



# GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

---

---

REPUBLIEK VAN SUID-AFRIKA

# STAATSKOERANT

*Registered at the Post Office as a Newspaper*

*As 'n Nuusblad by die Poskantoor Geregistreer*

Selling price • Verkoopprijs  
(GST excluded/AVB uitgesluit)

Local **50c** Plaaslik  
Other countries 70c Buitelands  
Post free • Posvry

---

Vol. 286

CAPE TOWN, 12 APRIL 1989

No. 11810

KAAPSTAD, 12 APRIL 1989

---

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 653.

12 April 1989

No. 653.

12 April 1989

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. 44 of 1989: Technical Colleges Amendment Act (House of Assembly), 1989.

No. 44 van 1989: Wysigingswet op Tegniese Kolleges (Volksraad), 1989.

Act No. 44, 1989

TECHNICAL COLLEGES AMENDMENT ACT (HOUSE OF ASSEMBLY), 1989

**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 Technical Colleges Act, 1981, so as to add or delete certain definitions, and to adjust certain other definitions and expressions in consequence of the assignment of the administration of the said Act to the Minister of Education and Culture; to provide that the said Act shall be applied subject to certain general laws; to make certain adjustments in consequence of the amendment of certain other laws; to extend the provisions in regard to the conditions of service of the staff of technical colleges; to further regulate the pension rights and retirement benefits of officers; to provide for the conducting of examinations subject to the provisions of certain general laws; to provide that the Association of Technical Colleges be replaced by a Committee of Technical College Principals; to provide for the registration of private technical colleges; to extend the provisions in regard to offences and to increase the punishment for offences; to make other provision in regard to the delegation of powers and the assignment of duties; and to extend the powers of the Minister to make regulations; to repeal certain provisions of the Educational Services Act, 1967; and to provide for matters incidental thereto.

*(Afrikaans text signed by the State President.)*  
*(Assented to 21 March 1989.)*

**B**E 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 104 of 1981, as amended by section 7 of Act 28 of 1983**

1. Section 1 of the Technical Colleges Act, 1981 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the deletion of the definition of "advisory council";
- (b) by the substitution for the definition of "commission" of the following definition:  
 "‘commission’ means the Commission for Administration **[within the meaning of the Public Service Act, 1957 (Act No. 54 of 1957)]** established by section 2 (1) of the Commission for Administration Act, 1984 (Act No. 65 of 1984);"
- (c) by the insertion after the definition of "commission" of the following definitions:  
 "‘committee’ means the Committee of Technical College Principals referred to in section 36;  
 ‘Department’ means the Department of Education and Culture;"
- (d) by the deletion of the definition of "Director-General";
- (e) by the insertion after the definition of "employee" of the following definition:  
 "‘formal instruction or training course’ means a course in respect of which an examination as referred to in section 18 (a) is conducted;"

5

10

15

20

## Act No. 44, 1989

## TECHNICAL COLLEGES AMENDMENT ACT (HOUSE OF ASSEMBLY), 1989

- (f) by the substitution for the definition of "governing body" of the following definition:  
 "'governing body', with regard to a state-aided school, means the body referred to in section 31 of the Education Affairs Act (House of Assembly), 1988;" 5
- (g) by the insertion after the definition of "governing body" of the following definitions:  
 "'Head of Education' means the head of the Department;  
 'management council', with regard to a school, means a management council established for a school under section 15 (a) of the Education Affairs Act (House of Assembly), 1988;" 10
- (h) by the deletion in the Afrikaans text of the definition of "hoof";
- (i) by the substitution for the definition of "Minister" of the following definition:  
 "'Minister' means the Minister of **[National Education]** Education and Culture;" 15
- (j) by the insertion after the definition of "principal" of the following definition:  
 "'private technical college' means an educational institution registered under section 36A as a private technical college;" 20
- (k) by the insertion in the Afrikaans text of the following definition:  
 "'prinsipaal', met betrekking tot 'n tegniese kollege, iemand wat kragtens artikel 7 (2) as die prinsipaal van 'n tegniese kollege aangestel is;"
- (l) by the substitution for the definition of "school" of the following definition:  
 "'school' means a school established under section **[2]** 12 (1) of the **[Educational Services Act, 1967]** Education Affairs Act (House of Assembly), 1988;" 25
- (m) by the insertion after the definition of "school" of the following definition:  
 "'state-aided school' means an institution declared or deemed to be declared a state-aided school under section 29 of the Education Affairs Act (House of Assembly), 1988;" 30
- (n) by the deletion of the definition of "subsidized school";
- (o) by the substitution for the definition of "technical college" of the following definition:  
 "'technical college' means a technical college established under section 2 or a school or **[subsidized]** state-aided school declared a technical college under that section or a technical college which came into being in pursuance of the amalgamation of two or more technical colleges under section 34;" and 35
- (p) by the addition of the following definition: 40  
 "'Treasury' means the Treasury as referred to in paragraph (b) of the definition of 'Treasury' in section 1 (1) of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975)."

## Insertion of section 1A in Act 104 of 1981

2. The following section is hereby inserted in the principal Act after section 1: 45

## "Application of Act

**1A.** The provisions of this Act shall be applied subject to the provisions of the National Policy for General Education Affairs Act, 1984 (Act No. 76 of 1984), and the provisions of any other general law relating to a matter referred to in paragraph (a), (b) or (c) of item 2 of Schedule 1 to the Republic of South Africa Constitution Act, 1983 (Act No. 110 of 1983)." 50.

## Amendment of section 2 of Act 104 of 1981

3. Section 2 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection: 55  
 "(1) The Minister may, with the concurrence of the Minister of **[Finance]** the Budget and Works, by notice in the *Gazette* and from a date mentioned in the notice—  
 (a) establish a technical college at any place;

Act No. 44, 1989

## TECHNICAL COLLEGES AMENDMENT ACT (HOUSE OF ASSEMBLY), 1989

- (b) declare any school or **[subsidized]** state-aided school which provides or intends to provide post-school education a technical college.”; and
- (b) by the substitution for subsection (2) of the following subsection:  
 “(2) The Minister shall not declare a school or **[subsidized]** state-aided school under subsection (1) (b) a technical college except after consultation 5 with the **[advisory]** management council of such school, if any, or the governing body of such **[subsidized]** state-aided school, as the case may be.”.

**Amendment of section 5 of Act 104 of 1981**

4. Section 5 of the principal Act is hereby amended by the substitution in the 10 Afrikaans text for paragraph (b) of the following paragraph:

“(b) ’n **[hoof]** prinsipaal;”.

**Amendment of section 6 of Act 104 of 1981, as amended by section 8 of Act 28 of 1983**

5. Section 6 of the principal Act is hereby amended—

- (a) by the substitution in the Afrikaans text for paragraph (a) of subsection (2) 15 of the following paragraph:  
 “(a) die **[hoof]** prinsipaal van die tegniese kollege;”; and
- (b) by the substitution in the Afrikaans text for paragraph (a) of subsection (4) of the following paragraph:  
 “(a) ’n Kollegeraad kan met die goedkeuring van die Minister ’n bevoegd- 20 heid by of kragtens hierdie Wet aan hom verleen, aan die **[hoof]** prinsipaal van die tegniese kollege deleger of daardie **[hoof]** prinsipaal magtig om ’n plig by of kragtens hierdie Wet aan ’n kollegeraad opgedra, te verrig.”.

**Substitution of section 7 of Act 104 of 1981**

25

6. The following section is hereby substituted in the Afrikaans text for section 7 of the principal Act:

**“Prinsipale van tegniese kolleges**

7. (1) Die **[hoof]** prinsipaal van ’n tegniese kollege is die hoof- uitvoerende beampte van die tegniese kollege en is, behoudens die 30 beheer en voorskrifte van die kollegeraad, verantwoordelik vir die uitvoering van die raad se besluite.

(2) Die **[hoof]** prinsipaal van ’n tegniese kollege word deur die kollegeraad met die goedkeuring van die Minister aangestel.

(3) Wanneer die **[hoof]** prinsipaal van ’n tegniese kollege afwesig is of 35 nie in staat is om sy werksaamhede as **[hoof]** prinsipaal te verrig nie of wanneer die aanstelling van ’n **[hoof]** prinsipaal hangende is, kan die kollegeraad ’n lid van die doserende personeel van die tegniese kollege aanstel om gedurende bedoelde afwesigheid of onvermoë of totdat ’n **[hoof]** prinsipaal aangestel word, as **[hoof]** prinsipaal van die tegniese 40 kollege waar te neem.”.

**Amendment of section 8 of Act 104 of 1981**

7. Section 8 of the principal Act is hereby amended by the substitution in the Afrikaans text for paragraph (a) of subsection (1) of the following paragraph:

“(a) die **[hoof]** prinsipaal van die tegniese kollege, wat die voorsitter van die 45 studieraad is;”.

**Amendment of section 9 of Act 104 of 1981, as amended by section 7 of Act 6 of 1984**

8. Section 9 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (4) of the following paragraph:

“(a) The conditions of service (including the discharge, misconduct and action in 50 the case of inefficiency of officers or employees of a technical college and



Act No. 44, 1989

## TECHNICAL COLLEGES AMENDMENT ACT (HOUSE OF ASSEMBLY), 1989

the conditions and circumstances under which officers or employees of a technical college may be required to become and to remain members of any medical aid scheme or medical benefit scheme) and leave privileges of officers and employees of a technical college shall be as prescribed, and the salaries, scales of salary and allowances of such officers and employees shall be determined by the Minister **[on the recommendation of the commission and]** with the concurrence of the Minister of **[Finance]** the Budget and Works: Provided that any remuneration payable to persons employed by a technical college to provide post-school education for which a subsidy is not payable under section 28, shall be determined by the college council.”

**Amendment of section 10 of Act 104 of 1981**

9. Section 10 of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

“(a) if he is an officer, he was employed in a post **[classified under a division of the public service referred to in section 3 (1) (a) (i) of the Public Service Act, 1957 (Act No. 54 of 1957)]** in the education service as defined in section 1 of the Government Service Pension Act, 1973 (Act No. 57 of 1973); or”.

**Repeal of section 11 of Act 104 of 1981**

10. Section 11 of the principal Act is hereby repealed.

**Amendment of section 13 of Act 104 of 1981**

11. Section 13 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) A technical college may with the approval of the Minister and on such conditions as the Minister may determine with the concurrence of the Minister of **[Finance]** the Budget and Works, second any officer or employee in its service, with the consent of such an officer or employee for any particular period or for the performance of any particular work to the service of any other person: Provided that no such officer or employee shall be seconded to any department of State otherwise than on the recommendation of the commission.”.

**Amendment of section 14 of Act 104 of 1981, as amended by section 9 of Act 6 of 1984**

12. Section 14 of the principal Act is hereby amended—

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

“(a) The conditions of admission of any person as a student to a technical college shall be determined by the **[Director-General]** Head of Education.”; and

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

“(2) A college council may at its discretion refuse the admission of any person as a student to a technical college, or withdraw the admission granted to a student: Provided that any such refusal or withdrawal shall be subject to appeal to the **[Director-General]** Head of Education, whose decision shall be final.”.

**Substitution of section 16 of Act 104 of 1981**

13. The following section is hereby substituted for section 16 of the principal Act:

“**Courses, fields of study and syllabuses**

16. (1) The council of a technical college shall not without the prior approval of the Minister establish a **[department]** field of study or **[a]** any course of instruction or training at the technical college.

Act No. 44, 1989

## TECHNICAL COLLEGES AMENDMENT ACT (HOUSE OF ASSEMBLY), 1989

(2) The syllabus of any formal course established under subsection (1) shall be determined by the **[college council with the approval of the] Minister.**”.

**Substitution of section 18 of Act 104 of 1981**

14. The following section is hereby substituted for section 18 of the principal Act: 5

**“Conduct of examinations and issue of diplomas and certificates**

**18. The Head of Education may in respect of—**

- (a) any formal course of study or training established under section 16, cause examinations to be conducted subject to the provisions of section 9 (1) of the South African Certification Council Act, 1986 (Act No. 85 of 1986); and 10
- (b) any course of study or training (excluding a formal course of study or training) established under section 16, cause such examinations as he may determine, to be conducted, and cause diplomas and certificates to be issued to students who passed those examinations.”. 15

**Amendment of section 20 of Act 104 of 1981**

15. Section 20 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:  
 “(b) all funds or property controlled and administered on behalf of such school by the **[Director-General or the advisory] management council** of such school under **[section 4 of the Educational Services Act, 1967 (Act No. 41 of 1967)] the Education Affairs Act (House of Assembly), 1988, shall devolve upon such technical college: Provided that any funds and property which were received by virtue of a trust, donation or bequest shall after that date continue to be used in accordance with the conditions of such trust, donation or bequest;”;**
- (b) by the substitution for paragraph (d) of subsection (1) of the following paragraph:  
 “(b) any person who immediately before that date **[held an appointment under section 3 (3) of the Educational Service Act, 1967, as]** was a member of the **[advisory] management council** of such school, shall be deemed to be **[appointed as]** a member of the college council of that technical college, and such a person shall hold office as a member of the college council until the college council is constituted in accordance with the provisions of section 6 of this Act;”;
- (c) by the substitution in the Afrikaans text for paragraph (e) of subsection (1) of the following paragraph:  
 “(e) word iemand wat onmiddellik voor bedoelde datum die **[hoof] skoolhoof** van daardie skool was, geag kragtens artikel 7 (2) as die **[hoof] prinsipaal** van die tegniese kollege aangestel te wees;”;
- (d) by the substitution for paragraph (g) of subsection (1) of the following paragraph:  
 “(g) any department or course **[of instruction or training] or educational programme** which immediately before the said date existed or was conducted at such school, shall be deemed to be a field of study or a course of instruction or training established under section 16;”;
- (e) by the substitution for paragraph (i) of subsection (1) of the following paragraph:  
 “(i) any person who immediately before the said date held a position under section **[3] 7** of the Public Service Act, **[1957 (Act No. 54 of 1957)] 1984, (Act No. 111 of 1984)**, at such school and who on or before the said date elected by means of a written notice to the **[Director-General] Head of Education** to remain in the public service, shall be deemed to 50

Act No. 44, 1989

## TECHNICAL COLLEGES AMENDMENT ACT (HOUSE OF ASSEMBLY), 1989

- be an officer **[seconded]** placed under section **[13 (6)]** 14 (3) of the said Act **[to the service]** at the disposal of that technical college until he is transferred on the recommendation of the commission to a post in the public service.”; and
- (f) by the substitution in subsection (5) for the words following subparagraph 5  
 (ii) of paragraph (b) of the following words:  
 “shall be paid out of moneys appropriated by **[Parliament]** the House of Assembly for the purpose.”.

**Substitution of section 21 of Act 104 of 1981**

16. The following section is hereby substituted for section 21 of the principal Act: 10

**“Effect of declaration of state-aided school as technical college**

21. (1) As from the date on which a **[subsidized]** state-aided school is declared a technical college under section 2 (1) (b)—

- (a) all assets, rights, liabilities and obligations of such **[subsidized]** state-aided school and the governing body of such **[subsidized]** state-aided school shall devolve upon such technical college: Provided that any funds and property which were received by virtue of a trust, donation or bequest shall after that date continue to be used in accordance with the conditions of such trust, donation or bequest; 15
- (b) any person who immediately before that date held an appointment or designation as a member of the governing body of such **[subsidized]** state-aided school, shall be deemed to be appointed as a member of the college council of such technical college, and such person shall hold office as a member of the college council until the college council is constituted in accordance with the provisions of section 6; 20
- (c) any person who immediately before the said date was the principal of such **[subsidized]** state-aided school, shall be deemed to be appointed under section 7 (2) as the principal of such technical college; 25
- (d) any department or any course **[of instruction or training]** or educational programme which immediately before the said date existed or was conducted at such **[subsidized]** state-aided school, shall be deemed to be a field of study or a course of instruction or training established under section 16. 30 35

(2) The conditions of service, salary scale, allowances and leave privileges of a person who by virtue of subsection (1) (a) became an officer or employee of a technical college shall be governed under section 9, and the salary of any such person shall be adjusted to the salary scale applicable to his post, at such notch on that scale as may be determined by the college council with the approval of the Minister: Provided that the salary or salary scale at or in accordance with which any such person was remunerated immediately before the said date shall not be reduced. 40

(3) Any continuous full-time service with the governing body of the said **[subsidized]** state-aided school of any person who by virtue of subsection (1) (a) became an officer or employee of a technical college, shall for leave purposes be deemed to be service with such technical college: Provided that subject to any condition which may be prescribed any sick or accumulative vacation leave standing to the credit of such person on the said date, shall be deemed to be leave earned by such person in the service of the technical college. 45 50

(4) Any disciplinary proceedings in respect of misconduct committed before the said date by any person who by virtue of subsection (1) (a) became an officer or employee of a technical college, may be continued or instituted by the college council as if such misconduct were committed after the said date.”. 55

Act No. 44, 1989

## TECHNICAL COLLEGES AMENDMENT ACT (HOUSE OF ASSEMBLY), 1989

**Substitution of section 23 of Act 104 of 1981**

17. The following section is hereby substituted for section 23 of the principal Act:

**“Purposes for which loans may be granted to technical colleges out of moneys voted by the House of Assembly**

23. The Minister may subject to the provisions of this Act and with the concurrence of the Minister of **[Finance]** the Budget and Works out of moneys voted by **[Parliament]** the House of Assembly for the purpose, grant loans to a technical college for any one or more of the following purposes, namely—

- (a) the erection of buildings or the purchase, construction or installation of fittings or fixtures;
- (b) the acquisition of land (including land on which any building has been erected) or rights on or interests in land, and for the payment of costs in connection with any survey or transfer of land or the registration of land or rights on land;
- (c) the fencing or improvement of any land belonging to the technical college;
- (d) the purchase of movables of a capital nature; or
- (e) the repayment of any money borrowed by the technical college, or where such technical college is the successor to any **[subsidized]** state-aided school, by the governing body of such **[subsidized]** state-aided school, from any person other than the State for a purpose mentioned in paragraph (a), (b), (c) or (d).”.

**Substitution of section 24 of Act 104 of 1981**

18. The following section is hereby substituted for section 24 of the principal Act:

**“Applications for loans**

(1) Every application for a loan referred to in section 23 shall be submitted in writing to the **[Director-General]** Head of Education and shall clearly state the purpose of the proposed loan.

(2) On receipt of any such application the **[Director-General]** Head of Education may call for such estimates, plans, specifications, reports, returns and other information, and may cause such inspection to be made, as he may deem necessary.”.

**Amendment of section 25 of Act 104 of 1981**

19. Section 25 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Every such loan together with the interest due thereon shall, subject to any prior charge or hypothecation, be a charge upon all the property, movable or immovable, present or future, of the technical college concerned: Provided that the Minister, with the concurrence of the Minister of **[Finance]** the Budget and Works, may at any time by writing under his hand waive any preference under this subsection in favour of the holder of any bond over such property, if he is satisfied that the value of the property is sufficient to cover the amount of the loan which has not been repaid and the amount secured by such bond.”.

**Amendment of section 26 of Act 104 of 1981**

45

20. Section 26 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) A technical college to which a loan has been granted under section 23, shall pay to the Treasury on the first day of January and on the first day of July in every year one half of the annual payment required to redeem the principal moneys advanced, together with interest thereon at such rate as the **[Treasury]**



Act No. 44, 1989

## TECHNICAL COLLEGES AMENDMENT ACT (HOUSE OF ASSEMBLY), 1989

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

**Substitution of section 28 of Act 104 of 1981**

21. The following section is hereby substituted for section 28 of the principal Act: 5

**“Subsidies to technical colleges**

28. The Minister may, with the concurrence of the Minister of **[Finance]** the Budget and Works, out of moneys voted by **[Parliament]** the House of Assembly for the purpose, grant subsidies to a technical college for such purposes and on such basis and subject to such 10 conditions as may be determined by the Minister.”.

**Amendment of section 29 of Act 104 of 1981**

22. Section 29 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) If such technical college thereafter fails to comply with the said 15 condition, the Minister may, notwithstanding anything to the contrary in any law contained, withhold payment of the whole or any portion of the subsidy voted by **[Parliament]** the House of Assembly in respect of that technical college: Provided that where the whole or any portion of the subsidy voted by **[Parliament]** the House of Assembly is withheld by the Minister, he shall report 20 the matter to the House of Assembly together with his reasons for so withholding payment, within 14 days of his having notified the technical college concerned of his intention so to withhold payment, if the House of Assembly is then in ordinary session, or, if the House of Assembly is not then in ordinary session, within 14 days of the commencement of its next ensuing ordinary 25 session.”.

**Substitution of section 30 of Act 104 of 1981**

23. The following section is hereby substituted in the Afrikaans text for section 30 of the principal Act:

**“Boekhouding**

30

30. (1) Die **[hoof]** prinsipaal van 'n tegniese kollege is die rekenpligtige beampte van die tegniese kollege, en is as sodanig belas met die verantwoording van al die geld deur die tegniese kollege ontvang en al die betalings deur die tegniese kollege gedoen.

(2) Die **[hoof]** prinsipaal van 'n tegniese kollege moet die reken- 35 ingkundige aantekeninge hou wat nodig is om die transaksies en finansiële stand van sake van die tegniese kollege weer te gee.

(3) Die Minister kan voorskrifte aan die **[hoof]** prinsipaal van 'n tegniese kollege uitreik betreffende die stelsel van boekhouding en verantwoording wat hy by die verrigting van sy werksaamhede ingevolge 40 hierdie artikel en artikel 31 moet volg.”.

**Amendment of section 31 of Act 104 of 1981**

24. Section 31 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The principal of a technical college shall in respect of each financial year 45 of the technical college make out financial statements in both official languages of the Republic, cause such statements to be audited and within **[six]** four months after the end of that financial year submit copies of the audited statements to the college council and to the **[Director-General]** Head of Education.”. 50

**Amendment of section 35 of Act 104 of 1981**

25. Section 35 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

“(5) The remaining assets of a closed technical college after all the debts have

Act No. 44, 1989

## TECHNICAL COLLEGES AMENDMENT ACT (HOUSE OF ASSEMBLY), 1989

been paid, shall be disposed of in a manner determined by the Minister with the concurrence of the Minister of **[Finance]** the Budget and Works.”.

**Substitution of section 36 of Act 104 of 1981**

26. The following section is hereby substituted for section 36 of the principal Act:

**“Committee of Technical College Principals**

5

36. (1) There shall be a committee, known as the Committee of Technical College Principals, consisting of the principals of all the technical colleges.

(2) If the post of principal at a technical college is vacant, the council concerned may designate a member of the teaching staff of that technical college to represent the college at any meeting of the committee.

(3) If any principal is unable to attend any meeting of the committee he may nominate any member of the teaching staff of the technical college concerned to represent him at the meeting.

(4) The functions of the committee shall be to—

15

(a) advise the Minister or the Head of Education in regard to matters relating to technical colleges referred to it by the Minister or the Head of Education;

(b) advise the Minister or the Head of Education in regard to any other matter of common interest to technical colleges and in respect of which the committee deems it necessary to advise the Minister or the Head of Education;

20

(c) determine the annual amount to be contributed by each technical college in respect of the expenditure of the committee.

(5) The committee shall function in accordance with the constitution drafted and amended from time to time by the members with the approval of the Minister.

25

(6) The work incidental to the carrying out of the functions of the committee shall be performed by such officers or employees of a technical college as the committee may designate with the concurrence of such technical college.”.

30

**Insertion of section 36A in Act 104 of 1981**

27. The following section is hereby inserted in the principal Act after section 36:

**“Registration of private technical colleges**

36A. (1) No person, except a technical college, shall provide instruction and training with a view to the pursuance of a vocation, at a post-school level by means of a course which in the opinion of the Head of Education corresponds wholly or partly with a formal course of instruction and training, on a full-time or part-time basis to more than 20 White persons, unless such person has been registered as a private technical college in terms of this Act.

35

(2) Any person intending to register as a private technical college shall in writing apply to the Head of Education for such registration.

(3) An applicant for registration shall furnish such additional information pertaining to his application as the Head of Education may require.

45

(4) (a) The Head of Education may at his discretion grant or refuse an application referred to in subsection (2), but he shall not grant an application if he is of the opinion that the applicant concerned does not comply with the prescribed requirements.

(b) If the Head of Education refuses an application referred to in subsection (2), he shall notify the applicant in writing of such refusal and the reasons therefor.

50

(5) If the Head of Education grants an application referred to in subsection (2), he shall register the applicant as a private technical college and issue a certificate of registration to the applicant in such form as he may determine.

55

Act No. 44, 1989

## TECHNICAL COLLEGES AMENDMENT ACT (HOUSE OF ASSEMBLY), 1989

- (6) The registration of a private technical college shall be subject to the prescribed conditions.
- (7) The Head of Education may at any time cause a private technical college to be inspected by a person authorized thereto by him.
- (8) (a) The Head of Education may at any time, if it appears to him that the conditions under which a private technical college was registered are no longer complied with, withdraw the registration of such college with effect from a date determined by him.
- (b) If the Head of Education withdraws the registration of a private technical college under paragraph (a), he shall notify the owner in writing of such withdrawal and the reasons therefor.
- (9) Any person who is aggrieved at the refusal by the Head of Education of an application under subsection (4) or the withdrawal of registration under subsection (8), may, within 30 days after he has received notice of such refusal or withdrawal, in writing appeal to the Minister against such refusal or withdrawal, setting out the grounds of the appeal.
- (10) The Minister shall consider an appeal referred to in subsection (9), and may confirm or set aside the decision of the Head of Education against which the appeal was made.
- (11) The provisions of this section shall not be construed as exempting any person from any other duty in respect of registration in terms of any other law.
- (12) (a) Any person who immediately prior to the coming into operation of the Technical Colleges Amendment Act (House of Assembly), 1989, provided post-school education as contemplated in subsection (1), and was registered as a private college under the provisions of section 15 (1) (b) (ii) of the Education Services Act, 1967 (Act No. 41 of 1967), shall, on such coming into operation, subject to the provisions of paragraphs (b) and (c), be deemed to be registered as a private technical college under this section.
- (b) If any private technical college referred to in paragraph (a) does not comply with any requirement or condition referred to in subsections (4) and (6), the Head of Education may determine a period within which such requirement or condition shall be complied with.
- (c) If any such college after expiry of the period referred to in paragraph (b) does not comply with the said requirement or condition, the Head of Education may withdraw the registration of that college or, if in the opinion of the Head of Education sufficient reason exists therefor, determine a further period for compliance with the requirement or condition, at the expiry of which further period the Head of Education shall withdraw the registration of the college if the requirement or condition has not been complied with.
- (d) The provisions of subsections (9) and (10) shall *mutatis mutandis* apply in respect of the withdrawal contemplated in paragraph (c)."

**Substitution of section 37A of Act 104 of 1981, as inserted by section 11 of Act 6 of 1984**

28. The following section is hereby substituted for section 37A of the principal Act:

**"Offences and penalties**

37A. Any person who—

- (a) is not a technical college and who, without the authority of the **[Director-General] Head of Education—**
- (i) in any way makes it known or pretends to any other person that he or some other person can offer any formal course of instruction or training or part thereof the content or standard of which is similar to the content or standard of a formal course of instruction or training offered at a technical college, or offers such formal course of instruction or training which shall entitle the person who has followed such a course or part thereof to the

Act No. 44, 1989

## TECHNICAL COLLEGES AMENDMENT ACT (HOUSE OF ASSEMBLY), 1989

- [granting]** issuance to him of any certificate or diploma which may be **[granted]** issued by **[a technical college]** the South African Certification Council under section 9 (1) of the South African Council Certification Act, 1986 (Act No. 85 of 1986); or
- (ii) confers a certificate or a diploma purporting to be a certificate or diploma based on a formal course of instruction or training successfully completed at a technical college;
- (b) without the authority of **[a technical college]** the Head of Education, performs any act which purports to have been performed by or on behalf of a technical college;
- (c) establishes or conducts an institution that is not a technical college, under a name which includes the words "technical college"; or
- (d) contravenes the provisions of section 36A (1), or obstructs or hinders any person in the performance of his duties under section 36A (7), or who interferes with such person in the performance of such duties,
- shall be guilty of an offence and on conviction liable to a fine not exceeding **[R500]** R4 000 or to imprisonment for a period not exceeding **[six months]** one year or to both such fine and such imprisonment."

## Substitution of section 38 of Act 104 of 1981

20

29. The following section is hereby substituted for section 38 of the principal Act:

**"Delegation of powers**

38. (1) The Minister may, subject to such conditions as he may determine, delegate any power conferred upon him by this Act, except the power referred to in sections 36A (10) and 39, to the Head of Education or to any other officer in the Department or to a college council, and may authorize such Head of Education, officer or college council to perform any duty assigned to the Minister by this Act.

(2) The Head of Education may, subject to such conditions as he may determine, delegate any power conferred upon him by or under this Act, to an officer in the Department, and may authorize such officer to perform any duty assigned to the Head of Education by or under this Act.

(3) A delegation under subsection (1) or (2) shall not prevent the Minister or Head of Education, as the case may be, from exercising such power or performing such duty himself."

## Amendment of section 39 of Act 104 of 1981

30. Section 39 of the principal Act is hereby amended—

(a) by the insertion after paragraph (d) of subsection (1) of the following paragraph:

**"(dA) (i) the conducting of examinations referred to in section 18, the admission to and entering of candidates for those examinations, the conduct and discipline of candidates prior to, during and after those examinations, and the issue of diplomas and certificates referred to in that section;**

**(ii) the appointment, conduct, discipline, powers, duties and functions of examiners, moderators, invigilators and other persons whose services are necessary in connection with the conducting of those examinations; and**

**(iii) the admission, and entering of students of private technical colleges, to examinations contemplated in section 18;"**; and

(b) by the addition of the following subsection:

**"(3) A regulation made under subsection (1) may provide for penalties for a contravention thereof or a failure to comply therewith, but no penalty shall exceed a fine of R2 000 or imprisonment for a period of six months or both such fine and such imprisonment."**



---

**Act No. 44, 1989****TECHNICAL COLLEGES AMENDMENT ACT (HOUSE OF  
ASSEMBLY), 1989****Repeal of Act**

**31.** Section 13, and also section 15 in so far as it relates to private colleges, of the Educational Services Act, 1967 (Act No. 41 of 1967), are hereby repealed.

**Short title and commencement**

**32.** This Act shall be called the Technical Colleges Amendment Act (House of 5 Assembly), 1989, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.