



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

ACT

STAATSKOERANT

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OFFICE OF THE PRESIDENT

KANTOOR VAN DIE PRESIDENT

No. 1353.

13 October 1997

No. 1353.

13 Oktober 1997

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. 47 of 1997: Public Service Laws Amendment Act, 1997.

No. 47 van 1997: Wysigingswet op Staatsdienswetgewing, 1997.

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

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

ACT

To amend the Public Service Act, 1994, so as to further define, to substitute or to delete certain expressions; to further regulate the application of the said Act; to provide for the readjustment of the functions of the Public Service Commission and the circumscription of the functions of the Minister for the Public Service and Administration and an executing authority; to make other provision in connection with the management, administration and functions of the South African Management and Development Institute and the administration of the Training Fund; to make further provision in connection with the implementation or limitation of actions affecting the public service or its members; to enable the said Minister to have access to certain documents and information; to make further provision in connection with the power of the President to amend Schedules 1 and 2 to the said Act; to make other provision in connection with the inclusion of posts in, or the exclusion of posts from, the A or B division; to make further provision in connection with appointments, promotions and transfers; to make further provision in connection with the discharge of officers; to further regulate inefficiency and misconduct; to further regulate the receipt of unauthorised remuneration; to make other provision in connection with the reduction of salaries of officers; to make further provision in connection with grievances of officers and employees; to empower the said Minister to make regulations; and to empower the said Minister to assign certain functions to officers or employees of his or her Department; and to repeal or to amend other laws relating to the public service so as to remove obsolete provisions or to effect certain consequential amendments arising from the readjustment of the functions of the said Commission; and to provide for incidental matters.

(English text signed by the President.)
(Assented to 6 October 1997.)

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act promulgated under Proclamation 103 of 1994, as amended by section 32 of Act 38 of 1994, section 27 of Act promulgated under Proclamation 105 of 1994 and section 1 of Proclamation R.171 of 1994 5

1. Section 1 of the Public Service Act, 1994 (hereinafter referred to as the principal Act), is hereby amended—

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.

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

WET

Tot wysiging van die Staatsdienswet, 1994, ten einde sekere uitdrukkings nader te omskryf, te vervang of te skrap; die toepassing van genoemde Wet verder te reël; voorsiening te maak vir die herreëling van die werksaamhede van die Staatsdienskommissie en die omskrywing van die werksaamhede van die Minister vir die Staatsdiens en Administrasie en 'n uitvoeringsgesag; ander voorsiening te maak in verband met die bestuur, administrasie en werksaamhede van die Suid-Afrikaanse Instituut vir Bestuursontwikkeling en die administrasie van die Opleidingsfonds; verdere voorsiening te maak in verband met die implementering of beperking van handeling wat die staatsdiens of sy lede raak; genoemde Minister in staat te stel om toegang tot sekere dokumente en inligting te verkry; verdere voorsiening te maak in verband met die bevoegdheid van die President om Bylaes 1 en 2 by genoemde Wet te wysig; ander voorsiening te maak in verband met die insluiting van poste by, of die uitsluiting van poste uit, die A- of B-afdeling; verdere voorsiening te maak in verband met aanstellings, bevorderings en oorsplasing; verdere voorsiening te maak in verband met die ontslag van beamptes; onbekwaamheid en wangedrag verder te reël; die ontvangs van ongemagtigde besoldiging verder te reël; ander voorsiening te maak in verband met die verlaging van salarisse van beamptes; verdere voorsiening te maak in verband met griewe van beamptes en werknemers; genoemde Minister te magtig om regulasies uit te vaardig; en genoemde Minister te magtig om sekere werksaamhede aan beamptes of werknemers van sy of haar Departement op te dra; en ter herroeping of tot wysiging van ander wette wat op die staatsdiens betrekking het ten einde uitgediende bepalinge te verwyder of sekere gevolglike wysigings voortspruitend uit die herreëling van die werksaamhede van genoemde Kommissie aan te bring; en om vir bykomstige aangeleenthede voorsiening te maak.

*(Engelse teks deur die President geteken.)
(Goedgekeur op 6 Oktober 1997.)*

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 1 van Wet afgekondig by Proklamasie 103 van 1994, soos gewysig deur artikel 32 van Wet 38 van 1994, artikel 27 van Wet afgekondig by Proklamasie 105 van 1994 en artikel 1 van Proklamasie R.171 van 1994

1. Artikel 1 van die Staatsdienswet, 1994 (hieronder die Hoofwet genoem), word hierby gewysig—

- (a) by the deletion in subsection (1) of the definitions of “agreement” and “central level”;
- (b) by the substitution in the said subsection (1) for the definition of “Commission” of the following definition:
- “(iv) ‘Commission’ means the Public Service Commission established by section [209] 196(1) of the Constitution **[and, in relation to any power or function conferred upon, assigned to or imposed upon the Commission by this Act, the Commission Act or any other law, includes any member or members of the Commission or any officer or officers to whom the exercise of such power or the performance of such function has been delegated by the Commission in terms of section 210(1)(d) of the Constitution or section 5(2) of the Commission Act];** (xi)”;
- (c) by the substitution in the said subsection (1) for the definition of “Commission Act” of the following definition:
- “(v) ‘Commission Act’ means the Public Service Commission Act, **[1984 (Act No. 65 of 1984), as adapted by Chapter 13 and section 238(3) and (6) of the Constitution]** 1997; (xii)”;
- (d) by the substitution in the said subsection (1) for the definition of “Constitution” of the following definition:
- “(vi) ‘Constitution’ means the Constitution of the Republic of South Africa, **[1993 (Act No. 200 of 1993)]** 1996 (Act No. 108 of 1996); (vi);”;
- (e) by the deletion in the said subsection (1) of the definitions of “Council” and “employer”;
- (f) by the substitution in the said subsection (1) for the definition of “executing authority” of the following definition:
- “(xii) ‘executing authority’, in relation to—
- (a) the Office of the President, means the President acting on his or her own;
- (b) the Office of **[any Executive]** the Deputy President, means the **[relevant Executive]** Deputy President;
- (c) a department or organisational component within a Cabinet portfolio **[referred to in section 88 of the Constitution]**, means the Minister responsible for such portfolio;
- (d) the Office of the Commission, means the Chairperson of the Commission;
- [(d)] (e)** a provincial administration or the Office of a Premier of a province, means the Premier of that province acting on his or her own; and
- [I(e)] (f)** a provincial department or office within an Executive Council portfolio **[referred to in section 149 of the Constitution]**, means the member of such Executive Council responsible for such portfolio; (xxviii)”;
- (g) by the insertion in the said subsection (1) after the definition of “information technology” of the following definition:
- “(xvA) ‘Minister’ means the Minister for the Public Service and Administration; (xiiiA)”;
- (h) by the deletion in the said subsection (1) of the definition of “provincial service commission”;
- (i) by the substitution in the said subsection (1) for the definition of “revenue” of the following definition:
- “(xxiv) ‘revenue’ means the National Revenue Fund established by section **[185(1)]** 213(1) of the Constitution or, in relation to an officer or employee of a provincial administration, the relevant Provincial Revenue Fund **[contemplated in]** established by section **[159(1)]** 226(1) of the Constitution, as the case may be; (viii)”;
- (j) by the substitution for subsection (3) of the following subsection:
- “(3) Where it is uncertain who the executing authority or head of department is for the purposes of **[a recommendation, direction or other]** any act under this Act in respect of an officer or employee **[referred to in section 43(2)(b)]**, the **[Commission]** Minister shall

- (a) deur in subartikel (1) die omskrywing van “Grondwet” deur die volgende omskrywing te vervang:
 “(vi) ‘Grondwet’ die Grondwet van die Republiek van Suid-Afrika, [1993 Wet No. 200 van 1993] 1996 (Wet No. 108 van 1996); (vi)”;
- (b) deur in genoemde subartikel (1) die omskrywing van “inkomste” deur die volgende omskrywing te vervang:
 “(viii) ‘inkomste’ die Nasionale Inkomstefonds ingestel by artikel [185 (1)] 213(1) van die Grondwet of, met betrekking tot ’n beampte of werknemer van ’n provinsiale administrasie, die betrokke Provinsiale Inkomstefonds [beoog in] ingestel by artikel [159 (1)] 226(1) van die Grondwet, na gelang van die geval; (xxiv)”;
- (c) deur in genoemde subartikel (1) die omskrywing van “Kommissie” deur die volgende omskrywing te vervang:
 “(xi) ‘Kommissie’ die Staatsdienskommissie ingestel by artikel [209] 196(1) van die Grondwet [en, met betrekking tot ’n bevoegdheid of werksaamheid aan die Kommissie by hierdie Wet, die Kommissiewet of enige ander wet verleen, toegewys of opgedra, ook enige lid of lede van die Kommissie of enige beampte of beamptes aan wie die uitoefening van sodanige bevoegdheid of die uitvoering van sodanige werksaamheid deur die Kommissie ingevolge artikel 210(1)(d) van die Grondwet of artikel 5(2) van die Kommissiewet gedelegeer is]; (iv)”;
- (d) deur in genoemde subartikel (1) die omskrywing van “Kommissiewet” deur die volgende omskrywing te vervang:
 “(xii) ‘Kommissiewet’ die [Staatsdienskommissiewet, 1984 (Wet No. 65 van 1984), soos aangepas by Hoofstuk 13 en artikel 238(3) en (6) van die Grondwet] Wet op die Staatsdienskommissie, 1997; (v)”;
- (e) deur in genoemde subartikel (1) die volgende omskrywing na die omskrywing van “maand” in te voeg:
 “(xiiiA) ‘Minister’ die Minister vir die Staatsdiens en Administrasie; (xvA)”;
- (f) deur in genoemde subartikel (1) die omskrywings van “ooreenkoms”, “provinsiale dienskommissie” en “Raad” te skrap;
- (g) deur in genoemde subartikel (1) die omskrywing van “sentrale vlak” te skrap;
- (h) deur in genoemde subartikel (1) die omskrywing van “uitvoeringsgesag” deur die volgende omskrywing te vervang:
 “(xxviii) ‘uitvoeringsgesag’, met betrekking tot—
 (a) die Kantoor van die President, die President wat op sy of haar eie handel;
 (b) die Kantoor van [enige Uitvoerende] die Adjunkpresident, die [betrokke Uitvoerende] Adjunkpresident;
 (c) ’n departement of organisasiekomponent binne ’n Kabinetsportefeulje [bedoel in artikel 88 van die Grondwet], die Minister verantwoordelik vir sodanige portefeulje;
 (d) die Kantoor van die Kommissie, die Voorsitter van die Kommissie;
 [(d)] (e) ’n provinsiale administrasie of die Kantoor van ’n Premier van ’n provinsie, die Premier van dié provinsie wat op sy of haar eie handel; en
 [(e)] (f) ’n provinsiale departement of kantoor binne ’n Uitvoerende Raadsportefeulje [bedoel in artikel 149 van die Grondwet], die lid van sodanige Uitvoerende Raad verantwoordelik vir sodanige portefeulje; (xii)”;
- (i) deur in genoemde subartikel (1) die omskrywing van “werkgever” te skrap; en
- (j) deur subartikel (3) deur die volgende subartikel te vervang:
 “(3) Waar dit onseker is wie die uitvoeringsgesag of departementshoof vir doeleindes van ’n [aanbeveling, lasgewing of ander] handeling kragtens hierdie Wet ten opsigte van ’n beampte of werknemer [bedoel in artikel 43(2)(b)] is, moet die [Kommissie] Minister die

indicate the authority or head to be regarded as the executing authority or head of department in the case concerned.”.

Amendment of section 2 of Act promulgated under Proclamation 103 of 1994, as amended by section 32 of Act 38 of 1994

2. Section 2 of the principal Act is hereby amended— 5
- (a) by the deletion of subsection (4);
- (b) by the substitution for paragraph (b) of subsection (5) of the following paragraph:
- “(b) All persons who immediately before the commencement of this Act were, by virtue of a law repealed by this Act, officers or employees in an institution referred to in section 236(1) of the Interim Constitution, shall remain in employment and shall from [that] such commencement be deemed, without break in service, to be officers or employees, as the case may be, and the provisions of this Act shall apply to or in respect of those officers or employees.”; and 10 15
- (c) by the deletion of subsection (6).

Substitution of Chapter II of Act promulgated under Proclamation 103 of 1994

3. The following Chapter is hereby substituted for Chapter II of the principal Act:

“CHAPTER II

ADMINISTRATION OF THE PUBLIC SERVICE, INCLUDING THE SOUTH AFRICAN MANAGEMENT AND DEVELOPMENT INSTITUTE AND THE TRAINING FUND

Functions of Minister and executing authority

3. (1) (a) The Minister may exercise the powers and shall perform the duties entrusted to the Minister by or under this Act or any other law. 25
- (b) Where it is a requirement of this Act or of any other law that any executing authority or other person shall act in consultation with the Minister, the Minister may express his or her concurrence with the act in question or refuse to express it. 30
- (2) (a) For the purposes of this subsection, any policy may relate to any of or all the following matters, namely— 35
- (i) the functions of, and organisational arrangements in, the public service;
- (ii) employment and other personnel practices, including the promotion of broad representivity as well as human resource management and training, in the public service; 40
- (iii) the salaries and other conditions of service of officers and employees;
- (iv) labour relations in the public service;
- (v) information management and information technology in the public service; 45
- (vi) public service transformation and reform.
- (b) The Minister shall accept responsibility for—
- (i) any policy which relates to a matter referred to in paragraph (a); and
- (ii) the provision of a framework of norms and standards with a view to giving effect to any such policy. 50
- (3) The Minister may—
- (a) advise the President regarding the establishment or abolition of any department, including the designation of any department or head of department, in order to enable the President to amend Schedule 1 or 2; 55
- (b) make determinations regarding the allocation of functions to, or the abolition of the functions of, any department or the transfer of

gesag of hoof aanwys wat in die betrokke geval as die uitvoeringsgesag of departementshoof beskou word.”.

Wysiging van artikel 2 van Wet afgekondig by Proklamasie 103 van 1994, soos gewysig deur artikel 32 van Wet 38 van 1994

2. Artikel 2 van die Hoofwet word hierby gewysig—

(a) deur subartikel (4) te skrap;

(b) deur paragraaf (b) van subartikel (5) deur die volgende paragraaf te vervang:

“(b) Alle persone wat, onmiddellik voor die inwerkingtreding van hierdie Wet, uit hoofde van ’n wet deur hierdie Wet herroep, beampptes of werknemers was van ’n instelling bedoel in artikel 236(1) van die Interim Grondwet, bly in diens en word vanaf bedoelde inwerkingtreding geag, sonder onderbreking in diens, beampptes of werknemers te wees, na gelang van die geval, en die bepalings van hierdie Wet is op ten opsigte van daardie beampptes [en] of werknemers van toepassing.”;

(c) deur subartikel (6) te skrap.

Vervanging van Hoofstuk II van Wet afgekondig by Proklamasie 103 van 1994

3. Hoofstuk II van die Hoofwet word hierby deur die volgende Hoofstuk vervang:

“HOOFSTUK II

ADMINISTRASIE VAN DIE STAATSDIENS, MET INBEGRIIP VAN DIE SUID-AFRIKAANSE INSTITUUT VIR BESTUURSONTWIKKELING EN DIE OPLEIDINGSFONDS

Werksaamhede van Minister en uitvoeringsgesag

3. (1) (a) Die Minister kan die bevoegdhede uitoefen en moet die pligte verrig wat by of kragtens hierdie Wet of ’n ander wet aan die Minister toevertrou is.

(b) Waar dit ’n vereiste van hierdie Wet of van ’n ander wet is dat ’n uitvoeringsgesag of ander persoon in oorleg met die Minister moet handel, kan die Minister sy of haar instemming met die betrokke handeling betuig of weier om dit te betuig.

(2) (a) By die toepassing van hierdie subartikel kan ’n beleid betrekking hê op enige van of al die volgende aangeleenthede, naamlik—

- (i) die werksaamhede van, en organisatoriese reëlings in, die staatsdiens;
- (ii) indiensnemings- en ander personeelpraktyke, met inbegrip van die bevordering van breë verteenwoordigendheid asook die bestuur en opleiding van menslike hulpbronne, in die staatsdiens;
- (iii) die salarisse en ander diensvoorwaardes van beampptes en werknemers;
- (iv) arbeidsverhoudinge in die staatsdiens;
- (v) inligtingbestuur en inligtingstegnologie in die staatsdiens;
- (vi) die transformasie en hervorming van die staatsdiens.

(b) Die Minister aanvaar verantwoordelikheid oor—

- (i) ’n beleid wat betrekking het op ’n aangeleentheid in paragraaf (a) bedoel; en
- (ii) die voorsiening van ’n raamwerk van norme en standaarde ten einde uitvoering aan so ’n beleid te gee.

(3) Die Minister kan—

(a) die President adviseer betreffende die instelling of afskaffing van ’n departement, met inbegrip van die benaming van ’n departement of departementshoof, ten einde die President in staat te stel om Bylae 1 of 2 te wysig;

(b) vasstellings maak betreffende die toewysing van werksaamhede aan, of die afskaffing van die werksaamhede van, ’n departement of die oordrag van werksaamhede van een departement aan ’n ander of van

functions from one department to another or from a department to any other body or from any other body to a department;

(c) subject to the provisions of this Act, make determinations regarding the conditions of service of officers and employees generally, including the scales of salaries, wages or allowances of all the various classes, ranks and grades of officers and employees as well as salary ranges in respect of particular classes, ranks and grades of officers and employees;

(d) make regulations under section 41(1);

(e) issue directives which are not inconsistent with this Act to elucidate or supplement any regulation.

(4) (a) If so requested by the President or an executing authority, the Minister may advise the President or the relevant executing authority on any matter relating to—

(i) the public service;

(ii) the employment, remuneration or other conditions of service of persons employed in a department in terms of any law other than this Act or of functionaries employed by any board, institution or body established by or under any law and which obtains its funds, either wholly or in part, from revenue;

(iii) the remuneration or other conditions of appointment of the office-bearers of any such board, institution or body; or

(iv) the staffing, employment or other personnel practices of any such board, institution or body.

(b) For the purposes of paragraph (a), the Minister has access to such official documents or may obtain such information from the chief executive officer of the relevant board, institution or body as may be necessary to advise the President or the relevant executing authority.

(5) Subject to the provisions of this Act, an executing authority shall have those powers and duties—

(a) regarding the internal organisation of the office or department concerned, including the organisational structure and the transfer of functions within that office or department;

(b) regarding the post establishment of that office or department, including the creation, grading and abolition of posts and the provision for the employment of persons additional to the fixed establishment where the class of work is of a temporary nature;

(c) regarding the recruitment, appointment, performance management, promotion, transfer, discharge and other career incidents of officers and employees of that office or department, including any other matter which relates to such officers and employees in their individual capacities,

which are entrusted to the executing authority by or under this Act, and such powers and duties shall be exercised or performed by the executing authority in accordance with the provisions of this Act.

(6) (a) The relevant executing authority may perform any act in connection with any matter which relates to or arises from the employment or the conditions of service of a former officer or employee whilst he or she was an officer or employee, provided that executing authority would at the relevant time have been competent in terms of this Act or any other law to perform any such act in respect of a serving officer or employee.

(b) No such act shall be to the detriment of a former officer or employee, and the relevant executing authority shall not perform any such act in respect of any former officer or employee after the expiry of a period of two years after he or she ceased to be an officer or employee.

South African Management and Development Institute and Training Fund

4. (1) The management and administration of the South African Management and Development Institute shall be under the control of the Minister.

'n departement aan 'n ander liggaam of van 'n ander liggaam aan 'n departement;

(c) behoudens die bepalings van hierdie Wet, vasstellings maak betreffende die diensvoorwaardes van beamptes en werknemers in die algemeen, met inbegrip van die skale van salarisse, lone of toelaes van al die verskillende klasse, range en grade beamptes en werknemers asook salarisreëse ten opsigte van bepaalde klasse, range en grade beamptes en werknemers;

(d) regulasies kragtens artikel 41(1) uitvaardig;

(e) voorskrifte wat nie met hierdie Wet onbestaanbaar is nie, uitreik ter toeligtig of aanvulling van 'n regulasie.

(4) (a) Indien aldus versoek deur die President of 'n uitvoeringsgesag, kan die Minister die President of die betrokke uitvoeringsgesag adviseer oor 'n aangeleentheid met betrekking tot—

(i) die staatsdiens;

(ii) die indiensneming, besoldiging of ander diensvoorwaardes van persone wat ingevolge 'n ander wet as hierdie Wet in 'n departement in diens is of van funksionaris wat in diens is by 'n raad, instelling of liggaam wat by of kragtens die een of ander wet ingestel is en wat sy fondse, hetsy in die geheel of gedeeltelik, uit inkomste verkry;

(iii) die besoldiging of ander aanstellingsvoorwaardes van die ampsbekleërs van so 'n raad, instelling of liggaam; of

(iv) die personeelvoorsiening, indiensnemings- of ander personeelpraktike van so 'n raad, instelling of liggaam.

(b) By die toepassing van paragraaf (a) het die Minister toegang tot die amptelike stukke of kan die Minister die inligting by die hoof- uitvoerende beampte van die betrokke raad, instelling of liggaam verkry wat nodig is om die President of die betrokke uitvoeringsgesag te adviseer.

(5) Behoudens die bepalings van hierdie Wet het 'n uitvoeringsgesag daardie bevoegdhede en pligte—

(a) betreffende die interne organisasie van die betrokke kantoor of departement, met inbegrip van die organisatoriese struktuur en die oordrag van werksaamhede binne daardie kantoor of departement;

(b) betreffende die postestaat van daardie kantoor of departement, met inbegrip van die skepping, gradering en afskaffing van poste en die voorsiening vir die indiensneming van persone addisioneel tot die vaste diensstaat waar die klas werk van 'n tydelike aard is;

(c) betreffende die werwing, aanstelling, prestasiebestuur, bevordering, oorplasing, ontslag en ander loopbaaninsidente van beamptes en werknemers van daardie kantoor of departement, met inbegrip van 'n ander aangeleentheid wat op sodanige beamptes en werknemers in hul individuele hoedanigheid betrekking het,

wat by of kragtens hierdie Wet aan die uitvoeringsgesag toevertrou is, en sodanige bevoegdhede en pligte word deur die uitvoeringsgesag uitgeoefen of verrig ooreenkomstig die bepalings van hierdie Wet.

(6) (a) Die betrokke uitvoeringsgesag kan 'n handeling verrig in verband met 'n aangeleentheid wat betrekking het op of voortspruit uit die indiensneming of die diensvoorwaardes van 'n voormalige beampte of werknemer terwyl hy of sy 'n beampte of werknemer was, mits daardie uitvoeringsgesag op die bepaalde tydstep ingevolge hierdie Wet of 'n ander wet bevoeg sou wees om so 'n handeling ten opsigte van 'n dienende beampte of werknemer te verrig.

(b) So 'n handeling mag nie tot nadeel van 'n voormalige beampte of werknemer strek nie, en die betrokke uitvoeringsgesag mag nie so 'n handeling verrig ten opsigte van 'n voormalige beampte of werknemer na verstryking van 'n tydperk van twee jaar nadat hy of sy opgehou het om 'n beampte of werknemer te wees nie.

Suid-Afrikaanse Instituut vir Bestuursontwikkeling en Opleidingsfonds

4. (1) Die bestuur en administrasie van die Suid-Afrikaanse Instituut vir Bestuursontwikkeling is onder die beheer van die Minister.

- (2) The Institute—
- (a) shall provide such training or cause such training to be provided or conduct such examinations or tests or cause such examinations or tests to be conducted as the Head: South African Management and Development Institute may with the approval of the Minister decide or as may be prescribed as a qualification for the appointment, promotion or transfer of persons in or to the public service;
- (b) may issue diplomas or certificates or cause diplomas or certificates to be issued to persons who have passed such examinations.
- (3) Notwithstanding the substitution of section 3(5)(a)(iii) by the Public Service Laws Amendment Act, 1997, the Training Fund established under the said section shall continue to exist, and the Fund shall consist of—
- (a) all moneys which immediately prior to the commencement of the said Act were moneys of the Fund;
- (b) such moneys as may from time to time be appropriated by Parliament with a view to promoting training under this Act;
- (c) any other moneys accruing to the Fund in terms of this Act or from any other source.
- (4) (a) The Fund shall be administered by the Head, who shall be the accounting officer charged with the responsibility of accounting for moneys received by, and disbursements made from, the Fund.
- (b) Moneys in the Fund shall be utilised to promote training under this Act, but moneys or other property donated or bequeathed to the Fund shall be utilised in accordance with the conditions of the donation or bequest concerned.
- (c) Moneys in the Fund not required for immediate use may be invested with the Public Investment Commissioners or in such other manner as the Minister may with the concurrence of the Minister of Finance approve.
- (5) (a) The financial year of the Fund shall terminate on the last day in March in each year.
- (b) The Head shall—
- (i) cause records to be kept of moneys received by, and disbursements made from, the Fund and of its assets, liabilities and financial transactions;
- (ii) as soon as may be practicable after the end of each financial year, cause annual financial statements to be prepared reflecting, with appropriate details, moneys received by, and disbursements made from, the Fund during, and its assets and liabilities at the end of, that financial year.
- (c) The records and annual financial statements shall be audited annually by the Auditor-General.

Implementation or limitation of actions affecting public service or its members

5. (1) For the purposes of this Act or any other law—

- (a) a concurrence or determination of the Minister shall be deemed to have been expressed or made on the date of the communication in writing conveying such concurrence or determination;
- (b) where any executing authority or other person is required to act in consultation with the Minister, such act shall be deemed to be implemented by the relevant executing authority or person on the date of the communication in writing conveying to the affected person or body that the executing authority or person is acting in consultation with the Minister;
- (c) where the Minister is competent to make a determination, such determination shall be deemed to be implemented on the date on which such determination is made, unless expressly stated otherwise in the communication in writing conveying such determination.
- (2) Subject to the provisions of subsection (3), any determination of the Minister may be withdrawn or varied or further varied by the Minister at any time within a period of six calendar months from the date upon which it was made by the Minister or varied the previous time.

- (2) Die Instituut—
- (a) moet die opleiding verskaf of laat verskaf of die eksamens of toetse afneem of laat afneem wat die Hoof: Suid-Afrikaanse Instituut vir Bestuursontwikkeling met die goedkeuring van die Minister bepaal of wat voorgeskryf word as 'n kwalifikasie vir die aanstelling, bevordering of oorpasing van persone in of na die staatsdiens;
- (b) kan diplomas of sertifikate uitreik of laat uitreik aan persone wat in sodanige eksamens geslaag het.
- (3) Ondanks die vervanging van artikel 3(5)(a)(iii) deur die Wysigingswet op Staatsdienswetgewing, 1997, bly die Opleidingsfonds wat kragtens genoemde artikel ingestel is, voortbestaan, en bestaan die Fonds uit—
- (a) alle geld wat onmiddellik voor die inwerkingtreding van genoemde Wet geld van die Fonds was;
- (b) die geld wat van tyd tot tyd deur die Parlement bewillig word ten einde opleiding kragtens hierdie Wet te bevorder;
- (c) enige ander geld wat die Fonds ingevolge hierdie Wet of uit 'n ander bron toeval.
- (4) (a) Die Fonds word geadminestreer deur die Hoof, wat die rekenpligtige beampte belas met die verantwoording van geld ontvang deur, en betalings gemaak uit, die Fonds is.
- (b) Geld in die Fonds moet aangewend word om opleiding kragtens hierdie Wet te bevorder, maar geld of ander goed wat aan die Fonds geskenk of bemaak word, moet ooreenkomstig die voorwaardes van die betrokke skenking of bemaking aangewend word.
- (c) Geld in die Fonds wat nie vir onmiddellike gebruik nodig is nie, kan by die Openbare Beleggingskommissaris belê word of op die ander wyse wat die Minister met die instemming van die Minister van Finansies goedkeur.
- (5) (a) Die boekjaar van die Fonds eindig op die laaste dag van Maart in elke jaar.
- (b) Die Hoof moet—
- (i) aantekeninge laat hou van geld ontvang deur, en betalings gemaak uit, die Fonds, en van sy bates, laste en finansiële transaksies;
- (ii) so gou doenlik na die einde van elke boekjaar, finansiële jaarstate laat opmaak wat, met gepaste besonderhede, geld ontvang deur, en betalings gemaak uit, die Fonds gedurende, en sy bates en laste aan die einde van, daardie boekjaar aantoon.
- (c) Die aantekeninge en finansiële jaarstate word jaarliks deur die Ouditeur-generaal geouditeer.

40 **Implementering of beperking van handeling wat staatsdiens of sy lede raak**

- 50 **5. (1) By die toepassing van hierdie Wet of 'n ander wet—**
- (a) word 'n instemming of vasstelling van die Minister geag betuig of gemaak te gewees het op die datum van die skriftelike mededeling
- 45 waarin so 'n instemming of vasstelling oorgedra word;
- (b) waar van 'n uitvoeringsgesag of ander persoon vereis word om in oorleg met die Minister te handel, word so 'n handeling geag deur die betrokke uitvoeringsgesag of persoon geïmplementeer te word op die datum van die skriftelike mededeling waarin aan die geaffekteerde
- 50 persoon of liggaam oorgedra word dat die uitvoeringsgesag of persoon in oorleg met die Minister handel;
- (c) waar die Minister bevoeg is om 'n vasstelling te maak, word so 'n vasstelling geag geïmplementeer te word op die datum waarop so 'n vasstelling gemaak word, tensy uitdruklik anders vermeld in die
- 55 skriftelike mededeling waarin so 'n vasstelling oorgedra word.
- (2) Behoudens die bepalings van subartikel (3) kan 'n vasstelling van die Minister teruggetrek of gewysig of verder gewysig word deur die Minister te eniger tyd binne 'n tydperk van ses kalendermaande vanaf die datum waarop dit deur die Minister gemaak of die vorige keer gewysig is.

(3) A determination by the Minister involving expenditure from revenue shall not be implemented unless the Treasury approves the expenditure.

(4) Every act of the Minister, any executing authority or any other person, irrespective of whether such act consists of the making of any regulation or other enactment, the making of any determination or the taking of any decision, which relates to any matter which constitutes the subject matter of any collective agreement contemplated in item 15(i) of Schedule 7 to the Labour Relations Act, 1995 (Act No. 66 of 1995), or of any collective agreement concluded by a bargaining council established in terms of the said Act for the public service as a whole or for a particular sector in the public service, shall be performed only in accordance with any such collective agreement.

(5) Notwithstanding the provisions of subsection (4)—

(a) any executing authority or other person may act in respect of a particular officer or employee in accordance with the provisions of this Act or any other law: Provided that where any such act constitutes any deviation from a collective agreement referred to in the said subsection (4), it shall not derogate from or annul such a collective agreement or the collective bargaining relationship, or reduce the remuneration or other service benefits of the particular officer or employee, or deprive that officer or employee of his or her remuneration or other service benefits, except in accordance with section 34; or

(b) the last offer made by the State as employer in a bargaining council referred to in the said subsection (4) on a specific matter may, if a deadlock in negotiations is reached, be implemented by acting in terms of the provisions of this Act or any other law, provided any such act does not have the effect of reducing existing remuneration or other service benefits, except in accordance with section 34.

Access to documents and information by Minister

6. The Minister has access to such official documents or may obtain such information from heads of departments or from officers or employees in the service of those departments as may be necessary for the performance of his or her functions under this Act or any other law."

Amendment of section 7 of Act promulgated under Proclamation 103 of 1994

4. Section 7 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) The public service established by section [212 (1)] 197(1) of the Constitution shall be structured and organised as provided for in this Act."; and

(b) by the substitution for subsection (5) of the following subsection:

"(5) The President may [after the Commission has made a recommendation] on the advice of the Minister on the establishment or abolition of any department, including the designation of any department or head of department, amend Schedule 1 or 2 by proclamation in the Gazette, [and] which amendment, if [he or she] the President deems it necessary, may be effected retrospectively to the date of the [recommendation of the Commission] advice of the Minister."

Amendment of section 8 of Act promulgated under Proclamation 103 of 1994, as amended by section 32 of Act 38 of 1994

5. Section 8 of the principal Act is hereby amended—

(a) by the substitution for subsection (2) of the following subsection:

"(2) The [A and B divisions shall consist of such posts as the Commission may direct to be included therein] Minister may make

(3) 'n Vasstelling van die Minister wat uitgawes uit inkomste meebring, mag nie geïmplementeer word nie tensy die Tesourie die uitgawes goedkeur.

(4) Elke handeling van die Minister, 'n uitvoeringsgesag of 'n ander persoon, ongeag of so 'n handeling uit die uitvaardiging van 'n regulasie of ander maatreël, die maak van 'n vasstelling of die neem van 'n besluit bestaan, wat betrekking het op 'n aangeleentheid wat die onderwerp uitmaak van 'n kollektiewe ooreenkoms in item 15(i) van Bylae 7 by die Wet op Arbeidsverhoudinge, 1995 (Wet No. 66 van 1995), beoog of van 'n kollektiewe ooreenkoms wat gesluit is deur 'n bedingingsraad wat ingevolge genoemde Wet ingestel is vir die staatsdiens in die geheel of vir 'n bepaalde sektor in die staatsdiens, mag slegs ooreenkomstig so 'n kollektiewe ooreenkoms verrig word.

(5) Ondanks die bepalings van subartikel (4)—

(a) kan 'n uitvoeringsgesag of ander persoon ten opsigte van 'n besondere beampte of werknemer ooreenkomstig die bepalings van hierdie Wet of 'n ander wet handel: Met dien verstande dat waar so 'n handeling 'n afwyking behels van 'n kollektiewe ooreenkoms in genoemde subartikel (4) bedoel, dit nie aan so 'n kollektiewe ooreenkoms of die kollektiewe bedingingsverhouding afbreuk mag doen of dit ongedaan mag maak nie, of die besoldiging of ander diensvoordele van die besondere beampte of werknemer mag verminder nie, of daardie beampte of werknemer sy of haar besoldiging of ander diensvoordele mag ontnem nie, behalwe ooreenkomstig artikel 34; of

(b) kan die laaste aanbod wat deur die Staat as werkgever in 'n bedingingsraad in genoemde subartikel (4) bedoel oor 'n bepaalde aangeleentheid gemaak is, indien 'n dooie punt in die onderhandelinge bereik word, geïmplementeer word deur ingevolge die bepalings van hierdie Wet of 'n ander wet te handel, mits so 'n handeling nie die uitwerking het dat dit bestaande besoldiging of ander diensvoordele verminder nie, behalwe ooreenkomstig artikel 34.

Toegang tot dokumente en inligting deur Minister

6. Die Minister het toegang tot die amptelike stukke of kan die inligting by hoofde van departemente of by beamptes of werknemers in diens van daardie departemente verkry wat nodig is om sy of haar werksaamhede kragtens hierdie Wet of 'n ander wet te verrig."

Wysiging van artikel 7 van Wet afgekondig by Proklamasie 103 van 1994

4. Artikel 7 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Die [Staatsdiens] staatsdiens ingestel by artikel [212(1)] 197(1) van die Grondwet word gestruktureer en georganiseer soos in hierdie Wet bepaal."; en

(b) deur subartikel (5) deur die volgende subartikel te vervang:

"(5) Die President kan [nadat die Kommissie 'n aanbeveling gedoen het] op advies van die Minister oor die instelling of afskaffing van 'n departement, met inbegrip van die benaming van 'n departement of departementshoof, Bylae 1 of 2 by proklamasie in die Staatskoerant wysig, welke wysiging, indien [hy of sy] die President dit nodig ag, retrospektiewelik tot die datum van die [aanbeveling van die Kommissie] advies van die Minister mag geskied."

Wysiging van artikel 8 van Wet afgekondig by Proklamasie 103 van 1994, soos gewysig deur artikel 32 van Wet 38 van 1994

5. Artikel 8 van die Hoofwet word hierby gewysig—

(a) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Die [A- en B-afdeling bestaan uit die poste wat die Kommissie gelas het daarby ingesluit moet word] Minister kan vasstellings

determinations regarding the posts to be included in the A and the B division, respectively.”; and

(b) by the substitution for subsection (3) of the following subsection:

“(3) (a) The **[Commission may direct]** Minister may make a determination that any post included in one division shall be removed from that division and be included in the other division, or that any post included in the A or B division shall be excluded from both those divisions.

(b) A **[direction]** determination under this subsection shall not deprive any officer of any leave or other prescribed privilege or right which arose from the occupancy by him or her of a post in one of the said divisions.

(c) Any officer whose post has been excluded from both the divisions aforementioned shall, for the purposes of this Act and the **[Government Service Pensions Act, 1973 (Act No. 57 of 1973)]** applicable pension law, be deemed to continue to hold a post in the division in which his or her post was included immediately before the **[direction]** determination whereby such exclusion was effected came into force.”.

Substitution of section 9 of Act promulgated under Proclamation 103 of 1994

6. The following section is hereby substituted for section 9 of the principal Act:

“Powers of executing authority

9. (1) **[Without derogating from the functions of the Commission in terms of this Act, the]** The appointment of any person or the promotion or transfer of any officer or employee in the employ of a **[national]** department **[or provincial administration]** shall be made by the relevant executing authority or by an officer or officers to whom **[such]** the said authority has delegated his or her power of appointment, promotion or transfer.

(2) Subject to the provisions of this Chapter, appointments and promotions in, and transfers in or to, the public service shall be made in such manner and on such conditions **[including conditions regarding the knowledge of official and other languages]** as may be prescribed **[or, in so far as they are not prescribed, as may be directed by the Commission]**.”.

Amendment of section 10 of Act promulgated under Proclamation 103 of 1994

7. Section 10 of the principal Act is hereby amended by the substitution for paragraph (c) of subsection (1) of the following paragraph:

“(c) in so far as his or her condition of health is concerned, complies with such requirements as may be **[directed by the Commission under section 3(4)(b)]** prescribed.”.

Substitution of section 11 of Act promulgated under Proclamation 103 of 1994

8. The following section is hereby substituted for section 11 of the principal Act:

“Appointments and filling of posts

11. (1) In the making of appointments and the filling of posts in the public service due regard shall be had to equality and the other democratic values and principles enshrined in the Constitution.

(2) In the making of any appointment or the filling of any post in the public service—

(a) all persons who qualify for the appointment, transfer or promotion concerned shall be considered; and

(b) the evaluation of persons shall be based on training, skills, competence, knowledge and the need to redress the imbalances of the past to

- maak betreffende die poste wat onderskeidelik by die A- en die B-afdeling ingesluit moet word.”; en
- (b) deur subartikel (3) deur die volgende subartikel te vervang:
- “**(3) (a)** Die **[Kommissie kan gelas]** Minister kan ’n vasstelling maak dat enige pos wat by een afdeling ingesluit is, uit daardie afdeling verwyder en by die ander afdeling ingesluit word, of dat enige pos wat by die A- of B-afdeling ingesluit is, uit albei daardie afdelings uitgesluit moet word.
- (b) ’n **[Lasgewing]** Vasstelling kragtens hierdie subartikel mag nie ’n beampte enige verlof- of ander voorgeskrewe voorreg of reg wat sy of haar bekleding van ’n pos in een van genoemde afdelings meegebring het, ontnem nie.
- (c) ’n Beampte wie se pos uit albei voornoemde afdelings uitgesluit is, word by die toepassing van hierdie Wet en die **[Regeringsdienspensioenwet, 1973 (Wet No. 57 van 1973)]** toepaslike pensioenwet geag ’n pos te bly beklee in die afdeling waarin sy of haar pos ingesluit was onmiddellik voor die **[lasgewing]** vasstelling waarby sodanige uitsluiting bewerkstelling is, van krag geword het.”.

Vervanging van artikel 9 van Wet afgekondig by Proklamasie 103 van 1994

6. Artikel 9 van die Hoofwet word hierby deur die volgende artikel vervang:

“Bevoegdhede van uitvoeringsgesag

9. (1) **[Sonder om afbreuk te doen aan die werksaamhede van die Kommissie ingevolge hierdie Wet, moet die]** Die aanstelling van ’n persoon of die bevordering of oorplasing van ’n beampte of werknemer in die diens van ’n **[nasionale]** departement **[of provinsiale administrasie]** moet gedoen word deur die betrokke uitvoeringsgesag of deur ’n beampte of beamptes aan wie **[sodanige]** bedoelde gesag sy of haar bevoegdheid **[betreffende aanstelling, bevordering of oorplasing]** om aanstellings, bevorderings of oorplasing te doen, gedelegeer het.
- (2) Behoudens die bepalings van hierdie Hoofstuk moet aanstellings en bevorderings in, en oorplasing in of na, die staatsdiens gedoen word op die wyse en die voorwaardes **[met inbegrip van voorwaardes betreffende die kennis van die amptelike en ander tale]** wat voorgeskryf word **[of wat, vir sover hulle nie voorgeskryf is nie, deur die Kommissie gelas word].”.**

Wysiging van artikel 10 van Wet afgekondig by Proklamasie 103 van 1994

7. Artikel 10 van die Hoofwet word hierby gewysig deur paragraaf (c) van subartikel (1) deur die volgende paragraaf te vervang:
- “(c) vir sover dit sy of haar gesondheidstoestand betref, voldoen aan die vereistes **[deur die Kommissie kragtens artikel 3(4)(b) gelas]** wat voorgeskryf word.”.

Vervanging van artikel 11 van Wet afgekondig by Proklamasie 103 van 1994

8. Artikel 11 van die Hoofwet word hierby deur die volgende artikel vervang:

“Aanstellings en vulling van poste

11. (1) By die doen van aanstellings en die vulling van poste in die staatsdiens moet gelykheid en die ander demokratiese waardes en beginsels wat in die Grondwet verskans is, behoorlik in ag geneem word.
- (2) By die doen van ’n aanstelling of die vulling van ’n pos in die staatsdiens—
- (a) moet alle persone wat vir die betrokke aanstelling, oorplasing of bevordering kwalifiseer, oorweeg word; en
- (b) moet die beoordeling van persone gebaseer word op opleiding, vaardighede, bevoegdheid, kennis en die behoefte om die wanbalanse

achieve a public service broadly representative of the South African people, including representation according to race, gender and disability.

(3) Notwithstanding the provisions of subsection (2), the relevant executing authority may, subject to the prescribed conditions, approve the appointment, transfer or promotion of persons to promote the basic values and principles referred to in section 195(1) of the Constitution.”

Substitution of section 12 of Act promulgated under Proclamation 103 of 1994, as amended by section 32 of Act 38 of 1994 and section 2 of Act 13 of 1996

9. The following section is hereby substituted for section 12 of the principal Act: 10

“Appointment of heads of department

12. (1) Any person who immediately prior to the commencement of the Public Service Laws Amendment Act, 1997—

- (a) was appointed in the office of head of department or was promoted or transferred to that office; or 15
- (b) was promoted or transferred from the office of head of department referred to in paragraph (a) to another office of head of department, shall occupy, subject to the provisions of Chapters V and VI—
 - (i) in the case of a person referred to in paragraph (a), that office for a period of five years from the date of his or her appointment, promotion or transfer, or the shorter period approved by the relevant executing authority, and if the term of office was extended at the expiry thereof, for the extended period approved by that executing authority; 20
 - (ii) in the case of a person referred to in paragraph (b), the latter office for the remainder of the term of office which applies to him or her in terms of paragraph (i) in respect of the former office, and if the term of office was extended at the expiry thereof, for the extended period approved by the relevant executing authority. 25

(2) As from the date of commencement of the Public Service Laws Amendment Act, 1997— 30

- (a) a person shall be appointed in the office of head of department in the prescribed manner, on the prescribed conditions and in terms of the prescribed contract between the relevant executing authority and such a person for a period of five years from the date of his or her appointment, or such shorter period as that executing authority may approve; 35
- (b) the term of office as head of department of such a person may be extended at the expiry thereof in accordance with the terms and conditions of the contract or a further contract, as the case may be, concluded between that executing authority and such a person for a period or successive periods of not less than twelve months and not more than five years, as that executing authority may approve; 40
- (c) the term of office as head of department of any person referred to in subsection (1), or any extended term thereof, may be extended at the expiry of the term of office or extended term, as the case may be, in the prescribed manner for a period of not less than twelve months and not more than five years, as the relevant executing authority may approve, provided the said person concludes the prescribed contract with that executing authority, whereupon any further extension of his or her term of office shall, subject to the provisions of paragraph (b), take place in accordance with the terms and conditions of that contract or a further contract, as the case may be. 45 50

- van die verlede reg te stel ten einde 'n staatsdiens te bewerkstellig wat in die breë verteenwoordigend van die Suid-Afrikaanse bevolking is, met inbegrip van verteenwoordiging volgens ras, geslag en gestremdheid.
- 25 (3) Ondanks die bepalings van subartikel (2) kan die betrokke uitvoeringsgesag, behoudens die voorgeskrewe voorwaardes, die aanstelling, oorplasing of bevordering van persone goedkeur ten einde die basiese waardes en beginsels bedoel in artikel 195(1) van die Grondwet te bevorder.”.
- 10 **Vervanging van artikel 12 van Wet afgekondig by Proklamasie 103 van 1994, soos gewysig deur artikel 32 van Wet 38 van 1994 en artikel 2 van Wet 13 van 1996**
9. Artikel 12 van die Hoofwet word hierby deur die volgende artikel vervang:
- “Aanstelling van departementshoofde**
12. (1) 'n Persoon wat onmiddellik voor die inwerkingtreding van
- 15 die Wysigingswet op Staatsdienswetgewing, 1997—
- (a) in die amp van 'n departementshoof aangestel is of tot of na daardie amp bevorder of oorgeplaas is; of
- (b) uit die amp van departementshoof in paragraaf (a) bedoel na 'n ander amp van departementshoof bevorder of oorgeplaas is,
- 20 bekleed, behoudens die bepalings van Hoofstukke V en VI—
- (i) in die geval van 'n persoon in paragraaf (a) bedoel, dié amp vir 'n tydperk van vyf jaar vanaf die datum van sy of haar aanstelling, bevordering of oorplasing, of die korter tydperk wat die betrokke uitvoeringsgesag goedgekeur het, en indien die ampstermyn by die verstryking daarvan verleng is, vir die verlengde tydperk wat deur
- 25 daardie uitvoeringsgesag goedgekeur is;
- (ii) in die geval van 'n persoon in paragraaf (a) bedoel, laasbedoelde amp vir die onverstreke gedeelte van die ampstermyn wat ingevolge paragraaf (i) ten opsigte van eersbedoelde amp op hom of haar van toepassing is, en indien die ampstermyn by die verstryking daarvan verleng is, vir die verlengde tydperk wat deur die betrokke uitvoeringsgesag goedgekeur is.
- 30 (2) Vanaf die datum van inwerkingtreding van die Wysigingswet op Staatsdienswetgewing, 1997—
- (a) word 'n persoon in die amp van 'n departementshoof aangestel op die voorgeskrewe wyse en voorwaardes en ingevolge die voorgeskrewe kontrak tussen die betrokke uitvoeringsgesag en so 'n persoon vir 'n tydperk van vyf jaar vanaf die datum van sy of haar aanstelling, of die korter tydperk wat daardie uitvoeringsgesag goedkeur;
- 40 (b) kan die ampstermyn as departementshoof van so 'n persoon by die verstryking daarvan ooreenkomstig die bedinge en voorwaardes van die kontrak of 'n verdere kontrak, na gelang van die geval, wat tussen daardie uitvoeringsgesag en so 'n persoon aangegaan is, verleng word met 'n tydperk of agtereenvolgende tydperke van minstens twaalf
- 45 maande en hoogstens vyf jaar, soos daardie uitvoeringsgesag goedkeur;
- (c) kan die ampstermyn as departementshoof van 'n persoon in subartikel (1) bedoel, of enige verlengde termyn daarvan, by die verstryking van die ampstermyn of verlengde termyn, na gelang van die geval, op die voorgeskrewe wyse verleng word met 'n tydperk van minstens twaalf
- 50 maande en hoogstens vyf jaar, soos die betrokke uitvoeringsgesag goedkeur, mits bedoelde persoon die voorgeskrewe kontrak met daardie uitvoeringsgesag aangaan, waarop enige verdere verlenging van sy of haar ampstermyn, behoudens die bepalings van paragraaf
- 55 (b), ooreenkomstig die bedinge en voorwaardes van daardie kontrak of 'n verdere kontrak, na gelang van die geval, plaasvind.

- (3) Notwithstanding the provisions of subsection (2), a contract contemplated in that subsection may include any term and condition agreed upon between the relevant executing authority and the person concerned as to—
- (a) any particular duties of the head of department;
 - (b) the specific performance criteria for evaluating the performance of the head of department;
 - (c) the grounds upon, and the procedures according to which, the services of the head of department may be terminated before the expiry of his or her term of office or extended term of office, as the case may be; and
 - (d) any other matter which may be prescribed.”.

Substitution of section 13 of Act promulgated under Proclamation 103 of 1994

10. The following section is hereby substituted for section 13 of the principal Act:

“Appointment, transfer and promotion on probation

13. (1) The appointment of a person and the transfer [and] or promotion of an officer in the A or B division shall be made on probation—
- (a) unless, in the case of an appointment [in—
 - (i) the A division, the Commission recommends otherwise; or
 - (ii) the B division], the person having the power to approve such an appointment, directs otherwise; or
 - (b) if, in the case of a promotion or a transfer [in—
 - (i) the A division, the Commission so recommends; or
 - (ii) the B division], the person having the power to approve such a transfer or promotion, so directs.
- (2) (a) Subject to the provisions of paragraphs (b) and (c) [of this subsection and the provisions of subsection (4)], the period of probation [so recommended or directed] shall not be less than 12 calendar months.
- (b) If an officer who is serving on probation is transferred or promoted to another post, a lesser period of service on probation may be [recommended or] directed in the new post which, together with the period of probation served in the former post, shall total at least 12 calendar months.
- (c) The period of probation of an officer shall be extended by the number of days leave taken by him or her during the period of probation or any extension thereof.
- (3) If the head of the office, branch, subdepartment, institution or department certifies that, during the period of probation or extended period of probation, the officer concerned has been diligent and his or her conduct [is] has been uniformly satisfactory and that he or she is in all respects suitable for the post which he or she holds, and if the officer has complied with all the conditions to which his or her appointment, transfer or promotion was subject, the person having the power to make the appointment, transfer or promotion concerned, may confirm that appointment, transfer or promotion, but if the probationary appointment, transfer or promotion is not so confirmed[—
- (a) the head of department shall, in the case of an officer serving in the A division, report the reasons for the non-confirmation to the Commission, which shall, subject to the provisions of subsection (6), make such recommendation regarding the matter as it may deem fit;
 - (b) the person having the power to make the appointment, transfer or promotion concerned may [in the case of an officer serving in the B division] extend the period of probation or act in accordance with the provisions of subsection (5).
- (4) If the appointment or promotion of an officer is made on probation and the only condition of such an appointment or promotion is that the officer shall comply with the training requirements directed by the Commission, such appointment shall, notwithstanding the

(3) Ondanks die bepalings van subartikel (2) kan 'n kontrak in daardie subartikel beoog enige beding en voorwaarde insluit waarop tussen die betrokke uitvoeringsgesag en die betrokke persoon ooreengekom word betreffende—

- 5 (a) enige bepaalde pligte van die departementshoof;
 (b) die besondere prestasiemaatstawwe om die werkverrigting van die departementshoof te beoordeel;
 (c) die gronde waarop, en die prosedures waarvolgens, die dienste van die departementshoof voor die verstryking van sy of haar ampstermyn of verlengde ampstermyn, na gelang van die geval, beëindig kan word; en
 10 (d) 'n ander aangeleentheid wat voorgeskryf word.”.

Vervanging van artikel 13 van Wet afgekondig by Proklamasie 103 van 1994

10. Artikel 13 van die Hoofwet word hierby deur die volgende artikel vervang:

15 “Aanstelling, oorplasing en bevordering op proef

13. (1) Die aanstelling van 'n persoon en die oorplasing [en] of bevordering van 'n beampte in die A- of B-afdeling moet op proef geskied—

- 20 (a) tensy, in die geval van 'n aanstelling [in—
 (i) die A-afdeling, die Kommissie anders aanbeveel; of
 (ii) die B-afdeling], die persoon wat die bevoegdheid het om so 'n aanstelling goed te keur, anders gelas; of
 (b) indien, in die geval van 'n bevordering of 'n oorplasing [in—
 (i) die A-afdeling, die Kommissie aldus aanbeveel; of
 25 (ii) die B-afdeling], die persoon wat die bevoegdheid het om so 'n oorplasing of bevordering goed te keur, dit gelas.

(2) (a) Behoudens die bepalings van paragrawe (b) en (c) [van hierdie subartikel en die bepalings van subartikel (4)] moet die proeftyd [aldus aanbeveel of gelas] minstens 12 kalendermaande wees.

30 (b) Indien 'n beampte wat diens op proef doen, na 'n ander pos oorgeplaas of bevorder word, kan 'n korter dienstydperk op proef in die nuwe pos [aanbeveel of] gelas word wat, saam met die proeftyd in diens in die vorige pos, minstens 12 kalendermaande moet wees.

35 (c) Die proeftyd van 'n beampte moet verleng word met die getal dae verlof wat hy of sy gedurende die proeftyd of enige verlenging daarvan geneem het.

(3) Indien die hoof van die kantoor, tak, subdepartement, inrigting of departement sertifiseer dat die betrokke beampte gedurende die proeftyd of verlengde proeftyd ywerig en sy of haar gedrag deurgaans bevredigend was en dat hy of sy in alle opsigte geskik is vir die pos wat hy of sy beklee, en indien die beampte voldoen het aan al die voorwaardes waaraan sy of haar aanstelling, oorplasing of bevordering onderworpe was, kan die persoon wat die bevoegdheid het om die betrokke aanstelling, oorplasing of bevordering te doen, [die] daardie aanstelling, oorplasing of bevordering bekragtig, maar indien die aanstelling, oorplasing of bevordering op proef nie aldus bekragtig word nie [—

40 (a) moet die departementshoof, in die geval van 'n beampte in diens in die A-afdeling, die redes vir die nie-bekragtiging aan die Kommissie rapporteer wat, behoudens die bepalings van subartikel (6), dié aanbeveling oor die aangeleentheid doen wat hy goeddink;

45 (b) , kan die persoon wat die bevoegdheid het om die betrokke aanstelling, oorplasing of bevordering te doen [in die geval 'n beampte in diens in die B-afdeling] die proeftyd verleng of ooreenkomstig die bepalings van subartikel (5) optree.

55 [(4) Indien die aanstelling of bevordering van 'n beampte op proef geskied en die enigste voorwaarde van so 'n aanstelling of bevordering is dat die beampte moet voldoen aan die opleidingsvereistes wat deur die Kommissie gelas is, word sodanige aanstelling, ondanks die

provisions of subsection (2), or such promotion shall, notwithstanding provisions to the contrary in this Act, be deemed to have been confirmed with effect from the day immediately succeeding the date upon which that officer complied with those requirements.]

(5) [(a)] Notwithstanding anything to the contrary contained in subsection (2) or in Chapter VI, but subject to the provisions of [paragraph (b) and] subsection (6), an officer who is serving on probation may be discharged from the public service by the person having the power of discharge, [either] whether during or at or after the expiry of the period of probation—

[(i)] (a) by the giving of one month's written notice to such officer; or
 [(ii)] (b) forthwith, but subject to the provisions of the Labour Relations Act, 1995 (Act No. 66 of 1995), if his or her conduct or performance is unsatisfactory.

[(b) Before an officer serving in the A division is so discharged, the Commission shall first make a recommendation.]

(6) [(a)] Notwithstanding anything to the contrary contained in sections 14 and 34, [but subject to the provisions of paragraph (b)] a person whose transfer or promotion on probation is not confirmed and who immediately prior to that transfer or promotion on probation was an officer, other than an officer on probation, shall be transferred to the post formerly held by him or her, or to a post of equivalent grading, and shall receive such salary as he or she would have received in the said former post if he or she had not been transferred or promoted on probation.

[(b) In the case of the transfer of an officer serving in the A division, the Commission shall first make a recommendation.]”.

Amendment of section 14 of Act promulgated under Proclamation 103 of 1994, as amended by section 32 of Act 38 of 1994

11. Section 14 of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) The transfer of an officer or employee from one post or position to another post or position may, subject to [paragraphs (b), (c) and (d) of this subsection and subsection (3)(d)] the provisions of paragraph (b), be made on the authority of the person having the power [to] of transfer.”;

(b) by the deletion of paragraphs (c) and (d) of the said subsection (2); and

(c) by the deletion of paragraphs (b) and (d) of subsection (3).

Substitution of section 15 of Act promulgated under Proclamation 103 of 1994

12. The following section is hereby substituted for section 15 of the principal Act:

“Transfer and secondment of officials

15. (1) A person holding a pensionable appointment in a department under any law other than this Act or [an] in any institution or body established by [an Act of Parliament] or under any law and which obtains its funds directly in whole or in part from [the National Revenue Fund] revenue, may [on the recommendation of the Commission] be transferred to, and appointed in, a post in the A or B division.

(2) A person in the service of a department under any law other than this Act, or in the service of another government, or of [a] any council, institution or body established by or under any law, or of any other body or person, may [on the recommendation of the Commission] be employed by another department or a department, as the case may be, for a particular service or for a stated period and on such terms and conditions, other than conditions laid down by or under any pensions law, as may be [recommended by the Commission after consultation with] agreed upon

bepalings van subartikel (2), of daardie bevordering, ondanks enige andersluidende bepalings van hierdie Wet, geag bekragtig te wees met ingang van die dag wat onmiddellik volg op die datum waarop daardie beampte aan daardie vereistes voldoen het.]

5 (5) [(a)] Ondanks [enige] andersluidende bepalings van subartikel (2) of van Hoofstuk VI, maar behoudens die bepalings van [paragraaf (b) en] subartikel (6), kan 'n beampte wat op proef in diens is deur die persoon wat die bevoegdheid [van ontslag het] het om te ontslaan, uit die staatsdiens ontslaan word, hetsy gedurende of by of na verstryking van die proeftyd—

10 [(i)] (a) deur skriftelik een maand kennis aan sodanige beampte te gee; of [(ii)] (b) onverwyld, maar behoudens die bepalings van die Wet op Arbeidsverhoudinge, 1995 (Wet No. 66 van 1995), indien sy of haar gedrag of werkverrigting onbevredigend is.

15 [(b) Voordat 'n beampte wat in die A-afdeling in diens is, aldus ontslaan word, moet die Kommissie eers 'n aanbeveling doen.]

(6) [(a)] Ondanks andersluidende bepalings van artikels 14 en 34 [maar behoudens die bepalings van paragraaf (b)] moet 'n persoon wie se oorplasing of bevordering op proef nie bekragtig word nie en wat onmiddellik voor daardie oorplasing of bevordering op proef 'n beampte was, uitgesonderd 'n beampte op proef, oorgeplaas word na die pos wat hy of sy vantevore beklee het, of na 'n pos van gelyke gradering, en ontvang so 'n persoon die salaris wat hy of sy in bedoelde vorige pos sou ontvang het as hy of sy nie op proef oorgeplaas of bevorder was nie.

25 [(b) In die geval van die oorplasing van 'n beampte in diens in die A-afdeling, moet die Kommissie eers 'n aanbeveling doen.]”.

Wysiging van artikel 14 van Wet afgekondig by Proklamasie 103 van 1994, soos gewysig deur artikel 32 van Wet 38 van 1994

30 11. Artikel 14 van die Hoofwet word hierby gewysig—

- (a) deur paragraaf (a) van subartikel (2) deur die volgende paragraaf te vervang:
 “(a) Die oorplasing van 'n beampte of werknemer uit een pos of betrekking na 'n ander pos of betrekking kan, behoudens [paragrafe (b), (c) en (d) van hierdie subartikel en subartikel (3)(d)] die bepalings van paragraaf (b), op gesag van die persoon wat die bevoegdheid het om oor te plaas, gedoen word.”;
- (b) deur paragrafe (c) en (d) van genoemde subartikel (2) te skrap; en
 (c) deur paragrafe (b) en (d) van subartikel (3) te skrap.

Vervanging van artikel 15 van Wet afgekondig by Proklamasie 103 van 1994

40 12. Artikel 15 van die Hoofwet word hierby deur die volgende artikel vervang:

“Oorplasing en afstaan van amptenare

45 15. (1) 'n Persoon wat 'n pensioengewende betrekking beklee in 'n departement kragtens 'n ander wet as hierdie Wet of in 'n instelling of liggaam wat by [’n Parlements wet] of kragtens die een of ander wet ingestel is en wat sy fondse regstreeks in die geheel of gedeeltelik uit [die Nasionale Inkomstefonds] inkomste verkry, kan [op aanbeveling van die Kommissie] oorgeplaas word na, en aangestel word in, 'n pos in die A- of B-afdeling.

50 (2) 'n Persoon in diens van 'n departement kragtens 'n ander wet as hierdie Wet, of in diens van 'n ander regering, of van 'n raad, [inrigting] instelling of liggaam wat by of kragtens die een of ander wet ingestel is, of van 'n ander liggaam of persoon, kan [op aanbeveling van die Kommissie] deur 'n ander departement of 'n departement, na gelang van die geval, in diens geneem word vir 'n besondere diens of vir 'n bepaalde tydperk en op die bedinge en voorwaardes, uitgesonderd voorwaardes wat
 55 by of kragtens 'n pensioenwet bepaal word, [wat die Kommissie na oorleg met] waarop ooreengekom word deur die betrokke persoon se

by the employer of the person concerned and the relevant executing authority and approved by the Treasury.

(3) (a) An officer or employee may with his or her consent **[and on the recommendation of the Commission]** and on such conditions, in addition to those prescribed by or under any law, as may be **[recommended]** determined by the **[Commission]** relevant executing authority after consultation with the Treasury, be placed at the disposal of another government, or of **[a]** any council, institution or body established by or under any law, or of any other body or person, for a particular service or for a stated period.

(b) Such an officer or employee remains subject to the laws applicable to officers and employees in the public service while so placed at such disposal.

(4) (a) A person (in this paragraph referred to as the official) in the service of a department under any law other than this Act, or in the service of another government, or of **[a]** any council, institution or body established by or under any law, or of any other body or person, may **[on the recommendation of the Commission]** be employed by another department or a department, as the case may be, for a stated period and on such terms and conditions, other than conditions laid down by or under any pensions law, as may be **[recommended by the Commission after consultation with]** agreed upon by the employer of the official and the relevant executing authority and approved by the Treasury, and in such a case, **[on the recommendation of the Commission and]** on such conditions, in addition to those **[laid down]** prescribed by or under any law, as may be **[recommended]** determined by the **[Commission]** said authority after consultation with the Treasury, an officer or employee may with his or her consent and in terms of such an agreement **[between the department in which he or she is employed and the employer of the official]** be placed at the disposal of the employer of the official for the same period on an exchange basis.

(b) Such an officer or employee remains subject to the laws applicable to officers and employees in the public service while so placed at such disposal.”

Amendment of section 16 of Act promulgated under Proclamation 103 of 1994, as amended by section 32 of Act 38 of 1994, section 3 of Act 13 of 1996 and section 1 of Act 67 of 1996

13. Section 16 of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) Notwithstanding the provisions of subsection (1), an officer or employee, other than a member of the services or an educator or a member of the Agency or the Service, **[who is in employment]** employed with effect from a date prior to 1 October 1993 in terms of a law repealed by this Act, shall **[in accordance with section 212(7)(b) of the Constitution]** have the right to retire from the public service at or at any time after the retirement age applicable to him or her as at 1 October 1993, and that retirement age shall not be changed without his or her consent.”;

(b) by the substitution for paragraph (a) of subsection (3) of the following paragraph:

“(a) Subject to the provisions of this section and section 12(2)(a) **[and section 14]**, an officer who occupies the office of head of department has the right to retire from the public service and he or she shall be so retired at the expiry of the term contemplated in section 12(1)(a) or (b), or of any extended term contemplated in section 12(1)(c), as the case may be.”;

(c) by the substitution for subsection (4) of the following subsection:

“(4) An officer, other than a member of the services or an educator or a member of the Agency or the Service who has reached the age of 60 years may, subject in every case to **[the recommendation of the Commission and]** the approval of the relevant executing authority, be retired from the public service.”;

werkgewer [**aanbeveel**] en die betrokke uitvoeringsgesag en wat die Tesourie goedkeur.

(3) (a) 'n Beampte of werknemer kan met sy of haar instemming [**en op aanbeveling van die Kommissie**] vir 'n besondere diens of vir 'n bepaalde tydperk en op die voorwaardes, benewens dié wat by of kragtens die een of ander wet voorgeskryf word, wat die [**Kommissie**] betrokke uitvoeringsgesag na oorleg met die Tesourie [**aanbeveel**] bepaal, tot die beskikking gestel word van 'n ander regering, of van 'n raad, [**inrigting**] instelling of liggaam wat by of kragtens die een of ander wet ingestel is, of van 'n ander liggaam of persoon.

(b) So 'n beampte of werknemer bly, terwyl hy of sy aldus ter beskikking gestel is, onderworpe aan die wette wat op beamptes en werknemers in die staatsdiens van toepassing is.

(4) (a) 'n Persoon (in hierdie paragraaf die amptenaar genoem) in diens van 'n departement kragtens 'n ander wet as hierdie Wet, of in diens van 'n ander regering, of van 'n raad, [**inrigting**] instelling of liggaam wat by of kragtens die een of ander wet ingestel is, of van 'n ander liggaam of persoon, kan [**op aanbeveling van die Kommissie**] deur 'n ander departement of 'n departement, na gelang van die geval, in diens geneem word vir 'n bepaalde tydperk en op die bedinge en voorwaardes, uitgesonderd voorwaardes wat by of kragtens 'n pensioenwet bepaal word, [**wat die Kommissie na oorleg met**] waarop ooreengekom word deur die amptenaar se werkgewer [aanbeveel] en die betrokke uitvoeringsgesag en wat die Tesourie goedkeur, en in so 'n geval kan, [**op aanbeveling van die Kommissie en**] op die voorwaardes, benewens dié wat by of kragtens die een of ander wet voorgeskryf word, wat [**die Kommissie**] bedoelde gesag na oorleg met die Tesourie [**aanbeveel**] bepaal, 'n beampte of werknemer met sy of haar instemming en ingevolge so 'n ooreenkoms [**tussen die departement waarin hy of sy in diens is en die amptenaar se werkgewer**] op 'n uitruilgrondslag vir dieselfde tydperk tot die beskikking van die amptenaar se werkgewer gestel word.

(b) So 'n beampte of werknemer bly, terwyl hy of sy aldus ter beskikking gestel is, onderworpe aan die wette wat op beamptes en werknemers in die staatsdiens van toepassing is."

35 **Wysiging van artikel 16 van Wet afgekondig by Proklamasie 103 van 1994, soos gewysig deur artikel 32 van Wet 38 van 1994, artikel 3 van Wet 13 van 1996 en artikel 1 van Wet 67 van 1996**

13. Artikel 16 van die Hoofwet word hierby gewysig—

(a) deur paragraaf (a) van subartikel (2) deur die volgende paragraaf te vervang:
 40 "(a) Ondanks die bepalings van subartikel (1) het 'n beampte of werknemer, uitgesonderd 'n lid van die diens of 'n opvoeder of 'n lid van die Agentskap of die Diens, wat met ingang van 'n datum voor 1 Oktober 1993 ingevolge 'n wet herroep deur hierdie Wet in diens was, die reg om [**ooreenkomstig artikel 212(7)(b) van die Grondwet**] af te tree uit die staatsdiens op of te eniger tyd na die aftree-ouderdom van toepassing op hom of haar soos op 1 Oktober 1993, en daardie aftree-ouderdom mag nie sonder sy of haar [**medewete**] instemming verander word nie."

(b) deur paragraaf (a) van subartikel (3) deur die volgende paragraaf te vervang:
 50 "(a) Behoudens die bepalings van hierdie artikel en artikel 12(2)(a) [**en artikel 14**] het 'n beampte wat die amp van departementshoof beklee die reg om uit die staatsdiens af te tree en word hy of sy aldus verplig om af te tree by verstryking van die termyn in artikel 12(1)(a) of (b) bedoel, of van enige verlengde termyn in artikel 12(1)(c) bedoel, na gelang van die geval."

(c) deur subartikel (4) deur die volgende subartikel te vervang:
 55 "(4) 'n Beampte, uitgesonderd 'n lid van die diens of 'n opvoeder of 'n lid van die Agentskap of die Diens wat die leeftyd van 60 jaar bereik het, mag, onderworpe in elke geval aan [**die aanbeveling van die Kommissie en**] die goedkeuring van die betrokke uitvoeringsgesag verplig word om uit die staatsdiens af te tree."

(d) by the substitution for paragraph (a) of subsection (5) of the following paragraph:

“(a) An executing authority may, at the request of an officer occupying the office of head of department [**and, if the officer is not a member of the services or an educator or a member of the Agency or the Service, subject to a recommendation of the Commission**], allow him or her to retire from the public service before the expiry of the term contemplated in section 12(1)(a) or (b), or any extended term contemplated in section 12(1)(c), and notwithstanding the absence of any reason for discharge in terms of section 17(2), if a reason exists which such authority deems sufficient.”;

(e) by the substitution for paragraph (a) of subsection (6) of the following paragraph:

“(a) An executing authority may, at the request of an officer, [**and subject to a recommendation of the Commission**] allow him or her to retire from the public service before reaching the age of 55 years, notwithstanding the absence of any reason for discharge in terms of section 17(2), [**allow him or her to retire from the public service before reaching the age of 55 years**] if in the opinion of such authority a sufficient reason exists therefor and the retirement will be to the advantage of the State.”; and

(f) by the substitution for subsection (7) of the following subsection:

“(7) If it is in the public interest to retain an officer, other than a member of the services or an educator or a member of the Agency or the Service, in his or her post beyond the age at which he or she is required [**to retire or**] to be retired in terms of subsection (1), he or she may, with his or her consent [**be so retained from time to time, on the recommendation of the Commission**] and with the approval of the relevant executing authority, be so retained from time to time for further periods which shall not, except with the approval [**by resolution**] of Parliament granted by resolution, exceed in the aggregate two years.”.

Amendment of section 17 of Act promulgated under Proclamation 103 of 1994, as amended by section 32 of Act 38 of 1994

14. Section 17 of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) Subject to [**paragraphs (b) and (c) of this subsection, subsection (6) of this section and section 19(11) of the Public Service Labour Relations Act, 1993 (Act No. 102 of 1993)**] the provisions of paragraph (b), the power to discharge an officer or employee shall vest in the relevant executing authority, who may delegate that power to an officer, and the said power shall be exercised with due observance of the applicable provisions of the Labour Relations Act, 1995 (Act No. 66 of 1995).”;

(b) by the deletion of paragraph (c) of the said subsection (1);

(c) by the substitution for paragraph (i) of subsection (2) of the following paragraph:

“(i) if the President or a Premier appoints him or her in the public interest under any law to an office to which the provisions of this Act [**or the Commission Act**] do not apply.”;

(d) by the deletion of paragraph (c) of subsection (3);

(e) by the deletion of subsection (4);

(f) by the substitution for paragraph (b) of subsection (5) of the following paragraph:

“(b) If an officer who is deemed to have been so discharged, reports for duty at any time after the expiry of the period referred to in paragraph (a), the [**Commission**] relevant executing authority may, on good cause shown and notwithstanding anything to the contrary contained in any law, [**recommend that, subject to the approval of the relevant executing authority, he or she be reinstated**] approve the reinstatement of that officer in the public service in his or her former or any other post or position [**on such conditions as the Commission may recommend**], and in such a case the period of his or her absence from official duty shall be deemed to be absence on vacation leave without pay or leave on such

- (d) deur paragraaf (a) van subartikel (5) deur die volgende paragraaf te vervang:
 “(a) ’n Uitvoeringsgesag kan, op versoek van ’n beampte wat die amp van departementshoof beklee **[en, indien die beampte nie ’n lid van die dienste of ’n opvoeder of ’n lid van die Agentskap of die Diens is nie, onderworpe aan ’n aanbeveling van die Kommissie]**, hom of haar toelaat om voor die verstryking van die termyn in artikel 12(1)(a) of (b) bedoel, of enige verlengde termyn in artikel 12(1)(c) bedoel, en ondanks die afwesigheid van enige rede vir ontslag ingevolge artikel 17(2), uit die staatsdiens af te tree indien daar ’n rede bestaan wat sodanige gesag voldoende ag.”;
- (e) deur paragraaf (a) van subartikel (6) deur die volgende paragraaf te vervang:
 “(a) ’n Uitvoeringsgesag kan, op versoek van ’n beampte **[en onderworpe aan ’n aanbeveling van die Kommissie]**, hom of haar toelaat om, ondanks die afwesigheid van enige rede vir ontslag ingevolge artikel 17(2), voor bereiking van die ouderdom van 55 jaar uit die staatsdiens af te tree indien daar na die oordeel van sodanige gesag ’n voldoende rede daarvoor bestaan en die aftrede tot voordeel van die Staat sal strek.”; en
- (f) deur subartikel (7) deur die volgende subartikel te vervang:
 “(7) Indien die openbare belang vereis dat ’n beampte, uitgesonderd ’n lid van die dienste of ’n opvoeder of ’n lid van die Agentskap of die Diens, in sy of haar pos in diens gehou word na die leeftyd waarop hy of sy ingevolge subartikel (1) verplig word om af te tree, kan hy of sy, met sy of haar instemming **[aldus van tyd tot tyd op aanbeveling van die Kommissie]** en met die goedkeuring van die betrokke uitvoeringsgesag, aldus van tyd tot tyd in diens gehou word vir verdere tydperke wat, behalwe met die goedkeuring **[by besluit]** van die Parlement wat by besluit verleen word, altesaam nie twee jaar te bowe mag gaan nie.”.

30 **Wysiging van artikel 17 van Wet afgekondig by Proklamasie 103 van 1994, soos gewysig deur artikel 32 van Wet 38 van 1994**

14. Artikel 17 van die Hoofwet word hierby gewysig—

- (a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:
 “(a) Behoudens **[paragrafe (b) en (c) van hierdie subartikel, subartikel (6) van hierdie artikel en artikel 19(11) van die Wet op Arbeidsverhoudinge vir die Staatsdiens, 1993 (Wet No. 102 van 1993)]** die bepalings van paragraaf (b) berus die bevoegdheid om ’n beampte of werknemer te ontslaan by die betrokke uitvoeringsgesag, wat **[dié]** daardie bevoegdheid aan ’n beampte kan delegeer, en bedoelde bevoegdheid moet met behoorlike inagneming van die toepaslike bepalings van die Wet op Arbeidsverhoudinge, 1995 (Wet No. 66 van 1995), uitgeoefen word.”;
- (b) deur paragraaf (c) van genoemde subartikel (1) te skrap;
- (c) deur paragraaf (i) van subartikel (2) deur die volgende paragraaf te vervang:
 “(i) indien die President of ’n Premier hom of haar in die openbare belang kragtens ’n wet in ’n amp aanstel waarop die bepalings van hierdie Wet **[of die Kommissiewet]** nie van toepassing is nie.”;
- (d) deur paragraaf (c) van subartikel (3) te skrap;
- (e) deur subartikel (4) te skrap;
- (f) deur paragraaf (b) van subartikel (5) deur die volgende paragraaf te vervang:
 “(b) Indien ’n beampte wat geag word aldus ontslaan te wees, hom of haar te eniger tyd na die verstryking van die tydperk in paragraaf (a) **[vermeld]** bedoel vir diens aanmeld, kan die **[Kommissie]** betrokke uitvoeringsgesag, by aanvoering van gegronde redes en ondanks andersluidende bepalings van die een of ander wet, **[aanbeveel dat, onderworpe aan die goedkeuring van die betrokke uitvoeringsgesag, hy of sy]** goedkeur dat daardie beampte in die staatsdiens herstel word in sy of haar vorige of ’n ander pos of betrekking **[op dié voorwaardes wat die Kommissie aanbeveel]**, en in so ’n geval word die tydperk van sy of haar afwesigheid van sy of haar ampspligte geag afwesigheid met vakansieverlof sonder besoldiging te wees of verlof op die ander

other conditions as the [Commission may recommend] said authority may determine.”; and
 (g) by the deletion of subsection (6).

Substitution of section 18 of Act promulgated under Proclamation 103 of 1994, as amended by section 32 of Act 38 of 1994

15. The following section is hereby substituted for section 18 of the principal Act:

“Inefficient officers

18. (1) If a head of department reports to an executing authority that an officer, other than a member of the services or an educator or a member of the Agency or the Service, in the department concerned is, in the opinion of the head of department, unfit for his or her duties or incapable of carrying them out efficiently, the said authority may appoint an officer to inquire into the relevant allegations.

(2) The officer who is to conduct the inquiry shall, in consultation with the head of department, determine the time and place of the inquiry, and the head of department shall give the officer concerned reasonable notice in writing of the said time and place and furnish him or her with a statement in writing setting out the grounds on which he or she is alleged to be unfit for his or her duties or incapable of carrying them out efficiently.

(3) The head of the department may authorise any person—

- (a) to attend the inquiry;
- (b) to adduce evidence and arguments in support of the allegations contemplated in subsection (2); and
- (c) to cross-examine any person who has given evidence in rebuttal of the said allegations.

(4) The provisions of section 23(1), (2)(b) and (3) shall apply *mutatis mutandis* to the inquiry, and for that purpose a reference in section 23(1) and (3) to the presiding officer shall be construed as a reference also to an officer appointed under subsection (1) and a reference in section 23(1) and (2)(b) to the investigating officer shall be construed as a reference also to a person authorised under subsection (3).

(5) At the inquiry the officer concerned shall have the right to be present, to be assisted or represented by another person, to give evidence and, either personally or through a representative—

- (a) to be heard;
- (b) to call witnesses;
- (c) to cross-examine any person called as a witness in support of the allegations contemplated in subsection (2); and
- (d) to have access to documents produced in evidence.

(6) The officer conducting the inquiry shall keep a record of the proceedings at the inquiry and of all evidence given thereat.

(7) At the conclusion of the inquiry the officer conducting the inquiry shall—

- (a) find whether or not the officer concerned is unfit for his or her duties or incapable of carrying them out efficiently;
- (b) inform that officer of his or her finding; and
- (c) report to the head of department on the result of the inquiry.

(8) (a) If the officer conducting the inquiry has found that the officer concerned is unfit for his or her duties or incapable of carrying them out efficiently, the latter officer may, within 14 days after the day on which he or she was informed of that finding, submit to the head of department representations in writing regarding the steps which may be taken under paragraph (b).

(b) After having considered the documents relating to the inquiry and any representations submitted to him or her, the head of department may—

- (i) take no further steps in the matter;

voorwaardes wat [**die Kommissie aanbeveel**] bedoelde gesag bepaal.”;

en

(g) deur subartikel (6) te skrap.

**Vervanging van artikel 18 van Wet afgekondig by Proklamasie 103 van 1994, soos
5 gewysig deur artikel 32 van Wet 38 van 1994**

15. Artikel 18 van die Hoofwet word hierby deur die volgende artikel vervang:

“Onbekwame beamptes

10 **18. (1)** Indien ’n departementshoof aan ’n uitvoeringsgesag verslag doen dat ’n beampte, uitgesonderd ’n lid van die dienste of ’n opvoeder of ’n lid van die Agentskap of die Diens, in die betrokke departement, na die oordeel van die departementshoof, ongeskik vir sy of haar pligte is of nie in staat is om hulle op bekwame wyse uit te voer nie, kan bedoelde gesag ’n beampte aanstel om ondersoek na die betrokke bewerings in te stel.

15 (2) Die beampte wat die ondersoek moet hou, moet die tyd en plek van die ondersoek in oorleg met die departementshoof bepaal, en die departementshoof gee aan die betrokke beampte redelike skriftelike kennis van bedoelde tyd en plek en verstrek aan hom of haar ’n skriftelike uiteensetting van die gronde waarop beweer word dat hy of sy ongeskik vir sy of haar pligte is of nie in staat is om hulle op bekwame wyse uit te voer nie.

20 (3) Die departementshoof kan ’n persoon magtig—

(a) om by die ondersoek teenwoordig te wees;

(b) om getuienis en argumente ter staving van die bewerings beoog in subartikel (2) aan te voer; en

25 (c) om iemand wat getuienis afgelê het om genoemde bewerings te weerlê, onder kruisverhoor te neem.

(4) Die bepalinge van artikel 23(1), (2)(b) en (3) is *mutatis mutandis* van toepassing op die ondersoek, en vir dié doel moet ’n verwysing in artikel 23(1) en (3) na die voorsittende beampte uitgelê word as ’n verwysing ook na ’n beampte wat kragtens subartikel (1) aangestel is en moet ’n verwysing in artikel 23(1) en (2)(b) na die ondersoekbeampte uitgelê word as ’n verwysing ook na ’n persoon wat kragtens subartikel (3) gemagtig is.

30 (5) By die ondersoek het die betrokke beampte die reg om teenwoordig te wees, om deur ’n ander persoon bygestaan of verteenwoordig te word, om getuienis af te lê en om, hetsy persoonlik of deur ’n verteenwoordiger—

35 (a) aangehoor te word;

(b) getuies op te roep;

(c) iemand wat as getuie opgeroep is ter staving van die bewerings beoog in subartikel (2) onder kruisverhoor te neem; en

40 (d) insae te hê in stukke wat as getuienis oorgelê is.

(6) Die beampte wat die ondersoek hou, moet notule hou van die verrigtinge by die ondersoek en van alle getuienis wat aldaar afgelê word.

(7) Aan die einde van die ondersoek moet die beampte wat die ondersoek hou—

45 (a) bevind of die betrokke beampte ongeskik vir sy of haar pligte is of nie in staat is om hulle op bekwame wyse uit te voer nie, al dan nie;

(b) daardie beampte van sy of haar bevinding verwittig; en

(c) verslag aan die departementshoof oor die uitslag van die ondersoek doen.

50 (8) (a) Indien die beampte wat die ondersoek gehou het, bevind het dat die betrokke beampte ongeskik vir sy of haar pligte is of nie in staat is om hulle op bekwame wyse uit te voer nie, kan laasgenoemde beampte binne 14 dae na die dag waarop hy of sy van daardie bevinding verwittig is skriftelike verhoë betreffende die stappe wat kragtens paragraaf (b) gedoen kan word aan die departementshoof voorlê.

55 (b) Na oorweging van die stukke wat op die ondersoek betrekking het en enige verhoë wat aan hom of haar voorgelê is, kan die departementshoof—

(i) geen verdere stappe in die saak doen nie;

- (ii) transfer the officer concerned to another post for which he or she is suitable or direct that he or she be employed additional to the fixed establishment;
- (iii) reduce his or her salary or grade or both his or her salary and his or her grade to such extent as the head of department may determine;
- (iv) take the steps contemplated in subparagraph (ii) as well as the steps contemplated in subparagraph (iii); or
- (v) discharge him or her from the public service with effect from such date as the head of department may determine.
- (c) The head of department shall as soon as possible inform the officer concerned in writing of the decision taken by the head of department under paragraph (b) and of that officer's right of appeal in terms of subsection (9).
- (9) (a) The officer concerned shall have the right to appeal to the relevant executing authority against the finding that he or she is unfit for his or her duties or incapable of carrying them out efficiently or against the decision of the head of department, or against that finding as well as that decision, within 21 days after the day on which he or she was informed of that decision.
- (b) If the officer concerned notes an appeal in terms of paragraph (a), the decision of the head of department shall not be implemented before the disposal of the appeal.
- (10) After having considered the documents relating to the appeal, the executing authority may—
- (a) in the case of an appeal against the finding that the officer concerned is unfit for his or her duties or incapable of carrying them out efficiently—
- (i) dismiss the appeal and confirm that finding; or
- (ii) uphold the appeal wholly or in part and set aside or vary that finding;
- (b) in the case of an appeal against the decision of the head of department—
- (i) dismiss the appeal and confirm that decision; or
- (ii) uphold the appeal wholly or in part and set aside or vary that decision, or substitute for that decision such other decision as the head of department, in the opinion of the executing authority, ought to have taken.
- (11) The executing authority shall cause the officer who noted an appeal and the head of department to be informed in writing of its decision on the appeal.
- (12) The procedure at any inquiry, the documents to be submitted to the head of department or the executing authority, the manner in which and the time within which such documents shall be submitted and the procedure at any appeal shall be as prescribed."

Substitution of section 19 of Act promulgated under Proclamation 103 of 1994 45

16. The following section is hereby substituted for section 19 of the principal Act:

"Inefficient heads of department

19. (1) If [in the opinion of] an executing authority [there are reasonable grounds for believing] has reason to believe that a head of department is unfit for his or her duties or incapable of carrying them out efficiently, [such authority shall report to the President or, in the case of a provincial administration, the Premier of the province, accordingly, and the President or Premier] the said authority may appoint a person or persons to inquire into the relevant allegations.
- (2) The provisions of section 18(2) to [(6)] (12) shall apply *mutatis mutandis* to an inquiry [in terms of] referred to in subsection (1) [of this section], and for that purpose—
- (a) a reference in section 18[(5) and (6) to the relevant executing authority shall be construed as a reference to the President or the

- (ii) die betrokke beampte oorplaas na 'n ander pos waarvoor hy of sy geskik is of gelas dat hy of sy addisioneel tot die vaste diensstaat in diens gehou word;
- (iii) sy of haar salaris of graad of sowel sy of haar salaris as sy of haar graad verlaag in die mate wat die departementshoof bepaal;
- (iv) die stappe beoog in subparagraaf (ii) sowel as die stappe beoog in subparagraaf (iii) doen; of
- (v) hom of haar uit die staatsdiens ontslaan met ingang van die datum wat die departementshoof bepaal.
- (c) Die departementshoof moet die betrokke beampte so gou doenlik skriftelik van die besluit wat die departementshoof kragtens paragraaf (b) geneem het en van daardie beampte se reg tot appèl ingevolge subartikel (9) verwittig.
- (9) (a) Die betrokke beampte het die reg om by die betrokke uitvoeringsgesag te appelleer teen die bevinding dat hy of sy ongeskik vir sy of haar pligte is of nie in staat is om hulle op bekwame wyse uit te voer nie of teen die besluit van die departementshoof, of teen daardie bevinding sowel as daardie besluit, binne 21 dae na die dag waarop hy of sy van daardie besluit verwittig is.
- (b) Indien die betrokke beampte ingevolge paragraaf (a) appèl aanteken, word die besluit van die departementshoof nie voor die afhandeling van die appèl geïmplementeer nie.
- (10) Na oorweging van die stukke wat op die appèl betrekking het, kan die uitvoeringsgesag—
- (a) in die geval van 'n appèl teen die bevinding dat die betrokke beampte ongeskik vir sy of haar pligte is of nie in staat is om hulle op bekwame wyse uit te voer nie—
- (i) die appèl van die hand wys en daardie bevinding bekragtig; of
- (ii) die appèl in sy geheel of gedeeltelik handhaaf en daardie bevinding tersyde stel of wysig;
- (b) in die geval van 'n appèl teen die besluit van die departementshoof—
- (i) die appèl van die hand wys en daardie besluit bekragtig; of
- (ii) die appèl in sy geheel of gedeeltelik handhaaf en daardie besluit tersyde stel of wysig, of daardie besluit deur die ander besluit vervang wat die departementshoof, na die oordeel van die uitvoeringsgesag, moes geneem het.
- (11) Die uitvoeringsgesag moet die beampte wat appèl aangeteken het en die departementshoof skriftelik van sy beslissing oor die appèl laat verwittig.
- (12) Die prosedure by 'n ondersoek, die stukke wat aan die departementshoof of die uitvoeringsgesag voorgelê moet word, die wyse waarop en die tydperk waarbinne sodanige stukke voorgelê moet word en die prosedure by 'n appèl is soos voorgeskryf."

Vervanging van artikel 19 van Wet afgekondig by Proklamasie 103 van 1994

16. Artikel 19 van die Hoofwet word hierby deur die volgende artikel vervang:

"Onbekwame departementshoofde

19. (1) Indien [**daar na die mening van**] 'n uitvoeringsgesag [**redelike gronde bestaan**] rede het om te [**vermoed**] glo dat 'n departementshoof ongeskik vir sy of haar pligte is of nie in staat is om hulle op bekwame wyse uit te voer nie, [**moet sodanige gesag dienooreenkomstig aan die President of in die geval van 'n provinsiale administrasie, die Premier van die provinsie, verslag doen, en die President of Premier**] kan bedoelde gesag 'n persoon of persone aanstel om ondersoek na die betrokke bewerings in te stel.
- (2) Die bepalinge van artikel 18(2) tot [(6)] (12) is *mutatis mutandis* van toepassing op 'n ondersoek [**ingevolge**] in subartikel (1) [**van hierdie artikel**] bedoel, en vir dié doel moet—
- (a) 'n verwysing in artikel 18[(5) en (6) na die betrokke uitvoeringsgesag as 'n verwysing na die President of die betrokke Premier,

relevant Premier, as the case may be] (2), (3) and (7) to (12) to the head of department shall be construed as a reference to the relevant executing authority;

- (b) a reference in section 18(9)(a) and (10) to (12) to the executing authority shall be construed as a reference to the President or, in the case of a provincial administration, the relevant Premier; and 5
- (c) a reference in section 18(2), (4), (6), (7) and (8)(a) to the officer conducting the inquiry shall be construed as a reference also to a person or persons appointed under the said subsection (1).”

Amendment of section 20 of Act promulgated under Proclamation 103 of 1994, as amended by section 32 of Act 38 of 1994 10

17. Section 20 of the principal Act is hereby amended—

(a) by the substitution for paragraph (e) of the following paragraph:

“(e) undertakes, without permission of a relevant executing authority [(granted on the recommendation of the Commission in the case of an officer in the A division)], any private agency or private work in any matter connected with the performance of his or her official functions or the carrying out of his or her official duties;” 15

(b) by the substitution for paragraph (n) of the following paragraph:

“(n) [accepts] without permission of a relevant executing authority [(granted on the recommendation of the Commission in the case of an officer in the A division)], accepts or demands in respect of the carrying out of or the failure to carry out his or her duties any commission, fee or pecuniary or other reward (not being the emoluments payable to him or her in respect of his or her duties), or fails to report to his or her head of department or, if he or she is a head of department, to such authority, the offer of such a commission, fee or reward;” and 20

(c) by the deletion of paragraph (s). 25

Substitution of section 21 of Act promulgated under Proclamation 103 of 1994, as amended by section 32 of Act 38 of 1994 30

18. The following section is hereby substituted for section 21 of the principal Act:

“Investigation of charge of misconduct

21. (1) When—

- (a) an officer, other than a head of department or a member of the services or an educator or a member of the Agency or the Service, is accused of misconduct, the head of department concerned or an officer in the department concerned authorised by the head of department may; or 35
- (b) the Public Protector [or a provincial public protector contemplated in sections 110 and 114] referred to in section 181(1)(a) of the Constitution [respectively] has reasonable grounds to suspect that an officer contemplated in paragraph (a) is guilty of misconduct and he or she has referred the matter to the head of department concerned, [the] that head of department or such an authorised officer shall, 40
- appoint [an officer] a person (hereinafter referred to as an investigating officer) within 21 days after receipt of such accusation or referral to investigate the matter and obtain evidence in order to determine whether there are grounds for a charge of misconduct against the officer concerned. 45

(2) [After the conclusion of the investigation the] The investigating officer shall inform the head of department within 30 days after his or her appointment, or within such further period as the head of department may on good cause shown allow, whether in his or her opinion the officer 50

na gelang van die geval, uitgelê word] (2), (3) en (7) tot (12) na die departementshoof uitgelê word as 'n verwysing na die betrokke uitvoeringsgesag;

5 (b) 'n verwysing in artikel 18(9)(a) en (10) tot (12) na die uitvoeringsgesag uitgelê word as 'n verwysing na die President of, in die geval van 'n provinsiale administrasie, die betrokke Premier; en

10 (c) 'n verwysing in artikel 18(2), (4), (6), (7) en (8)(a) na die beampte wat die ondersoek hou, uitgelê word as 'n verwysing ook na 'n persoon of persone wat kragtens genoemde subartikel (1) aangestel is.”.

Wysiging van artikel 20 van Wet afgekondig by Proklamasie 103 van 1994, soos gewysig deur artikel 32 van Wet 38 van 1994

17. Artikel 20 van die Hoofwet word hierby gewysig—

(a) deur paragraaf (e) deur die volgende paragraaf te vervang:

15 “(e) sonder toestemming van 'n betrokke uitvoeringsgesag [(verleen op aanbeveling van die Kommissie in die geval van 'n beampte in die A-afdeling)], enige private agentskap of private werk in enige aangeleentheid wat met die verrigting van sy of haar amptelike werksaamhede of die uitvoering van sy of haar ampspligte in verband staan, onderneem;”;

20 (b) deur paragraaf (n) deur die volgende paragraaf te vervang:

25 “(n) sonder toestemming van 'n betrokke uitvoeringsgesag [(verleen op aanbeveling van die Kommissie in die geval van 'n beampte in die A-afdeling)], enige kommissie, geld of geldelike of ander beloning (wat nie die emolumente is wat ten opsigte van sy of haar pligte aan hom of haar betaalbaar is nie) aanneem of eis ten opsigte van die uitvoering van sy of haar pligte, of die versuim om dit uit te voer, of versuim om sy of haar departementshoof of, indien hy of sy 'n departementshoof is, sodanige gesag van die aanbod van so 'n kommissie, geld of [ander] beloning te verwittig;”;

30 (c) deur paragraaf (s) te skrap.

Vervanging van artikel 21 van Wet afgekondig by Proklamasie 103 van 1994, soos gewysig deur artikel 32 van Wet 38 van 1994

18. Artikel 21 van die Hoofwet word hierby deur die volgende artikel vervang:

35 **“Ondersoek van klagte van wangedrag**

21. (1) Wanneer—

40 (a) 'n beampte, uitgesonderd 'n departementshoof of 'n lid van die diens of 'n opvoeder of 'n lid van die Agentskap of die Diens, van wangedrag beskuldig word, kan die betrokke departementshoof of 'n beampte in die betrokke departement deur die departementshoof gemagtig; of

45 (b) die Openbare Beskermer [of 'n provinsiale openbare beskermer] bedoel in [onderskeidelik artikels 110 en 114] artikel 181(1)(a) van die Grondwet redelike gronde het om te vermoed dat 'n beampte beoog in paragraaf (a) hom of haar aan wangedrag skuldig gemaak het en hy of sy die aangeleentheid na die betrokke departementshoof verwys het, moet [sodanige] daardie departementshoof of so 'n gemagtigde beampte,

50 binne 21 dae na die ontvangs van so 'n beskuldiging of verwysing 'n [beampte] persoon (hieronder 'n ondersoekbeampte genoem) aanstel om die aangeleentheid te ondersoek en getuienis in te win ten einde vas te stel of daar gronde vir 'n klag van wangedrag teen die betrokke beampte is.

55 (2) [Na afloop van die ondersoek moet die] Die ondersoekbeampte moet die departementshoof binne 30 dae na sy of haar aanstelling, of binne die verdere tydperk wat die departementshoof by aanvoering van gegronde redes toelaat, meedeel of na sy of haar mening die betrokke beampte

concerned should be charged or not, and if so, what in his or her opinion the contents of the charge in question should be.

(3) The provisions of subsections (1) and (2) shall not apply to a case contemplated in section [19(11)] 68(5) of the [Public Service] Labour Relations Act, [1993 (Act No. 102 of 1993)] 1995 (Act No. 66 of 1995).” 5

Substitution of section 22 of Act promulgated under Proclamation 103 of 1994

19. The following section is hereby substituted for section 22 of the principal Act:

“Steps after investigation by investigating officer

22. (1) [A] The head of department may in writing under his or her hand charge an officer referred to in section 21 with misconduct, if he or she is of the opinion that sufficient grounds for a charge of misconduct against him or her have been found during the investigation: Provided that the head of department shall exercise the power to charge the officer with misconduct within 21 days after receipt of the information contemplated in section 21(2). 10 15

(2) If the head of department is of the opinion that an investigation [in terms of] contemplated in paragraph (a) of section 21(1) is not necessary, he or she may in writing under his or her hand charge the officer concerned with misconduct and appoint [an officer] a person to exercise the powers of an investigating officer in terms of section 23: Provided that the head of department shall exercise the power to charge that officer with misconduct within 21 days after receipt of the accusation contemplated in paragraph (a) of the said section 21(1). 20 25

(3) A head of department may delegate the powers conferred upon him or her by subsections (1) and (2) to an officer in his or her department [in so far as they pertain to an officer in the B division]. 25

(4) A charge contemplated in subsection (1) or (2) shall contain or shall be accompanied by a direction calling upon the officer charged to send or deliver [within a reasonable period specified in the direction to a person likewise specified] a written admission or denial of the charge and— 30

(a) if he or she so desires, [a written] an explanation in writing regarding the misconduct with which he or she is charged; 35
(b) if he or she admits the charge and so desires, representations in writing regarding the steps which may be taken under section 24(2), to the person specified in the direction within a reasonable period likewise specified. 40

(5) If the officer charged admits [that he or she is guilty of] the charge, he or she shall be deemed to [have been found] be guilty of the misconduct [as charged] with which he or she has been charged. 45

(6) If the officer charged in terms of subsection (1) or (2)— 40

(a) denies the charge; or 45
(b) fails to comply with the direction contemplated in subsection (4), the head of department or the officer to whom the head of department has delegated this power shall appoint a person (in this section and sections 23, 24 and 26 referred to as the presiding officer) to [hear the charge] preside at the hearing, which hearing shall commence within 30 days after the appointment of the presiding officer or within such further period as the presiding officer may, on good cause shown, allow. 50

(7) [An] Subject to such conditions as may be prescribed, an officer may at any time before or after he or she has been charged under this section be suspended from duty [on such conditions as may be prescribed]. 55

aangekla moet word al dan nie, en indien wel, wat na sy of haar mening die inhoud van die betrokke aanklag moet wees.

(3) Die bepalings van subartikels (1) en (2) is nie van toepassing nie op 'n geval bedoel in artikel [19(11)] 68(5) van die Wet op Arbeidsverhoudinge [vir die Staatsdiens, 1993 (Wet No. 102 van 1993)], 1995 (Wet No. 66 van 1995).”.

Vervanging van artikel 22 van Wet afgekondig by Proklamasie 103 van 1994

19. Artikel 22 van die Hoofwet word hierby deur die volgende artikel vervang:

“Stappe na ondersoek deur ondersoekbeampte

22. (1) Indien die departementshoof van oordeel is dat daar tydens die ondersoek voldoende gronde vir 'n aanklag van wangedrag teen 'n beampte bedoel in artikel 21 gevind is, kan die departementshoof hom of haar skriftelik onder sy of haar handtekening van wangedrag aankla: Met dien verstande dat die departementshoof die bevoegdheid om die beampte van wangedrag aan te kla binne 21 dae na die ontvangs van die mededeling beoog in artikel 21(2) moet uitoefen.

(2) Indien die departementshoof van oordeel is dat 'n ondersoek [ingevolge] beoog in paragraaf (a) van artikel 21 (1) nie nodig is nie, kan hy of sy die betrokke beampte skriftelik onder sy of haar handtekening van wangedrag aankla en 'n [beampte] persoon aanstel om die bevoegdhede van 'n ondersoekbeampte ingevolge artikel 23 uit te oefen: Met dien verstande dat die departementshoof die bevoegdheid om daardie beampte van wangedrag aan te kla binne 21 dae na die ontvangs van die beskuldiging beoog in paragraaf (a) van genoemde artikel 21(1) moet uitoefen.

(3) 'n Departementshoof kan die bevoegdhede [wat] by subartikels (1) en (2) aan hom of haar verleen [word, vir sover dit op 'n beampte in die B-afdeling betrekking het] aan 'n beampte in sy of haar departement deleger.

(4) 'n Aanklag beoog in subartikel (1) of (2) moet 'n aansegging bevat of van 'n aansegging vergesel gaan waarby die aangeklaagde beampte aangesê word om [binne 'n redelike tydperk wat in die aansegging vermeld word aan 'n persoon wat ook daarin vermeld word] 'n skriftelike erkenning of ontkenning van die aanklag en—

(a) indien hy of sy dit verlang, 'n skriftelike verduideliking betreffende die wangedrag waarvan hy of sy aangekla word;

(b) indien hy of sy die aanklag erken en dit verlang, skriftelike vertoë betreffende die stappe wat kragtens artikel 24(2) gedoen kan word, aan die persoon in die aansegging vermeld, te stuur of by hom of haar af te lewer binne 'n redelike tydperk wat insgelyks vermeld word.

(5) Indien die aangeklaagde beampte [erken dat hy of sy aan] die aanklag [skuldig is] erken, word hy of sy geag skuldig [bevind] te wees aan die wangedrag [soos aangekla] waarvan hy of sy aangekla is.

(6) Indien die beampte wat ingevolge subartikel (1) [en] of (2) aangekla is—

(a) die aanklag ontken; of

(b) versuim om te voldoen aan die aansegging in subartikel (4) beoog, stel die departementshoof of die beampte aan wie die departementshoof hierdie bevoegdheid gedeleger het 'n persoon aan (in hierdie artikel en artikels 23, 24 en 26 die voorsittende beampte genoem) om [die aanklag te verhoor] by die verhoor voor te sit, welke verhoor 'n aanvang moet neem binne 30 dae na die aanstelling van die voorsittende beampte of binne die verdere tydperk wat die voorsittende beampte, by aanvoering van gegronde redes, toelaat.

(7) [’n Beampte kan] Behoudens die voorwaardes wat voorgeskryf word, kan 'n beampte te eniger tyd voor of nadat hy of sy kragtens hierdie artikel aangekla is, in sy of haar diens geskors word [op die voorwaardes wat voorgeskryf word].

(8) The manner in which an officer is to be charged with misconduct, the qualifications to be possessed by a presiding officer and the circumstances under which, the conditions on which, the manner in which, and the time when, an officer may be suspended from duty shall be as prescribed."

Amendment of section 23 of Act promulgated under Proclamation 103 of 1994 5

20. Section 23 of the principal Act is hereby amended—

(a) by the substitution for paragraph (b) of subsection (4) of the following paragraph:

“(b) notwithstanding a denial or failure by him or her referred to in section 22(6), to admit **[at any time that he or she is guilty of]** the charge at any time, whereupon he or she shall be deemed to be guilty of the misconduct **[as charged]** with which he or she has been charged;”;

(b) by the substitution for subsection (5) of the following subsection:

“(5) **[After]** At the conclusion of the hearing the presiding officer shall—

(a) **[make a finding on the charge, mentioning]** find whether the officer charged is guilty or not guilty of the misconduct with which he or she has been charged; and

(b) **[in the case of a finding of guilty]** if the officer charged admits the charge in terms of subsection (4)(b) or the presiding officer finds that he or she is guilty of the misconduct with which he or she has been charged—

(i) afford that officer, either personally or through his or her representative, the opportunity to address him or her on any aggravating or mitigating circumstances and any steps which may be taken under section 24(2);

(ii) note any aggravating **[and]** or mitigating circumstances he or she may find and make a recommendation regarding **[action in terms of section 24(2)]** any such steps.”; and

(c) by the addition of the following subsection:

“(6) The proceedings at any hearing shall be as prescribed.”

Substitution of section 24 of Act promulgated under Proclamation 103 of 1994

21. The following section is hereby substituted for section 24 of the principal Act:

“Steps after hearing 35

24. (1) **[At]** After the conclusion of the hearing the presiding officer shall **[notify]** as soon as possible report to the head of department concerned **[of his or her finding and recommendation contemplated in section 23(5)]** on the result of the hearing.

(2) (a) If the presiding officer has found that the officer charged is **[found]** guilty of the misconduct **[as charged by the presiding officer]** with which he or she has been charged, or if **[he or she]** the officer charged admits **[that he or she is guilty of]** the charge, the head of department **[shall, with due observance of the finding and recommendation of the presiding officer in terms of section 23(5)]** may, after having considered, in the case of a hearing, the documents relating to the hearing or, in any other case, any explanation or representations submitted to him or her—

(i) caution or reprimand the officer charged;

(ii) impose upon him or her a fine not exceeding R6 000;

(iii) transfer him or her to another post for which he or she is suitable or direct that he or she be employed additional to the fixed establishment;

(iv) reduce his or her salary or grade or both his or her salary and his or her grade to **[the]** such extent **[recommended]** as the head of department may determine;

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(8) Die wyse waarop 'n beampte van wangedrag aangekla moet word, die kwalifikasies waaroor 'n voorsittende beampte moet beskik en die omstandighede waarin, die voorwaardes en wyse waarop en tyd wanneer 'n beampte in sy of haar diens geskors kan word, is soos voorgeskryf.”.

5 Wysiging van artikel 23 van Wet afgekondig by Proklamasie 103 van 1994

20. Artikel 23 van die Hoofwet word hierby gewysig—

(a) deur paragraaf (b) van subartikel (4) deur die volgende paragraaf te vervang:

“(b) ondanks 'n ontkenning of versuim deur hom of haar bedoel in artikel 22(6), te eniger tyd **[te erken dat hy of sy aan]** die aanklag **[skuldig is]** te erken, waarop hy of sy geag word skuldig te wees aan die wangedrag **[soos aangekla]** waarvan hy of sy aangekla is;”;

(b) deur subartikel (5) deur die volgende subartikel te vervang:

“(5) **[Na afloop]** Aan die einde van die verhoor moet die voorsittende beampte—

(a) **[’n bevinding oor die aanklag maak, met vermelding]** bevind of die aangeklaagde beampte skuldig is of nie skuldig is nie aan die wangedrag waarvan hy of sy aangekla is; en

(b) **[in die geval van ’n skuldigbevinding]** indien die aangeklaagde beampte die aanklag ingevolge subartikel (4)(b) erken of die voorsittende beampte bevind dat hy of sy skuldig is aan die wangedrag waarvan hy of sy aangekla is—

(i) daardie beampte, hetsy persoonlik of deur sy of haar verteenwoordiger, die geleentheid bied om hom of haar toe te spreek oor enige verswarende of versagtende omstandighede en enige stappe wat kragtens artikel 24(2) gedoen kan word;

(ii) enige verswarende **[en]** of versagtende omstandighede wat hy of sy mag bevind, aanteken en ’n aanbeveling betreffende **[optrede kragtens artikel 24(2)]** sodanige stappe doen.”; en

(c) deur die volgende subartikel by te voeg:

“(6) Die verrigtinge by ’n verhoor is soos voorgeskryf.”.

Vervanging van artikel 24 van Wet afgekondig by Proklamasie 103 van 1994

21. Artikel 24 van die Hoofwet word hierby deur die volgende artikel vervang:

“Stappe na verhoor

24. (1) Na afloop van die verhoor moet die voorsittende beampte so gou doenlik verslag aan die betrokke departementshoof **[van sy of haar bevinding en aanbeveling beoog in artikel 23(5) in kennis stel]** oor die uitslag van die verhoor doen.

(2) (a) Indien die voorsittende beampte bevind het dat die aangeklaagde beampte **[deur die voorsittende beampte]** skuldig is aan die wangedrag **[soos aangekla skuldig bevind word]** waarvan hy of sy aangekla is, of indien **[hy of sy erken dat hy of sy aan]** die aangeklaagde beampte die aanklag **[skuldig is, moet]** erken, kan die departementshoof, **[met behoorlike inagneming van die bevinding en aanbeveling van die voorsittende beampte ingevolge artikel 23(5)]** na oorweging van, in die geval van ’n verhoor, die stukke wat op die verhoor betrekking het of, in ’n ander geval, enige verduideliking of verdoë wat aan hom of haar voorgelê is—

(i) die aangeklaagde beampte waarsku of berispe;

(ii) hom of haar ’n boete van hoogstens R6 000 oplê;

(iii) hom of haar oorplaas na ’n ander pos **[oorplaas]** waarvoor hy of sy geskik is of gelas dat hy of sy addisioneel tot die vaste diensstaat in diens gehou word;

(iv) sy of haar salaris of graad of sowel sy of haar salaris as sy of haar graad verlaag in die mate wat **[aanbeveel word]** die departementshoof bepaal;

- (v) discharge him or her, or direct him or her to resign, from the public service with effect from [a] such date [to be determined by] as the head of department may determine; or
- (vi) postpone [his or her decision] the taking of any steps under subparagraphs (i) to (v) for a period not exceeding 12 calendar months. 5
- (b) Except where a head of department [acts under] takes the steps contemplated in paragraph (a)(v) or (vi), he or she may take [decisions] steps under more than one of the subparagraphs of paragraph (a).
- (3) A head of department shall [notify the officer charged] as soon as possible inform the officer charged in writing of the [finding of the presiding officer under section 23(5) and of his or her] decision taken by the head of department under subsection (2) and of [the] that officer's right of appeal in terms of section 26. 10
- (4) The documents to be submitted to a head of department and the manner in which and the time within which such documents shall be submitted shall be as prescribed." 15

Amendment of section 25 of Act promulgated under Proclamation 103 of 1994

22. Section 25 of the principal Act is hereby amended by the substitution in subsection (4) for the words following upon paragraph (b) of the following words: 20
- "before the proceedings or steps with regard to the charge of misconduct have been finalised in accordance with section 24 or, in the case of an appeal, in accordance with section 26, he or she shall be deemed to [have been] be discharged on account of misconduct."

Substitution of section 26 of Act promulgated under Proclamation 103 of 1994 25

23. The following section is hereby substituted for section 26 of the principal Act:

"Appeal against finding of presiding officer and decision of head of department

26. (1) An officer charged with misconduct shall have the right to appeal to the relevant executing authority against the finding of the presiding officer that he or she is guilty of the misconduct with which he or she has been charged or against the decision of the head of department under section 24(2), or against that finding as well as that decision, within 21 days after the day on which he or she was informed of that decision in accordance with section 24(3). 30
- (2) If the officer charged notes an appeal in terms of subsection (1), the decision of the head of department shall not be implemented before the disposal of the appeal. 35
- (3) After having considered the documents relating to the appeal, the executing authority may— 40
- (a) in the case of an appeal against the finding that the officer charged is guilty of the misconduct with which he or she has been charged—
- (i) dismiss the appeal and confirm that finding; or
- (ii) uphold the appeal wholly or in part and set aside or vary that finding; 45
- (b) in the case of an appeal against the decision of the head of department—
- (i) dismiss the appeal and confirm that decision; or
- (ii) uphold the appeal wholly or in part and set aside or vary that decision, or substitute for that decision such other decision as the head of department, in the opinion of the executing authority, ought to have taken. 50
- (4) The executing authority shall cause the officer who noted an appeal and the head of department to be informed in writing of its decision on the appeal. 55
- (5) The documents to be submitted to the executing authority, the manner in which and the time within which such documents shall be submitted and the procedure at any appeal shall be as prescribed."

- (v) hom of haar uit die staatsdiens ontslaan, of aansê om [uit die staatsdiens] daaruit te bedank, met ingang van die datum wat die departementshoof bepaal; of
- (vi) [sy of haar besluit] die doen van enige stappe kragtens subparagraawe (i) tot (v) vir 'n tydperk van 12 kalendermaande uitstel.
- (b) Behalwe waar 'n departementshoof [kragtens] die stappe beoog in paragraaf (a)(v) of (vi) [optree] doen, kan hy of sy [beslissings] stappe kragtens meer as een van die subparagraawe van paragraaf (a) [neem] doen.
- (3) 'n Departementshoof [stel] moet die aangeklaagde beampte so [spoedig] gou doenlik [in kennis van die bevinding van die voorsittende beampte kragtens artikel 23(5) en van sy of haar beslissing] skriftelik van die besluit wat die departementshoof kragtens subartikel (2) geneem het en van [die] daardie beampte se reg tot appèl ingevolge artikel 26 verwittig.
- (4) Die stukke wat aan 'n departementshoof voorgelê moet word en die wyse waarop en die tydperk waarbinne sodanige stukke voorgelê moet word, is soos voorgeskryf."

Wysiging van artikel 25 van Wet afgekondig by Proklamasie 103 van 1994

22. Artikel 25 van die Hoofwet word hierby gewysig deur in subartikel (4) die woorde wat op paragraaf (b) volg deur die volgende woorde te vervang:
- "voordat die verrigtinge of stappe in verband met die aanklag van wangedrag ooreenkomstig artikel 24 of, in die geval van 'n appèl, ooreenkomstig artikel 26 afgehandel is, word hy of sy geag weens wangedrag ontslaan te wees."

Vervanging van artikel 26 van Wet afgekondig by Proklamasie 103 van 1994

23. Artikel 26 van die Hoofwet word hierby deur die volgende artikel vervang:
- "Appèl teen bevinding van voorsittende beampte en besluit van departementshoof**
26. (1) 'n Beampte wat van wangedrag aangekla is, het die reg om by die betrokke uitvoeringsgesag te appelleer teen die bevinding van die voorsittende beampte dat hy of sy skuldig is aan die wangedrag waarvan hy of sy aangekla is of teen die besluit van die departementshoof kragtens artikel 24(2), of teen daardie bevinding sowel as daardie besluit, binne 21 dae na die dag waarop hy of sy ooreenkomstig artikel 24(3) van daardie besluit verwittig is.
- (2) Indien die aangeklaagde beampte ingevolge subartikel (1) appèl aanteken, word die besluit van die departementshoof nie voor die afhandeling van die appèl geïmplementeer nie.
- (3) Na oorweging van die stukke wat op die appèl betrekking het, kan die uitvoeringsgesag—
- (a) in die geval van 'n appèl teen die bevinding dat die aangeklaagde beampte skuldig is aan die wangedrag waarvan hy of sy aangekla is—
- (i) die appèl van die hand wys en daardie bevinding bekragtig; of
- (ii) die appèl in sy geheel of gedeeltelik handhaaf en daardie bevinding tersyde stel of wysig;
- (b) in die geval van 'n appèl teen die besluit van die departementshoof—
- (i) die appèl van die hand wys en daardie besluit bekragtig; of
- (ii) die appèl in sy geheel of gedeeltelik handhaaf en daardie besluit tersyde stel of wysig, of daardie besluit deur die ander besluit vervang wat die departementshoof, na die oordeel van die uitvoeringsgesag, moes geneem het.
- (4) Die uitvoeringsgesag moet die beampte wat appèl aangeteken het en die departementshoof skriftelik van sy beslissing oor die appèl laat verwittig.
- (5) Die stukke wat aan die uitvoeringsgesag voorgelê moet word, die wyse waarop en die tydperk waarbinne sodanige stukke voorgelê moet word en die prosedure by 'n appèl is soos voorgeskryf."

Substitution of section 27 of Act promulgated under Proclamation 103 of 1994

24. The following section is hereby substituted for section 27 of the principal Act:

“Misconduct of heads of department

27. (1) (a) When a head of department is accused of misconduct, the relevant executing authority may appoint a person to investigate the matter and report to him or her thereon, **[and such authority may thereupon report the matter to the President or, in the case of a provincial administration, to the Premier of the province, who may direct the said]** whereupon the said authority **[to]** may charge **[the]** that head of department **[concerned]** with **[that]** misconduct.

(b) If a hearing becomes necessary in terms of section 22(6), read with subsection (2) **[of this section]**, the **[President or Premier]** relevant executing authority may appoint a person to **[conduct the hearing]** preside at the hearing.

(2) The provisions of sections 21(2), 22(1) and (4) to (8) and 23 to 26 shall apply *mutatis mutandis* to any proceedings or steps following upon an investigation **[and a direction under]** referred to in paragraph (a) of subsection (1) **[(a) of this section]**, and for that purpose—

(a) a reference in sections 21(2), 22(1) and (6), 24, 25(3) and 26 **[(2)]** to the head of department shall be construed as a reference to the relevant executing authority **[and]**;

(b) a reference in section 26 to the executing authority shall be construed as a reference to the President or, in the case of a provincial administration, the relevant Premier;

(c) a reference in sections **[22(6) and 24(2)(a)(v) to the head of department shall be construed as a reference to the President or the relevant Premier, as the case may be]** 21(2) and 23(1) and (2) to the investigating officer shall be construed as a reference also to a person appointed under paragraph (a) of the said subsection (1); and

(d) a reference in sections 22(6) and (8), 23(1), (3) and (5), 24(1) and (2) and 26 to the presiding officer **[conducting the hearing]** shall be construed as a reference also to **[the]** a person appointed under paragraph (b) of the said subsection (1) **[of this section]**.”

Amendment of section 30 of Act promulgated under Proclamation 103 of 1994

25. Section 30 of the principal Act is hereby amended by the substitution for paragraph (b) of the following paragraph:

“(b) no officer or employee shall perform or engage himself or herself to perform remunerative work outside his or her employment in the public service, without permission granted **[on the recommendation of the Commission]** by the relevant executing authority or an officer authorised by **[such]** the said authority; and”.

Amendment of section 31 of Act promulgated under Proclamation 103 of 1994

26. Section 31 of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) (i) If any remuneration, allowance or other reward is received by an officer or employee in connection with the performance of his or her work in the public service otherwise than in accordance with the provisions of this Act or a **[recommendation of the Commission]** determination of the Minister, or is received contrary to the provisions of section 30 (b), that officer or employee shall, subject to the provisions of subparagraph (iii), pay into revenue an amount equal to the amount of any such remuneration, allowance or **[other]** reward or, where it does not consist of money, the value thereof as determined by the head of the department in which he or she was employed, or in which he or she is

Vervanging van artikel 27 van Wet afgekondig by Proklamasie 103 van 1994

24. Artikel 27 van die Hoofwet word hierby deur die volgende artikel vervang:

“Wangedrag van departementshoofde

27. (1) (a) Wanneer 'n departementshoof van wangedrag beskuldig word, kan die betrokke uitvoeringsgesag 'n persoon aanstel om die aangeleentheid te ondersoek en aan hom of haar daarvoor te rapporteer, **[en sodanige gesag kan daarop die aangeleentheid rapporteer aan die President of, in die geval van 'n provinsiale administrasie, aan die Premier van die provinsie, wat daardie]** waarop bedoelde gesag **[kan gelas om die betrokke]** daardie departementshoof van **[daardie]** wangedrag **[aan te kla]** kan aankla.

(b) As 'n verhoor ingevolge artikel 22(6), **[gelees]** saamgelees met subartikel (2) **[van hierdie artikel]**, nodig word, kan die **[President of Premier]** betrokke uitvoeringsgesag 'n persoon aanstel om **[die saak te verhoor]** by die verhoor voor te sit.

(2) Die bepalinge van artikels 21(2), 22(1) en (4) tot (8) en 23 tot 26 is *mutatis mutandis* van toepassing op enige verrigtinge of stappe wat op 'n ondersoek **[en 'n lasgewing ingevolge]** bedoel in paragraaf (a) van subartikel (1)**[(a) van hierdie artikel]** volg, en vir dié doel moet—

(a) 'n verwysing in artikels 21(2), 22(1) en (6), 24, 25(3) en 26[(2)] na die departementshoof uitgelê word as 'n verwysing na die betrokke uitvoeringsgesag **[en];**

(b) 'n verwysing in artikel 26 na die uitvoeringsgesag uitgelê word as 'n verwysing na die President of, in die geval van 'n provinsiale administrasie, die betrokke Premier;

(c) 'n verwysing in artikels **[22(6) en 24(2)(a)(v) na die departementshoof uitgelê word as 'n verwysing na die President of die betrokke Premier, na gelang van die geval]** 21(2) en 23(1) en (2) na die ondersoekbeampte uitgelê word as 'n verwysing ook na 'n persoon wat kragtens paragraaf (a) van genoemde subartikel (1) aangestel is; en

(d) 'n verwysing in artikels 22(6) en (8), 23(1), (3) en (5), 24(1) en (2) en 26 na die voorsittende beampte **[wat die saak verhoor]** uitgelê as 'n verwysing ook na **[die]** 'n persoon wat **[ingevolge]** kragtens paragraaf (b) van genoemde subartikel (1) **[van hierdie artikel]** aangestel is.”.

Wysiging van artikel 30 van Wet afgekondig by Proklamasie 103 van 1994

25. Artikel 30 van die Hoofwet word hierby gewysig deur paragraaf (b) deur die volgende paragraaf te vervang:

“(b) mag geen beampte of werknemer besoldigde werk buite sy of haar werk in die staatsdiens verrig of hom of haar verbind om dit te verrig nie, sonder toestemming verleen **[op aanbeveling van die Kommissie]** deur die betrokke uitvoeringsgesag of 'n beampte deur **[sodanige]** bedoelde gesag gemagtig; en”.

Wysiging van artikel 31 van Wet afgekondig by Proklamasie 103 van 1994

26. Artikel 31 van die Hoofwet word hierby gewysig—

(a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

“(a) (i) Indien enige besoldiging, toelae of ander beloning deur 'n beampte of werknemer in verband met die verrigting van sy of haar werk in die staatsdiens ontvang word anders as ooreenkomstig die bepalinge van hierdie Wet of 'n **[aanbeveling van die Kommissie]** vasstelling van die Minister, of in stryd met die bepalinge van artikel 30 (b) ontvang word, moet daardie beampte of werknemer, **behoudens die bepalinge van subparagraaf (iii)**, 'n bedrag gelyk aan die bedrag van **[daardie]** so 'n besoldiging, toelae of **[ander]** beloning in inkomste stort of, waar dit nie uit geld bestaan nie, die waarde daarvan soos bepaal deur die hoof van die departement waarin hy of sy werksaam

regarded to have been employed by virtue of the provisions of section 1(3), at the time of the receipt thereof, and if he or she does not do so, it shall be recovered from him or her by [that] the said head by way of legal proceedings or in such other manner as the Treasury may approve, and be paid into revenue.

(ii) The officer or employee concerned may appeal against [such a] the determination [by] of the head of department to the relevant executing authority, who may make such [order] decision as he or she may think fit.

(iii) The [Commission] relevant executing authority may [recommend that] approve of the officer or employee concerned [may retain] retaining the whole or a portion of the said remuneration, allowance or reward.”;

(b) by the substitution for subsection (2) of the following subsection:

“(2) (a) Subject to the provisions of paragraph (b), any salary, allowance, fee, bonus or honorarium which may be payable in respect of the services of an officer or employee placed temporarily at the disposal of any other government, or of [a] any council, institution, body or person contemplated in section 15(3) or (4), shall be paid into revenue.

(b) In circumstances regarded by the [Commission] the relevant executing authority as exceptional, [it] the said authority may [recommend the payment] approve of paying out of revenue [to the officer or employee concerned of] an amount equal to that salary, allowance, fee, bonus or honorarium, or a portion thereof, to the officer or employee concerned.”; and

(c) by the addition of the following subsection:

“(3) For the purposes of subsection (1)(a)(i)—

(a) ‘this Act’ includes any law repealed by this Act;

(b) ‘determination of the Minister’ includes any recommendation of the Public Service Commission established by section 209(1) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), or of any commission for administration, public service commission or other like institution established by or under, or which functioned in accordance with, any such law; and

(c) ‘section 30(b)’ includes any corresponding provision of any such law.”.

Substitution of section 34 of Act promulgated under Proclamation 103 of 1994

27. The following section is hereby substituted for section 34 of the principal Act:

“Reduction of salaries

34. [Subject to the provisions of section 236(5) of the Constitution, the] The salary or scale of salary of an officer shall not be reduced without his or her consent except in terms of [—

(a)] the provisions of section [4] 13(6) or 38 or of Chapter VI [of this Act, section 236 (6) of the Constitution] or of an Act of Parliament [; or

(b) a programme of rationalisation referred to in section 237 of the Constitution].”.

Substitution of section 35 of Act promulgated under Proclamation 103 of 1994

28. The following section is hereby substituted for section 35 of the principal Act:

“Grievances of officers and employees

35. (1) For the purposes of asserting his or her right to have his or her complaint or grievance concerning an official act or omission investigated and considered by the Commission, an officer or employee may lodge that complaint or grievance with the relevant executing authority under the prescribed circumstances, on the prescribed conditions and in the prescribed manner, and if that complaint or grievance is not resolved to the satisfaction of such an officer or employee, that executing authority shall

was, of waarin hy of sy uit hoofde van die bepalings van artikel 1(3) beskou word werksaam te gewees het, ten tyde van die ontvangs daarvan, en indien hy of sy dit nie doen nie, moet dit deur [dié] bedoelde hoof deur middel van regsproses of op die ander wyse wat die Tesourie goedkeur, op hom of haar verhaal en in inkomste gestort word.

(ii) Die betrokke beampte of werknemer kan teen [so 'n] die bepaling [deur] van die departementshoof by die betrokke uitvoeringsgesag appelleer, wat die [bevel] beslissing kan gee wat hy of sy goeddink.

(iii) Die [Kommissie] betrokke uitvoeringsgesag kan [aanbeveel] goedkeur dat die betrokke beampte of werknemer die geheel of 'n gedeelte van [die] bedoelde besoldiging, toelae of beloning kan behou.”;

(b) deur subartikel (2) deur die volgende subartikel te vervang:

“(2) (a) Behoudens die bepalings van paragraaf (b) moet enige salaris, toelae, geld, bonus of honorarium wat betaalbaar is ten opsigte van die dienste van 'n beampte of werknemer wat tydelik tot die beskikking van 'n ander regering, of van 'n raad, [inrigting] instelling, liggaam of persoon [bedoel] beoog in artikel 15(3) of (4) gestel is, in inkomste gestort word.

(b) Die [Kommissie] betrokke uitvoeringsgesag kan onder omstandighede wat [hy] bedoelde gesag as buitengewoon beskou, [aanbeveel] goedkeur dat daar aan die betrokke beampte of werknemer uit inkomste 'n bedrag betaal word wat gelyk is aan daardie salaris, toelae, geld, bonus of honorarium, of 'n gedeelte daarvan.”; en

(c) deur die volgende subartikel by te voeg:

“(3) By die toepassing van subartikel (1)(a)(i) beteken—

- (a) ‘hierdie Wet’ ook 'n wet wat by hierdie Wet herroep is;
- (b) ‘vasstelling van die Minister’ ook 'n aanbeveling van die Staatsdienskommissie ingestel by artikel 209(1) van die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993), of van 'n kommissie vir administrasie, staatsdienskommissie of ander soortgelyke instelling ingestel by of kragtens, of wat gefunksioneer het ooreenkomstig, so 'n wet; en
- (c) ‘artikel 30(b)’ ook 'n ooreenstemmende bepaling van so 'n wet.”.

35 Vervanging van artikel 34 van Wet afgekondig by Proklamasie 103 van 1994

27. Artikel 34 van die Hoofwet word hierby deur die volgende artikel vervang:

“Verlaging van salarisse

34. [Behoudens die bepalings van artikel 236(5) van die Grondwet mag] 'n [beampte] Beampte se salaris of salarisskaal mag nie sonder sy of haar instemming verlaag word nie behalwe ingevolge [—

- (a) die bepalings van artikel [4] 13(6) of 38 of van Hoofstuk VI [van hierdie Wet, artikel 236(6) van die Grondwet] of van 'n Parlements-wet [; of
- (b) 'n program van rasionalisasie bedoel in artikel 237 van die Grondwet].”.

Vervanging van artikel 35 van Wet afgekondig by Proklamasie 103 van 1994

28. Artikel 35 van die Hoofwet word hierby deur die volgende artikel vervang:

“Griewe van beamptes en werknemers

35. (1) Vir die doeleindes van die handhawing van sy of haar reg om sy of haar klag of grief aangaande 'n amptelike handeling of versuim deur die Kommissie te laat ondersoek en oorweeg, kan 'n beampte of werknemer daardie klag of grief by die betrokke uitvoeringsgesag onder die voorgeskrewe omstandighede en op die voorgeskrewe voorwaardes en wyse indien, en indien daardie klag of grief nie tot bevrediging van so 'n beampte of werknemer opgelos word nie, moet daardie uitvoeringsgesag

submit the complaint or grievance to the Commission in the prescribed manner and at the prescribed time or within the prescribed period.

(2) After the Commission has investigated and considered any such complaint or grievance, the Commission may recommend that the relevant executing authority acts in terms of a particular provision or particular provisions of this Act or any other law if, having regard to the circumstances of the case, the Commission considers it appropriate to make such a recommendation.

(3) For the purposes of subsection (1), the powers conferred upon the Commission by section 11 of the Commission Act shall be deemed to include the power to make rules which are not inconsistent with the provisions of this section as to the investigation of complaints or grievances concerning official acts or omissions, and 'prescribed' means prescribed by the Commission by rule under the Commission Act."

Amendment of section 37 of Act promulgated under Proclamation 103 of 1994

29. Section 37 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) Subject to the provisions of section 5, officers and employees shall be paid the salaries, wages and allowances in accordance with the scales [recommended by the Commission] determined by the Minister for their ranks and grades in terms of section 3(3)[(g)](c)."; and

(b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

"[On the recommendation of the Commission, but subject to the provisions of section 5] Subject to such conditions as may be prescribed—".

Amendment of section 41 of Act promulgated under Proclamation 103 of 1994

30. Section 41 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) The Minister may make regulations—

(a) regarding—

(i) the functions of departments, the transfer of functions from one department to another or from a department to any other body or from any other body to a department;

(ii) the establishment or abolition of subdepartments, branches, offices or institutions;

(iii) the control, organisation, rationalisation, restructuring or readjustment of departments, subdepartments, branches, offices or institutions;

(b) regarding—

(i) the creation, number, grading, regrading, designation, redesignation, conversion, deployment or abolition of posts on the fixed establishment;

(ii) the number of persons to be employed temporarily or under a special contract, whether in a full-time or a part-time capacity—

(aa) against posts on the fixed establishment which are not permanently filled;

(bb) additional to the fixed establishment, whether by reason of the absence of the incumbent of any post, or when it is necessary to provide staff for the performance of a class of work for which staff is not ordinarily employed on a permanent basis, or when it is necessary for any other reason to increase temporarily the staff of any department;

(c) regarding—

die klag of grief op die voorgeskrewe wyse en op die voorgeskrewe tyd of binne die voorgeskrewe tydperk aan die Kommissie voorlê.

(2) Nadat die Kommissie so 'n klag of grief ondersoek en oorweeg het, kan die Kommissie aanbeveel dat die betrokke uitvoeringsgesag ingevolge 'n bepaalde bepaling of bepaalde bepalings van hierdie Wet of 'n ander wet handel indien die Kommissie, met inagneming van die omstandighede van die geval, dit gepas ag om so 'n aanbeveling te doen.

(3) By die toepassing van subartikel (1) word die bevoegdhede by artikel 11 van die Kommissiewet aan die Kommissie verleen, geag die bevoegdheid in te sluit om reëls uit te vaardig wat nie met die bepalings van hierdie artikel onbestaanbaar is nie betreffende die ondersoek van klagtes of griewe aangaande amptelike handeling of versuime, en beteken "voorgeskryf" deur die Kommissie by reël kragtens die Kommissiewet "voorgeskryf".

15 **Wysiging van artikel 37 van Wet afgekondig by Proklamasie 103 van 1996**

29. Artikel 37 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Behoudens die bepalings van artikel 5 moet daar aan beamptes en werknemers die salarisse, lone en toelaes betaal word ooreenkomstig die skale wat vir [hulle] hul range en grade deur die [Kommissie] Minister ingevolge artikel 3(3)[(g) aanbeveel] (c) vasgestel is.";

(b) deur in subartikel (2) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

25 "[Op aanbeveling van die Kommissie, maar behoudens die bepalings van artikel 5] Behoudens die voorwaardes wat voorgeskryf word—".

30 **Wysiging van artikel 41 van Wet afgekondig by Proklamasie 103 van 1994**

30. Artikel 41 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

30 "(1) Die Minister kan regulasies uitvaardig—

(a) betreffende—

(i) die werksaamhede van departemente, die oordrag van werksaamhede van een departement aan 'n ander of van 'n departement aan 'n ander liggaam of van 'n ander liggaam aan

35 (ii) die instelling of afskaffing van subdepartemente, takke, kantore of inrigtings;

(iii) die beheer, organisasie, rasionalisasie, herstrukturering of herreëling van departemente, subdepartemente, takke, kantore of inrigtings;

(b) betreffende—

(i) die skepping, getal, gradering, hergradering, benaming, herbenaming, omskepping, ontplooiing of afskaffing van poste op die vaste diensstaat;

45 (ii) die getal persone wat tydelik of onder 'n spesiale kontrak in diens geneem moet word, hetsy in 'n heeltydse of 'n deelydse hoedanigheid—

(aa) teen poste op die vaste diensstaat wat nie permanent gevul is nie;

50 (bb) addisioneel tot die vaste diensstaat, hetsy weens die afwesigheid van die bekleër van 'n pos, of wanneer dit nodig is om personeel te voorsien vir die verrigting van 'n klas werk waarvoor personeel nie onder gewone omstandighede op 'n permanent grondslag in diens gehou word nie, of wanneer dit om 'n ander rede nodig is om die personeel van 'n departement tydelik te vergroot;

55 (c) betreffende—

Act No. 47, 1997

PUBLIC SERVICE LAWS AMENDMENT ACT, 1997

- (i) the employment of persons and the transfer, promotion and continued employment of officers and employees, including the continued employment of officers in or against posts graded higher or lower than their own grade, or additional to the fixed establishment; 5
- (ii) the circumstances under which medical examination shall be required for the purposes of any provision of this Act, and the form of medical reports and certificates;
- (iii) the particular classes of officers and employees who may be required to provide security, and the amount and form thereof; 10
- (d) regarding—
- (i) the duties, powers, conduct, discipline, hours of attendance and leave of absence of officers and employees and their other conditions of service, including the occupation of official quarters;
- (ii) the management of matters regarding conduct, including a code of conduct with which officers and employees shall comply: Provided that such a code shall only be approved by the Minister on the advice of the Commission; 15
- (iii) the general security in departments and the security requirements with which officers and employees shall comply; 20
- (iv) the conditions on which and the circumstances under which remuneration for overtime duty, and travelling, subsistence, climatic, local and other allowances shall be paid to officers and employees;
- (v) journeys on official duty and the transport privileges of officers and employees; 25
- (vi) medical aid to officers and employees;
- (vii) the health and safety of officers and employees in the workplace;
- (e) in order to promote efficient, economic and effective use of resources and to improve the management and functioning of departments, subdepartments, branches, offices and institutions, regarding— 30
- (i) organisation, procedure and methods;
- (ii) supervision;
- (iii) the simplification of work and the elimination of unnecessary work; 35
- (iv) the management of information and the utilisation of information technology;
- (v) the co-ordination of work;
- (vi) the limitation of the number of officers and employees of departments, subdepartments, branches, offices and institutions, and the utilisation of the services of officers and employees to the best advantage; 40
- (vii) the training of officers and employees;
- (viii) work facilities; 45
- (ix) sound labour relations;
- (x) any other matter which the Minister may consider essential;
- (f) regarding the keeping of records of the functions and organisation of departments, of officers and employees and of post establishments; 50
- (g) regarding any matter required or permitted to be prescribed by regulation under this Act;
- (h) regarding the designation or establishment of an authority or more than one authority and the power of such an authority to authorise a departure from the provisions of a regulation in respect of an officer or employee or class of officers or employees under stated circumstances; 55
- (i) in general, regarding any matter which the Minister may consider necessary or expedient to prescribe or to regulate in order to achieve the objects of this Act.”; and 60
- (b) by the substitution for paragraph (c) of the following paragraph:

- 5 (i) die indiensneming van persone en die oorplasing, bevordering en indienshouding van beamptes en werknemers, met inbegrip van die indienshouding van beamptes in of teen poste wat hoër of laer as hul eie graad gegradeer is, of addisioneel tot die vaste diensstaat;
- 10 (ii) die omstandighede waarin geneeskundige ondersoek vir die doeleindes van 'n bepaling van hierdie Wet vereis word, en die vorm van geneeskundige verslae en sertifikate;
- 15 (iii) die besondere klasse beamptes en werknemers wat verplig kan word om sekerheid te stel, en die bedrag en vorm daarvan;
- (d) betreffende—
- 20 (i) die pligte, bevoegdhede, gedrag, dissipline, diensure en verlof van beamptes en werknemers en hul ander diensvoorwaardes, met inbegrip van die bewoning van amptelike kwartiere;
- 25 (ii) die bestuur van aangeleenthede rakende gedrag, met inbegrip van 'n gedragskode wat beamptes en werknemers moet nakom: Met dien verstande dat so 'n kode slegs op advies van die Kommissie deur die Minister goedgekeur word;
- 30 (iii) die algemene sekerheid in departemente en die sekerheidsvereistes waaraan beamptes en werknemers moet voldoen;
- (iv) die voorwaardes waarop en die omstandighede waarin besoldiging vir oortyddiens en reis-, verblyf-, klimaats-, plaaslike en ander toelaes aan beamptes en werknemers betaal moet word;
- 35 (v) reise in amptelike diens en die vervoer voorregte van beamptes en werknemers;
- (vi) mediese hulpverlening aan beamptes en werknemers;
- (vii) die gesondheid en veiligheid van beamptes en werknemers in die werkplek;
- 40 (e) ten einde doeltreffende, ekonomiese en effektiewe aanwending van hulpbronne te bevorder en die bestuur en funksionering van departemente, subdepartemente, takke, kantore en inrigtings te verbeter, betreffende—
- 45 (i) organisasie, prosedure en metodes;
- (ii) toesig;
- (iii) die vereenvoudiging van werk en die uitskakeling van onnodige werk;
- 50 (iv) die bestuur van inligting en die aanwending van inligtingstechnologie;
- 55 (v) die koördinering van werk;
- (vi) die beperking van die getal beamptes en werknemers van departemente, subdepartemente, takke, kantore en inrigtings, en die aanwending van die dienste van beamptes en werknemers op die voordeligste wyse;
- 60 (vii) die opleiding van beamptes en werknemers;
- (viii) werkfasiliteite;
- (ix) gesonde arbeidsverhoudinge;
- (x) enige ander aangeleentheid wat die Minister noodsaaklik ag;
- (f) betreffende die hou van aantekeninge van die werksaamhede en organisasie van departemente, van beamptes en werknemers en van die getalsterkte van poste;
- (g) betreffende 'n aangeleentheid wat kragtens hierdie Wet by regulasie voorgeskryf moet of kan word;
- 55 (h) betreffende die aanwysing of instelling van 'n gesag of meer as een gesag en die bevoegdheid van so 'n gesag om onder vermelde omstandighede ten opsigte van 'n beampte of werknemer of klas beamptes of werknemers 'n afwyking van die bepalings van 'n regulasie te magtig;
- 60 (i) in die algemeen, betreffende enige aangeleentheid wat die Minister nodig of dienstig ag om voor te skryf of te reël ten einde die oogmerke van hierdie Wet te verwesenlik.”; en
- (b) deur paragraaf (c) van subartikel (3) deur die volgende paragraaf te vervang:

“(c) The provisions of this subsection shall not affect the power of the **[President] Minister** to make a new regulation regarding the subject matter dealt with by a regulation that has lapsed in terms of paragraph (a).”.

Amendment of section 42 of Act promulgated under Proclamation 103 of 1994 5

31. Section 42 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Subject to the provisions of section 5(4)—

(a) any standing determination of a general nature made by the Minister; and

(b) any directive by the Minister to elucidate or supplement any regulation, and which is not inconsistent with this Act may be included in a code to be called the Public Service Staff Code.”.

Insertion of section 42A in Act promulgated under Proclamation 103 of 1994

32. The following section is hereby inserted after section 42 of the principal Act:

“Assignment of functions by Minister 15

42A. (1) The Minister may—

- (a) delegate to the Director-General: Public Service and Administration or any officer or employee of the Department concerned any power conferred upon the Minister by or under this Act or any other law, excluding the power referred to in section 41(1), on such conditions as the Minister may determine; or
- (b) authorise the said Director-General, officer or employee to perform any duty assigned to the Minister by or under this Act or any other law.
- (2) Any delegation under subsection (1)(a) shall not prevent the exercise of the relevant power by the Minister himself or herself.”.

Amendment of section 43 of Act promulgated under Proclamation 103 of 1994

33. Section 43 of the principal Act is hereby amended—

- (a) by the substitution for subsection (2) of the following subsection:
- “(2) Anything done under any law repealed by subsection (1) and which could be done under a provision of this Act, shall be deemed to have been done under that provision.”; and
- (b) by the deletion of subsections (3), (4) and (5).

Savings

34. (1) Notwithstanding the amendment of the principal Act by this Act—

- (a) anything done by the Public Service Commission established by section 209(1) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), under the principal Act and which could be done by the Minister for the Public Service and Administration under a provision of the principal Act, as amended by this Act, shall be deemed to have been so done by the said Minister;
- (b) any inquiry into inefficiency and any proceedings in respect of a charge of misconduct or a complaint or grievance instituted or commenced under the principal Act, shall be continued and concluded as if the principal Act had not been amended by this Act, and for that purpose, a reference—
- (i) in the provisions relating to inefficiency or misconduct, to the Commission shall be construed as a reference to the said Minister;
- (ii) in the provisions relating to a complaint or grievance, to the Commission shall be construed as a reference to the Public Service Commission established by section 196(1) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996).

“(c) Die bepalings van hierdie subartikel raak nie die bevoegdheid van die [President] Minister om ’n nuwe regulasie uit te vaardig betreffende die [aangeleentheid] onderwerp waarvoor ’n regulasie wat ingevolge paragraaf (a) verval het, gehandel het nie.”.

5 Wysiging van artikel 42 van Wet afgekondig by Proklamasie 103 van 1994

31. Artikel 42 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Behoudens die bepalings van artikel 5(4) kan—

- 10 (a) ’n staande vasstelling van ’n algemene aard wat deur die Minister gemaak is; en
 (b) ’n voorskrif deur die Minister ter toeligting of aanvulling van ’n regulasie, en wat nie met hierdie Wet onbestaanbaar is nie in ’n kode wat die Staatsdienspersoneelkode heet, vervat word.”.

Invoeging van artikel 42A in Wet afgekondig by Proklamasie 103 van 1994

15 32. Die volgende artikel word hierby na artikel 42 van die Hoofwet ingevoeg:

“Opdrag van werksaamhede deur Minister

42A. (1) Die Minister kan—

- 20 (a) aan die Direkteur-generaal: Staatsdiens en Administrasie of ’n beampte of werknemer van die betrokke Departement ’n bevoegdheid by of kragtens hierdie Wet of ’n ander wet aan die Minister verleen, uitgesonderd die bevoegdheid in artikel 41(1) bedoel, deleger op die voorwaardes wat die Minister bepaal; of
 (b) bedoelde Direkteur-generaal, beampte of werknemer magtig om ’n plig by of kragtens hierdie Wet of ’n ander wet aan die Minister
 25 opgedra, te verrig.
 (2) ’n Delegering kragtens subartikel (1)(a) belet nie die uitoefening van die betrokke bevoegdheid deur die Minister self nie.”.

Wysiging van artikel 43 van Wet afgekondig by Proklamasie 103 van 1994

33. Artikel 43 van die Hoofwet word hierby gewysig—

- 30 (a) deur subartikel (2) deur die volgende subartikel te vervang:
 “(2) Enigiets wat kragtens ’n wet by subartikel (1) herroep, gedoen is en wat kragtens ’n bepaling van hierdie Wet gedoen sou kon word, word geag kragtens daardie bepaling gedoen te gewees het.”; en
 (b) deur subartikels (3), (4) en (5) te skrap.

35 Voorbehoud

34. (1) Ondanks die wysiging van die Hoofwet by hierdie Wet—

- 40 (a) word enigiets wat deur die Staatsdienskommissie ingestel by artikel 209(1) van die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993), kragtens die Hoofwet gedoen is en wat gedoen sou kon word deur die Minister vir die Staatsdiens en Administrasie kragtens ’n bepaling van die Hoofwet, soos by hierdie Wet gewysig, geag aldus deur genoemde Minister gedoen te gewees het;
 (b) word enige ondersoek na onbekwaamheid en enige verrigtinge ten opsigte van ’n aanklag van wangedrag of ’n klag of grief wat kragtens die Hoofwet ingestel of begin is, voortgesit en afgehandel asof die Hoofwet nie by hierdie
 45 Wet gewysig was nie, en vir dié doel word ’n verwysing—
 (i) in die bepalings wat op onbekwaamheid of wangedrag betrekking het, na die Kommissie uitgelê as ’n verwysing na genoemde Minister;
 50 (ii) in die bepalings wat op ’n klag of grief betrekking het, na die Kommissie uitgelê as ’n verwysing na die Staatsdienskommissie by artikel 196 (1) van die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996), ingestel.

(2) If a provincial legislature has, in a law referred to in section 14(1) of the Public Service Commission Act, 1997, incorporated the principal Act by reference and amended or adapted it in order to entrust powers and duties to the relevant provincial service commission, then, notwithstanding the repeal of any such law by the said section 14(1)—

- (a) anything done by that provincial service commission under the principal Act, as incorporated and amended or adapted by the provincial legislature, and which could be done by the Minister for the Public Service and Administration under a provision of the principal Act, as amended by this Act, shall be deemed to have been so done by the said Minister;
- (b) any inquiry into inefficiency and any proceedings in respect of a charge of misconduct or a complaint or grievance instituted or commenced under the principal Act, as incorporated and amended or adapted by the provincial legislature, shall be continued and disposed of as if any such law had not been repealed by the said section 14(1), and for that purpose, a reference—
 - (i) in the provisions relating to inefficiency or misconduct, to that provincial service commission shall be construed as a reference to the said Minister;
 - (ii) in the provisions relating to a complaint or grievance, to that provincial service commission shall be construed as a reference to the Public Service Commission referred to in subsection (1)(b)(ii).

Repeal or amendment of laws, and savings

35. (1) The laws mentioned in the Schedule are hereby repealed or amended to the extent indicated in the third column thereof.

(2) Notwithstanding the repeal of any law by subsection (1), any of the provisions of any such law which but for the repeal would have been applicable to any matter or person, shall continue to be applicable to any such matter or person as if the repeal had not been effected.

(3) Notwithstanding the amendment of any law by subsection (1), anything done by the Public Service Commission referred to in section 34(1)(a), or by its predecessor, under any such law and which could be done by the Minister for the Public Service and Administration under a provision of any such law, as amended by the said subsection (1), shall be deemed to have been so done by the said Minister.

Short title and commencement

36. This Act shall be called the Public Service Laws Amendment Act, 1997, and shall come into operation on the date on which the laws referred to in section 14(1) of the Public Service Commission Act, 1997, are repealed by the said section 14(1).

(2) Indien 'n provinsiale wetgewer in 'n wet bedoel in artikel 14(1) van die Wet op die Staatsdienskommissie, 1997, die Hoofwet by verwysing ingelyf en dit gewysig of aangepas het ten einde bevoegdheids en pligte aan die betrokke provinsiale dienskommissie toe te wys, dan, ondanks die herroeping van so 'n wet by genoemde artikel

5 14(1)—

(a) word enigiets wat deur daardie provinsiale dienskommissie kragtens die Hoofwet, soos deur die provinsiale wetgewer ingelyf en gewysig of aangepas, gedoen is en wat gedoen sou kon word deur die Minister vir die Staatsdiens en Administrasie kragtens 'n bepaling van die Hoofwet, soos by hierdie Wet gewysig, geag aldus deur genoemde Minister gedoen te gewees het;

(b) word enige ondersoek na onbekwaamheid en enige verrigtinge ten opsigte van 'n aanklag van wangedrag of 'n klag of grief wat kragtens die Hoofwet, soos deur die provinsiale wetgewer ingelyf en gewysig of aangepas, ingestel of begin is, voortgesit en afgehandel asof so 'n wet nie by genoemde artikel 14(1) herroep was nie, en vir dié doel word 'n verwysing—

(i) in die bepalings wat op onbekwaamheid of wangedrag betrekking het, na daardie provinsiale dienskommissie uitgelê as 'n verwysing na genoemde Minister;

(ii) in die bepalings wat op 'n klag of grief betrekking het, na daardie provinsiale dienskommissie uitgelê as 'n verwysing na die Staatsdienskommissie in subartikel (1)(b)(ii) bedoel.

Herroeping of wysiging van wette, en voorbehoud

35 (1) Die wette in die Bylae genoem, word hierby herroep of gewysig in die mate aangedui in die derde kolom daarvan.

(2) Ondanks die herroeping van 'n wet by subartikel (1) bly enige bepaling van so 'n wet wat by ontstentenis van die herroeping van toepassing sou gewees het op die een of ander aangeleentheid of persoon, nog op so 'n aangeleentheid of persoon van toepassing asof die herroeping nie plaasgevind het nie.

30 (3) Ondanks die wysiging van 'n wet by subartikel (1) word enigiets wat deur die Staatsdienskommissie bedoel in artikel 34(1)(a), of deur sy voorganger, kragtens so 'n wet gedoen is en wat gedoen sou kon word deur die Minister vir die Staatsdiens en Administrasie kragtens 'n bepaling van so 'n wet, soos by genoemde subartikel (1) gewysig, geag aldus deur genoemde Minister gedoen te gewees het.

35 Kort titel en inwerkingtreding

36. Hierdie Wet heet die Wysigingswet op Staatsdienswetgewing, 1997, en tree in werking op die datum waarop die wette bedoel in artikel 14(1) van die Wet op die Staatsdienskommissie, 1997, by genoemde artikel 14(1) herroep word.

SCHEDULE

LAWS REPEALED OR AMENDED (Section 35)

No. and year of law	Short title	Extent of repeal or amendment
Act No. 38 of 1927	Black Administration Act, 1927	The amendment of section 2 by the substitution for paragraph (a) of subsection (3) of the following paragraph:
		“(a) he has passed the [civil service lower law] diploma <i>iuris</i> examination or an examination determined by the [Public Service Commission] Minister for the Public Service and Administration to be equivalent thereto for the purposes of this section; or”.
Act No. 47 of 1937	Deeds Registries Act, 1937	The amendment of section 2 by the substitution for subsection (2) of the following subsection:
		“(2) No person shall be appointed as chief registrar, registrar, deputy registrar or assistant registrar of deeds after the commencement of section 2 of the Deeds Registries Amendment Act, 1984 (Act No. 62 of 1984), unless he has passed the [Public Service Law Examination] diploma <i>iuris</i> examination or an examination deemed by the [Commission for Administration] Minister for the Public Service and Administration to be equivalent thereto, and has served in the administrative division of the public service in one or more deeds registries for a period of not less than seven years: Provided that this subsection shall not apply with reference to the authorization of any officer under subsection (1A) or (1B) to act as contemplated in the relevant subsection.”.
Act No. 26 of 1945	Road Transportation Boards Service Act, 1945	The repeal of the whole.
Act No. 43 of 1947	Cable and Wireless Workers Transfer Act, 1947	The repeal of the whole.
Act No. 31 of 1949	Indian Immigration Bureau Transfer Act, 1949	The repeal of the whole.

BYLAE

WETTE HERROEP OF GEWYSIG (Artikel 35)

No. en jaar van wet	Kort titel	Omvang van herroeping of wysiging
Wet No. 38 van 1927	Swart Administrasie Wet, 1927	Die wysiging van artikel 2 deur paragraaf (a) van subartikel (3) deur die volgende paragraaf te vervang: “(a) hy die [staatsdienslaerwetteksamen] diploma <i>iuris</i> -eksamen of ’n eksamen wat volgens bepaling van die [Staatsdienskommissie] Minister vir die Staatsdiens en Administrasie vir die doeleindes van hierdie artikel daarmee gelykstaan, met goeie gevolg afgelê het; of”.
Wet No. 47 van 1937	Registrasie van Aktes Wet, 1937	Die wysiging van artikel 2 deur subartikel (2) deur die volgende subartikel te vervang: “(2) Niemand word na die inwerkingtreding van artikel 2 van die Wysigingswet op Registrasie van Aktes, 1984 (Wet No. 62 van 1984), as hoofregistrateur, registrateur, adjunk-registrateur of assistent-registrateur van aktes aangestel nie, tensy hy in die [Staatsdienseksamen in die Regte] diploma <i>iuris</i> -eksamen of ’n eksamen wat die [Kommissie vir Administrasie] Minister vir die Staatsdiens en Administrasie daaraan gelykwaardig ag, geslaag het, en in die administratiewe afdeling van die Staatsdiens in een of meer registrasiekantore van aktes vir ’n tydperk van minstens sewe jaar gedien het: Met dien verstande dat hierdie subartikel nie van toepassing is nie met betrekking tot die magtiging van ’n beampte kragtens subartikel (1A) of (1B) om op te tree of waar te neem soos in die betrokke subartikel beoog.”.
Wet No. 26 van 1945	Wet op Diens by Padvervoerrade, 1945	Die herroeping van die geheel.
Wet No. 43 van 1947	Wet op die Oorplasing van Kabel- en Draadlooswerkers, 1947	Die herroeping van die geheel.
Wet No. 31 van 1949	Wet op die Oordrag van die Indiër-immigrasieburo, 1949	Die herroeping van die geheel.

Act No. 47, 1997 PUBLIC SERVICE LAWS AMENDMENT ACT, 1997

No. and year of law	Short title	Extent of repeal or amendment
Act No. 54 of 1956	Water Act, 1956	<p>The amendment of section 3 by the substitution for paragraph (b) of subsection (2) of the following paragraph:</p> <p>“(b) the scales of the salaries, allowances, leave privileges and other conditions of employment applicable in relation to any employees so appointed shall be as [laid down] determined from time to time by the Minister [from time to time after consultation with the Public Service Commission] in consultation with the Minister for the Public Service and Administration.”.</p>
Act No. 5 of 1957	Wage Act, 1957	<p>The amendment of section 3 by the substitution for the proviso to subsection (9) of the following proviso:</p> <p>“: Provided that the Minister may, [on the recommendation of the Commission for Administration and with the approval of the Minister of Finance] in consultation with the Minister for the Public Service and Administration, approve of the payment to him during the period of his service as a member, additional member or temporary member of the board, in addition to his emoluments as a person in the full-time employment of the State, of an allowance which shall not form part of his pensionable emoluments.”.</p> <p>1. The amendment of section 1(1) by the substitution for paragraph (a) of the definition of “prescribed” of the following paragraph:</p> <p>“(a) in relation to any matter affecting the salaries, pay or allowances of members of the South African Defence Force, the Reserve, the Cadet Corps or any auxiliary or nursing service established under this Act, [recommended by the Commission for Administration in terms of] determined by the Minister for the Public Service and Administration under section 82bis; and ”.</p>
Act No. 44 of 1957	Defence Act, 1957	

No. en jaar van wet	Kort titel	Omvang van herroeping of wysiging
Wet No. 54 van 1956	Waterwet, 1956	<p>Die wysiging van artikel 3 deur paragraaf (b) van subartikel (2) deur die volgende paragraaf te vervang:</p> <p>“(b) ten opsigte van aldus aangestelde werknemers die salarisskale, toelaes, verlofvoorregte en ander diensvoorwaardes van toepassing is wat van tyd tot tyd deur die Minister [na oorlegpleging met die Staatsdienskommissie] in oorleg met die Minister vir die Staatsdiens en Administrasie bepaal word.”.</p>
Wet No. 5 van 1957	Loonwet, 1957	<p>Die wysiging van artikel 3 deur die voorbehoudsbepaling by subartikel (9) deur die volgende voorbehoudsbepaling te vervang:</p> <p>“: Met dien verstande dat die Minister, [op aanbeveling van die Kommissie vir Administrasie en met goedkeuring van die Minister van Finansies] in oorleg met die Minister vir die Staatsdiens en Administrasie, kan goedkeur dat daar, benewens sy besoldiging as iemand in die [voltydse] heelydse diens van die Staat, gedurende sy dienstyf as lid, addisionele lid of tydelike lid van die raad 'n [toelaag] toelae aan hom betaal word wat nie deel van sy pensioendraende besoldiging uitmaak nie.”.</p>
Wet No. 44 van 1957	Verdedigingswet, 1957	<p>1. Die wysiging van artikel 1(1) deur paragraaf (a) van die omskrywing van “voorgeskryf” deur die volgende paragraaf te vervang:</p> <p>“(a) met betrekking tot 'n aangeleentheid rakende die salarisse, soldy of toelaes van lede van die Suid-Afrikaanse Weermag, die Reserwe, die Kadetkorps of 'n hulp- of verpleegdiens kragtens hierdie Wet ingestel, deur die [Kommissie vir Administrasie ingevolge] Minister vir die Staatsdiens en Administrasie kragtens artikel 82bis [aanbeveling] bepaal; en”.</p>

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PUBLIC SERVICE LAWS AMENDMENT ACT, 1997

No. and year of law	Short title	Extent of repeal or amendment
		<p>2. The amendment of section 9 by the substitution for paragraph (a) of subsection (2) of the following paragraph:</p> <p>“(a) Subject to the provisions of the Public Service Act, [1984 (Act No. 111 of 1984), or the Commission for Administration Act, 1984 (Act No. 65 of 1984)] 1994 (promulgated under Proclamation No. 103 of 1994), the procedure for enrolment, appointment and promotion in the Permanent Force and, subject to the provisions of any law relating to the grant of pensions or any other benefit under such law to members of the Permanent Force, the conditions of such enrolment, appointment and promotion as well as other conditions of service, shall be as may be prescribed or as may, subject to the above provisions, be authorized by the Minister.”.</p> <p>3. The substitution for section 82bis of the following section:</p> <p>“Salaries, pay and allowances to be determined by Minister for the Public Service and Administration</p> <p>82bis. Members of the South African Defence Force, the Reserve, the Cadet Corps or any auxiliary or nursing service established under this Act shall receive such salaries, pay or allowances in respect of their service, training or duty in pursuance of this Act as the [Commission for Administration] Minister for the Public Service and Administration may from time to time [recommend] determine.”.</p>

No. en jaar van wet	Kort titel	Omvang van herroeping of wysiging
		<p>2. Die wysiging van artikel 9 deur paragraaf (a) van subartikel (2) deur die volgende paragraaf te vervang:</p> <p>“(a) Behoudens die bepalinge van die Staatsdienswet, [1984 (Wet No. 111 van 1984), of die Wet op die Kommissie vir Administrasie, 1984 (Wet No. 65 van 1984)] 1994 (afgekondig by Proklamasie No. 103 van 1994), is die prosedure vir inskrywing, aanstelling en bevordering in die Staande Mag en, behoudens die bepalinge van enige wet met betrekking tot die toekenning van pensioene of enige ander voordeel kragtens sodanige wet aan lede van die Staande Mag, die voorwaardes van sodanige inskrywing, aanstelling en bevordering asook ander diensvoorwaardes, soos voorgeskryf word of soos, behoudens die voorgaande bepalinge, deur die Minister gemagtig.”.</p> <p>3. Die vervanging van artikel 82bis deur die volgende artikel:</p> <p>“Salarisse, soldy en toelaes deur Minister vir die Staatsdiens en Administrasie bepaal te word</p> <p>82bis. Lede van die Suid-Afrikaanse Weermag, die Reserwe, die Kadetkorps of enige hulp- of verpleegdiens kragtens hierdie Wet ingestel, ontvang ten opsigte van hul diens of opleiding of die verrigting van hul diensplig uit hoofde van hierdie Wet die salarisse, soldy of toelaes wat die [Kommissie vir Administrasie] Minister vir die Staatsdiens en Administrasie van tyd tot tyd [aanbeveel] bepaal.”.</p>

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PUBLIC SERVICE LAWS AMENDMENT ACT, 1997

No. and year of law	Short title	Extent of repeal or amendment
Act No. 8 of 1959	Correctional Services Act, 1959	<p>1. The amendment of section 1 by the deletion of the definition of "Commission for Administration".</p> <p>2. The amendment of section 5 by the substitution for subsection (4) of the following subsection: “(4) The members of a correctional board who are not in the full-time service of the State, may receive such remuneration and allowances as the Minister may [on the recommendation of the Commission for Administration] determine with the concurrence of the Minister of Finance.”.</p> <p>3. The amendment of section 5C by the substitution for subsection (4) of the following subsection: “(4) The members of a parole board who are not in the full-time service of the State, may receive such remuneration and allowances as the Commissioner may [on the recommendation of the Commission for Administration] determine with the concurrence of the Minister of Finance.”.</p> <p>4. The amendment of section 7 by the substitution for subsection (2) of the following subsection: “(2) A minister of religion, psychologist, social worker, educationist or other person contemplated in subsection (1) shall be paid [the] such allowances as determined by the Commissioner [on the recommendation of the Commission for Administration and after consultation with the Department of State Expenditure] in consultation with the Minister for the Public Service and Administration: Provided that any other remuneration paid by the State to such person shall not be affected by this provision.”.</p>
Act No. 59 of 1959	Supreme Court Act, 1959	The amendment of section 34 by the deletion of the proviso to paragraph (b) of subsection (1).
Act No. 12 of 1961	Defence Amendment Act, 1961	The amendment of section 6 by the deletion of subsection (2).

WYSIGINGSWET OP STAATSDIENSWETGEWING, 1997

Wet No. 47, 1997

No. en jaar van wet	Kort titel	Omvang van herroeping of wysiging
Wet No. 8 van 1959	Wet op Korrektiewe Dienste, 1959	<p>1. Die wysiging van artikel 1 deur die omskrywing van "Kommissie vir Administrasie" te skrap.</p> <p>2. Die wysiging van artikel 5 deur subartikel (4) deur die volgende subartikel te vervang:</p> <p>"(4) Die lede van 'n korrektiewe raad wat nie in die heelytse diens van die Staat is nie, kan die vergoeding en toelaes ontvang wat die Minister [op aanbeveling van die Kommissie vir Administrasie] met die instemming van die Minister van Finansies bepaal."</p> <p>3. Die wysiging van artikel 5C deur subartikel (4) deur die volgende subartikel te vervang:</p> <p>"(4) Die lede van 'n paroolraad wat nie in die heelytse diens van die Staat is nie, kan die vergoeding en toelaes ontvang wat die Kommissaris [op aanbeveling van die Kommissie vir Administrasie] met die instemming van die Minister van Finansies bepaal."</p> <p>4. Die wysiging van artikel 7 deur subartikel (2) deur die volgende subartikel te vervang:</p> <p>"(2) Aan 'n in subartikel (1) beoogde predikant, sielkundige, maatskaplike werker, opvoedkundige of ander persoon word die toelaes betaal wat die Kommissaris [op aanbeveling van die Kommissie vir Administrasie en na oorlegpleging met die Departement van Staatsbesteding] in oorleg met die Minister vir die Staatsdiens en Administrasie bepaal: Met dien verstande dat enige ander besoldiging wat deur die Staat aan so 'n persoon betaal word, nie deur hierdie bepaling geraak word nie."</p>
Wet No. 59 van 1959	Wet op die Hooggeregshof, 1959	Die wysiging van artikel 34 deur die voorbehoudsbepaling by paragraaf (b) van subartikel (1) te skrap.
Wet No. 12 van 1961	Wysigingswet op Verdediging, 1961	Die wysiging van artikel 6 deur subartikel (2) te skrap.

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No. and year of law	Short title	Extent of repeal or amendment
Act No. 66 of 1965	Administration of Estates Act, 1965	<p>The amendment of section 2 by the substitution in subsection (2) for the words preceding the proviso of the following words:</p> <p>“No person shall be appointed as Master, Deputy Master or Assistant Master of the Supreme Court unless he has passed the [Public Service Law Examination] diploma iuris examination or an examination deemed by the [Public Service Commission] Minister for the Public Service and Administration to be equivalent thereto, or has before the commencement of this Act held a substantive appointment as a Master or Assistant Master of the Supreme Court.”.</p>
Act No. 66 of 1974	Post Office Service Act, 1974	<p>The amendment of section 5 by the deletion of subsections (5) to (8).</p>
Act No. 29 of 1979	General Pensions Act, 1979	<p>1. The amendment of section 7 by the substitution for paragraph (a) of subsection (1) of the following paragraph:</p> <p>“(a) any contributions or moneys due or payable by a pensioner to any <u>registered medical aid fund or medical aid society [established by or in terms of or] recognized by the [Public Service Commission in accordance with any regulations made under section 26(1) of the Public Service Act, 1957 (Act No. 54 of 1957)] Minister for the Public Service and Administration</u> have not been paid; or”.</p> <p>2. The amendment of section 11 by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:</p>

No. en jaar van wet	Kort titel	Omvang van herroeping of wysiging
Wet No. 66 van 1965	Boedelwet, 1965	<p>Die wysiging van artikel 2 deur in subartikel (2) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:</p> <p>“Niemand word as Meester, Adjunk-meester of Assistent-meester van die Hooggeregshof aangestel nie tensy hy in die [Staatsdienseksamen in die Regte] diploma <i>iuris</i>-eksamen of in 'n eksamen wat deur die [Staatsdienskommissie] Minister vir die Staatsdiens en Administrasie as gevolgstaande daarmee geag word, geslaag het, of voor die inwerkingtreding van hierdie Wet 'n substantiewe betrekking as Meester of Assistent-meester van die Hooggeregshof beklee.”</p>
Wet No. 66 van 1974	Poskantoorwetswet, 1974	<p>Die wysiging van artikel 5 deur subartikels (5) tot (8) te skrap.</p>
Wet No. 29 van 1979	Algemene Pensioenwet, 1979	<p>1. Die wysiging van artikel 7 deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:</p> <p>“(a) bydraes of gelde wat deur 'n pensioentrekker verskuldig of betaalbaar is aan 'n <u>geregisteerde mediese hulpfonds</u> of mediese hulpvereniging wat [ingestel is by of ingevolge of] erken [is] <u>word</u> deur die [Staatsdienskommissie ooreenkomsstig enige regulasies wat uitgevaardig is kragtens artikel 26(1) van die Staatsdienswet, 1957 (Wet No. 54 van 1957)] Minister vir die Staatsdiens en Administrasie nie betaal is nie; of”.</p> <p>2. Die wysiging van artikel 11 deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:</p>

No. and year of law	Short title	Extent of repeal or amendment
<p>Act No. 75 of 1979</p>	<p>Temporary Employees Pension Fund Act, 1979</p>	<p>“Notwithstanding anything to the contrary in any law contained, the Minister may, with the concurrence of the Minister of Finance, the Minister [of] for Posts [and], Telecommunications and Broadcasting and the [Administrators] Premiers, and after consultation with the Minister [responsible for National Intelligence Service] of Justice, the Minister [responsible for the Commission] for the Public Service and Administration, the Minister of Defence, the Minister [of Police] for Safety and Security and the Minister of [Prisons] Correctional Services, make regulations which provide—”.</p> <p>The amendment of section 8—</p> <p>(a) by the substitution for paragraph (i) of subsection (2) of the following paragraph:</p> <p>“(i) provide for the exercise or performance by the Secretary, the Treasury or the [Public Service Commission] Minister for the Public Service and Administration, of such powers or functions as the Minister may deem necessary for the achievement of the objects of this Act.”; and</p> <p>(b) by the substitution for subsection (6) of the following subsection:</p> <p>“(6) Regulations made under this section shall be made by the Minister with the concurrence of the Minister of Finance and after consultation with the Ministers responsible for the [Commission for] Public Service and Administration, [National] Education and Posts [and], Telecommunications and Broadcasting.”.</p>

No. en jaar van wet	Kort titel	Omvang van herroeping of wysiging
<p>Wet No. 75 van 1979</p>	<p>Wet op die Pensioenfonds vir Tydelike Werknemers, 1979</p>	<p>“Ondanks andersluidende wetsbepalings kan die Minister, met die instemming van die Minister van Finansies, die Minister [van] vir Pos-, [en Telekommunikasiewese] <u>Telekommunikasie- en Uitsaaiwese</u> en die [Administrateurs] Premiers, en na oorleg met die Minister [verantwoordelik vir die Nasionale Intelligensiediens] van Justisie, die Minister [verantwoordelik vir die Kommissie] vir die Staatsdiens en Administrasie, die Minister van Verdediging, die Minister [van Polisie] vir <u>Veiligheid en Sekuriteit</u> en die Minister van [Gevangnisse] <u>Korrektiewe Dienste</u>, regulasies uitvaardig wat voorsiening maak—”.</p> <p>Die wysiging van artikel 8—</p> <p>(a) deur paragraaf (i) van subartikel (2) deur die volgende paragraaf te vervang:</p> <p>“(i) voorsiening maak vir die uitoefening of verrigting deur die Sekretaris, die Tesourie of die [Staatsdienskommissie] Minister vir die Staatsdiens en Administrasie van die bevoegdhede of werksaamhede wat die Minister vir die verwesenliking van die oogmerke van hierdie Wet nodig ag.”; en</p> <p>(b) deur subartikel (6) deur die volgende subartikel te vervang:</p> <p>“(6) Regulasies kragtens hierdie artikel uitvaardig, word deur die Minister uitvaardig met die instemming van die Minister van Finansies en na oorlegpleging met die Ministers verantwoordelik vir die [Kommissie vir] <u>Staatsdiens en Administrasie</u>, [Nasionale Opvoeding] <u>Onderwys</u> en Pos-, [en Telekommunikasiewese] <u>Telekommunikasie- en Uitsaaiwese</u>.”.</p>

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No. and year of law	Short title	Extent of repeal or amendment
Act No. 90 of 1979	Education and Training Act, 1979	The amendment of section 4 by the substitution for subsection (4) of the following subsection: “(4) The Department shall place a full-time secretary at the disposal of the Council with such remuneration and allowances, if any, as may be determined by the Minister with the concurrence of the Minister of Finance [and on the recommendation of the Commission for Administration] .”
Act No. 75 of 1986	Abolition of Development Bodies Act, 1986	The repeal of section 4.
Act No. 80 of 1991	Public Accountants' and Auditors' Act, 1991	The amendment of section 12 by the substitution for subsection (2) of the following subsection: “(2) A member of the board or any such committee who is in the full-time service of the State may, in addition to his remuneration in respect of such service, receive such remuneration for special services rendered by him to the board as may be determined by the Minister [on the recommendation of the Commission for Administration] in consultation with the Minister for the Public Service and Administration, but not exceeding an amount recommended by the board.”
Act No. 95 of 1991	Abolition of the National Energy Council Act, 1991	The repeal of section 4.
Act No. 122 of 1992	Audit Arrangements Act, 1992	1. The amendment of section 1 by the deletion of the definition of “Commission”. 2. The amendment of section 19 by the deletion of subsections (5) to (8).
Act No. 44 of 1993	Airports Company Act, 1993	The amendment of section 6 by the substitution for subsection (3) of the following subsection: “(3) The Minister may, in accordance with the provisions of an agreement concluded between the Department and the company, [with the concurrence of the Commission for Administration] transfer to the company any person who is an officer or employee in the Department in terms of the Public Service Act, [1984 (Act No. 111 of 1984)] 1994 (promulgated under Proclamation No. 103 of 1994).”

No. en jaar van wet	Kort titel	Omvang van herroeping of wysiging
Wet No. 90 van 1979	Wet op Onderwys en Opleiding, 1979	Die wysiging van artikel 4 deur subartikel (4) deur die volgende subartikel te vervang: “(4) Die Departement stel ’n heeltydse sekretaris tot beskikking van die Raad, met die besoldiging en toelaes, as daar is, wat deur die Minister met die instemming van die Minister van Finansies [en op aanbeveling van die Kommissie vir Administrasie] bepaal word.”.
Wet No. 75 van 1986	Wet op die Afskaffing van Ontwikkelingsliggame, 1986	Die herroeping van artikel 4.
Wet No. 80 van 1991	Wet op Openbare Rekenmeesters en Ouditeurs, 1991	Die wysiging van artikel 12 deur subartikel (2) deur die volgende subartikel te vervang: “(2) ’n Lid van die raad of so ’n komitee wat in die heeltydse diens van die Staat is, kan, benewens sy besoldiging ten opsigte van daardie diens, die besoldiging ontvang vir spesiale dienste deur hom aan die raad gelewer wat die Minister [op aanbeveling van die Kommissie vir Administrasie] in oorleg met die Minister vir die Staatsdiens en <u>Administrasie</u> mag bepaal, maar wat nie ’n hoër bedrag is as wat die raad aanbeveel nie.”.
Wet No. 95 van 1991	Wet op die Afskaffing van die Nasionale Energieraad, 1991	Die herroeping van artikel 4.
Wet No. 122 van 1992	Ouditreëlingswet, 1992	<ol style="list-style-type: none"> 1. Die wysiging van artikel 1 deur die omskrywing van “Kommissie” te skrap. 2. Die wysiging van artikel 19 deur subartikels (5) tot (8) te skrap.
Wet No. 44 van 1993	Lughawensmaatskappywet, 1993	Die wysiging van artikel 6 deur subartikel (3) deur die volgende subartikel te vervang: “(3) Die Minister kan ooreenkomstig die bepalinge van ’n ooreenkoms tussen die Departement en die maatskappy [met die instemming van die Kommissie vir Administrasie] enige persoon wat ingevolge die Staatsdienswet, [1984 (Wet No. 111 van 1984)] 1994 (afgekondig by Proklamasie No. 103 van 1994), ’n beampte of werknemer in die Departement is, na die maatskappy oorplaas.”.

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No. and year of law	Short title	Extent of repeal or amendment
Act No. 86 of 1993	Academic Health Centres Act, 1993	<p>The amendment of section 27 by the substitution for subsection (1) of the following subsection:</p> <p>“(1) The staff of an academic health centre shall after the closure of such a centre in terms of section 26 become officers in the employment of the State and be appointed to such posts as the Minister [on the recommendation of the Commission for Administration established by section 2(1) of the Commission for Administration Act, 1984 (Act No. 65 of 1984)] may determine.”.</p>
Act No. 90 of 1993	Magistrates Act, 1993	<p>The amendment of section 12 by the substitution for paragraph (a) of subsection (1) of the following paragraph:</p> <p>“(a) Subject to the provisions of this section, any person occupying the office of magistrate shall, in respect of that office, be paid a salary in accordance with the scale determined from time to time for his or her rank and grade by the Minister by notice in the <i>Gazette</i> in consultation with the Commission [and after consultation with the Public Service Commission] and with the concurrence of the Minister of [State Expenditure] Finance.”.</p>
Act No. 23 of 1994	Public Protector Act, 1994	<p>1. The amendment of section 1 by the deletion of the definition of “Public Service Commission”.</p> <p>2. The amendment of section 3—</p> <p>(a) by the substitution for subsection (10) of the following subsection:</p> <p>“(10) In exercising his or her powers in terms of subsections (1) and (9), the Public Protector shall consult with the Minister of Finance [and the Public Service Commission].”; and</p>

No. en jaar van wet	Kort titel	Omvang van herroeping of wysiging
Wet No. 86 van 1993	Wet op Akademiese Gesondheidsentrums, 1993	<p>Die wysiging van artikel 27 deur subartikel (1) deur die volgende subartikel te vervang:</p> <p>“(1) Die personeel van ’n akademiese gesondheidsentrum word na die sluiting van so ’n sentrum ingevolge artikel 26 beampstes in diens van die Staat en aangestel in die poste wat die Minister [op aanbeveling van die Kommissie vir Administrasie ingestel by artikel 2(1) van die Wet op die Kommissie vir Administrasie, 1984 (Wet No. 65 van 1984)] bepaal.”.</p>
Wet No. 90 van 1993	Wet op Landdroste, 1993	<p>Die wysiging van artikel 12 deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:</p> <p>“(a) Behoudens die bepalinge van hierdie artikel moet aan iemand wat die amp van landdros beklee, ten opsigte van daardie amp, ’n salaris betaal word ooreenkomstig die skaal wat van tyd tot tyd vir sy of haar rang en graad by kennisgewing in die <i>Staatskoerant</i> bepaal word deur die Minister in oorleg met die Kommissie [en na oorleg met die Staatsdienskommissie] en met die instemming van die Minister van [Staatsbesteding] Finansies.”.</p>
Wet No. 23 van 1994	Wet op die Openbare Beskermer, 1994	<p>1. Die wysiging van artikel 1 deur die omskrywing van “Staatsdienskommissie” te skrap.</p> <p>2. Die wysiging van artikel 3—</p> <p>(a) deur subartikel (10) deur die volgende subartikel te vervang:</p> <p>“(10) By die uitoefening van sy of haar bevoegdhede ingevolge subartikels (1) en (9) moet die Openbare Beskermer die Minister van Finansies [en die Staatsdienskommissie] raadpleeg.”; en</p>

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No. and year of law	Short title	Extent of repeal or amendment
Act No. 30 of 1994	Volkstaat Council Act, 1994	<p>(b) by the substitution for subsection (12) of the following subsection:</p> <p>“(12) The Public Protector may, in the performance of the functions contemplated in subsection (1)(b), at his or her request [after consultation with the Public Service Commission], be assisted by officers in the Public Service seconded to the service of the Public Protector in terms of any law regulating such secondment.”.</p> <p>The amendment of section 5 by the substitution for paragraph (a) of subsection (1) of the following paragraph:</p> <p>“(a) The Council may, with the approval of the Director-General of the Department of Constitutional Development and subject to the terms and conditions determined in consultation with the Minister [for the Public Service and Administration and the Public Service Commission] of Finance, appoint a secretary and such other staff as may be necessary for the efficient performance of its functions.”.</p>
Act No. 37 of 1994	Commission on the Remuneration of Representatives Act, 1994	<p>The amendment of section 5 by the substitution for subsection (5) of the following subsection:</p> <p>“(5) The commission shall be assisted in the performance of its functions by a secretariat provided, after consultation with the commission, by the [Public Service Commission] Minister for the Public Service and Administration.”.</p>
Act No. 38 of 1994	Intelligence Services Act, 1994	<p>1. The amendment of section 1 by the deletion of the definition of “Public Service Commission”.</p>

No. en jaar van wet	Kort titel	Omvang van herroeping of wysiging
Wet No. 30 van 1994	Wet op die Volkstaatraad, 1994	<p>(b) deur subartikel (12) deur die volgende subartikel te vervang:</p> <p>“(12) Die Openbare Beskermer kan, in die verrigting van die werksaamhede beoog in subartikel (1)(b), op sy of haar versoek [en na oorleg met die Staatsdienskommissie], bygestaan word deur beamptes in die Staatsdiens wat aan die diens van die Openbare Beskermer afgestaan word ingevolge enige wet wat die afstaan van beamptes in die Staatsdiens reguleer.”.</p>
Wet No. 37 van 1994	Wet op die Kommissie op Besoldiging van Verteenwoordigers, 1994	<p>Die wysiging van artikel 5 deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:</p> <p>“(a) Die Raad kan, met die instemming van die Direkteur-generaal van die Departement van Staatkundige Ontwikkeling en behoudens die bedinge en voorwaardes wat in oorleg met die Minister [vir die Staatsdiens en Administrasie en die Staatsdienskommissie] van Finansies bepaal is, 'n sekretaris en die ander personeel aanstel wat nodig is vir die doeltreffende verrigting van sy werksaamhede.”.</p>
Wet No. 38 van 1994	Wet op Intelligensiedienste, 1994	<p>Die wysiging van artikel 5 deur subartikel (5) deur die volgende subartikel te vervang:</p> <p>“(5) Die kommissie word by die verrigting van sy werksaamhede bygestaan deur 'n sekretariaat wat [in] na oorleg met die kommissie deur die [Staatsdienskommissie] Minister vir die Staatsdiens en Administrasie tot sy beskikking gestel is.”.</p>
Wet No. 38 van 1994	Wet op Intelligensiedienste, 1994	<p>1. Die wysiging van artikel 1 deur die omskrywing van “Staatsdienskommissie” te skrap.</p>

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No. and year of law	Short title	Extent of repeal or amendment
		<p>2. The amendment of section 8 by the substitution for paragraph (ii) of subsection (3) of the following paragraph:</p> <p>“(ii) [after consultation with the Public Service Commission] with the approval of the Minister responsible for the department concerned, transfer such person or member to [another] that department [on] subject to the conditions [determined by the Deputy President or the Minister] imposed by any law governing the transfer.”</p> <p>3. The amendment of section 12—</p> <p>(a) by the substitution for subparagraph (ii) of paragraph (a) of subsection (1) of the following subparagraph:</p> <p>“(ii) if the Minister [concerned has concurred therein and the Public Service Commission has so recommended] responsible for the department concerned has granted his or her approval, in [any other] that department,”; and</p> <p>(b) by the substitution for paragraph (bb) of the proviso to the said paragraph (a) of the following paragraph:</p> <p>“(bb) such a transfer to another department shall [take place on such] be subject to the conditions [as may be determined on the recommendation of the Public Service Commission] imposed by any law governing that transfer; and”.</p>

No. en jaar van wet	Kort titel	Omvang van herroeping of wysiging
		<p>2. Die wysiging van artikel 8 deur paragraaf (ii) van subartikel (3) deur die volgende paragraaf te vervang:</p> <p>“(ii) [na oorleg met die Staatsdienskommissie] met die goedkeuring van die Minister verantwoordelik vir die betrokke departement, sodanige persoon of lid na [’n ander] daardie departement oorplaas [op] onderworpe aan die voorwaardes [wat die Adjunkpresident of die Minister bepaal] opgelê deur die een of ander wet wat die oorplasing reël.”.</p> <p>3. Die wysiging van artikel 12—</p> <p>(a) deur subparagraaf (ii) van paragraaf (a) van subartikel (1) deur die volgende subparagraaf te vervang:</p> <p>“(ii) indien die [betrokke] Minister [daartoe ingestem en die Staatsdienskommissie aldus aanbeveel] verantwoordelik vir die betrokke departement sy of haar goedkeuring verleen het, in [’n ander] daardie departement;”; en</p> <p>(b) deur paragraaf (bb) van die voorbehoudsbepaling by genoemde paragraaf (a) deur die volgende paragraaf te vervang:</p> <p>“(bb) so ’n oorplasing na ’n ander departement [geskied op] is onderworpe aan die voorwaardes [wat op aanbeveling van die Staatsdienskommissie bepaal word] opgelê deur die een of ander wet wat daardie oorplasing reël; en”.</p>

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No. and year of law	Short title	Extent of repeal or amendment
Act No. 54 of 1994	Human Rights Commission Act, 1994	<p>1. The amendment of section 16—</p> <p>(a) by the substitution for paragraph (a) of subsection (1) of the following paragraph: “(a) shall, in consultation with [the Public Service Commission and] the Minister of Finance and subject to the approval of the Commission and the provisions of subsection (5), appoint such staff [in accordance with section 117(1) of the Constitution] as may be reasonably necessary to assist him or her with the work incidental to the performance by the Commission of its functions;” and</p> <p>(b) by the substitution for subsection (6) of the following subsection: “(6) The Commission may, in consultation with the [Public Service Commission] Minister of Finance, in the exercise of its powers or the performance of its duties and functions by or under this Act, the Constitution or any other law, for specific projects, enter into contracts for the services of persons having technical or specialised knowledge of any matter relating to the work of the Commission and [with the concurrence of the Minister of Finance] determine the remuneration, including reimbursement for travelling, subsistence and other expenses, of such persons.”.</p> <p>2. The amendment of section 19 by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:</p>

No. en jaar van wet	Kort titel	Omvang van herroeping of wysiging
Wet No. 54 van 1994	Wet op die Menseregtekommissie, 1994	<p>1. Die wysiging van artikel 16—</p> <p>(a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang: “(a) in ooreg met [die Staatsdienskommissie en] die Minister van Finansies en [behoudens] onderworpe aan die goedkeuring van die Kommissie en die bepalings van subartikel (5), die persoonel [ooreenkomstig artikel 117(1) van die Grondwet] moet aanstel wat redelikerwys nodig is om hom of haar by te staan met die werk bykomstig by die verrigting deur die Kommissie van sy werksaamhede;” en</p> <p>(b) deur subartikel (6) deur die volgende subartikel te vervang: “(6) Die Kommissie kan, in ooreg met die [Staatsdienskommissie] Minister van Finansies, by die uitoefening van sy bevoegdhede of die verrigting van sy pligte en werksaamhede by of kragtens hierdie Wet, die Grondwet of enige ander wet, vir besondere projekte, kontrakte sluit ten einde die dienste te bekom van persone met tegniese of gespesialiseerde kennis in enige aangeleentheid met betrekking tot die werk van die Kommissie en [met die instemming van die Minister van Finansies] die vergoeding, met inbegrip van die vergoeding vir reis-, verblyf- en ander uitgawes, van sodanige persone bepaal.”</p> <p>2. Die wysiging van artikel 19 deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:</p>

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No. and year of law	Short title	Extent of repeal or amendment
		<p>“The President may, after the Commission has made a recommendation [and after consultation with the Public Service Commission], make regulations regarding the following matters in relation to the staff of the Commission:”.</p>
Proclamation No. 138 of 1994	Educators' Employment Act, 1994	The amendment of section 30 by the deletion of subsection (1).
Act No. 2 of 1995	Land Administration Act, 1995	The amendment of section 2 by the deletion of paragraph (b) of subsection (4).
Proclamation No. R. 5 of 1995	South African Police Service Rationalisation Proclamation, 1995	The amendment of section 8 by the substitution for subsection (1) of the following subsection:
		<p>“(1) The salary, salary scale and allowances in respect of the National and Provincial Commissioners shall be determined by the Minister in consultation with the [Public Service Commission] Minister for the Public Service and Administration.”.</p>
Act No. 13 of 1995	Constitutional Court Complementary Act, 1995	The amendment of section 14 by the deletion of the proviso to subsection (3).
Act No. 30 of 1995	Labour Appeal Court Sitting as Special Tribunal Act, 1995	The amendment of section 1 by the substitution for the definition of “Minister” of the following definition:
		<p>“ ‘Minister’ means the Minister [appointed by the President in terms of section 88 of the Constitution to administer the Office of the Public Service Commission] for the Public Service and Administration;”.</p>
Act No. 34 of 1995	Promotion of National Unity and Reconciliation Act, 1995	The amendment of section 5 by the substitution for subparagraph (ii) of paragraph (h) of the following paragraph:
		<p>“(ii) seconded to its service by any department of State at the request of the Commission [and after consultation with the Public Service Commission];”.</p>
Act No. 53 of 1995	Audit Matters Rationalisation and Amendment Act, 1995	1. The amendment of section 1 by the deletion of the definition of “Public Service Commission”.

No. en jaar van wet	Kort titel	Omvang van herroeping of wysiging
Proklamasie No. 138 van 1994	Wet op Indiensneming van Opvoeders, 1994	“Die President kan, nadat die Kommissie ’n aanbeveling gedoen het, [en na oorleg met die Staatsdienskommissie] regulasies uitvaardig betreffende die volgende aangeleenthede met betrekking tot die personeel van die Kommissie:”.
Wet No. 2 van 1995	Wet op Grondadministrasie, 1995	Die wysiging van artikel 2 deur paragraaf (b) van subartikel (4) te skrap.
Proklamasie No. R. 5 van 1995	Suid-Afrikaanse Polisie diens Rasionisasie Proklamasie, 1995	Die wysiging van artikel 8 deur subartikel (1) deur die volgende subartikel te vervang: “(1) Die salaris, salarisskaal en [toelae] toelae van die Nasionale en Provinsiale Kommissaris word deur die [Staatsdienskommissie] <u>Minister vir die Staatsdiens en Administrasie</u> bepaal.”.
Wet No. 13 van 1995	Aanvullende Wet op die Konstitusionele Hof, 1995	Die wysiging van artikel 14 deur die voorbehoudsbepaling by subartikel (3) te skrap.
Wet No. 30 van 1995	Wet op die Arbeidsappèlhof wat Sit as Spesiale Tribunaal, 1995	Die wysiging van artikel 1 deur die omskrywing van “Minister” deur die volgende omskrywing te vervang: “ ‘Minister’ die Minister [deur die President ingevolge artikel 88 van die Grondwet aangestel om die Kantoor van die Staatsdienskommissie te administreer] <u>vir die Staatsdiens en Administrasie;</u> ”.
Wet No. 34 van 1995	Wet op die Bevordering van Nasionale Eenheid en Versoening, 1995	Die wysiging van artikel 5 deur subparagraaf (ii) van paragraaf (h) deur die volgende subparagraaf te vervang: “(ii) op sy versoek [en na oorleg met die Staatsdienskommissie] , vir diens aan hom afgestaan deur enige Staatsdepartement;”.
Wet No. 53 van 1995	Wet op die Rasionisering en Wysiging van Ouditaangeleenthede, 1995	1. Die wysiging van artikel 1 deur die omskrywing van “Staatsdienskommissie” te skrap.

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No. and year of law	Short title	Extent of repeal or amendment
<p>Act No. 59 of 1995</p>	<p>Pan South African Language Board Act, 1995</p>	<p>2. The amendment of section 2 by the substitution for subsection (1) of the following subsection: “(1) The Auditor-General shall, in respect of each of the laws mentioned in the Schedule and in respect of each audit office, determine an effective date in consultation with the [Public Service Commission] Minister for the Public Service and Administration and shall, not later than 30 days before such date, announce the date by notice in the <i>Gazette</i>: Provided that no person shall be adversely affected by the determination of different effective dates for the different audit offices.”.</p> <p>The amendment of section 10— (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph: “(a) shall, in consultation with [the Public Service Commission and] the Minister of Finance, appoint such staff as may reasonably be necessary to assist him or her with the work incidental to the performance of the functions of the Board;”;</p> <p>(b) by the substitution for subsection (6) of the following subsection: “(6) The Board may, in consultation with the [Public Service Commission] Minister of Finance, in the exercise of its powers or the performance of its functions in terms of this Act, the Constitution or any other law, in the case of specific projects, enter into contracts for the purpose of obtaining the services of persons</p>
<p>Act No. 47 of 1997</p>	<p>Pan South African Language Board Act, 1995</p>	<p>2. The amendment of section 2 by the substitution for subsection (1) of the following subsection: “(1) The Auditor-General shall, in respect of each of the laws mentioned in the Schedule and in respect of each audit office, determine an effective date in consultation with the [Public Service Commission] Minister for the Public Service and Administration and shall, not later than 30 days before such date, announce the date by notice in the <i>Gazette</i>: Provided that no person shall be adversely affected by the determination of different effective dates for the different audit offices.”.</p> <p>The amendment of section 10— (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph: “(a) shall, in consultation with [the Public Service Commission and] the Minister of Finance, appoint such staff as may reasonably be necessary to assist him or her with the work incidental to the performance of the functions of the Board;”;</p> <p>(b) by the substitution for subsection (6) of the following subsection: “(6) The Board may, in consultation with the [Public Service Commission] Minister of Finance, in the exercise of its powers or the performance of its functions in terms of this Act, the Constitution or any other law, in the case of specific projects, enter into contracts for the purpose of obtaining the services of persons</p>

No. en jaar van wet	Kort titel	Omvang van herroeping of wysiging
<p>Wet No. 59 van 1995</p>	<p>Wet op die Pan-Suid-Afrikaanse Taalraad, 1995</p>	<p>2. Die wysiging van artikel 2 deur subartikel (1) deur die volgende subartikel te vervang:</p> <p>“(1) Die Ouditeur-generaal bepaal, ten opsigte van elk van die wette in die Bylae vermeld en ten opsigte van elke ouditkantoor, ’n effektiewe datum in oorleg met die [Staatsdienskommissie] Minister vir die Staatsdiens en Administrasie en kondig die datum aan by kennisgewing in die <i>Staatskoerant</i>, nie later nie as 30 dae voor daardie datum: Met dien verstande dat niemand deur die bepaling van afsonderlike effektiewe datums vir die onderskeie ouditkantore nadelig geraak word nie.”.</p> <p>Die wysiging van artikel 10—</p> <p>(a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:</p> <p>“(a) in oorleg met [die Staatsdienskommissie en] die Minister van Finansies [sodanige] die personeel aanstel [as] wat redelikerwys nodig is om hom of haar by te staan met die werk wat voortspuit uit die verrigting van die werksaamhede van die Raad;”;</p> <p>(b) deur subartikel (6) deur die volgende subartikel te vervang:</p> <p>“(6) Die Raad kan, in oorleg met die [Staatsdienskommissie] Minister van Finansies, in die uitoefening van sy bevoegdhede [en] of die verrigting van sy werksaamhede ingevolge hierdie Wet, die Grondwet of enige ander wet, in die geval van bepaalde projekte, kontrakte sluit met die oog op die verkryging van die dienste van persone wat</p>

No. and year of law	Short title	Extent of repeal or amendment
		<p>having technical or specialised knowledge of any matter relating to the functions of the Board and [with the concurrence of the Minister of Finance] determine the remuneration, including reimbursement for travelling, subsistence and other expenses, of such persons.”; and</p> <p>(c) by the substitution in subsection (7) for the words preceding paragraph (a) of the following words:</p> <p>“The President may, after the Board has made a recommendation [and after consultation with the Public Service Commission], make regulations regarding the following matters in relation to the staff of the Board.”.</p>
<p>Act No. 68 of 1995</p>	<p>South African Police Service Act, 1995</p>	<p>1. The amendment of section 35 by the substitution for paragraph (c) of the following paragraph:</p> <p>“(c) if the President or a Premier appoints him or her in the public interest under any law to an office to which the provisions of this Act or the Public Service [Commission] Act, [1984 (Act No. 65 of 1984)] 1994 (promulgated under Proclamation No. 103 of 1994), do not apply.”.</p> <p>2. The amendment of section 52 by the substitution for subsection (2) of the following subsection:</p> <p>“(2) The terms and conditions of service of the personnel of the directorate shall be [determined by the Minister in consultation with the Executive Director and the Public Service Commission] prescribed by or under the laws governing the public service.”.</p>

No. en jaar van wet	Kort titel	Omvang van herroeping of wysiging
<p>Wet No. 68 van 1995</p>	<p>Wet op die Suid-Afrikaanse Polisie, 1995</p>	<p>tegniese of gespesialiseerde kennis het van enige aangeleentheid wat met die werksaamhede van die Raad in verband staan en [met instemming van die Minister van Finansies] die besol-diging, met inbegrip van ver-goeding vir reis-, verblyf- en ander uitgawes, van sodanige persone bepaal.”; en</p> <p>(c) deur in subartikel (7) die woorde wat paragraaf (a) voorafgaan deur die vol-gende woorde te vervang:</p> <p>“Die President kan, nadat die Raad ’n aanbeveling ge-doen het, [en na oorlegple-ging met die Staatsdiens-kommissie] regulasies uitvaardig betreffende die volgende aangeleenthe met betrekking tot die personeel van die Raad:”.</p> <p>1. Die wysiging van artikel 35 deur paragraaf (c) deur die vol-gende paragraaf te vervang:</p> <p>“(c) indien die President of ’n Premier hom of haar in die openbare belang kragtens enige wet in ’n amp aanstel waarop die bepalings van hierdie Wet of die [Wet op die Kommissie vir Admin-istrasie, 1984 (Wet No. 65 van 1984)] Staats-dienswet, 1994 (afgekondig by Proklamasie No. 103 van 1994), nie van toepassing is nie.”.</p> <p>2. Die wysiging van artikel 52 deur subartikel (2) deur die vol-gende subartikel te vervang:</p> <p>“(2) Die bedinge en voor-waardes van diens van die personeel van die direktoraat word [deur die Minister in oorleg met die Uitvoerende Direkteur en die Staatsdiens-kommissie bepaal] by of kragtens die wette op die Staatsdiens voorgeskryf.”.</p>
<p>Wet No. 100 van 1996</p>	<p>Wet op die Suid-Afrikaanse Polisie, 1995</p>	<p></p>

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No. and year of law	Short title	Extent of repeal or amendment
Act No. 19 of 1996	National Youth Commission Act, 1996	<p>1. The amendment of section 13—</p> <p>(a) by the substitution for paragraph (b) of subsection (1) of the following paragraph: “(b) shall, in consultation with [the Public Service Commission and] the Minister of Finance and subject to subsection (5), appoint such staff as may be reasonably necessary to assist him or her with the work incidental to the performance by the Commission of its functions;”;</p> <p>(b) by the substitution for subsection (6) of the following subsection: “(6) The Commission may, in consultation with the [Public Service Commission] Minister of Finance, in the exercise of its powers or the performance of its duties and functions by or under this Act, for specific projects, enter into contracts for the services of persons having technical or specialised knowledge of any matter relating to the work of the Commission and [with the concurrence of the Minister of Finance] determine the remuneration, including reimbursement for travelling, subsistence and other expenses, of such persons.”.</p> <p>2. The amendment of section 14 by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: “The President may, after the Commission has made a recommendation [and after consultation with the Public Service Commission], make regulations regarding the following matters in relation to the staff of the Commission:”.</p>
Act No. 39 of 1996	Commission on Gender Equality Act, 1996	<p>1. The amendment of section 1 by the deletion of the definition of “Public Service Commission”.</p>

No. en jaar van wet	Kort titel	Omvang van herroeping of wysiging
Wet No. 19 van 1996	Wet op die Nasionale Jeugkommissie, 1996	<p>1. Die wysiging van artikel 13—</p> <p>(a) deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:</p> <p>“(b) in oorleg met [die Staatsdienskommissie en] die Minister van Finansies en behoudens subartikel (5), die personeel moet aanstel wat redelikerwys nodig is om hom of haar by te staan met die werk bykomstig by die verrigting deur die Kommissie van sy werksaamhede;”;</p> <p>(b) deur subartikel (6) deur die volgende subartikel te vervang:</p> <p>“(6) Die Kommissie kan, in oorleg met die [Staatsdienskommissie] Minister van Finansies, by die uitoefening van sy bevoegdhede of die verrigting van sy pligte en werksaamhede by of kragtens hierdie Wet, vir besondere projekte, kontrakte sluit ten einde die dienste te bekom van persone met tegniese of gespesialiseerde kennis van enige aangeleentheid met betrekking tot die werk van die Kommissie en [met die instemming van die Minister van Finansies] die vergoeding, met inbegrip van die vergoeding vir reis-, verblyf- en ander uitgawes, van sodanige persone bepaal.”.</p> <p>2. Die wysiging van artikel 14 deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:</p> <p>“Die President kan, nadat die Kommissie ’n aanbeveling gedoen het, [en na oorleg met die Staatsdienskommissie] regulasies uitvaardig betreffende die volgende aangeleenthede met betrekking tot die personeel van die Kommissie:”.</p>
Wet No. 39 van 1996	Wet op die Kommissie op Geslagsgelykheid, 1996	<p>1. Die wysiging van artikel 1 deur die omskrywing van “Staatsdienskommissie” te skrap.</p>

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PUBLIC SERVICE LAWS AMENDMENT ACT, 1997

No. and year of law	Short title	Extent of repeal or amendment
<p>1. Die wysiging van artikel 13—</p> <p>(a) deur paragraaf (f) van sub-artikel (1) deur die volgende paragraaf te vervang:</p> <p>“(f) in ooreenstemming met die Staatseksaminasiekommissie en die Minister van Finansies en behouders van die Staatseksaminasiekommissie, soos in hierdie paragraaf bedoel, is dit die plig van die werkers wat deur die kommissie aangestel is om te dienste te staan en te werk te gaan, te wettig word deur die kommissie, en</p> <p>(b) deur subartikel (2) deur die volgende paragraaf te vervang:</p> <p>“(2) Die kommissie kan in ooreenstemming met die Staatseksaminasiekommissie, die Minister van Finansies en behouders van die Staatseksaminasiekommissie, soos in hierdie paragraaf bedoel, die plig van werkers wat deur die kommissie aangestel is om te dienste te staan en te werk te gaan, te wettig word deur die kommissie, en die kommissie kan in ooreenstemming met die Staatseksaminasiekommissie, die Minister van Finansies en behouders van die Staatseksaminasiekommissie, soos in hierdie paragraaf bedoel, die plig van werkers wat deur die kommissie aangestel is om te dienste te staan en te werk te gaan, te wettig word deur die kommissie, en</p> <p>2. Die wysiging van artikel 14—</p> <p>deur in subartikel (1) die woorde “die kommissie” te wettig word deur die volgende woorde te vervang:</p> <p>“Die President kan, nadat die kommissie aangesê is, bevestiging gegee het, ten opsigte van die Staatseksaminasiekommissie, die plig van werkers wat deur die kommissie aangestel is om te dienste te staan en te werk te gaan, te wettig word deur die kommissie, en</p>	<p>Wet op die Staatseksaminasiekommissie, 1996</p>	<p>2. The amendment of section 7—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p> <p>“(1) The Commission shall at its first meeting or as soon as practicable thereafter—</p> <p>(a) in consultation with [the Public Service Commission and] the Minister of Finance, appoint a suitably qualified and experienced person or a person seconded in terms of subsection (4) as Chief Executive Officer of the Commission for the purpose of assisting the Commission in the performance of its financial, administrative and clerical functions; and</p> <p>(b) be assisted by such staff, seconded in terms of subsection (4) or appointed by the Commission in consultation with [the Public Service Commission and] the Minister of Finance, as may be necessary to enable the Commission to perform its functions.”;</p> <p>(b) by the substitution for subsection (2) of the following subsection:</p> <p>“(2) The persons appointed by the Commission in terms of subsection (1) shall receive such remuneration, allowances and other employment benefits and shall be appointed on such terms and conditions and for such periods as the Commission may, in consultation with [the Public Service Commission and] the Minister of Finance, determine.”;</p> <p>(c) by the substitution for subsection (4) of the following subsection:</p>
<p>1. Die wysiging van artikel 1—</p> <p>deur die omskrywing van die Staatseksaminasiekommissie te wettig word deur die volgende omskrywing te vervang:</p>	<p>Wet op die kommissie op Gesagdekommissie, 1996</p>	<p>Wet No. 79 van 1996</p>

No. en jaar van wet	Kort titel	Omvang van herroeping of wysiging
		<p>2. Die wysiging van artikel 7—</p> <p>(a) deur subartikel (1) deur die volgende subartikel te vervang:</p> <p>“(1) Die Kommissie moet by sy eerste vergadering of so gou doenlik daarna—</p> <p>(a) in oorleg met [die Staatsdienskommissie en] die Minister van Finansies, ’n behoorlik gekwalifiseerde en ervare persoon of ’n persoon afgestaan ingevolge subartikel (4) as Hoof- Uitvoerende Beampte van die Kommissie aanstel ten einde die Kommissie by te staan met die verrigting van sy finansiële, administratiewe en klerklike werksaamhede; en</p> <p>(b) bygestaan word deur die personeel, afgestaan ingevolge subartikel (4) of aangestel deur die Kommissie in oorleg met [die Staatsdienskommissie en] die Minister van Finansies, wat [noodsaaklik] nodig is om die Kommissie in staat te stel om sy werksaamhede te verrig.”;</p> <p>(b) deur subartikel (2) deur die volgende subartikel te vervang:</p> <p>“(2) Die persone deur die Kommissie aangestel ingevolge subartikel (1) ontvang die besoldiging, toelaes en ander diensvoordele en word aangestel op die bedinge en voorwaardes en vir die tydperke wat die Kommissie, in oorleg met [die Staatsdienskommissie en] die Minister van Finansies, bepaal.”;</p> <p>(c) deur subartikel (4) deur die volgende subartikel te vervang:</p>

No. and year of law	Short title	Extent of repeal or amendment
		<p>“(4) The Commission may, in the performance of its functions contemplated in subsection (1)(a), at its request [after consultation with the Public Service Commission], be assisted by officers [of] in the public service seconded to the service of the Commission in terms of any law regulating such secondment.”; and</p> <p>(d) by the substitution for subsection (5) of the following subsection:</p> <p>“(5) The Commission may, in consultation with the [Public Service Commission] Minister of Finance, in the exercise of its powers or the performance of its functions by or under this Act or any other law, for specific projects, enter into contracts for the services of persons having technical or specialised knowledge of any matter relating to the work of the Commission and [with the concurrence of the Minister of Finance] determine the remuneration, including reimbursement for travelling, subsistence and other expenses, of such persons.”.</p>
<p>Act No. 103 of 1996</p>	<p>Telecommunications Act, 1996</p>	<p>The amendment of section 17—</p> <p>(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:</p> <p>“The Council shall, [in consultation with the Public Service Commission and] subject to the approval of the Minister with regard to staff and resources, establish its own administration to assist the Authority in the performance of its functions and to this end the Council shall appoint—”; and</p>

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<p>Wet No. 103 van 1996</p>	<p>Telekommunikasiewet, 1996</p>	<p>“(4) Die Kommissie kan, in die verrigting van [die] sy werksaamhede beoog in subartikel (1)(a), op sy versoek [en na oorleg met die Staatsdienskommissie], bygestaan word deur beamptes in die Staatsdiens wat aan die diens van die Kommissie afgestaan word ingevolge enige wet wat die afstaan van beamptes in die Staatsdiens reël.”; en (d) deur subartikel (5) deur die volgende subartikel te vervang: “(5) Die Kommissie kan, in oorleg met die [Staatsdienskommissie] Minister van Finansies, by die uitoefening van sy bevoegdhede of die verrigting van sy werksaamhede by of kragtens hierdie Wet of enige ander wet, vir besondere projekte, kontrakte sluit ten einde die dienste te bekom van persone met tegniese of gespesialiseerde kennis in enige aangeleentheid met betrekking tot die werk van die Kommissie en [met die instemming van die Minister van Finansies] die vergoeding, met inbegrip van die vergoeding vir reis-, verblyf- en ander uitgawes, van sodanige persone bepaal.”.</p>
<p>Die wysiging van artikel 17—</p>	<p>(a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: “Die Raad stel [in oorleg met die Staatsdienskommissie en], onderworpe aan die goedkeuring van die Minister ten opsigte van personeel en hulpbronne, sy eie administrasie in om die Owerheid by te staan in die verrigting van sy werksaamhede en vir hierdie doel stel die Raad—”; en</p>	<p>Die wysiging van artikel 17— (a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang: “Die Raad stel [in oorleg met die Staatsdienskommissie en], onderworpe aan die goedkeuring van die Minister ten opsigte van personeel en hulpbronne, sy eie administrasie in om die Owerheid by te staan in die verrigting van sy werksaamhede en vir hierdie doel stel die Raad—”; en</p>

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<p>(4) Die Kommissie kan in die vertaling van die Engelse teks van die wetgewende proses in die Staatshoofsaak (1997) op 'n verskeidenheid van maniere gebruik word. Die Kommissie kan ook in die vertaling van die Engelse teks van die wetgewende proses in die Staatshoofsaak (1997) op 'n verskeidenheid van maniere gebruik word. Die Kommissie kan ook in die vertaling van die Engelse teks van die wetgewende proses in die Staatshoofsaak (1997) op 'n verskeidenheid van maniere gebruik word.</p>		<p>(b) by the substitution for subsection (3) of the following subsection: “(3) The Authority may pay to the persons in its employ such remuneration and allowances and provide them with such pension and other benefits as the Authority may determine with the approval of the Minister and with the concurrence of the Minister of Finance [and after consultation with the Public Service Commission].”.</p>
<p>in ooreenstemming met die (1997) Staatshoofsaak (1997) op 'n verskeidenheid van maniere gebruik word. Die Kommissie kan ook in die vertaling van die Engelse teks van die wetgewende proses in die Staatshoofsaak (1997) op 'n verskeidenheid van maniere gebruik word. Die Kommissie kan ook in die vertaling van die Engelse teks van die wetgewende proses in die Staatshoofsaak (1997) op 'n verskeidenheid van maniere gebruik word.</p>		
<p>Die wetsgewing van die (1997) Staatshoofsaak (1997) op 'n verskeidenheid van maniere gebruik word. Die Kommissie kan ook in die vertaling van die Engelse teks van die wetgewende proses in die Staatshoofsaak (1997) op 'n verskeidenheid van maniere gebruik word. Die Kommissie kan ook in die vertaling van die Engelse teks van die wetgewende proses in die Staatshoofsaak (1997) op 'n verskeidenheid van maniere gebruik word.</p>	<p>Table of Contents 1997</p>	<p>Act No. 47 of 1997</p>

No. en jaar van wet	Kort titel	Omvang van herroeping of wysiging
		<p>(b) deur subartikel (3) deur die volgende subartikel te vervang:</p> <p>“(3) Die Owerheid kan aan die persone in sy diens die besoldiging en toelaes betaal en aan hulle die pensioen- en ander voordele voorsien wat die Owerheid met die goedkeuring van die Minister <u>en</u> met die instemming van die Minister van Finansies [en na oorleg met die Staatsdienskommissie] bepaal.”.</p>

WYSIGINGSWET OP STAATSDIENSTWETTING 1967

Van No. 47, 1967

Omskrywing van bespreking of wysiging	Kort feit	Ja of nie ja of wêl
<p>die staatsdienstkommis- sies het opgesa- ander het en word met van die stammet van die en met die stammet keuring van die stammet Owensheid met die goe- wordende voorsien van die die persoon en ander toelating betrek tot die hulle dient die bespreking en aan die persone in die " (f) Die Owerheid kan vryheid te ver- (g) die verandering (j) van die</p>		

