

Western Cape, South Africa

## Western Cape Technical Colleges Law Act 12 of 1994

Legislation as at 30 December 1994

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# Western Cape South Africa

## Western Cape Technical Colleges Law Act 12 of 1994

Published in Western Cape Provincial Gazette 4911 on 30 December 1994

Assented to on 22 December 1994

Commenced on 1 July 1995 by Western Cape Technical Colleges Law: Commencement

*[This is the version of this document from 30 December 1994 and includes any amendments published up to 8 November 2024.]*

LAW

**To provide for the establishment, declaration, registration, maintenance, management and control of technical colleges, and for matters connected therewith.**

(English text signed by the Premier)

BE IT ENACTED by the Premier and the Legislature of the Province of the Western Cape, as follows:-

### 1. Definitions

In this Law, unless the context indicates otherwise-

"**academic board**" means an academic board referred to in [section 11](#);

"**college**" means a technical college;

"**college council**" means a college council referred to in [section 9](#);

"**Committee**" means the Committee of Principals of Technical Colleges referred to in [section 43](#);

"**Constitution**" means the [Constitution of the Republic of South Africa](#), 1993 ([Act No. 200 of 1993](#));

"**council**" means a college council;

"**Department**" means the department responsible for education in the province;

"**financial head**" means the person appointed in terms of section 149 of the [Constitution](#) as Member of the Executive Council responsible for the administration of the financial affairs of the province;

"**fixed date**" means the date of commencement of this Law;

"**formal instructional programme**" means an instructional programme approved by the Minister of National Education as general policy and which is offered at a technical college;

"**formal post-school vocational instructional programme**" means a formal instructional programme with a view to the obtaining of a post-school vocational education qualification;

"**governing body**" in relation to a private technical college, means the person or body in which the control and management of the private college are vested;

"**Head of Education**" means the Head of the Department;

"**Legislature**" means the legislature established for the province under section 125 of the [Constitution](#);

"**level**" means a level as defined in section 1 of the Western Cape School Education Law, 1994;

"**Member of the Executive Council**" means the person appointed in terms of section 149 of the [Constitution](#) as Member of the Executive Council responsible for education in the province;

"**national policy**" means national education policy determined by a competent authority within the jurisdiction of the national government;

"**non-formal instruction programme**" means an instruction programme other than a formal instruction programme;

"**post-school vocational education**" means instruction and training provided to persons on a level higher than the ninth level with a view to the pursuance of a vocation and which is primarily intended for persons who are not subject to compulsory school attendance in terms of a provision of any law, or who were exempted from such a provision;

"**post-school vocational education qualification**" means a qualification issued on the successful completion of a formal post-school vocational instruction programme in terms of a law regulating the certification of such a qualification;

"**prescribed**" means prescribed by regulation;

"**principal**" means a person appointed to the post of principal at a technical college, or a person acting in that post;

"**private college**" means a private technical college;

"**private technical college**" means a private technical college registered or deemed to be registered under [section 38](#);

"**province**" means the Province of the Western Cape, being one of the provinces established under section 124 of the [Constitution](#);

"*Provincial Gazette*" means the official gazette in which government and other official notices of the provincial government are published;

"**regulation**" means a regulation made under this Law;

"**staff**" means all persons employed at the college;

"**state-aided college**" means a state-aided technical college;

"**state-aided technical college**" means a state-aided technical college referred to in [section 4](#), as well as a state-aided college referred to in [section 5](#);

"**state college**" means a state technical college;

"**state technical college**" means a state technical college referred to in [section 3](#), as well as a state college referred to in [section 5](#);

"**subsidized post**" means a post for which a subsidy in terms of [section 25](#) must be utilized by virtue of the conditions imposed in terms of the said section;

"**technical college**" means a state technical college or a state-aided technical college;

"**this Law**" includes a regulation; and

"**Treasury**" means the financial authority with regard to the financial affairs of the province.

## 2. Application of Law

As from the fixed date the provisions of this Law shall, subject to national policy and to the provisions of any law applying to education in general, apply in relation to education and training provided in, and the functions of, technical colleges in the province.

### 3. Establishment, maintenance, declaration, amalgamation and closure of state colleges

The Member of the Executive Council may-

- (a) out of moneys appropriated for this purpose by the Legislature, and with the concurrence of the financial head, establish and maintain state technical colleges;
- (b) in terms of an agreement with the council of a state-aided college and with the concurrence of the financial head, by notice in the *Provincial Gazette*, declare the state-aided college concerned to be a state college with effect from a date mentioned in the notice;
- (c) in terms of an agreement with the college council of the college concerned, by notice in the *Provincial Gazette*, amalgamate two or more state colleges into one state college, subject to the conditions mutually agreed upon; and
- (d) after consultation with the college council of a state college, subject to prescribed procedure, by notice in the *Provincial Gazette*
  - (i) declare the college concerned shall be closed from a date mentioned in the notice; and
  - (ii) make arrangements with regard to the administration of the affairs of the college concerned.

### 4. Establishment, declaration, amalgamation and closure of state-aided colleges

The Member of the Executive Council may-

- (a) with the concurrence of the financial head, establish state-aided technical colleges;
- (b) after consultation with the college council of a state college, by notice in the *Provincial Gazette* declare the state college concerned to be a state-aided college on the conditions mutually agreed upon, with effect from a date mentioned in the notice;
- (c) after consultation with the body or person responsible for the management and control of any other educational or training institution, by notice in the *Provincial Gazette*, declare such institution to be-
  - (i) a state-aided technical college; or
  - (ii) a subdivision of a state-aided college mentioned in the notice with effect from a date mentioned in the notice;
- (d) in terms of an agreement with the councils of the colleges concerned, by notice in the *Provincial Gazette*, amalgamate two or more state-aided colleges or a state-aided college and a state college, into one state-aided college, subject to the conditions mutually agreed upon; and
- (e) after consultation with the council of a state-aided college, subject to prescribed conditions, by notice in the *Provincial Gazette*-
  - (i) declare that the college concerned shall be closed from a date mentioned in the notice; and
  - (ii) make arrangements with regard to the administration of the affairs of the college concerned.

### 5. Continued existence of certain institutions

- (1) A technical college, or any other college providing post-school vocational education, established in terms of a law repealed by this Law and which existed immediately prior to the fixed date, shall from that date be deemed to be a state or state-aided technical college, as the case may be, established under this Law.
- (2) A college council shall within 150 days after the fixed date be constituted in terms of [section 9](#) for a college referred to in subsection (1), and until such council is constituted the body that managed

such college immediately prior to the fixed date, shall exercise all the powers and perform all the functions which in terms of this Law shall be exercised or performed by a college council.

## **6. Name of a technical college**

The name of a technical college shall be determined by the college council with the concurrence of the Member of the Executive Council.

## **7. Functions of technical colleges**

The functions of a technical college shall be-

- (a) to provide post-school vocational education with a view to obtaining a vocational education qualification which shall be certified under a law regulating the certification of such qualifications; and
- (b) to offer-
  - (i) other formal instruction programmes approved by the Member of the Executive Council in consultation with the college council; and
  - (ii) non-formal instruction programmes with a view to the development of a skill in the particular vocational practice or a social or recreational skill.

## **8. Constitution of a technical college**

A technical college shall consist of-

- (a) the principal;
- (b) a college council;
- (c) an academic board;
- (d) the staff; and
- (e) the students.

## **9. Constitution of college council**

A college council shall have not fewer than seven and not more than twenty members as approved by the Member of the Executive Council, and shall consist of-

- (a) the principal of the college, who shall be the chief executive officer and, in the case of a state-aided college be the accounting officer;
- (b) a maximum of two members designated by each body or organization recognized by the Member of the Executive Council as an interested body or organization; and
- (c) one or more other members recommended by the college council, appointed by the Member of the Executive Council;

Provided that in the case of a newly-established college the Member of the Executive Council shall constitute the college council as prescribed.

## **10. Committees of college council**

- (1) A college council may appoint one or more committees, which, subject to the instructions of that council, shall perform such functions of the council as the council may determine.
- (2) A committee of a college council shall consist of the number of members determined by the council and may include persons who are not members of the council.

- (3) One of the members of a committee of a college council shall be designated by the council as chairperson of the committee.
- (4) One member shall be designated by the staff should they so wish: Provided that such representation shall not be compulsory.
- (5) After consultation with the committee, a college council may at any time dissolve or reconstitute a committee.
- (6) A college council shall not be divested of a function which in terms of this section has been assigned to a committee of that council.

## 11. Constitution of academic board

The academic board of a technical college shall consist of-

- (a) the principal of the college, who shall be the chairperson of the academic board;
- (b) two other members of the college council designated by the college council;
- (c) all deputy-principals and heads of department or heads of divisions designated by the council;
- (d) such number of members of the teaching staff determined by the council after consultation with the teaching staff, designated from their ranks by a majority of votes;
- (e) the head of administration of the college; and
- (f) such number of students of the college determined by the council after consultation with the students' representative council and elected in a manner determined by the council after such consultation.

## 12. Powers and functions of academic board

- (1) The academic board shall exercise such powers of organization of and control over instruction, research, training and discipline of the students at the college as are assigned to it by the council.
- (2) The academic board shall advise the college council in regard to any matter which the council may refer to it for its advice.
- (3) The academic board may make such recommendations to the college council on academic matters of interest to the college as it may deem expedient.
- (4) The academic board shall perform the other functions assigned to it by the college council from time to time.
- (5) The academic board shall at least three times per year report to the college council in writing on its activities.

## 13. Admission of students

- (1) The requirements for admission of students to a technical college shall-
  - (a) in the case of a formal instructional programme be determined by the Head of Education in accordance with national policy; and
  - (b) in the case of a non-formal instruction programme be determined by the college council.
- (2) A college council may on the recommendation of the academic board refuse the admission of any person as a student to a college, or withdraw the admission granted to a student and shall supply reasons for such refusal to the said person: Provided that such refusal or withdrawal shall be subject to appeal to the Head of Education, whose decision shall be final.



#### **14. Medium of instruction of technical college**

The medium of instruction at a college shall be determined by the college council in consultation with the Head of Education.

#### **15. Code of conduct and discipline of students**

A student at a college shall be subject to such a code of conduct and disciplinary measures as may be determined by the council.

#### **16. Inquiry at college**

The Head of Education may with reasonable prior notice to the council, in accordance with prescribed procedures as determined by the Head of Education in consultation with the Committee of Principals of Technical Colleges, at any time cause an inquiry to be conducted at a college in regard to any matter affecting-

- (a) the maintenance, management or control of the college;
- (b) the admission or dismissal of students;
- (c) the education and training provided;
- (d) discipline;
- (e) the staff;
- (f) the land, buildings, equipment, stores and finances of the college; and
- (g) the other matters he or she may deem expedient.

#### **17. Establishment of instructional programme**

- (1) The council of a technical college may establish an instructional programme at a college: Provided that-
  - (a) a formal instructional programme with a view to obtaining a diploma or certificate;
  - (b) a non-formal instructional programme at a state college; and
  - (c) a non-formal instructional programme at a state-aided college which results in any form of subsidization,shall not be established without the prior written approval of the Head of Education.
- (2) Any existing instructional programme established at a college referred to in [section 5](#), prior to the fixed date shall be deemed to have been established in accordance with the provisions of this section.

#### **18. Examination, evaluation and certification**

- (1) Examination and evaluation with regard to formal instructional programmes shall be conducted under a law regulating the certification of such instructional programmes.
- (2) Examination and evaluation with regard to non-formal instructional programmes shall be conducted by the college.
- (3) Certification with regard to non-formal instructional programmes shall be conducted by the college, subject to the directions of the Head of Education.

## 19. Management and control of state technical colleges

- (1) Except in so far as this Law provides otherwise, the Head of Education shall be responsible for the management and control of state technical colleges.
- (2) The Head of Education may on the recommendation of the College Council and with the approval of the Provincial Treasury determine fees payable by students for registration, tuition and boarding.

## 20. Powers and functions of college council of state college

- (1) The college council of a state college shall advise the Head of Education on-
  - (a) the general administration of the college;
  - (b) the use and maintenance of buildings, equipment and grounds;
  - (c) the establishment and functions of a students' representative council;
  - (d) the financial management of the college;
  - (e) the instructional programmes offered at the college;
  - (f) agreements of co-operation with other educational institutions;
  - (g) any other matter which the Head of Education may refer to the council for advice; and
  - (h) any matter the council deems necessary.
- (2) The council of a state college may approve rules relating to-
  - (a) the conduct of students;
  - (b) the procedure for disciplinary inquiries regarding the conduct of students;
  - (c) disciplinary action against students on account of transgressions; and
  - (d) the establishment and control of a college fund.
- (3) The council of a state college shall manage and control money or other goods donated or bequeathed to or received in trust by that college, in accordance with the conditions of the donations, bequest or trust concerned.
- (4) The council of a state college shall exercise such other powers and perform such other duties as this Law or the Head of Education may confer upon it or assign to it after consultation with the council.

## 21. Status and patrimonial power of state-aided colleges

- (1) A state-aided college shall be a juristic person.
- (2) A state-aided college shall be an employer as defined in section 1 of the Educators' Employment Act, 1994.
- (3) A state-aided college may purchase or otherwise acquire, hold, hire, let, sell, exchange, or otherwise alienate movable and immovable property, or grant to any person a real right in or servitude on its property, or invest, lend or borrow money: Provided that no state-aided college shall without the approval of the Member of the Executive Council let for a period longer than two years, sell, exchange or otherwise alienate its immovable property acquired with the financial assistance of the State or grant to any person any real right therein or servitude thereon, or lend or borrow money.
- (4) A state-aided college shall appropriate money or other goods donated or bequeathed to or received in trust by that college, in accordance with the conditions of the donation, bequest or trust concerned.

## **22. Management and control of state-aided colleges**

Subject to the provisions of this Law, the management, control and executive power of a state-aided college shall vest in its council.

## **23. Powers and functions of council of state-aided college**

- (1) The council of a state-aided college shall manage and control the property of the college and shall, subject to the provisions of this Law, exercise all the powers and perform all the functions which are necessary for the efficient control and management of the college.
- (2) The council of a state-aided college may make rules relating to-
  - (a) the conduct of students;
  - (b) the procedure for disciplinary inquiries regarding conduct of students;
  - (c) disciplinary action against students on account of transgressions;
  - (d) the payment of money;
  - (e) the administration of money;
  - (f) the admission of students;
  - (g) the administration of the college;
  - (h) the use and maintenance of equipment, buildings and grounds; and
  - (i) the establishment and functions of a students' representative council.
- (3) The council of a state-aided college shall determine the fees payable by students for registration, tuition and boarding.
- (4) The council of a state-aided college may conclude agreements of co-operation with other educational institutions.
- (5) The council of a state-aided college shall exercise the other powers and perform the other functions conferred upon it or assigned to it by this Law.

## **24. Donations by local authorities to state-aided colleges**

Notwithstanding anything to the contrary contained in any law, a local authority may donate land, money or other goods to a state-aided college.

## **25. Subsidies to state-aided colleges**

- (1) The Member of the Executive Council shall, with the concurrence of the financial head, out of moneys appropriated for such purpose by the Legislature, pay a subsidy to a state-aided college on such basis and subject to such conditions as he or she may determine.
- (2) After consultation the Member of the Executive Council may amend or withdraw a condition determined under this section.

## **26. Action on failure of state-aided college to comply with conditions subject to which subsidy has been paid**

- (1) If any state-aided college fails to comply with any condition subject to which a subsidy has under [section 25](#) been paid to it, the Member of the Executive Council may call upon such college to comply with that condition within a fixed period.

- (2) If such college thereafter fails to comply with the said condition, the Member of the Executive Council may at any time terminate or reduce the subsidy from a date determined by him or her: Provided that the Member of the Executive Council shall, before he or she terminates or reduces such subsidy, give the council of the college an opportunity to make representations to him or her in connection with the proposed termination or reduction.

## 27. Loans to state-aided colleges

The Member of the Executive Council may, with the concurrence of the financial head, out of moneys appropriated by the Legislature for such purpose, grant loans to a state-aided college for one or more of the following purposes, namely-

- (a) the erection of buildings or the purchase, construction or installation of fittings or fixtures;
- (b) the acquisition of land, including land on which any building has been erected, or rights on or interests in land, and for the payment of costs in connection with any surveyor transfer of land or the registration of land or rights on land;
- (c) the fencing or improvement of land belonging to the college concerned;
- (d) the purchase of movables of a capital nature; or
- (e) the repayment of money borrowed by a college from any person other than the State for a purpose mentioned in paragraph (a), (b), (c) or (d).

## 28. Application for loans

- (1) Every application for a loan referred to in [section 27](#) shall be submitted in writing to the Head of Education and shall clearly state the purpose of the proposed loan.
- (2) On receipt of any such application the Head of Education may call for such estimates, plans, specifications, reports, returns and other information, and may cause such inspections to be made, as he or she may deem necessary.

## 29. Conditions of loans

- (1) Every loan granted under [section 27](#) shall be subject to such conditions as may be determined by the Treasury.
- (2) Every such loan together with interest due thereon shall, subject to any prior charge or hypothecation, be a charge upon all the property, movable or immovable, present or future, of the college concerned: Provided that the Member of the Executive Council, with the concurrence of the financial head, may at any time by writing under his or her hand waive any preference under this subsection in favour of the holder of any bond over such property, if he or she is satisfied that the value of the property is sufficient to cover the amount of the loan which has not been repaid and the amount secured by such bond.
- (3) The period within which any such loan and the interest thereon shall be repaid, shall be determined by the Treasury before the granting of the loan, but the Treasury may from time to time extend any such period: Provided that every such loan together with the interest thereon shall be repaid within forty years from the date on which the first repayment in terms of [section 30](#) shall be due, or within the aggregate of the said period together with any period of suspension referred to in that section.

## 30. Repayment of loans

- (1) A state-aided college to which a loan has been granted under [section 27](#), shall pay to the Treasury on the first day of January and on the first day of July in every year one half of the annual payment required to redeem the capital sum advanced, together with interest thereon at such rate as the

financial head may determine, and the sums so payable shall continue to be payable until all the moneys lent from time to time, together with interest thereon, have been repaid.

- (2) The first payment shall be made on such date (not being later than five years after the loan or the first instalment of the loan was paid) as the Treasury may determine: Provided that during any such time as elapses between the date when the first instalment was paid and the date so determined by the Treasury, interest at the aforesaid rate per annum on any such instalment shall be payable by the college to the Treasury: Provided further that the Treasury may, in special circumstances, from time to time suspend in respect of any particular year, any such annual payment in redemption of the capital sums advanced.

### **31. Financial year, records and annual financial statements of state-aided colleges**

- (1) The financial year of a state-aided college shall terminate on the last day of December in each year.
- (2) The principal of a state-aided college shall cause such accounting records to be kept as are necessary to reflect the transactions and financial state of affairs of the college.
- (3) The system of bookkeeping and accounting to be followed shall be subject to the approval of the Head of Education.
- (4) The council of a state-aided college shall in respect of each financial year make out financial statements, cause such statements to be audited and within four months after the end of that financial year submit copies of the audited statements to the Head of Education.
- (5) The financial statements referred to in subsection (4) shall consist of-
  - (a) a balance sheet reflecting the assets and liabilities of the college at the end of the year concerned;
  - (b) an income statement or similar financial statement reflecting the income and the expenditure (including any losses) of the college during the year concerned; and
  - (c) such other statements as may be requested by the Head of Education.
- (6) The accounting records and annual financial statements of a state-aided college shall be audited by a person registered as an accountant and auditor in terms of the Public Accountants' and Auditors' Act, 1991 ([Act No. 80 of 1991](#)), and appointed by the college council.

### **32. Consequences of declaration of state-aided college as state college**

- (1) As from the date on which a state-aided college is declared to be a state college under [section 3\(b\)](#)-
  - (a) the college concerned shall be deemed to be a state college established under [section 3\(a\)](#);
  - (b) there shall vest in the council of the college concerned only those powers and functions which in terms of this Law shall vest in the council of a state college; and
  - (c) the ownership and control of movable and immovable property which immediately prior to that date vested in the state-aided college concerned and which relates to the college concerned, shall vest in the State, unless otherwise agreed upon in terms of [section 3\(b\)](#).
- (2) Immovable property vested in the State in terms of subsection (1)(c), shall be transferred to the State without payment of transfer duty, stamp duty or any other moneys or costs, but subject to any existing right, encumbrance, duty or trust on or over that property.
- (3) The officer in charge of a deeds office or other office where the immovable property referred to in subsection (2) is registered, shall, on submission to him or her of the title deed concerned, make such endorsements on that title deed and such entries in his or her registers as may be required to effect the transfer concerned.
- (4) The declaration of a state-aided college as a state college shall not affect anything legally done by the council concerned prior to the declaration.

### 33. Consequences of declaration of state college as state-aided college

- (1) As from the date on which a state college is declared to be a state-aided college under [section 4\(b\)](#)-
  - (a) the ownership and control of movable and immovable property and all rights which immediately prior to that date vested in the State and which relate to the college concerned, shall devolve upon the state-aided college concerned on such terms and conditions as negotiated by the college council and the Member of the Executive Council;
  - (b) the liabilities and obligations which immediately prior to that date vested in the State, shall devolve upon the state-aided college concerned; and
  - (c) the management, control and executive power of the state-aided college concerned shall vest in its council constituted in accordance with the provisions of this Law.
- (2) Immovable property devolving upon the state-aided college in terms of subsection (1)(a), shall be transferred to the state-aided college without payment of transfer duty, stamp duty or other moneys or costs, but subject to any term or condition contemplated in subsection (1)(a) and any existing right, encumbrance, duty or trust on or over that property.
- (3) The officer in charge of a deeds office or other office where the immovable property referred to in subsection (2) is registered, shall, on submission to him or her of the title deed concerned, make such endorsements on that title deed and such entries in his or her registers as may be required to register the transfer concerned.
- (4) The declaration of a state college as a state-aided college, shall not affect anything legally done by the State or the college council prior to the declaration.
- (5)
  - (a) Notwithstanding the provisions of subsection (1) the State shall, in respect of the immovable property of a state-aided college, remain liable for the payment of rates which are levied under any law by a local authority on the value of immovable property within its area of jurisdiction.
  - (b) For the purposes of the Rating of State Property Act, 1984 ([Act No. 79 of 1984](#)), a state-aided college shall be deemed to be a governmental institution as defined in section 1(1) of that Act.

### 34. Consequences of closure of state-aided college

- (1) As from the date on which a state-aided college is declared to be closed, all assets and liabilities of such college shall, subject to the conditions of a donation, bequest or trust contemplated in [section 21\(4\)](#), devolve upon the State.
- (2) Immovable property devolving upon the State by virtue of subsection (1), shall be transferred to the State without payment of transfer duty, stamp duty or other moneys or costs.
- (3) The officer in charge of a deeds office or other office where the immovable property referred to in subsection (2) is registered, shall, on submission to him or her of the title deed concerned, make the necessary endorsements on that title deed and the necessary entries in his or her registers.

### 35. Prohibited acts unless registered as private technical college

No person or body, except a technical college, shall provide instruction and training with a view to the pursuance of a vocation, at a post-school level by means of an instructional programme which in the opinion of the Head of Education corresponds wholly or partly with a formal post-school vocational instructional programme, on a full-time or part-time basis to more than 20 persons, unless such person or body has been registered as a private technical college in terms of this Law.

### 36. Application for registration

- (1) Any person who intends to register a private technical college, shall apply in writing to the Head of Education for such registration.
- (2) An applicant for the registration of a private college shall furnish such additional particulars in connection with his or her application as the Head of Education may require.

### 37. Consideration of applications for registration of private colleges

- (1) The Head of Education may grant or refuse an application referred to in [section 36](#), but he or she shall not grant an application if he or she is of the opinion that the applicant concerned does not comply with the prescribed requirements or that the instructional programme which the applicant intends to offer does not correspond wholly or partly with a formal post-school vocational instructional programme.
- (2) If the Head of Education refuses an application referred to in [section 36](#), he or she shall notify the applicant in writing of any such refusal and the reasons therefor.

### 38. Registration of private colleges

- (1) If the Head of Education grants an application referred to in [section 36](#), he shall register the applicant as a private college and issue to the applicant a registration certificate in such form as he or she may determine.
- (2) The registration of a private college shall be subject to the prescribed conditions.
- (3) The registration of a private college in terms of this Law shall not exempt any person from any other obligation in respect of registration in terms of any other law.

### 39. Inquiry at private college

The provisions of [section 16](#) shall *mutatis mutandis* apply to a private college.

### 40. Retention of existing registration

A private college registered in terms of a law repealed by this Law, or deemed to have been registered in terms of such a law, and which existed immediately prior to the fixed date, shall from that date be deemed to be a private college registered under [section 38](#).

### 41. Withdrawal of registration

- (1) If the Head of Education is on reasonable grounds of the opinion that a private college registered under [section 38](#), or which is in terms of [section 40](#) deemed to be registered under [section 38](#), does not comply with a requirement referred to in [section 37\(1\)](#) or a condition referred to in [section 38\(2\)](#), he or she may, subject to the provisions of subsection (2), withdraw the registration of that private college.
- (2) (a) Before withdrawing the registration of a private college under subsection (1), the Head of Education shall in a written notice addressed to the governing body of such private college-
  - (i) notify the governing body of the proposed withdrawal;
  - (ii) furnish the reasons for the proposed withdrawal; and
  - (iii) set out the requirements or conditions with which there should be complied within a reasonable period determined by the Head of Education and mentioned in the notice, in order to prevent the proposed withdrawal.

- (b) If the governing body fails to comply with the said requirements or conditions within the period referred to in paragraph (a) (iii), the Head of Education may withdraw the registration of the private college concerned with effect from a date determined by him or her.

#### **42. Appeal to Member of the Executive Council against decision of Head of Education**

- (1) Any person who feels aggrieved by a decision of the Head of Education under [section 37\(1\)](#) or [section 41](#), may, within 30 days after receiving notice of the decision concerned, in writing, with an exposition of the grounds of appeal, appeal against such decision to the Member of the Executive Council.
- (2) The Member of the Executive Council may request such further information regarding the appeal as he or she may deem necessary, from the appellant and the Head of Education.
- (3) After consideration of all the relevant information the Member of the Executive Council may—
  - (a) allow the appeal in whole or in part; or
  - (b) dismiss the appeal,and shall notify the appellant and the Head of Education in writing of his or her decision.

#### **43. Committee of Technical College Principals**

- (1) There shall be a Committee, known as the Committee of Technical College Principals, consisting of the principals of all the state and state-aided colleges in the province, and the principals of private colleges in the province whose applications for membership have been granted by the Committee.
- (2) If the post of principal at a college is vacant and no person acts in the post, the council concerned may designate a member of the teaching staff to represent the college at any meeting of the Committee.
- (3) If a principal is unable to attend a meeting of the Committee, he or she may nominate a member of the teaching staff to represent him or her at the meeting.
- (4) The functions of the Committee shall be to—
  - (a) advise the Member of the Executive Council or the Head of Education in regard to matters relating to colleges referred to it by the Member of the Executive Council or the Head of Education;
  - (b) advise the Member of the Executive Council or the Head of Education in regard to any other matter of common interest to colleges and in respect of which the Committee deems it necessary to advise the Member of the Executive Council or the Head of Education; and
  - (c) in consultation with the Committee perform any function assigned to it by the Member of the Executive Council or the Head of Education.
- (5) The Committee shall function in accordance with a constitution drafted by the members and approved by the Member of the Executive Council.
- (6) The work incidental to the carrying out of the functions of the Committee shall be performed by such members of staff of a college as the Committee may designate with the concurrence of the council of such college.

#### **44. Funds of Committee of Technical College Principals Education**

- (1) The funds of the Committee of Technical College Principals shall consist of—
  - (a) annual contributions by colleges; and
  - (b) other moneys collected by the committee.



- (2) The annual amount to be contributed by a college shall be determined by the Committee after consultation with the Head of Education and with the concurrence of the financial head.

#### 45. Exclusion of provisions of Workmen's Compensation Act, 1941

No student at a technical college or a private technical college shall for the purposes of the provisions of the Workmen's Compensation Act, 1941 ([Act No. 30 of 1941](#)), be deemed to be a workman or other person entitled to payment of compensation or any other benefit under the said Act.

#### 46. Offences and penalties

Any person or college who—

- (a) is not a technical college or a private technical college and who—
  - (i) in any way makes it known or pretends to any other person that he or she or some other person can offer an instructional programme or part thereof the content or standard of which is similar to the content or standard of a formal post-school vocational instructional programme offered at a college, or offers such instructional programme which shall entitle the person who has followed such an instructional programme or part thereof to the issuance to him or her of any certificate or diploma which may be issued under a law regulating the certification of such a qualification; or
  - (ii) confers a certificate or a diploma purporting to be a certificate or diploma based on a formal instructional programme successfully completed at a college;
- (b) performs any act which purports to have been performed by or on behalf of a college;
- (c) establishes, conducts or maintains an institution which is not a college, under a name which includes the words 'technical college';
- (d) contravenes the provisions of [section 35](#); or
- (e) obstructs or hinders any person in the performance of his or her duties under [section 16](#) or that section read with [section 39](#), or who interferes with such person in the performance of such duties, shall be guilty of an offence and on conviction liable to a fine not exceeding R4 000 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

#### 47. Delegation of powers

- (1) The Member of the Executive Council may, subject to such conditions as he or she may determine, delegate any of his or her powers under this Law, except a power referred to in sections [42](#) and [48](#), and assign any of his or her duties in terms of this Law, to the Head of Education or a person employed by the Department, or to a college council.
- (2) The Head of Education may, subject to such conditions as he or she may determine, delegate any of his or her powers under this Law or delegated to him or her in terms of subsection (1), and assign any of his or her duties in terms of this Law or assigned to him or her in terms of subsection (1), to a person employed by the Department, or to a college council.
- (3) A college council may, with the consent of the Head of Education and subject to such conditions as it may determine, delegate any of its powers under this Law or delegated to it in terms of subsection (2), and assign any of its duties in terms of this Law or assigned to it in terms of subsection (2), to the academic board or the principal of the college concerned.
- (4) The principal of a college may, with the consent of the council and subject to such conditions as he or she may determine, delegate any of his or her powers under this Law or delegated to him or her in terms of this section, and assign any of his or her duties in terms of this Law or assigned to him or her in terms of this section, to a member of the college staff.

- (5) A delegation under subsection (1), (2), (3) or (4) shall not prevent the Member of the Executive Council, Head of Education, college councilor principal, as the case may be, from exercising such power or performing such duty, as the case may be, himself or herself.

#### **48. Regulations**

- (1) The Member of the Executive Council may make regulations as to-
- (a) the election or appointment and the term of office of a chairperson and a vice-chairperson of a college council, the term of office of the members of a college council and the filling of vacancies in a college council;
  - (b) qualifications of members of college councils;
  - (c) the convening of meetings of a college council or academic board, the procedure and rules at, and the quorum for such meetings, and the keeping of minutes of those meetings;
  - (d) the powers and duties of college councils;
  - (e) any matter which shall or may be prescribed under this Law; and
  - (f) any matter which the Member of the Executive Council may deem necessary or expedient to prescribe in order to achieve the objects of this Law.
- (2) Different regulations may be made under subsection (1) in respect of different colleges or different categories of colleges.
- (3) A regulation made under subsection (1) may, for a contravention thereof or a failure to comply therewith, prescribe a penalty not exceeding a fine of R4 000 or imprisonment for a period of two years.

#### **49. Repeal of laws, and savings**

- (1) Subject to the provisions of subsection (2), the laws mentioned in the Schedule are hereby repealed to the extent indicated in the third column of the Schedule.
- (2) Anything which was done or deemed to have been done in terms of a provision of a law repealed by subsection (1) and which may or shall be done in terms of this Law, shall be deemed to have been done in terms of the corresponding provision of this Law.
- (3) All laws, regulations, notices and directives made or issued under any law repealed by this Law which were in force immediately prior to the fixed date shall, notwithstanding such repeal, remain in force except in so far as they are incompatible with or in conflict with this Law, until they are repealed, withdrawn or amended by the Member of the Executive Council by regulation, notice or directive, as the case may be, made or issued under this Law.

#### **50. Short title and commencement**

This Law shall be called the Western Cape Technical Colleges Law, 1994, and shall come into operation on a date fixed by the Premier by proclamation in the *Provincial Gazette*.

**Schedule**  
**LAWS REPEALED**

No. and year of law	Title	Extent of repeal
<a href="#">Act No. 61 of 1965</a>	Indians Education Act, 1965	In so far as it relates to technical colleges excluding sections 1B, 3B, 8 to 20, 26, 28, 29, 31 and 33 (1) (g)
<a href="#">Act No. 90 of 1979</a>	Education and Training Act, 1979	In so far as it relates to technical colleges excluding sections 1A, 3, 4, 11 to 29, 31, 32, 43 and 44 (1) (h)
<a href="#">Act No. 104 of 1981</a>	Technical Colleges Act, 1981	The whole excluding sections 1B, 9, 10, 11A, 12, 13 and 36
<a href="#">Act No. 28 of 1983</a>	Education and Culture Laws Amendment Act, 1983	Sections 7 and 8
<a href="#">Act No. 6 of 1984</a>	Education and Heraldry Laws Amendment Act, 1984	Sections 7, 8, 9, 10 and 11
<a href="#">Act No. 44 of 1989</a>	Technical Colleges Amendment Act (House of Assembly), 1989	The whole