

REPUBLIC OF SOUTH AFRICA

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**PORTFOLIO COMMITTEE AMENDMENTS  
TO**

**PUBLIC SERVICE  
AMENDMENT BILL**

**[B 31—2006]**

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*(As agreed to by the Portfolio Committee on Public Service and Administration)*

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**[B 31A—2006]**

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## PROPOSED AMENDMENTS

### PUBLIC SERVICE AMENDMENT BILL

[B 31—2006]

#### ENACTMENT CLAUSE

1. On page 3, in line 1, to omit “President” and to substitute “Parliament”.

#### CLAUSE 1

1. On page 3, in line 24, to omit “terms of”.
2. On page 3, in lines 27 and 28, to omit “agency” and to substitute “component”.
3. On page 4, in line 4, to omit “agency” and to substitute “component”.
4. On page 4, in line 6, to omit “department or national government agency” and to substitute “national department or national government component”.
5. On page 4, in lines 11 and 15, to omit “agency” and to substitute “component”.
6. On page 4, after line 17, to insert:
 

**‘functionary’** means any person upon whom a power is conferred or a duty is imposed by this Act;
7. On page 4, from line 18, to omit the definition of “government agency” and to substitute:
 

**‘government component’** means a national government component or a provincial government component;
8. On page 4, from line 53, to omit the definition of ‘**national government agency**’ and to substitute:
 

**‘national government component’** means a national government component referred to in section 7(2);
9. On page 5, from line 1, to omit the definition of ‘**principal department**’ and to substitute:
 

**‘principal department’**, in relation to a national or provincial government component, means the department listed in column 3 in Part A or B of Schedule 3;
9. On page 5, from line 6, to omit the definition of ‘**provincial government agency**’ and to substitute:
 

**‘provincial government component’** means a provincial government component referred to in section 7(2);
10. On page 5, in line 20, before “and”, to insert “, contemplated in section 5(6),”.

## CLAUSE 2

1. On page 5, in line 29, after “shall” to insert:  
     , subject to subsection (2A),
2. On page 5, from line 32 to omit subsection (2A) and to substitute:
 

“(2A) (a) Subject to the Labour Relations Act and any collective agreement, the determination of any conditions of service for—

  - (i) employees in general or a particular category in terms of this Act; and
  - (ii) educators or members of the services in general or for a particular category in terms of the laws governing their employment,

shall be made with the concurrence of a committee of Ministers.

(b) For the purposes of paragraph (a)—

  - (i) ‘conditions of service’ means annual salary adjustments, salary scales or levels, performance bonuses, pay incentives or pension benefits; and
  - (ii) the committee of Ministers shall consist of the Minister, the Minister of Finance and the Ministers responsible for the educators and the members of the services and such other Ministers as the Cabinet may designate (if any), and shall function the same as a committee of the Cabinet.

(2B) The provisions of this Act regarding the conditions of service and other employment practices of a head of department only apply to a head of department appointed in terms of the Constitution to the extent that the subject-matter of such provisions are not provided for in any other law governing his or her employment or his or her contract of employment.”;

## CLAUSE 3

1. On page 6, after line 13, to insert the following paragraph:
 

(b) Provision for representation on any such body by organised labour and other stakeholders shall, where appropriate, be prescribed.
2. On page 6, in line 26, to omit “agency” and to substitute “component”.
3. On page 6, in lines 28, 29, 30 and 32, to omit “agency” and to substitute “component”.
4. On page 6, in lines 37, 40, 42, 44 and 49, to omit “agency” and to substitute “component”.
5. On page 6, in line 50 to omit “The” and to substitute:
 

Subject to the Labour Relations Act and any collective agreement, the
6. On page 7, in line 20, to omit “the provisions of”.

## CLAUSE 4

1. On page 7, in lines 47, 48, 54, 56, 57 and 59, to omit “agency”, wherever it occurs, and to substitute “component”.

## CLAUSE 6

Clause rejected.

## NEW CLAUSE

1. That the following be a new Clause:

**Substitution of section 4 of Act promulgated under Proclamation 103 of 1994, as substituted by section 3 of Act 47 of 1997**

6. The following section is hereby substituted for section 4 of the principal Act:

**“Training institution**

4. (1) There shall be a training institution listed as a national department in Schedule 1.

(2) The management and administration of such institution shall be under the control of the Minister.

(3) Such institution—  
(a) shall provide such training or cause such training to be provided or conduct such examinations or tests or cause such examinations or tests to be conducted as the Head of the institute may with the approval of the Minister decide or as may be prescribed as a qualification for the appointment or transfer of persons in or to the public service;  
(b) may issue diplomas or certificates or cause diplomas or certificates to be issued to persons who have passed such examinations.”.

CLAUSE 7

1. On page 8, in line 20, to omit “the term “act” means” and to substitute “the term ‘act’ means”.
2. On page 8, in line 29, to omit “any provision of”.
3. On page 8, from line 39, to omit “, 1995 (Act No. 66 of 1995)”.
4. On page 8, in line 52, to omit “2006” and to substitute “2007”.
5. On page 9, from line 1, to omit paragraph (b) and to substitute:

(b) The Minister may, for the proper implementation of the collective agreement, elucidate or supplement such determination by means of a directive, provided that the directive is not in conflict with or does not derogate from the terms of the agreement.

6. On page 9, from line 11, to omit subsection (8) and to substitute.

(8) (a) The Commission may investigate compliance with this Act and may issue directions contemplated in section 196(4)(d) of the Constitution in order to ensure compliance with this Act and in order to provide advice to promote sound public administration.

(b) If the Commission issues a direction contemplated in paragraph (a), the relevant executive authority or head of department, as the case may be, shall implement the direction as soon as possible after receipt of the written communication conveying the direction but, in any event, within 60 days after the date of such receipt.

CLAUSE 8

1. On page 9, in line 40, after “6.” to insert “(1)”.

2. On page 9, after line 45, insert:

(2) Any employee who wilfully or in a grossly negligent manner fails to furnish documents or information as contemplated in subsection (1) or section 3(6)(b), shall be guilty of an offence and shall be liable on conviction to a fine or to imprisonment not exceeding 12 months.

#### CLAUSE 9

1. On page 9, in lines 55 and 57, to omit “agencies” and to substitute “components”.
2. On page 10, in line 6, to omit “1, 2 or 3” and to substitute [1 or 2] 1, 2 or 3”.
3. On page 10, in line 6, to omit “agency” and to substitute “component”.
4. On page 10, in lines 20 and 23 to omit “agencies” and to substitute “components”.
5. On page 10, in lines 50, 51 and 57 to omit “agency”, wherever it occurs, and to substitute “component”.
6. On page 10, from line 58, to omit subsection (6).

#### CLAUSE 10

Clause rejected.

#### NEW CLAUSE

1. That the following be a new Clause:

#### **Insertion of sections 7A and 7B in Act promulgated under Proclamation 103 of 1994**

**10.** The following sections are hereby inserted in the principal Act after section 7:

#### **“Government components**

7A. (1) An executive authority may only request the establishment of a government component in terms of section 7(5)(c) or (d) if the prescribed feasibility study is conducted and its findings recommend the establishment of such component.

(2) Subject to subsection (3), the head of a government component, established in terms of section 7(5)(c) or (d), may have any one or more of the following powers or duties or both such powers and duties:

(a) Powers conferred, or duties imposed, by national or provincial legislation;

(b) powers or duties assigned in terms of subsection (5) or other legislation;

(c) powers or duties delegated in terms of subsection (6) or other legislation; and

(d) functions allocated or transferred in terms of section 3(4)(b) or (c).

(3) No power, duty or function regarding the realisation of a right contemplated in section 26, 27, 28 or 29 of the

Constitution and other prescribed powers, duties and functions, may be assigned or delegated, allocated or transferred in terms of subsection (2)(b), (c) or (d).

(4) For each government component, the relevant executive authority, after consultation with the Minister and the Minister of Finance, and by notice in the *Gazette*—

(a) shall list—

(i) the relevant provisions of legislation which confer powers, and impose duties, on the head of the component; and

(ii) a reference to each notice regarding assigned powers and duties of the head of the component contemplated in subsection (5);

(b) may list the delegated powers and duties of the head of the component contemplated in subsection (6);

(c) shall, subject to applicable legislation, determine the reporting requirements to the head of the principal department to enable that head to advise the relevant executive authority on the oversight of the component on policy implementation, performance, integrated planning, budgeting and service delivery (insofar as applicable);

(d) may include any administrative or operational matter relating to the component, including the sharing of internal services with the principal department;

(e) may establish an advisory board without executive functions for the component and determine the board's composition, appointment procedure and remuneration and all matters required for its effective and efficient functioning; and

(f) may include any other matter necessary for the effective and efficient functioning of the component.

(5) (a) Notwithstanding anything to the contrary in any other law, but subject to subsection (3), the executive authority of a government component may assign to the head of that component any power conferred, or duty imposed, on—

(i) that executive authority (except the making of regulations) by national legislation; or

(ii) any official of the principal department of that component by national legislation.

(b) Such assignment is subject to—

(i) if the executive authority is not the Minister responsible for the administration of the national legislation in question (in this section referred to as 'the responsible Minister'), consultation with that Minister;

(ii) the approval of Parliament of the intended notice as contemplated in this subsection; and

(iii) publication by notice in the *Gazette*.

(c) The notice shall stipulate—

(i) the powers and duties to be assigned in terms thereof;

(ii) the effective date of the assignment; and

(iii) the conditions that the executive authority considers appropriate.

(d) The responsible Minister shall table the notice in Parliament for approval.

(e) Parliament may reject the notice within 90 days after it has been tabled, if Parliament is then in ordinary session or, if Parliament is not then in ordinary session, within 45 days after the commencement of its next ensuing ordinary session.

(f) If Parliament rejects such notice, the responsible Minister may table an amended notice in Parliament.

(g) If the responsible Minister tables an amended notice and Parliament—

- (i) approves the amended notice, the responsible Minister must publish that notice in terms of paragraph (b)(iii) within 30 days of the Parliament's approval; or
- (ii) rejects the amended notice within 90 days after it has been tabled, if Parliament is then in ordinary session or, if Parliament is not then in ordinary session, within 45 days after the commencement of its next ensuing ordinary session, paragraph (f) and this paragraph apply.
- (h) If Parliament does not reject a notice as contemplated in paragraph (e) or (g)(ii)—
  - (i) such notice shall be deemed to have been approved by Parliament; and
  - (ii) the responsible Minister must publish the notice in terms of paragraph (b)(iii) within 30 days after the periods referred to in paragraph (e) or (g)(ii), as the case may be.
- (i) A notice may at any time in like manner be amended or withdrawn.
- (j) Any assignment in terms of this subsection shall divest the person whom was vested with the assigned power or duty.
- (6) Notwithstanding anything to the contrary in any other law, the executive authority of a government component or the head of the principal department of that component may, except a power or duty to make regulations—
  - (a) delegate to the head of the component any power conferred on that executive authority or head of the principal department by this Act or any other national legislation; or
  - (b) authorise the head of the component to perform any duty imposed on the executive authority or head of the principal department by this Act or any other national legislation.
- (7) The head of a government component may—
  - (a) delegate to an employee of the component any power assigned or delegated to that head in terms of subsection (5) or (6)(a); or
  - (b) authorise an employee of the component to perform any duty assigned to that head in terms of subsection (5) or any duty that that head is authorised to perform in terms of subsection (6)(b).
- (8) Any delegation of a power or authorisation to perform a duty in terms of subsection (6) or (7)—
  - (a) shall be subject to the conditions the person who made the delegation or granted the authorisation considers appropriate;
  - (b) shall be in writing;
  - (c) does not prevent the person who made the delegation or granted the authorisation from exercising that power or performing that duty himself or herself; and
  - (d) may at any time be withdrawn in writing by that person.
- (9) Nothing in this Act prevents the assignment or delegation of powers or duties to the head of a provincial government component in accordance with provincial legislation of the province in question.

### **Specialised service delivery unit within department**

- 7B.** (1) (a) An executive authority of—
- (i) a national department may, in consultation with the Minister;
  - (ii) the Office of the Premier may, after consultation with the Minister; or
  - (iii) a provincial department may, in consultation with the Premier and after consultation with the Minister,

establish or abolish a special service delivery institution within that department or Office and designate any such unit and the head thereof, or amend any such designation.

(b) The Minister shall by notice in the *Gazette* give effect to such establishment, abolition, designation or amendment.

(2) An executive authority may only request the establishment of a unit if the prescribed feasibility study is conducted and the outcome thereof recommends its establishment.

(3) The head of a unit may have any one or more of the following powers or duties or both such powers and duties:

(a) Powers conferred, or duties imposed, by national or provincial legislation;

(b) powers or duties assigned in terms of subsection (5) or other legislation;

(c) powers or duties delegated in terms of subsection (6) or other legislation; and

(d) functions allocated or transferred in terms of section 3(4)(b) or (c).

(4) The relevant executive authority shall approve a protocol for each unit which—

(a) shall list—

(i) the relevant provisions of legislation which confer powers, and impose duties, on the head of the unit; and

(ii) a reference to each notice regarding assigned powers and duties of the head of the unit, contemplated in subsection (5);

(b) may list the delegated powers and duties of the head of the unit contemplated in subsection (6), (7) or (10);

(c) shall, subject to applicable legislation determine the reporting requirements to the head of the department, including, but not limited, to enabling that head to advise the relevant executive authority on the oversight of the unit on policy implementation, performance, integrated planning, budgeting and service delivery (insofar as applicable);

(d) may include any administrative or operational matter relating to the unit, including the sharing of internal services of the department;

(e) may establish an advisory board without executive functions for the unit and determine the board's composition, appointment procedure and remuneration and all matters required for its effective and efficient functioning; and

(f) may include any other matter necessary for the effective and efficient functioning of the unit.

(5) Notwithstanding anything to the contrary in any other law, section 7A(5) applies with the changes required by the context to the assignment by the executive authority of a department to the head of the unit of any power conferred, or duty imposed, on—

(a) that executive authority (except the making of regulations) by national legislation; or

(b) any official of the department by national legislation.

(6) Notwithstanding anything to the contrary in any other law, the executive authority or the head of a department may, except a power or duty to make regulations—

(a) delegate to the head of a unit in the department any power conferred on that executive authority or head of the department by national legislation (other than this Act and the Public Finance Management Act); or

(b) authorise the head of the unit to perform any duty imposed on the executive authority or head of the department by national legislation (other than this Act and the Public Finance Management Act).



(7) Notwithstanding section 42A, the executive authority or the head of a department may, in respect of a unit—

- (a) delegate a power conferred on the executive authority or the head by this Act in respect of a unit, only to the head of that unit; or
- (b) only authorise the head of that unit to perform a duty imposed on the executive authority or the head of the department by this Act.

(8) The head of a unit may—

- (a) delegate to an employee of the unit any power assigned or delegated to that head in terms of subsection (5), (6)(a) or (7)(a); or
- (b) authorise an employee of the unit to perform any duty assigned to that head in terms of subsection (5) or any duty that that head is authorised to perform in terms of subsection (6)(b) or (7)(b).

(9) Any delegation of a power or authorisation to perform a duty in terms of subsection (6), (7) or (8)—

- (a) shall be subject to the conditions the person who made the delegation or granted the authorisation considers appropriate;
- (b) shall be in writing;
- (c) does not prevent the person who made the delegation or granted the authorisation from exercising that power or performing that duty himself or herself; and
- (d) may at any time be withdrawn in writing by that person.

(10) (a) Subject to the approval of the relevant Treasury, as defined in section 1 of the Public Finance Management Act, the accounting officer of a department shall—

- (i) delegate all powers conferred by that Act and any regulations and instructions made or issued thereunder, on that accounting officer in respect of a unit in that department to the head of that unit;
- (ii) authorise the head of a unit to perform all duties imposed by that Act and any regulations and instructions made or issued thereunder, on that accounting officer in respect of the unit in that department.

(b) Any such delegation or authorisation shall be subject to section 44(2) and (3) of the Public Finance Management Act, except that the delegation or authorisation may only be revoked under such circumstances as determined by treasury regulations or instructions made or issued in terms of section 76 of the Public Finance Management Act, read with this section.

(c) The head of the unit may, subject to section 44(2) and (3) of the Public Finance Management Act—

- (i) delegate any power, delegated to the head in terms of paragraph (a), to an employee in the unit;
- (ii) instruct an employee in the unit to perform a duty that the head is authorised to perform in terms paragraph (a).

(d) Accountability for the compulsory delegations and authorisations contemplated in paragraph (a) shall be as determined by treasury regulations or instructions made or issued in terms of section 76 of the Public Finance Management Act, read with this section.

(11) Nothing in this Act prevents the assignment or delegation of powers or duties to the head of a unit in the Office of a Premier or a provincial department in accordance with provincial legislation of the province in question.”.

## CLAUSE 11

1. On page 13, in line 13, before “means”, to insert “, in respect of an employee,”.
2. On page 13, in line 14, after “age”, to insert “referred to”.
3. On page 13, in line 15, before “means” to insert “, in respect of an employee,”.

## CLAUSE 13

1. On page 13, in line 33, after “(i)” to insert “transfers in terms of section 14, including”.
2. On page 13, in line 34, to omit subparagraph (ii).

## CLAUSE 17

1. On page 14, in line 30, to omit the second “section” and to substitute “sections 2(2B) and”.
2. On page 14, in line 31, to omit “agencies” and to substitute “components”.
3. On page 14, in lines 33, 36, 46, 48, 52 and 55, to omit “agency” and to substitute “component”.
4. On page 15, in lines 6, 8, 10, 12 and 20, to omit “agency” and to substitute “component”.
5. On page 15, in line 36, to omit “discharge” and to substitute “dismissal”.

## CLAUSE 19

1. On page 15, in line 50, to omit “**or transfer**”.
2. On page 15, in lines 52 and 56, to omit “or transfer”.
3. On page 16, from line 1, to omit “or transfer”.
4. On page 16, in line 3, to omit “or transfer”.

## CLAUSE 20

1. On page 16, after line 23, to insert:

(4) Before employees may be transferred in terms of subsection (3)(b) as a result of a determination regarding an allocation, abolition or transfer of a function, contemplated in section 3(4)(b) or (c) or 3A(b), consultation shall take place in the applicable bargaining council established in terms of the Labour Relations Act for the public service as a whole or for a particular sector in the public service.

(5) (a) The transfer of an employee in terms of subsection (1) who is on probation shall remain subject to probation as prescribed.

(b) Any regulation so prescribed shall take due regard of the respective functions before and after the transfer to avoid detriment to the employee concerned.”.

## CLAUSE 21

1. On page 16, from line 37, to omit “in respect of such conditions of service and to such extent as the Minister may determine in terms of section 3(5)”.

## CLAUSE 23

1. On page 17, in line 24, to omit the first “1998” and to substitute “1996”.
2. On page 17, in line 34, to omit “in subsection (3) for paragraph (a)” and to substitute “for subsection (3)”.
3. On page 17, in line 36, before “(a)” to insert “(3)”.
4. On page 17, in line 36, to omit “the provisions of” and to substitute “[**the provisions of**]”.
5. On page 17, in line 41, to omit “”; and” and to add the following paragraph:
 

*(b)* if an [**officer**] employee so retires or is retired in terms of paragraph (a), he or she shall be deemed to have been [**discharged**] dismissed from the public service in terms of section 17(2)(b).”;
6. On page 17, after line 41 to insert the following paragraph:

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

“(a) Subject to the terms and conditions of a contract contemplated in section 12(2), an [**executing**] executive authority may, at the request of an [**officer**] employee 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) or (2)**] 12(2), or any extended term contemplated therein, and notwithstanding the absence of any reason for [**discharge**] dismissal in terms of section 17(2) or the contract concluded with the [**officer**] employee, as the case may be, if [**a reason exists which the said authority deems**] sufficient reason exists for the retirement.”; and

7. On page 17, in line 45, to omit “discharge” and to substitute “dismissal”.
8. On page 17, from line 46, to omit “therefor and the retirement will be to the advantage of the State” and to substitute “for the retirement”.

## CLAUSE 24

1. On page 18, from line 25, to omit “The Minister” up to and including “committees” in line 26, and to substitute:

“The Minister shall at least annually submit to the relevant committees of Parliament dealing with matters relating to the public service and, through the relevant Premier, to any similar committee”.

2. On page 19, after line 9, to add:

“(6) If notice of a disciplinary hearing was given to an employee, the relevant executive authority 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.”.

## CLAUSE 25

1. On page 19, from line 27 to omit subsection (3) and to substitute:

“(3) (a) (i) An employee, other than a member of the services or an educator or a member of the Intelligence Services, who absents himself or herself from his or her official duties without permission of his or her head of department, office or institution for a period exceeding one calendar month, shall be deemed to have been dismissed from the public service on account of misconduct with effect from the date immediately succeeding his or her last day of attendance at his or her place of duty.

(ii) If such an employee assumes other employment, he or she shall be deemed to have been dismissed as aforesaid irrespective of whether the said period has expired or not.

(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 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 may determine.”.

2. On page 19, from line 43 to omit paragraph (a) and to substitute:

“(a) A person—

(i) dismissed in terms of subsection (2)(d) for misconduct, including misconduct relating to the offering or receipt of any undue gratification or the facilitation of such offering or receipt;

or

(ii) deemed to be dismissed in terms of subsection (3), may only be re-employed by any department after the expiration of a prescribed period.”.

2. On page 19, in line 55, to omit “take place” and to substitute “be taken”.
3. On page 19, from line 57, to omit subsection (5).

## CLAUSE 26

1. On page 20, in line 25, to omit “41(1)(b)(vi)” and to substitute “41(1)(b)(v)”.
2. On page 20, after line 25, to add:

(3) (a) The executive authority 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 fails to make a decision within the 30 day period, it would be deemed that such permission was given.”.

## CLAUSE 27

1. On page 21, in line 1, to omit “deposit-taking financial institution” and to substitute:

bank as defined in section 1 (1) of the Banks Act, 1990 (Act No. 94 of 1990), or a mutual bank as defined in section 1 (1) of the Mutual Banks Act, 1993 (Act No. 124 of 1993),

## CLAUSE 30

1. On page 21, in line 43, to omit “**Reduction**” and to substitute “**Non-reduction**”.
2. On page 21, from line 48, to omit “or determination on disciplinary procedures in terms of this Act”.

## CLAUSE 31

Clause rejected.

## NEW CLAUSE

1. That the following be a new Clause:

**Substitution of section 35 of Act promulgated under Proclamation 103 of 1994, as substituted by section 28 of Act 47 of 1997**

**31.** The following section is hereby substituted for section 35 of the principal Act:

**“Grievances of employees**

**35.** (1) For the purposes of asserting the right to have a grievance concerning an official act or omission investigated and considered by the Commission—

- (a) an employee may lodge that grievance with the relevant executive authority under the prescribed circumstances, on the prescribed conditions and in the prescribed manner; and
- (b) if that grievance is not resolved to the satisfaction of the employee, that executive authority shall submit the grievance to the Commission in the prescribed manner and within the prescribed period.

(2) After the Commission has investigated and considered any such grievance, the Commission may recommend that the relevant executive authority acts in terms of a particular provision or particular provisions of this Act or any other law if, having regard to the circumstances of the case, the Commission considers it appropriate to make such a recommendation.

(3) A head of department may lodge any such grievance with—

- (a) the relevant executive authority in terms of subsection (1);
- or
- (b) directly with the Commission under the prescribed circumstances, on the prescribed conditions and in the prescribed manner.

(4) (a) An employee may only refer a dispute to the relevant bargaining council in the public service or the Commission for Conciliation, Mediation and Arbitration, or institute court proceedings, in respect of a right referred to in subsection (1) if—

- (i) he or she has lodged a grievance in terms of that subsection; and
- (ii) the department does not resolve the grievance to his or her satisfaction within the period prescribed in the rules, contemplated in subsection (5) or the period for referring such dispute or instituting such court proceedings, whichever period is the shorter.

(b) Paragraph (a) shall not apply to a head of department who has lodged a grievance directly with the Commission in terms of subsection (3)(b).

(5) For the purposes of subsections (1) 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.”.

#### CLAUSE 32

1. On page 22 in line 41, to omit “41(1)(d)(ii)” and to substitute “41(1)(b)(v)”.

#### CLAUSE 33

1. On page 23, from line 19, to omit “ability, special qualifications or” and to substitute “ability or special qualifications or has”.

#### CLAUSE 35

1. On page 24, in line 5, to omit “The” and to substitute:  
Subject to the Labour Relations Act and any collective agreement, the
2. On page 24, in line 10, to omit subparagraph (ii).
3. On page 24, in line 11, after “establishment” to insert:  
and restrictions on the employment of persons, other than permanently or for fixed periods or specific tasks, in the public service as a whole
4. On page 24, from line 22 to omit paragraph (c).
5. On page 24, in line 25, to omit “the provisions of”.
6. On page 24, from line 28, to omit paragraph (e) and to substitute:  
“(e) the designation or establishment of one or more authorities vested with the power to authorise a deviation from any regulation under justifiable circumstances, including the power to authorise such deviation with retrospective effect for purposes of ensuring equality;”.

#### CLAUSE 37

1. On page 25, in line 16, to omit “a” and to substitute “the”.
2. On page 25, in line 38, after “or” to insert “any”.
3. On page 25, in line 40, after “Act;” to insert “or”.
4. On page 25, from line 42, to omit subparagraph (iii).
5. On page 25, in line 47, to omit “; or”.
6. On page 25, from line 48, to omit subparagraph (iii).
7. On page 25, in line 57, to omit “gave” and to substitute “granted”.

CLAUSE 38

1. On page 27, in line 23, to omit “Proclamation R.7” and to substitute “Proclamations R.7”.

CLAUSE 39

1. On page 28, in line 31, to omit “Department of Traditional and Local Government” and “Head: Traditional and Local Government”.

CLAUSE 40

1. On page 29, in line 57, to omit “and Proclamations R.14 and R.33 of 2003” and to substitute “, Proclamations R.14 and R.33 of 2003 and Proclamation R.39 of 2006”.
2. On page 30, in line 4, to omit “AGENCIES” and to substitute “COMPONENTS”.
3. On page 30, in lines 9 and 10, to omit “agency” and to substitute “component”.
4. On page 30, in line 17, to omit “AGENCIES” and to substitute “COMPONENTS”.
5. On page 30, in lines 23 and 24, to omit “agency” and to substitute “component”.

CLAUSE 43

1. On page 30, in line 46, to omit “2006” and to substitute “2007”.

SCHEDULE

1. On page 31, in the heading of the first column, after “year”, to insert “of”.
2. On page 31, after “Act No. 43 of 1996”, to insert the following row:

Act 66 of 1995	Labour Relations Act	The amendment of the definition of “public service” in section 213 of the Labour Relations Act by the substitution for the expression “organisational” of “government”.
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3. On page 31, in the third column opposite Act No. 1 of 1999, to omit to “agency”, wherever it occurs, and to substitute “component”.
4. On page 31, in paragraph (c) of the third column opposite Act No. 1 of 1999, to omit “(Proclamation No. 103 of 1994)”, wherever it occurs.

LONG TITLE

1. On pages 2 and 3, to omit the long title and to substitute:

**To amend the Public Service Act, 1994, so as to substitute the definition provision; to substitute obsolete references; to provide**

for the alignment of certain conditions of services with respect to employees in sectors; to clarify certain powers of the Minister and enable the Minister to establish a consultative or advisory body; to replace the term “provincial administration” with the term “the Office of a Premier”; to provide for the implementation of directions of the Public Service Commission; to provide for the establishment of government components and specialised service delivery units within departments; to revise the effective date of actions and the effect of collective bargaining; to provide for the correction of actions; to redefine the different employment capacities in the public service; to set out the different ways of obtaining services of persons; to rationalise the provisions regarding appointments and the requirements thereof as well as the appointments of heads of departments and their career incidents, including heads appointed in terms of the Constitution; to provide that the Cabinet determines whether an executive authority may appoint advisers and how many; to rationalise probation requirements and provisions dealing with transfers within the public service; to regulate the change in employment capacity when employees are appointed or transferred to other departments; to clarify the provisions regarding transfers and secondments to and from the public service and provide for secondments within the public service; to allow an executive authority to retire an employee who is 55 years and older, but younger than 60 years, without pension penalisation; to introduce measures dealing with non-compliance with the Act; to ensure due process with respect to the implementation of a sanction of dismissal on account of misconduct; to align the grounds for dismissal with the grounds for dismissal recognised by the Labour Relations Act, 1995; to prohibit for a specified period the re-employment of an employee dismissed for misconduct relating to corruption; to revise the provisions regarding outside remunerative work by employees; to clarify the provisions dealing with unauthorised remuneration paid to employees; to provide anew for temporary assignment of other work to employees and for acting in posts; to allow heads of department to submit grievances directly to the Public Service Commission; to require the exhaustion of internal grievance procedures before labour or other external legal remedies are used; to delete provisions regarding the political rights of employees and to provide for employees’ candidacy for legislatures; to require regulations to determine the framework for certain remunerative advancement or awards; to clarify the provisions dealing with wrongly granted remuneration; to align the Minister’s regulation-making powers with his or her other powers and to eliminate duplication regarding these powers; to provide for the inclusion of determinations and directives in one or more public service handbooks; to provide for delegation and further delegation of powers and duties of executive authorities and heads of department; to update Schedules 1 and 2 and to include the organisational components listed in Schedule 3 in Schedule 1; to provide for government components in Schedule 3; to replace the term “officer” with “employee” and the term “executing authority” with “executive authority”; to substitute or delete certain references to the Public Service Commission; and to provide for matters connected therewith.