

REPUBLIC OF SOUTH AFRICA

**SELECT COMMITTEE AMENDMENTS
TO**

**PUBLIC SERVICE LAWS
AMENDMENT BILL**

[B 62-98]

*(As agreed to by the Select Committee on Constitutional Affairs and Public Administration
(National Council of Provinces))*

[B 62A—98]

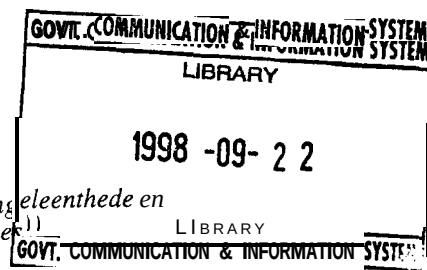
REPUBLIEK VAN SUID-AFRIKA

**GEKOSE KOMITEE-AMENDEMENTE
OP**

**WYSIGINGSWETSONTWERP
OP STAATSDIENSWETGEWING**

[W 62-98]

*(Soos goedgekeur deur die Gekose Komitee oor Staatkundige Aangeleenthede en
Publieke Administrasie (Nasionale Raad van Provinsies))*



[W 62A—98]

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AMENDMENTS AGREED TO

PUBLIC SERVICE LAWS AMENDMENT BILL
[B 62–98]

CLAUSE 2

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause to follow Clause 1:

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 the President regarding the establishment or abolition of any department **[including]** or organisational component in the national sphere of government, or the designation of any such department or organisational component or the head [of department] thereof, in order to enable the President to amend Schedule 1 or [2] 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] any function to, or the abolition of [the functions] any function of, any department or the transfer of [functions] any function from one department to another or from a department to any other body or from any other body to a department: Provided that the provisions of this paragraph shall not be construed so as to empower the Minister—

(i) to allocate any function to, or to abolish any function of, any provincial administration or provincial department except in consultation with the Premier of the province concerned; or

(ii) to transfer any function from one provincial administration or provincial department to another or from a provincial administration or provincial department to any body established by or under any provincial law or from any such body to a provincial administration or, provincial department;”;

(c) by the substitution in paragraph (a) of subsection (4) for the words preceding subparagraph (i) of the following words:

“If so requested by the President or an executing authority, the Minister may advise, or assist in such manner or on such conditions as the Minister may determine, the

President or the relevant executing authority **[on]** as to any matter relating to-”; and
 (d) by the substitution for paragraph (b) of the said subsection (4) of the following paragraph:

“(b) For the purposes of paragraph (a), the Minister has access to such official documents or may obtain such information from the chief executive officer of the relevant board, institution or body as may be necessary to advise or assist the President or the relevant executing authority.”.

NEW CLAUSE

1. That the following be a new Clause to follow Clause 2:

Insertion of section 3A in Act promulgated under Proclamation 103 of 1994

3. The following section is hereby inserted after section 3 of the principal Act:

“Functions of Premiers

3A. The Premier of a province may—

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| <ol style="list-style-type: none"> (a) subject to the provisions of section 7(5), establish or abolish any department of the provincial administration concerned; (b) make determinations regarding the allocation of any function to, or the abolition of any function of, any office or department of the provincial administration concerned or the transfer of any function from one such office or department to another or from such office or department to any body established by or under any law of the provincial legislature or from any such body to <u>such office or department.</u>”. |
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CLAUSE 3

1. On page 6, from line 52, to omit subsection (5) and to substitute:

(5) (a) The President may—

- (i) on the advice of the Minister on the establishment or abolition of any department **[including]** or organisational component in the national sphere of government, or the designation of any such department or organisational component or the head [of department] thereof, amend Schedule 1 or [2] 3 by proclamation in the *Gazette*; or
- (ii) at the request of the Premier of a province for the establishment or abolition of any department of the provincial administration concerned, or the designation of any such department or the head thereof, amend Schedule 2 by proclamation in the Gazette,

which amendment, if the President **[deems]** considers it necessary, may be effected retrospectively to the date of the said advice **[of the Minister]** or request, as the case may be.

(b) The President shall give effect to any request referred to in paragraph (a)(ii) if the President is satisfied that it is consistent with the provisions of the Constitution or this Act.

CLAUSE 5

1. On page 8, from line 39, to omit paragraph *(b)* and to substitute:
 - (b)* to advise the executing authority on the development of policy that will promote the relevant department's objectives; or
 - (c)* to perform such other tasks as may be reasonable for, or incidental to, the exercise or performance of the executing authority's powers and duties.
2. On page 8, from line 41, to omit subsection (2) and to substitute:

(2) The maximum number of persons that may be appointed by an executing authority under this section and the upper limits of the remuneration and other conditions of service of such persons shall be determined by the Cabinet in the national sphere of government.
3. On page 8, in line 48, after "period" to insert:

, which period shall not exceed the term of office of the executing authority