

REPUBLIC OF SOUTH AFRICA

PORTFOLIO COMMITTEE AMENDMENTS
TO
PUBLIC ADMINISTRATION
MANAGEMENT AMENDMENT
BILL

[B 10—2023]

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

[B 10A—2023]

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AMENDMENTS AGREED TO

PUBLIC ADMINISTRATION MANAGEMENT AMENDMENT BILL [B 10—2023]

CLAUSE 5

1. On page 5, in line 4, after “profit” to insert “and which are necessary for the functioning of an organ of state”.

CLAUSE 6

1. On page 5, from line 9, to omit section 8A and to substitute the following section:

“Conduct of employee or former employee participating in award of work to service providers

8A. (1) In this section—

(a) **‘12-month period’** means a period of 12 calendar months following the conclusion of a contract with a service provider; and

(b) **‘service provider’** means a person who provides services or goods to an institution against remuneration exceeding a prescribed amount.

(2) An employee who, in respect of the award of a contract to a service provider—

(a) set criteria for the award;

(b) evaluated or adjudicated the award;

(c) recommended or approved the award; or

(d) participated in any activity contemplated in paragraph (a) to (c),

may not, within the 12-month period, provide any service to, accept employment with, or accept appointment to a board of, that service provider for payment in money or in kind, or receive any other gratification from that service provider.

(3) A service provider may not—

(a) within the 12-month period—

(i) engage an employee, contemplated in subsection (2), to provide any service to the service provider; or

(ii) employ the employee or appoint the employee to a board of the service provider, for payment in money or in kind; or

(b) grant any other gratification to the employee.

(4) Subsections (2) and (3) apply irrespective of whether the employment of the employee contemplated therein continued or did not continue with the relevant institution during the 12-month period, or part thereof.

(5) The executive authority may, in accordance with the prescribed criteria, approve a period shorter than the 12-month period contemplated in subsection (2) or (3).

(6) Subsections (2) and (3) apply, with the necessary changes, to any extension of a contract with a service provider, if the remuneration for that extension together with the remuneration for the original contract and any other extensions, exceeds the amount prescribed by the Minister in terms of subsection (1).

(7) Any person who contravenes subsection (2) or (3) is guilty of an offence and on conviction liable to a fine not exceeding R1 million.

(8) The Minister responsible for the administration of justice may, from time to time by notice in the *Gazette*, increase the amount referred to in subsection (7).”.

CLAUSE 9

1. On page 6, in line 9, to omit “**Amendment**” and to substitute “**Substitution**”.
2. On page 6, from line 33, to omit paragraph (e) and to substitute the following paragraph:

“(e) may conduct assessments, or cause assessments to be conducted, in respect of education and training programmes or courses;”;
3. On page 6, from line 35, to omit paragraph (f) and to substitute the following paragraphs:

“(f) may, subject to the National Qualifications Framework Act, 2008 (Act No. 67 of 2008), award qualifications or part-qualifications on the successful completion of education and training programmes or cause such qualifications or part-qualifications to be awarded; and

(g) may, issue certificates of attendance, proficiency or other recognition on the successful completion of education and training programmes or courses or cause such certificates to be issued.”.

CLAUSE 14

1. On page 7, from line 11, to omit section 17A and to substitute the following section:

“Removal of disparities in public administration

17A. In order to remove unjustifiable disparities in relation to remuneration and conditions of service for employees who do not fall within the scope of a relevant bargaining council, the Minister may, subject to applicable labour legislation and legislation governing the employment of employees in the public administration and after consultation with the relevant Minister, prescribe—

 - (a) norms and standards to establish the upper limits of remuneration and conditions of service; and
 - (b) steps to remove unjustifiable disparities in remuneration and conditions of service provided that these steps may not reduce any employee’s remuneration.”.
2. On page 7, from line 25, to omit section 17B and to substitute the following section:

“Determination of conditions of service with financial implications

17B. (1) In this section—

 - (a) **‘accounting authority’** in relation to a national or provincial public entity, means the accounting authority contemplated in section 49 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

- (b) **‘accounting officer’** in relation to a municipal entity referred to in paragraph (b) of the definition of ‘public entity’, means the official of the entity referred to in section 93 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
- (c) **‘conditions of service’** includes annual salary adjustments, salary scales or levels, performance bonuses, pay incentives, pension benefits and any other such benefits; and
- (d) **‘executive authority’** in relation to a public entity referred to in paragraph (a) of the definition of ‘public entity’, means—
- (i) the Minister who is accountable to Parliament for a national public entity or in whose portfolio it falls; or
 - (ii) the member of the provincial Executive Council who is accountable to the provincial legislature for a provincial public entity or in whose portfolio it falls.
- (2) There must be a Committee of Ministers consisting of the Minister, the Ministers responsible for finance, education, defence, police, correctional services and such other Ministers as the Cabinet may designate, and must function the same as a committee of the Cabinet.
- (3) Subject to the Labour Relations Act, the laws governing the employment of employees and any collective agreement—
- (a) no executive authority in the public service may enter into a collective agreement in respect of conditions of service with financial implications or determine them for their employees without a mandate from the Committee of Ministers;
 - (b) no executive authority, municipality, accounting authority or accounting officer in respect of a public entity, may enter into any collective agreement in respect of conditions of service with financial implications or determine them for that public entity’s employees without first consulting with the Minister and the Minister of Finance; and
 - (c) the Minister responsible for local government and organised local government, in respect of a municipality, may not enter into any collective agreement in respect of conditions of service with financial implications or determine them for municipal employees without first consulting with the Minister and the Minister of Finance.
- (4) The Committee of Ministers must establish an inter-governmental forum in terms of section 9(1) of the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005), including Premiers, Deputy Ministers and any other member that the Committee may determine to consult for purposes of subsection (3).
- (5) The Committee of Ministers, in determining the mandate contemplated in subsection (3), and any other employer in the public administration, prior to concluding a collective agreement or determining conditions of service for their employees, must take into account affordability and any other factor prescribed by the Minister in consultation with the Minister of Finance.”.

CLAUSE 16

1. On page 8, in line 39, to omit “(3)(b)” and to substitute “(2)”.