



REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE



## STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

*Registered at the Post Office as a Newspaper*

*As 'n Nuusblad by die Poskantoor Geregistreer*

Price 10c Prys

Overseas 15c Oorsee

POST FREE—POSVRY

Vol. 48.]

CAPE TOWN, 27TH JUNE, 1969.

[No. 2457.

KAAPSTAD, 27 JUNIE 1969.

DEPARTMENT OF THE PRIME MINISTER.

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 1091.

27th June, 1969.

No. 1091.

27 Junie 1969.

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 88 of 1969: Durban Corporation Telephone Employees' Transfer Act, 1969.

No. 88 van 1969: Wet op die Oorplasing van Telefoonwerknemers van die Durban-korporasie, 1969.

Act No. 88, 1969

DURBAN CORPORATION TELEPHONE EMPLOYEES'  
TRANSFER ACT, 1969.**ACT**

To regulate certain matters arising out of the taking over of the telephone undertaking of the City Council of Durban by the State, and to provide for matters incidental thereto.

*(Afrikaans text signed by the State President.)*  
*(Assented to 19th June, 1969.)*

**BE IT ENACTED** by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

**Definitions.**

1. In this Act, unless the context otherwise indicates—
  - (i) "Board" means the Post Office Staff Board established by section 7 of the Post Office Re-adjustment Act, 1968 (Act No. 67 of 1968); (v)
  - (ii) "City Council" means the City Council of the city of Durban; (x)
  - (iii) "Department" means the Department of Posts and Telegraphs; (i)
  - (iv) "employee", in so far as it relates to a person employed by the State, means a person referred to in section 3 (1) (c) of the Public Service Act; (xvi)
  - (v) "fixed date" means the 1st April, 1969; (xiii)
  - (vi) "Government Service Widows' Pension Fund" means the Government Service Widows' Pension Fund referred to in section 2 (2) of the Government Service Pensions Act, 1965 (Act No. 62 of 1965); (vi)
  - (vii) "pension fund" means the Durban Corporation Non-European Pension Fund established under section 21*bis* of the Durban Extended Powers Consolidation Ordinance, 1953 (Ordinance No. 10 of 1953), of the Province of Natal, and provisionally registered under the Pension Funds Act, 1956 (Act No. 24 of 1956); (iii)
  - (viii) "Post Office Fund" means the Post Office Fund established by section 3 (1) of the Post Office Re-adjustment Act, 1968 (Act No. 67 of 1968); (iv)
  - (ix) "previous employee" means any person who was on the day immediately preceding the fixed date in the employment of the City Council in connection with the telephone undertaking; (xv)
  - (x) "provident fund" means the Durban Corporation Provident Fund established under section 10 (11) of the Municipal Corporations and Townships Additional Powers Ordinance, 1916 (Ordinance No. 14 of 1916), of the Province of Natal, and registered under the Pension Funds Act, 1956; (xiv)
  - (xi) "public service" means the public service according to the provisions of section 3 of the Public Service Act; (vii)

WET OP DIE OORPLASING VAN TELEFOONWERKNEMERS VAN DIE DURBAN-KORPORASIE, 1969. Wet No. 88, 1969

## WET

**Om sekere aangeleenthede te reël wat voortspruit uit die oornamendeur die Staat van die telefoononderneming van die Stadsraad van Durban, en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.**

*(Afrikaanse teks deur die Staatspresident geteken.)  
(Goedgekeur op 19 Junie 1969.)*

**DAAR WORD BEPAAL** deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

1. Tensy uit die samehang anders blyk, beteken in hierdie Wet— Woord-  
omskrywings.

- (i) „Departement” die Departement van Pos- en Telegraafwese; (iii)
- (ii) „oorgeplaasde werknemer” ’n vorige werknemer wat op of na die vasgestelde datum ’n werknemer van die Staat in die Departement geword het; (xvi)
- (iii) „pensioenfonds” die ‘Durban Corporation non-European Pension Fund’ ingestel kragtens artikel 21*bis* van die Konsolidasie-ordonnansie op die Uitgebreide Bevoegdhede van Durban, 1953 (Ordonnansie No. 10 van 1953), van die Provinsie Natal, en voorlopig geregistreer kragtens die Wet op Pensioenfondse, 1956 (Wet No. 24 van 1956); (vii)
- (iv) „Poskantoorfonds” die Poskantoorfonds ingestel by artikel 3 (1) van die Poskantoor-herreëlingswet, 1968 (Wet No. 67 van 1968); (viii)
- (v) „Raad” die Poskantoorpersoneelraad ingestel by artikel 7 van die Poskantoor-herreëlingswet, 1968 (Wet No. 67 van 1968); (i)
- (vi) „Regeringsdiens-weduweespensioenfonds” die Regeringsdiens-weduweespensioenfonds bedoel in artikel 2 (2) van die Regeringsdienspensioenwet, 1965 (Wet No. 62 van 1965); (vi)
- (vii) „Staatsdiens” die Staatsdiens volgens die bepalings van artikel 3 van die Staatsdienswet; (xi)
- (viii) „Staatsdiens-pensioenfonds” die Staatsdiens-pensioenfonds bedoel in artikel 2 (1) (a) van die Regeringsdienspensioenwet, 1965 (Wet No. 62 van 1965); (xiii)
- (ix) „Staatsdienswet” die Staatsdienswet, 1957 (Wet No. 54 van 1957), en ook die regulasies kragtens artikel 26 (1) van daardie Wet uitgevaardig; (xii)
- (x) „Stadsraad” die Stadsraad van die stad Durban; (ii)
- (xi) „superannuasiefonds” die „Durban Corporation Superannuation Fund” ingestel kragtens artikel 41 van Wet No. 22 van 1894 van die Provinsie Natal, en geregistreer kragtens die Wet op Pensioenfondse, 1956; (xiv)

Act No. 88, 1969

DURBAN CORPORATION TELEPHONE EMPLOYEES'  
TRANSFER ACT, 1969.

- (xii) "Public Service Act" means the Public Service Act, 1957 (Act No. 54 of 1957), and includes the regulations made under section 26 (1) of that Act; (ix)
- (xiii) "Public Service Pension Fund" means the Public Service Pension Fund referred to in section 2 (1) (a) of the Government Service Pensions Act, 1965 (Act No. 62 of 1965); (viii)
- (xiv) "superannuation fund" means the Durban Corporation Superannuation Fund established under section 41 of Act No. 22 of 1894 of the Province of Natal, and registered under the Pension Funds Act, 1956; (xi)
- (xv) "telephone undertaking" means the telephone undertaking of the City Council as it existed immediately prior to the fixed date; (xii)
- (xvi) "transferred employee" means a previous employee who on or after the fixed date became an employee of the State in the Department; (ii)
- (xvii) "work-days" means any days other than Sundays or public holidays. (xvii)

Conditions of  
service of  
previous  
employees.

2. (1) If any previous employee became an employee of the State in the Department on the fixed date, the continuous employment of such employee under the City Council shall, for the purposes of the Public Service Act, be deemed to be continuous employment under the State: Provided that any sick and accumulative vacation leave which stood to the credit of such person on the day immediately preceding the said date shall be deemed to be leave earned in terms of the said Act.

(2) Notwithstanding any restrictions as to age, health or educational or other qualifications prescribed by or under the Public Service Act, any person referred to in subsection (1) who is a South African citizen, has not yet attained the prescribed age of retirement and was immediately prior to the fixed date a member of the pension fund, the superannuation fund or the provident fund may, on the recommendation of the Board, be appointed to a post on the fixed establishment of the Department, classified in terms of section 3 (1) (a) of the Public Service Act, and shall, if he is not so appointed, be appointed by the Postmaster-General to any post which the Postmaster-General may deem fit, and any such appointment shall be deemed to be an appointment in terms of the Public Service Act and any such post to be a post on the said fixed establishment so classified.

(3) A person referred to in subsection (1) shall not without his own consent be transferred to any post unless the functions attached to such post are to be performed mainly in the area served by means of the telephone undertaking immediately prior to the fixed date.

(4) For the purposes of the appointment of any person referred to in subsection (1) to a post contemplated in subsection (3), such person's lack of proficiency in the use of any of the official languages shall not be taken into account.

(5) The provisions of subsections (1), (2), (3) and (4) shall *mutatis mutandis* apply in respect of any previous employee who—

- (a) did not on the fixed date become an employee of the State;
- (b) did not prior to 1st May, 1969, receive payment of any moneys due to him by the City Council by virtue of the termination of his employment with the City Council; and
- (c) was engaged by the Department prior to the commencement of this Act:

Provided that the number of days of accumulated leave which stood to the credit of such employee with the City Council on 31st March, 1969, shall be reduced by the number of work-

WET OP DIE OORPLASING VAN TELEFOONWERKNEMERS Wet No. 88, 1969  
VAN DIE DURBAN-KORPORASIE, 1969.

- (xii) „telefoononderneming” die telefoononderneming van die Stadsraad, soos dit onmiddellik voor die vasgestelde datum bestaan het; (xv)
- (xiii) „vasgestelde datum” 1 April 1969; (v)
- (xiv) „voorsorgfonds” die „Durban Corporation Provident Fund” ingestel kragtens artikel 10 (11) van die „Municipale Korporaties en Dorpsgebieden Additionele Machten Ordonantie, 1916” (Ordonnansie No. 14 van 1916), van die Provinsie Natal, en geregistreer kragtens die Wet op Pensioenfondse, 1956; (x)
- (xv) „vorige werknemer” iemand wat op die dag onmiddellik voor die vasgestelde datum in verband met die telefoononderneming in die diens van die Stadsraad was; (ix)
- (xvi) „werknemer”, vir sover dit betrekking het op iemand in diens van die Staat, iemand in artikel 3 (1) (c) van die Staatsdienswet bedoel; (iv)
- (xvii) „werkdae” ander dae as Sondag of openbare feesdae. (xvii)

2. (1) Indien 'n vorige werknemer op die vasgestelde datum 'n werknemer van die Staat in die Departement geword het, word, by die toepassing van die Staatsdienswet, sy ononderbroke diens by die Stadsraad geag ononderbroke diens by die Staat te wees: Met dien verstande dat siekte- en olopemde vakansieverlof wat op die dag onmiddellik voor genoemde datum op die naam van so iemand gestaan het, geag word verlof te wees wat ingevolge genoemde Wet verdien is.

Diensvoorwaardes van vorige werknemers.

(2) Ondanks beperkings ten opsigte van ouderdom, gesondheid of opvoedkundige of ander kwalifikasies wat deur of kragtens die Staatsdienswet voorgeskryf word, kan iemand bedoel in subartikel (1) wat 'n Suid-Afrikaanse burger is, nog nie die voorgeskrewe leeftyd vir uitdienstreding bereik het nie en onmiddellik voor die vasgestelde datum 'n lid van die pensioenfonds, die superannuasiefonds of die voorsorgfonds was, op aanbeveling van die Raad aangestel word in 'n pos op die vaste diensstaat van die Departement, ingedeel ingevolge artikel 3 (1) (a) van die Staatsdienswet, en indien hy nie aldus aangestel word nie, moet die Posmeester-generaal hom aanstel in 'n pos wat die Posmeester-generaal goedvind, en so 'n aanstelling word geag 'n aanstelling ingevolge die Staatsdienswet, en so 'n pos 'n pos op genoemde vaste diensstaat wat aldus ingedeel is, te wees.

(3) Iemand bedoel in subartikel (1) mag nie sonder sy eie toestemming oorgeplaas word nie na 'n pos tensy die werksaamhede verbonde aan die pos hoofsaaklik verrig moet word in die gebied wat onmiddellik voor die vasgestelde datum deur middel van die telefoononderneming bedien is.

(4) Vir die doeleindes van die aanstelling van iemand bedoel in subartikel (1) in 'n pos bedoel in subartikel (3) word so iemand se gebrek aan bedrewenheid in die gebruik van 'n amptelike taal nie in aanmerking geneem nie.

(5) Die bepalinge van subartikels (1), (2), (3) en (4) is *mutatis mutandis* van toepassing ten opsigte van 'n vorige werknemer wat—

- (a) nie op die vasgestelde datum 'n werknemer van die Staat geword het nie;
- (b) nie voor 1 Mei 1969 betaling ontvang het nie van geld wat die Stadsraad aan hom verskuldig was uit hoofde van die beëindiging van sy diens by die Stadsraad; en
- (c) voor die inwerkingtreding van hierdie Wet deur die Departement in diens geneem is:

Met dien verstande dat die getal dae opgelope verlof wat op 31 Maart 1969 op naam van so 'n werknemer by die Stadsraad gestaan het, verminder word met die getal werkdae tussen



## Act No. 88, 1969

DURBAN CORPORATION TELEPHONE EMPLOYEES'  
TRANSFER ACT, 1969.

days between the said 31st March and the date on which he assumed duty with the Department: Provided further that if the said number of days of accumulated leave is less than the said number of work-days he shall be deemed to have been absent on leave without pay on the work-days representing the difference.

(6) The employment by the City Council of any previous employee to whom subsections (1) and (5) do not apply shall, for the purposes of the payment to such person by the City Council of any amount in respect of accumulated leave, be deemed to have been terminated by reason of retirement upon reaching the prescribed age of retirement.

(7) (a) If a previous employee became an employee of the State on the fixed date and, prior to 1st May, 1969, made a request therefor to the City Council, he shall be entitled, in lieu of the granting of any other benefit to which he is by virtue of termination of employment in terms of any other law entitled, to the payment by the City Council of an amount equal to such percentage, not exceeding twenty-five per cent, as may be specified in the request, of the amount representing the value of the number of days of accumulated leave which stood to his credit with the City Council on 31st March, 1969, but subject to the payment of a minimum amount representing the value of twenty-three days of accumulated leave or, if the number of days of accumulated leave is less than twenty-three, of the number of days of accumulated leave which so stood to his credit on the last-mentioned date.

(b) Such amount shall be calculated on the basis of the salary of the person in question on 31st March, 1969.

(c) If any amount has in terms of paragraph (a) been paid to any person the number of days of accumulated leave which stood to his credit on the fixed date shall, for the purposes of this section, be reduced by the number of days in respect of which such amount has been paid.

(d) If any person to whom such an amount has been paid resigns from the service of the Department, he shall not be entitled to any payment in respect of accumulated leave.

(8) (a) A previous employee to whom subsection (1) or (5) applies, may within one month after having been called upon by the Board to do so, or within such further period as the Board may allow, elect in writing, subject to the provisions of paragraph (b), that his conditions of service be determined in accordance with the laws which applied immediately prior to the fixed date to his employment by the City Council, including any amendment thereof on or after the said date.

(b) The conditions of service of any person who has so elected shall, as from the first day of the month following the month in which he made his election, be as provided by the said laws: Provided that any power, duty or function conferred or imposed upon or assigned to—

(i) the City Council;

(ii) any committee or other body;

(iii) any officer of the City Council; or

(iv) any member of the City Council or of any committee or other body,

by such laws, shall, in relation to such person, be exercised or performed by the Postmaster-General or any officer in the Department authorized thereto by him, or, if the Minister of Posts and Telegraphs so directs, by the Board.

(9) The conditions of service, excluding conditions of service relating to pensions, of a previous employee referred to in

**WET OP DIE OORPLASING VAN TELEFOONWERKNEMERS Wet No. 88, 1969  
VAN DIE DURBAN-KORPORASIE, 1969.**

genoemde 31 Maart en die datum waarop hy diens by die Departement aanvaar het: Met dien verstande voorts dat indien genoemde getal dae opgelope verlof minder as genoemde getal werkdae is, so iemand geag word met verlof sonder betaling afwesig te gewees het op die werkdae wat die verskil verteenwoordig.

(6) Die diens by die Stadsraad van 'n vorige werknemer op wie subartikels (1) en (5) nie van toepassing is nie, word vir die doeleindes van die betaling deur die Stadsraad aan so iemand van 'n bedrag ten opsigte van opgelope verlof, geag weens uitdienststreding by bereiking van die voorgeskrewe leeftyd vir uitdienststreding beëindig te gewees het.

(7) (a) Indien 'n vorige werknemer op die vasgestelde datum 'n werknemer van die Staat geword het en 'n versoek daarom tot die Stadsraad voor 1 Mei 1969 gerig het, is hy geregtig op betaling deur die Stadsraad, in plaas van die verlening van enige ander voordeel waarop hy uit hoofde van diensbeëindiging ingevolge 'n ander wet geregtig is, van 'n bedrag gelyk aan die persentasie, maar hoogstens vyf-en-twintig persent, in die versoek vermeld, van die bedrag wat die waarde verteenwoordig van die getal dae opgelope verlof wat op 31 Maart 1969 op sy naam by die Stadsraad gestaan het, maar onderworpe aan die betaling van 'n minimum bedrag wat die waarde verteenwoordig van drie-en-twintig dae opgelope verlof of, indien die getal dae opgelope verlof minder as drie-en-twintig is, van die getal dae opgelope verlof wat op laasgenoemde datum aldus op sy naam gestaan het.

(b) Sodanige bedrag word bereken op die grondslag van die salaris van die betrokke persoon op 31 Maart 1969.

(c) Indien aan iemand 'n bedrag ingevolge paragraaf (a) betaal is, word die getal dae opgelope verlof wat op die vasgestelde datum op sy naam gestaan het, by die toepassing van hierdie artikel verminder met die getal dae ten opsigte waarvan sodanige bedrag betaal is.

(d) Indien iemand aan wie so 'n bedrag betaal is, uit die diens van die Departement bedank, is hy nie op betaling ten opsigte van opgelope verlof geregtig nie.

(8) (a) 'n Vorige werknemer op wie subartikel (1) of (5) van toepassing is, kan binne 'n maand nadat hy deur die Raad daartoe aangesê is of binne die verdere tydperk wat die Raad toelaat, skriftelik kies dat, behoudens die bepaling van paragraaf (b), sy diensvoorwaardes bepaal word volgens die wette wat onmiddellik voor die vasgestelde datum op sy diens by die Stadsraad van toepassing was, met inbegrip van 'n wysiging daarvan op of na genoemde datum.

(b) Die diensvoorwaardes van iemand wat aldus gekies het, is met ingang van die eerste dag van die maand wat volg op die maand waarin hy sy keuse uitgeoefen het, soos deur genoemde wette bepaal: Met dien verstande dat 'n bevoegdheid, plig of werksaamheid wat by dié wette verleen, opgelê of toevertrou word aan—

(i) die Stadsraad;

(ii) 'n komitee of ander liggaam;

(iii) 'n beampste van die Stadsraad; of

(iv) 'n lid van die Stadsraad of van 'n komitee of ander liggaam,

deur die Posmeester-generaal of 'n beampste in die Departement deur hom daartoe gemagtig, of, indien die Minister van Pos- en Telegraafwese aldus gelas, deur die Raad uitgeoefen, uitgevoer of verrig word met betrekking tot so iemand.

(9) Die diensvoorwaardes, uitgesonderd diensvoorwaardes betreffende pensioen, van 'n vorige werknemer bedoel in

Act No. 88, 1969

DURBAN CORPORATION TELEPHONE EMPLOYEES'  
TRANSFER ACT, 1969.

paragraph (a) of subsection (8) and who has not made an election in terms of that paragraph shall, subject to the provisions of subsection (10), be as provided by the Public Service Act.

(10) The remuneration of a previous employee referred to in subsection (8) (a) immediately prior to the fixed date shall not be reduced, and the salary scale in accordance with which such an employee was then remunerated shall not without his consent be altered to his prejudice.

**Pension rights.**

3. (1) Notwithstanding anything to the contrary contained in any law, but subject to the provisions of this section—

- (a) every transferred employee who on the day immediately preceding the fixed date was a member of the pension fund, the provident fund or the superannuation fund, shall retain all the rights and privileges and remain subject to all the obligations acquired or incurred by him for retirement and pension purposes under the rules of such a fund to which he was subject on the said day; and
- (b) such rules (including any amendment thereof made on or after the fixed date) shall for such purposes continue to apply to and in respect of him.

(2) (a) Any power conferred on or function assigned to—

- (i) the City Council;
  - (ii) any committee;
  - (iii) any official appointed by any committee in terms of the said rules;
  - (iv) any official of the said City Council,
- by the said rules, shall, in relation to a transferred employee, be exercised or performed by the Postmaster-General or any officer in the Department or the Department of Social Welfare and Pensions acting under his authority or, if the Minister of Posts and Telegraphs so directs, by the Board.

(b) Any application or notification which a transferred employee is, in terms of the said rules, permitted or required to make or to give to a body or person referred to in paragraph (a) (i), (ii), (iii) or (iv) shall be made or given to the Postmaster-General.

(3) As from the fixed date—

- (a) any contributions, interest or other amount which in terms of the rules referred to in subsection (1), a transferred employee is required to pay to the pension fund, the provident fund or the superannuation fund shall be paid to the Post Office Fund;
- (b) any pension or other benefit which in terms of the said rules is payable to or in respect of a transferred employee, shall be paid out of moneys appropriated by Parliament out of the Post Office Fund for the purpose;
- (c) the City Council shall cease to pay any contributions or other amount which in terms of the said rules it is required to pay to the pension fund, the provident fund or the superannuation fund in respect of any transferred employee.

(4) (a) If a transferred employee was immediately prior to the fixed date a member of the pension fund or the superannuation fund, there shall be paid from the appropriate fund to the Post Office Fund in respect of such employee—

- (i) an amount equal to the transfer value which at that date would have been paid in terms of paragraph (d) of subsection (1) of section 46 of the



WET OP DIE OORPLASING VAN TELEFOONWERKNEMERS Wet No. 88, 1969  
VAN DIE DURBAN-KORPORASIE, 1969.

paragraaf (a) van subartikel (8) wat nie 'n keuse ingevolge dié paragraaf uitgeoefen het nie, is, behoudens die bepalings van subartikel (10), soos die Staatsdienswet bepaal.

(10) Die besoldiging van 'n vorige werknemer bedoel in subartikel (8) (a) onmiddellik voor die vasgestelde datum word nie verminder nie, en die salarisskaal waarvolgens so 'n werknemer toe besoldig is, word nie sonder sy toestemming ten nadele van hom verander nie.

3. (1) Ondanks andersluidende bepalings van enige wet maar Pensioenregte. behoudens die bepalings van hierdie artikel—

- (a) behou elke oorgeplaasde werknemer wat op die dag onmiddellik voor die vasgestelde datum 'n lid was van die pensioenfonds, die voorsorgfonds of die superannuasiefonds, al die regte en voorregte en bly hy onderworpe aan al die verpligtinge wat hy vir uitdienstredings- en pensioendoeleindes verkry of aangegaan het kragtens die reëls van so 'n fonds waaraan hy onderworpe was op genoemde dag; en
  - (b) hou sodanige reëls (met inbegrip van 'n wysiging daarvan wat op of na die vasgestelde datum aangebring is) vir sodanige doeleindes aan om op en ten opsigte van hom van toepassing te wees.
- (2) (a) 'n Bevoegdheid verleen of werksaamheid toevertrou by genoemde reëls aan—
- (i) die Stadsraad;
  - (ii) die een of ander komitee;
  - (iii) 'n beampte wat ingevolge genoemde reëls deur die een of ander komitee aangestel is;
  - (iv) 'n beampte van die Stadsraad,
- word, met betrekking tot 'n oorgeplaasde werknemer, uitgeoefen of verrig deur die Posmeester-generaal of 'n beampte in die Departement of die Departement van Volkswelsyn en Pensioene wat kragtens sy gesag optree, of, indien die Minister van Pos- en Telegraafwese aldus gelas, deur die Raad.
- (b) 'n Aansoek of kennisgewing wat 'n oorgeplaasde werknemer ingevolge genoemde reëls kan of moet doen of gee by of aan 'n liggaam of iemand bedoel in paragraaf (a) (i), (ii), (iii) of (iv) word by of aan die Posmeester-generaal gedoen of gegee.
- (3) Vanaf die vasgestelde datum—
- (a) word die bydraes, rente of ander bedrag wat 'n oorgeplaasde werknemer ingevolge die reëls bedoel in subartikel (1) aan die pensioenfonds, die voorsorgfonds of die superannuasiefonds moet betaal, aan die Poskantoorfonds betaal;
  - (b) word 'n pensioen of ander voordeel wat ingevolge bedoelde reëls aan of ten opsigte van 'n oorgeplaasde werknemer betaalbaar is, betaal uit gelde wat vir die doel deur die Parlement uit die Poskantoorfonds bewillig word;
  - (c) hou die Stadsraad op om die bydraes of ander bedrag te betaal wat hy ingevolge genoemde reëls aan die pensioenfonds, die voorsorgfonds of die superannuasiefonds moet betaal ten opsigte van 'n oorgeplaasde werknemer.
- (4) (a) Indien 'n oorgeplaasde werknemer onmiddellik voor die vasgestelde datum 'n lid van die pensioenfonds of die superannuasiefonds was, word daar ten opsigte van sodanige werknemer uit die toepaslike fonds aan die Poskantoorfonds—
- (i) 'n bedrag betaal gelyk aan die oordragswaarde wat op daardie datum ingevolge paragraaf (d) van subartikel (1) van artikel 46 van die Ordonnansie op die Superannuasie-aangeleenthede van Plaaslike Besture, 1966 (Ordonnansie No. 25 van 1966),

**Act No. 88, 1969**      **DURBAN CORPORATION TELEPHONE EMPLOYEES' TRANSFER ACT, 1969.**

Local Government Superannuation Ordinance, 1966 (Ordinance No. 25 of 1966), of the Province of Natal, had that subsection applied in his case; and

- (ii) interest on the said amount at the rate of five per cent per annum, compounded annually as at the thirty-first day of March and calculated from the fixed date up to the date of payment.
- (b) If a transferred employee was immediately prior to the fixed date a member of the provident fund there shall be paid from that fund to the Post Office Fund an amount equal to the full benefit standing to his credit in the said provident fund at that date together with interest thereon at the rate of four per cent per annum, calculated from the date on which interest was last added to that benefit in terms of the rules of the said provident fund and up to the date of payment.
- (5) If a transferred employee to whom subsection (1) applies, has in terms of section 2 been appointed to a post classified in one of the divisions of the public service, he may, subject to the approval of the Secretary for Social Welfare and Pensions, elect in writing within one hundred and eighty days after the date on which he received notification of such appointment, or within such further period as the said Secretary may in special circumstances allow, to be freed from all the obligations and relinquish all the rights and privileges referred to in subsection (1) and to become a member of the Public Service Pension Fund.
- (6) If a transferred employee elects in terms of subsection (5) to become a member of the Public Service Pension Fund—
- (a) he shall become a member of and shall contribute to that fund with effect from the first day of the month immediately following the month in which the election is made; and
  - (b) he shall be deemed to have elected to reckon the following period of service as pensionable service for the purposes of the said fund, namely—
    - (i) if he was a member of the pension fund or the superannuation fund immediately prior to the fixed date, the period of his service recognized as pensionable under the rules of the fund concerned including any period of service on and after the fixed date in respect of which he has paid contributions in terms of the said rules;
    - (ii) if he was a member of the provident fund immediately prior to the fixed date, the period of service in respect of which he paid contributions in terms of the rules of that fund, including any period of service on and after the fixed date in respect of which he has in terms of this Act so paid contributions.
- (7) There shall be paid to the Public Service Pension Fund from the Post Office Fund in respect of any transferred employee to whom subsection (6) applies—
- (a) an amount equal to the amount which would have been payable in terms of sub-regulation (2) of regulation 9 of the regulations published by Government Notice No. R.1969 of the 15th December, 1965, as amended, if the period of service referred to in subsection (6) (b) (i) or (ii) had been a period of past pensionable service and he had elected in terms of the said sub-regulation to reckon such period as pensionable service for the purposes of the Public Service Pension Fund; and
  - (b) interest on the amount payable in terms of paragraph (a) at the rate of four and one-half per cent per annum, compounded annually as at the thirty-first day of March and calculated from the date on which such

WET OP DIE OORPLASING VAN TELEFOONWERKNEMERS Wet No. 88, 1969  
VAN DIE DURBAN-KORPORASIE, 1969.

- van die Provinsie Natal, betaal sou gewees het, indien daardie subartikel in sy geval van toepassing was; en
- (ii) rente betaal op genoemde bedrag teen die koers van vyf persent per jaar, jaarliks op die een-en-dertigste dag van Maart saamgestel en bereken vanaf die vasgestelde datum tot die datum van betaling.
- (b) Indien 'n oorgeplaasde werknemer onmiddellik voor die vasgestelde datum 'n lid van die voorsorgfonds was, word daar uit daardie fonds aan die Poskantoorfonds 'n bedrag betaal gelyk aan die volle voordeel wat op daardie datum op sy naam in genoemde voorsorgfonds gestaan het, tesame met rente daarop teen die koers van vier persent per jaar, bereken vanaf die datum waarop rente ingevolge die reëls van genoemde voorsorgfonds laas by daardie voordeel gevoeg is tot die datum van betaling.
- (5) Indien 'n oorgeplaasde werknemer op wie subartikel (1) van toepassing is, ingevolge artikel 2 in 'n pos ingedeel in een van die afdelings van die Staatsdiens aangestel is, kan hy, onderworpe aan die goedkeuring van die Sekretaris van Volkswelsyn en Pensioene, binne honderd-en-tagtig dae na die datum waarop hy kennisgewing van sodanige aanstelling ontvang het of binne die verdere tydperk wat genoemde Sekretaris in besondere omstandighede toelaat, skriftelik kies om van al die verpligtinge, regte en voorregte bedoel in subartikel (1) onthef te word en af te sien en om 'n lid van die Staatsdiens-pensioenfonds te word.
- (6) Indien 'n oorgeplaasde werknemer ingevolge subartikel (5) kies om 'n lid van die Staatsdiens-pensioenfonds te word—
- (a) word hy 'n lid van en dra hy by tot daardie fonds met ingang van die eerste dag van die maand wat onmiddellik volg op die maand waarin die keuse gedoen word; en
- (b) word hy geag te gekies het om die volgende dien tydperk as pensioengewende diens vir die doeleindes van genoemde fonds te reken, naamlik—
- (i) indien hy onmiddellik voor die vasgestelde datum 'n lid van die pensioenfonds of die superannuasiefonds was, sy dien tydperk wat ooreenkomstig die reëls van die betrokke fonds as pensioengewend erken word, met inbegrip van 'n dien tydperk op en na die vasgestelde datum ten opsigte waarvan hy ingevolge genoemde reëls bydraes betaal het;
- (ii) indien hy onmiddellik voor die vasgestelde datum 'n lid van die voorsorgfonds was, die dien tydperk ten opsigte waarvan hy ingevolge die reëls van daardie fonds bydraes betaal het, met inbegrip van 'n dien tydperk op en na die vasgestelde datum ten opsigte waarvan hy ingevolge hierdie Wet aldus bydraes betaal het.
- (7) Daar word ten opsigte van 'n oorgeplaasde werknemer op wie subartikel (6) van toepassing is, uit die Poskantoorfonds aan die Staatsdiens-pensioenfonds—
- (a) 'n bedrag betaal gelyk aan die bedrag wat ingevolge subregulasie (2) van regulasie 9 van die regulasies afgekondig by Goewermentskennisgewing No. R.1969 van 15 Desember 1965, soos gewysig, betaalbaar sou gewees het indien die dien tydperk bedoel in subartikel (6) (b) (i) of (ii) 'n tydperk van vorige pensioengewende diens was en hy ingevolge genoemde subregulasie gekies het om sodanige tydperk as pensioengewende diens vir die doeleindes van die Staatsdiens-pensioenfonds te reken; en
- (b) rente betaal op die bedrag betaalbaar ingevolge paragraaf (a) teen die koers van vier-en-'n-half persent per jaar, jaarliks op die een-en-dertigste dag van Maart saamgestel, en bereken vanaf die datum waarop

## Act No. 88, 1969

DURBAN CORPORATION TELEPHONE EMPLOYEES'  
TRANSFER ACT, 1969.

employee became a member of the Public Service Pension Fund in terms of subsection (6) (a) up to the date of payment.

(8) If the amount payable in terms of subsection (7) (a) is less than—

- (a) in the case of a transferred employee who was a member of the pension fund or the superannuation fund immediately prior to the fixed date, an amount equal to the transfer value which, in terms of paragraph (d) of subsection (1) of section 46 of the Local Government Superannuation Ordinance, 1966, of the Province of Natal, would have become payable in respect of him on the date on which he became a member of the Public Service Pension Fund in terms of subsection (6) (a), had the said subsection (1) applied in his case; or
- (b) in the case of a transferred employee who was a member of the provident fund immediately prior to the fixed date, an amount equal to the full benefit which would have been payable to him in terms of the rules of that fund had he ceased to be an employee of the State with effect from the date on which he became a member of the Public Service Pension Fund in terms of subsection (6) (a),

an amount equal to the difference, together with interest thereon at the rate of five per cent per annum, compounded annually as at the thirty-first day of March and calculated from the date on which the transferred employee concerned became a member of the Public Service Pension Fund in terms of subsection (6) (a) up to the date of payment, shall be paid out of the Post Office Fund to—

- (i) the Government Service Widows' Pension Fund if the transferred employee is a male person and was a member of the superannuation fund immediately prior to the fixed date;
- (ii) the transferred employee if he is not a person to whom subparagraph (i) applies.

(9) (a) If a transferred employee to whom subsection (6) applies—

- (i) was immediately prior to the fixed date a member of the superannuation fund; and
- (ii) by reason of the fact that he is a male person, becomes a member of the Government Service Widows' Pension Fund,

he shall, for the purpose of calculating any annuity which may become payable to his widow from the Government Service Widows' Pension Fund, be deemed to have commenced to contribute to the last-mentioned fund on the date on which his service recognized as pensionable under the rules of the superannuation fund commenced.

- (b) If a transferred employee to whom paragraph (a) applies, ceases to be a member of the Government Service Widows' Pension Fund prior to his death, there shall be paid to him out of that fund, in addition to any other benefit which may be payable to him in terms of the regulations governing the said fund, an amount equal to the amount (other than interest) which in terms of subsection (8) was paid to that fund in respect of him, together with interest thereon at the rate of five per cent per annum, compounded annually as at the thirty-first day of March and calculated from the date on which the last-mentioned amount was so paid up to the date on which the first-mentioned amount is paid in terms of this paragraph.

WET OP DIE OORPLASING VAN TELEFOONWERKNEMERS VAN DIE DURBAN-KORPORASIE, 1969. **Wet No. 88, 1969**

sodanige werknemer ingevolge subartikel (6) (a) 'n lid van die Staatsdiens-pensioenfonds geword het tot die datum van betaling.

(8) Indien die bedrag wat ingevolge subartikel (7) (a) betaalbaar is, minder is as—

(a) in die geval van 'n oorgeplaasde werknemer wat onmiddellik voor die vasgestelde datum 'n lid was van die pensioenfonds of die superannuasiefonds, 'n bedrag gelyk aan die oordragswaarde wat ingevolge paragraaf (d) van subartikel (1) van artikel 46 van die Ordonnansie op Superannuasie-aangeleenthede van Plaaslike Besture, 1966, van die Provinsie Natal, ten opsigte van hom betaalbaar sou geword het op die datum waarop hy ingevolge subartikel (6) (a) 'n lid van die Staatsdienspensioenfonds geword het, indien genoemde subartikel (1) in sy geval van toepassing was; of

(b) in die geval van 'n oorgeplaasde werknemer wat onmiddellik voor die vasgestelde datum 'n lid van die voorsorgfonds was, 'n bedrag gelyk aan die volle voordeel wat ingevolge die reëls van daardie fonds aan hom betaalbaar sou gewees het indien hy met ingang van die datum waarop hy ingevolge subartikel (6) (a) 'n lid van die Staatsdiens-pensioenfonds geword het, sou opgehou het om 'n werknemer van die Staat te wees,

word 'n bedrag gelyk aan die verskil, tesame met rente daarop teen die koers van vyf persent per jaar, jaarliks op die een-en-dertigste dag van Maart saamgestel en bereken vanaf die datum waarop die betrokke oorgeplaasde werknemer ingevolge subartikel (6) (a) 'n lid van die Staatsdiens-pensioenfonds geword het, tot die datum van betaling, uit die Poskantoorfonds—

(i) aan die Regeringsdiens-weduweespensioenfonds betaal indien die oorgeplaasde werknemer 'n manlike persoon is en onmiddellik voor die vasgestelde datum 'n lid van die superannuasiefonds was; of

(ii) aan die oorgeplaasde werknemer betaal indien hy nie iemand is op wie subparagraaf (i) van toepassing is nie.

(9) (a) Indien 'n oorgeplaasde werknemer op wie subartikel (6) van toepassing is—

(i) onmiddellik voor die vasgestelde datum 'n lid van die superannuasiefonds was; en

(ii) uit hoofde van die feit dat hy 'n manlike persoon is, 'n lid van die Regeringsdiens-weduweespensioenfonds word,

word hy, vir die doeleindes van die berekening van 'n jaargeld wat uit die Regeringsdiens-weduweespensioenfonds aan sy weduwe betaalbaar word, geag tot laasgenoemde fonds te begin bydra het op die datum waarop sy diens wat kragtens die reëls van die superannuasiefonds as pensioengewend erken is, 'n aanvang geneem het.

(b) Indien 'n oorgeplaasde werknemer op wie paragraaf (a) van toepassing is, voor sy dood ophou om 'n lid van die Regeringsdiens-weduweespensioenfonds te wees, word daar aan hom uit daardie fonds, benewens enige ander voordeel wat ingevolge die regulasies wat genoemde fonds beheer, aan hom betaalbaar is, 'n bedrag betaal gelyk aan die bedrag (behalwe rente) wat ingevolge subartikel (8) ten opsigte van hom aan daardie fonds betaal is, tesame met rente daarop teen die koers van vyf persent per jaar, jaarliks op die een-en-dertigste dag van Maart saamgestel en bereken vanaf die datum waarop laasgenoemde bedrag aldus betaal is, tot die datum waarop eersgenoemde bedrag ingevolge hierdie paragraaf betaal word.



Act No. 88, 1969

DURBAN CORPORATION TELEPHONE EMPLOYEES'  
TRANSFER ACT, 1969.

(c) If a transferred employee to whom paragraph (a) applies dies without leaving a widow and while he is a member of the Government Service Widows' Pension Fund, there shall be added to any benefit which in terms of the regulations governing that fund may be payable to his children, step-children or legally adopted children, an amount and interest calculated *mutatis mutandis* in terms of paragraph (b).

(10) If a transferred employee was not immediately prior to the fixed date a member of the pension fund, the provident fund or the superannuation fund, the period of his continuous service under the City Council immediately prior to that date shall, for pension purposes, be deemed to be service under the Government: Provided that no such employee shall contribute to any fund referred to in section 2 of the Government Service Pensions Act, 1965 (Act No. 62 of 1965), or to the Government non-White Employees' Pension Fund established in terms of section 2 (2) of the Government non-White Employees Pensions Act, 1966 (Act No. 42 of 1966), from a date earlier than the fixed date.

(11) (a) If a person referred to in section 2 (5) was paid an amount from the superannuation fund, and the transfer value payable in respect of him in terms of subsection (4) of this section is for that reason less than the transfer value which would have been so payable had he not been paid such amount, he shall pay an amount equal to the deficiency to the Post Office Fund.

(b) If such person is unable to liquidate, in one payment, the amount due by him in terms of paragraph (a), such amount shall be recovered from him in such manner and in such instalments as the Postmaster-General in consultation with the Secretary for Social Welfare and Pensions may determine, and such person shall pay to the Post Office Fund interest at the rate of five per cent per annum, compounded annually as at the thirty-first day of March, on that portion of such amount which remains unpaid on the last day of each month.

Unfinished expropriations.

4. (1) If the City Council expropriated any property for the purposes of the telephone undertaking but the compensation payable in respect of such expropriation was not determined prior to the fixed date, such compensation shall be determined as if the said telephone undertaking still belonged to the City Council, and the amount of the compensation so determined shall, in so far as it does not exceed one hundred thousand rand, be paid by the City Council and, in so far as it exceeds the said amount, by the State.

(2) If any immovable property contemplated in subsection (1) has not yet been transferred to the City Council, transfer thereof to the State shall be effected as if the State had expropriated it.

Passing of rights and obligations in connection with telephone undertaking.

5. (1) All rights and obligations acquired or incurred by the City Council by virtue of any agreement in connection with the telephone undertaking and the employees in its service in connection therewith shall, except in so far as is otherwise provided by this Act, pass to the State.

(2) The City Council shall remain liable for any expenditure incurred by it prior to the fixed date in terms of any such agreement.

(3) The obligations of the City Council in respect of loans negotiated for the purposes of the telephone undertaking, and the rights and obligations of holders of stocks and securities issued by the City Council in connection therewith, shall not be affected by the transfer of the telephone undertaking to the State.

(4) Any right or obligation referred to in subsection (1) and which relates to a telephone service shall be subject to the pro-

WET OP DIE OORPLASING VAN TELEFOONWERKNEMERS Wet No. 88, 1969  
VAN DIE DURBAN-KORPORASIE, 1969.

- (c) Indien 'n oorgeplaasde werknemer op wie paragraaf (a) van toepassing is, te sterwe kom sonder om 'n weduwe na te laat en terwyl hy 'n lid van die Regeringsdiensweduweespensioenfonds is, word 'n bedrag en rente, bereken *mutatis mutandis* ooreenkomstig paragraaf (b), gevoeg by 'n voordeel wat ingevolge die regulasies wat daardie fonds beheer, aan sy kinders, stiefkinders of wettig aangenome kinders betaalbaar is.

(10) Indien 'n oorgeplaasde werknemer nie onmiddellik voor die vasgestelde datum 'n lid van die pensioenfonds, die voorsorgfonds of die superannuasiefonds was nie, word sy ononderbroke dienstydpark by die stadsraad onmiddellik voor daardie datum, vir pensioendoelindes geag diens by die Regering te wees: Met dien verstande dat geen sodanige werknemer met ingang van 'n vroeër datum as die vasgestelde datum mag bydra nie tot 'n fonds bedoel in artikel 2 van die Regeringsdienspensioenwet, 1965 (Wet No. 62 van 1965), of die Pensioenfonds vir Nie-blanke Regeringswerknemers ingestel kragtens artikel 2 (2) van die Wet op Pensioene vir Nie-blanke Regeringswerknemers, 1966 (Wet No. 42 van 1966).

- (11) (a) Indien aan iemand bedoel in artikel 2 (5) 'n bedrag uit die superannuasiefonds betaal is, en die oordragswaarde ingevolge subartikel (4) van hierdie artikel ten opsigte van hom betaalbaar om daardie rede minder is as die oordragswaarde wat aldus betaalbaar sou gewees het indien so 'n bedrag nie aan hom betaal is nie, betaal hy 'n bedrag gelyk aan die tekort aan die Poskantoorfonds.

- (b) Indien so iemand nie in staat is om die bedrag ingevolge paragraaf (a) deur hom verskuldig in een som te betaal nie, word bedoelde bedrag van hom ingevorder op dié wyse en in dié paaielemente wat die Posmeester-generaal in oorleg met die Sekretaris van Volkswelsyn en Pensioene bepaal, en so iemand betaal aan die Poskantoorfonds rente teen die koers van vyf persent per jaar, jaarliks saamgestel op die een-en-dertigste dag van Maart, op dié gedeelte van bedoelde bedrag wat op die laaste dag van elke maand nog uitstaande is.

4. (1) Indien die Stadsraad goed vir die doeleindes van die telefoononderneming onteien het maar die vergoeding wat ten opsigte van sodanige onteiening betaalbaar is, nie voor die vasgestelde datum bepaal is nie, word sodanige vergoeding bepaal asof genoemde telefoononderneming nog aan die Stadsraad behoort, en die bedrag van die vergoeding wat aldus bepaal is of word, word deur die Stadsraad betaal vir sover dit nie honderdduisend rand te bowe gaan nie, en deur die Staat vir sover dit genoemde bedrag te bowe gaan.

Onafgehandelde onteienings.

(2) Indien onroerende goed bedoel in subartikel (1) nog nie aan die Stadsraad oorgedra is nie, geskied oordrag daarvan aan die Staat asof die Staat dit onteien het.

5. (1) Al die regte en verpligtinge wat die Stadsraad verkry of opgeloopt het uit hoofde van 'n ooreenkoms in verband met die telefoononderneming en die werknemers wat in verband daarmee in sy diens was, gaan, behalwe vir sover hierdie Wet anders bepaal, op die Staat oor.

Oorgang van regte en verpligtinge in verband met telefoononderneming.

(2) Die Stadsraad bly aanspreeklik vir uitgawes wat hy voor die vasgestelde datum ingevolge so 'n ooreenkoms aangegaan het.

(3) Die verpligtinge van die Stadsraad ten opsigte van lenings aangegaan vir die doeleindes van die telefoononderneming, en die regte en verpligtinge van houers van effekte en sekuriteite wat die Stadsraad in verband daarmee uitgereik het, word nie deur die oordrag van die telefoononderneming aan die Staat geraak nie.

(4) 'n Reg of verpligting in subartikel (1) bedoel wat met 'n telefoondiens in verband staan, is onderworpe aan die bepalings

## Act No. 88, 1969

DURBAN CORPORATION TELEPHONE EMPLOYEES'  
TRANSFER ACT, 1969.

visions of the Post Office Act, 1958 (Act No. 44 of 1958), and the regulations made thereunder.

Validation of agreement in connection with telephone undertaking.

6. The agreement entered into by the City Council with the State in connection with the transfer of the telephone undertaking to the State is hereby validated in so far as it may be invalid by reason of the absence of authority to have entered into it.

Amendment of section 6 of Act 62 of 1965.

7. Section 6 of the Government Service Pensions Act, 1965, is hereby amended by the insertion after subsection (13) of the following subsection:

“(13A) Notwithstanding anything to the contrary contained in subsection (2) or in any other law, the provisions of subsection (4) shall *mutatis mutandis* apply in respect of any person who has elected in terms of section 3 (5) of the Durban Corporation Telephone Employees' Transfer Act, 1969, to become a member of the Public Service Pension Fund and who was an employee of the City Council of the city of Durban continuously from a date prior to the twenty-fourth day of June, 1955, and up to and including the day immediately preceding the date of commencement of that Act, as if subsection (3) of this section applied in respect of such person.”.

Repeal of Act 31 of 1897, Act 19 of 1909 and Ordinance 15 of 1936 of Natal.

8. The City of Durban Telephones Consolidated Laws, 1897, 1909 and 1936, of the Province of Natal are hereby repealed.

Short title.

9. This Act shall be called the Durban Corporation Telephone Employees' Transfer Act, 1969.

WET OP DIE OORPLASING VAN TELEFOONWERKNEMERS Wet No. 83, 1969  
VAN DIE DURBAN-KORPORASIE, 1969.

van die Poswet, 1958 (Wet No. 44 van 1958), en die regulasies daarkragtens uitgevaardig.

6. Die ooreenkoms wat die Stadsraad met die Staat in verband met die oordrag van die telefoononderneming aan die Staat aangegaan het, word hierby geldig verklaar vir sover dit ongeldig is vanweë 'n gebrek aan bevoegdheid om dit aan te gee aan het. Geldigverklaring van ooreenkoms in verband met telefoononderneming.

7. Artikel 6 van die Regeringsdienspensioenwet, 1965, word hierby gewysig deur na subartikel (13) die volgende subartikel in te voeg: Wysiging van artikel 6 van Wet 62 van 1965.

„(13A) Ondanks andersluidende bepalings van subartikel (2) of van enige ander wet, is die bepalings van subartikel (4) *mutatis mutandis* van toepassing ten opsigte van iemand wat ooreenkomstig artikel 3 (5) van die Wet op die Oorplasing van Telefoonwerknemers van die Durban-korporasie, 1969, gekies het om 'n lid van die Staatsdienspensioenfonds te word en wat sonder onderbreking vanaf 'n datum voor die vier-en-twintigste dag van Junie 1955 tot en met die dag onmiddellik voor die datum van inwerkingtreding van daardie Wet 'n werknemer van die Stadsraad van die stad Durban was, asof subartikel (3) van hierdie artikel ten opsigte van so iemand van toepassing was.”.

8. Die gekonsolideerde Wette (1897, 1909 en 1936) op die Telefone van die „City” Durban van die provinsie Natal word hierby herroep. Herroeping van Wet 31 van 1897, Wet 19 van 1909 en Ordonnansie 15 van 1936 van Natal.

9. Hierdie Wet heet die Wet op die Oorplasing van Telefoonwerknemers van die Durban-korporasie, 1969. Kort titel.

