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PROCLAMATION

by the

President of the Republic of South Africa

No. R. 90, 1995

ASSIGNMENT OF THE URBAN TRANSPORT ACT, 1977, TO THE PROVINCES UNDER SECTION 235 (8) OF
THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1993

Under section 235 (8) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), I
hereby—

- (a) assign the administration of the Urban Transport Act, 1977 (Act No. 78 of 1977), excluding those provisions (if any) of the said Act which fall outside the functional areas specified in Schedule 6 to the Constitution or which relate to matters referred to in paragraphs (a) to (e) of section 126 (3) of the Constitution, to a competent authority within the jurisdiction of the government of a province mentioned in section 124 (1) of the Constitution, designated by the Premier of the province concerned;
- (b) determine that the said Act is assigned to the extent specified in the first column of the Schedule in so far as that Act is applicable in, or in a part of, the province concerned;
- (c) amend the said Act in respect of every province mentioned in section 124 (1) of the Constitution, to the extent set out in the second column of the Schedule; and
- (d) delete with reference to the Province of KwaZulu/Natal the definition of "joint services board" in section 1 of the said Act.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Twenty-eighth day of September, One thousand Nine hundred and Ninety-five.

N. R. MANDELA,

President.

By Order of the President-in-Cabinet:

Z. S. T. SKWEYIYA,

Minister of the Cabinet.

SCHEDULE**EXTENT OF ASSIGNMENT, AND AMENDMENTS TO THE URBAN TRANSPORT ACT, 1977**

Extent of assignment	Amendments
<p>The whole, excluding—</p> <p>(a) sections 4A, 8 and 10A; and</p> <p>(b) sections 1, 2 and 25 (2) and (3), in so far as they apply or relate to section 4A, 8 or 10A.</p>	<p>1. The amendment of section 1—</p> <p>(a) by the substitution for the definition of “Administrator” of the following definition:</p> <p>“‘Administrator’, in so far as a provision of this Act is applied in or with reference to a particular province, means—</p> <p>(a) the competent authority to whom the administration of this Act has under section 235 (8) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), been assigned in that province;</p> <p>(b) for the purposes of sections 11, 13, 14, 15 and 16 in the case where a regional services council or a transitional metropolitan council, as the case may be, is the core city, the regional services council or transitional metropolitan council in question;”;</p> <p>(b) by the substitution in the definition of “approved transport plan” for the words preceding paragraph (a) of the following words:</p> <p>“means, subject to subsection (7) of section 6, any transport plan approved by the urban transport board under that section and includes a programme in respect of—”;</p> <p>(c) by the substitution for the definition of “fund” of the following definition:</p> <p>“‘fund’, in so far as a provision of this Act is applied in or with reference to a particular province, means the fund established for that province by section 8A;”;</p> <p>(d) by the substitution for the definition of “local authority” of the following definition:</p> <p>“‘local authority’ means a transitional metropolitan substructure, transitional local council or local government body, as the case may be, contemplated in section 1 (1) of the Local Government Transition Act, 1993 (Act No. 209 of 1993), or any other institution or body recognized by the urban transport board as a local authority for the purposes of this Act, in so far as it is so recognized;”;</p> <p>(e) by the substitution for the definition of “Minister” of the following definition:</p> <p>“‘Minister’ means the Minister of Transport in the national government;”;</p> <p>(f) by the insertion after the definition of “Minister” of the following definition:</p> <p>“‘Minister of Finance’—</p> <p>(a) in so far as the administration of a provision of this Act has under section 235 (8) of the Constitution of the Republic of South Africa, 1993, been assigned to a competent authority within the jurisdiction of the government of a province and the provision is applied in or with reference to the province concerned, means the member of the Executive Council of that province responsible for the budget in the province; or</p> <p>(b) in so far as the administration of a provision of this Act has not been so assigned, means the Minister of Finance in the national government;”;</p> <p>(g) by the insertion after the definition of “officer” of the following definition:</p> <p>“‘province’ means a province established in terms of section 124 of the Constitution of the Republic of South Africa, 1993;”;</p> <p>(h) by the deletion of the definition of “selfgoverning territory”;</p> <p>(i) by the insertion before the definition of “transport fund” of the following definitions:</p> <p>“‘transitional local council’ means a transitional local council as defined in section 1 (1) of the Local Government Transition Act, 1993;</p> <p>‘transitional metropolitan council’ means a transitional metropolitan council as defined in section 1 (1) of the Local Government Transition Act, 1993;</p> <p>‘transitional metropolitan substructure’ means a transitional metropolitan substructure as defined in section 1 (1) of the Local Government Transition Act, 1993;”;</p>

Extent of assignment	Amendments
	<p>(j) by the addition of the following definitions:</p> <p>“‘urban transport board’, in so far as a provision of this Act is applied in or with reference to a particular province, means the urban transport board established for that province by section 5;</p> <p>“Urban Transport Fund” means the Urban Transport Fund established in terms of section 8.”;</p> <p>2. The substitution of the following section for section 2:</p> <p>“Interpretation of regulations</p> <p>2. (1) Any reference in a regulation made under this Act to the roads board, shall be construed as a reference to the urban transport board in question, except in so far as such a regulation applies or relates to section 4A, 8 or 10A.</p> <p>(2) In so far as a regulation made under this Act applies or relates to section 4A, 8 or 10A, and refers to the fund, such a reference shall be construed as a reference to the Urban Transport Fund.”;</p> <p>3. The amendment of section 3—</p> <p>(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:</p> <p>“Notwithstanding the provisions of any other law, the Administrator may, on the recommendation of the urban transport board, by notice in the <i>Provincial Gazette</i>—”;</p> <p>(b) by the deletion in subsection (2) of the expression “concerned”; and</p> <p>(c) by the addition of the following subsection:</p> <p>“(3) Any metropolitan transport area so declared under this section prior to the date upon which the administration of a provision of this Act has under section 235 (8) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), been assigned to a competent authority within the government of a province, shall be deemed to have been so declared under subsection (1).”;</p> <p>4. The amendment of section 4—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p> <p>“(1) (a) Subject to subsection (2), the Administrator shall, for every metropolitan transport area in which the areas, or any portion thereof, under the jurisdiction of two or more local authorities have been included, designate one such local authority as the core city: Provided that where the area, or any portion thereof, under the jurisdiction of a single transitional metropolitan council has also been included in such a metropolitan transport area, that transitional metropolitan council shall be the core city for such metropolitan transport area.</p> <p>(b) The Administrator shall, for every metropolitan transport area in which the areas, or any portion thereof, under the jurisdiction of two or more transitional metropolitan councils have been included, designate one such transitional metropolitan council as the core city.”;</p> <p>(b) by the substitution for subsection (2) of the following subsection:</p> <p>“(2) Where the area, or any portion thereof, under the jurisdiction of only one transitional local council or transitional metropolitan council has been included in a metropolitan transport area, that transitional local council or transitional metropolitan council, as the case may be, shall be the core city for such metropolitan transport area.”;</p> <p>(c) by the addition to subsection (3) of the following paragraph, the existing subsection becoming paragraph (a):</p> <p>“(b) Where a metropolitan transport area referred to in paragraph (a) is situated wholly within the area under the jurisdiction of a transitional metropolitan council, the regional services council in question shall cease to be the core city for such a metropolitan transport area and that transitional metropolitan council shall be the core city for such a metropolitan transport area.”; and</p>

Extent of assignment	Amendments
	<p>(d) by the addition of the following subsection:</p> <p>"(5) A transitional metropolitan council which is a core city may enter into an agreement with any relevant transitional metropolitan substructure in terms of which that transitional metropolitan substructure may, on behalf of that transitional metropolitan council, exercise or perform any function or part thereof, entrusted to a core city in terms of this Act."</p> <p>5. The substitution of the following section for section 4A:</p> <p>"Functions of roads board in respect of objects of this Act</p> <p>4A. (1) In order to achieve the objects of this Act, the roads board shall, by itself or in collaboration with or through any person or authority—</p> <ul style="list-style-type: none"> (a) ensure that research in connection with urban transport matters is co-ordinated on a national basis; (b) and subject to subsection (2), do research or cause research to be done, or make any other investigation or cause any other investigation to be made, whether in the Republic or elsewhere, in connection with urban transport planning or traffic control or any other matter which in the opinion of the roads board will promote the objects of this Act. <p>(2) The roads board shall perform its functions in terms of paragraph (b) of subsection (1) only after consultation with the respective urban transport boards and with the approval of the Minister."</p> <p>6. The substitution of the following section for section 5:</p> <p>"Establishment and functions of urban transport boards</p> <p>5. (1) There is hereby established an urban transport board for each province.</p> <p>(2) The Administrator shall determine by regulation—</p> <ul style="list-style-type: none"> (a) the constitution of the urban transport board; (b) the term of office of members of the urban transport board; (c) the quorum for and procedure at meetings of the urban transport board; (d) the way in which the chairperson and vice-chairperson of the urban transport board shall be designated or elected; (e) after consultation with the Minister of Finance, the remuneration and allowances of members of the urban transport board who are not in the service of the State. <p>(3) In order to achieve the objects of this Act, the urban transport board shall after consultation with the Administrator—</p> <ul style="list-style-type: none"> (a) in any metropolitan transport area in the province concerned, regulate and control the formulation and application of an urban transport policy which is in its opinion efficacious; (b) determine the functions of any authority concerned in the implementation of such policy in the province concerned; (c) ensure that any such authority implements such policy properly in all respects; (d) co-ordinate and supervise all matters concerning urban transport in the province concerned; (e) by itself or in collaboration with or through the roads board or any other person or authority— <ul style="list-style-type: none"> (i) do research or cause research to be done, or make any other investigation or cause any other investigation to be made in connection with urban transport planning or traffic control or any other matter which in the opinion of the urban transport board will promote the objects of this Act; (ii) make or cause to be made any investigation in connection with transport matters with a view to the declaration of any particular area to be a metropolitan transport area; (f) consult with interested authorities and local authorities in order to ensure that adequate provision is made for any foreseeable increase or change in urban transport facilities needed; (g) perform such other tasks falling within the objects of this Act as the Administrator may impose upon the urban transport board.

Extent of assignment	Amendments
	<p>(4) All administrative work in connection with the performance of the functions of the urban transport board, shall be performed by the Director-General of the provincial administration of the province concerned and such other officers and employees of that provincial administration as the Director-General may designate.</p> <p>(5) The urban transport board shall cause records to be kept of the proceedings at every meeting held by it in connection with its functions in terms of this Act.”.</p> <p>7. The amendment of section 6—</p> <ul style="list-style-type: none"> (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph: <p>“(a) consider and approve a properly prepared transport plan in relation to any metropolitan transport area which has been submitted to it by the Administrator;”;</p> <ul style="list-style-type: none"> (b) by the deletion in paragraph (b) of subsection (1) of the expression “subject to the provisions of subsection (7);”; (c) by the substitution in paragraph (d) of subsection (1) for the expression “Minister” of the expression “Administrator”; (d) by the substitution in paragraph (i) of subsection (1) for the expression “Minister” of the expression “Administrator”; (e) by the substitution in subsection (2) for the expression “Administrator concerned” of the expression “Administrator”; (f) by the deletion in subsection (3) of the expression “concerned”; (g) by the substitution for subsection (6) of the following subsection: <p>“(6) If any local authority or transitional metropolitan council, as the case may be, in the opinion of the Administrator fails to exercise or to perform any power or function conferred or imposed on it by or in terms of this Act, the Administrator may, on the recommendation of the urban transport board and after written notice to that local authority or transitional metropolitan council, direct the urban transport board to exercise or perform or cause to be exercised or performed such power or function, and the urban transport board may recover from that local authority or transitional metropolitan council the expenditure in connection therewith.”;</p> <ul style="list-style-type: none"> (h) by the substitution for subsection (7) of the following subsection: <p>“(7) Any approved transport plan which existed immediately prior to the date upon which the administration of a provision of this Act has under section 235 (8) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), been assigned to a competent authority within the government of a province, shall be deemed to have been approved under subsection (1) (a).”; and</p> <ul style="list-style-type: none"> (i) by the substitution for the expression “roads board”, wherever it occurs, of the expression “urban transport board”. <p>8. The amendment of section 7—</p> <ul style="list-style-type: none"> (a) by the substitution in subsection (1) for the expression “Any Administrator” of the expression “The Administrator”; (b) by the substitution in subsection (2) for the expression “That Administrator” of the expression “The Administrator”; and (c) by the substitution for the expression “roads board”, wherever it occurs, of the expression “urban transport board”. <p>9. The amendment of section 8—</p> <ul style="list-style-type: none"> (a) by the substitution in paragraph (b) of subsection (1) for the expression “fund” of the expression “Urban Transport Fund”; (b) by the substitution in paragraph (c) of subsection (1) for the expression “fund” of the expression “Urban Transport Fund”; (c) by the substitution in subsection (2) for the expression “fund” of the expression “Urban Transport Fund”; (d) by the substitution in subsection (3) for the expressions “fund”, “State Revenue Fund” and “Secretary for Transport” of the expressions “Urban Transport Fund”, “National Revenue Fund” and “Director-General: Transport” respectively;

Extent of assignment	Amendments
	<p>(e) by the substitution in subsection (4) for the expression "fund", wherever it occurs, of the expression "Urban Transport Fund";</p> <p>(f) by the substitution in subsection (5) for the expression "fund" of the expression "Urban Transport Fund";</p> <p>(g) by the substitution in subsection (6) for the expression "fund" of the expression "Urban Transport Fund"; and</p> <p>(h) by the deletion of subsection (7).</p> <p>10. The insertion after section 8 of the following section:</p> <p>"Establishment and administration of Provincial Urban Transport Funds</p> <p>8A. (1) There is hereby established a fund for each province to be known as the Provincial Urban Transport Fund and into which shall be paid—</p> <p>(a) moneys appropriated by the provincial legislature in question for the fund;</p> <p>(b) interest on invested cash balances belonging to the fund;</p> <p>(c) any other moneys received by the urban transport board in terms of or for the purposes of this Act.</p> <p>(2) The urban transport board shall administer the fund and shall defray from it all expenditure incurred in connection with the exercise or performance of the powers or functions of the urban transport board in terms of this Act or the regulations made thereunder, except in so far as the provincial legislature in question may provide otherwise in relation to any specified approved transport plan in operation in, or in relation to any local authority of which the area under its jurisdiction has been included in, any metropolitan transport area.</p> <p>(3) The urban transport board shall annually submit to the Administrator for his approval, estimates of expenditure to be defrayed from the fund, and shall make no payment from the fund except in accordance with estimates so approved or with the prior approval of the Administrator.</p> <p>(4) The urban transport board may with the approval of the Administrator invest moneys in the fund not immediately required by it.</p> <p>(5) The urban transport board shall keep proper accounts of all moneys accruing to or paid out of the fund, and such accounts shall be audited by the Auditor-General.</p> <p>(6) (a) When the Administrator or any local authority or transitional metropolitan council collects moneys or pays moneys to the urban transport board on behalf of the fund, the Administrator, local authority or transitional metropolitan council, as the case may be, shall in respect thereof submit annually to the urban transport board, for inclusion in its own accounts, statements of account in such form as the provincial treasury in question after consultation with the Auditor-General may approve, which have been audited by the auditor of the province concerned or any person who acts as auditor of the local authority or transitional metropolitan council in terms of any law, as the case may be, and are supported by such auditor's or person's report and the necessary documentary evidence.</p> <p>(b) For the purposes of an audit in terms of subsection (5), the Auditor-General shall accept the certificate of a provincial auditor or other person referred to in paragraph (a) of this subsection, and the statements of account and documentary evidence concerned, but the Auditor-General may, if he thinks fit, comment thereon in his report.”</p> <p>11. The substitution of the following section for section 9:</p> <p>"Loans to urban transport board</p> <p>9. (1) The Administrator may from time to time, from moneys appropriated by the provincial legislature in question therefor, grant loans to the urban transport board for the purposes of this Act.</p> <p>(2) The urban transport board shall from the fund pay the interest on any loan so granted and redeem any loan so granted in such instalments and within such period as the Administrator, with the concurrence of the Minister of Finance, may determine.”</p> <p>12. The amendment of section 10—</p> <p>(a) by the substitution in paragraph (a) for the expression "any Administrator or local authority" of the expression "the Administrator or any local authority";</p> <p>(b) by the substitution in subparagraph (i) of paragraph (a) for the expression "such Administrator or local authority" of the expression "the Administrator or such local authority";</p>

Extent of assignment	Amendments
	<p>(c) by the deletion of paragraphs (c), (j) and (k);</p> <p>(d) by the substitution in paragraph (m) for the expression "any Administrator" of the expression "the Administrator"; and</p> <p>(e) by the substitution for the expression "roads board", wherever it occurs, of the expression "urban transport board".</p> <p>13. The insertion after section 10 of the following section:</p> <p>"Utilization of Urban Transport Fund</p> <p>10A. The roads board may further in its discretion and on such conditions as it may think fit, from the Urban Transport Fund—</p> <ul style="list-style-type: none"> (a) defray a specified part of the expenditure incurred by any person or body in connection with urban transport research; (b) make a grant for the establishment and maintenance of a chair of transport engineering or transport economics, or any other subject directly connected with transport, at a university or other educational institution approved by it; (c) make a grant to any person for training in transport engineering or transport economics or any other matter in relation to transport; (d) make a grant for defraying the costs incurred in respect of maintenance as provided for in a programme in respect of maintenance; (e) provide subsidized transport for officers of the roads board; (f) defray the cost or part of the cost incurred by any officer of the roads board in using his or her private transport, with the prior approval of the roads board, for the purposes of his or her official functions, at such tariff as the Director-General: Transport may from time to time determine in respect of the class of motor vehicle such officer so uses.”. <p>14. The substitution of the following section for section 12:</p> <p>"Appointment of Metropolitan Advisory Boards</p> <p>12. (1) Where no transitional metropolitan council or, a regional services council in terms of section 4 (3), is the core city, the Administrator shall appoint a Metropolitan Transport Advisory Board.</p> <p>(2) If a regional services council or transitional metropolitan council, as the case may be, is the core city, the regional services council or transitional metropolitan council shall appoint a Metropolitan Transport Advisory Board.”.</p> <p>15. The amendment of section 13—</p> <ul style="list-style-type: none"> (a) by the substitution for paragraph (c) of subsection (1) of the following paragraph: <p style="padding-left: 2em;">“(c) not more than three members nominated by the Administrator;”;</p> <ul style="list-style-type: none"> (b) by the deletion of paragraph (i) of subsection (1); (c) by the substitution in the proviso to subsection (3) for the expression "such Administrator" of the expression "the Administrator"; and (d) by the substitution for the expressions "roads board" and "Administrator concerned", wherever they occur, of the expressions "urban transport board" and "Administrator" respectively. <p>16. The amendment of section 14—</p> <ul style="list-style-type: none"> (a) by the substitution in subsection (1) for the expression "Administrator concerned" of the expression "Administrator"; (b) by the substitution in subsection (3) for the expression "the Minister", wherever it occurs, of the expression "the Administrator"; and (c) by the substitution for the expression "roads board", wherever it occurs, of the expression "urban transport board". <p>17. The amendment of section 15 by the substitution in subsection (5) for the expressions "Administrator concerned" and "roads board" of the expressions "Administrator" and "urban transport board" respectively.</p> <p>18. The amendment of section 16—</p> <ul style="list-style-type: none"> (a) by the substitution for paragraph (c) of subsection (1) of the following paragraph: <p style="padding-left: 2em;">“(c) at the request of the Administrator conduct any study in relation to transport and advise the Administrator on the preparation of a transport plan by the local authorities or a transitional metropolitan council, as the case may be, of which the areas or area under their or its jurisdiction or of which any portion of the areas or area under their or its jurisdiction have or has been included in the metropolitan transport area concerned;”;</p>

Extent of assignment.	Amendments
	<p>(b) by the insertion in subparagraph (ii) of paragraph (f) of subsection (1) after the expression "local authorities" of the expression "or transitional metropolitan council";</p> <p>(c) by the substitution in subsection (1) for the expression "an Administrator", wherever it occurs, of the expression "the Administrator"; and</p> <p>(d) by the substitution for the expressions "Administrator concerned" and "roads board", wherever they occur, of the expressions "Administrator" and "urban transport board" respectively.</p> <p>19. The amendment of section 17 by the substitution for the expressions "Administrator concerned" and "roads board", wherever they occur, of the expressions "Administrator" and "urban transport board" respectively.</p> <p>20. The amendment of section 18—</p> <ul style="list-style-type: none"> (a) by the substitution for paragraph (b) of subsection (1) of the following paragraph: <ul style="list-style-type: none"> "(b) moneys granted by the Administrator from the Provincial Revenue Fund in question;" (b) by the insertion in paragraph (e) of subsection (1) after the expression "local authority" of the expression "or transitional metropolitan council"; (c) by the insertion in paragraph (a) of subsection (2) after the expression "local authority" of the expression "or transitional metropolitan council"; (d) by the substitution in paragraph (b) of subsection (2) for the expression "Administrator concerned or any local authority" of the expression "Administrator, any local authority or a transitional metropolitan council"; and (e) by the substitution for the expressions "Administrator concerned" and "roads board", wherever they occur, of the expressions "Administrator" and "urban transport board" respectively. <p>21. The amendment of section 19—</p> <ul style="list-style-type: none"> (a) by the substitution in subsection (1) for the expression "Gazette" of the expression "Provincial Gazette"; (b) by the substitution in subsection (2) for the expression "Administrator concerned" of the expression "Administrator"; (c) by the substitution for the expression "roads board", wherever it occurs, of the expression "urban transport board". <p>22. The substitution of the following section for section 20:</p> <p>"Expropriation by local authority or transitional metropolitan council"</p> <p>20. Notwithstanding the provisions of any other law, any local authority or transitional metropolitan council may, subject to the provisions of the Expropriation Act, 1975 (Act No. 63 of 1975), expropriate in a metropolitan transport area any land, including any real right in or over land but excluding State land and any real right in or over State land, necessary for the implementation of any applicable approved transport plan."</p> <p>23. The substitution of the following section for section 21:</p> <p>"Levies by local authority or transitional metropolitan council"</p> <p>21. (1) Notwithstanding the provisions of any other law, any local authority or transitional metropolitan council of which the area under its jurisdiction or of which any portion of the area under its jurisdiction has been included in any metropolitan transport area, may from time to time impose, in accordance with any applicable approved transport plan, levies determined or approved by the Administrator, and which may differ from case to case, on—</p> <ul style="list-style-type: none"> (a) specified classes of motor vehicles entering specified portions of the metropolitan transport area in the area under its jurisdiction at specified times; (b) land or buildings, except in so far as they are used or intended for private dwelling purposes and land or buildings of which the State is the owner, in the metropolitan transport area in the area under its jurisdiction; (c) the parking of motor vehicles in any buildings or premises in specified portions of the metropolitan transport area in the area under its jurisdiction; (d) parking-places for motor vehicles in such portions; (e) places where goods are off-loaded from or loaded onto motor vehicles in such portions.

Extent of assignment	Amendments
	<p>(2) Amounts received by way of levy in terms of—</p> <ul style="list-style-type: none"> (a) subsection (1)(a), (c), (d) and (e), shall once in a month be paid into the transport fund concerned; (b) subsection (1)(b), shall once in a year be paid into the transport fund concerned.”. <p>24. The substitution of the following section for section 22:</p> <p>“Further powers of local authority or transitional metropolitan council</p> <p>22. (1) Notwithstanding the provisions of any other law, any local authority or transitional metropolitan council of which the area under its jurisdiction or of which any portion of the area under its jurisdiction has been included in any metropolitan transport area, may in accordance with any applicable approved transport plan—</p> <ul style="list-style-type: none"> (a) regulate the size, class or number of motor vehicles that may enter any specified portion of the metropolitan transport area in the area under its jurisdiction, and determine the time or times when any class of vehicle may enter any such portion; (b) regulate or prohibit the entry of any class of motor vehicle in any such portion during any specified period; (c) prohibit the loading or off-loading of goods motor vehicles in any such portion during any specified period or periods, and determine the time or times when such loading or off-loading may take place; (d) regulate or prohibit the provision of parking-places for vehicles in any building or premises in any such portion during any specified period. <p>(2) Any such local authority or transitional metropolitan council may, with the approval of the urban transport board, let to any person the unoccupied part of land or of any building in any such portion which has been acquired in any manner for the purposes of any applicable approved transport plan, and shall pay the nett proceeds thereof into the transport fund concerned, unless such land (with or without improvements) was acquired or such building was erected by such local authority or transitional metropolitan council solely at its own expense.</p> <p>25. The substitution of the following section for section 23:</p> <p>“Exercise of powers and performance of duties of local authorities or transitional metropolitan council</p> <p>23. The Administrator may, with the approval of the urban transport board, by himself exercise or perform or cause to be exercised or performed any power or duty conferred or imposed by this Act on any local authority or transitional metropolitan council, including a core city, and in that case any moneys payable from the fund or the transport fund concerned to such local authority or transitional metropolitan council may be utilized by the Administrator for the purpose for which they are intended, and the Administrator may recover from such local authority or transitional metropolitan council any relevant cost for which it may be liable.”.</p> <p>26. The amendment of section 24—</p> <ul style="list-style-type: none"> (a) by the substitution for subsection (1) of the following subsection: <p style="padding-left: 2em;">“(1) The urban transport board may, subject to the approval of the Administrator, delegate any power conferred on it by this Act to any member or officer of the urban transport board or the deputy of a core city.”; and</p> <ul style="list-style-type: none"> (b) by the substitution in subsection (2) for the expression “Any Administrator” of the expression “The Administrator”. <p>27. The amendment of section 25—</p> <ul style="list-style-type: none"> (a) by the insertion in subsection (1) after the expression “Any local authority” of the expression “or transitional metropolitan council”; and (b) by the insertion in subsection (2) after the expression “Minister” of the expression “or the Administrator, as the case may be.”.

PROCLAMATION*by the**President**of the Republic of South Africa***No. R. 91, 1995**THE SOUTH AFRICAN POLICE SERVICE ACT, 1995
(ACT NO. 68 OF 1995)**COMMENCEMENT**

In terms of section 73 of the South African Police Service Act, 1995 (Act No. 68 of 1995), I hereby determine **15 October 1995** as the date on which the said Act shall come into operation.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Sixth day of October, One thousand Nine hundred and Ninety-five.

N. R. MANDELA,
President.

By Order of the President-in-Cabinet:

F. S. MUFAMADI,
Minister of the Cabinet.

GOVERNMENT NOTICES**DEPARTMENT OF AGRICULTURE****No. R. 1578 13 October 1995**MARKETING ACT, 1968
(ACT NO. 59 OF 1968)

LUCERNE SEED SCHEME: CONTROL OF THE IMPORTATION AND EXPORTATION OF LUCERNE SEED: REPEAL*

I, André Isak van Niekerk, Minister of Agriculture, acting under section 87 of the Marketing Act, 1968 (Act No. 59 of 1968), hereby repeal Government Notice No. R. 1050 of 10 April 1992.

A. I. VAN NIEKERK,
Minister of Agriculture.

* Repeal of Government Notice No. R. 1050 of 10 April 1992.

No. R. 1584**13 October 1995**MARKETING ACT, 1968
(ACT NO. 59 OF 1968)

LUCERNE SEED SCHEME: AMENDMENT*

I, André Isak van Niekerk, Minister of Agriculture, acting under section 14, read with section 15 (3) of the Marketing Act, 1968 (Act No. 59 of 1968), hereby—

(a) publish the amendment set out in the Schedule hereto, of the Lucerne Seed Scheme published by Proclamation No. R. 30 of 1963, as amended; and

(b) declare that the said amendment shall come into operation on the date of publication hereof.

A. I. VAN NIERKERK,
Minister of Agriculture.

* Insertion of provisions relating to advisory committees and pension, provident or retirement annuity fund.

PROKLAMASIE*van die**President**van die Republiek van Suid-Afrika***No. R. 91, 1995**WET OP DIE SUID-AFRIKAANSE POLISIEDIENS,
1995 (WET NO. 68 VAN 1995)**INWERKINGTREDING**

Kragtens artikel 73 van die Wet op die Suid-Afrikaanse Polisiediens, 1995 (Wet No. 68 van 1995), bepaal ek hierby **15 Oktober 1995** as die datum waarop die gemelde Wet in werking tree.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria, op hede die Sesde dag van Oktober Eenduisend Negehonderd Vyf-en-negentig.

N. R. MANDELA,
President.

Op las van die President-in-Kabinet:

F. S. MUFAMADI,
Minister van die Kabinet.

GOEWERMENSKENNISGEWINGS**DEPARTEMENT VAN LANDBOU****No. R. 1578 13 Oktober 1995**BEMARKINGSWET, 1968
(WET NO. 59 VAN 1968)

LUSERNSAADSKEMA: BEHEER OOR DIÉ INVOER EN UITVOER VAN LUSERNSAAD: HERROEPING*

Ek, André Isak van Niekerk, Minister van Landbou, handelende kragtens artikel 87 van die Bemarkingswet, 1968 (Wet No. 59 van 1968), herroep hierby Goewermentskennisgewing No. R. 1050 van 10 April 1992.

A. I. VAN NIEKERK,
Minister van Landbou.

* Herroeping van Goewermentskennisgewing No. R. 1050 van 10 April 1992.

No. R. 1584**13 Oktober 1995**BEMARKINGSWET, 1968
(WET NO. 59 VAN 1968)

LUSERNSAADSKEMA: WYSIGING*

Ek, André Isak van Niekerk, Minister van Landbou, handelende kragtens artikel 14, gelees met artikel 15 (3) van die Bemarkingswet, 1968 (Wet No. 59 van 1968)—

(a) publiseer hierby die wysiging in die Bylae uiteengesit, van die Lusernsaadskema gepubliseer by Proklamasie No. R. 30 van 1963, soos gewysig; en

(b) verklaar hierby dat genoemde wysiging op die datum van publikasie hiervan in werking tree.

A. I. VAN NIERKERK,
Minister van Landbou.

* Invoeging van bepalings met betrekking tot adviseerde komitees en pensioen-, voorsorg- en uitbreidingsannuitetsfonds.

SCHEDULE**Definition**

1. In this Schedule any word or expression to which a meaning has been assigned in the Scheme shall have that meaning and "the Scheme" means the Lucerne Seed Scheme published by Proclamation No. R. 30 of 1963, as amended by Proclamations Nos. R. 99 of 1967 (as corrected by Proclamation No. R. 2105 of 1967), R. 21 of 1977, R. 132 of 1978, R. 69 of 1981 and R. 138 of 1984 and Government Notices Nos. R. 1108 of 17 May 1985, R. 2370 of 18 October 1985, R. 2419 of 21 November 1986, R. 1046 of 3 June 1988, R. 1879 of 9 August 1991, R. 2489 of 18 October 1991, R. 3400 of 24 December 1992 and R. 1507 of 1 September 1994.

Insertion of sections 14 bis and 14 tres in the Scheme

2. The Scheme is hereby amended by the insertion of the following sections after section 14:

"Advisory committees"

14bis (1) The Board may establish one or more committees for the purpose of advising the Board with regard to any matter relating to the administration of this Scheme or any of its provisions in general, or in respect of lucerne seed in general.

(2) Such an advisory committee shall be constituted in a manner as may be determined by the Board with the approval of the Minister.

(3) (a) The members of an advisory committee shall be appointed by the Board.

(b) A member of an advisory committee shall be appointed for the period, but not exceeding three years, as the Board may determine.

(c) Such a member may be reappointed on the expiry of his period of office.

(4) The provisions of sections 14 (1) (b) and 11 (2) of this Scheme and section 28A of the Act shall apply *mutatis mutandis* to an advisory committee and the members thereof.

(5) The Board shall in respect of each separate advisory committee determine rules relating to—

- (a) the quorum for meetings;
- (b) the decisions of the advisory committee;
- (c) the attendance of meetings of the advisory committee; and

(d) any other matter which it considers necessary or expedient and the generality of this provision shall not be limited by the preceding paragraphs of this subsection.

Pension, provident or retirement annuity fund

14tres When the Board employs a person on a full-time basis in terms of section 14 (1) (a) of the Scheme—

- (a) the Board shall arrange for the admission of such a person as a member of a pension, provident or retirement annuity fund;

BYLAE**Woordomskrywing**

1. In hierdie Bylae het enige woord of uitdrukking waaraan 'n betekenis in die Skema geheg is, daardie betekenis en beteken "die Skema" die Lusemsaa-skema gepubliseer by Proklamasie No. R. 30 van 1963, soos gewysig by Proklamasies Nos. R. 99 van 1967 (soos verbeter deur Proklamasie No. R. 2105 van 1967), R. 21 van 1977, R. 132 van 1978, R. 69 van 1981 en R. 138 van 1984 en Goewernementskennisge-wings Nos. R. 1108 van 17 Mei 1985, R. 2370 van 18 Oktober 1985, R. 2419 van 21 November 1986, R. 1046 van 3 Junie 1988, R. 1879 van 9 Augustus 1991, R. 2489 van 18 Oktober 1991, R. 3400 van 24 Desember 1992 en R. 1507 van 1 September 1994.

Invoeging van artikels 14 bis en 14 tres in die Skema

2. Die Skema word hierby gewysig deur na artikel 14 die volgende artikels te voeg:

"Adviserende Komitees"

14bis (1) Die Raad kan een of meer komitees instel ten einde die Raad te adviseer aangaande enige aangeleenthed betreffende die uitvoering van hierdie Skema of 'n bepaling daarvan in die algemeen, of ten opsigte van lusemsaa in die algemeen.

(2) So 'n adviserende komitee word saamgestel op die wyse deur die Raad met die goedkeuring van die Minister bepaal.

(3) (a) Die lede van 'n adviserende komitee word deur die Raad aangestel.

(b) 'n Lid van 'n adviserende komitee word vir die tydperk wat die Raad bepaal, maar hoogstens drie jaar, aangestel.

(c) So 'n lid kan by verstryking van sy ampster-myn weer aangestel word.

(4) Die bepalings van artikels 14 (1) (b) en 11 (2) van hierdie Skema en artikel 28A van die Wet is *mutatis mutandis* van toepassing op 'n advise-rende komitee en die lede daarvan.

(5) Die Raad moet ten opsigte van elke afsonderlike adviserende komitee reëls bepaal met betrekking tot—

- (a) die kworum vir vergaderings;
- (b) die besluite van die adviserende komitee;
- (c) die bywoning van vergaderings van die adviserende komitee; en

(d) enige ander aangeleenthed wat hy nodig of dienstig ag en die algemeenheid van hierdie bepa-ling word nie deur die voorafgaande paragrawe van hierdie subartikel beperk nie.

Pensioen-, voorsorg- of uitredingsannuiteits-fonds

14tres Wanneer die Raad iemand ingevolge artikel 14 (1) (a) van die Skema op 'n voltydse grondslag in diens neem—

- (a) moet die Raad reëlings tref vir die toelating van sodanige persoon as 'n lid van 'n pensioen-, voorsorg- of uitredingsannuiteitsfonds;

(b) such person shall pay into that fund the monetary contribution determined in terms of the rules of the pension, provident or retirement annuity fund; and

(c) the Board shall in respect of the monetary contribution of the person concerned, pay out of a general fund referred to in section 17 of the Scheme into a pension, provident or retirement annuity fund the amount determined in terms of the rules of the fund concerned.”.

No. R. 1599**13 October 1995**

MARKETING ACT, 1968
(ACT NO. 59 OF 1968)

CONTROL OF THE IMPORTATION AND EXPORTATION OF POTATOES: REVOCATION

I, André Isak van Niekerk, Minister of Agriculture, hereby make known in terms of section 87 of the Marketing Act, 1968 (Act No. 59 of 1968), that Proclamation No. R. 20 of 1978 is repealed.

A. I. VAN NIEKERK,
Minister of Agriculture.

DEPARTMENT OF EDUCATION**No. R. 1586****13 October 1995**

EDUCATION LABOUR RELATIONS ACT, 1993

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

In terms of section 12 (6) (a) of the Education Labour Relations Act, 1993 (Act No. 146 of 1993), I, Sibusiso Mandlenkosi Emmanuel Bengu, Minister of Education, having deemed it expedient and at the request of the Education Labour Relations Council, hereby declare that, with immediate effect and for the period ending on 1 April 1996, all the provisions of the agreements mentioned in the Schedule hereto, shall be binding on all employers and employees as defined in the said Act.

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 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 I” shall constitute an agreement of the Council;

(b) moet sodanige persoon die geldelike bydrae wat ingevolge die reëls van die pensioen-, voorsorg- of uittredingsannuiteitsfonds bepaal word, in daardie fonds stort; en

(c) moet die Raad ten opsigte van die geldelike bydrae van die betrokke persoon, uit 'n algemene fonds in artikel 17 van hierdie Skema bedoel die bedrag wat ingevolge die reëls van sodanige pensioen-, voorsorg- of uittredingsannuiteitsfonds bepaal word, in daardie fonds stort.”

No. R. 1599**13 Oktober 1995**

BEMARKINGSWET, 1968
(WET NO. 59 VAN 1968)

BEHEER OOR DIE INVOER EN UITVOER VAN AARTAPPELS: HERROEPING

Ek, André Isak van Niekerk, Minister van Landbou, maak hiermee ingevolge artikel 87 van die Bemarkingswet, 1968 (Wet No. 59 van 1968), bekend dat Proklamasie No. R. 20 van 1978, herroep word.

A. I. VAN NIEKERK,
Minister van Landbou.

DEPARTEMENT VAN ONDERWYS**No. R. 1586****13 Oktober 1995**

WET OP ARBEIDSVERHOUDINGE IN DIE ONDERWYS, 1993

KENNISGEWING VAN UITBREIDING VAN DIE OOREENKOMS SODAT ALLE WERKGEWERS EN WERKNEMERS, SOOS IN DIE WET OMSKRYF, INGESLUIT WORD

Kragtens artikel 12 (6) (a) van die Wet op Arbeidsverhoudinge in die Onderwys, 1993 (Wet No. 146 van 1993), aangesien ek dit dienstig ag, en op versoek van die Raad vir Arbeidsverhoudinge in die Onderwys, verklaar ek, Sibusiso Mandlenkosi Emmanuel Bengu, Minister van Onderwys, hierby dat met onmiddellike effek en vir die tydperk wat eindig op 1 April 1996, al die bepalings van die ooreenkoms vermeld in die Bylae hiertoe, bindend is vir alle werkgewers en werknemers soos in die genoemde Wet omskryf.

S. M. E. BENGU,
Minister van Onderwys.

**BYLAE
RAAD VIR ARBEIDSVERHOUDINGE IN DIE ONDERWYS****RESOLUSIE No. 1 VAN 1995****RASIONALISASIE VAN ONDERWYS: TUSSEN-TYDSE MAATREËLS MET BETREKKING TOT PERSONEELVOORSIENING VAN GERASIONALISEERDE ONDERWYSSTRUKTURE BUISTE ONDERWYSINSTELLINGS**

Die werkgewer- en werknemerorganisasies, soos gedefinieer in artikel 1 van die Wet op Arbeidsverhoudinge in die Onderwys, 1993 (Wet No. 146 van 1993) (hierna verwys as die “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 “Aanhanger 1” 'n ooreenkoms van die Raad sal uitmaak;

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 I";
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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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. 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 of die werkgewer- of die werknemerspartye voortspruitend uit enige wetgeving, aangesas sal word nie;
5. dat hierdie ooreenkoms 'n spesiale tussen-tydse maatreël sal uitmaak en op 1 April 1996 sal verval;
6. dat soortgelyke maatreëls 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 arbeidswetgeving en -regsspraak,
7. dat die sluiting van 'n ooreenkoms ten opsigte van die soortgelyke maatreëls 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 BUISTE ONDERWYSINSTELLINGS

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

HOOFSTUK A

INLEIDING

1. Toepassing

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

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.

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.

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, 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.

"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 tussen-tydse 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 verbondé 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 benuttingspraktike gedurende die oorgangstydperk te reël.

HOOFSTUK B

BEGINSELS VIR DIE HANTERING VAN DIENSDOELENDE OPVOEDERS EN DIE PERSONEELVOORSIENING AAN DIE GERASIONALISEERDE OPVOEKUNDIGE 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 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.

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.

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 werkewer 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, loopbaanincidente, dissiplinêre en ander administratiewe personeelaangeleenthede. Die werkewer 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 werkewer.

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 werkewer geag word, 'n opvoeder te verplaas nie, op voorwaarde dat die opvoeder die geleentheid gegun word om vertoë te rig en die vertoë wel deeglik oorweeg word soos uiteengesit is in die Grondwet van die Raad vir Arbeidsverhoudinge in die Onderwys.

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) 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; and

(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;

(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.

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

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

(ii) die organisatoriese komponente, gepaardgaande poste op die vaste diensstaat en bestaande postvoorsienings en betrokke bemagtigings 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 postvoorsienings 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/postvoorsienings/verwante bemagtigings ter indiensneming addisioneel tot die vaste diensstaat van die nuwe departemente/administrasies.

(c) Die finale verdeling van die nuwe provinsiale administrasies 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 ander 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) 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 kosteffektiwiteit te verseker; en

(iv) die personeelvoorsiening van die gerasionaliseerde organisatoriese strukture:

(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.)

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;

(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 Pub-

HOOFSTUK C

PROSEDURE WAT GEVOLG MOET WORD TYDENS PERSONEELVOORSIENING AAN GERAISONISEERDE ONDERWYSSTRUKTURE

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

2. Ten einde die bovenoemde 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 sleutelpersoneellede te behou, sal daar met sodanige personeel wat vir vervroegde aftrede aansoek gedoen het, gekonsulteer word. Personeellede 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 werknemersparty 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, mee-gaande poste en personeel wat nog na of vanaf die betrokke departement oorgeplaas moet word;

(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 toege-wys 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 nood-saaklike behoeftes wat bestaan oorweeg, ten opsigte van die aanstelling van ander personeel wat nie reeds in die onderwyssektor van die Staatsdiens werkzaam 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

lic Service. The promotion of a more representative Public Service should be viewed as a process to the 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.

(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

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 bepalings van artikel 237 (4) van die Grondwet van die RSA kan enige dispuut 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) 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 ooreenkomsdig artikel 236 (6) van die Grondwet, 1993, verwys moet word vir hersiening.

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.
- (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.

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 ontslag 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) *Pensioenvoordele:* Pensioenvoordele is betaalbaar ooreenkomsdig die reëls van die pensioenfonds waarvan die betrokke persoon 'n lid is.
- (b) *Vakansieverlofcrediete:* '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) *Diensverpligte:* Diensverpligte word nie by uitdienstrede opgehef nie. Vir hierdie doel sluit diensverpligte alle skuld/uitstaande kontraktuele skuld voortspruitend uit studie-/opleidingsooreenkoms en ooreenkoms in verband met militêre opleiding in.
- (f) *Hervestigingsvoordele:* Hervestigingsvoordele soos vervat in Hoofstuk E van die Personeeladministrasiemaatreëls 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 geregtig is en in die belang van die werkewer is.

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 whithin constituent departments. This will include such information as—

(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 ooreenkomsdig die voorskrifte vervat in Hoofstuk D; en

(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 [subparagrawe (b) (ii) en (iii) hierbo], ooreenkomsdig 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 Werwingsplan 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 werknermerorganisasies in die Raad vir Arbeidsverhoudinge in die Onderwys.

HOOFSTUK E

BESTUURSPLAN

Die provinsiale departemente bestuursplan moet, waarvan van toepassing, die volgende elemente bevat:

(a) Die aard/samestelling van die finale gedepartementaliseerde organisatoriese strukture en die diensstaatvoorsiening van elke komponent in die nuwe organisatoriese struktuur (dit is die getal en posvlakte 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 rasionalisatie afgeskaf is;

(ii) waar die pligstaat verskillende grade van afwykings in vergelyking met afgeskafte "vergelykbare" 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 verwessentliking 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) 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

(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.

(b) *Where there is a change in headquarters:*

(i) Provincial departments must be 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.

HOOFSTUK F

MAATREËLS VIR DIE OPNAME VAN DIENSDOELENDE 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 ooreenkomsdig die volgende maatreëls:

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

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

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

(i) Provinsiale departemente moet as 'n eerste stap die moontlikheid ondersoek om oorplasings en gevoglike oorplaskostes tot die minimum te beperk deur uitruiling van betrokke personeel op dieselfde posvlak wat by kruisoorplasings 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 voorgenome oorplasings 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 reëlings ingestem het, word hulle dienooreenkomsdig ingelig.

(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.

(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

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

(iii) Individuale vertoeë 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 geregtig 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 vertoeë moet in elke individuele geval motivering ten opsigte van elk van hierdie faktore insluit. Oorweging van die omstandigheide van die individu moet op 'n billike en konsekiente wyse geskied.

(iv) Indien bevind sou word dat die redes wat ten opsigte van 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 dienshouding 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) 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 services 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).

(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 to 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.

(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 werkewer benut word totdat hulle toepaslik opgeneem kan word of andersins ingevolge toepaslike wetlike voorsiening hanter word.

(v) Indien dit sou blyk dat 'n opvoeder se redes vir nie-oorplaasbaarheid onvoldoende is, sal die betrokke opvoeder asook alle ander rolspelers diooreenkomstig 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 post(e) by die nuwe provinsiale departement(e).

(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 vertoe met betrekking tot nie-verplaasbaarheidoorweeg word en, indien grondige redes wel aangevoer is, word die name van die betrokke opvoeders van die lys aangehaal en sal daar ooreenkomstig die maatreëls soos vervat in hoofstuk G, met die opvoeders gehandel 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 gevolelik 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 werkewer die reg behou om hulle gepas in ander poste te plaas.

(d) Die normale bepalings is van krag wanneer 'n gesikte 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 diensooreenkomstig ingelig en daar moet ooreenkomstig die maatreëls in Hoofstuk G met hulle gehandel 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 gehandel word.

4. Transfermeasures 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.

(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.

4. Oorplasingsmaatreëls van toepassing op gesekondeerde KS opvoeders

4.1 Deur te verseker dat 'n gesekondeerde 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 Gesikte ooreenkoms moet met die gesekondeerde opvoeder bereik word ten opsigte van die spesifieke datum vir onttrekking sodat die organisasie/departement/administrasie aan wie die opvoeder gesekondeer 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 gesikte prosedure en maatreëls soos vervat in paragraaf 2.

(c) Daar moet met opvoeders wat onttrek is en nie gepas in vaktures 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 disput wat voortspruit uit die toepassing van hierdie Hoofstuk bygelé 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 POSTEVORSIENINGS 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 belang van die werkgewer te alle tye beskerm en gedien word.

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 and 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.

2.5 With a view to suitable absorbing 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 out 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.

2. Beginsels

2.1 Vir diensstaatdoeleindes word aanvaar dat opvoeders wie nie onmiddellik gepas opgeneem kan word nie, aanvullend tot die vaste diensstaat, ooreenkomsdig 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 afgank 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 pos-tevoorsienings 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 ooreenkomsdig die toepaslike bepalings van die Wet op Indiensneming van Opvoeders, 1994, hanteer word.

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 oorplasings sal geld.

2.6 Voordat 'n opvoeder oortollig verklaar word moet die korttermyn mannekragbehoeftes 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 die 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 verky sal word. Die posisie van 'n opvoeder wat buite verband aangestel is sal jaarliks, na redelike kennisgewing deur die werkewer, 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 procedures

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 plasingvoordele te voorseen. 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 rangbevorde-rings, wangedrag, diensvoordele, ensovoorts, van sodanige opvoeders in.

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.

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.

ANNEXURE A

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;

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 werkewer 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 maatreëls het ten doel om die voor-koms 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 Die eenvormige aftreepakket soos vervat in paragraaf 7 van Hoofstuk D van die Personeeladministraziemaatreëls, tot die mate waar toe elke individue daarvoor mag kwalificeer 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 voordeelig as die wat in terme van hulle vorige indiensnemingswette, soos op 1 November 1993, van toepassing was.

4. Indiening van klages by die Spesiale Tribunaal

Klages wat by die Spesiale Tribunaal ingedien word ingevolge artikel 237 (4) (a) van die Grondwet, sal hanteer word ooreenkomsdig 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 wangedrag teen so 'n opvoeder hangende is nie as 'n rede beskou word om hom/haar nie te akkommodeer nie.

BYLAE A

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;

"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; and

"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.

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, 1995.

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

"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 teruggekoop is.

Toepassing van regulasies

2. Die bepalings van hierdie regulasies is slegs van toepassing op 'n opvoeder op posvlak 4, 5, 6, 7 en 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 vermelde 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 vrywillig gemaak word en dat ek vertrou is met die voorwaardes en skeidingsvoordele soos uiteengesit in die betrokke Bylae.

.....
Handtekening

.....
Datum

SECTION B (to be completed by the relevant personnel officer)

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".

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

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

AFDELING B (moet deur die betrokke personeelbeampte voltoo 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.

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

Versoek vir vervroegde aftrede ooreenkomsdig die bepalings van die regulasies word aanbeveel met ingang van.....

Hoof van die departement

Datum

BYLAE C**KENNISGEWING AAN OPVOEDERS WIE NIE GEPAAS OPGENEEM KAN WORD IN POSTE OF TEEN POSTEVOORSIENINGS OP DIE VASTE DIENSSTATE VAN DEPARTEMENTE NIE**

- Alhoewel dit op hierdie tydstip nie moontlik is om u gepas op te neem nie, word daar wel stapte geneem om u gepaste opname moontlik te maak.
- 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.
- Ten opsigte van die toewysing van pligte en verantwoordelikhede, die byhou van loopbaanincidente, disciplinêre 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.

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

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

(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 endeavour 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.

(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 oorplasing of nie-aanvaarding van 'n pos nadat u sodanig gelas is en nadat u vertoë (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.

DEPARTMENT OF FINANCE

No. R. 1575

13 October 1995

CUSTOMS AND EXCISE ACT, 1964

IMPOSITION OF PROVISIONAL PAYMENT (VB/21)

Under section 57A of the Customs and Excise Act, 1964, a provisional payment in relation to anti-dumping duty is imposed up to and including 13 April 1996, to the extent and on the goods set out in the Schedule hereto.

D. J. COLESKY,

Commissioner for Customs and Excise.

SCHEDULE

Subheading	Description of Goods	Provisional Payment	Imported from or Originating in
2847.00	Hydrogen peroxide, not solidified with urea	99c/kg	Italy
2847.00	Hydrogen peroxide, not solidified with urea	71c/kg	Republic of China (Taiwan)

BYLAE

Subpos	Beskrywing van Goedere	Voorlopige Betaling	Ingevoer vanaf Afkomstig van
2847.00	Waterstofperoksied, nie met ureum gesolidifiseer nie	99c/kg	Italië
2847.00	Waterstofperoksied, nie met ureum gesolidifiseer nie	71c/kg	Republiek van China (Taiwan)

No. R. 1576

13 October 1995

CUSTOMS AND EXCISE ACT, 1964

IMPOSITION OF PROVISIONAL PAYMENT (VB/22)

Under section 57A of the Customs and Excise Act, 1964, a provisional payment in relation to anti-dumping duty is imposed up to and including 13 April 1996, to the extent and on the goods set out in the Schedule hereto.

D. J. COLESKY,

Commissioner for Customs and Excise.

No. R. 1576

13 Oktober 1995

DOEANE- EN AKSYNSWET, 1964

OPLEGGING VAN VOORLOPIGE BETALING (VB/22)

Kragtens artikel 57A van die Doeane- en Aksynswet, 1964, word 'n voorlopige betaling met betrekking tot anti-dumpingreg tot en met 13 April 1996 opgelê, in die mate en op die goedere in die Bylæ hiervan aange-toon.

D. J. COLESKY,

Kommissaris van Doeane en Aksyns.

SCHEDULE

Subheading	Description of Goods	Provisional Payment	Imported from or Originating in
3920.42	Flexible film of polymers of vinyl chloride, unprinted, of a thickness not exceeding 0,05 mm	371c/kg	Imported from Joter N.V., the Netherlands and originating in Republic of China (Taiwan)

BYLAE

Subpos	Beskrywing van Goedere	Voorlopige Betaling	Ingevoer vanaf of Afkomstig van
3920.42	Buigsame film van polimere van vinielchloried, onbedruk, met 'n dikte van hoogstens 0,05 mm	371c/kg	Ingevoer vanaf Joter N.V., Nederland en afkomstig van Republiek China Taiwan)

INDEPENDENT BROADCASTING AUTHORITY**No. R. 1604****13 October 1995**

REGULATIONS REGARDING THE POWERS OF THE BROADCASTING MONITORING AND COMPLAINTS COMMITTEE IN RELATION TO THE SUMMONING AND EXAMINING OF WITNESSES, THE ADMINISTERING OF THE OATH OR AFFIRMATION, RECALCITRANT WITNESSES AND THE PRODUCING OF BOOKS, DOCUMENTS, OBJECTS AND MATERIAL

The Independent Broadcasting Authority has, under section 78 (1), read with section 63 (10), of the Independent Broadcasting Authority Act, 1993 (Act No. 153 of 1993), made the regulations in the Schedule.

SCHEDULE**Definitions**

1. In these regulations unless the context otherwise indicates—

“Committee” means the Broadcasting Monitoring and Complaints Committee;

“Chairperson” means the Chairperson of the Committee;

“the Act” means the Independent Broadcasting Authority Act 1993 (Act No. 153 of 1993);

“member” means a member of the Committee;

“the Authority” means the Independent Broadcasting Authority as established by section 3 of the Act;

“witness” means any person other than the complainant or respondent who has been subpoenaed to give evidence;

2. The Committee may for the purposes of any inquiry held under section 62 of the Act or the adjudication of any complaint in terms of section 63 thereof—

(a) through the Chairperson subpoena any person, by means of a notice in writing delivered by hand to the said person personally, to appear before it in relation to such inquiry or adjudication of complaint;

(b) require such person at a time and place specified in the subpoena to give evidence under oath or affirmation;

ONAFHANKLIKE UITSAAI-OWERHEID**No. R. 1604****13 Oktober 1995**

REGULASIES TEN OPSIGTE VAN DIE BEVOEGDHEDE VAN DIE UITSAAIMONITERINGS- EN -KLAGTESKOMITEE MET BETREKKING TOT DIE DAGVAARDING EN ONDERVRAZING VAN GETUIES, DIE OPLÊ VAN DIE EED OF AFNEEM VAN 'N BEVESTIGING, WEERSPANNIGE GETUIES EN DIE VOORLEGGING VAN BOEKIE, STUKKE, VOORWERPE EN MATERIAAL

Die Onafhanklike Uitsaai-owerheid het kragtens artikel 78 (1), gelees met artikel 63 (10), van die Wet op die Onafhanklike Uitsaai-owerheid, 1993 (Wet No. 153 van 1993), die regulasies in die Bylæ uitgevaardig.

BYLAE**Definitions**

1. In hierdie regulasies, tensy uit die samehang anders blyk, beteken—

“Komitee” die Uitsaaimoniterings- en -klagteskomitee;

“Voorsitter” die Voorsitter van die Komitee;

“die Wet” die Wet op die Onafhanklike Uitsaai-owerheid, 1993 (Wet No. 153 van 1993);

“lid” 'n lid van die Komitee;

“die Owerheid” die Onafhanklike Uitsaai-owerheid soos ingestel deur artikel 3 van die Wet;

“getuie” enige persoon ander dan die klaer of respondent wat gedagvaar is om getuienis te lewer.

2. Die Komitee mag vir die doeleindes van enige ondersoek wat onder artikel 62 van die Wet gehou word of vir die beregtiging van enige klag in terme van artikel 63 daarvan—

(a) deur die Voorsitter enige persoon by wyse van 'n skriftelike kennisgewing wat persoonlik by gemelde persoon aangelewer is, dagvaar om voor dit te verskyn in verband met sodanige ondersoek of beregtiging van 'n klag;

(b) van sodanige persoon verlang om op die tyd en plek in die dagvaarding gespesifiseer onder eed of bevestiging getuienis te lewer;

(c) further require such person to produce, in such manner as may be specified in the subpoena, all books, documents, objects and materials in the possession or custody or under the control of such person as may be specified in the subpoena and which may be necessary to the inquiry or adjudication of the complaint in question.

3. The Chairperson or a member generally or specifically authorised thereto by the Chairperson must administer an oath or affirmation to every witness appearing before the Committee.

4. Any person appointed or designated to take down or record the proceedings of the Committee in shorthand or by mechanical means or to transcribe such proceedings which have been taken down or recorded shall at the outset take an oath or affirmation in a form designated by the Chairperson or member authorised thereto.

5. Any witness appearing before the Committee may be questioned through the Chairperson while under oath or affirmation in relation to any matter which may arise in connection with the inquiry or adjudication of complaint in question.

6. Such witness may only be cross-examined if the Chairperson deems it necessary and in the interest of the functions of the Committee. A witness appearing before the Committee may have a legal representative or other adviser present.

7. A witness appearing before the Committee in terms of section 2 hereof who is not in the Public Service is entitled to receive as witness fees an amount equal to the amount which he or she would have received as witness fees had he or she been subpoenaed as a witness in criminal proceedings in the Supreme Court.

8. Any person who—

(a) has been subpoenaed in terms of section 2 hereof to give evidence or produce any book, document, object or material who, without sufficient cause, fails to attend at the time and place specified in the subpoena, or to remain in attendance until the conclusion of the inquiry or adjudication of complaint in question until he or she is excused by the Chairperson from further attendance, or having attended refuses to give evidence after he or she has been required by the Chairperson to do so or fails to answer fully and satisfactorily any question lawfully put to him or her, or fails to produce any book, document, object or material in his or her possession or custody or under his or her control which he or she has been required to produce;

(b) makes false statement before the Committee on any matter, knowing such statement to be false or not knowing or believing it to be true;

(c) wilfully interrupts the proceedings at any such inquiry or adjudication of complaint or wilfully hinders or obstructs the Committee or any member thereof in the performance of its or his or her functions at the inquiry or adjudication of the complaint;

(d) shall be guilty of an offence and liable on conviction to a fine not exceeding R10 000.

(c) verder van sodanige persoon verlang om op sodanige wyse as waarop dit in die dagvaarding gespesifieer is, alle boeke, stukke en materiaal in die besit of bewaring of onder die beheer van sodanige persoon soos wat in die dagvaarding gespesifieer mag word en wat nodig mag wees vir die ondersoek of beregtiging van die klag, voor te lê.

3. Die Voorsitter of 'n lid wat in die algemeen of in die besonder deur die Voorsitter daartoe gemagtig is moet die eed of bevestiging van elke getuie wat voor die Komitee verskyn afneem.

4. Enige persoon wat aangestel of aangewys is om die verrigtinge van die Komitee by wyse van snelskrif af te neem of deur middel van enige meganiese metode op te neem of wat sodanige verrigtinge wat afgeneem of opgeneem is transkribeer, sal ter aanvang 'n eed of bevestiging aflê in 'n vorm soos voorgeskryf deur die Voorsitter of 'n lid wat daartoe gemagtig is.

5. Enige getuie wat voor die Komitee verskyn mag, terwyl onder eed of bevestiging, deur die Voorsitter ondervra word met betrekking tot enige aangeleentheid wat na vore mag kom in verband met die ondersoek of beregtiging van die betrokke klag.

6. Sodanige getuie mag alleenlik kruis-ondervra word indien die Voorsitter dit nodig en in belang van die werksaamhede van die Komitee ag. 'n Getuie wat voor die Komitee verskyn mag 'n regsverteenvoerdiger of ander raadgawe teenwoordig hê.

7. 'n Getuie wat ingevolge artikel 2 hiervan voor die Komitee verskyn en wat nie in die Staatsdiens is nie is geregtig om 'n bedrag te ontvang gelykstaande aan die bedrag wat hy of sy as getuiefooiie sou ontvang het indien hy of sy as getuie in kriminele verrigtinge in die Hooggeregshof gedagvaar sou word.

8. Enige persoon wat—

(a) in terme van artikel 2 hiervan gedagvaar is om getuenis te lewer of om enige boek, stuk, voorwerp of materiaal voor te lê en wat sonder voldoende rede in gebreke bly om op die tyd en die plek soos in die dagvaarding vermeld, te verskyn, of om aanwesig te bly totdat die ondersoek of die beregtiging van die betrokke klag voltooi is of totdat hy of sy deur die Voorsitter verlof gegee is om weg te bly, of wat na verskynning weier om getuenis te lewer nadat die Voorsitter dit van hom of haar vereis het of wat versium om enige vraag wettig aan hom of haar gestel ten volle en bevredigend te beantwoord, of wat in gebreke bly om enige boek, stuk, voorwerp of materiaal voor te lê wat in sy of haar besit of bewaring of onder sy of haar beheer is en tot voorlegging waarvan hy of sy aangesê is;

(b) omtrent enige onderwerp 'n vals verklaring voor die Komitee aflê met die wete dat daardie verklaring vals is, of terwyl hy of sy nie weet of glo dat dit juis is nie;

(c) die verrigtinge by enige sodanige ondersoek of beregtiging van 'n klag opsetlik versteur of die Komitee of enige lid daarvan by die verrigtinge van sy of haar werksaamhede by die ondersoek of beregtiging van 'n klag opsetlik hinder of dwarsboom;

(d) is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n maksimum boete van R10 000.

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