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THE PRESIDENCY

No. 7347 **1 April 2026**

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

Act No. 9 of 2025: Public Service Amendment Act, 2025

DIE PRESIDENSIE

No. 7347 **1 April 2026**

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

No. 9 van 2025: Staatsdiens Wysigingswet, 2025

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GENERAL EXPLANATORY NOTE:

[ ]	Words in bold type in square brackets indicate omissions from existing enactments.
______	Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President)
(Assented to 26 March 2026)

ACT

To amend the Public Service Act, 1994, to provide for the devolution of administrative powers from executive authorities to heads of department; to augment the role of the Director-General in The Presidency to support the President; to provide for a mechanism to deal with the recovery of overpayments of remuneration and benefits; to clarify the role of the Public Service Commission in respect of grievances; to clarify the role of the President and the Premier in respect of the appointment and career incidents of heads of departments; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act promulgated under Proclamation 103 of 1994, as amended by Proclamation 105 of 11 June 1994, Proclamation R171 of 18 November 1994, section 32(1) of Act 38 of 1994, section 1 of Act 47 of 1997, section 1 of Act 86 of 1998, section 40(1) of Act 65 of 2002 and section 25(1) of Act 52 of 2003, and substituted by section 1 of Act 30 of 2007

1. Section 1 of the Public Service Act, 1994 (hereinafter referred to as the ''principal Act'') is hereby amended—

(a) by the substitution for the definition of ''executive authority'' of the following definition:

''**'executive authority'**, in relation to—

(a) The Presidency or a national government component within the President's portfolio, means the President;

(b) a head of—

(i) a national department or national government component, means the President; and

(ii) the Office of a Premier, provincial department or provincial government component, means the relevant Premier;

(c) a national department or national government component within a Cabinet portfolio, means the Minister responsible for such portfolio;

(d) the Office of a Premier or a provincial government component within a Premier's portfolio, means the Premier of that province;

(e) a provincial department or a provincial government component within an Executive Council portfolio, means the Member of the Executive Council responsible for such portfolio; and

(f) the Office of the Commission, means the Chairperson of the Commission;'';

ALGEMENE VERDUIDELIKENDE NOTA:

[ ] Woorde in vetdruk in vierkantige hakies dui weglatings uit bestaande verordeninge aan.

______ Woorde met 'n volstreep daaronder dui invoegings in bestaande verordeninge aan.

(Engelse teks deur die President geteken)
(Goedgekeur op 26 Maart 2026)

WET

Tot wysiging van die Staatsdienswet, 1994, ten einde voorsiening te maak vir die afwenteling van administratiewe bevoegdhede van uitvoerende gesagte na departementshoofde; die rol van die Direkteur-generaal in Die Presidensie aan te vul om die President te ondersteun; voorsiening te maak vir 'n meganisme om die verhaling van oorbetalings van besoldiging en voordele te hanteer; die rol van die Staatsdienskommissie ten opsigte van griewe duidelik te maak; die rol van die President en die Premier ten opsigte van die aanstelling en loopbaaninsidente van departementshoofde duidelik te maak; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

Die Parlement van die Republiek van Suid-Afrika, verorden, soos volg:—

Wysiging van artikel 1 van Wet uitgevaardig kragtens Proklamasie 103 van 1994, soos gewysig deur Proklamasie 105 van 11 Junie 1994, Proklamasie R171 van 18 November 1994, artikel 32(1) van Wet 38 van 1994, artikel 1 van Wet 47 van 1997, artikel 1 van Wet 86 van 1998, artikel 40(1) van Wet 65 van 2002 en artikel 25(1) van Wet 52 van 2003, en vervang deur artikel 1 van Wet 30 van 2007

1. Artikel 1 van die Staatsdienswet, 1994 (hierna die ''Hoofwet'' genoem), word hierby gewysig—

(a) deur die omskrywing van ''departementshoof'' deur die volgende omskrywing te vervang:

''**'departementshoof'**, **'hoof van 'n departement'** of **'hoof van die departement'** die **[bekleër van 'n pos genoem in Kolom 2 van Bylae 1, 2 of 3 en ook 'n werknemer wat in sodanige pos waarneem]** hoof in artikel 7(3)*(a)* beoog;'';

(b) deur die volgende omskrywing na die omskrywing van ''opvoeder'' in te voeg:

''**'politieke amp'**, met betrekking tot 'n politieke party of struktuur daarvan—

(a) die posisie van voorsitter, ondervoorsitter, sekretaris, adjunksekretaris, tesourier van die party of lidmaatskap van 'n party se uitvoerende komitee nasionaal of in 'n provinsie, streek of ander gebied waarin die party werksaam is; of

(b) enige posisie in die party gelykstaande aan 'n posisie in paragraaf *(a)* beoog, ongeag die titel wat aan die posisie toegewys is;''; en

(c) deur die omskrywing van ''uitvoerende gesag'' deur die volgende omskrywing te vervang:

(b) by the substitution for the definition of ''head of department'' of the following definition:

''**'head of department'**, **'head of a department'** or **'head of the department'** means the **[incumbent of a post mentioned in Column 2 of Schedule 1, 2 or 3 and includes any employee acting in such post]** head contemplated in section 7(3)*(a)*;''; and

(c) by the insertion after the definition of ''organ of state'' of the following definition:

''**'political office'**, in relation to a political party or structure thereof, means—

(a) the position of chairperson, deputy chairperson, secretary, deputy secretary, treasurer of the party or membership of a party's executive committee nationally or in a province, region or other area in which the party operates; or

(b) any position in the party equivalent to a position referred to in paragraph *(a)*, irrespective of the title designated to the position;''.

Amendment of section 3 of Act promulgated under Proclamation 103 of 1994, as amended by Proclamation R175 of 2 December 1994, section 3 of Act 47 of 1997 and section 2 of Act 86 of 1998, and substituted by section 3 of Act 30 of 2007

2. Section 3 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraphs *(h)* and *(i)* of the following paragraphs:

''*(h)* integrity, ethics, conduct and anti-corruption in the public service; **[and]**

(i) transformation, reform**[,]** and innovation**[and any other matter to improve the effectiveness and efficiency of the public service and its service delivery to the public.]**; and'';

(b) by the addition in subsection (1) after paragraph *(i)* of the following paragraph:

''*(j)* any other matter to improve the effectiveness and efficiency of the public service and its service delivery to the public.'';

(c) by the substitution for subsection (7) of the following subsection:

''(7) An executive authority—

(a) is accountable for the department in his or her functional area;

(b) is responsible for approving the strategic plan of the department, including, but not limited to, the department's core objectives, based on its legislative mandate;

(c) shall ensure that the head of department's role and responsibilities are aligned to the strategic plan of the department;

(d) shall establish clear relationships and facilitate co-operation, co-ordination and communication with the head of department and other employees of the department;

(e) shall hold the head of department accountable for the administration of the department; and

(f) may exercise other powers and shall perform other duties conferred or imposed on the executive authority by this Act.'';

(d) by the deletion of subsection (8); and

(e) by the addition after subsection (8) of the following subsection:

''(9)*(a)* If a head of department refuses or fails to fulfil a power or duty as required in terms of this Act, the executive authority of the relevant department may intervene by taking appropriate steps to ensure the fulfilment of that power or duty—

"**'uitvoerende gesag'**, met betrekking tot—

(a) Die Presidensie of 'n nasionale regeringskomponent binne die President se portefeulje, die President;

(b) 'n hoof van—

(i) 'n nasionale departement of nasionale regeringskomponent, die President; en

(ii) die Kantoor van 'n Premier, provinsiale departement of provinsiale regeringskomponent, die betrokke Premier;

(c) 'n nasionale departement of nasionale regeringskomponent binne 'n Kabinetsportefeulje, die Minister verantwoordelik vir sodanige portefeulje;

(d) die Kantoor van 'n Premier of 'n provinsiale regeringskomponent binne 'n Premier se portefeulje, die Premier van daardie provinsie;

(e) 'n provinsiale departement of 'n provinsiale regeringskomponent binne 'n Uitvoerende Raad-portefeulje, die lid van die Uitvoerende Raad verantwoordelik vir sodanige portefeulje; en

(f) die Kantoor van die Kommissie, die Voorsitter van die Kommissie;".

Wysiging van artikel 3 van Wet uitgevaardig kragtens Proklamasie 103 van 1994, soos gewysig deur Proklamasie R175 van 2 Desember 1994, artikel 3 van Wet 47 van 1997 en artikel 2 van Wet 86 van 1998, en vervang deur artikel 3 van Wet 30 van 2007

2. Artikel 3 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) paragrawe *(h)* en *(i)* deur die volgende paragrawe te vervang:

"*(h)* integriteit, etiek, gedrag en teenkorrupsie in die staatsdiens; **[en]**

(i) transformasie, hervorming**[,]** en innovering **[en enige ander aangeleentheid om die doelmatigheid en doeltreffendheid van die staatsdiens en sy dienslewering aan die publiek te verbeter.]**; en";

(b) deur in subartikel (1) die volgende paragraaf na paragraaf *(i)* in te voeg:

"*(j)* enige ander aangeleentheid om die doelmatigheid en doeltreffendheid van die staatsdiens en die staatsdiens se dienslewering aan die publiek te verbeter.";

(c) deur subartikel (7) deur die volgende subartikel te vervang:

"(7) 'n Uitvoerende gesag—

(a) is aanspreeklik vir die departement in sy of haar funksionele gebied;

(b) is verantwoordelik vir die goedkeuring van die strategiese plan van die departement, met inbegrip van, maar nie beperk nie tot, die departement se kernoogmerke, op grond van die departement se wetgewende mandaat;

(c) moet verseker dat die departementshoof se rol en verantwoordelikhede met die strategiese plan van die departement strook;

(d) moet duidelike verhoudings daarstel en samewerking, koördinasie en kommunikasie met die departementshoof en ander werknemers van die departement vergemaklik;

(e) moet die departementshoof aanspreeklik hou vir die administrasie van die departement; en

(f) kan ander bevoegdhede uitoefen en moet ander pligte uitvoer wat deur hierdie Wet aan die uitvoerende gesag verleen of opgelê is.";

(d) deur subartikel (8) te skrap; en

(e) deur die volgende subartikel na subartikel (8) in te voeg:

"(9)*(a)* Indien 'n departementshoof weier of versuim om 'n bevoegdheid of plig te vervul soos ingevolge hierdie Wet vereis, kan die uitvoerende gesag van die tersaaklike departement ingryp deur gepaste stappe te doen om die vervulling van daardie bevoegdheid of plig te verseker—

(i) by issuing a written instruction to the head of department, describing the extent of the refusal or failure and stating any steps required to fulfil that power or duty; and

(ii) in the event that the head of department fails to take such steps, the executive authority shall report such failure to the President or the Premier, as the case may be.''.

Amendment of section 5 of Act promulgated under Proclamation 103 of 1994, as amended by Proclamation 105 of 1994, substituted by section 3 of Act 47 of 1997, and amended by section 7 of Act 30 of 2007

3. Section 5 of the principal Act is hereby amended by the addition after subsection (8) of the following subsection:

``(9)*(a)* The relevant executive authority or head of department may, subject to paragraphs *(b)* and *(c)*, perform any act in connection with any matter which relates to or arises from the employment or the conditions of service of a person formerly employed in the public service whilst he or she was so employed in the department concerned.

(b) An executive authority or a head of department may only so perform an act if he or she would, at the relevant time, have been competent in terms of this Act or any other law to perform any such act in respect of a serving employee.

(c) No such act shall be to the detriment of the person formerly employed in the public service, and the relevant executive authority or head of department shall not perform any such act in respect of any such person after the expiry of a period of three years after he or she ceased to be so employed.

(d) On request of the relevant executive authority or head of department and on good cause shown, the Minister may, in respect of a particular person, extend the period of three years with such period as the Minister considers appropriate.''.

Amendment of section 7 of Act promulgated under Proclamation 103 of 1994, as substituted by section 4 of Act 47 of 1997, and amended by section 4 of Act 86 of 1998 and section 9 of Act 30 of 2007

4. Section 7 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

``(3)*(a)* Each department shall have a head who shall be the incumbent of the post on the establishment bearing the designation mentioned in Column 2 of Schedule 1, 2 or 3, opposite the name of the relevant department.

(b) A head of department—

(i) shall facilitate co-operation, co-ordination and communication with all other relevant departments;

(ii) shall ensure that he or she performs all duties conferred or imposed on him or her by this Act and other applicable legislation;

(iii) shall assist the executive authority to fulfil the executive authority's accountability and responsibility obligations as contemplated in section 92 of the Constitution;

(iv) shall report to the executive authority, upon request or as may be necessary, on matters regarding the department or any other matter determined by the executive authority;

(v) shall implement the strategic plan of the department;

(vi) shall manage the department's administration efficiently and effectively in accordance with this Act and other applicable legislation by—

(aa) creating appropriate management structures and assigning clear responsibilities to such structures;

(bb) ensuring efficient decision-making within the department and co-ordination of functions between different units;

(cc) managing, effectively utilising and training employees;

(dd) maintaining discipline of employees; and

(ee) managing sound labour relations;

(i) deur 'n skriftelike opdrag aan die departementshoof uit te reik, waarin die omvang van die weiering of versuim beskryf word en enige stappe uiteengesit word wat nodig is om daardie bevoegdheid of plig te vervul; en

(ii) indien die departementshoof versuim om sodanige stappe te doen, moet die uitvoerende gesag sodanige versuim aan die President of die Premier, na gelang van die geval, rapporteer.''.

Wysiging van artikel 5 van Wet uitgevaardig kragtens Proklamasie 103 van 1994, soos gewysig deur Proklamasie 105 van 1994, vervang deur artikel 3 van Wet 47 van 1997, en gewysig deur artikel 7 van Wet 30 van 2007

3. Artikel 5 van die Hoofwet word hierby gewysig deur die volgende subartikel na subartikel (8) by te voeg:

''(9)*(a)* Die betrokke uitvoerende gesag of departementshoof kan, behoudens paragrawe *(b)* en *(c)*, enige handeling verrig in verband met enige aangeleentheid wat verband hou met of voortspruit uit die diens of die diensvoorwaardes van 'n persoon wat voorheen in diens van die staatsdiens was terwyl hy of sy aldus in die betrokke departement in diens was.

(b) 'n Uitvoerende gesag of 'n departementshoof kan slegs so 'n handeling verrig indien hy of sy, op die betrokke tydstip, ingevolge hierdie Wet of enige ander wet bevoeg sou gewees het om enige sodanige handeling ten opsigte van 'n dienende werknemer te verrig.

(c) Geen sodanige handeling mag tot nadeel wees van die persoon wat voorheen in diens van die staatsdiens was nie, en die betrokke uitvoerende gesag of departementshoof verrig, na afloop van 'n tydperk van drie jaar nadat hy of sy opgehou het om aldus in diens te wees, geen sodanige handeling ten opsigte van so 'n persoon nie.

(d) Op versoek van die betrokke uitvoerende gesag of departementshoof en by die aanvoer van goeie gronde, kan die Minister, ten opsigte van 'n bepaalde persoon, die tydperk van drie jaar verleng met die tydperk wat die Minister gepas ag.''.

Wysiging van artikel 7 van Wet uitgevaardig kragtens Proklamasie 103 van 1994, soos gewysig deur artikel 4 van Wet 47 van 1997, en gewysig deur artikel 4 van Wet 86 van 1998 en artikel 9 van Wet 30 van 2007

4. Artikel 7 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

''(3)*(a)* Elke departement het 'n hoof wat die ampsdraer van die pos op die diensstaat is wat die benaming dra soos vermeld in Kolom 2 van Bylae 1, 2 of 3, teenoor die naam van die betrokke departement.

(b) 'n Departementshoof—

(i) vergemaklik samewerking, koördinering en kommunikasie met alle ander tersaaklike departemente;

(ii) verseker dat hy of sy alle pligte uitvoer wat deur hierdie Wet en ander toepaslike wetgewing aan hom of haar verleen of opgelê word;

(iii) staan die uitvoerende gesag by om die uitvoerende gesag se aanspreeklikheids- en verantwoordelikheidsverpligtinge soos beoog in artikel 92 van die Grondwet na te kom;

(iv) doen, op versoek of soos nodig mag wees, aan die uitvoerende gesag verslag oor aangeleenthede aangaande die departement of enige ander aangeleentheid wat die uitvoerende gesag bepaal;

(v) implementeer die strategiese plan van die departement;

(vi) bestuur die departement se administrasie doelmatig en doeltreffend ooreenkomstig hierdie Wet en ander toepaslike wetgewing deur—

(aa) gepaste bestuurstrukture te skep en duidelike verantwoordelikhede aan sodanige strukture toe te ken;

(bb) doeltreffende besluitneming binne die departement en koördinering van werksaamhede tussen verskillende eenhede te verseker;

(cc) die bestuur, doelmatige benutting en opleiding van werknemers;

(dd) die handhawing van dissipline van werknemers; en

(ee) die bestuur van gesonde arbeidsverhoudinge;

(vii) may, in accordance with this Act, exercise the powers and shall perform the duties that are necessary for—
(aa) the internal organisation of the department, including the establishment and the transfer of functions within the department;
(bb) human resource management; and
(cc) the recruitment, appointment, performance management, transfer, dismissal, remuneration and other career incidents of employees of that department, including any other matter which relates to such employees in their individual capacities.

(c) The head of The Presidency shall, in addition to any power or duty entrusted or assigned to him or her by or under this Act or any other law—
(i) be the Secretary to the Cabinet;
(ii) co-ordinate, convene and chair the Forum of South African Directors-General comprising all heads of departments listed in Column 2 of Schedule 1;
(iii) subject to sections 85(2)(c) and 125(2)(e) of the Constitution, be responsible for intergovernmental relations on an administrative level between The Presidency and national departments, provincial departments and government components, including the co-ordination of their actions and legislation;
(iv) support the President on any matter entrusted or assigned to the President by or under this Act or any other law; and
(v) perform any other function, if so requested by the President, subject to the Constitution or any other law.

(d) In addition to any power or duty entrusted or assigned by or under this Act or any other law to the head of the Office of a Premier, the head of department shall—
(i) be the Secretary to the Executive Council of the province concerned;
(ii) subject to sections 85(2)(c) and 125(2)(e) of the Constitution, be responsible for intergovernmental relations on an administrative level between the relevant province and other provinces, as well as national departments and national government components, and for the intra-governmental co-operation between the relevant Office of the Premier and the various provincial departments and provincial government components, including the co-ordination of their actions and legislation; and
(iii) subject to paragraph *(e)*, be responsible for the giving of strategic direction on any matter referred to in section 3A.

(e) The head of The Presidency or the head of the Office of a Premier shall exercise no power or perform no duty which is entrusted or assigned by or under this Act or any other law to any other head of the department.''.

Amendment of section 9 of Act promulgated under Proclamation 103 of 1994, as substituted by section 6 of Act 47 of 1997 and section 14 of Act 30 of 2007

5. Section 9 of the principal Act is hereby substituted for the following section:

''**Appointments in public service**

9. [An executive authority] A head of department may appoint any person in his or her department in accordance with this Act and in such manner and on such conditions as may be prescribed.''.

Amendment of section 13 of Act promulgated under Proclamation 103 of 1994, as substituted by section 10 of Act 47 of 1997, amended by section 7 of Act 86 of 1998, and substituted by section 19 of Act 30 of 2007

6. Section 13 of the principal Act is hereby amended—
(a) by the substitution for subsection (1) of the following subsection:

(vii) kan, ooreenkomstig hierdie Wet, die bevoegdhede uitoefen en moet die pligte uitvoer wat nodig is vir—
(aa) die interne organisasie van die departement, met inbegrip van die vestiging en die oordrag van werksaamhede binne die departement;
(bb) mensehulpbronbestuur; en
(cc) die werwing, aanstelling, prestasiebestuur, oordrag, afdanking, vergoeding en ander loopbaanvoorvalle van werknemers van daardie departement, met inbegrip van enige ander aangeleentheid wat met sodanige werknemers in hul individuele hoedanighede verband hou.

(c) Die hoof van Die Presidensie moet, benewens enige bevoegdheid of plig wat aan hom of haar toevertrou of opgedra is by of kragtens hierdie Wet of enige ander wet—
(i) die Sekretaris van die Kabinet wees;
(ii) die Forum van Suid-Afrikaanse Direkteurs-generaal, bestaande uit alle departementshoofde wat in Kolom 2 van Bylae 1 vermeld word, koördineer, belê en daaroor voorsit;
(iii) behoudens artikels 85(2)(c) en 125(2)(e) van die Grondwet, verantwoordelik wees vir verhoudinge tussen staatsinstellings op ’n administratiewe vlak tussen Die Presidensie en nasionale departemente, provinsiale departemente en regeringskomponente, met inbegrip van die koördinering van hul optrede en wetgewing;
(iv) die President ondersteun in enige aangeleentheid wat deur of kragtens hierdie Wet of enige ander wet aan die President toevertrou of opgedra is; en
(v) enige ander werksaamheid verrig, indien aldus deur die President versoek, behoudens die Grondwet of enige ander wet.

(d) Benewens enige bevoegdheid of plig wat deur of kragtens hierdie Wet of enige ander wet aan die hoof van die kantoor van ’n Premier toevertrou of opgedra is, moet die departementshoof—
(i) die Sekretaris van die Uitvoerende Raad van die betrokke provinsie wees;
(ii) behoudens artikels 85(2)(c) en 125(2)(e) van die Grondwet, verantwoordelik wees vir verhoudinge tussen staatsinstansies op administratiewe vlak tussen die betrokke provinsie en ander provinsies, sowel as nasionale departemente en nasionale regeringskomponente, en vir die intra-regeringsamewerking tussen die betrokke Kantoor van die Premier en die verskillende provinsiale departemente en provinsiale regeringskomponente, met inbegrip van die koördinering van hul optrede en wetgewing; en
(iii) behoudens paragraaf *(e)*, verantwoordelik wees vir die gee van strategiese rigting oor enige aangeleentheid bedoel in artikel 3A.

(e) Die hoof van Die Presidensie of die hoof van die kantoor van ’n Premier sal geen bevoegdheid uitoefen of geen plig verrig wat deur of kragtens hierdie Wet of enige ander wet aan enige ander departementshoof toevertrou of opgedra word nie.’’.

Wysiging van artikel 9 van Wet uitgevaardig kragtens Proklamasie 103 van 1994, soos vervang deur artikel 6 van Wet 47 van 1997 en artikel 14 van Wet 30 van 2007

5. Artikel 9 van die Hoofwet word hierby deur die volgende artikel vervang:

‘‘**Aanstellings in staatsdiens**

9. ’n **[Uitvoerende gesag]** Departementshoof kan enige persoon in sy of haar departement aanstel ooreenkomstig hierdie Wet en op die wyse en voorwaardes wat voorgeskryf word.’’.

Wysiging van artikel 13 van Wet uitgevaardig kragtens Proklamasie 103 van 1994, soos vervang deur artikel 10 van Wet 47 van 1997, vervang deur artikel 7 van Wet 86 van 1998, en vervang deur artikel 19 van Wet 30 van 2007

6. Artikel 13 van die Hoofwet word hierby gewysig—
(a) deur subartikel (1) deur die volgende subartikel te vervang:

"(1) If so required by regulation, **[an executive authority]** a head of department shall appoint an employee on probation for such period as may be prescribed for the relevant category of employees.";

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

"(2) After the completion of a probationary period contemplated in subsection (1), **[an executive authority]** a head of department shall confirm the probationary appointment if the employee concerned has—

(a) performed at least satisfactorily during the period; and

(b) complied with all the conditions to which his or her appointment was subject."; and

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

"(3) If the probationary appointment is not confirmed in terms of subsection (2), the **[executive authority]** head of department may extend the period of probation or dismiss the employee in accordance with the Labour Relations Act.".

Amendment of section 14 of Act promulgated under Proclamation 103 of 1994, as amended by section 11 of Act 47 of 1997 and section 8 of Act 86 of 1998, and substituted by section 20 of Act 30 of 2007

7. Section 14 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Subject to subsections (2), (3) and (4), any employee of a department may be transferred—

(a) within the department, by its **[executive authority]** head of department; or

(b) to another department by the **[executive authorities]** heads of department of the two relevant departments.".

Substitution of section 14A of Act promulgated under Proclamation 103 of 1994, as inserted by section 21 of Act 30 of 2007

8. The principal Act is hereby amended by the substitution for section 14A of the following section:

"**Change in employment capacity**

14A. (1) An employee of a department who is appointed in terms of section 9 in another capacity in the same or another department, or transferred in terms of section 12(3) or 14, shall be deemed to continue employment in the public service without any break in service.

(2) Any person who was employed by an organ of state immediately before he or she is appointed in terms of section 9 shall be deemed to be transferred to the public service in respect of such conditions of service and to such extent as the Minister may determine in terms of section 3(5).".

Amendment of section 16 of Act promulgated under Proclamation 103 of 1994, as amended by section 3 of Act 13 of 1996, section 13 of Act 47 of 1997 and section 53 of Act 11 of 2013

9. Section 16 of the principal Act is hereby amended—

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

"(1)*(a)* Subject to the provisions of this section, an **[officer]** employee, other than a member of the services or an educator or a member of the State Security Agency, shall have the right to retire from the public service, and shall be so retired, on the date when he or she attains the age of 65 years: Provided that a person who is an employee on the day immediately before the commencement of the Public Service Amendment Act, 1996, has the right to retire on reaching the retirement age or prescribed retirement date provided for in any other law applicable to him or her on that day.

"(1) Indien aldus vereis by regulasie, moet 'n **[uitvoerende gesag]** departementshoof 'n werknemer op proef aanstel vir die tydperk wat vir die betrokke kategorie werknemers voorgeskryf word.";

(b) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) Na voltooiing van 'n proeftydperk in subartikel (1) beoog, moet 'n **[uitvoerende gesag]** departementshoof die proefaanstelling bevestig indien die betrokke werknemer—

(a) gedurende die tydperk minstens bevredigend gepresteer het; en

(b) aan al die voorwaardes voldoen het waaraan sy of haar aanstelling onderworpe was."; en

(c) deur subartikel (3) deur die volgende subartikel te vervang:

"(3) Indien die proefaanstelling nie ingevolge subartikel (2) bevestig word nie, kan die **[uitvoerende gesag]** departementshoof die proeftydperk verleng of die werknemer ontslaan ooreenkomstig die Wet op Arbeidsverhoudinge.".

Wysiging van artikel 14 van Wet uitgevaardig kragtens Proklamasie 103 van 1994, soos gewysig deur artikel 11 van Wet 47 van 1997 en artikel 8 van Wet 86 van 1998, en vervang deur artikel 20 van Wet 30 van 2007

7. Artikel 14 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Behoudens subartikels (2), (3) en (4) kan 'n werknemer van 'n departement—

(a) binne die departement, deur sy **[uitvoerende gesag]** departementshoof; of

(b) na 'n ander departement, deur die **[uitvoerende gesagte]** departementshoofde van die twee betrokke departemente, oorgeplaas word.".

Vervanging van artikel 14A van Wet uitgevaardig kragtens Proklamasie 103 van 1994, soos ingevoeg deur artikel 21 van Wet 30 van 2007

8. Die Hoofwet word hierby gewysig deur artikel 14A deur die volgende artikel te vervang:

"**Verandering in dienshoedanigheid**

14A. (1) 'n Werknemer van 'n departement wat ingevolge artikel 9 aangestel word in 'n ander hoedanigheid in dieselfde of 'n ander departement, of ingevolge artikel 12(3) of 14 oorgeplaas word, word geag diens in die staatsdiens voort te sit sonder 'n onderbreking in diens.

(2) Enige persoon wat in diens van 'n staatsorgaan was onmiddellik voordat hy of sy ingevolge artikel 9 aangestel is, word geag na die staatsdiens oorgeplaas te wees ten opsigte van sodanige diensvoorwaardes en tot die mate wat die Minister ingevolge artikel 3(5) kan bepaal.".

Wysiging van artikel 16 van Wet uitgevaardig kragtens Proklamasie 103 van 1994, soos gewysig deur artikel 3 van Wet 13 van 1996, artikel 13 van Wet 47 van 1997 en artikel 53 van Wet 11 van 2013

9. Artikel 16 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

"(1)*(a)* Behoudens die bepalings van hierdie artikel het 'n **[beampte]** werknemer, uitgesonderd 'n lid van die dienste of 'n opvoeder of 'n lid van die Staatsveiligheidsagentskap, die reg om uit die staatsdiens af te tree, en word hy of sy aldus verplig om af te tree op die datum waarop hy of sy die leeftyd van 65 jaar bereik: Met dien verstande dat 'n persoon wat op die dag onmiddellik voor die inwerkingtreding van die Staatsdienswysigingswet, 1996, 'n werknemer is, die reg het om by die bereiking van die aftree-ouderdom of die voorgeskrewe aftreedatum waarvoor in enige ander wet voorsiening gemaak word en op daardie dag op hom of haar van toepassing is, af te tree.

(b) If such an **[officer]** employee attains the said age after the first day of a month, he or she shall be deemed to have attained it on the first day of the following month.'';

(b) by the substitution in subsection (2) for paragraphs *(b)* and *(c)* of the following paragraphs:

'' *(b)* An **[officer]** employee who has the right to an earlier retirement age in terms of paragraph *(a)*, and who wishes to be so retired, shall give written notification to his or her head of department of his or her wish to be so retired, and he or she shall—

(i) if that notification is given at least three calendar months prior to the date on which he or she attains the retirement age applicable to him or her in terms of paragraph *(a)*, be so retired on the date on which he or she attains that age or, if he or she 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 or she attains the said age, be so retired on the first day of such month as the **[executive authority]** head of department may approve, which day may not be before the date on which he or she attains the said age and not be later than the first day of the fourth month after the month in which the notification is received.

(c)(i) In the case of an **[officer]** employee who occupies the **[office]** post of head of department, he or she shall give notification, to the relevant executive authority, of his or her wish to be retired from the public service at least six calendar months prior to the date on which he or she attains the said age, and if he or she has so given notification, the provisions of paragraph *(b)*(i) apply *mutatis mutandis*.

(ii) If such an **[officer]** employee has not so given notification at least six calendar months prior to the date on which he or she attains the said age, he or she shall be so retired on the first day of the seventh month following the month in which that notification is received.'';

(c) by the substitution in subsection (2A) for paragraph *(a)* of the following paragraph:

''*(a)* Notwithstanding the provisions of subsections (1) and (2)*(a)*, an **[officer]** employee, other than a member of the services or an educator or a member of the State Security Agency, shall have the right to retire from the public service on the date on which he or she attains the age of 55 years, or on any date after that date.'';

(d) by the substitution in subsection (3) for paragraph *(a)* of the following paragraph:

''*(a)* Subject to this section and the terms and conditions of a contract contemplated in section 12(2), **[an officer who occupies the office of]** a head of department has the right to retire from the public service and he or she shall be so retired at the expiry of the term contemplated in that section, or of any extended term contemplated therein, as the case may be.'';

(e) by the substitution for subsection (4) of the following subsection:

''(4) An **[officer]** employee, other than a member of the services or an educator or a member of the State Security Agency, who has reached the age of 60 years may, subject in every case to the approval of the relevant **[executive authority]** head of department, be retired from the public service.'';

(f) by the substitution in subsection (5) for paragraphs *(a)* and *(b)* of the following paragraphs:

''*(a)* Subject to the terms and conditions of a contract contemplated in section 12(2), an executive authority may, at the request of an employee occupying the **[office]** post of a head of department, allow him or her to retire from the public service before the expiry of the term contemplated in section 12(2), or any extended term contemplated therein, and notwithstanding the absence of any reason for dismissal in terms of

(b) Indien so 'n **[beampte]** werknemer genoemde leeftyd na die eerste dag van 'n maand bereik, word hy of sy geag dit op die eerste dag van die eersvolgende maand te bereik het.'';

(b) deur in subartikel (2) paragrawe *(b)* en *(c)* deur die volgende paragrawe te vervang:

''*(b)* 'n **[Beampte]** Werknemer wat die reg op 'n vroeë aftree-ouderdom het ingevolge paragraaf *(a)* en wat kies om so verplig te word om af te tree, gee skriftelik kennis aan sy of haar departementshoof van sy of haar begeerte om so verplig te word om af te tree, en hy of sy word—

(i) indien daardie kennis gegee word minstens drie kalendermaande voor die datum waarop hy of sy die aftree-ouderdom van toepassing op hom of haar ingevolge paragraaf *(a)* bereik, aldus verplig om af te tree op die datum waarop hy of sy daardie leeftyd bereik of, indien hy of sy dit na die eerste dag van 'n maand bereik, op die eerste dag van die eersvolgende maand; of

(ii) indien daardie kennis nie minstens drie kalendermaande voor die datum waarop hy of sy genoemde leeftyd bereik, gegee word nie, aldus verplig om af te tree op die eerste dag van die maand wat die **[uitvoerende gesag]** departementshoof goedkeur, welke dag nie voor die datum mag wees waarop hy of sy genoemde leeftyd bereik nie en nie later nie as die eerste dag van die vierde maand na die maand waarin die kennisgewing ontvang word.

(c)(i) In die geval van 'n **[beampte]** werknemer wat die **[amp]** pos van departementshoof beklee, moet hy of sy minstens ses kalendermaande voor die datum waarop hy of sy genoemde leeftyd bereik, aan die tersaaklike uitvoerende gesag kennis gee van sy of haar begeerte om verplig te word om uit die staatsdiens af te tree, en indien hy of sy aldus kennis gegee het, geld die bepalings van paragraaf *(b)*(i) *mutatis mutandis*.

(ii) Indien so 'n **[beampte]** werknemer nie minstens ses kalendermaande voor die datum waarop hy of sy genoemde leeftyd bereik, aldus kennis gee nie, word hy of sy aldus verplig om af te tree op die eerste dag van die sewende maand na die maand waarin die kennisgewing ontvang word.'';

(c) deur in subartikel (2A) paragraaf *(a)* deur die volgende paragraaf te vervang:

''*(a)* Ondanks die bepalings van subartikel (1) en (2)*(a)* het 'n **[beampte]** werknemer, uitgesonderd 'n lid van die dienste of 'n opvoeder of 'n lid van die Staatsveiligheidsagentskap, die reg om op die datum waarop hy of sy die leeftyd van 55 jaar bereik, of op enige datum na daardie datum, uit die staatsdiens af te tree.'';

(d) deur in subartikel (3) paragraaf *(a)* deur die volgende paragraaf te vervang:

''*(a)* Behoudens hierdie artikel en die bedinge en voorwaardes van 'n kontrak in artikel 12(2) beoog, het 'n **[beampte wat die amp van]** departementshoof **[beklee]** die reg om uit die staatsdiens af te tree en word hy of sy aldus verplig om af te tree by verstryking van die termyn in daardie artikel beoog, of van enige verlengde termyn daarin beoog, na gelang van die geval.'';

(e) deur subartikel (4) deur die volgende subartikel te vervang:

''(4) 'n **[Beampte]** Werknemer, uitgesonderd 'n lid van die dienste of 'n opvoeder of 'n lid van die Staatsveiligheidsagentskap wat die leeftyd van 60 jaar bereik het, mag, onderworpe in elke geval aan die goedkeuring van die betrokke **[uitvoerende gesag]** departementshoof, verplig word om uit die staatsdiens af te tree.'';

(f) deur in subartikel (5) paragrawe *(a)* en *(b)* deur die volgende paragrawe te vervang:

''*(a)* Behoudens die bedinge en voorwaardes van 'n kontrak in artikel 12(2) beoog, kan 'n uitvoerende gesag, op versoek van 'n werknemer wat die **[amp]** pos van 'n departementshoof beklee, hom of haar toelaat om uit die staatsdiens af te tree voor die verstryking van die termyn in artikel 12(2) beoog, of van enige verlengde termyn daarin beoog, en ondanks die afwesigheid van enige rede vir die ontslag ingevolge artikel 17(2) of

section 17(2) or the contract concluded with the employee, as the case may be, if sufficient reason exists for the retirement.

(b) If an **[officer]** employee is allowed to retire from the public service in terms of paragraph *(a)*, he or she shall, notwithstanding anything to the contrary contained in subsection (4), be deemed to have retired in terms of that subsection, and he or she shall be entitled to such pension as he or she would have been entitled to if he or she had retired from the public service in terms of that subsection.'';

(g) by the substitution in subsection (6) for paragraph *(a)* of the following paragraph:

''*(a)* **[An executive authority]** A head of department may, at the request of an employee, allow him or her to retire from the public service before reaching the age of 60 years, notwithstanding the absence of any reason for dismissal in terms of section 17(2), if sufficient reason exists for the retirement.''; and

(h) by the substitution for subsection (7) of the following subsection:

''(7) If it is in the public interest to retain an **[officer]** employee, other than a member of the services or an educator or a member of the State Security Agency, in his or her post beyond the age at which he or she is required to be retired in terms of subsection (1), he or she may, with his or her consent and with the approval of the relevant **[executive authority]** head of department, be so retained from time to time for further periods which shall not, except with the approval of Parliament granted by resolution, exceed in the aggregate two years.''.

Amendment of section 16B of Act promulgated under Proclamation 103 of 1994, as inserted by section 24 of Act 30 of 2007

10. Section 16B of the principal Act is hereby amended by the substitution for subsection (6) of the following subsection:

''(6) If notice of a disciplinary hearing was given to an employee, the relevant **[executive authority]** head of department shall not agree to a period of notice of resignation which is shorter than the prescribed period of notice of resignation applicable to that employee.''.

Amendment of section 17 of Act promulgated under Proclamation 103 of 1994, as amended by section 14 of Act 47 of 1997, and substituted by section 25 of Act 30 of 2007

11. Section 17 of the principal Act is hereby amended—

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

''*(a)* Subject to paragraph *(b)*, the power to dismiss an employee shall vest in the relevant **[executive authority]** head of department and shall be exercised in accordance with the Labour Relations Act.''; and

(b) by the substitution in subsection (3) for paragraph *(b)* of the following paragraph:

''*(b)* If an employee who is deemed to have been so dismissed, reports for duty at any time after the expiry of the period referred to in paragraph *(a)*, the relevant **[executive authority]** head of department may, on good cause shown and notwithstanding anything to the contrary contained in any law, approve the reinstatement of that employee in the public service in his or her former or any other post or position, and in such a case the period of his or her absence from official duty shall be deemed to be absence on vacation leave without pay or leave on such other conditions as the **[said authority]** head of department may determine.''.

Amendment of section 30 of Act promulgated under Proclamation 103 of 1994, as amended by section 25 of Act 47 of 1997, and substituted by section 26 of Act 30 of 2007

12. Section 30 of the principal Act is hereby amended—

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

die kontrak gesluit met die werknemer, na gelang van die geval, indien genoegsame rede vir die aftrede bestaan.

(b) As 'n **[beampte]** werknemer toegelaat word om ingevolge paragraaf *(a)* uit die staatsdiens af te tree, word hy of sy, ondanks andersluidende bepalings van subartikel (4), geag ingevolge daardie subartikel uit die staatsdiens af te getree het, en is hy of sy geregtig op die pensioen waarop hy of sy geregtig sou gewees het indien hy of sy ingevolge daardie subartikel uit die staatsdiens afgetree het.'';

(g) deur in subartikel (6) paragraaf *(a)* deur die volgende paragraaf te vervang:

''*(a)* 'n **[Uitvoerende gesag]** Departementshoof kan op versoek van 'n werknemer hom of haar toelaat om uit die staatsdiens af te tree voordat die ouderdom van 60 jaar bereik word, ondanks die afwesigheid van enige rede vir ontslag ingevolge artikel 17(2), indien genoegsame rede vir die aftrede bestaan.''; en

(h) deur subartikel (7) deur die volgende subartikel te vervang:

''(7) Indien die openbare belang vereis dat 'n **[beampte]** werknemer, uitgesonderd 'n lid van die dienste of 'n opvoeder of 'n lid van die Staatsveiligheidsagentskap, in sy of haar pos in diens gehou word na die leeftyd waarop hy of sy ingevolge subartikel (1) verplig word om af te tree, kan hy of sy, met sy of haar instemming en met die goedkeuring van die betrokke **[uitvoerende gesag]** departementshoof, aldus van tyd tot tyd in diens gehou word vir verdere tydperke wat, behalwe met die goedkeuring van die Parlement wat by besluit verleen word, altesaam nie twee jaar te bowe mag gaan nie.''.

Wysiging van artikel 16B van Wet uitgevaardig kragtens Proklamasie 103 van 1994, soos ingevoeg deur artikel 24 van Wet 30 van 2007

10. Artikel 16B van die Hoofwet word hierby gewysig deur subartikel (6) deur die volgende subartikel te vervang:

''(6) Indien kennis van 'n dissiplinêre verhoor aan 'n werknemer gegee is, mag die betrokke **[uitvoerende gesag]** departementshoof nie instem tot 'n bedankingskennisgewingstydperk wat korter is as die voorgeskrewe bedankingskennisgewingstydperk wat op daardie werknemer van toepassing is nie.''.

Wysiging van artikel 17 van Wet uitgevaardig kragtens Proklamasie 103 van 1994, soos gewysig deur artikel 14 van Wet 47 van 1997, en vervang deur artikel 25 van Wet 30 van 2007

11. Artikel 17 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) paragraaf *(a)* deur die volgende paragraaf te vervang:

''*(a)* Behoudens paragraaf *(b)* berus die bevoegdheid om 'n werknemer te ontslaan in die betrokke **[uitvoerende gesag]** departementshoof en moet dit ooreenkomstig die Wet op Arbeidsverhoudinge uitgeoefen word.''; en

(b) deur in subartikel (3) paragraaf *(b)* deur die volgende paragraaf te vervang:

''*(b)* Indien 'n werknemer wat geag word aldus ontslaan te wees, vir diens aanmeld te eniger tyd na die verstryking van die tydperk in paragraaf *(a)* bedoel, kan die betrokke **[uitvoerende gesag]** departementshoof, by aanvoering van gegronde redes en ondanks andersluidende bepalings van die een of ander wet, die herstel van daardie werknemer in die staatsdiens in sy of haar vorige pos of posisie of 'n ander pos of posisie goedkeur, en in so geval word die tydperk van sy of haar afwesigheid van amptelike diens geag afwesigheid met vakansieverlof sonder betaling te wees of verlof op die ander voorwaardes wat **[genoemde gesag]** die departementshoof bepaal.''.

Wysiging van artikel 30 van Wet uitgevaardig kragtens Proklamasie 103 van 1994, soos gewysig deur artikel 25 van Wet 47 van 1997, en vervang deur artikel 26 van Wet 30 van 2007

12. Artikel 30 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

"(1) No employee shall perform or engage himself or herself to perform remunerative work outside his or her employment in the relevant department, except with the written permission of the **[executive authority of the]** head of department.";

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

"(2) For the purposes of subsection (1) the **[executive authority]** head of department shall at least take into account whether or not the outside work could reasonably be expected to interfere with or impede the effective or efficient performance of the employee's functions in the department or constitute a contravention of the code of conduct contemplated in section 41(1)*(b)*(v)."; and

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

"(3)*(a)* The **[executive authority]** head of department shall decide whether or not to grant permission, contemplated in subsection (1), within 30 days after the receipt of the request from the employee in question.

(b) If the **[executive authority]** head of department fails to make a decision within the 30 day period, it would be deemed that such permission was given.".

Amendment of section 31 of Act promulgated under Proclamation 103 of 1994, as amended by section 26 of Act 47 of 1997, and substituted by section 27 of Act 30 of 2007

13. Section 31 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraph *(d)* of the following paragraph:

"*(d)* The provisions of this section shall also apply to an **[officer]** employee 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.";

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

"*(b)* In circumstances regarded by the relevant **[executive authority]** head of department as exceptional, the **[said authority]** head of department may approve of paying out of revenue an amount equal to that salary, allowance, fee, bonus or honorarium, or a portion thereof, to the employee concerned."; and

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

"(3) For the purposes of subsection (1)*(a)*(i)—

(a) **'this Act'** includes any law repealed by this Act;

(b) **'determination of the Minister'** includes any recommendation of the **[Public Service]** Commission, **[established by section 209 (1) of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993), or of]** any commission for administration**[, public service commission]** or other like institution established by or under, or which functioned in accordance with, any such law; and

(c) **'section 30[*(b)*]'** includes any corresponding provision of any such law.".

Amendment of section 32 of Act promulgated under Proclamation 103 of 1994, as substituted by section 28 of Act 30 of 2007

14. Section 32 of the principal Act is hereby amended—

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

"(1) Subject to such conditions as may be prescribed**[, an]**—

(a) the relevant executive authority responsible for that portfolio, in respect of the head of department; or

(b) the head of a department, in respect of other employees,

may direct **[an]** such head or employee under his or her control temporarily to perform any functions within the relevant department, other than those ordinarily assigned to **[the]** that head or employee or appropriate to his or her grade or post."; and

"(1) Geen werknemer mag besoldigde werk buite sy of haar werk in die betrokke departement verrig of hom of haar verbind om dit te verrig nie, behalwe met die skriftelike toestemming van die **[uitvoerende gesag van die departement]** departementshoof.";

(b) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) By die toepassing van subartikel (1) moet die **[uitvoerende gesag]** departementshoof ten minste in ag neem of daar redelikerwys verwag kan word dat die buitewerk in die doelmatige of doeltreffende verrigting van die werknemer se werksaamhede in die departement sal inmeng of dit sal belemmer, en of dit 'n oortreding uitmaak van die gedragskode in artikel 41(1)*(b)*(v) beoog."; en

(c) deur subartikel (3) deur die volgende subartikel te vervang:

"(3)*(a)* Die **[uitvoerende gesag]** departementshoof moet, binne 30 dae na ontvangs van die versoek van die betrokke werknemer, besluit om toestemming, beoog in subartikel (1), te verleen al dan nie.

(b) Indien die **[uitvoerende gesag]** departementshoof versuim om binne die tydperk van 30 dae 'n besluit te neem, word daar geag dat sodanige toestemming verleen is.".

Wysiging van artikel 31 van Wet uitgevaardig kragtens Proklamasie 103 van 1994, soos gewysig deur artikel 26 van Wet 47 van 1997, en vervang deur artikel 27 van Wet 30 van 2007

13. Artikel 31 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) paragraaf *(d)* deur die volgende paragraaf te vervang:

"*(d)* Die bepalings van hierdie artikel is ook van toepassing op 'n **[beampte]** werknemer wat 'n departementshoof is, en in so 'n geval moet 'n verwysing na 'n departementshoof uitgelê word as 'n verwysing na die Tesourie.";

(b) deur paragraaf *(b)* in subartikel (2) deur die volgende paragraaf te vervang:

"*(b)* Die betrokke **[uitvoerende gesag]** departementshoof kan onder omstandighede wat **[bedoelde gesag]** die departementshoof as buitengewoon beskou, goedkeur dat daar aan die betrokke werknemer uit inkomste 'n bedrag betaal word wat gelyk is aan daardie salaris, toelae, geld, bonus of honorarium, of 'n gedeelte daarvan."; en

(c) deur subartikel (3) deur die volgende subartikel te vervang:

"(3) By die toepassing van subartikel (1)*(a)*(i) beteken—

(a) **'hierdie Wet'** ook 'n wet wat by hierdie Wet herroep is;

(b) **'vasstelling van die Minister'** ook 'n aanbeveling van die **[Staatsdienskommissie ingestel by artikel 209(1) van die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993), of van]** Kommissie, 'n kommissie vir administrasie**[, staatsdienskommissie]** of ander soortgelyke instelling ingestel by of kragtens, of wat gefunksioneer het ooreenkomstig, so 'n wet; en

(c) **'artikel 30[*(b)*]'** ook 'n ooreenstemmende bepaling van so 'n wet.".

Wysiging van artikel 32 van Wet uitgevaardig kragtens Proklamasie 103 van 1994, soos vervang deur artikel 28 van Wet 30 van 2007

14. Artikel 32 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Behoudens die voorwaardes wat voorgeskryf word, kan **['n]**—

(a) die betrokke uitvoerende gesag verantwoordelik vir daardie portefeulje, ten opsigte van die departementshoof; of

(b) die hoof van 'n departement, ten opsigte van ander werknemers,

['n] sodanige hoof of werknemer onder sy of haar beheer gelas om tydelik enige werksaamhede in die tersaaklike departement te verrig anders as dié wat normaalweg aan **[die]** daardie hoof of werknemer opgedra word of by sy of haar graad of pos pas."; en

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

"(2)*(a)* An employee may be directed, in writing, to act in a post within the relevant department, subject to such conditions as may be prescribed.

(b) An acting appointment in terms of paragraph *(a)* shall be made—

(i) by the employee occupying the post, unless otherwise determined by the head of department;

(ii) in the case of a vacant post of a head of department, by the relevant executive authority responsible for that portfolio, after consultation with the President or Premier, as the case may be; or

(iii) in the case of any other vacant post, by the head of department.".

Amendment of section 35 of Act promulgated under Proclamation 103 of 1994, as substituted by section 28 of Act 47 of 1997 and section 31 of Act 30 of 2007

15. Section 35 of the principal Act is hereby amended by the substitution for subsection (5) of the following subsection:

"(5) For the purposes of subsections (1)*(b)* and (3)*(b)*, the powers conferred upon the Commission by section 11 of the Commission Act shall be deemed to include the power to make rules, which are not inconsistent with the provisions of this section, as to the investigation of grievances concerning official acts or omissions, and 'prescribed' means prescribed by the Commission by rule under the Commission Act.".

Insertion of section 36A in Act promulgated under Proclamation 103 of 1994

16. The principal Act is hereby amended by the insertion after section 36 of the following section:

"**Limitation of political rights**

36A. (1) A head of department or an employee directly reporting to the head of department may not hold political office in a political party, whether in a permanent, temporary or acting capacity.

(2) A person who has been appointed as a head of department or as an employee who directly reports to the head of department before subsection (1) takes effect, shall comply with subsection (1) within one year of the commencement of subsection (1).

(3) Except for the limitation of a head of department or an employee directly reporting to the head of department to hold political office, as contemplated in subsection (2), subsection (1) may not be construed as prohibiting a head of department or an employee directly reporting to the head of department from exercising their other political rights as contemplated in section 19 of the Constitution.".

Amendment of section 37 of Act promulgated under Proclamation 103 of 1994, as amended by section 29 of Act 47 of 1997, and substituted by section 33 of Act 30 of 2007

17. Section 37 of the principal Act is hereby amended by the substitution in subsection (2) for the words preceding paragraph *(a)* of the following words:

"(2) **[An executive authority]** A head of department may, only if it is allowed by regulation and to the extent prescribed—".

Amendment of section 38 of Act promulgated under Proclamation 103 of 1994, as amended by section 34 of Act 30 of 2007

18. Section 38 of the principal Act is hereby amended—

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

(b) deur subartikel (2) deur die volgende subartikel te vervang:

"(2)*(a)* 'n Werknemer kan skriftelik gelas word om in 'n pos in die betrokke departement waar te neem, onderworpe aan die voorwaardes wat voorgeskryf word.

(b) 'n Waarnemende aanstelling ingevolge paragraaf *(a)* word—

(i) gedoen deur die werknemer wat die pos beklee, tensy die departementshoof anders bepaal;

(ii) in die geval van 'n vakante pos van 'n departementshoof, gedoen deur die betrokke uitvoerende gesag wat vir daardie portefeulje verantwoordelik is, na oorleg met die President of Premier, na gelang van die geval; of

(iii) in die geval van enige ander vakante pos, deur die departementshoof gedoen.".

Wysiging van artikel 35 van Wet uitgevaardig kragtens Proklamasie 103 van 1994, soos vervang deur artikel 28 van Wet 47 van 1997 en artikel 31 van Wet 30 van 2007

15. Artikel 35 van die Hoofwet word hierby gewysig deur subartikel (5) deur die volgende subartikel te vervang:

"(5) By die toepassing van subartikels (1)*(b)* en (3)*(b)* word die bevoegdhede by artikel 11 van die Kommissiewet aan die Kommissie verleen, geag die bevoegdheid in te sluit om reëls uit te vaardig, wat nie met die bepalings van hierdie artikel onbestaanbaar is nie betreffende die ondersoek van griewe aangaande amptelike handelinge of versuime, en beteken 'voorgeskryf' deur die Kommissie by reël kragtens die Kommissiewet voorgeskryf.".

Invoeging van artikel 36A in Wet uitgevaardig kragtens Proklamasie 103 van 1994

16. Die Hoofwet word hierby gewysig deur die volgende artikel na artikel 36 in te voeg:

"**Beperking van politieke regte**

36A. (1) 'n Departementshoof of 'n werknemer wat regstreeks aan die departementshoof verslag doen, mag nie 'n politieke amp in 'n politieke party beklee nie, hetsy in 'n permanente, tydelike of waarnemende hoedanigheid.

(2) 'n Persoon wat as 'n departementshoof of as 'n werknemer wat regstreeks aan die departementshoof verslag doen, aangestel is voordat subartikel (1) in werking tree, moet binne een jaar sedert die aanvang van subartikel (1) aan subartikel (1) voldoen.

(3) Met uitsondering van die beperking op 'n departementshoof of 'n werknemer wat regstreeks aan die departementshoof verslag doen, om 'n politieke amp te beklee, soos in subartikel (2) beoog, mag subartikel (1) nie uitgelê word as dat dit 'n departementshoof of 'n werknemer wat regstreeks aan 'n departementshoof verslag doen, daarvan belet om hul ander politieke regte soos beoog in artikel 19 van die Grondwet, uit te oefen nie.".

Wysiging van artikel 37 van Wet uitgevaardig kragtens Proklamasie 103 van 1994, soos gewysig deur artikel 29 van Wet 47 van 1997, en vervang deur artikel 33 van Wet 30 van 2007

17. Artikel 37 van die Hoofwet word hierby gewysig deur in subartikel (2) die woorde wat paragraaf *(a)* voorafgaan deur die volgende woorde te vervang:

"(2) 'n **[Uitvoerende gesag]** Departementshoof kan, slegs indien dit by regulasie toegelaat word en in die mate waarin dit voorgeskryf word—".

Wysiging van artikel 38 van Wet uitgevaardig kragtens Proklamasie 103 van 1994, soos gewysig deur artikel 34 van Wet 30 van 2007

18. Artikel 38 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) paragraaf *(a)* deur die volgende paragraaf te vervang:

"*(a)* If an incorrect salary, salary level, salary scale or reward is awarded to an employee, the relevant **[executive authority]** head of department shall correct it with effect from the date on which it commenced.";

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

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

(i) an accounting officer shall recover such overpayment by way of deduction from the employee's salary if the accounting officer and employee agree, in writing, on—

(aa) the amount of the overpayment;

(bb) a reasonable period for the repayment of the amount of overpayment; and

(cc) the amount to be deducted from the employee's salary, either in full or in monthly instalments, taking into consideration the employee's income and current financial obligations: Provided that the total monthly deduction is not more than one-quarter of the employee's monthly salary;

(ii) an accounting officer shall, in the absence of agreement as contemplated in subparagraph (i), recover such amount of overpayment by way of legal proceedings;

(iii) an accounting officer shall, in the event that the person is no longer in the employ of a department, recover such amount by way of a deduction from any monies owing to such person by the State or by way of legal proceedings;

(iv) an accounting officer shall, in the event that the employee is in the employ of another department, request the accounting officer of that other department to recover, in the manner contemplated in subparagraph (i), the overpayment made; and

(v) that other benefit shall be discontinued or withdrawn as from a current date, but the employee shall have the right to be compensated by the State for any patrimonial loss, which he or she has suffered as a result of that discontinuation or withdrawal.".

Amendment of section 42A of Act promulgated under Proclamation 103 of 1994, as inserted by section 32 of Act 47 of 1997, and substituted by section 37 of Act 30 of 2007

19. Section 42A of the principal Act is hereby amended by the substitution in subsection (3) for paragraph *(a)* of the following paragraph:

"*(a)* the President, delegate to **[the Deputy President or a Minister]** a member of Cabinet any power conferred on the President by section 12; or".

Short title and commencement

20. This Act is called the Public Service Amendment Act, 2025, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

“*(a)* Indien ’n foutiewe salaris, salarisvlak, salarisskaal of beloning aan ’n werknemer toegeken word, moet die betrokke **[uitvoerende gesag]** departementshoof dit regstel met ingang van die datum waarop dit in werking getree het.”;

(b) deur in subartikel (2) paragraaf *(b)* deur die volgende paragraaf te vervang:

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

(i) moet ’n rekenpligtige beampte sodanige oorbetaling verhaal by wyse van aftrekking van die werknemer se salaris indien die rekenpligtige beampte en werknemer skriftelik ooreenkom op—

(aa) die bedrag van die oorbetaling;

(bb) ’n redelike tydperk vir die terugbetaling van die bedrag van oorbetaling; en

(cc) die bedrag wat van die werknemer se salaris afgetrek moet word, hetsy ten volle of in maandelikse paaiemente, met inagneming van die werknemer se inkomste en huidige finansiële verpligtinge: Met dien verstande dat die totale maandelikse aftrekking nie meer as een kwart van die werknemer se maandelikse salaris is nie;

(ii) ’n rekenpligtige beampte moet, by gebrek aan ’n ooreenkoms soos in subparagraaf (i) beoog, sodanige bedrag van oorbetaling by wyse van regsverrigtinge verhaal;

(iii) ’n rekenpligtige beampte moet, indien die persoon nie meer in diens van ’n departement is nie, sodanige bedrag verhaal by wyse van ’n aftrekking van enige gelde deur die Staat aan sodanige persoon verskuldig of by wyse van regsverrigtinge;

(iv) ’n rekenpligtige beampte moet, indien die werknemer in diens van ’n ander departement is, die rekenpligtige beampte van daardie ander departement versoek om, op die wyse beoog in subparagraaf (i), die oorbetaling wat gemaak is, te verhaal; en

(v) daardie ander voordeel sal vanaf ’n lopende datum gestaak of onttrek word, maar die werknemer sal die reg hê om deur die Staat vergoed te word vir enige vermoënsverlies, wat hy of sy as gevolg van daardie staking of onttrekking gely het.”.

Wysiging van artikel 42A uitgevaardig kragtens Proklamasie 103 van 1994, soos ingevoeg deur artikel 32 van Wet 47 van 1997, en vervang deur artikel 37 van Wet 30 van 2007

19. Artikel 42A van die Hoofwet word hierby gewysig deur in subartikel (3) paragraaf *(a)* deur die volgende paragraaf te vervang:

“*(a)* die President, ’n bevoegdheid by artikel 12 aan die President verleen, aan **[die Adjunkpresident of ’n Minister]** ’n Kabinetslid delegeer; of”.

Kort titel en inwerkingtreding

20. Hierdie Wet heet die Staatsdienswysigingswet, 2025, en tree in werking op ’n datum deur die President by proklamasie in die *Staatskoerant* vasgestel.

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