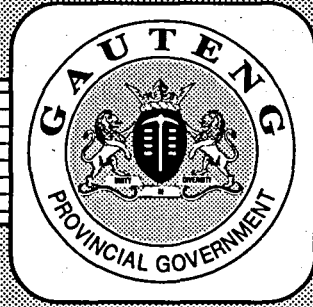


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PREMIER'S NOTICE

No. 337

18 January 1999

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

No. 13 of 1998: Gauteng College Education and Training Act, 1998

ACT

To provide for the establishment, control and development of education and training at colleges in the Province; and to provide for matters incidental thereto.

(English text signed by the Premier)
(Assented to on 20 November 1998)

BE IT ENACTED by the Provincial Legislature of Gauteng, as follows:—

ARRANGEMENT OF ACT

CHAPTER ONE

INTERPRETATION, APPLICATION, DETERMINATION OF POLICY AND CONTROL OF EDUCATION AND TRAINING AT COLLEGES 5

Section

- | | | |
|----|---|----|
| 1. | Definition | |
| 2. | Application | |
| 3. | Determination of policy | 10 |
| 4. | Control of education and training at colleges | |

CHAPTER TWO COLLEGES

- | | | |
|-----|---|----|
| 5. | Establishment of colleges | |
| 6. | Status of colleges | 15 |
| 7. | Acquisition and disposal of property | |
| 8. | Employment of staff | |
| 9. | Admission policy | |
| 10. | Provision of education and training programmes at colleges | |
| 11. | Examination, evaluation and certification | 20 |
| 12. | Language policy of colleges | |
| 13. | Code of conduct at colleges | |
| 14. | Discipline of students at colleges | |
| 15. | Declaration of education institution as college | |
| 16. | Consequences of declaration of education institution as college | 25 |
| 17. | Amalgamation of colleges | |
| 18. | Closure of colleges | |
| 19. | Consequences of closure of college | |

CHAPTER THREE COLLEGE GOVERNANCE

- | | | |
|-----|-----------------------------------|----|
| 20. | Governance of colleges | 30 |
| 21. | Composition of council of college | |
| 22. | Powers and duties of council | |
| 23. | Committees of council | |

- 24. Establishment of senate
- 25. Composition of senate of college
- 26. Committees of senate
- 27. Capacity building of senate or council
- 28. Principal of college 5
- 29. Executive management committee
- 30. Students' representative council
- 31. Cluster of colleges

**CHAPTER FOUR
FUNDING OF COLLEGES 10**

- 32. Member of Executive Council allocates funds
- 33. Action on failure of college to comply with Act or conditions
- 34. Donations to colleges by local authorities
- 35. State loans to colleges
- 36. Conditions of State loans 15
- 37. Financial year, records and financial statements of colleges

**CHAPTER FIVE
TRANSITIONAL PROVISIONS**

- 38. Technical colleges
- 39. Governance of education institutions declared as colleges 20
- 40. Existing education and training programmes
- 41. Existing loans to technical colleges

**CHAPTER SIX
GENERAL**

- 42. Member of Executive Council may enter into agreements 25
- 43. Inquiry at college
- 44. Compulsory school attendance
- 45. Appeals against decisions of Head of Department
- 46. Delegation of powers
- 47. Regulations 30
- 48. Repeal of laws, and savings
- 49. Short title and commencement

Schedule 1: Laws to be repealed

CHAPTER ONE

INTERPRETATION, APPLICATION, DETERMINATION OF POLICY AND CONTROL OF EDUCATION AND TRAINING AT COLLEGES 35

Definitions

1. In this Act, unless the context otherwise indicates—

“college” means a college established in terms of section 5(1) or deemed to have been established in terms of section 16(1)(a) or 17(3), other than a higher education 40 institution;

“commencement date” means the date of commencement of this Act;

“council” means the council of a college referred to in section 21;

Act No. 13, 1998

GAUTENG COLLEGE EDUCATION AND TRAINING ACT, 1998

- “cluster of colleges” means a cluster of colleges designated by the Member of the Executive Council in terms of section 31;
- “Department” means the department in the administration of the Province responsible for education and training;
- “education institution” means any education institution which offers education or training programmes at any level, other than a higher education institution; 5
- “educator” means an educator as defined in the Educators Employment Act, 1994 (Proclamation No. 138 of 1994), who is employed at a college;
- “employee” means any person, including an educator, employed at a college;
- “further education programme” means any education and training programme offered at a level higher than the ninth up to and including the twelfth grade or its equivalent; 10
- “Head of Department” means the most senior official in the Department;
- “Member of the Executive Council” means the member of the Executive Council responsible for matters relating to education and training in the Province; 15
- “Minister” means the Minister of Education;
- “prescribed” means prescribed by regulation;
- “principal” means the person appointed to the post of principal at a college, or a person acting in that post, and includes a rector;
- “Province” means the province of Gauteng; 20
- “Provincial Legislature” means the legislature of the Province;
- “regulation” means a regulation made under section 47;
- “satellite” means that part of a college situated at a location other than the main or administrative campus of the college;
- “senate” means a senate referred to in section 24; 25
- “student” means a person registered as such at a college;
- “technical college” means any technical college established or deemed to have been established in terms of a law repealed by this Act and which existed immediately prior to the commencement date; and
- “this Act” includes any regulation or notice made under this Act. 30

Application

2. This Act applies to education and training at colleges in the Province.

Determination of policy

3. Subject to any applicable law governing the determination of education policy, the Member of the Executive Council determines policy in relation to education and training at colleges in the Province. 35

Control of education and training at colleges

4. As from the commencement date, education and training at colleges in the Province is controlled by the Department, acting in terms of— 40
- (a) this Act, and any other applicable law; and
 - (b) any policy determined by the Member of the Executive Council, and any other applicable policy.

CHAPTER TWO

COLLEGES

Establishment of colleges

- 5. (1) The Member of the Executive Council, with the agreement of the Member of the Executive Council responsible for finance and by notice in the Provincial Gazette, may establish colleges. 5
- (2) Despite any other provision of this Act, the Member of the Executive Council must, in respect of a college established in terms of subsection (1), establish the first council of the college and appoint members to that council.
- (3) The council established in terms of subsection (2) must, within 12 months, be replaced by a council constituted as contemplated in section 21. 10
- (4) A council of a college may, with the agreement of the Member of the Executive Council, establish a satellite at any place.

Status of colleges

- 6. Every college is a juristic person. 15

Acquisition and disposal of property

- 7. (1) Every college may, subject to the provisions of this Act-
 - (a) purchase or otherwise acquire, hold, lend, sell, exchange or otherwise alienate movable or immovable property or grant to any person any real right in or servitude on its property; and 20
 - (b) acquire, invest, lend and borrow money.
- (2) Despite subsection (1)—
 - (a) no college may without the approval of the Member of the Executive Council—
 - (i) lend or borrow money; 25
 - (ii) let for a period longer than two years immovable property acquired from the State or with the financial assistance of the State; or
 - (iii) otherwise dispose of or alienate in any fashion or grant to any person any real right in or servitude on that property;
 - (b) the Member of the Executive Council may, subject to subsection (3) direct that any movable or immovable property of a college acquired from the State or with the financial assistance of the State, be transferred to the State on payment of such compensation as is required by section 25(2)(b) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), if he or she reasonably believes that the movable or immovable property is not being utilised in the best interests of education and training in the Province. 35
- (3) The Member of the Executive Council may not act under paragraph (b) of subsection (2) unless he or she has—
 - (a) given reasonable notice of the intention so to act, and the reasons for such action, in the Provincial Gazette; 40
 - (b) given the council of the college and any other interested person a reasonable opportunity to make representations; and
 - (c) considered any such representations.
- (4) Immovable property devolving upon the State in terms of paragraph (b) of subsection (2) must, subject to the approval of the Member of the Executive Council responsible for finance, be transferred to the State subject to any existing right, encumbrance, duty or trust on or over that property. 45
- (5) The officer in charge of the deeds office where the immovable property referred to in paragraph (b) of subsection (2) is registered must on submission of the title deed and on application by the State make such endorsements on that title deed and such entry in the registers as may be required to register the transfer concerned. 50
- (6) Every college must apply money or other goods donated or bequeathed to or received in trust by such college, in accordance with the conditions of the donation, bequest or trust concerned.

Employment of staff

8. Every college may employ such employees as are necessary for the effective performance of its functions.

Admission policy

9. (1) The admission policy of a college may not unfairly discriminate on grounds of race, ethnic or social origin, colour, gender, sex, disability, sexual orientation, religion, conscience, belief, culture or language. 5

(2) The council of a college determines the admission policy of the college subject to—

- (a) any policy determined by the Minister in terms of the National Education Policy Act, 1996 (Act No. 27 of 1996); 10
- (b) any applicable Provincial law; and
- (c) any requirements determined by the Member of the Executive Council by notice in the Provincial Gazette.

(3) Any student who has been refused admission to a college may appeal against the decision to the Head of Department. 15

(4) The Head of Department must consider any appeal contemplated in subsection (3) and may set aside or confirm the decision.

Provision of education and training programmes at colleges

10. (1) Every college may provide further education programmes, vocational and technological education programmes, adult education programmes, community education programmes and any other education and training programmes and services approved by the council, subject to any policy determined by— 20

- (a) the Minister in terms of the National Education Policy Act, 1996 (Act No. 27 of 1996); and 25
- (b) the Member of the Executive Council.

(2) Before a council approves a programme as contemplated in subsection (1), the council must consider the extent to which such a programme is likely to impart skills relevant to the development needs of the Province.

(3) Nothing in this Act may be construed as obliging the Member of the Executive Council to allocate public funds to a college in respect of any education and training programme or service provided in terms of this Act. 30

Examination, evaluation and certification

11. (1) The Head of Department may issue directives regarding examination, assessment and certification at colleges subject to— 35

- (a) the Examinations and Assessment Act, 1997 (Act No. 7 of 1997), the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), the South African Certification Council Act, 1986 (Act No. 85 of 1986); and
- (b) any policy determined by the Minister in terms of the National Education Policy Act, 1996 (Act No. 27 of 1996) and any policy determined by the Member of the Executive Council. 40

(2) Any directive issued in terms of subsection (1) is binding on a college.

Language policy of colleges

12. (1) The language policy of a college is made by the council of the college, subject to— 45

- (a) the approval of the Head of Department;
- (b) any applicable Provincial law; and
- (c) any other applicable law.

(2) Language competence testing must not be used as an admission requirement at a college. 50

(3) No student at a college may be punished for expressing himself or herself in a language which is not a language of learning of the college concerned.

(4) The Member of the Executive Council may, by notice in the Provincial Gazette, recognise any sign or signed language which in his or her opinion is used by a significant

proportion of people communicating in sign or signed languages in the Province.

(5) For the purposes of any matter related to education and training at colleges in the Province, any language recognised under subsection (4) has the status of an official language.

Code of conduct at colleges 5

13. (1) The council of a college must adopt a code of conduct for the college after consultation with—

- (a) the students' representative council; and
- (b) organisations representing employees at the college.

(2) The Member of the Executive Council may, by notice in the Provincial Gazette, determine guidelines for the adoption of a code of conduct at a college. 10

(3) A code of conduct contemplated in subsection (1) must be aimed at establishing a disciplined and purposeful educational environment, dedicated to the improvement and maintenance of the quality of the learning process.

Discipline of students at colleges 15

14. (1) Every student at a college is subject to any disciplinary rules and procedures made by the council in terms of section 22(2).

(2) The disciplinary rules and procedures contemplated in subsection (1)—

- (a) are subject to any policy determined by the Member of the Executive Council; and 20
- (b) may be made only after consultation with the students' representative council.

Declaration of education institution as college

15. (1) Subject to subsection (3), the Member of the Executive Council, with the agreement of the Member of the Executive Council responsible for finance and by notice in the Provincial Gazette may declare any education institution as— 25

- (a) a college; or
- (b) a satellite of an existing college.

(2) The notice contemplated in subsection (1) must determine the date on which the education institution becomes a college or a satellite of an existing college.

(3) The Member of Executive Council may only act under subsection (1)— 30

- (a) after consultation with—
 - (i) the governing body or similar authority of the education institution concerned, if it is a public education institution administered, funded or controlled by the Department;
 - (ii) the council of the college concerned, if the education institution is to be declared a satellite of an existing college; 35
- (b) with the agreement of—
 - (i) the owner of the education institution, if it is a private education institution; or
 - (ii) the relevant organ of state, if the educational institution is administered, funded or controlled by an organ of state other than the Department. 40

(4) Sections 5(2) and 5(3), read with the changes required by the context, apply to an education institution declared by the Member of the Executive Council as a college.

Consequences of declaration of education institution as college 45

16. (1) From the date contemplated in section 15(2)—

- (a) the education institution is deemed to be a college established under this Act or a satellite of such a college;
- (b) the assets, liabilities, rights and obligations of the education institution devolve upon the college concerned; 50
- (c) any agreement lawfully entered into by or on behalf of the education institution, is deemed to have been concluded by the college concerned;
- (d) the ownership and control of movable property and all rights, liabilities and obligations attached to that property which immediately prior to that date vested in the State and which relate exclusively to the college concerned, 55

devolve upon the college on such terms and conditions as are determined by the Member of the Executive Council; and

- (e) the ownership and control of immovable property and all rights, liabilities and obligations attached to that property which immediately prior to that date vested in the State and which relate to the college concerned, may, if so determined by the Member of the Executive Council, devolve upon the college concerned on such terms and conditions as he or she may determine. 5

(2) Immovable property devolving upon a college in terms of paragraph (e) of subsection (1) must, subject to the approval of the Member of the Executive Council responsible for finance, be transferred to such college, subject to any existing right, encumbrance, duty or trust on or over that property. 10

(3) The declaration of an education institution as a college or a satellite of a college under section 15 does not affect anything lawfully done by the education institution prior to the declaration.

(4) All funds which, immediately prior to the date contemplated in section 15(2), were vested in the education institution concerned by virtue of a trust, donation or bequest must be applied by the college concerned in accordance with the trust, donation or bequest. 15

(5) The declaration of an education institution as a college, or a satellite of an existing college, as contemplated in section 15(1) must not be construed as changing the employer of any person employed at a college. 20

Amalgamation of colleges

17. (1) The Member of the Executive Council on his or her own initiative or at the request of the council of a college, may with the agreement of the Member of the Executive Council responsible for finance and by notice in the Provincial Gazette, amalgamate two or more colleges into a single college. 25

(2) The Member of the Executive Council may not act under subsection (1) unless he or she has—

- (a) given reasonable notice of the intention so to act, and the reasons for such action, in the Provincial Gazette; 30
- (b) given the councils of the colleges concerned and any other interested person a reasonable opportunity to make representations; and
- (c) considered any such representations.

(3) The single college contemplated in subsection (1) is deemed to be a college established under this Act. 35

Closure of colleges

18. (1) The Member of the Executive Council on his or her own initiative or at the request of the council of a college, may with the agreement of the Member of Executive Council responsible for finance and by notice in the Provincial Gazette, close a college.

(2) The Member of the Executive Council may not act under subsection (1) unless he or she has— 40

- (a) given reasonable notice of the intention so to act, and the reasons for such action, in the Provincial Gazette;
- (b) given the council of the college concerned and any other interested person a reasonable opportunity to make representations; and 45
- (c) considered any such representations.

Consequences of closure of college

19. (1) If a college is closed in terms of section 18, all of its assets and liabilities must after closure be dealt with in accordance with the law and any residue devolves upon the State and must be applied by the Member of the Executive Council to an appropriate purpose in public education. 50

(2) Immovable property devolving upon the State in terms of subsection (1) must be transferred subject to any existing right, encumbrance, duty or trust on or over that property, in which case section 7(5) applies with the necessary changes.

(3) The closure of a college does not affect anything lawfully done by the college prior to closure. 55

CHAPTER THREE

COLLEGE GOVERNANCE

Governance of colleges

20. Subject to this Act, a college is governed by—
- (a) its council; 5
 - (b) its senate, if established under section 24;
 - (c) its students' representative council; and
 - (d) its principal.

Composition of council of college

21. (1) Every council consists of— 10
- (a) the principal;
 - (b) members of the senate, elected by the senate, if a senate has been established in terms of section 24;
 - (c) student members, elected by the students' representative council;
 - (d) educator members, elected by educators; 15
 - (e) other employee members elected by employees other than educators;
 - (f) representatives of organised labour, organised business and local government, other than employee members, appointed by the rest of the council;
 - (g) such other persons nominated by every body or organisation which is recognised by the Member of the Executive Council as a stakeholder of the college; and 20
 - (h) such additional persons as may be appointed by the Member of the Executive Council on the basis of their experience or expertise.
- (2) The number of persons contemplated in paragraphs (b) to (g) of subsection (1) is determined by the Member of the Executive Council by notice in the Provincial Gazette. 25
- (3) The number of persons contemplated in paragraph (h) of subsection (1) must at the time of their appointment be less than 20% of the total number of members of the council.
- (4) The manner of election, nomination or appointment and the terms of office of persons contemplated in subsection (1) are as determined by the Member of the Executive Council by notice in the Provincial Gazette. 30
- (5) The Member of the Executive Council may determine different compositions for the councils of different colleges, if there is a reasonable and equitable basis for such differentiation.

Powers and duties of council 35

22. (1) The council is responsible for the management and control of the college.
- (2) The council may make rules and determine procedures which are not inconsistent with this Act or any policy determined by the Member of the Executive Council—
- (a) for the effective management and control of the college, and the discipline of students at the college; and 40
 - (b) to give effect to this Act.
- (3) The council, subject to any policy determined by the Member of the Executive Council, determines the fees payable by students for tuition, boarding and any other services rendered by the college.
- (4) The council may enter into agreements of co-operation relating to the promotion 45 of education and training at colleges with other persons or bodies.
- (5) The council, subject to the approval of the Member of the Executive Council, may determine the name of the college and the name of any satellite of the college.
- (6) The council must submit a written report on the activities of the college to the Head of Department by 31 March of each year. 50
- (7) The council may, subject to such conditions as it may determine, delegate any of its powers or assign any of its duties in terms of this Act or delegated to it in terms of section 46 to—
- (a) the senate, if a senate has been established in terms of section 24;
 - (b) the principal. 55
- (8) A delegation or assignment under subsection (7) does not prevent the council from exercising the powers or performing the duties concerned.

Committees of council

23. (1) The council may establish committees and assign any of its functions to them and may appoint persons who are not members of the council as members of such committees.

(2) The council is not divested of responsibility to perform any function assigned to a committee in terms of subsection (1). 5

(3) Any decision taken by such committee in the performance of any function so assigned, must as soon as reasonably practicable be presented to the council for ratification.

(4) The constitution, manner of election, functions, procedures at meetings and dissolution of committees are as determined by the rules contemplated in section 22(2). 10

Establishment of senate

24. A council may establish a senate at a college to be responsible for—

- (a) the academic functions of the college; and
- (b) such other functions as are assigned to it by the council. 15

Composition of senate of college

25. (1) The senate at a college consists of—

- (a) the principal, who is the chairperson;
- (b) members of the council;
- (c) members of the students' representative council; 20
- (d) such managers of departments and educators of the college as are appointed by the council; and
- (e) such other persons as are appointed by the council.

(2) The number of persons contemplated in subsection (1), the manner of their appointment or election and their terms of office are as determined by the rules contemplated in section 22(2). 25

Committees of senate

26. (1) The senate may establish committees and assign any of its functions to them, and may appoint persons who are not members of the senate as members of such committees. 30

(2) The senate is not divested of responsibility to perform any function assigned to a committee in terms subsection (1).

(3) Any decision taken by such committee in the performance of any function so assigned, must as soon as reasonably practicable be presented to the senate for ratification. 35

(4) The constitution, manner of election, functions, procedures at meetings and dissolution of committees are as determined by the rules contemplated in section 22(2).

Capacity building of senate or council

27. The Member of the Executive Council may—

- (a) institute courses and training programmes for the members of a senate, if established in terms of section 24, or a council; and 40
- (b) with the concurrence of the Member of the Executive Council responsible for finance, approve that the subsistence and travelling expenses of any such members to attend such courses or programmes be paid by the Department.

Principal of college 45

28. (1) The principal is the chief executive officer and the accounting officer of the college and is responsible to the rest of council for the management and administration of the college.

(2) Subject to section 21(4), the principal is appointed by the rest of the council with the agreement of the Head of Department. 50

(3) If the principal is absent or unable to perform the functions of a principal, or when the post of principal is vacant, the rest of the council may appoint an educator at the

college to act as principal during such absence or incapacity for such duration as the council determines.

(4) The principal may, subject to such conditions as the rest of the council may determine, delegate any of his or her powers, or assign any of his or her duties, in terms of this Act, or delegated or assigned to him or her in terms of this Act, to an employee of the college. 5

(5) A delegation or assignment in terms of subsection (4) does not prevent the principal from exercising such powers or performing the duties concerned.

Executive management committee

29. The principal, with the agreement of the rest of the council, may appoint an executive management committee to assist the principal in the performance of his or her duties. 10

Students' representative council

30. (1) A students' representative council must be established at every college.

(2) The establishment, composition, manner of election, term of office and functions of a students' representative council must be determined by the Member of the Executive Council by notice in the Provincial Gazette. 15

Cluster of colleges

31. (1) The Member of the Executive Council may, after consultation with the councils of the colleges concerned, or at the request of the councils of the colleges concerned, designate a cluster of colleges to promote— 20

- (a) co-operation between or among colleges; and
- (b) the rational and efficient utilisation of educational resources.

(2) The Member of the Executive Council may, by notice in the Provincial Gazette—

- (a) establish a cluster council for every cluster of colleges so designated; and 25
- (b) provide for the composition, manner of election, term of office, powers and functions of a cluster council.

CHAPTER FOUR

FUNDING OF COLLEGES

Member of Executive Council allocates funds 30

32. (1) The Member of the Executive Council, with the agreement of the Member of the Executive Council responsible for finance and out of money appropriated for such purpose by the Provincial Legislature, may allocate funds to colleges on such reasonable basis as he or she may determine.

(2) Before the Member of the Executive Council allocates funds as contemplated in subsection (1), he or she must consider the extent to which the use of such funds is likely to—

- (a) promote equitable opportunities;
- (b) redress past inequalities in the provision of education and training; and
- (c) promote the quality of learning and teaching at the college. 40

(3) The Member of the Executive Council may—

- (a) impose any reasonable conditions on an allocation contemplated in subsection (1); and
- (b) impose different conditions in respect of different colleges, different programmes or different allocations, if there is a reasonable basis for such differentiation. 45

(4) The Member of the Executive Council, at any time, may—

- (a) amend or withdraw any condition imposed under this section; and
- (b) impose further conditions on any allocation of funds under this section.

(5) The Member of the Executive Council may not act under subsection (4) unless— 50

- (a) every college affected has been given reasonable notice of the intention so to act and the reasons for such action;
- (b) every college affected has been given a reasonable opportunity to make representations regarding such action; and

- (c) any such representations have been considered by the Member of the Executive Council.

Action on failure of college to comply with Act or conditions

33. (1) If any college fails to comply with any provision of this Act under which an allocation from money appropriated by the Provincial Legislature is paid to such college, or with any condition subject to which any such allocation is paid, the Member of the Executive Council may call upon the college to comply with that provision or condition within a specified period. 5

(2) If the college thereafter fails to comply with the provision or condition, the Member of the Executive Council may, despite anything to the contrary contained in any law, withhold payment of the whole or any portion of the allocation appropriated by the Provincial Legislature in respect of the college concerned. 10

(3) Before taking action under subsection (2) the Member of the Executive Council must—

- (a) give notice to the college of the intention so to act and the reasons for such action; 15
 (b) give the council of the college a reasonable opportunity to make representations; and
 (c) consider any such representations.

(4) If the Member of the Executive Council takes action as contemplated in subsection (2), a report regarding such action must be tabled in the Provincial Legislature by the Member of the Executive Council as soon as reasonably practicable after such action. 20

Donations to colleges by local authorities

34. A local authority may donate land, money or other goods to a college. 25

State loans to colleges

35. (1) The Member of the Executive Council may, with the agreement of the Member of the Executive Council responsible for finance and from monies appropriated by the Provincial Legislature for that purpose, on application, grant loans to colleges.

(2) Any application for a loan contemplated in subsection (1) must— 30

- (a) be submitted in writing to the Head of Department; and
 (b) clearly state the purpose of the proposed loan.

(3) The Head of Department, in respect of an application contemplated in subsection (1), may—

- (a) call for estimates, plans, specifications, reports, returns or other information; 35
 and
 (b) conduct inspections of the college concerned.

Conditions of State loans

36. (1) Every loan granted under section 35(1) is subject to such conditions as are determined by the Member of the Executive Council responsible for finance. 40

(2) Different conditions may be imposed on different loans if there is a reasonable basis for such differentiation.

(3) Subsections (3) and (4) of section 32, and section 33, with the necessary changes apply to any loan granted in terms of subsection (1).

(4) Every loan together with interest due thereon is, subject to any prior charge or hypothecation, a charge upon all the property, movable or immovable, present or future, of the college concerned. 45

(5) The Member of the Executive Council responsible for finance, before granting a loan, must, subject to any applicable law, determine—

- (a) the rate of interest on the loan; 50
 (b) the period within which the loan and any interest thereon must be repaid; and
 (c) the amount and regularity of instalments for repayment of the loan.

Financial year, records and financial statements of colleges

37. (1) The financial year of every college ends on the last day of December in each year.
- (2) The principal of a college must keep such accounting records as are necessary to reflect the transactions and financial state of affairs of the college. 5
- (3) The Head of Department may issue directives to the principal regarding—
- (a) the system of bookkeeping and accounting to be followed; and
 - (b) any other records which may be required.
- (4) The council must, in respect of each financial year, ensure that adequate financial statements are made and, cause such statements to be audited in accordance with subsections (6), (7) and (8) and submit copies of such audited statements to the Head of Department by 31 March of the next financial year. 10
- (5) The financial statements referred to in subsection (4) must consist of—
- (a) a balance sheet reflecting the assets and liabilities of the college;
 - (b) an income statement or similar financial statement reflecting income and expenditure, of the college; and 15
 - (c) such other statements as the Head of Department may require.
- (6) The accounting records and annual financial statements of a college must be audited by a person who is—
- (a) registered in terms of the Public Accountants and Auditors Act, 1991 (Act No. 80 of 1991), as an accountant and auditor; 20
 - (b) engaged in private practice; and
 - (c) not a member of the council or senate of the college.
- (7) If it is not reasonably practicable for the audit to be conducted by a person contemplated in subsection (6), the council of a college may appoint a person to examine and report on the financial statements contemplated in subsections (4) and (5) who— 25
- (a) is qualified to perform the duties of an accounting officer in terms of section 60 of the Close Corporation Act, 1984 (Act No. 69 of 1984); or
 - (b) is approved by the Member of the Executive Council for this purpose.
- (8) No person who has a financial interest in the affairs of a college may be appointed under this section to audit the financial statements of that college. 30

CHAPTER FIVE

TRANSITIONAL PROVISIONS

Technical colleges

38. (1) Despite the provisions of section 48 and subject to subsection (2), the laws in terms of which a technical college was established or deemed to have been established, continue to apply to that technical college until the Member of the Executive Council— 35
- (a) closes the technical college in terms of that law; or
 - (b) declares the technical college as a college or a satellite of a college in terms of section 15. 40
- (2) Despite subsection (1) a technical college, a council or a senate of a technical college may only continue to perform those functions and exercise those powers which they performed previously and which are not inconsistent with this Act.

Governance of education institutions declared as colleges

39. (1) Subject to subsection (5), every council or similar authority of an education institution declared as a college in terms of section 15, continues to exist and perform those functions and exercise those powers it previously performed and exercised which are not inconsistent with this Act, until the first meeting of the council of the college constituted as contemplated in section 21. 45
- (2) Subject to subsection (5), every senate or similar authority of an education institution declared as a college in terms of section 15, continues to exist and performs those functions and exercises those powers it used to perform and exercise which are not inconsistent with this Act, until the first meeting of the senate of the college constituted as contemplated in section 25. 50
- (3) The Member of the Executive Council must, by notice in the Provincial Gazette, determine dates by when— 55

- (a) the council and senate of a college declared as a college in terms of section 15 must be constituted in accordance with this Act; and
- (b) the first meetings of such duly constituted council and senate must be held.
- (4) Different dates may be determined in terms of subsection (3) in respect of councils, senates and different colleges. 5
- (5) If the Member of the Executive Council is of the reasonable opinion that the previous functions and powers of the education institution declared as a college in terms of section 15, are sufficiently dissimilar to the functions and powers of a college under this Act, he or she may, by notice in the Provincial Gazette, appoint a person or persons with appropriate experience or expertise to perform the functions and exercise the powers of a council or a senate until the date contemplated in subsection (3)(b) and the existing council, senate or similar authority of the education institution ceases to exist on such appointment. 10

Existing education and training programmes

40. Any education and training programme which was established at a college in terms of a law repealed by this Act and which existed immediately prior to the commencement date, is deemed to be provided in terms of this Act. 15

Existing loans to technical colleges

41. Any loan granted to a technical college in terms of a law repealed by this Act which is outstanding at the commencement of this Act, is deemed to be a loan granted in terms of section 35. 20

CHAPTER SIX

GENERAL

Member of Executive Council may enter into agreements

42. The Member of the Executive Council may, in order to further the objects of this Act, enter into agreements with non-governmental organisations, but no agreement placing financial obligations on the Department may be entered into without—
- (a) the agreement of the Member of the Executive Council responsible for finance; and
- (b) having consulted with any college likely to be affected by the agreement. 30

Inquiry at college

43. The Head of Department, after giving reasonable notice to the council, may at any time cause an inquiry to be conducted at a college regarding—
- (a) the governance, management or maintenance of the college;
- (b) the admission, suspension or expulsion of students; 35
- (c) the provision of education and training;
- (d) discipline;
- (e) the employees at the college;
- (f) the land, buildings, equipment, stores and finances of the college; and
- (g) any other matter relevant to the effective provision of education and training at the college. 40

Compulsory school attendance

44. (1) A college is, for the purposes of any law relating to compulsory school attendance, deemed to be a school within the meaning of that law.
- (2) Any person who, in terms of such a law, is obliged to attend school and who regularly and on a full time basis attends a college is deemed to comply with all requirements relating to compulsory school attendance. 45

Appeals against decisions of Head of Department

45. (1) Any affected person who is aggrieved by any decision of the Head of

Department made in terms of this Act, may, within 30 days of receiving notice of such decision, appeal against the decision to the Member of the Executive Council.

(2) An appeal contemplated in subsection (1) must—

(a) be in writing; and

(b) set out the grounds of appeal.

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(3) The Member of the Executive Council, on good cause shown, may extend the period referred to in subsection (1).

(4) The Member of the Executive Council must consider an appeal referred to in subsection (1) and must confirm, vary or set aside the decision of the Head of Department against which the appeal is made.

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Delegation of powers

46. (1) The Member of the Executive Council, subject to such conditions as he or she may determine, may delegate any of his or her powers, or assign any of his or her duties in terms of this Act, other than a power contemplated in sections 45 and 47, to the Head of Department.

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(2) The Head of Department, subject to such conditions as he or she may determine, may delegate any of his or her powers, or assign any of his or her duties in terms of this Act, or delegated or assigned to him or her in terms of subsection (1) to—

(a) a person employed by the Department; or

(b) a council of a college.

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(3) Any delegation or assignment under subsection (1) or (2) does not prevent the Member of the Executive Council or the Head of Department from exercising such power or performing such duty.

Regulations

47. (1) The Member of the Executive Council may make regulations, not inconsistent with this Act, as to—

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(a) any matter which the Member of the Executive Council is empowered or required to prescribe;

(b) all matters in respect of which the Member of the Executive Council deems it necessary or expedient to achieve the objects of this Act; and

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(c) the registration and deregistration of private technical colleges.

(2) Regulations regarding any fees or allowances payable by or to any person or relating to the control of money must be made with the agreement of the Member of the Executive Council responsible for finance.

(3) Regulations made under subsection (1) may prescribe, in respect of any contravention thereof or failure to comply therewith, a penalty of a fine or imprisonment for a period not exceeding six months.

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Repeal of laws, and savings

48. (1) Subject to this Act, the laws listed in the first column of the Schedule are hereby repealed to the extent set out in the third column of that Schedule.

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(2) Anything done or deemed to have been done in terms of a provision of a law repealed by subsection (1), and which may or must be done in terms of this Act, is deemed to have been done in terms of the corresponding provision of this Act.

(3) Any regulation, notice or directive made or issued under any law repealed under subsection (1), and which was in force immediately prior to the commencement date, remains in force despite the repeal of such law, except insofar as it is inconsistent with this Act.

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Short title and commencement

49. This Act is called the Gauteng College Education and Training Act, 1998, and comes into operation on a date determined by the Premier by proclamation in the Provincial Gazette.

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Act No. 13, 1998

GAUTENG COLLEGE EDUCATION AND TRAINING ACT, 1998

SCHEDULE: LAWS TO BE REPEALED

NO. AND YEAR OF LAW	TITLE	EXTENT OF REPEAL	
Act No. 61 of 1965	Indians Education Act, 1965 as amended [1967, 1973, 1979, 1981, 1984, 1985, 1986, 1993, 1994, 1996]	Only insofar as it relates to technical colleges	5 10
Act No. 90 of 1979	Education and Training Act, 1979 as amended [1980, 1981, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1994, 1996]	Only insofar as it relates to technical colleges	15
Act No. 104 of 1981	Technical Colleges Act, 1981 as amended [1983, 1984, 1989, 1994, 1996]	The whole, except section 36	20

CONTENTS

<i>No.</i>		<i>Page No.</i>	<i>Gazette No.</i>
	PREMIER'S NOTICE		
337	Gauteng College Education and Training Act (13/1998): For general information.....	1	6