



**REPUBLIC OF SOUTH AFRICA**

# **GOVERNMENT GAZETTE**

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## **STAATSKOERANT**

**VAN DIE REPUBLIEK VAN SUID-AFRIKA**

*Registered at the Post Office as a Newspaper*

*As 'n Nuusblad by die Poskantoor Geregistreer*

**PRICE + 1c GST 20c PRYS + 1c AVB  
ABROAD 30c BUITELANDS  
POST FREE · POSVRY**

Vol. 179]

CAPE TOWN, 23 MAY 1980

[No. 7006

KAAPSTAD, 23 MEI 1980

**DEPARTMENT OF THE PRIME MINISTER**

**DEPARTEMENT VAN DIE EERSTE MINISTER**

No. 984.

23 May 1980.

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23 Mei 1980.

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. 52 of 1980: Education and Training Amendment Act, 1980.

No. 52 van 1980: Wysigingswet op Onderwys en Opleiding, 1980.



EDUCATION AND TRAINING AMENDMENT ACT, 1980

Act No. 52, 1980

3. Section 7 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection: Amendment of section 7 of Act 90 of 1979.

- “(2) The—
- 5 (a) constitution, qualifications for membership, duties, powers and functions of, and the term of office of **[and the allowances, if any, payable to]** members of, councils, committees, boards or other bodies established in terms of subsection (1), shall be as prescribed;
- 10 (b) allowances, if any, payable to such members shall be determined by the Minister with the concurrence of the Minister of Finance.”

4. Section 12 of the principal Act is hereby amended by the substitution for the proviso to subsection (3) of the following proviso: Amendment of section 12 of Act 90 of 1979.

- 15 “Provided that any unqualified teacher and any teacher who at the said commencement has already attained **[the retiring age mentioned in section 21 (7)]** the age of 65 years, in the case of a male, and 60 years, in the case of a female, shall be deemed to have been so appointed on a temporary basis.”

20 5. Section 13 of the principal Act is hereby amended— Amendment of section 13 of Act 90 of 1979.

(a) by the addition to subsection (3) of the following proviso:

- 25 “Provided that any unqualified teacher and any teacher who at the said commencement has already attained the age of 65 years, in the case of a male, and 60 years, in the case of a female, shall be deemed to have been so appointed on a temporary basis.”;

30 (b) by the substitution for subsection (6) of the following subsection:

- 35 “(6) The services of a teacher who is employed in a permanent capacity in a post in respect of which a subsidy is paid by the State at a State-aided school, shall be deemed to have been terminated by the governing body with effect from the date on which he attains the age prescribed as his pensionable age by or under any pension law which applies to him or, in the case of a teacher whose pensionable age is not so prescribed, with effect from the first day of the month following the month in which he reaches the age of 65 years, in the case of a male [teacher], and 60 years, in the case of a female [teacher]: Provided that such teacher may thereafter, subject to the provisions of subsection (1) (b), be appointed on a temporary basis.”
- 40

45 6. The following section is hereby substituted for section 18 of the principal Act: Substitution of section 18 of Act 90 of 1979.

- 50 “Pension rights and retirement benefits.
- 55 18. (1) A post on the teaching establishment of any State school or a community school, or a teaching post in respect of which a subsidy is paid by the State on the establishment of a State-aided school, shall for the purposes of the Government Service Pension Act, 1973 (Act No. 57 of 1973), be deemed to be a post on the fixed establishment of the public service which is classified in a division mentioned in section 3 (1) (a) (i) of the Public Service Act, 1957 (Act No. 54 of 1957).
- (2) Notwithstanding the provisions of subsection (1), but subject to the provisions of the Government

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5 Service Pension Act, 1973 [(Act No. 57 of 1973)],  
 or the [Government non-White Employees Pen-  
 sion Act, 1966 (Act No. 42 of 1966)] Temporary  
 Employees Pension Fund Act, 1979 (Act No. 75  
 of 1979), as the case may be, any teacher who at the  
 commencement of this Act is employed in a per-  
 manent or temporary capacity at any State school,  
 community school or State-aided school, shall retain  
 all the rights and privileges and remain subject to all  
 10 the obligations acquired or incurred by him for  
 pension purposes under any law which applied to him  
 immediately before the said date: Provided that such a  
 teacher who at such commencement is employed in a  
 permanent capacity in a post referred to in subsection  
 15 (1) and who immediately before such commencement  
 was not a member of the Government Service Pension  
 Fund established by section 3 of the Government  
 Service Pension Act, 1973, may, within 15 months  
 20 after such commencement, elect in writing to become  
 a member of the said Government Service Pension  
 Fund in accordance with the provisions of the  
 last-mentioned Act, and a teacher who elects to  
 become such a member, shall be freed from all the  
 obligations referred to and relinquish all the rights and  
 25 privileges referred to, with effect from the date on  
 which he so becomes a member."

7. Section 19 of the principal Act is hereby amended by the  
 substitution for subsection (3) of the following subsection: Amendment of  
 section 19 of  
 Act 90 of 1979.

30 "(3) Appointments and promotions of persons in teaching  
 posts at State schools [and], community schools and  
 State-aided schools shall be made on probation in such cases  
 as the Minister may determine, and the period of probation shall  
 be at least 12 calendar months, but the [Secretary]  
 35 Minister may extend the period to not more than 36 calendar  
 months: Provided that if a teacher who is serving on  
 probation is promoted to another post, a shorter probationary  
 period in the new post may be approved by the [Secre-  
 tary] Minister, which, together with the period of service on  
 40 probation in his previous post, shall be not less than 12  
 calendar months: Provided further that the probationary  
 period of a teacher shall be extended by the number of days'  
 leave (excluding leave during school holidays) taken by him  
 during the probationary period or any extension thereof."

8. Section 20 of the principal Act is hereby amended by the  
 45 addition of the following proviso: Amendment of  
 section 20 of  
 Act 90 of 1979.

50 "Provided that the Minister may, if agreed upon between  
 him and a suitable person, appoint that person for a fixed  
 period to a teaching post included in the establishment of a  
 State school or a community school, on the basis and  
 conditions determined by him for appointments of such a  
 nature with the concurrence of the Minister of Finance and  
 on the recommendation of the Public Service Commission."

9. Section 21 of the principal Act is hereby amended— Amendment of  
 section 21 of  
 Act 90 of 1979.

55 (a) by the substitution for subsection (4) of the following  
 subsection:

60 "(4) For the purposes of paragraph (a) of subsection  
 (1) the Minister may at any time require any teacher  
 appointed in a permanent capacity at a State school or  
 community school to undergo examination on a spe-  
 cified date by a district surgeon or by a board,  
 designated by the Secretary for Health, consisting of  
 such number of members as the said Secretary may in

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- his discretion determine, all of whom shall be medical practitioners registered as such in terms of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974) **[on a specified date]**,  
 5 and any teacher who fails or refuses to undergo such examination shall be deemed to be guilty of misconduct as defined in paragraph (c) of section 22 and shall *mutatis mutandis* be subject to the provisions of subsections (23) to (27), inclusive, of section 23.”;
- 10 (b) by the substitution for subsection (7) of the following subsection:  
 “(7) The services of a teacher **[referred to in subsection (1)]** appointed in a permanent capacity at a State school or a community school, shall be deemed to  
 15 have been terminated by the Department with effect from the date on which he attains the age prescribed as his pensionable age by or under any pension law which applies to him or, in the case of a teacher whose pensionable age is not so prescribed, with effect from  
 20 the first day of the month following the month in which he reaches the age of 65 years, in the case of a male **[teacher]**, or 60 years, in the case of a female **[teacher]**: Provided that such teacher may thereafter be appointed on a temporary basis.”.
- 25 10. Section 22 of the principal Act is hereby amended by the substitution for paragraph (o) of the following paragraph: Amendment of section 22 of Act 90 of 1979.  
 “(o) **[is on conviction of any offence sentenced to imprisonment without the option of a fine]** commits an offence;”.
- 30 11. Section 42 of the principal Act is hereby amended by the substitution in subsection (1) for the expression “43” of the expression “44”. Amendment of section 42 of Act 90 of 1979.
12. (1) This Act shall be called the Education and Training Amendment Act, 1980. Short title and commencement.
- 35 (2) Sections 4, 5, 6, 7 and 9 (b) shall be deemed to have come into operation on 1 January 1980.