

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



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## THE PRESIDENCY

No. 775

19 September 2011

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

**No. 15 of 2011: Basic Education Laws Amendment Act, 2011.**



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**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.

*(English text signed by the President)*  
*(Assented to 15 September 2011)*

## ACT

**To amend—**

- \* the National Education Policy Act, 1996, so as to amend or delete certain definitions;
  - \* the South African Schools Act, 1996, so as to amend certain definitions and to define “loan”; to provide for consultation with the Minister of Finance before uniform minimum norms and standards are determined; to ensure that there is no unfair discrimination in respect of official languages; to provide for the imposition of a suitable sanction if an appeal by a learner who had been expelled from a public school has been upheld by the Member of the Executive Council; to provide for public schools that provide education with a specialised focus on talent; to provide for additional functions of a principal of a public school; to provide for the training of governing bodies by recognised governing body associations; to prohibit political activities during school time; to empower the Member of the Executive Council to identify additional schools that may not charge school fees; and to further regulate the liability of the State for certain damages;
  - \* the Employment of Educators Act, 1998, so as to amend certain definitions; and to regulate afresh the application of the said Act;
  - \* the South African Council for Educators Act, 2000, so as to amend certain definitions; to empower the council to manage a system for the promotion of the continuing professional development of all educators; and to provide the council with funding from money appropriated by Parliament; and
  - \* the General and Further Education and Training Quality Assurance Act, 2001, so as to amend certain definitions;
- and to provide for matters connected therewith.

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 1 of Act 27 of 1996**

1. Section 1 of the National Education Policy Act, 1996, is hereby amended—
  - (a) by the substitution for the definition of “Director-General” of the following definition:  
“ ‘Director-General’ means the Director-General: Basic Education;”;

- (b) by the substitution for the definition of “education institution” of the following definition:  
“‘**education institution**’ means any [institution providing education, whether early childhood education, primary, secondary, further or higher education, other than a university or technikon, and also an institution providing specialised, vocational, adult, distance or community education] school contemplated in the South African Schools Act, 1996 (Act No. 84 of 1996);”;
- (c) by the substitution for the definition of “Minister” of the following definition:  
“‘**Minister**’ means the Minister of Basic Education;”;
- (d) by the deletion of the definition of “student”.

**Amendment of section 3 of Act 27 of 1996, as amended by section 11 of Act 100 of 1997 and section 4 of Act 48 of 1999**

2. Section 3 of the National Education Policy Act, 1996, is hereby amended by the substitution in subsection (4)(n) for the words preceding the proviso of the following words:

“control and discipline of [students] learners at education institutions”.

**Amendment of section 4 of Act 27 of 1996, as amended by section 12 of Act 100 of 1997**

3. Section 4 of the National Education Policy Act, 1996, is hereby amended—
- (a) by the substitution in paragraph (a) for subparagraph (v) of the following subparagraph:  
“(v) of every [student] learner to be instructed in the language of his or her choice where this is reasonably practicable;”;
- (b) by the substitution for paragraph (b) of the following paragraph:  
“(b) enabling the education system to contribute to the full personal development of each [student] learner, and to the moral, social, cultural, political and economic development of the nation at large, including the advancement of democracy, human rights and the peaceful resolution of disputes;”.

**Amendment of section 1 of Act 84 of 1996, as amended by section 1 of Act 100 of 1997, section 6 of Act 48 of 1999, section 1 of Act 50 of 2002, section 1 of Act 24 of 2005 and section 4 of Act 31 of 2007**

4. Section 1 of the South African Schools Act, 1996, is hereby amended—
- (a) by the insertion in subsection (1) after the definition of “learner” of the following definition:  
“‘**loan**’ means any financial obligation based on agreement, which obligation renders a school liable for making payment, in one or more instalments, in favour of any person, but does not include the payment of staff appointed by the governing body in terms of section 20(4) or (5);”;
- (b) by the substitution in subsection (1) for the definition of “Minister” of the following definition:  
“‘**Minister**’ means the Minister of Basic Education;”;
- (c) by the substitution in subsection (1) for paragraph (a) of the definition of “parent” of the following paragraph:  
“(a) the biological or adoptive parent or legal guardian of a learner;”.

**Amendment of section 5A of Act 84 of 1996, as inserted by section 5 of Act 31 of 2007**

5. Section 5A of the South African Schools Act, 1996, is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“The *Minister* may, after consultation with the *Minister of Finance and the Council of Education Ministers*, by regulation prescribe minimum uniform norms and standards for—”.

**Insertion of section 6B in Act 84 of 1996**

6. The following section is hereby inserted in the South African Schools Act, 1996, after section 6A:

**“Non-discrimination in respect of official languages**

**6B.** The *governing body* of a *public school* must ensure that—

- (a) there is no unfair discrimination in respect of any official languages that are offered as subject options contemplated in section 21(1)(b); and
- (b) the first additional language and any other official language offered, as provided for in the curriculum, are offered on the same level.”.

**Amendment of section 9 of Act 84 of 1996, as amended by section 7 of Act 48 of 1999 and section 2 of Act 24 of 2005**

7. Section 9 of the South African Schools Act, 1996, is hereby amended by the addition of the following subsection:

“(11) (a) If an appeal in terms of subsection (4) by a *learner* who has been expelled from a *public school* is upheld by the *Member of the Executive Council*, the *Member of the Executive Council* must ensure that a suitable sanction is then imposed on the *learner* within 14 days of the date on which the appeal was upheld.  
(b) For the purposes of the imposition of a suitable sanction contemplated in paragraph (a), the provisions of subsections (8) and (9) apply with the changes required by the context.”.

**Amendment of section 12 of Act 84 of 1996**

8. Section 12 of the South African Schools Act, 1996, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) (a) A *public school* may be—  
(i) an ordinary *public school* [or];  
(ii) a *public school* for *learners* with special education needs; or  
(iii) a *public school* that provides education with a specialised focus on talent, including sport, performing arts or creative arts.  
(b) Subject to the relevant provisions of *this Act*, the *Minister* must determine *norms and standards for school funding* and *norms and standards for governance and educator provisioning for public schools* contemplated in paragraph (a)(iii).”.

**Amendment of section 16A of Act 84 of 1996, as inserted by section 8 of Act 31 of 2007**

9. Section 16A of the South African Schools Act, 1996, is hereby amended by the deletion in subsection (2) of the word “and” at the end of paragraph (f), the insertion in that subsection of the word “and” at the end of paragraph (g) and the addition to that subsection of the following paragraphs:

“(h) assist the *governing body* with the management of the *school’s* funds, which assistance must include—  
(i) the provision of information relating to any conditions imposed or directions issued by the *Minister*, the *Member of the Executive Council* or the *Head of Department* in respect of all financial matters of the *school* contemplated in Chapter 4; and