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DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1000.

9 May 1979.

No. 1000.

9 Mei 1979.

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

No. 39 of 1979: Indians Education Amendment Act, 1979.

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

No. 39 van 1979: Wysigingswet op Onderwys vir Indiërs, 1979.

Act No. 39, 1979

INDIANS EDUCATION AMENDMENT ACT, 1979.

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Indians Education Act, 1965, so as to provide for the change of the names of certain schools and colleges; relating to the transfer of certain schools and colleges; the determination of the conditions of service, salaries, allowances and leave privileges of certain persons employed at certain schools; and the transfer and discharge of certain persons employed at certain schools; to provide that certain acts of certain persons employed at certain schools, in so far as those acts relate to the activities of unlawful organizations or political parties, constitute misconduct; relating to the procedure in terms of which certain persons may be charged with misconduct; to provide for a procedure in terms of which the fitness or efficiency of certain persons may be investigated and for the steps which may be taken if such persons are unfit or inefficient; that the Minister of Indian Affairs may allow certain persons to keep certain moneys; that certain persons in the service of the Department of Indian Affairs be allowed to be members and to serve on the managements of political parties and to attend public political meetings; and that certain persons nominated as candidates for an election of members of the South African Indian Council, be deemed to have relinquished their posts in the Department of Indian Affairs; relating to the classification of certain posts at certain schools; and the conducting of certain examinations; and to provide for incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 1 May 1979.)

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Amendment of
section 1 of
Act 61 of 1965.

1. Section 1 of the Indians Education Act, 1965 (hereinafter referred to as the principal Act), is hereby amended—
- (a) by the insertion after the definition of “agricultural school” of the following definition:
5
“‘college of education’ means an institution for the education and training of Indian students as teachers;”
- (b) by the substitution for the definition of “education” of the following definition:
10
“‘education’ means any education other than education provided by a university **[or a university college]** established by or in terms of any law or **[a** 15
‘declared institution’ referred to in section one of the Higher Education Act, 1923 (Act No. 30 of 1923)] an institution for advanced technical education established in terms of the Indians

ALGEMENE VERDUIDELIKENDE NOTA:

[**]** Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Wet op Onderwys vir Indiërs, 1965, om voorsiening te maak vir die verandering van die benamings van sekere skole en kolleges; betreffende die oordrag van sekere skole en kolleges; die bepaling van die diensvoorwaardes, salarisse, toelaes en verlofvoorregte van sekere persone wat by sekere skole in diens is; en die verplasing en ontslag van sekere persone wat by sekere skole in diens is; om voorsiening te maak dat sekere handeling van sekere persone in diens by sekere skole, vir sover daardie handeling in verband met die bedrywigheede van onwettige organisasies of politieke partye staan, wangedrag uitmaak; betreffende die prosedure waarvolgens sekere persone van wangedrag aangekla kan word; om voorsiening te maak vir 'n prosedure waarvolgens die geskiktheid of bekwaamheid van sekere persone ondersoek kan word en vir die stappe wat gedoen kan word indien daardie persone ongeskik of onbekwaam is; dat die Minister van Indiërsake sekere persone kan toelaat om sekere gelde te behou; dat sekere persone in diens van die Departement van Indiërsake toegelaat word om lede en in die besture van politieke partye te wees en om openbare politieke vergaderings by te woon; en dat sekere persone wat as kandidate vir 'n verkiesing van lede van die Suid-Afrikaanse Indiërraad genomineer word, geag word hulle poste in die Departement van Indiërsake neer te gelê het; betreffende die indeling van sekere poste by sekere skole; en die afneem van sekere eksamens; en om vir bykomstige aangeleenthede voorsiening te maak.

*(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 1 Mei 1979.)*

DAAR WORD BÉPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

1. Artikel 1 van die Wet op Onderwys vir Indiërs, 1965 (hieronder die Hoofwet genoem), word hierby gewysig—
- (a) deur die omskrywing van „buitengewone onderwys” deur die volgende omskrywing te vervang:
- 10 „„buitengewone onderwys” onderwys of opleiding van 'n gespesialiseerde aard wat verskaf word om by die behoeftes van afwykende kinders aan te pas, en ook algemene kulturele onderwys, beroepsvoorligting, beroepsonderwys en mediese, tandheelkundige en geestelike ondersoek en behandeling, asook versorging in 'n koshuis, wanneer dit verskaf word aan of geskied ten opsigte van sodanige kinders;”;
- 15 (b) deur die omskrywings van „hoërskool”, „kleuterskool” en „laerskool” te skrap;

Wysiging van artikel 1 van Wet 61 van 1965.

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- Advanced Technical Education Act, 1968 (Act No. 12 of 1968), and includes vocational education and special education not so provided;";
- (c) by the deletion of the definitions of "high school" and "nursery school"; 5
- (d) by the insertion after the definition of "part-time class" of the following definition:
 "pre-primary school' means a school for the education of Indians above the age of two years who have not yet attained the age at which they may be admitted to an ordinary school;"; 10
- (e) by the substitution for the definition of "primary school" of the following definition:
 "primary school' means a school for the education of Indians up to such standard **[not exceeding the sixth standard]** as the Secretary may in any particular case determine;"; 15
- (f) by the insertion after the definition of "school of industries" of the following definition:
 "secondary school' means a school for the education of Indians up to such standard, not exceeding the tenth standard, as the Secretary may in any particular case determine;"; 20
- (g) by the substitution for the definition of "special education" of the following definition: 25
 "special education' means education or training of a specialized nature provided to suit the needs of handicapped children, and includes general cultural education, vocational guidance, vocational education and medical, dental and mental examination and treatment, as well as care in a hostel, when provided for or taking place in respect of such children;"; 30
- (h) by the deletion of the definition of "training college".

Amendment of section 3 of Act 61 of 1965.

2. Section 3 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

- "(a) establish, erect and maintain **[training colleges, high schools]** colleges of education, secondary schools, primary schools, agricultural schools, vocational schools, 40 special schools, pre-primary schools and homes;".

Substitution of section 4 of Act 61 of 1965.

3. The following section is hereby substituted for section 4 of the principal Act:

"Award of grants-in-aid or subsidies and loans in respect of schools and hostels. 4. (1) Subject to the provisions of subsection (2) the Minister may out of moneys appropriated by Parliament for the purpose, award grants-in-aid or subsidies and loans to the governing body of any school, including any **[nursery]** pre-primary school, or of a hostel used in connection with such a school. 45

(2) The award of grants-in-aid or subsidies and loans in terms of subsection (1) shall be effected on such basis and subject to such conditions as the Minister in consultation with the Minister of Finance may **[in every particular case]** determine **[and subject to such other conditions as may be prescribed]**." 55

Amendment of section 5 of Act 61 of 1965.

4. Section 5 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The Minister may, in consultation with the Minister of Finance and after negotiation and agreement with the governing body of a State-aided school, by notice in **[the Gazette]** writing to such governing body transfer the 60

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- (c) deur die omskrywing van „onderwys” deur die volgende omskrywing te vervang:
 „onderwys’ ander onderwys as onderwys wat verskaf word deur ’n universiteit [**of ’n universiteitskollege**] wat by of ingevolge ’n wet ingestel is of [**’n verklaarde instelling**], **vermeld in artikel een van die „Hoger Onderwys Wet, 1923” (Wet No. 30 van 1923),** deur ’n inrigting vir gevorderde tegniese onderwys wat ingestel is kragtens die bepalings van die Wet op Gevorderde Tegniese Onderwys vir Indiërs, 1968 (Wet No. 12 van 1968), en ook beroepsonderwys en buitengewone onderwys wat nie aldus verskaf word nie;”;
- (d) deur die volgende omskrywing na die omskrywing van „onderwys” in te voeg:
 „„onderwyskollege’ ’n inrigting vir die onderwys en opleiding van Indiërstudente as onderwysers;”;
- (e) deur die omskrywing van „opleidingskollege” te skrap;
- (f) deur die volgende omskrywings voor die omskrywing van „regulasie” in te voeg:
 „„pre-primêre skool’ ’n skool vir die onderwys van Indiërs wat ouer as twee jaar is maar nog nie die ouderdom bereik het waarop hulle tot ’n gewone skool toegelaat kan word nie;
„primêre skool’ ’n skool vir die onderwys van Indiërs tot ’n standerd wat die Sekretaris in ’n besondere geval bepaal;”;
- (g) deur die volgende omskrywing na die omskrywing van „regulasie” in te voeg:
 „„sekondêre skool’ ’n skool vir die onderwys van Indiërs tot ’n standerd, nie hoër nie as die tiende standerd, wat die Sekretaris in ’n besondere geval bepaal;””.

2. Artikel 3 van die Hoofwet word hierby gewysig deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

Wysiging van artikel 3 van Wet 61 van 1965.

„(a) [**opleidingskolleges, hoërskole**] onderwyskolleges, sekondêre skole, [laerskole] primêre skole, landbouskole, beroepskole, spesiale skole, pre-primêre skole en tehuise instel, oprig en in stand hou;”.

3. Artikel 4 van die Hoofwet word hierby deur die volgende artikel vervang:

Vervanging van artikel 4 van Wet 61 van 1965.

„Toekenning van hulptoelae of subsidies en lenings ten opsigte van skole en koshuise. 4. (1) Behoudens die bepalings van subartikel (2) kan die Minister uit geld wat die Parlement vir dié doel bewillig het, hulptoelae of subsidies en lenings toeken aan die bestuursliggaam van ’n skool, met inbegrip van ’n [**kleuterskool**] pre-primêre skool, of aan ’n koshuis wat in verband met so ’n skool gebruik word.

(2) Dié toekenning van hulptoelae of subsidies en lenings ingevolge subartikel (1) moet geskied op die grondslag en onderworpe aan die voorwaardes wat die Minister in oorleg met die Minister van Finansies [**in iedere besondere geval**] bepaal [**en onderworpe aan die ander voorwaardes wat voorgeskryf word**].”

4. Artikel 5 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

Wysiging van artikel 5 van Wet 61 van 1965.

„(1) Die Minister kan, in oorleg met die Minister van Finansies en ná onderhandeling en ooreenkoms met die bestuursliggaam van ’n Staatsondersteunde skool, by skriftelike kennisgewing [**in die Staatskoerant**] aan daardie bestuursliggaam die bestuur van en beheer oor dié skool

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management and control of such school to the Department with effect from a date fixed in that notice.”.

Amendment of section 6 of Act 61 of 1965.

5. Section 6 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Any school for the education of Indians which at the commencement of this Act is registered with a provincial administration or the Department of **Education, Arts and Science** National Education under any law, shall be deemed to have been registered with the Department under subsection (1).”.

Amendment of section 11 of Act 61 of 1965.

6. Section 11 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Notwithstanding anything to the contrary contained in any other law but subject to the provisions of subsections (2) and (3) of this section, the conditions of service, salary scales, allowances and leave privileges of persons (other than officers and employees) employed in any post included in the establishment of a State school, school of industries, reform school or a State-aided school, shall be determined or prescribed by the Minister in consultation with the Minister of Finance and on the recommendation of the Public Service Commission.”.

Amendment of section 14 of Act 61 of 1965.

7. Section 14 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Any person (other than an officer or employee) occupying a post included in the establishment of a State school, school of industries or reform school, or a State-aided school other than a State-aided vocational school, may, subject to the provisions of subsection (2), be transferred from the post in which he is employed to any other post at the said school or any other such school, or at any other institution under the control of the Department, whether established under this Act or any other law, and whether or not it is a transfer to a post of a lower grade.”.

Substitution of section 15 of Act 61 of 1965.

8. The following section is hereby substituted for section 15 of the principal Act:

“Discharge of persons employed at State schools, schools of industries, reform schools and certain State-aided schools. 15. (1) Any person (other than an officer) occupying on a full-time basis in a permanent capacity a post included in the establishment of a State school, school of industries or reform school, or State-aided school other than a State-aided vocational school, shall, subject to the provisions of subsections (2) and (3), have the right to retire from the service of the Department on attaining the age of 65 years, and shall be so retired on reaching that age. 40 45

(2) Any person referred to in subsection (1) whose pensionable service, as defined in section 1 of the Government Service Pension Act, 1973 (Act No. 57 of 1973), commenced before 24 June 1955 in terms of a pension law referred to in section 13 (1) (b), shall have the right at any time before or after attaining, in the case of a male, the age of 60 years or, in the case of a female, the age of 55 years, to give notice in writing to the Secretary of his wish to retire on pension and, if he has so given notice— 50 55

(a) at least three months before the date on which he attains that age, he shall be retired on pension as from the date on which he attains the said age; or (b) but not at least three months before the date on which he attains that age, he shall be retired on pension on the first day of the fourth month following the month during which such notice is received. 60

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aan die Departement oordra met ingang van 'n datum in daardie kennisgewing vasgestel."

5. Artikel 6 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:
- 5 „(2) 'n Skool vir die onderwys van Indiërs wat by die inwerkingtrede van hierdie Wet by 'n provinsiale administrasie of die Departement van **[Onderwys, Kuns en Wetenskap]** Nasionale Opvoeding geregistreer is kragtens die een of ander wet, word geag kragtens subartikel (1) by
- 10 die Departement geregistreer te wees."
6. Artikel 11 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:
- 15 „(1) Ondanks andersluidende bepalings van enige ander wet, maar behoudens die bepalings van subartikels (2) en (3) van hierdie artikel, word die diensvoorwaardes, salarisskale, toelaes en verlofvoorregte van persone (behalwe beamptes en werknemers) in diens in 'n pos wat inbegrepe is by die diensstaat van 'n Staat-, nywerheid- of verbeteringskool of 'n Staatsondersteunde skool, deur die Minister in oorleg met die
- 20 Minister van Finansies en op aanbeveling van die Staatsdienskommissie bepaal of voorgeskryf."
7. Artikel 14 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:
- 25 „(1) Iemand (behalwe 'n beampte of werknemer) wat 'n pos beklee wat inbegrepe is by die diensstaat van 'n Staat-, nywerheid- of verbeteringskool, of 'n Staatsondersteunde skool wat nie 'n Staatsondersteunde beroepskool is nie, kan, behoudens die bepalings van subartikel (2), verplaas word van die pos waarin hy diens doen na enige ander pos in genoemde skool of enige ander sodanige skool, of in enige ander inrigting onder beheer van die Departement, hetsy dit
- 30 ingevolge hierdie Wet of 'n ander wet ingestel is, en hetsy dit 'n verplasing na 'n pos met 'n laer graad is of nie."
8. Artikel 15 van die Hoofwet word hierby deur die volgende artikel vervang:
- 35 „Ontslag van persone in diens by Staat-, nywerheid- en verbeteringskole en sekere Staatsondersteunde skole. **15.** (1) Iemand (behalwe 'n beampte) wat op 'n voltydse grondslag in 'n permanente hoedanigheid 'n pos beklee wat inbegrepe is by die diensstaat van 'n Staat-, nywerheid- of verbeteringskool, of 'n Staatsondersteunde skool wat nie 'n Staatsondersteunde beroepskool is nie, het, behoudens die bepalings van subartikels (2) en (3), die reg om by die bereiking van die ouderdom van 65 jaar uit die diens van die Departement te tree, en word aldus afgedank wanneer hy daardie ouderdom bereik.
- 45 (2) Iemand bedoel in subartikel (1) wie se pensioengewende diens, soos omskryf in artikel 1 van die Regeringsdiens-pensioenwet, 1973 (Wet No. 57 van 1973), voor 24 Junie 1955 ooreenkomstig 'n pensioenwet bedoel in artikel 13 (1) (b), 'n aanvang geneem het, het die reg om te eniger tyd voor of na bereiking, in die geval van 'n manlike persoon, van die leeftyd van 60 jaar of, in die geval van 'n vroulike persoon, van die leeftyd van 55 jaar, skriftelik kennis te gee
- 50 aan die Sekretaris van sy begeerte om met pensioen afgedank te word en, indien hy aldus kennis gee—
- 55 (a) ten minste drie maande voor die datum waarop hy daardie leeftyd bereik, word hy met pensioen afgedank met ingang van die datum waarop hy daardie leeftyd bereik; of
- 60 (b) maar sodanige kennis nie minstens drie maande voor hy daardie leeftyd bereik, gegee het nie, word hy afgedank met pensioen op die eerste dag van die vierde maand wat volg op die maand waarin sodanige kennis ontvang word.
- 65

Wysiging van artikel 6 van Wet 61 van 1965.

Wysiging van artikel 11 van Wet 61 van 1965.

Wysiging van artikel 14 van Wet 61 van 1965.

Vervanging van artikel 15 van Wet 61 van 1965.

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(3) Any person referred to in subsection (1) who has attained the age of 60 years and any person referred to in subsection (2) who has attained, in the case of a male, the age of 55 years or, in the case of a female, the age of 50 years, may with the approval of the Minister be retired from the service of the Department. 5

(4) Any person referred to in subsection (1) may be discharged from the Department by the Minister—

- (a) on account of continued ill-health;
- (b) on account of the abolition of his post or a reduction, reorganization or rearrangement of the staff of the school in question; 10
- (c) subject to the provisions of section 18, on account of unfitness for his duties or incapacity to perform them efficiently; 15
- (d) if, for reasons other than those referred to in paragraph (c), his discharge will, in the opinion of the Minister, promote efficiency or economy at the school in question;
- (e) subject to the provisions of section 17, on account of misconduct as defined in section 16. 20

(5) Any person referred to in subsection (1) who without the permission of the Secretary or the head of the governing body of the school in question—

- (a) is absent from duty for a period exceeding 30 consecutive days; or 25
- (b) is absent from duty and has accepted other employment,

shall, subject to the provisions of subsection (6), be deemed to have been discharged on account of misconduct in terms of subsection (4) with effect from the date immediately following the last day on which he was on duty. 30

(6) If any person referred to in paragraph (a) of subsection (5) at any time within 120 days after the expiry of the period of 30 days referred to in that paragraph, in writing applies for reinstatement in his former post, the Minister may, on such conditions as he may think fit, reinstate such person in his former post or appoint him to any other post referred to in subsection (1), and in such event the period of absence from duty shall be deemed to have been absence on vacation leave without pay or leave on such other conditions as the Minister may determine.”. 45

Amendment of section 16 of Act 61 of 1965.

9. Section 16 of the principal Act is hereby amended by the substitution for paragraph (g) of the following paragraphs:

- “(g) he is an office-bearer or officer or a member of any organization declared an unlawful organization in terms of any law; 50
- (gA) he makes use of his position in the Department to promote or to prejudice the interests of any political party, or presides or speaks at any public political meeting, or draws up or publishes or causes to be published any writing or delivers a public speech to promote or to prejudice the interests of any political party;” 55

Amendment of section 17 of Act 61 of 1965.

10. Section 17 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) If any person referred to in section 15 (1) is accused of misconduct as defined in section 16, the Secretary may charge him in writing **[under his hand]** with that misconduct.”. 60

Substitution of section 18 of Act 61 of 1965.

11. The following section is hereby substituted for section 18 of the principal Act: 65

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5 (3) Iemand bedoel in subartikel (1) wat die leeftyd van 60 jaar en iemand bedoel in subartikel (2) wat, in die geval van 'n manlike persoon, die leeftyd van 55 jaar of, in die geval van 'n vroulike persoon, die leeftyd van 50 jaar bereik het, kan met die goedkeuring van die Minister uit die diens van die Departement afgedank word.

10 (4) Iemand bedoel in subartikel (1) kan deur die Minister uit die Departement ontslaan word—

- 10 (a) weens voortdurende swak gesondheid;
- (b) weens die afskaffing van sy pos of 'n vermindering, reorganisasie of herindelung van die personeel van die betrokke skool;
- 15 (c) behoudens die bepalings van artikel 18, weens ongeskiktheid vir sy pligte of onvermoë om hulle op bekwame wyse uit te voer;
- (d) indien, om ander redes as dié in paragraaf (c) bedoel, sy ontslag, na die oordeel van die Minister, doeltreffendheid of besuiniging by die betrokke skool sal bevorder;
- 20 (e) behoudens die bepalings van artikel 17, weens wangedrag soos omskryf in artikel 16.

25 (5) Iemand bedoel in subartikel (1) wat sonder verlof van die Sekretaris of die hoof van die bestuursliggaam van die betrokke skool—

- 25 (a) vir 'n tydperk van meer as 30 opeenvolgende dae van sy diens afwesig is; of
- (b) van sy diens afwesig is en ander werk aanvaar het,

30 word behoudens die bepalings van subartikel (6) geag ingevolge subartikel (4) weens wangedrag ontslaan te wees met ingang van die datum wat onmiddellik volg op die laaste dag waarop hy diens verrig het.

35 (6) Indien iemand bedoel in paragraaf (a) van subartikel (5) te eniger tyd binne 'n tydperk van 120 dae na die verstryking van die tydperk van 30 dae bedoel in daardie paragraaf, skriftelik aansoek doen om in sy vorige pos herstel te word, kan die Minister, op die voorwaardes wat hy goedvind, so iemand in sy vorige pos herstel of in 'n ander pos bedoel in subartikel (1) aanstel, en in so 'n geval word die tydperk van afwesigheid van diens geag afwesigheid te wees met vakansieverlof sonder betaling of verlof op die ander voorwaardes wat deur die Minister bepaal word."

9. Artikel 16 van die Hoofwet word hierby gewysig deur paragraaf (g) deur die volgende paragrawe te vervang:

- 50 „(g) hy 'n ampsdraer, beampte of lid van enige organisasie is wat ingevolge een of ander wet tot 'n onwettige organisasie verklaar is;
- (gA) hy van sy posisie in die Departement gebruik maak om die belange van enige politieke party te bevoordeel of te benadeel, of op 'n openbare politieke vergadering voorsit of as spreker optree, of 'n geskrif opstel of publiseer of laat publiseer of 'n openbare toespraak hou ter bevordering of benadeling van die belange van 'n politieke party;"

Wysiging van artikel 16 van Wet 61 van 1965.

10. Artikel 17 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

- 60 „(1) Indien iemand vermeld in artikel 15 (1) beskuldig word van wangedrag soos in artikel 16 omskryf, kan die Sekretaris hom skriftelik **[onder sy handtekening]** van daardie wangedrag aankla."

Wysiging van artikel 17 van Wet 61 van 1965.

65 11. Artikel 18 van die Hoofwet word hierby deur die volgende artikel vervang:

Vervanging van artikel 18 van Wet 61 van 1965.

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“Procedure relating to unfitness and inefficiency of certain persons.

18. (1) If the Secretary has reason to presume that any person referred to in section 15 (1) is unfit for or incapable of efficiently performing the duties attached to his post, the Secretary may in writing direct any person to investigate such presumption, and such person, having carried out such investigation, shall notify the Secretary by means of a written report of the result thereof. 5

(2) If the Secretary on account of a report referred to in subsection (1) is satisfied that there is sufficient proof that the person to whom such report relates, is unfit for or incapable of efficiently performing the duties attached to his post, he shall deliver or send by post to such person a notice— 10

- (a) to which a copy of such report is attached; 15
- (b) in which he is notified that action in terms of subsection (3) is being considered against him;
- (c) in which he is invited to lodge, within 21 days from the date of such notice, with the Secretary in writing any comments which he may wish to make in respect of such report. 20

(3) When the Minister, having considered any report referred to in subsection (1) and any comments lodged in respect thereof in terms of subsection (2) (c), is satisfied that the person concerned is unfit for or incapable of efficiently performing the duties attached to his post, the Secretary shall by notice in writing, delivered or sent by post, notify such person accordingly and further notify him that a further investigation in regard to such duties— 25

- (a) shall be instituted after expiry of a period of at least 90 days and not more than one year from the date of such notice; or 30
- (b) if such person within a period of 30 days from the date of such notice in writing requests the Secretary to cause such further investigation to be instituted by a person other than the person who lodged the said report, will be instituted as soon as may be practicable after expiry of such period of 30 days. 35 40

(4) If on account of a report resulting from a further investigation referred to in subsection (3), it appears in the opinion of the Minister—

- (a) that the person concerned is still unfit for or incapable of efficiently performing the duties attached to his post, the Minister may— 45
 - (i) on a date to be determined by the Minister, summarily discharge him from service;
 - (ii) transfer him to another post in the Department; 50
 - (iii) reduce his salary and his grade or the one or the other thereof;
 - (iv) decide that no further action be taken in the matter;
- (b) that since the investigation referred to in subsection (1) there has been an improvement in the fitness or efficiency of the person concerned to perform the duties attached to his post, but that he has not yet achieved the required standard of fitness or efficiency, he may be dealt with in accordance with paragraph (a) (ii), (iii) or (iv).” 55 60

WYSIGINGSWET OP ONDERWYS VIR INDIËRS, 1979.

Wet No. 39, 1979

- „Prosedure
met betrekking
tot
ongeskiktheid
en onbekwaam-
heid
van sekere
persone.
18. (1) Indien die Sekretaris rede het om te vermoed dat iemand bedoel in artikel 15 (1) ongeskik is om of nie in staat is nie om op bekwame wyse die pligte uit te voer wat aan sy betrekking verbonde is, kan die Sekretaris iemand skriftelik gelas om ondersoek na sodanige vermoede in te stel, en so iemand moet, nadat hy daardie ondersoek uitgevoer het, die Sekretaris by wyse van 'n skriftelike verslag van die uitslag daarvan in kennis stel.
- 10 (2) Indien die Sekretaris op grond van 'n verslag bedoel in subartikel (1) oortuig is dat daar voldoende bewys is dat die persoon op wie daardie verslag betrekking het, ongeskik is om of nie in staat is nie om op bekwame wyse die pligte uit te voer wat aan sy betrekking verbonde is, moet hy aan daardie persoon 'n kennisgewing oorhandig of deur die pos stuur—
- 15 (a) waarby 'n afskrif van daardie verslag aangeheg is;
- (b) waarin hy verwittig word dat stappe ingevolge subartikel (3) teen hom oorweeg word;
- 20 (c) waarin hy uitgenooi word om binne 21 dae vanaf die datum van daardie kennisgewing enige kommentaar wat hy ten opsigte van daardie verslag wil lewer, skriftelik by die Sekretaris in te dien.
- 25 (3) Wanneer die Minister na oorweging van 'n verslag bedoel in subartikel (1) en enige kommentaar wat ingevolge subartikel (2) (c) ten opsigte daarvan ingedien is, oortuig is dat die betrokke persoon ongeskik is om of nie in staat is nie om op bekwame wyse die pligte uit te voer wat aan sy betrekking verbonde is, moet die Sekretaris daardie persoon by skriftelike kennisgewing, oorhandig of deur die pos gestuur, dienooreenkomstig verwittig en verder meedeel dat 'n verdere ondersoek met betrekking tot daardie pligte—
- 30 (a) na verloop van 'n tydperk van minstens 90 dae en hoogstens een jaar vanaf die datum van daardie kennisgewing ingestel sal word; of
- 40 (b) indien daardie persoon die Sekretaris binne 'n tydperk van 30 dae vanaf die datum van daardie kennisgewing skriftelik versoek om sodanige verdere ondersoek te laat instel deur iemand anders as die persoon wat voormelde verslag ingedien het, so gou doenlik na verloop van daardie tydperk van 30 dae ingestel sal word.
- 45 (4) Indien dit volgens 'n verslag wat voortspruit uit 'n verdere ondersoek bedoel in subartikel (3), na die oordeel van die Minister blyk—
- 50 (a) dat die betrokke persoon steeds ongeskik is om of nie in staat is nie om op 'n bekwame wyse die pligte uit te voer wat aan sy betrekking verbonde is, kan die Minister—
- 55 (i) hom, op 'n datum wat deur die Minister bepaal word, sonder meer uit diens ontslaan;
- (ii) hom na 'n ander pos in die Departement oorplaas;
- 60 (iii) sy salaris en sy graad of die een of die ander daarvan verlaag;
- (iv) besluit dat geen verdere stappe in die saak gedoen word nie;
- 65 (b) dat daar sedert die ondersoek bedoel in subartikel (1) 'n verbetering plaasgevind het betreffende die geskiktheid of bekwaamheid van die betrokke persoon om die pligte uit te voer wat aan sy betrekking verbonde is, maar dat hy nog nie die vereiste standaard van geskiktheid of bekwaamheid bereik het nie, kan daar ooreenkomstig paragraaf (a) (ii), (iii) of (iv) met hom gehandel word.”

Act No. 39, 1979

INDIANS EDUCATION AMENDMENT ACT, 1979.

Amendment of
section 19 of
Act 61 of 1965.

12. Section 19 of the principal Act is hereby amended—

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

“(1) Any person referred to in subsection (1) of section 15 and any person appointed on a full-time basis in a temporary capacity at any school referred to in that subsection—”;

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

“(2) If any person referred to in subsection (1) receives any remuneration or allowance otherwise than in terms or by virtue of the provisions of this Act or any other law or in so far as the Minister may determine otherwise, he shall pay it into the **Consolidated** State Revenue Fund, and if he fails to do so, the Minister of Finance may recover it from him by legal proceedings or in such other manner as the said Minister may deem fit, and pay it into that fund.”;

(c) by the insertion after subsection (2) of the following subsections:

“(3) The provisions of this Act shall not be so construed as to prohibit any person referred to in subsection (1) from being a member or serving on the management of a lawful political party or from attending any public political meeting.

(4) Any person referred to in subsection (1) who in terms of the provisions of the Electoral Act for Indians, 1977 (Act No. 122 of 1977), is nominated as a candidate for the election of members of the South African Indian Council, shall be deemed to have relinquished his post on the date on which he is so nominated.”

Substitution of
section 20 of
Act 61 of 1965.

13. The following section is hereby substituted for section 20 of the principal Act:

“Classification of certain posts at State schools, schools of industries, reform schools and certain State-aided schools as posts in the public service.

20. The Minister may, on the recommendation of the Public Service Commission, designate any non-teaching post included in the establishment of a State school, school of industries or reform school, or a State-aided school (except a special school subsidized by the State), as a post which is to be classified in terms of the provisions of the Public Service Act, 1957 (Act No. 54 of 1957), under the fixed establishment as defined in section 1 of the said Act, and in respect of which the provisions of the said Act shall apply.”

Amendment of
section 21 of
Act 61 of 1965.

14. Section 21 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection :

“(4) Until the Minister otherwise determines the Department of **Education, Arts and Science** National Education shall institute the courses for the education and training of persons in special schools, homes, vocational schools, schools of industries and reform schools and conduct examinations in respect thereof, and a provincial administration shall institute courses for the education and training of persons in other State schools and State-aided schools and conduct examinations in respect thereof, in the same manner in which it would have been done if the control of such education were still vested in that Department or, as the case may be, in the provincial administration.”

WYSIGINGSWET OP ONDERWYS VIR INDIËRS, 1979.

Wet No. 39, 1979

12. Artikel 19 van die Hoofwet word hierby gewysig—

Wysiging van
artikel 19 van
Wet 61 van 1965.

(a) deur die woorde wat paragraaf (a) van subartikel (1) voorafgaan deur die volgende woorde te vervang:

5 „Iemand vermeld in subartikel (1) van artikel 15 en iemand wat op 'n voltydse basis in 'n tydelike hoedanigheid by 'n skool bedoel in daardie subartikel aangestel is—”;

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

10 „(2) Indien iemand vermeld in subartikel (1) enige besoldiging of toelae ontvang anders as ingevolge of uit hoofde van die bepalings van hierdie Wet of 'n ander wet of vir sover die Minister anders bepaal, moet hy dit in die **【Gekonsolideerde Inkomstefonds】** Staatsinkomstefonds stort, en indien hy versuim om dit te doen, kan die Minister van Finansies dit deur middel van geregtelike stappe of op 'n ander wyse wat dié Minister goedvind, op hom verhaal en in daardie fonds stort.”;

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

20 „(3) Die bepalings van hierdie Wet word nie so uitgelê dat 'n persoon bedoel in subartikel (1) verbied word om lid te wees of in die bestuur te dien van 'n wettige politieke party of om 'n openbare politieke vergadering by te woon nie.

25 (4) Iemand bedoel in subartikel (1) wat ooreenkomstig die bepalings van die Kieswet vir Indiërs, 1977 (Wet No. 122 van 1977), as kandidaat vir die verkiesing van lede van die Suid-Afrikaanse Indiërraad genomineer word, word geag sy pos neer te gelê het op die dag waarop hy aldus genomineer is.”.

13. Artikel 20 van die Hoofwet word hierby deur die volgende artikel vervang:

Vervanging van
artikel 20 van
Wet 61 van 1965.

35 „Indeling van sekere poste by Staat-, nywerheid- en verbeteringsskole en sekere Staatsondersteunde skole as poste in die Staatsdiens. 20. Die Minister kan op aanbeveling van die Staatsdienskommissie 'n pos wat inbegrepe is by die diensstaat van 'n Staat-, nywerheid-, of verbeteringsskool, of 'n Staatsondersteunde skool (behalwe 'n spesiale skool wat deur die Staat gesubsidieer word), en nie 'n onderwyspos is nie, aanwys as 'n pos wat ingevolge die bepalings van die Staatsdienswet, 1957 (Wet No. 54 van 1957), ingedeel moet word by die vaste diensstaat soos in artikel 1 van dié Wet omskryf, en ten opsigte waarvan die bepalings van genoemde Wet van toepassing is.”.

14. Artikel 21 van die Hoofwet word hierby gewysig deur subartikel (4) deur die volgende subartikel te vervang:

Wysiging van
artikel 21 van
Wet 61 van 1965.

45 „(4) Totdat die Minister anders bepaal, moet die Departement van **【Onderwys, Kuns en Wetenskap】** Nasionale Opvoeding die kursusse vir die onderwys en opleiding van persone in spesiale skole, tehuise en beroep-, nywerheid- en verbeteringsskole instel en eksamens ten opsigte daarvan afneem, en moet 'n provinsiale administrasie kursusse vir die onderwys en opleiding van persone in ander Staatskole en Staatsondersteunde skole instel en eksamens ten opsigte daarvan afneem, en wel op dieselfde wyse waarop dit gedoen sou geword het indien die beheer oor sodanige onderwys nog by daardie Departement of, na gelang van die geval, by die provinsiale administrasies berus het.”.

Act No. 39, 1979

INDIANS EDUCATION AMENDMENT ACT, 1979.

Amendment of
section 32 of
Act 61 of 1965.

15. Section 32 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) The Secretary may **【with the approval of the Minister】** assign, either generally or in any particular case, any power or duty conferred or imposed upon him by or in terms of this Act, to any other officer in the Department.” 5

Short title.

16. This Act shall be called the Indians Education Amendment Act, 1979.

WYSIGINGSWET OP ONDERWYS VIR INDIËRS, 1979.

Wet No. 39, 1979

15. Artikel 32 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

Wysiging van artikel 32 van Wet 61 van 1965.

5 „(2) Die Sekretaris kan 'n bevoegdheid of plig by of ingevolge hierdie Wet aan hom verleen of opgelê, **[met die goedkeuring van die Minister]** aan 'n ander beampte in die Departement in die algemeen of in 'n besondere geval oordra.”.

16. Hierdie Wet heet die Wysigingswet op Onderwys vir Kort titel. Indiërs, 1979.

