

REPUBLIC OF SOUTH AFRICA

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# **PUBLIC SERVICE LAWS AMENDMENT BILL**

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*(As introduced in the National Council of Provinces)*

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(SELECT COMMITTEE ON CONSTITUTIONAL AFFAIRS AND PUBLIC ADMINISTRATION)

**[B 62—98]**

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REPUBLIEK VAN SUID-AFRIKA

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# **WYSIGINGSWETSONTWERP OP STAATSDIENSWETGEWING**

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*(Soos ingedien in die Nasionale Raad van Provinsies)*

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(GEKOSE KOMITEE OOR STAATKUNDIGE AANGELEENTHEDE EN PUBLIEKE ADMINISTRASIE)

**[W 62—98]**

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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.

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# BILL

To amend the Public Service Act, 1994, so as to readjust the functions of heads of provincial administrations and to further regulate the functions and conditions of service of heads of provincial departments and the conditions of service of heads of organisational components; to provide for the appointment of persons on the grounds of policy considerations; and to make other provision in connection with inefficiency and misconduct; and to amend the Public Service Laws Amendment Act, 1997, so as to effect certain consequential amendments; and to provide for matters connected therewith.

**B**E 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 section 32 of Act 38 of 1994, section 27 of Act promulgated under Proclamation 105 of 1994, section 1 of Proclamation R.171 of 1994 and section 1 of Act 47 of 1997** 5

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

- (a) by the substitution in subsection (1) for the definition of “department” of the following definition: 10
  - “(viii) ‘department’ means a national department, **[or a provincial administration referred to in section 7(2)]** a provincial administration or a provincial department; (ii)”;
- (b) by the substitution in the said subsection (1) for paragraphs (e) and (f) of the definition of “executing authority” of the following paragraphs: 15
  - “(e) **[a provincial administration or]** the Office of a Premier of a province, means the Premier of that province acting on his or her own; and
  - (f) a provincial department **[or office]** within an Executive Council portfolio, means the member of such Executive Council responsible for such portfolio;”;
- (c) by the substitution in the said subsection (1) for the definition of “head of department” of the following definition: 20
  - “(xiv) ‘head of department’, ‘head of a department’ or ‘head of the department’ means the incumbent of a post mentioned in the

- second column of Schedule 1 or 2, and includes any officer acting in such post; (iii)”;
- (d) by the substitution in the said subsection (1) for the definition of “national department” of the following definition:
- “(xvii) ‘national department’ means a national department **[or organisational component at the national level of government]** referred to in section 7(2); (xiv)”;
- (e) by the substitution in the said subsection (1) for the definition of “provincial administration” of the following definition:
- “(xx) ‘provincial administration’ means a provincial administration referred to in section 7(2), but does not include a provincial department in so far as this Act deals with any matter in respect of which a power or duty is entrusted or assigned by or under this Act or any other law to the head of the provincial department or the relevant executing authority; (xviii)”;
- (f) by the insertion in the said subsection (1) after the definition of “provincial administration” of the following definition:
- “(xxA) ‘provincial department’ means a provincial department referred to in section 7(2); (xviiiA)”;
- (g) by the substitution in the said subsection (1) for the definition of “revenue” of the following definition:
- “(xxiv) ‘revenue’ means the National Revenue Fund established by section 213(1) of the Constitution or, in relation to **[an officer or employee of a provincial administration]** any province, the relevant Provincial Revenue Fund established by section 226(1) of the Constitution, as the case may be; (viii)”;
- (h) by the substitution in the said subsection (1) for paragraph (b) of the definition of “Treasury” of the following paragraph:
- “(b) the member of an Executive Council of a province responsible for the execution of the treasury function in that province or a duly authorised officer in [a provincial administration] his or her office or department,”.

**Amendment of section 3 of Act promulgated under Proclamation 103 of 1994, as substituted by section 3 of Act 47 of 1997**

2. Section 3 of the principal Act is hereby amended—
- (a) by the substitution for paragraph (a) of subsection (3) of the following paragraph:
- “(a) advise or, in the case of a province, in consultation with the Premier of the province advise the President regarding the establishment or abolition of any department, **[including]** or the designation of any department or head of department, in order to enable the President to amend Schedule 1, **[or]** 2 or 3;”;
- (b) by the substitution for paragraph (b) of the said subsection (3) of the following paragraph:
- “(b) after consultation with the relevant executing authority or executing authorities, as the case may be, make determinations regarding the allocation of functions to, or the abolition of the functions of, any department or 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;”.

**Amendment of section 7 of Act promulgated under Proclamation 103 of 1994, as amended by section 4 of Act 47 of 1997**

3. Section 7 of the principal Act is hereby amended—
- (a) by the substitution for subsection (2) of the following subsection:
- “(2) For the purposes of the administration of the public service there shall be national departments and provincial administrations mentioned in the first column of Schedule 1, **[as well as]** provincial departments”

mentioned in the first column of Schedule 2 and the organisational components mentioned in the first column of Schedule [2] 3.”;

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

“(3) (a) Each department shall have a head of department who as an officer shall be the incumbent of the post on the fixed establishment bearing the designation mentioned in the second column of Schedule 1 or 2 opposite the name of the relevant department, or the officer who is acting in that post. 5

(b) [A] Subject to the provisions of paragraphs (c) and (d), a head of department shall be responsible for the efficient management and administration of his or her department, including the effective utilisation and training of staff, the maintenance of discipline, the promotion of sound labour relations and the proper use and care of State property, and he or she shall perform the functions that may be prescribed. 10

(c) In addition to any power or duty entrusted or assigned by or under this Act or any other law to the head of a provincial administration, the said head shall— 15

(i) be the Secretary to the Executive Council of the province concerned;

(ii) subject to the provisions of sections 85(2)(c) and 125(2)(e) of the Constitution, be responsible for intergovernmental relations between the relevant provincial administration and other provincial administrations as well as national departments and for the intragovernmental co-operation between the relevant provincial administration and its various provincial departments, including the co-ordination of their actions and legislation; and 20 25

(iii) subject to the provisions of paragraph (d), be responsible for the giving of strategic direction on any matter referred to in section 3(2)(a). 30

(d) The head of a provincial administration shall in respect of a provincial department exercise no power or perform no duty which is entrusted or assigned by or under this Act or any other law to the head of the provincial department. 35

(e) The incumbent of a post mentioned in the second column of Schedule 2 shall not by virtue only of such incumbency be entitled to the rank, status or salary scale and accompanying benefits of the incumbent of a post mentioned in the second column of Schedule 1.”; 40

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

“(4)(a) An organisational component mentioned in the first column of Schedule [2] 3 and the officer who is the incumbent of the post bearing the designation mentioned in the second column of the said Schedule [2] 3 opposite the name of the relevant organisational component, or the officer who is acting in that post, shall for the purposes of [the application of the provisions of] this Act be deemed to be a department and a head of department, respectively. 45

(b) The incumbent of a post contemplated in this subsection shall not by [reason] virtue only of such incumbency be entitled to the [conditions of service] rank, status or salary scale and accompanying benefits of the incumbent of a post [referred to in subsection (3)] mentioned in the second column of Schedule 1.”; and 50

(d) by the substitution for subsection (5) of the following subsection:

“(5) The President may on the advice of the Minister or, in the case of a province, on the advice of the Minister in consultation with the Premier of the province on the establishment or abolition of any department, [including] or the designation of any department or head of department, amend Schedule 1, [or] 2 or 3 by proclamation in the Gazette, which amendment, if the President deems it necessary, may be effected retrospectively to the date of the said advice of the Minister.”. 55

**Amendment of section 12 of Act promulgated under Proclamation 103 of 1994, as substituted by section 9 of Act 47 of 1997**

**4. Section 12 of the principal Act is hereby amended—**

- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph: 5  
“(a) was appointed in the office of head of department or to any post mentioned in the second column of Schedule 2 or 3, or was promoted or transferred to that office or post; or”;
- (b) by the substitution in the said subsection (1) for the words preceding paragraph (i) of the following words: 10  
“shall occupy, subject to the provisions of [Chapters V and VI] Chapter V and any collective agreement contemplated in section 16(b) of the Public Service Laws Amendment Act, 1998—”;
- (c) by the substitution for paragraph (i) of the said subsection (1) of the following paragraph: 15  
“(i) in the case of a person referred to in paragraph (a)—  
  - (aa) that office for a period of five years as from the date of his or her appointment, promotion or transfer, or the shorter period approved by the relevant executing authority, and if the term of office was extended at the expiry thereof, for the extended period approved by that executing authority; 20
  - (bb) that post for a period of five years as from the date of commencement of the Public Service Laws Amendment Act, 1997;”; and
- (d) by the insertion of the following subsection after subsection (2), the existing subsection (3) becoming subsection (4): 25  
“(3) Notwithstanding the provisions of subsection (1), any person referred to in that subsection may at any time after the commencement of the Public Service Laws Amendment Act, 1997, conclude a contract contemplated in subsection (2) with the relevant executing authority.”. 30

**Insertion of section 12A in Act promulgated under Proclamation 103 of 1994**

**5. The following section is hereby inserted after section 12 of the principal Act:**

**“Appointment of persons on grounds of policy considerations**

- 12A.** (1) Subject to the provisions of this section, an executing authority may appoint one or more persons under a special contract, whether in a full-time or part-time capacity— 35
- (a) to advise the executing authority on the exercise or performance of the executing authority’s powers and duties; or
  - (b) to devise policy and to develop programmes that will promote the relevant department’s objectives. 40
- (2) The number of persons that may be employed by an executing authority under this section and the upper limits of the remuneration and other conditions of employment of such persons shall be determined by the Cabinet.
- (3) The special contract contemplated in subsection (1) shall include any term and condition agreed upon between the relevant executing authority and the person concerned, including— 45
- (a) the contractual period;
  - (b) the particular duties for which the person concerned is appointed; and
  - (c) the remuneration and other conditions of service of the person concerned.”. 50

**Amendment of section 13 of Act promulgated under Proclamation 103 of 1994, as substituted by section 10 of Act 47 of 1997**

- 6. Section 13 of the principal Act is hereby amended by the substitution in subsection (5) for the words preceding paragraph (a) of the following words:** 55

“Notwithstanding anything to the contrary contained in subsection (2) or in **[Chapter VI]** any collective agreement contemplated in section 16(b) of the Public Service Laws Amendment Act, 1998, but subject to the provisions of subsection (6), an officer who is serving on probation may be discharged from the public service by the person having the power of discharge, whether during or at or after the expiry of the period of probation—”.

**Amendment of section 14 of Act promulgated under Proclamation 103 of 1994, as amended by section 32 of Act 38 of 1994 and section 11 of Act 47 of 1997**

7. Section 14 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (3) of the following paragraph:

“(a) shall not upon transfer suffer any reduction in his or her salary or scale of salary without his or her consent, except in accordance with the provisions of **[Chapter VI and]** section 38 and any collective agreement contemplated in section 16(b) of the Public Service Laws Amendment Act, 1998;”.

**Amendment of section 16 of Act promulgated under Proclamation 103 of 1994, as amended by section 32 of Act 38 of 1994, section 3 of Act 13 of 1996, section 1 of Act 67 of 1996 and section 13 of Act 47 of 1997**

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

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

“(a) Subject to the provisions of this section and the terms and conditions of a contract contemplated in section 12(2)**[(a)]**, an officer who occupies the office of 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 section 12(1)**[(a) or (b)]** or (2), or of any extended term contemplated **[in section 12(1)(c)]** therein, as the case may be.”; and

(b) by the substitution for paragraph (a) of subsection (5) of the following paragraph:

“(a) **[An]** Subject to the terms and conditions of a contract contemplated in section 12(2), an executing authority may, at the request of an officer occupying the office of head of department, allow him or her to retire from the public service before the expiry of the term contemplated in section 12(1)**[(a) or (b)]** or (2), or any extended term contemplated **[in section 12(1)(c)]** therein, and notwithstanding the absence of any reason for discharge in terms of section 17(2) or the contract concluded with the officer, as the case may be, if a reason exists which **[such]** the said authority deems sufficient.”.

**Repeal of Chapter VI of Act promulgated under Proclamation 103 of 1994**

9. Chapter VI of the principal Act is hereby repealed.

**Substitution of section 34 of Act promulgated under Proclamation 103 of 1994, as substituted by section 27 of Act 47 of 1997**

10. The following section is hereby substituted for section 34 of the principal Act:

**“Reduction of salaries**

34. The salary or scale of salary of an officer shall not be reduced without his or her consent except in terms of the provisions of section 13(6) or 38 or of **[Chapter VI]** any collective agreement contemplated in section 16(b) of the Public Service Laws Amendment Act, 1998, or of an Act of Parliament.”.

**Amendment of section 43 of Act promulgated under Proclamation 103 of 1994, as amended by section 33 of Act 47 of 1997**

11. Section 43 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Subject to the provisions of subsection (2), the laws mentioned in Schedule [3] 4 are hereby repealed to the extent indicated in the third column of that Schedule.”. 5

**Substitution of Schedule 1 to Act promulgated under Proclamation 103 of 1994, as amended by Proclamation 106 of 1994, section 32 of Act 38 of 1994, Proclamations 24, 49, R.63, 78 and R.104 of 1995, Proclamations 14, R.44, R.51 and R.63 of 1996, Proclamation 32 of 1997, section 34 of Act 34 of 1997 and Proclamations 7, R.37 and 62 of 1998** 10

12. Schedule 1 to this Act is hereby substituted for Schedule 1 to the principal Act.

**Substitution of Schedule 2 to Act promulgated under Proclamation 103 of 1994, as amended by Proclamations 6, 14 and R.51 of 1996, Proclamations 13 and R.21 of 1997 and Proclamations 6 and 7 of 1998** 15

13. Schedule 2 to this Act is hereby substituted for Schedule 2 to the principal Act.

**Insertion of Schedule 3 to Act in Act promulgated under Proclamation 103 of 1994**

14. Schedule 3 to this Act is hereby inserted after Schedule 2 to the principal Act, the existing Schedule 3 becoming Schedule 4. 20

**Amendment of section 34 of Act 47 of 1997, as amended by section 3 of Act 93 of 1997**

15. Section 34 of the Public Service Laws Amendment Act, 1997, is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

“(b) **[any inquiry into inefficiency and]** any proceedings in respect of **[a charge of misconduct or]** a complaint or grievance instituted or commenced under the principal Act, shall be continued and concluded as if the principal Act had not been amended by this Act, and for that purpose, a reference[— 25

(i) **in the provisions relating to inefficiency or misconduct, to the Commission shall be construed as a reference to the said Minister;** 30

(ii) in the provisions relating to a complaint or grievance, to the Commission shall be construed as a reference to the Public Service Commission established by section 196(1) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996).”.

**Savings** 35

16. Notwithstanding—

(a) the amendment of the principal Act by the Public Service Laws Amendment Act, 1997 (Act No. 47 of 1997), and the repeal of Chapter VI of the principal Act by this Act, any inquiry into inefficiency and any proceedings in respect of a charge of misconduct instituted or commenced under the principal Act shall be continued and concluded as if the principal Act had not been so amended and repealed, and for that purpose, a reference in the provisions relating to inefficiency and misconduct, to the Commission shall be construed as a reference to the Minister for the Public Service and Administration; 40

(b) the repeal of Chapter VI of the principal Act by this Act, the provisions relating to inefficiency and misconduct shall have the effect and status of a collective agreement which is binding on the State, the parties to the Public Service Co-ordinating Bargaining Council and all employees in the public service affected thereby, and for the purposes of the said provisions— 45

- (i) section 19 of the principal Act shall be deemed to have been amended—
  - (aa) by the substitution for subsection (1) of the following subsection:
    - “(1) If an executing authority has reason to believe that a head of department is unfit for his or her duties or incapable of carrying them out efficiently, the said authority may, unless the terms and conditions of a contract contemplated in section 12(2) provide otherwise, appoint a person or persons to inquire into the relevant allegations.”; and
  - (bb) by the substitution for paragraph (b) of subsection (2) of the following paragraph:
    - “(b) a reference in section 18(9)(a) and (10) to (12) to the executing authority shall be construed as a reference to the President or, in the case of a provincial **[administration]** office or department, the relevant Premier;”;
- (ii) section 27 of the principal Act shall be deemed to have been amended—
  - (aa) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
    - “(a) When a head of department is accused of misconduct, the relevant executing authority may, unless the terms and conditions of a contract contemplated in section 12(2) provide otherwise, appoint a person to investigate the matter and report to him or her thereon, whereupon the said authority may charge that head of department with misconduct.”; and
  - (bb) by the substitution for paragraph (b) of subsection (2) of the following paragraph:
    - “(b) a reference in section 26 to the executing authority shall be construed as a reference to the President or, in the case of a provincial **[administration]** office or department, the relevant Premier;”;
- (iii) a matter which is required or permitted to be prescribed by regulation under the said provisions shall be deemed to be a matter which is required or permitted to be determined by collective bargaining.

### Short title and commencement

**17.** (1) This Act shall be called the Public Service Laws Amendment Act, 1998, and shall, subject to subsection (2), come into operation on the date of commencement of the Public Service Laws Amendment Act, 1997 (Act No. 47 of 1997).

(2) The provisions of section 5 shall come into operation on a date fixed by the President by proclamation in the *Gazette*.



**SCHEDULE 1***(To be inserted as Schedule 1 to Act promulgated under Proclamation 103 of 1994)***DEPARTMENTS AND HEADS OF DEPARTMENT  
(Section 7(2) and (3))**

| <b>Column 1</b>                                                | <b>Column 2</b>                                                    |
|----------------------------------------------------------------|--------------------------------------------------------------------|
| Department of Agriculture                                      | Director-General: Agriculture                                      |
| Department of Arts, Culture, Science and Technology            | Director-General: Arts, Culture, Science and Technology            |
| Department of Communications                                   | Director-General: Communications                                   |
| Department of Constitutional Development                       | Director-General: Constitutional Development                       |
| Department of Correctional Services                            | Director-General: Correctional Services                            |
| Department of Defence                                          | Secretary for Defence                                              |
| Department of Education                                        | Director-General: Education                                        |
| Department of Environmental Affairs and Tourism                | Director-General: Environmental Affairs and Tourism                |
| Department of Finance                                          | Director-General: Finance                                          |
| Department of Foreign Affairs                                  | Director-General: Foreign Affairs                                  |
| Department of Government Communications and Information System | Director-General: Government Communications and Information System |
| Department of Health                                           | Director-General: Health                                           |
| Department of Home Affairs                                     | Director-General: Home Affairs                                     |
| Department of Housing                                          | Director-General: Housing                                          |
| Department of Justice                                          | Director-General: Justice                                          |
| Department of Labour                                           | Director-General: Labour                                           |
| Department of Land Affairs                                     | Director-General: Land Affairs                                     |
| Department of Minerals and Energy                              | Director-General: Minerals and Energy                              |
| Department of Public Service and Administration                | Director-General: Public Service and Administration                |
| Department of Public Works                                     | Director-General: Public Works                                     |
| Department of Safety and Security                              | National Commissioner: South African Police Service                |
| Department of Sport and Recreation                             | Director-General: Sport and Recreation                             |
| Department of State Expenditure                                | Director-General: State Expenditure                                |
| Department of Trade and Industry                               | Director-General: Trade and Industry                               |
| Department of Transport                                        | Director-General: Transport                                        |
| Department of Water Affairs and Forestry                       | Director-General: Water Affairs and Forestry                       |
| Department of Welfare                                          | Director-General: Welfare                                          |
| National Intelligence Agency                                   | Director-General: National Intelligence Agency                     |
| Office of the President                                        | Director-General: Office of the President                          |
| Office of the Executive Deputy President                       | Director-General: Office of the Executive Deputy President         |
| Office of the Public Service Commission                        | Director-General: Office of the Public Service Commission          |
| Provincial Administration: Eastern Cape                        | Director-General: Office of the Premier of Eastern Cape            |
| Provincial Administration: Free State                          | Director-General: Office of the Premier of Free State              |
| Provincial Administration: Gauteng                             | Director-General: Office of the Premier of Gauteng                 |

|                                              |                                                              |
|----------------------------------------------|--------------------------------------------------------------|
| Provincial Administration: KwaZulu-Natal     | Director-General: Office of the Premier of KwaZulu-Natal     |
| Provincial Administration: Mpumalanga        | Director-General: Office of the Premier of Mpumalanga        |
| Provincial Administration: Northern Cape     | Director-General: Office of the Premier of Northern Cape     |
| Provincial Administration: Northern Province | Director-General: Office of the Premier of Northern Province |
| Provincial Administration: North West        | Director-General: Office of the Premier of North West        |
| Provincial Administration: Western Cape      | Director-General: Office of the Premier of Western Cape      |
| South African Secret Service                 | Director-General: South African Secret Service               |

## SCHEDULE 2

*(To be inserted as Schedule 2 to Act promulgated under Proclamation 103 of 1994)*

### PROVINCIAL DEPARTMENTS AND HEADS OF PROVINCIAL DEPARTMENTS (Section 7(2) and (3))

| Column 1                                                | Column 2                                        |
|---------------------------------------------------------|-------------------------------------------------|
| <b>Eastern Cape</b>                                     |                                                 |
| Department of Agriculture and Land Affairs              | Head: Agriculture and Land Affairs              |
| Department of Economic Affairs, Tourism and Environment | Head: Economic Affairs, Tourism and Environment |
| Department of Education and Training                    | Head: Education and Training                    |
| Department of Finance and Provincial Expenditure        | Head: Finance and Provincial Expenditure        |
| Department of Health                                    | Head: Health                                    |
| Department of Housing and Local Government              | Head: Housing and Local Government              |
| Department of Public Works                              | Head: Public Works                              |
| Department of Safety and Security                       | Head: Safety and Security                       |
| Department of Sports, Arts and Culture                  | Head: Sports, Arts and Culture                  |
| Department of Transport                                 | Head: Transport                                 |
| Department of Welfare                                   | Head: Welfare                                   |
| <b>Free State</b>                                       |                                                 |
| Department of Agriculture                               | Head: Agriculture                               |
| Department of Education                                 | Head: Education                                 |
| Department of Environmental Affairs and Tourism         | Head: Environmental Affairs and Tourism         |
| Department of Finance and Economic Affairs              | Head: Finance and Economic Affairs              |
| Department of Health                                    | Head: Health                                    |
| Department of Local Government and Housing              | Head: Local Government and Housing              |
| Department of Public Works, Roads and Transport         | Head: Public Works, Roads and Transport         |
| Department of Safety and Security                       | Head: Safety and Security                       |
| Department of Social Welfare                            | Head: Social Welfare                            |
| Department of Sport, Culture, Science and Technology    | Head: Sport, Culture, Science and Technology    |

|                                                                 |                                                         |
|-----------------------------------------------------------------|---------------------------------------------------------|
| <b>Gauteng</b>                                                  |                                                         |
| Department of Agriculture, Conservation and Environment         | Head: Agriculture, Conservation and Environment         |
| Department of Development Planning and Local Government         | Head: Development Planning and Local Government         |
| Department of Economic Affairs and Finance                      | Head: Economic Affairs and Finance                      |
| Department of Education                                         | Head: Education                                         |
| Department of Health                                            | Head: Health                                            |
| Department of Housing and Land Affairs                          | Head: Housing and Land Affairs                          |
| Department of Public Transport and Roads                        | Head: Public Transport and Roads                        |
| Department of Safety and Security                               | Head: Safety and Security                               |
| Department of Sport, Recreation, Arts and Culture               | Head: Sport, Recreation, Arts and Culture               |
| Department of Welfare and Population Development                | Head: Welfare and Population Development                |
| <b>KwaZulu-Natal</b>                                            |                                                         |
| Department of Agriculture                                       | Head: Agriculture                                       |
| Department of Economic Affairs and Tourism                      | Head: Economic Affairs and Tourism                      |
| Department of Education and Culture                             | Head: Education and Culture                             |
| Department of Finance                                           | Head: Finance                                           |
| Department of Health                                            | Head: Health                                            |
| Department of Local Government and Housing                      | Head: Local Government and Housing                      |
| Department for Safety and Security                              | Head: Safety and Security                               |
| Department of Traditional and Environmental Affairs             | Head: Traditional and Environmental Affairs             |
| Department of Transport                                         | Head: Transport                                         |
| Department of Welfare and Population Development                | Head: Welfare and Population Development                |
| Department of Works                                             | Head: Works                                             |
| <b>Mpumalanga</b>                                               |                                                         |
| Department of Agriculture                                       | Head: Agriculture                                       |
| Department of Arts, Culture, Sport and Recreation               | Head: Arts, Culture, Sport and Recreation               |
| Department of Central Services                                  | Head: Central Services                                  |
| Department of Economic Affairs and Gaming                       | Head: Economic Affairs and Gaming                       |
| Department of Education                                         | Head: Education                                         |
| Department of Environmental Affairs and Tourism                 | Head: Environmental Affairs and Tourism                 |
| Department of Finance                                           | Head: Finance                                           |
| Department of Health and Welfare                                | Head: Health and Welfare                                |
| Department of Local Government, Housing and Land Administration | Head: Local Government, Housing and Land Administration |
| Department of Public Works, Roads and Transport                 | Head: Public Works, Roads and Transport                 |
| Department of Safety and Security                               | Head: Safety and Security                               |

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| <p><b>Northern Cape</b></p> <p>Department of Education, Arts and Culture</p> <p>Department of Finance, Economic Affairs and Tourism</p> <p>Department of Health, Welfare and Environment</p> <p>Department of Local Government and Housing</p> <p>Department of Nature Conservation, Agriculture and Land Reform</p> <p>Department of Safety, Security and Public Works</p> <p>Department of Sport, Recreation, Science, Technology and Transport</p> <p><b>Northern Province</b></p> <p>Department of Agriculture, Land and Environment</p> <p>Department of Education, Arts, Culture and Sport</p> <p>Department of Finance and Expenditure</p> <p>Department of Health and Welfare</p> <p>Department of Housing and Water Affairs</p> <p>Department of Local Government and Traditional Affairs</p> <p>Department of Public Works</p> <p>Department of Safety and Security</p> <p>Department of Trade, Industry and Tourism</p> <p>Department of Transport</p> <p><b>North West</b></p> <p>Department of Agriculture</p> <p>Department of Arts, Culture and Sports</p> <p>Department of Education</p> <p>Department of Finance and Economic Affairs</p> <p>Department of Health and Developmental Social Welfare</p> <p>Department of Local Government, Housing, Planning and Development</p> <p>Department of Public Works and Roads</p> <p>Department of Safety and Security</p> <p>Department of Tourism, Environment and Conservation</p> <p>Department of Transport and Civil Aviation</p> | <p>Head: Education, Arts and Culture</p> <p>Head: Finance, Economic Affairs and Tourism</p> <p>Head: Health, Welfare and Environment</p> <p>Head: Local Government and Housing</p> <p>Head: Nature Conservation, Agriculture and Land Reform</p> <p>Head: Safety, Security and Public Works</p> <p>Head: Sport, Recreation, Science, Technology and Transport</p> <p>Head: Agriculture, Land and Environment</p> <p>Head: Education, Arts, Culture and Sport</p> <p>Head: Finance and Expenditure</p> <p>Head: Health and Welfare</p> <p>Head: Housing and Water Affairs</p> <p>Head: Local Government and Traditional Affairs</p> <p>Head: Public Works</p> <p>Head: Safety and Security</p> <p>Head: Trade, Industry and Tourism</p> <p>Head: Transport</p> <p>Head: Agriculture</p> <p>Head: Arts, Culture and Sports</p> <p>Head: Education</p> <p>Head: Finance and Economic Affairs</p> <p>Head: Health and Developmental Social Welfare</p> <p>Head: Local Government, Housing, Planning and Development</p> <p>Head: Public Works and Roads</p> <p>Head: Safety and Security</p> <p>Head: Tourism, Environment and Conservation</p> <p>Head: Transport and Civil Aviation</p> |
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|---------------------------------------------------|-------------------------------------------|
| <b>Western Cape</b>                               |                                           |
| Department of Agriculture                         | Head: Agriculture                         |
| Department of Community Safety                    | Head: Community Safety                    |
| Department of Economic Affairs                    | Head: Economic Affairs                    |
| Department of Education                           | Head: Education                           |
| Department of Environmental and Cultural Affairs  | Head: Environmental and Cultural Affairs  |
| Department of Finance                             | Head: Finance                             |
| Department of General Administrative Services     | Head: General Administrative Services     |
| Department of Health                              | Head: Health                              |
| Department of Housing and Planning                | Head: Housing and Planning                |
| Department of Labour Relations and Transformation | Head: Labour Relations and Transformation |
| Department of Local Government                    | Head: Local Government                    |
| Department of Public Works                        | Head: Public Works                        |
| Department of Social Services                     | Head: Social Services                     |
| Department of Sport and Recreation                | Head: Sport and Recreation                |
| Department of Transport                           | Head: Transport                           |

### SCHEDULE 3

*(To be inserted as Schedule 3 to Act promulgated under Proclamation 103 of 1994)*

#### ORGANISATIONAL COMPONENTS AND HEADS THEREOF (Section 7(4))

| Column 1                           | Column 2                                               |
|------------------------------------|--------------------------------------------------------|
| Central Statistical Service        | Head: Central Statistical Service                      |
| Independent Complaints Directorate | Executive Director: Independent Complaints Directorate |
| Office for Public Enterprises      | Head: Office for Public Enterprises                    |

**MEMORANDUM ON THE OBJECTS OF THE PUBLIC SERVICE  
LAWS AMENDMENT BILL, 1998**

1. According to the Public Service Act, 1994 (promulgated under Proclamation No. 103 of 1994), the Director-General of a provincial administration is also in charge of all provincial departments within that administration. In certain cases there is uncertainty about the role and function of the Director-General, the Members of the Executive Council and the heads of provincial departments, which inevitably has a detrimental effect on the managerial and administrative authority of the Members of the Executive Council and their heads of provincial departments. Consequently, it is being proposed that—

- the provincial Director-General acts as the Secretary to the Executive Council and the Head of the Office of the Premier, a situation comparable to that of the Director-General: Office of the President;
- the provincial departments and the heads of those departments be listed separately in a new Schedule to the Public Service Act, 1994; and
- all heads of department, including heads of provincial departments and organisational components, be appointed on contract as contemplated in section 12 of the Public Service Act, 1994.

2. Section 195(4) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), envisages the appointment in the public service of a number of persons on policy considerations, but provides that these appointments must be regulated by national legislation. The said section 195(4) is being implemented by clause 5 of the Bill.

3. It is being proposed that the provisions relating to inefficiency and misconduct be repealed and henceforth be regarded as a collective agreement.

4. In the opinion of the State Law Adviser, the Bill must be dealt with in accordance with the procedure prescribed by section 76 of the said Constitution — see, in particular, section 76(3)(d) and (f).

5. The following interested parties were consulted:

- National departments and organisational components.
- Provincial administrations.
- Public service trade unions.