

Act No. 47
of 1953.

ACT

To provide for the transfer of the administration and control of native education from the several provincial administrations to the Government of the Union, and for matters incidental thereto.

(English text signed by the Governor-General.)
(Assented to 5th October, 1953.)

BE IT ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Definitions.

1. In this Act, unless the context otherwise indicates—
 - (i) "Bantu" shall be synonymous with "native"; (ii)
 - (ii) "Department" means the Department of Native Affairs; (iii)
 - (iii) "education" means education other than "higher education" within the meaning of section *seventeen* of the Financial Relations Consolidation and Amendment Act, 1945 (Act No. 38 of 1945); (viii)
 - (iv) "Minister" means the Minister of Native Affairs; (v)
 - (v) "native" means any person who is or is generally accepted as a member of any aboriginal race or tribe of Africa; (vi)
 - (vi) "native school" or "Bantu school" means any school, class, college, or institution for the education of Bantu children or persons, or for the instruction and training of Bantu persons who desire to become teachers or to improve their qualifications as teachers; (vii)
 - (vii) "officer" means an officer on the fixed establishment of the public service; (i)
 - (viii) "prescribed" means prescribed by regulation; (xi)
 - (ix) "regulation" means any regulation made under this Act; (ix)
 - (x) "Secretary" means the Secretary for Native Affairs and includes any Under-Secretary of the Department; (x)
 - (xi) "this Act" includes any regulation. (iv)

Transfer of control of native education from the provincial administrations to the Union Government.

2. As from the date of commencement of this Act—
 - (a) the control of native education shall vest in the Government of the Union subject to the provisions of this Act;
 - (b) there shall cease to be vested in the executive committee of a province any powers, authorities and functions, and the provincial council of a province shall cease to be competent to make ordinances, in relation to native education:

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- Provided that, subject to the provisions of section *eleven*—
- (i) a provincial administration shall continue to administer any pension, retirement or provident fund established or conducted by such administration in connection with native education;
 - (ii) a provincial council shall continue to be competent to make ordinances for the proper administration of any such fund.

Administration.

3. (1) It shall be the function of the Department under the direction and control of the Minister, to perform all the work necessary for or incidental to the general administration of native education.

(2) The Minister may, subject to the laws governing the public service, from time to time appoint such officers and employees as he may deem necessary for the proper performance by the Department of its functions under this Act.

Transfer of officers employed by a province in connection with native education to the service of the Union Government.

4. Every officer who, on or after the first day of July, 1953, was serving under a provincial administration mainly in connection with native education, and who on the date of promulgation of this Act is still serving under a provincial administration, shall, as from the date of commencement of this Act, be transferred to the Department, unless any such officer, at the request or with the approval of the Minister, acting in consultation with the Administrator of the province concerned, is transferred to another post in the public service or is in like manner excluded from the operation of this section.

Transfer of certain employees of a province to the service of the Union Government.

5. (1) Every person, other than an officer or a teacher, who immediately prior to the date of commencement of this Act, was employed by a provincial administration mainly in connection with native education, shall, as from that date, become an employee of the Department, unless the Minister, acting in consultation with the Administrator of the province concerned, decides otherwise.

(2) The continuous employment by a provincial administration immediately prior to the commencement of this Act, of any person who becomes an employee of the Department in terms of sub-section (1), shall, except as hereinafter provided, be deemed to have been employment in the service of the Department.

(3) Notwithstanding any limitation in respect of age or educational qualifications prescribed by or under the Public Service Act, 1923 (Act No. 27 of 1923), any person who becomes an employee of the Department in terms of sub-section (1), who is a South African citizen and who has not attained the prescribed age of retirement, may, on the recommendation of the Public Service Commission, be appointed, on probation or otherwise, to a post in the public service.

(4) Any person appointed to the public service in terms of sub-section (3) shall be adjusted to the scale of salary applicable to the post to which he is appointed at such notch on that scale

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as may be recommended by the Public Service Commission: Provided that, except with his own consent or in accordance with the provisions of any law, the salary or the scale of salary at or in accordance with which any such person was remunerated immediately prior to the commencement of this Act, shall not be reduced.

(5) (a) Any person who becomes an employee of the Department in terms of sub-section (1) and who, immediately prior to the date of commencement of this Act, was subject to a law relating to pensions administered by a provincial administration, shall retain his rights and obligations under any such pensions law and shall continue to contribute to the pension, retirement, or provident fund to which he contributed prior to such date; and there shall be contributed to the said fund, out of moneys appropriated by Parliament for the purpose, in respect of every such person, an amount equal to the amount which the provincial administration would have contributed to that fund in respect of every such person if he had remained in its service.

(b) The provisions of section *forty-seven* of the Pension Laws Amendment Act, 1943 (Act No. 33 of 1943), shall *mutatis mutandis* apply to any person referred to in paragraph (a) or any dependant of any such person who becomes entitled to a pension under this sub-section.

**Financial
assistance to
Bantu community
schools.**

6. (1) Subject to the provisions of this Act, the Minister may, on such special conditions as he may stipulate and in accordance with such general principles as he may determine in consultation with the Minister of Finance, out of moneys appropriated or set aside by Parliament for native education—

(a) subsidize any Bantu school established or maintained by any Bantu authority, or any native council, tribe or community (hereinafter called a Bantu community school); or

(b) assist in the establishment or maintenance of any such school.

(2) The Minister may, in his discretion, at any time suspend, reduce, or withdraw any subsidy or assistance granted to any such school under this section.

**Establishment of
Government
Bantu schools.**

7. (1) The Minister may, out of moneys appropriated or set aside by Parliament for native education—

(a) establish and maintain Bantu schools which shall be known as Government Bantu schools;

(b) establish and maintain any hostel, teachers' quarters, school clinic, or any other accessory to a Government Bantu school.

(2) Every native school or accessory thereto which was established and maintained by a provincial administration and

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- (3) The Minister may at any time, whenever he considers it expedient to do so, close or disestablish any such Government Bantu school, hostel, teachers' quarters, school clinic or other accessory to a Government Bantu school.
- Grants-in-aid to State-aided native schools.** 8. (1) Subject to the provisions of this Act, the Minister may, on such special conditions as he may stipulate and in accordance with such general principles as he may determine in consultation with the Minister of Finance, out of moneys appropriated or set aside by Parliament for native education, make grants-in-aid to any native school approved by him for the purposes of this section: Provided that before approving any such school the Minister may consider—
- (a) in respect of any native school situate in a scheduled native area or a released area referred to in the Native Trust and Land Act, 1936 (Act No. 18 of 1936), after consultation with the Bantu authority, or the native council, tribe, or community concerned; or
- (b) in respect of any native school situate outside a scheduled native area and a released area, with due regard to the interests of the Bantu people,
- whether the establishment or existence of any such native school precludes, retards, or renders impracticable, or is likely to preclude, retard, or render impracticable, the establishment of a Bantu community school or a Government Bantu school for the area concerned.
- (2) The Minister may, in his discretion, at any time suspend, reduce, or withdraw any grant made under this section or revoke his approval of any native school for the purposes of this section: Provided that before so exercising his discretion the Minister may cause an inquiry to be held at which the person or committee or other body in charge of the said school shall be entitled to be heard.
- Registration of Bantu or native schools.** 9. (1) As from a date to be fixed by the Minister by notice in the *Gazette*, no person shall establish, conduct, or maintain any Bantu or native school, other than a Government Bantu school, unless it is registered as prescribed.
- (2) The registration of any such school shall be refused or cancelled if the Minister, acting on the advice and recommendation of the Native Affairs Commission constituted under the Native Affairs Act, 1920 (Act No. 23 of 1920), given after due enquiry by the said Commission is of opinion that its establishment or continued existence is not in the interests of the Bantu people or any section of such people or is likely to

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be detrimental to the physical, mental or moral welfare of the pupils or students attending or likely to attend such school.

(3) Any person who, after the date fixed under sub-section (1), admits any Bantu child or person to, or establishes, conducts or maintains, any Bantu or native school which is not registered in terms of this Act, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds, or, in default of payment, to imprisonment for a period not exceeding six months.

Appointment,
conditions of
service and
retirement bene-
fits of teachers
in Government
Bantu schools.

10. (1) The teaching establishment at any Government Bantu school shall be determined by the Minister on a basis to be laid down from time to time in consultation with the Minister of Finance and on the recommendation of the Public Service Commission.

(2) (a) The power of appointment, promotion, transfer, or discharge of teachers in Government Bantu schools shall, subject to the provisions of this Act, vest in the Minister, who may delegate any or all of the said powers to the Secretary.

(b) In respect of any post designated by the Minister, he may delegate the power of appointment or discharge of any teacher to any officer of the Department.

(3) Every person who immediately prior to the date of commencement of this Act was employed by a provincial administration as a teacher on the establishment of a native school referred to in sub-section (2) of section *seven*, shall, as from that date, be transferred to the service of the Department.

(4) Unless and until the Minister prescribes otherwise, the conditions of service, including the emoluments and leave privileges, of any teacher referred to in sub-section (3), shall continue in force as if the said teacher had remained in the service of the provincial administration.

(5) Unless and until the Minister prescribes otherwise—

(a) the retirement or pension benefits of any teacher referred to in sub-section (3) shall continue in force as if such teacher had remained in the service of the provincial administration by which he was employed immediately prior to the coming into operation of this Act and the provisions of section *forty-seven* of the Pension Laws Amendment Act, 1943 (Act No. 33 of 1943), shall *mutatis mutandis* apply to any such teacher or any dependant of any such teacher who becomes entitled to a pension under this paragraph;

(b) every such teacher shall continue to contribute to the pension, retirement, or provident fund which is administered by the provincial administration concerned and to which he contributed prior to the commencement of this Act, as if he had not been transferred to the service of the Department, and there shall be

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contributed to the said fund, out of moneys appropriated by Parliament for the purpose, in respect of every such teacher, an amount which the provincial administration concerned would have contributed to that fund in respect of every such teacher: Provided that, in the case of the pension fund established under Act No. 43 of 1887 (Cape), there may each year be contributed out of moneys similarly appropriated, towards pension benefits payable to retired native teachers, an amount determined by the Minister in consultation with the Minister of Finance.

(6) Subject to the foregoing provisions of this section, the conditions of service, including the scales of salary, leave privileges, and retirement or pension benefits, of teachers in Government Bantu schools, shall be prescribed by the Minister in consultation with the Minister of Finance and on the recommendation of the Public Service Commission.

(7) Any disciplinary proceedings in respect of misconduct committed by any teacher referred to in sub-section (3) before the date of commencement of this Act, may be continued or instituted by the Department as if such misconduct had been committed after the said date.

**Transfer of
administration
of Natal non-
European
Teachers'
Provident Fund.**

11. The Minister may, after consultation with the Minister of Finance and the Administrator of the Province of Natal, by notice in the *Gazette*, direct that subject to such conditions as he may determine, the moneys of the Natal non-European Teachers' Provident Fund, constituted by Ordinance No. 10 of 1930 (Natal), shall in respect of native teachers vest in and be administered *mutatis mutandis* by the Commissioner of Pensions in accordance with the provisions of the said Ordinance or as prescribed and thereafter, as from the date of the said notice, all contributions payable to the said Fund in terms of the said Ordinance or this Act by or in respect of native teachers shall be paid to the Commissioner of Pensions, who shall be responsible for the payment out of the said moneys and contributions of all liabilities of the said Fund arising, or which have arisen, in terms of the said Ordinance or this Act, in respect of native teachers.

**Management
of Government
Bantu schools.**

12. (1) The Minister may, with due regard to the principle of providing for active participation by the Bantu people in the control and management of Government Bantu schools, establish such regional, local, and domestic councils, boards, or other bodies as he may deem expedient, or may for this purpose entrust the control and management of any Government Bantu school to any Bantu authority or native council established by or under any other law.

(2) The constitution, duties, powers, privileges, and functions of any such council, board, or body, or the duties, powers,

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privileges, and functions of any Bantu authority or native council to whom the control and management of any Government Bantu school is entrusted, shall be as prescribed.

**Certain assets
and liabilities
transferred to
Union
Government.**

13. As from the date of commencement of this Act—

- (a) all the property, movable or immovable, which immediately prior to the said date was used or had been acquired by a provincial administration solely for the purposes of or in connection with native education, shall vest in the Government of the Union, subject to any conditions or obligations upon or under which such property was held immediately prior to the said date in so far as such conditions or obligations do not lapse by merger as a result of this vesting;
- (b) all the liabilities lawfully incurred by a provincial administration for the purposes of or in connection with native education and existing immediately prior to the said date, including any liability to pay a bonus or allowance to any retired teacher or employee or any dependant of any such teacher or employee in supplementation of any pension payable to any such person, shall become the liabilities of the Government of the Union, subject to the provisions of this Act and to the conditions under which those liabilities were incurred:

Provided that, save as is provided in section *eleven*, the provisions of this section shall not be deemed to include any asset acquired or liability incurred in connection with any pension, retirement or provident fund administered by a provincial administration.

**Power to
expropriate land
for native
education
purposes.**

14. The Minister may expropriate any land required for the purposes of a Government Bantu school or any accessory thereto, and the Expropriation of Lands and Arbitration Clauses Proclamation, 1902 (Proclamation No. 5 of 1902), of the Transvaal, shall *mutatis mutandis* apply to any such expropriation in any part of the Union.

Regulations.

15. (1) The Minister may from time to time make regulations—

- (a) prescribing, subject to the laws governing the public service, the powers and duties of the Secretary and any other officer or employee of the Department in connection with the administration of native education;
- (b) prescribing the conditions of appointment and service, including the rights, duties and privileges, of teachers in Government Bantu schools;
- (c) prescribing a code of discipline for teachers in Government Bantu schools, the punishments which may be imposed for, and the procedure to be followed in connection with, any contravention of or failure to comply with the provisions of such code, and the

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- circumstances in which the services of any such teacher may be terminated;
- (d) prescribing courses of training or instruction in Government Bantu schools and the fees, if any, payable in respect of such courses or any examination held by or under the supervision or control of the Department;
 - (e) prescribing the medium of instruction in Government Bantu schools;
 - (f) prescribing the conditions governing the establishment, control and maintenance of any hostel, school clinic, or other accessory to a Government Bantu school;
 - (g) relating to the admission of pupils or students to, the control, and treatment of pupils or students at, and the discharge of pupils or students from, any Government Bantu school;
 - (h) providing for the medical examination of teachers, pupils or students in Government Bantu schools, including the particulars to be contained in medical certificates;
 - (i) providing for the control of funds collected for any Government Bantu school;
 - (j) providing for religious instruction in Government Bantu schools;
 - (k) prescribing the circumstances in which the suspension or expulsion of any pupil or student from any Government Bantu school may take place or any other punishment may be administered or imposed;
 - (l) prescribing the conditions under which Bantu community schools may be subsidized or assisted under section *six*;
 - (m) providing for the approval of State-aided native schools, under section *eight*, and prescribing the conditions under which grants-in-aid may be made;
 - (n) providing for the registration of Bantu community schools or other native schools;
 - (o) providing for the award of bursaries to Bantu pupils or students and prescribing the conditions under which such bursaries may be awarded;
 - (p) providing for the establishment of an advisory board or advisory boards on Bantu education for the Union and prescribing the constitution, duties, powers, privileges and functions of such a board and the fees and allowances, if any, payable to any member of a board who is not in the full-time employment of the State;
 - (q) providing for the constitution, duties, powers, privileges and functions of regional, local and domestic councils, boards or other bodies or the duties, powers, privileges and functions of any Bantu authority or native council to whom the control and management
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of a Government Bantu school is entrusted and prescribing the fees and allowances, if any, payable to any members thereof who are not in the full-time employment of the State;

- (r) providing, subject to the approval of the Minister of Finance, for the establishment and management of a pension or provident fund or scheme for teachers in Government Bantu schools to be administered by the Commissioner of Pensions and prescribing the contributions to be made to such fund or scheme out of moneys appropriated by Parliament and by teachers;
- (s) providing generally for any other matter relating to the establishment, maintenance, management and control of Government Bantu schools or which the Minister may deem necessary or expedient to prescribe for achieving the purposes of this Act, the generality of the powers conferred by this paragraph not being limited by the provisions of the preceding paragraphs.

(2) Different regulations may be made in respect of different teachers, groups, classes or races of teachers, or different schools or areas.

(3) The regulations may provide penalties for any contravention thereof or failure to comply therewith not exceeding a fine of fifty pounds or, in default of payment, imprisonment for a period not exceeding six months.

(4) Until the Minister makes regulations, the laws in force in the respective provinces immediately prior to the date of commencement of this Act, other than the law repealed by section *seventeen*, shall, in so far as they relate to native education and are not inconsistent with the provisions of this Act, continue to apply *mutatis mutandis* in respect of native education: Provided that in any such law, any reference to the "Governor" or the "Administrator" shall be construed as a reference to the Minister, and any reference to the "Superintendent-General", "Superintendent" or "Director" as a reference to the Secretary, and any reference to the "Department" as a reference to the Department, and any reference to the "Controller" as a reference to the Principal Accountant of the Department.

(5) Whenever the Minister makes regulations with regard to any of the matters referred to in sub-section (1), that part of the laws referred to in sub-section (4) relating to any matter dealt with in the regulations, shall then cease to apply to native education.

Amendment of
section 85 of
the South Africa
Act, 1909.

16. Section *eighty-five* of the South Africa Act, 1909, is hereby amended by the insertion in paragraph (iii) after the words "higher education" of the words "and native education".

**Act No. 47
of 1953.**Repeal of Act
29 of 1945.Short title and
date of
commencement.

17. The Native Education Finance Act, 1945 (Act No. 29 of 1945), is hereby repealed.

18. This Act shall be called the Bantu Education Act, 1953, and shall come into operation on a date to be fixed by the Governor-General by proclamation in the *Gazette*.

**Act No. 48
of 1953.****ACT**

To provide for the prevention and settlement of native labour disputes and for the regulation of conditions of employment of natives; to amend the Industrial Conciliation Act, 1937, and to provide for other incidental matters.

(*Afrikaans text signed by the Governor-General.*)
(*Assented to 5th October, 1953.*)

BE IT ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Definitions.

1. In this Act the expression "the Wage Act" means the Wage Act, 1937 (Act No. 44 of 1937), and, unless the context otherwise indicates, any expression to which in that Act a meaning has been assigned, bears, when used in this Act, the same meaning; further, unless the context otherwise indicates—

- (i) "board" means the central native labour board established under section *three*; (xi)
- (ii) "employee" means an employee who is a native; (xvi)
- (iii) "employer" means an employer of natives; (xv)
- (iv) "European" means a white person as defined in section *one* of the Population Registration Act, 1950 (Act No. 30 of 1950); (iii)
- (v) "labour dispute" means any dispute between an employer or employers on the one hand and any two or more employees of such employer or employers on the other hand in connection with the employment or the conditions of employment of or refusal to re-employ any native, whether he is or was employed by the employer with whom the dispute arises or not, but shall not include—
 - (a) a dispute in regard to the termination of, or any other matter connected with, the employment of an individual employee, unless in the opinion of the Minister a matter of principle is involved;
 - (b) a dispute in connection with the interpretation of any provision of this Act or of any order which is binding under this Act, or with any other question of law; or
 - (c) a dispute arising during the period of operation of any order or any agreement negotiated by