

REPUBLIC OF SOUTH AFRICA

PUBLIC SERVICE LAWS AMENDMENT BILL

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

(SELECT COMMITTEE ON CONSTITUTIONAL AFFAIRS AND PUBLIC ADMINISTRATION)

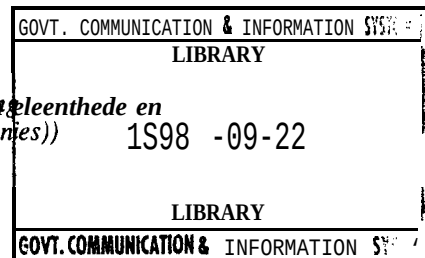
[B 62B—98]

REPUBLIEK VAN SUID-AFRIKA

WYSIGINGSWETSONTWERP OP STAATSDIENSWETGEWING

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

(GEKOSE KOMITEE OOR STAATKUNDIGE AANGELEENTHEDE EN PUBLIEKE ADMINISTRASIE)



[W 62B—98]

ISBN 0621285277

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.

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.

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 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 5 Act 47 of 1997

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;”; 20

(c) by the substitution in the said subsection (1) for the definition of “head of department” of the following definition:

“(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)”; 5
- (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)”; 10
- (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)”; 15
- (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)”; 20 25
- (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.”. 30

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— 35
- 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**”; 40
- (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— 45 50
- (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 55
- (ii) to transfer any function from one provincial administration or provincial department to another or from a provincial, **administra-** tion 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;” 60

- (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 5

- (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**.”. 10

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: 15

“Functions of Premiers

3A. The Premier of a province may—

- (a) subject to the provisions of section 7(5), establish or abolish any **department** of the **provincial** administration concerned; 20
- (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 such office or **department**.’.”. 25

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

4. Section 7 of the principal Act is hereby **amended—**

- (a) by the substitution for subsection (2) of the following subsection: 30

“(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.”; 35

- (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. 40

(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 maybe prescribed. 45

(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—** 50

- (i) be the Secretary to the Executive Council of the province concerned; 50
- (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 provin- 55

- cial 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
- (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). 5
- (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. 10
- (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.”; 15
- (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. 20
- (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 25
- (d) by the substitution for subsection (5) of the following subsection:
- (5) (a) The President may— 30
- (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 35
- (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, 40
- 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.”. 45

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

5. Section 12 of the principal Act is hereby amended—
- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph: 50
- “(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: 55
- “shall occupy, subject to the provisions of [Chapters V and VII] Chapter V and any ‘collective agreement contemplated in section 17(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: 60

“(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; 5

(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): 10

“(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.”.

15

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

6. 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— 20

(a) to advise the executing authority on the exercise or performance of the executing authority’s powers and duties;

(b) to advise the executing authority on the development of policy that will promote the relevant department’s objectives; or 25

(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) 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. 30

(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— 35

(a) **the** contractual period, which period shall not exceed the term of office of the executing authority;

(b) the particular duties for which the person concerned is appointed; and

(c) the remuneration and other conditions of service of the person concerned.”. 40

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

7. 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:

“Notwithstanding anything to the contrary contained in subsection (2) or in 45

[Chapter VI] any collective agreement contemplated in section 7(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—”. 50

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

8. 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 17(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

9. 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

10. 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

11. 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 17(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

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

“(l) 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.”.

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

13. 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

14. 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 5

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

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

16. Section 34 of the Public Service Laws Amendment Act, 1997, is hereby amended 10
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[— 15
- (i) in the provisions relating to inefficiency or misconduct, to the Commission shall be construed as a reference to the said Minister;
- (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 20 South Africa, 1996 (Act No. 108 of 1996).”.

Savings

17. 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 25 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 30 reference to the Minister for the Public Service and Administration;
- (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 35 service affected thereby, and for the purposes of the said provisions—
- (i) section 19 of the principal Act shall be deemed to have been amended—
- (au) by the substitution for subsection (1) of the following subsection: 40
- “(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 45
- (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 [administra- 50 tion] office or department, the relevant Premier; and”;

(ii) section 27 of the principal Act shall be deemed to have been **amended—**
(au) 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**.”; and

(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

18. (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 6 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))**

Column 1	Column 2
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
Eastern Cape	
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
Free State	
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

Sauteng	
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: Pubic 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
KwaZulu-Natal	
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
Mpumalanga	
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 aod Transport
Department of Safety and Security	Head: Safety and Security

Northern Cape Department of Education, Arts and Culture Department of Finance, Economic Affairs and Tourism Department of Health, Welfare and Environment Department of Local Government and Housing Department of Nature Conservation, Agriculture and Land Reform Department of Safety, Security and Public Works Department of Sport, Recreation, Science, Technology and Transport Northern Province Department of Agriculture, Land and Environment Department of Education, Arts, Culture and Sport Department of Finance and Expenditure Department of Health and Welfare Department of Housing and Water Affairs Department of Local Government and Traditional Affairs Department of Public Works Department of Safety and Security Department of Trade, Industry and Tourism Department of Transport North West Department of Agriculture Department of Arts, Culture and Sports Department of Education Department of Finance and Economic Affairs Department of Health and Developmental Social Welfare Department of Local Government, Housing, Planning and Development Department of Public Works and Roads Department of Safety and Security Department of Tourism, Environment and Conservation Department of Transport and Civil Aviation	Head: Education, Arts and Culture Head: Finance, Economic Affairs and Tourism Head: Health, Welfare and Environment Head: Local Government and Housing Head: Nature Conservation, Agriculture and Land Reform Head: Safety, Security and Public Works Head: Sport, Recreation, Science, Technology and Transport Head: Agriculture, Land and Environment Head: Education, Arts, Culture and Sport Head: Finance and Expenditure Head: Health and Welfare Head: Housing and Water Affairs Head: Local Government and Traditional Affairs Head: Public Works Head: Safety and Security Head: Trade, Industry and Tourism Head: Transport Head: Agriculture Head: Arts, Culture and Sports Head: Education Head: Finance and Economic Affairs Head: Health and Developmental Social Welfare Head: Local Government, Housing, Planning and Development Head: Public Works and Roads Head: Safety and Security Head: Tourism, Environment and Conservation Head: Transport and Civil Aviation
--	---

Western Cape	
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.