

PUBLIC SERVICE AMENDMENT ACT

PRESIDENT'S OFFICE

No. 622. 12 April 1996

NO. 13 OF 1996: PUBLIC SERVICE AMENDMENT ACT, 1996.

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

GENERAL EXPLANATORY NOTE:

Words in italics indicate insertions in existing enactments.

ACT

To provide for the removal of unjust differentiation between "officers" and "employees" as defined in the Public Service Act, 1994; to amend the Public Service Act, 1994, so as to further regulate the appointment of heads of department; to protect the existing retirement age of serving employees notwithstanding the removal of such differentiation; and to provide for matters connected therewith.

(Afrikaans text signed by the President.) (Assented to 10 April 1996.)

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

Removal of differentiation between officer and employee

1. (1) From the date of commencement of this Act (hereinafter referred to as the commencement date), unless clearly inappropriate-

(a) every person who is an "employee" as defined in section 1(1) of the Public Service Act, 1994 (Proclamation No. 103 of 1994), immediately before the commencement date, by virtue of his or her relationship with the State as employer, shall be deemed to be an "officer" as so defined, and the provisions of the Public Service Act, 1994, shall for all purposes apply to such person as if he or she were an "officer" as so defined;

(b) any post which immediately before the commencement date is included in the B division of the public service in terms of section 8 of the Public Service Act, 1994, shall be deemed to have been so included in the A division of that service; and

(c) the provisions of the Public Service Act, 1994, which immediately before the commencement date applied to employees and to posts in the B division, shall cease to apply to such persons or posts,

and to that extent the Public Service Act, 1994, shall be deemed to have been amended.

(2) For the purposes of subsection (1) any reference to the Public Service Act, 1994, however expressed, shall be construed so as to include a reference to the regulations and the Public Service Staff Code contemplated in sections 41 and 42 of the Public Service Act, 1994, respectively.

Amendment of section 12 of Public Service Act, 1994

2. Section 12 of the Public Service Act, 1994 (Proclamation No. 103 of 1994), is hereby amended-

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

"(a) (i) a person who is appointed as an officer in the office of head of department;

(ii) an officer who is promoted or transferred to that office; or

(iii) an officer who, at the commencement of this Act, occupies such an office for a fixed term under a law repealed by this Act,

shall in the case of a person referred to in subparagraph (i) or (ii), occupy that office *in a full-time capacity* for a period of five years, or such shorter period as the relevant executing authority may, subject to the provisions of subsection (3), approve from the date of his or her appointment, promotion or transfer, and, in the case of a person referred to in subparagraph (iii), occupy that office for the unexpired portion of the term for which he or she was appointed as head of department in terms of the relevant repealed law;"

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

"(d) a person who is appointed in the office of head of department must be a South African citizen".

Amendment of section 16 of Public Service Act, 1994

3. Section 16 of the Public Service Act, 1994, is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

"(a) Subject to the provisions of this section, an officer, other than a member of the services or an educator or a member of the Agency or the Service, 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*".

Short title

4. This Act shall be called the Public Service Amendment Act, 1996.