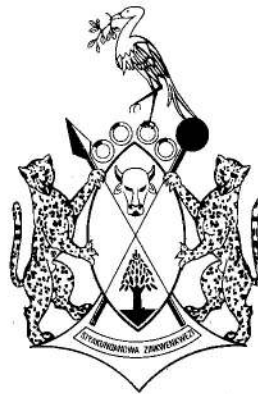


**IRIPHABLIKI
YECISKEI**

**REPUBLIC OF
CISKEI**

**IGAZETHI
YOBURHULUMENTE**



**GOVERNMENT
GAZETTE**

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No. 54

DEPARTMENT OF THE PRESIDENCY

GOVERNMENT NOTICE No. 62 OF 1988

**IT IS HEREBY NOTIFIED THAT THE PRESIDENT HAS
ASSENTED TO THE FOLLOWING ACT WHICH IS HEREBY
PUBLISHED FOR GENERAL INFORMATION:-**

PUBLIC SERVICE AMENDMENT ACT, 1988

ACT No. 8 OF 1988

PUBLIC SERVICE AMENDMENT ACT, 1988

A C T

To amend the Public Service Act, 1981.

(English text signed by the President. Assented to on 21 July 1988).

BE IT ENACTED by the National Assembly of the Republic of Ciskei, as follows:-

1. Amendment of Section 1 of Act 2 of 1981, as amended by section 1 of Act 13 of 1986. - Section 1 of the Public Service Act, 1981 (hereinafter in this Act referred to as the principal Act) is hereby amended -

(a) by the insertion in subsection (1) before the definition of "Advisory Council" of the following definition:

" 'administrative authority' means the President or, subject to the provisions of section 4, the member of the Executive Council to whom the President has delegated the functions mentioned in subsection (3) of that section;"

(b) by the insertion in subsection (1) after the definition of "classified post" of the following definition:

" 'code of conduct' means the code of conduct contemplated in section 36 (1) (f);"

(c) by the deletion in subsection (1) of the definition of "controlling Minister";

(d) by the substitution in subsection (1) for the definition of "department" of the following definition:

" 'department' means a department of State established under section 34 (1) of the Republic of Ciskei Constitution Act, 1981 (Act 20 of 1981) and mentioned in the first column of Schedule 1 of this Act or any amendment thereof and, subject to the provisions of section 2 of this Act, includes the Forces;"

(e) by the substitution in subsection (1) for the definition of "Minister" of the following definition:

" 'Minister', in relation to any officer or employee or any person about to be employed, means the Minister appointed by the President in terms of section 34 of the Republic of Ciskei Constitution Act, 1981 to administer the department in which such officer, employee or person is employed or was employed or is about to be employed and, in relation to the department of the President, includes the President;"

(f) by the insertion in subsection (1) after the definition of "Revenue Fund" of the following definition:

" 'Secretary-General' means the Secretary-General referred to in section 4 (2);" and

(g) by the substitution in subsection (1) in the definition of "the Forces" for the expression "Defence Act, 1981 (Act 1 of 1981)" of the expression "Defence Act, 1986 (Act 17 of 1986)".

2. Substitution of section 2 of Act 2 of 1981, as amended by section 2 of Act 13 of 1986. - The following section is hereby substituted for section 2 of the principal Act:

"2. Application of Act. - (1) Save as provided in subsection (2) of this section and except where the context otherwise indicates in any other section, the provisions of this Act shall apply to or in respect of all officers and employees, whether they are employed within or outside Ciskei.

(2) The provisions of this Act, which do not expressly exclude a person employed in the Forces or a teacher as defined in section 1 of the Education Act, 1985 (Act 27 of 1985), shall apply to or in respect of such person or such teacher only to the extent to which they are not in conflict with the laws governing his employment".

3. Amendment of section 3 of Act 2 of 1981, as amended by section 3 of Act 13 of 1986. - Section 3 of the principal Act is hereby amended -

(a) by the substitution in paragraph (b) of subsection (1) for the expression "subsection (2) (b)" of the expression "subsection (2)"; and

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

PUBLIC SERVICE AMENDMENT ACT, 1988

"(2) It shall be competent for the administrative authority to direct, after consultation with the Minister concerned —

- (a) that any post on the fixed establishment shall be a classified post; or
- (b) that any classified post shall cease to be a classified post:

Provided that no direction under paragraph (b) shall deprive an officer of any leave or other prescribed privilege or right which flowed from his occupancy of a post which is the subject of such direction:

Provided further that an officer who holds a classified post on the fixed establishment which has ceased to be a classified post shall, for the purposes of this Act and the Government Service Pensions Act, 1981 (Act No. 7 of 1981) be deemed to continue to hold a classified post".

4. Substitution of section 4 of Act 2 of 1981. - The following section is hereby substituted for section 4 of the principal Act:

"4. General administrative control. - (1) Subject to the provisions of this Act, the administration, control and supervision of and over the public service vest in the President.

(2) For the purposes of subsection (1) and the attainment otherwise of the aims and objects of this Act there is hereby established in the department of the President a branch, to be known as the Central Personnel Administration, which shall be under the management of an officer to be styled the Secretary-General: Central Personnel Administration.

(3) The President may by writing under his hand delegate to any other member of the Executive Council —

- (a) all or any of the powers and functions vested in him by subsection (1); and
- (b) such administrative authority in relation to the said Central Personnel Administration as may be necessary for the proper exercise by such member of the powers delegated to him under paragraph (a).

(4) Any delegation of powers, functions or authorities by the President under subsection (3) shall not derogate from his competency —

- (a) to exercise personally any power, function or authority so delegated;
- (b) to exercise any power, function or authority expressly conferred on the President by any other provision of this Act; or
- (c) to exercise the power and authority of a Minister in the administration of his own department."

5. Substitution of section 5 of Act 2 of 1981, as amended by section 4 of Act 13 of 1986. - The following section is hereby substituted for section 5 of the principal Act. —

"5. Functions and duties of administrative authority. —

(1) The administrative authority shall be competent —

- (a) to perform the functions and carry out the duties entrusted to or imposed upon that authority by this Act and any other law;
- (b) to make recommendations or give directions on any matter not expressly provided for in this Act or in any other law, but not inconsistent therewith, relating to or arising out of the employment, or concerning the conditions of service, of officers and employees generally.

(2) The administrative authority may —

- (a) to the extent to which it may be necessary for effective administration, make recommendations as to the establishment or disestablishment of departments, branches, divisions or offices and as to 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;
- (b) make recommendations as to the control, organisation or readjustment of departments, branches, divisions or offices;
- (c) make recommendations regarding the number, grading, regrading, designation, re-designation or conversion of posts on the fixed establishment;

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

- (i) against posts on the fixed establishment which are not permanently filled; or
- (ii) additional to the fixed establishment, whether by reason of the absence of the incumbent of any post or the necessity to provide staff for the performance of a class of work for which staff is ordinarily not provided on a permanent basis or when, for any reason, it is necessary to increase the staff of any department temporarily;

(e) whenever the administrative authority considers it necessary, make a recommendation for the employment of an officer additional to the fixed establishment or in or against a post graded higher or lower than the grade of such officer;

(f) make recommendations for effecting economy or promoting efficiency in the management and working of departments, branches, divisions or offices by —

- (i) improved organisation, procedure and methods;
- (ii) better 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 in departments, branches, divisions or offices 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; or
- (ix) any other means;

(g) make recommendations as to the scales of salaries, wages or allowances of the different classes, ranks and grades of officers and employees;

(h) whenever it is necessary to appoint or to promote any person to a classified post on the fixed establishment, make a recommendation as to the person to be appointed or to be promoted:

(3) The administrative authority may give directions —

(a) regarding —

- (i) the age, educational, linguistic and other qualifications to be possessed by persons on appointment, promotion or transfer in or to the public service, where such 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 in which and the conditions on which, the competent authority may require qualifications other than those contemplated in subparagraph (i);

(b) regarding the health requirements with which an applicant for a post in the public service shall comply before he may be appointed;

(c) regarding the training which officers and employees shall be required to undergo.

(4) The administrative authority —

(a) shall cause a record to be kept of all officers as well as of all employees who contribute, or who are obliged by law to contribute, to the superannuation fund established by section 2 (2) of the Government Service Pensions Act, 1981;

(b) shall, subject to the provisions of section 9 (2), enquire into the grievances of officers and employees and make such recommendation thereon as that authority may deem fit;

(c) shall, whenever is necessary, provide training or cause training to be provided or cause examinations or tests to be conducted in such subjects as may be prescribed as a qualification for the appointment or promotion of persons to or in the public service;

(d) may issue directives, which are not inconsistent with the provisions of this Act, to elucidate any regulation;

(e) may make recommendations as to the making of any regulation under section 36 or the amendment or withdrawal of any regulation;

(f) may, subject to the regulations, recommend to the President the recognition of any association which is representative of officers or any particular class of officers; and

(g) shall exercise such other powers, perform such other functions and carry out such other duties as may be conferred upon, entrusted to or imposed upon the administrative authority by the President for the promotion of efficient administration and which are not in conflict with this Act or any other law.

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(5) (a) The administrative authority shall as soon as possible after 31 December in each year cause to be framed by the Secretary-General a report on matters dealt with by the branch under his management during the preceding year and from time to time such other reports as may seem desirable.

(b) Every such report shall be laid upon the Table of the National Assembly by the President within 14 days after he has received it if the Assembly is then in ordinary session or, if the Assembly is not then in ordinary session, within 14 days after the commencement of its next ensuing ordinary session."

6. Amendment of section 6 of Act 2 of 1981, as amended by section 5 of Act 13 of 1986. - Section 6 of the principal Act is hereby amended by the substitution for the words "controlling Minister", wherever they appear, of the words "administrative authority".

7. Substitution of section 7 of Act 2 of 1981. - The following section is hereby substituted for section 7 of the principal Act:

"7. Inspection of departments or other bodies. - (1) The administrative authority shall, for the purposes of this Act or any other law, have the power to authorize any person to inspect and report upon —

(a) any department or any branch, division or office of any department; or

(b) any board, institution or other body which is not a department as defined in section (1) (1) but which obtains its funds, whether wholly or in part, from the Revenue Fund.

(2) The person appointed under subsection (1) shall —

(a) be afforded access to all such documents and records as, in his opinion, are necessary for the purposes of his inspection; and

(b) have the power to obtain from the head of department or other functionary or the executive head of the board, institution or other body concerned, as the case may be, such information as he may require for the compilation of his report, including information relating to the employment, remuneration and other conditions of service of the staff or the office-bearers of any such board, institution or other body."

8. Amendment of section 8 of Act 2 of 1981. - Section 8 of the principal Act is hereby amended by the substitution in sub-section (1) for the words "controlling Minister" of the word "President".

9. Amendment of section 9 of Act 2 of 1981. - Section 9 of the principal Act is hereby amended —

(a) by the substitution in subsection (1) for that part of paragraph (a) preceding subparagraph (i) of the following:

"to furnish advice or to make a recommendation to the President, the President-in-Council, the administrative authority or any Minister or head of department, as the case may be —"; and

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

"(2) The administrative authority may seek the advice of the Advisory Council before making any recommendation or giving any direction for the purposes of this Act and shall refer to the Advisory Council for its views every grievance lodged by an officer."

10. Insertion of section 9A in Act 2 of 1981. - The following section is hereby inserted in the principal Act after section 9:

"9A. Administration and management of departments. -

A head of department shall be responsible for —

(a) the due and proper administration and management of his department;

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- (b) the due performance by the officers and employees in his department of their lawful duties;
- (c) the strict observance by such officers and employees of the official hours of attendance;
- (d) the promotion of *esprit de corps* in his department and of a sense of duty and service towards the general public;
- (e) the enforcement of discipline in his department generally;
- (f) the proper use, care and maintenance of State property in possession of his department; and
- (g) the improvement of productivity in his department".

11. Amendment of section 11 of Act 2 of 1981, as amended by section 6 of Act 22 of 1984. - Section 11 of the principal Act is hereby amended —

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

"(2) No person shall be appointed to any post on the fixed establishment, whether permanently or on probation unless —

- (a) such person is of good character; and

(b) the competent authority is satisfied that such person is free from any physical or mental defect, disease or infirmity which is likely to affect the due performance of his duties or to result in his premature retirement from the public service:

Provided that, notwithstanding the provisions of paragraph (b), a person may be appointed on probation pending the submission to the competent authority, within a period specified by him, of satisfactory proof that such person is free from any such defect, disease or infirmity as aforesaid."

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

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

(a) all the persons who are eligible for appointment, promotion or transfer, as the case may be, shall be considered; and

(b) only the qualification, level of training, experience, merit, efficiency and suitability of such persons shall be taken into account"; and

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

"(4) A classified post on the fixed establishment shall be filled by the transfer or promotion thereto of an officer or, if the post cannot so be satisfactorily filled, by the appointment thereto of a person who is not an officer."

12. Amendment of section 12 of Act 2 of 1981. - Section 12 of the principal Act is hereby amended —

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

"(1) The appointment of a person, or the transfer or promotion of an officer, to a classified post on the fixed establishment shall be on probation —

(a) unless, in the case of an appointment, the competent authority otherwise directs; or

(b) if, in the case of a promotion or transfer, the competent authority, so directs".

- (b) by the deletion in subsection (2) of the words "so directed";

- (c) by the substitution for subsection (3) of the following subsection:

"(3) If the head of office, or where the officer on probation is a head of department the Minister, certifies that during the period of probation (including any extension thereof) 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, the competent authority may, if the officer has complied with the conditions (if any) to which his appointment, transfer or promotion was subject, confirm such appointment, transfer or promotion:

Provided that, if the appointment, transfer or promotion is not so confirmed, the competent authority may extend the period of probation or, in the case of an officer appointed on probation, act as provided in subsection (4)."

PUBLIC SERVICE AMENDMENT ACT, 1988

13. Amendment of section 13 of Act 2 of 1981. - Section 13 of the principal Act is hereby amended —

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

“(1) Subject to the provisions of this Act, any officer or employee may, whenever 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 post or position is of a lower or higher grade or is within or outside Ciskei:

Provided that —

(a) upon such transfer an officer or employee shall not, except with his consent or in accordance with the provisions of section 31 or Chapter 5, suffer any reduction in his salary or scale of salary;

(b) an officer or employee who, without a change in his scale of salary, has been transferred to a post lower or higher than his own grade, shall be transferred to a post to which his scale of salary is appropriate, as soon as a suitable vacancy occurs;

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

(d) a person holding a pensionable appointment in the public service or in the service of a board, institution or body established by or under any law and which obtains its funds directly in whole or in part from the Revenue Fund, may on the recommendation of the administrative authority, be transferred to and appointed in a post in the public service.”;

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

“(b) No officer shall —

(i) unless the administrative authority has so recommended, be transferred from one post to another post which is higher or lower than his own grade or bears a different designation, except where each of the two posts concerned is in the Forces;

(ii) except with his consent, be transferred from a post outside the Forces to a post in any branch of the Forces; or

(iii) unless he has consented thereto, be transferred from a post in any one of the three branches of the Forces to a post in any other such branch or to a post outside the Forces”;

(c) by the substitution in paragraphs (a) and (b) of subsection (3) for the words “controlling Minister” of the words “administrative authority”;

(d) by the substitution in subsection (4) for the word “citizen” of the words “citizen of the Republic of Ciskei”; and

(e) by the substitution in subsection (5) for the words “controlling Minister” of the words “administrative authority”.

14. Amendment of section 14 of Act 2 of 1981. - Section 14 of the principal Act is hereby amended by the substitution in subsections (4) and (5) for the words “controlling Minister” of the words “administrative authority”.

15. Amendment of section 15 of Act 2 of 1981, as amended by section 8 of Act 13 of 1986. - Section 15 of the principal Act is hereby amended —

(a) by the deletion at the end of paragraph (e) of subsection (1) of the word “or”;

(b) by the addition to subsection (1) of the following paragraph:

“(g) on account of misrepresentation of his position in relation to any condition for permanent appointment contemplated in, or prescribed by or under, section 11;”;

(c) by the substitution in subsections (3) and (4) for the words “controlling Minister” of the words “administrative authority”.

PUBLIC SERVICE AMENDMENT ACT, 1988

16. Amendment of section 16 of Act 2 of 1981. - Section 16 of the principal Act is hereby amended by the addition to subsection (1) of the following paragraph:

"(t) contravenes or fails to comply with any provision of the code of conduct".

17. Amendment of section 18 of Act 2 of 1981. - Section 18 of the principal Act is hereby amended —

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

"(1) Subject to the provisions of subsection (6), the Minister or the head of department may, at any time before or after an officer has been charged with misconduct, suspend such officer from duty for a period not exceeding three (3) calendar months: Provided that an officer shall be deemed to have been so suspended while he is or was serving a sentence of imprisonment which has not been set aside on appeal.";

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

"(2) An officer who has, or is deemed to have, been suspended from duty under subsection (1) shall not be entitled to any emoluments for the period of his suspension: Provided that the Minister may at any time authorize the payment of such officer (not being an officer who is serving a sentence of imprisonment) of the whole or any portion of his emoluments";

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

"(3) If no charge of misconduct is preferred and prosecuted against an officer who has been suspended from duty within a reasonable time (not exceeding 3 calendar months), such officer shall, without prejudice to any other provision of this Act and if he is not in custody, be allowed to resume duty in the post previously occupied by him or in some other post and shall be paid his full emoluments for the period of his suspension."; and

(d) by the addition of the following subsection:

"(6) An officer shall be suspended from duty under subsection (1) only if the misconduct of which he is alleged to be guilty is serious or if the circumstances are such that he should not be allowed to continue for the time being to perform any duty in the public service.".

18. Amendment of section 21 of Act 2 of 1981. - Section 21 of the principal Act is hereby amended by the substitution in paragraph (d) (ii) of subsection (4) for the words "Chairman of the Advisory Council" of the word "Secretary-General".

Amendment of section 22 of Act 2 of 1981. - Section 22 of the principal Act is hereby amended by the substitution for the words "Chairman of the Advisory Council" of the word "Secretary-General" wherever the words "Chairman of the Advisory Council" appear in subsection (1) (a) and (b), subsection (2), subsection (3) (a) and (b), subsection (4) and subsection (7).

20. Amendment of section 24 of Act 2 of 1981. - Section 24 of the principal Act is hereby amended by the substitution in paragraph (c) of subsection (1) for the words "four hundred rand" of the words "one thousand rand".

21. Amendment of section 26 of Act 2 of 1981. - Section 26 of the principal Act is hereby amended by the substitution in subsections (1) and (2) for the words "controlling Minister" of the words "administrative authority".

22. Amendment of section 27 of Act 2 of 1981. - Section 27 of the principal Act is hereby amended by the substitution for the words "the Controlling Minister or a Minister" of the words "a Minister".

23. Amendment of section 30 of Act 2 of 1981. - Section 30 of the principal Act is hereby amended by the substitution in subsection (2) for the words "controlling Minister" of the words "administrative authority".

24. Substitution of section 31 of Act 2 of 1981. - The following section is hereby substituted for section 31 of the principal Act:

PUBLIC SERVICE AMENDMENT ACT, 1988

"31. Provisions regarding reduction of salary, overpayments and underpayments. - (1) The salary or scale of salary of an officer or employee shall not be reduced without his consent except as provided in this section or in Chapter 5 or in any other law.

(2) If —

(a) an incorrect salary or scale of salary was awarded or granted to any officer or employee on appointment, transfer or promotion, or

(b) an incorrect advancement of salary, within the limits of the applicable scale of salary, has been made in respect of any officer or employee, or

(c) the salary of an officer or employee was increased at a time when or in circumstances in which it should not have been increased,

the head of the department in which such officer or employee is employed shall cause the matter to be corrected with effect from the appropriate date, irrespective of whether or not the correction amounts to a reduction of the salary or scale of salary of the officer or employee concerned.

(3) If the officer or employee affected by the correction contemplated in subsection (2) has, as regards his salary and any allowance, benefit or other remuneration based thereon —

(a) been underpaid, the amount underpaid shall be made good to him by the State and the correct salary, allowance, remuneration or other benefit thereafter paid to him;

(b) been overpaid, the overpayment shall be recovered —

(i) if he is still in the service of the State, by deductions from his future earnings in such instalments as the head of department may determine with the concurrence of the Treasury; or

(ii) if he is no longer in the service of the State, by deduction from any moneys owing to him by the State or otherwise by due process of law.

(4) Nothing in subsection (3) contained shall be construed —

(a) as derogating from any provision of the Prescription Act, 1969 (Act 68 of 1969);

or

(b) as preventing or prohibiting the Treasury from remitting in whole or in part any amount recoverable from an officer or employee under this section."

25. Amendment of section 33 of Act 2 of 1981. - Section 33 of the principal Act is hereby amended by the substitution in subsections (1) (b), (4) and (5) for the words "controlling Minister of the words "administrative authority".

26. Amendment of section 36 of Act 2 of 1981. - Section 36 of the principal Act is hereby amended —

(a) by the substitution for paragraphs (e), (f) and (g) of subsection (1) of the following paragraphs:

"(e) the recognition, and the powers and functions, of the associations contemplated in section 5 (4) (f);

(f) a code of conduct for officers and employees:

(g) any matter which by this Act is required or permitted to be prescribed; and

(h) generally any other matter whatsoever which it is necessary or expedient to prescribe in order to achieve the aims and objects of this Act"; and

(b) by the substitution in subsection (3) for the words "controlling Minister" of the words "administrative authority".

27. Insertion of section 36A in Act 2 of 1981. - The following section is hereby inserted in the principal Act after section 36:

PUBLIC SERVICE AMENDMENT ACT, 1988

"36A. Public Service Staff Code. - (1) Subject to the provisions of section 6 (3) and the provisions *mutatis mutandis* of section 36 (2), any standing recommendation or direction of a general nature, and any directive regarding the elucidation of any regulation, made or given by the administrative authority and which is not inconsistent with any provision of this Act, may be incorporated in a code to be known as the Public Service Staff Code.

(2) The provisions of the Public Service Staff Code shall, in so far as they apply to any department, officer or employee, be binding on that department, officer or employee, as the case may be".

28. Saving — Anything done by the controlling Minister under any provision of the principal Act prior to its amendment by this Act shall be deemed to have been done by the administrative authority, as defined in section 1 (1) of the principal Act as amended by this Act, under the corresponding provision of the principal Act as so amended.

29. Short title. - This Act shall be called the Public Service Amendment Act, 1988.

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DEPARTMENT OF THE PRESIDENCY

GOVERNMENT NOTICE No. 62 OF 1988

PUBLIC SERVICE AMENDMENT ACT, 1988

(ACT No. 8 OF 1988)
