

REPUBLIC OF SOUTH AFRICA

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**PORTFOLIO COMMITTEE AMENDMENTS  
TO  
EDUCATION LAWS AMENDMENT  
BILL**

**[B 48—2000]**

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

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**[B 48A—2000]**

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**AMENDMENTS AGREED TO**  


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**EDUCATION LAWS AMENDMENT BILL**  
**[B 48—2000]**

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CLAUSE 5

Clause rejected.

CLAUSE 8

1. On page 4, in line 6, after “transfer” to insert “in a temporary capacity”.

CLAUSE 12

1. On page 5, in line 5, to omit “An” and to substitute:

Misconduct refers to a breakdown in the employment relationship and an

2. On page 5, from line 6, to omit paragraph (a) and to substitute:

(a) fails to comply with or contravenes this Act or any other statute, regulation or legal obligation relating to education and the employment relationship;

3. On page 5, in line 18, before “prejudices” to insert “unjustifiably”.

4. On page 5, in line 32, after “sex” to insert:

, pregnancy, marital status, ethnic and social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language, birth, family responsibility, HIV status, political opinion

5. On page 5, in line 54, to omit paragraph (v) and to substitute:

(v) prevents other employees from exercising their rights to freely associate with trade unions in terms of any labour legislation;

6. On page 6, in line 15, after “Schedule 1” to insert:

and in accordance with section 7 of the Employment Equity Act, 1998 (Act No. 55 of 1998)

7. On page 6, after line 18, to insert:

(ee) commits an act of dishonesty; or  
 (ff) victimises an employee for, amongst others, his or her association with a trade union.

8. On page 6, in line 36, after “dismissal” to insert:

, if the nature or extent of the misconduct warrants dismissal

9. On page 6, after line 39, to add:

(5) An educator may be dismissed if he or she is found guilty of—  
 (a) dishonesty, as contemplated in subsection (1)(ee);

- (b) victimising an employee for, amongst others, his or her association with a trade union, as contemplated in subsection (1)(ff);
- (c) unfair discrimination, as contemplated in subsection (1)(k);
- (d) rape, as contemplated in subsection (1)(dd);
- (e) murder, as contemplated in subsection (1)(dd);
- (f) contravening section 10 of the South African Schools Act, 1996 (Act No. 84 of 1996), as contemplated in subsection (1)(dd).

#### CLAUSE 16

1. On page 7, in line 44, to omit “established by the employer” and to substitute “as contemplated in item 2(2)”.
2. On page 8, after line 12, to insert:
 

(2) The performance of educators must be evaluated according to performance standards agreed upon by the parties to the Educators Labour Relations Council.
3. On page 8, after line 46, to insert:
 

(6) (a) Before transferring or demoting an educator or terminating his or her services for poor performance, the employer must convene an inquiry in order to give the educator the opportunity to make representations in response to the allegations against him or her, which shall include the right to—

  - (i) call, examine and cross-examine witnesses;
  - (ii) bring all relevant documentation to the attention of the person presiding over the inquiry, and have access to documents produced in evidence by the employer;
  - (iii) be represented at the proceedings by a co-employee or trade union representative;
  - (iv) have an interpreter present if the educator so requires;
  - (v) lead all relevant evidence, including evidence in mitigation of the sanction, if necessary.

(b) The provisions of items 5, 7, 8 and 9 of Schedule 2 apply to these inquiries, read with the changes required by the context.
4. On page 9, in line 13, to omit “The” and to substitute:
 

Subject to section 7 of the Employment Equity Act, 1998 (Act No. 55 of 1998), the
5. On page 9, after line 50, to insert:
 

(8) (a) Before acting in accordance with subitem (6), the employer must convene an inquiry in order to give the educator the opportunity to make representations in response to the allegations against him or her, which shall include the right to—

  - (i) call, examine and cross-examine witnesses;
  - (ii) bring all relevant documentation to the attention of the person presiding over the inquiry, and have access to documents produced in evidence by the employer;
  - (iii) be represented at the proceedings by a co-employee or trade union representative;
  - (iv) have an interpreter present if the educator so requires;
  - (v) lead all relevant evidence, including evidence in mitigation of sanction, if necessary.

(b) The provisions of items 5, 7, 8 and 9 of Schedule 2 apply to these inquiries, read with the changes required by the context.

6. On page 10, in line 52, to omit “The” and to substitute:  
After consultation with the trade unions, the
7. On page 12, in line 27, after “representative” to insert “or other employee”.
8. On page 14, in line 22, to omit “posted” and to substitute:  
received by the educator as indicated by the post office
9. On page 17, in lines 42 and 43, to omit “and the record of the hearing”.

#### LONG TITLE

1. On page 2, in the fifth line, to omit “to provide for representivity of governing bodies”.