



REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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# STAATSKOERANT

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PRESIDENT'S OFFICE

KANTOOR VAN DIE PRESIDENT

No. 488.

22 March 1996

No. 488.

22 Maart 1996

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

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 5 of 1996: Former States Posts and Telecommunications Reorganisation Act, 1996.

No. 5 van 1996: Wet op die Herorganisasie van Pos- en Telekommunikasiewese van Voormalige State, 1996.

**GENERAL EXPLANATORY NOTE:**

Words underlined with a solid line indicate insertions in existing enactments.

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# ACT

**To provide for the integration of the departments of posts and telecommunications of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei with Telkom SA Limited and the South African Post Office Limited; and to provide for the transfer of the postal and the telecommunications enterprises conducted by those departments as well as certain land used by them for that purpose to the said companies; and to provide for matters connected therewith.**

*(Afrikaans text signed by the President.)  
(Assented to 12 March 1996.)*

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

**Definitions**

- 1.** In this Act, unless the context otherwise indicates—
- (i) “companies” means the postal company and the telecommunications company; (ii) 5
  - (ii) “department” means the department of posts and telecommunications of a former state; (ii)
  - (iii) “fixed establishment” means the posts created for the normal and regular requirements of a department which are filled on a fixed basis on the date immediately before the transfer date; (xvi) 10
  - (iv) “former state” means the former Republic of Transkei, Bophuthatswana, Venda or Ciskei; (xvii)
  - (v) “interrupted membership” means current membership of a pension fund where benefits were paid to the member concerned before the transfer date; (v) 15
  - (vi) “Minister” means the Minister responsible for the administration of posts and telecommunications; (iv)
  - (vii) “operating loss” means excess of operating expenditure over operating income and for that purpose capital gain shall be left out of account; (i) 20
  - (viii) “pension fund” means any pension fund, retirement fund, superannuation fund or provident fund of a department; (vii)
  - (ix) “postal company” means the South African Post Office Limited; (viii)
  - (x) “postal enterprise” means all the assets, liabilities, rights and obligations, including any claim to copyright, trade marks and patentable inventions, of a former state which relate to or are used in connection with the conduct of the postal service of such former state, as determined by the Minister; (ix) 25
  - (xi) “Postbank” means the Post Office Savings Bank established by section 52 of the Post Office Act; (x)
  - (xii) “Post Office Act” means the Post Office Act, 1958 (Act No. 44 of 1958); (xii) 30
  - (xiii) “post office savings banks” means the post office savings banks of the former states; (xi)

**ALGEMENE VERDUIDELIKENDE NOTA:**

\_\_\_\_\_ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

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# WET

Om voorsiening te maak vir die inskakeling van die departemente van pos- en telekommunikasiewese van die voormalige Republieke van Transkei, Bophuthatswana, Venda en Ciskei by Telkom SA Beperk en die Suid-Afrikaanse Poskantoor Beperk; en voorsiening te maak vir die oordrag van die pos- en die telekommunikasie-ondernemings wat deur daardie departemente bedryf word asook sekere grond wat deur hulle vir dié doel gebruik word aan genoemde maatskappye; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Afrikaanse teks deur die President geteken.)  
(Goedgekeur op 12 Maart 1996.)

**D**AAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

**Woordomskrywing**

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
- 5 (i) “bedryfsverlies” oorskot van bedryfsuitgawe bo bedryfsinkomste en vir daardie doel word kapitaalwins buite rekening gelaat; (vii)
- (ii) “departement” die departement van pos- en telekommunikasiewese van ’n voormalige staat; (ii)
- (iii) “maatskappye” die posmaatskappye en die telekommunikasiemaatskappye; (i)
- 10 (iv) “Minister” die Minister verantwoordelik vir die administrasie van pos- en telekommunikasiewese; (vi)
- (v) “onderbroke lidmaatskap” lopende lidmaatskap van ’n pensioenfonds waar voordele aan die betrokke lid betaal is voor die oordragdatum; (v)
- (vi) “oordragdatum” die datum deur die Minister ingevolge artikel 2 bepaal;
- 15 (xvii)
- (vii) “pensioenfonds” enige pensioenfonds, aftreefonds, superannuasiefonds of voorsorgsfonds van ’n departement; (viii)
- (viii) “posmaatskappye” die Suid-Afrikaanse Poskantoor Beperk; (ix)
- (ix) “posonderneming” al die bates, laste, regte en verpligtinge, met inbegrip van
- 20 enige aanspraak op outeursreg, handelsmerke en patenteerbare uitvindings, van ’n voormalige staat wat verband hou of gebruik word in verband met die bedryf van die posdiens van so ’n voormalige staat, soos deur die Minister bepaal; (x)
- (x) “Posspaarbank” die Posspaarbank ingestel by artikel 52 van die Poswet; (xi)
- 25 (xi) “posspaarbanke” die posspaarbanke van die voormalige state; (xiii)
- (xii) “Poswet” die Poswet, 1958 (Wet No. 44 van 1958); (xii)
- (xiii) “Staat” die betrokke staatsdepartement; (xiv)

- (xiv) "State" means the department of State concerned; (xiii)  
 (xv) "telecommunications company" means Telkom SA Limited; (xiv)  
 (xvi) "telecommunications enterprise" means all the assets, liabilities, rights and obligations, including any claim to copyright, trade marks and patentable inventions, of a former state which relate to or are used in connection with the conduct of the telecommunications service of such former state, as determined by the Minister; (xv) 5  
 (xvii) "transfer date" means the date determined by the Minister in terms of section 2. (vi)

### Transfer date 10

2. The Minister shall by notice in the *Gazette* determine the date on which the departments shall be integrated with the companies, as the case may be.

### Transfer of postal and telecommunications enterprises of former states

#### 3. (1) On the transfer date—

- (a) the postal enterprises shall be transferred to the postal company, from which date the postal company shall, subject to any other Act of Parliament, have the exclusive power to conduct the postal service in the territories of the former states; 15  
 (b) the telecommunications enterprises shall be transferred to the telecommunications company, from which date the telecommunications company shall, subject to any other Act of Parliament, have the exclusive power to conduct the telecommunications service in the territories of the former states. 20

(2) (a) The values of the postal enterprises and the telecommunications enterprises to be transferred to the companies in terms of subsection (1) shall be determined by the Minister after consultation with the company concerned and with the concurrence of the Minister of Finance. 25

(b) For the purposes of the Income Tax Act, 1962 (Act No. 58 of 1962), or any other law in terms of which a tax or levy may be imposed, it shall be deemed that valuable consideration was actually paid by the company concerned in acquiring the enterprises transferred to it in terms of subsection (1) and that, notwithstanding any other law, such consideration equals the corresponding values determined in terms of paragraph (a). 30

(3) (a) State land of which a department had the exclusive use immediately before the transfer date shall, as the companies elect with the concurrence of the Minister, on the transfer date pass to the postal company or the telecommunications company, as the case may be, and shall be deemed to have been sold on that date in terms of the State Land Disposal Act, 1961 (Act No. 48 of 1961), to the company concerned at an agreed value. 35

(b) Notwithstanding section 5 of the State Land Disposal Act, 1961, and section 18 of the Deeds Registries Act, 1937 (Act No. 47 of 1937), a registrar as defined in section 102 of the Deeds Registries Act, 1937, shall, on submission to him or her of a certificate by the Minister of Public Works that State land has passed in terms of paragraph (a), make such entries and endorsements as he or she may deem necessary free of charge in or on any relevant register, title deed or other document in his or her office or laid before him or her, in order to register the transfer in the name of the company concerned. 40

(c) If a particular portion of State land was used jointly by the postal and the telecommunications divisions of a department immediately before the transfer date and the companies agree to divide the piece of land between them after that date without the payment of compensation by one party to the other or without giving anything in exchange therefor, the subdivision of the land concerned shall be exempt from the payment of transfer duty, stamp duty, taxes, levies or other fees if, upon the registration of the subdivision, a certificate signed by the secretaries of both companies is submitted in which it is certified that an agreement as contemplated in this paragraph has been concluded. 45 50

(4) (a) Any servitude, other real right or lease existing immediately before the transfer

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- (xiv) "telekommunikasiemaatskappy" Telkom SA Beperk; (xv)  
 (xv) "telekommunikasie-onderneming" al die bates, laste, regte en verpligtinge, met inbegrip van enige aanspraak op outeursreg, handelsmerke en patenteerbare uitvindings, van 'n voormalige staat wat verband hou of gebruik word in verband met die bedryf van die telekommunikasiediens van so 'n voormalige staat, soos deur die Minister bepaal; (xvi)
- 5
- (xvi) "vaste diensstaat" die poste geskep vir die normale en gewone vereistes van 'n departement wat op die datum onmiddellik voor die oordragdatum op 'n vaste grondslag gevul is; (iii)
- 10 (xvii) "voormalige staat" die voormalige Republiek van Transkei, Bophuthatswana, Venda of Ciskei. (iv)

**Oordragdatum**

2. Die Minister moet by kennisgewing in die *Staatskoerant* die datum bepaal waarop die departemente by die maatskappy ingeskakel word, na gelang van die geval.

**15 Oordrag van pos- en telekommunikasie-ondernemings van voormalige state**

3. (1) Op die oordragdatum—
- (a) word die posondernemings aan die posmaatskappy oorgedra, vanaf welke datum die posmaatskappy, behoudens enige ander Parlements wet, die uitsluitlike bevoegdheid het om die posdiens in die gebiede van die voormalige state te bedryf;
- 20 (b) word die telekommunikasie-ondernemings aan die telekommunikasiemaatskappy oorgedra, vanaf welke datum die telekommunikasiemaatskappy, behoudens enige ander Parlements wet, die uitsluitlike bevoegdheid het om die telekommunikasiediens in die gebiede van die voormalige state te bedryf.
- 25 (2) (a) Die waardes van die posondernemings en die telekommunikasie-ondernemings wat ingevolge subartikel (1) aan die maatskappy oorgedra moet word, word deur die Minister na oorlegpleging met die betrokke maatskappy en met die instemming van die Minister van Finansies bepaal.
- (b) By die toepassing van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), of enige ander wet ingevolge waarvan 'n belasting of heffing gehêf mag word, word daar geag dat geldwaardige teenprestasie werklik deur die betrokke maatskappy betaal is by die verkryging van die ondernemings wat ingevolge subartikel (1) aan die betrokke maatskappy oorgedra is en dat, ondanks die bepaling van enige ander wet, sodanige teenprestasie gelyk is aan die ooreenstemmende waardes wat ingevolge
- 35 paragraaf (a) bepaal is.
- (3) (a) Staatsgrond waarvan 'n departement die uitsluitlike gebruik gehad het onmiddellik voor die oordragdatum wat die maatskappy verkies met die instemming van die Minister, gaan op die oordragdatum op die posmaatskappy of die telekommunikasiemaatskappy, na gelang van die geval, oor en word geag op daardie datum ingevolge die Wet op die Beskikking oor Staatsgrond, 1961 (Wet No. 48 van 1961), teen 'n ooreengekome waarde aan die betrokke maatskappy verkoop te wees.
- (b) Ondanks artikel 5 van die Wet op die Beskikking oor Staatsgrond, 1961, en artikel 18 van die Registrasie van Aktes Wet, 1937 (Wet No. 47 van 1937), moet 'n registrateur soos omskryf in artikel 102 van die Registrasie van Aktes Wet, 1937, by
- 45 voorlegging aan hom of haar van 'n sertifikaat deur die Minister van Openbare Werke dat Staatsgrond ingevolge paragraaf (a) oorgegaan het, gratis die inskrywings en endossemente wat hy of sy nodig ag in of op enige tersaaklike register, titelakte of ander dokument in sy of haar kantoor of wat aan hom of haar voorgelê word, aanbring ten einde die registrasie in die naam van die betrokke maatskappy te bewerkstellig.
- 50 (c) Indien 'n besondere gedeelte Staatsgrond onmiddellik voor die oordragdatum gesamentlik deur die pos- en die telekommunikasie-afdeling van 'n departement gebruik is en die maatskappy ooreenkom om daardie stuk grond na daardie datum tussen hulle te verdeel sonder betaling van vergoeding deur die een party aan die ander, of sonder om enigiets in ruil daarvoor te gee, is die onderverdeling van die grond van die betaling van hereregte, seëlregte, belastinge, heffings of ander gelde vrygestel,
- 55 indien daar by die registrasie van die onderverdeling 'n sertifikaat deur die sekretaris van beide maatskappye onderteken, voorgelê word waarin daar gesertifiseer word dat 'n ooreenkoms soos in hierdie paragraaf beoog, gesluit is.
- (4) (a) Enige serwitut, ander saaklike reg of huurooreenkoms wat onmiddellik voor

date in favour of the State or a department and which was exercised in favour of a department shall on the transfer date pass to the postal company or the telecommunications company, as the case may be.

(b) The registrar referred to in subsection (3)(b) shall, on submission to him or her of a certificate by the Minister of Public Works that a servitude, other real right or lease has passed in terms of paragraph (a) or that a servitude exists over State land which has passed in terms of subsection (3)(a), free of charge make such entries and endorsements as he or she may deem necessary in or on any relevant register, title deed or other document in his or her office or laid before him or her, in order to—

- (i) register the passing of the servitude, other real right or lease to the company concerned in terms of paragraph (a); or
- (ii) confirm the existence of the servitude in favour of any other person, over the State land which has so passed.

(5) (a) Subject to paragraph (b), either company shall have the right to use immovable property passing to it in terms of this Act for the purposes for which the department used the property concerned immediately before the transfer date or for which it was intended to be used before that date.

(b) If land referred to in paragraph (a) of a company has not been zoned, or has in terms of an applicable township or development scheme, guide plan or statutory provision been zoned or intended for purposes other than those for which it is to be used on or after the transfer date, the company concerned shall as soon as practicable conclude an agreement with the local authority responsible for the zoning or re-zoning of land in the area concerned in relation to the zoning or re-zoning of the land concerned for a purpose which is in accordance with the intended use thereof on or after the transfer date: Provided that if such agreement—

- (i) is concluded, it shall be reduced to writing and the local authority concerned shall, if necessary, amend its township or development scheme or guide plan accordingly, free of charge; or
- (ii) cannot be concluded, the matter shall be referred to the Premier of the province concerned, who may grant permission for or approval of the zoning or re-zoning of the land concerned on such conditions as he or she may deem necessary.

(c) The local authority—

- (i) with which an agreement has been concluded in terms of paragraph (b); or
- (ii) within whose area of jurisdiction the land concerned is situated, in the case where the Premier of the province concerned has granted permission for or approval of the zoning or re-zoning thereof,

shall record, free of charge in respect of the land concerned, the appropriate zoning, after which such zoning shall for all purposes be deemed to be the zoning of such land.

(6) In any pending litigation, including arbitration, to which a department is a party immediately before the transfer date, the Minister shall be substituted as a party in the place of the department concerned.

(7) Either company may apply for the registration of any registrable right relating to intellectual property or inventions, including the registration as patents of patentable inventions, transferred from a department to it in terms of this section.

(8) The Registrar of Trade Marks shall make such entries, notes and endorsements as he or she may deem necessary in or on any relevant register, certificate or other document in his or her office or submitted to him or her so as to effect the transfer of trade marks to the postal company or the telecommunications company, as the case may be, in terms of this section, and may request the company concerned to submit or produce to him or her such information or document as he or she may deem necessary for such purpose.

(9) If, for the purposes of this Act, the question arises whether anything pertains to or is connected with the postal enterprise or the telecommunications enterprise, it shall be determined by the Minister.

(10) No stamp duty, transfer duty or any other tax or levy shall be payable in respect of the transfer of a postal enterprise or a telecommunications enterprise in terms of this section.



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die oordragdatum ten gunste van die Staat of 'n departement bestaan het en wat ten gunste van 'n departement uitgeoefen is, gaan op die oordragdatum op die posmaatskappy of die telekommunikasiemaatskappy, na gelang van die geval, oor.

(b) Die registrateur in subartikel (3)(b) bedoel, moet, by voorlegging aan hom of haar van 'n sertifikaat deur die Minister van Openbare Werke dat 'n serwituut, ander saaklike reg of huurooreenkoms ingevolge paragraaf (a) oorgegaan het of dat daar 'n serwituut oor Staatsgrond bestaan wat ingevolge subartikel (3)(a) oorgegaan het, gratis die inskrywings en endossemente wat hy of sy nodig ag in of op enige tersaaklike register, titelakte of ander dokument in sy of haar kantoor of aan hom of haar voorgelê, aanbring ten einde—

- (i) die oorgang van die serwituut, ander saaklike reg of huurooreenkoms op die betrokke maatskappy ingevolge paragraaf (a) te registreer; of
- (ii) die bestaan van die serwituut ten gunste van enige ander persoon oor die Staatsgrond wat aldus oorgegaan het, te bevestig.

(5) (a) Behoudens paragraaf (b), het elke maatskappy die reg om onroerende eiendom wat ingevolge hierdie Wet op hom oorgaan, te gebruik vir die doeleindes waarvoor die departement die betrokke eiendom onmiddellik voor die oordragdatum gebruik het of waarvoor dit voor daardie datum bestem was om gebruik te word.

(b) Indien 'n maatskappy se grond bedoel in paragraaf (a) nie gesoneer is nie, of ingevolge 'n toepaslike dorps- of ontwikkelingskema, gidsplan of statutêre bepaling gesoneer is of bestem is vir ander doeleindes as dié waarvoor dit op of na die oordragdatum gebruik staan te word, moet die betrokke maatskappy so gou doenlik 'n ooreenkoms sluit met die plaaslike owerheid wat vir die sonering of hersonering van grond in die betrokke gebied verantwoordelik is, met betrekking tot die sonering of hersonering van die betrokke grond vir 'n doel wat met die bestemde gebruik daarvan op of na die oordragdatum ooreenstem: Met dien verstande dat indien sodanige ooreenkoms—

- (i) gesluit word, dit op skrif gestel word en die betrokke plaaslike owerheid, indien nodig, sy dorps- of ontwikkelingskema of gidsplan dienooreenkomstig gratis wysig; of
- (ii) nie gesluit kan word nie, die aangeleentheid na die Premier van die betrokke provinsie verwys word, wat toestemming of goedkeuring vir die sonering of hersonering van die betrokke grond kan verleen op die voorwaardes wat hy of sy nodig ag.

(c) Die plaaslike owerheid—

- (i) waarmee 'n ooreenkoms ingevolge paragraaf (b) gesluit is; of
  - (ii) in wie se regsgebied die betrokke grond geleë is, in die geval waar die Premier van die betrokke provinsie toestemming of goedkeuring vir die sonering of hersonering daarvan verleen het,
- moet die toepaslike sonering van die betrokke grond gratis aanteken, waarna sodanige sonering vir alle doeleindes geag word die sonering van sodanige grond te wees.

(6) In enige hangende litigasie, met inbegrip van arbitrasie, waartoe 'n departement onmiddellik voor die oordragdatum 'n party is, word die Minister gesubstitueer as 'n party in die plek van die betrokke departement.

(7) Elke maatskappy kan aansoek doen om die registrasie van enige registreerbare reg met betrekking tot immateriële goedere of uitvindings, met inbegrip van registrasie as patente van patenteerbare uitvindings, wat ingevolge hierdie artikel van 'n departement aan hom oorgedra is.

(8) Die Registrateur van Handelsmerke moet die inskrywings, aantekeninge en endossemente wat hy of sy nodig ag in of op enige tersaaklike register, sertifikaat of ander dokument in sy of haar kantoor of aan hom of haar voorgelê, aanbring ten einde die oordrag van handelsmerke na die posmaatskappy of die telekommunikasiemaatskappy, na gelang van die geval, ingevolge hierdie artikel te bewerkstellig, en kan die betrokke maatskappy versoek om die inligting of dokument by hom of haar in te dien of aan hom of haar voor te lê wat hy of sy vir die doel nodig ag.

(9) Indien, by die toepassing van hierdie Wet, die vraag ontstaan of enigiets betrekking het op of verband hou met die posonderneming of die telekommunikasië-onderneming, word dit deur die Minister bepaal.

(10) Geen seëlregte, hereregte of enige ander belasting of heffing is betaalbaar ten opsigte van die oordrag van 'n posonderneming of 'n telekommunikasië-onderneming ingevolge hierdie artikel nie.

**Transfer of staff**

4. (1) (a) Any person on the fixed establishment of a department shall, without interruption in service, on the transfer date become an employee of the company concerned in a post determined by the Minister.

(b) The conditions of employment prevailing in either company in relation to the post concerned shall be applicable to any such employee as from the transfer date: Provided that such employee shall not receive a less favourable salary than the salary he or she received immediately before the transfer date. 5

(2) If, for the purposes of subsection (1)—

(a) the question arises whether any person performs functions pertaining to the postal service or the telecommunications service; or 10

(b) any question arises in connection with the determination of a post, it shall be determined by the Minister.

(3) For the purposes of the Income Tax Act, 1962 (Act No. 58 of 1962), it shall be deemed that no change of employer took place in respect of an employee referred to in subsection (1). 15

(4) When any person becomes an employee of either company in terms of subsection (1)—

(a) he or she shall retain all vacation leave which accrued to his or her credit with the department concerned up to the date immediately before the transfer date, adjusted in accordance with the conditions of employment of the company concerned; 20

(b) any pending enquiry or any other action instituted or intended to be instituted in respect of alleged misconduct committed by such a person before the transfer date, shall be disposed of or instituted by the company concerned, and that company shall take the appropriate steps against the person concerned in accordance with the laws, policy and conditions of service applicable to him or her immediately before the transfer date; 25

(c) he or she shall cease to be a member of any pension fund of which he or she was a member on the date immediately before the transfer date, and shall have no claim against the fund concerned after payment by that fund of the amount referred to in paragraph (f); 30

(d) and if he or she was a member of a pension fund immediately before the transfer date, the appropriate dispensation referred to in paragraph (e) shall apply to him or her, as the case may be, as from the transfer date; 35

(e) and if he or she—

(i) has interrupted membership, it shall be deemed that pensionable service has begun accruing to him or her as from the date of resumed contribution to a pension fund;

(ii) has been a member of a pension fund without interrupted membership since before 1 October 1991, he or she shall be a member of the pension or retirement fund of the company of which he or she becomes an employee in a category of membership for which he or she would have qualified on that date according to the rules of the fund concerned; 40

(iii) becomes an employee of the telecommunications company, he or she may elect to become a member of the Telkom Retirement Fund; 45

(iv) became a member of a pension fund on or after 1 October 1991, but before 1 July 1995, and he or she becomes an employee of the telecommunications company, he or she may elect to become a C-member of the Telkom Pension Fund, as defined in the rules of that fund, or a member of the Telkom Retirement Fund; 50

(v) became a member of a pension fund on or after 1 July 1995 and he or she—

(aa) becomes an employee of the telecommunications company; or

(bb) being a person referred to in subparagraph (iii) or (iv) fails to exercise the option referred to therein before the transfer date, he or she shall be a member of the Telkom Retirement Fund; 55

(vi) has been a member of a pension fund without interrupted membership since 1 October 1991 or after that date and he or she becomes an employee of the postal company, he or she shall be a C-member of the Post Office Pension Fund as defined in the rules of that fund; 60

(f) (i) the pension fund referred to in paragraph (c) shall pay to the fund



**Oorplasing van personeel**

4. (1) (a) Enige persoon op die vaste diensstaat van 'n departement word, sonder diensonderbreking, op die oordragdatum 'n werknemer van die betrokke maatskappy in 'n pos deur die Minister bepaal.
- 5 (b) Die diensvoorwaardes wat in elke maatskappy met betrekking tot die betrokke pos geld, is op sodanige werknemer van toepassing vanaf die oordragdatum: Met dien verstande dat sodanige werknemer nie 'n minder gunstige salaris ontvang as die salaris wat hy of sy onmiddellik voor die oordragdatum ontvang het nie.
- (2) Indien, by die toepassing van subartikel (1)—
- 10 (a) die vraag ontstaan of enige persoon werksaamhede verrig wat op die posdiens of die telekommunikasiediens betrekking het; of
- (b) enige vraag ontstaan in verband met die bepaling van 'n pos, word dit deur die Minister bepaal.
- (3) By die toepassing van die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), 15 word daar geag dat geen verandering van werkgewer plaasgevind het nie ten opsigte van 'n werknemer in subartikel (1) bedoel.
- (4) Wanneer enige persoon ingevolge subartikel (1) 'n werknemer van een van die maatskappye word—
- 20 (a) behou hy of sy alle vakansieverlof wat tot sy of haar krediet by die betrokke departement opgeloop het tot op die datum onmiddellik voor die oordragdatum, aangepas ooreenkomstig die betrokke maatskappy se diensvoorwaardes;
- (b) word enige hangende ondersoek of ander optrede wat ingestel is of beoog word om ingestel te word ten opsigte van beweerde wangedrag deur sodanige 25 persoon voor die oordragdatum, deur die betrokke maatskappy afgehandel of ingestel, en daardie maatskappy moet die paslike stappe teen die betrokke persoon doen ooreenkomstig die wette, beleid en diensvoorwaardes wat onmiddellik voor die oordragdatum op hom of haar van toepassing was;
- (c) hou hy of sy op om 'n lid te wees van enige pensioenfonds waarvan hy of sy 30 'n lid was op die datum onmiddellik voor die oordragdatum en het hy of sy geen eis teen die betrokke fonds nadat die bedrag bedoel in subartikel (f) deur daardie fonds betaal is nie;
- (d) en indien hy of sy onmiddellik voor die oordragdatum 'n lid van 'n 35 pensioenfonds was, is die toepaslike bedeling bedoel in paragraaf (e), na gelang van die geval, op hom of haar vanaf die oordragdatum van toepassing; en indien hy of sy—
- (i) onderbroke lidmaatskap het, word daar geag dat pensioengewende diens aan hom of haar begin oploop het vanaf die datum van hervatting van bydrae tot 'n pensioenfonds;
- 40 (ii) sedert voor 1 Oktober 1991 'n lid van 'n pensioenfonds was sonder onderbroke lidmaatskap, is hy of sy 'n lid van die pensioen- of aftreefonds van die maatskappy waarvan hy of sy 'n werknemer word in 'n lidmaatskapskategorie waarvoor hy of sy ooreenkomstig die reëls van die betrokke fonds op daardie datum sou gekwalifiseer het;
- 45 (iii) 'n werknemer van die telekommunikasiemaatskappy word, kan hy of sy kies om 'n lid van die Telkom Aftreefonds te word;
- (iv) 'n lid van 'n pensioenfonds geword het op of na 1 Oktober 1991, maar voor 1 Julie 1995, en hy of sy 'n werknemer van die telekommunikasiemaatskappy word, kan hy of sy kies om 'n C-lid van die Telkom 50 Pensioenfonds, soos in die reëls van daardie fonds omskryf, of 'n lid van die Telkom Aftreefonds, te word;
- (v) 'n lid van 'n pensioenfonds geword het op of na 1 Julie 1995, en hy of sy—
- (aa) 'n werknemer van die telekommunikasiemaatskappy word; of 55 (bb) synde 'n persoon in subparagraaf (iii) of (iv) bedoel, versuim om die daarin bedoelde opsie voor die oordragdatum uit te oefen, is hy of sy 'n lid van die Telkom Aftreefonds;
- (vi) 'n lid van 'n pensioenfonds was sonder onderbroke lidmaatskap sedert 60 1 Oktober 1991 of na daardie datum en hy of sy 'n werknemer van die posmaatskappy word, is hy of sy 'n C-lid van die Poskantoor Pensioenfonds soos in die reëls van daardie fonds omskryf;
- (f) (i) moet die pensioenfonds bedoel in paragraaf (c) aan die betrokke fonds

- concerned referred to in paragraph (e) an amount equal to the actuarial liability of the former fund in respect of the member as determined by the actuary of that fund, multiplied by the funding level;
- (ii) the actuarial basis on which the liability of the pension fund referred to in paragraph (c) is calculated, shall be agreed upon by the fund's actuary and the actuary of the fund referred to in paragraph (e), as the case may be;
- (iii) the funding level of the pension fund referred to in paragraph (c) shall be the market value of the assets of the fund expressed as a percentage of the total actuarial liability of the fund as determined by the most recent actuarial valuation of the fund and agreed to by the funds referred to in paragraph (e);
- (iv) the total amount involved referred to in subparagraph (i) shall be guaranteed by the State;
- (g) the State shall pay to the funds referred to in paragraph (e) an amount equal to the actuarial liability of the pension fund referred to in paragraph (c), calculated as set out in paragraph (f), less any amounts paid by the pension fund in terms of paragraph (f);
- (h) the amounts referred to in paragraphs (f) and (g) shall be payable as at the transfer date, and interest thereon calculated at the bank rate as determined from time to time in terms of section 10(2) of the South African Reserve Bank Act, 1989 (Act No. 90 of 1989), shall be added to those amounts for the period from the transfer date to the date of actual payment thereof.

#### Regulation of finances before transfer date

5. (1) All income generated from the provision of postal and telecommunications services and all expenditure incurred for the provision of such services in the former states before the transfer date shall accrue to the State or be borne by the State, as the case may be.
- (2) All current assets and liabilities, deposits in savings and current accounts, as well as debit cash or bank balances generated by the departments before the transfer date shall accrue to the State or be borne by the State, as the case may be.
- (3) (a) All investments and all credits, including accrued interest reflected in the accounts of the post office savings banks shall be transferred to Postbank.
- (b) The State guarantees that upon such transfer the value of the assets so transferred will be equal to or more than the value of any liabilities in respect of those investments or accounts, and any shortfall shall form a debit against the National Revenue Fund.
- (c) All savings and other accounts transferred to Postbank in terms of paragraph (a) shall be subject to the rules and regulations that apply to the existing accounts in Postbank.
- (4) (a) The departments shall render final statements of telecommunications accounts using the current billing systems to its customers before the transfer date.
- (b) All income derived from those accounts shall accrue to the State.
- (c) Any loss incurred as a result of non-payment of those accounts, shall be borne by the State.
- (d) The telecommunications company shall, for a period of 12 months, continue to render such final statements of accounts on behalf of the State, using the billing systems referred to in paragraph (a) after which period the unpaid accounts shall be handed over to the State Attorney.
- (5) (a) On the transfer date all identifiable deposits shall be paid over by the departments to the respective companies.
- (b) The companies shall administer those deposits in accordance with their own procedures.
- (6) (a) All financing liabilities, including long and short term loans, incurred by the departments shall be borne by the State.
- (b) Goods bought and services requested in terms of agreements identified to and ratified by the companies before the transfer date, but delivered or rendered after the transfer date, shall be for the accounts of the companies.

- bedoel in paragraaf (e) 'n bedrag betaal gelyk aan die aktuariële verpligting van eersgenoemde fonds ten opsigte van die lid soos bepaal deur die aktuaris van daardie fonds, vermenigvuldig met die befondsingsvlak;
- 5 (ii) word daar oor die aktuariële grondslag waarop die verpligting van die pensioenfonds in paragraaf (c) bedoel, bereken word, deur die fonds se aktuaris en die aktuaris van die fonds bedoel in paragraaf (e), na gelang van die geval, ooreengekom;
- 10 (iii) is die befondsingsvlak van die pensioenfonds in paragraaf (c) bedoel die markwaarde van die bates van die fonds uitgedruk as 'n persentasie van die totale aktuariële verpligting van die fonds soos bepaal deur die mees onlangse aktuariële waardasie van die fonds en waaroor ooreengekom is deur die fondse in paragraaf (e) bedoel;
- 15 (iv) word die totale bedrag betrokke bedoel in subparagraaf (i), deur die Staat gewaarborg;
- (g) betaal die Staat die fondse bedoel in paragraaf (e) 'n bedrag gelyk aan die aktuariële verpligting van die pensioenfonds bedoel in paragraaf (c), bereken soos uiteengesit in paragraaf (f), minus enige bedrae wat deur die pensioenfonds ingevolge paragraaf (f) betaal is;
- 20 (h) is die bedrae bedoel in paragraaf (f) en (g) betaalbaar soos op die oordragdatum, en word rente daarop bereken teen die bankkoers soos van tyd tot tyd bepaal ingevolge artikel 10(2) van die Wet op die Suid-Afrikaanse Reserwebank, 1989 (Wet No. 90 van 1989), by daardie bedrae gevoeg vir die tydperk vanaf die oordragdatum tot die datum van werklike betaling daarvan.

## 25 Reëling van finansies voor oordragdatum

5. (1) Alle inkomste wat uit die verskaffing van pos- en telekommunikasiedienste gegeneer word en alle uitgawes aangegaan vir die verskaffing van sodanige dienste in die voormalige state voor die oordragdatum val die Staat toe of word deur die Staat gedra, na gelang van die geval.
- 30 (2) Alle lopende bates en laste, deposito's in spaar- en lopende rekenings asook debiet kontant- of banksaldo's wat voor die oordragdatum deur die departemente gegeneer word, val die Staat toe of word deur die Staat gedra, na gelang van die geval.
- (3) (a) Alle beleggings en alle krediete, met inbegrip van opgelope rente wat in die 35 rekenings van die posspaarbanke weerspieël word, word aan Posspaarbank oorgedra.
- (b) Die Staat waarborg dat by sodanige oordrag die waarde van die bates wat aldus oorgedra word, gelyk aan of meer sal wees as die waarde van die laste ten opsigte van daardie beleggings of rekenings en enige tekort vorm 'n debiet teen die Nasionale Inkomstefonds.
- 40 (c) Alle spaar- en ander rekenings wat ingevolge paragraaf (a) aan Posspaarbank oorgedra word, is onderworpe aan die reëls en regulasies wat op die bestaande rekenings in Posspaarbank van toepassing is.
- (4) (a) Die departemente moet finale telekommunikasierekeningstate aan hul kliënte voor die oordragdatum lewer deur die lopende rekeningstelsels te gebruik.
- 45 (b) Alle inkomste afkomstig uit daardie rekeningstate val die Staat toe.
- (c) Enige verlies wat ontstaan as gevolg van die nie-betaling van daardie rekenings word deur die Staat gedra.
- (d) Die telekommunikasiemaatskappy moet vir 'n tydperk van 12 maande voortgaan om sodanige finale rekeningstate namens die Staat te lewer deur gebruik te maak van 50 die rekeningstelsels in paragraaf (a) bedoel, na welke tydperk die onbetaalde rekenings aan die Staatsprokureur oorhandig word.
- (5) (a) Op die oordragdatum word alle identifiseerbare deposito's deur die departemente aan die onderskeie maatskappye oorbetal.
- (b) Die maatskappye administreer daardie deposito's ooreenkomstig hulle eie 55 prosedures.
- (6) (a) Alle finansieringsverpligtinge, met inbegrip van lang- en korttermynlenings, deur die departemente aangegaan, word deur die Staat gedra.
- (b) Goedere gekoop en dienste aangevra ingevolge ooreenkomste wat voor die oordragdatum aan die maatskappye geïdentifiseer en deur hulle bekragtig is, maar na 60 die oordragdatum gelewer is, is vir die maatskappye se rekenings.

**Regulation of finances after transfer date**

6. (1) Any operating loss incurred by either company due to the integration of the departments contemplated in this Act shall be reimbursed by the State for a period of 48 months as from the transfer date.

(2) (a) The books of account of the companies shall on the transfer date be balanced, audited and balances left open for adjustments that may occur. 5

(b) Any extraordinary costs so incurred shall be borne by the State.

(3) All irregularities that occurred in a department before the transfer date in respect of parity adjustments, level placings, promotions, over statements, corruption and theft shall be corrected by the company concerned at the expense of the State. 10

(4) The State shall reimburse the postal company for all transactions in respect of which money was received by a department before the transfer date and which has to be paid out by the postal company or in terms of which the postal company must render a service after the transfer date and in respect of which no or insufficient money was paid over to the postal company by the department. 15

(5) (a) For a period of 12 months after the transfer date the companies shall render financial services in respect of all unreconciled balances as on the transfer date.

(b) At the termination of the 12 months' period all unpaid accounts shall be referred to the State Attorney.

**Repeal and amendment of laws** 20

7. (1) The laws referred to in Part I of the Schedule are hereby repealed to the extent indicated in column 3 of that Part.

(2) The laws referred to in Part II of the Schedule are hereby amended to the extent indicated in column 3 of that Part.

**Act binding on State** 25

8. This Act shall bind the State.

**Transitional provision**

9. All current licences issued in terms of a law on radio or postal matters by any department shall, as from the transfer date, for the remainder of the licence period be deemed to have been issued in terms of the Radio Act, 1952 (Act No. 3 of 1952), or the Post Office Act, as the case may be. 30

**Short title**

10. This Act shall be called the Former States Posts and Telecommunications Reorganisation Act, 1996.

**Reëling van finansies na oordragdatum**

6. (1) Enige bedryfsverlies wat deur enigeen van die maatskappye gely word as gevolg van die inskakeling van die departemente in hierdie Wet beoog, word vir 'n tydperk van 48 maande vanaf die oordragdatum deur die Staat terugbetaal.
- 5 (2) (a) Die rekeningboeke van die maatskappye moet op die oordragdatum gebalanseer, ge-oudit, en ooggelaat word vir aanpassings wat mag voorkom.  
(b) Enige buitengewone koste aldus opgeloop, word deur die Staat gedra.  
(3) Alle onreëlmatighede wat voor die oordragdatum in 'n departement voorgekom het ten opsigte van pariteitregstellings, vlakplasing, bevorderings, oorfakturering, 10 korrupsie en diefstal word deur die betrokke maatskappye op die Staat se koste reggestel.  
(4) Die Staat vergoed die posmaatskappye vir alle transaksies ten opsigte waarvan geld voor die oordragdatum deur 'n departement ontvang is en wat na die oordragdatum deur die posmaatskappye uitbetaal moet word of ingevolge waarvan die 15 posmaatskappye 'n diens moet lewer en ten opsigte waarvan geen of te min geld deur die departement aan die posmaatskappye oorbetaal is.  
(5) (a) Die maatskappye moet vir 'n tydperk van 12 maande na die oordragdatum finansiële dienste lewer ten opsigte van alle ongerekonsilieerde saldo's soos op die oordragdatum.  
20 (b) By afloop van die tydperk van 12 maande word alle onbetaalde rekeninge na die Staatsprokureur verwys.

**Herroeping en wysiging van wette**

7. (1) Die wette bedoel in Deel I van die Bylae word hierby herroep in die mate in kolom 3 van daardie Deel aangedui.
- 25 (2) Die wette bedoel in Deel II van die Bylae word hierby gewysig in die mate in kolom 3 van daardie Deel aangedui.

**Wet bind Staat**

8. Hierdie Wet bind die Staat.

**Oorgangsbepaling**

- 30 9. Alle lopende lisensies wat ingevolge 'n wet op radio- of posaangeleenthede deur enige departement uitgereik is, word vanaf die oordragdatum vir die res van die lisensie tydperk geag ingevolge die Radiowet, 1952 (Wet No. 3 van 1952), of die Poswet, na gelang van die geval, uitgereik te wees.

**Kort titel**

- 35 10. Hierdie Wet heet die Wet op die Herorganisasie van Pos- en Telekommunikasiewese van Voormalige State, 1996.

Act No. 5, 1996

FORMER STATES POSTS AND TELECOMMUNICATIONS  
REORGANISATION ACT, 1996**SCHEDULE**  
**(Section 7)****Part I**

No. and year of law	Short title	Extent of repeal
Act No. 3 of 1952	Radio Act, 1952 (Transkei)	The whole, in so far as it applies in the former Republic of Transkei
Act No. 3 of 1952	Radio Act, 1952 (Bophuthatswana)	The whole, in so far as it applies in the former Republic of Bophuthatswana
Act No. 3 of 1952	Radio Act, 1952 (Ciskei)	The whole, in so far as it applies in the former Republic of Ciskei
Act No. 44 of 1958	Post Office Act, 1958 (Bophuthatswana)	The whole, in so far as it applies in the former Republic of Bophuthatswana
Act No. 44 of 1958	Post Office Act, 1958 (Ciskei)	The whole, in so far as it applies in the former Republic of Ciskei
Act No. 6 of 1980	Post Office Act, 1980 (Transkei)	The whole
Act No. 15 of 1984	Radio Act, 1984 (Venda)	The whole
Act No. 19 of 1986	Post Office Act, 1986 (Venda)	The whole

**Part II**

No. and year of law	Short title	Extent of amendment
Act No. 3 of 1952	Radio Act, 1952	The following section is hereby substituted for section 19A of the Radio Act, 1952:  <b>“Application of Act</b>  <b>19A.</b> <u>This Act shall apply throughout the Republic.</u> ”
Act No. 44 of 1958	Post Office Act, 1958	The following section is hereby inserted in the Post Office Act after section 115 <i>bis</i> :  <b>“Application of Act</b>  <b>116.</b> <u>This Act shall apply throughout the Republic.</u> ”



WET OP DIE HERORGANISASIE VAN POS- EN TELEKOMMUNIKASIEWESE VAN VOORMALIGE STATE, 1996 **Wet No. 5, 1996****BYLAE  
(Artikel 7)****Deel I**

No. en jaar van wet	Kort titel	Omvang van herroeping
Wet No. 3 van 1952	Radiowet, 1952 (Transkei)	Die geheel, vir sover dit in die voormalige Republiek van Transkei van toepassing is
Wet No. 3 van 1952	Radiowet, 1952 (Bophuthatswana)	Die geheel, vir sover dit in die voormalige Republiek van Bophuthatswana van toepassing is
Wet No. 3 van 1952	Radiowet, 1952 (Ciskei)	Die geheel, vir sover dit in die voormalige Republiek van Ciskei van toepassing is
Wet No. 44 van 1958	Poswet, 1958 (Bophuthatswana)	Die geheel, sover dit in die voormalige Republiek van Bophuthatswana van toepassing is
Wet No. 44 van 1958	Poswet, 1958 (Ciskei)	Die geheel, vir sover dit in die voormalige Republiek van Ciskei van toepassing is
Wet No. 6 van 1980	"Post Office Act, 1980" (Transkei)	Die geheel
Wet No. 15 van 1984	"Radio Act, 1984" (Venda)	Die geheel
Wet No. 19 van 1986	"Post Office Act, 1986" (Venda)	Die geheel

**Deel II**

No. en jaar van wet	Kort titel	Omvang van wysiging
Wet No. 3 van 1952	Radiowet, 1952	Artikel 19A van die Radiowet, 1952, word hierby deur die volgende artikel vervang:  <b>"Toepassing van Wet</b>  <b>19A.</b> Hierdie Wet is oor die <u>Republiek van toepassing.</u> "
Wet No. 44 van 1958	Poswet, 1958	Die volgende artikel word hierby in die Poswet na artikel 115 <i>bis</i> ingevoeg:  <b>"Toepassing van Wet</b>  <b>116.</b> Hierdie Wet is oor die <u>Republiek van toepassing.</u> "

