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STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

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KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 1689.

15 Augustus 1984

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

No. 111 van 1984: Staatsdienswet, 1984.

No. 1689.

15 August 1984

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

No. 111 of 1984: Public Service Act, 1984

Wet No. 111, 1984

STAATSDIENSWET, 1984

WET

Om voorsiening te maak vir die organisasie en administrasie van die staatsdiens van die Republiek, die reëling van die diensvoorwaardes, dienstermyne, dissipline, aftreding en ontslag van lede van die staatsdiens, en aangeleenthede wat daarmee in verband staan.

*(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 12 Julie 1984.)*

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ACT

To provide for the organization and administration of the public service of the Republic, the regulation of the conditions of employment, terms of office, discipline, retirement and discharge of members of the public service, and matters connected therewith.

*(Afrikaans text signed by the State President.)
(Assented to 12 July 1984.)*

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DAAR WORD BEPAAL deur die Staatspresident en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

HOOFSTUK I

Uitleg en toepassing van Wet

Woordbepaling.

1. (1) In hierdie Wet, tensy die samehang anders aandui, beteken— 5

- (i) "Administrateur", met betrekking tot 'n beampte of werknemer of 'n persoon wat in diens is of was of wat in diens geneem gaan word in 'n provinsiale administrasie, die Administrateur van die betrokke provinsie handelende op advies van die uitvoerende komitee daarvan; (i) 10
- (ii) "beampte" 'n persoon wat vas aangestel is, al is die aanstelling op proef, in 'n pos bedoel in artikel 7 (1) (a), en ook 'n persoon bedoel in artikel 7 (1) (b) of 7 (3) (c); (xii) 15
- (iii) "departement" 'n departement in artikel 6 (1) bedoel; (vi)
- (iv) "departementshoof", "hoof van 'n departement" of "hoof van die departement" 'n beampte in artikel 6 (2) bedoel en, vir sover dit die administrasie van die Kantoor van die Ouditeur-generaal en van die personeel in daardie Kantoor betref, ook die Ouditeur-generaal soos omskryf in artikel 1 van die Skatkis- en Ouditwet, 1975 (Wet No. 66 van 1975), en die beampte wat in sy plek waarneem; (ix) 25
- (v) "die dienste"—
 - (a) die Staande Mag van die Suid-Afrikaanse Weermag bedoel in artikel 9 van die Verdedigingswet, 1957 (Wet No. 44 van 1957); 30
 - (b) die Suid-Afrikaanse Polisie bedoel in die omskrywing van "die Mag" in artikel 1 van die Polisiewet, 1958 (Wet No. 7 van 1958); en
 - (c) die Gevangenisdiens by artikel 2 (1) van die Wet op Gevangenis, 1959 (Wet No. 8 van 1959), ingestel; (xix) 35
- (vi) "die Nasionale Intelligensiediens" die Nasionale Intelligensiediens bedoel in die Wet op die Buro vir Staatsveiligheid, 1978 (Wet No. 104 van 1978), gelees met Goewermentskennisgewing No. 349 van 18 Februarie 1980; (xviii) 40
- (vii) "hierdie Wet" ook die regulasies en die Staatsdienspersoneelkode vermeld in artikel 36; (xx)
- (viii) "inkomste" die Staatsinkomstefonds bedoel in artikel 81 van die Grondwet van die Republiek van Suid-Afrika, 1983 (Wet No. 110 van 1983), of, met betrekking tot 'n beampte of werknemer van 'n provinsiale administrasie, die betrokke provinsiale inkomstefonds, na gelang van die geval; (xv) 45
- (ix) "kalendermaand" 'n tydperk wat strek van 'n dag in 'n maand tot en met 'n dag wat die dag voorafgaan wat numeriek ooreenstem met daardie dag in die volgende maand; (iii) 50
- (x) "Kommissie" die Kommissie vir Administrasie ingestel by artikel 2 (1) van die Wet op die Kommissie vir Administrasie en, in verband met 'n bevoegdheid of plig wat aan die Kommissie by hierdie Wet of enige ander wet verleen of opgedra word, ook die lid of lede van die Kommissie of die beampte of beamptes aan wie die uitoefening van daardie bevoegdheid of die uitvoering van daardie plig deur die Kommissie ingevolge artikel 5 (2) van die Wet op die Kommissie vir Administrasie gedelegeer of opgedra is; (iv) 55
- (xi) "maand" 'n tydperk wat van die eerste tot en met die laaste dag van enigen van die 12 maande van 'n jaar strek; (xi) 60

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BE IT ENACTED by the State President and the House of Assembly of the Republic of South Africa, as follows:—

CHAPTER I

Interpretation and application of Act

- 5 1. (1) In this Act, unless the context indicates otherwise— Interpretation.
- (i) "Administrator", in relation to an officer or employee or a person who is or has been employed or is to be employed in a provincial administration, means the Administrator of the province concerned, acting on the advice of the executive committee thereof; (i)
- 10 (ii) "Black authority" means the government of a territory which has been or is declared by or under an Act of Parliament to be a self-governing territory within the Republic, a Black authority contemplated in the Black Authorities Act, 1951 (Act No. 68 of 1951), or the government of an area for which a legislative assembly has been established under section 1 of the National States Constitution Act, 1971 (Act No. 21 of 1971); (xvii)
- 15 (iii) "calendar month" means a period extending from a day in one month to a day preceding the day corresponding numerically to that day in the following month, both days inclusive; (ix)
- 20 (iv) "Commission" means the Commission for Administration established by section 2 (1) of the Commission for Administration Act and, in relation to any power or duty conferred or imposed upon the Commission by this Act or any other law, includes the member or members of the Commission or the officer or officers to whom the exercise of that power or the carrying out of that duty has been delegated or assigned by the Commission in terms of section 5 (2) of the Commission for Administration Act; (x)
- 25 (v) "Commission for Administration Act" means the Commission for Administration Act, 1984 (Act No. 65 of 1984); (xxii)
- 30 (vi) "department" means a department contemplated in section 6 (1); (iii)
- (vii) "employee" means a person contemplated in section 7 (1) (c); (xxi)
- 35 (viii) "fixed establishment" means the posts which have been created for the normal and regular requirements of a department; (xix)
- 40 (ix) "head of department", "head of a department" or "head of the department" means an officer contemplated in section 6 (2) and, in so far as it concerns the administration of the Office of the Auditor-General and of the staff of that Office, includes the Auditor-General as defined in section 1 of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975), and the officer acting in his stead; (iv)
- 45 (x) "Minister", in relation to an officer or employee or a person who is or has been or is to be employed otherwise than in the administration of a province, means the Minister responsible for the department in which that officer, employee or person is or was employed or is to be employed; (xii)
- 50 (xi) "month" means a period extending from the first to the last day, both days inclusive, of any one of the 12 months of a year; (xi)
- 55 (xii) "officer" means a person who has been appointed permanently, notwithstanding that such appointment may be on probation, to a post contemplated in section 7 (1) (a), and includes a person contemplated in section 7 (1) (b) or 7 (3) (c); (ii)
- 60 (xiii) "prescribed" means prescribed by or under this Act; (xx)
- 65

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- (xii) "Minister", met betrekking tot 'n beampte of werknemer of 'n persoon wat in diens is of was of wat in diens geneem gaan word, behalwe in die administrasie van 'n provinsie, die Minister wat verantwoordelik is vir die departement waarin die beampte, werknemer of persoon in diens is of in diens was of in diens geneem gaan word; (x) 5
- (xiii) "oorplasing" ook oorskakeling na 'n hergradeerde of herbenaamde pos, of van een graad na 'n hoër graad verbonde aan dieselfde pos, of van een rang na 'n hoër rang; (xxi) 10
- (xiv) "regulasie" 'n regulasie wat kragtens hierdie Wet uitgevaardig is of geag word aldus uitgevaardig te wees; (xiv) 11
- (xv) "salarisreeks" 'n minimum en maksimum salarisperk gekoppel aan 'n bepaalde vlak van werk; (xvi) 15
- (xvi) "skaal" met betrekking tot salaris, ook salaris teen 'n vaste bedrag; (xvii) 16
- (xvii) "Swart owerheid" die regering van 'n gebied wat by of kragtens 'n Parlements wet tot 'n selfregerende gebied binne die Republiek verklaar is of word, 'n Swart owerheid bedoel in die Wet op Swart Owerhede, 1951 (Wet No. 68 van 1951), of die regering van 'n gebied waarvoor 'n wetgewende vergadering kragtens artikel 1 van die Grondwet van die Nasionale State, 1971 (Wet No. 21 van 1971), ingestel is; (ii) 25
- (xviii) "Tesourie", met betrekking tot die een of ander aangeleentheid, die Minister van Finansies of 'n beampte in die Departement van Finansies wat uit hoofde van die indeling van werk in daardie departement met die aangeleentheid handel; (xxii) 30
- (xix) "vaste diensstaat" die poste wat vir die normale en gereelde vereistes van 'n departement geskep is; (viii) 31
- (xx) "voorgeskrif" of "voorgeskrewe" voorgeskryf by of kragtens hierdie Wet; (xiii) 32
- (xxi) "werknemer" 'n persoon in artikel 7 (1) (c) bedoel; 35 (vii)
- (xxii) "Wet op die Kommissie vir Administrasie" die Wet op die Kommissie vir Administrasie, 1984 (Wet No. 65 van 1984). (v) 36
- (2) 'n Verwysing in hierdie Wet na 'n verlaging van 'n salarisskaal of salaris, met betrekking tot 'n beampte, moet uitgelê word as 'n verwysing ook na die toepassing van 'n salarisskaal wat laer is as die skaal wat tevore toegepas is wat betref die maksimum van die skaal, of 'n salaris wat laer is in vergelyking met 'n salaris wat voor die verlaging op enige tydstip sou gegeld het, na gelang van die geval, en 'n verwysing in dié verband na 'n verlaging in graad of na 'n graad laer as 'n ander graad, moet dienooreenkomstig uitgelê word. 45

Toepassing van Wet.

2. (1) Behalwe vir sover daar in hierdie artikel anders bepaal word en behalwe waar dit onbestaanbaar met die samehang of duidelik onvanpas is, is die bepalings van hierdie Wet van toepassing op of ten opsigte van beamptes en werknemers hetsy hulle binne of buite die Republiek in diens is, en ten opsigte van persone wat in diens van die staatsdiens was of in diens geneem gaan word. 55

(2) Waar persone in diens van die dienste nie van die bepalings van hierdie Wet uitgesluit is nie, geld daardie bepalings slegs vir sover hulle nie in stryd is met die wette wat hul diens reël nie. 60

(3) Waar persone in diens van die Nasionale Intelligensiediens nie van die bepalings van hierdie Wet uitgesluit is nie, geld daardie bepalings slegs vir sover hulle nie in stryd is met die wette wat hul diens reël nie, en moet daardie bepalings nie uitgelê word as sou dit afbreuk doen aan die bevoegdhede of pligte wat aan die Nasionale Intelligensiediens verleen of opgedra is nie. 65

(4) Die bepalings van hierdie Wet is nie van toepassing nie ten opsigte van die indiensneming deur die Staat van persone wie se aanstelling, besoldiging en ander diensvoorwaardes ingevolge die een of ander wet deur die Staatspresident of 'n Minister of

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- (xiv) "regulation" means a regulation made or deemed to have been made under this Act; (xiv)
- (xv) "revenue" means the State Revenue Fund contemplated in section 81 of the Republic of South Africa Constitution Act, 1983 (Act No. 110 of 1983), or, in relation to an officer or employee of a provincial administration, the provincial revenue fund concerned, as the case may be; (viii)
- (xvi) "salary range" means a minimum and maximum salary limit linked to a specific level of work; (xv)
- (xvii) "scale", in relation to salary, includes salary at a fixed rate; (xvi)
- (xviii) "the National Intelligence Service" means the National Intelligence Service contemplated in the Bureau for State Security Act, 1978 (Act No. 104 of 1978), read with Government Notice No. 349 of 18 February 1980; (vi)
- (xix) "the services" means—
 - (a) the Permanent Force of the South African Defence Force contemplated in section 9 of the Defence Act, 1957 (Act No. 44 of 1957);
 - (b) the South African Police contemplated in the definition of "the Force" in section 1 of the Police Act, 1958 (Act No. 7 of 1958); and
 - (c) the Prisons Service established by section 2 (1) of the Prisons Act, 1959 (Act No. 8 of 1959); (v)
- (xx) "this Act" includes the regulations and the Public Service Staff Code mentioned in section 36; (vii)
- (xxi) "transfer" includes a change-over to a regraded or renamed post, or from one grade to a higher grade connected to the same post, or from one rank to a higher rank; (xiii)
- (xxii) "Treasury", in relation to any matter, means the Minister of Finance or an officer in the Department of Finance who, by virtue of the division of work in that department, deals with that matter. (xviii)

(2) A reference in this Act to a reduction in a scale of salary or salary, in relation to an officer, shall be construed as including a reference to the application of a scale of salary which is lower than the scale previously applied as regards the maximum of the scale, or to a salary which is lower in comparison with a salary which would have applied at any time prior to that reduction, as the case may be, and a reference in that connection to a reduction in grade or to a grade being lower than another grade shall be construed correspondingly.

2. (1) Except in so far as this section provides otherwise and except where it is inconsistent with the context or clearly inappropriate, the provisions of this Act apply to or in respect of officers and employees whether they are employed within or outside the Republic, and in respect of persons who were employed in the public service or who are to be employed in the public service.

(2) Where persons employed in the services are not excluded from the provisions of this Act, those provisions apply only in so far as they are not contrary to the laws governing their employment.

(3) Where persons employed in the National Intelligence Service are not excluded from the provisions of this Act, those provisions apply only in so far as they are not contrary to the laws governing their service, and those provisions shall not be construed as derogating from the powers or duties conferred or imposed upon the National Intelligence Service.

(4) The provisions of this Act do not apply in respect of the employment by the State of persons whose appointment, remuneration and other conditions of service may, in terms of any law, be made or determined by the State President or a Minister

Application of Act.

Administrateur of ander persoon gedoen of bepaal kan word, sonder dat die Kommissie se aanbeveling vooraf verkry is.

(5) Alle persone wat onmiddellik voor die inwerkingtreding van hierdie Wet uit hoofde van 'n wet wat deur hierdie Wet herroep word, beamptes of werknemers in die staatsdiens was, word vanaf daardie inwerkingtreding geag beamptes of werknemers, na gelang van die geval, te wees, en die bepalings van hierdie Wet is op of ten opsigte van daardie beamptes of werknemers van toepassing.

HOOFSUK II

10

Administrasie

Kommissie vir Administrasie.

3. (1) (a) Behoudens die bepalings van die Wet op die Kommissie vir Administrasie kan die Kommissie—

(i) aanbevelings doen en lasgewings gee oor alle aangeleenthede waarvoor daar nie uitdruklik in hierdie Wet of enige ander wet voorsiening gemaak word nie, maar wat nie daarmee in stryd is nie, met betrekking tot of voortspruitend uit die indiensneming en die diensvoorwaardes, in die algemeen, van beamptes en werknemers in die staatsdiens;

(ii) met betrekking tot of voortspruitend uit die indiensneming van en, in die algemeen, die diensvoorwaardes van voormalige beamptes en werknemers terwyl hulle beamptes en werknemers was, aanbevelings doen of lasgewings gee oor alle aangeleenthede ten opsigte waarvan hy kragtens die bepalings van hierdie Wet of enige ander wet aanbevelings kan doen of lasgewings kan gee in die geval van dienende beamptes en werknemers.

(b) 'n Aanbeveling of lasgewing bedoel in paragraaf (a) (ii) mag nie tot nadeel van 'n voormalige beampte of werknemer strek nie, en die Kommissie mag nie so 'n aanbeveling doen of lasgewing gee nie ten opsigte van 'n voormalige beampte of werknemer na verstryking van 'n tydperk van twee jaar nadat hy opgehou het om 'n beampte of werknemer te wees.

(2) Die Kommissie kan aanbevelings doen—

(a) betreffende die instelling of afskaffing van departemente, subdepartemente, takke, kantore of inrigtings, die oordrag van werksaamhede van een departement aan 'n ander of van 'n departement aan 'n ander liggaam of van 'n ander liggaam aan 'n departement;

(b) betreffende die beheer, organisasie of herreëling van departemente, subdepartemente, takke, kantore of inrigtings;

(c) betreffende die getal, gradering, hergradering, benaming, herbenaming of omskepping van poste op die vaste diensstaat;

(d) betreffende die getal persone wat tydelik of onder 'n 50 spesiale kontrak, hetsy in 'n heeltidse of 'n deeltidse hoedanigheid, in diens geneem moet word—

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

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

(e) wanneer hy dit nodig ag, betreffende die indiensneming van 'n persoon of die indienshouding van 'n beampte in of teen 'n pos wat hoër of laer as sy eie graad gegradeer is, of addisioneel tot die vaste diensstaat;

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or an Administrator or other person without the recommendation of the Commission first having been obtained.

(5) All persons who immediately before the commencement of this Act were, by virtue of any law repealed by this Act, officers or employees in the public service, are from that commencement deemed to be officers or employees, as the case may be, and the provisions of this Act apply to or in respect of those officers or employees.

CHAPTER II

10

Administration

3. (1) (a) Subject to the provisions of the Commission for Administration Act, the Commission may—

Commission for
Administration.

15 (i) make recommendations or give directions on all matters not specifically provided for in this Act or any other law, but not inconsistent therewith, relating to or arising out of the employment of and the conditions of service generally of officers and employees in the public service;

20 (ii) make recommendations or give directions on all matters relating to or arising out of the employment and, in general, the conditions of service of former officers and employees while they were officers and employees, concerning which it may, under the provisions of this Act or any other law, make recommendations or give directions in the case of serving officers and employees.

25 (b) A recommendation or direction contemplated in paragraph (a) (ii) may not be to the detriment of a former officer or employee, and the Commission may not make such a recommendation or give such a direction in respect of any former officer or employee after the expiry of a period of two years after he ceased to be an officer or employee.

(2) The Commission may make recommendations—

35 (a) regarding the establishment or abolition of departments, subdepartments, branches, offices or institutions, the transfer of functions from one department to another or from a department to any other body or from any other body to a department;

40 (b) regarding the control, organization or readjustment of departments, subdepartments, branches, offices or institutions;

45 (c) regarding the number, grading, regrading, designation, redesignation or conversion of posts on the fixed establishment;

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

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

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

60 (e) when it considers it necessary, regarding the employment of a person or the continued employment of an officer in or against a post graded higher or lower than his own grade, or additional to the fixed establishment;

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- (f) ten einde doeltreffendheid te bevorder en besuiniging te bewerkstellig in die bestuur en funksionering van departemente, subdepartemente, takke, kantore en inrigtings deur—
- (i) verbeterde organisasie, prosedure en metodes; 5
 - (ii) verbeterde toesig;
 - (iii) vereenvoudiging van werk en die uitskakeling van onnodige werk;
 - (iv) die aanwending van rekenaars en arbeidsbesparende hulpmiddels; 10
 - (v) koördinasie van werk;
 - (vi) beperking van die getal beamptes en werknemers van departemente, subdepartemente, takke, kantore en inrigtings, en die aanwending van die dienste van beamptes en werknemers op die voordeligste wyse; 15
 - (vii) die opleiding van beamptes en werknemers;
 - (viii) verbeterde werkfasiliteite;
 - (ix) enige ander optrede wat hy noodsaaklik ag;
- (g) betreffende die skale van salarisse, lone of toelaes van al die verskillende klasse, range en grade beamptes en werknemers, asook salarisreekse ten opsigte van bepaalde klasse, range en grade beamptes en werknemers; 20
- (h) betreffende die persoon wat aangestel of bevorder moet word, wanneer dit nodig is om 'n aanstelling in of bevordering tot 'n pos in die A-afdeling te doen; 25
- (i) betreffende regulasies wat kragtens artikel 35 (1) uitgevaardig moet word.
- (3) Die Kommissie kan lasgewings gee— 30
- (a) betreffende—
- (i) die leeftyds-, opvoedkundige, taal- en ander kwalifikasies wat persone moet besit by aanstelling, oorplasing of bevordering in of na die staatsdiens, waar dié kwalifikasies nie by of kragtens hierdie Wet of enige ander wet voorgeskryf word nie; 35
 - (ii) die klasse poste en betrekkings met betrekking waartoe, die omstandighede waarin en die voorwaardes waarop 'n Minister of Administrateur, of 'n beampte aan wie 'n Minister of Administrateur 40 die bevoegdheid gedelegeer het om aanstellings, oorplasinge of bevorderings te doen, ander kwalifikasies as dié in subparagraaf (i) bedoel, kan vereis;
- (b) betreffende die vereistes waaraan iemand se gezondheidstoestand moet voldoen voordat hy as 'n beampte aangestel kan word; 45
- (c) wanneer hy dit nodig ag, betreffende die sekerheidsvereistes waaraan beamptes of werknemers moet voldoen;
- (d) betreffende die opleiding wat beamptes en werknemers moet ondergaan. 50
- (4) (a) Die Kommissie—
- (i) moet aantekening hou van beamptes wat in diens geneem is in poste in die A-afdeling;
 - (ii) moet ondersoek na griewe van beamptes en werknemers instel en moet, behoudens die bepalings van hierdie Wet, dié aanbevelings daaroor doen wat hy goeddink; 55
 - (iii) moet, wanneer hy dit nodig ag, opleiding verskaf of laat verskaf of eksamens of toetse afneem of laat afneem, soos hy gelas of soos voorgeskryf word as 'n kwalifikasie vir die aanstelling, bevordering of oorplasing van persone in of na die staatsdiens; 60
 - (iv) kan voorskrifte wat nie met hierdie Wet in stryd is nie ter toeligting of aanvulling van 'n regulasie uitreik; 65
 - (v) kan, ondanks andersluidende bepalings van die een of ander wet, 'n aanbeveling doen betreffende die instelling of werking van, maar uitgesonderd die bestuur van en beheer oor, 'n pensioen-, be-

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- (f) in order to promote efficiency and effect economies in the management and functioning of departments, sub-departments, branches, offices and institutions by—
- (i) improved organization, procedure and methods;
 - (ii) improved supervision;
 - (iii) simplification of work and the elimination of unnecessary work;
 - (iv) the utilization of computers and labour-saving devices;
 - (v) co-ordination of work;
 - (vi) limitation of the number of officers and employees of departments, subdepartments, branches, offices and institutions, and the utilization of the services of officers and employees to the best advantage;
 - (vii) the training of officers and employees;
 - (viii) improved work facilities;
 - (ix) any other action it may consider essential;
- (g) regarding the scales of salaries, wages or allowances of all the various classes, ranks and grades of officers and employees, as well as salary ranges in respect of particular classes, ranks and grades of officers and employees;
- (h) regarding the person to be appointed or promoted, when it is necessary to make any appointment in or promotion to a post in the A division;
- (i) regarding regulations to be made under section 35 (1).
- (3) The Commission may give directions—
- (a) regarding—
- (i) the age, educational, language and other qualifications to be possessed by persons on appointment, transfer or promotion in or to the public service, where those qualifications are not prescribed by or under this Act or any other law;
 - (ii) the classes of posts and positions in respect of which, the circumstances under which and the conditions on which a Minister or an Administrator, or any officer to whom a Minister or an Administrator has delegated the power of appointment, transfer or promotion, may require qualifications other than those contemplated in subparagraph (i);
- (b) regarding the requirements with which the condition of health of a person shall comply before he may be appointed as an officer;
- (c) when it considers it necessary, regarding the security requirements with which officers and employees have to comply;
- (d) regarding the training which officers and employees have to undergo.
- (4) (a) The Commission—
- (i) shall keep a record of officers employed in posts in the A division;
 - (ii) shall inquire into the grievances of officers and employees and, subject to the provisions of this Act, shall make such recommendations thereon as it may think fit;
 - (iii) shall, when it deems it necessary, provide training or cause training to be provided or conduct examinations or tests or cause examinations or tests to be conducted, as it may direct or as may be prescribed as a qualification for the appointment, promotion or transfer of persons in or to the public service;
 - (iv) may issue directives which are not contrary to this Act to elucidate or supplement any regulations;
 - (v) may, notwithstanding anything to the contrary in any law contained, make a recommendation regarding the establishment or operation of, but excluding the management of and control over, any

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huising- of ander skema wat 'n diensvoorwaarde van beamptes of werknemers is of sal wees, maar wat nie by of kragtens hierdie Wet ingestel is of sal word nie.

- (b) Ondanks die bepalinge van artikel 4 (6) geld die bepalinge van artikel 4 (2) *mutatis mutandis* ten opsigte van 'n aanbeveling ingevolge paragraaf (a) (v). 5

(5) Die bepalinge van subartikels (2) (h) en (4) (a) (i) geld *mutatis mutandis* ten opsigte van dié werknemers wat die Kommissie gelas. 10

Aanbevelings van
Kommissie.

4. (1) (a) By die toepassing van hierdie Wet en enige ander wet word 'n aanbeveling van die Kommissie geag—

(i) gedoen te wees op die datum van die skriftelike mededeling waarin die aanbeveling oorgedra word; 15

(ii) as dit op 'n bepaalde persoon betrekking het, deur 'n Minister of Administrateur uitgevoer te wees op die datum van die skriftelike mededeling aan daardie persoon waarin verklaar word dat die Minister of Administrateur die aanbeveling goedgekeur het. 20

- (b) Waar 'n Minister of Administrateur 'n datum vir die inwerkingtreding van so 'n aanbeveling moet bepaal, moet dit 'n datum binne ses kalendermaande vanaf die datum in paragraaf (a) (i) vermeld, wees.

(2) (a) (i) Behoudens die bepalinge van subartikel (7) kan 'n aanbeveling van die Kommissie wat op 'n besondere persoon betrekking het, voordat dit uitgevoer is deur die Kommissie teruggetrek of gewysig of verder gewysig word, of, behoudens die bepalinge van subartikel (5), deur die Staatspresident verwerp of gewysig word, te eniger tyd binne 'n tydperk van ses kalendermaande vanaf die datum waarop dit deur die Kommissie gedoen of gewysig of verder gewysig is. 25

(ii) Ondanks die bepalinge van subparagraaf (i) mag die Kommissie nie 'n aanbeveling wat deur die Staatspresident gewysig is, terugtrek of wysig nie. 35

- (b) Behoudens die bepalinge van subartikel (7) moet elke aanbeveling van die Kommissie wat op 'n besondere persoon betrekking het— 40

(i) indien die Staatspresident dit gewysig het, onverwyld soos aldus gewysig, deur die Minister of Administrateur uitgevoer word;

(ii) indien die Staatspresident geweier het om dit te wysig of te verwerp, onverwyld soos deur die Kommissie gedoen of gewysig, deur die Minister of Administrateur uitgevoer word; 45

(iii) indien die tydperk in paragraaf (a) bedoel, verstryk het, en dit nie uitgevoer of deur die Kommissie teruggetrek of deur die Staatspresident verwerp of gewysig is nie, onverwyld soos deur die Kommissie gedoen of gewysig, deur die Minister of Administrateur uitgevoer word. 50

(3) Wanneer die Staatspresident 'n aanbeveling van die Kommissie verwerp of gewysig het, moet daar ooreenkomstig die beslissing van die Staatspresident en behoudens die bepalinge van subartikel (2) (b) (i) met die aangeleentheid gehandel word sonder die verkryging van 'n verdere aanbeveling van die Kommissie. 55

(4) By die toepassing van subartikel (2) betreffende die verwerping deur die Staatspresident van 'n aanbeveling van die Kommissie, word 'n weiering deur of 'n versuim van die Kommissie om 'n aanbeveling te doen, geag 'n aanbeveling van die Kommissie te wees. 60

(5) Geen aansoek om die verwerping of wysiging van 'n aanbeveling in subartikel (2) bedoel, mag aan die Staatspresident gerig word nie tensy die betrokke departement aan die Kommissie ten minste 14 dae kennis gegee het van sy voorneme om aldus aansoek te doen, en die kennisgewing moet die gronde uit- 65

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- pension, housing or other scheme which is or will be a condition of service of officers and employees, but which has not or will not be established by or under this Act.
- 5 (b) Notwithstanding the provisions of section 4 (6), the provisions of section 4 (2) apply *mutatis mutandis* in respect of a recommendation in terms of paragraph (a) (v).
- 10 (5) The provisions of subsections (2) (h) and (4) (a) (i) apply *mutatis mutandis* in respect of such employees as the Commission may direct.
4. (1) (a) For the purposes of this Act and any other law, a recommendation of the Commission is deemed— Recommendations of Commission.
- 15 (i) to have been made on the date of the written communication conveying that recommendation;
- (ii) if it relates to a particular person, to have been carried out by a Minister or an Administrator on the date of the written communication to that person stating that the Minister or Administrator has approved that recommendation.
- 20 (b) Where a Minister or an Administrator has to determine a date for the commencement of such a recommendation, it shall be a date within six calendar months from the date referred to in paragraph (a) (i).
- 25 (2) (a) (i) Subject to the provisions of subsection (7), any recommendation of the Commission which relates to a particular person may be withdrawn or varied or further varied by the Commission, or, subject to the provisions of subsection (5), may be rejected or varied by the State President before it has been carried out, at any time within a period of six calendar months from the date upon which it was made or varied or further varied by the Commission.
- 30 (ii) Notwithstanding the provisions of subparagraph (i), the Commission may not withdraw or vary any recommendation which has been varied by the State President.
- 35 (b) Subject to the provisions of subsection (7), every recommendation of the Commission which relates to a particular person shall—
- 40 (i) if the State President has varied it, be carried out as so varied, forthwith by the Minister or Administrator;
- 45 (ii) if the State President has refused to vary or reject it, be carried out as made or varied by the Commission, forthwith by the Minister or Administrator;
- 50 (iii) if the period contemplated in paragraph (a) has expired, and it has not been carried out or withdrawn by the Commission or rejected or varied by the State President, be carried out as made or varied by the Commission, forthwith by the Minister or Administrator.
- 55 (3) When the State President has rejected or varied a recommendation of the Commission, the matter shall be dealt with in accordance with the decision of the State President and subject to the provisions of subsection (2) (b) (i), without obtaining a further recommendation of the Commission.
- 60 (4) For the purposes of subsection (2) regarding the rejection by the State President of a recommendation of the Commission, any refusal or failure by the Commission to make a recommendation is deemed to be a recommendation of the Commission.
- 65 (5) No application for the rejection or variation of a recommendation contemplated in subsection (2) shall be made to the State President unless the department concerned has given the Commission at least 14 days' notice of its intention so to apply,

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eensit waarop die departement van voorneme is om sy aansoek te baseer.

(6) (a) 'n Aanbeveling van die Kommissie wat nie op 'n besondere persoon betrekking het nie—

(i) kan, behoudens die bepalings van subartikel (7), 5
voordat dit uitgevoer is, deur die Kommissie terug-
getrek of gewysig of verder gewysig word te eniger
tyd binne 'n tydperk van ses kalendermaande van-
af die datum waarop dit deur die Kommissie ge-
doen of die vorige keer gewysig is; 10

(ii) moet, behoudens die bepalings van subartikel (7),
as dié tydperk verstryk het en dit nie uitgevoer of
deur die Kommissie teruggetrek is nie, onverwyld
soos deur die Kommissie gedoen of gewysig deur
elke betrokke departementshoof uitgevoer word, 15
maar die voorgaande bepalings belet nie die Kommissie
om te eniger tyd, behoudens die bepalings van subarti-
kel (7) en artikel 28, enige aanbeveling betreffende die
indiensneming of diensvoorwaardes van persone, terug
te trek of te wysig nie, al word diensvoordele daardeur 20
verminder of al word persone daardeur diensvoordele
ontneem.

(b) Die bepalings van subartikel (2) is *mutatis mutandis* van
toepassing ten opsigte van 'n aanbeveling van die Kom-
missie betreffende enige aangeleentheid met betrek- 25
king tot persone, uitgesonderd persone bedoel in arti-
kel 7 (1), ongeag of die aanbeveling op 'n besondere
persoon betrekking het, al dan nie.

(7) (a) Geen aanbeveling van die Kommissie wat uitgawes uit
die Staatsinkomstefonds meebring, uitgesonderd 'n 30
aanbeveling wat deur of op gesag van 'n Administra-
teur van 'n provinsie uitgevoer moet word, mag uitge-
voer word nie tensy die Tesourie die uitgawes goed-
keur.

(b) Die Tesourie kan na goeddunke en op die voorwaardes 35
deur hom bepaal, sy bevoegdhede om sulke uitgawes
goed te keur, aan 'n beamppte delegeer.

Inspeksiebevoegd-
hede van Kommissie.

5. (1) Die Kommissie kan departemente inspekteer en het in-
sae in dié amptelike stukke en kan dié inligting by hoofde van 40
departemente en ander beamptes en werknemers en ander per-
sone in diens van departemente verkry wat na sy oordeel nodig
is vir die uitoefening van sy bevoegdhede of die uitvoering van
sy pligte ingevolge hierdie Wet of enige ander wet.

(2) Wanneer 'n lid of die lede van die Kommissie bedoel in arti- 45
kel 5 (2) (a) (i) van die Wet op die Kommissie vir Administra-
sie 'n departement ingevolge subartikel (1) inspekteer, het hy of
hulle vir dié doel die bevoegdhede wat by artikel 8 van daardie
Wet aan die Kommissie verleen word, en by die toepassing van
dié artikel ten opsigte van so 'n inspeksie moet 'n verwysing 50
daarin na die Kommissie uitgelê word as 'n verwysing na die lid
of lede wat die inspeksie uitvoer.

(3) Die Kommissie kan 'n beamppte aangestel kragtens artikel
9 (1) van die Wet op die Kommissie vir Administrasie aanwys
om 'n departement ingevolge artikel 5 (1) van hierdie Wet te 55
inspekteer, en 'n beamppte aldus aangewys, het die bevoegdhede
wat by laasgenoemde artikel aan die Kommissie verleen word.

HOOFSTUK III

Organisasie en personeel

Departemente en
departementshoof-
de.

6. (1) Vir die doel van die administrasie van die staatsdiens is 60
daar die departemente, met inbegrip van administrasies, wat ge-
noem word of genoem gaan word in die eerste kolom van Bylae
1.

(2) (a) Elke departement het 'n departementshoof wat as 'n
beamppte die bekleër is van die pos op die vaste diens- 65
staat wat aangedui word met die naam genoem in die
tweede kolom van Bylae 1 teenoor die naam van die

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and that notice shall set forth the grounds upon which the department intends to base its application.

(6) (a) A recommendation of the Commission which does not relate to a particular person—

5 (i) may, subject to the provisions of subsection (7), be withdrawn or varied or further varied by the Commission before it has been carried out, at any time within six calendar months from the date upon which it was made by the Commission or varied

10 the previous time;

(ii) shall, subject to the provisions of subsection (7), if that period has expired and it has not been carried out or withdrawn by the Commission, be carried out as made or varied by the Commission forth-

15 with by each head of department concerned, but the aforesaid provisions do not preclude the Commission from withdrawing or varying at any time, subject to the provisions of subsection (7) and section 28, any recommendation regarding the employment or

20 conditions of service of persons, even if service benefits are thereby reduced or persons deprived of service benefits.

(b) The provisions of subsection (2) apply *mutatis mutandis* in respect of a recommendation of the Commission regarding any matter relating to persons other than those contemplated in section 7 (1), irrespective of whether that recommendation relates to a particular person or

25 not.

(7) (a) No recommendation by the Commission involving expenditure from the State Revenue Fund, other than a recommendation to be carried out by or on the authority of an Administrator of a province, shall be carried out unless the Treasury approves that expenditure.

30 (b) The Treasury may, in its discretion and upon such conditions as it may determine, delegate its power to approve such expenditure, to any officer.

5 (1) The Commission may inspect departments and has access to such official documents, and may obtain such information from heads of department and other officers and employees and other persons in the service of departments, as in its opinion may be necessary for the exercise of its powers or the carrying out of its duties in terms of this Act or any other law.

Powers of inspection of Commission.

(2) When a member or the members of the Commission contemplated in section 5 (2) (a) (i) of the Commission for Administration Act, is or are inspecting a department in terms of subsection (1), he has or they have for that purpose the powers conferred upon the Commission by section 8 of that Act, and for the purposes of that section in relation to such an inspection, a reference therein to the Commission shall be construed as a reference to the member or members conducting the inspection.

(3) The Commission may designate any officer appointed under section 9 (1) of the Commission for Administration Act to inspect a department in terms of section 5 (1) of this Act, and any officer so designated has the powers conferred upon the Commission by the latter section.

CHAPTER III

Organization and staff

6 (1) For the purposes of the administration of the public service there are the departments, including administrations, which are mentioned, or which are to be mentioned, in the first column of Schedule 1.

Departments and heads of department.

(2) (a) Each department has a head of department who as an officer is the incumbent of the post on the fixed establishment designated by the name mentioned in the second column of Schedule 1 opposite the name of the de-

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Samestelling van
staatsdiens.

- betrokke departement, of die beampte wat in daardie pos waarneem.
- (b) 'n Departementshoof is verantwoordelik vir die doeltreffende bestuur en administrasie van sy departement, met inbegrip van die doeltreffende benutting van personeel, die handhawing van dissipline en die behoorlike gebruik en versorging van Staatseiendom, en hy moet die werksaamhede verrig wat voorgeskryf word. 5
- (3) Die Staatspresident kan, nadat die Kommissie 'n aanbeveling gedoen het, Bylae 1 by proklamasie in die *Staatskoerant* wysig. 10
7. (1) Die staatsdiens bestaan uit persone wat—
- (a) poste beklee op die vaste diensstaat—
- (i) ingedeel by—
- die A-afdeling; en 15
- die B-afdeling;
- (ii) in die dienste;
- (iii) in die Nasionale Intelligensiediens;
- (b) (i) nadat hulle opgehou het om poste op die vaste diensstaat bedoel in paragraaf (a) te beklee, en 20 wat nie afgetree het of ontslaan is nie, addisioneel tot die vaste diensstaat in diens is of wat geag word poste in 'n afdeling te bly beklee in die omstandighede in subartikel (3) (c) bedoel;
- (ii) addisioneel tot die vaste diensstaat, vas aangestel word; 25
- (c) (i) poste op die vaste diensstaat beklee, uitgesonderd poste in paragraaf (a) bedoel;
- (ii) tydelik of onder 'n spesiale kontrak in 'n departement, hetsy in 'n heeltydse of deeltydse hoedanigheid, addisioneel tot die vaste diensstaat of in vakante poste op die vaste diensstaat in diens is.
- (2) Die A- en die B-afdeling bestaan uit die poste wat die Kommissie gelas het daarby ingesluit moet word.
- (3) (a) Die Kommissie kan gelas dat enige pos wat by een afdeling ingesluit is, uit daardie afdeling verwyder en by die ander afdeling ingesluit word, of dat enige pos wat by die A- of B-afdeling ingesluit is, uit albei daardie afdelings uitgesluit moet word. 35
- (b) 'n Lasgewing kragtens hierdie subartikel mag nie 'n beampte enige verlof- of 'n ander voorgeskrewe voorreg of reg wat sy bekleding van 'n pos in een van genoemde afdelings meegebring het, ontnem nie. 40
- (c) 'n Beampte wie se pos uit albei voornoemde afdelings uitgesluit is, word by die toepassing van hierdie Wet en 45 die Regeringsdienspensioenwet, 1973 (Wet No. 57 van 1973), geag 'n pos in die afdeling waarin sy pos ingesluit was onmiddellik voordat die lasgewing van krag geword het, te bly beklee.
- (4) Alle poste wat onmiddellik voor die inwerkingtreding van hierdie Wet ingevolge enige wet wat deur hierdie Wet herroep word, ingesluit was in, en alle beamptes wat onmiddellik voor daardie inwerkingtreding in diens was in—
- (a) die administratiewe, klerklike, vakkundige, tegniese, en algemene A-afdelings, word vanaf daardie inwerkingtreding geag ingesluit of in diens te wees in die A-afdeling; 55
- (b) die algemene B-afdeling, word vanaf daardie inwerkingtreding geag ingesluit of in diens te wees in die B-afdeling. 60

HOOFSTUK IV

Aanstelling, bevordering en oorplasing

Bevoegdhede van
Minister en Administrateur.

8. (1) Sonder om afbreuk te doen aan die werksaamhede van die Kommissie ingevolge hierdie Wet, moet die aanstelling van 'n persoon of die bevordering of oorplasing van 'n beampte of werknemer deur die Minister of Administrateur gedoen word, of

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partment concerned, or the officer who is acting in that post.

- (b) A head of department is responsible for the efficient management and administration of his department, including the effective utilization of staff, the maintenance of discipline and the proper use and care of State property, and he shall perform the functions that may be prescribed.

(3) The State President may, after the Commission has made a recommendation, amend Schedule 1 by proclamation in the *Gazette*.

7. (1) The public service consists of persons who—

Composition of
public service.

(a) hold posts on the fixed establishment—

- (i) classified in—
the A division; and
the B division;

- (ii) in the services;
(iii) in the National Intelligence Service;

(b) (i) having ceased to hold posts on the fixed establishment contemplated in paragraph (a), and not having retired or having been discharged, are employed additional to the fixed establishment or who are deemed to continue to hold posts under the circumstances contemplated in subsection (3) (c);

(ii) are appointed permanently additional to the fixed establishment;

(c) (i) hold posts on the fixed establishment other than posts referred to in paragraph (a);

(ii) are employed temporarily or under a special contract in a department, whether in a full-time or part-time capacity, additional to the fixed establishment or in vacant posts on the fixed establishment.

(2) The A and B divisions consist of such posts as the Commission has directed shall be included therein.

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

(b) No direction under this subsection shall deprive any officer of any leave or other prescribed privilege or right which flowed from the occupancy by him of a post in one of the said divisions.

(c) Any officer whose post has been excluded from both the divisions aforementioned is, for the purposes of this Act and the Government Service Pensions Act, 1973 (Act No. 57 of 1973), deemed to continue to hold a post in the division in which his post was included immediately before the direction came into force.

(4) All posts which immediately before the commencement of this Act were, in terms of any law repealed by this Act, included in, and all officers who immediately before that commencement were employed in—

(a) the administrative, clerical, professional, technical, and general A divisions, are from that commencement deemed to be included or employed in the A division;

(b) the general B division, are from that commencement deemed to be included or employed in the B division.

CHAPTER IV

Appointment, promotion and transfer

8. (1) Without derogating from the functions of the Commission in terms of this Act, the appointment of any person or the promotion or transfer of any officer or employee shall be made by the Minister or Administrator or by the officer or officers to

Powers of Minister
and Administrator.

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deur die beampte of beamptes aan wie die Minister of Administrateur sy bevoegdheid van aanstelling, bevordering of oorplasing gedelegeer het.

(2) Behoudens die bepalings van hierdie Hoofstuk moet aanstellings en bevorderings in, en oorplasings in of na, die staatsdiens gedoen word op die wyse en voorwaardes, met inbegrip van voorwaardes betreffende die besit van kennis van die amptelike en ander tale, wat voorgeskryf word, of, vir sover hulle nie voorgeskryf is nie, deur die Kommissie gelas word.

Kwalifikasies vir aanstelling.

9. (1) Niemand mag vas aangestel of kragtens artikel 14 (1) oorgeplaas en vas aangestel word nie, hetsy op proef al dan nie, in 'n pos in die A- of B-afdeling, tensy hy—

- (a) 'n Suid-Afrikaanse burger is, of 'n burger is van 'n gebied wat deel van die Republiek uitgemaak het en ingevolge 'n Parlements wet 'n onafhanklike staat geword het;
- (b) van goeie karakter is; en
- (c) vir sover dit sy gesondheidstoestand betref, voldoen aan die vereistes deur die Kommissie kragtens artikel 3 (3) (b) gelas.

(2) Ondanks die bepalings van subartikel (1) (c) kan iemand op proef aangestel word, maar sy aanstelling mag nie bekragtig word nie tensy hy aan die vereistes in daardie paragraaf bedoel, voldoen.

Aanstellings en vulling van poste.

10. (1) By die doen van 'n aanstelling of die vulling van 'n pos in die staatsdiens—

- (a) mag niemand wat vir die betrokke aanstelling, oorplasing of bevordering kwalifiseer, begunstig of benadeel word nie;
- (b) mag slegs die kwalifikasies, peil van opleiding, relatiewe verdienstelikheid, bekwaamheid en geskiktheid van die persone wat vir die betrokke aanstelling, bevordering of oorplasing kwalifiseer, en die voorwaardes wat voorgeskryf word of deur die Kommissie gelas word vir die doen van die aanstelling of die vulling van die pos, in ag geneem word.

(2) Vir die vulling van 'n pos in die A-afdeling, moet die Kommissie, behoudens die bepalings van subartikel (1), of—

- (a) die oorplasing of bevordering van 'n beampte aanbeveel; of
- (b) indien die pos nie op bevredigende wyse deur so 'n oorplasing of bevordering gevul kan word nie, die aanstelling van 'n persoon wat nie 'n beampte is nie, aanbeveel.

Aanstelling van departementshoofde.

11. (1) Behoudens die bepalings van hierdie Hoofstuk en van Hoofstukke V en VI—

- (a) moet—
 - (i) 'n persoon wat as beampte in 'n amp van departementshoof aangestel word;
 - (ii) 'n beampte wat tot of na daardie amp bevorder of oorgeplaas word; en
 - (iii) 'n beampte wat by die inwerkingtreding van hierdie artikel daardie amp bekleed, die amp vir 'n tydperk van vyf jaar of dié korter tydperk wat die Minister of Administrateur, behoudens die bepalings van subartikel (3), goedkeur, bekleed vanaf, in die geval van 'n persoon bedoel in subparagraaf (i) en (ii), die datum van die betrokke aanstelling, bevordering of oorplasing, en in die geval van 'n persoon bedoel in subparagraaf (iii), die inwerkingtreding van hierdie artikel;
- (b) moet 'n beampte wat uit die amp van departementshoof in paragraaf (a) bedoel tot of na 'n ander amp van departementshoof bevorder of oorgeplaas word, laasbedeelde amp bekleed vir die onverstreke gedeelte van die termyn wat ingevolge paragraaf (a) of enige verlengde termyn wat ingevolge paragraaf (c) ten opsigte van eersbedeelde amp op hom van toepassing is;

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whom the Minister or Administrator has delegated his power of appointment, promotion or transfer.

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

9. (1) No person shall be appointed permanently or be transferred and appointed permanently under section 14 (1), whether on probation or not, to any post in the A or B division unless he—

Qualifications for appointment.

- (a) is a South African citizen, or is a citizen of any territory which formed part of the Republic and became an independent state in terms of an Act of Parliament;
- (b) is of good character; and
- (c) in so far as his condition of health is concerned, complies with such requirements as may be directed by the Commission under section 3 (3) (b).

(2) Notwithstanding the provisions of subsection (1) (c), a person may be appointed on probation, but his appointment shall not be confirmed unless he complies with the requirements contemplated in that paragraph.

10. (1) In the making of any appointment or the filling of any post in the public service—

Appointments and filling of posts.

- (a) no person who qualifies for the appointment, transfer or promotion concerned shall be favoured or prejudiced;
- (b) only the qualifications, level of training, relative merit, efficiency and suitability of the persons who qualify for the appointment, promotion or transfer concerned, and such conditions as may be prescribed or as may be directed by the Commission for the making of the appointment or the filling of the post, shall be taken into account.

(2) For the filling of any post in the A division, the Commission shall, subject to the provisions of subsection (1), recommend either—

- (a) the transfer or promotion of an officer; or
- (b) if the post cannot satisfactorily be filled by such a transfer or promotion, the appointment of a person who is not an officer.

11. (1) Subject to the provisions of this Chapter and of Chapters V and VI—

Appointment of heads of department.

- (a) (i) a person who is appointed as an officer in the office of head of department;
 - (ii) an officer who is promoted or transferred to that office; and
 - (iii) an officer who, at the commencement of this section, occupies that office,
- shall occupy that office for a period of five years or for such shorter period as the Minister or Administrator may approve, subject to the provisions of subsection (3), from, in the case of a person contemplated in subparagraphs (i) and (ii), the date of the appointment, promotion or transfer concerned, and in the case of a person contemplated in subparagraph (iii), the commencement of this section;
- (b) an officer who is promoted or transferred from the office of head of department contemplated in paragraph (a) to another office of head of department, shall occupy the latter office for the remainder of the term of office which applies to him in regard to the first-mentioned office in terms of paragraph (a), or the remainder of any extended term in terms of paragraph (c);

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- (c) kan 'n beampte se ampstermyn as departementshoof soos in paragraaf (a) of (b) voorgeskryf, by die verstryking daarvan met 'n tydperk of agtereenvolgende tydperke van minstens een maar hoogstens vyf jaar, soos die Minister of Administrateur goedkeur, behoudens die bepalinge van subartikel (2), verleng word. 5
- (2) (a) Die Minister of Administrateur moet die betrokke beampte minstens ses kalendermaande voor die verstryking van die termyn in paragraaf (a) of (b) of enige voorheen verlengde termyn in paragraaf (c) bedoel, skriftelik meedeel of hy van voorneme is om hom vir 'n verlengde termyn in diens te hou, al dan nie. 10
- (b) Indien die Minister of Administrateur die betrokke beampte aldus meedeel dat hy van voorneme is om hom vir 'n verlengde termyn in diens te hou, moet hy binne een kalendermaand na die datum van die mededeling, die Minister of Administrateur skriftelik van sy aanvaarding al dan nie van die verlengde indienshouding verwittig. 15
- (c) Indien die betrokke beampte die Minister of Administrateur aldus meedeel dat hy die verdere indienshouding aanvaar, word sy ampstermyn as departementshoof verleng met die verdere tydperk waarop hy en die Minister of Administrateur ooreengekom het. 20
- (3) Voordat die Minister of Administrateur 'n korter tydperk in subartikel (1) (a) bedoel ten opsigte van 'n beampte wat nie 'n lid van die dienste of die Nasionale Intelligensiediens is nie, goedkeur, of 'n mededeling ooreenkomstig subartikel (2) (a) aan so 'n beampte rig, moet die Kommissie 'n aanbeveling doen. 25

Aanstelling, oorplasing en bevordering op proef.

12. (1) Die aanstelling van 'n persoon en die oorplasing en bevordering van 'n beampte in die A- of B-afdeling moet op proef geskied— 30

(a) tensy, in die geval van 'n aanstelling in—

- (i) die A-afdeling, die Kommissie anders aanbeveel; of 35
- (ii) die B-afdeling, die persoon wat die bevoegdheid het om so 'n aanstelling goed te keur, anders gelas; of

(b) indien, in die geval van 'n bevordering of 'n oorplasing in— 40

- (i) die A-afdeling, die Kommissie aldus aanbeveel; of
- (ii) die B-afdeling, die persoon wat die bevoegdheid het om so 'n oorplasing of bevordering goed te keur, dit gelas.

(2) (a) Behoudens die bepalinge van paragrawe (b) en (c) moet die proeftyd aldus aanbeveel of gelas minstens 12 kalendermaande wees. 45

(b) Indien 'n beampte wat diens op proef doen, na 'n ander pos oorgeplaas of bevorder word, kan 'n korter diens-tyd op proef in die nuwe pos aanbeveel of gelas word, wat saam met die proeftyd in diens in die vorige pos minstens 12 kalendermaande moet wees. 50

(c) Die proeftyd van 'n beampte moet verleng word met die getal dae verlof wat hy gedurende die proeftyd of enige verlenging daarvan geneem het. 55

(3) Indien die hoof van die kantoor, tak, subdepartement, inrigting of departement sertifiseer dat die betrokke beampte gedurende die proeftyd of verlengde proeftyd ywerig en sy gedrag deurgaans bevredigend was, en dat hy in alle opsigte geskik is vir die pos wat hy beklee, en indien die beampte voldoen het aan al die voorwaardes waaraan sy aanstelling, oorplasing of bevordering onderworpe was, kan die persoon wat die bevoegdheid het om die betrokke aanstelling, oorplasing of bevordering te doen, die aanstelling, oorplasing of bevordering bekragtig, maar indien die aanstelling, oorplasing of bevordering op proef nie aldus bekragtig word nie— 60

(a) moet die departementshoof, in die geval van 'n beampte in diens in die A-afdeling, die redes vir die nie-bekragtiging aan die Kommissie rapporteer, wat, 65

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- (c) an officer's term of office as head of department as prescribed in paragraph (a) or (b), may, subject to the provisions of subsection (2), be extended at the expiry thereof for a period or successive periods of at least one year but not exceeding five years, as the Minister or Administrator may approve.
- (2) (a) The Minister or Administrator shall in writing inform the officer concerned at least six calendar months before the expiry of the term contemplated in paragraph (a) or (b) or any previously extended term contemplated in paragraph (c), of his intention to retain him in service for an extended term, or not.
- (b) If the Minister or Administrator so informs the officer concerned of his intention to retain him in service for an extended term, he shall in writing inform the Minister or Administrator, within one calendar month from the date of that communication, of his acceptance or not of that extended employment.
- (c) If the officer concerned so informs the Minister or Administrator of his acceptance of the further employment, his term of office as head of department is extended by the further period upon which he and the Minister or Administrator have agreed.
- (3) Before the Minister or Administrator approves a shorter period contemplated in subsection (1) (a) in respect of an officer who is not a member of the services or the National Intelligence Service, or communicates with such an officer in terms of subsection (2) (a), the Commission shall make a recommendation.

12. (1) The appointment of a person and the transfer and promotion of an officer in the A or B division shall be made on probation—

Appointment,
transfer and promotion on probation.

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

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behoudens die bepalinge van subartikel (5), dié aanbeveling oor die aangeleentheid moet doen wat hy goed-dink;

- (b) kan die persoon wat die bevoegdheid het om die betrokke aanstelling, oorplasing of bevordering te doen, in die geval van 'n beampte in diens in die B-afdeling, die proeftyd verleng of ooreenkomstig die bepalinge van subartikel (4) optree. 5
- (4) (a) Ondanks andersluidende bepalinge van subartikel (2) of Hoofstuk VI, maar behoudens die bepalinge van paragraaf (b) en subartikel (5), kan 'n beampte wat op proef in diens is, deur die persoon wat die bevoegdheid van ontslag het, uit die staatsdiens ontslaan word, hetsy gedurende of by of na verstryking van die proeftyd—
 - (i) deur een maand kennis te gee; of 15
 - (ii) onverwyld, indien sy gedrag of werkverrigting onbevredigend is.
- (b) Voordat 'n beampte wat in die A-afdeling in diens is, aldus ontslaan word, moet die Kommissie eers 'n aanbeveling doen. 20
- (5) (a) Ondanks andersluidende bepalinge van artikels 13 en 28, maar behoudens die bepalinge van paragraaf (b), moet 'n persoon wie se oorplasing of bevordering op proef nie bekragtig word nie en wat onmiddellik voor daardie oorplasing of bevordering op proef 'n beampte was, uitgesonderd 'n beampte op proef, oorgeplaas word na die pos wat hy tevore beklee het, of na 'n pos van gelyke gradering, en moet hy die salaris ontvang wat hy in sy vorige pos sou ontvang het as hy nie op proef oorgeplaas of bevorder was nie. 25 30
- (b) In die geval van die oorplasing van 'n beampte in diens in die A-afdeling, moet die Kommissie eers 'n aanbeveling doen.

Oorplasinge in staatsdiens.

13. (1) Behoudens die bepalinge van hierdie Wet kan elke beampte of werknemer, wanneer die openbare belang dit vereis, 35 oorgeplaas word uit die pos of betrekking wat hy beklee, na enige ander pos of betrekking in dieselfde of enige ander departement, ongeag of so 'n pos of betrekking in 'n ander afdeling is, of van 'n laer of hoër graad is, of binne of buite die Republiek is. 40

- (2) (a) Die oorplasing van 'n beampte of werknemer uit een pos of betrekking na 'n ander pos of betrekking kan, behoudens die bepalinge van paragrafe (b) en (c) en subartikel (3) (d), op gesag van die persoon wat die bevoegdheid het om oor te plaas, gedoen word. 45
- (b) In die geval van 'n oorplasing van een departement na 'n ander departement moet die goedkeuring van die persone wat ten opsigte van elk van daardie departemente die bevoegdheid het om oor te plaas, vooraf verkry word. 50
- (c) Die bepalinge van hierdie subartikel word nie uitgelê nie as sou dit die Kommissie belet om—
 - (i) die oorplasing van 'n beampte uit een pos na 'n ander pos in die A-afdeling aan te beveel; of
 - (ii) aan te beveel dat 'n beampte, uitgesonderd 'n lid 55 van die dienste of die Nasionale Intelligensiediens, wat die amp van departementshoof beklee gedurende of by verstryking van die termyn in artikel 11 (1) (a) of (b) bedoel, of enige verlengde termyn in artikel 11 (1) (c) bedoel, op die voorwaardes 60 wat die Kommissie aanbeveel, na 'n pos oorgeplaas word waarop die bepalinge van artikel 11 nie van toepassing is nie.
- (3) 'n Beampte—
 - (a) se salaris of salarisskaal mag nie sonder sy instemming 65 by oorplasing verlaag word nie, behalwe in ooreenstemming met die bepalinge van Hoofstuk VI en artikel 32;
 - (b) wat oorgeplaas is na of in diens is in 'n pos van 'n laer of hoër graad as sy eie graad sonder 'n verandering in

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- ject to the provisions of subsection (5) make such recommendation in the matter as it may deem fit;
- (b) the person having the power to make the appointment, transfer or promotion concerned may, in the case of an officer serving in the B division, extend the period of probation or act according to the provisions of subsection (4).
- (4) (a) Notwithstanding anything to the contrary contained in subsection (2) or in Chapter VI, but subject to the provisions of paragraph (b) and subsection (5), an officer who is serving on probation may be discharged from the public service by the person having the power of discharge, either during or at or after the expiry of the period of probation—
- (i) by the giving of one month's notice; or
- (ii) forthwith, if his conduct or performance is unsatisfactory.
- (b) Before an officer serving in the A division is so discharged, the Commission shall first make a recommendation.
- (5) (a) Notwithstanding anything to the contrary contained in sections 13 and 28, but subject to the provisions of paragraph (b), a person whose transfer or promotion on probation is not confirmed and who immediately prior to that transfer or promotion on probation was an officer, other than an officer on probation, shall be transferred to the post formerly held by him, or to a post of equivalent grading, and shall receive such salary as he would have received in his former post if he had not been transferred or promoted on probation.
- (b) In the case of the transfer of an officer serving in the A division, the Commission shall first make a recommendation.
13. (1) Subject to the provisions of this Act, every officer or employee may, when the public interest so requires, be transferred from the post or position occupied by him to any other post or position in the same or any other department, irrespective of whether such a post or position is in another division, or is of a lower or higher grade, or is within or outside the Republic.
- (2) (a) The transfer of an officer or employee from one post or position to another post or position may, subject to the provisions of paragraph (b) and (c) and subsection (3) (d), be made on the authority of the person having the power to transfer.
- (b) In the case of a transfer from one department to another department the approval of the persons who in respect of each of those departments have the power to transfer, shall first be obtained.
- (c) The provisions of this subsection shall not be construed as precluding the Commission from—
- (i) recommending the transfer of an officer from one post to another post in the A division; or
- (ii) recommending that an officer, other than a member of the services or the National Intelligence Service, who occupies the office of head of department be transferred to a post to which the provisions of section 11 do not apply during or at the expiry of the term contemplated in section 11 (1) (a) or (b), or of any extended term contemplated in section 11 (1) (c), on such conditions as the Commission may recommend.
- (3) An officer—
- (a) shall not upon transfer suffer any reduction in his salary or scale of salary without his consent, except in accordance with the provisions of Chapter VI and section 32;
- (b) who has been transferred to or is employed in a post of a lower or higher grade than his own grade without a

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sy salarisskaal, se oorplasing na 'n geskikte vakante pos waarby sy salarisskaal pas, moet deur die Kommissie aanbeveel word;

(c) wat oorgeplaas is na of in diens is in 'n pos wat hoër as sy eie graad gegradeer is, of wat hergradeer is na, of omgeskep is in, 'n pos van 'n hoër graad as sy eie graad, is nie bloot uit hoofde van die oorplasing of diens op die hoër salarisskaal wat op die pos van toepassing is, geregtig nie;

(d) mag nie uit een pos oorgeplaas word na 'n ander pos wat van 'n hoër of laer graad as sy eie graad is of 'n ander benaming het nie, tensy die Kommissie die oorplasing aanbeveel het, behalwe waar elkeen van die twee betrokke poste in die dienste of in die B-afdeling is;

(e) wat 'n pos in die A- of B-afdeling beklee, mag nie sonder sy instemming na 'n pos in 'n tak van die dienste of in die Nasionale Intelligensiediens oorgeplaas word nie.

(4) 'n Lid van enigeen van die drie takke van die dienste mag nie sonder sy instemming na 'n pos in 'n ander van daardie takke of na 'n pos in die A- of B-afdeling oorgeplaas word nie, en 'n lid van die Nasionale Intelligensiediens mag, behoudens die bepalinge van die Wet op die Buro vir Staatsveiligheid, 1978 (Wet No. 104 van 1978), nie sonder sy instemming na 'n pos in so 'n afdeling oorgeplaas word nie.

Oorplasing en afstaan van amptenare.

14. (1) 'n Persoon wat 'n pensioengewende betrekking beklee in 'n departement kragtens 'n ander wet as hierdie Wet, of in die Suid-Afrikaanse Vervoerdienste, die Departement van Pos- en Telekommunikasiewese, of 'n instelling wat by 'n Parlements-wet ingestel is en wat sy fondse regstreeks in die geheel of gedeeltelik uit die Staatsinkomstefonds verkry, kan op aanbeveling van die Kommissie oorgeplaas word na en aangestel word in 'n pos in die A- of B-afdeling.

(2) 'n Persoon in diens van 'n departement kragtens 'n ander wet as hierdie Wet, of in diens van 'n ander regering, of van 'n Swart owerheid, of van 'n raad, inrigting of liggaam wat by of kragtens die een of ander wet ingestel is, of van 'n ander liggaam of persoon, kan op aanbeveling van die Kommissie deur 'n ander departement of 'n departement, na gelang van die geval, in diens geneem word vir 'n besondere diens of vir 'n bepaalde tydperk en op dié voorwaardes, uitgesonderd voorwaardes wat by of kragtens 'n pensioenwet bepaal word, wat die Kommissie na oorleg met die betrokke persoon se werkgewer aanbeveel en die Tesourie goedkeur.

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

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

(4) (a) 'n Persoon (in hierdie paragraaf die amptenaar genoem) in diens van 'n departement kragtens 'n ander wet as hierdie Wet, of van 'n ander regering, of van 'n Swart owerheid, of van 'n raad, inrigting of liggaam wat by of kragtens die een of ander wet ingestel is, of van 'n ander liggaam of persoon, kan op aanbeveling van die Kommissie deur 'n ander departement of 'n departement, na gelang van die geval, in diens geneem word vir 'n bepaalde tydperk en op dié voorwaardes, uitgesonderd voorwaardes wat by of kragtens 'n pensioenwet bepaal word, wat die Kommissie na oorleg met die amptenaar se werkgewer aanbeveel en die Tesourie goedkeur, en in so 'n geval kan, op aanbeveling

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change in his scale of salary, shall be recommended by the Commission for transfer to a post to which his scale of salary is appropriate;

5 (c) who has been transferred to or who is employed in a post which is graded higher than his own grade, or which is regraded or converted to a post of a higher grade than his own grade, shall not by reason only of that transfer or employment be entitled to the higher scale of salary applicable to the post;

10 (d) shall not be transferred from one post to another post which is of a higher or lower grade than his own grade or bears a different designation, unless the Commission has recommended the transfer, except where each of the two posts concerned is in the services or in the B division;

15 (e) holding a post in the A or B division shall not without his consent be transferred to a post in any branch of the services or in the National Intelligence Service.

(4) A member of any of the three branches of the services shall not without his consent be transferred to a post in any other of those branches or to a post in the A or B division, and a
20 member of the National Intelligence Service shall not, subject to the provisions of the Bureau for State Security Act, 1978 (Act No. 104 of 1978), without his consent be transferred to a post in such a division.

25 14. (1) A person holding a pensionable appointment in a department under any law other than this Act, or in the South African Transport Services, the Department of Posts and Telecommunications, or an institution established by an Act of Parliament and which obtains its funds directly in whole or in part from the State Revenue Fund, may on the recommendation of
30 the Commission be transferred to and appointed in a post in the A or B division.

Transfer and secondment of officials.

(2) A person in the service of a department under any law other than this Act, or in the service of another government, or of a Black authority, or of a council, institution or body established by or under any law, or of any other body or person, may on
35 the recommendation of the Commission be employed by another department or a department, as the case may be, for a particular service or for a stated period and on such conditions, other than conditions laid down by or under any pensions law,
40 as may be recommended by the Commission after consultation with the employer of the person concerned and approved by the Treasury.

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

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

55 (4) (a) A person (in this paragraph referred to as the official) in the service of a department under any law other than this Act, or of another government, or of a Black authority, or of a council, institution or body established by or under any law, or of any other body or person, may,
60 on the recommendation of the Commission, be employed by another department or a department, as the case may be, for a stated period and on such conditions, other than conditions laid down by or under any pensions law, as may be recommended by the
65 Commission after consultation with the employer of the official and approved by the Treasury, and in such a case, on the recommendation of the Commission and

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van die Kommissie en op dié voorwaardes, benewens dié wat by of kragtens die een of ander wet voorgeskryf word, wat die Kommissie na oorleg met die Tesourie aanbeveel, 'n beampte of werknemer met sy instemming en ingevolge 'n ooreenkoms tussen die departement waarin hy in diens is en die amptenaar se werkgever op 'n uitruilgrondslag vir dieselfde tydperk tot die beskikking van die amptenaar se werkgever gestel word.

- (b) So 'n beampte of werknemer bly, terwyl hy aldus ter beskikking gestel is, onderworpe aan die wette wat op beamptes en werknemers in die staatsdiens van toepassing is.
- (5) (a) Ondanks andersluidende bepalings van die een of ander wet kan 'n beampte of werknemer wat 'n pos of betrekking beklee in 'n departement wat genoem word in Bylae 2, wanneer die openbare belang dit vereis, met sy instemming en op aanbeveling van die Kommissie en op dié voorwaardes wat op aanbeveling van die Kommissie voorgeskryf word na die diens van 'n Swart owerheid oorgeplaas word.
- (b) Totdat 'n wet wat van krag is in die gebied van 'n Swart owerheid in paragraaf (a) bedoel anders bepaal, word die diens by so 'n owerheid van 'n beampte of werknemer wat kragtens paragraaf (a) oorgeplaas is, vir die doeleindes van sy verlof en pensioen gereken as deel van en as aaneenlopend met sy diens in die staatsdiens en, totdat 'n wet anders bepaal, bly die bepalings van die pensioenwet wat op hom as beampte of werknemer of, in die geval van sy dood, op sy afhanklikes van toepassing is, *mutatis mutandis* van toepassing.
- (c) Die Staatspresident kan, nadat die Kommissie 'n aanbeveling gedoen het, Bylae 2 by proklamasie in die *Staatskoerant* wysig.

HOOFSTUK V

35

Dienseindiging

Aftreding en
indienshouding.

15. (1) (a) Behoudens die bepalings van hierdie artikel het 'n beampte, uitgesonderd 'n lid van die dienste of die Nasionale Intelligensiediens, die reg om uit die staatsdiens af te tree, en word hy aldus verplig om af te tree op die datum waarop hy die leeftyd van 65 jaar bereik.
- (b) Indien so 'n beampte genoemde leeftyd na die eerste dag van 'n maand bereik, word hy geag dit op die eerste dag van die eersvolgende maand te bereik het.
- (2) (a) Behoudens die bepalings van paragraaf (b) het 'n beampte, uitgesonderd 'n lid van die dienste of die Nasionale Intelligensiediens, wat met ingang van 'n datum voor 24 Junie 1955 aangestel is, of 'n beampte op wie die bepalings van artikel 7 van die Regeringsdienspensioenwet, 1973 (Wet No. 57 van 1973), van toepassing is, die reg om te eniger tyd voor of nadat hy, in die geval van 'n manlike beampte, die leeftyd van 60 jaar of, in die geval van 'n vroulike beampte, die leeftyd van 55 jaar bereik, skriftelik aan sy departementshoof kennis te gee van sy begeerte om verplig te word om uit die staatsdiens af te tree, en word hy—
- (i) indien die kennis gegee word minstens drie kalendermaande voor die datum waarop hy genoemde leeftyd bereik, aldus verplig om af te tree op die datum waarop hy die leeftyd bereik of, indien hy dit na die eerste dag van 'n maand bereik, op die eerste dag van die eersvolgende maand; of
- (ii) indien die kennis nie minstens drie kalendermaande voor die datum waarop hy genoemde leeftyd bereik, gegee word nie, aldus verplig om af te tree op die eerste dag van die vierde maand na die maand waarin die kennisgewing ontvang word.

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- on such conditions, in addition to those laid down by or under any law, as may be recommended by the Commission after consultation with the Treasury, an officer or employee may with his consent and in terms of an agreement between the department in which he is employed and the employer of the official be placed at the disposal of the employer of the official for the same period on an exchange basis.
- (b) Such an officer or employee remains subject to the laws applicable to officers and employees in the public service while so placed at such disposal.
- (5) (a) Notwithstanding anything to the contrary contained in any law, an officer or employee who occupies a post or position in a department mentioned in Schedule 2 may, when the public interest so requires, with his consent and on the recommendation of the Commission and on such conditions as may be prescribed on the recommendation of the Commission, be transferred to the service of a Black authority.
- (b) Until any law in force within the territory of a Black authority contemplated in paragraph (a) provides otherwise, the service with such an authority of an officer or employee transferred under paragraph (a), is regarded, for the purposes of his leave and pension, as part of and continuous with his service in the public service and, until any law provides otherwise, the provisions of the pensions law which is applicable to him as an officer or employee or, in the event of his death, to his dependants, continue *mutatis mutandis* to apply.
- (c) The State President may, after the Commission has made a recommendation, amend Schedule 2 by proclamation in the *Gazette*.

CHAPTER V

Termination of service

15. (1) (a) Subject to the provisions of this section, an officer, other than a member of the services or the National Intelligence Service, has the right to retire from the public service, and shall be so retired on the date when he attains the age of 65 years.
- (b) If such an officer attains the said age after the first day of a month, he is deemed to have attained it on the first day of the following month.
- (2) (a) Subject to the provisions of paragraph (b), an officer, other than a member of the services or the National Intelligence Service, who was appointed with effect from a date prior to 24 June 1955, or an officer to whom the provisions of section 7 of the Government Service Pensions Act, 1973 (Act No. 57 of 1973), are applicable, has the right at any time before or after attaining, in the case of a male officer, the age of 60 years or, in the case of a female officer, the age of 55 years, to give written notification to his head of department of his wish to be retired from the public service, and he shall—
- (i) if that notification is given at least three calendar months prior to the date on which he attains the said age, be so retired on the date on which he attains that age or, if he attains it after the first day of a month, on the first day of the following month; or
- (ii) if that notification is not given at least three calendar months prior to the date on which he attains the said age, be so retired on the first day of the fourth month after the month in which the notification is received.

Retirement and re-
tention of services.

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- (b) (i) In die geval van 'n beampte wat die amp van departementshoof beklee, moet hy minstens ses kalendermaande voor die datum waarop hy genoemde leeftyd bereik, kennis gee van sy begeerte om verplig te word om uit die staatsdiens af te tree, en indien hy aldus kennis gegee het, geld die bepaling van paragraaf (a) (i) *mutatis mutandis*. 5
- (ii) Indien so 'n beampte nie minstens ses kalendermaande voor die datum waarop hy genoemde leeftyd bereik aldus kennis gee nie, word hy aldus verplig om af te tree op die eerste dag van die sewende maand na die maand waarin die kennisgewing ontvang word. 10
- (3) (a) Behoudens die bepalinge van hierdie artikel, artikel 11 (2) (a) en artikel 13, het 'n beampte wat die amp van departementshoof beklee die reg om uit die staatsdiens af te tree en word hy aldus verplig om af te tree by verstryking van die termyn in artikel 11 (1) (a) of (b) bedoel, of van enige verlengde termyn in artikel 11 (1) (c) bedoel, na gelang van die geval. 20
- (b) Indien 'n beampte ingevolge paragraaf (a) aftree of verplig word om af te tree, word hy geag ingevolge artikel 16 (2) (b) uit die staatsdiens ontslaan te wees.
- (4) (a) Behoudens die bepalinge van paragraaf (b) kan 'n beampte, uitgesonderd 'n lid van die dienste of die Nasionale Intelligensiediens of 'n beampte bedoel in artikel 16 (4), wat die leeftyd van 60 jaar bereik het, onderworpe in elke geval aan die aanbeveling van die Kommissie en die goedkeuring van die Minister of Administrateur, verplig word om uit die staatsdiens af te tree. 30
- (b) In die geval van 'n beampte bedoel in subartikel (2) is die leeftyd waarop of waarna hy aldus verplig kan word om af te tree, in die geval van 'n manlike beampte 55 jaar en in die geval van 'n vroulike beampte 50 jaar. 35
- (5) (a) Die Minister of Administrateur kan, op versoek van 'n beampte wat die amp van departementshoof beklee en, indien die beampte nie 'n lid van die dienste of die Nasionale Intelligensiediens is nie, onderworpe aan 'n aanbeveling van die Kommissie, hom toelaat om voor die verstryking van die termyn in artikel 11 (1) (a) of (b) bedoel, of enige verlengde termyn in artikel 11 (1) (c) bedoel, en ondanks die afwesigheid van enige rede vir ontslag ingevolge artikel 16 (2), uit die staatsdiens af te tree indien daar 'n rede bestaan wat die Minister of Administrateur voldoende ag. 45
- (b) As 'n beampte toegelaat word om ingevolge paragraaf (a) uit die staatsdiens af te tree, word hy, ondanks andersluidende bepalinge van subartikel (4), geag ingevolge daardie subartikel uit die staatsdiens af te getree 50 het, en is hy geregtig op die pensioen waarop hy geregtig sou gewees het indien hy ingevolge daardie subartikel uit die staatsdiens afgetree het.
- (6) Indien die openbare belang vereis dat 'n beampte, uitgesonderd 'n lid van die dienste of die Nasionale Intelligensiediens, in sy pos in diens gehou word na die leeftyd waarop hy ooreenkomstig die bepalinge van subartikel (1) verplig moet word om af te tree, kan hy met sy instemming aldus van tyd tot tyd op aanbeveling van die Kommissie en met die goedkeuring van die Minister of Administrateur in diens gehou word vir verdere tydperke wat, behalwe met die goedkeuring, by besluit, van die Parlement, altesaam nie twee jaar te bowe mag gaan nie. 60

Ontslag van
beamptes.

16. (1) (a) Behoudens die bepalinge van paragraaf (b) en subartikel (6) berus die bevoegdheid om 'n beampte of 65 werknemer te ontslaan by die Minister of Administrateur, wat dié bevoegdheid aan 'n beampte kan delegeer.

- (b) In die geval van 'n beampte wat 'n pos in die A-afdeling beklee, moet die Kommissie eers sy ontslag aanbeveel.

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- (b) (i) In the case of an officer who occupies the office of head of department, he shall give notification of his wish to be retired from the public service at least six calendar months prior to the date on which he attains the said age, and if he has so given notification, the provisions of paragraph (a) (i) apply *mutatis mutandis*;
- (ii) If such an officer has not so given notification at least six calendar months prior to the date on which he attains the said age, he shall be so retired on the first day of the seventh month following the month in which that notification is received.
- (3) (a) Subject to the provisions of this section, section 11 (2) (a) and section 13, an officer who occupies the office of head of department has the right to retire from the public service and he shall be so retired at the expiry of the term contemplated in section 11 (1) (a) or (b), or of any extended term contemplated in section 11 (1) (c), as the case may be.
- (b) If an officer retires or is retired in terms of paragraph (a), he is deemed to have been discharged from the public service in terms of section 16 (2) (b).
- (4) (a) Subject to the provisions of paragraph (b), an officer, other than a member of the services or the National Intelligence Service or an officer contemplated in section 16 (4), who has reached the age of 60 years may, subject in every case to the recommendation of the Commission and the approval of the Minister or Administrator, be retired from the public service.
- (b) In the case of an officer contemplated in subsection (2) the age at or after which he may be so retired, is in the case of a male officer 55 years and, in the case of a female officer, 50 years.
- (5) (a) The Minister or Administrator may, at the request of an officer occupying the office of head of department and, if the officer is not a member of the services or the National Intelligence Service, subject to a recommendation of the Commission, allow him to retire from the public service before the expiry of the term contemplated in section 11 (1) (a) or (b), or any extended term contemplated in section 11 (1) (c), and notwithstanding the absence of any reason for discharge in terms of section 16 (2), if a reason exists which the Minister or Administrator deems sufficient.
- (b) If an officer is allowed to retire from the public service in terms of paragraph (a), he is, notwithstanding anything to the contrary contained in subsection (4), deemed to have retired in terms of that subsection, and he is entitled to such pension as he would have been entitled to if he had retired from the public service in terms of that subsection.
- (6) If it is in the public interest to retain an officer, other than a member of the services or the National Intelligence Service, in his post beyond the age at which he shall be retired in accordance with the provisions of subsection (1), he may with his consent be so retained from time to time, on the recommendation of the Commission and with the approval of the Minister or Administrator, for further periods which shall not, except with the approval, by resolution, of Parliament, exceed in the aggregate two years.
16. (1) (a) Subject to the provisions of paragraph (b) and subsection (6), the power to discharge an officer or employee is vested in the Minister or Administrator, who may delegate that power to an officer.
- (b) In the case of an officer holding a post in the A division, the Commission shall first make a recommendation for his discharge.
- Discharge of officers.

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(2) Elke beampte, uitgesonderd 'n lid van die dienste of die Nasionale Intelligensiediens, kan uit die staatsdiens ontslaan word—

- (a) weens voortdurende swak gesondheid;
- (b) weens die afskaffing van sy pos of 'n vermindering of reorganisasie of herreëling van departemente of kantore; 5
- (c) indien, om ander redes as sy eie ongeskiktheid of onvermoë, sy ontslag doeltreffendheid of besuiniging in die departement of kantoor waarin hy in diens is, sal bevorder, of andersins in belang van die staatsdiens sal wees; 10
- (d) weens ongeskiktheid vir sy pligte of onvermoë om hulle op bekwame wyse uit te voer;
- (e) weens wangedrag; 15
- (f) indien, in die geval van 'n beampte wat op proef aangestel is, sy aanstelling nie bekragtig word nie;
- (g) op grond van wanvoorstelling van sy posisie met betrekking tot 'n voorwaarde vir vaste aanstelling soos in artikel 9 bepaal; 20
- (h) indien sy voortgesette indienshouding 'n sekerheidsrisiko vir die Staat inhou;
- (i) indien die Staatspresident hom in die openbare belang kragtens 'n Parlements wet in 'n amp aanstel waarop die bepalings van hierdie Wet of die Wet op die Kommissie vir Administrasie nie van toepassing is nie. 25

- (3) (a) Indien 'n beampte kragtens subartikel (2) (g) ontslaan word, word hy geag kragtens subartikel (2) (e) ontslaan te wees.
- (b) Indien 'n beampte kragtens subartikel (2) (h) ontslaan word, word hy geag kragtens subartikel (2) (d) ontslaan te wees. 30

(4) 'n Beampte wat 'n pos in die B-afdeling beklee, se dienste kan, ondanks die afwesigheid van enige rede vir ontslag ingevolge subartikel (2), op aanbeveling van die Kommissie deur skriftelike kennisgewing beëindig word, en die kennisgewing moet, in die geval van 'n beampte met minder as 10 jaar ononderbroke diens, een maand, en in die geval van 'n beampte met 10 jaar of langer ononderbroke diens, drie maande wees. 35

(5) (a) (i) 'n Beampte, uitgesonderd 'n lid van die dienste of die Nasionale Intelligensiediens, wat sonder verlof van die hoof van sy departement, kantoor of inrigting vir 'n tydperk van meer as een kalendermaand van sy ampspligte wegbly, word geag uit die staatsdiens weens wangedrag ontslaan te wees met ingang van die datum wat onmiddellik volg op die laaste dag waarop hy op sy plek van diens teenwoordig was. 45

(ii) Indien so 'n beampte ander werk aanvaar, word hy geag ontslaan te wees soos voormeld, ongeag of genoemde tydperk verstryk het al dan nie. 50

(b) Indien 'n beampte wat geag word aldus ontslaan te wees, hom te eniger tyd na die verstryking van die tydperk in paragraaf (a) vermeld vir diens aanmeld, kan die Kommissie, ondanks andersluidende bepalings van die een of ander wet, aanbeveel dat, onderworpe aan die goedkeuring van die Minister of Administrateur, hy in die staatsdiens herstel word in sy vorige of 'n ander pos of betrekking op dié voorwaardes wat die Kommissie aanbeveel, en in so 'n geval word die tydperk van sy afwesigheid van sy ampspligte geag afwesigheid met vakansieverlof sonder besoldiging te wees of verlof op dié ander voorwaardes wat die Kommissie aanbeveel. 55

(6) As dit in die openbare belang is om 'n beampte kragtens 'n Parlements wet aan te stel in 'n amp waarop die bepalings van hierdie Wet of die Wet op die Kommissie vir Administrasie nie van toepassing is nie, kan die Staatspresident hom aldus in daardie amp aanstel en kan hy hom uit die staatsdiens ontslaan sonder dat die Kommissie eers sy ontslag aanbeveel het. 65

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(2) Every officer, other than a member of the services or the National Intelligence Service, may be discharged from the public service—

- (a) on account of continued ill-health;
- 5 (b) owing to the abolition of his post or any reduction in or reorganization or readjustment of departments or offices;
- (c) if, for reasons other than his own unfitness or incapacity, his discharge will promote efficiency or economy in
10 the department or office in which he is employed, or will otherwise be in the interest of the public service;
- (d) on account of unfitness for his duties or incapacity to carry them out efficiently;
- (e) on account of misconduct;
- 15 (f) if, in the case of an officer appointed on probation, his appointment is not confirmed;
- (g) on account of misrepresentation of his position in relation to a condition for permanent appointment as determined in section 9;
- 20 (h) if his continued employment constitutes a security risk for the State;
- (i) if the State President appoints him in the public interest under any Act of Parliament to an office to which the provisions of this Act or the Commission for Administration Act do not apply.
- 25 (3) (a) If an officer is discharged under subsection (2) (g), he is deemed to have been discharged under subsection (2) (e).
- (b) If an officer is discharged under subsection (2) (h), he
30 is deemed to have been discharged under subsection (2) (d).

(4) The services of an officer who occupies a post in the B division may, notwithstanding the absence of any reason for discharge in terms of subsection (2), be terminated upon the recommendation of the Commission by the giving of notice in writing, and
35 that notice shall, in the case of an officer with less than 10 years' continuous service, be one month, and in the case of an officer with 10 years' or more continuous service, be three months.

- (5) (a) (i) An officer, other than a member of the services or
40 the National Intelligence Service, who absents himself from his official duties without permission of his head of department, office or institution for a period exceeding one calendar month, is deemed to have been discharged from the public service on
45 account of misconduct with effect from the date immediately succeeding his last day of attendance at his place of duty.
- (ii) If such an officer assumes other employment, he is deemed to have been discharged as aforesaid irrespective of whether the said period has expired or
50 not.

(b) If an officer who is deemed to have been so discharged, reports for duty at any time after the expiry of the period referred to in paragraph (a), the Commission may, notwithstanding anything to the contrary contained in any law, recommend that, subject to the approval of the Minister or Administrator, he be re-instated in the public service in his former or any other post or position on such conditions as the Commission may recommend, and in such a case the period of his
55 absence from official duty is deemed to be absence on vacation leave without pay, or leave on such other conditions as the Commission may recommend.

60

(6) If it is in the public interest to appoint an officer under
65 any Act of Parliament to an office to which the provisions of this Act or the Commission for Administration Act do not apply, the State President may so appoint him to that office and may discharge him from the public service without the Commission first having made a recommendation for his discharge.

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HOOFSTUK VI

Onbekwaamheid en wangedrag

Onbekwame
beamptes.

17. (1) Indien 'n departementshoof aan die Minister of Administrateur verslag doen dat 'n beampte, uitgesonderd 'n beampte wat 'n pos in die B-afdeling beklee of 'n lid van die dienste of die Nasionale Intelligensiediens, in sy departement, na sy mening, ongeskik is vir sy pligte of nie in staat is om hulle op bekwame wyse uit te voer nie, moet die Minister of Administrateur 'n beampte aanstel om ondersoek na die bewerings in te stel, en indien so 'n verslag aan 'n departementshoof gedoen 10 word deur 'n beampte wat ingevolge artikel 5 (3) aangewys is om departemente te inspekteer, moet die departementshoof binne een kalendermaand na die datum waarop hy dit ontvang het, dit aan die Minister of Administrateur stuur, wat 'n beampte moet aanstel om ondersoek na die bewerings in te stel. 15

(2) Indien 'n ondersoek ingevolge subartikel (1) gehou gaan word, moet die betrokke beampte skriftelik daarvan in kennis gestel word, en daarop het hy die reg—

- (a) op 'n skriftelike uiteensetting van die gronde waarop beweer word dat hy ongeskik vir sy pligte is of nie in 20 staat is om hulle op bekwame wyse uit te voer nie;
- (b) om by die ondersoek teenwoordig te wees, om deur 'n ander persoon bygestaan of verteenwoordig te word, om getuienis af te lê en om, hetsy persoonlik of deur 'n verteenwoordiger— 25
 - (i) aangehoor te word;
 - (ii) getuies op te roep;
 - (iii) iemand wat as getuie opgeroep is ter staving van genoemde bewerings, onder kruisverhoor te neem; 30
 - (iv) insae te hê in stukke wat as getuienis voorgelê is.

(3) Na afloop van die ondersoek moet die betrokke beampte in kennis gestel word van die bevinding van die beampte wat die ondersoek gehou het, en indien daar bevind is dat hy ongeskik vir sy pligte is of nie in staat is om hulle op bekwame wyse uit te 35 voer nie, het hy die reg om teen die bevinding by die Kommissie te appelleer.

(4) Die prosedure by 'n ondersoek en die aanteken en verhoor van 'n appèl is soos voorgeskryf.

(5) Indien die beampte wat die ondersoek gehou het, bevind 40 het dat die betrokke beampte ongeskik vir sy pligte is of nie in staat is om hulle op bekwame wyse uit te voer nie, moet die Kommissie met inagneming van die stukke wat op die bevinding en enige appèl betrekking het, by die Minister of Administrateur aanbeveel— 45

- (a) dat geen verdere stappe in die saak gedoen word nie; of
- (b) dat die betrokke beampte na 'n ander pos oorgeplaas word of addisioneel tot die vaste diensstaat in diens gehou word; of 50
- (c) dat sy salaris of graad of sowel sy salaris as sy graad verlaag word in die mate wat aanbeveel word; of
- (d) dat teen hom opgetree word soos in paragraaf (b) sowel as in paragraaf (c) voorgeskryf; of
- (e) dat hy uit die staatsdiens ontslaan word met ingang van 55 'n datum wat die Minister of Administrateur bepaal.

(6) Die Kommissie moet die stukke wat op die ondersoek en, waar toepaslik, op die appèl betrekking het saam met sy aanbeveling ingevolge subartikel (5) aan die Minister of Administrateur stuur, en die Minister of Administrateur kan volgens die 60 aanbeveling van die Kommissie handel of, behoudens die bepaling van artikel 4, volgens enige ander aanbeveling wat kragtens subartikel (5) gemaak kan word.

Onbekwame
departementshoof-
de.

18. (1) Indien daar na die mening van 'n Minister of Administrateur redelike gronde bestaan om te vermoed dat 'n 65 departementshoof ongeskik vir sy pligte is of nie in staat is om hulle op bekwame wyse uit te voer nie, moet die Minister of Administrateur dienoreenkomstig aan die Staatspresident verslag

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CHAPTER VI

Inefficiency and misconduct

17. (1) If a head of department reports to the Minister or Administrator that any officer, other than an officer who occupies a post in the B division or a member of the services or the National Intelligence Service, in his department is, in his opinion, unfit for his duties or incapable of carrying them out efficiently, the Minister or Administrator shall appoint an officer to inquire into those allegations, and if such a report is made to a head of department by an officer designated in terms of section 5 (3) to inspect departments, the head of department shall, within one calendar month of the date on which he received it, send it to the Minister or Administrator, who shall appoint an officer to inquire into those allegations.

Inefficient officers.

(2) If an inquiry is to be held in terms of subsection (1), the officer concerned shall be notified in writing thereof, and thereupon he has the right—

- (a) to a written statement setting out the grounds on which he is alleged to be unfit for his duties or incapable of carrying them out efficiently;
- (b) to be present at the inquiry, to be assisted or represented by another person, to give evidence and, either personally or through a representative—
 - (i) to be heard;
 - (ii) to call witnesses;
 - (iii) to cross-examine any person called as a witness in support of the said allegations; and
 - (iv) to have access to documents produced in evidence.

(3) At the conclusion of the inquiry, the officer concerned shall be notified of the finding of the officer conducting the inquiry, and if it has been found that he is unfit for his duties or that he is incapable of carrying them out efficiently, he has the right to appeal to the Commission against that finding.

(4) The procedure at an inquiry and the noting and hearing of an appeal are as prescribed.

(5) If the officer conducting the inquiry has found that the officer concerned is unfit for his duties or incapable of carrying them out efficiently, the Commission shall, having regard to the documents relating to the finding and any appeal, recommend to the Minister or Administrator—

- (a) that no further action be taken in the matter; or
- (b) that the officer concerned be transferred to another post or be employed additional to the fixed establishment; or
- (c) that his salary or grade or both his salary and grade be reduced to an extent recommended; or
- (d) that action be taken against him as prescribed in paragraph (b) as well as paragraph (c); or
- (e) that he be discharged from the public service from a date to be fixed by the Minister or Administrator.

(6) The Commission shall send the documents relating to the inquiry and, where applicable, to the appeal, together with its recommendation in terms of subsection (5), to the Minister or Administrator, and the Minister or Administrator may act according to the recommendation of the Commission or, subject to the provisions of section 4, according to any other recommendation which can be made under subsection (5).

18. (1) If in the opinion of a Minister or an Administrator there are reasonable grounds for believing that a head of department is unfit for his duties or incapable of carrying them out efficiently, the Minister or Administrator shall report to the State

Inefficient heads of department.

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doen, en die Staatspresident kan 'n persoon of persone aanstel om ondersoek na die bewerings in te stel.

(2) Die bepalings van artikel 17 (2) tot (6) is *mutatis mutandis* van toepassing op 'n ondersoek ingevolge subartikel (1) van hierdie artikel, en vir dié doel moet 'n verwysing in artikel 17 (5) en (6) na die Minister of Administrateur, as 'n verwysing na die Staatspresident uitgelê word.

Wangedrag.

19. 'n Beampte, uitgesonderd 'n lid van die dienste of die Nasionale Intelligensiediens, is aan wangedrag skuldig en daar kan ooreenkomstig die bepalings van artikel 20 met hom gehandel word, indien hy—

- (a) 'n bepaling van hierdie Wet oortree of versuim om aan 'n bepaling daarvan te voldoen;
- (b) 'n daad wat tot nadeel strek van die administrasie, dissipline of doeltreffendheid van 'n departement, kantoor of inrigting van die Staat, verrig, laat verrig of toelaat of oogluikend toelaat dat dit verrig word;
- (c) 'n wettige bevel aan hom gegee deur 'n persoon wat die bevoegdheid het om dit te gee, nie gehoorsaam nie, dit veronagsaam of opsetlik versuim om dit uit te voer, of deur woord of gedrag hom aan insubordinasie skuldig maak;
- (d) nalatig of traag is by die uitvoering van sy pligte;
- (e) sonder toestemming van die Minister of Administrateur (verleen op aanbeveling van die Kommissie in die geval van 'n beampte in die A-afdeling) enige private agentskap of private werk in enige aangeleentheid wat met die verrigting van sy amptelike werksaamhede of die uitvoering van sy ampspligte in verband staan, onderneem;
- (f) hom in die openbaar ten nadele van die administrasie van enige departement uitlaat;
- (g) van sy posisie in die staatsdiens gebruik maak om die belange van 'n politieke party te bevorder of te benadeel;
- (h) probeer om uit politieke of buitebronne ingryping in verband met sy posisie en diensvoorwaardes in die staatsdiens te verkry, tensy dit geskied om herstel van 'n grief deur bemiddeling van die Parlement te probeer verkry;
- (i) hom op 'n skandelijke, onbehoorlike of onbetaamlike wyse gedra, of, terwyl hy aan diens is, hom aan growwe onbeleefdheid teenoor 'n persoon skuldig maak;
- (j) buitensporig van sterk drank of bedwelvende middels gebruik maak;
- (k) insolvent word of 'n akkoord met sy skuldeisers aangaan, of indien 'n bevel tot gyseling deur 'n geregshof teen hom gegee is, tensy daar bewys word dat sy insolvensie of akkoord of die gee van die bevel deur onvermydelike teenspoed veroorsaak is;
- (l) in geldelike moeilikheid raak, tensy daar bewys word dat sy geldelike moeilikheid nie die gevolg is van onversigtigheid of ander laakbare oorsaak nie en nie nadelig is vir die getroue uitvoering van sy pligte nie;
- (m) sonder voorafverkreë toestemming van sy departementshoof, inligting wat hy ingewin of bekom het as gevolg van sy werk in die staatsdiens, openbaar maak anders as in die uitvoering van sy ampspligte, of die inligting vir 'n ander doel as vir die uitvoering van sy ampspligte gebruik, hetsy hy die inligting openbaar maak, al dan nie;
- (n) sonder toestemming van die Minister of Administrateur (verleen op aanbeveling van die Kommissie in die geval van 'n beampte in die A-afdeling), enige kommissie, geld of geldelike of ander beloning (wat nie die emolumente is wat ten opsigte van sy pligte aan hom betaalbaar is nie) aanneem of eis ten opsigte van die uitvoering van sy pligte, of die versuim om dit uit te voer, of versuim om sy departementshoof of, indien hy 'n

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President accordingly, and the State President may appoint a person or persons to inquire into the allegations.

(2) The provisions of section 17 (2) to (6) apply *mutatis mutandis* to an inquiry in terms of subsection (1) of this section, and for that purpose a reference in section 17 (5) and (6) to the Minister or Administrator shall be construed as a reference to the State President.

19. An officer, other than a member of the services or the National Intelligence Service, is guilty of misconduct and may be dealt with in accordance with the provisions of section 20, if he—

- (a) contravenes any provision of this Act or fails to comply with any provision thereof;
- 15 (b) performs or causes or permits to be performed or conspires at any act which is to the prejudice of the administration, discipline or efficiency of any department, office or institution of the State;
- 20 (c) disobeys, disregards or makes wilful default in carrying out a lawful order given to him by a person having the authority to give it, or by word or conduct displays insubordination;
- (d) is negligent or indolent in the carrying out of his duties;
- 25 (e) undertakes, without permission of the Minister or Administrator (granted on the recommendation of the Commission in the case of an officer in the A division) any private agency or private work in any matter connected with the performance of his official functions or the carrying out of his official duties;
- 30 (f) publicly comments to the prejudice of the administration of any department;
- (g) makes use of his position in the public service to promote or to prejudice the interests of any political party;
- 35 (h) attempts to secure intervention from political or outside sources in relation to his position and conditions of service in the public service, unless it occurs in an endeavour to obtain redress of any grievance through Parliament;
- 40 (i) conducts himself in a disgraceful, improper or unbecoming manner, or, while on duty, is grossly discourteous to any person;
- 45 (j) uses intoxicants or stupefying drugs excessively;
- (k) becomes insolvent or compromises with his creditors, or has a decree of civil imprisonment made against him by any court of law, unless it is shown that his insolvency or composition or the making of the decree has been occasioned by unavoidable misfortune;
- 50 (l) becomes pecuniarily embarrassed, unless it is shown that his pecuniary embarrassment has not been occasioned by imprudence or other reprehensible cause and is not prejudicial to the faithful carrying out of his duties;
- 55 (m) without first having obtained the permission of his head of department, discloses, otherwise than in carrying out his official duties, information gained by or conveyed to him through his employment in the public service, or uses that information for any purpose other than for carrying out his official duties, whether or not he discloses that information;
- 60 (n) accepts, without permission of the Minister or Administrator (granted on the recommendation of the Commission in the case of an officer in the A division), or demands in respect of the carrying out of or the failure to carry out his duties any commission, fee or pecuniary or other reward (not being the emoluments payable to him in respect of his duties), or fails to report to his head of department or, if he is a head of depart-
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- departementshoof is, die Minister of Administrateur van die aanbod van so 'n kommissie, geld of ander beloning te verwittig;
- (o) hom eiendom van die Staat wederregtelik toeëien of onbehoorlike gebruik daarvan maak in omstandighede wat nie op 'n misdryf neerkom nie; 5
 - (p) 'n misdryf pleeg;
 - (q) sonder verlof of geldige rede van sy kantoor of diens afwesig is;
 - (r) 'n valse of onjuiste verklaring aflê in die wete dat dit vals of onjuis is met die oog op die verkryging van enige voorreg of voordeel met betrekking tot sy amptelike posisie of sy pligte, of op die benadeling van of skadeberokkening aan die Staat of 'n departement of die staatsdiens of 'n lid van die staatsdiens; 15
 - (s) 'n reël van die konstitusie van 'n mediese hulpfonds of hulpskema of hulpvereniging waarvan hy ingevolge die regulasies verplig is om lid te wees, oortree of versuim om daaraan te voldoen;
 - (t) 'n bepaling van 'n voorgeskrewe gedragskode oortree of versuim om daaraan te voldoen. 20

Optrede in geval van wangedrag.

20. (1) Wanneer 'n beampte, uitgesonderd 'n departementshoof of 'n lid van die dienste of die Nasionale Intelligensiediens, van wangedrag beskuldig word, kan sy departementshoof of 'n beampte in daardie departement deur die departementshoof gemagtig hom skriftelik onder sy handtekening van daardie wangedrag aankla, en die aanklag moet 'n aanseggings bevat of van 'n aanseggings vergesel gaan waarby die aangeklaagde beampte aangesê word om binne 'n redelike tydperk wat in die aanseggings vermeld moet word aan 'n persoon wat ook daarin vermeld moet word 'n skriftelike erkenning of ontkenning van die aanklag en, indien hy dit verlang, 'n skriftelike verklaring betreffende die wangedrag waarvan hy aangekla word, te stuur of by hom af te lewer.

(2) 'n Beampte kan te eniger tyd voor of nadat hy kragtens hierdie artikel aangekla is, in sy diens geskors word op die voorwaardes wat voorgeskryf word.

(3) (a) Indien die aangeklaagde beampte erken dat hy aan die aanklag skuldig is, word hy geag skuldig te wees aan wangedrag soos aangekla. 40

(b) Indien hy die aanklag ontken of versuim om aan die aanseggings in subartikel (1) bedoel, te voldoen, moet die Minister of Administrateur 'n beampte aanstel om ondersoek na die aanklag in te stel.

(c) Die Minister of Administrateur kan die bevoegdheid by hierdie subartikel ten opsigte van 'n beampte in die Bafdeling aan hom verleen aan die departementshoof deleger.

(4) By 'n ondersoek ingevolge subartikel (3) het die aangeklaagde beampte die reg— 50

(a) om, indien die wangedrag waarvan hy aangekla word, op 'n misdryf neerkom waaraan hy deur 'n gereghof skuldig bevind is, redes aan te voer waarom hy, na sy mening, verkeerdelik skuldig bevind is;

(b) om by die ondersoek teenwoordig te wees, deur 'n ander persoon bygestaan of verteenwoordig te word, getuïenis af te lê en, hetsy persoonlik of deur 'n verteenwoordiger—

(i) aangehoor te word; 60

(ii) getuies op te roep;

(iii) iemand wat as getuie opgeroep is ter stawing van die aanklag, onder kruisverhoor te neem; en

(iv) insae te hê in stukke wat as getuïenis voorgelê is.

(5) Na afloop van die ondersoek moet die aangeklaagde beampte van die bevinding van die beampte wat die ondersoek gehou het in kennis gestel word, en het hy die reg— 65

(a) indien hy skuldig bevind is, om teen die bevinding by die Kommissie te appelleer; en

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- ment, to the Minister or Administrator, the offer of such a commission, fee or reward;
- (o) misappropriates or makes improper use of any property of the State under circumstances not amounting to an offence;
- (p) commits an offence;
- (q) absents himself from his office or duty without leave or valid cause;
- (r) makes a false or incorrect statement, knowing it to be false or incorrect, with a view to obtaining any privilege or advantage in relation to his official position or his duties, or to causing prejudice or injury to the State or a department or the public service or a member of the public service;
- (s) contravenes any rule of the constitution of a medical aid fund or aid scheme or aid society of which he is required to be a member in terms of the regulations, or fails to comply therewith;
- (t) contravenes any provision of a prescribed code of conduct or fails to comply with any provision thereof.

20. (1) When an officer, other than a head of department or a member of the services or the National Intelligence Service, is accused of misconduct, his head of department or an officer in that department authorized by the head of the department may charge him in writing under his hand with that misconduct, and the charge shall contain or shall be accompanied by a direction calling upon the officer charged to send or deliver within a reasonable period specified in the direction to a person likewise specified a written admission or denial of the charge and, if he so desires, a written explanation regarding the misconduct with which he is charged.

Action in cases of misconduct.

(2) An officer may at any time before or after he has been charged under this section be suspended from duty on such conditions as may be prescribed.

(3) (a) If the officer charged admits that he is guilty of the charge, he is deemed to be guilty of misconduct as charged.

(b) If he denies the charge or fails to comply with the direction contemplated in subsection (1), the Minister or Administrator shall appoint an officer to inquire into the charge.

(c) The Minister or Administrator may delegate the power conferred upon him by this subsection in relation to an officer in the B division to the head of department.

(4) At an inquiry in terms of subsection (3), the officer charged has the right—

(a) if the misconduct with which he is charged, amounts to an offence of which he was convicted by a court of law, to show cause why, in his opinion, he was wrongly convicted;

(b) to be present at the inquiry, to be assisted or represented by another person, to give evidence and, either personally or through a representative—

- (i) to be heard;
- (ii) to call witnesses;
- (iii) to cross-examine any person called as a witness in support of the charge; and
- (iv) to have access to documents produced in evidence.

(5) At the conclusion of the inquiry the officer charged shall be notified of the finding of the officer conducting the inquiry, and he has the right—

- (a) if he has been found guilty, to appeal against the finding to the Commission; and

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(b) indien hy voor of tydens die ondersoek in sy diens geskors is, om in die voorgeskrewe omstandighede weer diens te aanvaar en om enige emolumente wat vir die tydperk van skorsing van hom weerhou is, te ontvang soos voorgeskryf.

(6) Die prosedure by 'n ondersoek ingevolge subartikel (3) en die aanteken en verhoor van 'n appèl bedoel in subartikel (5) (a) is soos voorgeskryf.

(7) Indien die aangeklaagde beampte aan die aanklag skuldig bevind word of indien hy erken dat hy aan die aanklag skuldig is, moet die hoof van die departement waarin hy in diens is, in die geval van 'n aangeklaagde beampte wat in die B-afdeling in diens is en nie teen die bevinding geappelleer het nie, of die Kommissie, in die geval van 'n ander aangeklaagde beampte, met inagneming van die stukke wat op die ondersoek en, waar toepaslik, op die appèl betrekking het, by die Minister of Administrateur aanbeveel—

(a) dat hy gewaarsku of berispe word; of

(b) dat hy 'n boete van hoogstens R2 000 opgelê word; of

(c) dat hy na 'n ander pos oorgeplaas of addisioneel tot die vaste diensstaat in diens gehou word; of

(d) dat sy salaris of graad of sowel sy salaris as sy graad verlaag word in die mate wat aanbeveel word; of

(e) dat hy ontslaan of aangesê word om uit die staatsdiens te bedank met ingang van 'n datum wat die Minister of Administrateur moet bepaal.

(8) (a) Behalwe waar 'n aanbeveling kragtens paragraaf (e) van subartikel (7) gedoen word, kan die Kommissie of departementshoof aanbevelings kragtens meer as een van die paragrawe van dié subartikel doen.

(b) Die Kommissie of departementshoof kan die doen van 'n aanbeveling vir 'n tydperk van hoogstens 12 kalendermaande uitstel.

(c) Indien 'n beampte wat aangesê is om met ingang van 'n bepaalde datum te bedank, versuim om aldus te bedank, word hy geag met ingang van daardie datum ontslaan te wees.

(d) 'n Boete wat kragtens subartikel (7) (b) opgelê is, kan verhaal word deur die aftrekking van die salaris van die betrokke beampte van dié paaielemente wat die Minister of Administrateur bepaal.

(9) Die Kommissie of departementshoof moet die stukke wat op die ondersoek en, waar toepaslik, op die appèl betrekking het, saam met sy aanbeveling kragtens subartikel (7), aan die Minister of Administrateur stuur, en die Minister of Administrateur kan volgens die aanbeveling van die Kommissie of departementshoof handel of, behoudens die bepalinge van artikel 4 in die geval van 'n aanbeveling deur die Kommissie, volgens enige ander aanbeveling wat kragtens subartikel (7) gemaak kan word.

Wangedrag van departementshoofde.

21. (1) Wanneer 'n departementshoof van wangedrag beskuldig word, kan die Minister of Administrateur die aangeleentheid rapporteer aan die Staatspresident, wat die Minister of Administrateur kan gelas om hom van daardie wangedrag aan te kla, en as 'n ondersoek ingevolge artikel 20 (3), gelees met subartikel (2) van hierdie artikel, nodig word, kan die Staatspresident 'n persoon of persone aanstel om die ondersoek in te stel.

(2) Die bepalinge van artikel 20 (2) tot (9) is *mutatis mutandis* van toepassing op verrigtinge wat op 'n lasgewing ingevolge subartikel (1) van hierdie artikel volg, en vir dié doel moet 'n verwysing in artikels 20 (3), 20 (7) (e), 20 (8) (d) en 20 (9) na die Minister of Administrateur uitgelê word as 'n verwysing na die Staatspresident, en 'n verwysing in artikel 20 na die beampte wat die ondersoek instel, as 'n verwysing na die persoon of persone wat ingevolge subartikel (1) van hierdie artikel aangestel is.

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- (b) if he has been suspended from duty before or during the inquiry, to resume duty under the prescribed circumstances and to receive any emoluments which were withheld during the period of suspension, as prescribed.
- (6) The procedure at an inquiry in terms of subsection (3) and the noting and hearing of an appeal contemplated in subsection (5) (a) are as prescribed.
- (7) If the officer charged is found guilty of the charge or if he admits that he is guilty of the charge, the head of the department where the officer is employed, in the case of an officer charged who is employed in the B division and who has not appealed against the finding, or the Commission, in the case of any other officer charged, shall recommend, having regard to the documents relating to the inquiry and, where applicable, to the appeal, to the Minister or Administrator—
- (a) that he be cautioned or reprimanded; or
 - (b) that a fine not exceeding R2 000 be imposed upon him; or
 - (c) that he be transferred to another post or be employed additional to the fixed establishment; or
 - (d) that his salary or grade or both his salary and grade be reduced to an extent recommended; or
 - (e) that he be discharged or called upon to resign from the public service from a date to be fixed by the Minister or Administrator.
- (8) (a) Except where a recommendation is made under paragraph (e) of subsection (7), the Commission or head of department may make recommendations under more than one of the paragraphs of that subsection.
- (b) The Commission or head of department may postpone the making of a recommendation for a period not exceeding 12 calendar months.
- (c) If an officer who has been called upon to resign from a stated date, fails so to resign, he is deemed to have been discharged with effect from that date.
- (d) A fine imposed under subsection (7) (b) may be recovered by the deduction from the salary of the officer concerned of such instalments as the Minister or Administrator may determine.
- (9) The Commission or head of department shall send the documents relating to the inquiry and, where applicable, to the appeal, together with its or his recommendation under subsection (7), to the Minister or Administrator, and the Minister or Administrator may act according to the recommendation of the Commission or head of department or, subject to the provisions of section 4 in the case of a recommendation by the Commission, according to any other recommendation which can be made under subsection (7).

21. (1) When a head of department is accused of misconduct, the Minister or Administrator may report the matter to the State President, who may direct the Minister or Administrator to charge him with that misconduct, and if an inquiry becomes necessary in terms of section 20 (3), read with subsection (2) of this section, the State President may appoint a person or persons to hold the inquiry.

Misconduct of heads of department.

- (2) The provisions of section 20 (2) to (9) apply *mutatis mutandis* to any proceedings following upon a direction under subsection (1) of this section, and for that purpose a reference in sections 20 (3), 20 (7) (e), 20 (8) (d) and 20 (9) to the Minister or Administrator shall be construed as a reference to the State President, and a reference in section 20 to the officer conducting the inquiry as a reference to the person or persons appointed under subsection (1) of this section.

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HOOFSTUK VII

Verpligtinge, regte en voorregte van beamptes en werknemers

Regte en verpligtinge.

22. 'n Beampte of werknemer moet die verpligtinge hom opgelê by hierdie Wet of enige ander wet nakom, en het die regte en daar kan aan hom die voorregte verleen word wat by of kragtens hierdie Wet of enige ander wet voorgeskryf word. 5

Voorbehoud betreffende regte en verpligtinge.

23. Geen bepaling van hierdie Wet word uitgelê as sou dit enige bestaande, aankomende of voorwaardelike reg, aanspreeklikheid of verpligting van enige persoon wat uit enige ander wet voortvloei, ophef of afbreuk daaraan doen nie. 10

Ander werk deur beamptes en werknemers.

24. Tensy daar anders in sy diensvoorwaardes bepaal word—
- (a) moet elke beampte en werknemer al sy tyd tot die beskikking van die Staat stel;
 - (b) mag geen beampte of werknemer besoldigde werk buite sy werk in die staatsdiens verrig of hom verbind 15 om dit te verrig nie, sonder toestemming verleen op aanbeveling van die Kommissie deur die Minister of Administrateur, of 'n beampte deur die Minister of Administrateur gemagtig;
 - (c) kan geen beampte of werknemer aanspraak maak op 20 addisionele besoldiging ten opsigte van enige amptelike diens of werk wat hy vrywillig verrig of deur 'n bevoegde gesag aangesê word om te verrig nie.

Ongemagtigde besoldiging.

25. (1) (a) (i) Indien enige besoldiging, toelae of ander beloning 25 deur 'n beampte of werknemer in verband met die verrigting van sy werk in die staatsdiens ontvang word anders as ooreenkomstig die bepalinge van hierdie Wet of 'n aanbeveling van die Kommissie, of in stryd met die bepalinge van artikel 24 (b) ontvang word, moet daardie beampte of werknemer 'n bedrag gelyk aan die bedrag van daardie besoldiging, toelae of ander beloning in inkomste stort, of waar dit nie uit geld bestaan nie, die waarde daarvan soos bepaal deur die hoof van 35 die departement waarin hy werksaam was ten tyde van die ontvangs daarvan, en indien hy dit nie doen nie, moet dit deur dié hoof deur middel van regsproses of op die ander wyse wat die Tesourie goedkeur, op hom verhaal en in inkomste gestort 40 word.
- (ii) Die betrokke beampte of werknemer kan teen so 'n bepaling deur die departementshoof by die Minister of Administrateur appelleer, wat die bevel kan gee wat hy goeddink. 45
 - (iii) Die Kommissie kan aanbeveel dat die betrokke beampte of werknemer die geheel of 'n gedeelte van die besoldiging, toelae of beloning kan behou.
- (b) Indien 'n beampte of werknemer na die oordeel van die departementshoof vermeld in paragraaf (a) enige besoldiging, toelae of ander beloning bedoel in daardie paragraaf ontvang het, en dit nog in sy besit of onder sy beheer is of ten behoeve van hom in die besit of onder die beheer van iemand anders is, of, indien dit geld is, in 'n depositonemende finansiële instelling gestort is op sy naam of op naam van iemand anders ten behoeve van hom, kan daardie departementshoof die beampte of werknemer of so iemand anders of die finansiële instelling skriftelik aansê om, in afwagting van die uitslag van geregtelike stappe vir die verhaal van daardie 50 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.
- (c) 'n Persoon of 'n finansiële instelling in paragraaf (b) 65 bedoel wat 'n aansegging ingevolge daardie paragraaf

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CHAPTER VII

Obligations, rights and privileges of officers and employees

22. An officer or employee shall fulfil the obligations imposed upon him by this Act or any other law, and he has the rights and may be granted the privileges which are prescribed by or under this Act or any other law.

Rights and obligations.

23. No provision of this Act shall be construed as abrogating or derogating from any existing, accruing or contingent right, liability or obligation of any person flowing from any other law.

Saving regarding rights and obligations.

24. Unless it is otherwise provided for in his conditions of employment—

Other work by officers and employees.

- (a) every officer and employee shall place the whole of his time at the disposal of the State;
- (b) no officer or employee shall perform or engage himself to perform remunerative work outside his employment in the public service, without permission granted on the recommendation of the Commission by the Minister or Administrator, or an officer authorized by the Minister or Administrator;
- (c) no officer or employee may claim any additional remuneration in respect of any official duty or work which he performs voluntarily or is required by a competent authority to perform.

25. (1) (a) (i) If any remuneration, allowance or other reward is received by an officer or employee in connection with the performance of his work in the public service otherwise than in accordance with the provisions of this Act or a recommendation of the Commission, or is received contrary to the provisions of section 24 (b), that officer or employee shall pay into revenue 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 head of the department in which he was employed at the time of the receipt thereof, and if he does not do so, it shall be recovered from him by that head by way of legal proceedings or in such other manner as the Treasury may approve, and be paid into revenue.
- (ii) The officer or employee concerned may appeal against such a determination by the head of the department to the Minister or Administrator, who may make such order as he may think fit.
- (iii) The Commission may recommend that the officer or employee concerned may retain the whole or a portion of the remuneration, allowance or reward.
- (b) If in the opinion of the head of department mentioned in paragraph (a) an officer or employee has received any remuneration, allowance or other reward contemplated in that paragraph, and it is still in his possession or under his control or in the possession or under the control of any other person on his behalf, or, if it is money, has been deposited in any deposit-taking financial institution in his name or in the name of any other person on his behalf, that head of department may in writing require that officer or employee or that other 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.
- (c) A person or financial institution contemplated in paragraph (b) who or which fails to comply with a require-

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- nie nakom nie, is aan 'n misdryf skuldig en by skuldigbevinding straffbaar met 'n boete van hoogstens R3 000 of gevangenisstraf vir 'n tydperk van hoogstens een jaar.
- (d) Die bepalings van hierdie artikel is ook van toepassing op 'n beampte wat 'n departementshoof is, en in so 'n geval moet 'n verwysing na 'n departementshoof uitgelê word as 'n verwysing na die Tesourie.
- (2) (a) Behoudens die bepalings van paragraaf (b) moet enige salaris, toelae, geld, bonus of honorarium wat betaalbaar is ten opsigte van die dienste van 'n beampte of 10 werknemer wat tydelik tot die beskikking van 'n ander regering of 'n Swart owerheid, of van 'n raad, inrigting, liggaam of persoon bedoel in artikel 14 (3) of (4), gestel is, in inkomste gestort word.
- (b) Die Kommissie kan onder omstandighede wat hy as 15 buitengewoon beskou, aanbeveel dat daar aan die betrokke beampte uit inkomste 'n bedrag betaal word wat gelyk is aan, daardie salaris, toelae, geld, bonus of honorarium, of 'n gedeelte daarvan.
- Opdra van ander werksaamhede aan beamptes en werknemers. 26. Die Minister of Administrateur of die hoof van 'n departement, tak, kantoor of inrigting kan 'n beampte of werknemer onder sy beheer gelas om tydelik ander pligte te verrig as dié wat normaalweg aan so 'n beampte of werknemer opgedra word of wat by die graad, benaming of indeling van sy pos pas, en hy moet so 'n lasgewing gehoorsaam. 25
- Sessie van emolumente. 27. Geen beampte of werknemer mag sonder skriftelike goedkeuring van die rekenpligtige beampte, soos omskryf in artikel 1 van die Skatkis- en Ouditwet, 1975 (Wet No. 66 van 1975), van die departement of kantoor waarin hy in diens is, die reg op die geheel of 'n gedeelte van enige salaris of toelae wat aan hom betaalbaar is, seeder nie. 30
- Verlaging van salarisse. 28. 'n Beampte se salaris of salarisskaal mag nie sonder sy instemming verlaag word nie behalwe ooreenkomstig die bepalings van Hoofstuk VI of artikel 32 of ingevolge 'n Parlements wet. 35
- Griewe en versoeke van beamptes en werknemers. 29. Indien 'n beampte in die A- of B-afdeling 'n klag of 'n grief oor 'n amptelike handeling of versuim het, of indien 'n beampte in daardie afdelings of 'n werknemer 'n versoek of mededeling aan die Kommissie wil rig, het hy die reg om die klag, grief, versoek of mededeling by die betrokke gesag onder die 40 voorgeskrewe omstandighede en op die voorgeskrewe voorwaardes en wyse in te dien, en daardie gesag moet dit op die voorgeskrewe wyse en op die voorgeskrewe tyd of binne die voorgeskrewe tydperk aan die Kommissie voorlê.
- Politieke regte van beamptes en werknemers. 30. Behoudens die bepalings van artikel 19(g) mag 'n beampte 45 of werknemer—
- (a) lid wees en in die bestuur dien van 'n wettige politieke party;
- (b) 'n openbare politieke vergadering bywoon, maar nie op so 'n vergadering voorsit of as spreker optree nie; 50
- (c) nie 'n geskrif opstel of publiseer of 'n openbare toespraak hou ter bevordering of benadeling van die belange van 'n politieke party nie.
- HOOFTUK VIII
- Diverse 55
- Besoldiging van beamptes en werknemers. 31. (1) Behoudens die bepalings van artikel 4 moet daar aan beamptes en werknemers die salarisse, lone en toelaes betaal word ooreenkomstig die skale wat vir hulle range en grade deur die Kommissie ingevolge artikel 3 (2) (g) aanbeveel is.
- (2) Op aanbeveling van die Kommissie, maar behoudens die 60 bepalings van artikel 4—
- (a) kan daar aan beamptes of werknemers of klasse beamptes of werknemers by aanstelling, oorpasing of

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ment in terms of that paragraph, is guilty of an offence and liable on conviction to a fine not exceeding R3 000 or to imprisonment for a period not exceeding one year.

5 (d) The provisions of this section also apply to an officer who is a head of department, and in such a case a reference to a head of department shall be construed as a reference to the Treasury.

10 (2) (a) Subject to the provisions of paragraph (b), any salary, allowance, fee, bonus or honorarium which may be payable in respect of the services of an officer or employee placed temporarily at the disposal of any other government or a Black authority, or of a council, institution, body or person contemplated in section 14 (3) or (4), shall be paid into revenue.

15 (b) In circumstances regarded by the Commission as exceptional, it may recommend the payment out of revenue to the officer or employee concerned of an amount equal to that salary, allowance, fee, bonus or honorarium, or a portion thereof.

20 26. The Minister or Administrator or the head of a department, branch, office or institution may direct any officer or employee under his control temporarily to perform duties other than those ordinarily assigned to such an officer or employee or appropriate to the grade, designation or classification of his post, and he shall comply with such a direction.

Assignment of other functions to officers and employees.

27. No officer or employee shall without written approval of the accounting officer, as defined in section 1 of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975), of the department or office in which he is employed, cede the right to the whole or any part of any salary or allowance payable to him.

Cession of emoluments.

28. The salary or scale of salary of an officer shall not be reduced without his consent except in accordance with the provisions of Chapter VI or section 32 or in terms of an Act of Parliament.

Reduction of salaries.

29. If an officer in the A or B division has a complaint or a grievance concerning an official act or omission, or if an officer in those divisions or an employee wants to address a request or communication to the Commission, he has the right to lodge that complaint, grievance, request or communication with the authority concerned under the prescribed circumstances, on the prescribed conditions and in the prescribed manner, and that authority shall submit it to the Commission in the prescribed manner, and at the prescribed time or within the prescribed period.

Grievances and requests of officers and employees.

30. Subject to the provisions of section 19 (g), an officer or employee may—

Political rights of officers and employees.

- 50 (a) be a member and serve on the management of a lawful political party;
- (b) attend a public political meeting, but may not preside or speak at such a meeting;
- (c) not draw up or publish any writing or deliver a public speech to promote or prejudice the interests of any political party.

55 CHAPTER VIII

Miscellaneous

31. (1) Subject to the provisions of section 4, officers and employees shall be paid the salaries, wages and allowances in accordance with the scales recommended by the Commission for their ranks and grades in terms of section 3 (2) (g).

Remuneration of officers and employees.

(2) On the recommendation of the Commission, but subject to the provisions of section 4—

(a) officers or employees or classes of officers or employees

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bevordering hoër salarisse of lone as die minimum bedrae van die toepaslike skale betaal word;

- (b) kan daar aan beamptes of werknemers of klasse beamptes of werknemers spesiale verhoging in salarisse toegestaan word binne die skale wat op hulle van toepassing is; 5
- (c) kan die salaris of loon van 'n beampte of werknemer wat buitengewoon bekwaam is of wat spesiale kwalifikasies besit of wat voortreflike diens gelewer het en, as dit in belang van die staatsdiens is, van enige beampte of werknemer, spesiaal verhoog word binne die skaal wat op hom van toepassing is, of kan daar aan hom 'n salaris of loon ooreenkomstig 'n hoër skaal betaal of enige ander geskikte beloning toegeken word; en 10
- (d) kan daar aan 'n departementshoof of klas departementshoofde voor of by verstryking van 'n termyn in artikel 11 (1) (a) of (b) bedoel, of enige verlengde termyn in artikel 11 (1) (c) bedoel, of ten tyde van aftrede of ontslag uit die staatsdiens, enige besondere diensvoordeel toegeken word. 20

Foutiewelik toegestane besoldiging.

32. (1) Indien 'n foutiewe salaris of salarisskaal by aanstelling, oorpasing of bevordering, of 'n foutiewe verhoging in salaris binne die perke van die salarisskaal op sy graad van toepassing, aan 'n beampte of werknemer toegeken of toegestaan is, of toegeken of toegestaan is teen die korrekte kerf of skaal maar op 'n tyd wanneer of in omstandighede waaronder dit nie aan hom toegeken of toegestaan behoort te gewees het nie, moet die hoof van die departement waarin daardie beampte of werknemer in diens is sy salaris of salarisskaal regstel met ingang van die datum waarop die foutiewe salaris, salarisskaal of salarisverhoging in werking getree het, ondanks die bepalinge van artikel 13 (3) (a) en ondanks die feit dat die betrokke beampte of werknemer onbewus daarvan was dat 'n fout begaan is in die geval waar die regstelling neerkom op 'n verlaging van sy salarisskaal of salaris. 25

(2) Indien 'n beampte of werknemer bedoel in subartikel (1) ten opsigte van sy salaris, met inbegrip van enige gedeelte van 'n toelae of ander besoldiging of enige ander voordeel wat op sy basiese salaris of salarisskaal bereken is of op grond van sy basiese salaris aan hom toegeken is— 35

- (a) onderbetaal is, moet 'n bedrag gelyk aan die bedrag van die onderbetaling aan hom betaal word, en moet die ander voordeel wat hy nie ontvang het nie, vanaf 'n lopende datum aan hom toegeken word; of 40
- (b) oorbetal is, of so 'n ander voordeel ontvang het wat hom nie toekom nie— 45
 - (i) moet 'n bedrag gelyk aan die bedrag van die oorbetalings op hom verhaal word by wyse van die aftrekking van sy salaris van die paaielemente wat die departementshoof, met die goedkeuring van die Tesourie, bepaal, indien hy in diens van die Staat is, of, indien hy nie aldus in diens is nie, by wyse van die aftrekking van enige bedrae wat deur die Staat aan hom verskuldig is, of by wyse van geregtelike stappe, of gedeeltelik op eersgenoemde en gedeeltelik op laasgenoemde wyse; 50
 - (ii) moet daardie ander voordeel vanaf 'n lopende datum gestaak of ingetrek word, maar die betrokke beampte of werknemer het die reg om deur die Staat vergoed te word vir enige vermoënsregtelike skade wat hy as gevolg van daardie staking of in- 60

(3) Met die goedkeuring van die Tesourie kan die bedrag van 'n oorbetalings wat ingevolge subartikel (2) (b) verhaal moet word geheel of gedeeltelik kwytgeskeld word. 65

Gesamentlike Adviserende Raad van Staatsdiens.

33. (1) Daar word hierby 'n raad ingestel wat die Gesamentlike Adviserende Raad van die Staatsdiens heet en wat bestaan uit— 65

- (a) die voorgeskrewe getal beamptes deur die Kommissie benoem; en

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- higher salaries or wages than the minimum amounts of the appropriate scales;
- (b) officers or employees or classes of officers or employees may be granted special advancement in salaries within the scales applicable to them;
- (c) the salary or wage of an officer or employee of exceptional ability or possessing special qualifications or who has rendered meritorious service, and, if it is in the interest of the public service, of any officer or employee, may be specially advanced within the scale applicable to him or may be paid a salary or wage in accordance with a higher scale or may be granted any other fitting reward; and
- (d) any special service benefit may be granted to a head of department or class of heads of department before or at the expiry of a term contemplated in section 11 (1) (a) or (b), or any extended term contemplated in section 11 (1) (c), or at the time of retirement or discharge from the public service.
32. (1) If an incorrect salary or scale of salary on appointment, transfer or promotion, or an incorrect advancement of salary within the limits of the scale of salary applicable to his grading, was awarded or granted to an officer or employee, 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, the head of the department in which that officer or employee is employed, shall correct his salary or scale of salary with effect from the date on which the incorrect salary, scale of salary or salary advancement commenced, notwithstanding the provisions of section 13 (3) (a) and notwithstanding the fact that the officer or employee concerned was unaware that an error had been made in the case where the correction amounts to a reduction of his scale of salary or salary.
- (2) If an officer or employee contemplated in subsection (1) has in respect of his salary, including any portion of any allowance or other remuneration or any other benefit calculated on his basic salary or scale of salary or awarded to him by reason of his basic salary—
- (a) been underpaid, an amount equal to the amount of the underpayment shall be paid to him, and that other benefit which he did not receive, shall be awarded to him as from a current date; or
- (b) been overpaid or received any such other benefit not due to him—
- (i) an amount equal to the amount of the overpayment shall be recovered from him by way of the deduction from his salary of such instalments as the head of department, with the approval of the Treasury, may determine if he is in the service of the State, or, if he is not so in service, by way of deduction from any moneys owing to him by the State, or by way of legal proceedings, or partly in the former manner and partly in the latter manner;
- (ii) that other benefit shall be discontinued or withdrawn as from a current date, but the officer or employee concerned has the right to be compensated by the State for any patrimonial loss which he 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 subsection (2) (b) may be remitted in whole or in part.
33. (1) There is hereby established a council, called the Public Service Joint Advisory Council, consisting of—
- (a) the prescribed number of officers nominated by the Commission; and
- Public Service Joint Advisory Council.

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- (b) die voorgeskrewe getal beamptes wat beamptes in die staatsdiens verteenwoordig, uitgesonderd die dienste en die Nasionale Intelligensiediens, en wat, onderworpe aan die voorgeskrewe voorwaardes en uitsonderings, benoem word deur die personeelverenigings wat deur die Kommissie erken word. 5

(2) Die Gesamentlike Adviserende Raad van die Staatsdiens moet die Kommissie adviseer betreffende—

- (a) enige aangeleentheid waarmee die Kommissie ingevolge hierdie Wet of enige ander wet moet of kan handel; 10
 (b) regulasies en voorgestelde regulasies, en wetgewing en voorgestelde wetgewing, vir sover dit die Staatsdiens raak of mag raak;
 (c) die ander aangeleenthede wat voorgeskryf word. 15

Beperking van regs-
gedinge.

34. (1) Geen regsgeding mag teen die Staat of 'n liggaam of persoon ten opsigte van enige beweerde handeling ingevolge hierdie Wet, of enige beweerde versuim om iets te doen wat ingevolge hierdie Wet gedoen behoort te word, ingestel word nie, tensy die regsgeding ingestel word voor die verstryking van 'n tydperk van 12 kalendermaande na die datum waarop die eiser kennis van die beweerde handeling of versuim gehad het, of na die datum waarop redelikerwys verwag kon word dat die eiser van die beweerde handeling of versuim bewus sou wees, na gelang van watter datum die vroegste is. 25

(2) Geen sodanige regsgeding mag ingestel word voor die verstryking van minstens een kalendermaand nadat 'n skriftelike kennisgewing, waarin besonderhede aangaande die beweerde handeling of versuim verstrekkend word, van die voorneme om die regsgeding in te stel, aan die verweerder bestel is nie. 30

Regulasies.

35. (1) Die Staatspresident kan, nadat die Kommissie 'n aanbeveling gedoen het, regulasies uitvaardig betreffende—

- (a) die indiensneming van persone en die oorplasing, bevordering en indienshouding van beamptes en werknemers; 35
 (b) die pligte, bevoegdhede, gedrag, dissipline, diensure en verlof van beamptes en werknemers en hulle ander diensvoorwaardes, met inbegrip van die bewoning van amptelike kwartiere; 40
 (c) 'n gedragskode wat beamptes en werknemers moet nakom;
 (d) reise in amptelike diens en die vervoervoorregte van beamptes en werknemers;
 (e) die voorwaardes waarop en die omstandighede waarin 45 besoldiging vir oortyd-diens, en reis-, verblyf-, klimaat-, plaaslike en ander toelaes, aan beamptes en werknemers betaal moet word;
 (f) die omstandighede waarin geneeskundige ondersoek vir die doeleindes van 'n bepaling van hierdie Wet vereis word, en die vorm van geneeskundige verslae en sertifikate;
 (g) die besondere klasse beamptes en werknemers wat verplig kan word om sekerheid te stel, en die bedrag en vorm daarvan; 55
 (h) die omstandighede waarin en die voorwaardes en wyse waarop bevind kan word dat 'n beampte ongeskik vir sy pligte is of nie in staat is om hulle op bekwame wyse uit te voer nie, en die voorwaardes en wyse waarop hy teen so 'n bevinding kan appelleer; 60
 (i) die wyse waarop 'n beampte van wangedrag aangekla moet word, die omstandighede waarin, die voorwaardes en wyse waarop en tyd wanneer 'n beampte in sy diens geskors kan word, die wyse waarop teen 'n skuldigbevinding aan wangedrag geappelleer kan word, 65 en die verhoor van so 'n appel;
 (j) die prosedure vir die behandeling van klagtes en griewe van beamptes, en die wyse waarop en die tyd wanneer

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(b) the prescribed number of officers representing officers in the public service, other than the services and the National Intelligence Service, who shall, subject to the prescribed conditions and exceptions, be nominated by the staff associations recognized by the Commission.

(2) The Public Service Joint Advisory Council shall advise the Commission regarding—

- (a) any matter which the Commission shall or may deal with under this Act or any other law;
- (b) regulations and proposed regulations, and legislation and proposed legislation, in so far as they affect or may affect the public service;
- (c) such other matters as may be prescribed.

34. (1) No legal proceedings shall be instituted against the State or any body or person in respect of any alleged act in terms of this Act, or any alleged omission to do anything which in terms of this Act should have been done, unless the legal proceedings are instituted before the expiry of a period of 12 calendar months after the date upon which the claimant had knowledge, or after the date on which the claimant might reasonably have been expected to have knowledge, of the alleged act or omission, whichever is the earlier date.

Limitation of actions.

(2) No such legal proceedings shall be commenced before the expiry of at least one calendar month after a written notification, in which particulars as to the alleged act or omission are given, of intention to bring those proceedings has been served on the defendant.

35. (1) The State President may, after the Commission has made a recommendation, make regulations regarding—

Regulations.

- (a) the employment of persons and the transfer, promotion and continued employment of officers and employees;
- (b) the duties, powers, conduct, discipline, hours of attendance and leave of absence of officers and employees and their other conditions of service, including the occupation of official quarters;
- (c) a code of conduct with which officers and employees shall comply;
- (d) journeys on official duty and the transport privileges of officers and employees;
- (e) the conditions on which and the circumstances under which remuneration for overtime duty, and travelling, subsistence, climatic, local and other allowances, shall be paid to officers and employees;
- (f) the circumstances under which medical examination shall be required for the purposes of any provision of this Act, and the form of medical reports and certificates;
- (g) the particular classes of officers and employees who may be required to provide security, and the amount and form thereof;
- (h) the circumstances under which and the conditions on which and the manner in which an officer may be found unfit for his duties or incapable of carrying them out efficiently, and the conditions on which and the manner in which he may appeal against such a finding;
- (i) the manner of charging an officer with misconduct, the circumstances under which, the conditions on which, the manner in which, and the time when, an officer may be suspended from service, the manner in which a finding of guilty of misconduct may be appealed against, and the hearing of such an appeal;
- (j) the procedure for dealing with complaints and grievances of officers, and the manner in which and time

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- stukke in verband daarmee en in verband met versoeke en mededelings van beamptes en werknemers, aan die Kommissie voorgelê moet word;
- (k) die samestelling, werksaamhede en prosedure van die Gesamentlike Adviserende Raad van die Staatsdiens; 5
- (l) die erkenning van personeelverenigings;
- (m) (i) die erkenning deur die Kommissie van 'n bepaalde mediese hulpskema of mediese hulpvereniging of bepaalde mediese hulpskemas of mediese hulpverenigings waarvan beamptes en werknemers verplig 10 is of kan word om lede te word en te bly;
- (ii) die voorwaardes waarop die erkenning of voortgesette erkenning of die intrekking van sodanige erkenning kan geskied en die bevoegdheid van die Kommissie om die vereistes voor te skryf waaraan 15 die konstitusie, reëls, beheer, bestuur, bevoegdheid, pligte, skale van lidmaatskapgelde en enige ander aspek van die bedrywighede van 'n mediese hulpskema of mediese hulpvereniging moet voldoen voordat dit vir erkenning of voortgesette erkenning soos hierin beoog, in aanmerking kom;
- (iii) beamptes en werknemers se verpligte lidmaatskap van die een of ander mediese hulpskema of mediese hulpvereniging deur die Kommissie erken;
- (iv) die klasse beamptes en werknemers wat aldus verplig 25 is of kan word om lede van so 'n mediese hulpskema of mediese hulpvereniging te word en te bly;
- (v) die voorwaardes van sodanige verpligte lidmaatskap, met inbegrip van die omstandighede waarin 30 en die wyse en voorwaardes waarop lidmaatskapgelde en ander gelde wat deur of ten opsigte van beamptes of werknemers aan 'n mediese hulpskema of mediese hulpvereniging betaalbaar of verskuldig is, ondanks die bepalings van artikel 27, op daardie beamptes of werknemers verhaal kan word 35 uit salarisse of lone of ander gelde wat kragtens hierdie Wet aan hulle betaalbaar is, en aan die mediese hulpskema of mediese hulpvereniging betaal moet word; 40
- (vi) die omstandighede waarin 'n beampte of werknemer of klasse beamptes of werknemers van verpligte lidmaatskap van 'n erkende mediese hulpskema of mediese hulpvereniging vrygestel is of kan word; 45
- (n) (i) die instelling en bestuur van en beheer oor 'n mediese hulpfonds of mediese helpfondse vir die staatsdiens;
- (ii) die klasse beamptes en werknemers wat verplig kan word om lede van so 'n fonds te word en daartoe by te dra; 50
- (iii) die skale van die bydraes;
- (iv) die regte, voorregte en verpligtinge van lede;
- (v) in die algemeen, alle aangeleenthede wat redelikerwys nodig is vir die reëling en werking van so 'n 55 fonds, met inbegrip van die omstandighede waarin en die wyse en voorwaardes waarop bydraes en ander gelde wat deur of ten opsigte van beamptes of werknemers aan so 'n fonds betaalbaar of verskuldig is, ondanks die bepalings van artikel 27, op daardie beamptes of werknemers verhaal kan word 60 uit salarisse of lone of ander gelde wat kragtens hierdie Wet aan hulle betaalbaar is, en aan die fonds betaal moet word;
- (o) die algemene sekerheid in departemente en die sekerheidsvereistes waaraan beamptes en werknemers moet voldoen;
- (p) alle aangeleenthede wat ingevolge hierdie Wet voorgeskryf moet of kan word;

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- when documents in connection therewith and in connection with requests and communications of officers and employees, shall be submitted to the Commission;
- 5 (k) the composition, functions and procedure of the Public Service Joint Advisory Council;
- (l) the recognition of staff associations;
- (m) (i) the recognition by the Commission of a particular medical aid scheme or medical aid society or particular medical aid schemes or medical aid societies of which officers and employees are or may be required to become and to remain members;
- 10 (ii) the conditions on which that recognition or continued recognition or the withdrawal of such recognition may take place and the power of the Commission to prescribe the requirements with which the constitution, rules, control, management, powers, duties, scales of membership fees and any other aspect of the activities of a medical aid scheme or medical aid society shall comply before it becomes eligible for recognition or continued recognition as contemplated herein;
- 15 (iii) the compulsory membership of officers and employees of any medical aid scheme or medical aid society recognized by the Commission;
- 20 (iv) the classes of officers and employees who are so required or who may be so required to become and to remain members of such a medical aid scheme or medical aid society;
- 25 (v) the conditions of such compulsory membership, including the circumstances under which, the manner in which and the conditions on which membership fees and any other moneys which are payable or owing by or in respect of officers or employees to a medical aid scheme or medical aid society, may, notwithstanding the provisions of section 27, be recovered from the salaries or wages of those officers or employees or from any other moneys which are payable to them under this Act, and paid to that medical aid scheme or medical aid society;
- 30 (vi) the circumstances under which an officer or employee or classes of officers or employees are or may be exempted from compulsory membership of a recognized medical aid scheme or medical aid society;
- 35 (n) (i) the establishment and management of and control over a medical aid fund or medical aid funds for the public service;
- (ii) the classes of officers and employees who may be required to become members of and to contribute to such a fund;
- 40 (iii) the scales of the contributions;
- (iv) the rights, privileges and obligations of members;
- (v) in general, all matters reasonably necessary for the regulation and operation of such a fund, including the circumstances under which, the manner in which and the conditions on which contributions and other moneys payable to or due to such a fund by or in respect of officers and employees, may, notwithstanding the provisions of section 27, be recovered from the salaries or wages or from other moneys payable to those officers or employees under this Act, and paid to the fund;
- 45 (o) the general security in departments and the security requirements with which officers and employees shall comply;
- 50 (p) all matters which shall or may be prescribed under this Act;
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- (q) die aanwysing of instelling van 'n gesag of meer as een gesag en die bevoegdhede van so 'n gesag om onder vermeldde omstandighede ten opsigte van 'n beampte of werknemer of klas beamptes of werknemers 'n afwyking van die bepalings van 'n regulasie te magtig; 5
- (r) enige aangeleentheid wat die Staatspresident nodig of dienstig ag om voor te skryf ten einde die oogmerke van hierdie Wet te verwesenlik.

(2) Verskillende regulasies kan uitgevaardig word ten opsigte van die A- en die B-afdeling, of om te pas by die verskillende vereistes van besondere departemente of takke van departemente, of van besondere klasse beamptes of werknemers, of van besondere soorte diens in die staatsdiens. 10

(3) (a) 'n Regulasie wat kragtens hierdie Wet uitgevaardig word, is van krag tensy en totdat die Parlement gedurende die sessie waartydens dit in die Parlement ter Tafel gelê is soos by artikel 17 van die Interpretasiewet, 1957 (Wet No. 33 van 1957), bepaal, die regulasie, by besluit, afkeur, in welke geval die regulasie verval met ingang van 'n datum wat in die besluit vermeld moet word. 15 20

(b) Die verval van 'n regulasie ingevolge hierdie subartikel raak nie die geldigheid van enigiets wat kragtens die regulasie voor die datum vermeld in die besluit gedoen is nie. 25

(c) Die bepalings van hierdie subartikel raak nie die bevoegdheid van die Staatspresident om 'n nuwe regulasie uit te vaardig betreffende die aangeleentheid waaroor 'n regulasie wat ingevolge paragraaf (a) verval het, gehandel het nie. 30

Staatsdienspersoneelkode.

36. (1) Behoudens die bepalings van artikel 4 (7) kan—

- (a) enige staande aanbeveling of lasgewing van 'n algemene aard wat die Kommissie gedoen of gegee het; en
- (b) enige voorskrifte deur die Kommissie ter toeligtigting of aanvulling van 'n regulasie, 35

en wat nie met hierdie Wet in stryd is nie, in 'n kode wat die Staatsdienspersoneelkode heet, vervat word.

(2) Die bepalings van artikel 35 (2) is *mutatis mutandis* van toepassing ten opsigte van die Staatsdienspersoneelkode.

(3) Die bepalings van die Staatsdienspersoneelkode bind 'n departement, beampte of werknemer vir sover dit op daardie departement, beampte of werknemer van toepassing is. 40

Herroeping en wysiging van wette.

37. (1) Behoudens die bepalings van subartikel (2) word die wette in Bylae 3 genoem hierby herroep of gewysig in die mate uiteengesit in die derde kolom van daardie Bylae. 45

(2) Enigiets wat gedoen is ingevolge 'n wet wat by subartikel (1) herroep is, word geag ingevolge die ooreenstemmende bepaling van hierdie Wet gedoen te wees.

Kort titel en inwerkingtreding.

38. (1) Hierdie Wet heet die Staatsdienswet, 1984, en tree in werking op 'n datum wat die Staatspresident by proklamasie in 50 die *Staatskoerant* bepaal.

(2) Verskillende datums kan kragtens subartikel (1) ten opsigte van verskillende bepalings van hierdie Wet bepaal word.

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- (q) the designation or establishment of an authority or more than one authority and the powers of such an authority to authorize a departure from the provisions of a regulation in respect of an officer or employee or class of officers or employees under stated circumstances;
- 5 (r) any matter which the State President may consider necessary or expedient to prescribe in order to achieve the objects of this Act.
- (2) Different regulations may be made in respect of the A and 10 B divisions, or to suit the varying requirements of particular departments or branches of departments, or of particular classes of officers or employees, or of particular kinds of employment in the public service.
- (3) (a) A regulation made under this Act is in force unless and 15 until during the session in which it has been laid upon the Table in Parliament as provided by section 17 of the Interpretation Act, 1957 (Act No. 33 of 1957), Parliament, by resolution, disapproves of the regulation, in which event the regulation lapses with effect from a 20 date to be specified in the resolution.
- (b) The lapsing of a regulation in terms of this subsection does not affect the validity of anything done under the regulation prior to the date mentioned in the resolution.
- 25 (c) The provisions of this subsection do not affect the power of the State President to make a new regulation regarding the subject dealt with by a regulation that has lapsed in terms of paragraph (a).
36. (1) Subject to the provisions of section 4 (7)— Public Service Staff Code.
- 30 (a) any standing recommendation or direction of a general nature made or given by the Commission; and
- (b) any directive by the Commission to elucidate or supplement any regulation,
- and which is not contrary to this Act, may be included in a code 35 called the Public Service Staff Code.
- (2) The provisions of section 35 (2) apply *mutatis mutandis* in respect of the Public Service Staff Code.
- (3) The provisions of the Public Service Staff Code are binding upon any department, officer or employee in so far as they 40 apply to that department, officer or employee.
37. (1) Subject to the provisions of subsection (2), the laws mentioned in Schedule 3 are hereby repealed or amended to the extent set out in the third column of that Schedule. Repeal and amendment of laws.
- (2) Anything done under any law repealed by subsection (1), 45 is deemed to have been done under the corresponding provision of this Act.
38. (1) This Act shall be called the Public Service Act, 1984, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*. Short title and commencement.
- 50 (2) Different dates may be fixed under subsection (1) in respect of different provisions of this Act.

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Bylae 1

Departemente en departementshoofde

Kolom I	Kolom II
Departement van Binnelandse Aangeleenthede	Direkteur-generaal: Binnelandse Aangeleenthede
Departement van Buitelandse Sake	Direkteur-generaal: Buitelandse Sake
Departement van Finansies	Direkteur-generaal: Finansies
Departement van Gemeenskapsontwikkeling	Direkteur-generaal: Gemeenskapsontwikkeling
Departement van Gesondheid en Welsyn	Direkteur-generaal: Gesondheid en Welsyn
Departement van Justisie	Direkteur-generaal: Justisie
Departement van Landbou	Direkteur-generaal: Landbou
Departement van Mannekrag	Direkteur-generaal: Mannekrag
Departement van Mineraal- en Energiesake	Direkteur-generaal: Mineraal- en Energiesake
Departement van Nasionale Opvoeding	Direkteur-generaal: Nasionale Opvoeding
Departement van Nywerheidswese en Handel	Direkteur-generaal: Nywerheidswese en Handel
Departement van Omgewingsake	Direkteur-generaal: Omgewingsake
Departement van Onderwys en Opleiding	Direkteur-generaal: Onderwys en Opleiding
Departement van Samewerking en Ontwikkeling	Direkteur-generaal: Samewerking en Ontwikkeling
Departement van Staatkundige Ontwikkeling en Beplanning	Direkteur-generaal: Staatkundige Ontwikkeling en Beplanning
Departement van Vervoer	Direkteur-generaal: Vervoer
Kantoor van die Eerste Minister	Direkteur-generaal: Kantoor van die Eerste Minister
Kantoor van die Kommissie vir Administrasie	Sekretaris: Kommissie vir Administrasie
Kantoor van die Ouditeur-generaal	Ouditeur-generaal
Nasionale Intelligensiediens	Direkteur-generaal: Nasionale Intelligensiediens
Suid-Afrikaanse Polisie	Kommissaris van die Suid-Afrikaanse Polisie
Suid-Afrikaanse Weermag	Hoof van die Suid-Afrikaanse Weermag
Provinsiale Administrasie van die Kaap die Goeie Hoop	Provinsiale Sekretaris
Provinsiale Administrasie van Natal	Provinsiale Sekretaris
Provinsiale Administrasie van die Oranje-Vrystaat	Provinsiale Sekretaris
Provinsiale Administrasie van Transvaal	Provinsiale Sekretaris

Bylae 2

Departemente in artikel 14 (5) (a) bedoel

Departement van Gesondheid en Welsyn
 Departement van Justisie
 Departement van Landbou
 Departement van Omgewingsake
 Departement van Onderwys en Opleiding
 Departement van Samewerking en Ontwikkeling
 Suid-Afrikaanse Polisie
 Suid-Afrikaanse Weermag

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Schedule 1*Departments and heads of department*

Column I	Column II
Department of Agriculture	Director-General: Agriculture
Department of Community Development	Director-General: Community Development
Department of Constitutional Development and Planning	Director-General: Constitutional Development and Planning
Department of Co-operation and Development	Director-General: Co-operation and Development
Department of Education and Training	Director-General: Education and Training
Department of Environment Affairs	Director-General: Environment Affairs
Department of Finance	Director-General: Finance
Department of Foreign Affairs	Director-General: Foreign Affairs
Department of Health and Welfare	Director-General: Health and Welfare
Department of Industries and Commerce	Director-General: Industries and Commerce
Department of Internal Affairs	Director-General: Internal Affairs
Department of Justice	Director-General: Justice
Department of Manpower	Director-General: Manpower
Department of Mineral and Energy Affairs	Director-General: Mineral and Energy Affairs
Department of National Education	Director-General: National Education
Department of Transport	Director-General: Transport
Office of the Auditor-General	Auditor-General
Office of the Commission for Administration	Secretary: Commission for Administration
Office of the Prime Minister	Director-General: Office of the Prime Minister
National Intelligence Service	Director-General: National Intelligence Service
South African Defence Force	Chief of the South African Defence Force
South African Police	Commissioner of the South African Police
Provincial Administration of the Cape of Good Hope	Provincial Secretary
Provincial Administration of Natal	Provincial Secretary
Provincial Administration of the Orange Free State ..	Provincial Secretary
Provincial Administration of the Transvaal	Provincial Secretary

Schedule 2*Departments contemplated in section 14 (5) (a)*

Department of Agriculture
 Department of Co-operation and Development
 Department of Education and Training
 Department of Environment Affairs
 Department of Health and Welfare
 Department of Justice
 South African Defence Force
 South African Police

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Bylae 3

Wette herroep of gewysig deur artikel 37 (1)

Nommer en jaar van wet	Kort titel	Omvang van herroeping of wysiging
Wet No. 54 van 1957 ...	Staatsdienswet, 1957.....	Die herroeping van die geheel
Wet No. 9 van 1961 ...	Staatsdienswysigingswet, 1961 ...	Die herroeping van die geheel
Wet No. 71 van 1963 ...	Staatsdienswysigingswet, 1963 ...	Die herroeping van die geheel
Wet No. 47 van 1965 ...	Staatsdienswysigingswet, 1965 ...	Die herroeping van die geheel
Wet No. 63 van 1967 ...	Staatsdienswysigingswet, 1967 ...	Die herroeping van die geheel
Wet No. 17 van 1968 ...	Staatsdienswysigingswet, 1968 ...	Die herroeping van die geheel
Wet No. 70 van 1968 ...	Algemene Regswysigingswet, 1968	Die herroeping van artikel 45
Wet No. 86 van 1969 ...	Staatsdienswysigingswet, 1969 ...	Die herroeping van die geheel
Wet No. 92 van 1970 ...	Verdere Algemene Regswysigingswet, 1970	Die herroeping van artikels 5 en 6
Wet No. 65 van 1971 ...	Staatsdienswysigingswet, 1971 ...	Die herroeping van die geheel
Wet No. 58 van 1972 ...	Staatsdienswysigingswet, 1972 ...	Die herroeping van die geheel
Wet No. 54 van 1973 ...	Staatsdienswysigingswet, 1973 ...	Die herroeping van die geheel
Wet No. 66 van 1974 ...	Poskantoorwysigingswet, 1974	Die herroeping van artikels 51 tot 54
Wet No. 4 van 1975 ...	Staatsdienswysigingswet, 1975 ...	Die herroeping van die geheel
Wet No. 64 van 1976 ...	Staatsdienswysigingswet, 1976 ...	Die herroeping van die geheel
Wet No. 97 van 1976 ...	Wysigingswet op die Staatsdiens en die Poskantoorwysigingswet, 1976 ..	Die herroeping van artikel 1
Wet No. 104 van 1978 ...	Wet op die Buro vir Staatsveiligheid, 1978	Die herroeping van artikels 36 tot 48
Wet No. 71 van 1980 ...	Staatsdienswysigingswet, 1980 ...	Die herroeping van die geheel
Wet No. 85 van 1982 ...	Staatsdienswysigingswet, 1982 ...	Die herroeping van die geheel
Wet No. 23 van 1984 ...	Staatsdienswysigingswet, 1984 ...	Die herroeping van die geheel
Wet No. 65 van 1984 ...	Wet op die Kommissie vir Administrasie, 1984	1. Die wysiging van artikel 1— (a) deur die omskrywing van “beampte” deur die volgende omskrywing te vervang: “‘beampte’ ’n persoon wat vas aangestel is, al is die aanstelling op proef, in ’n pos bedoel in artikel [3 (1) (a)] 7 (1) (a) van die Staatsdienswet, en ook ’n persoon bedoel in artikel [3 (1) (b) van daardie Wet en ’n persoon bedoel in die tweede voorbehoudsbepaling by artikel 3 (3)] 7 (1) (b) of 7 (3) (c) van daardie Wet;”; (b) deur na die omskrywing van “maand” die volgende omskrywing in te voeg: “‘salarisreeks’ ’n minimum en maksimum salarisperk gekoppel aan ’n bepaalde vlak van werk;”; (c) deur die omskrywing van “Staatsdienswet” deur die volgende omskrywing te vervang: “‘Staatsdienswet’ die Staatsdienswet, [1957 (Wet No. 54 van 1957) 1984;”; en (d) deur die omskrywing van “werknemer” deur die volgende omskrywing te vervang: “‘werknemer’ ’n persoon in artikel [3 (1) (c)] 7 (1) (c) van die Staatsdienswet bedoel.”;

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Schedule 3

Laws repealed or amended by section 37 (1)

Number and year of law	Short title	Extent of repeal or amendment
Act No. 54 of 1957	Public Service Act, 1957	The repeal of the whole
Act No. 9 of 1961	Public Service Amendment Act, 1961	The repeal of the whole
Act No. 71 of 1963	Public Service Amendment Act, 1963	The repeal of the whole
Act No. 47 of 1965	Public Service Amendment Act, 1965	The repeal of the whole
Act No. 63 of 1967	Public Service Amendment Act, 1967	The repeal of the whole
Act No. 17 of 1968	Public Service Amendment Act, 1968	The repeal of the whole
Act No. 70 of 1968	General Law Amendment Act, 1968	The repeal of section 45
Act No. 86 of 1969	Public Service Amendment Act, 1969	The repeal of the whole
Act No. 92 of 1970	General Law Further Amendment Act, 1970	The repeal of sections 5 and 6
Act No. 65 of 1971	Public Service Amendment Act, 1971	The repeal of the whole
Act No. 58 of 1972	Public Service Amendment Act, 1972	The repeal of the whole
Act No. 54 of 1973	Public Service Amendment Act, 1973	The repeal of the whole
Act No. 66 of 1974	Post Office Service Act, 1974	The repeal of sections 51 to 54
Act No. 4 of 1975	Public Service Amendment Act, 1975	The repeal of the whole
Act No. 64 of 1976	Public Service Amendment Act, 1976	The repeal of the whole
Act No. 97 of 1976	Public Service and Post Office Service Amendment Act, 1976	The repeal of section 1
Act No. 104 of 1978	Bureau for State Security Act, 1978	The repeal of sections 36 to 48
Act No. 71 of 1980	Public Service Amendment Act, 1980	The repeal of the whole
Act No. 85 of 1982	Public Service Amendment Act, 1982	The repeal of the whole
Act No. 23 of 1984	Public Service Amendment Act, 1984	The repeal of the whole
Act No. 65 of 1984	Commission for Administration Act, 1984	1. The amendment of section 1— (a) by the substitution for the definition of "employee" of the following definition: "employee" means a person referred to in section [3 (1) (c)] 7 (1) (c) of the Public Service Act;"; (b) by the substitution for the definition of "officer" of the following definition: "officer" means a person who has been appointed permanently, notwithstanding that such appointment may be on probation, to a post referred to in section [3 (1) (a)] 7 (1) (a) of the Public Service Act, and includes a person referred to in section [3 (1) (b) of that Act and a person referred to in the second proviso the section 3 (3)] 7 (1) (b) or 7 (3) (c) of that Act;";

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		2. Die wysiging van artikel 4 deur in subartikel (2) (b) (ii) die uitdrukking "artikel 14 (4)" deur die uitdrukking "artikel 15 (4)" te vervang. 3. Die wysiging van artikel 5 deur in subartikel (2) (a) die woorde "artikel 6 (2) (a), (g), (j) en (m), of artikel 14 (3), (4), (6) (a) tot en met (e) en (8), of Hoofstuk IV, of artikel 25, of artikel 27" deur die woorde "artikel 3 (2) (a), (g) en (i), of artikel 3 (4) (a) (ii) en (v), of artikel 6 (3), of artikel 11, of artikel 13 (2) (c) (ii), of artikel 15 (4), (5) (a) en (6), of artikel 16 (2) (a) tot (e), of artikel 16 (2) (g) en (h), of artikel 16 (5) (b), of Hoofstuk VI, of artikel 33" te vervang. 4. Die wysiging van artikel 6— (a) deur in subartikel (1) (c) die uitdrukking "artikel 6 (2) (j)" deur die uitdrukking "artikel 3 (4) (a) (ii)" te vervang; (b) deur na paragraaf (b) van subartikel (3) die volgende paragraaf in te voeg: "(c) Waar die <u>Kommissie kragtens artikel 3 (2) (g) van die Staatsdienswet</u> salarisreëks vir toepassing op bepaalde klasse, range of grade van beamptes of werknemers aanbeveel het, kan die bepaling van salarisskale binne die perke van sodanige reëks, ondanks die bepalings van paragraaf (b), aan 'n Minister of Administrateur opgedra word."; en (c) deur in subartikel (5) die uitdrukking "artikel 8" deur die uitdrukking "artikel 5" te vervang. 5. Die wysiging van artikel 8 deur in subartikel (6) die woorde "artikel 5 (2) (a) of 'n ondersoek instel na aanleiding van 'n aanwysing of 'n aanstelling kragtens artikel 5 (3) van hierdie Wet, of artikel 15 (1), of artikel 16 (1), of artikel 18 (8), of artikel 19 (1)" deur die woorde "artikel 5 (2) (a) (i) of 'n ondersoek instel na aanleiding van 'n aanwysing of 'n aanstelling kragtens artikel 5 (3) van hierdie Wet, of artikel 17 (1), of artikel 18 (1), of artikel 20 (3), of artikel 21 (1)" te vervang. 6. Die herroeping van die Bylae.

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Number and year of law	Short title	Extent of repeal or amendment
		(c) by the substitution for the definition of "Public Service Act" of the following definition: "Public Service Act' means the Public Service Act, [1957 (Act No. 54 of 1957)] 1984."; and (d) by the insertion after the definition of "Public Service Act" of the following definition: "salary range' means a minimum and maximum salary limit linked to a specific level of work." 2. The amendment of section 4 by the substitution in subsection (2) (b) (ii) for the expression "section 14 (4)" of the expression "section 15 (4)". 3. The amendment of section 5 by the substitution in subsection (2) (a) for the words "section 6 (2) (a), (g), (j), and (m), or section 14 (3), (4), (6) (a) up to and including (e) and (8), or Chapter IV, or section 25, or section 27" of the words "section 3 (2) (a), (g) and (i), or section 3 (4) (a) (ii) and (v), or section 6 (3), or section 11, or section 13 (2) (c) (ii), or section 15 (4), (5) (a) and (6), or section 16 (2) (a) to (e), or section 16 (2) (g) and (h), or section 16 (5) (b), or Chapter VI, or section 33". 4. The amendment of section 6— (a) by the substitution in subsection (1) (c) for the expression "section 6 (2) (j)" of the expression "section 3 (4) (a) (ii)"; (b) by the insertion after paragraph (b) of subsection (3) of the following paragraph: "(c) Where the Commission has under section 3 (2) (g) of the Public Service Act recommended salary ranges for application to specific classes, ranks or grades of officers or employees, the determination of salary scales within the limits of such ranges may, notwithstanding the provisions of paragraph (b), be assigned to a Minister or an Administrator."; and (c) by the substitution in subsection (5) for the expression "section 8" of the expression "section 5". 5. The amendment of section 8 by the substitution in subsection (6) for the words "section 5 (2) (a) or holds an inquiry in pursuance of a designation or an appointment under section 5 (3) of this Act, or section 15 (1), or section 16 (1), or section 18 (8), or section 19 (1)" of the words "section 5 (2) (a) (i) or holds an inquiry in pursuance of a designation or an appointment under section 5 (3) of this Act, or section 17 (1), or section 18 (1), or section 20 (3), or section 21 (1)". 6. The repeal of the Schedule.