



Republic of Namibia
Annotated Statutes

National Education Act 30 of 1980

(OG 4358)

brought into force on 1 April 1981 by AG 6/1981 (OG 4430)

as amended by

Amendment of the Government Service Act, 1980, and provision for matters connected therewith, Proclamation AG 39 of 1984 (OG 4983)

came into force on date of publication: 30 November 1984

National Education Amendment Act 12 of 1988 (OG 5579)

came into force on date of publication: 26 July 1988

Education Act 16 of 2001 (GG 2673)

brought into force on 28 October 2002 by GN 186/2002 (GG 2841)

Teachers' Education Colleges Act 25 of 2003 (GG 3124)

brought into force on 1 April 2005 by GN 18/2005 (GG 3386)

AG 39 of 1984 repealed sections 13-24 and 25(6) of this Act. Act 16 of 2001 repealed the remainder of this Act insofar as it applies to schools and education other than tertiary education. Act 25 of 2003 repealed the remainder of this Act insofar as it applies to teachers' education colleges.

Thus, sections 1-12 and 25-39 of the Act remain in force only insofar as they apply to tertiary education other than teachers' education colleges. Some tertiary institutions now have their own legislation, such as the University of Namibia Act 18 of 1992 and the Polytechnic of Namibia Act 33 of 1994. Vocational education is covered by the National Vocational Training Act 18 of 1994, which has been substantially replaced by the Vocational Education and Training Act 1 of 2008.

Thus, it is not clear if this Act continues to have any practical relevance.

ACT

To provide for the provision and control of education other than tertiary education provided by the Academy for Tertiary Education under the Academy for Tertiary Education Act, 1980, and education which is under any law provided by or subject to the control of a representative authority; to establish a National Education Council for South West Africa and an Examination Board for South West Africa; and to provide for incidental matters.

[The Academy for Tertiary Education Act 13 of 1980 was repealed by the Academy Act 9 of 1985, which was repealed in turn by the University of Namibia Act 18 of 1992.]

(English text signed by the Administrator-General on 17 December 1980)

[The notations in italics appear above the long title in the *Official Gazette*. They have been placed in the usual position here, for consistency with the format of other legislation.]

ARRANGEMENT OF SECTIONS

1. Definitions
 2. Application of Act
 3. Control of Education
 - [The word "Education" should not be capitalised.]
 4. Determination of education policy
 5. National Education Council
 6. Establishment and maintenance of schools by Administrator-General
 7. Certain community schools to become government schools
 - 7A. Admission and readmission of persons to government schools or hostels attached thereto
 8. Establishment of school committees and advisory boards for government schools
 9. Registration of schools
 10. Subsidies, grants-in-aid and loans to registered schools
 11. Transfer of registered schools to Department
 12. Transfer of schools from representative authorities to Department
 - [The word "Department" is misspelt in the *Official Gazette*, as reproduced above. The phrase "Transfer or schools" should be "Transfer of schools".]
- ***
- [sections 13-24 have been deleted]
- ***
25. Teaching establishments of government-aided schools and provisions in relation to teachers of such schools
 26. Examination Board for South West Africa
 27. School calendar and hours of instruction
 28. Compulsory school attendance
 29. Tuition and boarding fees
 30. Financial and other assistance for education and training
 31. Inspections and investigations in relation to education and schools
 32. Medical inspections at schools
 33. Recognition of teachers' associations
 34. Regulations
 35. Delegation of powers, duties and functions
 36. Limitation of actions
 37. Exclusion of provisions of Workmen's Compensation Act, 1941
 38. Repeal of laws
 39. Short title and commencement

BE IT ENACTED by the National Assembly of South West Africa, as follows:-

Definitions

1. In this Act, unless the context otherwise indicates -

"Academy for Tertiary Education" means the Academy for Tertiary Education referred to in section 2 of the Academy for Tertiary Education Act, 1980 (Act 13 of 1980);

[The Academy for Tertiary Education Act 13 of 1980 was repealed by the Academy Act 9 of 1985, which was repealed in turn by the University of Namibia Act 18 of 1992.]

"council" means the National Education Council for South West Africa referred to in section 5(1);

“Department” means the Department of National Education;

“education” means any education or training, including -

- (a) special education;
- (b) education provided in a nursery school;
- (c) education provided to adults;
- (d) tertiary education as defined in section 1 of the Academy for Tertiary Education Act, 1980 (Act 13 of 1980), but excluding any such education provided by the Academy for Tertiary Education;

[The Academy for Tertiary Education Act 13 of 1980 was repealed by the Academy Act 9 of 1985, which was repealed in turn by the University of Namibia Act 18 of 1992.]

“education authority” means the Department and that branch, division or subdivision of a department, established for any population group under section 3 of the Government Service Act, 1980 (Act 2 of 1980), which carries on the affairs of the population group concerned in relation to those matters defined in Item 3 of the Schedule to the Representative Authorities Proclamation, 1980 (Proclamation AG. 8 of 1980);

[The Government Service Act 2 of 1980 has been replaced by the Public Service Act 13 of 1995. AG 8 of 1980 was repealed by the Namibian Constitution.]

“Examination Board” means the Examination Board for South West Africa referred to in section 26(1);

“executive authority” means an executive authority as contemplated in the Representative Authorities Proclamation, 1980 (Proclamation AG. 8 of 1980);

[AG 8 of 1980 was repealed by the Namibian Constitution.]

“governing body”, in relation to any school registered under section 6, means the owner of such school or other person to whom such owner has committed the control or government of such school in accordance with section 9(6)(a);

“government-aided school” means any school to or in respect of which any subsidy or grant-in-aid is paid under section 10 or a loan has been granted under the said section;

“government school” means any school established and maintained or deemed to have been established and to be maintained under section 6;

“handicapped child” means any person who has attained the age of three years, but not yet the age of twenty-three years, and who, in the opinion of the Secretary, deviates to such an extent from the majority of persons of his age in body, mind or behaviour that he -

- (a) cannot derive sufficient benefit from the instruction provided in the ordinary course of education;
- (b) requires special education to facilitate his adaptation to the community;
- (c) should not attend an ordinary class in an ordinary school, because such attendance may be harmful to himself or to other persons in that class, but is nevertheless educable and will derive sufficient benefit from special education;

“legislative authority” means a legislative authority as contemplated in the Representative Authorities Proclamation, 1980 (Proclamation AG. 8 of 1980);

[AG 8 of 1980 was repealed by the Namibian Constitution.]

“mentally retarded child” means any person who has attained the age of three years, but not yet the age of twenty-three years, and who, in the opinion of the Secretary, cannot derive sufficient benefit from a course of education, but is nevertheless trainable and may derive sufficient benefit from special education;

[The word “attained” is misspelt in the *Official Gazette*, as reproduced above.]

“nursery school” means any school in which informal education is provided to children who has attained the age of three years, but who has at the beginning of any year concerned not yet attained the age of seven years;

“officer” means any person who, in whatever capacity, occupies a post which constitutes part of or is additional to the fixed establishment of the Department or of any department established for any particular population group under section 3 of the Government Service Act, 1980 (Act 2 of 1980);

[The Government Service Act 2 of 1980 has been replaced by the Public Service Act 13 of 1995.]

“population group” means any population group contemplated in section 3 of the Representative Authorities Proclamation, 1980 (Proclamation AG. 8 of 1980);

[AG 8 of 1980 was repealed by the Namibian Constitution.]

“prescribed” means prescribed by regulation;

“primary school” means a school, or that part of a school, in which formal education to a standard not higher than the fourth standard, is provided;

“regulation” means any regulation made under this Act;

“representative authority” means a representative authority as contemplated in the Representative Authorities Proclamation, 1980 (Proclamation AG. 8 of 1980);

[AG 8 of 1980 was repealed by the Namibian Constitution.]

“school” means any institution or place or any part of any institution or place, in, at or by which education is provided to children or others and includes any nursery school, special school and school clinic;

“secondary school” means a school, or that part of a school, in which formal education from a standard higher than the fourth standard to a standard not higher than the tenth standard, is provided;

“Secretary” means the Secretary for National Education;

“special education” means education of a specialised nature, including -

- (a) psychological, medical, dental, paramedical and therapeutic treatment including the performance of operations);

- (b) the provision of artificial medical aids and apparatus;
- (c) care in a school hostel, hospital or other institution;
- (d) transport, escort and other service.

provided to meet the needs of a mentally retarded or handicapped child with regard to education and training;

[The word “special” is misspelt in the *Official Gazette*, as reproduced above.]

“special school” means a school in which special education is provided, either on a full-time or on a part-time basis, to mentally retarded or handicapped children, and includes any class, attached to any other school, in which special education is so provided to such children;

“teacher” means the principal of a school and any other person who occupies a post which constitutes part of or is additional to the teaching establishment of a school;

“territory” means the territory of South West Africa;

“this Act” includes the regulations.

Application of Act

- 2. (1) This Act shall apply to -
 - (a) all education other than education which is, under any law, provided by, or subject to the control of, any representative authority;
 - (b) all schools in which education to which this Act applies, is provided.
- (2) Such minimum standards and minimum requirements as may, in relation to -
 - (a) courses of study and syllabuses;
 - (b) the conduct of examinations; and
 - (c) the form and issue, in respect of examinations, of certificates,

in respect of education in schools and other institutions in the territory generally, be prescribed under this Act, shall, notwithstanding the provisions of subsection (1) or any other law, apply in relation to all schools and the provision of all education in the territory.

Control of Education

[The word “Education” in the heading should not be capitalised.]

3. The control of, and the exercise of all powers and performance of all functions which are necessary for, or connected with, education to which this Act applies and the promotion thereof, shall vest in and be the responsibility of the Department, which shall exercise and perform such control, powers and functions subject to the provisions of this Act and the control and directions of the Administrator-General.

[The word “Department” is misspelt in the *Official Gazette*, as reproduced above.]

Determination of education policy

4. The Administrator-General shall from time to time after consultation with the council and consideration of such advice, recommendations and reports in connection therewith as he may receive from the council, determine the general policy in respect of education to which this Act applies within the framework of the following principles, namely -

- (a) that such education in government schools and government-aided schools shall have a Christian character, but that the religious conviction of those persons to whom education is provided in such schools, and their parents in so far as such persons are minors, shall be respected in relation to religious instruction and religious ceremonies;
- (b) that such education shall have a broad national character within which -
 - (i) the cultivation of a healthy sentiment of undivided love for and loyalty to the common fatherland;
 - (ii) the fostering of national solidarity between the different population groups in the territory; and
 - (iii) the cultivation of appreciation for the own language, culture and traditions, as well as those of all other population groups in the territory,shall be pursued;
- (c) that the universally accepted educational principle that the mother tongue shall be the medium of instruction shall be applied as far as possible but at least up to and including the first standard;
- (d) that it shall be the ideal to make free tuition (including free school books and stationery) available to all children in the territory between the ages of six and sixteen years;
- (e) that it shall be the ideal that all children in the territory between the ages of six and sixteen years shall be subject to compulsory school attendance;
- (f) that the ability, aptitude and interest of the person to whom education is provided and the needs of the country in relation to trained workers shall be taken into account in the provision of education:
- (g) that, having regard to the matters mentioned in paragraph (f), appropriate guidance shall be given to those to whom education is provided;
- (h) that the active involvement of parents and communities shall be given a place in the education system;
- (i) that suggestions and recommendations of teachers' associations recognised under this Act shall be considered when planning for purposes of education.

National Education Council

5. (1) There is hereby established a council to be known as the National Education Council for South West Africa.

- (2) The council shall consist of -
- (a) the Secretary, who shall also be the chairman of the council, and two other officers occupying professional posts constituting part of the establishment of the head office of the Department and designated for the purpose by the Administrator-General;
 - (b) the head of every other education authority and one other officer occupying a professional post constituting part of the establishment of the head office of such education authority and designated for the purpose by the executive authority concerned.
- (3) (a) The council shall -
- (i) advise the Administrator-General and make recommendations to him in regard to the general policy in respect of education to be determined by him in terms of section 4;
 - (ii) advise the Administrator-General and make recommendations to him in regard to any other matter relating to education which the Administrator-General may refer to the council for its advice and recommendations;
 - (iii) report to the Administrator-General on any matter relating to education which the Administrator-General may refer to the council for investigation and such report.
- (b) The Administrator-General may -
- (i) in his discretion, make any advice, recommendations and report which the council may furnish or make to him in terms of paragraph (a), available to any representative authority requesting him to do so;
 - (ii) at the request of any representative authority refer any matter relating to the provision of education to members of the particular population group to the council for its advice and recommendations or for investigation and report to the said representative authority.
- (4) (a) The council may, in order to achieve its objects -
- (i) appoint committees of the council, of which persons other than members of the council may be members; and
 - (ii) assign any power or function granted to or imposed upon it by or under this Act, to any committee so appointed.
- (b) The assignment of any power or function under paragraph (a) shall not divest the council of such power or function and the council may at any time amend, rescind or substitute any advice, recommendation or report furnished or made by any such committee under any such assignment.
- [The word "recommendation" is misspelt in the *Official Gazette*, as reproduced above.]**
- (c) The council may at any time withdraw the appointment of any such committee or the assignment of any such- power or function.

- (5) (a) The first meeting of the council shall be held at a time and place to be determined by the Administrator-General and all subsequent meetings of the council shall be held at such times and places as the council or, if authorised thereto by the council, the chairman of the council, may determine.
- (b) A majority of the members of the council shall form a quorum at a meeting of the council.
- (c) The chairman of the council shall preside at all meetings of the council and if he is absent from any such meeting the members present shall elect one of their number to preside at that meeting.
- (d) The decision of a majority of the members present at a meeting of the council, shall be the decision of the council: Provided that in the event of an equality of votes the person presiding at such meeting shall have a casting vote in addition to his deliberative vote.
- (e) (i) The provisions of this subsection shall *mutatis mutandis* apply to meetings of committees of the council: Provided that the chairman of any such committee shall be appointed by the council and the first meeting of such committee shall be held at a time and place to be determined by the council or, if authorised thereto by the council, the chairman of the council.
- (ii) Those members of any committee of the council who are not in full-time government service, may be paid such allowances, including allowances in respect of travel and subsistence costs, as the Administrator-General may from time to time determine after consultation with the Government Service Commission.
- (f) The procedure at a meeting of the council and any committee of the council shall, subject to the provisions of this subsection, be as determined by the council or such committee.
- (6) The administrative, clerical and secretarial work involved in the performance of the functions and the exercise of the powers of the council or a committee of the council shall be performed by officers of the Department designated for the purpose by the Secretary.

Establishment and maintenance of schools by Administrator-General

6. (1) The Administrator-General may from time to time establish and erect -
- (a) nursery schools;
- (b) primary schools;
- (c) secondary schools;
- (d) special schools;
- (e) schools of any other nature which as he may, for the provision of education, deem necessary or desirable;
- (f) centres or classes for the provision, on a part-time basis, of education to adults;

- (g) such hostels, school clinics and other accessories as he may deem necessary or expedient for or in connection with any school, centre or class contemplated in this subsection or for or in connection with education, either generally or of a specific nature,

and maintain such schools, centres, classes, hostels, school clinics and accessories.

(2) Any school and any centre or class for the provision of education to adults which was immediately prior to the commencement of this Act maintained by the Department under any law repealed by section 38, and any hostel, school clinic and accessories which were immediately prior to the said commencement used or maintained by the Department for or in connection with any such school, centre or class or for or in connection with purposes of education, shall as from such commencement be deemed to be a school, centre, class, hostel, school clinic or accessories established and maintained under the appropriate provision of subsection (1).

- (3) The Administrator-General may -
 - (a) divide schools established and maintained or deemed to have been established and to be maintained under subsection (1) into such sections as he may determine;
 - (b) classify schools established and maintained or deemed to have been established and to be maintained under paragraph (e) of the said subsection (1) in such categories as he may determine;
 - (c) combine two or more different schools referred to in the said subsection (1) or two or more different types or categories of such schools into one school,

and may at any time amend or withdraw any such division, classification or combination.

(4) The Cabinet may at any time, for the period it deems necessary or for an indefinite period close or disestablish any school, centre, class, hostel, school clinic or accessories established or deemed to have been established under subsection (1): Provided that the Cabinet shall, before disestablishing any school for which a school committee or advisory board has been established, notify such school committee or advisory board of its intention to do so and afford such school committee, or advisory board the opportunity of making representations with regard thereto to the Cabinet in such manner as the Cabinet may determine.

[subsection (4) amended by Act 12 of 1988]

Certain community schools to become government schools

7. (1) Any community school which was immediately prior to the commencement of this Act managed and controlled by a regional, local or domestic council, board or other body established under section 12(1) of the Black Education Act, 1953 (Act 47 van 1953), and -

- (a) which was immediately prior to the commencement of this Act subsidised by the Administrator-General; or
- (b) to the maintenance of which (including any hostel or school clinic attached thereto and any other accessories thereof) the Administrator-General immediately prior to the commencement of this Act granted assistance

under section 6 of the said Black Education Act, 1953, and any hostel and school clinic attached thereto and any other accessories thereof, shall as from the said commencement become a

government school and a hostel, school clinic and accessories which shall be deemed to have been established and to be maintained under the appropriate provision of section 6(1).

(2) Any regional, local or domestic council, board or other body to which the management and control of any school referred to in subsection (1) had been entrusted and which existed immediately prior to the commencement of this Act shall at such commencement be dissolved and all the assets and liabilities, rights and obligations, if any, which immediately prior to such commencement vested in such council, board or other body, shall as from such commencement vest in the Department.

(3) Any teacher who, on the date immediately prior to the date referred to in subsection (1) occupied a post constituting part of the teaching establishment of any school which in terms of the said subsection (1) becomes a government school shall, unless the Administrator-General directs otherwise, be deemed, with effect from the date referred to in the said subsection (1), to have been appointed to a corresponding post constituting part of the teaching establishment of a government school on probation in terms of and subject to the provisions of this Act: Provided that any such teacher who does not possess the minimum qualifications or comply with the other requirements for appointment to the last-mentioned post laid down by or under this Act, or has already attained the age of sixty years, shall be deemed to have been temporarily so appointed.

(4) The salary of any teacher deemed, in terms of subsection (3), to have been appointed to a post constituting part of the teaching establishment of a government school shall as from the date with effect from which he is deemed to have been so appointed, be adjusted to such notch of the salary scale applicable to such post as the Administrator-General may upon the recommendation of the Government Service Commission determine.

(5) Any continuous full-time teaching service of any teacher referred to in subsection (3) immediately prior to the date with effect from which he is in terms of the said subsection (3) deemed to have been appointed to a post constituting part of the teaching establishment of a government school, shall for leave purposes be deemed to have been service in a post constituting part of the teaching establishment of a government school and all sick and accumulative vacation leave to which such teacher was entitled on the said date shall be deemed to be such leave accrued in terms of this Act.

[The word “accumulative” is misspelt in the *Official Gazette*, as reproduced above.]

(6) Any disciplinary proceedings in respect of misconduct committed by any teacher referred to in subsection (3) prior to the date contemplated in subsection (1) may be instituted or proceeded with by the Department after the said date as if the said misconduct had been committed after such date.

Admission and readmission of persons to government schools or hostels attached thereto

- 7A.** (1) Notwithstanding anything to the contrary contained in this Act -
- (a) any person desiring that education or boarding be provided to him in, at or by any government school or hostel attached thereto, shall apply for admission to that school or hostel;
 - (b) every pupil of any government school and every resident of any hostel attached to any government school, shall apply annually for admission to that government school or hostel.

National Education Act 30 of 1980

(2) The Cabinet may at any time after any government school or hostel attached thereto has been closed under section 6(4), require that any person who was a pupil or resident of that government school or hostel when it was so closed and who desires that education or boarding in, at or by that school or hostel be provided to him or be continued, shall apply afresh for admission to such school or hostel.

- (3) (a) The Cabinet may, notwithstanding anything to the contrary contained in this Act, in its discretion, grant or refuse any application for the admission of any person to any government school or hostel attached thereto.
- (b) In granting any application in terms of this subsection, the Cabinet may impose the conditions determined by it in every case or generally.
- (4) (a) The Cabinet may, notwithstanding anything to the contrary contained in this Act, at any time, for the reasons it deems sufficient, withdraw the admission of any person or any category of persons or persons generally to whom education or boarding is provided in, at or by any government school or hostel attached thereto.
- (b) Any person whose admission is withdrawn under this subsection, shall apply afresh for admission thereto if he desires that education or boarding be provided to him in, at or by any government school or hostel attached thereto.
- (c) The provisions of subsection (3) shall *mutatis mutandis* apply in relation to any application referred to in paragraph (b).

[section 7A inserted by Act 12 of 1988]

Establishment of school committees and advisory boards for government schools

8. (1) The Administrator-General shall establish a school committee or advisory board for every government school of such categories as he may from time to time determine as soon after the establishment of any such school as circumstances may in his opinion justify the establishment thereof.

(2) The constitution, qualifications and disqualifications for membership, manner of appointment and term of office of members, powers, duties and functions and procedure at meetings, of school committees and advisory boards, shall be as prescribed.

(3) Those members of a school committee or advisory board who are not in full-time government service may be paid such allowances, including allowances in respect of travel and subsistence costs, as the Administrator-General may from time to time determine after consultation with the Government Service Commission.

[The word "consultation" is misspelt in the *Official Gazette*, as reproduced above.]

(4) The Administrator-General may at any time if sufficient reasons therefor in his opinion exist, disestablish any school committee or advisory board for any particular government school or withdraw such powers, duties and functions thereof as he may in such particular case determine, from such school committee or advisory board and entrust such powers, duties and functions to any other person to be exercised and performed by him on behalf of such school committee or advisory board for such period and subject to such conditions as the Administrator-General may determine: Provided that the Administrator-General shall, before so disestablishing any such school committee or advisory board or so withdrawing any power, duty or function therefrom, notify such school committee or advisory board of his intention to do so and afford such school committee or advisory board the

opportunity of making representations with regard thereto to the Administrator-General in such manner as the Administrator-General may determine: Provided further that the Administrator-General shall as soon as circumstances may in his opinion permit, establish a school committee or advisory board for the government school concerned again or entrust the powers, duties and functions withdrawn from a school committee or advisory board under this subsection, or so much thereof as he may think fit, to such school committee or advisory board again.

(5) Any power, duty or function of any school committee or advisory board exercised or performed by any person to whom such power, duty or function had been entrusted under subsection (4), shall for the purposes of this Act be deemed to have been exercised or performed by the school committee or advisory board concerned.

Registration of schools

9. (1) No person shall provide education to which this Act applies otherwise than in a government school or in a school which has been registered under this section, unless exemption from such registration has been granted to him by or under the regulations.

(2) Any person desiring to have a school registered under this section shall apply therefor to the Administrator-General and shall lodge such application with the Department.

(3) The Administrator-General may, in his discretion, grant or refuse any application in terms of subsection (2).

(4) Whenever the Administrator-General grants any application under subsection (3) he shall issue a registration certificate to that effect to the applicant.

(5) (a) The registration of a school under this section shall be subject to such conditions and restrictions as the Administrator-General may in his discretion impose.

(b) The Administrator-General may at any time in his discretion -

(i) amend or withdraw any conditions and restrictions imposed under this section;

(ii) add any further conditions and restrictions to any conditions and restrictions imposed under this section;

(iii) withdraw the registration of any school if any condition or restriction to which such registration is subject is, in his opinion, not complied with or if in his opinion there are other sufficient reasons for such withdrawal:

Provided that the Administrator-General shall before so amending any such conditions or restrictions or adding any further conditions or restrictions thereto or so withdrawing the registration of any school, notify the person to whom the registration certificate in respect of the school concerned was issued of his intention to do so and afford him the opportunity of making representations with regard thereto to the Administrator-General in such manner as the Administrator-General may determine.

(6) (a) No person to whom a registration certificate was issued under this section, shall entrust the control or management of the school in respect of which such registration certificate was issued to any other person without having first obtained the written approval of the Administrator-General to do so.

- (b) The provisions of subsections (2), (3), (4) and (5) shall apply *mutatis mutandis* in relation to the written approval referred to in paragraph (a).

(7) Any person, including any member of the governing body and any teacher of a school, who contravenes or fails to comply with any provision of this section or any condition or restriction imposed under this section, shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

(8) Any person convicted of an offence in terms of this section who, after such conviction, persists in the conduct or omission constituting such offence, shall be guilty of a continuous offence and liable on conviction to a fine not exceeding fifty rand or to imprisonment for a period not exceeding fourteen days or to both such fine and such imprisonment in respect of every day he so persists.

Subsidies, grants-in-aid and loans to registered schools

10. (1) The Administrator-General may out of moneys appropriated for that purpose by law -

- (a) grant subsidies or make grants-in-aid; and
- (b) grant loans,

to any school registered under section 9.

(2) Any subsidy, grant-in-aid or loan contemplated in subsection (1) may also be so granted or made in respect of any hostel attached to the school to which such subsidy, grant-in-aid or loan is granted or made.

(3) Subsidies, grants-in-aid and loans referred to in subsection (1) shall be subject to such conditions as may be prescribed and such further conditions as the Administrator-General may in each particular case impose.

- (4) The Administrator-General may at any time in his discretion -
- (a) amend or withdraw any conditions imposed under this section or add any further conditions to such conditions:
 - (b) terminate, reduce or withdraw any subsidy, grant-in-aid or loan referred to in subsection (1) if, in his opinion, any condition to which such subsidy, grant-in-aid or loan is subject, is not being complied with or if, in his opinion, there are other sufficient reasons for doing so:

Provided that the Administrator-General shall, before so amending any such conditions or adding any further conditions thereto or so terminating, reducing or withdrawing any such subsidy, grant-in-aid or loan, notify the managing body of the school concerned of his intention to do so and afford it the opportunity of making representations with regard thereto to the Administrator-General in such manner as the Administrator-General may determine.

Transfer of registered schools to Department

11. (1) The Administrator-General may at any time at the request or with the concurrence of the managing body thereof transfer any school registered under section 9, or any part thereof, or the control, maintenance and management of any such school or part thereof to

the Department on such conditions and with effect from such date as may be mutually agreed upon.

(2) As from the date contemplated in subsection (1) the school or part of a school referred to in the said subsection shall be deemed to be a government school established and maintained under the appropriate provisions of section 6 and all the assets and liabilities, rights and obligations in respect of such school or part of a school which immediately prior to the said date vested in the managing body of the school concerned shall, subject to the conditions referred to in subsection (1), vest in the Department: Provided that any property so vesting in the Department which is subject to any condition of any trust, donation or bequest, shall be dealt with in accordance with such condition.

(3) The provisions of section 7(3) and (4) shall apply *mutatis mutandis* in relation to any teacher who, on the date immediately prior to the date contemplated in subsection (1) occupied a post constituting part of the teaching establishment of any school or any part of a school transferred to the Department under subsection (1) or the control, maintenance and management of which is so transferred to the Department.

(4) Any continuous full-time teaching service of any teacher referred to in subsection (3) immediately prior to the date with effect from which he is in terms of the said subsection deemed to have been appointed to a post constituting part of the teaching establishment of a government school (excluding any such service at any school which is not a government school or a government-aided school) shall for leave purposes be deemed to have been service in a post constituting part of the teaching establishment of a government school and all sick and accumulative vacation leave to which such teacher was entitled on the said date shall, subject to such conditions as the Administrator-General may on the recommendation of the Government Service Commission impose, be deemed to be such leave accrued in terms of this Act.

Transfer or schools from representative authorities to Departement

[The word "Department" is misspelt in the *Official Gazette*, as reproduced above. The phrase "Transfer or schools" should be "Transfer of schools".]

12. (1) The Administrator-General may at any time at the request or with the concurrence of the executive authority of any representative authority and on such conditions and with effect from such date as may be mutually agreed upon, transfer any school maintained by such representative authority under any law to the Department if such school no longer provides for or is no longer being used or needed for the provision of education, under such law, to members of the particular population group.

(2) As from the date contemplated in subsection (1) the school referred to in the said subsection shall be deemed to be a government school established and maintained under the appropriate provision of section 6 and the administrative control and all rights, powers, duties, obligations and functions in relation to the said school and the ownership and control of all movable and immovable property being used in relation to the said school which on the day immediately prior to the said date vested in the executive authority, or any member thereof, or the education authority of the representative authority concerned, shall, unless otherwise agreed, vest in the Administrator-General or, as the case may be, the Department.

(3) The provisions of section 7(3), (4) and (5) shall, unless otherwise agreed, apply *mutatis mutandis* in relation to any teacher who, on the date immediately prior to the date contemplated in subsection (1), occupied a post constituting part of the teaching establishment of any school transferred to the Department under the said subsection (1).

[sections 13-24 deleted by AG 39 of 1984]

Teaching establishments of government-aided schools and provisions in relation to teachers of such schools

25. (1) The teaching establishment of a government-aided school shall from time to time be determined by the Secretary on a basis to be laid down from time to time by the Administrator-General on the recommendation of the Government Service Commission.

(2) The power to appoint teachers to posts constituting part of the teaching establishment of any government-aided school and to promote and discharge such teachers shall, subject to the provisions of this Act, vest in the governing body of the school concerned but shall be subject to the approval of the Secretary, which shall, in the case of the discharge of any such teacher, be obtained in advance: Provided that if the governing body of any such school fails, within such time as the Administrator-General may find reasonable, to appoint a teacher, according to the provisions of this subsection, to any such post in respect of which any subsidy or grant-in-aid is paid under this Act and such failure in the opinion of the Administrator-General will or may possibly be to the detriment of such school, the Administrator-General may appoint any teacher which he may find suitable to such post, upon which the teacher so appointed shall be deemed to have been appointed to such post under this subsection by the governing body of the school concerned.

(3) Every teacher who, immediately prior to the commencement of this Act occupied a post constituting part of the teaching establishment of any government-aided school which is under section 38 deemed to be a government-aided school which has been registered and is aided under this Act, shall, as from the said commencement be deemed to have been appointed to a post constituting part of the teaching establishment of such school under subsection (2): Provided that any such teacher who does not possess the minimum qualifications or comply with the other requirements for appointment to such post laid down by or under this Act, or has already attained the age of sixty years, shall be deemed to have been temporarily so appointed.

(4) Any disciplinary proceedings in respect of misconduct committed by any teacher referred to in subsection (3) prior to the commencement of this Act, may be instituted or proceeded with by the governing body of the school concerned after such commencement as if the said misconduct had been committed after such commencement.

(5) Any teacher appointed or deemed to have been appointed under this section to any post constituting part of the teaching establishment of a government-aided school in respect of which a subsidy or grant-in-aid is paid under this Act shall for the purposes of the Workmen's Compensation Act, 1941 (Act 30 of 1941), be deemed to be a workman employed by the State, unless the Administrator-General in that particular case otherwise directs.

[The word "Workmen's" is misspelt in the *Official Gazette*, as reproduced above.
The Act referred to has been re-named the *Employees' Compensation Act 30 of 1941.*]

(6)

[subsection (6) deleted by AG 39 of 1984]

Examination Board for South West Africa

National Education Act 30 of 1980

26. (1) There shall be a board to be known as the Examination Board for South West Africa.

(2) The powers and functions of the Examination Board shall be to prescribe, in respect of education, other than tertiary education, in schools and other institutions in the territory generally, minimum standards and minimum requirements -

- (a) with which the courses of study and syllabuses under which such education is provided, shall comply;
- (b) for the conduct of examinations;
- (c) in relation to the form and issue, in respect of examinations, of certificates.

(3) The manner in which the minimum standards and minimum requirements referred to in subsection (2) shall be prescribed shall be approved by the Administrator-General.

(4) (a) The Examination Board shall consist of -

- (i) the Secretary and not more than three other officers occupying professional posts constituting part of the establishment of the head office of the Department and designated for the purpose by the Administrator-General: Provided that if the Secretary or any officer so designated is for any reason unable to perform his duties as a member of the Examination Board, the Secretary may direct any other officer occupying a professional post constituting part of the establishment of the head office of the Department so to act in his stead;
- (ii) the head of every other education authority or another officer occupying a professional post constituting part of the establishment of the head office of such education authority and designated by the said head, whether generally or for any particular period or meeting, to act in his stead;
- (iii) one member nominated by the council of the Academy for Tertiary Education; and
- (iv) not more than five other members appointed by the Administrator-General.

(b) The Secretary shall be the chairman and an officer referred to in subparagraph (i) of paragraph (a) who has been designated for the purpose by the Administrator-General shall be the deputy chairman of the Examination Board.

(5) (a) The Administrator-General may at any time withdraw any designation under subsection (4)(a)(i) and, subject to the provisions of the said subsection 4(a)(i), designate any other member in the place of the member whose designation has been so withdrawn.

(b) The member of the Examination Board referred to in subsection (4)(a)(iii) shall hold office at the pleasure of the council of the Academy for Tertiary Education.

(c) Any member of the Examination Board referred to in subsection (4)(a)(iv) shall hold office at the Administrator-General's pleasure.

(6) Those members of the Examination Board who are not in full-time government service may be paid such allowances, including allowances in respect of travel and subsistence

costs, as the Administrator-General may from time to time determine after consultation with the Government Service Commission.

[The word “consultation” is misspelt in the *Official Gazette*, as reproduced above.]

- (7) (a) The first meeting of the Examination Board shall be held at a time and place to be determined by the Administrator-General and all subsequent meetings of the Examination Board shall be held at such times and places as the Examination Board may determine: Provided that the chairman of the Examination Board may at any time convene a meeting of the Examination Board at a time and place determined by him.
- (b) A majority of the members of the Examination Board shall form a quorum at any meeting of the Examination Board.
- (c) The chairman of the Examination Board or in his absence the deputy chairman of the Examination Board shall preside at any meeting of the Examination Board and if both the chairman and deputy chairman are absent from any such meeting the members present shall elect one of their number to preside at that meeting.
- (d) The decision of a majority of the members present at a meeting of the Examination Board, shall be the decision of the Examination Board: Provided that in the event of an equality of votes the person presiding at such meeting shall have a casting vote in addition to his deliberative vote.
- (e) The procedure at any meeting of the Examination Board shall, subject to the provisions of this subsection, be as determined by the Examination Board.
- (8) (a) The administrative and clerical work involved in the performance of the functions and the exercise of the powers of the Examination Board shall be performed by officers of the Department made available for that purpose.
- (b) The Examination Board may designate an officer referred to in paragraph (a) to be the secretary of the Examination Board.
- (9) (a) The Examination Board shall not incur any expenses without the prior approval of the Administrator-General granted on such basis as may from time to time be agreed to by the executive authorities concerned.
- (b) Expenses incurred by the Examination Board shall be divided proportionately between the education authorities concerned on such basis as the Administrator-General may from time to time determine with the concurrence of the executive authorities concerned.

[The word “authorities” is misspelt in the *Official Gazette* in the phrase “education authorities”, as reproduced above.]

- (c) The Secretary may pay any expenses incurred by the Examination Board out of moneys appropriated for that purpose by law and may recover any amount so paid from the education authorities concerned according to the division referred to in paragraph (b).
- (d) The Secretary shall pay any amount recovered in terms of paragraph (c) into the fund or account from which he made the payment referred to in the said paragraph (c).

School calendar and hours of instruction

27. (1) The Secretary shall determine the school calendar and hours of instruction to be observed in schools.

(2) Different school calendars and hours of instruction may be determined under subsection (1) in respect of -

- (a) different categories of schools;
- (b) schools in different areas;
- (c) different schools in any category referred to in paragraph (a) or any area referred to in paragraph (b);
- (d) different sections of the same school or any particular category of schools.

(3) The Secretary may, in his discretion, approve of departures from the school calendar determined under this section, whether in respect of schools generally or in respect of any particular school or schools.

Compulsory school attendance

28. (1) The Administrator-General may from time to time by notice in the *Official Gazette* declare that the regular attendance of a school of a category or nature specified in such notice shall be compulsory for every person who -

- (a) is a member of any population group for which no representative authority had been established or the legislative authority of which may not make laws in relation to the matter defined in Item 3(1) of the Schedule to the Representative Authorities Proclamation, 1980 (Proclamation AG. 8 of 1980); and

[AG 8 of 1980 was repealed by the Namibian Constitution.]

- (b) belongs to an age group specified in the said notice; and
- (c) resides in an area defined in the said notice; and
- (d) has not by or under the regulations been exempted from the obligation to attend a school regularly.

(2) The parent or guardian of any person for whom the regular attendance of a school is compulsory by virtue of a declaration under subsection (1), or the person in whose custody or care such person is, shall see to it that such person attend a school of the category or nature so specified regularly unless such person, owing to some reasonable cause, is unable to attend a school regularly.

[The word "person" is misspelt in the *Official Gazette* in the phrase "any person", as reproduced above.]

(3) Any person who, without reasonable cause, contravenes or fails to comply with any provision of subsection (2), shall, subject to the provisions of subsection (5), be guilty of an offence and liable on conviction -

National Education Act 30 of 1980

- (a) in the event of a first conviction to a fine not exceeding two hundred and fifty rand or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment;
- (b) in the event of a second or subsequent conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.
- (4) Any person who -
 - (a) during the normal hours of school attendance employs any person for whom the regular attendance of a school is compulsory by virtue of a declaration under subsection (1), or provides employment to or makes use of the services of any such person, whether for remuneration or otherwise, or harbours any such person; or
 - (b) refuses or fails to furnish to any officer authorised by the Secretary to make any investigation in regard to the regular school attendance of any person for whom the regular attendance of a school is compulsory by virtue of a declaration under subsection (1), such information as such officer may reasonably require for or in connection with such investigation; or
 - (c) hinders, obstructs or handicaps any officer referred to in paragraph (b) in the conduct of any investigation contemplated in the said paragraph (b),

shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

- (5) Notwithstanding anything to the contrary contained in any law, no prosecution for any offence in terms of subsection (3) shall be instituted unless -
 - (a) a period of six months has elapsed since the date on which the notice referred to in subsection (1) was published in the *Official Gazette*; and
 - (b) the Secretary has in writing directed the parent or guardian or person in whose custody or care the person concerned is, as contemplated in subsection (2), to see to it that the person concerned regularly attend a school of the category or nature specified.

Tuition and boarding fees

29. (1) Subject to anything to the contrary contained in this section, all tuition provided in government schools, including all school books, educational material and other school requisites provided for or in connection with such tuition, shall be so provided free of charge.

- (1*bis*) (a) The Cabinet may, subject to the provisions of paragraphs (b), (c) and (d), from time to time determine the fees in respect of the admission or readmission of persons to schools or hostels contemplated in section 7A.
- (b) The Cabinet may, when it determines the fees contemplated in paragraph (a), and without derogating from the generality of the said determination, take into account, in particular or generally, the expenditure incurred or determined prior or after the commencement of the National Education Amendment Act, 1988, for the maintenance of or the reparation of damage to any school or hostel concerned.

National Education Act 30 of 1980

- (c) Any person who applies for admission or readmission, or the person responsible for the maintenance of such person, shall pay the fees referred to in paragraph (a), at the time, place and in the manner determined by the Secretary.
- (d) Fees determined under this subsection -
 - (i) shall be displayed at any prominent place at the school or hostel concerned;
 - (ii) shall be payable in addition to and not in substitution for any other fees payable in terms of this section.

[subsection (1bis) inserted by Act 12 of 1988]

- (2) (a) The free tuition referred to in subsection (1) shall in no case include tuition in -
 - (i) any special course of study which does not form part of the normal school curriculum at the school concerned;
 - (ii) any ordinary course of study which is not taken by a pupil as part of his normal school curriculum.
- (b) Any person to whom tuition referred to in subparagraph (i) or (ii) of paragraph (a) is provided, or the person responsible for the maintenance of such person shall, in respect of the provision of such tuition and the books and other requisites supplied in connection with such tuition, pay such fees as the Administrator-General may from time to time determine.

(3) Any person to whom education is provided in any centre or class referred to in section 6(1)(f), or the person responsible for the maintenance of such person, shall, in respect of the provision of such education, pay such fees as the Administrator-General may from time to time determine.

(4) If the parent or guardian of any pupil of any government school or any government-aided school or the person in whose custody or care such pupil is, does not reside in the territory, such parent, guardian or person or the other person responsible for the maintenance of the said pupil shall pay such fees as the Administrator-General may from time to time determine in respect of the education, including school books, educational material and other school requisites for or in connection with such education, provided to such pupil by or at such government school or government-aided school.

(5) Any person to whom boarding is provided in any hostel managed, controlled and maintained under this Act, or the person responsible for the maintenance of any such person, shall, in respect of the provision of such boarding pay such fees as the Administrator-General may from time to time determine.

- (6) Different fees may be determined in respect of -
 - (a) different schools contemplated in subsection (1bis);
 - (b) different courses of study in which tuition contemplated in subsection (2)(a) is provided;

- (c) different centres or classes contemplated in subsection (3) or different courses provided in, at or by such centres or classes;
- (d) different persons or categories of persons to whom education or boarding contemplated in this section is provided;
- (e) different hostels or categories of hostels in which boarding contemplated in this section is provided.

[subsection (6) amended by Act 12 of 1988 to insert paragraph (a)]

(7) The Administrator-General may exempt any person or any category of persons by or in respect of whom any fees are payable in terms of this section from payment of such fees, whether wholly or partly, and on such conditions as he may determine.

Financial and other assistance for education and training

30. The Administrator-General may, on such basis and conditions as he may from time to time determine and out of moneys appropriated for that purpose by law, grant financial assistance or any other material assistance or both such financial assistance and such other material assistance to -

- (a) any person residing in the territory who is a pupil of any government school or any government-aided school;
- (b) any student of the Academy for Tertiary Education;
- (c) any person who is a student at any university approved by the Administrator-General;
- (d) any person who is not a pupil or student referred to in paragraph (a), (b) or (c),

for such education and training as the Administrator-General may determine in that particular case or generally from time to time.

Inspections and investigations in relation to education and schools

31. (1) The Secretary may at any time make such inspection or investigation as he may deem necessary or expedient -

- (a) at or in relation to any school to which the provisions of this Act apply and any hostel, school clinic or other accessories established and maintained for or in connection with any such school or education generally;
- (b) in relation to the education and the services and facilities provided in, at or by any school, hostel or school clinic referred to in paragraph (a) and any other activities of or at any such school, hostel or school clinic;
- (c) of or in relation to the teachers and other staff of, and the persons to whom education, boarding or any other facility or service is provided in or at, any school, hostel or school clinic referred to in paragraph (a);
- (d) any other matter which, in his opinion, ought to be inspected or investigated in order to ascertain whether the provisions of this Act are being complied with,

or cause any such inspection or investigation to be made by any other person authorised thereto by him.

(2) Any person carrying out any inspection or investigation referred to in subsection (1), may at any reasonable time -

- (a) for the purposes of such inspection or investigation enter any school, hostel or school clinic to which such inspection or investigation has any relation;
- (b) interrogate any person who, in his opinion, may possibly be able to furnish any information which may be of any relevance to such inspection or investigation;
- (c) by written document signed by him direct any person who, in his opinion, may possibly be able to produce anything or to furnish any information which may be of any relevance to such inspection or investigation, to produce such thing or to furnish such information to the person and at the time and place mentioned in such written document.

(3) Any person who -

- (a) obstructs, hinders, handicaps or disturbs the Secretary or any other person authorised by him to carry out an inspection or investigation referred to in subsection (1) when carrying out such inspection or investigation;

[The word "handicaps" is misspelt in the *Official Gazette*, as reproduced above.]

- (b) prevents any person referred to in paragraph (a) from entering, or refuses or fails to allow him to enter, any premises in accordance with the provisions of subsection (2)(a) for the purposes of any inspection or investigation referred to in the said subsection (2)(a);
- (c) refuses or fails to answer any question put to him during any interrogation referred to in subsection (2)(b) to the best of his ability or to any such question gives an answer which is false or incorrect in any material respect, knowing it to be so false or incorrect;
- (d) refuses or fails to produce anything or to furnish any information in accordance with any direction referred to in subsection (2)(c),

shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Medical inspections at schools

32. (1) The Secretary may from time to time after consultation with the Secretary for National Health and Welfare -

- (a) cause such medical, psychological and dental examinations and inspections of -
 - (i) persons to whom education is provided in or at any school to which the provisions of this Act apply;
 - (ii) persons to whom boarding is provided in any hostel to which the provisions of this Act apply;

- (iii) the staff of any school or hostel referred to in subparagraph (i) or (ii);
- (iv) the buildings, premises and accessories of any school or hostel referred to in subparagraph (i) or (ii),

as he may deem necessary or desirable to be carried out;

- (b) take such measures as he may deem necessary or desirable in relation to the health and the physical and mental well-being of the persons referred to in paragraph (a) and the promotion and preservation of hygienic conditions in, at and on the buildings and premises referred to in paragraph (a).

(2) The provisions of section 31(2) and (3) shall apply *mutatis mutandis* in relation to examinations and inspections under subsection (1).

Recognition of teachers' associations

33. The Administrator-General may on such conditions as may be prescribed or as he may in any particular case impose, officially recognise any teachers' association complying with the requirements prescribed for such recognition, and may at any time withdraw any such recognition if, in his opinion, any teachers' association so recognised does not comply or no longer complies with any such requirement or condition: Provided that the Administrator-General shall, before so withdrawing any such recognition, notify the management committee of the teachers' association concerned of his intention to do so and afford it the opportunity of making representations with regard thereto to the Administrator-General in such manner as the Administrator-General may determine.

Regulations

- 34.** (1) The Administrator-General may make regulations -
- (a) in relation to any matter which is, under this Act, required or permitted to be prescribed;
 - (b) subject to the provisions of the Government Service Act, 1980 (Act 2 of 1980), and the regulations made thereunder, in relation to the exercise and performance, by the Secretary and other officers of the Department, of the control, powers and functions contemplated in section 3;

[The Government Service Act 2 of 1980 has been replaced by the Public Service Act 13 of 1995.]

- (c) in relation to the establishment, erection, maintenance, management and control and the closing or withdrawal of the establishment of government schools and of hostels, school clinics and accessories referred to in section 6;
- (d) in relation to the registration of schools in respect of which registration is required in terms of section 9, the exemption of such schools from such registration and the conditions on which such registration shall be made or such exemption may be granted and the conditions to which any such exemption shall be subject;
- (e) in relation to the control of and the management and maintenance of schools registered under section 9;

National Education Act 30 of 1980

(f) in relation to the granting and payment of subsidies, grants-in-aid and loans to schools registered under section 9;

(g) subject to the provisions of section 25, in relation to -

[introductory phrase of paragraph (g) amended by AG 39 of 1984]

(i) the appointment of teachers to posts constituting part of the teaching establishments of government-aided schools and the grading, promotion and termination of service of such teachers;

[subparagraph (i) amended by AG 39 of 1984]

(ii) the conditions of service, discipline and behaviour (including provisions in relation to inefficiency and misconduct), privileges (including leave privileges), powers, duties, functions and hours of attendance of and the payment of travelling, subsistence and other allowances and remuneration, if any, for services outside the prescribed hours of attendance to teachers occupying posts constituting part of the teaching establishments of government-aided schools in respect of which a subsidy or grant-in-aid is being paid under this Act, the membership of such teachers of a prescribed medical aid fund or medical aid association, the circumstances and conditions under which they shall or may be required to become and to remain members of any such medical aid fund or medical aid association and the privileges and obligations attached to such membership;

[subparagraph (ii) amended by AG 39 of 1984]

(iii) the salary scales, salaries and allowances of teachers occupying posts constituting part of the teaching establishments of government-aided schools in respect of which a subsidy or grant-in-aid is being paid under this Act;

[subparagraph (iii) substituted by AG 39 of 1984]

(iv) the discharge and retirement of and termination of service by teachers occupying posts constituting part of the teaching establishments of government-aided schools in respect of which a subsidy or grant-in-aid is being paid under this Act.

[Subparagraph (iv) is inserted by AG 39 of 1984. The word "schools" is misspelt in the *Official Gazette*, as reproduced above.]

(h) in relation to compulsory school attendance, exemption from the obligation to attend a school regularly and the conditions to which any such exemption shall be subject;

(i) in relation to inspections and investigations referred to in section 31;

(j) in relation -

(i) to the medical and psychological examination of the teachers of schools and the staff of hostels attached to schools or otherwise maintained under section 6, the circumstances under which such examinations shall be compulsory and the issue of certificates in respect of such examinations;

National Education Act 30 of 1980

- (ii) to the medical, psychological and dental examination of persons to whom education or boarding is provided in schools and in hostels attached to schools or otherwise maintained under section 6 and the circumstances under which such examinations shall be compulsory;
- (iii) to the medical inspection of the buildings of schools and hostels attached to schools or otherwise maintained under section 6 and the circumstances under which such inspections shall be compulsory;
- (iv) subject to the provisions of section 32(2), to the right to enter any school or hostel for the purposes of any examination contemplated in subparagraph (i), (ii) or (iii);
- (v) to the exclusion from any school or from any hostel attached to any school or otherwise maintained under section 6, of any teacher or member of the hostel staff or any person to whom education or boarding is provided there on medical or psychological grounds or on the ground of failure to submit himself to any compulsory medical or psychological examination in terms of this Act;
- (vi) to the health and the physical and mental wellbeing of the staff of, and persons to whom education and boarding are provided in, schools and hostels managed, controlled and maintained or registered under this Act and the promotion and preservation of hygienic conditions in and at such schools and hostels and the buildings and premises thereof;
- (k) in relation to the mental, physical and other examination of any child who is suspected of being a mentally retarded or handicapped child;
- (l) in relation to the registration, by the Department, of persons who qualified themselves as teachers: Provided that the registration of any such person as a teacher under any other law shall not prohibit the registration of the said person as a teacher by virtue of any regulation made under this paragraph;
- (m) in relation to the admission of persons to government schools and government-aided schools and school clinics and hostels attached to any school or school clinic or otherwise maintained under section 6, the conditions to which such admission shall be subject, the control and treatment of persons so admitted, the suspension of or infliction of other punishments to persons so admitted and the circumstances under which persons so admitted may be dismissed from such schools, clinics, and hostels;
- (n) subject to the provisions of section 4(c), in relation to the medium of instruction in schools;
- (o) subject to the provisions of section 4(a), in relation to religious instruction in and religious ceremonies at schools;
- (q) in relation to -
 - [This paragraph should be labelled as (p) instead of (q).]
 - (i) the conducting of examinations;
 - (ii) the times and places for the writing of such examinations;

- (iii) the setting of examination papers for such examinations and the marking of scripts;
- (iv) the appointment, powers, duties, conduct, discipline and conditions of appointment of examiners, moderators, invigilators, secretaries for examination centres and other persons required for or in connection with such examinations;

[The word “invigilators” is misspelt in the *Official Gazette*, as reproduced above.]

- (v) the enrolment of candidates for such examinations;
 - (vi) the conduct of candidates before, during and after such examinations and disciplinary measures in connection therewith; and
 - (vii) the instructions to be complied with by persons concerned in the conducting of such examinations;
- (q) in relation to the establishment, maintenance and control of hostels attached to schools registered under section 9;
 - (r) in relation to the control of moneys collected for or in relation to any government school or any government-aided school or otherwise received by or accrued to any such school;
 - (s) generally in relation to any matter in respect of which the Administrator-General may deem necessary or expedient to make regulations in order to achieve the objects of this Act.

(2) The generality of the power conferred by paragraph (s) of subsection (1), shall not be limited by the provisions of any other paragraph of the said subsection.

(3) Different regulations may be made under subsection (1) in respect of different schools, hostels or school clinics or different kinds or categories of schools or hostels, or schools or hostels in different areas.

(4) Regulations made under subsection (1) may prescribe a penalty of a fine not exceeding five hundred rand or imprisonment for a period not exceeding six months or both such fine and such imprisonment in respect of any contravention thereof or failure to comply therewith.

Delegation of powers, duties and functions

- 35.** (1) (a) The Administrator-General may from time to time delegate any power, duty or function conferred to or imposed upon him by this Act, excluding any such power, duty or function referred to in section 4, 5, 6(4), 8(4), 9(5)(b)(iii), 16(1)(a) and (2), 21, 25(6) in so far as it relates to the determination of salary scales and allowances, 26, 28, 33 and 34, to the Secretary or any officer in the Department on such conditions as he may determine.
- (b) Any delegation under paragraph (a) may be either generally or specifically in respect of any particular case.

National Education Act 30 of 1980

- (c) Any person to whom any power, duty or function has been delegated under paragraph (a) shall exercise such power and perform such duty or function subject to the directions of the Administrator-General and to any conditions imposed under the said paragraph (a).
 - (d) The delegation of any power, duty or function under paragraph (a) shall not divest the Administrator-General of that power, duty or function and the Administrator-General may at any time review any decision made in the exercise of any such power or the performance of any such duty or function under such delegation.
 - (e) The Administrator-General may at any time withdraw the delegation of any power, duty or function under paragraph (a).
- (2) (a) The Secretary may from time to time delegate any power, duty or function conferred to or imposed upon him by or under this Act, excluding any such power, duty or function delegated to him under subsection (1), to any officer in the Department subject to such conditions as he may impose.
 - (b) The provisions of subsection (1)(b), (c) (d) and (e) shall apply *mutatis mutandis* in relation to the delegation of any power, duty or function under paragraph (a) of this subsection, the exercise or performance thereof and any decision made in or at such exercise or performance.

Limitation of actions

36. (1) No legal proceedings of whatever nature shall be brought in respect of anything done or omitted under this Act, unless the proceedings are brought before the expiry of a period of twelve months after the date upon which the claimant had knowledge, or after the date on which the claimant might reasonably have been expected to have knowledge, of that which is alleged to have been done or omitted, whichever is the earlier date.

(2) No such proceedings shall be commenced before the expiry of thirty days after written notice of the intention to bring such proceedings has been served on the defendant, and unless in such notice particulars shall be clearly and explicitly given in relation to that which is alleged to have been done or omitted.

Exclusion of provisions of Workmen's Compensation Act, 1941

37. No pupil of any government school or government-aided school shall for the purposes of the Workmen's Compensation Act, 1941 (Act 30 of 1941), and in connection with his attendance of such school be regarded as a workman as contemplated in that Act or as some other person entitled to payment thereunder.

Repeal of laws

38. (1) Subject to the provisions of subsections (2) and (3), the Black Education Act, 1953 (Act 47 of 1953), and all amendments thereof, as administered by the Department under the direction and control of the Administrator-General immediately prior to the commencement of this Act, and the Examination Board of South West Africa Act, 1979 (Act 6 of 1979), are hereby repealed.

(2) Anything done under any provision of any law repealed by subsection (1) which is not contrary to or inconsistent with any provision of this Act, shall be deemed to have been done under the corresponding provision of this Act.

National Education Act 30 of 1980

(3) Any rights and obligations acquired or incurred by any person under any law repealed by subsection (1) shall, notwithstanding the repeal of such law, but except in so far as this Act expressly provides otherwise, continue to consist as if the said Act had not been repealed.

Short title and commencement

39. This Act shall be called the National Education Act, 1980, and shall come into operation on a date to be determined by the Administrator-General by proclamation in the *Official Gazette*.

[Section 4 of Act 12 of 1988 contains the following transitional provision:

“Anything purporting to have been done by the Cabinet prior to the commencement of this Act **[Act 12 of 1988, which commenced on 26 July 1988]** under any provision of the principal Act **[Act 30 of 1980]** or the regulations promulgated thereunder and which could have been so done under any provision of the principal Act as amended by this Act, and which has not already been set aside by a court of law at the commencement of this Act, shall for all be purposes **[“be purposes” should read “purposes be”]** deemed to have been done in accordance with the provisions of the principal Act **[Act 30 of 1980]** as amended under this Act **[Act 12 of 1988].”**