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GOVERNMENT NOTICE

DEPARTMENT OF EDUCATION

No. R. 1133

28 July 1995

EDUCATION LABOUR RELATIONS ACT, 1993

EXTENSION OF AGREEMENT TO INCLUDE ALL
EMPLOYEES AS DEFINED IN THE ACT

I, Sibusiso Mandlenkosi Emmanuel Bengu, Minister of Education, give notice, in terms of section 12 (6) (a) of the Education Labour Relations Act, 1993, of my intention to publish in the *Gazette* a notice extending the agreement in the Schedule hereto to all employers and employees as defined in the Act.

Any interested persons who have any objections to the publication of the proposed notice, or to the provisions thereof, are required to lodge such objections with the Secretary of the Education Labour Relations Council, Mr R. V. Venter, at Private Bag X895, Pretoria, 0001, Fax. (012) 325-1405, within **30 days** from the date of this notice.

S. M. E. BENGU,

Minister of Education.

SCHEDULE

EDUCATION LABOUR RELATIONS COUNCIL

RESOLUTION No. 1 OF 1995

RATIONALISATION OF EDUCATION: INTERIM
MEASURES RELATING TO THE STAFFING OF
RATIONALISED STRUCTURES OF EDUCATION
OUTSIDE EDUCATIONAL INSTITUTIONS

The employer and employee organisations as defined in section 1 of the Education Labour Relations Act 1993, (Act No. 146 of 1993), (hereinafter referred

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GOEWERMENSKENNISGEWING

DEPARTEMENT VAN ONDERWYS

No. R. 1133

28 Julie 1995

WET OP ARBEIDSVERHOUDINGE IN DIE
ONDERWYS, 1993

UITBREIDING VAN OOREENKOMS TER INSLUITING VAN ALLE WERKNEMERS SOOS OMSKRYF IN DIE WET

Ek, Sibusiso Mandlenkosi Emmanuel Bengu, Minister van Onderwys, gee hierby ingevolge artikel 12 (6) (a) van die Wet op Arbeidsverhoudinge in die Onderwys, 1993, kennis van my voorneme om 'n kennisgewing in die *Staatskoerant*, te laat publiseer waarby die ooreenkoms in die Bylae hiervan uitgebrei word na alle werkgewers en werknemers soos omskryf in die Wet.

Belanghebbendes wat enige beswaar het teen die voorgestelde kennisgewing of die voorgestelde bepalinge daarvan, word versoek om sodanige besware in te lewer by die Sekretaris van die Raad vir Arbeidsverhoudinge in die Onderwys, mnr. R. V. Venter, Privaat Sak X895, Pretoria, 0001, Faks (012) 325-1405, binne **30 dae** vanaf die datum van hierdie kennisgewing.

S. M. E. BENGU,

Minister van Onderwys.

BYLAE

RAAD VIR ARBEIDSVERHOUDINGE IN DIE ONDERWYS

RESOLUSIE No. 1 VAN 1995

RASIONALISASIE VAN ONDERWYS: TUSSEN-
TYDSE MAATREELS MET BETREKKING TOT PER-
SONEELVOORSIENING VAN GERASIONALISEERDE
ONDERWYSSTRUKTURE BUITE ONDER-
WYSINSTELLINGS

Die werkgewer- en werknemerorganisasies soos gedefinieer in artikel 1 van die Wet op Arbeidsverhoudinge in die Onderwys, 1993 (Wet 146 van 1993),

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to as "the Act"), who are parties to the Education Labour Relations Council established in terms of section 6 of the Act, agree in terms of section 12 of the Act, 146 of 1993 to the following which shall constitute Resolution No. 1 of 1995:

1. The enclosed document marked "Annexure 1" shall constitute an agreement of the Council;
2. the Minister be requested that the agreement be extended to apply to all employers and employees;
3. the Minister be requested to publish the regulations in "Annexure A" to "Annexure 1";
4. this agreement shall in no way be construed to affect the rights of either the employer or employee parties emanating from any legislation;
5. this agreement shall constitute a special interim measure and shall lapse on 1 April 1996;
6. related measures for educators in educational institutions be negotiated separately and that rationalisation by employees of educators, including provinces, should not be unilateral but should be in accordance with present labour legislation and labour case law;
7. the conclusion of an agreement concerning the related measures for educators in education institutions is urgent and that every attempt should be made to complete this exercise by 30 September 1995; and
8. the process to launch and complete the audit of membership according to common criteria be expedited.

ANNEXURE I

RATIONALISATION OF EDUCATION: INTERIM MEASURES RELATING TO THE STAFFING OF RATIONALISED STRUCTURES OF EDUCATION OUTSIDE EDUCATIONAL INSTITUTIONS

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(hierna verwys as "die Wet"), wie partye tot die Raad vir Arbeidsverhoudinge in die Onderwys is, ingestel ingevolge artikel 6 van die Wet kom tot die volgende ooreen ingevolge artikel 12 van die Wet, wat as Resolusie 1 van 1995 bekend sal staan:

1. Dat die aangehegte dokument gemerk "Aanhangsel I" sal 'n ooreenkoms van die Raad uitmaak;
2. dat die Minister versoek word om die ooreenkoms uit te brei om van toepassing te wees op alle werkgewers en werknemers;
3. dat die Minister versoek word om die regulasies in Bylae A tot Aanhangsel I te publiseer;
4. dat hierdie ooreenkoms op geen wyse uitgelê sal word sodat die regte van óf die werkgewer- óf die werknemerparty voortspuitend uit enige wetgewing, aangetas sal word nie;
5. dat hierdie ooreenkoms 'n spesiale tussen-tydse maatreef sal uitmaak en op 1 April 1996 sal verval;
6. dat soortgelyke maatreefs vir opvoeders aan onderwysinrigtings afsonderlik onderhandel sal word en dat rasionalisering deur werkgewers van opvoeders, insluitende provinsies, nie eensydig sal wees nie maar in ooreenstemming met bestaande arbeidswetgewing en -regspraak;
7. dat die sluiting van 'n ooreenkoms ten opsigte van die soortgelyke maatreefs vir opvoeders aan onderwysinrigtings dringend is en dat alle pogings aangewend sal word om hierdie oefening teen 30 September 1995 af te handel; en
8. dat die proses om die ouditering van lidmaatskap volgens gemeenskaplike kriteria te loods, bespoedig word.

AANHANGSEL I

RASIONALISERING VAN ONDERWYS: TUSSEN-TYDSE MAATREËLS MET BETREKKING TOT PERSONEELVOORSIENING VAN GERASIONALISEERDE ONDERWYSSTRUKTURE BUITE ONDERWYSINSTELLINGS

INHOUD

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RATIONALISATION OF EDUCATION: INTERIM MEASURES RELATING TO THE STAFFING OF THE RATIONALISED STRUCTURES OF EDUCATION OUTSIDE EDUCATIONAL INSTITUTIONS

CHAPTER A

INTRODUCTION

1. Application

The measures contained in this document apply to educators employed outside educational institutions.

2. Interpretations

For the purpose of this document, unless the context otherwise indicates—

“Educational institution” means a school, college of education, technical college or any other institution where any person teaches, educates or trains other persons (excluding an office controlling such school, college or other institution) other than a university or technikon, which is wholly or partly funded by the State;

“Educator” means an educator as defined in the Educators' Employment Act, 1994, who is appointed to a post which has been transferred or abolished as a result of the process of rationalisation, or is employed additional to the fixed establishment and who should be absorbed in a provincial education department as a result of the rationalisation of an education department;

“Employer” means an employer as defined in the Educators' Employment Act, 1994.

3. Purpose

3.1 The purpose of this document is to provide interim measures and procedures relating to the staffing (educator posts) of the rationalised provincial education departments.

3.2 In order to provide for a situation where various objectives, i.e. the protection of serving educators' right to continued employment, the creation of capacity to promote representivity as well as the downsizing of the number of educators outside of educational institutions who are involved in the educational management in the education component of the Public Service to a cost-effective level, can be addressed simultaneously, measures are introduced—

(a) whereby certain educators are afforded the option to request early retirement;

(b) whereby serving educators are to be suitably absorbed in posts/provisions on the establishments of provincial education departments;

(c) to deal with serving educators who cannot be suitably absorbed in posts/provisions on the establishments of provincial education departments; and

(d) to regulate certain staff provisioning and utilisation practices during the transitional period.

RASIONALISERING VAN ONDERWYS: TUSSENTYDSE MAATREËLS MET BETREKKING TOT DIE PERSONEELVOORSIENING VAN DIE GERASIONALISEERDE ONDERWYSSTRUKTURE BUITE ONDERWYSINSTELLINGS

HOOFTUK A

INLEIDING

1. Toepassing

Die maatreëls wat in hierdie dokument vervat is, is nie van toepassing op opvoeders verbonde aan onderwysinstellings nie.

2. Interpretasies

Vir die doeleindes van hierdie dokument, tensy dit uit die inhoud anders blyk—

“Onderwysinstelling” beteken 'n skool, onderwyskollege, tegniese kollege of enige ander instelling waar enige persoon 'n ander persoon leer, onder- rig of oplei (uitgesonderd 'n universiteit, technikon of die kantoor wat sodanige skool, kollege of ander instelling beheer), wat in die geheel of gedeeltelik deur die Staat befonds word.

“Opvoeder” beteken 'n opvoeder soos omskryf in die Wet op Indiensneming van Opvoeders, 1994, wie aangestel is in 'n pos wat oorgeplaas of afgeskaf is as gevolg van rasionalisering, of wie in diens geneem word addisioneel tot die vaste diensstaat en wie in 'n provinsiale onderwysdepartement opgeneem behoort te word as gevolg van die rasionalisering van 'n onderwysdepartement.

“Werkgewer” beteken 'n werkgewer soos omskryf in die Wet op Indiensneming van Opvoeders, 1994.

3. Doel

3.1 Die doel van hierdie dokument is om tussentydse maatreëls en prosedures te verskaf vir die personeelvoorsiening (opvoederposte) van die gerasionaliseerde provinsiale onderwysdepartemente.

3.2 Om vir 'n situasie voorsiening te maak waar verskeie doelstellings, soos die beskerming van diensdoende opvoeders se reg tot voortgesette indienshouding, die skepping van ruimte om verteenwoordigendheid te bevorder asook die afskaling van die getal opvoeders verbonde aan nie-onderwysinstellings wat betrokke is by onderwysbestuur in die opvoedingskomponent van die Staatsdiens, tot 'n bekostigbare vlak, gelyktydig aan te spreek, word maatreëls ingestel—

(a) waardeur sekere opvoeders die opsie gebied word om op versoek voortydig af te tree;

(b) waardeur diensdoende opvoeders gepas opgeneem kan word in poste/postevoorsienings op die diensstate van provinsiale onderwysdepartemente;

(c) om na diensdoende opvoeders wie nie in gepaste poste/postevoorsienings op die diensstate van provinsiale onderwysdepartemente opgeneem kan word nie, om te sien; en

(d) om bepaalde personeelvoorsienings- en benuttingspraktyke gedurende die oorgangstydperk te reël.

CHAPTER B

PRINCIPLES FOR DEALING WITH SERVING EDUCATORS AND THE STAFFING OF THE RATIONALISED STRUCTURES OF EDUCATION

1. In dealing with serving educators, provincial departments must direct their actions in accordance with the following principles:

1.1 In order to ensure a smooth transition to a new constitutional dispensation, it is essential that actions should promote effectiveness and an unhindered continuation of services as contemplated by section 212 and 237 of the Constitution with due consideration of the fundamental rights contained in Chapter 3 of the Constitution of the RSA.

1.2 In order to achieve the various objectives contained in paragraph 3.2 of Chapter A the implementation and application of measures dealing with educators during the rationalisation process, must be fair, transparent and in accordance with applicable employment and labour legislation.

1.3 Changes must be effected in such a manner that the least disruption/inconvenience is created.

1.4 Actions must generate the minimum administrative actions and must be affordable, attainable and practical with due regard to local conditions. In this regard, special care must be taken so as not to discharge educators unnecessarily as such an exercise could be costly.

1.5 Educators who cannot initially be absorbed suitably, will not acquire a right to be discharged as redundant. Discharge from service is a prerogative of the employer.

1.6 All educators shall for purposes of allocation of duties and responsibilities, career incidents, disciplinary and other personnel administrative matters and the application of service conditions, fall under the authority and control of the employer to which they are assigned at any stage of the process of organisational rationalisation. The employer shall further be responsible to ensure that the services of educators who cannot initially be absorbed, are utilised optimally and to the best advantage of the employer.

1.7 In order to facilitate equitable decisions and to ensure an effective transition, due cognisance must be taken of the personal circumstances and preferences of educators with regard to their stationing and headquarters. This does not preclude the relevant Member of an Executive Council, where it is regarded as being in the interest of the employer, from exercising his/her powers to transfer an educator, provided the educator is afforded the opportunity to make representations and his/her representations are properly considered as outlined in the constitution of the Education Labour Relations Council.

HOOFSTUK B

BEGINSELS VIR DIE HANTERING VAN DIENSDOENDE OPVOEDERS EN DIE PERSONEELVOORSIENING AAN DIE GERASIONALISEERDE OPVOEDKUNDIGE STRUKTURE

1. Tydens die hantering van diensdoende opvoeders moet provinsiale departemente die volgende beginsels in gedagte hou:

1.1 Om 'n gladde oorgang na 'n nuwe konstitusionele bedeling moontlik te maak, moet alle aksies daarop gerig wees om effektiwiteit asook die ongehinderde voortsetting van dienste soos beoog in artikel 212 en 237 van die Grondwet met inagneming van die fundamentele regte soos vervat in Hoofstuk 3 van die Grondwet van die RSA, te bevorder.

1.2 Om die verskillende doelstellings soos vervat in paragraaf 3.2, hoofstuk A te bereik moet die inwerkingstelling en die toepassing van die maatreëls vir die hantering van opvoeders gedurende die proses van rasionalisering, regverdig, deursigtig en in ooreenstemming met die voorskrifte van die toepaslike indiensnemings- en arbeidswetgewing wees.

1.3 Verandering moet bewerkstellig word met so min as moontlik ontwrigting en ongerief.

1.4 Optredes moet so min as moontlik addisionele administratiewe pligte tot gevolg hê en moet bekostigbaar, onderhoubaar en prakties wees met inagneming van plaaslike toestande. In hierdie verband moet sorg gedra word dat geen opvoeders onnodig uit diens gestel word nie aangesien so 'n oefening baie duur is.

1.5 Opvoeders wie aanvanklik nie gepas opgeneem kan word nie, sal nie die reg verwerf om as oortollig uit diens gestel te word nie.

1.6 Die werkgever aan wie opvoeders gedurende enige stadium van die rasionaliseringsproses toegewys is, sal verantwoordelik wees om kontrole uit te oefen met betrekking tot toekenning van pligte en verantwoordelikhede, loopbaaninsidente, dissiplinêre en ander administratiewe personeelaangeleenthede. Die werkgever sal voorts daarvoor verantwoordelik wees om toe te sien dat opvoeders wie aanvanklik nie gepas opgeneem kon word nie, se dienste optimaal benut word tot die beste voordeel van die werkgever.

1.7 Om verantwoordbare besluitneming en effektiewe oorgang te verseker, moet opvoeders se persoonlike omstandighede en voorkeure ten opsigte van hulle standplase en hoofkantore, deeglik in ag geneem word. Dit sluit nie die betrokke LUR se mag uit om, waar dit in die belang van die werkgever geag word 'n opvoeder te verplaas nie, op voorwaarde dat die opvoeder die geleentheid gegun word om verhoë te rig en die verhoë wel deeglik oorweeg word soos uiteengesit is in die Grondwet van die Raad vir Arbeidsverhoudinge in die Onderwys.

2. Functions and jurisdiction of the various role players

2.1 In accordance with section 237 (2) of the Constitution, the Minister of Education will oversee the rationalisation process in close co-operation with each Member of an Executive Council responsible for education.

2.2 The relevant Member of an Executive Council and his/her head of department will be responsible for the strategic management of the whole staffing process and the remuneration of the relevant educators with due regard to the role of the employee parties to the Education Labour Relations Council.

3. The organisational rationalisation process

3.1 In order to provide the necessary organisational structure for a rationalised Public Service, the following arrangements have been made or are in the process of implementation:

(a) The promulgation of a rationalised Public Service Act, 1994, which *inter alia* makes provision for the establishment of new departments/administrations at national and provincial levels of government as listed in Schedules 1 and 2 of the Act.

(b) The Public Service Commission *inter alia* recommended and advised that—

(i) the functions of old departments/administrations be transferred to new departments/administrations.

(ii) the organisation components, concomitant posts on the fixed establishment and existing provisions and related authorisations for employment additional to the fixed establishment of the old department(s)/administrations(s) be abolished;

(iii) corresponding organisational components, concomitant posts on the fixed establishment and provisions and related authorisations for employment additional to the fixed establishment in the organisation of the relevant new department/administration be created in terms of appropriate legislation.

(iv) in terms of appropriate legislation all serving employees including educators be transferred to concomitant posts/provisions/related authorisations for employment additional to the fixed establishments of the new departments/administrations.

(c) The final departmentalisation of the new provincial administrations and the internal rationalisation of departments/administrations, whereby the initially established organisations referred to in subparagraph (b) above, are *inter alia* refined or abolished and which includes—

(i) the retention of certain posts referred to in subparagraph (b) (iii) above in respect of which—

(aa) there is no change in job content, i.e. the posts agree in this respect with corresponding or similar posts on the establishment of a constituent old department/administration, which were abolished in the process of rationalisation;

2. Funksies en regsbevoegdheid van die verskillende deelnemers

2.1 Die Minister van Onderwys sal in noue samewerking met elke LUR wat verantwoordelik is vir onderwys, oor die rasionaliseringsproses toesig hou soos voorgeskryf in artikel 237 (2) van die Grondwet.

2.2 Die betrokke LUR en sy/haar departementshoof sal verantwoordelik wees vir die strategiese bestuur van die hele proses van personeelvoorsiening en die besoldiging van die betrokke opvoeders met inagneming van die rol van die werknemerpartye tot die Raad vir Arbeidsverhoudinge in die Onderwys.

3. Die organisatoriese rasionaliseringsproses

3.1 Ten einde die nodige organisatoriese struktuur vir 'n gerasionaliseerde Staatsdiens te voorsien, is die volgende reëlings getref of is reeds in die proses van implementering:

(a) Die uitvaardiging van 'n gerasionaliseerde Staatsdienswet, 1994, wat onder andere voorsiening maak vir die vestiging van nuwe departemente/administrasies op nasionale en provinsiale vlak van regering soos gelys in Skedules 1 en 2 van die Wet.

(b) Die Staatsdienskommissie het onder andere aanbeveel en geadviseer dat—

(i) die funksies van die voormalige departemente/administrasies oorgedra word na nuwe departemente/administrasies;

(ii) die organisatoriese komponente, gepaardgaande poste op die vaste diensstaat en bestaande postevoorsienings en betrokke bemaatigings vir indiensneming addisioneel tot die vaste diensstaat van die voormalige departement(e)/administrasie(s), afgeskaf word;

(iii) ooreenstemmende organisatoriese komponente, gepaardgaande poste op die vaste diensstaat en postevoorsienings asook die betrokke magtigings vir indiensnemings addisioneel tot die vaste diensstaat tydens beplanning van die betrokke nuwe departement/administrasie geskep word in terme van die toepaslike wetgewing; en

(iv) alle diensdoende werknemers, insluitende opvoeders, in terme van toepaslike wetgewing oorgeplaas word na gepaardgaande poste/postevoorsienings/verwante bemaatigings ter indiensneming addisioneel tot die vaste diensstaat van die nuwe departemente/administrasies.

(c) Die finale verdeling van die nuwe provinsiale administrasie in departemente en die interne rasionalisering van departemente/administrasies waarby die organisasies wat aanvanklik tot stand gekom het, en na verwys word in sub-paragraaf (b) hierbo, onder andere verfyn of afgeskaf word en sluit in—

(i) die behoud van sekere poste waarna verwys word in subparagraaf (b) (iii) hierbo waarvan—

(aa) daar geen verandering is wat betref werksinhoud nie, met ander woorde die poste is wat dit betref dieselfde as ooreenstemmende of soortgelyke poste op die diensstaat van 'n voormalige departement/administrasie wat afgeskaf is as gevolg van rasionalisasie;

(bb) the job content reflects varying degrees of change compared to the "comparable" post(s) abolished in the old departments/administrations;

(ii) the creation of new posts, i.e. posts of which the job content as a whole cannot be related to functions previously performed or which cannot be related to that of posts on the establishment of a constituent old department/administration, and which are created with a view to achieving an effective organisation structure, or to cater for functions which were not previously performed;

(iii) the abolition of posts initially created in terms of subparagraph (b) (iii) above, in order to ensure cost-effectiveness; and

(iv) the staffing of the rationalised organisational structures:

Provided that a person shall not be transferred from his or her present headquarters until his or her absorption on the fixed establishment of the receiving department has been finalised.

CHAPTER C

PROCESS TO BE FOLLOWED IN THE STAFFING OF THE RATIONALISED STRUCTURES OF EDUCATION

1. The process to be followed in the staffing of the rationalised structures must be undertaken in accordance with section 237 of the Constitution.

2. In order to address the above-mentioned issues, the following approach will be followed:

(a) Provision to allow certain categories of educators to apply for premature retirement in accordance with a proposed regulation which will be published in terms of the Educators' Employment Act, 1994, and a copy of which is at Annexure A, will be introduced. In order to prevent the retirement of key personnel, the employer shall endeavour to retain the services of such educators who have applied for early retirement through a process of consultation. Written notice shall be given to the affected educator that he or she has been identified as a key personnel member and that the employer wishes to retain his or her services. Should an affected educator still wish to leave the service, he or she shall be entitled to refer the matter for resolution in terms of the provisions of the Constitution of the Education Labour Relations Council.

(b) With due cognisance of the role of the Employee Parties of the Education Labour Relations Council, the relevant Member of an Executive Council, assisted by his/her head of department must—

(i) accurately review the overall personnel situation and needs within the relevant department, with due consideration to functions, concomitant posts and personnel still to be transferred to and from that department;

(bb) wisselende grade van verskil ten opsigte van werksinhoud voorkom met vergelykbare poste wat afgeskaf is in die voormalige departemente/administrasies;

(ii) die skepping van nuwe poste, dit is poste waarvan die totale werksinhoud nie herlei kan word na funksies wat vroeër verrig is of wat nie verwant is aan poste op die diensstaat van 'n voormalige departement/administrasie nie, en wat geskep word met die oog op die daarstelling van 'n effektiewe organisatoriese struktuur, of om voorsiening te maak vir nuwe funksies;

(iii) die afskaffing van poste wat aanvanklik geskep is in terme van subparagraaf (b) (iii) hierbo ten einde koste-effektiwiteit te verseker; en

(iv) die personeelvoorsiening van die gerasionaliseerde organisatoriese struktuur:

Met dien verstande dat 'n persoon nie oorgeplaas sal word vanaf sy huidige hoofkwartier nie alvorens sy opname op die vaste diensstaat van die ontvangende departement gefinaliseer is nie.

HOOFSTUK C

PROSEDURE WAT GEVOLG MOET WORD TYDENS PERSONEELVOORSIENING AAN GERATIONALISEERDE ONDERWYSSTRUKTURE

1. Die proses van personeelvoorsiening van gerasionaliseerde strukture moet plaasvind in ooreenstemming met die voorskrifte van artikel 237 van die Grondwet.

2. Ten einde die bogenoemde aangeleenthede aan te spreek, word die volgende benadering gevolg:

(a) Die instelling van 'n maatreël waarvolgens sekere kategorieë opvoeders die geleentheid gebied word om vir vervroegde aftrede aansoek te doen in ooreenstemming met 'n voorgestelde regulasie wat gepubliseer sal word in terme van die Wet op Indiensneming van Opvoeders, 1994, waarvan 'n kopie ingesluit is by Bylae A. Ten einde die dienste van sleutelpersonele te behou, sal daar met sodanige personeel wat vir vervroegde aftrede aansoek gedoen het, gekonsulteer word. Personele wat as sleutelpersone geïdentifiseer word, sal skriftelik ingelig word dat die werkgever dit wenslik ag dat hulle dienste behoue bly. Indien sodanige opvoeders steeds begerig is om voortydig uit diens te tree, sal hulle daarop geregtig wees om die aangeleentheid kragtens die Grondwet van die Raad vir Arbeidsverhoudinge in die Onderwys vir 'n beslissing te verwys.

(b) Met inagneming van die rol van die werknemerspartye in die Raad vir Arbeidsverhoudinge in die Onderwys, moet die betrokke LUR bygestaan deur sy/haar hoof van die departement—

(i) die algemene personeelsituasie en behoeftes binne die betrokke departement sorgvuldig hersien, met inagneming van die funksies, meegaande poste en personeel wat nog na of vanaf die betrokke departement oorgeplaas moet word;

(ii) properly ascertain, bearing in mind the absence of any uniform criteria for measuring competency, the qualifications and experience of serving educators allocated to that department and assess the extent to which it needs such skills and experience;

(iii) determine in an accountable and objective manner the extent to which it will be in the interest of the department as well as the Public Service as a whole, to continue utilising the human resources already employed; and

(iv) in respect of posts where the actual work content has not changed significantly, seriously consider the absorption of serving educators in accordance with the measures provided in Chapter F.

(c) After the available human resources have been thoroughly considered, the relevant Member of an Executive Council assisted by his/her head of department must consider/determine the actual and compelling needs in respect of the appointment of persons other than those already employed in the education sector of the Public Service in order to promote representivity, with due consideration to the objective of a leaner Public Service. The promotion of a more representative Public Service should be viewed as a process to be managed judiciously. Such a carefully and properly managed action is regarded as critical in order to maintain efficiency in the Public Service.

(d) Serving educators who cannot initially be absorbed suitably in rationalised departments, are to be carried additional to the fixed establishments of recipient employers for a period not exceeding six months, or until they can be suitably absorbed or dealt with in accordance with a suitable legislative provision but in no case for a period exceeding six months.

(e) In addition to the provisions of section 237 (4) of the Constitution of the RSA, any dispute arising from the application of this Chapter may be resolved in terms of the Constitution of the Education Labour Relations Council and/or the Education Labour Relations Act, 1994.

3. The actions referred to in paragraph 2 above, must be implemented in accordance with an approved management plan as set out in Chapter E.

CHAPTER D

INITIATIVE WHEREBY SERVING EDUCATORS ARE AFFORDED THE OPTION TO REQUEST EARLY RETIREMENT

1. Criteria

(a) Educators employed outside educational institutions on post levels 4 to 8 or other equivalent post levels and who have reached the age of 50 years or have at least 30 years actual pensionable service as on 30 November 1995, may apply to be allowed to retire prematurely from service.

(ii) behoorlik seker maak, met inagneming daarvan dat 'n eenvormige maatstaf vir die bepaling van bevoegdheid nie bestaan nie, van die kwalifikasies en ondervinding van diensdoende opvoeders wat aan daardie departement toegewys is, en die mate waarin sekere bekwaamhede en ondervinding benodig word, te evalueer;

(iii) op 'n verantwoordbare en objektiewe manier bepaal in watter mate dit in die departement asook in die Staatsdiens as geheel se belang is om die mannekrag wat reeds in diens is verder aan te wend; en

(iv) dit ernstig oorweeg om in gevalle waar poste bestaan waarvan die werkinhoud nie aansienlik verander het nie, diensdoende opvoeders in sodanige poste op te neem in ooreenstemming met die maatreëls soos vervat in Hoofstuk F.

(c) Nadat alle beskikbare mannekrag behoorlik oorweeg is, moet die betrokke LUR en sy/haar hoof van die departement die werklike en noodsaaklike behoefte wat bestaan oorweeg, ten opsigte van die aanstelling van ander persone wat nie reeds in die onderwyssektor van die Staatsdiens werksaam is nie, in 'n poging om verteenwoordigendheid te bevorder, maar steeds met die doel om 'n leniger Staatsdiens daar te stel. Die oogmerk om 'n meer verteenwoordigende Staatsdiens te bevorder moet gesien word as 'n proses wat oordeelkundig bestuur moet word. 'n Goedbeplande en oordeelkundige bestuursproses is van kardinale belang vir die behoud van effektiwiteit in die Staatsdiens.

(d) Diensdoende opvoeders wie aanvanklik nie op die vaste diensstate van gerasionaliseerde departemente gepas opgeneem kan word nie, moet addisioneel tot die diensstate van die ontvangende werkgewers gedra word vir 'n periode nie langer as ses maande nie, of totdat hulle gepas opgeneem kan word of mee gehandel is in terme van gepaste wetgewing, maar geensins vir 'n tydperk langer as ses maande nie.

(e) Aanvullend tot die bepalinge van artikel 237 (4) van die Grondwet van die RSA kan enige dispute wat mag ontstaan as gevolg van die toepassing van hierdie hoofstuk, hanteer word in terme van die Grondwet van die Raad vir Arbeidsverhoudinge in die Onderwys en/of die Wet op Arbeidsverhoudinge in die Onderwys, 1994.

3. Optredes waarna in paragraaf 2 hierbo verwys word, moet volgens 'n goedgekeurde bestuursplan soos omskryf in Hoofstuk E, geïmplementeer word.

HOOFSTUK D

MAATREËLS WAARVOLGENS DIENSDOENDE OPVOEDERS DIE OPSIE GEBIED WORD OM OP VERSOEK VOORTYDIG UIT DIENS TE TREE

1. Kriteria

(a) Opvoeders op posvlakke 4 tot 8 of ander gelyke poste wat nie in diens by 'n onderwysinstelling is nie en wat op 30 November 1995 reeds die ouderdom van 50 jaar bereik het of wat reeds ten minste 30 jaar pensioengewende diens voltooi het, kan aansoek doen om voortydig uit diens te tree.

(b) Educators who voluntarily identify themselves to be retired prematurely, must, for purposes of this exercise, do so before 30 November 1995.

(c) The relevant measures may not be applied to the following categories of educators:

(i) Those educators in respect of whom a process of discharge or dismissal from service has already been instituted on the date that these measures are implemented. The discharge or dismissal of the said educators must be continued and finalised in terms of the relevant measures;

(ii) in instances where the possibility of a charge of misconduct or an investigation regarding inefficiency is still under consideration, these measures can only be applied once the relevant matter has been concluded and dismissal in terms of another provision of the Act is not applicable; and

(iii) those educators who were promoted/appointed during the period 27 April 1993 to 30 September 1994 and in respect of whom the relevant Member of an Executive Council may be of the opinion that such actions should be referred to the Commission as contemplated in section 236 (6) of the Constitution, 1993 for revision. These measures can only be applied once the relevant matter has been concluded: Provided that in those instances where the following categories of educators have applied timeously, their right to be allowed early retirement under this measure is protected:

▶ Educators charged with misconduct who have been found not guilty and educators who have been found guilty but who have not been discharged as a result thereof.

▶ The same apply in cases where an investigation regarding inefficiency was undertaken.

▶ Where discharge as a result of ill health is still in the process and later proves to be unsuccessful.

2. Statutory provisions to be applied

The relevant regulations published in terms of the Educators' Employment Act, 1994.

Retirement package: The normal retirement benefits consisting of the following will apply:

(a) *Pension benefits:* Pension benefits are payable according to the rules of the pension fund of which the person concerned is a member.

(b) *Vacation leave credits:* A leave gratuity is payable in terms of the provisions and measures in the Service Dispensation Structure for CS educators (Personnel Administration Measures).

(c) *Pro rata service bonus:* A *pro rata* service bonus is payable.

(d) *Official quarters:* Occupation of official quarters may be continued after retirement for a period not exceeding one month.

(b) Opvoeders wat beoog om voortydig uit diens te tree moet vir doeleindes van hierdie oefening hulself voor 30 November 1995 identifiseer.

(c) Hierdie maatreëls is nie van toepassing op die volgende kategorieë opvoeders nie:

(i) Opvoeders wat reeds in die proses van afdanking of ontslag is op die datum waarop hierdie maatreëls in werking tree. Die afdanking of ontslag van sodanige opvoeders moet voortgaan en gefinaliseer word in terme van die betrokke maatreëls;

(ii) in gevalle waar die moontlikheid van 'n klag van wangedrag of 'n ondersoek ten opsigte van ondoeltreffendheid teen 'n opvoeder oorweeg word, sal hierdie maatreëls slegs toegepas kan word wanneer sodanige ondersoek afgehandel is en ontslag in terme van 'n ander voorskrif van die Wet nie toepaslik is nie; en

(iii) opvoeders wat bevorder/aangestel is gedurende die periode 27 April 1993 tot 30 September 1994 en waarvan die betrokke LUR die mening huldig dat sodanige gevalle na die Staatsdienskommissie ooreenkomstig artikel 236 (6) van die Grondwet, 1993, verwys moet word vir hersiening. Hierdie maatreëls kan alleenlik toegepas word wanneer die betrokke gevalle afgehandel is: Met dien verstande dat in die gevalle waar die volgende kategorieë van opvoeders tydig aansoek gedoen het, hulle reg om toegelaat te word om ingevolge hierdie maatreël voortydig uit diens te tree, beskerm word:

▶ Opvoeders wat aangekla is van wangedrag maar onskuldig bevind is en opvoeders wat skuldig bevind is maar nie afgedank is as gevolg daarvan nie.

▶ Dieselfde geld in gevalle waar 'n ondersoek ten opsigte van ondoeltreffendheid onderneem is.

▶ Waar onslag as gevolg van swak gesondheid oorweeg word maar later onsuksesvol blyk te wees.

2. Statutêre maatreëls van toepassing

Die betrokke regulasies soos gepubliseer in terme van die Wet op die Indiensneming van Opvoeders, 1994.

Uitdienstredingspakket: Die gewone uitdienstredingsvoordele sal van toepassing wees;

(a) *Pensioen voordele:* Pensioenvoordele is betaalbaar ooreenkomstig die reëls van die pensioenfonds waarvan die betrokke persoon 'n lid is.

(b) *Vakansieverlofkrediete:* 'n Verlofgratifikasie is betaalbaar in terme van die bepalings en maatreëls in die Diensbedelingstruktuur vir KS-opvoeders (Personeeladministrasiemaatreëls).

(c) *Pro rata vakansiebonus:* 'n *Pro rata*-vakansiebonus is betaalbaar.

(d) *Amptelike kwartiere:* Amptelike kwartiere kan vir 'n periode van een maand, maar nie langer nie, na uitdienstrede bewoon word.

(e) *Service obligations*: No exemption from service obligations is granted. For this purpose service obligations include all contractual debt/outstanding contractual debt arising from study/training agreements and agreements with regard to military training.

(f) *Resettlement benefits*: Resettlement benefits in terms of Chapter E of the Personnel Administration Measures.

(g) *Medical aid*: As provided for in the relevant measures.

3. Conditions

Individual applications in terms of this provision must be in writing.

4. Period of notice

(i) The minimum period of notice is the period of remuneration (for example weekly or monthly) unless a service contract specifically provides for a longer period.

(ii) Longer periods of notice can be given where *employment* until the end of the extended notice period (not exceeding three months) is justified and is in the interest of the Employer.

CHAPTER E

MANAGEMENT PLAN

The provincial departmental management plan must, where applicable, contain the following elements:

(a) The nature/composition of the final departmentalised organisational structure and the establishment provision of each component in the new organisational structure (i.e. the number and level of posts for each component).

(b) An analysis of the new organisational structure per component, clearly identifying the posts—

(i) where there is no change in the job contents i.e. the posts agree in this respect with corresponding or similar posts on the establishment of a constituent old department which was abolished in the process of rationalisation;

(ii) where the job content reflects varying degrees of change compared to the "comparable" post(s) abolished in the old departments; and

(iii) which are new posts, i.e. posts of which the job content cannot be related to that of posts on the establishment of a constituent old department and which are created with a view to achieving an effective organisational structure or to cater for functions which were not previously performed.

(c) An analysis of the existing human resources previously responsible for a specific function within constituent departments. This will include such information as—

(i) the personal particulars of each educator;

(ii) present station and transferability;

(iii) whether the relevant educator has voluntarily identified himself/herself to be retired prematurely in accordance with the provisions contained in Chapter D; and

(e) *Diensverpligtinge*: Diensverpligtinge word nie by uitdienstrede opgehef nie. Vir hierdie doel sluit diensverpligtinge alle skuld/uitstaande kontraktuele skuld voortspruitend uit studie-/opleidingsooreenkomste en ooreenkomste in verband met militêre opleiding in.

(f) *Hervestigingsvoordele*: Hervestigingsvoordele soos vervat in Hoofstuk E van die Personeel-administrasiemaatreëls is van toepassing.

(g) *Mediese hulp*: Soos in die betrokke maatreëls vervat.

3. Voorwaardes

Individuele aansoeke in terme van hierdie maatreëls moet skriftelik wees.

4. Periode van kennisgewing

(i) Die minimum periode van kennisgewing is die periode van besoldiging (byvoorbeeld weekliks of maandeliks) tensy 'n dienskontrak anders bepaal.

(ii) Langer periodes van kennisgewing (wat nie drie maande oorskry nie) kan gegee word waar aanstelling tot die einde van die uitgestelde periode geregverdig en in die belang van die werkgewer is.

HOOFSTUK E

BESTUURSPLAN

Die provinsiale departementele bestuursplan moet, waar van toepassing, die volgende elemente bevat:

(a) Die aard/samestelling van die finale gedepartmentaliseerde organisatoriese strukture en die diensstaatvoorsiening van elke komponent in die nuwe organisatoriese strukture (dit is die getal en posvlakke van elke komponent).

(b) 'n Ontleding van elke komponent van die nuwe organisatoriese struktuur per komponent wat duidelik die poste identifiseer—

(i) waar daar geen verandering in die werksinhoud is nie, byvoorbeeld, 'n pos stem ooreen met soortgelyke poste op die diensstaat van 'n voormalige departement wat as gevolg van rasionalisasie afgeskaf is;

(ii) waar die pligstaat verskillende grade van afwykings in vergelyking met afgeskafte "vergeelykbare" poste in die voormalige gerasionaliseerde departemente reflekteer, en

(iii) wat nuwe poste is, dit is poste waarvan die werksinhoud nie vergelykbaar is met dié van poste op die diensstaat van 'n voormalige departement nie en wat geskep is met die oog op die verwesentliking van 'n doeltreffender organisatoriese struktuur of om voorsiening te maak vir funksies wat nie voorheen uitgevoer is nie.

(c) 'n Ontleding van die bestaande mannekrag wat voorheen verantwoordelik was vir 'n spesifieke funksie binne die voormalige departemente. Dit sal inligting soos die volgende insluit—

(i) die persoonlike besonderhede van elke opvoeder;

(ii) die huidige standplaas en verplaasbaarheid;

(iii) of die betrokke opvoeder homself/haarself vrywillig geïdentifiseer het om voortydig uit diens te tree ooreenkomstig die voorskrifte vervat in Hoofstuk D; en

(iv) any direct link between (an) educator(s) post in a constituent department and a post on the new establishment.

(d) A human resource provisioning plan per component indicating the manner in which the relevant identified posts [subparagraph (b) (ii) and (iii) above] are to be filled by means of the absorption of serving educators in terms of the measures contained in Chapter F.

(e) A schedule of the posts [(b) (i) to (iii) above] to be advertised within, and also outside the employing department with an indication as to the reason why this is being done.

(f) A recruitment plan to deal with the staffing of posts which will not be filled by the direct absorption of serving educators who are already on the appropriate rank levels.

(g) A schedule reflecting the personal particulars of educators to be discharged as redundant.

(h) A contemporaneous schedule containing information regarding the unfolding of the management plan to the employee parties to the Education Labour Relations Council.

CHAPTER F

MEASURES FOR THE ABSORPTION OF SERVING EDUCATORS

1. Functions and jurisdiction of the various role players

1.1 The Minister of Education will be responsible to oversee the rationalisation process in co-operation with the relevant Member of the Executive Council (MEC) responsible for education.

1.2 The relevant MEC and his/her head of department as well as other employers as defined in the Educators' Employment Act, 1994, will be responsible for the strategic management of the whole staffing process with due cognisance of the role of the employee parties to the Education Labour Relations Council.

1.3 The employee parties to the Education Labour Relations Council will be consulted by and may advise the responsible MEC and Head of Department.

2. Measures for the absorption of serving educators in posts/against provisions where it is deemed appropriate

2.1 The absorption of educators in posts shall be effected according to the following measures:

(a) *Where there is no change in headquarters:*

A letter of transfer or appropriate notice (circular or letter of transfer) is issued by the personnel office of the relevant provincial department.

(iv) enige direkte verband tussen ('n) opvoeder(s) pos(te) in 'n voormalige departement en ('n) pos(te) op die nuwe diensstaat,

(d) 'n Mannekragvoorsieningsplan per komponent waarin die wyse waarop die betrokke geïdentifiseerde poste [subparagrafe (b) (ii) en (iii) hierbo], ooreenkomstig die maatreëls soos vervat in Hoofstuk F, deur die opname van bestaande personeel gevul moet word.

(e) 'n Lys van die poste [(b) (i) tot (iii) hierbo] wat binne en buite die indiensnemende departement geadverteer moet word, met 'n aanduiding waarom dit gedoen word.

(f) 'n Wewingsplan om poste wat nie direk deur die opname van bestaande personeel wat reeds op die vereiste range is, gevul kan word nie.

(g) 'n Lys wat die persoonlike besonderhede van personeel wat as gevolg van oortolligheid uit diens gestel moet word, reflekteer.

(h) 'n Lys wat inligting in verband met die verloop van die bestuursplan bevat ter insae aan die werknemerorganisasies in die Raad vir Arbeidsverhoudinge in die Onderwys.

HOOFSTUK F

MAATREËLS VIR DIE OPNAME VAN DIENSDOENDE OPVOEDERS

1. Funksies en regsbevoegdheid van die onderskeie rolspelers

1.1 Die Minister van Onderwys sal in samewerking met die betrokke Lid van die Uitvoerende Raad (LUR) verantwoordelik vir onderwys verantwoordelik wees vir toesighouding oor die rasionaliseringsproses.

1.2 Die betrokke LUR en sy/haar departementshoof sowel as ander werkgewers soos gedefinieer in die Wet op Indiensneming van Opvoeders, 1994, sal verantwoordelik wees vir die strategiese beplanning van die hele personeelvoorsieningsproses met deeglike inagneming van die rol van die werknemerspartye tot die Raad vir Arbeidsverhoudinge in die Onderwys.

1.3 Die werknemerspartye tot die Raad vir Arbeidsverhoudinge in die Onderwys sal gekonsulteer word deur en mag advies verleen aan die verantwoordelike LUR en departementshoof.

2. Maatreëls vir die opname van diensdoende opvoeders in poste/teen postevoorsienings waar dit as geskik geag word

2.1 Die opname van opvoeders in poste sal bewerkstellig word ooreenkomstig die volgende maatreëls:

(a) *Waar daar geen verandering in hoofkwartier is nie:*

'n Brief van oorplasing of toepaslike kennisgewing (omsendbrief of oorplasingsbrief) word uitgereik deur die personeelkantoor van die betrokke provinsiale departement.

(b) Where there is a change in headquarters:

(i) Provincial departments must as a first step, establish whether it is not possible to minimise transfers and resultant transfer costs by means of exchanging relevant personnel at the same post level who might be involved in cross-transfers.

Example: Instead of transferring an educator from Pretoria to Cape Town and another educator, on the same post level, from Cape Town to Johannesburg, it could be arranged for the Pretoria educator to be transferred to Johannesburg.

Note: This would also apply intra-provincially.

Subject to the proviso to paragraph 3.1(c) of Chapter B, where exchanges are possible:

(aa) The relevant educators must be notified of their intended transfer as well as of the possibility of exchanges being effected, if any.

(bb) Where exchanges can be effected, the relevant educators' written consent in this regard must be obtained with the clear understanding that they accept the fact that the posts in which they have opted to be placed, could still be subject to further internal rationalisation.

(cc) In those instances where it is possible to arrange an exchange and where the affected educators have indicated their consent with regard to the arrangement, they are notified accordingly.

(ii) In those instances where exchanges are not possible, the willingness of other educators to be transferred to the relevant station be determined/considered before present incumbents of the relevant posts are notified of their transfer by the relevant provincial department.

(iii) Individual representations from educators pleading non-transferability can be considered by the head of the relevant provincial department. The following criteria can be applied in order to establish whether the claim of non-transferability is justified:

(aa) The nature and scope of the educator's, or his/her family's, involvement in the community and the impact that a forced transfer will have in this regard.

(bb) The position/contribution of the spouse to the household and the impact which a transfer will have on the household.

(cc) The particular circumstances of the family and the financial implications, social and other disruptions which a transfer may have on the household.

Note: It is not the intention that the above criteria should be regarded as a complete checklist and that in each specific case, representations should include motivation under all the factors listed. In considering the circumstances of the individual, the matter must be dealt with in a fair and consistent manner.

(b) Waar daar 'n verandering in hoofkwartier is:

(i) Provinsiale departemente moet as 'n eerste stap die moontlikheid ondersoek om oorplasinge en gevolglike oorplasingekoste tot die minimum te beperk deur uitruiling van betrokke personeel op dieselfde posvlak wat by kruisoorplasinge betrokke mag wees.

Voorbeeld: In plaas daarvan om 'n opvoeder van Pretoria na Kaapstad en 'n ander een, op dieselfde posvlak, van Kaapstad na Johannesburg oor te plaas, kan gereël word om die opvoeder in Pretoria na Johannesburg oor te plaas.

Nota: Hierdie beginsel sal ook intra-provinsiaal geld.

Behoudens die voorwaarde tot paragraaf 3.1(c) van Hoofstuk B, waar uitruilings moontlik is:

(aa) Die betrokke opvoeders moet ingelig word van hulle voorgename oorplasinge asook van die moontlikheid van uitruiling waar van toepassing.

(bb) Waar uitruilings gedoen kan word, moet die betrokke opvoeders se skriftelike instemming hier toe verkry word met die duidelike verstandhouding dat hulle aanvaar dat poste waarin hulle gekies het om in opgeneem te word steeds onderworpe aan verdere interne rasionalisasie kan wees.

(cc) In daardie gevalle waar uitruilings moontlik is en die betrokke opvoeders tot die reëlins ingestem het, word hulle dienooreenkomstig ingelig.

(ii) In daardie gevalle waar uitruilings nie moontlik is nie moet die bereidwilligheid van ander opvoeders om van die betrokke standplaas oorgeplaas te word, vasgestel/oorweeg word alvorens die huidige bekleërs van die betrokke poste deur die betrokke provinsiale departement van hulle oorplasing verwittig word.

(iii) Individuele verhoë van opvoeders wat aanvoer dat hulle nie verplaasbaar is nie kan deur die hoof van die betrokke provinsiale departement oorweeg word. Die volgende kriteria kan toegepas word om te bepaal of 'n eis van nie-verplaasbaarheid geregverdig is:

(aa) Die aard en omvang van die opvoeder of sy/haar gesin se betrokkenheid by die gemeenskap en die gevolge wat 'n gedwonge oorplasing in hierdie verband sal hê.

(bb) Die posisie/bydrae van die eggenoot/eggenote tot die huishouding en die uitwerking wat 'n oorplasing op die huishouding sal hê.

(cc) Die besondere omstandighede van die gesin en die finansiële implikasies, sosiale en ander ontwrigtings wat 'n oorplasing op die huishouding mag hê.

Nota: Die voorafgaande kriteria moet nie as 'n volledige lys van kriteria beskou word nie maar verhoë moet in elke individuele geval motivering ten opsigte van elk van hierdie faktore insluit. Oorweging van die omstandighede van die individu moet op 'n billike en konsekwente wyse geskied.

(iv) If it is found that the reasons tendered for non-transferability are justified, the educator concerned, as well as all the other roleplayers, shall be notified by the relevant provincial department that the transfer to the new headquarters has been cancelled. The following procedure/measures will then apply:

(aa) The relevant educator shall, with effect from the date on which the transfer is cancelled, be employed additional to the fixed establishment of the provincial department until he/she can be suitably accommodated in a post elsewhere or he/she may be dealt with in terms of a suitable legislative provision but in no case for a period exceeding six months.

(bb) The situation of the relevant educators is then administered according to the provisions of Chapter G.

(cc) If the said educator was employed against a post on the establishment, the relevant post is then noted as vacant and the filling of the relevant post must be dealt with in accordance with the prescribed measures.

(dd) If the said educator was employed additional to the fixed establishment of a relinquishing department—

(i) a new provision in terms of subparagraph (aa) above must be provided by the provincial department for the continued employment of the affected educator;

(ii) if the specific need for the original provision continues to exist, the relevant provision is noted as vacant and the filling thereof must be dealt with in accordance with the prescribed measures; and

(iii) if the specific need for the original provision is no longer justified, the relevant provision must be abolished.

(ee) The head of the provincial department must ensure that the service of these educators are utilised to the best advantage of the Employer until they can be suitably absorbed or otherwise dealt with in accordance with relevant legislative provisions.

(v) If it is found that the reasons tendered for non-transferability are insufficient, the educator concerned, as well as all the other roleplayers, are notified accordingly by the provincial department and his/her transfer finalised.

2.2 Where a number of similar posts at the same post level of a component are reduced due to rationalisation, resulting in fewer posts:

(a) The candidature for the post(s) in the new provincial department(s) should first be considered from the educators occupying the relevant posts in the old department(s).

(iv) Indien bevind sou word dat die redes wat ten opsigte van die nie-oorplaasbaarheid aangevoer is, aanvaarbaar is, moet die betrokke opvoeder sowel as al die ander rolspelers, deur die betrokke provinsiale departement in kennis gestel word dat die oorplasing gekanselleer is. Die volgende procedure/maatreëls sal dan geld:

(aa) Die betrokke opvoeder sal, met ingang van die datum waarop die oorplasing gekanselleer is, addisioneel tot die vaste diensstaat van die provinsiale departement in diens gehou word totdat hy/sy toepaslik in 'n pos elders geakkommodeer kan word, of totdat hy/sy ingevolge 'n toepaslike wetlike voorsiening hanteer kan word, maar in geen geval vir langer as ses maande nie.

(bb) Die posisie van die betrokke opvoeders word dan geadministreer ooreenkomstig die maatreëls in Hoofstuk G.

(cc) Indien die betrokke opvoeder aangestel was teen 'n pos op die diensstaat, word die betrokke pos as vakant aangeteken en die vulling van die betrokke pos word dan hanteer ooreenkomstig die voorgeskrewe maatreëls.

(dd) Indien die betrokke opvoeder addisioneel tot die diensstaat van 'n afgewende departement aangestel was—

(i) moet 'n nuwe voorsiening ingevolge subparagraaf (aa) hierbo deur die provinsiale departement voorsien word vir die voortgesette indienshouding van die betrokke opvoeder;

(ii) indien die bepaalde behoefte vir die oorspronklike postevoorsiening voortbestaan, word die betrokke postevoorsiening as vakant aangeteken en die vulling daarvan word dan hanteer ooreenkomstig die voorgeskrewe maatreëls; en

(iii) indien die behoefte vir die oorspronklike postevoorsiening nie langer bestaan nie, moet die betrokke postevoorsiening afgeskryf word.

(ee) Die hoof van die provinsiale departement moet toesien dat die dienste van hierdie opvoeders tot die beste oordeel van die werkgewer benut word totdat hulle toepaslik opgeneem kan word of andersins ingevolge toepaslike wetlike voorsiening hanteer word.

(v) Indien dit sou blyk dat 'n opvoeder se redes vir nie-oorplaasbaarheid onvoldoende is, sal die betrokke opvoeder asook alle ander rolspelers dienooreenkomstig ingelig word deur die provinsiale departement en sal die oorplasing gefinaliseer word.

2.2 Waar 'n aantal soortgelyke poste op dieselfde posvlak van 'n komponent verminder word as gevolg van die rasionaliseringsproses wat minder poste tot gevolg het:

(a) Die aansoeke wat vanaf opvoeders in soortgelyke poste in die voormalige departement(e) ontvang word moet voorkeur geniet tydens die oorweging van die aansoeke vir die pos(te) by die nuwe provinsiale departement(e).

(b) A list of the relevant candidates is compiled by the provincial department. If the situation implies a change in headquarters, representations regarding non-transferability are considered and if found to be justified, the names of the relevant educators are removed from the list and they are administered according to the measures indicated in Chapter G.

(c) If the number of potential candidates (still) exceeds the number of available posts, consideration should be given to the feasibility of employing some of the educators concerned out of adjustment in lower or higher posts or additional to the fixed establishment of the new department. The relevant educators may also be granted the opportunity to voluntarily identify themselves to be declared redundant and thus not be considered for the relevant post(s): Provided that it must be clearly stated to such educators that such action does not establish a right to be declared redundant and that the employer shall retain the prerogative to place them suitably in other posts.

(d) With a view to selecting an educator from a group of educators of similar rank for absorption in a specific post, the normal provisions for appointment to a post shall apply.

(e) Educators who cannot be accommodated in the new establishment are notified accordingly and must then be administered according to the measures indicated in Chapter G.

3. Measures for dealing with serving educators where the posts or provisions that they previously occupied are abolished

Where posts/provisions are abolished the incumbents thereof must be administered in terms of the measures contained in Chapter G.

4. Transfer measures pertaining to seconded CS educators

4.1 To ensure that the vested rights of a seconded educator to terminate his/her secondment at any stage is protected, all such educators must first be given the option to be withdrawn from secondment by the relinquishing department. In all instances where educators indicate that they wish to be withdrawn, the following measures shall apply:

(a) An arrangement must be reached with the seconded educator with regard to a suitable date for withdrawal to ensure that the organisation/department/administration to which he/she was seconded, will be able to continue rendering an effective service.

(b) De-seconded educators must in terms of the provision indicated in paragraph 2.1 (iv) (aa) be employed additional to the fixed establishment of the "mother" (seconding) relinquishing departments where the functions on which they were previously utilised in their former "mother" relinquishing departments have been allocated and their placement during rationalisation is dealt with in accordance with the appropriate procedure and measures contained in paragraph 2.

(b) 'n Lys van die betrokke kandidate word opgestel deur die provinsiale departement. Indien plasing sou beteken dat 'n opvoeder van standplaas moet verwissel, moet die vertoë met betrekking tot nie-verplaasbaarheid oorweeg word en indien grondige redes wel aangevoer is, word die name van die betrokke opvoeders van die lys afgehaal en sal daar ooreenkomstig die maatreëls soos vervat in hoofstuk G, met die opvoeders handel word.

(c) Indien die getal kandidate dan nog steeds meer is as die beskikbare poste, sal daar oorweging geskenk word aan die moontlikheid om van die betrokke opvoeders buite die diensstaat in hoër of laer poste of ook addisioneel tot die diensstaat van die nuwe departement aan te stel. Daar kan ook aan die opvoeders die geleentheid gebied word om hulleself vrywillig as oortollig te laat verklaar en gevolglik nie vir die betrokke pos(te) oorweeg word nie: Op voorwaarde dat dit duidelik gestel sal word dat sodanige optrede nie 'n reg tot oortollig verklaring verskaf nie en dat die werkgewer die reg behou om hulle gepas in ander poste te plaas.

(d) Die normale bepalings is van krag wanneer 'n geskikte opvoeder uit 'n aantal kandidate op dieselfde rang vir opname in 'n spesifieke pos gekies moet word.

(e) Opvoeders wie nie opgeneem kan word op die nuwe diensstaat nie word dienoooreenkomstig ingelig en daar moet ooreenkomstig die maatreëls in Hoofstuk G met hulle handel word.

3. Maatreëls vir die hantering van diensdoende opvoeders van wie die poste of postevoorsienings wat hulle voorheen gevul het, afgeskaf word

Waar poste/postevoorsienings afgeskaf word, moet daar ooreenkomstig die maatreëls in Hoofstuk G met die vorige bekleërs daarvan handel word.

4. Oorplasmingsmaatreëls van toepassing op gesecondeerde KS opvoeders

4.1 Deur te verseker dat 'n gesecondeerde opvoeder se gevestigde regte ten opsigte van die beëindiging van sy sekondering beskerm word, moet alle sodanige opvoeders eers die keuse gegee word om onttrek te word deur die afgewende departement. In alle gevalle waar opvoeders aandui dat hulle onttrek wil word, sal die volgende maatreëls geld:

(a) 'n Geskikte ooreenkoms moet met die gesecondeerde opvoeder bereik word ten opsigte van die spesifieke datum vir onttrekking sodat die organisasie/departement/administrasie aan wie die opvoeder gesecondeer was, kan voortgaan om effektiewe diens te lewer.

(b) Opvoeders wat onttrek is moet in terme van paragraaf 2.1 (iv) (aa) addisioneel tot die vaste diensstaat van die "moeder" (sekonderende) afgewende departemente aangestel word waar die funksies waarby hulle voorheen betrek was in hulle vorige "moeder" afgewende departemente toegeken is, en hulle plasing gedurende rasionalisering word hanteer in ooreenstemming met die geskikte prosedure en maatreëls soos vervat in paragraaf 2.

(c) De-seconded educators who cannot be absorbed in suitable vacancies in the "mother" (seconding) relinquishing departments are to be administered in terms of the measures contained in Chapter G:

Provided that the "mother" relinquishing department is still in existence and provided further that secondment is subject to the proviso to paragraph 3.1 (c) of Chapter B.

4.2 Educators seconded to the former independent states or the former self-governing territories who do not wish to be withdrawn, as well as educators mentioned in the proviso to paragraph 4.1 of this Chapter are regarded as candidates for absorption in posts on the establishment of the receiving provincial department in terms of the measures contained in paragraph 2 and Chapter G.

5. In addition to the provisions of section 237 (4) of the Constitution of the RSA, any dispute arising from the application of this Chapter may be resolved in terms of clause 13 (3) of the Constitution of the Education Labour Relations Council and/or the provisions of the Education Labour Relations Act, 1994.

CHAPTER G

ADMINISTRATION OF THE SITUATION OF EDUCATORS WHO ARE NOT ABSORBED SUITABLY IN POSTS OR AGAINST PROVISIONS ON ESTABLISHMENTS

1. Introduction

Subject to the proviso to paragraph 3.1 (c) of Chapter B the measures contained in this Chapter are intended to ensure that all educators who are not suitably absorbed, are administered according to uniform measures, that they are kept in employment as far as possible and that the interests of the Employer is protected and served at all times.

2. Principles

2.1 For establishment purposes it is regarded that educators who cannot immediately be absorbed suitably, are employed additional to the fixed establishment as provided for in paragraph 2 of Chapter F.

2.2 the fact that an educator cannot immediately be absorbed suitably, does not automatically imply redundancy and does not establish a right to be discharged as such. The occurrence of such a situation does, however, serve as early notice that redundancy may occur.

2.3 Educators who cannot be absorbed suitably in posts or against provisions on the establishments of provincial departments are required to render active assistance with regard to their suitable absorption.

2.4 Educators who refuse a reasonable offer of absorption in a suitable post, after representations, if any and upon failure to assume duty in such a post, must be dealt with in accordance with the appropriate provisions of the Educators' Employment Act, 1994.

(c) Daar moet met opvoeders wat onttrek is en nie gepas in vakatures by die "moeder" (sekonderende) afgewende departement opgeneem kan word nie, in terme van die maatreëls soos vervat in Hoofstuk G gehandel word:

Op voorwaarde dat die "moeder" afgewende departement steeds bestaan en op verdere voorwaarde dat die sekondering onderhewig is aan die voorwaarde tot paragraaf 3.1 (c) van Hoofstuk B.

4.2 Opvoeders wat gesekondeer is aan die voorheen onafhanklike state of die voorheen selfregerende gebiede wat nie onttrek wil word nie, sowel as die opvoeders genoem in die voorwaarde tot paragraaf 4.1 van hierdie hoofstuk word geag as kandidate vir opname in poste op die diensstaat van die ontvangende provinsiale departement in terme van die bepalings soos vervat in paragraaf 2 en Hoofstuk G.

5. Bykomend tot die bepalings in artikel 237 (4) van die Grondwet van die RSA, kan enige dispuut wat voortspruit uit die toepassing van hierdie Hoofstuk bygelê word in terme van die bepalings van klousule 13 (3) van die Grondwet van die Raad vir Arbeidsverhoudinge in die Onderwys en of die bepalings van die Wet op Arbeidsverhoudinge in die Onderwys, 1994.

HOOFSTUK G

HANTERING VAN SITUASIES WAAR OPVOEDERS NIE IN GEPASTE POSTE OF TEEN POSTEVOORSIENINGS OP DIENSSTATE OPGENEEM KAN WORD NIE

1. Inleiding

Behoudens die bepalings van paragraaf 3.1 (c) van Hoofstuk B beoog die bepalings soos vervat in hierdie Hoofstuk om te verseker dat alle opvoeders wie nie gepas opgeneem kan word nie, volgens eenvormige maatreëls hanteer word, dat hulle so lank as moontlik in diens gehou word en dat die belange van die werk-gewer te alle tye beskerm en gedien word.

2. Beginsels

2.1 Vir diensstaattoeleindes word aanvaar dat opvoeders wie nie onmiddellik gepas opgeneem kan word nie, aanvullend tot die vaste diensstaat, ooreenkomstig paragraaf 2 van Hoofstuk F, aangestel word.

2.2 Die feit dat 'n opvoeder nie onmiddellik gepas opgeneem kan word nie, beteken nie outomatiese oortolligheid nie en vestig ook nie 'n reg om as sulks afgedank te word nie. Die voorkoms van so 'n situasie dien egter as 'n vroeë aanduiding dat oortolligheid wel mag voorkom.

2.3 Opvoeders wie nie in geskikte poste of teen postevoorsienings op die diensstate van provinsiale departemente opgeneem kan word nie, word versoek om aktief mee te help met hulle opname in geskikte poste.

2.4 Opvoeders wie 'n redelike aanbod vir opname in 'n geskikte pos weier en na kennisgewing nie diens in sodanige pos aanvaar nie, moet ooreenkomstig die toepaslike bepalings van die Wet op Indiensneming van Opvoeders, 1994, hanteer word.

2.5 With a view to suitably absorb an educator, translation in rank at the request of an educator may be considered and the normal measures pertaining to translations shall apply.

2.6 Before an educator is declared redundant, short-term manpower needs which have not been provided for on the relevant approved establishment should be considered with a view to utilising the service of such an educator additional to the fixed establishment for an extended period: Provided that the directives regulating additional employment to the establishment are adhered to. The utilisation of an educator out of adjustment against a lower graded or higher graded vacancy which could not be suitably filled can also be considered: Provided that care shall be taken to ensure that educators are not prejudiced as a result of their employment of adjustment against lowergraded posts or additional to the fixed establishment for extended periods and that where employment against a lower-graded post is contemplated, the relevant educator's written consent shall first be obtained. The position of an educator who has been appointed out of adjustment shall be reviewed annually after reasonable notice by the employer and such educator shall be entitled during the process of review to be assisted by his or her employee organisation or someone of his or her choice.

3. Measures and procedures

3.1 It is the responsibility of the educators concerned to provide the provincial department with information regarding their placement preferences within one calendar month from the date on which they are initially informed that it is not possible to absorb them suitably and the contents of Annexure C must be brought to their attention.

3.2 It is the responsibility of the relevant personnel office to administer the normal measures with regard to an educator who cannot be absorbed suitably. These include rank promotions, misconduct, service benefits, etc., with regard to an educator who cannot be absorbed suitably.

3.3 The suitable placement of an educator elsewhere in education must be effected in accordance with the applicable legislation.

3.4 It is the responsibility of the employer or his/her delegate to ensure that the services of such educators are, during the interim phase, gainfully utilised.

3.5 Educators concerned are required to render active assistance to enhance their possible absorption. This measure is intended to minimise the occurrence of redundancy.

3.6 After all measures to accommodate an educator in an approved post, with co-operation from his/her side, have failed, notice must be served on him/her that his/her services are to be terminated in terms of section 8 (1) (b) of the Educators' Employment Act, 1994. If circumstances should arise which necessitate the continued employment of such an educator after he/she had been informed that he/she is to be declared redundant, the further employment of such an educator shall be for a mutually accepted period, after which the educator shall be discharged in terms of the provisions of section 8 (1) (b) of the Educators' Employment Act, 1994.

2.5 Met die oog op die gepaste opname van 'n opvoeder, sou oorplasing met rang op die versoek van die opvoeder oorweeg kon word en die normale maatreëls insake oorplasing sal geld.

2.6 Voordat 'n opvoeder oortollig verklaar word moet die korttermyn mannekragbehoefte waarvoor daar nog nie op die betrokke goedgekeurde diensstaat voorsiening gemaak is nie, oorweeg word met die oog daarop om die dienste van sodanige opvoeder addisioneel tot die diensstaat aan te wend vir 'n verlengde periode: Met dien verstande dat die voorskrifte wat addisionele aanstellings tot die diensstaat bepaal, nagekom word. Die aanwending van opvoeders buite verband in laer of hoër gegradeerde poste wat nie gepas gevul kon word nie kan ook oorweeg word: Met dien verstande dat voorsorg getref sal word om te verseker dat opvoeders nie benadeel sal word as gevolg van hulle aanstellings buite verband in laer gegradeerde poste of addisioneel tot die vaste diensstaat vir langer periodes nie en dat waar aanstellings teen laer gegradeerde poste oorweeg word, die betrokke opvoeder se skriftelike instemming daartoe verkry sal word. Die posisie van 'n opvoeder wat buite verband aangesetel is sal jaarliks, na redelike kennisgewing deur die werkgewer, hersien word en sodanige opvoeder sal gedurende die proses van hersiening op die steun van sy/haar werknemersorganisasie of iemand van sy/haar keuse geregtig wees.

3. Maatreëls en prosedures

3.1 Dit is die verantwoordelikheid van die betrokke opvoeders om binne een maand vanaf die datum waarop hulle aanvanklik verwittig is dat hulle nie gepas opgeneem kan word nie, die provinsiale departement van inligting rakende hulle plasingvoorkeure te voorsien. Die inhoud van Bylae C moet onder hul aandag gebring word.

3.2 Dit is die verantwoordelikheid van die betrokke personeelkantoor om die normale maatreëls ten opsigte van 'n opvoeder wie nie gepas opgeneem kan word nie, te administreer. Hierdie sluit rangbevoorregings, wangedrag, diensvoordele, ensovoorts, van sodanige opvoeders in.

3.3 Die gepaste plasing van 'n opvoeder elders in die onderwys moet in terme van toepaslike wetgewing geskied.

3.4 Dit is die verantwoordelikheid van die werkgewer of sy/haar gedelegeerde om te verseker dat die dienste van sodanige opvoeders gedurende die interim fase sinvol aangewend word.

3.5 Die betrokke opvoeders word versoek om aktief bystand te verleen om hulle moontlike opname te bevorder. Hierdie maatreël het ten doel om die voorkoms van oortolligheid sover as moontlik te voorkom.

3.6 Nadat alle maatreëls om 'n opvoeder met sy/haar samewerking in 'n goedgekeurde pos te akkommodeer onsuksesvol was, moet hy/sy in kennis gestel word dat sy/haar dienste in terme van artikel 8 (1) (b) van die Wet op Indiensneming van Opvoeders, 1994, beëindig word. Indien omstandighede voorkom wat die voortgesette aanstelling van sodanige opvoeder, nadat hy/sy in kennis gestel is dat hy/sy oortollig verklaar is, noodsaak, sal die verdere aanstelling van die opvoeder vir 'n onderlinge aanvaarde periode geskied, waarna die opvoeder in terme van artikel 8 (1) (b) van die Wet op die Indiensneming van Opvoeders, 1994, afgedank sal word.

3.7 A uniform retirement package contained in paragraph 7 of Chapter D of the Personnel Administration Measures to the extent to which each individual may qualify for the constituent elements thereof, and the measures relating to periods of notice, shall be applicable to all educators who are declared redundant: Provided that educators are entitled to declare a dispute of right in terms of section 237 (4) of the Constitution in so far as the relevant benefits may be less favorable than those prevailing under their previous Service Acts applicable to them as on 1 November 1993.

4. Complaints lodged with the Special Tribunal

Complaints lodged with the Special Tribunal referred to in section 237 (4) (a) of the Constitution will be dealt with in accordance with the provisions of the applicable Act.

5. Disciplinary actions

Where disciplinary action or discharge on medical grounds in terms of section 8 (1) (a) of the Educators' Employment Act, 1994, is pending against an educator, endeavors to accommodate him/her suitably must be continued. Where an educator can be absorbed suitably, the mere fact that a charge of misconduct is pending, may not be advanced as a reason for not accommodating him/her as such.

3.7 Die eenvormige aftreepakket soos vervat in paragraaf 7 van Hoofstuk D van die Personeeladministrasiemaatreëls, tot die mate waartoe elke individu daarvoor mag kwalifiseer wat die samestelling daarvan en die maatreëls rakende die tydperke van kennisgewing betref, sal van toepassing wees op alle opvoeders wat oortollig is: Met dien verstande dat opvoeders die reg voorbehou om 'n dispuut te verklaar kragtens artikel 237 (4) van die Grondwet indien die betrokke voordele minder voordelig as die wat in terme van hulle vorige indiensnemingswette, soos op 1 November 1993, van toepassing was.

4. Indiening van klagtes by die spesiale tribunaal

Klagtes wat by die Spesiale Tribunaal ingedien word ingevolge artikel 237 (4) (a) van die Grondwet, sal hanteer word ooreenkomstig die bepalings van die toepaslike Wet.

5. Dissiplinêre stappe

Waar dissiplinêre stappe of ontslag op mediese gronde kragtens artikel 8 (1) (a) van die Wet op Indiensneming van Opvoeders, 1994, teen 'n opvoeder hangende is, moet pogings om hom gepas te plaas voortgesit word. Indien 'n opvoeder gepas geplaas kan word, moet die feit dat 'n klag van wan gedrag teen so 'n opvoeder hangende is nie as 'n rede beskou word om hom/haar nie te akkommodeer nie.

No. R. 1134

28 July 1995

THE EDUCATOR'S EMPLOYMENT ACT, 1994 REGULATIONS REGARDING EARLY RETIREMENT OF EDUCATORS

The Minister of Education has in terms of section 28 of the Educators' Employment Act, 1994 (Proclamation No. 138 of 1994), made the regulations set out in the Schedule.

ANNEXURE A DRAFT REGULATION

Definitions

1. In these regulations any expression to which a meaning has been assigned in the Educators' Employment Act, 1994, shall have the meaning so assigned unless otherwise indicated—

"the Act" means the Educators' Employment Act, 1994;

"educational institution" means a school, college of education, technical college or any other institution where any person teaches, educates or trains other persons (excluding an office controlling such school, college or other institution) other than a university or technikon, which is wholly or partly funded by the State;

"pensionable service" means all periods of actual pensionable service recognised in terms of current laws of the public service within the national area of the Republic of South Africa as contemplated in section 1 (2) of the Constitution but excluding periods of service for which a pension benefit is being paid.

No. R. 1134

28 Julie 1995

WET OP INDIENSNEMING VAN OPVOEDERS, 1994 REGULASIES BETREFFENDE DIE VOORTYDIGE AFTREDE VAN OPVOEDERS

Die Minister van Onderwys het kragtens artikel 28 van die Wet op Indiensneming van Opvoeders, 1994 (Proklamasie No. 138 van 1994), die regulasies in die Bylae uitgevaardig.

BYLAE A KONSEPREGULASIE

Woordomskrywing

1. In hierdie regulasies het 'n woord of uitdrukking waaraan daar in die Wet 'n betekenis verleen is, daardie betekenis en tensy uit die samehang anders blyk, beteken—

"die Wet" die Wet op Indiensneming van Opvoeders, 1994;

"onderwysinstelling" 'n skool, onderwyskollege, tegniese kollege of enige ander instelling waar enige persoon 'n ander persoon leer, onderrig of oplei (uitgesonderd 'n universiteit, technikon of die kantoor wat sodanige skool, kollege of ander instelling beheer), wat in die geheel of gedeeltelik deur die Staat befonds word; en

"pensioengewende diens" alle tydperke van werklike pensioengewende diens wat tans ingevolge die wette op die staatsdiens binne die nasionale grondgebied van die Republiek van Suid-Afrika, soos in artikel 1 (2) van die Grondwet bedoel, as sodanige diens erken word, uitgesonderd pensioengewende diens wat ingevolge die een of ander wet terugkoop is.

Application of these regulations

2. These regulations are applicable to educators employed outside educational institutions on post levels 4, 5, 6, 7 and 8 or equivalent post levels and who have reached the age of 50 years or who have completed at least 30 years actual pensionable service.

Special provision for early retirement

3. The Minister or Member of the Executive Council may, at the request of an educator on post level 4, 5, 6, 7 or 8 or equivalent post levels employed outside an educational institution who has reached the age of 50 years, or who has completed at least 30 years actual pensionable service, notwithstanding the absence of any reason for his or her discharge in terms of section 8 (1) of the Act, allow him or her to retire from service if in the opinion of such Minister or Member a sufficient reason exists.

Short title

4. These regulations shall be entitled, Special Regulations to provide for the early retirement of Educators, 1994.

ANNEXURE B**SECTION A (to be completed by the educator)****THE HEAD OF DEPARTMENT:**

REQUEST TO BE ALLOWED TO BE RETIRED PREMATURELY IN TERMS OF THE PROVISIONS OF THE EDUCATORS' EMPLOYMENT ACT, 1994

I, (surname and full names)

Rank..... Persal No./Pay No. do hereby request to be allowed to be retired prematurely from the Service in terms of the Educators' Employment Act, 1994.

I hereby declare that this request is made voluntarily and that I am familiar with the conditions and severance benefits as set out in the relevant Annexure.

.....
Signature

.....
Date

SECTION B (to be completed by the relevant Personnel Office)

Department
Post level of educator
Date of birth..... Age
Salary scale.....
Number of years service.....
Date from which pensionable service accrues.....
Normal retirement age.....

Appointment measures exist for the relevant post level YES* NO*

The relevant educator's request is not prohibited by the criteria as set out in paragraph 1 (c) of Chapter E YES* NO*

.....
Head of personnel

.....
Date

* Indicate with an "X".

Toepassing van regulasies

2. Die bepalings van hierdie regulasies is slegs van toepassing op 'n opvoeder op posvlak 4, 5, 6, 7 of 8 of 'n gelyke posvlak, wat reeds die ouderdom van 50 jaar bereik het of wat reeds ten minste 30 jaar pensioengewende diens voltooi het en wat nie in diens by 'n onderwysinstelling is nie.

Voortydige aftrede

3. Die Minister of 'n Lid van die Uitvoerende Raad kan, op versoek van 'n opvoeder op posvlak 4, 5, 6, 7 of 8 of 'n gelyke posvlak, wat reeds die ouderdom van 50 jaar bereik het of wat reeds ten minste 30 jaar pensioengewende diens voltooi het en wat nie by 'n onderwysinstelling in diens is nie, sodanige opvoeder toelaat om ondanks die afwesigheid van enige rede vir ontslag ingevolge artikel 8 (1) van die Wet, uit diens af te tree indien daar na die oordeel van die Minister of vermeldde Lid voldoende rede daarvoor bestaan.

Kort titel

4. Hierdie regulasies heet die Spesiale Regulasies ten einde Voorsiening te maak vir die Voortydige Aftrede van Opvoeders, 1995.

BYLAE B

AFDELING A (moet deur die opvoeder voltooi word)

DIE HOOF VAN DIE DEPARTEMENT:

VERSOEK OM TOEGELAAT TE WORD OM VOORTYDIG UIT DIENS TE TREE IN TERME VAN DIE BEPALINGS VAN DIE WET OP INDIENSNEMING VAN OPVOEDERS, 1994

Ek, (van en volle voorname)

Rang Persal No./Betaalnommer versoek hiermee om toegelaat te word om voortydig uit die Diens te tree kragtens die Wet op Indiensneming van Opvoeders, 1994.

Ek verklaar hiermee dat hierdie versoek vrijwillig gemaak word en dat ek vertrouwd is met die voorwaardes en skeidingsvoordele soos uiteengesit in die betrokke Bylae.

.....
Handtekening

.....
Datum

AFDELING B (moet deur die betrokke personeelbeampte voltooi word)

Departement
Posvlak van opvoeder
Geboortedatum Ouderdom
Salarisskaal
Aantal diensjare
Datum van wanneer pensioengewende diens tel
Normale aftree-ouderdom

Aanstellingsmaatreëls bestaan ten opsigte van die betrokke posvlak JA* NEE*

Die betrokke opvoeder se versoek word nie verbied deur die maatstawwe soos uiteengesit in paragraaf 1 (c) van Hoofstuk E nie JA* NEE*

.....
Hoof van personeel

.....
Datum

* Dui met 'n "X" aan.

SECTION C (to be completed by the head of department)

Request for early retirement in terms of the provisions of the regulations recommended with effect from.....

Head of department

Date

ANNEXURE C

NOTICE OF EDUCATORS WHO CANNOT BE ABSORBED SUITABLY IN POSTS OR AGAINST PROVISIONS ON THE FIXED ESTABLISHMENTS OF DEPARTMENTS

1. Whilst it is not possible to absorb you appropriately at this stage, steps are being taken to effect your suitable absorption.

2. There will be no change in your rank, pensionable salary or salary scale. Approval has been obtained for your employment additional to the fixed establishment of this department with effect from..... for a period of six months, or until you can be suitably absorbed in a post elsewhere, or can be dealt with in accordance with the provisions of the Educators Employment Act 1994, whichever period is the shortest.

3. For the purpose of the allocation of duties and responsibilities, the maintenance of career incidents, disciplinary and other personnel administrative matters and the application of service conditions, you will continue to fall under the authority and control of the head/acting head of this department.

4. While it is not possible to initially accommodate you suitably, you—

(a) are obliged to provide the personnel office with particulars regarding your preferences in respect of possible placement elsewhere; and

(b) are advised to apply for suitable vacancies including those on your present grade and at the headquarters of your preference or in reasonable proximity, as may be advertised in order to prevent you from being declared redundant.

5. The fact that it is not possible to absorb you suitably at this stage, does not necessarily imply redundancy and does not establish a right to be discharged as such. You are, however, hereby notified that such a situation may occur if endeavors to ensure your suitable placement are not successful.

6. You are also informed that refusal of a reasonable transfer or to assume duty in a post if so instructed after representations by you, if any, have been declined, appropriate action in accordance with the provisions of the Educators' Employment Act, 1994 will be instituted.

7. You are responsible to inform the personnel office should there be any change in your personal circumstances which may affect your preferences with regard to placement.

AFDELING C (moet deur die hoof van die departement voltooi word)

Versoek vir vervroegde aftrede ooreenkomstig die bepalings van die regulasies word goedgekeur met ingang van.....

Hoof van die departement

Datum

BYLAE C

KENNISGEWING AAN OPVOEDERS WIE NIE GEPAS OPGENEEM KAN WORD IN POSTE OF TEEN POSTEVOORSIENINGS OP DIE VASTE DIENSSTATE VAN DEPARTEMENTE NIE

1. Alhoewel dit op hierdie tydstip nie moontlik is om u gepas op te neem nie, word daar wel stappe geneem om u gepaste opname moontlik te maak.

2. Daar sal geen verandering wees in u rang, pensioengewende salaris of salarisskaal nie. Goedkeuring is verkry vir u indienshouding addisioneel tot die vaste diensstaat van hierdie departement met ingang van..... vir 'n tydperk van ses maande, of totdat u gepas opgeneem kan word in 'n pos elders, of daar met u gehandel kan word in ooreenstemming met die bepalings van die Wet op Indiensneming van Opvoeders, 1994, welke tydperk die kortste is.

3. Ten opsigte van die toewysing van pligte en verantwoordelikhede, die byhou van loopbaaninsidente, dissiplinêre en ander administratiewe personeelaangeleenthede en die toepassing van diensvoorwaardes, sal u onderhewig bly aan die gesag en kontrole van die hoof/waarnemende hoof van hierdie Departement.

4. Aangesien dit aanvanklik nie moontlik is om u gepas te plaas nie, word u—

(a) verplig om die personeelkantoor in te lig omtrent u voorkeure vir moontlike plasing elders; en

(b) aangeraai om vir gepaste vakatures asook vakatures op u huidige rang by die hoofkwartier van u keuse of binne 'n redelike afstand daarvan, aansoek te doen, soos dit geadverteer mag word in 'n poging om u moontlike oortolligverklaring te voorkom.

5. Die feit dat dit tans nie moontlik is om u gepas op te neem nie, beteken nie noodwendig dat u oortollig is nie en vestig dus ook nie die reg om as sodanig uit diens gestel te word nie. U word egter hiermee in kennis gestel dat so 'n situasie wel mag voorkom as pogings om u gepas te plaas onsuksesvol sou wees.

6. Dit word aan u gestel dat weiering van 'n redelike oorpasing of nie-aanvaarding van 'n pos nadat u sodanig gelas is en nadat u versoë (indien enige) deeglik in oorweging gebring is, sal daar in ooreenstemming met die maatreëls soos vervat in die Wet op Indiensneming van Opvoeders, 1994, teenoor u opgetree word.

7. Dit is u verantwoordelikheid om die personeelkantoor in te lig omtrent enige verandering ten opsigte van u persoonlike omstandighede wat 'n invloed op u keuse ten opsigte van plasing mag hê.

IMPORTANT ANNOUNCEMENT

Closing times PRIOR TO PUBLIC HOLIDAYS for

LEGAL NOTICES
GOVERNMENT NOTICES **1995**

The closing time is 15:00 sharp on the following days:

- ▶ **3 August**, Thursday, for the issue of Friday **11 August**
- ▶ **21 September**, Thursday, for the issue of Friday **29 September**
- ▶ **20 December**, Wednesday, for the issue of Friday **29 December**
- ▶ **28 December**, Thursday, for the issue of Friday **5 January 1996**

Late notices will be published in the subsequent issue, if under special circumstances, a late notice is being accepted, a double tariff will be charged

The copy for a **SEPARATE Government Gazette** must be handed in not later than three calendar weeks before date of publication

BELANGRIKE AANKONDIGING

Sluitingstye VOOR VAKANSIEDAE vir

WETLIKE KENNISGEWINGS
GOEWERMENSKENNISGEWINGS **1995**

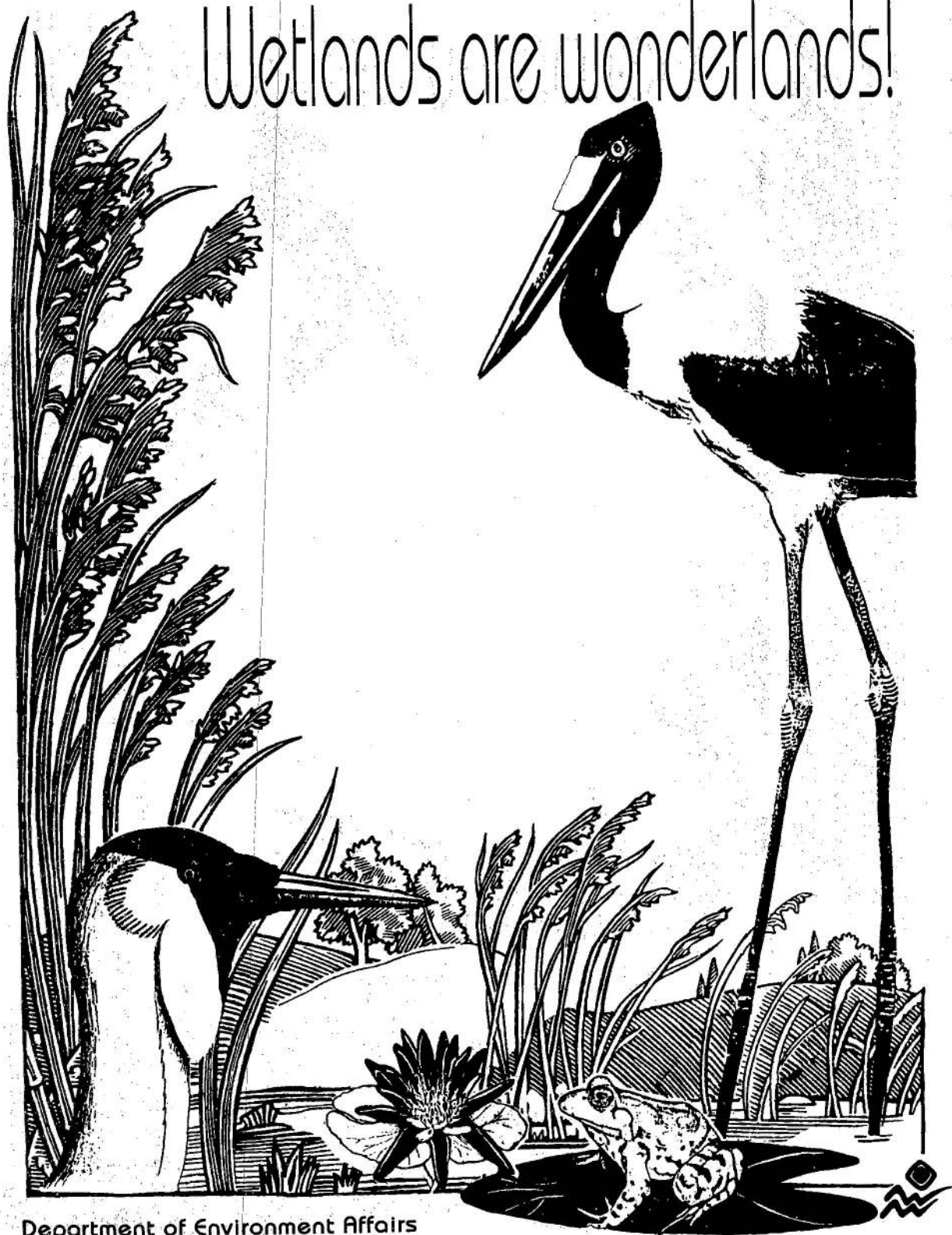
Die sluitingstyd is stiptelik 15:00 op die volgende dae:

- ▶ **3 Augustus**, Donderdag, vir die uitgawe van Vrydag **11 Augustus**
- ▶ **21 September**, Donderdag, vir die uitgawe van Vrydag **29 September**
- ▶ **20 Desember**, Woensdag, vir die uitgawe van Vrydag **29 Desember**
- ▶ **28 Desember**, Donderdag, vir die uitgawe van Vrydag **5 Januarie 1996**

Laat kennisgewings sal in die daaropvolgende uitgawe geplaas word. Indien 'n laat kennisgewing wel, onder spesiale omstandighede, aanvaar word, sal 'n dubbeltarief gehef word.

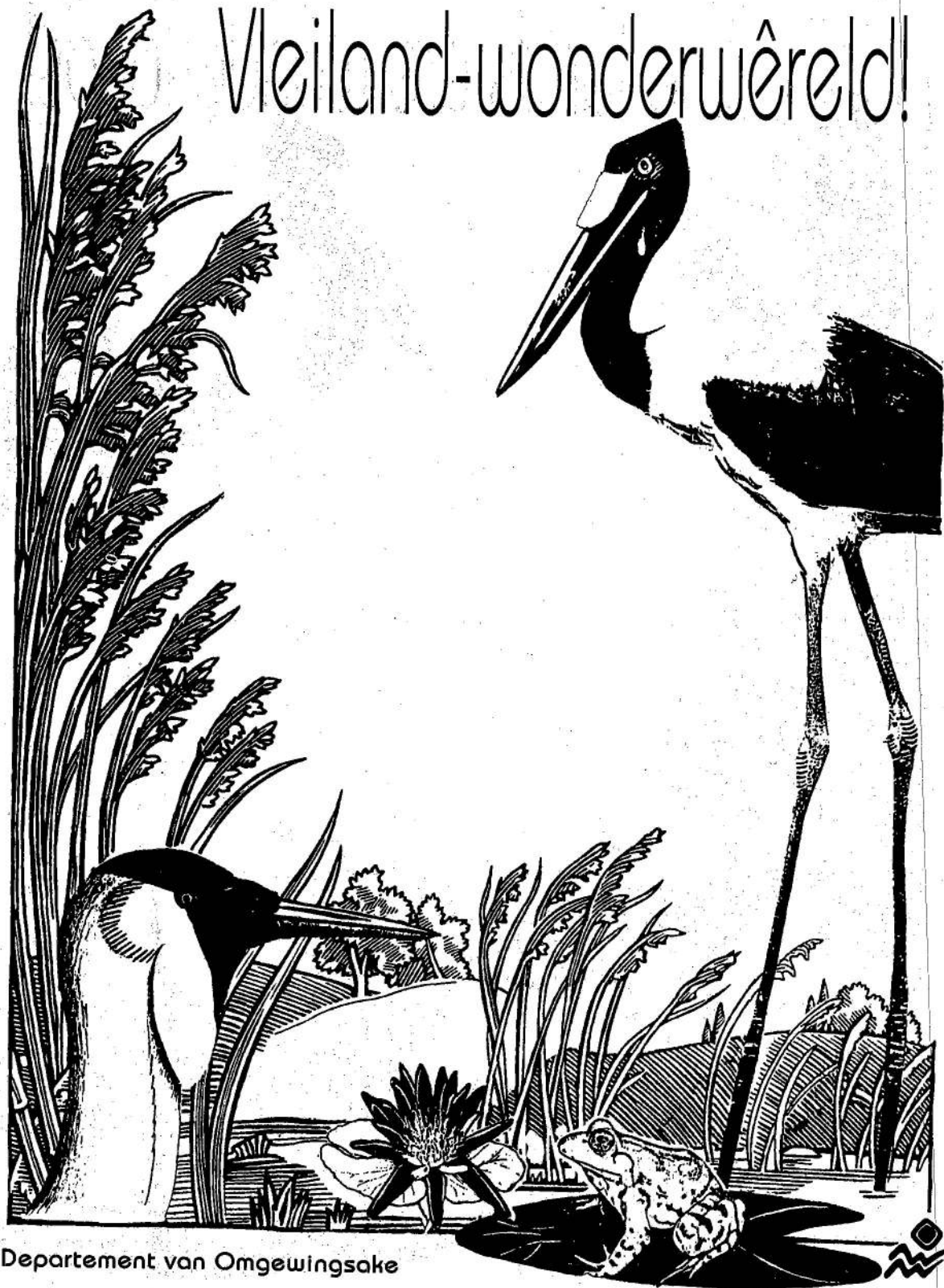
Wanneer 'n **APARTE Staatskoerant** verlang word moet die kople drie kalenderweke voor publikasie ingedien word

Wetlands are wonderlands!



Department of Environment Affairs

Vleiland-wonderwêreld!



Departement van Omgewingsake

Use it
Don't abuse  it
water is for everybody

~~~~~

Werk mooi daarmee  
Ons leef  daarvan  
*water is kosbaar*

Please keep our country,  
South Africa, clean!



Help om ons land, Suid-Afrika,  
skoon te hou!

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