

OVERVIEW OF THE LEGAL FRAMEWORK APPLICABLE TO THE SOUTH AFRICAN SCHOOLING SYSTEM

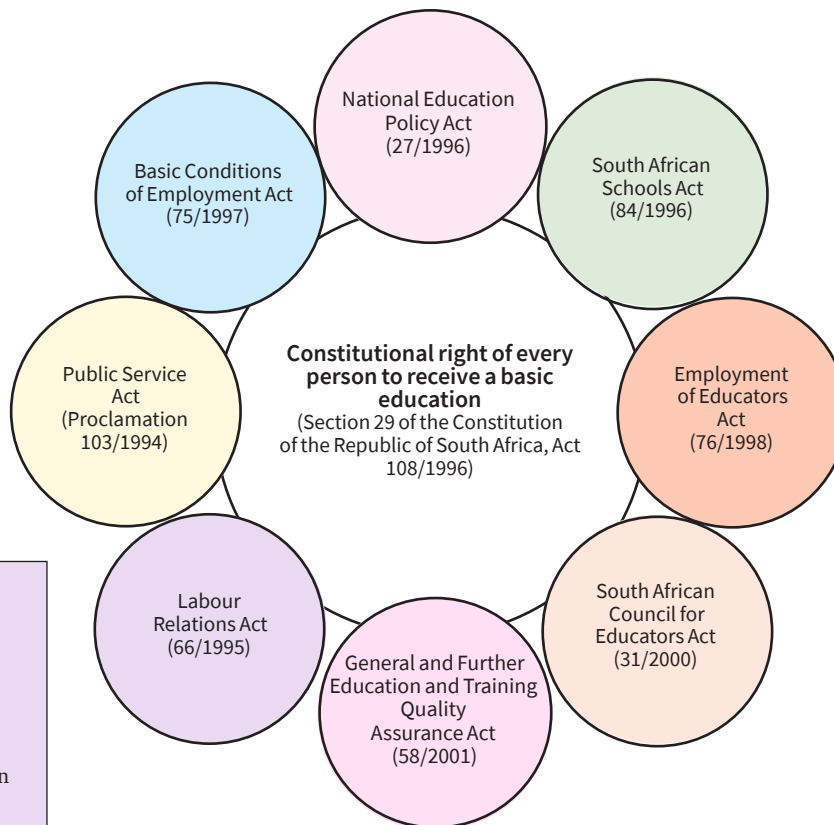
- Gives effect to and regulates the constitutional right of employees to fair labour practices conferred on employees by Section 23(1) of the Constitution of the Republic of South Africa, 1996 by establishing and enforcing basic conditions of employment and by regulating variations of basic conditions of employment
- Applies to the benefit and protection of educators and non-educators in the service of the State, educators and non-educators employed by governing bodies of public schools, and educators and non-educators employed by independent schools

- Provides for the organisation and administration of the South African public service
- Provides for the regulation of the conditions of employment, terms of office, discipline, retirement and discharge of members of the South African public service, including educators and non-educators in the employment of the State
- Applies to educators in the service of the State to the extent that it is not inconsistent with the provisions of the Employment of Educators Act 76 of 1998

- Regulates all employment matters in public and independent schools
- Provides for the registration and regulation of trade unions (including education unions)
- Regulates the organisational rights of trade unions (including education unions)
- Promotes and facilitates collective bargaining at the workplace and at sectoral level, including collective bargaining through the Education Labour Relations Council for the public education sector nationally and provincially
- Regulates the right of employees to strike and the recourse of employers to lock-out in conformity with the Constitution
- Provides simple procedures for the resolution of labour disputes through statutory conciliation, mediation and arbitration

- Provides for the establishment, composition and functioning of the General and Further Education and Training Quality Assurance Council (commonly referred to as Umalusi)
- Provides for quality assurance in general and further education and training
- Provides for control over the norms and standards applicable to curriculum and assessment
- Provides for the issue of certificates to learners at prescribed exit points in the schooling system
- Provides for the conduct of assessment

- Provides for the determination of national policy for education in line with certain principles set out in the Act
- Establishes the Council of Education Ministers (CEM)
- Establishes the Heads of Education Departments Committee (HEDCOM)
- Provides for the monitoring and evaluation of education



- Provides for the continued existence, prescribes the composition and sets out the functions of the South African Council for Educators (SACE)
- Provides for the registration of educators
- Provides for the promotion and development of the education and training profession
- Regulates the professional ethics of educators

- Provides a uniform system for the organisation, governance, and funding of schools
- Provides for the following in relation to all schools:
 - ♦ Compulsory school attendance of learners
 - ♦ Curriculum and assessment
 - ♦ Random search and seizure and drug testing
 - ♦ Prohibits corporal punishment and initiation practices against learners
 - ♦ Prohibits political activities at schools during school time
- Regulates the following in relation to public schools:
 - ♦ Admission of learners
 - ♦ Basic infrastructure and capacity
 - ♦ Language policy
 - ♦ Religious observances
 - ♦ Learner discipline (including the suspension and expulsion of learners)
 - ♦ Representative council of learners
 - ♦ Governance and professional management (including the powers and duties of principals and governing bodies)
 - ♦ Provision of public schools
 - ♦ Merger and closure of public schools
 - ♦ School funding (including state funding, school fees and annual budgeting)
 - ♦ School funds and assets
 - ♦ Identification of underperforming public schools
 - ♦ Compliance with applicable norms and standards
 - ♦ Liability of the State
- Regulates the following in relation to independent schools:
 - ♦ Registration
 - ♦ Admission of learners
 - ♦ School funding (including state subsidies)
 - ♦ Conversion to a public school
 - ♦ Withdrawal of registration
- Provides for the registration of learners for education at home
- Provides for expropriation for school education purposes

- Provides for the employment of educators by the State
- Provides for the regulation of the following in relation to educators in the employment of the State:
 - ♦ Salaries and other conditions of service
 - ♦ Appointments, promotions and transfers
 - ♦ Discipline
 - ♦ Termination of employment (including retirement, discharge and resignation)
 - ♦ Incapacity and misconduct
 - ♦ Performance of other work
- Includes as schedules to the Act:
 - ♦ Incapacity Code and Procedures for Poor Work Performance
 - ♦ Incapacity Code and Procedures in respect of Ill Health or Injury
 - ♦ Disciplinary Code and Procedures for Educators