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KANTOOR VAN DIE STAATSPRESIDENT

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No. 461.

19 Maart 1993

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

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

No. 36 of 1993: Education Affairs Amendment Act (House of Assembly), 1993.

No. 36 van 1993: Wysigingswet op Onderwysaangeleenthede (Volksraad), 1993.

GENERAL EXPLANATORY NOTE:

- [** Words in bold type in square brackets indicate omissions from existing enactments.
- _____** Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Education Affairs Act (House of Assembly), 1988, so as to define or further define certain expressions; to further regulate the transfer of immovable property to state-aided schools; to alter the financial year of state-aided schools; to regulate the closure of state-aided schools; to effect certain textual alterations; and to further regulate the determination of certain establishments; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 11 March 1993.)

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

Amendment of section 1 of Act 70 of 1988, as amended by section 1 of Act 88 of 1991 and section 1 of Act 39 of 1992

1. Section 1 of the Education Affairs Act (House of Assembly), 1988 5
(hereinafter referred to as the principal Act), is hereby amended—
- (a) by the substitution for the definition of “combined school” of the following definition: 5
“ ‘combined school’ means a **[public]** school providing education on levels falling under a primary school as well as levels falling under a secondary school;” 10
- (b) by the substitution for the definition of “pre-primary school” of the following definition: 15
“ ‘pre-primary school’ means a **[public]** school for children of three years and older but who are not yet subject to compulsory school attendance;” 15
- (c) by the substitution for the definition of “primary school” of the following definition: 20
“ ‘primary school’ means a **[public]** school providing education up to but not exceeding the seventh level;” 20
- (d) by the substitution for the definition of “school” of the following definition: 25
“ ‘school’ means a public school, private pre-primary school, private school for specialized education or state-aided school, except—
(a) in sections 51 and 52, where it means a pre-primary school, primary school, combined school or secondary school established in terms of section 12; [or] and 25

- (b) in the definition of 'compulsory school attendance' and sections 2, 11, 53, 54, 55, 57, 59, 60, 61 and 104, where it means a public school, private school or state-aided school;";
- (e) by the substitution for the definition of "secondary school" of the following definition: 5
 " 'secondary school' means a [public] school providing education from not lower than the eighth up to but not exceeding the twelfth level;"; and
- (f) by the insertion after the definition of "subsidize" of the following definition: 10
 " 'subsidized post' means a post for which a subsidy in terms of section 32 must be utilized by virtue of the conditions imposed in terms of the said section;" .

Amendment of section 31A of Act 70 of 1988, as inserted by section 7 of Act 88 of 1991 and amended by section 4 of Act 39 of 1992 15

2. Section 31A of the principal Act is hereby amended—

- (a) by the substitution for the proviso to paragraph (a) of subsection (1) of the following proviso: 20
 "Provided that [except in the case of immovable property sold or otherwise alienated with the approval of the Minister in terms of section 30(2) the ownership of such property shall without payment of compensation by the State revert to the State] if [the] immovable property so vested, in the opinion of the Minister is not being utilized in the interest of education, such immovable property shall without payment of compensation by the State revert to the State;"; and 25
- (b) by the substitution for subsection (3) of the following subsection: 30
 "(3) The officer in charge of a deeds office or other office where the immovable property referred to in subsection (2) is registered, shall, on submission to him of the title deed concerned, make such endorsements on that title deed and such entries in his registers, as may be required to [effect] register the transfer concerned."

Amendment of section 36 of Act 70 of 1988

3. Section 36 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

- "(1) The financial year of a state-aided school shall terminate on the last 35 day of [March] December in each year."

Insertion of section 37A in Act 70 of 1988

4. The following section is hereby inserted in the principal Act after section 37:

"Closure of state-aided schools

37A. (1) If the Minister considers it necessary, he may, after 40 consultation with the governing body of a state-aided school, by notice in the *Gazette* declare that the state-aided school concerned shall be closed from a date mentioned in such notice.

(2) As from the date on which a state-aided school is declared to be closed all assets and liabilities of such school shall, subject to the conditions of a donation, bequest or trust contemplated in section 30(3), devolve upon the State. 45

(3) The Minister shall appoint a person to administer the affairs of the state-aided school concerned.

(4) Immovable property devolving upon the State by virtue of subsection (2) shall be transferred to the State without payment of transfer duty, stamp duty or other moneys or costs. 50

(5) The officer in charge of a deeds registry or other office where the immovable property referred to in subsection (4) is registered, shall,

on submission to him of the title deed concerned, make the necessary endorsements on that title deed and necessary entries in his registers.”.

Amendment of section 50 of Act 70 of 1988

5. Section 50 of the principal Act is hereby amended by the substitution for paragraph (c) of the following paragraph: 5

“(c) a child shall not attend a primary school before the beginning of the year in which he reaches the age of six years, if he reaches the said age before the first day of July of such year, and if a child reaches the age of six years on or after the said date in any year, he may only attend such a school after the end of the year in which he so reached the said age;” 10

Amendment of section 97 of Act 70 of 1988, as amended by section 17 of Act 88 of 1991

6. Section 97 of the principal Act is hereby amended— 15

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

“(1) Subject to the provisions of subsections (2) and (3)—

(a) the establishment in respect of subsidized posts at a state-aided school shall be determined by the Minister on the basis which he, with the concurrence of the Minister of the Budget, may determine; and 20

(b) the power to appoint, promote or discharge any person at a state-aided school shall vest in the governing body, which shall exercise such power with regard to subsidized posts subject to the prior approval of the Minister.”; and 25

(b) by the substitution for subparagraph (iii) of paragraph (a) of subsection (2) of the following subparagraph:

“(iii) the provisions of sections 71, 72 and 73 shall *mutatis mutandis* apply to any person referred to in [subsection (1)] subparagraph (i) of this paragraph.”. 30

Short title and commencement

7. (1) This Act shall be called the Education Affairs Amendment Act (House of Assembly), 1993.

(2) The provisions of section 2 shall be deemed to have come into operation on 19 June 1991. 35