ASSIGNED LEGISLATION


[ASSENTED TO 15 OCTOBER 1981] [DATE OF COMMENCEMENT: 1 FEBRUARY 1982]

(English text signed by the State President)

as amended by

Education and Culture Laws Amendment Act 28 of 1983
Education and Heraldry Laws Amendment Act 6 of 1984
Technical Colleges Amendment Act (House of Assembly) 44 of 1989
Proclamation 138 of 1994
Proclamation R151 of 1994
Abolition of Restrictions on the Jurisdiction of the Courts Act 88 of 1996
Further Education and Training Act 98 of 1998

[NB. The administration of the whole of this Act, excluding sections 1B, 9, 10, 11A, 12, 13 and 36, has under Proclamation R151 of 1994, promulgated in Government Gazette 16049 of 31 October 1994, been assigned to the Province of Gauteng with effect from 31 October 1994.]

ACT

To provide for the establishment, maintenance, management and control of technical colleges; and for incidental matters.

1 Definitions

In this Act, unless the context otherwise indicates-

"advisory council"

[Definition of "advisory council" deleted by sec 1(a) of Act 44 of 1989.]

"college council" means a college council referred to in section 5(a);

"commission" means the Commission for Administration established by section 2(1) of the Commission for Administration Act, 1984 (Act 65 of 1984);

[Definition of "commission" substituted by sec 1(b) of Act 44 of 1989.]

"committee" means the Committee of Technical College Principals referred to in section 36;

[Definition of "committee" inserted by sec 1(c) of Act 44 of 1989.]

"council" in relation to a technical college, means a college council;

"Department"
"Department"...

[Definition of "Department" inserted by sec 1(c) of Act 44 of 1989 and deleted by Proclamation R151 of 31 October 1994.]

"Director-General"...

[Definition of "Director-General" deleted by sec 1(d) of Act 44 of 1989.]

"employee" in relation to a technical college, means a person employed in a temporary capacity or under a kind of contract different from that usually entered into with officers, in the service of a technical college in a post included in or additional to the fixed establishment of such technical college;

"formal instruction or training course" means a course in respect of which an examination as referred to in section 18(a) is conducted;

[Definition of "formal instruction or training course" inserted by sec 1(e) of Act 44 of 1989.]

"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;

[Definition of "governing body" substituted by sec 1(f) of Act 44 of 1989.]

"Head of Education" means -

(a) in so far as the administration of a provision of this Act has under section 235(8) of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993), been assigned to a competent authority within a provincial government and the provision is applied in or with regard to the province concerned, the head of the education department of that province; or

(b) in so far as the administration of a provision of this Act has not been so assigned, the Director-General of Education;

[Definition of "Head of Education" inserted by sec 1(g) of Act 44 of 1989 and substituted by Proclamation R151 of 31 October 1994.]

"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;

[Definition of "management council" inserted by sec 1(g) of Act 44 of 1989.]

"Minister" means -

(a) in so far as the administration of a provision of this Act has under section 235(8) of the Constitution been assigned to a competent authority within a provincial government and the provision is applied in or with regard to the province concerned, the member of the Executive Council of that province responsible for education in the province; or

(b) in so far as the administration of a provision of this Act has not been so
assigned, the Minister of Education;

[Definition of "Minister" substituted by sec 1(i) of Act 44 of 1989 and by Proclamation R151 of 31 October 1994.]

"Minister of the Budget and Works" or "Minister of Finance" means -

(a) in so far as the administration of a provision of this Act has under section 235(8) of the Constitution been assigned to a competent authority within a provincial government and the provision is applied in or with regard to the province concerned, the member of the Executive Council of that province responsible for the budget in the province; or

(b) in so far as the administration of a provision of this Act has not been so assigned, the Minister of Finance;

[Definition of "Minister of the Budget and Works" or "Minister of Finance" inserted by Proclamation R151 of 31 October 1994.]

"officer" in relation to a technical college, means a person appointed to the service of a technical college permanently, although he may have been appointed -

(a) on probation;

(b) in a post intended for a person of a rank higher or lower than his own rank; or

(c) in a post additional to the fixed establishment of such technical college;

"post-school education" means instruction and training -

(a) provided with a view to the pursuance of a vocation or the development of a social or recreational skill; and

(b) primarily intended for persons who are not subject to compulsory school attendance in terms of a provision of any law or who were exempted from such a provision, but excluding education referred to in paragraph (a) or (d) of section 14 of the Financial Relations Act, 1976 (Act 65 of 1976);

[Definition of "post-school education" substituted by sec 7 of Act 28 of 1983.]

"prescribe" means prescribe by regulation;

"principal" in relation to a technical college, means a person appointed under section 7(2) as the principal of a technical college;

"private technical college" means an educational institution registered under section 36A as a private technical college;

[Definition of "private technical college" inserted by sec 1(j) of Act 44 of 1989.]
"province" means a province of the Republic mentioned in section 124(1) of the Constitution;

[Definition of "province" inserted by Proclamation R151 of 31 October 1994.]

"regulation" means a regulation made under section 39;

"school" means a school established under section 12(1) of the Educational Affairs Act (House of Assembly), 1988;

[Definition of "school" substituted by sec 1(l) of Act 44 of 1989.]

"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;

[Definition of "state-aided school" inserted by sec 1(m) of Act 44 of 1989.]

"subsidized school"

[Definition of "subsidized school" deleted by sec 1(n) of Act 44 of 1989.]

"technical college" means a technical college established under section 2 or a school or 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;

[Definition of "technical college" substituted by sec 1(o) of Act 44 of 1989.]

"this Act" includes the regulations;

"Treasury" means -

(a) in so far as the administration of a provision of this Act has under section 235(8) of the Constitution been assigned to a competent authority within a provincial government and the provision is applied in or with regard to the province concerned, the Treasury of that province; or

(b) in so far as the administration of a provision of this Act has not been so assigned, the Treasury referred to in section 1 of the Exchequer Act, 1975 (Act 66 of 1975).

[Definition of "Treasury" added by sec 1(p) of Act 44 of 1989 and substituted by Proclamation R151 of 31 October 1994.]

1A Application of Act

The provisions of this Act shall be applied subject to the provisions of the National Policy for General Education Affairs Act, 1984 (Act 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 110
1B

[The administration of sec 1B has not been assigned to the Province of Gauteng.]

2 Establishment of, or declaration of certain institutions as, technical colleges

(1) The Minister may, with the concurrence of the Minister of 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;

(b) declare any school or state-aided school which provides or intends to provide post-school education a technical college.

[Subsection (1) substituted by sec 3(a) of Act 44 of 1989.]

(2) The Minister shall not declare a school or state-aided school under subsection (1)(b) a technical college except after consultation with the management council of such school, if any, or the governing body of such state-aided school, as the case may be.

[Subsection (2) substituted by sec 3(b) of Act 44 of 1989.]

(3) A technical college shall be a juristic person.

3 Functions of technical colleges

The functions of a technical college shall be to provide post-school education in accordance with the directions of the Minister.

4 Proprietary capacity of technical colleges

A technical college shall be capable in law of purchasing or otherwise acquiring, holding, hiring, letting, selling, exchanging or otherwise alienating any movable or immovable property, or granting to any person any real right in or servitude on its property, or of investing, lending or borrowing money: Provided that no technical college shall except with the approval of the Minister let for a period longer than one year or sell, exchange or otherwise alienate its immovable property or grant to any person any real right therein or servitude thereon or lend or borrow money.

5 Constitution of technical colleges

A technical college shall consist of -

(a) a college council;

(b) a principal;
(c) a board of studies (except where the Minister is of the opinion that the activities of the technical college do not justify the appointment of such a board); and

(d) the staff and students.

6 College councils

(1) The affairs of a technical college shall be managed and controlled by the college council, which shall, subject to the provisions of this Act, exercise and perform the powers and duties of the technical college.

(2) A college council shall have not less than seven and not more than fifteen members as may from time to time be determined by the Minister, and shall consist of -

(a) the principal of the technical college;

(b) one member in respect of each body or organization recognized by the Minister as a body or organization interested in such technical college, who shall represent such a body or organization on the council;

(c) one or more other members.

(3) The members of a college council, excluding the member referred to in subsection (2)(a), shall be appointed by the Minister: Provided that the Minister shall consult with a body or organization referred to in subsection (2)(b) before appointing any person to represent such body or organization on the council.

(4) (a) A college council may with the approval of the Minister delegate any power conferred upon it by or under this Act to the principal of the technical college or authorize such principal to perform any duty assigned to a college council by or under this Act.

(b) No delegation of a power under paragraph (a) shall prevent the exercise of the relevant power by the college council itself.

(5) A college council may appoint committees of the council consisting of council members or of council members as well as other persons, and may delegate to a committee consisting solely of council members any of the council's powers: Provided that the council shall not be divested of a power so delegated by it and may amend or set aside any decision of a committee at the first meeting of the council after the decision was taken.

[Subsection (5) added by sec 8 of Act 28 of 1983.]

7 Principals of technical colleges

(1) The principal of a technical college shall be the chief executive officer of the technical college and shall, subject to the control and directions of the college council, be responsible for carrying out the council's decisions.
(2) The principal of a technical college shall be appointed by the college council with the approval of the Minister.

(3) Whenever the principal of a technical college is absent or is unable to perform his functions as principal or whenever the appointment of a principal is pending, the college council may appoint a member of the teaching staff of the technical college to act as principal of the technical college during such absence or incapacity or until a principal is appointed.

8 Boards of studies

(1) The board of studies of a technical college shall consist of -

(a) the principal of the technical college, who shall be the chairman of the board;

(b) two other members of the college council designated by the council, who shall hold office during the council's pleasure;

(c) such members of the teaching staff of the technical college as the council may from time to time designate.

(2) The board of studies of a technical college -

(a) shall exercise such powers of organization of and control over the instruction, training and discipline of the students at the technical college as are assigned to it by the college council;

(b) shall advise the college council in regard to any matter which the council may refer to it for its advice; and

(c) may make such recommendations to the college council on academic matters of interest to the technical college as it may deem expedient.

9 and 10 ... 

[The administration of sections 9 and 10 has not been assigned to the Province of Gauteng.]

11

[Sec 11 repealed by sec 10 of Act 44 of 1989.]

11A

[The administration of section 11A has not been assigned to the Province of Gauteng.]

12 and 13

[The administration of sections 12 and 13 has not been assigned to the Province of Gauteng.]
14 Admission of students

(1) (a) The conditions of admission of any person as a student to a technical college shall be determined by the Head of Education.

[Para (a) substituted by sec 12(a) of Act 44 of 1989.]

(b) The fees payable to a technical college by a student-

(i) for post-school education provided to him by the technical college; and

(ii) for boarding or accommodation provided by the technical college, shall be determined by the council.

[Subsection (1) substituted by sec 9 of Act 6 of 1984.]

(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 Head of Education.

[Subsection (2) substituted by sec 12(b) of Act 44 of 1989 and by sec 92 of Act 88 of 1996 w e f 22 November 1996.]

15 Discipline

A student at a technical college shall be subject to such disciplinary measures as may be determined by rules made by the council of such technical college.

16 Courses, fields of study and syllabuses

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

(2) The syllabus of any formal course established under subsection (1) shall be determined by the Minister.

[Sec 16 substituted by section 13 of Act 44 of 1989.]

17 Medium of instruction

The medium of instruction at a technical college shall be Afrikaans and English, and the circumstances in which instruction or training shall or may be given through the one or the other shall be determined by the college council with the approval of the Minister: Provided that where the proficiency of the teaching staff in the use of those two languages and the number of students concerned permit, the two languages shall as far as is practicable be used on an equal basis for that purpose.

18 Conduct of examinations and issue of diplomas and certificates
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 85 of 1986); and

(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.

[Sec 18 substituted by sec 14 of Act 44 of 1989.]

19 Inspection

The Minister may at any time cause an inspection to be made at a technical college in regard to any matter affecting -

(a) the maintenance, management or control of such technical college;

(b) the admission or dismissal of students;

(c) the instruction and training which are provided;

(d) discipline;

(e) the staff;

(f) the land, buildings, equipment, stores and finances of such technical college, and generally, in regard to such other matters as the Minister may deem expedient.

20 Effects of declaration of school as technical college

(1) As from the date on which a school is declared a technical college under section 2(1)(b)-

(a) all the property of the State allocated for use or consumption for the purposes of such school shall devolve upon such technical college;

(b) all funds or property controlled and administered on behalf of such school by the management council of such school under 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;

[Para (b) substituted by sec 15(a) of Act 44 of 1989.]

(c) the administrative records and other documents relating to such school and which the Minister may determine shall be transferred to such
(d) any person who immediately before that date was a member of the management council of such school, shall be deemed to be 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;

[Para (d) substituted by sec 15(b) of Act 44 of 1989.]

(e) any person who immediately before the said date was the principal of such school, shall be deemed to be appointed under section 7(2) as the principal of such technical college;

[Para (e) substituted in the Afrikaans text.]

(f) any person who immediately before the said date was a pupil of such school shall become a student of such technical college;

(g) any department or course 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;

[Para (g) substituted by sec 15(d) of Act 44 of 1989.]

(h) any person who immediately before the said date held a position in the service of the Government at such school, other than a person referred to in paragraph (i), shall, subject to subsections (2), (3), (4) and (5), be transferred to the service of such technical college;

(i) any person who immediately before the said date held a position under section 7 of the Public Service Act, 1984 (Act 111 of 1984), at such school and who on or before the said date elected by means of a written notice to the Head of Education to remain in the public service, shall be deemed to be an officer placed under section 14(3) of the said Act at the disposal of that technical college until he is transferred on the recommendation of the commission to a post in the public service.

[Para (i) substituted by sec 15(e) of Act 44 of 1989.]

(2) The conditions of service, salary scale, allowances and leave privileges of a person who is transferred in terms of subsection (1)(h) to the service of a technical college shall as from the date of his transfer 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 prior to his transfer shall not be reduced, and such a person who is a member of the teaching staff shall not be placed in a lower category for salary purposes.
(3) Any disciplinary proceedings in respect of misconduct committed before the said date by any person transferred to the service of a technical college in terms of subsection (1)(h), may be continued or instituted by the college council as if such misconduct were committed after his transfer.

(4) Any continuous full-time service with the Government of any person transferred to the service of a technical college in terms of subsection (1)(h), shall for leave purposes be deemed to be service with such technical college: Provided that, subject to any condition which may be prescribed -

(a) any sick or accumulative vacation leave standing to the credit of such person on the date of his transfer shall be deemed to be leave earned by such person in the service of the technical college concerned;

(b) any privilege which would have accrued to such person or his dependants in respect of any payment for vacation leave standing to his credit on his retirement or death if he had not been transferred to the service of such technical college, shall be retained by him or them after such transfer.

(5) Notwithstanding the provisions of subsection (1)-

(a) any person referred to in paragraph (h) of that subsection shall retain all the rights and privileges and remain subject to all the obligations acquired or incurred by him for pension purposes under any law applicable to him immediately before the date of his transfer; and

(b) (i) any contribution which in terms of the regulations governing the provident fund and pension scheme established under section 19(1)(g) of the Higher Education Act, 1923 (Act 30 of 1923), is payable in respect of any person referred to in paragraph (a) by his employer;

(ii) any annuity or gratuity which may be granted to such person in addition to the benefits payable from that provident fund or under that pension scheme and to which a contribution is approved in terms of the said regulations, shall be paid out of moneys appropriated by the House of Assembly for that purpose.

[Para (b) amended by sec 15(f) of Act 44 of 1989.]

21 Effect of declaration of state-aided school as technical college

(1) As from the date on which a state-aided school is declared a technical college under section 2(1)(b)-

(a) all assets, rights, liabilities and obligations of such state-aided school and the governing body of such 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;

(b) any person who immediately before that date held an appointment or
(c) any person who immediately before the said date was the principal of such state-aided school, shall be deemed to be appointed under section 7(2) as the principal of such technical college;

(d) any department or any course or educational programme which immediately before the said date existed or was conducted at such state-aided school, shall be deemed to be a field of study or a course of instruction or training established under section 16.

(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.

(3) Any continuous full-time service with the governing body of the said 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 vacational 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.

(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.

[Sec 21 substituted by sec 16 of Act 44 of 1989.]

22 Registration of certain immovable property in name of technical colleges

(1) The registrar of deeds concerned shall on submission to him of a certificate by the Minister that immovable property described in such certificate had devolved upon a technical college in terms of section 20 or 21, make such entries or endorsements in or on any relevant register, title deed or other document in his office or laid before him as he may deem necessary so as to register such immovable property in the name of such technical college.

(2) No transfer duty, stamp duty, office or other fees shall be payable in respect of a registration contemplated in subsection (1).
23 Purposes for which loans may be granted to technical colleges out of moneys voted by the House of Assembly

The Minister may subject to the provisions of this Act and with the concurrence of the Minister of the Budget and Works out of moneys voted by 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 state-aided school, by the governing body of such state-aided school, from any person other than the State for a purpose mentioned in paragraph (a), (b), (c) or (d).

[Sec 23 substituted by sec 17 of Act 44 of 1989.]

24 Applications for loans

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

(2) On receipt of any such application the 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.

[Sec 24 substituted by sec 18 of Act 44 of 1989.]

25 Conditions of loans

(1) Every loan granted under section 23 shall be subject to such conditions as may be determined by the Treasury.

(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 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.

[Subsection (2) substituted by sec 19 of Act 44 of 1989.]

(3) The period within which any such loan and the interest thereon shall be repaid shall be determined by the Treasury before the granting of the loan, but the Treasury may from time to time extend any such period: Provided that every such loan together with the interest thereon shall be repaid within forty years from the date on which the first repayment in terms of section 26 shall be due, or within the aggregate of the said period together with any period of suspension referred to in that section.

26 Repayment of loans

(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 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.

[Subsection (1) substituted by sec 20 of Act 44 of 1989.]

(2) The first payment shall be made on such date (not being later than three years after the loan or the first instalment of the loan was paid) as the Treasury may determine: Provided that during any such time as elapses between the date when the first instalment was paid and the date so determined by the Treasury, interest at the aforesaid rate per annum on any such instalment shall be payable by the technical college to the Treasury: Provided further that the Treasury may, in special circumstances, from time to time suspend, in respect of any particular year any such annual payment in redemption of the principal moneys advanced.

27 Donations by local authorities to technical colleges

Notwithstanding anything to the contrary in any law contained, a local authority may, subject to the approval of the executive committee of the province concerned, donate land, money or any other thing to a technical college.

28 Subsidies to technical colleges

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

[Sec 28 substituted by sec 21 of Act 44 of 1989.]

29 Action on failure of technical college to comply with conditions subject to which subsidy has been paid
If any technical college fails to comply with any condition subject to which any subsidy has under section 28 been paid to it, the Minister may call upon such technical college to comply with that condition within a fixed period.

If such technical college thereafter fails to comply with the said 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 the House of Assembly in respect of that technical college: Provided that where the whole or any portion of the subsidy voted by the House of Assembly is withheld by the Minister, he shall report the matter to the House of Assembly together with his reasons for so withholding payment, within fourteen 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 fourteen days of the commencement of its next ensuing ordinary session.

[Subsection (2) substituted by sec 22 of Act 44 of 1989.]

30 Bookkeeping

(1) The principal of a technical college shall be the accounting officer of that technical college, and shall as such be charged with the responsibility of accounting for all the moneys received by the technical college and all the payments made by the technical college.

(2) The principal of a technical college shall keep such accounting records as are necessary to reflect the transactions and financial state of affairs of the technical college.

(3) The Minister may issue instructions to the principal of a technical college with respect to the system of bookkeeping and accounting to be followed by him in the performance of his functions in terms of this section and section 31.

31 Annual financial statements

(1) The principal of a technical college shall in respect of each financial year of the technical college make out financial statements in both official languages of the Republic, cause such statements to be audited and within four months after the end of that financial year submit copies of the audited statements to the college council and to the Head of Education.

[Subsection (1) substituted by sec 24 of Act 44 of 1989.]

(2) The financial statements referred to in subsection (1) shall consist of -

(a) a balance sheet dealing with the assets and liabilities of the technical college;

(b) an income statement or any similar financial statement dealing with the income and the expenditure (including any losses) of the technical college; and
Any other statements as may be prescribed.

32 Auditing

(1) The accounting records and annual financial statements of a technical college shall be audited annually by a person appointed by the council for such purpose.

(2) No person shall be appointed under subsection (1) unless he is registered in terms of the Public Accountants' and Auditors' Act, 1951 (Act 51 of 1951), as an accountant and auditor and engaged in public practice.

33 Financial year

The financial year of a technical college shall be a year terminating on the last day of December.

34 Amalgamation of technical colleges

(1) The Minister may by notice in the Gazette, and from a date mentioned in the notice, amalgamate two or more technical colleges to form a single technical college.

(2) A notice referred to in subsection (1) may contain provisions so as effectively to accomplish the amalgamation of the technical colleges concerned.

(3) A technical college which came into being in pursuance of an amalgamation under subsection (1) shall be a juristic person and for all purposes be deemed to be a continuation of the technical colleges out of which it came into being.

35 Closing of technical colleges

(1) The Minister may by notice in the Gazette, and from a date mentioned in the notice, close a technical college if he is of the opinion that -

   (a) the need for the instruction and training provided for by such technical college no longer exists;

   (b) the continued existence of such technical college is undesirable; or

   (c) such technical college is unreasonably refusing to comply with a condition subject to which a subsidy was paid to it under section 28.

(2) The Minister shall not close a technical college under subsection (1) except after consultation with the council of such technical college.

(3) As from the date on which a technical college is closed it shall cease to be a juristic person and all assets and liabilities of such technical college shall devolve upon a person designated by the Minister as the liquidator of such assets and liabilities.
(4) The liquidator referred to in subsection (3) shall wind up the assets and liabilities in question in such a manner as he may, subject to the directions of the Minister, deem just and equitable.

(5) The remaining assets of a closed technical college after all the debts have been paid, shall be disposed of in a manner determined by the Minister with the concurrence of the Minister of the Budget and Works.

[Subsection (5) substituted by sec 25 of Act 44 of 1989.]

36

[The administration of sec 36 has not been assigned to the Province of Gauteng.]

36A Registration of private technical colleges

(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.

(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.

(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.

(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.

(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 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).

[Sec 36A inserted by sec 27 of Act 44 of 1989.]

37 Compulsory school attendance

A technical college shall for the purposes of any law relating to compulsory school attendance be deemed to be a school within the meaning of such law, and any person who is in terms of such law obliged to attend school and who regularly and on a full-time basis attends a technical college shall be deemed to comply with all the requirements relating to such compulsory school attendance.
37A Offences and penalties

Any person who -

(a) is not a technical college and who, without the authority of the 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 issuance to him of any certificate or diploma which may be issued by the South African Certification Council under section 9(1) of the South African Certification Council Act, 1986 (Act 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 the Head of Education, performs any act which purports to have been performed by or on behalf of a technical college;

(c) established 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 R4 000 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Sec 37A inserted by sec 11 of Act 6 of 1984 and substituted by sec 28 of Act 44 of 1989.]

38 Delegation of powers

(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 Public Service 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.

[Subsection (1) amended by Proclamation R151 of 31 October 1994.]

(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.
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.

[Sec 38 substituted by sec 29 of Act 44 of 1989.]

39 Regulations

(1) The Minister may make regulations as to -

(a) any matter which is required or permitted to be prescribed;

(b) the election or appointment and the period of office of a chairman and a vice-chairman of a college council, the period of office of the members of a college council and the filling of vacancies in a college council;

(c) the person by whom and the manner in which meetings of a college council or a board of study shall be convened, the procedure to be followed at such meetings (including the quorum), the procedure to be followed in the event of an equality of votes and the keeping of minutes in respect of such meetings;

(d) the powers and duties of college councils or boards of study;

(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;

[Paragraph (dA) inserted by sec 30(a) of Act 44 of 1989.]

(e) any other matter the regulation of which is in the opinion of the Minister necessary or desirable for the effective carrying out of the provisions of this Act.

(2) Different regulations may under subsection (1) be made in respect of different technical colleges or different categories of technical colleges.

(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.

[Subsection (3) added by sec 30(b) of Act 44 of 1989.]

40 **Short title and commencement**

This Act shall be called the Technical Colleges Act, 1981, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*. 