

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
EMPLOYMENT OF EDUCATORS
BILL**

[B 90—98]

(As agreed to by the Portfolio Committee on Education (National Assembly))

[B 90A—98]

REPUBLIEK VAN SUID-AFRIKA

**PORTEFEULJEKOMITEE-AMENDEMENTE
OP
WETSONTWERP OP DIE
INDIENSNEMING VAN
OPVOEDERS**

[W 90—98]

(Soos goedgekeur deur die Portefeuljekomitee oor Onderwys (Nasionale Vergadering))

[W 90A—98]

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AMENDMENTS AGREED TO

EMPLOYMENT OF EDUCATORS BILL
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CLAUSE 1

1. On page 2 after line 27, to insert the following definition:

“Department of Education” means the department established in terms of section 7(2), read with Schedule 1, of the Public Service Act, 1994 (Proclamation 103 of 1994), responsible for education at national level;

2. On page 4, after line 25, to insert 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, departmental offices and basic adult education centres in such province;

CLAUSE 4

1. On page 6, in line 9, to omit “may” and to substitute “shall”.

CLAUSE 6

1. On page 6, from line 49, to omit paragraph (a) and to substitute the following paragraph:

(a) Any appointment, promotion or transfer to any post on the educator establishment of a public school or a further education and training institution, may only be made on the recommendation of the governing body of the public school or the council of the further education and training institution, as the case may be, and, if there are educators in the provincial department of education concerned who are in excess of the educator establishment of a public school or further education and training institution due to operational requirements, that recommendation may only be made from candidates identified by the Head of Department, who are so in excess and suitable for the post concerned.

2. On page 8, in line 6, to omit “deviate from” and to substitute “decline”.
3. On page 8, after line 19, to insert the following paragraph:

(c) If the Head of Department declines a recommendation in terms of paragraph (b), the governing body or council concerned shall make another recommendation in accordance with paragraph (a), for consideration by the Head of Department.

CLAUSE 8

1. On page 8, after line 41, to insert the following paragraph:
 - (b) the Director-General may transfer any educator in the service of the Department of Education to any other post in the Department; and

CLAUSE 11

1. On page 10, in line 40, after “readjustment” to insert “of the post establishments”.
2. On page 10, from line 54, to omit paragraph (h).

CLAUSE 12

1. On page 12, after line 11, to insert the following paragraph:
 - (c) The record of any medical examination performed in terms of this Act must be kept confidential and may be made available only—
 - (i) in accordance with the ethics of medical practice;
 - (ii) if required by law or court order; or
 - (iii) if the employee has consented in writing to the release of that information.

CLAUSE 13

1. In the English text, on page 12, in line 29, to omit “satisfactorily” and to substitute “satisfactory”.

CLAUSE 15

1. On page 14, in line 6, to omit “30” and to substitute “90”.

CLAUSE 16

1. On page 16, after line 17, to insert the following paragraph:
 - (c) The Minister or the Member of the Executive Council, as the case may be, may condone any late noting of an appeal upon good cause being shown.

CLAUSE 25

1. On page 24, after line 45, to insert the following subsection:
 - (5) The Minister or the Member of the Executive Council, as the case may be, may condone any non-compliance with a time period specified in this section upon good cause being shown.

NEW CHAPTER

1. That the following be a new chapter to follow Clause 26:

CHAPTER 6**SOUTH AFRICAN COUNCIL FOR EDUCATORS****Establishment**

27. (1) The South African Council for Educators, which was established in terms of a collective agreement reached in the Education Labour Relations Council, shall be deemed to be established in terms of this Act.

(2) The South African Council for Educators is a juristic person which functions in terms of this Act.

(3) The current chairpersons and members of the South African Council for Educators continue to perform the functions which they performed prior to the commencement of this Act, until their current terms of office expire.

Functions and powers of South African Council for Educators

28. (1) Subject to this Act and the National Education Policy Act, 1996 (Act No. 27 of 1996), the South African Council for Educators shall—

- (a) establish minimum criteria and procedures for the registration or provisional registration of educators;
- (b) keep a register of the names of all persons who are registered or provisionally registered;
- (c) promote professional development of educators;
- (d) establish a code of professional ethics for educators which shall apply to all educators registered or provisionally registered with the Council;
- (e) establish a fair and equitable enquiry procedure and appoint a committee to investigate an alleged breach of the code of professional ethics;
- (f) have the power to—
 - (i) caution or reprimand;
 - (ii) impose a fine not exceeding one months' salary on; or
 - (iii) strike from the register the name of, an educator found guilty of a breach of the code of professional ethics, and may suspend a sanction imposed in terms of subparagraphs (ii) and (iii);
- (g) subject to the approval of the Minister, determine compulsory monthly fees payable to the Council in respect of educators for whom registration with the Council is compulsory;
- (h) advise the Minister on any relevant aspect or if so requested of by the Minister;
- (i) have the power to appoint staff and to determine their conditions of service;
- (j) have the power to establish committees and assign functions to them; and
- (k) subject to this Act, perform any function which is necessary for the proper functioning of the Council.

(2) The existing registration procedure, code of professional ethics and procedures of the South African Council for Educators remain in force until amended or repealed by the Council.

Registration with South African Council for Educators

29. (1) A person may not be appointed as an educator unless such person is registered or provisionally registered with the South African Council for Educators.

(2) Any person registered or provisionally registered by the South African Council for Educators prior to the commencement of this Act, is deemed to be registered in terms of the provisions of this Act.

(3) Any educator not registered or provisionally registered with the South African Council for Educators at the commencement of this Act, shall apply for registration within six months after the commencement of this Act.

(4) After a date determined by the Minister by notice in the Gazette, no employer may employ or retain in employment, an educator not registered or provisionally registered with the South African Council for Educators.

Composition, administration and functioning of South African Council for Educators

30. The Minister shall prescribe measures and procedures in respect of—

- (a) the composition of the South African Council for Educators;
- (b) the appointment of members;
- (c) the term of office of members;
- (d) vacation of office by members;
- (e) filling of vacancies;
- (f) the convening of meetings of the Council and its committees and the procedure at those meetings, including the quorum for such meetings; and
- (g) any other matter which the Minister may deem necessary or expedient for the functioning of the South African Council for Educators.

Funds of South African Council for Educators

31. (1) The funds of the South African Council for Educators consist of—

- (a) compulsory monthly fees collected through the Education Labour Relations Council from educators;
- (b) moneys received from donations, contributions, interest or fines; and
- (c) other income received by the South African Council for Educators from any other source.

(2) The South African Council for Educators—

- (a) shall in each financial year, at such time and in such manner as the Minister may determine, submit a detailed statement of its estimated income and expenditure for the ensuing financial year to the Minister for his or her approval;
- (b) may in any financial year submit adjusted statements of its estimated income and expenditure to the Minister for his or her approval; and
- (c) may not incur any expenditure which exceeds the total amount approved in terms of paragraphs (a) and (b).

(3) If the Minister does not approve the statement of estimated income and expenditure of the South African Council for Educators, the Minister shall require the Council to provide a revised statement within a specified period to him or her.

(4) The funds contemplated in subsection (1) must be used by the South African Council for Educators in accordance with the approved statement referred to in subsection (2), and any

unexpended balance must be carried forward as a credit to the following financial year.

(5) Subject to subsection (4), the South African Council for Educators may invest any portion of its funds in a manner as the Minister may approve.

(6) The books of account and financial statements of the South African Council for Educators must be audited at the end of each financial year by a registered chartered accountant appointed by the Council.

(7) A copy of the audited financial statements shall be submitted to the Minister within three months after the end of a financial year.

Annual report

32. (1) The South African Council for Educators shall, within three months after the end of each financial year, submit a report to the Minister on the performance of its functions during that financial year.

(2) The Minister shall table copies of the report in Parliament as soon as reasonably practicable.