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GOVERNMENT NOTICES

DEPARTMENT OF EDUCATION

No. R. 1742

13 November 1995

REGULATIONS REGARDING THE STAFFING OF RATIONALISED EDUCATIONAL INSTITUTIONS

I, Sibusiso Mandlenkosi Emmanuel Bengu, Minister of Education, hereby make the regulations in terms of section 28, read with sections 1 (xiii), 4 (1), 5 (1) and 9 of the Educators' Employment Act, 1994, as set out in the Schedule.

S. M. E. BENGU,
Minister of Education.

SCHEDULE

NATIONALISATION OF EDUCATION: INTERIM MEASURES RELATING TO THE STAFFING OF RATIONALISED EDUCATIONAL INSTITUTIONS

1. INTERPRETATIONS

For the purpose of these regulations, unless the context otherwise indicates—

"category of institution" means any one of the existing categories of educational institutions which include pre-primary schools, primary ordinary schools, secondary ordinary schools, schools for specialised education, technical colleges, colleges of education or any other category of educational institution;

"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;

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GOEWERMENTSKENNISGEWINGS

DEPARTEMENT VAN ONDERWYS

No. R. 1742

13 November 1995

REGULASIES BETREFFENDE DIE PERSONEEL- VOORSIENING VAN GERASIONALISEERDE ONDERWYSINSTELLINGS

Ek, Sibusiso Mandlenkosi Emmanuel Bengu, Minister van Onderwys, vaardig hierby die regulasies, soos uiteengesit in die Bylae, uit kragtens artikel 28, saamgelees met artikels 1 (xvi), 4 (1), 5 (1) en 9 van die Wet op Indiensneming van Opvoeders, 1994.

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

BYLAE

RASIONALISASIE VAN DIE ONDERWYS: TUSSEN- TYDSE MAATREËLS TEN OPSIGTE VAN DIE PERSONEELVOORSIENING VAN GERASIONA- LISEERDE ONDERWYSINRIGTINGS

1. INTERPRETASIES

Vir doeleindes van hierdie regulasies, tensy uit die samehang anders blyk, beteken—

"kategorie inrigting" enige van die bestaande kategorieë inrigtings wat preprimêre skole, primêre gewone skole, sekondêre gewone skole, skole vir gespesialiseerde onderwys, tegniese kolleges, onderwyskolleges of enige ander kategorie onderwysinrigting insluit;

"onderwysinrigting" 'n skool, onderwyskollege, tegniese kollege of enige ander inrigting waar enige persoon ander persone onderrig of oplei (uitgesluit 'n kantoor wat sodanige skool, kollege of ander inrigting beheer), anders as 'n universiteit of technikon, wat geheel of gedeeltelik deur die Staat befonds word;

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“educator” means an educator as defined in the Educators’ Employment Act, 1994, who is appointed on or additional to the establishment of an educational institution and who should be absorbed in a provincial education department as a result of the rationalisation of an education department in terms of section 237 of the Constitution of the RSA;

“MEC” means a Member of an Executive Council responsible for education;

“Minister” means the Minister of Education;

“post provisioning scale” means the negotiated, standardised guideline for the provisioning of posts (within the framework of an agreed upon learner educator ratio) in a specific category of institution;

“learner:educator ratio” means, for a specific category of institution, the total number of pupils or students at all these institutions within a provincial education department, divided by the total number of full time equivalent educators employed in educator posts at these institutions. These educators include educators employed in management positions at these institutions, such as principals and deputy principals, but exclude educators employed outside institutions at head and other offices.

2. OBJECTIVES

2.1 These regulations provide for interim measures relating to the staffing of educational institutions with a view to reaching the following objectives:

(a) The provincialisation of education;

(b) the rationalisation of education posts with a view to reaching equity in the provision of educator personnel between educational institutions within each category of institution; and

(c) the rationalisation of educator posts with a view to reaching inter-provincial equity in the provision of educator personnel.

3. PRINCIPLES FOR DEALING WITH SERVING EDUCATORS AND THE STAFFING OF THE RATIONALISED EDUCATIONAL INSTITUTIONS

3.1 In dealing with serving educators, provincial departments shall apply the following principles:

(a) In order to ensure a smooth transition to provincial education departments it is essential that efficient and uninterrupted rendering of services, as contemplated by sections 212 and 237 of the Constitution of the RSA, with due consideration of the fundamental rights contained in Chapter 3 of the Constitution of the RSA, is maintained.

(b) In order to achieve the various objectives referred to in regulation 2, the implementation and application of measures dealing with educators during the rationalisation process, must be fair, transparent and in accordance with the employment and labour legislation which apply to those educators.

“opvoeder” ’n opvoeder soos gedefinieër in die Wet op die Indiensneming van Opvoeders, 1994, wat op of addisioneel tot die diensstaat wat ’n onderwysinrigting aangestel is en wat in ’n provinsiale onderwysdepartement opgeneem behoort te word as gevolg van die rasionalisasie van ’n onderwysdepartement ingevolge artikel 237 van die Grondwet van die RSA;

“LUR” ’n Lid van ’n Uitvoerende Raad verantwoordelik vir onderwys;

“Minister” die Minister van Onderwys;

“postvoorsieningskaal” die onderhandelde, gestandaardiseerde riglyn vir die voorsiening van poste (binne die raamwerk van ’n ooreengekome leerder: opvoeder verhouding) in ’n bepaalde kategorie inrigting;

“leerder:opvoeder verhouding”, vir ’n bepaalde kategorie inrigtings, die totale getal leerlinge of studente aan al hierdie inrigtings binne ’n provinsiale onderwysdepartement, gedeel deur die totale getal voltydse ekwivalente opvoeders in opvoederposte aan hierdie inrigtings. Hierdie opvoeders sluit opvoeders in bestuurposte aan hierdie inrigtings in, soos prinsipale en adjunk-prinsipale, maar sluit opvoeders in poste buite die inrigtings aan hoof- en ander kantore uit.

2. DOELWITTE

2.1 Hierdie regulasies maak voorsiening vir tussen-tydse maatreëls ten opsigte van die personeelvoorsiening van onderwysinrigtings met die oog daarop om die volgende doelwitte te bereik:

(a) Die provinsialisering van die onderwys;

(b) die rasionalisasie van onderwysposte met die oog op die bereiking van gelykheid in die voorsiening van onderwyspersoneel tussen onderwysinrigtings en binne elke kategorie inrigting; en

(c) die rasionalisasie van onderwysposte met die oog op die bereiking van gelykheid tussen provinsies in die voorsiening van onderwyspersoneel.

3. BEGINSELS VIR DIE HANTERING VAN DIENSDOENENDE OPVOEDERS EN DIE PERSONEELVOORSIENING VAN GERASIONALISEERDE ONDERWYSINRIGTINGS

3.1 In die hantering van diensdoenende opvoeders, moet provinsiale departemente die volgende beginsels toepas:

(a) Ten einde ’n gladde oorskakeling na provinsiale onderwysdepartement te verseker is dit noodsaaklik dat effektiewe en ononderbroke dienslewering, soos beoog in artikels 212 en 237 van die Grondwet van die RSA, met inagneming van die fundamentele regte vervat in Hoofstuk 3 van die Grondwet, gehandhaaf word.

(b) Ten einde die onderskeie doelwitte, waarna in regulasie 2 verwys is, te bereik, moet die implementering en toepassing van die maatreëls wat betrekking het op opvoeders tydens die rasionaliseringsproses, billik, deursigtig en in ooreenstemming met die indiensneming- en arbeidswetgewing wat ten opsigte van hierdie opvoeders geld, wees.

(c) Where the position of educators is affected by the process of rationalisation aimed at reaching the objectives set out in regulation 2, all avenues should be explored to ensure their continued employment in education and these educators therefore do not automatically acquire the right to the declared redundant.

(d) In striving for equity in staffing institutions, both qualitative and quantitative aspects of such staffing must be taken into account.

4. PROCESS TO BE FOLLOWED IN THE RATIONALISATION OF POSTS IN EACH CATEGORY OF EDUCATIONAL INSTITUTIONS

4.1 The process to be followed must be undertaken in accordance with section 237 of the Constitution of the RSA and is as follows:

(a) Posts, equivalent to the existing establishments of the institutions in the relinquishing education departments, must be created by the MEC in the provincial education department.

(b) All educators must be transferred from the existing posts in the relinquishing education departments to the concomitant newly created posts in the provincial education departments.

(c) The posts in the relinquishing departments must be abolished.

(d) A national agreement must be reached annually in the Education Labour Relations Council on a guideline for learner:educator ratios to be phased in by the provincial education departments over a maximum period of five years effective from 1 April 1995. These ratios should be determined for each category of institution.

(e) A national agreement must be reached in the Education Labour Relations Council on a rationalised grading system for educational institutions subject to renegotiation as required by the parties to the Council.

(f) Each MEC must negotiate with the relevant employee members of the Education Labour Relations Council post provisioning scales for each category of institution which shall apply during each step of the phasing in process. These post provisioning scales must be determined with a view to reaching the agreed upon guideline for learner:educator ratios referred to in subregulation 4.1 (d). In provinces where a provincial chamber of the Education Labour Relations Council has not yet been established, negotiations will be conducted in the Bargaining Committee of the Council which will be reconstituted in such a manner that it represents the parties of the Council in the specific province.

(c) Waar die posisie van opvoeders geraak word deur die rasionaliseringsproses wat gemik is op die bereiking van die doelwitte soos uiteengesit in regulasie 2, moet alle weë ondersoek word om hulle voortgesette indienshouding in die onderwys te bewerkstellig en hierdie opvoeders verkry dus nie outomaties die reg om as oortollig verklaar te word nie.

(d) In die strewe na gelykheid in die voorsiening van personeel aan inrigtings, moet beide kwalitatiewe en kwantitatiewe aspekte in berekening gebring word.

4. PROSES WAT GEVOLG MOET WORD IN DIE RASIONALISERING VAN POSTE IN ELKE KATEGORIE INRIGTING

4.1 Die proses wat gevolg moet word moet onderneem word in ooreenstemming met artikel 237 van die Grondwet van die RSA en is soos volg:

(a) Poste, ekwivalent aan die bestaande diensstate van die inrigtings in die afstanddoende departemente, moet deur die LUR in die provinsiale onderwysdepartement geskep word.

(b) Alle opvoeders moet oorgeplaas word vanaf die bestaande poste in die afstanddoende departemente na die ooreenstemmende nutgeskepte poste in die provinsiale onderwysdepartement.

(c) Die poste in die afstanddoende departemente moet afgeskaf word.

(d) 'n Nasionale ooreenkoms moet jaarliks in die Raad vir Arbeidsverhoudinge in die Onderwys bereik word ten opsigte van 'n riglyn vir leerder:opvoeder verhoudings wat ingefaseer moet word oor 'n periode van hoogstens vyf jaar vanaf 1 April 1995. Hierdie verhoudings moet vir elke kategorie inrigting bepaal word.

(e) 'n Nasionale ooreenkoms moet in die Raad vir Arbeidsverhoudinge in die Onderwys bereik word ten opsigte van 'n gerasionaliseerde stelsel vir die gradering van onderwysinrigtings, onderhewig aan heronderhandeling soos vereis deur die partye tot die Raad.

(f) Elke LUR moet met die betrokke werknemerlede van die Raad vir Arbeidsverhoudinge in die Onderwys postevoorsieningskale vir elke kategorie inrigting onderhandel wat sal geld vir elke stap van die infaseringsproses. Hierdie postevoorsieningskale moet bepaal word met die oog op die bereiking van die ooreengekome riglyn vir leerder:opvoeder verhoudings waarna verwys word in subregulasie 4.1 (d). In provinsies waar daar nog nie 'n Kamer van die Raad vir Arbeidsverhoudinge in die Onderwys geskep is nie, sal onderhandelinge in die Onderhandelingskomitee van die Raad gevoer word, welke komitee so saamgestel sal word dat dit die partye van die Raad in die betrokke provinsie sal verteenwoordig.

(g) The MEC and his/her head of department, after consultation with the relevant employee members of the Education Labour Relations Council, are required to ensure that a macro plan as well as a short term annual plan are developed per province/region/district/area in order to implement the post provisioning scales mentioned in subregulation 4.1 (f); provided that the criteria for declaring posts as redundant and serving educators as in excess of the establishment, will be negotiated. The plan should also be aimed at reaching equity in the provision of personnel in institutions in rural and urban areas.

(h) In cases where posts are identified as being in excess and these posts are occupied by temporary educators who have served for at least two consecutive school years, these educators who meet the requirements for permanent appointment, will be treated in the same way as permanent educators, including for the purposes of recognition of years of service and seniority. Their period of consecutive service will be regarded as the actual period of service for the purpose of seniority.

5. PROCESS TO BE FOLLOWED IN THE IMPLEMENTATION OF A REVISED POST PROVISIONING SCALE AT AN EDUCATIONAL INSTITUTION WHICH HAS THE EFFECT THAT EDUCATORS ARE IN EXCESS OF THE ESTABLISHMENT

5.1 The following actions shall be followed in order to accommodate the position of educators who have been identified in terms of subregulation 4.1 (g) to be in excess of the establishment:

(a) *Appointment additional to the establishment*

Educators who are in excess of the establishment, can be held additional to the establishment for a maximum period of six months during which period the suitable absorption to a post on the establishment of an institution must be investigated. The measures contained in regulation 6 will apply.

(b) *Natural attrition*

In the case of vacancies occurring through resignation, retirement on pension, etc. an attempt should be made, as a first step, to satisfy the staff requirements, within the limits of the approved new establishment, from remaining personnel at institutions. This must continuously be applied.

(c) *Transfer in provinces*

Educators who are in excess of the establishment and who cannot be accommodated on the reduced post provisioning scale after implementing the strategy in subregulation 5.1 (b), shall be considered for transfer to suitable posts at other institutions in the province. Individual representations from educators pleading non-transferability shall be considered by the head of the department. In considering whether a claim of non-

(g) Die LUR en sy/haar departementshoof moet, na konsultasie met die betrokke werknemerslede van die Raad vir Arbeidsverhoudinge in die Onderwys, verseker dat 'n makroplan sowel as 'n korttermyn jaarlikse plan per provinsie/streek/distrik/gebied ontwikkel word ten einde die postevoorsieningskale, genoem in subregulasie 4.1 (f), te implementeer; op voorwaarde dat die kriteria vir die verklaring van poste as oortollig en diensdoenende opvoeders as in oorskryding van die diensstaat, onderhandel moet word. Die plan moet ook daarop gemik wees om gelykheid in die voorsiening van personeel aan inrigtings in stedelike en plattelandse gebiede te bereik.

(h) In gevalle waar poste as oorskrydend van die diensstaat geïdentifiseer is en hierdie poste is deur tydelike opvoeders gevul wat vir ten minste 2 agtereenvolgende skooljare diens gedoen het en wat aan die vereistes vir permanente aanstelling voldoen, moet hierdie opvoeders op dieselfde wyse as permanente opvoeders behandel word, insluitend vir doeleindes van erkenning van jare diens en senioriteit. Hulle periode van aaneenlopende diens moet beskou word as die werklike periode van diens vir doeleindes van senioriteit.

5. DIE PROSES WAT GEVOLG MOET WORD TYDENS DIE IMPLEMENTERING VAN 'N HERSIENE POSTEVOORSIENINGSKAAL BY 'N OPVOEDKUNDIGE INRIGTING WAT TOT GEVOLG HET DAT OPVOEDERS DIE VOORSIENING OP DIE DIENSSTAAT OORSKRY

5.1 Die volgende stappe moet gevolg word in 'n poging om die posisie van opvoeders wat ingevolge sub-regulasie 4.1 (g) as in oorskryding van die diensstaat geïdentifiseer is, te reël:

(a) *Aanstelling bykomend tot die diensstaat*

Opvoeders wat die diensstaat oorskry, kan bykomend tot die diensstaat gehou word vir 'n maksimum periode van ses maande waartydens die geskikte opname in 'n pos op die diensstaat van 'n inrigting ondersoek moet word. Die maatreëls soos vervat in regulasie 6 sal van toepassing wees.

(b) *Natuurlike attrisie*

Waar vakatures ontstaan as gevolg van bedankings, aftredes met pensioen, ens. moet as 'n eerste stap 'n poging aangewend word om die personeelbehoefte te bevredig met die oorblywende personeel by inrigtings binne die beperkinge van die goedgekeurde nuwe diensstaat. Hierdie strategie moet voortdurend toegepas word.

(c) *Oorplasing in provinsies*

Opvoeders wat die diensstaat oorskry en nie op die verkleinde postevoorsieningskaal geakkommodeer kan word na die implementering van die strategie in subregulasie 5.1 (b) nie, moet vir oorplasing na geskikte poste by ander inrigtings in die provinsie oorweeg word. Individuele versoeke om as nie-oorplaasbaar beskou te word, moet deur die departementshoof oorweeg word. Tydens die oorweging van die regverdigbaarheid van die ver-

transferability is justified, all relevant factors must be taken into consideration such as the personal and financial impact that at transfer is likely to have on a person and his or her family and whether the educator is acceptable to the governing body of the educational institution to which he or she is to be transferred. In considering the circumstances of the individual, the matter must be dealt with in a fair and consistent manner. The individual's right to present his or her case before a decision on his or her transfer is taken, must be adhered to. Disputes which may arise in this regard shall be dealt with in accordance with the provisions of the Constitution of the Education Labour Relations Council.

(d) *Voluntary redundancy*

Educators who are in excess of the establishment and who cannot be dealt with in terms of subregulation 5.1 (b) or (c) may volunteer to be discharged as redundant in terms of section 8 (1) (b) of the Educators' Employment Act, 1994. It remains, however, the prerogative of the MEC to decide whether such educator may be discharged as redundant or not: Provided that such prerogative shall be exercised in a fair, consistent and equitable manner.

(e) *Transfer to other provinces*

Educators who are in excess of the establishment and who cannot be dealt with in terms of subregulation 5.1 (b), (c) or (d), as well as those who, before considering these options, indicate that they would prefer to be transferred to another province, should be considered for transfer to posts which they agree to at institutions in other provinces. A task team consisting of representatives of provincial education departments and employee parties to the Education Labour Relations Council will be set up to facilitate this process.

(f) *Discharge as redundant*

Should all measures to suitably absorb an educator fail, despite co-operation on his or her part, notice must be served on him or her that his or her services are to be terminated in terms of section 8 (1) (b) of the Educators' Employment Act, 1994.

(g) In this process consideration should be given to the possibilities of retraining educators who have been identified as in excess of the establishment or who have been declared redundant.

(h) *Transfer costs*

In cases where transfers are effected in terms of subregulations 5.1 (c) or (e) and it necessitates a change of headquarters, a transfer of the household will be effected at State expense, even if an educator indicates his/her preference for the transfer.

soek van nie-oorplaasbaarheid moet alle toepaslike faktore soos die persoonlike en finansiële gevolge wat die oorpasing op die persoon en sy familie mag hê asook die aanvaarbaarheid van die opvoeder vir die bestuursliggaam van die opvoedkundige inrigting waarheen hy of sy verplaas staan te word. Die oorweging van die omstandighede van die individu moet regverdig en konsekwent hanteer word. Daar moet voldoen word aan die individu se reg om sy of haar saak met betrekking tot die oorpasing te stel voordat 'n besluit hieroor geneem word. Geskille wat hieruit mag voortvloei moet hanteer word ooreenkomstig die bepalings van die Grondwet van die Raad vir Arbeidsverhoudinge in die Onderwys.

(d) *Vrywillige oortolligverklaring*

Opvoeders wat die voorsiening van die diensstaat oorskry en nie hanteer kan word ingevolge subregulasie 5.1 (b) en (c) hierbo nie, mag aanbied om as oortollig uit diens gestel te word ingevolge artikel 8 (1) (b) van die Wet op Indiensneming van Opvoeders, 1994. Dit bly egter die prerogatief van die LUR om te besluit of sodanige opvoeder as oortollig uit diens gestel mag word: Met dien verstande dat sodanige prerogatief regverdig, konsekwent en verantwoordbaar uitgeoefen sal word.

(e) *Oorpasing na ander provinsies*

Opvoeders wat oortollig tot die diensstaat is en nie mee gehandel kan word in terme van subregulasie 5.1 (b), (c) of (d) nie, asook opvoeders wat reeds voordat hierdie opsies oorweeg is, aangedui het dat hulle verkies om na 'n ander provinsie oorgeplaas te word, moet vir oorpasing na poste wat hulle goedkeuring wegdra by instellings in ander provinsies oorweeg word. 'n Taakspan bestaande uit verteenwoordigers van provinsiale onderwysdepartemente en werknemerspartye tot die Raad vir Arbeidsverhoudinge in die Onderwys sal saamgestel word om hierdie proses te fasiliteer.

(f) *Uitdiensstelling as gevolg van oortolligheid*

Indien alle maatreëls om 'n opvoeder gepas op te neem misluk, ten spyte daarvan dat die opvoeder ten volle samewerking gegee het, moet daar 'n kennisgewing aan die opvoeder gestuur word waarin gemeld word dat sy/haar dienste ingevolge artikel 8 (1) (b) van die Wet op Indiensneming van Opvoeders, 1994, beëindig gaan word.

(g) Gedurende hierdie proses moet oorweging gegee word aan die moontlike heropleiding van opvoeders wat as in oorskryding van die diensstaat geïdentifiseer is of wat as oortollig verklaar is.

(h) *Oordragkoste*

In gevalle waar oorplasings in terms van subregulasies 5 (1) (c) of (e) plaasvind wat 'n verandering van hoofkantoor noodsaak, sal die oorpasing van die huishouding op staatskoste plaasvind, selfs al sou die opvoeder sy/haar voorkeur ten opsigte van die oorpasing aandui.

6. MEASURES AND PROCEDURES WHICH SHALL APPLY IN RESPECT OF EDUCATORS WHO ARE IN EXCESS OF APPROVED ESTABLISHMENTS

(a) The relevant provincial education department will notify the educators who are in excess of an approved establishment. The educators must then provide the department with information regarding their placement preferences within one calendar month of the date of receiving such notice.

(b) The suitable placement of an educator elsewhere in the education sector must be effected in accordance with the provisions of the Educators Employment Act, 1994.

(c) The educators concerned are required to render active assistance to facilitate their suitable placement elsewhere.

(d) Where the application of an agreed upon post provisioning scale or criteria for the grading of educational institutions have the effect that the level of a management post differs from the post level on which the incumbent has been employed directly before the implementation of the new scale or criteria, such incumbent shall be given the choice of—

(i) electing to be declared redundant and to be regarded as being in excess of the establishment; or

(ii) electing to remain at the re-graded institution with retention of the benefits applicable to the post immediately prior to re-grading, subject to the provision that—

(aa) the incumbent shall not be carried out of adjustment for a period of more than two years;

(bb) every effort shall be made during the aforesaid period to suitably place the educator in a post of equivalent grading; and

(cc) there shall be an annual review of the grading of the institution with a view to establishing whether or not the incumbent is still out of adjustment.

(e) In addition to the provisions of section 8 (1) (b) of the Educators Employment Act, 1994, and related provisions concerning pensions, a uniform retirement package, described in paragraph 7 of Chapter D of the Personnel Administration Measures, shall be applicable to all educators who are declared redundant to the extent to which each individual may qualify for the constituent elements thereof, and to the extent that the measures relating to periods of notice have been applied.

No. R. 1743

13 November 1995

REGULATIONS REGARDING THE TERMS AND CONDITIONS OF EMPLOYMENT OF EDUCATION

I, Sibusiso Mandlenkosi Emmanuel Bengu, Minister of Education, hereby make regulations in terms of section 28, read with sections 1, 4 (1), 5 (1) and 9 of the Educators' Employment Act, 1994, as set out in the Schedule.

S. M. E. BENGU,
Minister of Education.

6. VOORSKRIFTE EN PROSEDURES WAT SAL GELD IN GEVAL VAN OPVOEDERS WAT DIE GOEDGEKEURDE DIENSSTATE OORSKRY

(a) Die betrokke provinsiale onderwysdepartement moet opvoeders wat die goedgekeurde diensstaat oorskry, daarvan in kennis stel. Die betrokke opvoeders moet dan binne een kalendermaand vanaf die datum van sodanige kennisgewing die Departement van inligting ten opsigte van hulle plasingsoorkeure voorsien.

(b) Die geskikte plasing van 'n opvoeder elders in die onderwyssektor moet in ooreenstemming met die voorskrifte van die Wet op Indiënsneming van Opvoeders, 1994, geskied.

(c) Daar word van die betrokke opvoeders verwag om aktiewe steun ten opsigte van die fasilitering van hulle plasinge te verleen.

(d) Waar die toepassing van 'n ooreengekome postevoorsieningskaak of Kriteria vir die gradering van onderwysinstellings die effek het dat die vlak van 'n bestuurspos verskil van die posvlak waarop die posbekleër aangestel was direk voor die implementering van die nuwe skaal of kriteria, sal sodanige posbekleër die keuse hê—

(i) om as oortolig verklaar te word en aldus as in oorskryding van die diensstaat beskou te word; of

(ii) om by die hergegradeerde instelling aan te bly met behoud van die voordele wat van toepassing was op die pos direk voor hergradering, op voorwaarde dat—

(aa) die posbekleër nie vir langer as twee jaar buite verband gedra mag word nie;

(bb) alle pogings aangewend sal word gedurende die voormelde periode om die opvoeder in 'n geskikte pos met ekwivalente gradering te plaas; en

(cc) daar jaarliks 'n hersiening van die gradering van die instelling sal wees met die oog daarop om vas te stel of die posbekleër steeds buite verband aangestel is.

(e) Aanvullend tot die voorskrifte van artikel 8 (1) (b) van die Wet op die Indiënsneming van Opvoeders, 1994, en die verwante pensioenvoorskrifte, sal die eenvormige uitdienstredingspakket, soos voorgeskryf in paragraaf 7 van Hoofstuk D van die Personeeladministrasie Maatreëls, op alle opvoeders wat oortolig verklaar is van toepassing wees in die mate waarvoor elke individu vir die onderskeie elemente daarvan kwalifiseer, en in die mate wat die voorskrifte betreffende die kennisgewingperiode toegepas is.

No. R. 1743

13 November 1995

REGULASIES BETREFFENDE DIE AANSTELLING EN DIENSVOORWAARDES VAN OPVOEDERS

Ek, Sibusiso Mandlenkosi Emmanuel Bengu, Minister van Onderwys, vaardig hierby die regulasies soos uiteengesit in die Bylae, uit kragtens artikel 28, saamgelees met artikels 1, 4 (1), 5 (1) en 9 van die Wet op Indiënsneming van Opvoeders, 1994.

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

SCHEDULE

CHAPTER 1

APPLICATION OF REGULATIONS

DEFINITIONS

1. In these Regulations a word or expression to which a meaning has been assigned in the Act, shall have the meaning so assigned to it and, unless the context otherwise indicates—

“**abroad**” means any country outside the borders of the Republic of South Africa;

“**apposite training**” means training recognised by the Minister;

“**approved qualification**” means a degree, a diploma, a certificate or another qualification recognised by the Minister as a qualification for appointment as an educator;

“**calendar month**” means a period ranging from the first day up to and including the last day of any of the 12 months of a year;

“**calendar year**” means a period ranging from the first day of January of a year up to the last day of December of the same year;

“**cycle**” in relation to sick leave, means a period of three years calculated from 1 January 1980 and each succeeding period of three years: Provided that, in the case of an educator appointed after 1 January 1980 whose date of appointment does not coincide with the commencement date of a cycle, the period of his or her service from the date of his or her appointment to the date of commencement of the following cycle shall for the purpose of these regulations be regarded as a full cycle;

“**day of rest**” means a Saturday, a Sunday or a public holiday;

“**employer contribution**” means the monthly amount referred to in regulation 64;

“**employing department**” means a department as defined in section 1 (1) of the Public Service Act, 1994, in which the educator concerned is employed;

“**head of education**” means the head of the department responsible for education within a province;

“**household**” means—

(a) an educator's spouse; and

(b) an educator or his or her spouse's necessarily dependent child who is *bona fide* resident with such educator: Provided that if such a child studies at an institution for post-school education, whether intramurally or extramurally, he or she may be deemed to be a member of the household, but only—

(i) if he or she did not take up any permanent full-time employment (including any type of vocational training to which remuneration is attached) after leaving school, excluding compulsory military service which he or she had to undergo after leaving school or work during vacations or temporary full-time employment which he or she had taken up between—

(aa) leaving school and the commencement of the academic year; or

BYLAE

HOOFSTUK 1

TOEPASSING VAN REGULASIES

WOORDOMSKRYWING

1. In hierdie Regulasies het 'n woord of uitdrukking waaraan in die Wet 'n betekenis geheg is, die betekenis aldus daaraan geheg, en tensy uit die samehang anders blyk, beteken—

“**behuising vir getroudes**” staatsbehuising toegewys aan 'n opvoeder met 'n huishouding wat gewoonlik by hom of haar inwoon;

“**buiteland**” 'n land buite die grense van die Republiek van Suid-Afrika;

“**die Wet**” die Wet op Indiensneming van Opvoeders, 1994;

“**diens**”, vir doeleindes van regulasie 67, diens by 'n werkgewer kragtens die Wet, asook diens in 'n Staatsdepartement ingevolge 'n ander wet as die Wet, met inbegrip van diens by 'n instelling wat by 'n wet in die Parlement ingestel is of word en wat sy fondse gedeeltelik of in die geheel uit die Staatsinkomstefonds verkry of verkry het;

“**enkelbehuising**” staatsbehuising toegewys aan 'n opvoeder wat nie 'n huishouding het wat normaalweg by hom of haar inwoon nie;

“**erkenbare ondervinding**” ondervinding wat ingevolge regulasie 11 erken word;

“**gepaste opleiding**” opleiding wat deur die Minister erken word;

“**gestasioneer**” vir 'n opvoeder om na die buiteland oorgeplaas en daar gevestig te word, met inbegrip van sekondering aan 'n ander regering of instelling in die buiteland, uitgesonderd in die geval waar 'n sekonderingsooreenkoms spesifieke bepalinge betreffende mediese bystand bevat;

“**goedgekeurde kwalifikasie**” 'n graad, diploma, sertifikaat of ander kwalifikasie wat deur die Minister as 'n kwalifikasie vir indiensneming as 'n opvoeder erken word;

“**huishouding**”—

(a) die eggenoot/eggenote van 'n opvoeder; en

(b) 'n opvoeder of sy of haar eggenoot/eggenote se noodsaaklikerwys nie-selfonderhoudende kind wat *bona fide* by sodanige opvoeder inwoon: Met dien verstande dat indien sodanige kind aan 'n naskoolse opvoedkundige instelling studeer, hetsy binnemuurs of buitemuurs, hy of sy geag kan word lid van die huishouding te wees, dog slegs—

(i) indien hy of sy na skoolverlating geen permanente voltydse betrekking (met inbegrip van enige vorm van beroepsopleiding waaraan besoldiging verbonde is) aanvaar het nie, uitgesonderd verpligte militêre diens wat hy of sy na skoolverlating moes verrig of vakansiewerk of 'n tydelike voltydse betrekking wat hy of sy aanvaar het tussen—

(aa) skoolverlating en die aanvang van die akademiese jaar; of

(bb) leaving school and the commencement of such military service; or

(cc) the completion of such military service and the commencement of the academic year,

and had commenced his or her studies at such an institution at the commencement of the academic year following the completion of his or her schooling or military service; and

(ii) until—

(aa) he or she attains the minimum post-school qualification (or minimum combination of post-school qualifications) which will enable him or her to take up employment in the field of study for which he or she originally intended to qualify himself or herself; or

(bb) the normal duration of the course, as prescribed by the institution concerned, plus one academic year, expires, if it takes him or her longer than such prescribed period to attain the relevant qualification as a result of poor academic performance; or

(cc) he or she discontinues the relevant course of study; or

(dd) he or she changes his or her course of study,

whichever of the said four events occurs first; and

(c) a relative of an educator who is permanently resident with and necessarily dependent on him or her and whose income, from any source, does not exceed the sum of—

(i) the appropriate maximum basic social pension; plus

(ii) the maximum allowance for a war veteran to whom a social pension has been awarded; plus

(iii) the maximum allowance paid to a person as a result of a late application for a social pension,

and if the relative concerned is a social pensioner, then any allowances other than those mentioned in subparagraphs (ii) and (iii) above, which he or she may receive in terms of the relevant regulations referred to above, e.g. an attendant's allowance, should be ignored for the purposes of this paragraph: Provided that where two relatives so reside with him or her and are dependent on him or her and where the one relative would normally have been a dependent of the other relative, for instance a father and a mother, both such relatives may be regarded as members of his or her household only if half of their joint income, from any source, does not exceed the sum of the maximum basic social pension in question and the allowances contemplated in subparagraphs (i) to (iii) above; and

“married housing” means state housing designated for an educator with a household that normally lives with him or her;

“maximum rand amount” means an amount equal to 4/6 of the maximum membership fee as determined by the Minister for subsidy purposes;

“medical scheme” means a medical scheme which is registered in terms of an Act that governs the business of medical schemes;

(bb) skoolverlating en die aanvang van sodanige militêre diens; of

(cc) die voltooiing van sodanige militêre diens en die aanvang van die akademiese jaar,

en hy of sy by die aanvang van die akademiese jaar wat volg op die voltooiing van sy of haar skoolopleiding of militêre diensplig, met sy of haar studies aan sodanige instelling begin het; en

(ii) totdat—

(aa) hy of sy die minimum naskoolse kwalifikasie (of minimum kombinasie van naskoolse kwalifikasies) verwerf wat hom of haar in staat stel om 'n betrekking te aanvaar in die studierigting waarin hy of sy hom of haar aanvanklik wou bekwaam; of

(bb) die normale studietydperk, soos vir bedoelde studierigting deur die betrokke instelling voorgeskryf, plus een akademiese jaar, verstryk, indien hy of sy as gevolg van swak akademiese prestasies langer as bedoelde studietydperk sou neem om die betrokke kwalifikasies te verwerf; of

(cc) hy of sy die betrokke studiekursus staak; of

(dd) hy of sy van studierigting verander,

watter een van genoemde vier gebeure ook al eerste plaasvind; en

(c) 'n familielid van 'n opvoeder wat permanent by hom of haar inwoon en noodsaaklikerwys van hom of haar afhanklik is en wie se inkomste, uit enige bron, nie meer is nie as die totaal van—

(i) die toepaslike maksimum basiese maatskaplike pensioen; plus

(ii) die maksimum toelae vir 'n oudstryder aan wie 'n maatskaplike pensioen toegeken is; plus

(iii) die maksimum toelae wat as gevolg van 'n laat aansoek om 'n maatskaplike pensioen aan 'n persoon betaal word,

en as die betrokke familielid 'n maatskaplike pensioentrekker is, moet enige ander toelaes as dié in subparagrafe (ii) en (iii) hierbo genoem, wat hy of sy kragtens die toepaslike regulasies hierbo bedoel, mag ontvang, byvoorbeeld 'n oppasserstoelae, vir die doeleindes van hierdie paragraaf geïgnoreer word: Met dien verstande dat waar twee familieledes aldus by hom of haar inwoon en van hom of haar afhanklik is en die een familielid normaalweg 'n afhanklike van die ander familielid sou wees, byvoorbeeld 'n vader en 'n moeder, albei sodanige familieledes geag kan word lede van sy of haar huishouding te wees slegs as die helfte van hulle gesamentlike inkomste, uit enige bron, nie meer is nie as die totaal van die toepaslike maksimum basiese maatskaplike pensioen en die toelaes in subparagrafe (i) tot (iii) hierbo bedoel; en

“jaar” 'n tydperk van 12 maande wat strek van een dag van 'n jaar tot en met die dag wat die dag voorafgaan wat numeries ooreenstem met daardie dag in die daaropvolgende jaar;

“kalenderjaar” 'n tydperk wat strek van die eerste dag van Januarie van 'n jaar tot en met die laaste dag van Desember van dieselfde jaar;

“kalendermaand” 'n tydperk wat van die eerste tot en met die laaste dag van enigeen van die 12 maande van die jaar strek;

"member contribution" means an amount equal to the subscription minus the monthly employer contribution;

"membership fee" means the full membership fee levied by a medical scheme;

"month" means a period extending from a day in a month up to the day preceding the day corresponding numerically to that day in the following month, both days inclusive;

"office" means a state educational institution excluding a school;

"providing department" means the department in the province concerned responsible for the buying or erection of state housing and other related matters;

"province" means any one of the nine provinces established under section 124 of the Constitution of the Republic of South Africa, 1993;

"recognisable experience" means experience recognised in terms of regulation 11;

"salary increment" means the difference between the notch on the key salary scale applicable to an educator and the following higher notch on the same key salary scale;

"salary incremental date" means the date referred to in regulation 9;

"salary incremental period" means a period of 12 months or any other period approved by the Minister which must elapse before an educator's salary may be increased in accordance with the salary scale applicable to him;

"school" means any educational institution or that part of such an institution at which education and training, including pre-primary education, is provided and which is maintained, managed and controlled or subsidised by a provincial education department, excluding a university and technikon;

"school day" means a day in a school term on which tuition is scheduled to take place at a school, to pupils enrolled at such school;

"school holiday" means a period between any two consecutive school terms during which tuition is suspended;

"school term" means any one of the periods into which a particular school year is divided for tuition purposes and fixed as such by the head of education for a particular school;

"service" means, for purposes of regulation 67, service with an employer under the Act, as well as service in a department of State in terms of an Act other than the Act including service in an institution established or being established by an Act of Parliament and which obtains or has obtained its funds in whole or in part from the State Revenue Fund;

"single housing" means state housing designated for an educator who does not have a household that normally lives with him or her;

"kantoor" 'n staatsonderwysinstelling uitgesonderd 'n skool;

"ledegeld" die volle ledegeld wat deur 'n mediese skema gehef word;

"lidbydrae" 'n bedrag gelyk aan die subskripsie minus die maandelikse werkgewersbydrae;

"maand" 'n tydperk wat strek van 'n dag van 'n maand tot en met die dag wat die dag voorafgaan wat numeries ooreenstem met daardie dag in die volgende maand;

"maksimum randbedrag" 'n bedrag gelyk aan 4/6 van die maksimum ledegeld deur die Minister vir subsidiedoeleindes bepaal;

"mediese skema" 'n mediese skema wat ingevolge 'n wet wat die bedryf van mediese skemas reël, geregistreer is;

"onderwysshoof" die hoof van die departement wat vir onderwys in 'n provinsie verantwoordelik is;

"oorplasing" —

(a) die verskuiwing van 'n werknemer en sy of haar huishouding van een hoofkwartier na 'n ander in die Republiek of in die buiteland;

(b) die tydelike of permanente ontruiming van amptelike kwartiere by die hoofkwartier van 'n opvoeder ten einde ander akkommodasie te okkupeer; en

(c) die ontruiming deur 'n opvoeder van akkommodasie ten einde amptelike kwartiere by sy of haar hoofkwartier te okkupeer;

"provinsie" enigeen van die nege provinsies ingestel by artikel 124 van die Grondwet van die Republiek van Suid-Afrika, 1993;

"rusdag" 'n Saterdag, 'n Sondag of 'n openbare vakansiedag;

"salarisverhoging" die verskil tussen die kerf op die sleutelsalarisskaal van toepassing op 'n opvoeder en die volgende hoër kerf op dieselfde sleutelsalarisskaal;

"salarisverhogingsdatum" die datum in regulasie 9 bedoel;

"salarisverhogingstydperk" 'n tydperk van 12 maande of enige ander tydperk deur die Minister goedgekeur wat moet verstryk voor 'n opvoeder se salaris ooreenkomstig die salarisskaal wat op hom of haar van toepassing is, verhoog kan word;

"skool" 'n onderwysinstelling of die gedeelte van sodanige instelling waar onderwys en opleiding, met inbegrip van preprimêre onderwys, verskaf word en wat in stand gehou, bestuur en beheer of gesubsidieer word deur 'n provinsiale onderwysdepartement, uitgesonderd 'n universiteit en technikon;

"skooldag" enige dag in 'n skooltermyn waarop onderrig geskeduleer is om gegee te word by 'n skool, aan leerlinge wat by sodanige skool ingeskryf is;

"standard, non-standard and voetstoets housing" means housing as determined by the providing department;

"state housing" means housing, contemplated in regulation 68 (2) of which the State is the owner or tenant;

"stationed" means the transfer and settlement of an educator abroad and includes an educator seconded to another Government or institution abroad, except in the case where a secondment agreement contains specific stipulations regarding medical assistance;

"subscription" means the amount of person must pay monthly in order to obtain membership of a registered medical scheme;

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

"transfer" means—

(a) the moving of an employee and his or her household from one headquarters to another in the Republic or in a foreign country;

(b) the temporary or permanent evacuation of an official quarters at the headquarters of an educator in order to occupy other accommodation; and

(c) the evacuation by an educator of accommodation in order to occupy official quarters at his or her headquarters;

"year" means a period of 12 months extending from a day in a year to the day preceding the day corresponding numerically to that day in the following year, both days inclusive.

"skooltermyn" enige van die tydperk waarin 'n bepaalde skooljaar verdeel word vir onderrigdoel-eindes en as sodanig deur die onderwyshoof, vir 'n bepaalde skool vasgestel;

"skoolvakansie" 'n tydperk tussen twee opeenvolgende skooltermyne waartydens onderrig opgeskort is;

"staatsbehuising" behuising beoog in regulasie 68 (2) waarvan die Staat die eienaar of huurder is;

"standaard, nie-standaard en voetstootse behuising" behuising soos deur die voorsienende departement bepaal;

"subskripsie" die bedrag wat 'n opvoeder maandeliks moet betaal om lidmaatskap van 'n geregistreerde mediese skema te kry;

"tydkring", met betrekking tot siekteverlof, 'n tydperk van drie jaar gereken vanaf 1 Januarie 1980 en elke daaropvolgende tydperk van drie jaar: Met dien verstande dat in die geval van 'n opvoeder wat na 1 Januarie 1980 aangestel is wie se datum van aanstelling nie met die aanvangsdatum van 'n tydkring saamval nie, die tydperk van sy of haar diens vanaf die datum van sy of haar aanstelling tot die aanvangsdatum van die eersvolgende tydkring by die toepassing van hierdie regulasies as 'n volle tydkring beskou word;

"voorsienende departement" die departement in die betrokke provinsie wat verantwoordelik is vir die aankoop of oprigting van staatsbehuising en ander verwante aangeleenthede;

"werkgewende departement" 'n departement soos omskryf in artikel 1 (1) van die Staatsdienswet, 1994, waar die betrokke opvoeder in diens is;

"werkgewersbydrae" die maandelikse bedrag in regulasie 64 bedoel.

CHAPTER 2

GENERAL CONDITIONS OF SERVICE AND SALARIES

APPOINTMENT, PROMOTION, TRANSFER AND TERMINATION OF SERVICE

Qualifications for appointment and promotion of educators

2. (1) No person shall be appointed as an educator either in a permanent, or temporary capacity, or on special contract, or be promoted, unless he or she complies with the experience requirements determined by the Minister and is in possession of an approved qualification and is able to submit satisfactory evidence thereof: Provided that an employer may appoint a person who is not in possession of an approved qualification as an educator in a temporary capacity for a specified period if the employer deems such appointment necessary and in the interest of education.

(2) Subject to the provisions of subregulation (1) no person shall be appointed as an educator in a permanent capacity, unless he or she is a South African citizen and meets the requirements of section 212 (4) of the Constitution of the Republic of South Africa, 1993.

HOOFSTUK 2

ALGEMENE DIENSVOORWAARDES EN SALARISSE

AANSTELLING, BEVORDERING, OORPLASING EN DIENSBEËINDIGING

Kwalifikasies vir aanstelling en bevordering van opvoeders

2. (1) Niemand word as 'n opvoeder aangestel nie, hetsy in 'n permanente of tydelike hoedanigheid of op spesiale kontrak, tensy hy of sy beskik oor 'n goedgekeurde kwalifikasie en bevredigende bewys daarvan kan voorlê: Met dien verstande dat 'n werkgever iemand wat nie oor 'n goedgekeurde kwalifikasie beskik nie, kan aanstel as 'n opvoeder in 'n tydelike hoedanigheid vir 'n bepaalde tydperk of indien die werkgever sodanige aanstelling noodsaaklik en in belang van die onderwys ag.

(2) Behoudens die bepalinge van subregulasie (1) mag niemand as opvoeder in 'n permanente hoedanigheid aangestel word nie, tensy hy of sy 'n Suid-Afrikaanse burger is en aan die vereistes van artikel 212 (4) van die Grondwet van die Republiek van Suid-Afrika, 1993 voldoen.

Appointment on probation

3. (1) (a) An educator shall be appointed on probation for a period of at least 12 months, which period may be extended, on good cause shown, for a further period not exceeding 12 months.

(b) An employer may approve the transfer or promotion of an educator during his or her period of probation: Provided that such transfer or promotion will be on probation and such probation may be for a period of less than 12 months if such period together with the probation served in the former post, shall total at least 12 months.

(c) The employer may, if it is deemed necessary, require that the promotion of an educator employed in a permanent capacity, be on probation: provided that the conditions in paragraphs (a) and (b) shall apply.

(2) The probation period of an educator shall be extended by the number of days leave of whatever nature taken by him or her during a probation period or any extension thereof: Provided that a school holiday shall not be considered as leave for the purposes of this subregulation.

(3) If the head of the relevant institution or office certifies that during his or her probation period or extended probation period, such educator has been diligent and his or her conduct uniformly satisfactory and that he or she is in all respects suitable for the post which he or she holds, the employer may confirm the permanent appointment, transfer or promotion if the educator has complied with all the conditions to which his or her appointment, transfer or promotion was subject.

(4) For the purposes of subregulation (1) an appointment on probation shall, notwithstanding the fact that the period during which it was in force has expired and notwithstanding anything to the contrary contained in that subregulation, be deemed to continue until the educator concerned is notified in writing by the employer that his or her probationary appointment —

- (a) has been confirmed; or
- (b) has not been confirmed; or
- (c) has been extended for a further period:

Provided that a notification contemplated in paragraphs (a), (b) and (c) shall be directed to the educator not later than six months after the expiry of the period of his or her probationary appointment, and that when the period of probationary appointment is extended for a further period, that further period shall be computed from the date of which the first-mentioned period would have expired by effluxion of time in terms of subregulation (1).

Reappointment of Educators who have retired or who have been retired on pension prematurely

4. The reappointment of an educator, whether in a full-time or a part-time capacity in a post referred to in section 3 (1) of the Act, who has retired or has been retired on pension before reaching his or her retirement age shall be approved by the employer: Provided that such reappointment shall be subject to the conditions as determined by the Minister.

Aanstelling op proef

3. (1) (a) 'n Opvoeder word op proef aangestel vir 'n tydperk van minstens 12 maande, welke tydperk met grondige redes vir 'n verdere tydperk van hoogstens 12 maande verleng kan word.

(b) 'n Werkgewer kan goedkeur dat 'n oorplasing of 'n bevordering ook op proef vir sodanige tydperk geskied: Met dien verstande dat sodanige opvoeder vir 'n tydperk van minder as 12 maande na 'n ander pos op proef oorgeplaas of bevorder kan word indien sodanige tydperk saam met die proeftyd in diens in die vorige pos minstens 12 maande is.

(c) Die werkgewer kan indien nodig, vereis dat 'n opvoeder wat in 'n permanente hoedanigheid aangestel is, by bevordering op proef aangestel word: Met dien verstande dat die voorwaardes in paragrawe (a) en (b) sal geld.

(2) Die proeftyd van 'n opvoeder word verleng met die getal dae verlof van watter aard ook al wat hy of sy gedurende die proeftyd of enige verlenging daarvan geneem het: Met dien verstande dat 'n skoolvakansie nie vir die doeleindes van hierdie subregulasie as verlof gereken word nie.

(3) Indien die onmiddellike hoof van 'n opvoeder sertifiseer dat sodanige opvoeder gedurende sy of haar proeftyd of verlengde proeftyd ywerig was en sy of haar gedrag deurgaans bevredigend was en dat hy of sy in alle opsigte geskik is vir die pos wat hy of sy beklee, kan die werkgewer die permanente aanstelling bekragtig indien die opvoeder voldoen het aan die voorwaardes waaraan sy of haar aanstelling, oorplasing of bevordering onderworpe was.

(4) Vir die doeleindes van subregulasie (1) word 'n aanstelling op proef, ondanks die feit dat die tydperk waartydens dit van krag was, verval het, en ondanks enige andersluidende bepaling in daardie subregulasie, geag voort te duur totdat die betrokke opvoeder skriftelik deur die werkgewer daarvan in kennis gestel word dat sy of haar proefaanstelling —

- (a) bekragtig is; of
- (b) nie bekragtig is nie; of
- (c) vir 'n verdere tydperk verleng is:

Met dien verstande dat 'n kennisgewing in paragrawe (a), (b) en (c) bedoel nie later nie as ses maande na die verstryking van die tydperk van sy of haar proefaanstelling aan die opvoeder gestuur moet word, en dat wanneer die proeftyd vir 'n verdere tydperk verleng word, daardie verdere tydperk bereken word van die datum waarop eersbedoelde tydperk ingevolge subregulasie (1) sou verstryk het deur verloop van tyd.

Heraanstelling van opvoeders wat afgetree het of wat met vervroegde pensioen afgetree het

4. Die heraanstelling van 'n opvoeder, hetsy in 'n volttydse of deelttydse hoedanigheid in 'n pos in artikel 3 (1) van die Wet bedoel, wat afgetree het of wat verplig is om af te tree voor die bereiking van sy of haar aftree-ouderdom, moet deur die werkgewer goedgekeur word: Met dien verstande dat sodanige aanstelling onderworpe is aan die voorwaardes deur die Minister bepaal.

Filling of vacant posts by educators

5. (1) Whenever a post becomes vacant, any educator may, notwithstanding anything to the contrary contained in these Regulations, with his or her consent be appointed in a permanent capacity by the employer to such vacant post.

(2) Notwithstanding anything to the contrary contained in these Regulations, the employer may, subject to the provisions of regulation 2 (1), appoint any person to a vacant post in a temporary capacity.

Date on which salary commences and terminates

6. (1) Subject to the provisions of subregulations (2), (3), (4), (5), (6), (7) and (8) an educator shall be paid a salary with effect from the date on which he or she assumes duty up to and including the date on which his or her service terminates.

(2) An educator who renders service at an office from the first working day up to and including the last working day of a month shall be paid a salary with effect from the first day of the month in question up to and including the last day of such month.

(3) Subject to the provisions of subregulations (4) and (5) an educator employed at a school who is appointed during any school term and who renders service for a continuous period of at least 30 days during such school term shall be paid a salary—

(a) if such service begins on the first working day of the school term, from the first day of the month in which he or she assumes duty up to and including the last day he or she is so in service; or

(b) if such service terminates on the last working day of the school term, from the day such service begins up to and including the last day of the month concerned; or

(c) if such service does not begin on the first working day of the school term and also does not terminate on the last working day of the school term, from the day such service begins up to and including the last day he or she is so in service.

(4) If a school term commences within the same month in which the preceding school terms ends, salary shall be paid under the circumstances referred to in subregulation (3) (a)—

(a) with effect from the first day following the closing date of the preceding school terms; or

(b) with effect from the day following the date on which the services of the educator concerned terminated under any other education department if he or she so served as an educator at a school for a continuous period of at least 30 days, including the last working day of the preceding school terms.

(5) If a school term ends within the same month in which the following school term commences, salary shall, under the circumstances referred to in subregulation (3) (b), be paid up to and including the last working day of the school term in which the service of the educator concerned terminates at a school.

(6) An educator employed at a school who is appointed during any school term and who renders service for a period of less than 30 days during such school term shall be paid a salary from the day on which such service begins up to and including the last

Die vul van vakante poste deur opvoeders

5. (1) Telkens wanneer 'n pos vakant word, kan enige opvoeder, ondanks enige andersluidende bepaling in hierdie regulasies, met sy of haar toestemming deur die werkgever in 'n permanente hoedanigheid in sodanige vakante pos aangestel word.

(2) Ondanks enige andersluidende bepaling in hierdie regulasies kan die werkgever, behoudens die bepalings van regulasie 2 (1), enige persoon in 'n tydelike hoedanigheid in enige vakante pos aanstel.

Datum waarop salaris begin en eindig

6. (1) Behoudens die bepalings van subregulasies (2), (3), (4), (5), (6), (7) en (8) word die salaris van 'n opvoeder betaal met ingang van die datum waarop hy of sy diens aanvaar tot en met die datum waarop sy of haar diens eindig.

(2) Aan 'n opvoeder wat diens doen by 'n kantoor vanaf die eerste werkdag tot en met die laaste werkdag van 'n maand, word salaris betaal vanaf die eerste dag van die betrokke maand tot en met die laaste dag van die betrokke maand.

(3) Behoudens die bepalings van subregulasies (4) en (5) word aan 'n opvoeder in diens by 'n skool wat in enige skooltermyn aangestel word en vir 'n tydperk van minstens 30 dae ononderbroke in die betrokke skooltermyn diens doen, salaris betaal—

(a) as sy of haar diens op die eerste werkdag van die skooltermyn begin, vanaf die eerste dag van die betrokke maand waarin hy of sy diens aanvaar tot en met die laaste dag waarop hy of sy aldus in diens is; of

(b) as sy of haar diens op die laaste werkdag van die skooltermyn eindig, vanaf die dag waarop sy of haar diens begin tot en met die laaste dag van die betrokke maand; of

(c) as sy of haar diens nie op die eerste werkdag van die skooltermyn begin nie en ook nie op die laaste werkdag van die skooltermyn eindig nie, vanaf die laaste dag waarop hy of sy aldus in diens is.

(4) Indien 'n skooltermyn binne dieselfde maand begin as dié waarin die voorafgaande skooltermyn eindig, word onder die omstandighede bedoel in subregulasie (3) (a), salaris betaal—

(a) met ingang van die eerste dag wat volg op die sluitingsdatum van die voorafgaande skooltermyn; of

(b) met ingang van die dag wat volg op die datum waarop die betrokke opvoeder se diens onder 'n ander onderwysdepartement geëindig het, indien hy of sy aldus minstens 30 dae, met inbegrip van die laaste werkdag van die voorafgaande skooltermyn, ononderbroke diens as opvoeder by 'n skool gedoen het.

(5) Indien 'n skooltermyn binne dieselfde maand eindig as dié waarin die eersvolgende skooltermyn begin, word onder die omstandighede bedoel in subregulasie (3) (b), salaris betaal tot en met die laaste werkdag van die skooltermyn waarin die betrokke opvoeder se diens by 'n skool eindig.

(6) Aan 'n opvoeder in diens by 'n skool wat in enige skooltermyn aangestel word en diens doen vir 'n tydperk van minder as 30 dae in die betrokke skooltermyn, word salaris betaal vanaf die dag waarop sy of haar diens begin tot en met die laaste dag waarop hy of

day the educator is so in service, irrespective of whether such service begins on the first working day of the school term or terminates on the last working day of the school term: Provided that, if he or she renders service up to and including the last working day of the said school term and renders service as from the first working day of the following school term for a continuous period of at least 30 days, he or she shall be paid a salary for the intervening holiday period.

(7) An educator employed at a school who is appointed during any school term and who renders service for a continuous period of at least 30 days, if such service terminates on the last working day of the last school term of the year concerned, shall be paid a salary up to and including the last day of such year.

(8) An educator whose resignation takes effect during any school holiday or on the first school day for educators following upon such school holiday, shall, in the application of this regulation be deemed to have terminated his or her service on the last day of the calendar month in which the previous school term ended.

(9) An educator whose services terminate on any date by reason of his or her having reached the retiring age as determined in regulation 15, shall receive salary up to and including the day preceding such date, unless the services of such educator are retained beyond such date, in which event he shall receive salary up to and including the last day on which he remains in service, subject to the provisions of regulation 6.

(10) Notwithstanding the provisions of subregulation (3) (a) a person who has been appointed as an educator at a school in a permanent capacity and who, immediately after the completion of his or her course of training or instruction as an educator is called up for his or her initial period of compulsory military service and is therefore unable to assume duty on the first working day of a school term and to whom leave could have been granted in terms of regulation 49 (1) had he or she already assumed duty, shall be paid a salary as if he or she had assumed duty on the first working day of the school term.

Remuneration during school holiday

7. An educator whose services are terminated on the last day of a school term and who is reappointed and assumes duty within the first four school days for educators of the following school term and has rendered service for a continuous period of at least 30 days after assumption of duty, shall, notwithstanding the provisions of regulation 6, be entitled to receive salary in respect of the intervening school holiday for which he or she has not already received salary: Provided that if such an educator does not assume duty within the said first four school days and he or she has been granted leave with pay for a period including such four days, he or she shall be deemed to have assumed duty within such first four school days.

Salary increments

8. (1) Subject to the provisions of subregulation (2), the salary of an educator shall be increased by, one salary increment within the limits of the salary scale applicable to him or her after completion of each salary incremental period and with effect from the first day of his or her incremental month.

sy aldus in diens is, ongeag of die diens op die eerste werkdag van die skooltermyn begin of op die laaste werkdag van die skooltermyn eindig: Met dien verstande dat indien hy of sy tot en met die laaste werkdag van die betrokke skooltermyn diens doen en vanaf die eerste werkdag van die eersvolgende skooltermyn vir 'n aaneenlopende tydperk van minstens 30 dae diens doen, salaris vir die tussenkomende vakansie tydperk aan hom of haar betaal word.

(7) Aan 'n opvoeder in diens by 'n skool wat in enige skooltermyn aangestel word en vir 'n tydperk van minstens 30 dae ononderbroke diens doen, as daardie diens eindig op die laaste werkdag van die laaste skooltermyn van die betrokke jaar, word salaris betaal tot en met die laaste dag van genoemde jaar.

(8) 'n Opvoeder wie se bedanking gedurende enige skoolvakansie of op die eerste skooldag vir opvoeders na sodanige skoolvakansie in werking tree, word by die toepassing van hierdie regulasie geag sy of haar diens te beëindig het op die laaste dag van die kalendermaand waarin die vorige skooltermyn geëindig het.

(9) 'n Opvoeder wie se diens op enige datum ten einde loop omdat hy of sy die aftree-ouderdom soos in regulasie 15 bepaal bereik het, ontvang salaris tot en met die dag net voor sodanige datum, tensy die dienste van sodanige opvoeder behou word tot na sodanige datum en in dié geval ontvang hy of sy salaris tot en met die laaste dag waarop hy of sy in diens bly, behoudens die bepalings van hierdie subregulasie.

(10) Ondanks die bepalings van subregulasie (3) (a) word aan iemand wat in 'n vaste hoedanigheid as opvoeder in diens by 'n skool aangestel is en wat onmiddellik na voltooiing van sy of haar opleidings- of onderrigprogram as opvoeder opgeroep word vir sy of haar aanvanklike tydperk van verpligte militêre diens en gevolglik nie in staat is om op die eerste werkdag van 'n skooltermyn diens te aanvaar nie en aan wie verlof ingevolge regulasie 49 (1) toegestaan sou kon word indien hy of sy reeds diens aanvaar het, salaris betaal asof hy of sy op die eerste werkdag van die skooltermyn diens aanvaar het.

Besoldiging tydens skoolvakansie

7. 'n Opvoeder wie se dienste beëindig word op die laaste dag van 'n kalenderkwartaal en wat heraangetel word en binne die eerste vier skooldae vir opvoeders van die eersvolgende kalenderkwartaal diens aanvaar en vir 'n aaneenlopende tydperk van minstens 30 dae na diensaanvaarding diens lewer, is ondanks die bepalings van regulasie 6 daarop geregtig om salaris te ontvang ten opsigte van die tussenkomende skoolvakansie waarvoor hy of sy nie reeds salaris ontvang het nie: Met dien verstande dat indien sodanige opvoeder nie binne bedoelde eerste vier skooldae diens aanvaar nie en daar aan hom of haar verlof met besoldiging toegestaan is vir 'n tydperk wat sodanige vier dae insluit, hy of sy geag word binne sodanige eerste vier skooldae diens te aanvaar het.

Salarisverhogings

8. (1) Behoudens die bepalings van subregulasie (2) word die salaris van 'n opvoeder na voltooiing van elke salarisverhogingstydperk en met ingang van die eerste dag van sy of haar verhogingsmaand verhoog met een salarisverhoging binne die perke van die salarisskaal wat op hom of haar van toepassing is.

(2) If the head of the relevant institution or office issues a certificate in which it is declared, on good cause shown, that the conduct of an educator in terms of industry, discipline, punctuality and sobriety has not been uniformly satisfactory during a salary incremental period or that he or she has not performed his or her work uniformly satisfactorily during a salary incremental period, the salary of such an educator shall not be increased in terms of subregulation (1): Provided that the employer may grant approval for the salary of an educator to be increased in terms of subregulation (1) irrespective of whether a certificate referred to in this subregulation has been issued.

(3) If the salary of an educator is not increased in terms of subregulation (1) or the proviso to subregulation (2) on account of the issuing of a certificate referred to in subregulation (2), such educator shall be notified by the employer in writing of the reasons therefor and also that on the expiry of a continuous period to be indicated but which shall not exceed a salary incremental period, a salary increment may be granted on condition that a certificate is issued by the head of the relevant institution or office in which it is declared that the conduct and work of the educator referred to in subregulation (2) were satisfactory during such period.

(4) (a) If the period mentioned in subregulation (3) is shorter than a salary incremental period, one salary increment shall be granted to the educator with effect from the first day of the month following the date on which the period mentioned expires: Provided that such salary increment may be granted only if the head of the relevant institution or office issues a certificate in which it is declared that the conduct and work of the educator referred to in subregulation (2) were satisfactory during such period.

(b) If a salary increment has been granted to an educator in terms of paragraph (a), a further salary increment shall be granted to him after the expiry of a salary incremental period reckoned from the date on which his or her salary would have been increased in terms of subregulation (1) had such increment not been withheld in terms of subregulation (2).

(c) The salary increment referred to in paragraph (b) may be granted only if the head of the relevant institution or office issues a certificate in which it is declared that the conduct and work of the educator referred to in subregulation (2) continued to be satisfactory from the date of the granting of the salary increment mentioned in subregulation (1) to the date immediately prior to that on which a salary increment may be granted in terms of this paragraph.

(d) The provision of paragraphs (b) and (c) shall not apply to an educator if his or her salary is already equal to the maximum notch of the salary scale applicable to him.

(5) If an educator is not granted a salary increment in terms of subregulation (4) (a) —

(a) such educator shall be notified in writing by the employer of the reasons therefor and also that, on the expiry of a continuous period to be indi-

(2) Indien 'n opvoeder se onmiddellike hoof met grondige redes 'n sertifikaat uitreik waarin verklaar word dat 'n opvoeder se gedrag met betrekking tot ywer, dissipline, stiptheid en matigheid gedurende 'n salarisverhogingstydperk nie deurgaans bevredigend was nie, of dat hy of sy nie sy of haar werk deurgaans gedurende 'n salarisverhogingstydperk op 'n bevredigende wyse verrig het nie, word die salaris van die betrokke opvoeder nie ingevolge subregulasie (1) verhoog nie: Met dien verstande dat die werkgewer kan goedkeur dat die salaris van 'n opvoeder ingevolge subregulasie (1) verhoog word ongeag of 'n sertifikaat in hierdie subregulasie bedoel, uitgereik is.

(3) Indien die salaris van 'n opvoeder nie ingevolge subregulasie (1) of die voorbehoudsbepaling by subregulasie (2) verhoog word nie vanweë die uitreiking van 'n sertifikaat in subregulasie (2) bedoel, word sodanige opvoeder skriftelik deur die werkgewer in kennis gestel van die redes daarvoor asook dat, by verstryking van 'n aaneenlopende tydperk wat aangedui moet word maar wat nie langer as 'n salarisverhogingstydperk is nie, 'n salarisverhoging toegeken kan word op voorwaarde dat 'n sertifikaat deur die opvoeder se onmiddellike hoof uitgereik word waarin verklaar word dat die opvoeder se gedrag en werk in subregulasie (2) bedoel, gedurende die gemelde tydperk bevredigend was.

(4) (a) Indien die tydperk in subregulasie (3) bedoel, korter is as 'n salarisverhogingstydperk, word een salarisverhoging aan die opvoeder toegeken met ingang van die eerste dag van die maand wat volg op die datum waarop genoemde tydperk verstryk: Met dien verstande dat die salarisverhoging toegeken kan word slegs indien 'n opvoeder se onmiddellike hoof 'n sertifikaat uitreik waarin verklaar word dat die opvoeder se gedrag en werk in subregulasie (2) bedoel, gedurende genoemde tydperk bevredigend was.

(b) Indien 'n salarisverhoging ingevolge paragraaf (a) aan 'n opvoeder toegeken is, word 'n verdere salarisverhoging aan hom of haar toegeken na verstryking van 'n salarisverhogingstydperk gereken vanaf die datum waarop sy of haar salaris ingevolge subregulasie (1) verhoog sou gewees het as gemelde verhoging nie ingevolge subregulasie (2) weerhou is nie.

(c) Die salarisverhoging in paragraaf (b) bedoel, kan toegeken word slegs indien 'n opvoeder se onmiddellike hoof 'n sertifikaat uitreik waarin verklaar word dat die opvoeder se gedrag en werk in subregulasie (2) bedoel steeds bevredigend was vanaf die datum van toekenning van die salarisverhoging in subregulasie (1) bedoel tot die datum onmiddellik voor die datum waarop 'n salarisverhoging ingevolge hierdie paragraaf toegeken kan word.

(d) Die bepalings van paragrawe (b) en (c) is nie op 'n opvoeder van toepassing nie indien sy of haar salaris reeds gelyk is aan die maksimum kerf van die salarisskaal wat op hom of haar van toepassing is.

(5) Indien 'n salarisverhoging ingevolge subregulasie (4) (a) nie aan 'n opvoeder toegeken word nie —

(a) word sodanige opvoeder skriftelik deur die werkgewer in kennis gestel van die redes daarvoor asook dat by verstryking van 'n aaneenlopende

cated and which shall be equal to the difference between the period mentioned in subregulation (3) and a salary incremental period, a salary increment may be granted on condition that the head of the relevant institution or office issues a certificate in which it is declared that the conduct and work of the educator referred to in subregulation (2) was satisfactory during the continuous period mentioned;

(b) two salary increments shall be granted to such educator by the employer after the expiry of a salary incremental period reckoned from the date on which his or her salary would have been increased in terms of subregulation (1) if such increment had not been withheld in terms of subregulation (2);

(c) the salary increments referred to in paragraph (b) may be granted only if the head of the relevant institution or office issues a certificate in which it is declared that the conduct and work of the educator referred to in subregulation (2) were satisfactory during the continuous period mentioned in paragraph (a); and

(d) only one salary increment may be granted to such educator in terms of paragraphs (b) and (c) if his or her salary is already equal to the penultimate notch on the salary scale applicable to him.

(6) (a) If the period mentioned in subregulation (3) is equal to a salary incremental period, two salary increments shall be granted to such educator after the expiry of such period.

(b) The salary increments referred to in paragraph (a) may be granted only if the head of the relevant institution or office issues a certificate in which it is declared that the conduct and work of the educator referred to in subregulation (2) were satisfactory during such period.

(c) Only one salary increment may be granted to such educator in terms of paragraphs (a) and (b) if his or her salary is already equal to the penultimate notch of the salary scale applicable to him.

(7) If an educator is not granted a salary increment in terms of subregulation (4) (b), (c), (d), (5) (b), (c), (d) or (6), the provision of subregulations (2), (3), (4) and (5) shall once again become applicable.

(8) Subject to the provisions of this regulation the salary of an educator to whom a salary increment has been granted in terms of subregulation (4) (b), (5) (b) or (6) shall, after the expiry of each further salary incremental period, be increased by one salary increment within the limits of the salary scale applicable to him or her.

Salary incremental date

9. (1) The salary incremental date of an educator without recognisable experience appointed at post level 1 shall be the first day of the month in which the date of appointment falls.

tydperk, wat aangedui moet word en wat gelyk moet wees aan die verskil tussen die tydperk in subregulasie (3) bedoel en 'n salarisverhogingstydperk, 'n salarisverhoging toegeken kan word op voorwaarde dat 'n sertifikaat deur die opvoeder se onmiddellike hoof uitgereik word waarin verklaar word dat die opvoeder se gedrag en werk in subregulasie (2) bedoel, gedurende genoemde aaneenlopende tydperk bevredigend was;

(b) word twee salarisverhogings deur die werkgever aan sodanige opvoeder toegeken na verstryking van 'n salarisverhogingstydperk gereken vanaf die datum waarop sy of haar salaris ingevolge subregulasie (1) verhoog sou gewees het as die verhoging nie ingevolge subregulasie (2) weerhou is nie;

(c) kan die salarisverhogings in paragraaf (b) bedoel, toegeken word slegs indien die opvoeder se onmiddellike hoof 'n sertifikaat uitreik waarin verklaar word dat die opvoeder se gedrag en werk in subregulasie (2) bedoel, gedurende die aaneenlopende tydperk in paragraaf (a) bedoel, bevredigend was; en

(d) kan slegs een salarisverhoging ingevolge paragrafe (b) en (c) aan sodanige opvoeder toegeken word indien sy of haar salaris reeds gelyk is aan die voorlaaste kerf van die salarisskaal wat op hom of haar van toepassing is.

(6) (a) Indien die tydperk in subregulasie (3) bedoel, gelyk is aan 'n salarisverhogingstydperk, word twee salarisverhogings aan die opvoeder toegeken na verstryking van sodanige tydperk.

(b) Die salarisverhoging in paragraaf (a) bedoel, kan toegeken word slegs indien 'n opvoeder se onmiddellike hoof 'n sertifikaat uitreik waarin verklaar word dat die opvoeder se gedrag en werk in subregulasie (2) bedoel, gedurende sodanige tydperk bevredigend was.

(c) Slegs een salarisverhoging kan ingevolge paragrafe (a) en (b) aan sodanige opvoeder toegeken word indien sy of haar salaris reeds gelyk is aan die voorlaaste kerf van die salarisskaal wat op hom of haar van toepassing is.

(7) Indien 'n salarisverhoging nie ingevolge subregulasie (4) (b), (c) of (d), (5) (b), (c) of (d) of (6) aan 'n opvoeder toegeken word nie, tree die bepalings van subregulasies (2), (3), (4) en (5) opnuut in werking.

(8) Behoudens die bepalings van hierdie regulasie word die salaris van 'n opvoeder aan wie 'n salarisverhoging ingevolge subregulasie (4) (b), (5) (b) of (6) toegeken is, by die verstryking van elke verdere salarisverhogingstydperk verhoog met een salarisverhoging binne die perke van die salarisskaal wat op hom of haar van toepassing is.

Salarisverhogingsdatum

9. (1) Die salarisverhogingsdatum van 'n opvoeder sonder erkenbare ondervinding wat op posvlak 1 aangestel is, is die eerste dag van die maand waarin die datum van aanstelling val.

(2) The calculated date of appointment of an educator with recognisable experience appointed at post level 1 shall be the number of years, months and days of recognisable experience deducted from the actual date of appointment and the salary incremental date shall be the first day of the month in which the calculated date of appointment falls.

(3) (a) An educator who has not attained the maximum of the salary scale applicable to him or her and gains only one salary notch on appointment at the higher post level, retains his existing salary incremental date.

(b) An educator who has not attained the maximum of the salary scale applicable to him or her and gains two or more notches on appointment at the higher post level, the anniversary of the first day of the month in which he or she is appointed at the higher post level shall be his or her future incremental date except in the case of an educator who is appointed at post level 2 and who gains only two notches by the appointment at that post level, in which case he or she retains his or her salary incremental date.

(c) An educator who is on the maximum of the salary scale applicable to him or her and who consequently does not qualify for further salary increments at the lower post level, takes the anniversary of the first day of the month in which he is appointed at the higher post level as his or her future salary incremental date.

(d) In cases where the salary incremental date and the date of appointment at the higher post level fall on the same day, the salary increment must first be granted, after which the provisions of paragraphs (a), (b) and (c) shall apply.

(4) An educator who is re-appointed, after a break in service, on post levels 2 and higher shall take the anniversary of the first day of the month in which he or she is re-appointed on this post level as his or her future incremental date.

(5) Notwithstanding anything to the contrary contained in this regulation and educator's salary incremental date may be adjusted in consequence of specific measures issued at the time of a salary adjustment.

Classification into qualification categories

10. (1) The following measures shall apply for the classification of educators into the various qualification categories:

<i>Qualification category</i>	<i>Requirements for classification</i>
(a) A2.....	Std 10 or lower without apposite training.
(b) A1.....	Std 6, 7, 8 or 9 plus at least two year's apposite training.
(c) B.....	Std 10 plus one or two years apposite training.
(d) C.....	Std 10 plus three years apposite training.
(e) D.....	Std 10 plus four years apposite training.
(f) E.....	Std 10 plus five years apposite training.

(2) Die berekende datum van aanstelling van 'n opvoeder met erkenbare ondervinding wat op posvlak 1 aangestel word, is die aantal jare, maande en dae erkenbare ondervinding afgetrek van die werklike datum van aanstelling, en die salarisverhogingsdatum is die eerste dag van die maand waarin die berekende datum van aanstelling val.

(3) (a) 'n Opvoeder wat nie die maksimum van die salarisskaal wat op hom of haar van toepassing is, bereik het nie en slegs een salariskerf by aanstelling op die hoër posvlak wen, behou sy of haar bestaande salarisverhogingsdatum.

(b) Vir 'n opvoeder wat nie die maksimum van die salarisskaal wat op hom of haar van toepassing is, bereik het nie en twee of meer salariskerfe by aanstelling op die hoër posvlak wen, is die jaardag van die eerste dag van die maand waarin hy of sy op die hoër posvlak aangestel is, sy of haar toekomstige verhogingsdatum, uitgesonderd in die geval van 'n opvoeder wat op posvlak 2 aangestel is en wat slegs twee kerwe wen met die aanstelling op daardie posvlak, in welke geval hy of sy sy of haar salarisverhogingsdatum behou.

(c) 'n Opvoeder op die maksimum van die salarisskaal wat op hom of haar van toepassing is, en wat gevolglik nie kwalifiseer vir verdere salarisverhogings op die laer posvlak nie, neem die jaardag van die eerste dag van die maand waarin hy of sy op die hoër posvlak aangestel word, as sy of haar toekomstige salarisverhogingsdatum.

(d) In gevalle waar die salarisverhogingsdatum en die datum van aanstelling op die hoër posvlak op dieselfde dag val, moet die salarisverhoging eers toege staan word, waarna die bepaling van paragrafe (a), (b) en (c) van toepassing is.

(4) 'n Opvoeder wat na 'n diensonderbreking heraangestel word op posvlak 2 of hoër, neem die jaardag van die eerste dag van die maand waarin hy of sy op daardie posvlak heraangestel word, as sy of haar toekomstige verhogingsdatum.

(5) Ondanks enige andersluidende bepaling in hierdie regulasie kan 'n opvoeder se salarisverhogingsdatum aangepas word as gevolg van bepaalde maatreëls uitgevaardig ten tyde van 'n salarisaanpassing.

Klassifikasie in kwalifikasiekategorieë

10. (1) Die volgende maatreëls geld vir die indeling van opvoeders in die verskillende kwalifikasiekategorieë:

<i>Kwalifikasie kategorie</i>	<i>Vereistes vir indeling</i>
(a) A2.....	St. 10 of laer sonder toepaslike opleiding.
(b) A1.....	St. 6, 7, 8 of 9 plus minstens twee jaar toepaslike opleiding.
(c) B.....	St. 10 plus een of twee jaar toepaslike opleiding.
(d) C.....	St. 10 plus drie jaar toepaslike opleiding.
(e) D.....	St. 10 plus vier jaar toepaslike opleiding.
(f) E.....	St. 10 plus vyf jaar toepaslike opleiding.

<i>Qualification category</i>	<i>Requirements for classification</i>	<i>Kwalifikasie kategorie</i>	<i>Vereistes vir indeling</i>
(g) F.....	Std 10 plus six years apposite training which shall include a university degree recognised by the Minister.	(g) F.....	St. 10 plus ses jaar toepaslike opleiding wat 'n universiteitsgraad deur die Minister erken, insluit.
(h) G.....	Std 10 plus seven years apposite training which shall include a masters degree recognised by the Minister.	(h) G.....	St. 10 plus sewe jaar gepaste opleiding wat 'n meestersgraad deur die Minister erken, insluit.

(2) The Minister shall determine the salary, scale or notch which shall be applicable to the qualification categories referred to in subregulation (1).

Experience

11. (1) The types of experience and the extent of recognition of such experience on the appointment of an educator shall be as follows:

(a) Actual educator's experience shall include all experience gained while the person held an educator's post: Provided that the period of initial compulsory military service shall be deemed to be actual educator's experience;

(b) appropriate experience shall include working experience which, in the opinion of the Minister, develops the candidate, directly and appositely, in all respects regarding knowledge, skill and attitude, for holding an educator's post;

(c) other experience shall include experience other than actual educator's experience and appropriate experience recognised by the Minister.

(2) The different types of experience referred to in subregulation (1) shall be recognised to the following extent:

(a) Actual educator's experience—full recognition.

(b) Appropriate experience—full recognition.

(c) Other experience—one year's recognition for every two years' experience (that is, the number of years, months and days of experience is divided by two and parts of days fall away).

(3) All experience recognised in terms of subregulation (2) shall be deemed to be experience gained after a candidate has been placed in a qualification category.

Achievement recognition

12. (1) An educator may be granted the benefits referred to in subregulation (2) in consequence of the recognition of an achievement in accordance with a system determined by the Minister.

(2) Benefits:

(a) Salary recognition is granted at post level 1 on the basis of—

(i) the allocation of a merit salary scale based on the number of achievement awards; and

(ii) the application of the notch-per-annum system.

(b) The required period of experience for appointment at post levels 2 or higher is reduced by one year for every achievement award made.

(2) Die Minister bepaal die salaris, skaal of kerf wat van toepassing is op die kwalifikasiekategorieë in subregulasie (1) genoem.

Ondervinding

11. (1) Die tipes ondervinding en die mate van erkenning van sodanige ondervinding by die aanstelling van 'n opvoeder is soos volg:

(a) Werklike opvoedersondervinding sluit in alle ondervinding verwerf onderwyl die persoon 'n opvoederspos beklee het: Met dien verstande dat die tydperk van aanvanklike verpligte militêre diens geag word werklike opvoedersondervinding te wees;

(b) toepaslike ondervinding sluit in werkondervinding wat, na die mening van die Minister, die kandidaat in alle opsigte betreffende kennis, vaardigheid en gesindheid regstreeks en gepas ontwikkel vir die bekleding van 'n opvoederspos;

(c) ander ondervinding sluit in ander ondervinding as werklike opvoedersondervinding en toepaslike ondervinding wat deur die Minister erken word.

(2) Die verskillende tipes ondervinding in subregulasie (1) bedoel, word in die volgende mate erken:

(a) Werklike opvoedersondervinding—volle erkenning.

(b) Toepaslike ondervinding—volle erkenning.

(c) Ander ondervinding—een jaar erkenning vir elke twee jaar ondervinding (dit wil sê die aantal jare, maande en dae ondervinding word deur twee gedeeltes van dae val weg).

(3) Alle ondervinding ingevolge subregulasie (2) erken, word geag ondervinding te wees wat na indeling van die kandidaat by 'n kwalifikasiekategorie opgedoen is.

Prestasie-erkenning

12. (1) Die voordele in subregulasie (2) bedoel, kan aan 'n opvoeder toegeken word as gevolg van die erkenning van 'n prestasie ooreenkomstig 'n stelsel deur die Minister bepaal.

(2) Voordele:

(a) Salariserkenning op posvlak 1 word verleen op die grondslag van—

(i) die toekenning van 'n merietesalarisskaal gebaseer op die aantal prestasietoekenning; en

(ii) die toepassing van die kerf-per-jaar-stelsel.

(b) Die vereiste tydperk van ondervinding vir aanstelling op posvlak 2 of hoër word met een jaar verminder vir elke prestasietoekenning wat verleen is.

Wrongly granted remuneration

13. (1) If an incorrect salary or salary scale on appointment, transfer or promotion or an incorrect advancement of salary within the limits of the appropriate salary scale was awarded or granted to an educator, or was awarded or granted at the correct notch or scale but at a time when or in circumstances under which it should not have been awarded or granted to him or her, the employer shall correct the educator's salary or salary scale with effect from the date on which the incorrect salary, salary scale or salary advancement commenced, notwithstanding the fact that the educator concerned was unaware that an error had been made in the case where the correction amounts to a reduction of his or her salary scale or salary.

(2) If an educator referred to in subregulation (1) has in respect of his or her salary, including any portion of any allowance or other remuneration or any other benefit calculated on his or her basic salary or salary scale, or awarded to him or her by reason of his or her basic salary—

(a) been underpaid, an amount equal to the amount of the underpayment shall be paid to him or her, and that other benefit which he or she did not receive, shall be awarded to him or her as from a current date; or

(b) been overpaid or received any such other benefit not due to him or her—

(i) an amount equal to the amount of the overpayment shall be recovered from him or her by way of the deduction from his or her salary in instalments as may be determined by the employer, with due regard to the applicable Treasury Instructions by way of legal proceedings, or partly in the former manner and partly in the latter manner; and

(ii) that other benefit shall be discontinued or withdrawn as from a current date, but the educator concerned shall have the right to the compensated by the employer for any patrimonial loss which he or she has suffered or will suffer as a result of that discontinuation or withdrawal.

(3) With the approval of the Treasury the amount of an overpayment to be recovered in terms of subregulation (2) (b) may be remitted in whole or in part.

Unauthorised remuneration

14. (1) (a) If any remuneration, allowance or other reward is received by an educator in connection with the performance of his or her work with the employer other than in accordance with the provisions of the Act or these regulations, or is received contrary to the provisions of section 24 (1) (b) of the Act, that educator shall pay into the relevant Provincial Revenue Fund an amount equal to the amount of such remuneration, allowance or other reward, or, where it does not consist of money, the value thereof as determined by the employer, and if he or she does not do so, it shall be recovered from him or her by the employer by way of legal proceedings or in such manner as the Treasury may approve, and be paid into the relevant Provincial Revenue Fund.

Foutiewelik toegestane besoldiging

13. (1) Indien 'n foutiewe salaris of salarisskaal by aanstelling, oorpasing of bevordering, of 'n foutiewe verhoging in salaris binne die perke van die toepaslike salarisskaal, aan 'n opvoeder toegeken of toegestaan is, of toegeken of toegestaan is op die korrekte kerf of skaal maar op 'n tyd wanneer of in omstandighede waarin dit nie aan hom of haar toegeken of toegestaan behoort te gewees het nie, moet die werkgewer die opvoeder se salaris of salarisskaal regstel met ingang van die datum waarop die foutiewe salaris, salarisskaal of salarisverhoging in werking getree het, ondanks die feit dat die betrokke opvoeder onbewus daarvan was dat 'n fout begaan is in die geval waar die regstelling neerkom op 'n verlaging van sy salarisskaal of salaris.

(2) Indien 'n opvoeder in subregulasie (1) bedoel, ten opsigte van sy of haar salaris, met inbegrip van enige gedeelte van 'n toelae of ander besoldiging of enige ander voordeel wat op sy of haar basiese salaris of salarisskaal bereken is of op grond van sy of haar basiese salaris aan hom of haar toegeken is—

(a) onderbetaal is, moet 'n bedrag gelyk aan die bedrag van die onderbetaling aan hom of haar betaal word, en moet die ander voordeel wat hy of sy nie ontvang het nie, vanaf 'n lopende datum aan hom of haar toegeken word; of

(b) oorbetaal is, of so 'n ander voordeel ontvang het wat hom of haar nie toekom nie—

(i) moet 'n bedrag gelyk aan die bedrag van die oorbetalings op hom of haar verhaal word by wyse van die aftrekking van sy of haar salaris in paaie-mente deur die werkgewer bepaal, of, met behoorlike inagneming van die toepaslike Tesourie-instruksies, deur middel van geregtelike proses, of gedeeltelik op eersgenoemde wyse en gedeeltelik op laasgenoemde wyse; en

(ii) moet daardie ander voordeel vanaf 'n lopende datum gestaak of ingetrek word, maar die betrokke opvoeder het die reg om deur die werkgewer vergoed te word vir enige vermoenskade wat hy of sy as gevolg van daardie staking of intrekking gelyk het of sal ly.

(3) Met die goedkeuring van die Tesourie kan die bedrag van 'n oorbetalings wat ingevolge subregulasie (2) (b) verhaal moet word, in die geheel of gedeeltelik kwyteskeld word.

Ongemagtigde besoldiging

14. (1) (a) Indien enige ander besoldiging, toelae of ander beloning deur 'n opvoeder in verband met die verrigting van sy of haar werk by die werkgewer behalwe ooreenkomstig die bepalings van die Wet op hierdie regulasies of in stryd met die bepalings van artikel 24 (1) (b) van die Wet ontvang word, moet daardie opvoeder 'n bedrag gelyk aan sodanige besoldiging, toelae of ander beloning in die betrokke Provinsiale Inkomstefonds stort, of waar dit nie uit geld bestaan nie, die waarde daarvan soos bepaal deur die werkgewer, en indien hy of sy dit nie doen nie, moet dit deur die werkgewer deur middel van geregtelike proses of op sodanige ander wyse as wat die Tesourie goedkeur, op hom of haar verhaal en in die betrokke Provinsiale Inkomstefonds gestort word.

(b) The Educator concerned may appeal against such a determination by the employer to the Member of the Executive Council who may make such order as he or she may think fit: Provided that the educator may declare a dispute on grounds of such order in terms of the provisions of the Education Labour Relations Act, 1993.

(c) The employer may with the consent of the Department of State Expenditure determine that the educator concerned may retain the whole or a portion of the remuneration, allowance or reward.

(2) If in the opinion of the employer an educator has received any remuneration, allowance or other reward referred to in subregulation (1) (a) and it is still in his or her possession or under his or her control or in the possession or under the control of any other person on his or her behalf, or, if it is money, has been deposited in any deposit-taking financial institution in his or her name or in the name of any other person on his or her behalf, the employer may in writing require that educator or that person or that financial institution not to dispose thereof, or, if it is money, not to dispose of a corresponding sum of money, as the case may be, pending the outcome of any legal steps for the recovery of that remuneration, allowance or reward or the value thereof.

(3) (a) Subject to the provisions of paragraph (b), any salary, allowance, fee, bonus or honorarium which may be payable in respect of the services of an educator who has been made available to a national or provincial department or a council, institution, body or person contemplated in section 7 of the Act, shall be paid into the Provincial Revenue Fund.

(b) In circumstances regarded by the employer as exceptional, he may recommend to the Treasury the payment out of the Provincial Revenue Fund to the educator concerned of an amount equal to that salary, allowance, fee, bonus or honorarium, or a portion thereof.

Retirement on pension

15. (1) (a) Subject to the provisions of this regulation, an educator shall have the right to retire on pension and shall be so retired on pension, on the date when he or she attains the age of 65 years.

(b) If such educator attains the said age after the first day of a month, he or she shall be deemed to have attained it on the first day of the following month.

(2) Notwithstanding the provisions of subregulation (1) an educator who was in employment immediately prior to the fixed date in terms of a law repealed by the Act, shall have the right to retire on pension at or on any time after attaining the retirement age applicable to him or her on such date and notwithstanding such repeal, such law shall for retirement purposes remain in force.

(3) Notwithstanding the provisions of subregulations (1) and (2) —

(a) but subject to paragraph (b), an educator who has reached the age of 60 years may, subject in every case to the approval of the Member of the Executive Council, be retired on pension; and

(b) Die betrokke opvoeder kan teen sodanige bepaling deur die werkgewer na die Lid van die Uitvoerende Raad appelleer, wat die bevel kan gee wat hy of sy goeddink: Met dien verstande dat die opvoeder op grond van sodanige bevel in terme van die bepalings van die Wet op Arbeidsverhoudinge in die Onderwys 'n dispuut kan verklaar.

(c) Die werkgewer kan met die instemming van die Departement van Staatsbesteding bepaal dat die betrokke opvoeder die geheel of 'n gedeelte van die besoldiging, toelae of beloning kan behou.

(2) Indien 'n opvoeder na die mening van die werkgewer enige besoldiging, toelae of ander beloning in subregulasie (1) (a) bedoel, ontvang het, en dit nog in sy of haar besit of onder sy of haar beheer is of ten behoeve van hom of haar in die besit of onder die beheer van iemand anders is, of, indien dit geld is, in 'n depositeermende finansiële instelling gestort is op sy of haar naam of op naam van iemand ander ten behoeve van hom of haar, kan die werkgewer daardie opvoeder of daardie persoon of daardie finansiële instelling skriftelik aansê om, in afwagting van die uitslag van geregtelike stappe vir die verhaal van daardie besoldiging, toelae of beloning of die waarde daarvan, nie daaroor te beskik nie, of, indien dit geld is, nie oor 'n ooreenstemmende bedrag geld te beskik nie, na gelang van die geval.

(3) (a) Behoudens die bepalings van paragraaf (b) moet enige salaris, toelae, geld, bonus of honorarium wat betaalbaar is ten opsigte van die dienste van 'n opvoeder wat ter beskikking gestel word van 'n nasionale of provinsiale departement of 'n raad, instelling, liggaam of persoon in artikel 7 van die Wet bedoel, in die Provinsiale Inkomstefonds gestort word.

(b) Die werkgewer kan in omstandighede wat hy as buitengewoon beskou, by die Tesourie aanbeveel dat daar aan die betrokke opvoeder uit die Provinsiale Inkomstefonds 'n bedrag betaal word wat gelyk is aan daardie salaris, toelae, geld, bonus of honorarium, of 'n gedeelte daarvan.

Uitdienstrede met pensioen

15. (1) (a) Behoudens die bepalings van hierdie regulasies, het 'n opvoeder die reg om met pensioen af te tree en word hy of sy aldus verplig om met pensioen af te tree op die datum waarop hy of sy die ouderdom van 65 jaar bereik.

(b) Indien sodanige opvoeder genoemde ouderdom bereik na die eerste dag van 'n maand, word hy of sy geag dit te bereik het op die eerste dag van die eersvolgende maand.

(2) Ondanks die bepalings van subregulasie (1) het 'n opvoeder wat onmiddellik voor die vasgestelde datum in diens was ingevolge 'n wet wat deur die Wet herroep is, die reg om met pensioen af te tree by of te eniger tyd na bereiking van die aftree-ouderdom wat op hom of haar van toepassing is op sodanige datum, en ondanks sodanige herroeping is sodanige wet vir aftreedoeleindes steeds van krag.

(3) Ondanks die bepalings van subregulasies (1) en (2) —

(a) maar behoudens paragraaf (b) kan 'n opvoeder wat die ouderdom van 60 jaar bereik het, in elke geval onderworpe aan die goedkeuring van die Lid van die Uitvoerende Raad, verplig word om met pensioen af te tree; en

(b) an educator who, immediately prior to the fixed date, was employed in a state educational institution under the control of an authority referred to in section 235 (1) (a) of the Constitution, and who has reached the age of 55 years may, subject to the approval of the Member of the Executive Council, be retired on pension.

(4) Notwithstanding anything to the contrary contained in this regulation, an educator who has already attained the age of 50 years and who has completed at least 10 years actual uninterrupted service, which service is pensionable service as defined in the Government Service Pension Act, 1973, shall have the right to retire on pension prematurely with reduced pension benefits after having given written notice of at least three calendar months to the employer.

(5) Notwithstanding anything to the contrary contained in any law the provisions of section 6 (10) of the Government Service Pension Act, 1973, shall only apply to an educator who may retire at the age of 60.

Discharge of an educator on account of the abolition of his or her post or a reduction, reorganisation or re-adjustment of staff

16. Subject to the provisions of regulation 5 (2), the employer shall, if he or she intends to discharge an educator from service in terms of section 8 (1) (b) of the Act, give such an educator three calendar months' written notice of such discharge.

REMUNERATIVE PAYMENTS OVER AND ABOVE SALARIES

Differentiated allowances

17. (1) An educator appointed at a state educational institution referred to in paragraph (a), (b) or (c), in a post with a post level grading of post level 1 shall receive a non-pensionable allowance equal to the difference between the notch on the key scale on which the educator is and the following higher notch on the key scale:

(a) Schools for—

(i) aurally handicapped children (that is, deaf children and children who are hard of hearing);

(ii) visually handicapped children (that is blind children and weak-sighted children);

(iii) neurally handicapped children (that is, physically handicapped, epileptic children and cerebral palsied children); and

(iv) pupils with early child-autism.

(b) Training institutions for mentally retarded children.

(c) Reform schools or schools of industry as defined in the Child Care Act, 1983 (Act No. 74 of 1983), including the Steinthal Junior Secondary School.

(b) kan 'n opvoeder wat onmiddellik voor die vasgestelde datum in diens was in 'n staats-onderwysinstelling onder beheer van 'n owerheid in artikel 235 (1) (a) van die Grondwet bedoel, en wat die ouderdom van 55 jaar bereik het, behoudens die goedkeuring van die Lid van die Uitvoerende Raad, verplig word om met pensioen af te tree.

(4) Ondanks enige andersluidende bepaling in hierdie regulasie het 'n opvoeder wat reeds die ouderdom van 50 jaar bereik het en wat minstens 10 jaar werklike ononderbroke diens voltooi het, welke diens pensioendraende diens is soos omskryf in die Regeringsdienspensioenwet, 1973, die reg om met vervroegde pensioen af te tree met verminderde pensioenvoordele na skriftelike kennisgewing van minstens drie kalendermaande aan die werkgever.

(5) Ondanks enige andersluidende bepaling in enige wet is die bepalings van artikel 6 (10) van die Regeringsdienspensioenwet, 1973, van toepassing slegs op 'n opvoeder wat op die ouderdom van 60 mag aftree.

Ontslag van 'n opvoeder weens die afskaffing van sy of haar pos, of 'n vermindering, reorganisering of herindeling van personeel

16. Behoudens die bepalings van regulasie 5 (2) moet die werkgever, indien hy of sy voornemens is om 'n opvoeder ingevolge artikel 8 (1) (b) van die Wet uit sy of haar diens te ontslaan, aan sodanige opvoeder drie kalendermaande skriftelike kennis van sodanige ontslag gee.

BESOLDIGENDE BETALINGS BO EN BEHALWE SALARISSE

Gedifferensieerde toelaes

17. (1) 'n Opvoeder aangestel by 'n staats-onderwysinstelling in paragraaf (a), (b) of (c) bedoel, in 'n pos met 'n posvlakgradering van posvlak 1, ontvang 'n nie-pensioendraende toelae gelyk aan die verskil tussen die kerf op die sleutelskaal waarop die opvoeder is en die volgende hoër kerf op die sleutelskaal:

(a) Skole vir—

(i) gehoorgestremdes (dit wil sê dowe kinders en hardhorende kinders);

(ii) gesiggestremdes (dit wil sê blinde kinders en swaksienende kinders);

(iii) neuraal gestremdes (dit wil sê liggaamlik gestremdes, epileptici en serebraal gestremdes); en

(iv) leerlinge met vroeë kinderoutisme.

(b) Opleidingsinstellings vir geestelike vertrapte kinders.

(c) Verbeteringskole of nywerheidskole soos omskryf in die Wet op Kindersorg, 1983 (Wet No. 74 van 1983), met inbegrip van die Steinthal Junior Sekondêre Skool.

(2) A non-pensionable allowance shall be paid to an educator at post level 1 who holds the post of principal, which allowance is equal to the difference between the notch on the salary scale applicable to him and the following higher notch on the same key scale: Provided that—

(a) in the case of educators in category A2 who were appointed at post level 1 after 1 January 1984, the allowance shall be restricted to educators who are on notches up to and on the maximum of the standard salary scale applicable to category A2, as the case may be;

(b) the allowance shall not be payable to educators who were in employment on 31 March 1981 and are still uninterruptedly in service and who received an added salary notch in terms of the provisions determined by the Minister;

(c) in the case of educators, excluding those mentioned in paragraphs (a) and (b) above, the payment of the allowance shall be restricted to the maximum of—

(i) the standard salary scale applicable to category C at post level 1 in the case of educators whose achievements have not been recognised; and

(ii) the appropriate merit salary scale referred to in regulation 12 (2) applicable to educators in category C at post level 1 in the case of educators whose achievements have been recognised.

(3) Educators who on 1 October 1984 held the post of Inspector: Schools excluding those who on 1 April 1981 chose to be remunerated according to personal fixed salaries, shall receive a non-pensionable allowance as determined by the Minister from time to time.

(4) Educators who teach an agriculture subject, shall receive a non-pensionable allowance as determined by the Minister.

Acting allowance

18. (1) To an educator who, with the approval of the employer temporarily occupies a post with a higher post level grading for an uninterrupted period of not less than 30 days, shall be paid an acting allowance referred to in subregulations (2) and (3).

(2) To educators referred to in subregulation (1) who comply with all requirements for appointment to the higher post shall be paid a non-pensionable acting allowance equal to the difference between his or her present salary and the salary that would have been received if the educator had been appointed in the higher post: Provided that this calculation shall be made whenever the salary position of an educator changes: Provided further that a theoretical advancement on the higher post level which he or she occupies is not granted for purposes of recalculating the allowance.

(2) 'n Nie-pensioendraende toelae word betaal aan 'n opvoeder op posvlak 1 wat die pos van skoolhoof beklee, welke toelae gelyk is aan die verskil tussen die kerf op die salarisskaal wat op hom of haar van toepassing is en die eersvolgende hoër kerf op dieselfde sleutelskaal: Met dien verstande dat—

(a) in die geval van opvoeders in kategorie A2 wat na 1 Januarie 1984 op posvlak 1 aangestel is, die toelae beperk word tot opvoeders wat op kerwe is tot en met die maksimum van die standaard-salarisskaal wat op kategorie A2 van toepassing is;

(b) die toelae nie betaalbaar is nie aan opvoeders wat op 31 Maart 1981 in diens was en wat steeds ononderbroke in diens is en wat 'n toegevoegde salariskerf ontvang het ingevolge die bepalings deur die Minister vasgestel;

(c) in die geval van opvoeders, uitgesonderd dié in paragrawe (a) en (b) hierbo bedoel, die betaling van die toelae beperk word tot die maksimum van—

(i) die standaardsalarisskaal wat op kategorie C van posvlak 1 van toepassing is in die geval van persone wie se prestasies nie erken is nie; en

(ii) die toepaslike merietesalarisskaal in regulasie 12 (2) bedoel van toepassing op opvoeders in kategorie C van posvlak 1 in die geval van opvoeders wie se prestasies erken is.

(3) Opvoeders wat op 1 Oktober 1984 die pos van Inspekteur: Skole beklee het, uitgesonderd diegene wat op 1 April 1981 die keuse uitgeoefen het om volgens vaste persoonlike salarisse besoldig te word, ontvang 'n nie-pensioendraende toelae wat van tyd tot tyd deur die Minister bepaal word.

(4) Opvoeders wat onderrig in 'n landbouvak gee, ontvang 'n niepensioendraende toelae wat deur die Minister bepaal word.

Waarnemingstoelae

18. (1) Aan 'n opvoeder wat, met die goedkeuring van die werkgewer, vir 'n ononderbroke tydperk van minstens 30 dae tydelik waarneem in 'n pos met 'n hoër posvlakgradering, word 'n waarnemingstoelae in subregulasies (2) en (3) bedoel, betaal.

(2) Aan opvoeders in subregulasie (1) bedoel wat voldoen aan al die vereistes vir aanstelling in die hoër pos, word 'n nie-pensioendraende waarnemingstoelae betaal gelyk aan die verskil tussen sy of haar huidige salaris en die salaris wat ontvang sou word indien die opvoeder in die hoër pos aangestel sou gewees het: Met dien verstande dat hierdie berekening gedoen word telkens wanneer die salarisposisie van 'n opvoeder verander: Met dien verstande voorts dat 'n teoretiese vordering op die hoër posvlak waarop hy of sy waarneem, nie toegeken word vir die doeleindes van die herberekening van die toelae nie.

(3) To educators referred to in subregulation (1) who do not comply with all the requirements for appointment to the higher post shall be paid a non-pensionable acting allowance equal to the difference between his or her present salary and the minimum notch of the applicable salary scale connected with the post which the educator occupies temporarily: Provided that the allowance shall be not less than one salary notch on the key scale: Provided further that the allowance must be revised whenever the salary position of the educator concerned changes.

Allowance to educators who perform supervisory duties at hostels

19. If an educator performs control or supervisory duties and functions at a hostel attached to a state educational institution such educator shall receive, subject to such conditions as the Minister may determine, a non-pensionable allowance, which allowance shall be based on the control or supervisory duties and functions of such educator as well as the number of pupils accommodated at the hostel concerned.

Compensation for examination-related work

20. (1) An educator may, with the approval of the employer, be paid a non-pensionable allowance as determined by the Minister in respect of the different categories of examination-related work referred to in subregulation (2).

(2) For the purpose of this regulation "examination-related work" shall mean—

- (a) setting of a question paper and accompanying memorandum;
- (b) moderating of a question paper and accompanying memorandum;
- (c) translation of a question paper and accompanying memorandum;
- (d) marking of examination scripts and control marking by the chief examiner;
- (e) moderating of scripts;
- (f) remarking of examination scripts on appeal;
- (g) conducting of practical and oral examinations;
- (h) work done as chief examiner.

Exemption from payment for instruction by educational institutions

21. An educator who, in his or her capacity as a student, must pay for instruction, or any other service resulting from such instruction, which he or she follows in accordance with one or other instructional programme approved by the employer and which is offered by a department of education responsible for education or an educational institution instituted, registered or administered in terms of a law, may on a basis approved by the employer, be compensated partly or in full in a direct or indirect manner for such expenditure.

(3) Aan opvoeders in subregulasie (1) bedoel wat nie voldoen aan al die vereistes vir aanstelling in die hoër pos nie, word 'n nie-pensioendraende waarnemingstoelae betaal gelyk aan die verskil tussen sy of haar huidige salaris en die minimum kerf van die toepaslike salarisskaal wat met die pos wat die opvoeder tydelik beklee, verband hou: Met dien verstande dat die toelae nie minder mag wees nie as een salariskerf op die sleutelskaal: Met dien verstande voorts dat die toelae hersien word telkens wanneer die salarisposisie van die betrokke opvoeder verander.

Toelae aan opvoeders wat toesighoudende diens by koshuise verrig

19. Indien 'n opvoeder beheer- of toesighoudende pligte en werksaamhede by 'n koshuis verbonde aan 'n staatsonderwysinstelling verrig, ontvang sodanige opvoeder, behoudens sodanige voorwaardes as wat die Minister bepaal, 'n nie-pensioendraende toelae, welke toelae gebaseer word op die beheer- of toesighoudende pligte en werksaamhede van sodanige opvoeder asook die aantal leerlinge wat in die betrokke koshuis geakkommodeer word.

Vergoeding vir eksamenverwante werk

20. (1) Aan 'n opvoeder kan, met die goedkeuring van die werkgewer, 'n nie-pensioendraende toelae deur die Minister bepaal, betaal word ten opsigte van die verskillende kategorieë van eksamenverwante werk in subregulasie (2) bedoel.

(2) Vir die doeleindes van hierdie regulasie beteken "eksamenverwante werk"—

- (a) die opstel van 'n vraestel en gepaardgaande memorandum;
- (b) die modereer van 'n vraestel en gepaardgaande memorandum;
- (c) die vertaling van 'n vraestel en gepaardgaande memorandum;
- (d) die nasien van skrifte en die kontrolenasien deur die hoofeksaminator;
- (e) die modereer van skrifte;
- (f) die hernasien van eksamenskrifte op appèl;
- (g) die afneem van praktiese en mondelinge eksamens;
- (h) die werk verrig as hoofeksaminator.

Vrystelling van betaling vir onderrig by onderwysinstellings

21. 'n Opvoeder wat, in sy of haar hoedanigheid van student, moet betaal vir onderrig, of enige ander diens voortspruitend uit sodanige onderrig, wat hy of sy volg ooreenkomstig die een of ander onderrigprogram wat deur die werkgewer goedgekeur is en wat aangebied word deur 'n departement van onderwys wat verantwoordelik is vir onderwys of 'n onderwysinstelling ingevolge 'n wet ingestel, geregistreer of geadmistreer, kan, op 'n grondslag deur die werkgewer goedgekeur, gedeeltelik of in die geheel op 'n regstreekse of onregstreekse wyse vir sodanige uitgawes vergoed word.

Department-specific awards

22. A non-pensionable allowance determined by the employer and according to a system determined by the Minister may be paid to an educator—

(a) who, in the opinion of the employer is unusually competent or who possesses unusual qualifications or who has rendered excellent service;

(b) in order to promote the recruitment and retention of staff;

(c) for the execution of specific assignments; or

(d) because the employer is of the opinion that specific circumstances exist.

Official duty

23. (1) An educator shall be on official duty—

(a) in the case of an educator at a school—

(i) during the service periods laid down in the school timetable which reflects the curriculum or the times approved by the employer for the school; and

(ii) during the times in which such other activities, which do not constitute part of the school timetable, but are related to school affairs, take place; and

(b) in the case of an educator at an institution, other than a school during the times approved by the employer.

(2) An educator shall, during his or her official duty, give his or her full attention to the duties entrusted to him or her and shall not without the consent of the head of the relevant institution or office be absent from his or her school or institution during his or her hours of official duty.

Attendance registers

24. The employer may determine that an attendance register be kept in which an educator shall record the time of his or her arrival at and departure from his or her place of duty.

Official channels of communication

25. (1) A request or communication from an educator in connection with a matter falling within the scope of the employer's power or duties shall be directed to the employer via the head of the relevant institution or office.

(2) Notwithstanding subregulation (1), matters regarding the appointment, termination of service and leave privileges and enquiries about the remuneration of an educator shall be referred to the head of education by the principal of the school concerned.

Replying to questions

26. An educator shall reply explicitly to a question concerning his or her duties and powers put to him by a person who is competent to put such question: Provided that an educator shall not be obliged to furnish a reply which may incriminate him or her.

Departementpartikuliere toekennings

22. 'n Nie-pensioendraende toelae deur die werkgever bepaal, ooreenkomstig 'n stelsel deur die Minister bepaal, kan betaal word aan 'n opvoeder—

(a) wat, na die mening van die werkgever, buitengewoon bekwaam is of wat oor buitengewone kwalifikasies beskik of wat uitstekende diens gelewer het;

(b) ten einde die werwing en indienshouding van personeel te bevorder;

(c) vir die uitvoer van bepaalde take; of

(d) omdat die werkgever van mening is dat daar bepaalde omstandighede bestaan.

Amptelike diens

23. (1) 'n Opvoeder is op amptelike diens—

(a) in die geval van 'n opvoeder by 'n skool—

(i) gedurende die dienstyle bepaal in die skoolrooster wat beslag gee aan die kurrikulum of die tye wat die werkgever vir die skool goedgekeur het; en

(ii) gedurende die tye waarin sodanige ander bedrywighede as wat nie deel uitmaak van die skoolrooster nie maar met skoolaangeleenthede verband hou, plaasvind; en

(b) in die geval van 'n opvoeder by 'n ander instelling as 'n skool, gedurende die tye deur die werkgever goedgekeur.

(2) 'n Opvoeder moet gedurende sy of haar amptelike diens sy of haar volle aandag wy aan die pligte wat aan hom of haar toevertrou is en mag nie sonder die toestemming van die onmiddellike hoof gedurende sy of haar amptelike diensure afwesig wees van sy of haar skool of instelling nie.

Bywoningsregisters

24. Die werkgever kan bepaal dat 'n bywoningsregister gehou word waarin 'n opvoeder die tyd van sy of haar aankoms by en vertrek van sy of haar plek van diens moet aanteken.

Amptelike kommunikasiekanale

25. (1) 'n Versoek of mededeling deur 'n opvoeder oor 'n aangeleentheid wat binne die bestek van die werkgever se bevoegdhede of pligte val, moet via die opvoeder se onmiddellike hoof aan die werkgever gerig word.

(2) Ondanks subregulasie (1) moet aangeleenthede betreffende die aanstelling, diensbeëindiging en verlofvoorregte en navrae in verband met die besoldiging van 'n opvoeder deur die hoof van die betrokke skool na die onderwyshoof verwys word.

Beantwoording van vrae

26. 'n Opvoeder moet uitdruklik antwoord op 'n vraag in verband met sy of haar pligte en bevoegdhede wat aan hom of haar gestel word deur 'n persoon wat die bevoegdheid het om sodanige vraag te stel: Met dien verstande dat 'n opvoeder nie verplig is om 'n antwoord te verstrek wat hom of haar inkrimineer nie.

Lawful instructions

27. (1) Subject to the provisions of subregulation (2), an educator shall carry out a lawful instruction given to him or her, in writing or verbally, by an authorised person.

(2) An educator may, at the time of a verbal instruction, request that such instruction be confirmed in writing and he or she may submit any complaint he or she may have in connection therewith to the employer for a decision.

Residential addresses and telephone numbers

28. An educator shall notify the employer of his or her residential address and telephone number, if any, and of any change thereof and the employer or a person authorised by him or her shall keep a record thereof in a register which shall be kept for that purpose.

Full-time study courses

29. An employer may, on the terms and conditions he may determine, authorise an educator to follow a full-time study course approved by the employer and while such educator follows such course he or she shall be deemed to be on duty in an educator's post.

Proof of marriage or change of marital status

30. An educator shall, within 30 days after entering into matrimony or after his or her marital status has changed, submit a certified copy of the marriage certificate, decree of divorce or death certificate, as the case may be, to the employer: Provided that the employer may in his or her discretion demand the submission of the original certificate or decree.

Reports on educators and adverse remarks

31. (1) A report, on a form determined by the Minister, shall be drawn up and submitted to the employer by the head of the relevant institution or office in respect of any educator as often as the employer may require.

(2) Subject to the provisions of subregulation (3), an educator on whom a report has been drawn up in terms of subregulation (1) shall not have access to such report.

(3) Any adverse remark contained in a report referred to in subregulation (1) shall be brought to the notice of the educator concerned in writing and in its full context by the person who compiled the report.

(4) The educator referred to in subregulation (3) shall sign the said report and return it to the compiler thereof together with such representations, in writing, as he may desire to submit in respect thereof.

(5) The provisions of subregulations (1) to (4) shall also apply to adverse remarks made in respect of an educator in a written communication, except that such remarks shall be brought to the educator's attention by the head of the relevant institution or office.

Wettige opdragte

27. (1) Behoudens die bepalings van subregulasie (2) moet 'n opvoeder 'n wettige skriftelike of mondelinge bevel uitvoer wat deur 'n gemagtigde persoon aan hom of haar gegee word.

(2) 'n Opvoeder kan, tydens 'n mondelinge bevel versoek dat sodanige bevel skriftelik bevestig word en hy of sy kan 'n klagte wat hy of sy in verband daarmee het, aan die werkgewer vir 'n beslissing voorlê.

Woonadres en telefoonnommer

28. 'n Opvoeder moet die werkgewer in kennis stel van sy of haar woonadres en telefoonnommer, as daar is, en van enige veranderings daarvan, en die werkgewer of 'n persoon deur hom gemagtig, moet rekord daarvan hou in 'n register wat vir dié doel gehou word.

Voltydse studiekursusse

29. 'n Werkgewer kan, op die bedinge en voorwaardes wat hy bepaal, 'n opvoeder magtig om 'n voltydse studiekursus deur die werkgewer goedgekeur te volg, en terwyl sodanige opvoeder sodanige kursus volg, word hy of sy geag op diens in 'n opvoederspos te wees.

Bewys van huwelik of verandering van huwelikstaat

30. 'n Opvoeder moet binne 30 dae nadat hy of sy in die huwelik getree het of nadat sy of haar huwelikstaat verander het, 'n gesertifiseerde afskrif van die huweliksertifikaat, egskeidingsbevel of sterftesertifikaat, na gelang van die geval, aan die werkgewer voorlê: Met dien verstande dat die werkgewer na goeddunke voorlegging van die oorspronklike sertifikaat of bevel kan eis.

Verslae oor opvoeders en ongunstige opmerkings

31. (1) 'n Verslag op 'n vorm deur die Minister bepaal, moet so dikwels as wat die werkgewer vereis, ten opsigte van 'n opvoeder deur die hoof van die betrokke inrigting of kantoor opgestel en by die werkgewer ingedien word.

(2) Behoudens die bepalings van subregulasie (3) het 'n opvoeder nie insae in 'n verslag wat ingevolge subregulasie (1) oor hom of haar opgestel is nie.

(3) Enige ongunstige opmerking wat vervat is in 'n verslag in subregulasie (1) bedoel, moet deur die opsteller van daardie verslag skriftelik en in sy volledige samehang onder die betrokke opvoeder se aandag gebring word.

(4) Die opvoeder in subregulasie (3) bedoel, moet bedoelde verslag teken en dit saam met sodanige skriftelike verhoë as wat hy of sy in verband daarmee wil lewer, aan die opsteller daarvan terugbesorg.

(5) Die bepalings van subregulasies (1) tot (4) is ook van toepassing op ongunstige opmerkings wat in 'n skriftelike mededeling ten opsigte van 'n opvoeder gemaak word, behalwe dat sodanige opmerkings onder die aandag van die opvoeder gebring moet word deur die hoof van die betrokke inrigting of kantoor.

(6) If it comes to the attention of the employer that an adverse remark is unjustified, the employer may at any time, if he or she deems fit, declare any adverse remark in connection with an educator which has been brought to the attention of the educator in terms of subregulation (3) null and void and in such a case the educator shall be notified in writing of the nullification thereof.

Management bodies on which educators serve

32. An educator who serves on the management of an association or body which designates members of the governing body of a state educational institution where the educator is employed, shall declare his interests withdraw from the specific discussion.

Part-time temporary educators

33. An educator appointed on a part-time basis in a temporary capacity shall not be eligible for any leave with pay and shall receive no remuneration during his or her absence from service, whether for vacation or other purposes.

CHAPTER 3

LEAVE OF ABSENCE

Granting of leave of absence

34. (1) Leave of absence from duty by an educator, as contemplated in these regulations, shall be granted by the employer with due regard to the requirements of the employer or state educational institution concerned.

(2) When the services of an educator terminate for whatever reason, all his or her leave credit shall lapse on his or her last day of service and he or she cannot claim payment of the cash value of leave to his or her credit: Provided that the payment of a leave gratuity in terms of regulation 59 shall not be precluded by this regulation.

Leave application forms, granting and withdrawal of leave

35. (1) Application for leave shall be made on a form approved by the employer and is subject to his or her approval and he or she may, on good cause shown, at any time withdraw leave already granted.

(2) An educator, except an educator who has been suspended from duty or who is by sudden illness or other unavoidable circumstances prevented from remaining on or reporting for duty, shall not leave or stay away from work until he or she has applied for leave in writing and has been advised that his or her application has been approved.

Absence from duty to be recorded as leave

36. Leave of absence from duty by an educator shall be classified under one or more of the following categories:

- (a) Vacation leave;
- (b) sick leave;
- (c) special sick leave;

(6) Indien dit onder die werkgewer se aandag kom dat 'n ongunstige opmerking ongegrond is, kan die werkgewer te eniger tyd na goeë dunde enige ongunstige opmerking oor 'n opvoeder wat ingevolge subregulasie (3) onder die opvoeder se aandag gebring is, nietig verklaar, en in so 'n geval moet die betrokke opvoeder skriftelik van die nietigverklaring daarvan in kennis gestel word.

Bestuursliggame waarin opvoeders dien

32. 'n Opvoeder wat dien in die bestuur van 'n vereniging of liggaam wat lede van die beheerliggaam van die staatsonderwysinstelling waar die opvoeder in diens is, aanwys, verklaar sy of haar belange en onttrek hom of haar aan die bepaalde bespreking.

Deeltydse tydelike opvoeders

33. 'n Opvoeder wat op 'n deeltydse grondslag in 'n tydelike hoedanigheid aangestel is, is op geen betaalde verlof geregtig nie en ontvang geen besoldiging gedurende sy of haar afwesigheid van diens nie, hetsy vir vakansie- of ander doeleindes.

HOOFSTUK 3

AFWESIGHEIDSVEROLOF

Toestaan van afwesigheidsverlof

34. (1) Die afwesigheid van diens met verlof deur 'n opvoeder soos bedoel in hierdie regulasies, word deur die werkgewer toegestaan met behoorlike inagneming van die behoeftes van die betrokke werkgewer of staatsonderwysinstelling.

(2) Wanneer die diens van 'n opvoeder om watter rede ook al eindig, vervel al sy of haar verlofkrediet op die laaste dag waarop hy of sy in diens was en kan hy of sy nie eis dat die geldwaarde van ongebruikte verlofkrediet aan hom of haar uitbetaal word nie: Met dien verstande dat die betaling van 'n verlofgratifikasie ingevolge regulasie 59 nie deur hierdie regulasie belet word nie.

Verlofaansoekvorms, toestaan en intrekking van verlof

35. (1) 'n Aansoek om afwesigheidsverlof word gedoen op 'n vorm wat deur die werkgewer goedgekeur is en is aan sy of haar goedkeuring onderworpe en kan te eniger tyd met grondige redes deur hom of haar ingetrek word.

(2) 'n Opvoeder, behalwe 'n opvoeder wat geskors is of weens sy of haar skielike siekte of ander onvermydelike omstandighede verhinder word om op diens te bly of hom of haar vir diens aan te meld, verlaat nie sy of haar werk of bly nie van diens weg nie alvorens hy of sy skriftelik om verlof aansoek gedoen het en in kennis gestel is dat sy of haar aansoek goedgekeur is.

Afwesigheid van diens wat as verlof aangeteken word

36. Die afwesigheid van diens met verlof van 'n opvoeder word onder een of meer van die volgende hoofde ingedeel:

- (a) Vakansieverlof;
- (b) siekteverlof;
- (c) spesiale siekteverlof;

- (d) special leave for study purposes;
- (e) special leave for military training;
- (f) special leave for examination purposes;
- (g) special leave for quarantine purposes;
- (h) special leave for participating in sporting and cultural events;
- (i) special leave for urgent private affairs with regard to educators employed at schools;
- (j) special leave for confinement;
- (k) special leave for continuity of service; and
- (l) special leave for extraordinary circumstances.

Absence from duty not to be recorded as leave

37. An educator shall be deemed not to be absent from duty if he or she—

- (a) must appear as a witness—
 - (i) in any court;
 - (ii) in misconduct proceedings or in a misconduct investigation in terms of any law;
 - (iii) at inquest proceedings;
 - (iv) at rent board proceedings except when such educator is the person who, in respect of such appearance, submitted a written complaint;
 - (v) before a commission or committee appointed by the State or before any committee or institution instituted by or in terms of any Act;
- (b) appears as defendant or co-defendant in civil proceedings arising from his or her official duties and in which the State or any statutory body or institution has a direct interest;
- (c) is taken into custody or must appear in any court on a criminal charge and the offence he or she is charged with is withdrawn or if he or she is acquitted of such offence on the merit of the case;
- (d) with the approval of the employer—
 - (i) attends an instruction course or a lecture or has undertaken undergraduate or post-graduate studies;
 - (ii) attends an instruction course that is presented by a department as contemplated by the Public Service Act, 1994;
 - (iii) does practical work or does practice teaching to comply with the requirements for a formal qualification offered by a recognised tertiary or post-secondary educational institution;
 - (iv) in the interest of the employer or the organised teaching profession participates in any other activity or performs any other function.

**Leave credit and leave computation:
Educators employed at schools**

38. (1) The leave credit of an educator employed at a school shall increase by 12/365 of a day for every full day that the educator is in the service of the employer: Provided that no leave credit shall be earned for days on which the educator is absent on leave without pay.

- (d) spesiale verlof vir studiedoeleindes;
- (e) spesiale verlof vir militêre opleiding;
- (f) spesiale verlof vir eksamendoeleindes;
- (g) spesiale verlof vir kwarantandoeleindes;
- (h) spesiale verlof vir deelname aan sport- en kultuurgeleenthede;
- (i) spesiale verlof vir dringende private sake ten opsigte van opvoeders wat by skole in diens is;
- (j) spesiale verlof vir bevalling;
- (k) spesiale verlof ter wille van dienskontinuiteit; en
- (l) spesiale verlof in buitengewone omstandighede.

Afwesigheid van diens wat nie as verlof aangeteken word nie

37. 'n Opvoeder word geag nie afwesig van diens te wees nie indien hy of sy—

- (a) as 'n getuie moet verskyn—
 - (i) in 'n hof;
 - (ii) by wangedragverrigtinge of in 'n wangedragondersoek ingevolge die een of ander wet;
 - (iii) by 'n geregtelike doodsondersoek;
 - (iv) by huurraadverrigtinge, behalwe as die betrokke opvoeder die persoon is wat met betrekking tot daardie verskyning 'n skriftelike klag ingedien het;
- (v) voor 'n kommissie of komitee deur die Staat aangestel of voor enige komitee of instelling by of kragtens enige wet ingestel;
- (b) 'n verweerder of medeverweerder in siviele verrigtinge is wat uit sy of haar ampspligte voortspuit en waarby die Staat of enige statutêre liggaam of instelling 'n regstreekse belang het;
- (c) in hegtenis geneem word of in enige hof strafregtelik teregstaan en die ten laste gelegde misdryf teruggetrek word of indien hy of sy op daardie misdryf op die meriete van die saak vrygespreek word;
- (d) met die goedkeuring van die werkgewer—
 - (i) 'n onderrigkursus of 'n lesing bywoon of voor- of nagraadse studie onderneem;
 - (ii) 'n onderrigkursus bywoon wat aangebied word deur 'n departement soos bedoel in die Staatsdienswet, 1994;
 - (iii) praktiese werk verrig of proefonderwys gee ten einde aan die vereistes vir 'n formele kwalifikasie aangebied aan 'n erkende tersiêre of nasekondêre onderwysinrigting te voldoen;
 - (iv) in belang van die werkgewer of die georganiseerde onderwysprofessie aan enige ander aktiwiteit deelneem of 'n werksaamheid verrig.

**Verlofkrediet en verlofberekening:
Opvoeders wat by skole in diens is**

38. (1) Die verlofkrediet van 'n opvoeder wat by 'n skool in diens is, vermeerder met 12/365 van 'n dag vir elke volle dag wat die opvoeder in diens van die werkgewer is: Met dien verstande dat geen verlofkrediet vir dae waarop die opvoeder met verlof sonder besoldiging afwesig is, verdien word nie.

(2) An educator employed at a school who is required by the employer to perform duty during any period of a school holiday shall be credited, in addition to the leave credit referred to in subregulation (1), with half the number of days on which he or she was expected to perform such duty: Provided that—

(a) such credit shall not exceed 24 days in any calendar year; and

(b) such educator may within 90 days of the performance of such duty apply for the additional leave credit to be converted into a non-pensionable cash payment in accordance with the formula $A \times B/365$, where "A" represents the number of additional days of leave credit and "B" represents the basic annual salary plus any pensionable allowance of such educator at the time of the performance of such duty during a school holiday.

(3) In any computation of leave contemplated in this regulation, fractions of a day thus obtained shall be transferable to a subsequent leave computation.

(4) Where the service of an educator employed at a school terminates and he or she is reappointed after a break in service, his or her service prior to such appointment shall not be taken into account for leave purposes: Provided that the employer may, notwithstanding the provisions of regulation 34 (2), restore the leave credit of such an educator to a maximum of 184 days.

(5) A person who is appointed as an educator at a school without a break in service, and who prior to such an appointment held a post of educator in the same or another province, shall retain his or her leave credit in terms of these regulations which was to his or her credit on the last day of his or her service with the same or his or her previous employer and such previous service shall be taken into account as service for the purposes of leave.

(6) A person who is appointed as an educator at a school without a break in service, and who prior to such appointment was employed by any department as contemplated by the Public Service Act, 1994 (excluding an education department) or any body or institution having a pension or provident fund administered by or for the State, shall retain the leave which he or she has to his or her credit on the last day of his or her service with his or her previous employer, calculated at a maximum of 36 days per annum, reduced by the number of days of leave already granted: Provided that—

(a) where a person who has immediately prior to such appointment held a post at a state educational institution, technikon or university, the leave credit of that person shall be calculated for leave purposes as if he or she had served the employer for the period he or she was employed by such state educational institution, technikon or university; and

(b) the previous service contemplated in this subregulation shall be calculated as service for leave purposes.

(2) 'n Opvoeder wat by 'n skool in diens is en deur die werkgewer aangesê is om gedurende enige tydperk van 'n skoolvakansie diens te doen, word bykomend by die verlofkrediet in subregulasie (1) bedoel, gekrediteer met die helfte van die getal dae waarop van hom of haar verwag is om aldus diens te doen: Met dien verstande dat—

(a) hoogstens 24 dae in 'n kalenderjaar aldus gekrediteer mag word; en

(b) so 'n opvoeder binne 90 dae na die verrigting van sodanige diens kan versoek dat die bykomende verlofkrediet omskep word in 'n nie-pensioendraende kontantbetaling in ooreenstemming met die formule $A \times B/365$, in welke formule "A" die getal dae bykomende verlofkrediet verteenwoordig en "B" die basiese jaarlikse besoldiging plus enige pensioendraende toelae van die betrokke opvoeder ten tyde van die verrigting van diens gedurende die skoolvakansie verteenwoordig.

(3) By enige berekening van verlof in hierdie regulasie bedoel, is breuke van 'n dag aldus verkry, oordraagbaar na 'n volgende verlofberekening.

(4) Indien die diens van 'n opvoeder wat by 'n skool in diens is, eindig en hy of sy na 'n onderbreking van diens weer aangestel word, word sy of haar diens voor sodanige aanstelling nie vir verlofdoeleindes in aanmerking geneem nie: Met dien verstande dat die werkgewer, ondanks die bepalings van regulasie 34 (2), die verlofkrediet van die betrokke opvoeder tot 'n maksimum van 184 dae kan herstel.

(5) Iemand wat sonder onderbreking van diens as 'n opvoeder by 'n skool aangestel word en wat voor die aanstelling 'n opvoederspos in dieselfde of 'n ander provinsie beklee het, behou die verlofkrediet ingevolge hierdie regulasies wat hy of sy op die laaste dag van sy of haar diens by dieselfde of sy of haar vorige werkgewer gehad het, en die vorige diens tel as diens vir verlofdoeleindes.

(6) Iemand wat sonder onderbreking van diens as 'n opvoeder by 'n skool aangestel word en wat voor die aanstelling in diens was van 'n departement soos bedoel in die Staatsdienswet, 1994 (uitgesonderd 'n onderwysdepartement) of enige liggaam of instelling wat 'n pensioen- of voorsorgfonds het wat deur of vir die Staat geadministreer word, behou die verlofkrediet at hy of sy op die laaste dag van sy of haar diens by sy of haar vorige werkgewer gehad het, bereken teen 'n maksimum van 36 dae per jaar, verminder met die getal dae verlof wat reeds toegestaan is: Met dien verstande dat—

(a) in die geval van 'n persoon wat onmiddellik voor die betrokke aanstelling 'n pos aan 'n staats-onderwysinstelling, technikon of universiteit beklee het, sy of haar verlofkrediet vir verlofdoeleindes bereken word asof hy of sy in die tydperk van sy of haar diens by genoemde staats-onderwysinstelling, technikon of universiteit diens by die werkgewer gedoen het; en

(b) die vorige diens in hierdie subregulasie bedoel, as diens vir verlofdoeleindes tel.

**Leave credit and leave computation:
Educators employed at offices**

39. (1) The leave credit of an educator employed at an office who continues to render service in periods when teaching at schools is suspended shall increase as hereinafter set out for every day the educator is employed by the employer:

- (a) If appointed before 1 July 1966, 38/365 of a day;
- (b) if appointed on or after 1 July 1966—
 - (i) until 10 years of completed service—30/365 of a day;
 - (ii) after 10 years of completed service—36/365 of a day;
- (c) if appointed in terms of the Public Service Act, 1994, leave credit as provided for by regulations promulgated in terms of this Act:

Provided that no leave credit shall be granted for days on which the educator is absent on leave without pay.

(2) The leave credit of an educator who is employed at an office and who has inspecting or subject advisory services with regard to education as part of his or her duties and who during periods when education is suspended cannot continue in full with his or her normal duties but who can still be expected during such periods when education is suspended to do office work, shall be increased by 26/365 of a day for every full day the educator is in the service of the employer: Provided that—

- (a) no leave credit shall be granted for the days the educator is on leave without pay;
- (b) if the educator performs duty during periods of non-accumulative leave during school holidays, a further one day of accumulative vacation leave shall be granted to him or her for every two days he or she so performs such duty; and
- (c) in the case of educators whose vacation leave earning was 36 days per year on 1 January 1982, the total cumulative vacation leave earning may not exceed 36 days per year ending on 31 December.

(3) Where an educator contemplated in subregulation (2) who in any specific year ending on 31 December—

- (a) has a period of service of one year or more, 24 days non-accumulative leave during school holidays may be granted to him or her in that year; and
- (b) has a period of less than one year of service, the number of days of non-accumulative leave during school holidays that may be granted in that year shall be determined on the basis of one day of non-accumulative leave for every 15 full days on duty.

(4) In any computation of leave referred to in this regulation, a fraction of a day may be carried over to a subsequent leave computation.

**Verlofkrediet en verlofberekening:
Opvoeders wat by kantore in diens is**

39. (1) Die verlofkrediet van 'n opvoeder wat by 'n kantoor in diens is en voortgaan met dienslewing gedurende tydperke waartydens onderrig in skole opgeskort word, vermeerder soos hieronder bepaal vir elke dag wat die opvoeder in diens van die werkgever is:

- (a) Indien voor 1 Julie 1966 aangestel, met 38/365 van 'n dag;
- (b) indien op of na 1 Julie 1966 aangestel—
 - (i) tot 10 jaar voltooide diens, met 30/365 van 'n dag;
 - (ii) na 10 jaar voltooide diens—36/365 van 'n dag;
- (c) indien aangestel kragtens die Staatsdienswet, 1994, verlofkrediet soos bepaal by die regulasies afgekondig kragtens hierdie Wet:

Met dien verstande dat geen verlofkrediet vir dae waarop die opvoeder met verlof sonder besoldiging afwesig is, verdien word nie.

(2) Die verlofkrediet van 'n opvoeder wat by 'n kantoor in diens is en wat inspekterende of vakadviseerende dienste met betrekking tot onderrig as deel van sy of haar pligte het en wat gedurende tydperke waartydens onderrig opgeskort word, nie ten volle met sy of haar normale pligte kan voortgaan nie maar van wie daar nogtans verwag kan word om tydens bedoelde tydperke waartydens onderrig opgeskort is, kantoorwerk te verrig, vermeerder met 26/365 van 'n dag vir elke volle dag wat die opvoeder in die diens van die werkgever is: Met dien verstande dat—

- (a) geen verlofkrediet vir die dae waarop die opvoeder met verlof sonder besoldiging afwesig is, verdien word nie;
- (b) indien die opvoeder gedurende tydperke van nie-oplopende verlof tydens skoolvakansies diens verrig, 'n verdere een dag oplopende vakansieverlof tot sy of haar krediet geplaas word vir elke twee dae wat hy of sy aldus diens verrig; en
- (c) die totale oplopende vakansieverlofverdiens in die geval van persone wie se vakansieverlofverdiens op 1 Januarie 1982 36 dae per jaar was, nie 36 dae per jaar eindigende op 31 Desember mag oorskry nie.

(3) Indien 'n opvoeder in subregulasie (2) bedoel, wat in 'n bepaalde jaar eindigende op 31 Desember—

- (a) 'n dienstydsperk van een jaar of langer het, kan 24 dae nie-oplopende verlof tydens skoolvakansies in daardie jaar aan hom of haar toegestaan word; en
- (b) 'n korter dienstydsperk as een jaar het, moet die getal dae nie-oplopende verlof wat gedurende skoolvakansies in daardie jaar toegestaan kan word, bepaal word op die grondslag van een dag nie-oplopende verlof vir elke 15 volle dae diens.

(4) By enige berekening van verlof in hierdie regulasie bedoel, is breuke van 'n dag aldus verkry, oordraagbaar na 'n volgende verlofberekening.

(5) Where the service of an educator employed at an office terminates and he or she is reappointed after a break in service, his or her service prior to such appointment shall not be taken into consideration for leave purposes: Provided that the employer may, notwithstanding the provisions of regulation 34 (2), reinstate the leave credit of such an educator to a maximum of 184 days.

(6) A person who is employed at an office as an educator without a break in service and who prior to such appointment held a post of educator in the same or another province shall retain his or her leave credit in terms of these regulations which was to his or her credit on the last day of service with the same or his or her previous employer, and such previous service shall be taken into account as service for purposes of leave.

(7) A person who is appointed as an educator at an office without a break in service, and who prior to such appointment was in the service of any department as contemplated by the Public Service Act, 1994 (excluding an education department), or any body or institution having a pension or provident fund administered by or for the State shall retain the leave credit which he or she has to his or her credit on the last day of his or her service with his or her previous employer, calculated at a maximum of 36 days per annum, reduced by the number of days of leave already granted: Provided that—

(a) where a person who immediately prior to such appointment held a post at a state educational institution, technikon or university, the leave credit of such person shall be calculated for leave purposes as if he or she had served the employer for the period he or she was employed by such state educational institution, technikon or university; and

(b) the previous service referred to in this sub-regulation shall be taken into account as service for purposes of leave.

General leave measures: Educators employed at schools

40. (1) In the case of an educator employed at a school any period of leave shall commence on the first day on which the educator is absent from duty and shall terminate on the last school day immediately preceding the day on which such educator resumes duty.

(2) A school holiday that falls within a period of leave of the same type that is granted to an educator shall not be deemed to form part of such leave: Provided that where such holiday falls within a period of leave of the same kind, the conditions of remuneration for such holiday shall be the same as the conditions of remuneration for the last school day that immediately precedes such holiday.

(3) A day of rest which falls within a period of leave or a school holiday which falls within a period of leave granted without pay shall be deemed to form part of such leave and shall be reckoned as such: Provided that where a day of rest or school holiday falls between two different types of leave, and such day or days and such leave form a continuous period, any such day or days shall not be reckoned as leave.

(5) Waar die diens van 'n opvoeder wat by 'n kantoor in diens is, eindig en hy of sy na 'n onderbreking van diens weer aangestel word, word sy of haar diens voor sodanige aanstelling nie vir verlofdoeleindes in aanmerking geneem nie: Met dien verstande dat die werkgever, ondanks die bepalings van regulasie 34 (2), die verlofkrediet van die betrokke opvoeder tot 'n maksimum van 184 dae kan herstel.

(6) Iemand wat sonder onderbreking van diens as 'n opvoeder by 'n kantoor in diens aangestel word en wat voor die aanstelling 'n opvoederspos in dieselfde of 'n ander provinsie beklee het, behou die verlofkrediet ingevolge hierdie regulasies wat hy of sy op die laaste dag van sy of haar diens by dieselfde of sy of haar vorige werkgever gehad het, en sodanige vorige diens tel as diens vir verlofdoeleindes.

(7) Iemand wat sonder onderbreking van diens as opvoeder by 'n kantoor aangestel word en wat voor die aanstelling in diens was van 'n departement soos bedoel in die Staatsdienswet, 1994 (uitgesonderd 'n onderwysdepartement) of enige liggaam of instelling wat 'n pensioen- of voorsorgfonds het wat deur of vir die Staat geadministreer word, behou die verlofkrediet wat hy of sy op die laaste dag van sy of haar diens by sy of haar vorige werkgever gehad het, bereken teen 'n maksimum van 36 dae per jaar, verminder met die getal dae verlof wat reeds toegestaan is: Met dien verstande dat—

(a) indien 'n persoon wat onmiddellik voor die betrokke aanstelling 'n pos by 'n staatsonderwysinstelling, technikon of universiteit beklee het, sy of haar verlofkrediet vir verlofdoeleindes bereken word asof hy of sy in die tydperk van sy of haar diens by genoemde staatsonderwysinstelling, technikon of universiteit diens by die werkgever gedoen het; en

(b) die vorige diens in hierdie subregulasie bedoel, as diens vir verlofdoeleindes tel.

Algemene verlofmaatreëls: Opvoeders wat by skole in diens is

40. (1) In die geval van 'n opvoeder wat by 'n skool in diens is, neem enige tydperk van verlof 'n aanvang op die eerste dag waarop die opvoeder van diens afwesig is en eindig dit op die laaste skooldag onmiddellik voor die dag waarop sodanige opvoeder diens moet hervat.

(2) 'n Skoolvakansie wat binne 'n tydperk van verlof van dieselfde soort val wat aan 'n opvoeder toegestaan is, word nie as deel van sodanige verlof beskou nie: Met dien verstande dat waar sodanige vakansie binne 'n tydperk van verlof van dieselfde soort val, die besoldingsvoorwaardes vir sodanige vakansie dieselfde is as die besoldingsvoorwaardes vir die laaste skooldag wat die vakansie onmiddellik voorafgaan.

(3) 'n Rusdag wat binne 'n tydperk van verlof val of 'n skoolvakansie wat binne 'n tydperk van verlof sonder besoldiging val, word geag deel van die tydperk van verlof te wees en word as sodanig gereken: Met dien verstande dat waar 'n rusdag of skoolvakansie tussen twee verskillende soorte verlof val en sodanige dag of dae en sodanige verlof 'n aaneenlopende tydperk uitmaak, enige sodanige dag of dae nie as verlof gereken word nie.

(4) An educator employed at a school who wishes to resume duty before a period of leave granted to him or her in terms of these regulations has expired shall not do so before having obtained prior approval from the employer.

(5) If an educator employed at a school is granted more leave than with full or half pay than that for which he or she qualifies at the particular stage in terms of these regulations, and such educator utilises such excess leave, the leave granted in excess may be deducted from leave which subsequently accrues to him or her: Provided that, in the event of the educator resigning or his or her services being terminated before sufficient leave credit has accrued to him or her for the purpose of such deduction, that portion granted in excess which exceeds his or her leave credit on the last day of his or her service shall be regarded as an overpayment of salary which shall either be recovered or written off in terms of the Exchequer Act applicable in the province concerned.

(6) If an educator employed at a school gives notice of his or her resignation any leave with pay already granted to him or her shall be withdrawn with effect from the date of such notification or with effect from the date it is received and absence from duty on or after the first or last mentioned date, as the case may be, shall be treated as vacation leave without pay.

(7) The provisions of subregulation (6) shall—

(a) apply only to absences during the last 30 days of an educator's service; and

(b) not apply to—

(i) sick leave;

(ii) special leave granted in terms of regulations 54 (1) and 56;

(iii) vacation leave granted in terms of regulation 44 (4) and (5); and

(iv) an educator appointed in a temporary capacity in terms of section 4 (3) (b) of the Act, who gives longer than 24 hours notice of resignation.

(8) (a) If the services of an educator employed at a school are terminated for a reason other than that mentioned in subregulation, (6), leave granted to him or her in respect of a period or periods which would have commenced on a date after the termination of his or her services shall be withdrawn.

(b) The period of service of an educator employed at a school may not be extended in order to enable him or her to utilise leave which could have been granted to him or her if he or she was still in the service after the period in question.

General leave measures: Educators employed at offices

41. (1) In the case of an educator employed at an office any period of leave shall commence on the first day on which the educator is absent from duty and shall terminate on the last day of work immediately preceding the day on which such educator resumes duty.

(4) 'n Opvoeder wat by 'n skool in diens is en diens wil hervat voor die verstryking van 'n tydperk van verlof wat ingevolge hierdie regulasies aan hom of haar toegestaan is, mag dit nie sonder die vooraf verkreeë goedkeuring van die werkgever doen nie.

(5) Indien 'n opvoeder wat by 'n skool in diens is, meer verlof met volle of halwe besoldiging toegestaan word as waarop hy of sy in daardie spesifieke stadium ingevolge hierdie regulasies geregtig is, en sodanige opvoeder sodanige oortoegeestane verlof gebruik, kan die oortoeëkenning afgetrek word van verlofkrediet wat hom of haar later toeval: Met dien verstande dat as die opvoeder bedank of sy of haar diens beëindig word voordat voldoende verlofkrediet vir die doel van sodanige aftrekking aan hom of haar toegeval het, die gedeelte van die oortoeëkenning wat sy of haar verlofkrediet op die laaste dag van sy of haar diens oorskry, as 'n oorbetalings van besoldiging beskou word wat of teruggevorder of afgeskryf moet word ingevolge die Skatkiswet wat in die betrokke provinsie van toepassing is.

(6) Indien 'n opvoeder wat by 'n skool in diens is, kennis van bedanking gee, word verlof met besoldiging wat reeds aan hom of haar toegestaan is, ingetrek met ingang van die datum van die kennisgewing of met ingang van die datum van ontvangs daarvan en word afwesighede van diens op of na eersbedoelde of laasbedoelde datum, na gelang van die geval, geag vakansieverlof sonder besoldiging te wees.

(7) Die bepalings van subregulasie (6)—

(a) is van toepassing slegs ten opsigte van afwesighede gedurende die laaste 30 dae van 'n opvoeder se diens; en

(b) is nie van toepassing nie op—

(i) siekteverlof;

(ii) spesiale verlof toegestaan ingevolge regulasies 54 (1) en 56;

(iii) vakansieverlof toegestaan ingevolge regulasie 44 (4) en (5); en

(iv) 'n opvoeder wat in 'n tydelike hoedanigheid kragtens artikel 4 (3) (b) van die Wet aangestel is en langer as 24 uur kennis van bedanking gee.

(8) (a) Indien 'n opvoeder wat by 'n skool in diens is, se dienste eindig om 'n ander rede as dié in subregulasie (6) genoem, word verlof ingetrek wat aan hom of haar toegestaan is ten opsigte van 'n tydperk of tydperke wat ná die datum waarop sy of haar dienste eindig, 'n aanvang sou neem.

(b) 'n Opvoeder wat by 'n skool in diens is, se dienstydperk mag nie verleng word ten einde hom of haar in staat te stel om verlof te gebruik wat aan hom of haar toegestaan sou kon word indien hy of sy ná bedoelde tydperk steeds in diens was nie.

Algemene verlofmaatreëls: Opvoeders wat by kantore in diens is

41. (1) In die geval van 'n opvoeder wat by 'n kantoor in diens is, neem enige tydperk van verlof 'n aanvang op die eerste dag waarop die opvoeder van diens afwesig is en eindig dit op die laaste werkdag onmiddellik voor die dag waarop die betrokke opvoeder diens hervat.

(2) A day of rest which falls within a period of leave shall be deemed to form part of such leave and shall be reckoned as such: Provided that where a day of rest falls between two different kinds of leave, and such day or days and such leave form a continuous period, any such day or days shall not be reckoned as leave.

(3) An educator employed at an office who wishes to resume duty before the period of leave granted to him or her in terms of these regulations, has expired, shall not do so before he or she has obtained prior approval from the employer.

(4) If an educator employed at an office is granted more leave with full or half pay than that for which he or she qualifies at the particular stage in terms of these regulations, and such educator utilises such excess leave, the leave granted in excess may be deducted from leave which subsequently accrues to him or her: Provided that, in the event of an educator resigning or his or her services being terminated before sufficient leave credit has accrued to him or her for the purpose of such deduction, that portion granted in excess which exceeds his or her leave credit on the last day of his or her service shall be regarded as an overpayment of salary which shall either be recovered or written off in terms of the Exchequer Act applicable in the province concerned.

Vacation leave: Educators employed at schools

42. (1) Subject to subregulation (4), vacation leave may be granted to an educator employed at a school for a period determined by the employer if such educator has the necessary leave to his or her credit for the period concerned: Provided that—

(a) an application for vacation leave by an educator is received by the employer at least 90 days before the date on which the vacation leave commences: Provided further that the employer may approve applications at shorter notice;

(b) a maximum of 180 days or two consecutive school terms (whichever is the greater) and a minimum of 10 consecutive school days are granted: Provided that, in exceptional cases, the employer may approve other periods.

(2) A period of vacation leave with full pay may be converted into vacation leave with half pay on the basis of two days with half pay for each day with full pay.

(3) The employer may at any time, on good cause shown, require an educator employed at a school to take part or all of the vacation leave credit at his or her disposal: Provided that the maximum period of leave prescribed in subregulation (1) (b) shall not be exceeded.

(4) Where the services of an educator employed at a school terminate and he or she is reappointed after an interruption of services with his or her leave credit restored in terms of regulation 38 (4), no vacation leave from the restored leave credit shall be granted within two years after such appointment.

(2) 'n Rusdag wat binne 'n tydperk van verlof val, word geag deel van die tydperk van verlof te wees en word as sodanig gereken: Met dien verstande dat waar 'n rusdag tussen twee verskillende soorte verlof val en sodanige dag of dae en sodanige verlof 'n aaneenlopende tydperk uitmaak, sodanige dag of dae nie as verlof gereken word nie.

(3) 'n Opvoeder wat by 'n kantoor in diens is en wat diens wil hervat voor die verstryking van 'n tydperk van verlof wat ingevolge hierdie regulasies aan hom of haar toegestaan is, mag dit nie sonder die vooraf verkreeë goedkeuring van die werkgewer doen nie.

(4) Indien 'n opvoeder wat by 'n kantoor in diens is, meer verlof met volle of halwe besoldiging toegestaan word as waarop hy of sy in daardie spesifieke stadium ingevolge hierdie regulasies geregtig is, en sodanige opvoeder sodanige oortoegeestane verlof gebruik, kan die oortoeëkenning afgetrek word van verlofkrediet wat hom of haar later toeval: Met dien verstande dat as die opvoeder bedank of sy of haar diens beëindig word voordat voldoende verlofkrediet vir die doel van sodanige aftrekking aan hom of haar toegeval het, die gedeelte van die oortoeëkenning wat sy of haar verlofkrediet op die laaste dag van sy of haar diens oorskry, as 'n oorbetalings van besoldiging beskou word wat óf teruggevorder óf afgeskryf moet word ingevolge die Skatkiswet wat in die betrokke provinsie van toepassing is.

Vakansieverlof: Opvoeders wat by skole in diens is

42. (1) Behoudens subregulasie (4) kan vakansieverlof aan 'n opvoeder wat by 'n skool in diens is, toegestaan word vir 'n tydperk wat die werkgewer bepaal, mits sodanige opvoeder oor die nodige verlofkrediet vir die betrokke tydperk beskik: Met dien verstande dat—

(a) 'n aansoek om vakansieverlof deur 'n opvoeder die werkgewer minstens 90 dae voor die datum waarop die vakansieverlof 'n aanvang neem, bereik: Met dien verstande dat die werkgewer aansoeke op korter kennisgewing kan goedkeur;

(b) 'n maksimum van 180 dae of twee opeenvolgende kalenderkwartale (watter ook al die langste is) en 'n minimum van 10 aaneenlopende skooldae toegestaan word: Met dien verstande dat die werkgewer in uitsonderlike gevalle ander tydperke kan goedkeur.

(2) 'n Tydperk van vakansieverlof met volle besoldiging kan omskep word in vakansieverlof met halwe besoldiging op die grondslag van twee dae met halwe besoldiging vir elke dag met volle besoldiging.

(3) Die werkgewer kan met grondige redes te eniger tyd vereis dat 'n opvoeder wat by 'n skool in diens is, 'n gedeelte van of al die vakansieverlof neem wat tot sy of haar krediet staan: Met dien verstande dat die maksimum tydperk van verlof by subregulasie (1) (b) voorgeskryf, nie oorskry word nie.

(4) Waar die diens van 'n opvoeder wat by 'n skool in diens is, eindig en hy of sy na 'n onderbreking van diens weer aangestel word met die herstel van verlofkrediet kragtens regulasie 38 (4), word geen vakansieverlof uit die herstellende verlofkrediet binne twee jaar na sodanige aanstelling toegestaan nie.

(5) An educator who is guilty of abusing alcoholic liquor or drugs, may be granted available vacation leave with pay with a view to rehabilitation and further useful utilisation of his or her services, on condition that on completion of treatment a medical certificate and a complete report by the relevant medical practitioner or institution be submitted to the employer in which a report is given with regard to his or her co-operation and progress during treatment as well as a prognosis of the case.

(6) If an educator referred to in subregulation (5) —

(a) does not have sufficient vacation leave to his or her credit to cover the periods of his or her absence with a view to his or her rehabilitation, vacation leave with full pay may, with due consideration of the merits and prognosis of the case, be granted for a full period of his or her absence: Provided that —

(i) the overgranting of vacation leave which has thus occurred be deducted from the future vacation leave accrual; and

(ii) if such an educator resigns or his or her services are terminated before sufficient vacation leave has accrued to him or her for the purpose of such deduction, that portion of the overgrant which exceeds his or her vacation leave credit on his or her last day of service, shall be regarded as an overpayment of salary which shall either be recovered or written off in terms of the Exchequer Act applicable in the province concerned; and

(b) is regarded as rehabilitated after a period of twelve months has elapsed since commencement of his or her treatment if verified as such in a report by the relevant medical practitioner, or the institution referred to in subregulation (5), the employer may approve that the vacation leave utilised for purposes of treatment up to a maximum equivalent to his or her annual leave accrual, at that particular stage, again be placed to his or her credit on condition that such a concession is granted once only: Provided that if such a certificate or report cannot be obtained from the above-mentioned parties, the employer may decide in his or her discretion on the basis of substantiated evidence of rehabilitation submitted for example by the relevant person's supervisor, minister, medical practitioner or social worker, whether such an educator can be regarded as rehabilitated.

Vacation leave: Educators employed at offices

43. (1) Vacation leave may be granted to an educator employed at an office for a period determined by the employer, provided that such educator has the necessary leave to his or her credit for the period concerned.

(2) A period of vacation leave with full pay may be converted into vacation leave with half pay on the basis of two days with half pay for each day with full pay.

(5) Aan 'n opvoeder wat skuldig is aan die misbruik van alkoholiese drank of dwelmmiddels, kan beskikbare vakansieverlof met besoldiging toegestaan word met die oog op rehabilitasie en die verdere nuttige gebruik van sy of haar dienste, op voorwaarde dat daar by voltooiing van behandeling 'n mediese sertifikaat en 'n volledige verslag deur die betrokke geneesheer of inrigting aan die werkgever voorgelê word waarin verslag gedoen word oor sy of haar samewerking en vordering tydens die behandeling, en waarin 'n prognose van die geval gegee word.

(6) Indien 'n opvoeder in subregulasie (5) bedoel —

(a) nie voldoende vakansieverlof tot sy of haar krediet het ter dekking van die tydperke van sy of haar afwesigheid met die oog op sy of haar rehabilitasie nie, kan vakansieverlof met volle betaling, met behoorlike inagneming van die meriete en prognose van die geval, vir die volle tydperk van sy of haar afwesigheid toegestaan word: Met dien verstande dat —

(i) die oortoekening van vakansieverlof wat aldus plaasgevind het, afgetrek word van die vakansieverlofkrediet wat hom of haar later toeval; en

(ii) indien so 'n opvoeder bedank of sy of haar dienste beëindig word voordat voldoende vakansieverlof vir doeleindes van sodanige aftrekking hom of haar toegeval het, die gedeelte van die oortoekenning wat sy of haar vakansieverlofkrediet op die laaste dag van sy of haar diens oorskry, beskou word as 'n oorbetalings van besoldiging wat óf teruggevorder óf afgeskryf word ingevolge die Skatkiswet wat in die betrokke provinsie van toepassing is; en

(b) geag word gerehabiliteer te wees na verloop van 'n tydperk van twaalf maande sedert die aanvang van sy of haar behandeling en dit bevestig is in 'n verslag deur die betrokke geneesheer of die inrigting in subregulasie (5) bedoel, kan die werkgever goedkeur dat die vakansieverlof wat vir behandelingsdoeleindes gebruik is, tot hoogstens gelykstaande met sy of haar jaarlikse verlofaanwas in daardie spesifieke stadium, weer tot sy of haar krediet geplaas word, op voorwaarde dat so 'n toegewing slegs een keer gedoen word: Met dien verstande dat indien so 'n sertifikaat of verslag nie van bobedoelde partye verkry kan word nie, die werkgever na goeë dunnke op grond van stawende bewys van rehabilitasie wat deur byvoorbeeld die betrokke persoon se toesighouer, predikant, geneesheer of maatskaplike werker voorgelê word, kan besluit of sodanige opvoeder gerehabiliteer geag kan word.

Vakansieverlof: Opvoeders wat by kantore in diens is

43. (1) Vakansieverlof kan aan 'n opvoeder wat by 'n kantoor in diens is, toegestaan word vir 'n tydperk wat die werkgever bepaal, mits sodanige opvoeder oor die nodige verlofkrediet vir die betrokke tydperk beskik.

(2) 'n Tydperk van vakansieverlof met volle besoldiging kan omskep word in vakansieverlof met halwe besoldiging op die grondslag van twee dae met halwe besoldiging vir elke dag met volle besoldiging.

(3) The employer may at any time, on good cause shown, require an educator employed at an office to take part or all of the vacation leave credit at the educator's disposal.

(4) An educator who is guilty of abusing alcoholic liquor or drugs, may be granted available vacation leave with pay with a view to rehabilitation and further useful utilisation of his or her services, on condition that on completion of treatment a medical certificate and a complete report by the relevant medical practitioner or institution be submitted to the employer in which a report is given with regard to his or her co-operation and progress during treatment as well as prognosis of the case.

(5) If an educator referred to in subregulation (4) —

(a) does not have sufficient vacation leave to his or her credit to cover the periods of his or her absence with a view to his or her rehabilitation, vacation leave with full pay may, with due consideration of the merits and prognosis of the case, be granted for the full period of his or her absence: Provided that —

(i) the overgranting of vacation leave which has thus occurred be deducted from the future vacation leave accrual; and

(ii) if such an educator resigns or his or her services are terminated before sufficient vacation leave has accrued to him or her for the purpose of such deduction, that portion of the overgrant which exceeds his or her vacation leave credit on his or her last day of service, shall be regarded as an overpayment of salary which shall either be recovered or written off in terms of the Exchequer Act applicable in the province concerned; and

(b) is regarded as rehabilitated after a period of twelve months has elapsed since commencement of his or her treatment if verified as such in a report by the relevant medical practitioner, or the institution referred to in subregulation (4), the employer may approve that the vacation leave utilised for purposes of treatment up to a maximum equivalent to his or her annual leave accrual, at that particular stage, again be placed to his or her credit on condition that such a concession is granted once only: Provided that such a certificate or report cannot be obtained from the above-mentioned parties, the employer may decide in own discretion on the basis of substantiated evidence of rehabilitation submitted for example by the relevant person's supervisor, minister, medical practitioner or social worker, whether such an educator can be regarded as rehabilitated.

Sick leave: General provisions

44. (1) An application by an educator for sick leave for a continuous period of more than four days shall be supported by a certificate from a registered medical practitioner or a registered dentist: Provided that —

(a) the employer may require that such medical certificate be submitted in support of any application for sick leave for a period of four days or less if he or she is of the opinion that circumstances warrant the submission of such certificate;

(3) Die werkgewer kan met grondige redes te eniger tyd vereis dat 'n opvoeder wat by 'n kantoor in diens is, 'n gedeelte van of al die vakansieverlof neem wat tot sy of haar krediet staan.

(4) Aan 'n opvoeder wat skuldig is aan die misbruik van alkoholiese drank of dwelmmiddels, kan beskikbare vakansieverlof met besoldiging toegestaan word met die oog op rehabilitasie en die verdere nuttige gebruik van sy of haar dienste, op voorwaarde dat met voltooiing van behandeling 'n mediese sertifikaat en 'n volledige verslag deur die betrokke geneesheer of inrigting aan die werkgewer voorgelê word waarin verslag gedoen word oor sy of haar samewerking en vordering tydens behandeling, en waarin 'n prognose van die geval gegee word.

(5) Indien 'n opvoeder in subregulasie (4) bedoel —

(a) nie voldoende vakansieverlof tot sy of haar krediet het ter dekking van die tydperke van sy of haar afwesigheid met die oog op sy of haar rehabilitasie nie, kan vakansieverlof met volle besoldiging, met behoorlike inagneming van die meriete en prognose van die geval, vir die volle tydperk van sy of haar afwesigheid toegestaan word: Met dien verstande dat —

(i) die oortoekeening van vakansieverlof wat aldus plaasgevind het, afgetrek word van die vakansieverlofkrediet wat hom of haar later toeval; en

(ii) indien sodanige opvoeder bedank of sy of haar dienste beëindig word voor voldoende vakansieverlof vir sodanige aftrekking hom of haar toegeval het, die gedeelte van die oortoekeening wat sy of haar vakansieverlofkrediet op die laaste dag van sy of haar diens oorskry, beskou word as 'n oorbetalings van besoldiging wat óf teruggevorder óf afgeskryf word ingevolge die Skatkiswet wat in die betrokke provinsie van toepassing is; en

(b) geag word gerehabiliteer te wees na verloop van 'n tydperk van twaalf maande sedert die aanvang van sy of haar behandeling en dit bevestig is in 'n verslag deur die betrokke geneesheer of die inrigting in subregulasie (4) bedoel, kan die werkgewer goedkeur dat die vakansieverlof wat vir behandelingsdoeleindes gebruik is, tot hoogstens gelykstaande met sy of haar jaarlikse verlofaanwas in daardie spesifieke stadium, weer tot sy of haar krediet geplaas word, op voorwaarde dat so 'n toewysing slegs een keer gedoen word: Met dien verstande dat indien so 'n sertifikaat of verslag nie van bobedoelde partye verkry kan word nie, die werkgewer na goeddunke op grond van stawende bewys van rehabilitasie wat deur byvoorbeeld die betrokke persoon se toesighouer, predikant, geneesheer of maatskaplike werker voorgelê word, kan besluit of sodanige opvoeder gerehabiliteer geag kan word.

Siekteverlof: Algemene bepalinge

44. (1) 'n Aansoek van 'n opvoeder om siekteverlof ten opsigte van 'n aaneenlopende tydperk van meer as vier dae moet gesteun word deur 'n sertifikaat van 'n geregistreerde geneesheer of 'n geregistreerde tandarts: Met dien verstande dat —

(a) die werkgewer kan eis dat so 'n mediese sertifikaat voorgelê word ter ondersteuning van enige aansoek om siekteverlof vir 'n tydperk van vier dae of minder indien hy of sy van oordeel is dat omstandighede die voorlegging van so 'n sertifikaat regverdig;

(b) if the employer is satisfied that in exceptional cases an educator's absence for a continuous period not exceeding 14 days during any calendar year and for which a medical certificate is not submitted is *bona fide* owing to illness and if he is further satisfied that there are sufficient reasons for not submitting a medical certificate, he may at his or her discretion, grant exemption from the requirement to submit a medical certificate;

(c) sick leave granted for an absence of four days or less and for which a medical certificate is not submitted may not exceed a total of 10 days during any calendar year; and

(d) any further absence for which a medical certificate is not submitted shall be covered by granting special leave for urgent private affairs in accordance with the provisions of regulation 43 with regard to an educator employed at a school, or vacation leave in accordance with regulation 44 with regard to an educator employed at an office.

(2) Sick leave shall not be granted to an educator for—

(a) any illness, indisposition or injury owing to misconduct or negligence of the educator or his or her failure to take reasonable precautions; or

(b) neurasthenia, insomania, or other similar ill defined disease or condition of ill-health, unless the employer is satisfied that—

(i) such educator is not in a fit state of health to perform his or her duties; and

(ii) the condition of such educator is not a result of misconduct or negligence on the part of the educator or his or her failure to take reasonable precautions.

(3) Where sick leave is granted to an educator, the date on which such leave is deemed to have commenced and the date on which it is deemed to have ended shall be the dates determined by the employer, who may in determining the period of such leave take into consideration the medical requirements of the case and the interests of the state educational institution affected by the granting thereof.

(4) Notwithstanding anything to the contrary contained in these regulations an educator may, at his or her written request, be granted vacation leave in lieu of any portion of sick leave granted with half pay or without pay: Provided that sick leave with, half pay may be combined with vacation leave with half pay upon the request of the educator.

(5) (a) In the event of an educator becoming ill while he or she is on vacation leave, the period during which he or she was ill may, subject to the provisions of sub-regulation (1), be converted into sick leave provided such educator applies for such concession in writing within 30 days after resumption of service.

(b) indien die werkgewer oortuig is dat in uitsonderlike gevalle 'n opvoeder se afwesigheid vir 'n aaneenlopende tydperk van hoogstens 14 dae gedurende enige kalenderjaar waarvoor 'n mediese sertifikaat nie ingedien is nie, *bona fide* toe te skryf is aan siekte en indien hy of sy voorts oortuig is dat daar genoegsame redes bestaan waarom 'n mediese sertifikaat nie ingedien is nie, hy of sy na goeddunke vrystelling van die indiening van 'n mediese sertifikaat kan verleen;

(c) siekteverlof wat ten opsigte van afwesighede van vier dae of minder toegestaan word en waarvoor 'n mediese sertifikaat nie ingedien is nie, nie 'n totaal van 10 dae gedurende enige kalenderjaar mag oorskry nie; en

(d) enige verdere afwesigheid waarvoor 'n mediese sertifikaat nie ingedien is nie, gedek word deur die toestaan van spesiale verlof vir dringende private sake ooreenkomstig die bepalings van regulasie 43 ten opsigte van 'n opvoeder wat by 'n skool in diens is, of vakansieverlof ooreenkomstig regulasie 44 ten opsigte van 'n opvoeder wat by 'n kantoor in diens is.

(2) Siekteverlof word nie aan 'n opvoeder toegestaan nie ten opsigte van—

(a) enige siekte, ongesteldheid of besering wat toe te skryf is aan die opvoeder se wangedrag, nalatigheid of versuim om redelike voorsorg te tref; of

(b) neurastenie, slaaploosheid of 'n dergelike minder goed omskrewe siekte of ongesteldheid, tensy die werkgewer oortuig is dat—

(i) sodanige opvoeder se gesondheidstoestand hom of haar ongeskik maak vir sy of haar werk; en

(ii) die toestand waarin sodanige opvoeder verkeer, nie toe te skryf is aan daardie opvoeder se wangedrag, nalatigheid of versuim om redelike voorsorg te tref nie.

(3) Waar siekteverlof aan 'n opvoeder toegestaan word, is die datum waarop die verlof geag word te begin het en die datum waarop dit geag word te geëindig het, die datums bepaal deur die werkgewer, wat by die vasstelling van die tydperk van die verlof die geneeskundige vereistes van die geval en die belange van die staatsonderwysinstelling wat deur die toestaan daarvan geraak word, in aanmerking kan neem.

(4) Ondanks andersluidende bepalings in hierdie regulasies, kan daar aan die opvoeder, op sy of haar skriftelike versoek, in die plek van enige gedeelte van siekteverlof wat met halwe besoldiging of sonder besoldiging toegestaan is, vakansieverlof toegestaan word: Met dien verstande dat siekteverlof met halwe besoldiging gekombineer kan word met vakansieverlof met halwe besoldiging indien 'n opvoeder aldus versoek.

(5) (a) Indien 'n opvoeder siek word terwyl hy of sy met vakansieverlof is, kan die tydperk waarin hy of sy siek was, behoudens die bepalings van subregulasie (1), in siekteverlof omskep word, indien sodanige opvoeder binne 30 dae na dienshervatting skriftelik om die omskepping in siekteverlof aansoek doen.

(b) Vacation leave without pay may not be converted into sick leave.

(6) Notwithstanding the submission of a certificate referred to in subregulation (1), the employer may, on the grounds of further medical advice, refuse to grant sick leave with pay for any absence from duty to which the certificate relates, and such absence shall be deemed, in terms of regulation 54, to be special leave for urgent private affairs with regard to an educator employed at a school or vacation leave in accordance with regulation 43 with regard to an educator employed at an office.

(7) Whenever the employer has reason to suspect that the state of health of an educator is such that he or she is unfit to perform his or her duties as an educator in a satisfactory manner, the employer may on a particular date call upon him or her to be examined at the expense of the State, by a medical practitioner nominated by the employer, and whenever the employer is satisfied that an educator is, owing to ill-health (including any mental or physical disability), unable to perform his or her duties as an educator satisfactorily, he may order such educator to take sick leave for a specific period.

Sick leave: Educators employed at schools

45. (1) Sick leave shall accrue to an educator employed at a school on the first day of a cycle, and with effect from that day the full provisions of the cycle concerned may be granted to him or her subject to the provisions of subregulation (2): Provided that unused sick leave prescribed for a particular cycle shall lapse at the end of that cycle and shall not be carried forward to the next cycle.

(2) An educator employed at a school may be granted sick leave on account of his or her illness for 90 days on full pay and 90 days with half pay in the first cycle in which such educator renders service, which number of days of sick leave shall, after the completion of each cycle, be increased by three days with full pay and three days with half pay up to a maximum of 120 days with full pay and 120 days with half pay: Provided that—

(a) such educator may be granted sick leave without pay for any further period which the employer may determine;

(b) where an educator retains his or her leave credit in terms of regulation 38 (4) the date of commencement of his or her cycle with his or her previous employer shall be regarded as the date of commencement of his or her cycle in terms of this regulation; and

(c) an educator referred to in paragraph (b) shall not be granted further sick leave with pay during the unexpired period of the cycle in which he or she has thus been appointed in terms of regulation 38 (4) than that which could have been granted had all his or her service during such cycle been with his or her present employer.

(b) Vakansieverlof sonder betaling kan nie in siekteverlof omskep word nie.

(6) Ondanks die indiening van 'n sertifikaat in subregulasie (1) bedoel, kan die werkgever, op grond van verdere mediese advies, weier om siekteverlof met besoldiging aan 'n opvoeder toe te staan ten opsigte van enige afwesigheid van diens waarop die sertifikaat betrekking het, en sodanige afwesigheid word as spesiale verlof vir dringende private sake ooreenkomstig regulasie 54 beskou ten opsigte van 'n opvoeder wat by 'n skool in diens is, of as vakansieverlof ooreenkomstig die bepalings van regulasie 43 ten opsigte van 'n opvoeder wat by 'n kantoor in diens is.

(7) Wanneer die werkgever rede het om te vermoed dat die gesondheidstoestand van 'n opvoeder sodanig is dat dit hom of haar ongeskik maak of sy of haar pligte as opvoeder op bevredigende wyse uit te voer, kan die werkgever daardie opvoeder op 'n bepaalde datum aansê om op Staatskoste ondersoek te word deur 'n geneesheer wat deur die werkgever benoem word, en wanneer die werkgever oortuig is dat die betrokke opvoeder weens swak gesondheid (met inbegrip van enige geestelike of liggaamlike gebrek) nie in staat is om sy of haar pligte as opvoeder op bevredigende wyse uit te voer nie, kan hy die opvoeder aansê om vir 'n bepaalde tydperk siekteverlof te neem.

Siekteverlof: Opvoeders wat by skole in diens is

45. (1) Siekteverlof val 'n opvoeder wat by 'n skool in diens is, toe op die eerste dag van 'n tydkring, en met ingang van daardie dag kan die volle voorsiening vir die betrokke tydkring, behoudens die bepalings van subregulasie (2), aan hom of haar toegestaan word: Met dien verstande dat ongebruikte siekteverlof wat vir 'n bepaalde tydkring voorgeskryf is, aan die einde van daardie tydkring verval en nie na die volgende tydkring oorgedra word nie.

(2) Aan 'n opvoeder wat by 'n skool in diens is, kan weens sy of haar siekte siekteverlof van 90 dae met volle besoldiging en 90 dae met halwe besoldiging toegestaan word in die eerste tydkring waarin sodanige opvoeder diens doen, en hierdie getal dae siekteverlof word na voltooiing van elke tydkring vermeerder met drie dae met volle besoldiging en drie dae met halwe besoldiging tot 'n maksimum van 120 dae met volle besoldiging en 120 dae met halwe besoldiging: Met dien verstande dat—

(a) aan sodanige opvoeder siekteverlof sonder besoldiging toegestaan kan word vir sodanige verdere tydperk as wat die werkgever bepaal;

(b) in die geval van 'n opvoeder wat sy of haar verlofkrediet ingevolge regulasie 38 (4) behou, die aanvangsdatum van sy of haar tydkring by sy of haar vorige werknemer beskou word as die aanvangsdatum van sy of haar tydkring vir doeleindes van hierdie regulasie; en

(c) aan 'n opvoeder in paragraaf (b) bedoel, nie meer siekteverlof met besoldiging gedurende die onverstreke tydperk van die tydkring waarin hy of sy aldus kragtens regulasie 38 (4) aangestel is, toegestaan word nie as wat aan hom of haar toegestaan sou kon word indien al sy of haar diens gedurende sodanige tydkring by sy of haar huidige werkgever was.

(3) Notwithstanding anything to the contrary contained in subregulation (2) additional sick leave may, after the completion of nine years of continuous service and up to and including the end of the cycle in which the nine-year period expires and in every three cycles after that, on the recommendation of a registered medical practitioner or a registered dentist, be granted to an educator employed at a school up to a maximum of 90 days with full pay and 90 days with half pay: Provided that the additional sick leave with full pay shall follow immediately upon the sick leave with full pay referred to in subregulation (2).

Sick leave: Educators employed at offices

46. (1) Sick leave shall accrue to an educator employed at an office on the first day of a cycle, and with effect from that day the full provisions of the cycle concerned may be granted to him or her subject to the provisions of subregulation (2): Provided that unused sick leave prescribed for a particular cycle shall lapse at the end of that cycle and shall not be carried forward to the next cycle.

(2) An educator employed at an office may be granted sick leave on account of his or her illness for 120 days on full pay and 120 days on half pay for every cycle in which such educator has done duty: Provided that—

(a) such educator may be granted sick leave without pay for any further period which the employer may determine;

(b) where an educator employed at an office retains his or her leave credit in terms of regulation 39 (5) the date of commencement of his or her cycle with his or her previous employer shall be regarded as the date of commencement of his or her cycle in terms of the provisions of this regulation; and

(c) an educator referred to in paragraph (b) shall not be granted further sick leave with pay during the unexpired period of the cycle in which he has been so appointed in terms of regulation 39 (6) than that which could have been granted had all his or her service during such cycle been with his or her present employer.

(3) An educator employed at an office who has completed at least 10 years of uninterrupted service and who owing to long standing ill health has used all the sick leave with full pay which could be granted to him or her in terms of subregulation (2) may be granted additional sick leave with full pay equal to his or her basic sick leave provision with full pay under the following conditions:

(a) The additional sick leave with full pay may be granted for the entire remaining period of service of the educator, and not per cycle.

(b) If the educator does not use all the additional sick leave with full pay within a cycle, the balance thereof shall remain to the credit of the educator for use in the next or ensuing cycles.

(3) Ondanks andersluidende bepalings vervat in subregulasie (2), kan aan 'n opvoeder wat by 'n skool in diens is, na voltooiing van nege jaar aaneenlopende diens en tot en met die einde van die tydkring waarin die negejaartydperk verval en in elke drie tydkringe daarna, op aanbeveling van 'n geregistreerde geneesheer of 'n geregistreerde tandarts addisionele siekteverlof tot 'n maksimum van 90 dae met volle besoldiging en 90 dae met halwe besoldiging toegestaan word: Met dien verstande dat die addisionele siekteverlof met volle besoldiging onmiddellik volg op die siekteverlof met volle betaling in subregulasie (2) bedoel.

Siekteverlof: Opvoeders wat by kantore in diens is

46. (1) Siekteverlof val 'n opvoeder wat by 'n kantoor in diens is, toe op die eerste dag van 'n tydkring, en met ingang van daardie dag kan die volle voorsiening van die betrokke tydkring, behoudens die bepalings van subregulasie (2), aan hom of haar toegestaan word: Met dien verstande dat ongebruikte siekteverlof wat vir 'n bepaalde tydkring voorgeskrif is, aan die einde van daardie tydkring verval en nie na die volgende tydkring oorgedra word nie.

(2) Aan 'n opvoeder wat by 'n kantoor in diens is, kan weens sy of haar siekte siekteverlof vir 120 dae met volle besoldiging en 120 dae met halwe besoldiging toegestaan word vir elke tydkring waarin sodanige opvoeder diens gedoen het: Met dien verstande dat—

(a) aan sodanige opvoeder siekteverlof sonder besoldiging toegestaan kan word vir sodanige verdere tydperk as wat die werkgever bepaal;

(b) waar 'n opvoeder wat by 'n kantoor in diens is, sy of haar verlofkrediet ingevolge regulasie 39 (5) behou, die aanvangsdatum van sy of haar tydkring by sy of haar vorige werkgever beskou word as die aanvangsdatum van sy of haar tydkring vir doeleindes van hierdie regulasie; en

(c) aan 'n opvoeder in paragraaf (b) bedoel, nie meer siekteverlof met besoldiging gedurende die onverstreke tydperk van die tydkring waarin hy of sy aldus kragtens regulasie 39 (6) aangestel is, toegestaan word nie as wat aan hom of haar toegestaan sou kon word indien al sy of haar diens gedurende sodanige tydkring by sy of haar huidige werkgever was.

(3) Aan 'n opvoeder wat by 'n kantoor in diens is, wat minstens 10 jaar ononderbroke diens voltooi het en wat weens langdurige siekte al die siekteverlof met volle besoldiging opgebruik het wat ingevolge subregulasie (2) aan hom of haar toegestaan kan word, kan addisionele siekteverlof met volle besoldiging gelyk aan sy of haar basiese siekteverlofvoorsiening met volle besoldiging toegestaan word op die voorwaardes hieronder uiteengesit:

(a) Die addisionele siekteverlof met volle besoldiging kan toegestaan word vir die opvoeder se hele oorblywende dienstermyn, en nie per tydkring nie.

(b) Indien die opvoeder nie al die addisionele siekteverlof met volle besoldiging binne 'n tydkring opgebruik nie, bly die balans daarvan tot die opvoeder se krediet vir gebruik in die daaropvolgende of latere tydkringe.

(c) The additional sick leave with full pay shall be granted to the educator as soon as he has used all the basic sick leave with full pay which in terms of subregulation (2) was available during a cycle and before any ordinary sick leave with half pay is granted to him or her.

(d) When additional sick leave with full pay is granted to an educator it shall be noted on his or her leave record that such leave is granted in terms of the provisions of this subregulation.

Special sick leave

47. Notwithstanding anything to the contrary contained in regulation 45 (1) or 46 (1) as the case may be, an educator who is absent from duty owing to an injury sustained in an accident arising out of or in the course of performing his or her duties, or owing to an illness contracted in the course of or as a result of performing his or her duties as an educator may be granted special sick leave on full pay for the period during which he or she cannot perform such duties as a result of incapacity, or, if the case falls within the scope of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993), he or she may be granted special sick leave with full pay equal to the difference between full pay and the compensation payable to him or her in terms of that Act: Provided that—

(a) such leave shall not affect ordinary sick leave which may be granted in any cycle; and

(b) the absence from duty referred to in this regulation shall not be attributable to misconduct or negligence or failure by the educator to take reasonable precautions.

Special leave for study purposes

48. (1) Special leave may be granted to an educator for an approved course of study and for a period approved by the employer, on the basis that for each day of vacation leave on full pay which an educator uses for study, one additional day of special leave for study purposes on full pay, or on the educator's written request, two additional days special leave for study purposes on half pay may be granted, and for each day of vacation leave on half pay which an educator uses for study purposes, one additional day of special leave for study purposes on half pay may be granted.

(2) If special leave for study purposes is granted to an educator in terms of subregulation (1), the employer may call for periodic progress reports in respect of the educator's studies and such educator shall enter into an agreement with the employer, in a form approved by the employer in terms of which he or she undertakes to serve the employer immediately after completion of the period of special leave for study purposes for a period (hereinafter referred to as the service period) equal to at least the period for which special leave for study purposes on full pay has been granted to him or her, or for a service period equal to half the period for which special leave for study purposes on half pay has been

(c) Die addisionele siekteverlof met volle besoldiging word aan die opvoeder toegestaan sodra hy of sy al sy of haar gewone siekteverlof met volle besoldiging wat ingevolge subregulasie (2) in 'n tydkring beskikbaar was, opgebruik het en voordat enige gewone siekteverlof met halwe besoldiging aan hom of haar toegestaan word.

(d) Wanneer addisionele siekteverlof met volle besoldiging aan die opvoeder toegestaan word, moet daar op sy of haar verlofstaat aantekening daarvan gemaak word dat die verlof kragtens die bepalings van hierdie subregulasie toegestaan is.

Spesiale siekteverlof

47. Ondanks andersluidende bepalings vervat in regulasie 45 (1) of 46 (1), na gelang van die geval, kan aan 'n opvoeder wat van diens afwesig is weens 'n besering opgedoen in 'n ongeluk voortvloeiend uit of in die loop van die uitvoering van sy of haar pligte as opvoeder, of weens 'n siekte opgedoen in die loop van of as gevolg van die uitvoering van sy of haar pligte as opvoeder, spesiale siekteverlof met volle besoldiging toegestaan word vir die tydperk wat hy of sy onbevoeg is vir sodanige pligte, of indien die geval binne die bestek van die Wet op Vergoeding vir Beroepsbesering en Siektes, 1993 (Wet No. 130 van 1993), ressorteer, spesiale siekteverlof met besoldiging gelyk aan die verskil tussen die volle besoldiging en die vergoeding wat ingevolge daardie Wet aan hom of haar betaalbaar is: Met dien verstande dat—

(a) genoemde verlof nie gewone siekteverlof wat gedurende 'n tydkring toegestaan kan word, raak nie; en

(b) die afwesigheid van diens in hierdie regulasie bedoel, nie toe te skryf is aan die opvoeder se wangedrag, nalatigheid of versuim om redelike voorsorg te tref nie.

Spesiale verlof vir studiedoeleindes

48. (1) Spesiale verlof kan aan 'n opvoeder toegestaan word vir 'n studiekursus en vir 'n tydperk wat die werkgewer goedkeur, en wel op die basis dat vir elke dag vakansieverlof met volle besoldiging wat 'n opvoeder vir studie gebruik, een addisionele dag spesiale verlof vir studiedoeleindes met volle besoldiging of, op skriftelike versoek van die opvoeder, twee addisionele dae spesiale verlof vir studiedoeleindes met halwe besoldiging, en vir elke dag vakansieverlof met halwe besoldiging wat 'n opvoeder vir studiedoeleindes gebruik, een addisionele dag spesiale verlof vir studiedoeleindes met halwe besoldiging toegestaan kan word.

(2) Indien spesiale verlof vir studiedoeleindes ingevolge subregulasie (1) aan 'n opvoeder toegestaan word, kan die werkgewer periodiek vorderingsverslae oor die opvoeder se studie vereis en moet die betrokke opvoeder 'n ooreenkoms in 'n vorm deur die werkgewer goedgekeur, met die werkgewer aangaan waarby hy of sy onderneem om die werkgewer onmiddellik na verstryking van die tydperk van spesiale verlof vir studiedoeleindes te dien vir 'n tydperk (hierna die dienstydyperk genoem) gelykstaande met minstens die tydperk waarvoor spesiale verlof vir studiedoeleindes met volle besoldiging aan hom of haar toegestaan is, of vir 'n dienstydyperk gelykstaande met die helfte van die

granted, as the case may be: Provided that if leave without pay has been granted to him or her during his or her service period, his or her service period shall be extended by the number of days for which leave without pay has been granted to him or her.

(3) Special leave for study purposes shall not be deducted from the leave credit of the educator.

Special leave for military training

49. (1) Special leave for military training may be granted to an educator on full pay when such educator is required, in terms of the Defence Act, 1957, or any regulation published thereunder, or in terms of the Police Act, 1958, or any regulation published thereunder, to undergo continuous or uninterrupted or interrupted training or so to do service, except in the case of his or her initial continuous compulsory national service, in which case special leave for military training shall be granted and his or her salary military training shall be granted and his or her salary reduced by an amount determined by his or her employer from time to time in due consideration of the circumstances of individual educators.

(2) The educator shall submit written proof from the South African National Defence Force or the South African Police Service that he or she is required to undergo training or to do service.

(3) Special leave for military training granted in terms of subregulation (1) may include any period actually and necessarily taken up in travelling for the purpose for which the leave is granted.

(4) Special leave for military training shall not be deducted from the leave credit of the educator.

Special leave for examination purposes: Educators employed at schools

50. (1) An educator employed at a school may be granted special leave for examination purposes with full pay for each day on which such educator sits as a candidate for an examination approved for this purpose by the employer, and in addition one additional day of special leave on full pay may be granted for each day such educator actually sits for the examination, which additional day or days shall be taken before the last school day on which he or she writes the examination.

(2) Over and above the special leave for examination purposes referred to in subregulation (1), the employer may, once only, grant continuous special leave for examination purposes for a maximum period of 16 school days to an educator employed at a school who has to sit for an examination in final year subjects towards the completion of a first degree or diploma approved for his purpose by the employer.

(3) Special leave for examination purposes granted in terms of subregulation (1) may include any period actually and necessarily required for travelling in connection with such examination.

tydperk waarvoor spesiale verlof vir studiedoeleindes met halwe besoldiging toegestaan is, na gelang van die geval: Met dien verstande dat indien verlof sonder besoldiging gedurende sy of haar dienstydperk aan hom of haar toegestaan word, sy of haar dienstydperk met die aantal dae waarvoor verlof sonder besoldiging aan hom of haar toegestaan is, verleng word.

(3) Spesiale verlof vir studiedoeleindes word nie teen die opvoeder se verlofkrediet verreken nie.

Spesiale verlof vir militêre opleiding

49. (1) Spesiale verlof vir militêre opleiding kan met volle besoldiging aan 'n opvoeder toegestaan word wanneer sodanige opvoeder ingevolge die Verdedigingswet, 1957, of enige regulasie daarkragtens uitgevaardig, of ingevolge die Polisiewet, 1958, of enige regulasie daarkragtens uitgevaardig, aaneenlopende of ononderbroke of onderbroke opleiding moet ondergaan of aldus diens moet verrig, behalwe in die geval van sy of haar aanvanklike ononderbroke verpligte nasionale diensplig, in welke geval spesiale verlof vir militêre opleiding toegestaan moet word en sy of haar besoldiging verminder moet word met die bedrag wat van tyd tot tyd deur sy of haar werkgever met inagneming van afsonderlike opvoeders se omstandighede, bepaal word.

(2) Die opvoeder moet skriftelike bewys van die Suid-Afrikaanse Nasionale Weermag of die Suid-Afrikaanse Polisie diens voorlê dat hy of sy opleiding moet ondergaan of diens moet verrig.

(3) Spesiale verlof vir militêre opleiding wat ingevolge subregulasie (1) toegestaan word, kan enige tydperk insluit wat werklik en noodsaaklikerwys in beslag geneem word deur die reise afgelê vir die doel waarvoor die verlof toegestaan word.

(4) Spesiale verlof vir militêre opleiding word nie teen die opvoeder se verlofkrediet verreken nie.

Spesiale verlof vir eksamendoeleindes: Opvoeders wat by skole in diens is

50. (1) Aan 'n opvoeder wat by 'n skool in diens is, kan spesiale verlof vir eksamendoeleindes met volle besoldiging toegestaan word vir elke dag waarop hy of sy as 'n kandidaat 'n eksamen vir dié doel deur die werkgever goedgekeur, aflê, en daarbenewens kan een addisionele dag spesiale verlof vir eksamendoeleindes met volle besoldiging toegestaan word vir elke dag waarop die betrokke opvoeder werklik eksamen aflê, welke addisionele dag of dae voor die laaste skooldag waarop hy of sy eksamen aflê, geneem moet word.

(2) Die werkgever kan bo en behalwe die spesiale verlof vir eksamendoeleindes in subregulasie (1) bedoel, eenmalig aan 'n opvoeder wat by 'n skool in diens is en wat 'n eksamen in finalejaarsvakke ter voltooiing van 'n eerste graad of diploma vir dié doel deur die werkgever goedgekeur, moet aflê, aaneenlopende spesiale verlof vir eksamendoeleindes vir 'n maksimum tydperk van 16 skooldae toestaan.

(3) Spesiale verlof vir eksamendoeleindes wat kragtens subregulasie (1) toegestaan word, kan enige tydperk insluit wat werklik en noodsaaklikerwys vereis word om in verband met die eksamen te reis.

(4) Special leave for examination purposes shall not be deducted from the leave credit of an educator employed at a school.

(5) Special leave with full pay may be granted to an educator once only in respect of a re-examination or an end of year examination pertaining to a study course (or part of a study course) which an educator failed and which he or she has to repeat.

**Special leave for examination purposes:
Educators employed at offices**

51. (1) The provisions of regulation 50 with the exception of subregulation (2), shall apply *mutatis mutandis* to an educator employed at an office.

(2) Over and above the special leave for examination purposes contemplated in subregulation (1), the employer may, once only, grant continuous special leave for examination purposes for a maximum period of 16 working days to an educator employed at an office who has to sit for an examination in final year subjects towards the completion of a first degree or diploma approved for this purpose by the employer.

(3) Special leave with full pay may be granted to an educator once only in respect of a re-examination or an end of year examination pertaining to a study course (or part of a study course) which an educator failed and which he or she has to repeat.

Special leave for quarantine purposes

52. (1) Where the employer in consultation with the medical practitioner is of the opinion that an educator suffers from or was exposed to a notifiable medical condition as contemplated in section 45 of the Health Act, 1977, the employer may grant special leave on full pay for quarantine purposes to such educator.

(2) Any application for leave referred to in subregulation (1) shall be accompanied by a certificate from a registered medical practitioner stating the period of quarantine as well as the reasons necessitating such leave.

(3) Leave for quarantine purposes shall not exceed the period required for removal of the contagion or infection or disinfection.

(4) Special leave for quarantine purposes shall not be deducted from the leave credit of the educator.

Special leave for participating in sporting and cultural events

53. (1) Special leave on full pay for participating in sports and cultural events may be granted with the approval of the employer without such leave being deducted from the leave credit of an educator, when an educator—

(a) is selected by an amateur sports body or a cultural institution recognised by the employer for this purpose—

(i) to take part as a competitor, coach or manager in a sports or cultural event beyond the borders of the Republic; or

(ii) to represent the country, province or region at an international, national, provincial or regional sports or cultural event within the Republic; or

(iii) to accompany a group or an individual from outside the country who is visiting the Republic, as a representative of such sports body or cultural institution; or

(4) Spesiale verlof vir eksamendoeleindes word nie teen die opvoeder wat by 'n skool in diens is, se verlofkrediet verreken nie.

**Spesiale verlof vir eksamendoeleindes:
Opvoeders wat by kantore in diens is**

51. (1) Die bepalings van regulasie 50, met uitsondering van subregulasie (2), is *mutatis mutandis* van toepassing op opvoeders wat by kantore in diens is.

(2) Die werkgever kan bo en behalwe die spesiale verlof vir eksamendoeleindes in subregulasie (1) bedoel, eenmalig aan 'n opvoeder wat by 'n kantoor in diens is en wat 'n eksamen in finalejaarsvakke ter voltooiing van 'n eerste graad of diploma vir dié doel deur die werkgever goedgekeur, moet aflê, aaneenlopende spesiale verlof vir eksamendoeleindes vir 'n maksimum tydperk van 16 werkdade toestaan.

Spesiale verlof vir kwarantyn-doeleindes

52. (1) Waar die werkgever in oorleg met die geneesheer van oordeel is dat 'n opvoeder aan 'n aanmeldbare siekte binne die bedoeling van artikel 45 van die Wet op Gesondheid, 1977, ly of daaraan blootgestel is, kan die werkgever verlof vir kwarantyn-doeleindes met volle besoldiging aan die opvoeder toestaan.

(2) Enige aansoek om verlof in subregulasie (1) bedoel, moet vergesel gaan van 'n sertifikaat van 'n geregistreerde geneesheer waarin die tydperk van kwarantyn asook die redes waarom sodanige verlof nodig is, vermeld word.

(3) Verlof vir kwarantyn-doeleindes mag nie vir 'n langer tydperk wees as wat nodig is vir die verwydering van die besmetting of infeksie of vir ontsmetting nie.

(4) Spesiale verlof vir kwarantyn-doeleindes word nie teen die opvoeder se verlofkrediet verreken nie.

Spesiale verlof vir deelname aan sport- en kulturgeleenthede

53. (1) Met die goedkeuring van die werkgever kan spesiale verlof vir deelname aan sport- en kulturgeleenthede met volle besoldiging, sonder dat die verlof teen 'n opvoeder se verlofkrediet verreken word, toegestaan word wanneer die opvoeder—

(a) deur 'n amateursportliggaam of 'n kultuurliggaam deur die werkgever vir hierdie doel erken, gekies word om—

(i) as deelnemer, afrigter of bestuurder aan 'n sport- of kulturgeleentheid buite die grense van die Republiek mee te doen; of

(ii) die land, provinsie of streek by 'n internasionale, nasionale, provinsiale of streek-sport- of streekkulturgeleentheid binne die Republiek te verteenwoordig; of

(iii) 'n groep of 'n individu uit die buiteland wat die Republiek besoek, as verteenwoordiger van daardie sportliggaam of kultuurliggaam te vergezel; of

(iv) to attend international conferences or meetings of international sports bodies or cultural institutions; or

(b) acts as a referee, official, adjudicator or course leader at a sports or cultural event at an international level within or outside the Republic; or

(c) as an individual is selected or invited to take part, or on his or her own initiative takes part in a sports or cultural event at an international or national level within or outside the Republic.

Special leave for urgent private affairs

54. (1) With the approval of the employer, special leave for urgent private affairs may be granted to an educator employed at a school to attend to private affairs.

(2) Special leave for urgent private affairs shall be on full pay if the educator has the necessary vacation leave to his or her credit and shall be deducted from such leave credit or shall be without pay if the educator no longer has any vacation leave to his or her credit.

Special leave for confinement

55. (1) Special leave on full pay for confinement (including the adoption of a child) may be granted to a female educator on the following basis and shall not be deducted from the educator's leave credit:

(a) A maximum of 84 days (including weekends and public holidays that fall within this period) of special leave on full pay may be granted for confinement or adoption of a child, as the case may be.

(b) The educator shall have completed 12 months of uninterrupted service.

(c) Prior service rendered at institutions mentioned in regulation 39 (7) shall be taken into account for the purposes of paragraph (b) if there has been no interruption in service.

(d) In the application of paragraph (c), the previous temporary or permanent service of an educator who terminated her permanent or temporary appointment and has been appointed without any interruption in service shall be taken into account.

(e) The special leave referred to in this regulation may be granted, subject to the provisions of paragraph (i) to an educator for not more than two confinements or adoptions, as the case may be.

(f) Special leave may be taken before or after the confinement, but it shall be uninterrupted and continuous with the confinement in all cases and it may also be continuous with periods of sick leave or any other type of leave.

(g) Subject to the provisions of paragraph (h), special leave for confinement may not be converted, in part or as a whole, into any other type of leave after it has commenced.

(iv) internasionale konferensies of vergaderings van internasionale sportliggame of kultuurliggame by te woon; of

(b) as skeidsregter, beampte, beoordelaar of kursusleier by 'n sport- of kultuurgeleentheid op internasionale vlak binne of buite die Republiek optree; of

(c) as individu gekies of uitgenooi is om deel te neem, of op eie inisiatief deelneem, aan 'n sport-of kultuurgeleentheid op internasionale of nasionale vlak binne of buite die Republiek.

Spesiale verlof vir dringende private sake

54. (1) Met die goedkeuring van die werkgever kan aan 'n opvoeder spesiale verlof vir dringende private sake toegestaan word om aandag te skenk aan private sake.

(2) Spesiale verlof vir dringende private sake is met volle besoldiging indien die opvoeder oor die nodige vakansieverlofkrediet beskik en word teen genoemde verlofkrediet verreken, of is sonder besoldiging indien die opvoeder nie meer oor enige vakansieverlofkrediet beskik nie.

Spesiale verlof vir bevallingsdoeleindes

55. (1) Spesiale verlof met volle besoldiging vir bevallingsdoeleindes (waarby die aanneming van 'n kind ingesluit is) kan op die volgende grondslag aan 'n vroulike opvoeder toegestaan word en word nie teen die opvoeder se verlofkrediet verreken nie:

(a) 'n Maksimum van 84 dae (wat naweke en openbare vakansiedae wat in so 'n tydperk val, insluit) spesiale verlof met volle besoldiging kan per bevalling of aanneming van 'n kind, na gelang van die geval, toegestaan word.

(b) Die opvoeder moet 12 maande ononderbroke bevredigende diens voltooi het.

(c) Vorige diens gelewer by instellings in regulasie 39 (7) bedoel, word vir doeleindes van paragraaf (b) in ag geneem mits daar nie 'n onderbreking van diens plaasgevind het nie.

(d) By die toepassing van paragraaf (c) word 'n opvoeder wat haar permanente of tydelike diens beëindig het en sonder onderbreking van diens aangestel word, se vorige permanente of tydelike diens in ag geneem.

(e) Die spesiale verlof in hierdie regulasie bedoel, kan, behoudens die bepalinge van paragraaf (i), vir hoogstens twee bevallings of aannemings, na gelang van die geval, per opvoeder toegestaan word.

(f) Die spesiale verlof kan voor of na die bevalling gebruik word, maar moet in alle gevalle ononderbroke en aaneenlopend met die bevalling wees en dit kan ook aaneenlopend met tydperke van siekte- of enige ander soort verlof wees.

(g) Die spesiale verlof mag, behoudens die bepalinge van paragraaf (h), nie gedeeltelik of in sy geheel in enige ander soort verlof omskep word nadat dit 'n aanvang geneem het nie.

(h) Sick leave for absence from duty owing to a miscarriage, a still-birth or the termination of a pregnancy on medical advice may be granted in accordance with regulation 44, 45 or 46, as the case may be, before a period of special leave would have commenced.

(i) If the miscarriage, still-birth or termination of pregnancy referred to in paragraph (h) occurs after such a period of special leave has commenced, the said special leave for the period up to the miscarriage, still-birth or termination of pregnancy shall not be taken into account for the purposes of the restrictions contained in paragraph (e).

(j) Sick leave may be granted in accordance with the provisions of regulation 44, 45 or 46, as the case may be, for absences from duty from the date of the miscarriage, still-birth or termination of pregnancy referred to in paragraph (h).

(2) (a) If a female educator does not qualify for special leave with full pay in accordance with subregulation 55 (1), her absence from duty for purposes of her pregnancy and her confinement must be covered by the granting of her available vacation leave with full pay and thereafter vacation leave without pay.

(b) In the cases referred to in subparagraph (a) sick leave may, however, be granted during a period of pregnancy, but not in respect of a period of vacation leave without pay already granted [see subregulation 44 (5) (b)] or during her absence due to confinement.

(c) Sick leave may be granted in respect of absence from duty as a result of a miscarriage, still birth or termination of pregnancy on medical advice.

(3) (a) A female educator employed at a school may apply for special leave for confinement and such application shall be submitted at least 90 days prior to the expected date of her confinement.

(b) Special leave for confinement shall normally be granted to a female educator employed at a school as from 30 days prior to the expected date of confinement: Provided that, with due consideration of the circumstances at the school concerned and the state of health of the applicant, the employer may approve a shorter or a longer period.

(c) Special leave for confinement for a female educator employed at a school shall terminate 90 days after the date of confinement: Provided that, with due consideration of the circumstances at the school concerned and the circumstances of the applicant, the employer may approve a shorter or a longer period.

(d) If the period of special leave for confinement granted to an educator in terms of subregulation (1) exceeds 84 days, vacation leave on full pay to the extent that the educator has vacation leave to her credit, followed by vacation leave without pay, may be granted on the written request of the educator for the period in excess of 84 days.

(h) Siekteverlof vir afwesighede van diens as gevolg van 'n miskraam, 'n doodgeboorte of 'n beëindiging van swangerskap op mediese advies voordat 'n tydperk van spesiale verlof 'n aanvang neem, kan ooreenkomstig regulasie 44, 45 of 46, na gelang van die geval, toegestaan word.

(i) Indien die miskraam, doodgeboorte of beëindiging van swangerskap in paragraaf (h) bedoel, plaasvind nadat sodanige tydperk van spesiale verlof 'n aanvang geneem het, word bedoelde spesiale verlof vir die tydperk tot voor die miskraam, doodgeboorte of beëindiging van swangerskap nie in berekening gebring vir die doeleindes van die beperking bedoel in paragraaf (e) nie.

(j) Vir afwesighede van diens vanaf die datum van miskraam, doodgeboorte of beëindiging van swangerskap in paragraaf (h) bedoel, kan siekteverlof ooreenkomstig die bepalinge van regulasie 44, 45 of 46, na gelang van die geval, toegestaan word.

(2) (a) Indien 'n vroulike opvoeder nie vir spesiale verlof met volle besoldiging ingevolge subregulasie 55 (1) kwalifiseer nie, moet afwesigheid van diens as gevolg van haar swangerskap en bevalling gedek word deur die toestaan van beskikbare vakansieverlof met volle besoldiging en daarna deur vakansieverlof sonder besoldiging.

(b) In die gevalle waarna verwys word in paragraaf (a) kan siekteverlof gedurende 'n tydperk van swangerskap, maar nie tydens 'n periode van vakansieverlof sonder besoldiging alreeds toegestaan [kyk subregulasie 44 (5) (b)] of gedurende haar afwesigheid as gevolg van die bevalling, toegestaan word nie.

(c) Siekteverlof kan ten opsigte van afwesighede van diens as gevolg van 'n miskraam, 'n doodgeboorte of 'n beëindiging van 'n swangerskap of mediese advies toegestaan word.

(3) (a) 'n Vroulike opvoeder wat by 'n skool in diens is, kan om spesiale verlof vir bevalling aansoek doen en sodanige aansoek moet minstens 90 dae voor die verwagte datum van haar bevalling ingedien word.

(b) Spesiale verlof vir bevalling word normaalweg aan 'n vroulike opvoeder wat by 'n skool in diens is, toegestaan vanaf 30 dae voor die datum van die verwagte bevalling: Met dien verstande dat, met behoorlike inagneming van die omstandighede by die betrokke skool en die gesondheidstoestand van die aansoeker, die werkgever 'n korter of langer tydperk kan goedkeur.

(c) Spesiale verlof vir bevalling aan 'n vroulike opvoeder wat by 'n skool in diens is, eindig 90 dae na die datum van die bevalling: Met dien verstande dat, met behoorlike inagneming van die omstandighede by die betrokke skool en die omstandighede van die aansoeker, die werkgever 'n korter of langer tydperk kan goedkeur.

(d) Indien die tydperk van spesiale verlof vir bevalling wat ingevolge subregulasie (1) aan 'n opvoeder in diens by 'n skool toegestaan is, 84 dae oorskry, word op die skriftelike versoek van die opvoeder vakansieverlof met volle besoldiging in die mate waarin die opvoeder vakansieverlof tot haar krediet het, en daarna vakansieverlof sonder besoldiging, toegestaan vir die tydperk wat 84 dae oorskry.

**Special leave for continuity of service:
Educators employed at schools**

56. (1) Special leave without pay for a maximum of 120 days may be granted to an educator employed at a school and who was previously employed as educator by the same or another employer for the purpose of retaining the continuity of the educator's service.

(2) The special leave referred to in subregulation (1) shall commence on the day immediately following the date on which such educator last received salary from his or her previous employer and shall expire on the day preceding the date of assumption of duty with the present employer in terms of such appointment.

(3) The limitation of 120 days referred to in subregulation (1) shall not apply in cases where the period concerned extends from the day immediately following the last day of a school term to the day immediately preceding the first day of the school term after a full school term has elapsed.

**Special leave for continuity of service:
Educators employed at offices**

57. (1) Special leave without pay to a maximum of 120 days may be granted to an educator employed at an office and who was previously employed as an educator by the same or another employer for the purpose of retaining the continuity of the educator's service.

(2) The special leave referred to in subregulation (1) shall commence on the day immediately following the date on which such educator last received salary from his or her previous employer and shall expire on the day preceding the date of assumption of duty with his or her present employer in terms of such appointment.

**Special leave in extraordinary
circumstances**

58. (1) Subject to the provisions of section 10 (1) and (2) of the Act, unauthorised absence by an educator, notwithstanding any disciplinary measures which may be taken against him or her, shall be regarded as special leave in extraordinary circumstances and such leave shall be without pay unless the employer in a specific case determines otherwise.

(2) If, in the opinion of the employer, circumstances justify it, he or she may grant an educator special leave in extraordinary circumstances for any purpose or for any period he or she may determine, and such leave shall be without pay unless the employer determines otherwise.

(3) Special leave in extraordinary circumstances shall not be deducted from the leave credit of the educator.

Leave gratuities

59. A leave gratuity, calculated as set out in regulations 61 and 62, may be paid—

(a) to an educator whose service terminates as a result of retirement on pension: Provided that the voluntary resignation of an educator appointed in a temporary capacity in terms of section 4 (3) (b) of the Act on or after attaining the age of 65 years shall also be regarded as retirement on pension;

**Spesiale verlof ter wille van dienskontinuiteit:
Opvoeders wat by skole in diens is**

56. (1) Aan 'n opvoeder wat by 'n skool in diens is en wat voorheen by dieselfde of 'n ander werkgever as opvoeder in diens was, kan spesiale verlof sonder besoldiging vir 'n tydperk van hoogstens 120 dae toegestaan word met die doel om die kontinuiteit van sodanige opvoeder se diens te behou.

(2) Die spesiale verlof in subregulasie (1) bedoel, neem 'n aanvang op die eerste dag na die datum waarop sodanige opvoeder die laaste keer deur sy of haar vorige werkgever besoldig is en verstryk op die dag voor die datum van diensaanvaarding by sy of haar huidige werkgever ingevolge sodanige aanstelling.

(3) Die beperking van 120 dae in subregulasie (1) bedoel, is nie van toepassing nie waar die betrokke tydperk strek van die dag onmiddellik na die laaste dag van 'n skooltermyn tot die dag onmiddellik voor die eerste dag van die skooltermyn nadat een volle skooltermyn verloop het.

**Spesiale verlof ter wille van dienskontinuiteit:
Opvoeders wat by kantore in diens is**

57. (1) Aan 'n opvoeder wat by 'n kantoor in diens is en wat voorheen by dieselfde of 'n ander werkgever as opvoeder in diens was, kan hoogstens 120 dae toegestaan word met die doel om die kontinuiteit van sodanige opvoeder se diens te behou.

(2) Die spesiale verlof in subregulasie (1) bedoel, neem 'n aanvang op die eerste dag na die datum waarop sodanige opvoeder die laaste keer deur sy of haar vorige werkgever besoldig is en verstryk op die dag voor die datum van diensaanvaarding by sy of haar huidige werkgever ingevolge sodanige aanstelling.

**Spesiale verlof in buitengewone
omstandighede**

58. (1) Behoudens die bepalings van artikel 10 (1) en (2) van die Wet word ongemagtigde afwesigheid van 'n opvoeder, ondanks enige tugmaatreëls wat teen hom of haar toegepas word, geag spesiale verlof in buitengewone omstandighede te wees, en sodanige verlof is sonder besoldiging tensy die werkgever in 'n spesifieke geval anders bepaal.

(2) Indien die werkgever van oordeel is dat omstandighede dit regverdig, kan hy of sy aan 'n opvoeder spesiale verlof in buitengewone omstandighede toestaan vir enige doel en vir enige tydperk wat hy of sy bepaal, en sodanige verlof is sonder besoldiging, tensy die werkgever anders bepaal.

(3) Spesiale verlof in buitengewone omstandighede word nie teen die opvoeder se verlofkrediet verreken nie.

Verlofgratifikasies

59. 'n Verlofgratifikasie, bereken soos in regulasies 61 en 62 uiteengesit, kan betaal word—

(a) aan 'n opvoeder wie se diens eindig as gevolg van aftrede met pensioen: Met dien verstande dat die vrywillige bedanking van 'n opvoeder aangestel in 'n tydelike hoedanigheid kragtens artikel 4 (3) (b) van die Wet by of na bereiking van die ouderdom van 65 jaar ook as aftrede met pensioen beskou word;

(b) to an educator as a result of termination of service—

(i) in terms of section 8 (1) (a), (b) and (c) of the Act; or

(ii) if he or she has been appointed on a contract basis, on account of the expiry of his or her period of service or his or her voluntary resignation according to the provisions of the contract;

(c) to an educator on the termination of the service of an educator appointed in a temporary capacity in terms of section 4 (3) (b) of the Act, after having completed at least five years of uninterrupted satisfactory service, unless special leave for the sake of continuity of service may be granted;

(d) to an educator serving in a permanent capacity at his or her written request, where such educator has the option of retiring on pension before attaining the compulsory retirement age and does not retire before attaining such age; and

(e) when an educator dies, to the following person(s) or the estate in the following order of precedence:

(i) The widow or widower of such educator;

(ii) the fully dependent children, including a stepchild or a lawfully adopted child, in equal shares;

(iii) the dependent parent or parents; and

(iv) the estate of the deceased.

Calculation of the number of days which may be converted into a leave gratuity

60. (1) A leave gratuity shall be payable to an educator whose service terminates in the circumstances set out in regulation 59 (a) or (b) or (e), calculated against the total number of days of leave he or she has to his or her credit at the termination of his or her service.

(2) A leave gratuity up to a maximum of 184 days shall be payable to an educator referred to in regulation 59 (c) or (d).

(3) Any leave credit which remains after a leave gratuity is paid shall be retained by the educator.

Calculation of the amount of the leave gratuity

61. The amount of the leave gratuity payable to an educator shall be calculated in terms of the number of days of leave that may be converted into the gratuity and at a rate equal to the total of the educator's basic salary plus any pensionable allowance payable on the date on which such gratuity is payable.

Payment of leave gratuity

62. If an educator has applied for the payment of a leave gratuity and such gratuity has been paid to him or her, he or she shall not be allowed to refund such gratuity and apply again for one at a later stage.

(b) aan 'n opvoeder ten gevolge van diensbeëindiging—

(i) kragtens artikel 8 (1) (a), (b) en (c) van die Wet; of

(ii) indien hy of sy op 'n kontrakbasis aangestel is, weens die verstryking van sy of haar dienstydperk of sy of haar vrywillige bedanking ooreenkomstig die bepalings van die kontrak;

(c) aan 'n opvoeder, by die beëindiging van die diens van 'n opvoeder aangestel in 'n tydelike hoedanigheid kragtens artikel 4 (3) (b) van die Wet, na voltooiing van minstens vyf jaar ononderbroke bevredigende diens, tensy spesiale verlof ter wille van dienskontinuiteit toegestaan kan word;

(d) aan 'n opvoeder wat in 'n permanente hoedanigheid in diens is, op sy of haar skriftelike versoek, indien sodanige opvoeder die keuse het om voor bereiking van die verpligte aftree-ouderdom met pensioen af te tree en nie voor bereiking van sodanige ouderdom aftree nie; en

(e) waar 'n opvoeder te sterwe kom, aan die volgende persoon, persone of boedel in die volgende orde van voorrang:

(i) Die weduwee of wewenaar van die opvoeder;

(ii) die ten volle afhanklike kinders, met inbegrip van 'n stiefkind of 'n wettig aangenome kind, in gelyke dele;

(iii) die afhanklike ouer of ouers; en

(iv) die boedel van die oorledene.

Berekening van getal dae wat in 'n verlof-gratifikasie omskep kan word

60. (1) 'n Verlofgratifikasie, bereken teen die totale getal dae wat 'n opvoeder by sy of haar diensbeëindiging as verlofkrediet het, is aan hom of haar betaalbaar indien sy of haar diens eindig in die omstandighede in regulasie 59 (a) of (b) of (c) uiteengesit.

(2) 'n Verlofgratifikasie tot 'n maksimum van 184 dae is betaalbaar aan 'n opvoeder bedoel in regulasie 59 (c) of (d).

(3) Verlofkrediet wat oorbly nadat 'n verlofgratifikasie uitbetaal is, word deur die opvoeder behou.

Berekening van die bedrag van die verlofgratifikasie

61. Die bedrag van die verlofgratifikasie betaalbaar aan 'n opvoeder word bereken volgens die getal dae verlof wat in die gratifikasie omskep kan word en teen 'n tarief gelyk aan die totaal van die opvoeder se basiese besoldiging plus enige pensioendraende toelae betaalbaar op die datum waarop sodanige verlofgratifikasie betaalbaar is.

Betaling van verlofgratifikasie

62. Indien 'n opvoeder om die betaling van 'n verlofgratifikasie aansoek gedoen het en die betrokke gratifikasie aan hom of haar betaal is, word hy of sy nie toegelaat om sodanige gratifikasie terug te betaal en op 'n later tydstip weer daarom aansoek te doen nie.

Payment of allowances during leave

63. The payment of an allowance for acting in a higher post or performing duties in a hostel which is not included in the salary of an educator, may be suspended by the employer during periods of leave.

CHAPTER 4

MEDICAL ASSISTANCE, STATE HOUSING, SUBSISTENCE ALLOWANCE, OFFICIAL JOURNEYS AND TRANSPORT, HOUSE OWNER ALLOWANCE, SERVICE BONUS, LONG SERVICE RECOGNITION AND RESETTLEMENT EXPENDITURE

Medical assistance**Employer contribution**

64. (1) The monthly contribution by the employer in respect of the subscriptions payable to a medical scheme on a monthly basis is calculated in accordance with a basis determined by the Minister and shall be paid to the different medical schemes of which educators are members.

(2) (a) In order to qualify for an employer contribution, an educator shall provide the employer with written proof of membership of the medical scheme of which he or she is a member, as well as of the monthly subscriptions applicable to him or her.

(b) An educator shall notify the employer of any changes in membership of a medical scheme, as well as any change in subscriptions.

(c) Notwithstanding the provisions of paragraphs (a) and (b), employers may in consultation with a medical scheme, make suitable arrangements regarding the particulars of educators who are members of such medical scheme including subscription of such educators.

(3) A member contribution shall be deducted every month from an educator's salary by stop-order and paid to the medical scheme of which he or she is a member.

(4) (a) Subject to the provisions of this Chapter, an employer contribution is payable to the medical scheme on every salary pay date: Provided that if an educator obtains membership of a scheme that requires subscriptions to be paid in advance, the educator may make a double payment of subscriptions in one month in which case the employer contribution may be doubled.

(b) The payment of the employer contribution shall be suspended with effect from the date on which an educator no longer qualifies for an employer contribution in terms of this Chapter.

(5) If an educator is absent from duty without pay, during which subscriptions cannot be deducted from his or her salary, the employer may on application by an educator, continue with the payment of the employer contribution.

Betaling van toelaes tydens verlof

63. Die betaling van 'n toelae aan 'n opvoeder vir waarneming in 'n hoër pos of vir werkverrigting by 'n koshuis, wat nie by sy of haar besoldiging inbegrepe is nie, kan tydens tydperke van verlof deur die werkgever gestaak word.

HOOFSTUK 4

MEDIESE BYSTAND, STAATSBEHUISING, VERBLYFTOELAE, AMPTELIKE REISE EN VERVOER, HUISEIENAARSTOELAE, DIENSBONUS, LANGDIENSERKENNING EN HERVESTIGINGSKOSTE

Mediese bystand**Werkgewersbydrae**

64. (1) Die maandelikse bydrae deur die werkgever ten opsigte van die ledegeld betaalbaar aan 'n mediese skema op 'n maandelikse basis word bereken ooreenkomstig 'n basis deur die Minister bepaal, en word betaal aan die verskillende mediese skemas waarvan opvoeders lede is.

(2) (a) Ten einde vir 'n werkgewersbydrae te kwalifiseer, moet 'n opvoeder die werkgever voorsien van skriftelike bewys van lidmaatskap van die mediese skema waarvan hy of sy 'n lid is, asook van die maandelikse ledegeld wat op hom of haar van toepassing is.

(b) 'n Opvoeder moet die werkgever verwittig van enige veranderinge in sy of haar lidmaatskap van 'n mediese skema, asook van enige verandering in ledegeld.

(c) Ondanks die bepalings van paragrafe (a) en (b) kan werkgewers in oorleg met 'n mediese skema geskikte reëlins tref aangaande die besonderhede van opvoeders wat lede van sodanige mediese skema is, insluitende die ledegeld van sodanige opvoeders.

(3) 'n Lidbydrae word elke maand deur middel van 'n aftrekorder van die opvoeder se salaris afgetrek en aan die mediese skema waarvan hy of sy 'n lid is, betaal.

(4) (a) Behoudens die bepalings van hierdie Hoofstuk is 'n werkgewersbydrae op elke salarisbetaaldag aan die mediese skema betaalbaar: Met dien verstande dat, indien 'n opvoeder lidmaatskap verkry van 'n skema wat vereis dat ledegeld vooruit betaal word, die opvoeder in een maand 'n dubbele betaling van ledegeld kan doen, in welke geval die werkgewersbydrae verdubbel kan word.

(b) Die betaling van die werkgewersbydrae word opgeskort met ingang van die datum waarop 'n opvoeder nie meer ingevolge hierdie Hoofstuk vir 'n werkgewersbydrae kwalifiseer nie.

(5) Indien 'n opvoeder sonder betaling van diens afwesig is, gedurende welke tydperk ledegeld nie van sy of haar salaris afgetrek kan word nie, kan die werkgever op versoek van 'n opvoeder voortgaan met die betaling van die werkgewersbydrae.

Medical assistance to educators who are stationed abroad or who are on official visits abroad

65. (1) The provisions of this regulation shall be—

(a) applicable to an educator, as well as his or her dependants, who are stationed abroad and who receive medical treatment there or during visits to the Republic;

(b) *mutatis mutandis* applicable to the husband and children of a married female educator who accompany her abroad;

(c) subject to subregulation (3), *mutatis mutandis* applicable to the dependant children of educators stationed abroad who live in the Republic or who visit their parents abroad;

(d) applicable to an educator who is an official visit abroad.

(2) (a) An educator stationed abroad—

(i) may be compensated by the Department of Foreign Affairs for the difference between the cost of a medical or related service abroad in respect of which an educator's medical scheme grants benefits and the actual benefits paid out by the medical scheme concerned in terms of its rules: Provided that the employers' contribution with regard to the services referred to in subregulation (8) shall be limited to an amount determined by the Minister;

(ii) and his or her dependants may be compensated by the employer for subsistence and travelling expenses necessarily and inevitably incurred in order to acquire specific medical and related services elsewhere than at his or her station: Provided that the benefit is subject thereto that a particular service is not available at the educator's station or that it is of an unacceptably low standard; and

(iii) may, notwithstanding the provisions of subparagraphs (i) and (ii) be paid subsistence and travelling expenses in cases where the employer is of the opinion that it would be a less expensive arrangement to convey such educator to a suitable place elsewhere than his or her station for medical treatment.

(b) (i) If an educator is on an official visit abroad and he or she must necessarily and inevitably make use of medical services there, the difference between the cost of such treatment abroad and the cost of a similar service charges by a supplier of such a service in the Republic may be refunded to him or her by the employer.

(ii) The provisions of subparagraph (i) shall *mutatis mutandis* be applicable in respect of the spouse of an educator who accompanies him or her officially.

(3) (a) In order for an educator stationed abroad to qualify for the benefits in this regulation, he or she has to be a member or a dependant of a member (recognised as such by the medical scheme) of a medical scheme in the Republic which grants benefit with regard to medical or related expenses incurred abroad and which is willing to make such payments to the Department of Foreign Affairs.

Mediese bystand aan opvoeders wat in die buiteland gestasioneer is of wat op amptelike besoeke in die buiteland is

65. (1) Die bepalings van hierdie regulasie is—

(a) van toepassing op 'n opvoeder, asook op sy of haar afhanklikes, wat in die buiteland gestasioneer is en wat mediese behandeling daar of gedurende besoeke aan die Republiek ontvang;

(b) *mutatis mutandis* van toepassing op 'n getroude vroulike opvoeder se eggenoot en kinders wat haar na die buiteland vergesel;

(c) behoudens subregulasie (3), *mutatis mutandis* van toepassing op opvoeders wat in die buiteland gestasioneer is se afhanklike kinders wat in die Republiek woon of wat hulle ouers in die buiteland besoek;

(d) van toepassing op 'n opvoeder wat op 'n amptelike besoek in die buiteland is.

(2) (a) 'n Opvoeder wat in die buiteland gestasioneer is—

(i) kan deur die Departement van Buitelandse Sake vergoed word vir die verskil tussen die koste van 'n mediese of verwante diens in die buiteland ten opsigte waarvan 'n opvoeder se mediese skema voordele toestaan en die werklike voordele wat deur die betrokke mediese skema ingevolge sy reëls uitbetaal word: Met dien verstande dat die werkgewersbydrae met betrekking tot die dienste bedoel in subregulasie (8) beperk word tot 'n bedrag deur die Minister bepaal;

(ii) en sy of haar afhanklikes kan deur die werkgewer vergoed word vir verblyf- en reiskoste wat noodwendig en onvermydelik aangegaan is ten einde spesifieke mediese en verwante dienste elders as by sy of haar werkplek te verkry: Met dien verstande dat die voordeel onderworpe is daaraan dat 'n spesifieke diens nie by die opvoeder se werkplek beskikbaar is nie of dat dit van 'n onaanvaarbaar lae standaard is; en

(iii) kan, ondanks die bepalings van subparagraaf (i) en (ii), verblyf- en reiskoste betaal word in gevalle waar die werkgewer van mening is dat dit 'n goedkoper reëling sou wees om sodanige opvoeder na 'n geskikte plek elders as sy of haar werkplek te neem vir mediese behandeling.

(b) (i) Indien 'n opvoeder op 'n amptelike besoek in die buiteland is en onvermydelik van mediese dienste daar gebruik moet maak, kan die verskil tussen die koste van sodanige behandeling in die buiteland en die koste van 'n soortgelyke diens deur 'n verskaffer van so 'n diens in die Republiek deur die werkgewer aan hom of haar terugbetaal word.

(ii) Die bepalings van subparagraaf (i) is *mutatis mutandis* van toepassing op 'n opvoeder se gade wat hom of haar amptelik vergesel.

(3) (a) Ten einde vir die voordele in hierdie regulasie te kwalifiseer, moet 'n opvoeder wat in die buiteland gestasioneer is, 'n lid of 'n afhanklike van 'n lid (wat as sodanig deur die mediese skema erken word) wees van 'n mediese skema in die Republiek wat voordele toestaan met betrekking tot mediese of verwante onkoste in die buiteland aangegaan en wat gewillig is om sodanige betalings aan die Departement van Buitelandse Sake te doen.

(b) In the case where an educator is seconded to an institution abroad and he or she as a result thereof is compelled to obtain membership of a medical scheme to which the employees of the relevant institution have to become members, the medical assistance, where applicable, must be entrenched in the secondment agreement concerned.

(4) (a) In order for an educator stationed abroad to qualify for the benefits in this regulation an amount in accordance with the tariffs as determined by the employer from time to time, and subject to subregulation (5), shall be deducted from the educator's salary and paid into the relevant Provincial Revenue Fund.

(b) The amount referred to in paragraph (a) shall be payable from the first day of the month following the month in which the educator concerned leaves the borders of the Republic until the last day of the month in which he or she is transferred back to the Republic: Provided that this period shall not be regarded to be interrupted by periods of absence for whatever reason: Provided further that the husband and the children of a married female educator who accompanies her abroad shall be taken into account in determining the amount referred to in paragraph (a).

(5) Children of a divorced educator stationed abroad who are registered as dependants of such educator's medical scheme but who are staying with the former spouse within the Republic, qualify *mutatis mutandis* for the benefits in this regulation: Provided that—

(a) they on a *bona fide* basis stay with the former spouse and otherwise comply with the requirements relating to dependent children referred to in the definition of "household";

(b) they are taken into account in determining the amount referred to in subregulation (4) (a);

(c) the amount referred to in subregulation (4) (a) is paid for the duration of the educator's stay abroad; and

(d) where applicable, the educator beforehand exercises a choice to let such children participate in the benefits in this regulation.

(6) The subsistence and travelling expenses referred to in subregulation (2) (a) (ii) shall apply in cases where the necessity of accompaniment contemplated in paragraphs (a) and (c) is confirmed on the basis of a medical certificate—

(a) when a parent accompanies a child who has to undergo medical treatment;

(b) when a spouse accompanies an educator who has to undergo medical treatment;

(c) when an educator accompanies his or her spouse who has to undergo medical treatment; and

(d) when the dependent children of an educator or those of his or her spouse accompany him or her or his or her spouse who has to undergo medical treatment: Provided that no alternative arrangement could be made for their care at the educator's station.

(b) Waar 'n opvoeder na 'n instelling in die buiteland gesekondeer word en hy of sy as gevolg daarvan verplig is om lidmaatskap te verkry van 'n mediese skema waarvan die werknemer van die betrokke instelling lede moet word, moet die mediese bystand, waar van toepassing, in die betrokke sekonderingsooreenkoms verskans word.

(4) (a) Ten einde vir die voordele in hierdie regulasie te kwalifiseer, moet 'n bedrag ooreenkomstig die tariewe soos van tyd tot tyd deur die werkgever bepaal en behoudens subregulasie (5), van 'n opvoeder wat in die buiteland gestasioneer is, se salaris afgetrek en in die betrokke Provinsiale Inkomstefonds inbetaal word.

(b) Die bedrag bedoel in paragraaf (a) is betaalbaar vanaf die eerste dag van die maand wat volg op die maand waarin die betrokke opvoeder die grense van Suid-Afrika oorsteek tot die laaste dag van die maand waarin hy of sy na die Republiek terugverplaas word: Met dien verstande dat hierdie tydperk nie geag word onderbreek te wees nie deur tydperke van afwesigheid om watter rede ook al: Met dien verstande voorts dat 'n getroude vroulike opvoeder se gade en kinders wat haar na die buiteland vergesel, in aanmerking geneem word by die bepaling van die bedrag bedoel in paragraaf (a).

(5) 'n Geskeide opvoeder wat in die buiteland gestasioneer is, se kinders wat by die mediese skema as afhanklikes van sodanige opvoeder geregistreer is maar wat by die voormelde gade binne die Republiek woon, kwalifiseer *mutatis mutandis* vir die voordele in hierdie regulasie: Met dien verstande dat—

(a) hulle op 'n *bona fide*-basis by die voormalige gade woon en origens voldoen aan die vereistes ten opsigte van afhanklike kinders bedoel in die omskrywing van "huishouding";

(b) hulle in aanmerking geneem word by die bepaling van die bedrag bedoel in subregulasie (4) (a);

(c) die bedrag bedoel in subregulasie (4) (a) bepaal word vir die duur van die opvoeder se verblyf in die buiteland; en

(d) waar toepaslike, die opvoeder vooraf 'n keuse uitoefen om sodanige kinders in die voordele in hierdie regulasie te laat deel.

(6) Die verblyf- en reisonkoste bedoel in subregulasie (2) (a) (ii) is van toepassing in gevalle waar die noodsaaklikheid van vergeselling bedoel in paragrawe (a) en (c) op grond van 'n mediese sertifikaat bevestig word—

(a) wanneer 'n ouer 'n kind wat mediese behandeling moet ontvang, vergesel;

(b) wanneer 'n gade 'n opvoeder wat mediese behandeling moet ontvang, vergesel;

(c) wanneer 'n opvoeder sy of haar gade wat mediese behandeling moet ontvang, vergesel; en

(d) wanneer die afhanklike kinders van 'n opvoeder of dié van sy of haar gade die opvoeder of sy of haar gade wat mediese behandeling moet ontvang, vergesel: Met dien verstande dat geen alternatiewe reëling vir die versorging van die kinders by die opvoeder se werkplek getref kon word nie.

(7) An educator stationed abroad experiencing problems in meeting the financial obligations resulting from the acquiring of a medical service that is recognised for benefit purposes by his or her medical scheme, may apply to the employer for relief-aid in the form of an advancement or the direct settlement of the medical bill: Provided that the payment of the amount of the relief-aid for which application is made, has been demanded by the supplier of the service concerned and that it is taken into account when claims are being processed.

(8) The employer contribution in respect of—

- (a) crown- and bridgework of teeth;
- (b) spectacle frames; and
- (c) contact lenses,

is limited to an amount calculated in accordance with a basis determined by the Minister.

(9) An educator who is transferred abroad, as well as his or her dependents who will accompany him or her, shall prior to their departure undergo a medical examination by a registered physician at the cost of the employer: Provided that the employer may in his or her discretion and for reasons acceptable to him or her, grant exemption from such a medical examination.

(10) The submission, channelling and processing of claims shall be done in accordance with regulation 67.

(11) (a) In cases where an educator on an official visit abroad receives medical treatment, the contribution to be made by the employer towards the costs of such treatment may be determined after consultation with the medical scheme of which the educator is a member.

(b) If an educator referred to in paragraph (a) is not a member of a medical scheme the costs of a similar service must be determined by the employer after consultation with an acknowledged medical scheme.

(c) The provisions contained in subregulation (7), (8) and (9) shall *mutatis mutandis* apply to an educator referred to in paragraph (a).

(12) (a) The Department of Foreign Affairs—

(i) annually provides on its vote for the expenditure resulting from the granting of benefits referred to in subregulation (2) (a) (i) above with regard to all educators stationed abroad; and

(ii) is, where applicable, responsible for establishing the basis in accordance whereof foreign currencies are to be converted to rand or *vice versa*.

(b) Individual employers shall provide for the following expenses:

(i) Expenses resulting from the medical treatment of educators on official visits abroad.

(ii) Subsistence and travelling expenses referred to in subregulation (2) (a) (ii), read with subregulation (6).

(iii) The granting of relief-aid as referred to in subregulation (7).

(iv) Expenses resulting from medical examinations referred to in subregulation (9).

(7) 'n Opvoeder wat in die buiteland gestasioneer is en probleme ondervind met die nakoming van finansiële verpligtinge wat spruit uit die verkryging van 'n mediese diens wat deur sy of haar mediese skema vir voordeeldoeleindes erken word, kan by die werkgewer aansoek doen om bystandhulp in die vorm van 'n voorskot of die regstreekse vereffening van die mediese rekening: Met dien verstande dat die betaling van die bedrag van die bystandhulp waarom daar aansoek gedoen word, deur die verskaffer van die betrokke diens geëis is en dat dit in aanmerking geneem word wanneer eise verwerk word.

(8) Die werkgewersbydrae ten opsigte van—

- (a) kroon- en brugwerk van tande;
- (b) brilrame; en
- (c) kontaklense,

word beperk tot 'n bedrag bereken ooreenkomstig 'n grondslag deur die Minister bepaal.

(9) 'n Opvoeder wat na die buiteland verplaas word, asook sy of haar afhanklikes wat hom of haar sal vergesel, moet, voor hulle vertrek, op die koste van die werkgewer 'n mediese ondersoek deur 'n geregistreerde geneesheer ondergaan: Met dien verstande dat die werkgewer na goedgekenke en om redes wat vir hom of haar aanvaarbaar is, vrystelling van so 'n mediese ondersoek kan verleen.

(10) Die voorlegging, kanalisering en verwerking van eise word ooreenkomstig regulasie 67 gedoen.

(11) (a) Waar 'n opvoeder op amptelike besoek in die buiteland mediese behandeling ontvang, kan die bydrae wat deur die werkgewer ten opsigte van die koste van sodanige behandeling gemaak moet word, bepaal word na oorlegpleging met die mediese skema waarvan die opvoeder 'n lid is.

(b) Indien 'n opvoeder bedoel in paragraaf (a) nie lid van 'n mediese skema is nie, word die koste van 'n soortgelyke diens deur die werkgewer bepaal na oorlegpleging met 'n erkende mediese skema.

(c) Die bepaling vervat in subregulasies (7), (8) en (9) is *mutatis mutandis* van toepassing op 'n opvoeder bedoel in paragraaf (a).

(12) (a) Die Departement van Buitelandse Sake—

(i) maak jaarliks in sy begrotingspos voorsiening vir die uitgawe wat spruit uit die toestaan van voordele bedoel in subregulasie (2) (a) (i) hierbo met betrekking tot alle opvoeders wat in die buiteland gestasioneer is; en

(ii) is, waar toepaslik, verantwoordelik vir die daarstel van die grondslag waarvolgens buitelandse geldeenhede na rand omgeskakel moet word, of omgekeerd.

(b) Individuele werkgewers maak vir die volgende uitgawes voorsiening:

(i) Uitgawes wat spruit uit die mediese behandeling van opvoeders op amptelike besoeke in die buiteland.

(ii) Verblyf- en reiskoste bedoel in subregulasie (2) (a) (ii), gelees met subregulasie (6).

(iii) Die toestaan van bystandhulp soos bedoel in subregulasie (7).

(iv) Uitgawes wat spruit uit mediese ondersoeke bedoel in subregulasie (9).

Procedure for the submission, channelling and processing of claims abroad

66. (1) (a) The original bill in respect of medical assistance abroad, shall, under cover of a claim form of the medical scheme of which the educator is a member, be submitted to the mission or foreign office who shall ensure that—

- (i) the claim form is filled in correctly;
- (ii) the bill is properly specified or that the type of service is understandable; and
- (iii) proof of payment is provided.

(b) The mission or foreign office shall pay the sum-total of the claim, or such other amount as determined in accordance with guidelines laid down by the Department of Foreign Affairs in consultation with other government institutions who have personnel abroad, to the educator in local currency.

(c) The Department of Foreign Affairs checks and verifies the claim and sends it to the medical scheme of which the official is a member.

(2) (a) The medical scheme determines in terms of its rules—

- (i) the benefits payable in respect of a specific claim and pays it to the Department of Foreign Affairs; and
- (ii) the member's liability in respect of a service not acknowledged by the scheme for benefit purposes.

(b) With regard to the member's liability referred to in paragraph (a)(ii) the Department of Foreign Affairs determines the amount to be paid from State funds.

(c) The mission or foreign office shall recover the member's liability referred to in paragraph (a) (ii) from him or her in local currency.

Medical assistance to educators at retirement or termination of service

67. (1) (a) The provisions contained in this regulation are applicable to an educator who retires with pension or whose service is terminated and who has been a member of a medical scheme prior to his or her retirement or termination of service.

(b) In the case of the death of an educator who has been a member of a medical scheme, including an educator who passes away prior to retirement or termination of service, the provisions contained in this regulation are also applicable to the surviving spouse who becomes a member of the medical scheme in his or her place: Provided that in the case of an educator who as a result of a customary marriage has more than one spouse, the continued employer contribution in respect of such an educator who passes away prior to or after retirement or termination of service, is limited to an amount not exceeding the employer contribution for one surviving spouse with or without dependants, as the case may be.

Prosedure vir die voorlegging, kanalisering en verwerking van eise in die buiteland

66. (1) (a) Die oorspronklike rekening ten opsigte van mediese hulp in die buiteland word, onder dekking van 'n eisvorm van die mediese skema waarvan die opvoeder 'n lid is, voorgelê aan die missie of buitelandse kantoor, wat toesien dat—

- (i) die eisvorm korrek ingevul is;
- (ii) die rekening behoorlik gespesifiseer is of dat die tipe diens verstaanbaar is; en
- (iii) bewys van betaling verskaf word.

(b) Die missie of buitelandse kantoor betaal in die plaaslike geldeenheid aan die opvoeder die eindtotaal van die eis, of sodanige ander bedrag as wat bepaal is ooreenkomstig riglyne neergelê deur die Departement van Buitelandse Sake in oorleg met ander staatsinstellings wat personeel in die buiteland het.

(c) Die Departement van Buitelandse Sake gaan die eis na, verifieer dit en stuur dit na die mediese skema waarvan die beampte 'n lid is.

(2) (a) Die mediese skema bepaal ingevolge sy reëls—

- (i) die voordele betaalbaar ten opsigte van 'n spesifieke eis en betaal dit aan die Departement van Buitelandse Sake; en
- (ii) die lid se aanspreeklikheid ten opsigte van 'n diens wat nie vir voordeeldoeleindes deur die skema erken word nie.

(b) Met betrekking tot die lid se aanspreeklikheid bedoel in paragraaf (a) (ii), bepaal die Departement van Buitelandse Sake die bedrag wat uit Staatsfondse betaal moet word.

(c) Die missie of buitelandse kantoor verhaal van die lid, in die plaaslike geldeenheid, sy aanspreeklikheid bedoel in paragraaf (a) (ii).

Mediese bystand aan opvoeders by aftrede of diensbeëindiging

67. (1) (a) Die bepalings vervat in hierdie regulasie is van toepassing op 'n opvoeder wat met pensioen aftree of wie se diens beëindig word en wat voor sy of haar aftrede of diensbeëindiging 'n lid van 'n mediese skema was.

(b) In die geval van die dood van 'n opvoeder wat 'n lid van 'n mediese skema was, met inbegrip van 'n opvoeder wat voor aftrede of diensbeëindiging te sterwe kom, is die bepalings vervat in hierdie regulasie ook van toepassing op die oorlewende gade wat in sy of haar plek 'n lid van die mediese skema word: Met dien verstande dat in die geval van 'n opvoeder wat as gevolg van 'n gewoontehuwelik meer as een gade het, die voortgesette werkgewersbydrae ten opsigte van sodanige opvoeder wat voor of na aftrede of diensbeëindiging te sterwe kom, beperk is tot 'n bedrag van hoogstens die werkgewersbydrae vir een oorlewende gade met of sonder afhanklikes, na gelang van die geval.

(2) The extent to which assistance is rendered shall be as set out in subregulation (3) and will be calculated only once in accordance with the position which applies or had been applicable in respect of an educator at retirement or termination of service or at his or her death, as the case may be.

(3) (a) The following educators or their surviving spouses, qualify for assistance in accordance with the basis as set out in paragraph (b):

(i) Educators who pass away or retire as a result of—

(aa) the attainment of the normal retirement age referred to in regulation 15; or

(bb) ill-health which cannot be ascribed to their own doing.

(ii) Educators who are 60 years or older—

(aa) whose services are terminated **by the employer** as a result of the abolition of their posts or reorganisation, or to promote efficiency, or to economise;

(bb) who, **at their own request**, retire with the approval of the employer (but not as a result of misconduct or incapacity), or as a result of a right to early retirement; or

(cc) who retire according to a decision by the employer (but not as a result of misconduct or incapacity).

(b) Assistance in respect of the persons referred to in paragraph (a) is rendered on the following basis:

(i) In the event of retirement or termination of service or death prior to 10 June 1994 the rules as applied on the date of termination of service or death, remain applicable.

(ii) In the event of retirement or termination of service or death on or after 10 June 1994 of educators who, at the time of their retirement or termination of service or death, are members of a medical scheme and with—

(aa) at least 15 years service (which may include previous periods of service), the employer contribution is 4/6 of membership fees limited to 100% of the maximum rand amount;

(bb) at least 10 years but less than 15 years service (which may include previous periods of service, with the exception of previous periods of service which have already been acknowledged for the payment of a cash amount), a cash amount is payable equal to 24 times the monthly employer contribution to the medical scheme of which the person is a member at retirement or termination of service or death;

(cc) less than 10 years service, a cash amount is payable equal to 12 times the monthly employer contribution to the medical scheme of which the person is a member at retirement or termination of service or death.

(c) The following educators, or their surviving spouses, qualify for assistance in accordance with the basis as set out in paragraph (d):

Educators who have not yet reached the age of 60 years at retirement or termination of service and—

(i) whose services are terminated **by the employer** as a result of the abolition of posts or reorganisation or to promote efficiency or to economise;

(2) Die mate waarin bystand gelewer word, is soos uiteengesit in subregulasie (3) en word slegs een maal bereken volgens die posisie wat van toepassing is of was ten opsigte van 'n opvoeder by aftrede of diensbeëindiging of by sy of haar dood, na gelang van die geval.

(3) (a) Die volgende opvoeders of hulle oorlewende gades kwalifiseer vir bystand volgens die grondslag soos uiteengesit in paragraaf (b):

(i) Opvoeders wat sterf of wat aftree as gevolg van—

(aa) die bereiking van die normale aftreeouderdom bedoel in regulasie 15; of

(bb) swak gesondheid wat nie aan hulle eie toedoen toegeskryf kan word nie.

(ii) Opvoeders wat 60 jaar oud of ouer is—

(aa) wie se dienste **deur die werkgever** beëindig word as gevolg van die afskaffing van hulle poste, of reorganisasie, of om doeltreffendheid te bevorder, of om te besuinig;

(bb) wat, **op hulle eie versoek**, aftree met die goedkeuring van die werkgever (maar nie as gevolg van wangedrag of onbekwaamheid nie), of as gevolg van 'n reg op vroeë aftrede; of

(cc) wat aftree ooreenkomstig 'n besluit deur die werkgever (maar nie as gevolg van wangedrag of onbekwaamheid nie).

(b) Bystand ten opsigte van die persone bedoel in paragraaf (a) word op die volgende grondslag gelewer:

(i) In die geval van aftrede of diensbeëindiging of dood voor 10 Junie 1994 bly die reëls wat op die datum van diensbeëindiging of dood gegeld het, van toepassing.

(ii) In die geval van aftrede of diensbeëindiging of dood op of na 10 Junie 1994 van opvoeders wat ten tyde van hulle aftrede of diensbeëindiging of dood lede van 'n mediese skema is en met—

(aa) minstens 15 jaar diens (wat vorige dienstydsperke kan insluit), is die werkgeversbydrae 4/6 van die ledegeld, beperk tot 100% van die maksimum randbedrag;

(bb) minstens 10 jaar maar minder as 15 jaar diens (wat vorige dienstydsperke kan insluit, met uitsondering van vorige dienstydsperke wat reeds vir die betaling van 'n kontantbedrag erken is), is 'n kontantbedrag betaalbaar gelyk aan 24 keer die maandelikse staatsbydrae tot die mediese skema waarvan die persoon by aftrede of diensbeëindiging of dood 'n lid is;

(cc) minder as 10 jaar diens, is 'n kontantbedrag betaalbaar gelyk aan 12 keer die maandelikse staatsbydrae tot die mediese skema waarvan die persoon by aftrede of diensbeëindiging of dood 'n lid is.

(c) Die volgende opvoeders, of hulle oorlewende gades, kwalifiseer vir bystand volgens die grondslag soos in paragraaf (d) uiteengesit:

Opvoeders wat by aftrede of diensbeëindiging nog nie die ouderdom van 60 jaar bereik het nie en—

(i) wie se dienste **deur die werkgever** beëindig word as gevolg van die afskaffing van hulle poste, of reorganisasie, of om doeltreffendheid te bevorder, of om te besuinig;

(ii) who, **at own request**, retire with the approval of the employer (but not as a result of misconduct or incapacity), or according to a right to early retirement; or

(iii) who retire according to a decision by the employer (but not as a result of misconduct or incapacity).

(d) Assistance in respect of the persons referred to in paragraph (c) is rendered on the following basis:

(i) In the event of retirement or termination of service prior to 10 June 1994 the rules as applied on the date of termination of service, remain applicable.

(ii) In the event of retirement or termination of service on or after 10 June 1994 educators who, at the time of their retirement or termination of service, are members of a medical scheme and—

(aa) who are at least 55 years old with at least 15 years service (which may include previous periods of service), the state contribution is 3/6 of membership fees, limited to 75% of the maximum rand amount;

(bb) who are at least 50 years but younger than 55 years old with at least 15 years service (which may include previous periods of service), the state contribution is 2/6 of membership fees, limited to 50% of the maximum rand amount;

(cc) who retire or whose services are terminated at an age younger than 50 years and who have at least 20 years service (which may include previous periods of service) at their disposal, such educators qualify for assistance according to the basis in subparagraph (ii) at attaining the age of 50: Provided that they are not receiving medical assistance on account of their employment by another employer.

State housing

68. (1) The provisions of this regulation shall not be applicable to an educator residing in a hostel attached to a state educational institution.

(2) An employer may make state housing available to an educator when it is to be utilised as an instrument in the execution of his or her duties and because the work specifications of a specific post require that the incumbent thereof be available on the terrain where such duties are performed, within and outside his or her official hours of duty and educators occupying such posts shall be obliged to occupy the housing.

(3) (a) Rent in respect of standard married housing is levied at 4% of the annual basic pensionable salary of the educator with a maximum as determined by the Minister.

(b) Rent in respect of standard single housing is levied at 1% of the annual basic pensionable salary of the educator.

(c) Rent in respect of non-standard and voetstoots housing shall be 75% of that of standard housing referred to in paragraph (a) or (b), as the case may be.

(ii) wat, **op eie versoek**, aftree met die goedkeuring van die werkgewer (maar nie as gevolg van wangedrag of onbekwaamheid nie), of ooreenkomstig 'n reg op vroeë aftrede; of

(iii) wat aftree ooreenkomstig 'n besluit deur die werkgewer (maar nie as gevolg van wangedrag of onbekwaamheid nie).

(d) Bystand ten opsigte van die persone bedoel in paragraaf (c) word op die volgende grondslag gelewer:

(i) In die geval van aftrede of diensbeëindiging voor 10 Junie 1994 bly die reëls wat op die datum van diensbeëindiging gegeld het, van toepassing.

(ii) In die geval van aftrede of diensbeëindiging op of na 10 Junie 1994 van opvoeders wat ten tyde van hulle aftrede of diensbeëindiging lede van 'n mediese skema is en—

(aa) wat minstens 55 jaar oud is, met minstens 15 jaar diens (wat vorige dienstydperke kan insluit), is die staatsbydrae 3/6 van die ledegeld, beperk tot 75% van die maksimum randbedrag;

(bb) wat minstens 50 jaar oud is, maar jonger is as 55 jaar, met minstens 15 jaar diens (wat vorige dienstydperke kan insluit), is die staatsbydrae 2/6 van die ledegeld, beperk tot 50% van die maksimum randbedrag;

(cc) wat op 'n ouderdom jonger as 50 jaar aftree of wie se diens op hierdie jonger ouderdom beëindig word en wat oor minstens 20 jaar diens (wat vorige dienstydperke kan insluit) beskik, kwalifiseer sodanige opvoeders vir bystand volgens die grondslag in subparagraaf (ii) by bereiking van die ouderdom van 50 jaar: Met dien verstande dat hulle nie op grond van hulle diens by 'n ander werkgewer mediese bystand ontvang nie.

Staatsbehuising

68. (1) Die bepalings van hierdie regulasie is nie van toepassing nie op 'n opvoeder wat woon in 'n hostel wat aan 'n staatsonderwysinstelling verbonde is.

(2) 'n Werkgewer kan staatsbehuising aan 'n opvoeder beskikbaar stel wanneer dit as 'n instrument by die uitvoer van sy of haar pligte gebruik gaan word en omdat die werkspeksifikasie van 'n spesifieke pos vereis dat die bekleër daarvan binne en buite sy of haar amptelike diensure op die terrein waar sodanige pligte uitgevoer word, beskikbaar moet wees; en opvoeders wat sodanige poste bekleë, is verplig om die behuising te bewoon.

(3) (a) Huurgeld ten opsigte van standaardbehuising vir getroudes word gehef teen 4% van die jaarlikse basiese pensioendraende besoldiging van die opvoeder, met 'n maksimum soos deur die Minister bepaal.

(b) Huurgeld ten opsigte van standaardenkelsbehuising word gehef teen 1% van die jaarlikse basiese pensioendraende besoldiging van die opvoeder.

(c) Huurgeld ten opsigte van nie-standaard- en voetstootse behuising is 75% van dié van standaardbehuising bedoel in paragraaf (a) of (b), na gelang van die geval.

(4) An educator who occupies state housing is liable for any levy, tax on services or other charge in respect of water, electricity, sanitation services, refuse removal, etc. which is payable to the local authority concerned or other institution: Provided that if it is not paid directly by the educator, payment must be made to the employer at the compensating tariffs as determined by the providing department with the approval of the Department of State Expenditure.

(5) (a) The providing department is responsible for the maintenance of state housing, as well as of the permanent fixtures and the grounds (gardens excluded) that form part thereof.

(b) The employer who rents housing with the view to making it available as state housing, is responsible for the maintenance, etc. of such housing.

(c) The educator is liable and responsible for—

- (i) keeping the buildings and grounds clean and neat;
- (ii) maintaining the garden;
- (iii) all keys received by him or her;
- (iv) the replacement of consumable articles such as fluorescent lights, light bulbs, etc; and
- (v) repairing of damage to the housing caused through his or her own fault.

(6) Should an educator to whom state housing is made available for occupation, be obliged to vacate such housing temporarily in order that it may be occupied by a substitute or to allow for essential repairs or renovations—

(a) he or she is exempted from all obligations imposed upon him or her by this regulation, until he or she again occupies such housing; and

(b) the measures determined by the Minister apply *mutatis mutandis* to him or her, should he or she at the same time be obliged to remove his or her personal possessions from the relevant housing.

(7) An educator is not exempted from his or her obligations in terms of this regulation during periods of leave or the performance of official duty away from his or her normal place of work.

(8) Should an educator—

- (i) die; or
- (ii) be discharged in terms of section 8 (1) (b) or (c) of the Educators' Employment Act, 1994,

the educator and/or his or her household may, whichever is applicable, subject to this regulation, be permitted to stay in state housing for a period not exceeding three months following the month of his or her death or discharge.

(4) 'n Opvoeder wat staatsbehuising bewoon, is aanspreeklik vir enige heffing, belasting op dienste of ander koste ten opsigte van water, elektrisiteit, sanitasiedienste, vullisverwydering, ensovoorts wat aan die betrokke plaaslike owerheid of ander instellings betaalbaar is: Met dien verstande dat as dit nie regstreeks deur die opvoeder betaal word nie, betaling aan die werkgever gedoen moet word teen die vergoedings-tariewe soos bepaal deur die voorsieningsdepartement met die goedkeuring van die Departement van Staatsbesteding.

(5) (a) Die voorsieningsdepartement is verantwoordelik vir die instandhouding van staatsbehuising sowel as van die permanente toebehoere en die gronde (met uitsondering van tuine) wat deel daarvan uitmaak.

(b) Die werkgever wat behuising huur met die doel om dit as staatsbehuising beskikbaar te stel, is verantwoordelik vir die instandhouding, ensovoorts van sodanige behuising.

(c) Die opvoeder is aanspreeklik en verantwoordelik vir—

- (i) die skoon en netjies hou van die geboue en gronde;
- (ii) die instandhouding van die tuin;
- (iii) alle sleutels deur hom of haar ontvang;
- (iv) die vervanging van verbruikbare artikels soos buisligte, gloeilampe, ensovoorts; en
- (v) die herstel van skade aan die behuising wat deur sy of haar toedoen veroorsaak is.

(6) Sou 'n opvoeder aan wie staatsbehuising beskikbaar gestel word, verplig wees om sodanige behuising tydelik te ontruim sodat dit deur 'n plaasvervanger bewoon kan word of sodat noodsaaklike herstelwerk of opknappingswerk gedoen kan word—

(a) word hy of sy vrygestel van alle verpligtinge wat deur hierdie regulasie op hom of haar geplaas word, totdat hy of sy sodanige behuising weer bewoon; en

(b) geld die maatreëls deur die Minister vasgestel, *mutatis mutandis* vir hom of haar, indien hy of sy terselfdertyd verplig is om sy of haar persoonlike besittings uit die betrokke behuising te verwyder.

(7) 'n Opvoeder word nie gedurende tydperke van verlof of die verrigting van amptelike diens weg van sy of haar normale werkplek van sy of haar verpligtinge ingevolge hierdie regulasie onthef nie.

(8) Sou 'n opvoeder—

- (i) sterf; of
- (ii) ingevolge artikel 8 (1) (b) of (c) van die Wet op Indiensneming van Opvoeders, 1994, ontslaan word,

kan die opvoeder en/of sy of haar huishouding, na gelang van die geval, behoudens hierdie regulasie, toegelaat word om vir 'n tydperk van hoogstens drie maande na die maand van sy of haar dood of ontslag in staatsbehuising aan te bly.

(9) Only the educator and his or her household are allowed to occupy state housing and sub-letting may not take place, unless prior approval has been granted by the providing department or employer on conditions determined by the latter.

(10) The employing department may supply furniture for state housing, in which case the educator shall pay the tariffs determined by the employing department with the approval of the Department of State Expenditure.

(11) A department, the State or any person in the employment of a department or the State is not responsible for any loss of or damage to the personal possessions of an educator in state housing.

Other housing

69. (1) Other housing that state housing may be provided to an educator if in the opinion of the employer exceptional circumstances exist and it is in the interest of education and in cases where—

(a) an educator who, in the interest of the employer, stays at a specific headquarters for a relatively short period;

(b) private housing is not available;

(c) educators whose posts were not identified for the provision of state housing, must be provided with housing at training centres; and

(d) educators are stationed at a place where, or in the vicinity of which, private housing does exist, but their work is of such a nature that it must be possible to reach them on short notice and that they must be able to report as a unit, as a result of which it is essential that they be accommodated at a specific place or near such a place.

(2) (a) If housing is provided in the circumstances set out in subregulation (1), rent shall be levied at market related tariffs.

(b) Market related tariffs are rent which apply generally for the market in the area for comparable housing, or, where housing or comparable housing is not available, any other acceptable basis which reflects rent tariffs for the particular area, as whether the housing is purchased or erected by the providing department or rented by the employer department.

(3) The provisions of subregulation (1) shall *mutatis mutandis* apply to housing contemplated in subregulation (2).

Accommodation expenditure

70. An educator who, with the approval of the employer is on official duty away from his headquarters, shall be compensated by the employer for the accommodation expenditure incurred by him or her of necessity during such a period in addition to his or her normal expenditure on the basis determined by the Minister.

(9) Slegs die opvoeder en sy of haar huishouding word toegelaat om staatsbehuising te bewoon en onderverhuring mag nie plaasvind nie, tensy die voorsieningsdepartement of werkgewer vooraf daarvoor toestemming gegee het, op voorwaardes deur laasgenoemde vasgestel.

(10) Die werkgewerdepartement kan meubels vir staatsbehuising voorsien, in welke geval die opvoeder die tariewe betaal wat deur die werkgewerdepartement met die goedkeuring van die Departement van Staatsbesteding vasgestel is.

(11) 'n Departement, die staat of enige persoon in diens van 'n departement of van die staat is nie verantwoordelik vir enige verlies van of skade aan die persoonlike besittings van 'n opvoeder in staatsbehuising nie.

Ander behuising

69. (1) Ander behuising buiten staatsbehuising kan aan 'n opvoeder verskaf word indien die werkgewer van mening is dat daar buitengewone omstandighede bestaan en dit in belang van die onderwys is, en in gevalle waar—

(a) 'n opvoeder, in belang van die werkgewer, vir 'n relatief kort tydperk by 'n spesifieke hoofkwartier bly;

(b) privaat behuising nie beskikbaar is nie;

(c) opvoeders wie se poste nie vir die voorsiening van staatsbehuising geïdentifiseer is nie, van behuising by opleidingsentrums voorsien moet word; en

(d) opvoeders gestasioneer is op 'n plek waar, of in die nabyheid waarvan, privaat behuising bestaan maar waar hulle werk van so 'n aard is dat hulle op kort kennisgewing bereik moet kan word en dat hulle as 'n eenheid moet kan aanmeld, en dit dus noodsaaklik is dat hulle op of naby 'n spesifieke plek geakkommodeer word.

(2) (a) Indien behuising verskaf word in die omstandighede uiteengesit in subregulasie (1), word huur teen markverwante tariewe gehef.

(b) Markverwante tariewe is huur wat oor die algemeen geld vir die mark in die gebied vir vergelykbare behuising, of, waar behuising of vergelykbare behuising nie beskikbaar is nie, enige ander aanvaarbare grondslag wat huurtariewe vir die spesifieke gebied weerspieël, asof die behuising deur die voorsieningsdepartement aangekoop of opgerig word of deur die werkgewerdepartement gehuur word.

(3) Die bepalinge van subregulasie (1) is *mutatis mutandis* van toepassing op behuising bedoel in subregulasie (2).

Akkommodasie-uitgawes

70. 'n Opvoeder wat, met die goedkeuring van die werkgewer, op amptelike diens weg van sy hoofkwartier is, moet, volgens die grondslag deur die Minister bepaal, deur die werkgewer vergoed word vir die akkommodasie-uitgawes wat deur hom of haar noodsaaklikerwys gedurende sodanige tydperk aangegaan is, bo en behalwe sy of haar normale uitgawes.

Official journeys and transport

71. If it is required of an educator to perform official duties at a centre other than his or her headquarters and he or she has of necessity to make use of transport approved by the employer to travel between his or her headquarters and such centre he or she may be compensated in accordance with a tariff determined by the Minister by the employer for the expenditure involved.

Transport between residence and place of duty

72. (1) A head of education may at his or her discretion authorise an educator to use government transport between his or her residence and place of duty, should exceptional transport problems arise regarding the performance of duty at a particular place of duty and which make it essential that government transport be provided.

(2) If an educator is transported in terms of subregulation (1) he or she must pay for such transport according to the tariffs determined by the Minister.

Home Owner Allowance Scheme: Application and limits of scheme

73. (1) In order to participate in the provisions of the Home Owner Allowance Scheme (hereinafter referred to as the scheme) either on the date of application or at any point of time during the allowance payment period, an educator shall comply with all the provisions of these regulations dealing with the scheme in so far as such provisions are applicable to him or her.

(2) An educator who wishes to participate in the scheme shall—

(a) be a contributing member of a statutory instituted pension or provident fund or shall be under an obligation to contribute to such a fund upon completion of a qualifying period of service;

(b) be employed in a full-time capacity;

(c) in the event of being a full-time educator, employed in a temporary capacity, be younger than 65 years of age; and

(d) not be married to a person who already participates in the scheme for the Public Service.

(3) If an educator or his or her spouse, in addition to the dwelling that he or she occupies, owns another paid-off dwelling or not paid-off dwelling (wherever located and in spite of the fact that the registered mortgage in the case of the other not paid-off dwelling is smaller or larger than the registered bond on the dwelling which he or she occupies) which is registered in his or her or his or her spouse's name and in respect of which he or she or his or her spouse previously for any period received an allowance (a subsidy) on the basis described in these regulations (or on a similar basis) on the strength of his or her or his or her spouse's service in the Public Service, an education department, the Department of Posts and Telecommunications, a provincial administration or with a council, institution or body established by or under a legal provision, as contemplated in section 15 (1) of the Public Service Act, 1994, he or she qualifies for a reduced allowance.

Amptelike reise en vervoer

71. Indien daar van 'n opvoeder vereis word om amptelike pligte by 'n ander sentrum as sy of haar hoofkwartier te verrig en hy of sy genoodsaak word om gebruik te maak van vervoer wat deur die werkgewer goedgekeur is, om tussen sy of haar hoofkwartier en sodanige sentrum te reis, kan hy of sy ooreenkomstig 'n tarief deur die Minister bepaal, deur die werkgewer vergoed word vir die betrokke uitgawes.

Vervoer tussen woning en werkplek

72. (1) 'n Onderwyshoof kan met sy of haar diskresie 'n opvoeder toelaat om van amptelike vervoer tussen sy woning en werkplek gebruik te maak indien buitengewone vervoerprobleme ontstaan tydens die uitvoering van sy pligte by 'n bepaalde werkplek, en wat dit noodsaak dat amptelike vervoer voorsien word.

(2) Indien 'n opvoeder in terme van subregulasie (1) vervoer word, is die tariewe soos deur die Minister bepaal vir sodanige vervoer, deur hom of haar betaalbaar.

Huiseienaarstoelaeskema: Aansoek en beperkings van skema

73. (1) Ten einde aan die huiseienaarstoelaeskema (hierna die skema genoem) deel te neem, óf op die datum van die aansoek óf op enige tydstip gedurende die toelaebetalingstermyn, moet 'n opvoeder voldoen aan al die bepalings van hierdie regulasies wat oor die skema handel vir sover sodanige bepalings op hom of haar van toepassing is.

(2) 'n Opvoeder wat aan die skema wil deelneem moet—

(a) 'n bydraende lid van 'n statutêr ingestelde pensioen- of voorsorgfonds wees, of moet onder 'n verpligting wees om tot sodanige fonds by te dra by voltooiing van 'n kwalifiserende tydperk van diens;

(b) in 'n voltydse hoedanigheid aangestel wees;

(c) in die geval van 'n voltydse opvoeder wat in 'n tydelike hoedanigheid aangestel is, jonger as 65 jaar oud wees; en—

(d) nie wettig getroud wees met 'n persoon wat reeds aan die skema van die Staat deelneem nie.

(3) Indien 'n opvoeder of sy of haar gade, benewens die woning wat hy of sy bewoon, 'n ander afbetaalde woning of nie-afbetaalde woning besit (waar ook al geleë en ten spyte van die feit dat die geregistreerde verband in die geval van die ander nie-afbetaalde woning kleiner of groter is as die geregistreerde verband op die woning wat hy of sy bewoon) wat geregistreer is op sy of haar of sy of haar gade se naam en ten opsigte waarvan hy of sy of sy of haar gade voorheen vir enige tydperk 'n toelae (subsidie) op die grondslag beskryf in hierdie regulasie (of op 'n soortgelyke grondslag) ontvang het op grond van sy of haar of sy of haar gade se diens in die Staatsdiens, 'n onderwysdepartement, die Departement van Pos- en Telekommunikasiewese, 'n provinsiale administrasie of by 'n raad, instelling of liggaam ingestel by of kragtens 'n wetsbepaling, soos bedoel in artikel 15 (1) van die Staatsdienswet, 1994, kwalifiseer hy of sy vir 'n verlaagde toelae.

(4) If a reduced allowance is payable to an educator in terms of subregulation (3) and the other paid-off or not paid-off dwelling referred to in the said subregulation is sold, the provisions of regulation 75 are *mutatis mutandis* applicable: Provided that if the other paid-off or not paid-off dwelling is sold on a leasehold basis it is for this purpose still regarded as being in the possession of the educator or his or her spouse.

(5) In order to qualify for participation in the scheme an educator shall own a dwelling—

- (a) which is registered in—
 - (i) such educator's name; or
 - (ii) both such educator's and his or her spouse's names; or
- (b) which is constructed on—
 - (i) premises in respect of which the person(s) referred to in paragraph (a) has obtained a right of leasehold under a statutory provision; or
 - (ii) tribal or state land in respect of which official ratification of the right to occupy such land, can be produced by the person(s) referred to in paragraph (a); or
- (c) that was obtained by the person(s) referred to in paragraphs (a) by way of a contract of sale which will lead to the acquisition of right of possession/proprietary rights and in respect of which a registered mortgage was granted to him or her by an institution referred to in subregulation (9), but which cannot as yet be transferred in the said person(s) name(s), because—
 - (i) surveying or town establishment, or the provision of sewerage or other services such as roads, water, electricity, etc., are not finalised; or
 - (ii) the person concerned, if surveying and town establishment is finalised, has not paid the required deposit on the purchase price of the dwelling in full; or
 - (iii) the final purchase price of the property has not yet been finalised and only a provisional purchase price is known at the time of signing the suspensive sale agreement; and
- (d) that is situated within the borders of the Republic of South Africa.

(6) (a) The dwelling shall be occupied by the educator and, if applicable also his or her dependants: Provided that if an educator with dependants purchases or constructs or already owns a dwelling elsewhere than at his or her headquarters (e.g. the new headquarters to which he or she is to be transferred or the place where he or she wishes to settle after retirement), and this dwelling is occupied only by his or her dependants, and he or she joins them periodically, he or she should be deemed to comply with this requirement.

(b) If, as a result of disaster (hurricane, flood, earthquake, fire damage, etc.) or intimidation, an educator is forced to vacate the dwelling temporarily the employer may continue with the payment of a home owner allowance subject to the conditions and for the period which is deemed reasonable.

(4) Indien 'n verlaagde toelae ingevolge subregulasie (3) aan die opvoeder betaalbaar is, en die ander afbetaalde of nie-afbetaalde woning bedoel in genoemde subregulasie verkoop word, is die bepaling van regulasie 75 *mutatis mutandis* van toepassing: Met dien verstande dat indien die ander afbetaalde of nie-afbetaalde woning op 'n huurkoopgrondslag verkoop word, dit vir hierdie doel steeds geag word in die besit van die opvoeder of sy of haar gade te wees.

(5) Ten einde vir deelname aan die skema te kwalifiseer, moet 'n opvoeder 'n woning besit—

- (a) wat in—
 - (i) sodanige opvoeder se naam; of
 - (ii) beide sodanige opvoeder en sy of haar gade se naam geregistreer is; of
- (b) wat gebou is op—
 - (i) 'n perseel ten opsigte waarvan die persone waarna in paragraaf (a) verwys word, kragtens 'n wetsbepaling huurkoopreg bekom het; of
 - (ii) stam- of staatsgrond ten opsigte waarvan amptelike bekragting van die reg om sodanige grond te okkupeer, voorgelê kan word; of
- (c) wat deur die persone waarna in paragraaf (a) verwys word bekom is by wyse van 'n koopkontrak wat sal lei tot die verkryging van die reg tot besitting/eiendomsreg en ten opsigte waarvan 'n geregistreerde verband aan hom of haar deur 'n instelling bedoel in subregulasie (9) toegestaan is, maar wat nog nie op of sy of haar of sy of haar gade se naam oorgedra kan word nie omdat—
 - (i) opmeting of dorpstigting, of die voorsiening van riolering of ander dienste soos paaie, water, elektrisiteit, ens., nie afgehandel is nie; of
 - (ii) die betrokke persoon, indien opmeting en dorpstigting afgehandel is, nie die vereiste deposito op die koopsom van die woning ten volle betaal het nie; of
 - (iii) die finale koopsom van die eiendom nog nie bepaal is nie en slegs 'n voorlopige koopsom ten tyde van die ondertekening van die opskortende verkoopsooreenkoms bekend is; en
- (d) wat binne die grense van die Republiek van Suid-Afrika geleë is.

(6) (a) Die woning moet bewoon word deur die opvoeder en, indien van toepassing, ook sy of haar afhanklikes: Met dien verstande dat indien 'n opvoeder met afhanklikes 'n woning elders as by sy hoofkwartier aankoop of oprig of reeds besit (bv. die nuwe hoofkwartier waarheen hy of sy oorgeplaas word of die plek waar hy of sy hom of haar na aftrede wil vestig), en hierdie woning slegs deur sy of haar afhanklikes bewoon word, en hy of sy hom of haar periodiek by hulle aansluit, moet hy of sy geag word aan hierdie vereiste te voldoen.

(b) Indien 'n opvoeder as gevolg van 'n ramp (orkaan, vloed, aardbewing, brandskade, ens.) of intimidasie genoodsaak word om die woning tydelik te ontruim, kan die werkgever voortgaan met die betaling van 'n huiseienaarstoelae onderworpe aan die omstandighede en vir die tydperk wat redelik geag word.

(c) The home owner allowance may also be paid to an educator who is officially compelled to occupy official quarters: Provided that such educators'—

(i) private dwelling must be let, unless the employer is of the opinion that acceptable reasons exist why the dwelling cannot be let or letting would be impractical due to individual circumstances;

(ii) dwelling, if it is let, shall be let at a market-related tariff unless the employer is convinced that it is not possible, in which case a lower tariff can be accepted; and

(iii) home owner allowance shall be limited to the allowance payable on the compulsory instalment minus any rent received in a particular month.

(7) The dwelling in respect of which a home owner allowance is paid must be situated in the vicinity of the workplace or headquarters of the educator concerned or must normally have been occupied by the educator should he or she not be living in official quarters, except in the case of an educator stationed at a place where no private housing is available or allowed, the employer may decide otherwise.

(8) There shall be a registered mortgage (and not a leasehold contract) on the dwelling in respect of which a home owner allowance is paid, which mortgage was obtained from either—

- (a) the National Housing Board;
- (b) a local authority;
- (c) a financial institution registered with the Office for Banks in the South African Reserve Bank; or
- (d) any other body instituted by an Act of Parliament and which grants loans:

Provided that home loans granted by financial institutions created by statute for the development of *inter alia*, rural areas, e.g. development trusts or corporations, shall be deemed to be registered mortgages.

Calculation of home owners allowance

74. Subject to the provisions of these regulations, the allowance payable under the scheme is calculated according to the basis, conditions and limitations determined by the Minister.

Recognised loan amount

75. (1) For purposes of the scheme the recognised loan amount is the total of the whole or part of the registered mortgage that was used to buy, construct or to make immovable improvement or alterations (including structural maintenance) to the dwelling or to the premises of the dwelling which an educator occupies.

(2) In determining the recognised loan amount which is used to calculate the allowance—

- (a) a particular registered mortgage, or the total of registered mortgages if an educator has more than one such a loan on his or her dwelling, is considered the recognised loan amount if it is used as contemplated in subregulation (1);

(c) Die huiseienaarstoelae kan ook betaal word aan 'n opvoeder wat amptelik verplig word om amptelike kwartiere te bewoon: Met dien verstande dat sodanige opvoeder se—

(i) private woning verhuur moet word, tensy die werkgever van mening is dat daar aanvaarbare redes bestaan waarom die woning nie verhuur kan word nie of dat verhuring vanweë individuele omstandighede onprakties is;

(ii) woning, indien dit verhuur word, teen mark-verwante tariewe verhuur moet word, tensy die werkgever daarvan oortuig is dat dit nie moontlik is nie, in welke geval 'n laer tarief aanvaar kan word; en

(iii) huiseienaarstoelae beperk word tot die toelae betaalbaar op die verpligte paalement min enige huur in 'n bepaalde maand ontvang.

(7) Die woning ten opsigte waarvan 'n huiseienaarstoelae betaal word, moet geleë wees in die nabyheid van die werkplek of hoofkwartier van die betrokke opvoeder of moet normaalweg deur die opvoeder bewoon word indien hy of sy nie in amptelike kwartiere woon nie, behalwe in die geval van 'n opvoeder wat op 'n plek gestasioneer is waar geen privaat behuising beskikbaar is of toegelaat word nie, in welke geval die werkgever anders kan besluit.

(8) Daar moet 'n geregistreerde verband (en nie 'n huurkontrak nie) wees op die woning ten opsigte waarvan 'n huiseienaarstoelae betaal word, welke verband bekom is van—

- (a) die Nasionale Behuisingsraad;
- (b) 'n plaaslike owerheid;
- (c) 'n finansiële instelling geregistreer by die kantoor vir banke in die Suid-Afrikaanse Reserwebank; of
- (d) enige ander liggaam ingestel by 'n wet van die Parlement en wat lenings toestaan:

Met dien verstande dat huislenings toegestaan deur finansiële instellings by wet geskep vir die ontwikkeling van onder andere landelike gebiede, bv. ontwikkelings-trusts of -korporasies, geag word geregistreerde verbande te wees.

Berekening van huiseienaarstoelae

74. Behoudens die bepalings van hierdie regulasies word die toelae wat kragtens die skema betaalbaar is, bereken ooreenkomstig die grondslag, voorwaardes en beperkings deur die Minister bepaal.

Erkende leningsbedrag

75. (1) Vir doeleindes van die skema is die erkende leningsbedrag die totaal van die geheel of deel van die geregistreerde verbandlening wat gebruik is om die woning te koop, op te rig of nie-roerende verbeteringe of veranderinge (insluitende strukturele instandhouding) aan die woning, of aan die perseel van die woning wat 'n opvoeder bewoon, aan te bring.

(2) By die bepaling van die erkende leningsbedrag wat gebruik word om die toelae te bereken—

- (a) word 'n bepaalde geregistreerde verbandlening, of die totaal van die geregistreerde verbandlenings indien 'n opvoeder meer as een sodanige lening op sy of haar woning het, beskou as die erkende leningsbedrag indien dit gebruik word soos bedoel in subregulasie (1);

(b) the amount of registered mortgages or parts thereof which were not used for the purposes as contemplated in subregulation (1), shall be deducted from the registered mortgage, or the total of registered mortgages if an educator has more than one such a loan on his or her dwelling; and

(c) the recognised loan amount, when applicable, shall be further reduced with the amount with which an educator should be penalised in accordance with regulation 76.

(3) The amounts of registered mortgages which were not used for the purposes as contemplated in subregulation (1) and with which an educator is penalised in terms of the order of magnitude of the recognised loan amount which is used to calculate his or her allowance, shall not be transferable with regard to dwellings which he or she may later purchase or cause to be constructed.

Employment of the proceeds from the sale of a previously subsidised dwelling

76. (1) If an educator or his or her spouse previously owned another dwelling (paid-off or not paid-off) which was registered in his or her or his or her spouse's name in respect of which he or she or his or her spouse previously for any period received a subsidy (or allowance on the basis set out in these regulations or a similar basis) on the grounds of his or her spouse's service in the Public Service, an education department, the Department of Posts and Telecommunications, a provincial administration or with a council, institution or body established by or under a legal provision and which was sold (for this purpose it is deemed to be sold on the date on which the property is registered in the name of the owner), he or she is expected (but not obliged) to use an amount equal to the full difference between the full selling price of the previous dwelling, on the one hand, and the total sum of the balance of the mortgage loan (if any) on the date of sale plus his or her sale costs plus purchasing costs (agent's commission, inspection fees, architect's fees, etc.) conveyancing costs and transfer fees on the new property, on the other hand, for the purpose of purchasing the dwelling (or for purchasing the premises and for the construction of the dwelling) which he or she occupies: Provided that—

(a) the "other dwelling" referred to in this subregulation concerns only the last dwelling in respect of which a home owner allowance (previously housing subsidy) was paid; and

(b) a dwelling sold on the leasehold basis is not deemed to have been sold, since it is registered in the name of the "seller".

(2) If an educator does not use (or did not use) the said amount for this purpose, the recognised loan amount on the dwelling which is occupied by the educator (or the total of the recognised loan amounts in the case of an educator who has registered more than one mortgage on his or her dwelling) must be reduced by the said amount for the purpose of calculating the allowance.

(b) word die bedrag van die geregistreerde verbandlenings of dele daarvan wat nie vir doeleindes soos beoog in subregulasie (1) gebruik is nie, afgetrek van die geregistreerde verbandlening, of die totaal van geregistreerde verbandlenings indien 'n opvoeder meer as een sodanige lening op sy of haar woning het; en

(c) word die erkende leningsbedrag, waar van toepassing, verder verminder met die bedrag waarmee 'n opvoeder ooreenkomstig regulasie 76 gepenaliseer moet word.

(3) Die bedrae van geregistreerde verbandlenings wat nie vir doeleindes soos bedoel in subregulasie (1) gebruik is nie en waarmee 'n opvoeder gepenaliseer word ingevolge die grootte orde van die erkende leningsbedrag wat gebruik word om sy of haar toelae te bereken, is nie oordraagbaar ten opsigte van wonings wat hy of sy later koop of laat oprig nie.

Aanwending van die opbrengs van die verkoop van 'n voorheen gesubsidieerde woning

76. (1) Indien 'n opvoeder of sy of haar gade voorheen 'n ander woning (afbetaald of nie-afbetaald) besit het wat op sy of haar of sy of haar gade se naam geregistreer was en ten opsigte waarvan hy of sy of sy of haar gade voorheen vir enige tydperk 'n subsidie (of toelae op die grondslag uiteengesit in hierdie regulasies of op 'n soortgelyke grondslag) ontvang het op grond van sy of haar gade se diens in die Staatsdiens, 'n onderwysdepartement, die Departement van Pos-en Telekommunikasiewese, 'n provinsiale administrasie of by 'n raad, 'n instelling of liggaam ingestel by of kragtens 'n wetsbepaling en wat verkoop is (vir hierdie doel word dit verkoop geag op die datum waarop die eiendom op naam van die eienaar geregistreer word), word daar van hom of haar verwag (maar is hy of sy nie verplig nie) om 'n bedrag te gebruik gelykstaande met die volle verskil tussen die volle verkoopsom van die vorige woning enersyds en die totale som van die balans op die verbandlening (as daar is) op die verkoopdatum plus sy of haar verkoop- plus koopkoste (agentekommissie, inspeksiegeld, argiteksgeld, ens.), oordragkoste en transporteringskoste op die nuwe eiendom andersyds, met die doel om die woning te koop (of om die perseel te koop en vir die oprigting van die woning) wat hy of sy bewoon: Met dien verstande dat—

(a) die "ander woning" in hierdie subregulasie bedoel, betrekking het op slegs die laaste woning ten opsigte waarvan 'n huiseienaarstoelae (voorheen behuisingssubsidie) betaal is; en

(b) 'n woning wat op huurkoopbasis verkoop is, nie geag word verkoop te wees nie, aangesien dit op naam van die "verkoper" geregistreer is.

(2) Indien 'n opvoeder genoemde bedrag nie vir hierdie doel gebruik (of gebruik het) nie, moet die erkende leningsbedrag op die woning wat deur die opvoeder bewoon word (of die totaal van die erkende leningsbedrae in die geval van 'n opvoeder wat meer as een verband op sy of haar woning geregistreer het), met genoemde bedrag verminder word met die doel om die toelae te bereken.

(3) Subregulation (2) is applicable in the case of—

(a) an educator who granted the purchaser of his or her previous dwelling an extension for payment of a part of the purchase price until such time as he or she produces proof that the shortfall has been paid in full on the registered mortgage (or the registered mortgages if more than one mortgage is registered in respect of the dwelling); or

(b) an educator who is holding back part of the proceeds for immovable improvements or alterations to the new home, until such time as he or she produces proof that the improvements for which the amount concerned was held back have been completed.

(4) The amount contemplated in subregulation (2) with which an educator is penalised in respect of a particular dwelling, in terms of the order of magnitude of the recognised loan amount which is used to calculate his or her allowance on such a dwelling, is not transferable with regard to dwellings which he or she may purchase or erect later.

(5) An educator who sells a previous dwelling under the circumstances as contemplated in subregulation (1), but who fails or refuses to declare how the proceeds were spent, shall be completely excluded from participation in the scheme from the date of the sale of the previous dwelling: Provided however that he or she qualifies again for participation in the scheme from the salary pay day of the month in which he or she declares how the proceeds were spent.

Date with effect from which the home owners allowance is paid

77. (1) An educator may be paid an allowance referred to in regulation 73, on each salary pay day.

(2) An allowance contemplated in subregulation (1) shall be terminated if any of the conditions to which the scheme or such allowance is subject, is not complied with.

(3) If an allowance contemplated in subregulation (1) is suspended in terms of subregulation (2), the allowance may be re-instated with effect from the date that the educator concerned complies with the said conditions.

Home owners allowance payment period

78. (1) An allowance referred to in regulation 73 shall be paid for the duration of the redemption period to which the registered mortgage in respect of which the allowance is paid, is subject.

(2) If an educator—

(a) on his or her appointment applies for an allowance in respect of a dwelling which he or she purchased or constructed before his or her appointment; or

(b) whose allowance in respect of a dwelling was terminated for any reason, later again qualified for an allowance in respect of the same dwelling on the grounds of changes in his or her circumstances,

(3) Subregulasie (2) is van toepassing in die geval van—

(a) 'n opvoeder wat aan die koper van sy of haar vorige woning 'n verlenging vir die betaling van 'n deel van die koopsom toegestaan het, tot tyd en wyl hy of sy bewys lewer dat die tekort op die geregistreerde verband (of die geregistreerde verbande indien meer as een verbandlening ten opsigte van die woning geregistreer is) ten volle betaal is; of

(b) 'n opvoeder wat 'n deel van die opbrengs vir nie-roerende verbeteringe of veranderings aan die nuwe huis terughou, tot tyd en wyl hy of sy bewys lewer dat die verbeterings waarvoor die betrokke bedrag teruggehou is, voltooi is.

(4) Die bedrag bedoel in subregulasie (2) waarmee 'n opvoeder ten opsigte van 'n bepaalde woning geenaliseer word, volgens die grootteorde van die erkende leningsbedrag wat gebruik word om sy of haar toelae op so 'n woning te bereken, is nie oordraagbaar ten opsigte van wonings wat hy of sy later koop of oprig nie.

(5) 'n Opvoeder wat 'n vorige woning in die omstandighede bedoel in subregulasie (1) verkoop, maar wat versuim of weier om te verklaar hoe die opbrengs bestee is, word heeltemal van deelname aan die skema uitgesluit vanaf die datum van die verkoop van die vorige woning: Met dien verstande dat hy of sy egter weer vir deelname aan die skema kwalifiseer vanaf die besoldigingsbetaaldag van die maand waarin hy of sy verklaar hoe die opbrengs bestee is.

Datum waarop betaling van huiseienaars-toelae van krag word

77. (1) 'n Opvoeder kan op elke besoldigingsbetaaldag 'n toelae in regulasie 73 bedoel, betaal word.

(2) 'n Toelae bedoel in subregulasie (1), word opgeskort indien daar nie voldoen word nie aan enige van die voorwaardes waaraan die skema of sodanige toelae onderworpe is.

(3) Indien 'n toelae bedoel in subregulasie (1) ingevolge subregulasie (2) opgeskort word, kan die toelae herstel word vanaf die datum waarop die betrokke opvoeder aan genoemde voorwaardes voldoen.

Betalingstermyn vir huiseienaarstoelae

78. (1) 'n Toelae bedoel in regulasie 73, word betaal vir die duur van die delgingstermyn waaraan die geregistreerde verband ten opsigte waarvan die toelae betaal word, onderworpe is.

(2) Indien 'n opvoeder—

(a) by sy of haar aanstelling aansoek doen om 'n toelae ten opsigte van 'n woning wat hy of sy voor sy of haar aanstelling gekoop of opgerig het; of

(b) wie se toelae ten opsigte van 'n woning om enige rede gestaak is, later weer op grond van veranderings in sy of haar omstandighede vir 'n toelae ten opsigte van dieselfde woning kwalifiseer,

his or her date of appointment, or the date on which he or she again qualifies for the allowance concerned, as the case may be, is his or her allowance period commencement date. The educator's allowance period expiry date is (remains) as determined in accordance with subregulation (1).

(3) If an educator has more than one registered mortgage in respect of the dwelling that he or she occupies, the allowance payment period with regard to each such mortgage is as contemplated in subregulations (1) and (2).

(4) If any adjustment of the redemption period (extension or reduction) to which a registered mortgage loan is subject, is made, the allowance payment period shall be adjusted accordingly.

Recognition of further or increased registered mortgages

79. (1) Subject to the provisions of regulation 75 (1) and (2), an educator shall come into consideration for an increased monthly allowance whenever he or she negotiates a further or an increased registered mortgage and utilises the funds thus obtained—

(a) to bring about any immovable improvement or alteration to the dwelling which is occupied by him or her or to the premises on which it is situated; or

(b) for the redemption of a private loan which was obtained to purchase or to construct the dwelling or to improve or alter it as contemplated in paragraph (a).

(2) If a further or increased registered mortgage is utilised for immovable improvements or alterations, it shall be acknowledged for the purpose of allowances at the earliest from the date on which the said improvements or alterations were completed: Provided that the employer may approve that completed parts of such improvements or alterations be taken into account for the purpose of allowances.

(3) The fact that the registered mortgage debt of an educator on his or her dwelling is to be redeemed within a few months of that the registered mortgage debt which he or she had on his or her dwelling was redeemed in full (in other words the mortgage is cancelled), does not mean that subregulation (1) is not applicable to him or her and such an educator can still obtain a further registered mortgage loan on his or her dwelling and if all the qualifying requirements are met, be paid an allowance in respect thereof.

Recognition of advances and reinstitution of existing registered mortgages

80. (1) An educator who obtains an advance or reinstitution of existing registered mortgages (i.e. an action which does not influence the order or magnitude of his or her existing registered mortgage loan amount), even if the funds are utilised for recognised purposes, shall not come into consideration for an increased monthly allowance.

is sy of haar aanstellingsdatum, of die datum waarop hy of sy weer vir die betrokke toelae kwalifiseer, na gelang van die geval, die aanvangsdatum van sy of haar toelaetermyn. Die vervaldatum van die opvoeder se betalingstermyn is (bly) soos bepaal in terme van subregulasie (1).

(3) Indien 'n opvoeder meer as een geregistreerde verbandlening het ten opsigte van die woning wat hy of sy bewoon, is die betalingstermyn van die toelae ten opsigte van elke sodanige verbandlening soos in subregulasies (1) en (2) bedoel.

(4) Indien enige aanpassing (verlenging of verkorting) gemaak word aan die delgingstermyn waaraan 'n geregistreerde verbandlening onderworpe is, word die betalingstermyn van die toelae dienoooreenkomstig aangepas.

Erkenning van verdere of verhoogde geregistreerde verbande

79. (1) Behoudens die bepalings van regulasie 75 (1) en (2) kom 'n opvoeder in aanmerking vir 'n verhoogde maandelikse toelae telkens wanneer hy of sy 'n verdere of 'n verhoogde geregistreerde verband beding en die fondse aldus bekom, aangewend word—

(a) om enige nie-roerende verbetering of verandering aan te bring aan die woning wat deur hom of haar bewoon word, of aan die perseel waarop dit geleë is; of

(b) vir die aflos van 'n privaat lening wat bekom is om die woning te koop of op te rig of om dit te verbeter of te verander soos in paragraaf (a) bedoel.

(2) Indien 'n verdere of verhoogde geregistreerde verband aangewend word vir nie-roerende verbeterings of veranderinge, word dit op die vroegste vanaf die datum waarop genoemde verbeterings of veranderinge voltooi is, vir toelaedoeleindes erken: Met dien verstande dat die werkgewer dit kan goedkeur dat voltooide dele van sodanige verbeterings of veranderinge in ag geneem word vir toelaedoeleindes.

(3) Die feit dat die geregistreerde verbandskuld van 'n opvoeder op sy of haar woning binne 'n paar maande gedelg gaan word, of dat die geregistreerde verbandskuld wat hy of sy op sy of haar woning gehad het, ten volle gedelg is (met ander woorde die verband word gekanselleer), beteken nie dat subregulasie (1) nie op hom of haar van toepassing is nie en so 'n opvoeder kan steeds 'n verdere geregistreerde verbandlening op sy of haar woning bekom en indien daar aan al die kwalifiserende vereistes voldoen word, 'n toelae ten opsigte daarvan betaal word.

Erkenning van voorskotte en herinstelling van bestaande geregistreerde verbande

80. (1) 'n Opvoeder wat 'n voorskot of herinstelling bekom (d.w.s. 'n aksie wat nie die grootteorde van sy of haar bestaande geregistreerde verbandleningsbedrag raak nie), selfs indien die geld vir erkende doeleindes gebruik word, kom nie in aanmerking vir 'n verhoogde maandelikse toelae nie.

(2) If an educator obtains an advance or reinstitution on his or her existing registered mortgage whether or not he or she utilises the funds for the purposes as contemplated in regulation 79 (1) (a) or (b) and his or her mortgagee adjusts (lengthens) the redemption period to which the existing loan is subject, the allowance payment period remains unaltered.

Allowance payment during official duty away from headquarters

81. (1) If an educator and all his or her dependants, as a result of circumstances beyond his or her control and arising from his or her official duties are obliged to vacate the dwelling temporarily, payment of the allowance may, subject to subregulation (2), be continued from the date of such vacating until he or she and his or her dependants again occupy the dwelling.

(2) The continued payment of the allowance in terms of subregulation (1) must be reduced with the rent received for the dwelling (for this purpose the person must indicate in writing that all steps are being taken to let the dwelling and he or she must inform the employer monthly of the rent received), on condition that this subregulation does not apply in respect of the first six months after a person and all his or her dependants have vacated the dwelling.

(3) Subregulations (1) and (2) are *mutatis mutandis* applicable to a single educator (without dependants).

Allowance payment on transfer to a foreign country or from one headquarter to another in the Republic

82. (1) If an educator who has been transferred as well as his or her dependants vacate the dwelling in respect of which he or she is receiving an allowance, payment of the allowance may be continued, regardless of whether the dwelling is being leased or not—

(a) until such time that he or she sells the dwelling and for this purpose it is deemed to have been sold on the date on which the property is registered in the name of the new owner; or

(b) until such time as he or she qualifies for an allowance in respect of a dwelling at his or her new headquarters; or

(c) for a period of six months, calculated from the date that his or her transfer comes into effect, that his or her transfer comes into effect, regardless of whether he or she and his or her dependants physically left his or her previous headquarters before, on or after that date,

whichever of the three periods is the shortest.

(2) If the dependants of the transferred educator, or any of them, continue to occupy the dwelling at his or her previous headquarters, he or she shall be deemed still to be complying with the occupancy requirement laid down in regulation 73 (7) (a) and payment of an allowance should be continued to him or her as long as such dependant continues to live in the dwelling and he or she continues to comply with all the qualifying requirements.

(2) Indien 'n opvoeder 'n voorskot of herinstelling op sy of haar bestaande geregistreerde verband bekom, hetsy hy of sy die geld vir doeleindes soos bedoel in regulasie 79 (1) (a) of (b) gebruik al dan nie, en sy of haar verbandhouer die delgingstermyn waaraan die bestaande lening onderworpe is, aanpas (verleng), bly die toelaebetalingstermyn onveranderd.

Toelaebetaling gedurende amptelike diens weg van hoofkwartier

81. (1) Indien 'n opvoeder en al sy of haar afhanklikes as gevolg van omstandighede buite sy of haar beheer en wat uit sy of haar amptelike pligte spruit, genoodsaak word om die woning tydelik te ontruim, kan die betaling van die toelae, behoudens subregulasie (2), vanaf die datum van sodanige ontruiming voortgesit word totdat hy of sy en sy of haar afhanklikes weer die woning bewoon.

(2) Die voortgesette betaling van die toelae ingevolge subregulasie (1) moet met die huurgeld ontvang vir die woning verminder word (vir hierdie doel moet die persoon skriftelik aandui dat alle stappe gedoen word om die woning te verhuur en hy of sy moet die werk-gewer maandeliks inlig oor die huurgeld wat ontvang is), op voorwaarde dat hierdie subregulasie nie van toepassing is ten opsigte van die eerste ses maande nadat 'n persoon en al sy of haar afhanklikes die woning ontruim het nie.

(3) Subregulasies (1) en (2) is *mutatis mutandis* op 'n enkellopende opvoeder (sonder afhanklikes) van toepassing.

Toelaebetaling by oorpasing na die buitenland of van een hoofkwartier na 'n ander in die Republiek

82. (1) Indien 'n opvoeder wat oorgeplaas is, asook sy of haar afhanklikes, die woning ontruim ten opsigte waarvan hy of sy 'n toelae ontvang, kan die betaling van die toelae voortgesit word, ongeag of die woning verhuur word of nie—

(a) tot tyd en wyl hy of sy die woning verkoop, en vir dié doel word dit verkoop geag op die datum waarop die eiendom op naam van die nuwe eienaar geregistreer word; of

(b) tot tyd en wyl hy of sy vir 'n toelae ten opsigte van 'n woning by sy of haar nuwe hoofkwartier kwalifiseer; of

(c) vir 'n tydperk van ses maande, bereken vanaf die datum waarop sy of haar oorpasing van krag word, ongeag of hy of sy en sy of haar afhanklikes sy of haar vorige hoofkwartier voor, op of na daardie datum fisies verlaat het,

na gelang van watter van die drie tydperke die kortste is.

(2) Indien die afhanklikes van die opvoeder wat oorgeplaas is, of enigeen van hulle, voortgaan om die woning by sy of haar vorige hoofkwartier te bewoon, word hy of sy geag steeds aan die bewoningsvereistes voorgeskryf by regulasie 73 (7) (a) te voldoen, en betaling van 'n toelae aan hom of haar moet voortgesit word solank sodanige afhanklike voortgaan om in die woning te bly en hy of sy voortgaan om aan al die kwalifiserende vereistes te voldoen.

(3) If the dependants of the transferred educator, referred to in subregulation (2), vacate the dwelling concerned—

(a) before expiry of the relevant (shortest) period as set out in subregulation (1), the allowance may still be paid to him or her for the remaining part of such period; or

(b) after expiry of the relevant (shortest) period as set out in subregulation (1), payment of the allowance shall be terminated from the date of such vacating.

(4) Subregulations (1) to (3) shall *mutatis mutandis* be applicable to an educator—

(a) whose services are made available to a neighbouring state under the technical aid scheme; or

(b) who is transferred to another headquarters and who has to occupy official quarters there; or

(c) who purchases or constructs a dwelling, but before payment of a home owner allowance can be effected, is transferred.

(5) If a transferred educator after expiry of the period during which, in terms of paragraphs (1) to (4), the allowance is payable to him or her in respect of the dwelling at his or her former headquarters, experiences substantial difficulties to sell such dwelling, the employer may authorise continued payment of the allowance to the educator by applying the provisions in paragraphs (1) to (4) *mutatis mutandis* for a further period as determined by the employer in respect of the relevant dwelling: Provided that—

(a) the educator experiences difficulties outside his or her control to sell the dwelling at his or her former headquarters at a price which covers his or her outstanding mortgage loan: Provided that if an educator prefers not to sell his or her dwelling, this provision shall not be applicable to him or her;

(b) the continued allowance shall be calculated as if the educator is still occupying the dwelling;

(c) the continued allowance be reduced with the rent received for the dwelling at the former headquarters and for this purpose the educator must indicate in writing that all reasonable steps have been taken to let the dwelling and he or she must inform the employer monthly of the rent received and the rent so received must be market-related, unless the employer is convinced that rental at a market related tariff is not possible; and

(d) the continued payment of the allowance is reconsidered every six months.

(6) (a) An educator serving abroad qualifies for the continued payment of the home owner allowance in respect of the dwelling in the Republic on which an allowance was paid at the time of transfer or secondment.

(3) Indien die afhanklikes van die oorgeplaasde opvoeder in subregulasie (2) bedoel, die betrokke woning ontruim—

(a) voor verstryking van die betrokke (kortste) tydperk, soos uiteengesit in subregulasie (1), kan die toelae vir die oorblywende deel van sodanige tydperk steeds aan hom of haar betaal word; of

(b) na verstryking van die betrokke (kortste) tydperk soos uiteengesit in subregulasie (1), word die betaling van die toelae vanaf die datum van sodanige ontruiming gestaak.

(4) Subregulasies (1) tot (3) is *mutatis mutandis* van toepassing op 'n opvoeder—

(a) wie se dienste ingevolge die tegniese hulpskema aan 'n buurstaat beskikbaar gestel word; of

(b) wat na 'n ander hoofkwartier verplaas word en amptelike akkommodasie daar moet bewoon; of

(c) wat 'n woning koop of bou maar verplaas word voordat 'n huiseienaarstoelae betaal kan word.

(5) Indien 'n opvoeder wat oorgeplaas is, na verstryking van die tydperk waartydens die toelae ten opsigte van sy of haar woning by sy of haar vorige hoofkwartier ingevolge subregulasies (1) tot (4) aan hom of haar betaalbaar is, wesenlike probleme ondervind om sodanige woning te verkoop, kan die werkgever voortgesette betaling van die toelae aan die opvoeder magtig deur die bepalings in subregulasies (1) tot (4) *mutatis mutandis* toe te pas vir 'n verdere tydperk soos deur die werkgever ten opsigte van die betrokke woning bepaal: Met dien verstande dat—

(a) die opvoeder probleme buite sy of haar beheer ondervind om die woning by sy of haar vorige hoofkwartier te verkoop teen 'n prys wat die balans op sy of haar verbandlening dek: Met dien verstande dat indien 'n opvoeder verkies om sy of haar woning nie te verkoop nie, hierdie bepaling nie vir hom of haar geld nie;

(b) die voortgesette toelae bereken word asof die opvoeder steeds die woning bewoon;

(c) die voortgesette toelae verminder word met die huurgeld ontvang vir die woning by die vorige hoofkwartier, en om dié rede moet die opvoeder skriftelik aandui dat alle redelike stappe gedoen is om die woning te verhuur en hy of sy moet die werkgever maandeliks inlig oor die huurgeld ontvang, en die huurgeld aldus ontvang, moet markverwant wees, tensy die werkgever daarvan oortuig is dat huurgeld teen 'n markverwante tarief nie moontlik is nie; en

(d) die voortgesette betaling van die toelae elke ses maande heroorweeg word.

(6) (a) 'n Opvoeder wat in die buiteland diens doen, kwalifiseer vir die voortgesette betaling van die huiseienaarstoelae ten opsigte van die woning in die Republiek waarop 'n toelae betaal is ten tyde van oorplasing of sekondering.

(b) The amount of the continued allowance is limited to the allowance payable on the compulsory instalment, minus any rent received in a particular month.

(c) Payment of the continued allowance takes place only on submission of proof of rent received on the dwelling and in cases where the dwelling cannot be leased for a limited period of time, educators must indicate their willingness in writing to let their dwellings: Provided that the rent obtained must be market-related, unless the employer is convinced that rental at a market related tariff is not possible.

Allowance payment on transfer to or appointment in education

83. The provisions of regulation 81 (1) to (3) apply *mutatis mutandis* to an educator who is transferred in terms of section 6 of the Act, or who was in the employ of the Public Service as contemplated in the Public Services Act, 1994, and is appointed in Education without any interruption in service if he or she—

(a) changes his or her station as a result of such transfer or appointment;

(b) at the time of such transfer or appointment owns a dwelling at his or her previous station in respect of which he or she received an allowance from his or her former employer.

Effect of leave of absence on allowances

84. Payment of an allowance under the scheme to an educator shall be continued during periods of leave of absence of any nature, whether with or without payment, or periods of suspension, in terms of section 14 (2) of the Act, on condition that if—

(a) he or she is absent on leave without payment, the allowance may be paid to him or her for a particular month only if he or she provides acceptable proof that the monthly repayment on his or her mortgage which was payable during that month has in fact been paid; and

(b) he or she and his or her dependants vacate the dwelling during such period of leave of absence or suspension, the dwelling is not leased: Provided that if the dwelling is leased, payment of the allowance shall be terminated from the date of such leave.

Responsibility of participants in scheme

85. An educator who applies for an allowance under the scheme or who is in receipt of such allowance, shall—

(a) substantiate his or her application with the necessary documentary evidence;

(b) during his or her allowance payment period, report any change which may have an influence on the registered loan amount or the expiry date of his or her allowance payment period and where applicable, substantiate it with documentary evidence;

(c) make arrangements that his or her monthly instalments on his or her mortgage is recovered by stop-order from his or her salary and paid to the mortgagee; and

(b) Die bedrag van die voortgesette toelae is beperk tot die toelae betaalbaar op die verpligte paalement, minus enige huurgeld ontvang in die spesifieke maand.

(c) Betaling van die voortgesette toelae vind plaas slegs by voorlegging van bewys van ontvangs van huurgeld vir die woning, en in gevalle waar die woning nie vir 'n beperkte tydperk verhuur kan word nie, moet opvoeders hulle bereidwilligheid om hulle wonings te verhuur, skriftelik aandui: Met dien verstande dat die huurgeld wat bekom is, markverwant moet wees, tensy die werkgever daarvan oortuig is dat huurgeld teen 'n markverwante tarief nie moontlik is nie.

Toelaebetaling by oorplasing na of aanstelling in die onderwys

83. Die bepalings van regulasie 81 (1) tot (3) is *mutatis mutandis* van toepassing op 'n opvoeder wat ingevolge artikel 6 van die Wet oorgeplaas word, of wat in diens was van die Staatsdiens soos bedoel in die Staatsdienswet, 1994, en sonder enige diensonderbreking in die onderwys aangestel word, indien hy of sy—

(a) sy of haar standplaas as gevolg van sodanige oorplasing of aanstelling verander;

(b) ten tyde van sodanige oorplasing of aanstelling 'n woning by sy of haar vorige standplaas besit ten opsigte waarvan hy of sy 'n toelae van sy of haar vorige werkgever ontvang.

Uitwerking van afwesigheidsverlof op toelaes

84. Betaling van 'n toelae aan 'n opvoeder kragtens die skema word voortgesit gedurende tydperke van afwesigheidsverlof van watter aard ook al, hetsy betaald of onbetaald, of tydperke van skorsing ingevolge artikel 14 (2) van die Wet, op voorwaarde dat indien—

(a) hy of sy met onbetaalde verlof afwesig is, die toelae vir 'n bepaalde maand aan hom of haar betaal kan word slegs indien hy of sy aanvaarbare bewys lewer dat die maandelikse terugbetaling op sy of haar verband wat gedurende daardie maand betaalbaar was, inderdaad betaal is; en

(b) hy of sy en sy of haar afhanklikes die woning gedurende sodanige tydperk van afwesigheidsverlof of skorsing ontruim, die woning nie verhuur word nie: Met dien verstande dat indien die woning verhuur word, betaling van die toelae gestaak word vanaf die datum van sodanige verlof.

Aanspreeklikheid van deelnemers aan skema

85. 'n Opvoeder wat kragtens die skema om 'n toelae aansoek doen, of wat sodanige toelae ontvang, moet—

(a) sy of haar aansoek met die nodige dokumentêre bewyse staaf; of

(b) gedurende sy of haar toelaebetalingstermyn verslag doen van enige verandering wat 'n uitwerking op die geregistreerde leningsbedrag of die vervaldatum van sy of haar toelaebetalingstermyn kan hê en dit, waar nodig, met dokumentêre bewyse staaf;

(c) reëlings tref dat sy of haar maandelikse paalemente op sy of haar verband by wyse van aftrekorder van sy of haar besoldiging verhaal word en aan die verbandhouer betaal word; en

(d) deliver a statement from the mortgagee which reflects the annual transactions with regard to his or her mortgage, on request to his or her employer.

Over and underpayments of allowances

86. (1) If the amount of an allowance under the scheme paid to an educator is found to be incorrect the error shall be corrected immediately and any amount which because of such error was—

(a) overpaid shall be recovered from the educator: Provided that if the amount cannot be recovered in a single sum, interest shall not be charged on the monthly outstanding balance; or

(b) underpaid, shall be paid to the educator.

(2) (a) If discovered that an allowance is paid to an educator who does not qualify for it, or that an allowance higher than that for which he or she qualifies is paid as a result of the fact that he or she deliberately provided incorrect information or withheld relevant information—

(i) payment of the allowance to him or her shall be suspended from the first pay date after it was discovered;

(ii) the amount paid or overpaid shall be recovered from him or her: Provided that if such amount cannot be recovered in a single sum but by monthly payments, interest shall be charged on the outstanding balance at the rate determined from time to time for this purpose by the Minister of Finance; and

(iii) he or she shall not come into consideration for an allowance again.

(b) Any action taken under paragraph (a) shall not prevent action in accordance with the provisions with regard to misconduct as contained in the Act.

General measures concerning the payment of a home owner allowance

87. (1) (a) If a dwelling is registered in the names of two or more persons none of whom are married to each other, the following shall be applicable in respect of each person who participates in the scheme:

(i) If all the persons in whose names the dwelling is registered are educators or other persons who may take part in the scheme, the real loan amount is divided in the proportion to which the educators concerned obtained ownership in the property, thereby to determine the recognised loan amount of each educator.

(ii) If not all of the persons in whose names the dwelling is registered are educators or other persons who may take part in the scheme, the real loan amount—

(aa) is divided in the proportion to which the persons concerned have ownership in the property, thereby to determine the recognised loan amount for each person; or

(d) op versoek van sy of haar werkgever 'n verklaring van 'n verbandhouer voorlê wat die jaarlikse transaksies met betrekking tot sy of haar verband weerspieël.

Oor- of onderbetaling van toelae

86. (1) Indien die bedrag van 'n toelae wat kragtens die skema aan 'n opvoeder betaal word, foutief bevind word, word die fout onverwyld reggestel en enige bedrag wat as gevolg van so 'n fout—

(a) oorbetaal is, word van die opvoeder verhaal: Met dien verstande dat indien die bedrag nie in een bedrag verhaal kan word nie, rente nie op die agterstallige maandelikse balans gehef word nie; of

(b) onderbetaal is, word aan die opvoeder betaal.

(2) (a) Indien daar ontdek word dat 'n toelae betaal word aan 'n opvoeder wat nie daarvoor kwalifiseer nie, of dat 'n toelae wat meer is as die bedrag waarvoor hy of sy kwalifiseer, betaal word as gevolg van die feit dat hy of sy doelbewus verkeerde inligting verstrek het of relevante inligting weerhou het—

(i) word die betaling van die toelae aan hom of haar gestaak vanaf die eerste betaaldag nadat die fout ontdek is;

(ii) word die bedrag wat betaal of oorbetaal is, van hom of haar verhaal: Met dien verstande dat indien sodanige bedrag nie in een bedrag nie maar net in maandelikse paaie mente verhaal kan word, rente gehef word op die agterstallige balans teen die koers wat van tyd tot tyd vir dié doel deur die Minister van Finansies bepaal word; en

(iii) kom hy of sy nie weer vir 'n toelae in aanmerking nie.

(b) Enige stappe kragtens paragraaf (a) gedoen, verhinder nie optrede ooreenkomstig die bepalings betreffende wangedrag soos vervat in die Wet nie.

Algemene maatreëls betreffende die betaling van 'n huiseienaarstoelae

87. (1) (a) Indien 'n woning geregistreer word op naam van twee of meer persone van wie niemand met mekaar getroud is nie, geld die volgende ten opsigte van elke persoon wat aan die skema deelneem:

(i) Indien al die persone op wie se naam die woning geregistreer word, opvoeders of ander persone is wat aan die skema kan deelneem, word die werklike leningsbedrag verdeel volgens die verhouding waarin die betrokke opvoeders eienaarskap in die eiendom bekom het, om sodoende die erkende leningsbedrag van elke opvoeder te bepaal.

(ii) Indien nie al die persone op wie se naam die woning geregistreer word, opvoeders of ander persone is wat aan die skema kan deelneem nie, word die werklike leningsbedrag—

(aa) verdeel volgens die verhouding waarin die betrokke persone eienaarskap in die eiendom het, om sodoende die erkende leningsbedrag vir elke persoon te bepaal; of

(bb) is divided by the number of persons concerned to determine the loan amount for each person,

and whichever recognised loan amount is the smaller is used for allowances purposes.

(iii) The allowance is paid for the normal allowance payment period, subject to the provisions of regulation 77.

(iv) When the dwelling is sold the gross return is divided in the proportion as used in subparagraph (a) (i) or (ii), in order to determine the gross return and furthermore the usable net return in each case for purposes of the application of regulation 75.

(b) The total of the monthly allowances payable in the case of educators as contemplated in paragraph (a) (i), or in the case of educators and those other persons as contemplated in paragraph (a) (ii) shall not be more than that payable if the dwelling was registered in only one person's name.

(2) (a) No allowance shall be payable to an educator who occupies a dwelling that is registered in the name of a company, partnership or trust.

(b) When a dwelling that was registered in the name of a deceased husband is kept in the last mentioned estate or in trust and it is clear from the testamentary directions that the widow who is employed as an educator will shortly acquire ownership of the dwelling (for example as soon as the estate has been administered) and she maintains the monthly instalments with regard to the mortgage of the dwelling concerned —

(i) it shall be deemed that she complies with the ownership requirement and an allowance shall be paid to her if she complies with all the other requirements; and

(ii) her allowance period expiry date is that date when the registered redemption period to which the loan is subject will expire.

(3) Loans that do not comply with the provisions of regulation 73 (9) shall not be acknowledged for allowance purposes: Provided that if such a loan is redeemed by an acknowledged mortgage, such mortgage may be recognised for allowance purposes to the extent which the private loan was used for recognised purposes as contemplated in regulation 79 (1) (a).

(4) Regulation 75 shall *mutatis mutandis* be applicable to an educator who divides his or her property on which an allowance is paid to him or her, and sells part of it on the basis that it is expected of an educator to pay off an amount equal to the difference between the full purchase price of the sold part and the total sum of his or her divisioning and sale costs, as well as any amount for the said return that it used by him or her for immovable improvements or alternations to or on the premises of the dwelling which he or she occupies: Provided that if the said return is not used accordingly, the provisions of regulation 75 (2) shall be applicable.

(bb) gedeel deur die betrokke getal persone om die leningsbedrag vir elke persoon te bepaal,

en watter erkende leningsbedrag ook al die kleinste is, is die bedrag wat vir toelaedoeleindes gebruik word.

(iii) Die toelae word vir die gewone toelaetermyn betaal, behoudens die bepalings van regulasie 77.

(iv) Wanneer die woning verkoop word, word die bruto opbrengs verdeel volgens die verhouding soos gebruik in paragraaf (a) (i) of (ii) ten einde in elke geval die bruto opbrengs en voorts die bruikbare netto opbrengs te bepaal vir doeleindes van die toepassing van regulasie 75.

(b) Die totaal van die maandelikse toelaes betaalbaar in die geval van opvoeders soos bedoel in paragraaf (a) (i), of in die geval van opvoeders en die ander persone bedoel in paragraaf (a) (ii), mag nie meer wees as die bedrag wat betaalbaar sou wees indien die woning op slegs een persoon se naam geregistreer was nie.

(2) (a) Geen toelae is betaalbaar wanneer 'n opvoeder 'n woonhuis bewoon wat op naam van 'n maatskappy, vennootskap of trust geregistreer is nie.

(b) Wanneer 'n woning wat op naam van 'n afgestorwe eggenoot geregistreer was, in laasgenoemde se boedel of in trust gehou word en dit uit die testamentêre bepalings duidelik is dat die weduwee wat as opvoeder in diens is, binnekort eienaarskap van die woning sal bekom (byvoorbeeld so gou as wat die boedel beredder is) en sy die maandelikse paaielemente ten opsigte van die verband op die betrokke woning handhaaf —

(i) word sy geag aan die eienaarskapvereistes te voldoen en moet 'n toelae aan haar betaal word indien sy aan al die ander vereistes voldoen; en

(ii) is die verstrykingsdatum van haar toelaetermyn die datum waarop die geregistreerde delgingstermyn waaraan die verbandlening onderworpe is, sal verstryk.

(3) Lenings wat nie aan die bepalings van regulasie 73 (9) voldoen nie, word nie vir toelaedoeleindes erken nie: Met dien verstande dat indien so 'n lening deur 'n erkende verband gedelg word, sodanige verband vir toelaedoeleindes erken kan word in die mate waarin die privaat lening gebruik is vir erkende doeleindes soos bedoel in regulasie 79 (1) (a).

(4) Regulasie 75 is *mutatis mutandis* van toepassing op 'n opvoeder wat sy of haar eiendom waarop 'n toelae aan hom of haar betaal word, verdeel en 'n deel daarvan verkoop op die grondslag dat daar van 'n opvoeder verwag word om 'n bedrag gelykstaande met die verskil tussen die volle koopsom van die verkoopte deel en die totale som van sy of haar verdeel- en verkoopkoste te betaal, asook enige bedrag van genoemde opbrengs wat deur hom of haar gebruik word vir nie-roerende verbeteringe of veranderinge aan of op die perseel van die woning wat hy of sy bewoon: Met dien verstande dat indien genoemde opbrengs nie dienooreenkomstig gebruik word nie, die bepalings van regulasie 75 (2) van toepassing is.

(5) (a) As mortgagees in general imposed interest on registered mortgages for the period from the date of registration of the mortgage loan to the date before that on which the first obligatory capital and interest redemption (instalment) is payable, an educator who complies with the occupancy requirement as referred to in regulation 73 (7) during the period that interest is imposed, may be paid an allowance on the interest paid directly by an educator to his or her mortgagee, in respect of the true period that interest was imposed or 30 days, whichever is the shorter period.

(b) The allowance that is payable in accordance with the paragraph (a), is calculated as follows:

$$A \times \frac{B}{30} = \text{allowance on interest,}$$

where—

- A represents the allowance that is payable in accordance with regulation 73 in respect of the recognised loan amount of the educator concerned; and
- B represents the true number of days (maximum 30) in respect of which interest was imposed.

(c) The provision in paragraph (a) shall only be applicable to the first or main mortgage loan on a dwelling, and an allowance is therefore not payable on the interim interest of a second or further mortgage loan on the dwelling that an educator occupies.

(6) If an educator divorces his or her spouse and as a result thereof the dwelling in respect of which he or she or his or her spouse previously for any period of time received an allowance (or subsidy) on the basis set out in these regulations or on a similar basis on the grounds of his or her or his or her spouse's service in the Public Service, the Department of Posts and Telecommunications, a provincial administration or with a council, institution or body established by or under a legal provision as meant in section 15 (1) of the Public Service Act, 1994—

(a) is sold so that the proceeds can be awarded to his or her spouse or that the proceeds can be divided between himself or herself and his or her spouse, his or her case should be dealt with in terms of the provisions of regulation 75 and for such purpose only 50% of the net proceeds from the sale of the dwelling as contemplated in the said regulation shall be taken into account if he or she obtains a further dwelling and applies for an allowance;

(b) is granted to his or her spouse (where, for example, the dwelling is transferred in his or her spouse's name or usufruct is granted to her or him), his or her case should be dealt with in terms of the provisions of regulation 75 as if he or she had sold the dwelling and for such purpose and in order to determine the net proceeds and realistic valuation of the dwelling's market value at the time that it is awarded to the spouse must be obtained: Provided that only 50% of the net proceeds as contemplated in the said regulation shall be taken into account when he or she obtains a further dwelling and applies for an allowance; or

(5) (a) Aangesien verbandhouders oor die algemeen rente op geregistreerde verbandlenings hef vir die tydperk vanaf die registrasiedatum van die verbandlening tot op die datum voor dié waarop die eerste verpligte kapitaal- en rentedelging (paalement) betaalbaar is, kan daar aan 'n opvoeder wat gedurende die tydperk waartydens rente gehef word, aan die bewoningsvereiste bedoel in regulasie 73 (7) voldoen, 'n toelae op die rente wat regstreeks deur 'n opvoeder aan sy of haar verbandhouer betaal is, betaal kan word ten opsigte van die ware tydperk waartydens rente gehef is, of 30 dae, watter tydperk ook al die kortste is.

(b) Die toelae wat ooreenkomstig paragraaf (a) betaalbaar is, word soos volg bereken:

$$A \times \frac{B}{30} = \text{toelae op rente,}$$

waar—

- A die toelae voorstel wat ooreenkomstig regulasie 73 ten opsigte van die betrokke opvoeder se erkende leningsbedrag betaalbaar is; en
- B die ware getal dae (maksimum 30) voorstel ten opsigte waarvan rente gehef is.

(c) Die bepaling in subregulasie (a) is van toepassing slegs op die eerste of hoofverbandlening op 'n woning, en 'n toelae is daarom nie betaalbaar op die tussentydse rente van 'n tweede of verdere verbandlening op die woning wat deur 'n opvoeder bewoon word nie.

(6) Indien 'n opvoeder van sy of haar gade skei en die woning ten opsigte waarvan hy of sy of sy of haar gade voorheen vir enige tydperk 'n toelae (of subsidie) ontvang het op die grondslag uiteengesit in hierdie regulasie of op 'n soortgelyke grondslag op grond van sy of haar of sy of haar gade se diens in die Staatsdiens, die Departement van Pos- en Telekommunikasiewese, 'n provinsiale administrasie of by 'n raad instelling of liggaam ingestel by of kragtens 'n wetsbepaling soos bedoel in artikel 15 (1) van die Staatsdienswet, 1994, as gevolg daarvan—

(a) verkoop word sodat die opbrengs aan sy of haar gade toegeken kan word of sodat die opbrengs tussen hom of haar en sy of haar gade verdeel kan word, moet daar ingevolge die bepaling van regulasie 75 met sy of haar saak gehandel word, en vir sodanige doel word slegs 50% van die netto opbrengs uit die verkoop van die woning soos bedoel in genoemde regulasie in ag geneem indien hy of sy 'n verdere woning bekom en om 'n toelae aansoek doen;

(b) aan sy of haar gade toegeken word (waar, byvoorbeeld, die woning oorgedra word op sy of haar gade se naam of vruggebruik aan hom of haar toegeken word), moet daar ingevolge die bepaling van regulasie 75 met sy of haar saak gehandel word asof hy of sy die woning verkoop het, en vir sodanige doel en ten einde die netto opbrengs te bepaal, moet 'n realistiese evaluering van die woning se markwaarde ten tyde van die toekenning aan die gade bekom word: Met dien verstande dat slegs 50% van die netto opbrengs soos bedoel in genoemde regulasie in ag geneem word wanneer hy of sy 'n verdere woning bekom en om 'n toelae aansoek doen; of

(c) is retained by him or her but is encumbered by further debt by obtaining a higher or further registered mortgage loan to reimburse his or her spouse for her or his part in the joint estate, his or her case is to be dealt with in terms of the provisions of regulation 75 as if he or she had sold the dwelling and bought another one and for such purpose and in order to determine the net proceeds, a realistic valuation of the dwelling's market value at the time of his or her divorce, must be obtained: Provided that an allowance based on an amount of not more than 50% of the net proceeds may be paid on the higher or further mortgage loan.

Service bonus

88. (1) (a) A non-pensionable service bonus is payable to educators in terms of this regulation.

(b) An educator who does not qualify for leave is excluded from the provisions of this regulation.

(2) (a) The date of payment of the service bonus referred to in subregulation (3) is the date on which an educator's salary is paid in the month in which his or her birthday falls: Provided that in the case of an educator whose birthday falls during any of the months of January, February or March, his or her service bonus is paid in April.

(b) An educator whose services terminate for any reason with effect from the day following his or her service bonus pay date, nevertheless qualifies for the service bonus: Provided that a service bonus is not payable to an educator whose services terminate with effect from his or her service bonus pay date or any earlier date, for whatever reason, with the exception of an educator contemplated in subregulation (5).

(3) The service bonus is calculated as follows:

Amount of the service bonus

$$= \frac{A}{365} \times B - \frac{C}{365} \times B + \frac{D}{E} \times \frac{B}{365}$$

where —

A represents the following service period (in days and not more than 365 days), as the case may be:

- ▶ The service period of 12 months ending on the last day of the month that precedes the month in which the service bonus pay date for the educator concerned falls; or
- ▶ the period which elapsed from the date of the (latest) appointment of the educator concerned up to the last day of the month preceding the month in which his or her service bonus pay date falls, if he or she had not been employed for the full period of 12 months as mentioned above;

(c) deur hom of haar behou word maar met verdere skuld beswaar word deur 'n hoër of verdere geregistreerde verbandlening te bekom om sy of haar gade vir sy of haar deel in die gesamentlike boedel te vergoed, moet daar met sy of haar saak ingevolge die bepalings van regulasie 75 gehandel word asof hy of sy die woning verkoop het en 'n ander een gekoop het, en vir sodanige doel en ten einde die netto opbrengs te bepaal, moet 'n realistiese evaluering van die woning se markwaarde ten tyde van sy of haar egskeiding bekom word: Met dien verstande dat 'n toelae gebaseer op 'n bedrag van hoogstens 50% van die netto opbrengs betaal kan word op die hoër of verdere verbandlening.

Diensbonus

88. (1) (a) 'n Nie-pensioendraende diensbonus is ingevolge hierdie regulasie aan opvoeders betaalbaar.

(b) 'n Opvoeder wat nie vir verlof kwalifiseer nie, word van die bepalings van hierdie regulasie uitgesluit.

(2) (a) Die datum van betaling van die diensbonus bedoel in subregulasie (3), is die datum waarop 'n opvoeder se besoldiging betaal word in die maand waarin sy of haar verjaardag val: Met dien verstande dat in die geval waar 'n opvoeder se verjaardag in enige van die maande Januarie, Februarie of Maart val, sy of haar diensbonus in April betaal word.

(b) 'n Opvoeder wie se dienste om welke rede ook al eindig met ingang van die dag wat volg op sy of haar diensbonusbetaaldatum, kwalifiseer nietemin vir die diensbonus: Met dien verstande dat 'n diensbonus nie betaalbaar is aan 'n opvoeder wie se diens om welke rede ook al met ingang van sy of haar diensbonusbetaaldatum of enige vroeër datum eindig nie, met uitsondering van 'n opvoeder bedoel in subregulasie (5).

(3) Die diensbonus word soos volg bereken:

Bedrag van die diensbonus

$$= \frac{A}{365} \times B - \frac{C}{365} \times B + \frac{D}{E} \times \frac{B}{365}$$

waar —

A die volgende dienstydpark (in dae en hoogstens 365 dae), na gelang van die geval, verteenwoordig:

- ▶ Die dienstydpark van 12 maande wat op die laaste dag van die maand eindig wat die maand waarin die diensbonusbetaaldatum vir die betrokke opvoeder val, voorafgaan; of
- ▶ die tydperk wat verstryk het vanaf die datum van die (laaste) aanstelling van die betrokke opvoeder tot die laaste dag van die maand wat die maand waarin sy of haar diensbonusbetaaldatum val, voorafgaan, indien hy of sy nie in diens was vir die volle tydperk van 12 maande soos bo genoem nie;

B represents the following amount, namely:

- ▶ 93% of the full gross basic salary (excluding any allowance, irrespective of whether it is pensionable or not) of the educator for the month in which his or her service bonus pay date falls, if he or she is a member of a pension fund or is not yet a member because he or she has not yet completed the qualifying service period for membership; or
- ▶ the full gross basic salary (excluding any allowance, irrespective of whether it is pensionable or not) of the educator for the month in which his or her service bonus pay date falls if he or she does not qualify for membership of a pension fund, for example an employee employed under a contract that makes provision for payment of a benefit on expiring of such contract;

C represents the number of days, if any, in respect of which the person concerned, during the appropriate period represented by factor A above, received no salary as a result of—

- ▶ vacation and/or special leave without salary granted to him or her; and/or
- ▶ unauthorised absences from service recorded as vacation leave without salary; and/or
- ▶ his or her having been suspended from his or her duties without remuneration, according to the Act in terms of which he or she was appointed; and/or
- ▶ payment of his or her salary having been entirely suspended on the grounds of an offence which he or she committed while carrying out military service; and

D represents the number of working hours, if any, in respect of which the person concerned during the appropriate period represented by factor A above, received no salary as a result of unauthorised absences from duty which is recorded as *pro rata* vacation leave without salary; and

E represents the minimum number of working hours which the educator concerned must work per day.

(4) (a) In respect of each educator to whom a service bonus is payable based on an amount of 93% of his full gross basic salary, a calculation shall be made according to the following formula, even if the reduction part of the formula referred to in subregulation (3) has the effect that no service bonus is payable to the educator:

$$28\% \times \frac{A}{365} \times B = \text{amount,}$$

B die volgende bedrag verteenwoordig, naamlik:

- ▶ 93% van die volle bruto basiese besoldiging (uitgesonderd enige toelae, ongeag of dit pensioendraend is of nie) van die opvoeder vir die maand waarin sy of haar diensbonusbetaaldatum val, indien hy of sy 'n lid van 'n pensioenfonds is, of nog nie 'n lid is nie omdat hy of sy nog nie die kwalifiserende dienstdyperk vir lidmaatskap voltooi het nie; of
- ▶ die volle bruto basiese besoldiging (uitgesonderd enige toelae, ongeag of dit pensioendraend is of nie) van die opvoeder vir die maand waarin sy of haar diensbonusbetaaldatum val, indien hy of sy nie vir lidmaatskap van 'n pensioenfonds kwalifiseer nie, byvoorbeeld 'n werknemer wat in diens geneem is ingevolge 'n kontrak wat voorsiening maak vir betaling van 'n voordeel by verstryking van sodanige kontrak;

C die aantal dae, as daar is, verteenwoordig ten opsigte waarvan die betrokke persoon tydens die toepaslike tydperk verteenwoordig deur faktor A hierbo, geen besoldiging ontvang het nie as gevolg van—

- ▶ vakansieverlof en/of spesiale verlof sonder besoldiging toegestaan aan hom of haar; en/of
- ▶ ongemagtigde afwesigheid van diens, aangeteken as vakansieverlof sonder besoldiging; en/of
- ▶ die feit dat hy of sy sonder besoldiging uit diens geskors is ingevolge die wet waarkragtens hy of sy aangestel is; en/of
- ▶ die feit dat sy of haar besoldiging geheel en al opgeskort is op grond van 'n oortreding wat hy of sy tydens die verrigting van militêre diens begaan het; en

D die aantal werkure, as daar is, verteenwoordig ten opsigte waarvan die betrokke persoon tydens die toepaslike tydperk verteenwoordig deur faktor A hierbo, geen besoldiging ontvang het nie as gevolg van ongemagtigde afwesighede van diens wat aangeteken word as *pro rata*-vakansieverlof sonder besoldiging; en

E die minimum aantal werkure verteenwoordig wat die betrokke opvoeder per dag moet werk.

(4) (a) Ten opsigte van elke opvoeder aan wie 'n diensbonus betaalbaar is, *gebaseer* op 'n bedrag van 93% van sy volle bruto basiese besoldiging word 'n berekening volgens die volgende formule gemaak selfs as die verminderingsgedeelte van die formule bedoel in subregulasie (3) tot gevolg het dat geen diensbonus aan die opvoeder betaalbaar is nie:

$$28\% \times \frac{A}{365} \times B = \text{bedrag,}$$

where—

- A represents the same as factor A in the formula in subregulation (4); and
- B represents the full gross basic monthly salary of the officer or employee concerned for the month in which his or her service bonus pay date falls.

(b) The amounts calculated according to paragraph (a) in respect of all educators whose service bonus pay date falls in the same month should be added together and paid into the Civil Pension Stabilisation Account.

(5) A *pro rata* service bonus is payable when—

(a) the services of an educator is terminated for one of the reasons referred to in subregulation (6): Provided that he or she received a service bonus on his or her last service bonus pay date before his or her termination of service; or

(b) an educator dies.

(6) The reasons for termination of services contemplated in subregulation (5) (a) are the following:

(a) Retirement at reaching the voluntary or optional retirement age.

(b) Discharge of an educator—

(i) on account of continued ill-health without own default;

(ii) owing to the abolition of his or her post or reduction in or reorganisation or readjustment of departments or offices;

(iii) if, for reasons other than his or her own unfitness or incapacity, his or her discharge will promote efficiency or economy in the department or office in which he or she is employed, or will otherwise be in the interest of the Public Service; and

(iv) on account of unfitness for his or her duties or incapacity to carry them out efficiently (as opposed to misconduct).

(c) Termination of the services of an educator on or after attaining the age of 60 years, for any reason, including voluntary resignation, out excluding—

(i) voluntary resignation, in order to avoid discharge on account of misconduct or ill-health occasioned by own default;

(ii) discharge on account of misconduct or unsatisfactory service or ill-health occasioned by own default;

(iii) absconding;

(d) Termination of an educator's services, irrespective of whether the department terminates his or her service, or he or she resigns voluntarily, because his or her spouse is transferred by the department in which he or she is employed and there being no vacant post available to him or her in any department at his or her spouse's new station: Provided that, should there be a post available for him or her (in any department) at his or her spouse's new station, but he or she refuses to accept it, not service bonus shall be paid to him or her.

waar—

A dieselfde as faktor A in die formule in subregulasie (4) verteenwoordig; en

B die volle bruto basiese maandelikse besoldiging van die betrokke beampte of werknemer vir die maand waarin die betaaldatum van sy of haar diensbonus val, verteenwoordig.

(b) Die bedrae bereken volgens paragraaf (a) ten opsigte van alle opvoeders wie se diensbonusbetaaldatum in dieselfde maand val, moet bymekaar getel en in die Stabiliseringsrekening vir Siviele Pensioene inbetaal word.

(5) 'n *Pro rata*-diensbonus is betaalbaar wanneer—

(a) die dienste van 'n opvoeder beëindig word om een van die redes bedoel in subregulasie (6): Met dien verstande dat hy of sy voor sy of haar diensbeëindiging 'n diensbonus op die laaste betaaldatum van sy of haar diensbonus ontvang het; of

(b) 'n opvoeder sterf.

(6) Die redes vir diensbeëindiging in subregulasie (5) (a) bedoel, is die volgende:

(a) Aftrede met bereiking van die vrywillige of opsionele aftree-ouderdom.

(b) Ontslag van 'n opvoeder—

(i) as gevolg van voortdurende swak gesondheid sonder eie toedoen;

(ii) weens die afskaffing van sy of haar pos of die vermindering of reorganisasie of herindeling van departemente of kantore;

(iii) indien, om ander redes as sy of haar eie ongeskiktheid of onvermoë, sy of haar ontslag doeltreffendheid of besuiniging in die departement of kantoor waarin hy of sy werksaam is, sal bevorder of andersins in belang van die Staatsdiens is; en

(iv) as gevolg van ongeskiktheid vir sy of haar pligte of onvermoë om hulle doeltreffend uit te voer (in teenstelling met wangedrag).

(c) Beëindiging van 'n opvoeder se diens met of na bereiking van 60-jarige ouderdom, om welke rede ook al, met inbegrip van vrywillige bedanking, maar uitgesonderd—

(i) vrywillige bedanking om sodoende ontslag as gevolg van wangedrag of swak gesondheid deur eie toedoen veroorsaak, te vermy;

(ii) ontslag as gevolg van wangedrag of onbevredigende diens of swak gesondheid deur eie toedoen veroorsaak;

(iii) drosterij;

(d) Beëindiging van 'n opvoeder se diens, ongeag of die departement sy of haar dienste beëindig en of hy of sy vrywillig bedank omdat sy of haar gade deur die departement waar hy of sy in diens is, verplaas word en daar geen vakante pos in enige departement by sy of haar gade se nuwe standplaas is nie: Met dien verstande dat indien daar (in enige departement) 'n pos vir hom of haar by sy of haar gade se nuwe standplaas beskikbaar is maar hy of sy weier om dit te aanvaar, geen diensbonus aan hom of haar betaal mag word nie.

(7) The *pro rata* service bonus contemplated in subregulation (5) is calculated as follows:

Amount of *pro rata* service bonus

$$= \frac{A}{365} \times B - \frac{C}{365} \times B + \frac{D}{E} \times \frac{B}{365}$$

where—

- A represents the period (in days) extending from the first day of the month in which his or her last service bonus pay date fell (or from the date of appointment in the case of death if the deceased was not paid a service bonus previously), up to his or her last day of service;
- B represents the applicable amount indicated below—
 - ▶ 93% of the educator's full gross basic salary (excluding any allowance, irrespective of whether it is pensionable or not) in the month that his or her services terminate if he or she is a member of a pension fund or not yet a member because he or she has not yet completed the qualifying service period for membership; or
 - ▶ an educator's full gross basic salary (excluding any allowance, irrespective of whether it is pensionable or not) in the month that his or her services terminate if he or she does not qualify for membership of a pension fund;
- C represents the number of days, if any, in respect of which the person concerned, during the appropriate period represented by factor A above, received no salary as a result of—
 - ▶ vacation or special leave without salary granted to him or her; or
 - ▶ unauthorised absences from service recorded as vacation leave without pay; or
 - ▶ his or her having been suspended from his or her duties without remuneration according to the Act in terms of which he or she was appointed; or
 - ▶ payment of his or her salary having been entirely suspended on the grounds of an offence which he or she committed while carrying out military service; and
- D represents the number of working hours, if any, in respect of which the person concerned during the appropriate period represented by factor A above, received no salary as a result of unauthorised absences from duty which is recorded as *pro rata* vacation leave without salary; and
- E represents the minimum number of working hours which an educator concerned must work per day.

(7) Die *pro rata*-diensbonus in subregulasie (5) bedoel, word soos volg bereken:

Bedrag van *pro rata*-diensbonus

$$= \frac{A}{365} \times B - \frac{C}{365} \times B + \frac{D}{E} \times \frac{B}{365}$$

where—

- A die tydperk (in dae) verteenwoordig wat strek vanaf die eerste dag van die maand waarin sy of haar laaste diensbonusbetaaldatum val (of vanaf die datum van aanstelling in die geval van dood, indien daar nog nie voorheen 'n diensbonus aan die oorledene betaal is nie), tot en met sy of haar laaste dag van diens;
- B die toepaslike bedrag, soos onder aangedui, verteenwoordig—
 - ▶ 93% van die opvoeder se volle bruto basiese besoldiging (uitgesonderd enige toelae, ongeag of dit pensioendraend is of nie) in die maand waarin sy of haar diens eindig, indien hy of sy lid is van 'n pensioenfonds, of nog nie 'n lid is nie omdat hy of sy nog nie die kwalifiserende dienstydsperk vir lidmaatskap voltooi het nie; of
 - ▶ 'n opvoeder se volle bruto basiese besoldiging (uitgesonderd enige toelae, ongeag of dit pensioendraend is of nie) in die maand waarin sy of haar diens eindig, indien hy of sy nie vir lidmaatskap van 'n pensioenfonds kwalifiseer nie;
- C die aantal dae, as daar is, verteenwoordig ten opsigte waarvan die betrokke persoon tydens die toepaslike tydperk verteenwoordig deur faktor A, geen besoldiging ontvang het nie as gevolg van—
 - ▶ vakansie- of spesiale verlof sonder besoldiging aan hom of haar toegestaan; of
 - ▶ ongemagtigde afwesighede van diens aangeteken as vakansieverlof sonder besoldiging; of
 - ▶ die feit dat hy of sy sonder besoldiging uit diens geskors is ingevolge die wet waarkragtens hy of sy aangestel is; en/of
 - ▶ die feit dat sy of haar besoldiging geheel en al opgeskort is op grond van 'n oortreding wat hy of sy tydens die verrigting van militêre diens begaan het; en
- D die aantal werkure, as daar is, verteenwoordig ten opsigte waarvan die betrokke persoon wat tydens die toepaslike tydperk verteenwoordig deur faktor A hierbo, geen besoldiging ontvang het nie as gevolg van ongemagtigde afwesigheid van diens wat as *pro rata*-vakansieverlof sonder besoldiging aangeteken word; en
- E die minimum aantal werkure verteenwoordig wat die betrokke opvoeder per dag moet werk.

(8) A *pro rata* service bonus, calculated in accordance with the formula in subregulation (7) may be paid to an educator whose birthday falls in January, February or March, when his or her services terminate before his or her normal service bonus pay date in April as a result of his or her voluntary resignation, on condition that such person is still employed on the salary pay date of the month in which his or her birthday falls, in other words if an educator whose birthday is in February resigns with his or her last day of service 31 January, a *pro rata* service bonus may not be paid to him or her: if such an educator's services terminate on or after his or her normal salary pay date in February, he or she shall qualify for a *pro rata* service bonus on his or her last day of service.

(9) In respect of each educator to whom in terms of the provisions in subregulation (5) a *pro rata* service bonus is payable based on an amount of 93% of his or her full gross basic salary, a calculation shall be made according to the following formula, even if the reduction part of the formula contemplated in subregulation (7) has the effect that no *pro rata* service bonus is payable to the educator or employee:

$$28\% \times \frac{A}{365} \times B = \text{amount,}$$

where—

- A represents the same as factor A in the formula in subregulation (7);
- B represents the full gross basic salary of the educator concerned for the month in which his or her service bonus pay date falls.

(10) The amounts calculated according to subregulation (9) in respect of all educators whose *pro rata* service bonus pay date falls in the same month should be added together and paid into the Civil Pension Stabilisation Account.

(11) (a) When an educator dies, the *pro rata* service bonus contemplated in subregulation (5) (b) must be paid in respect of—

(i) marriages in terms of the Marriage Act, 1961—

(aa) to the surviving spouse; or

(bb) if there is no surviving spouse, in equal shares to, or for the benefit of, minor or major children (including a legally adopted child) of the deceased, who at the time of his or her death were fully dependent on him or her; or

(cc) if there is no surviving spouse or children, into his or her estate; and

(ii) customary marriages—

(aa) to the surviving spouse or in equal shares if there are more than one surviving spouse; or

(bb) if there is no surviving spouse, in equal shares to, or for the benefit of, minor or major children (including a legally adopted child) of the deceased, who at the time of his or her death were fully dependent on him or her; or

(8) 'n *pro rata*-diensbonus, bereken volgens die formule in subregulasie (7), kan betaal word aan 'n opvoeder wie se verjaardag in Januarie, Februarie of Maart val, wanneer sy of haar dienste as gevolg van sy of haar vrywillige bedanking eindig voor sy of haar normale diensbonusbetaaldatum in April, op voorwaarde dat sodanige persoon steeds in diens is op die salarisbetaaldatum van die maand waarin sy of haar verjaardag val, met ander woorde, indien 'n opvoeder wie se verjaardag in Februarie is, bedank met sy of haar laaste dag van diens 31 Januarie, mag 'n *pro rata*-diensbonus nie aan hom of haar betaal word nie; indien sodanige opvoeder se dienste op of na sy normale salarisbetaaldatum in Februarie eindig, kwalifiseer hy of sy op sy of haar laaste dag van diens vir 'n *pro rata*-diensbonus.

(9) Ten opsigte van elke opvoeder aan wie 'n *pro rata*-diensbonus ingevolge die bepalings in subregulasie (5) betaalbaar is, gebaseer op 'n bedrag van 93% van sy of haar volle bruto basiese besoldiging, word 'n berekening volgens die volgende formule gemaak, selfs indien die verminderingsgedeelte van die formule genoem in subregulasie (7), tot gevolg het dat geen *pro rata*-diensbonus aan die opvoeder of werknemer betaalbaar is nie:

$$28\% \times \frac{A}{365} \times B = \text{bedrag,}$$

waar—

- A dieselfde as faktor A in die formule in subregulasie (7) verteenwoordig; en
- B die volle bruto basiese besoldiging van die betrokke opvoeder verteenwoordig vir die maand waarin sy of haar diensbonusbetaaldatum val.

(10) Die bedrae bereken volgens subregulasie (9) ten opsigte van alle opvoeders wie se *pro rata*-diensbonusbetaaldatum in dieselfde maand val, moet bymekaar getel en in die Stabiliseringsrekening vir Siviele Pensioene inbetaal word.

(11) (a) Wanneer 'n opvoeder sterf, moet die *pro rata*-diensbonus bedoel in subregulasie (5) (b), betaal word ten opsigte van—

(i) huwelike ingevolge die Huwelikswet, 1961—

(aa) aan die oorlewende gade; of

(bb) indien daar geen oorlewende gade is nie, in gelyke dele aan, of tot voordeel van minder- of meerderjarige kinders (met inbegrip van 'n wettig aangenome kind) van die oorledene, wat ten tyde van sy of haar dood volkome van hom of haar afhanklik was; of

(cc) indien daar geen oorlewende gade of kinders is nie, in sy of haar boedel; en

(ii) gewoontehuwelike—

(aa) aan die oorlewende gade, of in gelyke dele indien daar meer as een oorlewende gade is; of

(bb) indien daar geen oorlewende gade is nie, in gelyke dele aan, of tot voordeel van, die oorledene se minder- of meerderjarige kinders (met inbegrip van 'n wettig aangenome kind) wat ten tyde van sy of haar dood volkome van hom of haar afhanklik was; of

(cc) if there is no surviving spouse or children, into his or her estate.

(b) When an educator's services terminate for any reason other than death, and he or she dies after his or her services have terminated but before a *pro rata* service bonus is paid to him or her, such *pro rata* service bonus should be paid into his or her estate, irrespective of whether or not he or she has left behind a surviving spouse or fully dependent children.

(c) The *pro rata* service bonus which on termination of services—

(i) is payable to an educator should be used as a set-off against any departmental debt which he or she may have, unless such debt can be fully recovered by other means, for example outstanding salary and allowances or pension moneys, or unless subparagraph (ii) applies; or

(ii) is payable to the surviving spouse or fully dependent children or into the estate of the deceased educator, shall not be used for the purposes mentioned in subparagraph (i).

(d) For purposes of factor A in the formula in subregulations (3) and (7) previous uninterrupted service in a temporary or permanent capacity, as well as previous service at an institution contemplated in Public Service Regulation C5.7, may be acknowledged for service bonus purposes, on condition that this paragraph is not applicable to an educator if he or she has received a *pro rata* service bonus at the end of any previous service period.

(e) The service bonus is not part of salary or an allowance or pensionable and should therefore not be taken into account—

(a) in the calculation of service or leave gratuities, additional compensation, allowances or any other service benefit or compensatory measure which in any way is based on salary; and

(b) in the classification of educators according to their salaries for purposes of the granting of any service benefit or compensatory measure, overtime remuneration, any allowance, rent for official quarters, etc.

Long service recognition

89. (1) The authority to approve that an award be made to an educator for long service recognition rests with the employer.

(2) Awards for long service recognition may, subject to this regulation, be made to educators appointed in a permanent capacity.

(3) An employer may make the following awards for long service recognition:

(a) A certificate and, if the educator so wishes, the discounting of a maximum of 10 days available vacation leave in cash after he or she has rendered 20 years of continuous and consistently satisfactory and devoted service.

(b) A certificate and a wrist-watch and, if the educator so wishes, the discounting of a maximum of 15 days available vacation leave in cash after he or she has rendered 30 years of continuous and consistently satisfactory and devoted service.

(cc) indien daar geen oorlewende gade of kinders is nie, in sy of haar boedel.

(b) Wanneer 'n opvoeder se diens om enige ander rede as die dood eindig, en hy of sy te sterwe kom nadat sy of haar diens geëindig het maar voor 'n *pro rata*-diensbonus aan hom of haar betaal word, moet sodanige *pro rata*-diensbonus in sy of haar boedel inbetaal word, ongeag of hy of sy 'n oorlewende gade of volkome afhanklike kinders agtergelaat het.

(c) Die *pro rata*-diensbonus, wat by dienseindiging—

(i) aan 'n opvoeder betaalbaar is, moet as verrekening gebruik word vir enige departementele skuld wat hy of sy mag hê, tensy sodanige skuld ten volle op ander maniere gedelg kan word, byvoorbeeld uitstaande besoldiging en toelaes of pensioengelde, of tensy subparagraaf (ii) van toepassing is; of

(ii) aan die oorlewende gade of volkome afhanklike kinders of in die boedel van die afgestorwe opvoeder betaalbaar is, moet nie vir die doeleindes genoem in subparagraaf (i) gebruik word nie.

(d) Vir doeleindes van faktor A in die formule in subregulasies (3) en (7) kan vorige ononderbroke diens in 'n tydelike of permanente hoedanigheid, asook vorige diens by 'n instelling bedoel in Staatsdiensregulasie C5.7, vir diensbonusdoeleindes erken word, op voorwaarde dat hierdie paragraaf nie op 'n opvoeder van toepassing is as hy of sy 'n *pro rata*-diensbonus aan die einde van enige vorige dienstydperk ontvang het nie.

(e) Die diensbonus is nie deel van 'n salaris of 'n toelae of pensioendraend nie, en moet daarom nie in ag geneem word—

(a) by die berekening van diens- of verlofgratifikasies, addisionele vergoeding, toelaes of enige ander diensvoordeel of vergoedingsmaatreël wat op enige wyse op salaris gebaseer is nie; en

(b) by die klassifikasie van opvoeders volgens hulle salarisse vir doeleindes van die toekenning van enige diensvoordeel of vergoedingsmaatreëls, oortydbesoldiging, enige toelaes, huurgeld vir amptelike kwartiere, ens. nie.

Langdienserkenning

89. (1) Die bevoegdheid om goed te keur dat 'n toekenning vir langdienserkenning aan 'n opvoeder gemaak word, berus by die werkgewer.

(2) Toekennings vir langdienserkenning kan, onderworpe aan hierdie regulasie, aan opvoeders wat in 'n permanente hoedanigheid aangestel is, gemaak word.

(3) 'n Werkgewer kan die volgende toekennings vir langdienserkenning maak:

(a) 'n Sertifikaat en, indien die opvoeder dit verlang, die verdiskontering van 'n maksimum van 10 dae beskikbare vakansieverlof in kontant nadat hy of sy 20 jaar ononderbroke en deurlopend bevredigende en toegewyde diens gelewer het.

(b) 'n Sertifikaat en 'n polshorlosie en, indien die opvoeder dit so verlang, die verdiskontering van 'n maksimum van 15 dae beskikbare vakansieverlof in kontant nadat hy of sy 30 jaar ononderbroke en deurlopend bevredigende en toegewyde diens gelewer het.

(4) (a) For purposes of the service requirement contemplated in subregulation (3), service in the Public Service contemplated in section 8 of the Public Service Act, 1994, may be acknowledged, as well as the following service on condition that there is no break in service during the transfer or appointment of the persons concerned:

- (i) In terms of a former provincial ordinance;
- (ii) rendered in terms of the—
 - Precious Stones Act, 1964 (Act No. 73 of 1964);
 - Water Act, 1956 (Act No. 54 of 1956); and
 - Development Trust and Land Act, 1936 (Act No. 18 of 1936);
- (iii) rendered in terms of any law as an educator;
- (iv) at a statutory institution in those cases where a function and the personnel therewith were transferred from the Public Service and the same personnel, with a "retransferring" of such function to the Public Service, is appointed again in the Public Service.

(b) An educator to whom a wrist-watch may be granted, may make a choice regarding the wrist-watch he or she wants and such choice is limited to the make and the model (and the distributors thereof).

(c) If an educator elects to discount the available vacation leave referred to in subregulation (3), the actual applicable salary notch of the educator concerned as on the date of qualification for the award shall be used to calculate the amount to be paid to him or her.

(d) If a blind educator qualifies for the award of a wrist-watch, he or she may be permitted to purchase a braille wrist-watch of his or her choice from the South African National Council for the Blind: Provided that the cost involved, which can be arranged by means of an advance to the educator concerned, is limited to the maximum amount of the usual wrist-watch which could be awarded to him or her in terms of paragraph (b).

(e) Wrist-watches may be awarded posthumously subject to the award being made to the surviving spouse only and the educator having already qualified for the award before his or her death.

Resettlement expenditure

90. (1) Upon the transfer, appointment or termination of service of an educator in terms of the Act or of his or her death, such an educator or his or her estate, whichever is applicable, shall be compensated by the employer for the reasonable resettlement expenditure actually and necessarily incurred as a result thereof within the framework of the provisions of this regulation and taking into account the following measures and guidelines:

- (a) The head of education, within the context of the provisions, determine policy regarding aspects such as maximum periods of compensation, limits

(4) (a) Vir die doel van die diensvereiste bedoel in subregulasie (3), kan diens in die Staatsdiens bedoel in artikel 8 van die Staatsdienswet, 1994, erken word, asook die volgende diens op voorwaarde dat daar geen onderbreking van diens is tydens die oorplasing of aanstelling van die betrokke persoon nie:

- (i) Ingevolge 'n vorige provinsiale ordonansie;
- (ii) gelewer ingevolge die—
 - Wet op Edelgesteentes, 1964 (Wet No. 73 van 1964);
 - Waterwet, 1956 (Wet No. 54 van 1956); en
 - Ontwikkelingstrust en Grond Wet, 1936 (Wet No. 18 van 1936);
- (iii) as 'n opvoeder gelewer ingevolge enige wet;
- (iv) by 'n statutêre instelling in gevalle waar 'n funksie en die personeel daarmee saam vanaf die Staatsdiens oorgeplaas is, en dieselfde personeel met 'n "heroorplasing" van sodanige funksie na die Staatsdiens weer in die Staatsdiens aangestel word.

(b) 'n Opvoeder aan wie 'n polshorlosie toegeken kan word, kan 'n keuse maak aangaande die polshorlosie wat hy of sy wil hê, en sodanige keuse word beperk tot die fabrikaat en die model (en die verspreiders daarvan).

(c) Indien 'n opvoeder verkies om die beskikbare vakansieverlof bedoel in subregulasie (3), te verdiskonteer, word die werklik toepaslike salariskerf van die betrokke opvoeder, soos op die datum van kwalifisering vir die toekenning, gebruik om die bedrag wat aan hom of haar betaal moet word, te bereken.

(d) Indien 'n blinde opvoeder vir die toekenning van 'n polshorlosie kwalifiseer, kan hy of sy toegelaat word om 'n braillepolshorlosie van sy of haar keuse van die Suid-Afrikaanse Nasionale Raad vir Blindes aan te koop: Met dien verstande dat die koste daaraan verbonde, wat deur middel van 'n voorskot aan die betrokke opvoeder gereël kan word, beperk word tot die maksimum bedrag van die gewone polshorlosie wat ingevolge paragraaf (b) aan hom of haar toegeken kan word.

(e) Polshorlosies kan postuum toegeken word, onderworpe daaraan dat die toekenning slegs aan die oorlewende gade toegeken word en dat die opvoeder reeds voor sy of haar afsterwe vir die toekenning gekwalifiseer het.

Hervestigingskoste

90. (1) By die oorplasing, aanstelling of beëindiging van diens van 'n opvoeder ingevolge die Wet, of by sy of haar dood, moet so 'n opvoeder of sy of haar boedel, na gelang van die geval, deur die werkgewer vir die redelike uitgawes wat as gevolg hiervan werklik en noodsaaklikerwys aangegaan is, vergoed word binne die raamwerk van die bepalings van hierdie regulasie en met inagneming van die volgende maatreëls en riglyne:

- (a) Die onderwyshoof bepaal, binne die konteks van die bepalings, beleid oor aspekte soos maksimum tydperke van vergoeding, uitgeweperke

of expenditure, restrictions in respect of the quantity and kind of personal effects, the number and brand of motor vehicles, classes of travel, means of transport, costs of property transfer and any other possible item of expenditure or facet of transfer costs which may come to the fore.

(b) In considering the implications in terms of costs, it must be seen to that effective competition takes place where services are rendered for the purpose of resettling an educator or employee and that all available alternatives are taken into consideration to ensure that the most suitable option is exercised under the circumstances.

(c) The status of the educator being resettled in terms of his or her rank and taking into account the particular circumstances and underlying reasons.

(d) The principle of fairness and reasonableness by the employer in the application of the relevant measures.

(e) The delegation of any of the powers vested in the Minister in terms of the provisions of this regulation, must be done taking into account the provisions of the Exchequer Act, 1975 (Act No. 66 of 1975).

(2) The following expenses shall be payable to an educator on transfer:

(a) The accommodation and transport expenditure of an educator and a member of his or her household arising from a visit beforehand to the new headquarters.

(b) The accommodation and transport expenditure of an educator and his or her household arising from the transfer to the new headquarters including the transport of personal effects from packing to the eventual unpacking thereof at permanent accommodation as well as the all-inclusive insurance cover thereof.

(c) The expense of storage of personal effects as well as the all-inclusive insurance thereof.

(d) The expense of interim accommodation at the old or new headquarters.

(e) The expense of customs duty, or other levies or fees arising from the transport of private motor vehicles across international borders.

(f) The transfer expense arising from the purchase of a dwelling or a building site and the erection of a building thereon which expenses shall include the costs of conveyance of the property, mortgage costs, expenses arising from the drafting of a contract and inspection fees: Provided that when transfer expenses are included in a mortgage loan, payment shall not be made to the educator personally, but directly to his or her mortgage loan account.

(g) A single amount as determined by the head of education for each child attending school as assistance towards the expenditure of school books, uniforms, sport outfits and other requirements: Provided that the amount shall be effective

beperkings ten opsigte van die hoeveelheid en aard van persoonlike besittings, die aantal en fabrikaat motorvoertuie, reisklasse, vervoermiddels, oordragkoste en enige ander moontlike uitgawe-item of faset van hervestigingskoste wat na vore mag kom.

(b) By oorweging van die koste-implikasies moet sorg gedra word dat effektiewe mededinging plaasvind waar dienste vir doeleindes van die hervestiging van 'n opvoeder of werknemer gelewer word, asook dat alle beskikbare alternatiewe in aanmerking geneem word ten einde die geskikste opsie in die omstandighede uit te oefen.

(c) Die rangstatus van die opvoeder wat hervestig word, en die inagneming van die besondere omstandighede en onderliggende oorweegredes.

(d) Die beginsel van billikheid en redelikheid van werkgewerskant by die toepassing van die betrokke maatreëls.

(e) Die delegering van enige van die bevoegdhede wat kragtens die bepalings van hierdie regulasie aan die Minister verleen word, moet met inagneming van die bepalings van die Skatkiswet, 1975 (Wet No. 66 van 1975), gedoen word.

(2) Die volgende uitgawes is by oorplasing aan 'n opvoeder betaalbaar:

(a) Die opvoeder en 'n lid van sy of haar huishouding se reis- en verblyfuitgawes voortspruitend uit 'n besoek vooraf aan die nuwe hoofkwartier;

(b) die opvoeder en sy of haar huishouding se reis- en verblyfuitgawes voortspruitend uit die oorplasing na die nuwe hoofkwartier, met inbegrip van die vervoer van persoonlike besittings, vanaf die verpakking daarvan tot by die uiteindelijke uitpak daarvan by permanente huisvesting, asook die allesomvattende versekeringsdekking daarvan;

(c) die koste van die opberging van persoonlike besittings, asook die allesomvattende versekeringsdekking daarvan;

(d) die koste van tussentydse akkommodasie by die vorige of die nuwe hoofkwartier;

(e) die koste van doeaneregte, of ander heffings of gelde voortspruitend uit die vervoer van privaat motorvoertuie oor internasionale grense heen;

(f) die oordragkoste voortspruitend uit die aankoop van 'n woning of 'n bouverseel en die oprigting van 'n gebou daarop, welke koste insluit die oordrag, verbandkoste, koste vir die opstel van 'n kontrak, en inspeksiegelde: Met dien verstande dat wanneer oordragkoste by die verbandlening ingesluit word, die betaling nie aan die opvoeder self gemaak word nie, maar regstreeks in sy of haar verbandleningsrekening;

(g) 'n eenmalige bedrag soos deur die onderwyshoof bepaal vir elke skoolgaande kind as hulpverlening met die bestryding van uitgawes aan skoolboeke en skooluniforms, sportuitrusting en ander benodighede: Met dien verstande dat die

from a date determined by the Minister and shall be revised quarterly on 1 January, 1 April, 1 July and 1 October, respectively, on the grounds of price increases as reflected in the Central Statistical Service's Consumer Price Index for Clothing and footwear for the first month of the previous quarter, rounded-off for the nearest higher full rand.

(h) A single amount to meet incidental expenses arising from resettlement, other than those for which specific provision is made in this regulation on the following basis:

(i) If furnished accommodation is occupied permanently an amount equal to 35% of an educator's basic monthly pensionable salary as on the date of resettlement.

(ii) If unfurnished accommodation is occupied permanently an amount equal to 50% of a single educator's basic monthly pensionable salary as at the date of resettlement, or an amount equal to the basic monthly pensionable salary of an educator with dependents as on the date of resettlement.

(iii) An amount equal to 35% of the monthly norm station allowance in the local monetary unit as on the date of resettlement in the case of an educator who is transferred to a foreign country:

Provided that if the amount referred to in subparagraph (i) or (ii) is less than an amount calculated in accordance with the applicable percentage referred to in the said paragraphs and based on the monthly pensionable salary equal to the minimum notch for the standard salary scale of a Senior Provisioning Administration Officer in the Public Service, the applicable amount based on the last mentioned basis must be paid: Provided further that the amount referred to in subparagraphs (i) and (ii) shall not exceed an amount based on the basic monthly pensionable salary of a Director: Education.

(i) The home owner allowance in respect of a dwelling at the previous headquarters may be continued with if the Member of the Executive Council so determine.

(j) The travelling expenses incurred by an educator's school attending children who remain at the old headquarters for a period not exceeding a school year: Provided that such expenditure shall be limited to the most economical means of travel to and from the new headquarters at the beginning and end of school holidays and at the end of the school year.

bedrag met ingang van 'n datum deur die Minister bepaal van toepassing is en kwartaalliks op onderskeidelik 1 Januarie, 1 April, 1 Julie en 1 Oktober hersien word op grond van prysstygings soos weerspieël in die Sentrale Statistiekdiens se Verbruikersprysindeks vir Klerasie en Skoeisel vir die eerste maand van die voorafgaande kwartaal, afgerond tot die naashoër volle rand;

(h) 'n eenmalige bedrag as hulpverlening met die bestryding van diverse uitgawes voortspruitend uit hervestiging, buiten dié waar in hierdie regulasie spesifiek voorsiening gemaak word, op die volgende grondslag:

(i) Indien gemeubileerde huisvesting permanent betrek word, 'n bedrag gelyk aan 35% van 'n opvoeder se basiese maandelikse pensioendraende besoldiging soos op die datum van hervestiging;

(ii) indien ongemeubileerde huisvesting permanent betrek word, 'n bedrag gelyk aan 50% van 'n enkelopende opvoeder se basiese maandelikse pensioendraende besoldiging soos op die datum van hervestiging, of 'n bedrag gelyk aan die basiese maandelikse pensioendraende besoldiging van 'n opvoeder met afhanklikes, soos op die datum van hervestiging; of

(iii) 'n bedrag gelyk aan 35% van die maandelikse normstandplaastoelae in die plaaslike geld-eenheid soos op die datum van hervestiging in die geval van 'n opvoeder wat na die buiteland oorgeplaas word:

Met dien verstande dat indien die bedrag in subparagraaf (i) of (ii) bedoel, minder is as 'n bedrag bereken ooreenkomstig die toepaslike persentasiegrondslag bedoel in gemelde paragrawe, en gebaseer op die maandelikse pensioendraende besoldiging gelyk aan die minimum kerf van die standaardsalarisskaal van 'n Senior Voorsieningsadministrasiebeampte in die Staatsdiens, die toepaslike bedrag wat op laas-gemelde grondslag bereken is, betaal moet word: Met dien verstande voorts dat die bedrag bedoel in subparagraaf (i) en (ii), nie meer mag wees nie as 'n bedrag gebaseer op die basiese maandelikse pensioendraende besoldiging van 'n Direkteur in die omskrewe bestuurskader van die Staatsdiens;

(i) die huiseienaarstoelae ten opsigte van 'n woning by die vorige hoofkwartier kan voortgesit word indien die Lid van die Uitvoerende Raad so bepaal; en

(j) die reisuigawes wat aangegaan is deur 'n opvoeder se skoolgaande kinders wat vir 'n tydperk van hoogstens een skooljaar by die vorige hoofkwartier agterbly: Met dien verstande dat, aan die begin en einde van skoolvakansies en aan die einde van die skooljaar, sodanige uitgawes beperk word tot die mees ekonomiese manier van vervoer na en van die nuwe hoofkwartier.

(3) (a) The travelling as well as transport expenses, insurance costs and storage costs for not longer than one month, of the personal effects of a candidate and his or her household who, on appointment in terms of the Act, necessarily has to relocate may be compensated on the same basis as that provided for in subregulation (2).

(b) Persons referred to in paragraph (a) shall be bound contractually in writing to be in the service of the employer concerned for a period of not less than 12 months.

(4) The accommodation and transport expenditure of an educator and his household who is expected to do parliamentary duty, at the beginning and end of a parliamentary session as well as the conveyance to and from Cape Town of essential personal effects and the all-inclusive insurance cover thereof may be compensated on the basis determined by the Minister.

(5) (a) The expenses provided for in subregulation (2) (b) (c) (d) and (e), arising from moving from an existing place of residence to a place where an educator (excluding an educator who was recruited abroad) and his or her household wishes to settle in the Republic on termination of service, may be paid *mutatis mutandis* to such educator, or his or her household in the case of his or her death on the basis, conditions and requirements which the employer may determine.

(b) The expenses provided for in subregulation (2) (b) may be paid *mutatis mutandis* on termination of service to an educator who was recruited abroad or his or her household in the case of his or her death, from his or her existing place of residence back to the place where initially recruited.

(6) If an educator dies whilst on official duty away from his or her headquarters or whilst stationed abroad, including a member of his or her family who accompanies him or her officially, expenses arising therefrom (excluding funeral costs), shall be paid.

Repeal of regulations and savings

91. (1) Subject to the provisions of subregulation (2) the Regulations listed in Annexure A are hereby repealed.

(2) Anything done or deemed to have been done in terms of the provisions of the Regulations repealed by subregulation (1) and which may or shall be done in terms of these Regulations, shall be deemed to have been done in terms of the corresponding provision of these Regulations.

ANNEXURE A

1. Regulations promulgated under the Education Affairs Act (House of Assembly), 1988 (Act No. 70 of 1988), as contained in:

Government Notice No.	Dated	Extent of repeal
R. 693.....	30 March 1990.....	The whole
R. 290.....	24 January 1992.....	The whole

(3) (a) Aan 'n persoon en sy of haar huishouding wat by aanstelling ingevolge die Wet noodsaaklikerwys moet verhuis, kan die uitgawes aan reise, asook die vervoer-, versekerings- en opbergingskoste vir hoogstens een maand van sy of haar persoonlike besittings, op dieselfde grondslag as in subregulasie (2) voorsien, vergoed word.

(b) Persone bedoel in paragraaf (a), word skriftelik kontraktueel gebind om in diens van die betrokke werkgewer te wees vir 'n tydperk van nie minder nie as 12 maande.

(4) 'n Opvoeder en sy huishouding van wie se reis- en verblyfuitgawes verwag word om parlementêre diens te doen, aan die begin en einde van 'n Parlementsitting, asook die vervoer na en van Kaapstad van noodsaaklike persoonlike besittings en die allesomvattende versekeringsdekking daarvan, kan vergoed word op die grondslag wat die Minister bepaal.

(5) (a) Die uitgawes waarvoor daar in subregulasie (2) (b), (c), (d) en (e) voorsiening gemaak word en wat voortvloei uit die verhuising vanaf 'n bestaande woonplek na 'n plek in die Republiek waar 'n opvoeder (uitgesonderd 'n opvoeder wat in die buiteland gewerf is) en sy of haar huishouding begerig is om by dienseindiging te woon, kan *mutatis mutandis* aan sodanige opvoeder, of aan sy of haar huishouding indien hy of sy te sterwe kom, betaal word op die grondslae, voorwaardes en vereistes wat die werkgewer bepaal.

(b) Die uitgawes waarvoor in subregulasie (2) (b) voorsiening gemaak word, kan *mutatis mutandis* by dienseindiging aan 'n opvoeder betaal word wat in die buiteland gewerf is, of aan sy of haar huishouding indien hy of sy te sterwe kom, vanaf sy of haar bestaande woonplek terug na die plek van aanvanklike werwing.

(6) Indien 'n opvoeder wat met amptelike diens weg van sy of haar hoofkwartier of in die buiteland gestasioneer is, te sterwe kom, met inbegrip van 'n lid van sy of haar gesin wat hom of haar amptelik vergesel, moet uitgawes voortspruitend daaruit (uitgesonderd begrafniskoste) betaal word.

Herroeping van regulasies, en voorbehoudsbepalings

91. (1) Behoudens die bepalinge van subregulasie (2) word die Regulasies wat in Aanhangsel A gelys word, hierby herroep.

(2) Enigiets wat gedoen is of geag word gedoen te wees ingevolge die bepalinge van die regulasies herroep by subregulasie (1), en wat ingevolge hierdie regulasies gedoen kan of moet word, word geag gedoen te wees ingevolge die ooreenstemmende bepaling van hierdie regulasies.

AANHANGSEL A

1. Regulasies uitgevaardig kragtens die Wet op Onderwysaangeleenthede (Volksraad), 1988 (Wet No. 70 van 1988), soos vervat in:

Goewermentsken-nisgewing No.	Gedateer	Omvang van herroeping
R. 693.....	30 Maart 1990	In geheel
R. 290.....	24 Januarie 1992	In geheel

Government Notice No.	Dated	Extent of repeal
R. 972.....	3 April 1992	The whole
R. 1871	10 July 1992	The whole
R. 2253.....	26 November 1992	The whole
R. 695.....	30 March 1990.....	The whole
R. 292.....	24 January 1992.....	The whole
R. 1872.....	10 July 1992	The whole
R. 3396.....	24 December 1992	The whole
R. 2255.....	26 November 1992	The whole

2. Regulations promulgated under the Indians Education Act, 1965 (Act No. 61 of 1965), as contained in:

Government Notice No.	Dated	Extent of repeal
R. 1288.....	26 August 1966	The whole
R. 911	30 May 1974	The whole
R. 2260.....	22 October 1982.....	The whole
R. 1563.....	5 July 1991	The whole
R. 2501	25 October 1991	The whole
R. 2584.....	11 September 1992	The whole

3. Regulations promulgated under the Education and Training Act, 1979 (Act No. 90 of 1979), as contained in:

Government Notice No.	Dated	Extent of repeal
R. 1099.....	2 July 1993	The whole
R. 493.....	18 March 1994.....	The whole

4. Regulations promulgated under the Coloured Persons Education Act, 1963 (Act No. 47 of 1963), as contained in:

Government Notice No.	Dated	Extent of repeal
R. 1898.....	21 November 1963	Chapter B
R. 675.....	11 April 1975	The whole
R. 675.....	5 April 1984	The whole
R. 7.....	3 January 1986.....	The whole
R. 1611.....	12 July 1991	The whole

Goewermentskennisgewing No.	Gedateer	Omvang van herroeping
R. 972.....	3 April 1992	In geheel
R. 1871	10 Julie 1992	In geheel
R. 2253.....	26 November 1992	In geheel
R. 695.....	30 Maart 1990	In geheel
R. 292.....	24 Januarie 1992.....	In geheel
R. 1872.....	10 Julie 1992	In geheel
R. 3396.....	24 Desember 1992	In geheel
R. 2255.....	26 November 1992	In geheel

2. Regulasies uitgevaardig kragtens die Wet op Onderwys vir Indiërs, 1965 (Wet No. 61 van 1965), soos vervat in:

Goewermentskennisgewing No.	Gedateer	Omvang van herroeping
R. 1288.....	26 Augustus 1966.....	In geheel
R. 911	30 Mei 1974	In geheel
R. 2260.....	22 Oktober 1982.....	In geheel
R. 1563.....	5 Julie 1991	In geheel
R. 2501	25 Oktober 1991	In geheel
R. 2584.....	11 September 1992	In geheel

3. Regulasies uitgevaardig kragtens die Wet op Onderwys en Opleiding, 1979 (Wet No. 90 van 1979), soos vervat in:

Goewermentskennisgewing No.	Gedateer	Omvang van herroeping
R. 1099.....	2 Julie 1993	In geheel
R. 493.....	18 Maart 1994	In geheel

4. Regulasies uitgevaardig kragtens die Wet op Onderwys vir Kleurlinge, 1963 (Wet No. 47 van 1963), soos vervat in:

Goewermentskennisgewing No.	Gedateer	Omvang van herroeping
R. 1898.....	21 November 1963	Hoofstuk B
R. 675.....	11 April 1975	In geheel
R. 675.....	5 April 1984	In geheel
R. 7.....	3 Januarie 1986.....	In geheel
R. 1611.....	12 Julie 1991	In geheel

Government Notice No.	Dated	Extent of repeal
R. 3178.....	20 November 1992	Regulations 3, 4 and 5
R. 350.....	5 March 1993.....	The whole
R. 826.....	14 May 1993.....	The whole

5. Regulations promulgated under the Technical Colleges Act, 1981 (Act No. 104 of 1981), as contained in:

Government Notice No.	Dated	Extent of repeal
R. 901.....	26 April 1991	The whole
R. 1873.....	10 July 1992	The whole
R. 2257.....	26 November 1993	The whole

6. Regulations promulgated under the Education Ordinance, 1953 (Ordinance No. 29 of 1953) (Transvaal), in so far as it relates to conditions of service of educators at colleges of education and as contained in:

Administrator's Notice No.	Dated
1053.....	23 December 1953
211.....	16 March 1960
219.....	28 March 1962
594.....	5 September 1962
888.....	2 December 1964
214.....	23 March 1966
609.....	19 July 1967
624.....	19 July 1967
625.....	19 July 1967
962.....	18 September 1968
348.....	2 April 1969
687.....	25 June 1969
1028.....	17 September 1969
470.....	29 April 1970
1355.....	18 November 1970
469.....	14 April 1971
1359.....	9 August 1972
2154.....	6 December 1972
7.....	3 January 1973

Goewermentskennisgewing No.	Gedateer	Omvang van herroeping
R. 3178.....	20 November 1992	Regulasies 3, 4 en 5
R. 350.....	5 Maart 1993	In geheel
R. 826.....	14 Mei 1993.....	In geheel

5. Regulasies uitgevaardig kragtens die Wet op Tegniese Kolleges, 1981 (Wet No. 104 van 1981), soos vervat in:

Goewermentskennisgewing No.	Gedateer	Omvang van herroeping
R. 901.....	26 April 1991	In geheel
R. 1873.....	10 Julie 1992	In geheel
R. 2257.....	26 November 1993	In geheel

6. Regulasies uitgevaardig kragtens die Onderwys-ordonnansie, 1953 (Ordonnansie No. 29 van 1953) (Transvaal), in soverre dit verband hou met diensvoorwaardes van opvoeders by onderwyskolleges, en soos vervat in:

Administrateurskennisgewing No.	Gedateer
1053.....	23 Desember 1953
211.....	16 Maart 1960
219.....	28 Maart 1962
594.....	5 September 1962
888.....	2 Desember 1964
214.....	23 Maart 1966
609.....	19 Julie 1967
624.....	19 Julie 1967
625.....	19 Julie 1967
962.....	18 September 1968
348.....	2 April 1969
687.....	25 Junie 1969
1028.....	17 September 1969
470.....	29 April 1970
1355.....	18 November 1970
469.....	14 April 1971
1359.....	9 Augustus 1972
2154.....	6 Desember 1972
7.....	3 Januarie 1973

Administrator's Notice No.	Dated
534.....	3 April 1974
1054.....	25 August 1976
490.....	20 April 1977
629.....	20 June 1979

Government Notice No.	Dated
R. 1877	10 July 1992

7. Regulations promulgated under the Education Ordinance, 1980 (Ordinance No. 12 of 1980) (Orange Free State), as contained in:

Administrator's Notice No.	Dated	Extent of repeal
310	18 November 1981	Chapter 9, in so far as it relates to conditions of service of educators at colleges of education.
6	4 January 1985	In so far as it relates to conditions of service of educators at colleges of education.

Government Notice No.	Dated	Extent of repeal
R. 1513	5 June 1992	In so far as it relates to conditions of service of educators at colleges of education.
R. 1876	10 July 1992	In so far as it relates to conditions of service of educators at colleges of education.

8. Regulations promulgated under the Natal Education Ordinance, 1969 (Ordinance No. 46 of 1969) (Natal), in so far as it relates to conditions of service of educators at colleges of education and as contained in:

Administrateurs-kennisgewing No.	Gedateer
534.....	3 April 1974
1054.....	25 Augustus 1976
490.....	20 April 1977
629.....	20 Junie 1979

Goewermements-kennisgewing No.	Gedateer
R. 1877	10 Julie 1992

7. Regulasies uitgevaardig kragtens die Onderwys-ordonnansie, 1980 (Ordonnansie No. 12 van 1980) (Oranje-Vrystaat), soos vervat in:

Administrateurs-kennisgewing No.	Gedateer	Omvang van herroeping
310	18 November 1981	Hoofstuk 9, in soverre dit verband hou met dienswaardes van opvoeders by onderwyskolleges.
6	4 Januarie 1985	In soverre dit verband hou met diensvoorwaardes van opvoeders by onderwyskolleges.

Goewermements-kennisgewing No.	Gedateer	Omvang van herroeping
R. 1513	5 Junie 1992	In soverre dit verband hou met diensvoorwaardes van opvoeders by onderwyskolleges.
R. 1876	10 Julie 1992	In soverre dit verband hou met diensvoorwaardes van opvoeders by onderwyskolleges.

8. Regulasies herroep kragtens die Natalse Onderwysordonnansie, 1969 (Ordonnansie No. 46 van 1969), in soverre dit verband hou met diensvoorwaardes van opvoeders by onderwyskolleges, en soos vervat in:

Provincial Notice No.	Dated
328.....	6 July 1972
636.....	7 December 1972
24.....	1975
377.....	26 June 1975
504.....	1975
739.....	18 December 1975
340.....	1977
513.....	1981
292.....	8 August 1985

Government Notice No.	Dated
R. 1512	5 June 1992
R. 1875	10 July 1992

9. Regulations promulgated under the Education Ordinance, 1956 (Ordinance No. 20 of 1956) (Cape), in so far as it relates to conditions of service of educators at colleges of education and as contained in:

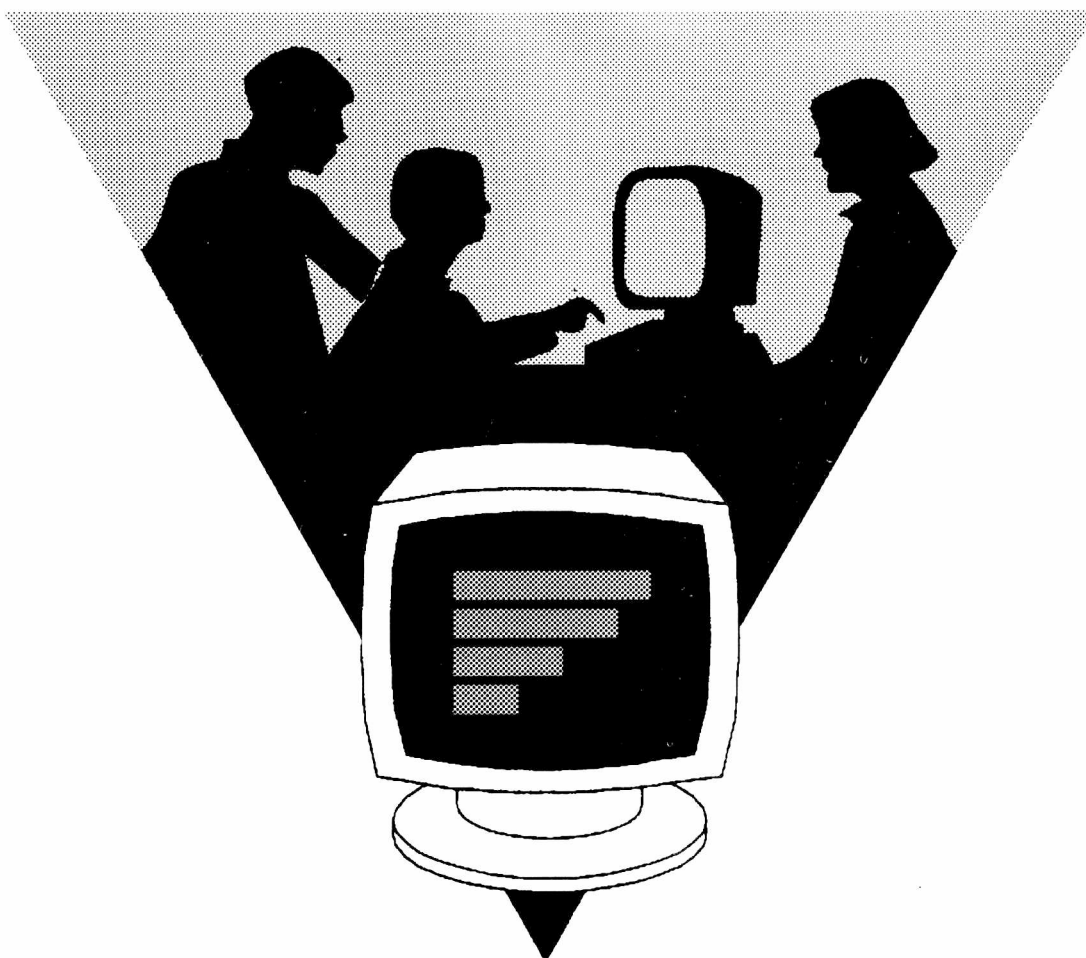
Government Notice No.	Dated
R. 1511	5 June 1992
R. 1874	10 July 1992

Provinsiale kennisgewing No.	Gedateer
328.....	6 Julie 1972
636.....	7 Desember 1972
24.....	1975
377.....	26 Junie 1975
504.....	1975
739.....	18 Desember 1975
340.....	1977
513.....	1981
292.....	8 Augustus 1985

Goewerments- kennisgewing No.	Gedateer
R. 1512	5 Junie 1992
R. 1875	10 Julie 1992

9. Regulasies herroep kragtens die Onderwys-ordonnansie, 1956 (Ordonnansie No. 20 van 1956) (Kaapstad), in soverre dit verband hou met diensvoorwaardes van opvoeders by onderwyskolleges, en soos vervat in:

Goewerments- kennisgewing No.	Gedateer
R. 1511	5 Junie 1992
R. 1874	10 Julie 1992



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