding 12 months, or to both a fine and such imprisonment.''.

Insertion of section 4A in Act 84 of 1996

3. The following section is hereby inserted in the South African Schools Act, 1996, after section 4:

''**Monitoring learner attendance**

4A. (1) The *educator*, *principal* and *governing body* are responsible for promoting and monitoring the attendance of *learners* at *school*.

(2) The *governing body* must ensure that the code of conduct for *learners* contains rules dealing with punctuality and regular *school* attendance.

(3) If a *learner* is absent for three consecutive *school* days without valid reason, the class teacher concerned must report the absence to the *principal*.

(4) The *principal* must, within 24 hours after being informed of the absence, investigate the matter by making a reasonable effort to contact the *parent* of the *learner* by whatever means are suitable for the circumstances of the *school* and the family concerned and report the matter to the *governing body* of the *school* for further intervention.''.

Amendment of section 5 of Act 84 of 1996, as amended by section 2 of Act 50 of 2002

4. Section 5 of the South African Schools Act, 1996, is hereby amended—

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

''(1) A *public school* must admit, and provide education to, *learners* and must serve their educational requirements for the duration of their *school* attendance without unfairly discriminating in any way.'';

(b) by the insertion after subsection (1) of the following subsections:

''(1A) Any *learner* whose *parent* or guardian has not provided any *required documents*, whether of the *learner* or such adult person acting on behalf of the *learner*, during the application for admission, shall nonetheless be allowed to attend *school*.

(1B) The *principal* of the *school* must advise the *parent* or guardian to secure the *required documents*.'';

(c) by the substitution in subsection (4) for paragraph *(a)* of the following paragraph:

''*(a)* The admission age of a *learner* to a *public school* to *grade R* is age four turning five by 30 June in the year of admission: Provided that,

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uitvoering te gee aan subartikel (1), skuldig aan 'n misdryf en by skuldigbevinding onderhewig aan 'n boete of aan gevangenisstraf vir 'n tydperk wat nie **[ses]** 12 maande te bowe gaan nie, of aan beide 'n boete en sodanige gevangenisstraf, anders kan 'n hof 'n vonnis volgens die hof se diskresie oplê soos in die Strafproseswet beoog; of

(b) enige ander persoon wat, sonder afdoende rede, 'n *leerder* wat aan verpligte bywoning onderhewig is, daarvan weerhou om **['n]** *skool* **[by]** te **[woon]** gaan, is skuldig aan 'n misdryf en by skuldigbevinding onderhewig aan 'n boete of aan gevangenisstraf vir 'n tydperk wat nie **[ses]** 12 maande te bowe gaan nie, of aan beide 'n boete en sodanige gevangenisstraf, anders kan 'n hof 'n vonnis volgens die hof se diskresie oplê soos in die Strafproseswet beoog.''; en

(c) deur die volgende subartikel by te voeg:

''(7) Enige persoon wat, wederregtelik en met opset enige amptelike onderwysaktiwiteit van 'n *skool* onderbreek, versteur of hinder of enige *skool* hinder of belemmer in die verrigting van die *skool* se amptelike onderwysaktiwiteite, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete of aan gevangenisstraf vir 'n tydperk wat nie 12 maande te bowe gaan nie, of aan beide 'n boete en sodanige gevangenisstraf.''.

Invoeging van artikel 4A in Wet 84 van 1996

3. Die volgende artikel word hierby na artikel 4 in die Suid-Afrikaanse Skolewet, 1996, ingevoeg:

''**Monitering van leerderbywoning**

4A. (1) Die *opvoeder*, *prinsipaal* en *beheerliggaam* is verantwoordelik vir die bevordering en monitering van die skoolbywoning van *leerders*.

(2) Die *beheerliggaam* moet verseker dat *leerders* se gedragskode reëls bevat wat oor stiptelikheid en gereelde skoolbywoning handel.

(3) Indien 'n *leerder* sonder 'n geldige rede vir drie opeenvolgende skooldae afwesig is, moet die betrokke klasonderwyser die afwesigheid aan die *prinsipaal* rapporteer.

(4) Die *prinsipaal* moet, binne 24 uur nadat hy of sy van die afwesigheid ingelig is, die aangeleentheid ondersoek deur 'n redelike poging aan te wend om die *ouer* van die *leerder* te kontak op enige wyse soos gepas in die omstandighede van die *skool* en die betrokke familie en die aangeleentheid aan die *beheerliggaam* van die *skool* rapporteer vir verdere ingryping.''.

Wysiging van artikel 5 van Wet 84 van 1996, soos gewysig deur artikel 2 van Wet 50 van 2002

4. Artikel 5 van die Wet op Suid-Afrikaanse Skole, 1996, word hierby gewysig—

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

''(1) 'n *Openbare skool* moet *leerders* toelaat, en aan hulle opvoeding voorsien en hul opvoedkundige behoeftes dien vir die duur van hul skoolbywoning sonder om op enige wyse onregverdig te diskrimineer.'';

(b) deur die volgende subartikels na subartikel (1) in te voeg:

''(1A) Enige *leerder* wie se *ouer* of voog geen vereiste dokumente verstrek het nie, hetsy van die *leerder* of sodanige volwasse persoon wat ten behoewe van die *leerder* optree, tydens die aansoek om toelating, word nogtans toegelaat om *skool* by te woon.

(1B) Die *prinsipaal* van die *skool* moet die *ouer* of voog vra om die *vereiste dokumente* te verkry.'';

(c) deur in subartikel (4) paragraaf *(a)* deur die volgende paragraaf te vervang:

''*(a)* Die toelatingsouderdom vir 'n *leerder* in 'n *openbare skool* tot *graad R* is die ouderdom van vier indien die *leerder* teen 30 Junie in die jaar van toelating vyf jaar oud word: Met dien verstande dat,

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if a *school* has limited capacity for admission in *grade R*, preference must be given to *learners* who are subject to compulsory attendance.'';

(d) by the substitution for subsection (5) of the following subsection:

''(5) Subject to *this Act* and any applicable provincial law, the admission policy of a *public school* is determined by the *governing body* of such *school* in line with the *Constitution* and relevant legislation: Provided that—

(a) the *governing body*, when considering the admission policy or any amendment thereof for approval, must be satisfied that the policy or the amendment thereof takes into account the needs, in general, of the broader community in the *education district* in which the *public school* is situated, and must take into account factors including, but not limited to—

(i) the best interests of the child, with emphasis on equality as provided for in section 9 of the *Constitution*, and equity;

(ii) whether there are other *schools* in the community that are accessible to *learners*;

(iii) the available resources of the *school* and the efficient and effective use of state resources; and

(iv) the space available at the *school* for *learners*; and

(b) the *Head of Department*, after consultation with the *governing body* of the *school*, has the final authority, subject to subsection (9), to admit a *learner* to a *public school*; and

(c) the *governing body* must review the admission policy determined in terms of this section every three years or whenever the factors referred to in paragraph *(a)* have changed when circumstances so require, or at the request of the *Head of Department*.'';

(e) by the substitution for subsection (9) of the following subsection:

''(9) Any *learner* or *parent* of a *learner* who has been refused admission to a *public school* may appeal against the decision to the *Member of the Executive Council* within 14 days of receiving the notification of the refusal of admission to the *public school*.''; and

(f) by the addition of the following subsections:

''(10) If an appeal contemplated in subsection (9) has been received, the *Member of the Executive Council* must, within 14 days after receiving such an appeal, consider and decide on the matter and inform the *learner* or the *parent* of the *learner* of the outcome of the appeal.

(11) If the *governing body* is not satisfied with the decision of the *Head of Department* as contemplated in subsection (5)*(b)*, the *governing body* may appeal against the decision to the *Member of the Executive Council* within 14 days after receiving the decision of the *Head of Department*.

(12) If an appeal contemplated in subsection (11) has been received, the *Member of the Executive Council* must, within 14 days after receiving such appeal, consider and decide on the matter and inform the *governing body* of the outcome of the appeal.

(13) While the *Member of the Executive Council* considers the appeal, the admission policy shall remain valid and applicable, and only the provisions that are the subject of the appeal shall be suspended pending the finalisation of the appeal process.''.

Amendment of section 6 of Act 84 of 1996

5. Section 6 of the South African Schools Act, 1996, is hereby amended—

(a) by the substitution for subsection (2) of the following subsection:

''(2) The *governing body* of a *public school* may, subject to subsection (7), determine the language policy of the *school* subject to the *Constitution*, *this Act* and any applicable provincial law: Provided that the language policy of a *public school* must be limited to one or more of

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indien 'n *skool* beperkte kapasiteit in *graad R* het, voorkeur gegee moet word aan *leerders* wat aan verpligte bywoning onderhewig is.";

(*d*) deur subartikel (5) deur die volgende subartikel te vervang:

"(5) Behoudens *hierdie Wet* en enige toepaslike provinsiale wet word die toelatingsbeleid van 'n *openbare skool* deur die *beheerliggaam* van sodanige *skool* bepaal ooreenkomstig die *Grondwet* en tersaaklike wetgewing: Met dien verstande dat—

(*a*) die *beheerliggaam*, by die oorweging van die toelatingsbeleid of enige wysiging daarvan vir goedkeuring, oortuig moet wees dat die beleid of wysiging daarvan die behoeftes, oor die algemeen, van die breër gemeenskap in die onderrigdistrik waarin die *openbare skool* geleë is, in ag neem, en moet faktore in ag neem wat die volgende insluit, maar nie daartoe beperk is nie:

(i) Die beste belang van die kind, met die klem op gelykheid soos in artikel 9 van die *Grondwet* voor voorsiening gemaak, en billikheid;

(ii) hetsy daar ander *skole* in die gemeenskap is waartoe *leerders* toegang het;

(iii) die beskikbare hulpbronne van die *skool* en die doeltreffende en doelmatige gebruik van staatshulpbronne; en

(iv) die spasie wat by die *skool* vir *leerders* beskikbaar is; en

(*b*) die *Departementshoof*, na oorleg met die *beheerliggaam* van die *skool*, het die finale gesag, behoudens subartikel (9), om 'n *leerder* in 'n *openbare skool* toe te laat;

(*c*) die *beheerliggaam* moet die toelatingsbeleid wat ingevolge hierdie artikel bepaal is, elke drie jaar hersien of wanneer die faktore in paragraaf *(a)* bedoel, ook al verander het wanneer omstandighede dit vereis, of op versoek van die *Departementshoof*.";

(*e*) deur subartikel (9) deur die volgende subartikel te vervang:

"(9) Enige *leerder* of *ouer* van 'n *leerder* wat toelating tot 'n *openbare skool* geweier is, kan teen die beslissing appèl aanteken by die *Lid van die Uitvoerende Raad* binne 14 dae sedert ontvangs van die kennisgewing van die weiering of toelating tot die *openbare skool*."; en

(*f*) deur die volgende subartikels by te voeg:

"(10) Indien 'n appèl beoog in subartikel (9) ontvang is, moet die *Lid van die Uitvoerende Raad*, binne 14 dae sedert ontvangs van sodanige appèl, die aangeleentheid oorweeg en daaroor beslis en die *leerder* of die *ouer* van die *leerder* van die uitslag van die appèl verwittig.

(11) Indien die *beheerliggaam* ontevrede is met die beslissing van die *Departementshoof* soos in subartikel (5)*(b)* beoog, kan die *beheerliggaam* by die *Lid van die Uitvoerende Raad* appèl aanteken binne 14 dae sedert ontvangs van die beslissing van die *Departementshoof*.

(12) Indien 'n appèl beoog in subartikel (11), ontvang is, moet die *Lid van die Uitvoerende Raad* binne 14 dae sedert ontvangs van die appèl die aangeleentheid oorweeg en daaroor beslis en die *beheerliggaam* van die uitslag van die appèl verwittig.

(13) Terwyl die *Lid van die Uitvoerende Raad* die appèl oorweeg, bly die toelatingsbeleid geldig en van toepassing, en slegs die bepalings wat die onderwerp van die appèl is, word opgeskort hangende die afhandeling van die appèlproses.".

Wysiging van artikel 6 van Wet 84 van 1996

5. Artikel 6 van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig—

(*a*) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Die *beheerliggaam* van 'n *openbare skool* kan, behoudens subartikel (7), die taalbeleid van die *skool* bepaal, behoudens die *Grondwet*, *hierdie Wet* en enige toepaslike provinsiale wet: Met dien verstande dat die taalbeleid van 'n *openbare skool* beperk moet wees tot

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the official languages of the Republic as provided in section 6(1) of the *Constitution*.'';

(b) by the substitution for subsection (4) of the following subsection:

''(4) **[A recognised]** South African Sign Language has the status of an official language for purposes of learning at a *public school*.''; and

(c) by the addition of the following subsections:

''(5) The *governing body* of a *public school*, when determining the language policy of the *school* or any amendment thereof, must be satisfied that the policy or the amendment thereof takes into account the language needs, in general, of the broader community in the *education district* in which the *public school* is situated, and must take into account factors including, but not limited to—

(a) the best interests of the child, with emphasis on equality as provided for in section 9 of the *Constitution* and equity;

(b) section 6(2) of the *Constitution*;

(c) section 29(2) of the *Constitution*;

(d) the changing number of *learners* who speak the language of learning and teaching at the *public school*;

(e) the need for effective use of classroom space and resources of the *public school*; and

(f) the enrolment trends of the *public school*.

(6) The *governing body* must review the language policy determined in terms of this section every three years or whenever the factors referred to in subsection (5) have changed, when circumstances so require, or at the request of the *Head of Department*.

(7) Notwithstanding the provisions of subsection (2), the *Head of Department* may, where it is practicable to do so and subject to subsection (5), direct a *public school* to adopt more than one language of instruction.

(8) The *Head of Department*, in determining whether it is practicable for a *public school* to have more than one language of instruction, must take into account factors including, but not limited to—

(a) the best interests of the child, with emphasis on equality as provided for in section 9 of the *Constitution* and equity;

(b) the changing number of *learners* who speak the language of learning and teaching at the *public school*;

(c) the need for effective use of classroom space and resources of the *public school*; and

(d) the language needs, in general, of the broader community in the *education district* in which the *public school* is situated.

(9) The *Head of Department* may not act in terms of subsection (7) unless he or she has—

(a) in writing, informed the *school* and the *governing body* of his or her intention to act as contemplated in subsection (7) and his or her reasons therefor;

(b) notified the *parents* associated with the *school*, and the community in which the *school* is situated, of his or her intention so to act and the reasons therefor—

(i) by means of a notice in at least one newspaper circulating in the area where the *school* is situated, if any newspapers circulate in that area;

(ii) by causing the *principal* of the *school* to—

(aa) hand to every *learner* a notice containing the relevant information; and

(bb) instruct the *learners* to hand the notice to their *parents*; and

(iii) by means of any other acceptable form of communication that will ensure that the information is spread as widely as possible;

(c) granted the *school*, the *governing body*, the *parents* associated with the *school*, and the community in which the *school* is situated, a reasonable opportunity to make representations to him or her in relation to such action;

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een of meer van die amptelike tale van die Republiek soos in artikel 6(1) van die *Grondwet* bepaal.'';

(b) deur subartikel (4) deur die volgende subartikel te vervang:

''(4) **['n Erkende]** Suid-Afrikaanse Gebaretaal het die status van 'n amptelike taal vir die doeleindes van onderrig in 'n *openbare skool*.''; en

(c) deur die volgende subartikels by te voeg:

''(5) Die *beheerliggaam* van 'n *openbare skool*, by die bepaling van die taalbeleid van die *skool* of enige wysiging daarvan, moet oortuig wees dat die beleid of die wysiging daarvan die taalbehoeftes, oor die algemeen, van die breër gemeenskap in die *onderwysdistrik* waar die *openbare skool* geleë is, in ag neem, en moet faktore in ag neem wat die volgende insluit, maar nie daartoe beperk is nie:

(a) Die beste belang van die kind, met die klem op gelykheid, soos in artikel 9 van die *Grondwet* bepaal en billikheid;
(b) artikel 6(2) van die *Grondwet*;
(c) artikel 29(2) van die *Grondwet*;
(d) die veranderende getal *leerders* wat die onderrigtaal by die *openbare skool* praat;
(e) die behoefte aan doeltreffende gebruik van klaskamerspasie en hulpbronne van die *openbare skool*; en
(f) die inskrywingstendense van die *openbare skool*.

(6) Die *beheerliggaam* moet die taalbeleid wat ingevolge hierdie artikel bepaal is, elke drie jaar of wanneer die faktore in subartikel (5) bedoel, verander het, wanneer omstandighede dit vereis, of op versoek van die *Departementshoof*, hersien.

(7) Ondanks die bepalings van subartikel (2), kan die *Departementshoof*, waar prakties moontlik en behoudens die bepalings van subartikel (5), 'n *openbare skool* opdrag gee om meer as een taal van instruksie aan te neem.

(8) Die *Departementshoof*, by vasstelling of dit vir 'n *openbare skool* moontlik is om meer as een taal van onderrig te hê, moet faktore in ag neem wat die volgende insluit, maar nie daartoe beperk is nie:

(a) Die beste belang van die kind, met die klem op gelykheid soos in artikel 9 van die *Grondwet* voor voorsiening gemaak, en billikheid;
(b) die veranderende getal *leerders* wat die taal van onderrig en onderwys by die *openbare skool* praat;
(c) die behoefte vir doeltreffende gebruik van klaskamerruimte en hulpbronne van die *openbare skool*; en
(d) die taalbehoeftes, oor die algemeen, van die breër gemeenskap in die *onderwysdistrik* waarin die *openbare skool* geleë is.

(9) Die *Departementshoof* kan nie ingevolge subartikel (7) optree nie, tensy hy of sy—

(a) die *skool* en die *beheerliggaam* skriftelik verwittig het van sy of haar voorneme om op te tree soos beoog in subartikel (7) en sy of haar redes daarvoor;
(b) die *ouers* wat met die *skool* geassosieer is, en die gemeenskap waarin die *skool* geleë is, in kennis gestel het van sy of haar voorneme om so op te tree en die redes daarvoor—
  (i) by wyse van 'n kennisgewing in ten minste een koerant met sirkulasie in die gebied waar die *skool* geleë is, indien enige koerante in daardie gebied in sirkulasie is;
  (ii) deur die *prinsipaal* van die *skool*—
    (aa) 'n kennisgewing met die tersaaklike inligting aan elke *leerder* te laat oorhandig;
    (bb) die *leerders* te laat opdrag gee om die kennisgewing aan hulle *ouers* te oorhandig; en
  (iii) by wyse van enige ander aanvaarbare vorm van kommunikasie wat sal verseker dat die inligting so wyd moontlik versprei word;
(c) die *skool*, die *beheerliggaam*, die *ouers* van die *skool*, en die gemeenskap waarin die *skool* geleë is, 'n redelike geleentheid gegun het om vertoë oor sodanige stap, aan hom of haar te rig;

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(d) conducted a public hearing, on reasonable notice, to enable the community to make representations to him or her in relation to such action; and

(e) given due consideration to any such representations received.

(10) The *Head of Department* must—

(a) inform the *school* and the *governing body* of his or her decision contemplated in subsection (7) and his or her reasons therefor; and

(b) by means of the methods listed in subsection (9)*(b)*, notify the *parents* associated with the *schools*, and the communities in which the *schools* are situated, of the decision.

(11) If the *Head of Department* acts in terms of subsection (7), he or she must, before his or her directive is implemented, take all necessary steps to ensure that the *public school* concerned receives the necessary resources, including, but not limited to—

(a) *educators*; and

(b) learning and teaching support material,

to enable that *public school* to provide adequate tuition in the additional language or languages of instruction.

(12) If the *governing body* is not satisfied with the directive of the *Head of Department* as contemplated in subsection (7), the *governing body* may appeal against the directive to the *Member of the Executive Council* within 14 days after receiving the directive.

(13) If an appeal contemplated in subsection (12) has been received, the *Member of the Executive Council* must, within 14 days after receiving such appeal, consider and decide the matter and inform the *governing body* of the outcome of the appeal.

(14) While the *Member of the Executive Council* considers the appeal, the language policy of the *public school* shall remain valid and applicable, and only the provisions that are the subject of the appeal shall be suspended pending the finalisation of the appeal process.''.

Amendment of section 6A of Act 84 of 1996, as inserted by section 3 of Act 50 of 2002

6. Section 6A of the South African Schools Act, 1996, is hereby amended by the addition of the following subsection:

''(3) The *Minister* may, in writing, appoint a person, an organisation or a group of persons to advise him or her in regard to the determination contemplated in subsection (1).''.

Amendment of section 8 of Act 84 of 1996, as amended by section 4 of Act 50 of 2002 and section 6 of Act 31 of 2007

7. Section 8 of the South African Schools Act, 1996, is hereby amended—

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

''(1) Subject to the *Constitution*, *this Act* and any applicable provincial law, a *governing body* of a *public school* must adopt a code of conduct for the *learners* after consultation with the *learners*, *parents* and *educators* of the *school*.'';

(b) by the substitution for subsection (2) of the following subsection:

''(2) A 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 the quality of the learning process, taking into account the diverse cultural beliefs, religious observances and medical circumstances of the *learners* at the *school*.'';

(c) by the substitution for subsection (4) of the following subsection:

''(4)*(a)* Nothing contained in *this Act* exempts a *learner* from the obligation to comply with the code of conduct of the *school* attended by such *learner*.

(b) Despite paragraph *(a)*, the code of conduct must contain an exemption provision in terms of which a *learner*, or the *parent* of a *learner*, may apply to the *governing body* for exemption of that *learner*

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(d) 'n openbare verhoor, met redelike kennis, gehou het om die gemeenskap in staat te stel om vertoë aan hom of haar te rig in verband met sodanige stap; en

(e) enige vertoë wat gerig is, behoorlik oorweeg het.

(10) Die *Departementshoof* moet—

(a) die *skool* en die *beheerliggaam* verwittig van sy of haar besluit in subartikel (7) beoog en sy of haar redes daarvoor; en

(b) by wyse van die metodes in subartikel (9)*(b)* gelys, die *ouers* wat met die *skole* geassosieer is, en die gemeenskappe waarin die *skole* geleë is, van die besluit in kennis stel.

(11) Indien die *Departementshoof* ingevolge subartikel (7) optree, moet hy of sy, voordat sy of haar opdrag ingestel word, alle nodige stappe doen om te verseker dat die betrokke *openbare skool* die nodige hulpbronne ontvang, met inbegrip van, maar nie beperk nie tot—

(a) *opvoeders*; en

(b) leer- en onderrigondersteuningsmateriaal,

om daardie *openbare skool* in staat te stel om voldoende onderrig in die bykomende taal of tale van instruksie te voorsien.

(12) Indien die *beheerliggaam* nie tevrede is met die opdrag van die *Departementshoof* soos in subartikel (7) beoog nie, kan die *beheerliggaam* teen die opdrag, appèl aanteken by die *Lid van die Uitvoerende Raad* binne 14 dae sedert ontvangs van die opdrag.

(13) Indien 'n appèl in subartikel (12) beoog, ontvang is, moet die *Lid van die Uitvoerende Raad*, binne 14 dae na ontvangs van sodanige appèl, die aangeleentheid oorweeg en daaroor beslis en die *beheerliggaam* in kennis stel van die uitslag van die appèl.

(14) Terwyl die *Lid van die Uitvoerende Raad* die appèl oorweeg, bly die taalbeleid van die *openbare skool* geldig en van toepassing, en slegs die bepalings wat die onderwerp van die appèl is, word opgeskort hangende die afhandeling van die appèlproses.".

Wysiging van artikel 6A van Wet 84 van 1996, soos ingevoeg deur artikel 3 van Wet 50 van 2002

6. Artikel 6A van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig deur die volgende subartikel by te voeg:

"(3) Die *Minister* kan 'n persoon, 'n organisasie of 'n groep persone skriftelik aanstel om hom of haar van raad te bedien oor die bepaling in subartikel (1) beoog.".

Wysiging van artikel 8 van Wet 84 van 1996, soos gewysig deur artikel 4 van Wet 50 van 2002 en artikel 6 van Wet 31 van 2007

7. Artikel 8 van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig—

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

"(1) Behoudens die *Grondwet*, *hierdie Wet* en enige toepaslike provinsiale wet moet 'n *beheerliggaam* van 'n *openbare skool* 'n gedragskode vir *leerders* aanvaar ná oorleg met die *leerders*, *ouers* en *opvoeder*s van die *skool*.";

(b) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) 'n Gedragskode beoog in subartikel (1) moet daarop gemik wees om 'n gedissiplineerde en doelgerigte skoolomgewing wat toegewy is aan die bevordering en instandhouding van die gehalte van die leerproses, te vestig, met inagneming van die diverse kulturele oortuigings, geloofsvierings en mediese omstandighede van die *leerders* by die *skool*.";

(c) deur subartikel (4) deur die volgende subartikel te vervang:

"(4)*(a)* Geen bepaling van *hierdie Wet* stel 'n *leerder* vry van die verpligting om die gedragskode van die *skool* wat deur sodanige *leerder* bygewoon word, na te kom nie.

(b) Ondanks paragraaf *(a)*, moet die gedragskode 'n vrystellingsbepaling bevat ingevolge waarvan 'n *leerder*, of die *ouer* van 'n *leerder*, by die *beheerliggaam* kan aansoek doen dat daardie *leerder* vrygestel

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from complying with certain provisions of the code of conduct on account of, but not limited to, the following circumstances that a learner may bring to the attention of the principal or governing body of the school:

(i) Cultural beliefs;
(ii) religious observances; and
(iii) medical grounds.

(c) On receiving an application contemplated in paragraph *(b)*, the *school governing body* must communicate its decision to the *learner*, or the *parent* of the *learner*, as the case may be, within 14 days after receiving the application, and must in the case of a refusal provide written reasons for the refusal.

(d) A *learner*, or the *parent* of a *learner*, who has been refused exemption as contemplated in paragraph *(c)* may, within 14 days of receiving the notice of the decision, appeal to the *Head of Department* against the decision of the *governing body*, and the *Head of Department* must, after considering the reasons for the appeal and the reasons for the refusal by the *governing body*, communicate his or her decision to the *learner* or the *parent* of the *learner*, as the case may be, and to the *governing body*, within 14 days after receiving the appeal, and must provide written reasons for his or her decision.''; and

(d) by the addition to subsection (5) of the following paragraph:

''*(c)* The disciplinary proceedings referred to in this subsection must be age-appropriate, must be conducted in the best interests of the *learner*, and must adhere to the principles of natural justice, fairness and reasonableness prescribed by the *Constitution*.''.

Amendment of section 8A of Act 84 of 1996, as inserted by section 7 of Act 31 of 2007

8. Section 8A of the South African Schools Act, 1996, is hereby amended—

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

''(1) Unless authorised by the *principal* for legitimate educational purposes, no person may bring a *dangerous object* or **[*illegal*]** a *drug* onto *school* premises or have such *dangerous object* or *drug* in his or her possession on *school* premises or during any *school* activity.

(b) by the substitution for subsection (2) of the following subsection:

''(2) Subject to subsection (3), the *principal* or his or her delegate may, at random, search a *learner* or any group of *learners*, or the property of a *learner* or group of *learners*, for any *liquor, dangerous object* or **[*illegal*]** *drug*, if a fair and reasonable suspicion has been established—

(a) that *liquor*, a *dangerous object* or **[an *illegal*]** a *drug* may be found on *school* premises or during a *school activity*; or

(b) that one or more *learners* on *school* premises or **[during]** at a *school activity* are in possession of *liquor, dangerous objects* or **[*illegal*]** *drugs*.'';

(c) by the substitution in subsection (5) for the words preceding paragraph *(a)* of the following words:

''(5) Any *liquor, dangerous object* or **[*illegal*]** *drug* that has been seized must be— '';

(d) by the substitution in subsection (5) for paragraph *(c)* of the following paragraph:

''*(c)* handed over to the police immediately to dispose of it in terms of section 31 of the Criminal Procedure Act**[, 1977 (Act No. 51 of 1977)]**.'';

(e) by the substitution for subsection (6) of the following subsection:

''(6) If the police cannot collect the *liquor, dangerous object* or **[*illegal*]** *drug* from the *school* immediately, the *principal* or his or her delegate must—

(a) take the *liquor, dangerous object* or **[*illegal*]** *drug* to the nearest police station; and

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word van voldoening aan sekere bepalings van die gedragskode weens, maar nie beperk nie tot, die volgende omstandighede wat die *leerder* onder die aandag van die *prinsipaal* of *beheerliggaam* van die *skool* kan bring:

(i) Kulturele oortuigings;
(ii) geloofsvierings; en
(iii) mediese gronde.

(c) By ontvangs van 'n aansoek in paragraaf *(b)* beoog, moet die *skool* se *beheerliggaam* hul besluit aan die *leerder*, of die *ouer* van die *leerder*, na gelang van die geval, oordra binne 14 dae ná ontvangs van die aansoek, en moet in die geval van 'n weiering skriftelike redes vir die weiering verstrek.

(d) 'n *Leerder*, of die *ouer* van 'n *leerder*, wat vrystelling geweier is soos beoog in paragraaf *(c)*, kan, binne 14 dae ná ontvangs van die kennisgewing van die besluit, by die *Departementshoof* appèl aanteken teen die besluit van die *beheerliggaam*, en die *Departementshoof* moet, nadat die redes vir die appèl en die redes vir die weiering deur die *beheerliggaam* oorweeg is, sy of haar besluit aan die *leerder* of die *ouer* van die *leerder*, na gelang van die geval, en aan die *beheerliggaam*, oordra binne 14 dae ná ontvangs van die appèl, en moet skriftelike redes vir sy of haar besluit verstrek.''; en

(d) deur die volgende paragraaf by subartikel (5) te voeg:

''*(c)* Die dissiplinêre verrigtinge in hierdie subartikel bedoel, moet ouderdomsgepas wees, moet in die beste belang van die *leerder* gevoer word en moet aan die beginsels van natuurlike geregtigheid, billikheid en redelikheid deur die *Grondwet* voorgeskryf, voldoen.''.

Wysiging van artikel 8A van Wet 84 van 1996, soos ingevoeg deur artikel 7 van Wet 31 van 2007

8. Artikel 8A van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig—

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

''(1) Niemand mag 'n *gevaarlike voorwerp* of 'n **[onwettige]** *dwelmmiddel* in 'n skoolperseel inbring, of sodanige *gevaarlike voorwerp* of *dwelmmiddel* op 'n skoolperseel, of tydens enige skoolaktiwiteit, in sy of haar besit hê nie, tensy die *prinsipaal* dit vir wettige opvoedkundige doeleindes gemagtig het.'';

(b) deur subartikel (2) deur die volgende subartikel te vervang:

''(2) Behoudens subartikel (3) kan die *prinsipaal* of sy of haar gedelegeerde 'n *leerder* of enige groep *leerders*, of die eiendom van 'n *leerder* of groep *leerders*, ewekansig vir enige drank, *gevaarlike voorwerp* of **[onwettige]** *dwelmmiddel* deursoek, indien 'n regverdige en redelike vermoede vasgestel is—

(a) dat drank, 'n *gevaarlike voorwerp* of 'n **[onwettige]** *dwelmmiddel* op 'n skoolperseel of tydens 'n skoolaktiwiteit gevind kan word; of

(b) dat een of meer *leerders* op 'n skoolperseel of **[tydens]** by 'n skoolaktiwiteit drank, *gevaarlike voorwerpe* of **[onwettige]** dwelmmiddels in hulle besit het.'';

(c) deur in subartikel (5) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

''(5) Enige drank, *gevaarlike voorwerp* of **[onwettige]** *dwelmmiddel* waarop daar beslag gelê is, moet—'';

(d) deur in subartikel (5) paragraaf *(c)* deur die volgende paragraaf te vervang:

''*(c)* onmiddellik aan die polisie oorhandig word om daaroor te beskik ingevolge artikel 31 van die Strafproseswet**[, 1977 (Wet No. 51 van 1977)]**.'';

(e) deur subartikel (6) deur die volgende subartikel te vervang:

''(6) As die polisie die drank, *gevaarlike voorwerp* of **[onwettige]** *dwelmmiddel* nie dadelik by die *skool* kan afhaal nie, moet die *prinsipaal* of sy of haar gedelegeerde—

(a) die drank, *gevaarlike voorwerp* of **[onwettige]** *dwelmmiddel* na die naaste polisiestasie neem; en

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(b) hand the *liquor*, *dangerous object* or **[*illegal*]** *drug* over to the police to dispose of it in terms of section 31 of the Criminal Procedure Act**[, 1977 (Act No. 51 of 1977)]**.'';

(f) by the substitution for subsection (7) of the following subsection:

''(7) The police officer who receives the *liquor*, *dangerous object* or **[*illegal*]** *drug* must issue an official receipt for it to the *principal* or to his or her delegate.'';

(g) by the substitution for subsection (8) of the following subsection:

''(8) The *principal* or his or her delegate may at random administer a urine or other non-invasive test to any *learner* or group of *learners* that is on fair and reasonable grounds suspected of using *liquor* or **[*illegal*]** *drugs*, after taking into account all relevant factors contemplated in subsection (3).'';

(h) by the substitution in subsection (9) for the words preceding paragraph *(a)* of the following words:

''(9) A *learner* contemplated in subsection (8) may be subjected to a urine or other non-invasive test for *liquor* or **[*illegal*]** *drugs* only if —'';

(i) by the substitution for subsection (12) of the following subsection:

''(12) A *learner* may be subjected to disciplinary proceedings if—

(a) *liquor*, a *dangerous object* or **[*illegal*]** any *drug* is found in his or her possession; or

(b) his or her sample tested positive for **[an *illegal*]** *liquor* or any *drug*.''; and

(j) by the substitution in subsection (14) for paragraph *(a)* of the following paragraph:

''*(a)* a search contemplated in subsection (2) was conducted and *liquor*, a *dangerous object* or **[*illegal*]** any *drug* was found; or''.

Amendment of section 9 of Act 84 of 1996, as amended by section 7 of Act 48 of 1999, section 2 of Act 24 of 2005 and section 7 of Act 15 of 2011

9. Section 9 of the South African Schools Act, 1996, is hereby amended by the substitution for subsection (1) of the following subsection:

''(1) The *governing body* may, on reasonable grounds and as a precautionary measure, suspend a *learner* who is **[suspected]** accused of serious misconduct from attending *school*, but may only enforce such suspension **[only after the *learner* has been granted a reasonable opportunity to make representations to it in relation to such suspension.]** in the following manner:

(a) Where a learner is accused of committing the following acts of serious misconduct—

(i) physical assault of a *learner*, employee, or other person related to the *school*, with the intention to cause grievous bodily harm, or the imminent threat to commit such an act, while on *school* premises or during any *school activity*, or in any circumstance that could reasonably be connected to the *school*;

(ii) any form of harassment, including sexual harrassment of a *learner*, employee or other person related to the *school*, including via electronic and social media;

(iii) repeated offences related to bullying, or the imminent threat to commit such an act;

(iv) the illegal possession of a *drug* or *liquor*;

(v) the repeated disruption of the *school* programme, or the imminent threat to commit such an act;

(vi) serious transgressions relating to any test, examination or examination paper;

(vii) fraud;

(viii) theft or any other dishonest act to the prejudice of another person;

(ix) the possession of a *dangerous object* while on *school* premises, or during any *school activity*, or in any circumstance that could reasonably be connected to the *school*;

(x) the possession or distribution of pornographic material;

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(b) die drank, *gevaarlike voorwerp* of **[onwettige]** *dwelmmiddel* aan die polisie oorhandig om daaroor te beskik ingevolge artikel 31 van die Strafproseswet**[, 1977 (Wet No. 51 van 1977)]**.";

(f) deur subartikel (7) deur die volgende subartikel te vervang:

"(7) Die polisiebeampte wat die *drank, gevaarlike voorwerp* of **[onwettige]** *dwelmmiddel* in besit neem, moet 'n amptelike kwitansie daarvoor aan die *prinsipaal* of aan sy of haar gedelegeerde oorhandig.";

(g) deur subartikel (8) deur die volgende subartikel te vervang:

"(8) Die *prinsipaal* of sy of haar gedelegeerde kan, na inagneming van alle in subartikel (3) beoogde tersaaklike faktore, ewekansig 'n urien- of ander ingreepsvrye toets toedien aan enige *leerder* of groep *leerders* wat op regverdige en redelike gronde van die gebruik van **[onwettige]** *drank* of *dwelmmiddels* verdink word.";

(h) deur in subartikel (9) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"(9) 'n In subartikel (8) beoogde *leerder* kan aan 'n urien- of ander ingreepsvrye toets vir **[onwettige]** *drank* of dwelmmiddels onderwerp word slegs indien—";

(i) deur subartikel (12) deur die volgende subartikel te vervang:

"(12) 'n *Leerder* kan aan dissiplinêre verrigtinge onderwerp word indien—

(a) *drank,* 'n *gevaarlike voorwerp* of **[onwettige]** enige *dwelmmiddel* in sy of haar besit gevind word; of

(b) sy of haar monster positief toets vir **['n onwettige]** *drank* of enige *dwelmmiddel*."; en

(j) deur in subartikel (14) paragraaf *(a)* deur die volgende paragraaf te vervang:

"*(a)* 'n in subartikel (2) beoogde deursoeking gedoen is en *drank,* 'n *gevaarlike voorwerp* of **[onwettige]** enige *dwelmmiddel* gevind is; of".

Wysiging van artikel 9 van Wet 84 van 1996, soos gewysig deur artikel 7 van Wet 48 van 1999, artikel 2 van Wet 24 van 2005 en artikel 7 van Wet 15 van 2011

9. Artikel 9 van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Die *beheerliggaam* kan, op redelike gronde en as 'n voorsorgmaatreël, 'n *leerder* wat **[vermoedelik]** van ernstige wangedrag **[gepleeg het]** beskuldig word, skors van bywoning van die *skool*, maar mag sodanige skorsing op die volgende wyse opdwing: **[slegs nadat die *leerder* 'n redelike geleentheid gebied is om vertoë in verband met sodanige skorsing aan hom te rig.]**

(a) Waar 'n *leerder* van die pleging van die volgende handelinge van ernstige wangedrag beskuldig word:

(i) fisieke aanranding van 'n *leerder*, werknemer, of ander persoon wat aan die *skool* verwant is, met die bedoeling om ernstige liggaamlike leed toe te dien, of die naderende bedreiging om so 'n handeling te verrig, op die *skool* se perseel of tydens enige skoolaktiwiteit, of onder enige omstandigheid wat redelik met die *skool* kan verband hou;

(ii) enige vorm van teistering, met inbegrip van seksuele teistering van 'n *leerder*, werknemer of ander persoon wat aan die *skool* verwant is, met inbegrip van via elektroniese en sosiale media;

(iii) herhaalde misdrywe wat met boelie verband hou, of die naderende bedreiging om so 'n handeling te verrig;

(iv) die onwettige besit van 'n *dwelmmiddel* of *drank*;

(v) die herhaalde ontwrigting van die skoolprogram, of die naderende bedreiging om so 'n handeling te verrig;

(vi) ernstige oortredings in verband met enige toets, eksamen of eksamenvraestel;

(vii) bedrog;

(viii) diefstal of enige ander oneerlike handeling tot nadeel van iemand anders;

(ix) die besit van 'n *gevaarlike voorwerp* op skoolgronde, of tydens enige skoolaktiwiteit, of onder enige omstandigheid wat redelik met die *skool* verband kan hou;

(x) die besit of verspreiding van pornografiese materiaal;

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(xi) engaging in sexual activity on *school* premises or committing an act of sexual assault, or the imminent threat to commit such an act; and

(xii) any other serious act contemplated in Schedule 1 to the Criminal Procedure Act that prejudices the constitutional rights of *learners*, employees, or other persons related to the *school*,

such *learner* may be suspended only after the *learner* has been granted a reasonable opportunity to make representations in relation to the accusation of such serious misconduct; or

(b) where a *learner* is accused of committing the following acts of serious misconduct—

(i) murder and attempted murder;

(ii) culpable homicide;

(iii) any sexual offence including rape;

(iv) robbery;

(v) theft;

(vi) assault with intent to do grievous bodily harm;

(vii) breaking or entering any premises with an intent to harm a person;

(viii) any offence under any law relating to the illicit possession of any dependence-producing drugs; or

(ix) the conveyance or supply of dependence-producing drugs at *school* and to *learners*,

which occurs on a *school* premises or at a *school activity*, and the *learner* has been formally charged by the South African Police Service, the *governing body* must suspend such *learner* immediately without granting the *learner* an opportunity to make representations in relation to the accusation of such serious misconduct.''.

Amendment of section 10 of Act 84 of 1996

10. Section 10 of the South African Schools Act, 1996, is hereby amended by the substitution for subsections (1) and (2) of the following subsections:

''(1) **[No]** Corporal punishment is abolished and no person may **[administer]** inflict or impose corporal punishment **[at a *school*]** to a *learner* at a *school*, during a *school activity*, or in a hostel accommodating *learners* of a *school*.

(2) Any person who contravenes subsection (1) is guilty of an offence and liable on conviction to a **[sentence which could be imposed for assault]** fine or to imprisonment, or to both such fine and imprisonment, which a court may, in its discretion, determine after considering the circumstances of each case.''.

Amendment of section 10A of Act 84 of 1996, as inserted by section 5 of Act 50 of 2002

11. Section 10A of the South African Schools Act, 1996, is hereby amended by the substitution for subsection (1) of the following subsection:

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

Amendment of section 12 of Act 84 of 1996, as amended by section 8 of Act 15 of 2011

12. Section 12 of the South African Schools Act, 1996, is hereby amended by the insertion after subsection (3) of the following subsections:

''(3A) The *governing body* of a *public school* may, in writing, apply to the *Member of the Executive Council* for the *public school* to be designated as a *public school* with a specialised focus on talent as contemplated in subsection (3)*(a)*(iii).

(3B) The *Head of Department* may, after consultation with the *governing body* of a *public school*, identify the *school* and recommend to the *Member of the Executive Council* that the *school* should be designated as a *public school* with a specialised focus on talent as contemplated in subsection (3)*(a)*(iii).

(3C) The *Member of the Executive Council* may, in writing, designate a *public school* from which an application contemplated in subsection (3A) has been

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(xi) betrokkenheid in seksuele aktiwiteite op skoolgronde of die pleging van 'n handeling van seksuele aanranding, of die naderende bedreiging om so 'n handeling te verrig;

(xii) enige ander ernstige handeling in Bylae 1 tot die Strafproseswet, beoog, wat die grondwetlike regte van *leerders*, werknemers, of ander persone wat aan die *skool* verwant is, benadeel,

kan sodangie *leerder* slegs tydelik geskors word nadat die *leerder* 'n redelike geleentheid gegun is om vertoë oor die beskuldiging van sodanige ernstige wangedrag te maak; of

(b) waar 'n *leerder* beskuldig word van die pleging van die volgende handelinge van ernstige wangedrag—

(i) moord en poging tot moord;

(ii) strafbare manslag;

(iii) enige seksuele misdryf, met inbegrip van verkragting;

(iv) roof;

(v) diefstal;

(vi) aanranding met die opset om ernstige liggaamlike leed te veroorsaak;

(vii) inbraak by enige perseel met die opset om 'n persoon leed aan te doen;

(viii) enige misdryf kragtens enige wet met betrekking tot die onwettige besit van enige afhanklikheidsvormende *dwelmmiddels*; of

(ix) die vervoer of verskaffing van afhanklikheidsvormende *dwelmmiddels* op *skool* en aan *leerders*,

wat op 'n skoolperseel of by 'n skoolaktiwiteit plaasvind, en die *leerder* is formeel deur die Suid-Afrikaanse Polisiediens aangekla, moet die *beheerliggaam* sodanige *leerder* onmiddellik skors sonder om die *leerder* 'n geleentheid te gun om vertoë oor die beskuldiging van sodanige ernstige wangedrag te rig.".

Wysiging van artikel 10 van Wet 84 van 1996

10. Artikel 10 van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig deur subartikels (1) en (2) deur die volgende subartikels te vervang:

"(1) **[Geen]** *Lyfstraf* word afgeskaf en geen persoon mag by 'n *skool*, tydens 'n skoolaktiwiteit, of in 'n koshuis wat *leerders* van 'n *skool* huisves, *lyfstraf* aan 'n *leerder* toedien of oplê nie.

(2) Enige persoon wat subartikel (1) oortree, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n **[vonnis wat vir aanranding opgelê kan word]** boete of met gevangenisstraf, of met beide sodanige boete en gevangenisstraf, wat 'n hof, na goeddunke, kan bepaal nadat die omstandighede van elke saak oorweeg is.".

Wysiging van artikel 10A van Wet 84 van 1996, soos ingevoeg deur artikel 5 van Wet 50 van 2002

11. Artikel 10A van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

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

Wysiging van artikel 12 van Wet 84 van 1996, soos gewysig deur artikel 8 van Wet 15 van 2011

12. Artikel 12 van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig deur die volgende subartikels na subartikel (3) in te voeg:

"(3A) Die *beheerliggaam* van 'n *openbare skool* kan skriftelik by die *Lid van die Uitvoerende Raad* aansoek doen om die *openbare skool* as 'n *openbare skool* met 'n gespesialiseerde fokus op talent soos beoog in subartikel (3)*(a)*(iii), aan te wys.

(3B) Die *Departementshoof* kan, ná oorleg met die *beheerliggaam* van 'n *openbare skool*, die *skool* identifiseer en by die *Lid van die Uitvoerende Raad* aanbeveel dat die *skool* as 'n *openbare skool* met 'n gespesialiseerde fokus op talent soos beoog in subartikel (3)*(a)*(iii), aangewys moet word.

(3C) Die *Lid van die Uitvoerende Raad* kan 'n *openbare skool* wat 'n aansoek in subartikel (3A) beoog, voorgelê het, en 'n *skool* geïdentifiseer en aangewys soos

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received, and a *school* identified and recommended as contemplated in subsection (3B), as a *school* with a specialised focus on talent as contemplated in subsection (3)*(a)*(iii), if it is in the interest of education in the province and if the *school* complies with the norms and standards determined by the *Minister* in terms of subsection (3)*(b)*.

(3D) Before designating a *public school* as a *school* with a specialised focus on talent as contemplated in subsection (3)*(a)*(iii), the *Member of the Executive Council* must—

(a) give written notice to the *school* in question, and to its *governing body*, of the intention to designate the *public school* as a *school* with a specialised focus on talent and of the reasons therefor;

(b) notify the *parents* associated with the *school*, and the community in which the *school* is situated, of the intention to designate the *public school* as a *school* with a specialised focus on talent and of the reasons therefor—

(i) by means of a notice in at least one newspaper circulating in the area where the *school* in question is situated, if any newspapers circulate in that area;

(ii) by causing the *principal* of the *school* in question to—

(aa) hand to every *learner* at the *school* a notice containing the relevant information; and

(bb) instruct the *learners* to hand the notice to their *parents*; and

(iii) by means of any other acceptable form of communication that will ensure that the information is spread as widely as possible;

(c) give the *school* in question, and its *governing body*, and any other interested persons, an opportunity to make representations within a period of not less than 90 days from the date of the notices and communication referred to in paragraph *(b)*;

(d) give due consideration to any such representations received; and

(e) be satisfied that the employers of staff at the *public school* have complied with their obligations in terms of the applicable labour law.''.

Amendment of section 12A of Act 84 of 1996, as inserted by section 8 of Act 48 of 1999

13. Section 12A of the South African Schools Act, 1996, is hereby amended—

(a) by the substitution for subsection (2) of the following subsection:

''(2) Before merging two or more *public schools*, the *Member of the Executive Council* must—

(a) give written notice to the *schools* in question, and to their *governing bodies*, of the intention to merge them and of the reasons therefor;

(b) **[publish a notice giving the reasons for the proposed merger in one or more newspapers circulating in the area where the *schools* in question are situated]** notify the *parents* associated with the *schools*, and the communities in which the *schools* are situated, of the intention to merge the *schools* and of the reasons therefor—

(i) by means of a notice in at least one newspaper circulating in the area where the *schools* in question are situated, if any newspapers circulate in that area; and

(ii) by causing the *principals* of the *schools* in question to—

(aa) hand to every *learner* at each *school* a notice containing the relevant information; and

(bb) instruct the *learners* to hand the notice to their *parents*; and

(iii) by means of any other acceptable form of communication that will ensure that the information is spread as widely as possible;

(c) give the **[*governing bodies* of the]** *schools* in question, and their *governing bodies*, and any other interested persons an opportunity to make representations within a period of not less than 90 days from the date of the **[notice]** notices and communication referred to in paragraph *(b)*;

(d) **[consider]** give due consideration to any such representations received; and

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beoog in subartikel (3B), skriftelik as 'n *skool* met 'n gespesialiseerde fokus op talent soos beoog in subartikel (3)*(a)*(iii) aanwys, indien dit in die belang van onderwys in die provinsie is en indien die *skool* voldoen aan die norme en standaarde ingevolge subartikel (3)*(b)* deur die Minister bepaal.

(3D) Voordat 'n *openbare skool* as 'n *skool* met 'n gespesialiseerde fokus op talent aangewys word, moet die *Lid van die Uitvoerende Raad*—

(a) skriftelik aan die betrokke *skool* en aan daardie *skool* se *beheerliggaam* kennis gee van die voorneme om die *openbare skool* aan te wys as 'n *skool* met 'n gespesialiseerde fokus op talent en van die redes daarvoor;

(b) die *ouers* verbonde aan die betrokke *skool*, en die gemeenskap waarin die *skool* geleë is, in kennis stel van die voorneme om die *openbare skool* aan te wys as 'n *skool* met 'n gespesialiseerde fokus op talent en die redes daarvoor—

(i) by wyse van 'n kennisgewing in ten minste een koerant wat sirkuleer in die gebied waar die betrokke *skool* geleë is, indien enige koerante in daardie gebied sirkuleer;

(ii) deur die betrokke *skool* se *prinsipaal*—

(aa) 'n kennisgewing wat die tersaaklike inligting bevat aan elke *leerder* by die *skool* te laat oorhandig; en

(bb) die *leerders* te laat opdrag gee om die kennisgewing aan hulle *ouers* te oorhandig; en

(iii) by wyse van enige ander aanvaarbare vorm van kommunikasie wat sal verseker dat die inligting so wyd as moontlik versprei word;

(c) die betrokke *skool*, en sy *beheerliggaam*, en enige ander belangstellende persone, 'n geleentheid gun om vertoë te rig binne 'n tydperk van hoogstens 90 dae vanaf die datum van die kennisgewings en kommunikasie in paragraaf *(b)* bedoel;

(d) enige vertoë wat aldus ontvang is, deeglik oorweeg; en

(e) oortuig wees dat die werkgewers van personeel by die *openbare skool* hul verpligtinge ingevolge die toepaslike arbeidsreg nagekom het.''.

Wysiging van artikel 12A van Wet 84 van 1996, soos ingevoeg deur artikel 8 van Wet 48 van 1999

13. Artikel 12A van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig—

(a) deur subartikel (2) deur die volgende subartikel te vervang:

''(2) Alvorens twee of meer *openbare skole* saamgesmelt word, moet die *Lid van die Uitvoerende Raad*—

(a) aan die betrokke *skole*, en aan hul *beheerliggame*, skriftelik kennis gee van die beoogde samesmelting en van die redes daarvoor;

(b) **['n kennisgewing met uiteensetting van die redes vir die beoogde samesmelting publiseer in een of meer koerante wat in die gebied sirkuleer waarin die betrokke *skole* geleë is;]** die *ouers* verbonde aan die skole, en die gemeenskappe waarin die *skole* geleë is, in kennis stel van die voorneme om die *skole* saam te smelt en die redes daarvoor—

(i) by wyse van 'n kennisgewing in ten minste een koerant wat in die gebied sirkuleer waar die betrokke skole geleë is, indien enige koerante in daardie gebied sirkuleer; en

(ii) deur die betrokke *skole* se prinsipale—

(aa) 'n kennisgewing wat die tersaaklike inligting bevat aan elke *leerder* by die *skool* te laat oorhandig; en

(bb) die *leerders* te laat opdrag gee om die kennisgewing aan hulle *ouers* te oorhandig; en

(iii) by wyse van enige ander aanvaarbare vorm van kommunikasie wat sal verseker dat die inligting so wyd as moontlik versprei word;

(c) die **[*beheerliggame* van die]** betrokke *skole*, en hul *beheerliggame*, en enige ander belanghebbendes die geleentheid bied om binne 'n tydperk van minstens 90 dae na die datum van die **[kennisgewing]** kennisgewings en kommunikasie in paragraaf *(b)* bedoel, vertoë te rig;

(d) **[die]** oorweging skenk aan enige sodanige vertoë **[oorweeg]** wat ontvang is; en

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(e) be satisfied that the employers of staff at the *public schools* have complied with their obligations in terms of the applicable labour law.'';

(b) by the insertion after subsection (2) of the following subsection:

''(2A)*(a)* The *Member of the Executive Council* must, within 30 days after receiving the representations referred to in subsection (2)*(c)*, take a decision on whether or not to go ahead with the merger, and—

(i) in writing, inform the *schools* in question, and their *governing bodies*, of the decision; and

(ii) by means of the methods listed in subsection (2)*(b)*, notify the *parents* associated with the *schools*, and the communities in which the *schools* are situated, of the decision.

(b) If the *Member of the Executive Council* fails to act in terms of paragraph *(a)*, the contemplated merger will be deemed to have lapsed.

(c) If the decision of the *Member of the Executive Council* is to go ahead with the merger, he or she must ensure that the merger is proceeded with within 30 days after giving notice as contemplated in paragraph *(a)*.'';

(c) by the substitution for subsection (4) of the following subsection:

''(4)*(a)* If the *Member of the Executive Council* decides to merge the *public schools* in question, he or she must, after consultation with the *governing bodies* of the *public schools* that are to be merged, determine, by notice contemplated in subsection (1)—

(i) the date of establishment of the *public school*;

(ii) the name of the *public school*; and

(iii) the physical location and official address of the *public school*.

(b) The single *school* contemplated in subsection (1) must be regarded as a new *public school*.'';

(d) by the substitution for subsection (6) of the following subsection:

''(6)*(a)* **[The]** After the notice as contemplated in subsection (4)*(a)* has been published, the *governing bodies* of the *schools* that are to be merged must have a meeting **[before the merger]** to constitute a single interim *governing body* comprising **[of]** all the members of the *governing bodies* concerned, which single interim *governing body* will govern the new *school* for a period not exceeding three months.

(b) The interim *governing body* must—

(i) elect office bearers;

(ii) decide on the budget **[and]**;

(iii) reach consensus about differences in codes of conduct and *school fees***[,]** and, if applicable, about contractual obligations and the utilisation and disposal of movable assets; and

(iv) make recommendations to the *Head of Department* on personnel matters, as well as on any issue that is relevant to the merger or which is prescribed in terms of *this Act*,

until a new *governing body* is constituted in terms of sections 23 and 28.

(c) The *Member of the Executive Council* may extend the period referred to in paragraph *(a)* once for a further period not exceeding three months.''; and

(e) by the addition of the following subsections:

''(8) A merger contemplated in subsection (1) does not affect the liability of any person to be disciplined or prosecuted for any misconduct, crime or offence.

(9) A *learner* is subject to the code of conduct applicable to the new single *public school* as from the date of the merger contemplated in subsection (1), but if any proceedings in respect of a charge of misconduct had been instituted or commenced before the date of the merger, such proceedings must continue in terms of the code of conduct relevant to the *public school* immediately before the merger.

(10) The new single *public school* or the *Head of Department*, as the case may be, may undertake rationalisation or redeployment of its

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(e) tevrede wees dat die werkgewers van personeel by die *openbare skole* hulle verpligtings ingevolge die toepaslike arbeidswetgewing nagekom het.'';

(b) deur die volgende subartikel na subartikel (2) in te voeg:

''(2A)*(a)* Die *Lid van die Uitvoerende Raad* moet, binne 30 dae ná ontvangs van die vertoë in subartikel (2)*(c)* bedoel, 'n besluit neem oor hetsy met die samesmelting voortgegaan moet word of nie, en—

(i) die betrokke *skole*, en hul *beheerliggame*, skriftelik van die besluit inlig; en

(ii) by wyse van die metodes in subartikel (2)*(b)* vermeld, die *ouers* verbonde aan die *skole*, en die gemeenskappe waarin die *skole* geleë is, van die besluit in kennis stel.

(b) Indien die *Lid van die Uitvoerende Raad* versuim om ingevolge paragraaf *(a)* te handel, sal die voorgenome samesmelting as verstreke beskou word.

(c) Indien die *Lid van die Uitvoerende Raad* besluit om met die samesmelting voort te gaan, moet hy of sy verseker dat binne 30 dae nadat kennisgewing soos in paragraaf *(a)* beoog, gegee is, met die samesmelting voortgegaan word.'';

(c) deur subartikel (4) deur die volgende subartikel te vervang:

''(4)*(a)* As die *Lid van die Uitvoerende Raad* besluit om die betrokke *openbare skole* saam te smelt, moet hy of sy, ná oorleg met die *beheerliggame* van die *openbare skole* wat gaan saamsmelt, by kennisgewing in subartikel (1) beoog—

(i) die datum van instelling van die *openbare skool*;

(ii) die naam van die *openbare skool*; en

(iii) die fisiese ligging en amptelike adres van die *openbare skool*, vasstel.

(b) Die enkele *skool* in subartikel (1) beoog, moet as 'n *openbare skool* beskou word.'';

(d) deur subartikel (6) deur die volgende subartikel te vervang:

''(6)*(a)* **[Die]** Nadat die kennisgewing soos beoog in subartikel (4)*(a)* gepubliseer is, moet die *beheerliggame* van die *skole* wat saamgesmelt word, **[moet]** 'n vergadering **[voor die samesmelting]** hou om 'n enkele interim *beheerliggaam*, bestaande uit al die lede van die betrokke *beheerliggame*, saam te stel, welke enkele interim *beheerliggaam* die nuwe *skool* vir 'n tydperk van hoogstens drie maande sal beheer.

(b) Die interim *beheerliggaam* moet—

(i) ampsdraers verkies;

(ii) besluit oor die begroting **[en]**;

(iii) konsensus bereik oor verskille in gedragskodes en skoolgelde**[,]** en, indien van toepassing, oor kontraktuele verpligtinge en die gebruik van en beskikking oor roerende bates; en

(iv) by die *Departementshoof* aanbevelings doen oor personeelaangeleenthede, asook oor enige aangeleentheid wat relevant is tot die samesmelting of wat ingevolge *hierdie Wet* voorgeskryf word,

totdat 'n nuwe *beheerliggaam* ingevolge artikels 23 en 28 saamgestel is.

(c) Die *Lid van die Uitvoerende Raad* kan die tydperk in paragraaf *(a)* bedoel een keer met 'n verdere tydperk van hoogstens drie maande verleng.''; en

(e) deur die volgende subartikels by te voeg:

''(8) 'n Samesmelting in subartikel (1) beoog, raak nie die aanspreeklikheid van enige persoon om gedissiplineer of vervolg te word vir enige wangedrag, misdaad of misdryf nie.

(9) 'n *Leerder* is onderhewig aan die gedragskode van toepassing op die nuwe, enkele *openbare skool* met ingang van die datum van die samesmelting in subartikel (1) beoog, maar indien enige verrigtinge ten opsigte van 'n aanklag van wangedrag ingestel is of begin het voor die datum van die samesmelting, moet sodanige verrigtinge voortgaan ingevolge die gedragskode wat onmiddellik voor die samesmelting vir die *openbare skool* gegeld het.

(10) Die nuwe enkele *openbare skool* of die *Departementshoof*, na gelang van die geval, kan rasionalisering of herontplooiing van die

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workforce according to operational requirements in accordance with sections 189 and 189A of the Labour Relations Act, 1995 (Act No. 66 of 1995), the Employment of Educators Act, 1998 (Act No. 76 of 1998), and any ratified collective agreement that deals with the rationalisation or redeployment of a workforce.

(11) If two or more *public schools* are merged into a single *public school* in terms of subsection (1), the new single *public school* continues with all academic programmes offered by the former *public schools* under the programmes applicable to the respective *public schools* immediately before the date of the merger, until such programmes are amended or restructured by the *governing body* or education department, where applicable.''.

Amendment of section 21 of Act 84 of 1996, as amended by section 10 of Act 48 of 1999

14. Section 21 of the South African Schools Act, 1996, is hereby amended by the insertion after subsection (3) of the following subsection:

''(3A) Notwithstanding the provisions of subsections (1)*(c)* and (3) and section 22, the *Head of Department* may, in consultation with the *governing body*, centrally procure identified learning and teaching support material for *public schools* on the basis of efficient, effective and economic utilisation of public funds or uniform norms and standards: Provided that the *governing body*—

(a) may, subject to paragraph *(b)*, procure identified learning and teaching support material from a supplier where such procurement will be more cost effective than the central procurement of such material by the *Head of Department*; and

(b) must provide the *Head of Department* with documentary proof that the procurement of the identified learning and teaching support material from the supplier referred to in paragraph *(a)* will be more cost effective than the central procurement thereof by the *Head of Department*.''.

Substitution of section 22 of Act 84 of 1996

15. The following section is hereby substituted for section 22 of the South African Schools Act, 1996:

''**Withdrawal of functions [from] of governing [bodies] body**

22. (1) The *Head of Department* may, on reasonable grounds, withdraw **[a function]** one or more functions of a *governing body*.

(2) The *Head of Department* may not take action **[under]** in terms of subsection (1) unless he or she has—

(a) in writing, informed the *governing body* of his or her intention so to act and the reasons therefor;

(b) granted the *governing body* a reasonable opportunity to make representations to him or her relating to such intention; **[and]**

(c) given due consideration to any such representations received; and

(d) informed the *governing body* of his or her final decision, in writing.

(3) In cases of urgency, the *Head of Department* may act in terms of subsection (1) without prior communication to such *governing body*, if the *Head of Department* immediately thereafter—

(a) furnishes the *governing body* with written reasons for his or her actions;

(b) **[gives]** grants the *governing body* a reasonable opportunity to make representations to him or her relating to such actions; **[and]**

(c) duly considers any such representations received; and

(d) informs the *governing body* of his or her final decision, in writing.

(4) The *Head of Department* may for sufficient reasons reverse or suspend his or her action in terms of subsection (1) or (3).

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werksmag onderneem ooreenkomstig bedryfsvereistes ooreenkomstig artikels 189 en 189A van die Wet op Arbeidsverhoudinge, 1995 (Wet No. 66 van 1995), die Wet op die Indiensneming van Opvoeders, 1998 (Wet No. 76 van 1998), en enige bekragtigde kollektiewe ooreenkoms wat oor die rasionalisering of herontplooiing van 'n werksmag handel.

(11) Indien twee of meer *openbare skole* ingevolge subartikel (1) in 'n enkele *openbare skool* saamgesmelt word, gaan die nuwe enkele *openbare skool* voort met alle akademiese programme wat deur die voormalige *openbare skole* aangebied is kragtens die programme wat van toepassing is op die onderskeie *openbare skole* onmiddellik voor die datum van die samesmelting, totdat sodanige programme gewysig of herstruktureer word deur die *beheerliggaam* of onderwysdepartement, waar van toepassing.''.

Wysiging van artikel 21 van Wet 84 van 1996, soos gewysig deur artikel 10 van Wet 48 van 1999

14. Artikel 21 van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig deur die volgende subartikel na subartikel (3) in te voeg:

''(3A) Ongeag die bepalings van subartikels (1)*(c)* en (3) en artikel 22, kan die *Departementshoof*, in oorleg met die *beheerliggaam*, geïdentifiseerde leer- en onderrigondersteuningsmateriaal vir *openbare skole* sentraal verkry op grond van doeltreffende, effektiewe en ekonomiese benutting van openbare fondse of gelykvormige norme en standaarde: Met dien verstande dat die *beheerliggaam*—

(a) behoudens paragraaf *(b)*, geïdentifiseerde leer- en onderrigondersteuningsmateriaal kan verkry van 'n verskaffer waar sodanige verkryging meer koste-doeltreffend sal wees as die sentrale verkryging van sodanige materiaal deur die *Departementshoof*; en

(b) moet die *Departementshoof* voorsien van dokumentêre bewys dat die verkryging van die geïdentifiseerde leer- en onderrigondersteuningsmateriaal van die verskaffer in paragraaf *(a)* bedoel, meer koste-doeltreffend as die sentrale verkryging daarvan deur die *Departementshoof* sal wees.''.

Vervanging van artikel 22 van Wet 84 van 1996

15. Artikel 22 van die Suid-Afrikaanse Skolewet, 1996, word hierby deur die volgende artikel vervang:

''**Terugtrekking van werksaamhede van [beheerliggame] beheerliggaam**

22. (1) Die *Departementshoof* kan, op redelike gronde, **['n werksaamheid]** een of meer werksaamhede van 'n *beheerliggaam* intrek.

(2) Die *Departementshoof* kan nie ingevolge subartikel (1) optree nie, tensy hy of sy—

(a) die *beheerliggaam* skriftelik in kennis gestel het van sy of haar voorneme om op hierdie wyse op te tree en die redes daarvoor;

(b) aan die *beheerliggaam* 'n redelike geleentheid gebied het om vertoë tot hom of haar te rig in verband met sodanige voorneme; **[en]**

(c) enige sodanige vertoë wat ontvang is, behoorlik oorweeg het; en

(d) die *beheerliggaam* skriftelik ingelig het van sy of haar finale besluit.

(3) In dringende gevalle kan die *Departementshoof* ingevolge subartikel (1) optree sonder vooraf skakeling met sodanige *beheerliggaam*, indien die *Departementshoof* onmiddellik daarna—

(a) aan die *beheerliggaam* skriftelik redes vir sy of haar optrede verstrek;

(b) aan die *beheerliggaam* 'n redelike geleentheid **[bied]** gun om vertoë in verband met sodanige optrede te rig; **[en]**

(c) enige sodanige vertoë wat ontvang word, behoorlik oorweeg; en

(d) die *beheerliggaam* skriftelik van sy of haar finale besluit inlig.

(4) Die *Departementshoof* kan, met afdoende redes, sy of haar optrede ingevolge subartikel (1) of (3) herroep of opskort.

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(5) **[Any person aggrieved by a decision of]** If the *Head of Department* acts in terms of **[this section may appeal against the decision to the *Member of the Executive Council*]** subsection (1) or (3), he or she must appoint sufficiently qualified persons to perform the withdrawn function or functions, as the case may be, for a period not exceeding three months.

(6) The *Head of Department* may extend the period referred to in subsection (5) by further periods not exceeding three months each, but the total period may not exceed one year.

(7) The persons contemplated in subsection (5) must, within the period of their appointment, build the necessary capacity to ensure that the *governing body* will thereafter be able to perform the functions that it previously failed to perform.

(8) The persons contemplated in subsection (5) shall have exclusive voting rights and decision making powers on any function that they have been appointed to perform.

(9) Any person aggrieved by a decision of the *Head of Department* in terms of this section may appeal against the decision to the *Member of the Executive Council*, and the *Member of the Executive Council* must communicate his or her decision to the aggrieved person within 30 days after receiving the appeal and must provide written reasons for his or her decision.''.

Amendment of section 23 of Act 84 of 1996, as amended by section 11 of Act 48 of 1999

16. Section 23 of the South African Schools Act, 1996, is hereby amended—
by the substitution for subsection (6) of the following subsection:

''(6) A *governing body* may co-opt a member or members of the community, or persons from outside the community, with the relevant expertise, to assist it in discharging its functions.''.

Amendment of section 24 of Act 84 of 1996, as amended by section 7 of Act 100 of 1997

17. Section 24 of the South African Schools Act, 1996, is hereby amended—

(a) by the substitution for subsection (2) of the following subsection:

''(2) Subject to *this Act*, the **[*Member of the Executive Council*]** *Minister* must, by notice in the **[Provincial]** *Gazette*, determine the number of members in each category referred to in subsection (1) and the manner of election or appointment of such members at every *public school* for *learners* with special education needs **[within his or her province]**.''; and

(b) by the substitution for subsection (4) of the following subsection:

''(4) The **[*Member of the Executive Council*]** *Minister* must consider all such submissions, and thereafter may alter the notice contemplated in subsection (2).''.

Insertion of section 24A in Act 84 of 1996

18. The following section is hereby inserted in the South African Schools Act, 1996, after section 24:

''**Membership of governing body of public school with specialised focus on talent, including sport, performing arts or creative arts**

24A. (1) The provisions of section 23, excluding subsection (5), will apply to a *governing body* of a *public school* that provides education with a specialised focus on talent, including sport, performing arts or creative arts, as contemplated in section 12(3)*(a)*(iii).

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(5) **[Enige persoon wat veronreg voel deur ’n besluit van]** Indien die *Departementshoof* ingevolge **[hierdie artikel kan teen die besluit appèl aanteken by die** *Lid van die Uitvoerende Raad*] subartikel (1) of (3) optree, moet hy of sy persone met gepaste kwalifikasies aanstel om die ingetrekte werksaamheid of werksaamhede, na gelang van die geval, te verrig vir ’n tydperk van hoogstens drie maande.

(6) Die *Departementshoof* kan die tydperk in subartikel (5) bedoel met verdere tydperke van hoogstens drie maande elk verleng, maar die totale tydperk mag nie een jaar oorskry nie.

(7) Die persone beoog in subartikel (5), moet binne die tydperk van hul aanstelling, die nodige kapasiteit bou om te verseker dat die *beheerliggaam* daarna die werksaamhede sal kan verrig wat hulle voorheen versuim het om te verrig.

(8) Die persone in subartikel (5) beoog, het uitsluitlike stemregte en besluitnemingsbevoegdhede oor enige werksaamheid wat hulle aangestel is om te verrig.

(9) Enige persoon wat te na gekom voel deur ’n besluit van die *Departementshoof* ingevolge hierdie artikel, kan teen die besluit appèl aanteken by die *Lid van die Uitvoerende Raad*, en die *Lid van die Uitvoerende Raad* moet sy of haar besluit aan die te na gekome persoon oordra binne 30 dae ná ontvangs van die appèl en moet skriftelike redes vir sy of haar besluit verstrek.”.

Wysiging van artikel 23 van Wet 84 van 1996, soos gewysig deur artikel 11 van Wet 48 van 1999

16. Artikel 23 van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig deur subartikel (6) deur die volgende subartikel te vervang:

“(6) ’n *Beheerliggaam* kan ’n lid of lede van die gemeenskap, of persone van buite die gemeenskap, met die toepaslike kundigheid, koöpteer om behulpsaam te wees met die verrigting van sy werksaamhede”.

Wysiging van artikel 24 van Wet 84 van 1996, soos gewysig deur artikel 7 van Wet 100 van 1997

17. Artikel 24 van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig—

(a) deur subartikel (2) deur die volgende subartikel te vervang:

“(2) Behoudens *hierdie Wet*, bepaal die **[*Lid van die Uitvoerende Raad*]** *Minister* by kennisgewing in die **[Provinsiale Koerant]** *Staatskoerant* die getal lede in elke kategorie waarna verwys word in subartikel (1) en die wyse van verkiesing of aanstelling van sodanige lede by elke *openbare skool* vir *leerders* met spesiale onderwysbehoeftes **[in sy of haar provinsie]**.”; en

(b) deur subartikel (4) deur die volgende subartikel te vervang:

“(4) Die **[*Lid van die Uitvoerende Raad*]** *Minister* moet alle sodanige vertoë oorweeg, en kan daarna die kennisgewing beoog in subartikel (2) wysig.”.

Invoeging van artikel 24A in Wet 84 van 1996

18. Die volgende artikel word hierby na artikel 24 in die Suid-Afrikaanse Skolewet, 1996, ingevoeg:

“**Lidmaatskap van beheerliggaam van openbare skole met gespesialiseerde fokus op talent, met inbegrip van sport, uitvoerende kunste of beeldende kunste**

24A. (1) Die bepalings van artikel 23, subartikel (5) uitgesluit, is van toepassing op ’n *beheerliggaam* van ’n *openbare skool* wat onderrig met ’n gespesialiseerde fokus op talent voorsien, met inbegrip van sport, uitvoerende kunste of beeldende kunste, soos in artikel 12(3)*(a)*(iii) beoog.

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(2) The authority to co-opt a member or members of the community as contemplated in section 23(6) includes the authority to co-opt relevant experts in the specialised focus of the *public school*, whether from inside or outside the community.''.

Substitution of section 25 of Act 84 of 1996, as amended by section 4 of Act 57 of 2001

19. The following section is hereby substituted for section 25 of the South African Schools Act, 1996:

''**Dissolution of governing body**

25. (1) The *Head of Department* may, on reasonable grounds, dissolve a *governing body* that has ceased to perform its functions in terms of *this Act* or any provincial law.

(2) If the *Head of Department* acts in terms of subsection (1), he or she must appoint sufficiently qualified persons to perform all the functions of the *governing body* for a period not exceeding three months.

(3) The *Head of Department* may extend the period referred to in subsection (2) by further periods not exceeding three months each, but the total period may not exceed one year.

(4) The persons contemplated in subsection (2) shall have exclusive voting rights and decision making powers on all the functions of the *governing body*.

(5) The *Head of Department* may not take action in terms of subsection (1) unless he or she has—

(a) in writing, informed the *governing body* of his or her intention so to act and the reasons therefor;

(b) granted the *governing body* a reasonable opportunity to make representations to him or her relating to such intention;

(c) given due consideration to any such representations received; and

(d) informed the *governing body* of his or her final decision, in writing.

(6) If the *Head of Department* has dissolved a *governing body* as contemplated in subsection (1), he or she must ensure that a new *governing body* is elected in terms of *this Act*, within a year after the appointment of the persons contemplated in subsection (2).

(7) Any person aggrieved by a decision of the *Head of Department* in terms of this section may appeal against the decision to the *Member of the Executive Council*, and the *Member of the Executive Council* must communicate his or her decision to the aggrieved person within 14 days after receiving the appeal and must provide written reasons for his or her decision.''.

Substitution of section 26 of Act 84 of 1996

20. The following section is hereby substituted for section 26 of the South African Schools Act, 1996:

''**Recusal by member of governing body**

26. (1) Before a *governing body* discusses, or decides on, the recruitment or employment of staff, or the procurement of goods and services for a *public school*, a member must declare to the *governing body* any direct or indirect personal and financial interest that the member or any of his or her family members or close friends or business partners has, including—

(a) a personal interest—

(i) in an entity conducting business with the *school*; or

(ii) in a business or a commercial or financial activity undertaken by the *governing body* of the *school*;

(b) a financial or other obligation to an entity conducting business with the *school*; and

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(2) Die gesag om 'n lid of lede van die gemeenskap te koöpteer soos in artikel 23(6) beoog, sluit die gesag in om tersaaklike kundiges in die gespesialiseerde fokus van die *openbare skool* te koöpteer, hetsy van binne of buite die gemeenskap.''.

Vervanging van artikel 25 van Wet 84 van 1996, soos gewysig deur artikel 4 van Wet 57 van 2001

19. Artikel 25 van die Suid-Afrikaanse Skolewet, 1996, word hierby deur die volgende artikel vervang:

''**Ontbinding van beheerliggaam**

25. (1) Die *Departementshoof* kan, met redelike gronde, 'n *beheerliggaam* ontbind wat opgehou het om hul werksaamhede ingevolge *hierdie Wet* of enige provinsiale wet te verrig.

(2) Indien die *Departementshoof* ingevolge subartikel (1) optree, moet hy of sy persone met voldoende kwalifikasies aanstel om al die werksaamhede van die *beheerliggaam* vir 'n tydperk van hoogstens drie maande te verrig.

(3) Die *Departementshoof* kan die tydperk in subartikel (2) bedoel, verleng met tydperke van hoogstens drie maande elk, maar die totale tydperk mag nie een jaar oorskry nie.

(4) Die persone in subartikel (2) beoog, het eksklusiewe stemregte en besluitnemingsmagte oor al die werksaamhede van die *beheerliggaam*.

(5) Die *Departementshoof* mag nie stappe ingevolge subartikel (1) doen nie, tensy hy of sy—

(a) die *beheerliggaam* skriftelik van sy of haar voorneme om dit te doen, in kennis gestel het;
(b) die *beheerliggaam* 'n redelike geleentheid gegun het om vertoë oor sodanige voorneme aan hom of haar te rig;
(c) die vertoë wat ontvang is, behoorlik oorweeg het; en
(d) die *beheerliggaam* skriftelik van sy of haar finale besluit ingelig het.

(6) Indien die *Departementshoof* 'n *beheerliggaam* ontbind het soos in subartikel (1) beoog, moet hy of sy verseker dat 'n nuwe *beheerliggaam* ingevolge *hierdie Wet* verkies word binne 'n jaar nadat die persone beoog in subartikel (2), aangestel is.

(7) Enige persoon wat te na gekom voel deur 'n besluit van die *Departementshoof* ingevolge hierdie artikel kan teen die besluit appèl aanteken by die *Lid van die Uitvoerende Raad*, en die *Lid van die Uitvoerende Raad* moet sy of haar besluit binne 14 dae ná ontvangs van die appèl oordra en moet skriftelike redes vir sy of haar besluit voorsien.''.

Vervanging van artikel 26 van Wet 84 van 1996

20. Artikel 26 van die Suid-Afrikaanse Skolewet, 1996, word hierby deur die volgende artikel vervang:

''**Onttrekking deur lid van beheerliggaam**

26. (1) Voordat 'n *beheerliggaam* die werwing of indiensneming van personeel, of die verkryging van goedere en dienste vir 'n *openbare skool*, bespreek of daaroor besluit, moet 'n lid enige regstreekse of onregstreekse belang wat die lid of enige van sy of haar familielede of nabye vriende of sakevennote het, met inbegrip van—

(a) 'n persoonlike belang—
  (i) in 'n entiteit wat met die *skool* sake doen; of
  (ii) in 'n besigheid of 'n kommersiële of finansiële aktiwiteit wat deur die *beheerliggaam* van die *skool* onderneem word;
(b) 'n finansiële of ander verpligting aan 'n entiteit wat met die *skool* sake doen; en

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(c) a gift, hospitality, sponsorship or other benefit received from an entity conducting business with the *school*.

(2) Any person may in writing inform the chairperson of a *governing body* or the *principal* of a *school* of a possible conflict of interest concerning a *governing body* member.

(3) A *governing body* member must recuse himself or herself and withdraw from a meeting of the *governing body* for the duration of the discussion and decision-making on an issue in which the member has a personal or financial interest as contemplated in subsection (1).

(4) If a *governing body* has knowledge that a member who is present has a personal interest in a matter, the *governing body* may not take a decision on that matter until the member has withdrawn as contemplated in subsection (3).

(5) Where a *governing body* member contravenes the provisions of this section, the *Head of Department* may, after due process as contemplated in the code of conduct for the members of the *governing body*—

(a) suspend the *governing body* member; or

(b) terminate the membership of the *governing body* member.

(6) This section applies, with the necessary changes, to committees of a *governing body* and committee members.

(7) For the purposes of this section, family member means a parent, sister, brother, child or a spouse of a member of the *governing body*, and includes—

(a) a person living with that member as if they were married to each other, namely a life partner;

(b) a relative who resides permanently with that member; and

(c) any other relative who is dependent on such member.''.

Amendment of section 27 of Act 84 of 1996

21. Section 27 of the South African Schools Act, 1996, is hereby amended by the substitution for subsection (2) of the following subsection:

''(2) No member of a *governing body* may be remunerated in any way for the performance of his or her duties or for the attendance of meetings and *school activities*.''.

Amendment of section 28 of Act 84 of 1996

22. Section 28 of the South African Schools Act, 1996, is hereby amended by the substitution for the words preceding paragraph *(a)* of the following words:

''Subject to *this Act*, **[and any applicable provincial law, the *Member of the Executive Council*]** the *Minister* must, by notice in the **[Provincial]** *Gazette*, determine—''.

Amendment of section 29 of Act 84 of 1996, as amended by section 12 of Act 48 of 1999

23. Section 29 of the South African Schools Act, 1996, is hereby amended by the substitution for subsection (2) of the following subsection:

''(2)*(a)* Only a *parent* member of a *governing body* who is not employed at the *public school* may serve as the chairperson of the *governing body*.

(b) Where reasonably practicable, only a *parent* member of a *governing body* who is not employed at the *public school* may serve as the chairperson of the finance committee of that *public school*.''.

Amendment of section 32 of Act 84 of 1996

24. Section 32 of the South African Schools Act, 1996 is hereby amended—

(a) by the substitution for the heading of the following heading:

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(c) 'n geskenk, gasvryheid, borgskap of ander voordeel wat ontvang is van 'n entiteit wat met die *skool* sake doen,

aan die *beheerliggaam* openbaarmaak.

(2) Enige persoon kan die voorsitter van 'n *beheerliggaam* of die *prinsipaal* van 'n *skool* skriftelik inlig van 'n moontlike botsing van belange rakende 'n lid van 'n *beheerliggaam*.

(3) 'n Beheerliggaamlid moet homself of haarself onttrek en 'n vergadering van die *beheerliggaam* verlaat vir die duur van die bespreking en besluitneming oor 'n kwessie waarin die lid 'n persoonlike of finansiële belang het soos in subartikel (1) beoog.

(4) Indien 'n *beheerliggaam* kennis dra dat 'n lid wat teenwoordig is 'n persoonlike belang in 'n aangeleentheid het, kan die *beheerliggaam* nie 'n besluit oor daardie aangeleentheid neem nie totdat die lid onttrek het soos in subartikel (3) beoog.

(5) Waar 'n beheerliggaamlid die bepalings van hierdie artikel oortree, kan die *Departementshoof*, ná behoorlike proses soos beoog in die gedragskode vir die lede van die *beheerliggaam*—

(a) die beheerliggaamlid skors; of

(b) die lidmaatskap van die beheerliggaamlid beëindig.

(6) Hierdie artikel is van toepassing, met die nodige veranderinge, op komitees van 'n *beheerliggaam* en komiteelede.

(7) By die toepassing van hierdie artikel, beteken 'familielid' 'n *ouer*, suster, broer, kind of 'n gade van 'n beheerliggaamlid, en sluit in—

(a) 'n persoon wat saam met daardie lid bly asof hulle met mekaar getroud is, naamlik 'n lewensmaat;

(b) 'n bloedverwant wat permanent by daardie lid bly; en

(c) enige ander bloedverwant wat van sodanige lid afhanklik is.".

Wysiging van artikel 27 van Wet 84 van 1996

21. Artikel 27 van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Geen lid van 'n *beheerliggaam* mag op enige wyse vergoed word deur die *beheerliggaam* vir die uitvoering van sy of haar pligte of vir die bywoning van vergaderings en skoolaktiwiteite nie.".

Wysiging van artikel 28 van Wet 84 van 1996

22. Artikel 28 van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig deur die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"Behoudens *hierdie Wet* **[en enige toepaslike provinsiale wet,]** bepaal die **[*Lid van die Uitvoerende Raad*]** *Minister* by kennisgewing in die **[Provinsiale Koerant]** *Staatskoerant*—".

Wysiging van artikel 29 van Wet 84 van 1996, soos gewysig deur artikel 12 van Wet 48 van 1999

23. Artikel 29 van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"(2)*(a)* Slegs 'n ouerlid van 'n *beheerliggaam* wat nie by die *openbare skool* werksaam is nie mag as die voorsitter van die *beheerliggaam* dien.

(b) Waar redelik moontlik, mag slegs 'n ouerlid van 'n *beheerliggaam* wat nie by die *openbare skool* werksaam is nie as die voorsitter van die finansieskomitee van daardie *openbare skool* dien.".

Wysiging van artikel 32 van Wet 84 van 1996

24. Artikel 32 van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig—

(a) deur die opskrif deur die volgende opskrif te vervang:

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"**Status of [minors] learners on governing bodies of public schools**";

(b) by the substitution for subsections (1), (2) and (3) of the following subsections:

"(1) A member of a *governing body* who is a **[minor]** *learner* may not contract on behalf of a *public school*.

(2) A member of a *governing body* who is a **[minor]** *learner* may not vote on resolutions of a *governing body* which impose liabilities on third parties or on the *school*.

(3) A member of a *governing body* who is a **[minor]** *learner* incurs no personal liability for any consequence of his or her membership of the *governing body*."; and

(c) by the addition of the following subsection:

"(4) A member of a *governing body* who is a *learner* may not take part in meetings at which recommendations for the appointment of staff to the *school* are decided on, or form part of interview panels relating to the appointment of staff, whether *educators* or non-educators, or in any other way be involved in the appointment of staff to the *school*.".

Substitution of section 33 of Act 84 of 1996

25. The following section is hereby substituted for section 33 of the South African Schools Act, 1996:

"**Closure of public schools**

33. (1) The *Member of the Executive Council* may, by notice in the Provincial *Gazette*, close a *public school*.

(2) The *Member of the Executive Council* may not act **[under]** in terms of subsection (1) unless he or she has—

(a) in writing informed the *school* and the *governing body* **[of the *school*]** of his or her intention so to act and his or her reasons therefor;

(b) **[granted the *governing body of*]** notified the *parents* associated with the *school*, **[a reasonable opportunity to make representations to him or her in relation to such action]** and the community in which the *school* is situated, of his or her intention so to act and the reasons therefor—

(i) by means of a notice in at least one newspaper circulating in the area where the *school* is situated, if any newspapers circulate in that area;

(ii) by causing the *principal* of the *school* to—

(aa) hand to every *learner* a notice containing the relevant information; and

(bb) instruct the *learners* to hand the notice to their *parents*; and

(iii) by means of any other acceptable form of communication that will ensure that the information is spread as widely as possible;

(c) **[conducted a public hearing on reasonable notice, to enable]** granted the *school*, the *governing body*, the *parents* associated with the *school*, and the community in which the *school* is situated a reasonable opportunity to make representations **[to him or her]** in relation to such **[actions]** action; **[and]**

(d) conducted a public hearing, on reasonable notice, to enable the community to make representations in relation to such action; and

(e) given due consideration to any such representations received.

(3)*(a)* Notwithstanding the provisions of subsection (2), the *Member of the Executive Council* may, by notice in the Provincial *Gazette*, close a *public school* in his or her sole discretion if no *learners* are registered at that *school*.

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"**Status van [minderjarige lede van] leerders op beheerliggame van openbare skole**";

(b) deur subartikels (1), (2) en (3) deur die volgende subartikels te vervang:

"(1) 'n Lid van 'n *beheerliggaam* wat 'n **[minderjarige]** *leerder* is, mag nie namens 'n *openbare skool* kontrakteer nie.

(2) 'n Lid van 'n *beheerliggaam* wat 'n **[minderjarige]** *leerder* is, mag nie stem oor besluite van 'n *beheerliggaam* wat aanspreeklikheid op derde partye of op die *skool* plaas nie.

(3) 'n Lid van 'n *beheerliggaam* wat 'n **[minderjarige]** *leerder* is, loop geen persoonlike aanspreeklikheid vir enige gevolg van sy of haar lidmaatskap van die *beheerliggaam* op nie."; en

(c) deur die volgende subartikel by te voeg:

"(4) 'n Lid van 'n *beheerliggaam* wat 'n *leerder* is, mag nie aan vergaderings deelneem waar besluite geneem word oor aanbevelings vir die aanstelling van personeel vir die *skool* nie, of deel uitmaak van onderhoudpanele vir die aanstelling van personeel nie, hetsy *opvoeder*s of nie-opvoeders, of op enige ander wyse betrokke wees by die aanstelling van personeel vir die *skool* nie.".

Vervanging van artikel 33 van Wet 84 van 1996

25. Artikel 33 van die Suid-Afrikaanse Skolewet, 1996, word hierby deur die volgende artikel vervang:

"**Sluiting van openbare skole**

33. (1) Die *Lid van die Uitvoerende Raad* kan, by kennisgewing in die Provinsiale Koerant, 'n *openbare skool* sluit.

(2) Die *Lid van die Uitvoerende Raad* kan nie **[kragtens]** ingevolge subartikel (1) optree nie, tensy hy of sy—

(a) die *skool* en die *beheerliggaam* **[van die *skool*]** skriftelik in kennis gestel het van sy of haar voorneme om op dié wyse op te tree en sy of haar redes daarvoor;

(b) die **[*beheerliggaam* van]** *ouers* wat aan die *skool* **['n redelike geleentheid gebied het om vertoë in verband met sodanige optrede tot hom of haar te rig]** verbonde is en die gemeenskap waarin die *skool* geleë is, kennis gegee het van sy of haar voorneme om aldus op te tree en die redes daarvoor—

(i) by kennisgewing in ten minste een koerant wat in die gebied waar die *skool* geleë is, sirkuleer, indien enige koerante in daardie gebied sirkuleer;

(ii) deur die *prinsipaal* van die *skool*—

(aa) 'n kennisgewing aan elke *leerder* met die tersaaklike inligting te laat oorhandig; en

(bb) die *leerders* te laat opdrag gee om die kennisgewing aan hulle *ouers* te oorhandig; en

(iii) by wyse van enige ander aanvaarbare vorm van kommunikasie wat sal verseker dat die inligting so wyd moontlik versprei word;

(c) **['n openbare verhoor belê het met redelike kennisgewing, ten einde]** die *skool*, die *beheerliggaam*, die *ouers* aan die *skool* verbonde en die gemeenskap **[in staat te stel]** waarin die *skool* geleë is 'n redelike geleentheid gegun het om vertoë in verband met sodanige optrede **[tot hom of haar]** te rig; **[en]**

(d) 'n openbare verhoor met redelike kennisgewing belê het om die gemeenskap in staat te stel om vertoë in verband met sodanige optrede te rig; en

(e) enige sodanige vertoë wat ontvang is, behoorlik oorweeg het.

(3)*(a)* Ongeag die bepalings van subartikel (2), kan die *Lid van die Uitvoerende Raad*, by kennisgewing in die *Provinsiale Koerant*, 'n *openbare skool* na sy of haar uitsluitlike diskresie sluit indien geen *leerders* by daardie *skool* geregistreer is nie.

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(b) The *Member of the Executive Council* may not act in terms of paragraph *(a)* unless he or she has verified, by means of a site inspection by an official nominated by him or her, that no *learners* are registered at that *school*.

(4)*(a)* The *Member of the Executive Council* may, by notice in the Provincial *Gazette*, close a *public school* if, in the case of a primary *school*, 135 or fewer than 135 *learners* are registered at that *school*, and, in the case of a secondary *school*, 200 or fewer than 200 *learners* are registered at that *school*: Provided that the provisions of this subsection do not apply where the *Member of the Executive Council* has, before the commencement of the Basic Education Laws Amendment Act, 2024, acted in terms of subsection (2).

(b) The *Member of the Executive Council* may not act in terms of paragraph *(a)* unless he or she has—

(i) given written notice to the *school* and the *parents* of the *learners* of that *school*;

(ii) by means of a notice in at least one newspaper circulating in the area where the *school* is situated, if any newspapers circulate in that area, and by means of any other acceptable form of communication that will ensure that the information is spread as widely as possible, given notice of his or her intention to close the *school* and invited comment;

(iii) consulted with the *parents* of the *learners* of the *school* and afforded them an opportunity to make representations within a period of not less than 30 days from the date of the notice or communication referred to in subparagraphs (i) and (ii); and

(iv) considered any representations and any comments received after publication of the notice or communication referred to in subparagraphs (i) and (ii).

(5) After the consultation contemplated in subsections (2) and (4)*(b)*, the *Member of the Executive Council* must decide whether or not to go ahead with the closure of the *school* and must—

(a) inform the *school* and the *governing body* of his or her decision; and

(b) by means of the methods listed in subsection (2)*(b)*, notify the *parents* associated with the *school*, and the community in which the *school* is situated, of the decision.

(6) If the decision is to go ahead with the closure, the *Member of the Executive Council* must, where applicable and before the closure takes place, make alternative arrangements for the *learners* of the *school* to attend another *school* that is able to accommodate those *learners* and, where appropriate, make arrangements for the transport of qualifying *learners* to that *school*.

(7) If a *public school* is closed in terms of **[subsection (1)]** this section, all assets and liabilities of such *school* must, subject to the conditions of any donation, bequest or trust contemplated in section 37(4), devolve on the State unless otherwise agreed between the *Member of the Executive Council* and the *governing body* of the *school*.

(8) The *Member of the Executive Council*, in determining whether to act under subsection (1) or (4), must take into account—

(a) the needs, in general, of the broader community in the *education district* in which the *public school* is situated; and

(b) factors including, but not limited to—

(i) the best interests of the child, with emphasis on equality as provided for in section 9 of the *Constitution*, and equity;

(ii) whether there are other *schools* in the community that are accessible to *learners*; and

(iii) the efficient and effective use of state resources.''.

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(b) Die *Lid van die Uitvoerende Raad* mag nie ingevolge paragraaf *(a)* optree nie, tensy hy of sy deur middel van 'n terreininspeksie deur 'n beampte wat deur hom of haar benoem is, geverifieer het dat geen *leerders* by daardie *skool* geregistreer is nie.

(4)*(a)* Die *Lid van die Uitvoerende Raad* kan, by kennisgewing in die Provinsiale Koerant, 'n *openbare skool* sluit indien, in die geval van 'n laerskool, 135 of minder as 135 *leerders* by daardie *skool* geregistreer is, en in die geval van 'n sekondêre *skool*, 200 of minder as 200 *leerders* by daardie *skool* geregistreer is: Met dien verstande dat die bepalings van hierdie subartikel nie van toepassing is waar die *Lid van die Uitvoerende Raad* voor die inwerkingtreding van die Wysigingswet op Wette op Basiese Onderwys, 2024, ingevolge subartikel (2) opgetree het nie.

(b) Die *Lid van die Uitvoerende Raad* mag nie ingevolge paragraaf *(a)* optree nie, tensy hy of sy—

(i) skriftelik aan die *skool* en die *ouers* van die *leerders* van daardie *skool* kennis gegee het;

(ii) deur middel van 'n kennisgewing in ten minste een koerant wat sirkuleer in die area waar die *skool* geleë is, indien enige koerante in daardie area sirkuleer, en deur middel van enige ander aanvaarbare vorm van kommunikasie wat sal verseker dat die inligting so wyd as moontlik versprei word, kennis van sy of haar voorneme om die *skool* te sluit, gegee het en kommentaar gevra het;

(iii) die *ouers* van die *leerders* van die *skool* geraadpleeg het en aan hulle 'n geleentheid gebied het om vertoë te rig binne 'n tydperk van minstens 30 dae vanaf die datum van die kennisgewing of kommunikasie bedoel in subparagrawe (i) en (ii); en

(iv) enige vertoë en enige kommentaar wat ontvang is ná publikasie van die kennisgewing of kommunikasie in subparagrawe (i) en (ii) bedoel, oorweeg het.

(5) Ná die oorlegpleging beoog in subartikels (2) en (4)*(b)*, moet die *Lid van die Uitvoerende Raad* besluit of met die sluiting van die *skool* voortgegaan word of nie en moet—

(a) die *skool* en die *beheerliggaam* van sy of haar besluit in kennis stel; en

(b) deur middel van die metodes gelys in subartikel (2)*(b)*, die *ouers* verbonde aan die *skool*, en die gemeenskap waarin die *skool* geleë is, van die besluit in kennis stel.

(6) Indien besluit word om voort te gaan met die sluiting, moet die *Lid van die Uitvoerende Raad*, waar van toepassing en voordat die sluiting plaasvind, alternatiewe reëlings tref vir die *leerders* van die *skool* om 'n ander *skool* by te woon wat die *leerders* kan akkommodeer en, waar toepaslik, reëlings tref vir die vervoer van kwalifiserende *leerders* na daardie *skool.*

(7) Indien 'n *openbare skool* ingevolge **[subartikel (1)]** hierdie artikel gesluit word, moet alle bates en laste van sodanige *skool*, behoudens die voorwaardes van enige skenking, bemaking of trust beoog in artikel 37(4), die Staat toeval tensy 'n andersluidende ooreenkoms tussen die *Lid van die Uitvoerende Raad* en die *beheerliggaam* van die *skool* aangegaan is.

(8) Die *Lid van die Uitvoerende Raad* moet, wanneer vasgestel word hetsy kragtens subartikel (1) of (4) opgetree moet word, in ag neem—

(a) die behoeftes, in die algemeen, van die breër gemeenskap in die *onderwysdistrik* waarin die *openbare skool* geleë is; en

(b) faktore insluitend, maar nie beperk nie, tot—

(i) die beste belang van die kind, met die klem op gelykheid soos bepaal in artikel 9 van die *Grondwet*, en billikheid;

(ii) of daar ander *skole* in die gemeenskap is wat waartoe *leerders* toegang het; en

(iii) die doeltreffende en doelmatige gebruik van staatshulpbronne.''.

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Amendment of section 36 of Act 84 of 1996, as amended by section 5 of Act 57 of 2001 and section 12 of Act 15 of 2011

26. Section 36 of the South African Schools Act, 1996, is hereby amended—

(a) by the substitution for subsection (2) of the following subsection:

"(2) Despite subsection (1), a *governing body* may not, without the written approval of the *Head of Department*, enter into any *loan*, lease or overdraft agreement **[so as to supplement the *school* fund, without the written approval of the *Member of the Executive Council*]** for any purpose."; and

(b) by the substitution in subsection (4)*(a)* for subparagraph (i) of the following subparagraph:

"(i) **[lease,]** burden, convert or alter immovable property of the *school* to provide for *school activities* or to supplement the *school* fund **[of that *school*]**, or lease such property for such purpose: Provided that such approval is not required for a lease of a period not exceeding 12 months; and".

Amendment of section 37 of Act 84 of 1996, as amended by section 6 of Act 57 of 2001

27. Section 37 of the South African Schools Act, 1996, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The *governing body* of a *public school* must establish a *school* fund and administer it in accordance with **[directions]** directives issued by the *Head of Department*.".

Amendment of section 38 of Act 84 of 1996, as amended by section 7 of Act 57 of 2001 and section 7 of Act 50 of 2002

28. Section 38 of the South African Schools Act, 1996, is hereby amended—

(a) by the substitution for subsection (3) of the following subsection:

"(3) **[The]** When notice is given to the *parents* as contemplated in subsection (2) **[must also inform]**—

(a) the budget, together with a document explaining the budget, must be made available to the *parents* by means of the existing communication channels of the *school*; and

(b) the *parents* must be informed that the document and the budget will be available for inspection at the *school* at least 14 days prior to the meeting."; and

(b) by the addition of the following subsections:

"(4) If a *governing body* finds it necessary to—

(a) deviate from the initial budget that has been approved as contemplated in subsection (2), and the deviation will be 10 per cent or more of the initial budget; or

(b) reallocate funds for use for a purpose different to that which was approved by the *parents* as contemplated in subsection (2),

the *governing body* must present such deviation or reallocation to a general meeting of *parents* convened specifically for that purpose, on at least 14 days' notice, for consideration and approval by a majority of *parents* present and voting.

(5) When notice is given to the *parents* as contemplated in subsection (4)—

(a) a document explaining and providing reasons for the deviation or reallocation must be made available to *parents* by means of the existing communication channels of the *school*; and

(b) the *parents* must be informed that the document will be available for inspection at the *school* at least 14 days prior to the meeting.

(6) A quorum of 10 per cent of *parents* is required for the general meetings of *parents* contemplated in subsections (2) and (4).

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Wysiging van artikel 36 van Wet 84 van 1996, soos gewysig deur artikel 5 van Wet 57 van 2001 en artikel 12 van Wet 15 van 2011

26. Artikel 36 van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig—

(a) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Ondanks subartikel (2) mag 'n *beheerliggaam* nie, sonder die skriftelike goedkeuring van die *Departementshoof*, 'n lenings- of oortrekkingsooreenkoms vir enige doel aangaan **[ten einde die skoolfonds aan te vul]** nie."; en

(b) deur in subartikel (4)*(a)* subparagraaf (i) deur die volgende subparagraaf te vervang:

"(i) die vaste eiendom van 'n *skool* **[uithuur]**, beswaar, omskep of verander om vir skoolaktiwiteite voorsiening te maak of om die skoolfonds **[van daardie *skool*]** of sodanige eiendom vir sodanige doel uithuur: Met dien verstande dat sodanige goedkeuring nie vir 'n verhuring van minder as 12 maande benodig word nie; en".

Wysiging van artikel 37 van Wet 84 van 1996, soos gewysig deur artikel 6 van Wet 57 van 2001

27. Artikel 37 van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Die *beheerliggaam* van 'n *openbare skool* moet 'n skoolfonds instel en dit administreer ooreenkomstig voorskrifte deur die *Departementshoof* uitgereik.".

Wysiging van artikel 38 van Wet 84 van 1996, soos gewysig deur artikel 7 van Wet 57 van 2001 en artikel 7 van Wet 50 van 2002

28. Artikel 38 van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig—

(a) deur subartikel (3) deur die volgende subartikel te vervang:

"(3) **[Die]** Wanneer kennisgewing aan die *ouers* gegee word soos in subartikel (2) beoog **[moet ook die *ouers* inlig]**—

(a) moet die begroting, saam met 'n dokument waarin die begroting verduidelik word, aan die *ouers* beskikbaar gestel word by wyse van die bestaande kommunikasiekanale van die *skool*; en

(b) moet die *ouers* ingelig word dat die dokument en die begroting minstens 14 dae voor die vergadering by die *skool* ter insae sal wees."; en

(b) deur die volgende subartikels by te voeg:

"(4) Indien 'n *beheerliggaam* dit nodig vind om—

(a) af te wyk van die aanvanklike begroting wat goedgekeur is soos beoog in subartikel (2), en die afwyking sal 10 persent of meer van die aanvanklike begroting wees; of

(b) fondse hertoewys vir gebruik vir 'n ander doel as wat deur die *ouers* goedgekeur is, soos beoog in subartikel (2),

moet die *beheerliggaam* sodanige afwyking of hertoewysing aan 'n algemene vergadering van *ouers* wat spesifiek vir daardie doel met ten minste 14 dae kennisgewing byeengeroep is, voorlê, vir oorweging en goedkeuring deur 'n meerderheid van *ouers* wat teenwoordig is en stem.

(5) Wanneer aan die *ouers* kennis gegee word soos beoog in subartikel (4)—

(a) moet 'n dokument wat redes vir die afwyking of hertoewysing verduidelik en verskaf, deur middel van die bestaande kommunikasiekanale van die *skool* aan *ouers* beskikbaar gestel word; en

(b) moet die *ouers* ingelig word dat die dokument ten minste 14 dae voor die vergadering ter insae by die *skool* beskikbaar sal wees.

(6) 'n Kworum van 10 persent van *ouers* word vereis vir die algemene vergaderings van *ouers* beoog in subartikels (2) en (4).

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(7) If the quorum contemplated in subsection (6) is not reached at the general meeting of *parents*—

(a) the chairperson shall determine the date, time and place for the second meeting of the general meeting and notify *parents* 14 days prior to such meeting;

(b) the *principal* shall, at least seven days prior to the date of the second general meeting, distribute a copy of the notice to every *learner* at the *school* with an instruction to hand the notice to the *parents*; and

(c) there shall be no quorum required at the second general meeting.".

Amendment of section 38A of Act 84 of 1996, as inserted by section 2 of Act 1 of 2004

29. Section 38A of the South African Schools Act, 1996, is hereby amended—

(a) by the substitution for subsection (2) of the following subsection:

"(2) A *governing body* may apply to the employer for approval to pay a state employee any **[payment contemplated in subsection (1)]** remuneration, or to give to a state employee any *other financial benefit*, or *benefit in kind*.";

(b) by the substitution for subsection (3) of the following subsection:

"(3) Such application must be lodged in writing in the office of the employer and must state—

(a) full details of the nature and extent of the **[payment]** remuneration, *other financial benefit*, or *benefit in kind*;

(b) the reasons for the remuneration, *other financial benefit*, or *benefit in kind*;

(c) if practicable, the monetary value of the remuneration, *other financial benefit*, or *benefit in kind*;

(d) the process that will be followed and the resources that will be used to compensate or remunerate the state employee; and

(e) the extent of compliance with section 20(5) to (9).";

(c) by the substitution for subsection (6) of the following subsection:

"(6) An employer **[must]** may not unreasonably refuse an application **[contemplated]** referred to in subsection (2)."; and

(d) by the substitution for subsection (8) of the following subsection:

"(8) The **[payment]** remuneration, *other financial benefit*, or *benefit in kind* contemplated in subsection (1) must be reflected in the *school's* budget, as presented to the general meeting of *parents* as contemplated in section 38(2), and in such reflection in the budget, any remuneration, *other financial benefit*, or *benefit in kind* must, if practicable, be accorded a monetary value.".

Amendment of section 41 of Act 84 of 1996, as amended by section 5 of Act 24 of 2005

30. Section 41 of the South African Schools Act, 1996, is hereby amended by the insertion after subsection (2) of the following subsections:

"(2A) Notwithstanding subsection (2), a *parent* may submit to the *governing body* an affidavit, as proof that the other *parent* of the *learner*—

(a) is untraceable;

(b) is unwilling to provide the first-mentioned *parent* with particulars of his or her total annual gross income;

(c) has failed to provide the first-mentioned *parent* with particulars of his or her total annual gross income despite the lapse of a reasonable time after a request by or on behalf of the first-mentioned *parent* that he or she do so; or

(d) has provided the first-mentioned *parent* with incomplete or inaccurate particulars about his or her total annual gross income and has refused to rectify the deficiency or has failed to do so despite the lapse of a reasonable time after a request by or on behalf of the first-mentioned *parent* that he or she do so.

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(7) Indien die kworum beoog in subartikel (6) nie by die algemene vergadering van *ouers* bereik word nie—

(a) bepaal die voorsitter die datum, tyd en plek vir die tweede vergadering van die algemene vergadering en stel *ouers* 14 dae voor sodanige vergadering in kennis;

(b) moet die *prinsipaal*, ten minste sewe dae voor die datum van die tweede algemene vergadering, 'n afskrif van die kennisgewing aan elke *leerder* by die *skool* versprei met 'n opdrag om die kennisgewing aan die *ouers* te oorhandig; en

(c) geen kworum sal by die tweede algemene vergadering vereis word nie.''.

Wysiging van artikel 38A van Wet 84 van 1996, soos ingevoeg deur artikel 2 van Wet 1 van 2004

29. Artikel 38A van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig—

(a) deur subartikel (2) deur die volgende subartikel te vervang:

''(2) 'n *Beheerliggaam* kan by die werkgewer aansoek doen om goedkeuring om aan 'n staatswerknemer enige **[betaling in subartikel (1) beoog]** besoldiging, of om 'n staatswerknemer enige *ander finansiële voordeel* of *goederevoordeel*, te betaal.'';

(b) deur subartikel (3) deur die volgende subartikel te vervang:

''(3) Sodanige aansoek moet skriftelik by die kantoor van die werkgewer ingedien word en moet—

(a) volle besonderhede van die aard en omvang van die **[betaling]** besoldiging, *ander finansiële goedere*, of *goederevoordeel*;

(b) die redes vir die besoldiging, *ander finansiële voordeel*, of *goederevoordeel*;

(c) indien moontlik, die geldwaarde van die besoldiging, *ander finansiële voordeel*, of *goederevoordeel*;

(d) die proses wat gevolg sal word en hulpbronne **[vermeld]** wat gebruik sal word om die staatswerknemer te vergoed of te besoldig; en

(e) die mate **[vermeld]** waarin daar aan artikel 20(5) tot (9) voldoen is, vermeld.'';

(c) deur subartikel (6) deur die volgende subartikel te vervang:

''(6) 'n Werkgewer mag nie op onredelike wyse 'n aansoek bedoel in subartikel (2) **[beoog]**, weier nie.''; en

(d) deur subartikel (8) deur die volgende subartikel te vervang:

''(8) Die **[betaling]** besoldiging, *ander finansiële voordeel*, of *goederevoordeel* in subartikel (1) beoog, moet weerspieël word in die *skool* se begroting, soos dit voorgelê is aan die algemene vergadering van *ouers* in artikel 38(2) beoog, en in sodanige weergawe in die begroting, moet enige besoldiging, *ander finansiële voordeel*, of *goederevoordeel*, indien moontlik, 'n geldwaarde gegee word.''.

Wysiging van artikel 41 van Wet 84 van 1996, soos gewysig deur artikel 5 van Wet 24 van 2005

30. Artikel 41 van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig deur die volgende subartikels na subartikel (2) in te voeg:

''(2A) Ongeag subartikel (2), kan 'n *ouer* 'n beëdigde verklaring aan die *beheerliggaam* voorlê, as bewys dat die ander *ouer* van die *leerder*—

(a) onopspoorbaar is;

(b) nie bereid is om die eersgenoemde *ouer* van besonderhede van sy of haar totale jaarlikse bruto inkomste te voorsien nie;

(c) versuim het om die eersgenoemde *ouer* van besonderhede van sy of haar totale jaarlikse bruto inkomste te voorsien, ondanks die verloop van 'n redelike tyd ná 'n versoek deur of namens eersgenoemde *ouer* dat hy of sy dit doen; of

(d) die eersgenoemde *ouer* van onvolledige of onakkurate besonderhede oor sy of haar totale jaarlikse bruto inkomste verskaf het en geweier het om die tekortkoming reg te stel of versuim het om dit te doen ondanks die verloop van 'n redelike tyd ná 'n versoek deur of namens eersgenoemde *ouer* dat hy of sy dit doen.

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(2B) Although the affidavit contemplated in subsection (2A) constitutes sufficient proof, a *parent* may also submit to the *governing body* a court order or any other documentary evidence that would support the proof contemplated in subsection (2A).''.

Substitution of section 42 of Act 84 of 1996

31. The following section is hereby substituted for section 42 of the South African Schools Act, 1996:

''**Financial records and statements of public schools**

42. The *governing body* of a *public school* must—

(a) keep records of all investments, donations and funds received and spent by the *public school* and of its assets, liabilities and financial transactions; **[and]**

(b) as soon as practicable, but not later than three months after the end of each financial year, draw up annual financial statements reflecting all the investments, donations and funds received and spent by the *public school* in accordance with the guidelines determined by the *Member of the Executive Council*;

(c) present the financial records and statements to a general meeting of *parents*; and

(d) inform the *parents* that the financial records and statements will be available for inspection at the *school* at least 14 days prior to the meeting referred to in paragraph *(c)*.''.

Amendment of section 43 of Act 84 of 1996, as amended by section 10 of Act 31 of 2007

32. Section 43 of the South African Schools Act, 1996, is hereby amended by the substitution for subsections (4) and (5) of the following subsections, respectively:

''(4) If the **[*Member of the Executive Council*]** *Head of Department* deems it necessary, on just cause shown, he or she may—

(a) authorise suitably qualified officers to conduct an investigation into the financial affairs of a *public school* and, where necessary, after consultation with the *governing body*, access documents relevant for the purposes of the investigation;

(b) request the Auditor-General to undertake an audit of the records and financial statements of a *public school*; or

(c) appoint forensic auditors or forensic investigators to conduct a forensic investigation into the financial affairs of a *public school*.

(5) A *governing body* must submit to the *Head of Department***[,]**—

(a) within 30 days after the end of each quarter, a copy of the quarterly report on all income and expenditure in accordance with directives issued by the *Head of Department*; and

(b) within six months after the end of each financial year, a copy of the annual financial statements, audited or examined in terms of this section.''.

Amendment of section 46 of Act 84 of 1996

33. Section 46 of the South African Schools Act, 1996, is hereby amended by the substitution for subsection (4) of the following subsection:

''(4) Any person who contravenes subsection (1) is guilty of an offence and liable, upon conviction, **[liable]** to a fine or to imprisonment for a period **[of three]** not exceeding 12 months, or to both a fine and such imprisonment.''.

Amendment of section 48 of Act 84 of 1996

34. Section 48 of the South African Schools Act, 1996, is hereby amended—

(a) by the substitution for subsection (2) of the following subsection:

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(2B) Alhoewel die beëdigde verklaring beoog in subartikel (2A) voldoende bewys daarstel, kan 'n *ouer* ook 'n hofbevel of enige ander dokumentêre getuienis aan die *beheerliggaam* voorlê wat die bewys beoog in subartikel (2A) sal ondersteun.''.

Vervanging van artikel 42 van Wet 84 van 1996

31. Artikel 42 van die Suid-Afrikaanse Skolewet, 1996, word hierby deur die volgende subartikel vervang:

''**Finansiële rekords en state van openbare skole**

42. Die *beheerliggaam* van 'n *openbare skool* moet—

(a) rekord hou van alle beleggings, skenkings en fondse ontvang en bestee deur die *openbare skool*, en van sy bates, laste en finansiële transaksies; **[en]**

(b) so spoedig as moontlik, maar nie later nie as drie maande ná die einde van elke boekjaar, jaarlikse finansiële state opstel wat al die beleggings, skenkings en fondse weerspieël wat deur die *openbare skool* ontvang en uitgegee is ooreenkomstig die riglyne wat deur die *Lid van die Uitvoerende Raad* bepaal is;

(c) die finansiële rekords en state aan 'n algemene vergadering van *ouers* voorlê; en

(d) die *ouers* inlig dat die finansiële rekords en state by die *skool* ter insae beskikbaar sal wees ten minste 14 dae voor die vergadering in paragraaf *(c)* bedoel.''.

Wysiging van artikel 43 van Wet 84 van 1996, soos gewysig deur artikel 10 van Wet 31 van 2007

32. Artikel 43 van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig deur subartikels (4) en (5) onderskeidelik deur die volgende subartikels te vervang:

''(4) Indien die **[*Lid van die Uitvoerende Raad*]** *Departementshoof* dit, by die aanvoer van goeie gronde, nodig ag, kan hy of sy—

(a) gepas gekwalifiseerde beamptes magtig om die finansiële sake van 'n *openbare skool* te ondersoek en, waar nodig, ná oorleg met die *beheerliggaam*, toegang kry tot dokumente wat relevant is vir die doeleindes van die ondersoek;

(b) die Ouditeur-Generaal versoek om 'n oudit van die rekords en finansiële state van 'n *openbare skool* te onderneem; of

(c) forensiese ouditeurs of forensiese ondersoekers aanstel om 'n forensiese ondersoek na die finansiële sake van 'n *openbare skool* te voer.

(5) 'n *Beheerliggaam* moet—

(a) binne 30 dae ná die einde van elke kwartaal, 'n afskrif van die kwartaalverslag oor alle inkomste en uitgawes ooreenkomstig die voorskrifte deur die *Departementshoof* ; en

(b) binne ses maande ná die einde van elke boekjaar 'n afskrif van die jaarlikse finansiële state, geouditeer of ondersoek kragtens hierdie artikel,

aan die *Departementshoof* voorlê.''.

Wysiging van artikel 46 van Wet 84 van 1996

33. Artikel 46 van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:

''(4) Enige persoon wat subartikel (1) oortree, is aan 'n misdryf skuldig en strafbaar, by skuldigbevinding, **[strafbaar]** met 'n boete of gevangenisstraf vir 'n tydperk van **[drie]** hoogstens 12 maande, of met beide 'n boete en sodanige gevangenisstraf.''.

Wysiging van artikel 48 van Wet 84 van 1996

34. Artikel 48 van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig—

(a) deur subartikel (2) deur die volgende subartikel te vervang:

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"(2) The *Member of the Executive Council* may, out of funds appropriated by the *provincial legislature* for that purpose, grant a subsidy to an *independent school*, subject to conditions determined by the *Member of the Executive Council*."; and

(b) by the addition of the following subsection:

"(6) An *independent school* must submit to the *Head of Department*—

(a) within 30 days after the end of each quarter, a copy of the quarterly report on all income and expenditure relating to the subsidy contemplated in subsection (2), in accordance with directives issued by the *Head of Department*; and

(b) within six months after the end of each financial year, a copy of the audited or examined annual financial statements relating to the subsidy contemplated in subsection (2).".

Substitution of section 51 of Act 84 of 1996

35. The following section is hereby substituted for section 51 of the South African Schools Act, 1996:

"**Home education**

51. (1) If the *parent* of a *learner* who is subject to compulsory attendance as contemplated in section 3(1) chooses to educate the *learner* at home, such *parent* must apply to the *Head of Department* for the registration of the *learner* to receive *home education*.

(2) The *Head of Department* must approve the application and register the *learner* as contemplated in subsection (1)—

(a) if he or she is satisfied that—

(i) education at home, as provided for in *this Act*, is in the best interests of the *learner*;

(ii) the *parent* understands what *home education* entails and accepts full responsibility for the implementation of *home education* for the *learner*; and

(iii) the proposed *home education* programme is suitable for the *learner's* age, grade level and ability and predominantly covers the acquisition of content and skills at least comparable to the relevant national curriculum determined by the *Minister*; and

(b) if the *parent* undertakes to—

(i) make suitable educational resources available to support the *learner's* learning;

(ii) monitor the *learner's* academic progress;

(iii) arrange for the *learner's* educational attainment to be assessed by a *competent assessor*—

(aa) at the end of each phase, up to the end of the year in which the *learner* reaches the age of 15 years or completes grade 9, whichever occurs first; and

(bb) against a standard that is not inferior to the standard determined in the National Curriculum Statement; and

(iv) submit to the *Head of Department*, at the end of each phase and as evidence of the *learner's* educational attainment, the *learner's* assessment report, signed by the *competent assessor*.

(3) In considering the application, the *Head of Department* may, on just cause shown and after notification to the *parent*, require a delegated official to conduct a pre-registration consultation with the *parents* and *learner* to verify the information supplied in the application documentation and to provide support, where necessary, with the application process.

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"(2) Die *Lid van die Uitvoerende Raad* kan, uit geld wat vir daardie doel deur die *provinsiale wetgewer* bewillig is, 'n subsidie aan 'n *onafhanklike skool* toestaan, behoudens voorwaardes deur die *Lid van die Uitvoerende Raad* bepaal.''; en

(b) deur die volgende subartikel by te voeg:

"(6) 'n *Onafhanklike skool* moet—

(a) binne 30 dae ná die einde van elke kwartaal, 'n afskrif van die kwartaalverslag oor al die inkomste en uitgawes rakende die subsidie beoog in subartikel (2), ooreenkomstig voorskrifte deur die *Departementshoof* uitgereik; en

(b) binne ses maande ná die einde van elke boekjaar, 'n afskrif van die geouditeerde of bestudeerde finansiële jaarstate rakende die subsidie in subartikel (2) beoog,

aan die *Departementshoof* voorlê.''.

Vervanging van artikel 51 van Wet 84 van 1996

35. Artikel 51 van die Suid-Afrikaanse Skolewet, 1996, word hierby deur die volgende artikel vervang:

"**Tuisonderrig**

51. (1) Indien die *ouer* van 'n *leerder* wat onderhewig is aan verpligte bywoning soos beoog in artikel 3(1) verkies om die *leerder* tuis te onderrig, moet sodanige *ouer* by die *Departementshoof* aansoek doen om die registrasie van die *leerder* om *tuisonderrig* te ontvang.

(2) Die *Departementshoof* moet die aansoek goedkeur en die *leerder* soos beoog in subartikel (1) registreer—

(a) indien hy of sy oortuig is dat—

(i) *tuisonderrig*, soos in *hierdie Wet* voor voorsiening gemaak, in die beste belang van die *leerder* is;

(ii) die *ouer* verstaan wat *tuisonderrig* behels en volle verantwoordelikheid aanvaar vir die implementering van *tuisonderrig* vir die *leerder*; en

(iii) die voorgestelde tuisonderrigprogram geskik is vir die *leerder* se ouderdom, graadvlak en vermoë en hoofsaaklik die aanleer van inhoud en vaardighede dek wat ten minste vergelykbaar is met die betrokke nasionale kurrikulum wat deur die *Minister* bepaal is; en

(b) indien die *ouer* onderneem om—

(i) geskikte opvoedkundige hulpbronne beskikbaar te stel om die *leerder* se leer te ondersteun;

(ii) die *leerder* se akademiese vordering te monitor;

(iii) te reël dat die *leerder* se opvoedkundige prestasie deur 'n *bevoegde assessor* geassesseer word—

(aa) aan die einde van elke fase, tot die einde van die jaar waarin die *leerder* die ouderdom van 15 jaar bereik of graad 9 voltooi, wat ook al eerste plaasvind; en

(bb) teen 'n standaard wat nie minderwaardig is teenoor die standaard in die Nasionale Kurrikulumverklaring bepaal nie; en

(iv) die *leerder* se assesseringsverslag, onderteken deur die *bevoegde assessor*, aan die einde van elke fase en as bewys van die *leerder* se opvoedkundige prestasie, aan die *Departementshoof* voor te lê.

(3) By die oorweging van die aansoek kan die *Departementshoof* by die aanvoer van goeie gronde en ná kennisgewing aan die *ouer*, vereis dat 'n gedelegeerde beampte 'n voorafregistrasie-konsultasie met die *ouers* en *leerder* doen om die inligting wat in die aansoekdokumentasie verskaf word, te verifieer en om ondersteuning te verleen, waar nodig, met die aansoekproses.

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(4) If the *Head of Department* is satisfied that the *parent* does not meet the requirements set out in subsection (2), or if the outcome of the process set out in subsection (3) fails to satisfy the *Head of Department* that *home education* is in the best interests of the *learner,* the *Head of Department* must decline to register a *learner* to receive *home education*.

(5) If a *parent* educates a *learner* at home, and that *learner* has, at the time of the commencement of this section, not been registered as contemplated in this section, the *parent* must, within 30 days after the commencement of this section, apply to the *Head of Department* for the registration of the *learner* to receive *home education*.

(6) If the *Head of Department* does not respond within 60 days of receipt of an application for *home education* as contemplated in subsections (1) and (5), the application shall be deemed to have been approved, on condition that the applicant must be able, on request, to produce proof that an application for registration to receive *home education* was submitted.

(7) A *learner* who is registered to receive *home education* is exempted from *school* attendance as contemplated in section 3.

(8) The *parent* of a *learner* who has been registered as contemplated in subsection (1) or (5) must notify the *Head of Department* at the end of the—

(a) Foundation Phase (grades R to 3);
(b) Intermediate Phase (grades 4 to 6); and
(c) Senior Phase (grades 7 to 9),

of his or her intention to continue educating the *learner* at home.

(9) A *parent* who wishes to continue educating a *learner* at home after the *learner* has reached the age of 15 years or has completed grade 9, whichever occurs first, or who wishes to start educating such *learner* at home at such time, is not required to apply for registration, as contemplated in subsections (1) and (5), or to notify the *Head of Department*, as contemplated in subsection (8).

(10) After a home-educated *learner* has completed grade 9 or has reached the age of 15 years, whichever occurs first, the *parent* may enrol the *learner* at a *public school* or an *independent school* for the completion of grades 10 to 12.

(11) If the *parent* of a *learner* contemplated in subsection (9) desires the *learner* to eventually write the National Senior Certificate examination, such *parent* must, before the *learner* embarks on any studies following grade 9, ensure that the *learner* complies with the requirements stipulated in regulation 7(4A) of the Regulations pertaining to the conduct, administration and management of the National Senior Certificate examination (published under R872 in *Gazette* No. 31337 of 29 August 2008), for a *learner* receiving *home education*.

(12) The *Head of Department* must cancel a *learner's* registration to receive *home education* if, after investigation, the *Head of Department* is satisfied that *home education* is no longer in the best interests of the *learner*.

(13) The *Head of Department* may not decline to register a *learner*, as contemplated in subsection (4), or cancel the registration of a *learner*, as contemplated in subsection (12), before—

(a) informing the *parent*, in writing, of his or her intention so to act and the reasons therefor;
(b) granting the *parent* a reasonable opportunity to make representations to him or her, which opportunity must include discussions relating to such intention;
(c) giving due consideration to any such representations received; and
(d) providing the *parent* with written reasons for his or her decision.

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(4) Indien die *Departementshoof* tevrede is dat die *ouer* nie aan die vereistes uiteengesit in subartikel (2) voldoen nie, of indien die uitslag van die proses uiteengesit in subartikel (3) nie die *Departementshoof* oortuig dat *tuisonderrig* in die beste belang van die *leerder* is nie, moet die *Departementshoof* weier om 'n *leerder* te registreer om *tuisonderrig* te ontvang.

(5) Indien 'n *ouer* 'n *leerder* by die huis onderrig, en daardie *leerder* was, ten tyde van die inwerkingtreding van hierdie artikel, nie geregistreer soos beoog in hierdie artikel nie, moet die *ouer* binne 30 dae ná die inwerkingtreding van hierdie artikel, by die *Departementshoof* aansoek doen om die registrasie van die *leerder* om *tuisonderrig* te ontvang.

(6) Indien die *Departementshoof* nie binne 60 dae ná ontvangs van 'n aansoek om *tuisonderrig* soos beoog in subartikels (1) en (5) reageer nie, word die aansoek geag goedgekeur te wees, op voorwaarde dat die aansoeker in staat moet wees om op versoek bewys te lewer dat 'n aansoek om registrasie om *tuisonderrig* te ontvang, ingedien is.

(7) 'n *Leerder* wat geregistreer is om *tuisonderrig* te ontvang, word vrygestel van skoolbywoning soos in artikel 3 beoog.

(8) Die *ouer* van 'n *leerder* wat geregistreer is soos beoog in subartikel (1) of (5), moet die *Departementshoof* aan die einde van die—

(a) Grondslagfase (*graad R* tot 3);

(b) Intermediêre Fase (graad 4 tot 6); en

(c) Senior Fase (graad 7 tot 9),

in kennis stel van sy of haar voorneme om voort te gaan om die *leerder* tuis op te voed.

(9) 'n *Ouer* wat wil voortgaan om 'n *leerder* tuis op te voed nadat die *leerder* die ouderdom van 15 jaar bereik het of graad 9 voltooi het, wat ook al eerste plaasvind, of wat op daardie tydstip wil begin om sodanige *leerder* tuis op te voed, hoef nie aansoek te doen om registrasie, soos beoog in subartikels (1) en (5) nie, of hoef nie die *Departementshoof* in kennis te stel nie, soos beoog in subartikel (8).

(10) Nadat 'n *leerder* wat *tuisonderrig* ontvang het, graad 9 voltooi het of die ouderdom van 15 jaar bereik het, wat ook al eerste plaasvind, kan die *ouer* die *leerder* by 'n *openbare skool* of 'n *onafhanklike skool* inskryf vir die voltooiing van graad 10 tot 12.

(11) Indien die *ouer* van 'n *leerder* bedoel in subartikel (9) wil hê die *leerder* moet uiteindelik die Nasionale Senior Sertifikaat-eksamen aflê, moet sodanige *ouer*, voordat die *leerder* met enige studies ná graad 9 begin, verseker dat die *leerder* voldoen aan die vereistes uiteengesit in regulasie 7(4A) van die Regulasies met betrekking tot die uitvoer, administrasie en bestuur van die Nasionale Senior Sertifikaat-eksamen (gepromulgeer in Goewermentskennisgewing R872 in *Staatskoerant* No. 31337 van 29 Augustus 2008), vir 'n *leerder* wat *tuisonderrig* ontvang.

(12) Die *Departementshoof* moet 'n *leerder* se registrasie om *tuisonderrig* te ontvang, kanselleer indien die *Departementshoof*, ná ondersoek, oortuig is dat *tuisonderrig* nie meer in die beste belang van die *leerder* is nie.

(13) Die *Departementshoof* mag nie weier om 'n *leerder* te registreer, soos beoog in subartikel (4), of die registrasie van 'n *leerder*, soos beoog in subartikel (12), kanselleer nie, voordat—

(a) die *ouer* skriftelik in kennis gestel is van sy of haar voorneme om aldus op te tree en van die redes daarvoor;

(b) die *ouer* 'n redelike geleentheid gegun is om vertoë aan hom of haar te rig, welke geleentheid besprekings met betrekking tot sodanige voorneme moet insluit;

(c) behoorlike oorweging geskenk is aan enige sodanige vertoë wat ontvang is; en

(d) die *ouer* van skriftelike redes vir sy of haar besluit voorsien.

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(14)*(a)* The *parent* of a *learner* may appeal to the *Member of the Executive Council*, within 30 days of receiving notice—

(i) that the *Head of Department* has declined the application to register the *learner* to receive *home education*; or

(ii) that the *Head of Department* has cancelled the *learner's* registration to receive *home education*.

(b) If the *parent* of a *learner* is of the opinion that any decision of the *Head of Department* in relation to the *home education* of the *learner* in question is unreasonable, such *parent* may appeal to the *Member of the Executive Council* within 30 days of receiving notice of such decision.

(15) If an appeal contemplated in subsection (14) is received, the *Member of the Executive Council* must, within 30 days of receiving such appeal, consider and decide on the matter and, in writing, inform the *parent* of the outcome of the appeal.

(16) The *Minister* may make regulations relating to registration for, and the administration of, *home education*.".

Amendment of section 59 of Act 84 of 1996, as amended by section 10 of Act 100 of 1997

36. Section 59 of the South African Schools Act, 1996, is hereby amended—

(a) by the substitution for the heading of the following heading:

"**Duty [of schools] to provide information**";

(b) by the substitution for subsection (2) of the following subsection:

"(2) Every *school* must provide such information about the *school* as is reasonably required by the *Head of Department*, or by the Director-General of the **[national]** *Department of Basic Education* in consultation with the *Head of Department*."; and

(c) by the addition of the following subsection:

"(3) If, when applying for admission to a *public school* or for exemption from the payment of *school fees*, the *parent* of a *learner*, or any other person—

(a) submits or provides information which he or she knows to be false or misleading;

(b) submits a document which he or she knows to be forged; or

(c) submits a document and claims that it is a true copy of the original when in fact it is not a true copy,

such person is guilty of an offence and liable, upon conviction, to a fine or to imprisonment for a period not exceeding 12 months, or to both a fine and such imprisonment.".

Insertion of section 59A in Act 84 of 1996

37. The following section is hereby inserted in the South African Schools Act, 1996, after section 59:

"**Dispute resolution**

59A. (1) If a dispute arises between the *Head of Department* and a *governing body*, the following procedure must be followed:

(a) All attempts must be made by the parties to resolve the dispute informally.

(b) If the parties are unable to resolve the dispute informally as referred to in paragraph *(a)*, the following steps must be taken:

(i) The aggrieved party must give the other party written notice of the dispute; and

(ii) such notice must include a description of the issues involved in the dispute and a proposed resolution thereof.

(c) If the dispute has not been resolved within 14 days after the issuing of the written notice contemplated in paragraph *(b)*, each party must

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(14)*(a)* Die *ouer* van 'n *leerder* kan by die *Lid van die Uitvoerende Raad* appèl aanteken, binne 30 dae ná ontvangs van kennisgewing—

(i) dat die *Departementshoof* die aansoek om die *leerder* te registreer om *tuisonderrig* te ontvang, afgekeur het; of

(ii) dat die *Departementshoof* die *leerder* se registrasie om *tuisonderrig* te ontvang, gekanselleer het.

(b) Indien die ouer van 'n *leerder* van mening is dat enige besluit van die *Departementshoof* met betrekking tot die *tuisonderrig* van die betrokke *leerder* onredelik is, kan sodanige *ouer* binne 30 dae vanaf ontvangs van sodanige besluit by die *Lid van die Uitvoerende Raad* appèl aanteken.

(15) Indien 'n appèl beoog in subartikel (14) ontvang word, moet die *Lid van die Uitvoerende Raad* binne 30 dae ná ontvangs van sodanige appèl die aangeleentheid oorweeg en daaroor besluit en die *ouer* skriftelik inlig oor die uitslag van die appèl.

(16) Die *Minister* kan regulasies uitvaardig met betrekking tot registrasie vir, en die administrasie van, *tuisonderrig*.".

Wysiging van artikel 59 van Wet 84 van 1996, soos gewysig deur artikel 10 van Wet 100 van 1997

36. Artikel 59 van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig—

(a) deur die opskrif deur die volgende opskrif te vervang:

"**Plig [van skole] om inligting te voorsien**";

(b) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Elke *skool* moet die inligting oor die *skool* wat redelikerwys deur die *Departementshoof* of deur die Direkteur-generaal van die **[nasionale]** *Departement van Basiese Onderwys* in samewerking met die *Departementshoof* vereis word, voorsien."; en

(c) deur die volgende subartikel by te voeg:

"(3) Indien, wanneer die *ouer* van 'n *leerder* of enige ander persoon aansoek doen om toelating tot 'n *openbare skool* of om vrystelling van die betaling van skoolgeld—

(a) inligting voorlê of verstrek wat hy of sy weet vals of misleidend is;

(b) 'n dokument voorlê wat hy of sy weet vervals is; of

(c) 'n dokument voorlê en beweer dat dit 'n ware afskrif van die oorspronklike is, terwyl dit in werklikheid nie 'n ware afskrif is nie,

is sodanige persoon skuldig aan 'n misdryf en strafbaar, by skuldigbevinding, met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens 12 maande, of met beide 'n boete en sodanige gevangenisstraf.".

Invoeging van artikel 59A in Wet 84 van 1996

37. Die volgende artikel word hierby na artikel 59 in die Suid-Afrikaanse Skolewet, 1996, ingevoeg:

"**Geskilbeslegting**

59A. (1) Indien 'n geskil tussen die *Departementshoof* en 'n *beheerliggaam* ontstaan, moet die volgende prosedure gevolg word:

(a) Die partye moet alle pogings aanwend om die geskil informeel te besleg.

(b) Indien die partye nie in staat is om die geskil informeel te besleg soos in paragraaf *(a)* bedoel nie, moet die volgende stappe gedoen word:

(i) Die benadeelde party moet die ander party skriftelik kennis gee van die geskil; en

(ii) sodanige kennisgewing moet 'n beskrywing van die kwessies wat by die geskil betrokke is en 'n voorgestelde oplossing daarvan insluit.

(c) Indien die geskil nie binne 14 dae ná die uitreiking van die skriftelike kennisgewing beoog in paragraaf *(b)* besleg is nie, moet

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nominate a representative within seven days, and those representatives must meet within 14 days after their nomination in order to resolve the dispute.

(d) If the parties cannot resolve the dispute as contemplated in paragraphs *(a)*, *(b)* and *(c)*, the *governing body* may appeal to the *Member of the Executive Council* against the decision that gave rise to the dispute.

(e) If an appeal contemplated in paragraph *(d)* has been received, the *Member of the Executive Council* must, within 30 days after receiving such appeal, consider and decide on the matter and, in writing, inform the *governing body* of the outcome of the appeal.

(2) If a dispute arises between the *Member of the Executive Council* and a *governing body*, the following procedure must be followed:

(a) All attempts must be made by the parties to resolve the dispute informally.

(b) If the parties are unable to resolve the dispute informally as referred to in paragraph *(a)*, the following steps must be taken:

(i) The aggrieved party must give the other party written notice of the dispute; and

(ii) such notice must include a description of the issues involved in the dispute and a proposed resolution thereof.

(c) If the dispute has not been resolved within 14 days after the issuing of the written notice contemplated in paragraph *(b)*, each party must nominate a representative within seven days, and those representatives must meet within 14 days after their nomination in order to resolve the dispute.

(3) This section does not apply to matters in respect of which *this Act* makes provision for an appeal process.''.

Amendment of section 60 of Act 84 of 1996, as amended by section 14 of Act 48 of 1999, section 12 of Act 31 of 2007 and section 14 of Act 15 of 2011

38. Section 60 of the South African Schools Act, 1996, is hereby amended by the substitution for subsection (4) of the following subsection:

''(4) Despite the provisions of subsection (1), the State is not liable for any damage or loss caused—

(a) as a result of any act or omission in connection with any enterprise or business operated under the authority of a *public school* for purposes of supplementing the resources of the *school* as contemplated in section 36, including the offering of practical educational activities relating to that enterprise or business; or

(b) if the provisions of section 36(2) have not been complied with.''.

Amendment of section 61 of Act 84 of 1996, as amended by section 5 of Act 53 of 2000 and section 9 of Act 50 of 2002

39. Section 61 of the South African Schools Act, 1996, is hereby amended—

(a) by the insertion after paragraph *(a)* of the following paragraphs:

''*(a*A*)* on the management of *learner* pregnancy;

*(a*B*)* on the admission of *learners* to *public schools*;

*(a*C*)* on the prohibition of the payment of unauthorised remuneration or the giving of *other financial benefits*, or *benefits in kind* to certain employees;

*(a*D*)* on the minimum norms and standards for provincial educator development institutes and district educator development centres;

*(a*E*)* on the organisation, roles and responsibilities of *education districts*;

*(a*F*)* on a national education information system;''; and

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elke party binne sewe dae 'n verteenwoordiger benoem, en daardie verteenwoordigers moet binne 14 dae ná hul benoeming vergader ten einde die geskil te besleg.

(d) Indien die partye nie die geskil kan besleg soos beoog in paragrawe *(a)*, *(b)* en *(c)*, nie kan die *beheerliggaam* by die *Lid van die Uitvoerende Raad* appelleer teen die besluit wat tot die geskil aanleiding gegee het.

(e) Indien 'n appèl beoog in paragraaf *(d)* ontvang is, moet die *Lid van die Uitvoerende Raad*, binne 30 dae ná ontvangs van sodanige appèl, die aangeleentheid oorweeg en daaroor besluit en die *beheerliggaam* skriftelik van die uitslag van die appèl in kennis stel.

(2) Indien 'n geskil tussen die *Lid van die Uitvoerende Raad* en 'n *beheerliggaam* ontstaan, moet die volgende prosedure gevolg word:

(a) Alle pogings moet deur die partye aangewend word om die geskil informeel te besleg.

(b) Indien die partye nie in staat is om die geskil informeel te besleg soos in paragraaf *(a)* bedoel nie, moet die volgende stappe geneem word:

(i) Die benadeelde party moet die ander party skriftelik kennis gee van die dispuut; en

(ii) sodanige kennisgewing moet 'n beskrywing van die kwessies wat by die dispuut betrokke is en 'n voorgestelde oplossing daarvan insluit.

(c) Indien die dispuut nie binne 14 dae ná die uitreiking van die skriftelike kennisgewing beoog in paragraaf *(b)* opgelos is nie, moet elke party 'n verteenwoordiger binne sewe dae benoem, en daardie verteenwoordigers moet binne 14 dae ná hul benoeming vergader ten einde die dispuut op te los.

(3) Hierdie artikel is nie van toepassing op aangeleenthede ten opsigte waarvan *hierdie Wet* voorsiening maak vir 'n appèlproses nie.''.

Wysiging van artikel 60 van Wet 84 van 1996, soos gewysig deur artikel 14 van Wet 48 van 1999, artikel 12 van Wet 31 van 2007 en artikel 14 van Wet 15 van 2011

38. Artikel 60 van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:

''(4) Ondanks die bepalings van subartikel (1) is die Staat nie verantwoordelik vir enige skade of verlies as gevolg van—

(a) enige handeling of versuim in verband met enige onderneming of besigheid wat onder die beheer van 'n *openbare skool* bedryf word vir doeleindes van die aanvulling van die hulpbronne van die *skool* soos in artikel 36 beoog nie, met inbegrip van die aanbied van praktiese opvoedkundige aktiwiteite in verband met daardie onderneming of besigheid; of

(b) nie-voldoening aan die bepalings van artikel 36(2) nie.''.

Wysiging van artikel 61 van Wet 84 van 1996, soos gewysig deur artikel 5 van Wet 53 van 2000 en artikel 9 van Wet 50 van 2002

39. Artikel 61 van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig—

(a) deur die volgende paragrawe na paragraaf *(a)* in te voeg:

''*(a*A*)* oor die bestuur van leerderswangerskap;

*(a*B*)* oor die toelating van *leerders* in *openbare skole*;

*(a*C*)* oor die verbod op die betaling van ongemagtigde besoldiging oor die gee van *ander finansiële voordele,* of *goederevoordeel* aan sekere werkgewers;

*(a*D*)* oor die minimum norme en standaarde vir provinsiale onderwyserontwikklingsinstellings en distrikonderwysontwikkelingsentrums;

*(a*E*)* oor die organisasie, rolle en verantwoordelikhede van *onderwysdistrikte*;

*(a*F*)* oor 'n nasionale onderwysinlingtingstelsel;''; en

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(b) by the addition of the following subsections, the existing section becoming subsection (1):

"(2) The regulations contemplated in subsection (1) may provide that any person who contravenes a provision thereof or fails to comply therewith is guilty of an offence and liable, on conviction, to a fine or to imprisonment for a period not exceeding six months, or to both a fine and such imprisonment.

(3) Any regulation made under subsection (1)*(a*A*)* and *(a*B*)* must, before publication in the *Gazette*, be tabled in Parliament.".

Amendment of the Preamble of Act 84 of 1996

40. The Preamble of the South African Schools Act, 1996, is hereby amended by the substitution for the second paragraph of the following paragraph:

"WHEREAS this country requires a new national system for *schools* which will redress past injustices in educational provision, provide an education of progressively high quality for all *learners* and in so doing lay a strong foundation for the development of all our people's talents and capabilities, advance the democratic transformation of society, combat racism and sexism and all other forms of unfair discrimination and intolerance, contribute to the eradication of poverty and the economic well-being of society, facilitate the education of children through the promotion and protection of the right to *basic education*, protect and advance our diverse cultures and languages, uphold the rights of all *learners*, *parents* and *educators*, and promote their acceptance of responsibility for the organisation, governance and funding of *schools* in partnership with the State; and".

Amendment of section 1 of Act 76 of 1998, as amended by section 6 of Act 53 of 2000, section 58 of Act 16 of 2006 and section 15 of Act 15 of 2011

41. Section 1 of the Employment of Educators Act, 1998, is hereby amended—

(a) by the deletion of the definition of "adult basic education centre";

(b) by the substitution for the definition of "educator" of the following definition:

"**'educator'** means any person who teaches, educates or trains other persons or who provides professional educational services, including professional therapy and education psychological services, at any public school**[,]** or departmental office **[or adult basic education centre]** and who is appointed in a post on any educator establishment under this Act;"; and

(c) by the substitution for the definition of "provincial department of education" of the following definition:

"**'provincial department of education'** means a department responsible for education in a province and includes all public schools**[, further education and training institutions,]** and departmental offices **[and basic adult education centres]** in such province;".

Amendment of section 5 of Act 76 of 1998

42. Section 5 of the Employment of Educators Act, 1998, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) The educator establishment of any public school**[, further education and training institution,]** or departmental office **[or adult basic education centre]** under the control of a provincial department of education shall, subject to the norms prescribed for the provisioning of posts, consist of the posts allocated to the said school**[, institution,]** or office **[or centre]** by the Head of Department from the educator establishment of that department.".

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(b) deur die volgende subartikels by te voeg, sodat die bestaande artikel subartikel (1) word:

"(2) Die regulasies in subartikel (1) beoog, kan bepaal dat enige persoon wat 'n bepaling daarvan oortree, of versuim om daaraan te voldoen, aan 'n misdryf skuldig is en by skuldigbevinding strafbaar is met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens ses maande, of met beide 'n boete en sodanige gevangenisstraf.

(3) Enige regulasie kragtens subartikel (1)(*a*A) en (*a*B) uitgereik, moet voor publikasie in die *Staatskoerant* in die Parlement ter tafel gelê word.".

Wysiging van die Aanhef van Wet 84 van 1996

40. Die Aanhef van die Suid-Afrikaanse Skolewet, 1996, word hierby gewysig deur die tweede paragraaf deur die volgende paragraaf te vervang:

"NADEMAAL hierdie land 'n behoefte het aan 'n nuwe nasionale stelsel vir *skole* wat die onregte in onderwysvoorsiening van die verlede sal regstel, onderwys van progressief hoë gehalte aan alle leerders sal voorsien en op hierdie wyse 'n hegte fondament vir die ontwikkeling van al ons mense se talente en bekwaamhede sal lê, die demokratiese transformasie van die gemeenskap sal bevorder, rassisme en seksisme en alle ander vorms van onregverdige diskriminasie en onverdraagsaamheid sal bekamp, tot die uitwissing van armoede en die ekonomiese welstand van die gemeenskap sal bydra, die onderrig van kinders te fasiliteer deur die bevordering en beskerming van die reg op *basiese onderwys*, ons verskeidenheid van kulture en tale sal beskerm en bevorder, die regte van alle leerders, *ouers* en opvoeders sal handhaaf, en hul aanvaarding van verantwoordelikheid vir die organisasie, beheer en finansiering van *skole* in vennootskap met die Staat sal bevorder; en".

Wysiging van artikel 1 van Wet 76 van 1998, soos gewysig deur artikel 6 van Wet 53 van 2000, artikel 58 van Wet 16 van 2006 en artikel 15 van Wet 15 van 2011

41. Artikel 1 van die Wet op die Indiensneming van Opvoeders, 1998, word hierby gewysig—

(a) deur die omskrywing van "sentrum vir basiese onderwys vir volwassenes" te skrap;

(b) deur die omskrywing van "opvoeder" deur die volgende omskrywing te vervang:

"**'opvoeder'** 'n persoon wat ander persone leer, opvoed of oplei of wat professionele opvoedkundige dienste, met inbegrip van professionele terapie en onderwyssielkundige dienste, by 'n openbare skool**[, inrigting vir verdere onderwys en opleiding,]** of departementele kantoor **[of sentrum vir basiese onderwys vir volwassenes]** verskaf en wat aangestel is in 'n pos op 'n diensstaat van opvoeders kragtens hierdie Wet;"; en

(c) deur die omskrywing van "provinsiale departement van onderwys" deur die volgende omskrywing te vervang:

"**'provinsiale departement van onderwys'** departement verantwoordelik vir onderwys in 'n provinsie en sluit alle openbare skole**[, inrigtings vir verdere onderwys en opleiding,]** en departementele kantore **[en sentrums vir basiese onderwys vir volwassenes]** in daardie provinsie in;".

Wysiging van artikel 5 van Wet 76 van 1998

42. Artikel 5 van die Wet op die Indiensneming van Opvoeders, 1998, word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Die diensstaat van opvoeders van 'n openbare skool**[, inrigting vir verdere onderwys en opleiding,]** of departementele kantoor **[of sentrum vir basiese onderwys vir volwassenes]** onder die beheer van 'n provinsiale departement van onderwys bestaan, behoudens die norme wat vir die voorsiening van poste voorgeskryf word, uit die poste wat deur die Departementshoof aan bedoelde skool**[, inrigting,]** of departementele kantoor **[of sentrum]** vanuit die diensstaat van opvoeders van daardie departement toegewys is.".

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Amendment of section 7 of Act 76 of 1998

43. Section 7 of the Employment of Educators Act, 1998, is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph *(a)* of the following words:

"(1) In the making of any appointment, **[or]** in any promotion, and in the filling of any post on any educator establishment under this Act, due regard shall be had to equality, equity and the other democratic values and principles which are contemplated in section 195(1) of the Constitution of the Republic of South Africa, 1996 **[(Act No. 108 of 1996)]**, and which include the following factors**[, namely—]**:"; and

(b) by the substitution in subsection (2) for paragraph *(a)* of the following paragraph:

"*(a)* in a permanent capacity or in a promotion post, whether on probation or not;".

Amendment of section 8 of Act 76 of 1998, as amended by section 16 of Act 48 of 1999, section 11 of Act 50 of 2002, section 58 of Act 16 of 2006 and section 3 of Act 1 of 2004

44. Section 8 of the Employment of Educators Act, 1998, is hereby amended—

(a) by the substitution for subsection (4) of the following subsection:

"(4) A recommendation contemplated in subsection (2) shall be made within two months from the date on which a governing body **[or council]** was requested to make a recommendation, failing which the Head of Department may make a transfer without such recommendation."; and

(b) by the substitution for subsection (7) of the following subsection:

"(7) Despite section 6(3)*(a)* and subsection (2), 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 **[or an adult education and training centre]**.".

Amendment of section 9 of Act 76 of 1998

45. Section 9 of the Employment of Educators Act, 1998, is hereby amended by the substitution in subsection (1) for paragraph *(a)* of the following paragraph:

"*(a)* another Department of Basic Education, or another department;".

Amendment of section 11 of Act 76 of 1998

46. Section 11 of the Employment of Educators Act, 1998, is hereby amended by the substitution in subsection (1) for paragraphs *(b)* and *(c)* of the following paragraphs:

"*(b)* on account of the abolition of the educator's post or any reduction in, or reorganisation or readjustment of the post establishments of, departments, schools**[, institutions,]** or offices **[or centres]**;

(c) if, for reasons other than the educator's own unfitness or incapacity, the educator's discharge will promote efficiency or economy in the department, school**[, institution,]** or office **[or centre]** in which the educator is employed, or will otherwise be in the interest of the State;".

Amendment of section 17 of Act 76 of 1998, as amended by section 10 of Act 53 of 2000

47. Section 17 of the Employment of Educators Act, 1998, is hereby amended—

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Wysiging van artikel 7 van Wet 76 van 1998

43. Artikel 7 van die Wet op die Indiensneming van Opvoeders, 1998, word hierby gewysig—

(a) Deur in subartikel (1) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"(1) By die doen van 'n aanstelling, **[of]** in enige bevordering, en in die vul van 'n pos op 'n diensstaat van opvoeders kragtens hierdie Wet, moet gelykheid, billikheid en die ander demokratiese waardes en beginsels wat in artikel 195(1) van die Grondwet van die Republiek van Suid-Afrika, 1996 **[(Wet No. 108 van 1996)]**, beoog word en wat die volgende faktore insluit, behoorlik in ag geneem word**[, naamlik—]**:"; en

(b) deur in subartikel (2) paragraaf *(a)* deur die volgende paragraaf te vervang:

"*(a)* in 'n permanente hoedanigheid of in 'n bevorderingspos, hetsy op proef al dan nie;".

Wysiging van artikel 8 van Wet 76 van 1998, soos gewysig deur artikel 16 van Wet 48 van 1999, artikel 11 van Wet 50 van 2002, artikel 58 van Wet 16 van 2006 en artikel 3 van Wet 1 van 2004

44. Artikel 8 van die Wet op die Indiensneming van Opvoeders, 1998, word hierby gewysig—

(a) deur subartikel (4) deur die volgende subartikel te vervang:

"(4) 'n Aanbeveling in subartikel (2) beoog, moet gedoen word binne twee maande vanaf die datum waarop 'n beheerliggaam **[of -raad]** versoek is om 'n aanbeveling te doen, en by gebreke daarvan kan die Departementshoof 'n verplasing doen sonder die aanbeveling."; en

(b) deur subartikel (7) deur die volgende subartikel te vervang:

"(7) Ondanks artikel 6(3)*(a)* en subartikel (2) 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 geskikte pos op die opvoederdiensstaat van 'n openbare skool**[, inrigting vir verdere onderwys en opleiding of sentrum vir basiese verdere onderwys en opleiding vir volwassenes]**.".

Wysiging van artikel 9 van Wet 76 van 1998

45. Artikel 9 van die Wet op die Indiensneming van Opvoeders, 1998, word hierby gewysig deur in subartikel (1) paragraaf *(a)* deur die volgende paragraaf te vervang:

"*(a)* 'n ander **[onderwysdepartement]** Departement van Basiese Onderwys, of 'n ander departement;".

Wysiging van artikel 11 van Wet 76 van 1998

46. Artikel 11 van die Wet op die Indiensneming van Opvoeders, 1998, word hierby gewysig deur in subartikel (1) paragrawe *(b)* en *(c)* deur die volgende paragrawe te vervang:

"*(b)* weens die afskaffing van die opvoeder se pos of 'n vermindering of reorganisasie of herreëling van die diensstate van departemente, skole, **[inrigtings,]** of kantore **[of sentrums]**;

(c) indien, om ander redes as die opvoeder se eie ongeskiktheid of onvermoë, die opvoeder se ontslag doeltreffendheid of besuiniging sal bevorder in die departement, skool**[, inrigting,]** of kantoor **[of sentrum]** waarin die opvoeder in diens is, of andersins in belang van die Staat sal wees;".

Wysiging van artikel 17 van Wet 76 van 1998, soos gewysig deur artikel 10 van Wet 53 van 2000

47. Artikel 17 van die Wet op die Indiensneming van Opvoeders, 1998, word hierby gewysig—

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(a) by the deletion in subsection (1) of the word ''or'' at the end of paragraph *(e)*;
(b) by the insertion in subsection (1) of a semi-colon and the word ''or'' at the end of paragraph *(f)*; and
(c) by the addition to subsection (1) of the following paragraph:
''*(g)* committing any other act which, in any other law that applies to the educator in so far as his or her employment is concerned, is classified as serious misconduct.''.

Amendment of section 18 of Act 76 of 1998, as amended by section 11 of Act 53 of 2000, and section 58 of Act 16 of 2006

48. Section 18 of the Employment of Educators Act, 1998, is hereby amended—
(a) by the substitution in subsection (1) for paragraph *(b)* of the following paragraph:
''*(b)* wilfully or negligently mismanages the finances of the State**[,]** or a school **[or an adult learning centre]**;'';
(b) by the substitution in subsection (1) for paragraph *(c)* of the following paragraph:
''*(c)* without permission possesses or wrongfully uses the property of the State, a school, **[an adult learning centre,]** another employee or a visitor;'';
(c) by the substitution in subsection (1) for paragraph *(d)* of the following paragraph:
''*(d)* wilfully, intentionally or negligently damages or causes loss to the property of the State**[,]** or a school **[or an adult learning centre]**;'';
(d) by the substitution in subsection (1) for paragraph *(f)* of the following paragraph:
''*(f)* unjustifiably prejudices the administration, discipline or efficiency of the Department of Basic Education, a provincial department of education, an office of the State or a school **[or adult learning centre]**;''; and
(e) by the substitution in subsection (1) for paragraph *(g)* of the following paragraph:
''*(g)* misuses his or her position in the Department of Basic Education, a provincial department of education or a school **[or adult learning centre]** to promote or to prejudice the interests of any person;''.

Insertion of section 19 in Act 76 of 1998

49. The Employment of Educators Act, 1998, is hereby amended by the insertion after section 18 of the following section**:**

''**Conducting business with State**

19. (1) An educator may not—
(a) conduct business with the State; or
(b) be a director of a public or private company conducting business with the State.
(2) A contravention of subsection (1)—
(a) is an offence, and any person found guilty of such offence is liable, on conviction, to a fine or to imprisonment for a period not exceeding five years, or to both a fine and such imprisonment; and
(b) constitutes serious misconduct, and the employer must terminate the employment of any person who is alleged to have contravened the subsection and who, during a disciplinary process, is found guilty of such misconduct.''.

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(a) deur in subartikel (1) die woord "of" aan die einde van paragraaf *(e)* in te voeg;

(b) deur in subartikel (1) 'n kommapunt en die woord "of" aan die einde van paragraaf *(f)* in te voeg; en

(c) deur die volgende paragraaf by subartikel (1) te voeg:

"*(g)* die pleging van enigiets anders wat, in enige ander wet wat op die opvoeder van toepassing is vir sover dit sy of haar indiensneming betref, as ernstige wangedrag geklassifiseer word.".

Wysiging van artikel 18 van Wet 76 van 1998, soos gewysig deur artikel 11 van Wet 53 van 2000, en artikel 58 van Wet 16 van 2006

48. Artikel 18 van die Wet op die Indiensneming van Opvoeders, 1998, word hierby gewysig—

(a) deur in subartikel (1) paragraaf *(b)* deur die volgende paragraaf te vervang:

"*(b)* die finansies van die Staat**[,]** of 'n skool, 'n inrigting vir verdere onderwys en opleiding **[of 'n sentrum vir onderwys vir volwassenes]** opsetlik of nalatig wanbestuur;";

(b) deur in subartikel (1) paragraaf *(c)* deur die volgende paragraaf te vervang:

"*(c)* sonder toestemming die eiendom van die Staat, 'n skool, **['n inrigting vir verdere onderwys en opleiding, 'n sentrum vir onderwys vir volwassenes,]** 'n ander werknemer of 'n besoeker in besit neem of wederregtelik gebruik;";

(c) deur in subartikel (1) paragraaf *(d)* deur die volgende paragraaf te vervang:

"*(d)* opsetlik, met voorbedagte rade of nalatig die eiendom van die Staat**[,]** of 'n skool, **['n inrigting vir verdere onderwys en opleiding of 'n sentrum vir onderwys vir volwassenes]** beskadig of skade berokken;";

(d) deur in subartikel (1) paragraaf *(f)* deur die volgende paragraaf te vervang:

"*(f)* die administrasie, dissipline of doeltreffendheid van die Departement van Basiese Onderwys, 'n provinsiale departement van onderwys, 'n Staatskantoor**[,]** of 'n skool**[, 'n inrigting vir verdere onderwys en opleiding of 'n sentrum vir onderwys vir volwassenes ongeregverdig benadeel]**;"; en

(e) deur in subartikel (1) paragraaf *(g)* deur die volgende paragraaf te vervang:

"*(g)* sy of haar posisie in die Departement van Basiese Onderwys, 'n provinsiale departement van onderwys of 'n skool**[, 'n inrigting vir verdere onderwys en opleiding of 'n sentrum vir onderwys vir volwassenes]** misbruik ten einde die belange van enige persoon te bevorder of te benadeel;".

Invoeging van artikel 19 in Wet 76 van 1998

49. Die Wet op die Indiensneming van Opvoeders, 1998, word hierby gewysig deur die volgende artikel na artikel 18 in te voeg:

"**Doen van sake met staat**

19. (1) 'n Opvoeder mag nie—

(a) sake met die Staat doen nie; of

(b) 'n direkteur wees van 'n openbare of private maatskappy wat met die Staat sake doen nie.

(2) 'n Oortreding van subartikel (1)—

(a) is 'n misdryf, en enige persoon wat aan sodanige misdryf skuldig bevind word, is, by skuldigbevinding, strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens vyf jaar, of met beide 'n boete en sodanige gevangenisstraf; en

(b) stel ernstige wangedrag daar, en die werkgewer moet die diens van enige persoon wat na bewering die subartikel oortree het en wat tydens 'n dissiplinêre proses aan sodanige wangedrag skuldig bevind word, beëindig.".

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Amendment of section 35 of Act 76 of 1998

50. Section 35 of the Employment of Educators Act, 1998, is hereby amended by the insertion after paragraph *(c)* of the following paragraph:

"*(c*A*)* norms and standards for district staffing;".

Repeal of section 38 of Act 76 of 1998

51. Section 38 of the Employment of Educators Act, 1998, is hereby repealed.

Amendment of Schedule 1 to Act 76 of 1998, as inserted by section 15 of Act 53 of 2000 and amended by section 12 of Act 50 of 2002

52. Schedule 1 to the Employment of Educators Act, 1998, is hereby amended by the substitution in item 1(2) for paragraph *(a)* of the following paragraph:

"*(a)* the extent to which the incapacity impacts on the work of the Department of Basic Education **[or]**, the provincial department of education, or the public school**[, public further education and training institution or public adult learning centre]**;".

Amendment of Schedule 2 to Act 76 of 1998, as inserted by section 15 of Act 53 of 2000 and amended by sections 8 to 11 of Act 57 of 2001, section 13 of Act 50 of 2002 and section 6 of Act 1 of 2004

53. Schedule 2 to the Employment of Educators Act, 1998, is hereby amended—

(a) by the substitution in item 3(3) for paragraph *(a)* of the following paragraph:

"*(a)* the extent to which the misconduct impacts on the work of the Department of Basic Education, the **[or]** provincial department of education, or the public school**[, public further education and training institution or public adult learning centre]**;"; and

(b) by the substitution in item 9(5) for the words preceding paragraph *(a)* of the following words:

"(5) The Member of the Executive Council or the Minister, as the case may be, must, within 30 days after receiving the appeal, consider the appeal, and may—".

Short title

54. This Act is called the Basic Education Laws Amendment Act, 2024, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

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Wysiging van artikel 35 van Wet 76 van 1998

50. Artikel 35 van die Wet op die Indiensneming van Opvoeders, 1998, word hierby gewysig deur die volgende paragraaf na paragraaf *(c)* in te voeg:

"*(c*A*)* norme en standaarde vir distrikspersoneelvoorsiening;".

Herroeping van artikel 38 van Wet 76 van 1998

51. Artikel 38 van die Wet op die Indiensneming van Opvoeders, 1998, word hierby herroep.

Wysiging van Bylae 1 by Wet 76 van 1998, soos ingevoeg deur artikel 15 van Wet 53 van 2000 en gewysig deur artikel 12 van Wet 50 van 2002

52. Bylae 1 by die Wet op die Indiensneming van Opvoeders, 1998, word hierby gewysig deur in item 1(2) paragraaf *(a)* deur die volgende paragraaf te vervang:

"*(a)* die mate waarin die onbekwaamheid die werk van die Departement van Basiese Onderwys **[of]**, die provinsiale departement van onderwys, of die openbare skool**[, openbare inrigting vir verdere onderwys en opleiding of die openbare sentrum vir onderwys vir volwassenes]** beïnvloed;".

Wysiging van Bylae 2 by Wet 76 van 1998, soos ingevoeg deur artikel 15 van Wet 53 van 2000 en gewysig deur artikels 8 tot 11 van Wet 57 van 2001, artikel 13 van Wet 50 van 2002 en artikel 6 van Wet 1 van 2004

53. Bylae 2 by die Wet op die Indiensneming van Opvoeders, 1998, word hierby gewysig—

(a) deur in item 3(3) paragraaf *(a)* deur die volgende paragraaf te vervang:

"*(a)* die mate waarin die wangedrag 'n invloed uitoefen op die werk van die Departement van Basiese Onderwys **[of 'n]**, die provinsiale departement van onderwys, of die openbare skool**[, openbare inrigting vir verdere onderwys en opleiding of die openbare sentrum vir onderwys vir volwassenes]**;"; en

(b) deur in item 9(5) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"(5) Die Lid van die Uitvoerende Raad of die Minister, na gelang van die geval, moet, binne 30 dae na ontvangs van die appèl, die appèl oorweeg en kan—".

Kort titel

54. Hierdie Wet heet die Wysigingswet op Wette op Basiese Onderwys, 2024, en tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* vasgestel.