



REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

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KANTOOR VAN DIE STAATSPRESIDENT

STATE PRESIDENT'S OFFICE

No. 1910.

10 Julie 1992

No. 1910.

10 July 1992

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

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

No. 122 van 1992: Ouditreëlingswet, 1992.

No. 122 of 1992: Audit Arrangements Act, 1992.

ALGEMENE VERDUIDELIKENDE NOTA:

- []** Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.
- _____** Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Om 'n regs persoon en sekere ander liggame in te stel om sekere sake wat in verband staan met die werksaamhede van die Ouditeur-generaal te reël en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 2 Julie 1992.)*

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

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GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

Words underlined with a solid line indicate insertions in existing enactments.

ACT

To establish a juristic person and certain other bodies to regulate certain matters connected with the functions of the Auditor-General and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 2 July 1992.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

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HOOFSTUK I

Uitleg en Toepassing van Wet

Woordomskrywing

1. Tensy uit die samehang anders blyk, beteken in hierdie Wet—
 - (i) "Adjunk-ouditeur-generaal" die persoon wat ingevolge artikel 27 as sodanig aangestel is of geag word as sodanig aangestel te wees; (x) 5
 - (ii) "beampte" 'n persoon wat permanent aangestel is in die vaste diensstaat, al is die aanstelling op proef; (xviii)
 - (iii) "boekjaar" 'n jaar wat op 31 Maart eindig; (xiii)
 - (iv) "departement" 'n departement in artikel 6(1) van die Staatsdienswet bedoel; (ix) 10
 - (v) "Hoof van die Kantoor" die Adjunk-ouditeur-generaal; (xv)
 - (vi) "kalendermaand" 'n tydperk wat strek van 'n dag in 'n maand tot en met die dag wat die dag voorafgaan wat numeriek ooreenstem met eersgenoemde dag in die volgende maand; (vii) 15
 - (vii) "Kantoor" die Kantoor van die Ouditeur-generaal wat by artikel 3 ingestel word; (xvii)
 - (viii) "Kommissie" die Kommissie vir Administrasie ingestel by artikel 2(1) van die Wet op die Kommissie vir Administrasie, 1984 (Wet No. 65 van 1984); (viii) 20
 - (ix) "maand" 'n tydperk wat van die eerste tot en met die laaste dag van enigeen van die 12 maande van 'n jaar strek; (xvi)
 - (x) "Ouditeur-generaal" die persoon wat ingevolge artikel 2(1) van die Wet op die Ouditeur-generaal, 1989 (Wet No. 52 van 1989), as sodanig aangestel is; (iii) 25
 - (xi) "Ouditinkomstefonds" die fonds wat by artikel 4 ingestel word; (v)
 - (xii) "Ouditkommissie" die Ouditkommissie wat by artikel 12 ingestel word; (ii)
 - (xiii) "Raad" die Personeelbestuursraad wat by artikel 18 ingestel word; (vi)
 - (xiv) "reëls" reëls wat ingevolge artikel 54 uitgevaardig is; (xxii) 30
 - (xv) "regulasies" finansiële regulasies wat ingevolge artikel 16(1)(b) uitgevaardig is; (xxi)
 - (xvi) "rekenpligtige beampte" die Adjunk-ouditeur-generaal; (i)
 - (xvii) "salarisskaal" 'n minimum en maksimum salarisperk gekoppel aan 'n bepaalde vlak van werk; (xxiii) 35
 - (xviii) "skaal", met betrekking tot salaris, ook salaris teen 'n vaste bedrag; (xxiv)
 - (xix) "Staatsdienswet" die Staatsdienswet, 1984 (Wet No. 111 van 1984); (xx)
 - (xx) "vaste diensstaat" die poste wat vir die normale en gereelde vereistes van die Kantoor geskep is; (xiv) 40
 - (xxi) "voorgeskryf" voorgeskryf by of kragtens hierdie Wet; (xix)
 - (xxii) "voorskrifte" reëls wat ingevolge artikel 54 uitgevaardig is; (xi)
 - (xxiii) "werknemer" 'n persoon wat op 'n tydelike grondslag in diens van die Kantoor is; (xii) 45
 - (xxiv) "Wet op die Ouditeur-generaal" die Wet op die Ouditeur-generaal, 1989 (Wet No. 52 van 1989). (iv)

Toepassing van Wet

2. (1) Behalwe vir sover daar in hierdie artikel anders bepaal word en behalwe

- 48. Wrongly granted remuneration
- 49. Advisory Committee of Office
- 50. Pension and retirement benefits
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CHAPTER I

Interpretation and Application of Act

Definitions

1. In this Act, unless the context indicates otherwise—
- 5 (i) “accounting officer” means the Deputy Auditor-General; (xvi).
 - (ii) “Audit Commission” means the Audit Commission established by section 12; (xii)
 - (iii) “Auditor-General” means the person appointed as such in terms of section 2(1) of the Auditor-General Act, 1989 (Act No. 52 of 1989); (x)
 - 10 (iv) “Auditor-General Act” means the Auditor-General Act, 1989 (Act No. 52 of 1989); (xxiv)
 - (v) “Audit Revenue Fund” means the fund established by section 4; (xi)
 - (vi) “Board” means the Staff Management Board established by section 18; (xiii)
 - 15 (vii) “calendar month” means a period extending from a day in one month to and including the day preceding the day corresponding numerically to the first-mentioned day in the following month; (vi)
 - (viii) “Commission” means the Commission for Administration established by section 2(1) of the Commission for Administration Act, 1984 (Act No. 65 of 1984); (viii)
 - 20 (ix) “department” means a department contemplated in section 6(1) of the Public Service Act; (iv)
 - (x) “Deputy Auditor-General” means the person appointed or deemed to have been appointed in terms of section 27 as such; (i)
 - 25 (xi) “directives” means rules made in terms of section 54; (xxii)
 - (xii) “employee” means a person in the employ of the Office on a temporary basis; (xxiii)
 - (xiii) “financial year” means a year ending on 31 March; (iii)
 - 30 (xiv) “fixed establishment” means the posts which have been created for the normal and regular requirements of the Office; (xx)
 - (xv) “Head of the Office” means the Deputy Auditor-General; (v)
 - (xvi) “month” means a period extending from the first to and including the last day of any of the 12 months of a year; (ix)
 - 35 (xvii) “Office” means the Office of the Auditor-General established by section 3; (vii)
 - (xviii) “officer” means a person appointed permanently in a post on the fixed establishment, although the appointment may be on probation; (ii)
 - 40 (xix) “prescribed” means prescribed by or under this Act; (xxi)
 - (xx) “Public Service Act” means the Public Service Act, 1984 (Act No. 111 of 1984); (xix)
 - (xxi) “regulations” means financial regulations made in terms of section 16(1)(b); (xv)
 - 45 (xxii) “rules” means rules made in terms of section 54; (xiv)
 - (xxiii) “salary scale” means a minimum and maximum salary limit attached to a specific level of work; (xvii)
 - (xxiv) “scale”, in relation to salary, includes a salary at a fixed amount (xviii)

50 Application of Act

2. (1) Except in so far as this section provides otherwise and except where it

waar dit onbestaanbaar met die samehang of duidelik onvanpas is, is die bepalings van hierdie Wet van toepassing op of ten opsigte van alle beamptes en werknemers, hetsy hulle binne of buite die Republiek in diens is, en ten opsigte van persone wat in diens van die Kantoor is of daarin in diens geneem gaan word.

(2) Die bepalings van hierdie Wet is nie van toepassing nie op persone wat ingevolge artikel 9 van die Wet op die Ouditeur-generaal deur die Ouditeur-generaal aangestel is. 5

(3) Alle persone wat onmiddellik voor die inwerkingtreding van hierdie Wet ingevolge die Wet op die Ouditeur-generaal beamptes of werknemers in die kantoor van die Ouditeur-generaal was, word vanaf dié inwerkingtreding beamptes of werknemers, na gelang van die geval, van die Kantoor, en die bepalings van hierdie Wet is op of ten opsigte van dié beamptes of werknemers van toepassing. 10

(4) Die diensvoorwaardes waaronder 'n persoon bedoel in subartikel (3) onmiddellik voor die datum van inwerkingtreding van hierdie Wet diens gedoen het, word nie tot sy nadeel verander nie, en geen sodanige diensvoorwaarde word na daardie datum só uitgelê of toegepas dat dit vir hom minder gunstig is as wat dit onmiddellik voor daardie datum was nie. 15

HOOFSTUK II

Instelling van Kantoor van Ouditeur-generaal en Finansiële Aangeleenthede 20

Instelling van Kantoor van Ouditeur-generaal

3. Hierby word 'n regspersoon ingestel wat die Kantoor van die Ouditeur-generaal heet.

Instelling van Ouditinkomstefonds

4. Hierby word 'n fonds ingestel wat die Ouditinkomstefonds heet en waarin alle inkomste bedoel in artikel 5 gestort en waaruit alle uitgawes bedoel in artikel 7, met inbegrip van die besoldiging, toelaes en uitgawes van die Ouditeur-generaal, bestry word. 25

Inkomste van Kantoor

5. (1) Die inkomste van die Kantoor bestaan uit geld— 30

(a) wat die Parlement bewillig ten einde die Kantoor in staat te stel om sy werksaamhede kragtens hierdie Wet of enige ander wet te verrig;

(b) wat verdien word in verband met dienste wat ingevolge hierdie Wet of enige ander wet deur die Kantoor gelewer word;

(c) wat by wyse van rente op beleggings verdien word soos bedoel in subartikel (4); 35

(d) wat verkry word deur die vervreemding of verhuring van roerende of onroerende goed soos bedoel in artikel 8(4)(a);

(e) wat die Kantoor uit enige ander bron toeval; en

(f) wat by wyse van ander reëlins tot beskikking van die Kantoor kom. 40

(2) (a) Die Kantoor kan skenkings en bemakings aanvaar mits 'n voorwaarde wat aan sodanige skenking of bemaking verbonde mag wees, vir die Adjunk-ouditeur-generaal aanvaarbaar is.

(b) Besonderhede van elke skenking of bemaking wat aldus aanvaar is, moet in die jaarverslag bedoel in artikel 10 ingesluit word. 45

(3) Die Kantoor moet 'n rekening by die Suid-Afrikaanse Reserwebank open, alle geld bedoel in subartikels (1) en (2) in daardie rekening stort en alle betalings daaruit doen.

(4) Die Kantoor kan geld in die rekening vermeld in subartikel (3) wat nie vir onmiddellike gebruik nodig is nie, na goedgee by die Openbare Beleggings-kommissarisse of die Korporasie vir Openbare Deposito's belê. 50

(5) Na die afsluiting van die rekening van die Kantoor aan die einde van 'n boekjaar word soveel van 'n surplus as wat die Ouditkommissie met die instemming van die Minister van Staatsbesteding bepaal, in die Staatsinkomstefonds gestort.

is inconsistent with the context or clearly inappropriate, the provisions of this Act apply to or in respect of all officers and employees, whether they are employed within or outside the Republic, and in respect of persons who are employed in the Office or who are to be employed therein.

5 (2) The provisions of this Act shall not apply to persons appointed by the Auditor-General in terms of section 9 of the Auditor-General Act.

(3) All persons who immediately before the commencement of this Act were officers or employees in the office of the Auditor-General in terms of the Auditor-General Act, shall as from such commencement be officers or employees of the Office, as the case may be, and the provisions of this Act shall apply to or in respect of such officers or employees.

10 (4) The conditions of service under which a person contemplated in subsection (3) served immediately before the date of commencement of this Act, shall not be altered to his detriment; and after that date no such condition of service shall
15 be so interpreted or applied that it is less favourable to him than it was immediately prior to that date.

CHAPTER II

Establishment of Office of Auditor-General and Financial Matters

Establishment of Office of Auditor-General

20 3. There is hereby established a juristic person to be known as the Office of the Auditor-General.

Establishment of Audit Revenue Fund

4. There is hereby established a fund to be known as the Audit Revenue Fund into which all revenue contemplated in section 5 shall be deposited and from
25 which all expenditure contemplated in section 7, including the remuneration, allowances and expenses of the Auditor-General, shall be defrayed.

Revenue of Office

5. (1) The revenue of the Office shall consist of money—
30 (a) appropriated by Parliament in order to enable the Office to perform its functions under this Act or any other law;
(b) earned in connection with services rendered by the Office in terms of this Act or any other law;
(c) earned by way of interest on investments as contemplated in subsection (4);
35 (d) obtained by the alienation or letting of movable or immovable property as contemplated in section 8(4)(a);
(e) accruing to the Office from any other source; and
(f) becoming available to the Office by way of other arrangements.

(2) (a) The Office may accept donations and bequests provided any condition
40 which may be attached to any such donation or bequest, is acceptable to the Deputy Auditor-General.

(b) Particulars of every donation or bequest so accepted shall be included in the annual report contemplated in section 10.

(3) The Office shall open an account with the South African Reserve Bank, deposit in that account all moneys contemplated in subsections (1) and (2) and
45 make all payments therefrom.

(4) The Office may in its discretion invest money in the account mentioned in subsection (3) which is not required for immediate use with the Public Investment Commissioners or the Corporation for Public Deposits.

50 (5) After the closing of the accounts of the Office at the end of a financial year so much of any surplus as the Audit Commission may with the concurrence of the Minister of State Expenditure determine, shall be paid into the State Revenue Fund.

Rekenpligtigheid

6. (1) Die rekenpligtige beampte is belas met die verantwoording vir alle inkomste en uitgawes van die Kantoor.
- (2) Die rekenpligtige beampte moet—
- (a) volledige en juiste aantekeninge hou van alle inkomste en uitgawes en van al die bates, laste en finansiële transaksies van die Kantoor in die formaat deur die Ouditkommissie bepaal; 5
 - (b) binne drie maande na die einde van elke boekjaar of die langer tydperk wat die Ouditkommissie toelaat, finansiële jaarstate bedoel in artikel 10(1)(a), (b) en (c) opstel; 10
 - (c) homself vergewis dat alle redelike bestuursmaatreëls getref is om te verseker dat hulpbronne wat nodig is om die doelstellings van die Kantoor te bereik, sover doenlik op die mees ekonomiese, doeltreffende en effektiewe wyse verkry, beveilig en aangewend word; en
 - (d) die skriftelike opdragte uitvoer wat die Ouditkommissie hom, in sy hoedanigheid van rekenpligtige beampte, gee. 15

Begroting van inkomste en uitgawes van Kantoor

7. (1) Die Adjunk-ouditeur-generaal moet vir elke boekjaar, in 'n formaat deur die Ouditkommissie bepaal, die nodige begroting van inkomste en uitgawes van die Kantoor opstel wat, nadat dit deur die Ouditkommissie goedgekeur is, deur die Adjunk-ouditeur-generaal aan die Speaker gestuur moet word vir ter-tafellegging daarvan in die Parlement. 20
- (2) Indien die Ouditkommissie om die een of ander rede nie die begroting van inkomste en uitgawes in subartikel (1) bedoel goedkeur nie, moet die Ouditeur-generaal die begroting, en die Ouditkommissie en die Ouditeur-generaal elk 'n verslag betreffende die omstandighede wat aanleiding tot nie-goedkeuring van die begroting gegee het, aan die Speaker voorlê vir ter-tafellegging daarvan in die Parlement. 25
- (3) Wanneer die Ouditkommissie of die Ouditeur-generaal ingevolge subartikel (1) of (2), na gelang van die geval, 'n begroting van inkomste en uitgawes van die Kantoor oorweë, moet hy ook— 30
- (a) na oorleg met die Direkteur-generaal: Staatsbesteding, die uitwerking van genoemde begroting op die totale staatsbesteding; en
 - (b) die koste van ouditerings in die privaatsektor vergelykbaar met dié waarmee die Ouditeur-generaal belas is, 35
- behoorlik in ag neem.
- (4) Die gemiddelde oudittarief wat deur die Kantoor vir ouditerings gehef word, mag nie hoër wees nie as dié wat deur 'n bevoegde gesag in die privaatsektor vir ooreenstemmende ouditerings aanbeveel is.

Eiendoms- en ander regte van Kantoor

40

8. (1) Die roerende en onroerende goed van die Staat wat op die datum van inwerkingtreding van hierdie Wet tot die beskikking van die kantoor van die Ouditeur-generaal is, word op dié datum die eiendom van die Kantoor, behalwe vir sover die Minister van Staatsbesteding anders bepaal het.
- (2) Die betrokke registrateur van aktes moet ten opsigte van onroerende goed wat ingevolge subartikel (1) die eiendom van die Kantoor word, die aantekenings of endossemente in sy register aanbring wat hy nodig ag. 45
- (3) Geen heffing, belasting, hereregte, seëlreg of ander koste of gelde by wet opgelê, is betaalbaar nie ten opsigte van die oorgang van eiendom op die Kantoor ingevolge subartikel (1). 50
- (4) Die Kantoor kan—
- (a) die roerende of onroerende goed wat hy vir die verrigting van sy werksaamhede nodig ag, huur, koop of andersins verkry en goed wat aldus gekoop of verkry is, verhuur of verkoop of andersins daarvoor beskik; 55
 - (b) ten einde sy werksaamhede te verrig, 'n ooreenkoms aangaan met enige persoon, met inbegrip van die Staat, vir die verrigting ten behoeve van

Accountability

6. (1) The accounting officer shall be charged with the accounting for all revenue and expenditure of the Office.
- (2) The accounting officer shall—
- 5 (a) keep full and proper records of all revenue and expenditure and of all the assets, liabilities and financial transactions of the Office in the format determined by the Audit Commission;
- (b) within three months after the end of each financial year or such longer period as the Audit Commission may allow, prepare annual financial statements referred to in section 10(1)(a), (b) and (c);
- 10 (c) satisfy himself that all reasonable management measures have been taken to ensure that resources which are necessary for achieving the objectives of the Office are, as far as possible, obtained, safeguarded and utilized in the most economic, efficient and effective manner; and
- 15 (d) carry out the written instructions given to him, in his capacity as accounting officer, by the Audit Commission.

Estimate of revenue and expenditure of Office

7. (1) The Deputy Auditor-General shall for each financial year in a format determined by the Audit Commission prepare the necessary estimate of revenue and expenditure of the Office, which shall, after approval thereof by the Audit Commission, be forwarded to the Speaker for tabling in Parliament.
- (2) If for any reason the Audit Commission does not approve the estimate of revenue and expenditure contemplated in subsection (1), the Auditor-General shall submit the estimate, and the Audit Commission and the Auditor-General shall each submit a report concerning the circumstances that gave rise to non-approval of the estimate, to the Speaker for tabling in Parliament.
- (3) When the Audit Commission or the Auditor-General considers an estimate of revenue and expenditure of the Office in terms of subsection (1) or (2), as the case may be, it or he shall also take into due consideration—
- 30 (a) after consultation with the Director-General: State Expenditure, the effect of the said estimate on the total state expenditure; and
- (b) the cost of audits in the private sector comparable with those with which the Auditor-General is charged.
- (4) The average audit tariff charged for audits by the Office shall not be higher than that recommended by a competent authority in the private sector for corresponding audits.
- 35

Proprietary and other rights of Office

8. (1) The movable and immovable property of the State which is on the date of commencement of this Act at the disposal of the office of the Auditor-General shall on the said date become the property of the Office, except in so far as the Minister of State Expenditure has determined otherwise.
- (2) The registrar of deeds concerned shall in respect of any immovable property which becomes the property of the Office in terms of subsection (1), make such notes and endorsements in his registers as he may deem necessary.
- 45 (3) No levy, tax, transfer duty, stamp duty or any other charges or fees imposed by law shall be payable in respect of the passing of any property to the Office in terms of subsection (1).
- (4) The Office may—
- 50 (a) hire, purchase or otherwise acquire movable or immovable property which it deems necessary for the performance of its functions and may let, sell or otherwise dispose of property so purchased or acquired;
- (b) in order to perform its functions, enter into an agreement with any

- hom van 'n besondere handeling of werksaamheid of die lewering van besondere dienste;
- (c) homself verseker teen enige verlies, skade, risiko of aanspreeklikheid wat hy mag ly of oploop;
- (d) vir die doeleindes van die verkryging van onroerende goed, en met die goedkeuring van die Minister van Finansies, geld leen of op 'n ander wyse verkry; 5
- (e) voorskotte bekom vir die doeleindes, in die mate en op die voorwaardes wat die Minister van Staatsbesteding na oorleg met die Ouditkommissie bepaal; en 10
- (f) in die algemeen die handelinge verrig wat nodig of dienstig is vir die verrigting van sy werksaamhede.

Waarborg deur Staat

9. Die Staat waarborg, waar dit vereis word, alle verpligtinge van die Kantoor wat ingevolge artikel 8(4)(d) aangegaan word. 15

Jaarverslag

10. (1) Die Adjunk-ouditeur-generaal moet elke jaar binne ses maande na die einde van die boekjaar 'n verslag oor die Kantoor se bedrywighede gedurende dié boekjaar aan die Ouditkommissie voorlê, wat die volgende moet insluit:
- (a) 'n Geouditeerde balansstaat, met inbegrip van aantekeninge daarop of 'n stuk daarby aangeheg wat inligting verstrek wat deur hierdie Wet vereis word; 20
- (b) 'n geouditeerde inkomstestaat, met inbegrip van aantekeninge daarop of 'n stuk daarby aangeheg wat inligting verstrek wat deur hierdie Wet vereis word; 25
- (c) 'n geouditeerde kontantvloeistaat, met inbegrip van aantekeninge daarop;
- (d) 'n ouditverslag deur die persoon in artikel 11 bedoel; en
- (e) die verslag in artikel 22 bedoel.
- (2) Die state vermeld in subartikel (1)(a), (b) en (c) moet— 30
- (a) in ooreenstemming wees met algemeen aanvaarde rekeningkundige praktyk;
- (b) die stand van die sake en werksaamhede van die Kantoor en die resultate daarvan, redelik weergee; en
- (c) die aandag vestig op enige tersaaklike aangeleenthede wat die sake van die Kantoor raak of waarskynlik sal raak, al word dit nie elders deur hierdie Wet vereis nie. 35
- (3) Die Ouditkommissie moet 'n verslag wat ingevolge subartikel (1) aan hom voorgelê is, ondersoek, vermeld of die standarde wat by ouditering gevolg word, na sy mening aanvaarbaar is, en die verslag tesame met voorstelle wat hy in verband daarmee wil doen, nie later nie as 30 November van die betrokke jaar stuur aan die Speaker, wat dit in die Parlement ter Tafel moet lê. 40

Ouditering van rekenings van Kantoor

11. (1) Die rekenings van die Kantoor moet geouditeer word deur iemand wat ingevolge die Wet op Openbare Rekenmeesters en Ouditeurs, 1991 (Wet No. 80 van 1991), geregistreer is, nie in diens van die Kantoor is of gedurende die betrokke tydperk werk namens die Kantoor verrig het nie en na die mening van die Ouditkommissie in alle opsigte geskik is om bedoelde ouditering te doen, en deur hom aangestel is. 45
- (2) Die bepalings van artikels 5 en 7 van die Wet op die Ouditeur-generaal is *mutatis mutandis* op 'n ouditering bedoel in subartikel (1) van toepassing, vir sover hulle toegepas kan word. 50
- (3) Die koste verbonde aan 'n ouditering bedoel in subartikel (1) word uit die Ouditinkomstefonds bestry.

- person, including the State, for the performance on its behalf of any specific act or function or the rendering of specific services;
- (c) insure itself against any loss, damage, risk or liability which it may suffer or incur;
- 5 (d) with the approval of the Minister of Finance, borrow or otherwise obtain money for the purpose of acquiring immovable property;
- (e) procure advances for such purposes, to such extent and on such conditions as the Minister of State Expenditure may after consultation with the Audit Commission determine; and
- 10 (f) in general perform such acts as may be necessary or expedient for the performance of its functions.

Guarantee by State

9. The State guarantees, where required, all the liabilities of the Office incurred in terms of section 8(4)(d).

15 Annual report

10. (1) The Deputy Auditor-General shall each year, within six months after the end of the financial year, submit to the Audit Commission a report on the activities of the Office during the said financial year, which shall include the following:
- 20 (a) An audited balance sheet, including any notes thereon or document attached thereto providing information required by this Act;
- (b) an audited income statement, including any notes thereon or document attached thereto providing information required by this Act;
- 25 (c) an audited cash flow statement, including any notes thereon;
- (d) an audit report by the person contemplated in section 11; and
- (e) the report contemplated in section 22.
- (2) The balance sheet and statements contemplated in subsection (1)(a), (b) and (c) shall—
- 30 (a) be in conformity with generally accepted accounting practice;
- (b) fairly present the state of affairs and activities of the Office and the results thereof; and
- (c) draw attention to any relevant matters which affect or are likely to affect the affairs of the Office, although it is not elsewhere required by this Act.
- 35 (3) The Audit Commission shall examine a report submitted to it in terms of subsection (1), state whether, in its opinion, the standards followed in auditing are acceptable, and transmit the report, together with any proposals it may wish to make in connection therewith, not later than 30 November of the year in question to the Speaker, who shall lay it upon the Table in Parliament.

40 Auditing of accounts of Office

11. (1) The accounts of the Office shall be audited by a person who is registered in terms of the Public Accountants' and Auditors' Act, 1991 (Act No. 80 of 1991), is not in the service of the Office or did not during the period in question perform work on behalf of the Office and, in the opinion of the Audit
- 45 Commission, is fit in all respects to do that auditing and has been appointed by it.
- (2) The provisions of sections 5 and 7 of the Auditor-General Act shall *mutatis mutandis* apply, in so far as they can be applied, to an audit referred to in subsection (1).
- 50 (3) The costs in connection with an audit referred to in subsection (1) shall be defrayed from the Audit Revenue Fund.

HOOFTUK III*Ouditkommissie***Instelling van Ouditkommissie**

12. (1) Hierby word 'n kommissie ingestel wat die Ouditkommissie heet.
- (2) Die Ouditkommissie bestaan uit— 5
- (a) agt lede van die Parlement wat die Staatspresident aanstel vir die tydperk, maar van hoogstens vyf jaar, wat hy in elke geval ten tyde van die aanstelling bepaal, en wat nie lede van die uitvoerende gesag of aan die staatsadministrasie verbonde is nie, en wie se kennis van en ondervinding in ouditering, finansiële bestuur en administrasie, en lidmaatskap van die politieke partye wat ten tyde van elke aanstelling in die Parlement verteenwoordig word, hy ook in ag moet neem; en 10
- (b) drie persone van aansien en goeie inbors, van wie geeneen 'n lid van die Parlement of die uitvoerende gesag of aan die staatsadministrasie verbonde is nie, wat die Staatspresident aanstel vir die tydperk, maar van hoogstens vyf jaar, wat hy in elke geval ten tyde van die aanstelling bepaal en wie se kennis van en ondervinding in ouditering, staatsfinansies en administratiewe aangeleenthede hy ook in ag moet neem. 15
- (3) Die Staatspresident wys een van die lede bedoel in subartikel (2)(a) as voorsitter van die Ouditkommissie aan. 20

Ontruiming van amp deur lede van Ouditkommissie

13. (1) Behoudens subartikel (2) ontruim 'n lid van die Ouditkommissie, met inbegrip van die voorsitter daarvan, sy amp indien—
- (a) behoudens subartikel (3), hy 'n lid van die Parlement is en ophou om so 'n lid te wees; 25
- (b) hy nie 'n lid van die Parlement is nie en onderworpe raak aan 'n toestand beoog in artikel 54(a), (b) of (c) van die Grondwet van die Republiek van Suid-Afrika, 1983 (Wet No. 110 van 1983); of
- (c) sy ampstermyn verstryk.
- (2) 'n Lid van die Ouditkommissie kan te eniger tyd, by wyse van 'n kennisgewing aan die Ouditkommissie, bedank. 30
- (3) Indien die Parlement ontbind word, bly die voorsitter van die Ouditkommissie en die ander lede van dié kommissie wat lede van die Parlement is, aan in hul ampte in die Ouditkommissie totdat die Parlement vir die eerste keer na 'n algemene verkiesing byeenkom. 35

Ondervoorsitter van Ouditkommissie

14. (1) Die lede van die Ouditkommissie kies uit eie geledere 'n ondervoorsitter.
- (2) Indien die voorsitter nie by 'n vergadering van die Ouditkommissie aanwesig is nie, neem die ondervoorsitter by die vergadering as voorsitter waar. 40

Werksaamhede van Ouditkommissie

15. Die Ouditkommissie verrig die werksaamhede wat by of ingevolge hierdie Wet of 'n ander wet aan hom opgedra word.

Werkwyse van Ouditkommissie

16. (1) Die Ouditkommissie— 45
- (a) kan sy eie werkwyse bepaal;
- (b) moet regulasies uitvaardig betreffende die wyse waarop die finansiële aangeleenthede van die Kantoor behartig moet word; en
- (c) kan sodanige regulasies bekend maak op die wyse wat hy goeddink.
- (2) (a) Aan 'n lid van die Ouditkommissie word uit die Ouditinkomstefonds die besoldiging en toelaes betaal wat die Staatspresident bepaal. 50
- (b) Ondanks andersluidende bepalings van die Grondwet van die Republiek van Suid-Afrika, 1983 (Wet No. 110 van 1983), en ondanks die betaling van sodanige besoldiging en toelaes aan so 'n lid sal hy nie bloot op grond daarvan geag word 'n winsbetrekking in diens van die Republiek te beklee nie. 55

CHAPTER III

Audit Commission

Establishment of Audit Commission

12. (1) There is hereby established a commission to be known as the Audit Commission.

(2) The Audit Commission shall consist of—

(a) eight members of Parliament appointed by the State President for such period, not exceeding five years, as he may determine in each case at the time of the appointment, who shall not be members of the executive authority or attached to the state administration, and whose knowledge of and experience in auditing, financial management and administration, and membership of the political parties represented in Parliament at the time of each appointment, he shall also take into consideration; and

(b) three persons of stature and good character, none of whom shall be a member of Parliament or the executive authority or attached to the state administration, appointed by the State President for such period, not exceeding five years, as he may determine in each case at the time of the appointment and whose knowledge of and experience in auditing, state finance and administrative affairs he shall also take into consideration.

(3) The State President shall designate one of the members referred to in subsection (2)(a) as chairman of the Audit Commission.

Vacating of office by members of Audit Commission

13. (1) Subject to subsection (2), a member of the Audit Commission, including the chairman thereof, shall vacate his office if—

(a) subject to subsection (3), he is a member of Parliament and ceases to be such a member;

(b) he is not a member of Parliament and becomes the subject of a condition contemplated in section 54(a), (b) or (c) of the Republic of South Africa Constitution Act, 1983 (Act No. 110 of 1983); or

(c) his period of office expires.

(2) A member of the Audit Commission may at any time resign by giving notice to the Audit Commission.

(3) If Parliament is dissolved, the chairman of the Audit Commission and the other members of the said commission who are members of Parliament shall continue in office as members of the Audit Commission until Parliament assembles for the first time after a general election.

Deputy Chairman of Audit Commission

14. (1) The members of the Audit Commission shall elect from among themselves a deputy chairman.

(2) If the chairman is not present at a meeting of the Audit Commission the deputy chairman shall act as chairman at such meeting.

Functions of Audit Commission

15. The Audit Commission shall perform the functions assigned to it by or in terms of this Act or any other law.

Procedure of Audit Commission

16. (1) The Audit Commission—

(a) may determine its own procedure;

(b) shall make regulations concerning the manner in which the financial affairs of the Office shall be managed; and

(c) may make such regulations known in a manner it deems fit.

(2) (a) A member of the Audit Commission shall be paid from the Audit Revenue Fund the remuneration and allowances determined by the State President.

(b) Notwithstanding anything to the contrary contained in the Republic of South Africa Constitution Act, 1983 (Act No. 110 of 1983), and notwithstanding the payment of such remuneration and allowances to such a member he shall not merely by reason thereof be deemed to hold an office of profit in the service of the Republic.

- (3) Op 'n vergadering van die Ouditkommissie bestaan 'n kworum uit agt lede.
- (4) Behoudens subartikel (3) is 'n handeling van die Ouditkommissie nie ongeldig nie bloot vanweë 'n vakature in die Ouditkommissie of 'n gebrek in verband met die aanstelling van 'n lid.
- (5) Die uitgawes verbonde aan die werksaamhede van die Ouditkommissie word uit die Ouditinkomstefonds bestry. 5

HOOFSTUK IV

Organisasie en Administrasie

Indeling van personeel en poste

17. (1) Beamptes en werknemers word in diens gehou— 10
- (a) in die vaste diensstaat, hetsy as permanente of tydelike bekleërs van die betrokke poste;
- (b) bykomend by die vaste diensstaat wanneer dit nodig is vir die verrigting van 'n soort werk waarvoor personeel nie normaalweg permanent in diens gehou word nie, of wanneer dit om 'n ander rede nodig is om die personeel van die Kantoor tydelik aan te vul, 15
- en kan in diens gehou word in of teen poste van 'n hoër of laer graad as dié wat by hul rang pas.
- (2) Daar word aan die verskillende poste waaruit die vaste diensstaat bestaan, die verskillende benamings en graderings toegeken wat die Raad bepaal. 20
- (3) Alle poste wat by die inwerkingtreding van hierdie Wet ingevolge die Wet op die Ouditeur-generaal bestaan, word vanaf daardie datum geag ingevolge hierdie Wet ingestel te wees.
- (4) 'n Persoon, uitgesonderd iemand in subartikel (1)(b) bedoel, wat onmiddellik voor die datum van inwerkingtreding van hierdie Wet ingevolge die Wet op die Ouditeur-generaal in diens van die kantoor van die Ouditeur-generaal was, word vanaf daardie datum geag ingevolge hierdie Wet aangestel te wees in die toepaslike pos wat by die diensstaat van die Kantoor inbegrepe is. 25

Instelling en samestelling van Personeelbestuursraad

18. (1) Hierby word 'n Personeelbestuursraad ingestel. 30
- (2) Die Raad bestaan uit die Adjunk-ouditeur-generaal, wat die voorsitter is, en 10 ander persone wat die Ouditeur-generaal aanwys en van wie—
- (a) sewe uit hoofde van die bepalings van hierdie Wet poste op die een of ander van die vier hoogste posvlakke in die Kantoor as beamptes beklee;
- (b) een deur die Kommissie benoem is; en 35
- (c) een deur die Openbare Rekenmeesters- en Ouditeursraad vermeld in artikel 2(1) van die Wet op Openbare Rekenmeesters en Ouditeurs, 1991 (Wet No. 80 van 1991), benoem is uit eie geledere en wat nie in die heeltidse diens van die Staat is nie.
- (3) Wanneer die Ouditeur-generaal iemand wat nie 'n beampte of werknemer is nie, ingevolge subartikel (2) aanwys, moet hy ook so iemand se kennis van en ondervinding in personeelbestuur en arbeidsreg in ag neem. 40
- (4) Die Raad kies uit eie geledere 'n ondervoorsitter.
- (5) Wanneer die voorsitter afwesig is, neem die ondervoorsitter as voorsitter van die Raad waar, en wanneer sowel die voorsitter as die ondervoorsitter afwesig is, wys die Ouditeur-generaal 'n lid van die Raad aan om gedurende sodanige gelyktydige afwesigheid van die voorsitter en die ondervoorsitter as voorsitter van die Raad waar te neem. 45

Bevoegdhede, werksaamhede en pligte van Raad

19. (1) Die Raad oefen die bevoegdhede uit, verrig die werksaamhede en voer die pligte uit wat aan hom verleen, opgedra of opgelê word by of ingevolge hierdie Wet of 'n ander wet. 50
- (2) Behoudens die bepalings van subartikel (3) kan 'n bevoegdheid, werksaamheid of plig vermeld in subartikel (1) uitgeoefen, verrig of uitgevoer word deur iemand in diens van die Kantoor ingevolge 'n algemene of spesiale delegasie of opdrag deur die Raad en onderworpe aan die voorwaardes wat die Raad bepaal. 55

- (3) At a meeting of the Audit Commission a quorum consists of eight members.
- (4) Subject to subsection (3), an act by the Audit Commission shall not be invalid by reason only of a vacancy on the Audit Commission or any defect in connection with the appointment of any member.
- 5 (5) The expenditure connected with the functions of the Audit Commission shall be defrayed from the Audit Revenue Fund.

CHAPTER IV

Organization and Administration

Classification of staff and posts

- 10 17. (1) Officers and employees shall be employed—
- (a) on the fixed establishment, either as permanent or temporary incumbents of the posts in question;
- (b) additional to the fixed establishment, when it is necessary for the performance of a kind of work for which staff are not normally
- 15 employed permanently, or when it is necessary, for any other reason, to increase the staff of the Office temporarily,
- and may be employed in or against posts of a higher or lower grade than those which fit their rank.
- (2) There shall be assigned to the different posts of which the fixed establishment
- 20 consists the various designations and gradings determined by the Board.
- (3) All posts which at the commencement of this Act exist in terms of the Auditor-General Act, shall from that date be deemed to have been established in terms of this Act.
- (4) A person, excluding a person contemplated in subsection (1)(b), who was
- 25 in terms of the Auditor-General Act in the employment of the office of the Auditor-General immediately prior to the date of commencement of this Act, shall from that date be deemed to have been appointed in terms of this Act in the appropriate post included in the establishment of the Office.

Establishment and constitution of Staff Management Board

- 30 18. (1) There is hereby established a Staff Management Board.
- (2) The Board shall consist of the Deputy Auditor-General, who shall be the chairman, and 10 other persons who shall be designated by the Auditor-General and of whom—
- (a) seven occupy, by virtue of the provisions of this Act, posts as officers
- 35 on any of the four highest post levels in the Office;
- (b) one has been nominated by the Commission; and
- (c) one has been nominated from among themselves by the Public Accountants' and Auditors' Board mentioned in section 2(1) of the Public Accountants' and Auditors' Act, 1991 (Act No. 80 of 1991), and
- 40 who is not in the full-time service of the State.
- (3) When the Auditor-General designates in terms of subsection (2) any person who is not an officer or employee he shall also take into consideration such person's knowledge of and experience in staff management and labour law.
- (4) The Board shall elect from among themselves a deputy chairman.
- 45 (5) When the chairman is absent the deputy chairman shall act as chairman of the Board, and when both the chairman and the deputy chairman are absent, the Auditor-General shall designate a member of the Board to act as chairman of the Board during such simultaneous absence of the chairman and deputy chairman.

Powers, functions and duties of Board

- 50 19. (1) The Board may exercise the powers and shall perform the functions and carry out the duties conferred upon, assigned to or imposed upon it by or in terms of this Act or any other law.
- (2) Subject to the provisions of subsection (3), a power, function or duty mentioned in subsection (1) may be exercised, performed or carried out by a
- 55 person employed by the Office, in terms of a general or special delegation or assignment by the Board and subject to the conditions determined by the Board.

(3) Die Raad delegeer nie 'n bevoegdheid aan hom verleen by subartikel (2), (9)(a), (10)(a), (b), (f) of (h) of (12)(a), (b), (c) of (d) nie.

(4) 'n Delegasie of opdrag kragtens hierdie artikel kan te eniger tyd deur die Raad ingetrek of gewysig word, of die betrokke bevoegdheid, werksaamheid of plig kan deur die Raad self uitgeoefen word.

(5) 'n Bevoegdheid, werksaamheid of plig wat by of ingevolge 'n bepaling van 'n ander wet as die Staatsdienswet aan die Kommissie verleen of opgedra word, word geag aan die Raad verleen of opgedra te wees vir sover dié bevoegdheid, werksaamheid of plig betrekking het op die Ouditeur-generaal of die Kantoor of persone wat ingevolge hierdie Wet in die Kantoor aangestel is of geag word daarin aangestel te wees.

(6) 'n Bepaling van 'n ander wet as die Staatsdienswet met betrekking tot 'n aanbeveling, lasgewing, ondersoek, inspeksie, verslag of ander handeling van die Kommissie uit hoofde van 'n bevoegdheid, werksaamheid of plig in subartikel (5) vermeld, is *mutatis mutandis* van toepassing met betrekking tot 'n ooreenstemmende aanbeveling, lasgewing, ondersoek, inspeksie, verslag of ander handeling van die Raad uit hoofde van die ooreenstemmende bevoegdheid, werksaamheid of plig ingevolge daardie subartikel aan hom verleen of opgedra.

(7) 'n Bepaling van 'n ander wet as die Staatsdienswet waarvolgens 'n bevoegdheid, werksaamheid of plig aan die Kommissie verleen of opgedra kan word, word geag 'n bepaling te wees waarvolgens die betrokke bevoegdheid, werksaamheid of plig aan die Raad verleen of opgedra kan word vir sover daardie bevoegdheid, werksaamheid of plig betrekking het op die Kantoor of beamptes of werknemers of op persone wat in diens van die Kantoor was of geneem gaan word.

(8) By die toepassing van subartikels (5), (6) en (7) en by die toepassing, met betrekking tot die Kantoor of persone wat in diens van die Kantoor was of geneem gaan word, van 'n bepaling van 'n ander wet as die Staatsdienswet, word, tensy uit die samehang anders blyk, 'n verwysing in so 'n bepaling of 'n bepaling van genoemde subartikels of in 'n ooreenkoms, vasstelling of ander geskrif daarkragtens aangegaan, gedoen of opgestel, na—

- (a) die Staatsdiens, uitgelê as 'n verwysing na die Kantoor;
- (b) 'n persoon wat 'n beampte of werknemer in die Staatsdiens is ingevolge die omskrywing van "beampte" en "werknemer" in artikel 1 van die Staatsdienswet, uitgelê as 'n verwysing na 'n beampte of werknemer in die diens van die Kantoor;
- (c) die Kommissie, uitgelê as 'n verwysing na die Raad en, in verband met 'n bevoegdheid, werksaamheid of plig wat by sodanige bepaling, ooreenkoms, vasstelling of geskrif aan die Kommissie verleen, opgedra of opgelê word, ook as 'n verwysing na 'n beampte aan wie die uitoefening van sodanige bevoegdheid, die verrigting van sodanige werksaamheid of die uitvoering van sodanige plig deur die Raad gedelegeer of opgedra is;
- (d) die Tesourie of die Minister van Staatsbesteding, uitgelê as 'n verwysing na die Ouditeur-generaal; en
- (e) die Staatsinkomstefonds, uitgelê as 'n verwysing na die Ouditinkomstefonds.

(9) (a) Behoudens die bepalings van hierdie Wet kan die Raad—

- (i) aanbevelings doen en lasgewings uitreik betreffende alle aangeleenthede waarvoor daar nie uitdruklik in hierdie Wet of enige ander wet voorsiening gemaak word nie, maar wat nie daarmee in stryd is nie en betrekking het op of voortspruit uit die indiensneming en die diensvoorwaardes, in die algemeen, van beamptes en werknemers in die Kantoor; en
- (ii) met betrekking tot voormalige beamptes en werknemers aanbevelings doen of lasgewings uitreik betreffende enige aangeleentheid ten opsigte waarvan hy kragtens die bepalings van hierdie Wet of enige ander wet aanbevelings kan doen of lasgewings kan uitreik in die geval van dienende beamptes en werknemers.

(b) 'n Aanbeveling of lasgewing bedoel in paragraaf (a)(ii) mag nie tot nadeel van 'n voormalige beampte of werknemer strek nie, en die Raad mag nie so 'n aanbeveling doen of lasgewing uitreik nie ten opsigte van 'n voormalige beampte of werknemer na verstryking van 'n tydperk van twee jaar nadat hy opgehou het om 'n beampte of werknemer te wees.

(3) The Board shall not delegate a power conferred upon it by subsection (2), (9)(a), (10)(a), (b), (f) or (h) or (12)(a), (b), (c) or (d).

(4) Any delegation or assignment under this section may at any time be withdrawn or amended by the Board, or the power, function or duty in question may be performed by the Board itself.

(5) A power, function or duty conferred upon or assigned to the Commission by or in terms of any provision of any law other than the Public Service Act, shall be deemed to be conferred upon or assigned to the Board in so far as such power, function or duty relates to the Auditor-General or the Office or the persons who have been appointed or are deemed to have been appointed in the Office in terms of this Act.

(6) A provision of any law other than the Public Service Act, in relation to any recommendation, direction, investigation, inspection, report or other act of the Commission by virtue of any power, function or duty mentioned in subsection (5), shall apply *mutatis mutandis* with reference to a corresponding recommendation, direction, investigation, inspection, report or other act of the Board by virtue of the corresponding power, function or duty conferred upon or assigned to it in terms of that subsection.

(7) A provision of any law other than the Public Service Act in terms of which a power, function or duty may be conferred upon or assigned to the Commission, shall be deemed to be a provision in terms of which the power, function or duty in question may be conferred upon or assigned to the Board in so far as that power, function or duty relates to the Office or officers or employees or to persons who were in or are to be taken into the service of the Office.

(8) In the application of subsections (5), (6) and (7) and in the application of any provision of any law, other than the Public Service Act, in relation to the Office or persons who were in or are to be taken into the service of the Office, a reference in any such provision or a provision of the said subsections or in any agreement, determination or other document concluded, made or drawn up in terms of it, unless the context otherwise indicates, to—

(a) the Public Service, shall be construed as a reference to the Office;

(b) a person who is an officer or employee in the Public Service in terms of the definition of "officer" and "employee" in section 1 of the Public Service Act, shall be construed as a reference to an officer or employee in the service of the Office;

(c) the Commission, shall be construed as a reference to the Board and, in connection with any power, function or duty conferred upon, entrusted to or imposed upon the Commission by any such provision, agreement, determination or document, also as a reference to any officer to whom the exercise of such power, the performance of such function or the execution of such duty has been delegated or assigned by the Board;

(d) the Treasury or the Minister of State Expenditure, shall be construed as a reference to the Auditor-General; and

(e) the State Revenue Fund, shall be construed as a reference to the Audit Revenue Fund.

(9) (a) Subject to the provisions of this Act, the Board may—

(i) make recommendations and give directions regarding all matters not specifically provided for in this Act or any other law, but not inconsistent therewith, relating to or arising out of the employment of and the conditions of service generally of officers and employees in the Office; and

(ii) make recommendations or give directions regarding former officers and employees concerning any matter in respect of which it may, under the provisions of this Act or any other law, make recommendations or give directions in the case of serving officers and employees.

(b) A recommendation or direction contemplated in paragraph (a)(ii) may not be to the detriment of a former officer or employee, and the Board may not make such a recommendation or give such a direction in respect of any former officer or employee after the expiry of a period of two years after he ceased to be an officer or employee.

- (10) Die Raad kan aanbevelings doen—
- (a) betreffende die instelling of afskaffing van organisasiekomponente en streek- en takkantore van die Kantoor;
 - (b) betreffende die beheer, organisasie of herreëling van die sake van die Kantoor;
 - (c) betreffende die getal, gradering, hergradering, benaming, herbenaming of omskepping van die vaste diensstaat;
 - (d) betreffende die getal persone wat tydelik of, hetsy in 'n heeltydse of deeltydse hoedanigheid, op kontrak in diens geneem moet word—
 - (i) teen poste van die vaste diensstaat wat nie permanent gevul is nie; en
 - (ii) bykomend by die vaste diensstaat, hetsy weens die afwesigheid van die bekleër van 'n pos, of omdat dit nodig is om personeel te voorsien vir die verrigting van 'n soort werk waarvoor personeel nie onder gewone omstandighede op 'n permanente grondslag in diens gehou word nie, of omdat dit om enige ander rede nodig is om die personeel van die Kantoor tydelik te vergroot;
 - (e) wanneer nodig, betreffende die indiensneming van 'n persoon of die indienshouding van 'n beampte in of teen 'n pos wat hoër of laer is as dié wat by sy rang pas, of bykomend by die vaste diensstaat;
 - (f) betreffende die skale van salarisse, lone of toelaes van al die verskillende klasse beamptes en werknemers of beamptes en werknemers van verskillende rang of graad, asook salarisskale ten opsigte van bepaalde klasse beamptes en werknemers of beamptes en werknemers van bepaalde rang of graad;
 - (g) betreffende die persone wat aangestel of bevorder moet word; en
 - (h) betreffende reëls wat kragtens artikel 54 uitgevaardig kan word.
- (11) Indien die Raad versoek word om 'n aanbeveling ten opsigte van die een of ander persoon of aangeleentheid te doen en hy weier of versuim om dit te doen, word bedoelde weiering of versuim geag 'n aanbeveling van die Raad te wees.
- (12) Die Raad kan lasgewings uitreik—
- (a) betreffende—
 - (i) die leeftyd en die opvoedkundige, taal- en ander kwalifikasies wat persone moet bereik het of besit by aanstelling, oorplasing of bevordering in of na die Kantoor, waar dié leeftyd of kwalifikasies nie by of kragtens hierdie Wet of enige ander wet voorgeskryf word nie; en
 - (ii) die klasse poste en betrekkings met betrekking waartoe en die omstandighede waarin 'n beampte wat regtens bevoeg is om aanstellings, oorplasing of bevorderings te doen, ander kwalifikasies as dié in subparagraaf (i) bedoel, kan vereis;
 - (b) betreffende die vereistes waaraan iemand se gesondheidstoestand moet voldoen voordat hy as 'n beampte aangestel kan word;
 - (c) wanneer nodig, betreffende die sekerheidsvereistes waaraan beamptes of werknemers moet voldoen; en
 - (d) betreffende die opleiding wat beamptes en werknemers moet ondergaan.
- (13) Die Raad—
- (a) moet ondersoek instel na griewe van beamptes en werknemers en moet, behoudens die bepalinge van hierdie Wet, die aanbevelings daaroor doen wat hy goedgevind;
 - (b) moet, wanneer nodig, die opleiding verskaf of laat verskaf of die eksamens of toetse afneem of laat afneem wat, volgens sy lasgewing of soos voorgeskryf, 'n kwalifikasie is vir die aanstelling, bevordering of oorplasing van persone in of na die Kantoor; en
 - (c) kan voorskrifte uitreik wat nie met hierdie Wet in stryd is nie ter toeligting of aanvulling van die reëls.
- (14) 'n Bepaling van hierdie Wet waarvolgens 'n bevoegdheid, werksaamheid of plig aan die Raad verleen of opgedra word, word geag 'n bepaling te wees waarvolgens die betrokke bevoegdheid, werksaamheid of plig aan die Ouditeur-generaal verleen of opgedra word vir sover daardie bevoegdheid, werksaamheid of plig betrekking het op die drie hoogste posvlakke in die Kantoor of persone wat lede is van die Raad en ingevolge Hoofstuk V in die Kantoor aangestel is: Met dien verstande dat die Ouditeur-generaal 'n bevoegdheid, werksaamheid of plig

- (10) The Board may make recommendations—
- (a) regarding the establishment or abolition of establishment components and regional and branch offices of the Office;
 - (b) regarding the control, organization or readjustment of the affairs of the Office;
 - (c) regarding the number, grading, regrading, designation, redesignation or conversion of the fixed establishment;
 - (d) regarding the number of persons to be employed temporarily or under contract, whether in a full-time or a part-time capacity—
 - (i) against posts of the fixed establishment which are not permanently filled; and
 - (ii) additional to the fixed establishment, either by reason of the absence of the incumbent of any post, or because it is necessary to provide staff for the performance of a kind of work for which staff is not ordinarily employed on a permanent basis, or because it is necessary for any other reason to increase temporarily the staff of the Office;
 - (e) when necessary, regarding the employment of a person or the continued employment of an officer in or against a post which is higher or lower than that which fits his rank, or additional to the fixed establishment;
 - (f) regarding the scales of salaries, wages or allowances of all the various classes of officers and employees or officers and employees of different ranks or grades, as well as salary scales in respect of particular classes of officers and employees or officers and employees of a particular rank or grade;
 - (g) regarding the persons to be appointed or promoted; and
 - (h) regarding rules that can be made under section 54.
- (11) If the Board is requested to make a recommendation in respect of any person or matter and it refuses or fails to do so, that refusal or failure shall be deemed to be a recommendation of the Board.
- (12) The Board may give directions—
- (a) regarding—
 - (i) the age and the educational, language and other qualifications to have been attained or to be possessed by persons on appointment, transfer or promotion in or to the Office, where that age and those qualifications are not prescribed by or under this Act or any other law; and
 - (ii) the classes of posts and positions in respect of which and the circumstances under which any officer who is legally empowered to appoint, transfer or promote may require qualifications other than those contemplated in subparagraph (i);
 - (b) regarding the requirements with which the condition of health of a person shall comply before he may be appointed as an officer;
 - (c) when necessary, regarding the security requirements with which officers and employees have to comply; and
 - (d) regarding the training which officers and employees have to undergo.
- (13) The Board—
- (a) shall inquire into the grievances of officers and employees and shall, subject to the provisions of this Act, make such recommendations thereon as it may think fit;
 - (b) shall, when necessary, provide or cause to be provided the training, or conduct or cause to be conducted the examinations or tests which, according to its directions or as prescribed, are a qualification for the appointment, promotion or transfer of persons in or to the Office; and
 - (c) may issue directives which are not contrary to this Act to elucidate or supplement the rules.
- (14) A provision of this Act according to which a power, function or duty conferred upon or assigned to the Board, is deemed to be a provision according to which the power, function or duty concerned is conferred upon or assigned to the Auditor-General in so far as that power, function or duty relates to the three highest post levels in the Office or persons that are members of the Board and were appointed in the Office in terms of Chapter V: Provided that the

ingevolge hierdie subartikel aan hom verleen of opgedra, met die skriftelike instemming van minstens twee lede van die Raad wat nie ingevolge Hoofstuk V in die Kantoor aangestel is nie moet uitoefen of uitvoer.

(15) 'n Aanbeveling van die Raad word, behoudens die ander bepalings van hierdie Wet, deur die Adjunk-ouditeur-generaal uitgevoer. 5

Vergaderings en beslissings van Raad

20. (1) Die Raad vergader so dikwels as wat nodig is.

(2) Op 'n vergadering van die Raad bestaan 'n kworum uit agt lede, wat nie die voorsitter hoef in te sluit nie.

(3) Die Raad beslis oor 'n aangeleentheid— 10

(a) by meerderheid van stemme uitgebring op 'n vergadering deur die aanwesige lede; of

(b) by skriftelike instemming van al die lede van die Raad.

(4) By 'n staking van stemme oor 'n aangeleentheid wat die Raad op 'n vergadering oorweeg, het die voorsitter 'n beslissende stem benewens sy beraadslagende stem. 15

(5) Elke lid wat op 'n vergadering aanwesig is, bring sy stem uit oor elke aangeleentheid wat daarop oorweeg word.

(6) (a) Die eerste vergadering van die Raad word gehou op 'n tyd en plek wat die Ouditeur-generaal bepaal, en latere vergaderings op tye en plekke wat die voorsitter bepaal. 20

(b) Die Raad bepaal, behoudens die bepalings van hierdie Wet, sy eie prosedures en stel dit op skrif.

(c) By 'n vergadering van die Raad word die voorgeskrewe prosedure gevolg: Met dien verstande dat tot tyd en wyl 'n prosedure aldus voorgeskryf is, die prosedure gevolg word wat die voorsitter bepaal. 25

Aanbevelings van Raad

21. (1) By die toepassing van hierdie Wet en enige ander wet word 'n aanbeveling van die Raad geag—

(a) gedoen te wees op die datum van die skriftelike mededeling waarin die aanbeveling oorgedra word; en 30

(b) as dit op 'n bepaalde persoon betrekking het, uitgevoer te wees op die datum waarop 'n gemagtigde beampte daardie persoon skriftelik in kennis gestel het van dié aanbeveling.

(2) (a) 'n Aanbeveling van die Raad wat op 'n bepaalde persoon betrekking het, kan, voordat dit uitgevoer is, deur die Raad teruggetrek of gewysig of verder gewysig word, of, behoudens die bepalings van subartikel (4), te eniger tyd binne 'n tydperk van ses kalendermaande vanaf die datum waarop dit deur die Raad gedoen of gewysig of verder gewysig is, deur die Ouditeur-generaal verwerp of gewysig word. 40

(b) Die verwerping of wysiging van 'n aanbeveling deur die Ouditeur-generaal ingevolge paragraaf (a) moet vermeld word in die verslag bedoel in artikel 22.

(c) Behoudens die bepalings van subartikel (6) moet elke aanbeveling van die Raad wat op 'n bepaalde persoon betrekking het—

(i) indien die Ouditeur-generaal dit gewysig het, onverwyld soos aldus gewysig, deur 'n gemagtigde beampte uitgevoer word; en 45

(ii) indien die Ouditeur-generaal dit nie wysig of verwerp nie, onverwyld soos deur die Raad gedoen of gewysig, deur 'n gemagtigde beampte uitgevoer word.

(3) Indien die Ouditeur-generaal 'n aanbeveling van die Raad verwerp het, moet daar ooreenkomstig die beslissing van die Ouditeur-generaal met die aangeleentheid gehandel word, sonder om 'n verdere aanbeveling van die Raad te verkry. 50

(4) (a) Iemand mag nie 'n aansoek om die verwerping of wysiging van 'n aanbeveling in subartikel (2) bedoel, by die Ouditeur-generaal indien nie tensy hy die Raad minstens 14 dae kennis gegee het van sy voorneme om dit te doen. 55

(b) 'n Kennisgewing in paragraaf (a) bedoel, moet die gronde uiteensit waarop die persoon van voorneme is om sy aansoek te baseer.

(5) (a) 'n Aanbeveling van die Raad wat nie op 'n bepaalde persoon betrekking het nie— 60

Auditor-General shall exercise or perform a power, function or duty conferred upon or assigned to him in terms of this subsection with the written consent of at least two members of the Board who were not appointed in the Office in terms of Chapter V.

- 5 (15) A recommendation of the Board shall, subject to the other provisions of this Act, be carried out by the Deputy Auditor-General.

Meetings and decisions of Board

20. (1) The Board shall meet as often as may be necessary.
(2) At a meeting of the Board a quorum shall consist of eight members, who
10 need not include the chairman.
(3) The Board shall decide on any matter—
 (a) by a majority of votes cast at a meeting by the members present; or
 (b) by written consent of all the members of the Board.
(4) In the event of an equality of votes on any matter considered by the Board
15 at a meeting, the chairman shall have a casting vote in addition to his deliberative vote.
(5) Every member present at a meeting shall cast his vote on every matter considered at the meeting.
(6) (a) The first meeting of the Board shall be held at a time and place
20 determined by the Auditor-General, and subsequent meetings at times and places determined by the chairman.
 (b) Subject to the provisions of this Act, the Board shall determine its own procedures and put them in writing.
 (c) At a meeting of the Board the prescribed procedure shall be followed:
25 Provided that until a procedure has been so prescribed, the procedure determined by the chairman shall be followed.

Recommendations of Board

21. (1) For the purposes of this Act and any other law, a recommendation of the Board is deemed—
30 (a) to have been made on the date of the written communication conveying that recommendation; and
 (b) if it relates to a particular person, to have been carried out on the date on which an authorized officer notified such person in writing of that recommendation.
35 (2) (a) A recommendation of the Board which relates to a particular person may be withdrawn or amended or further amended by the Board before it has been carried out or, subject to the provisions of subsection (4), be rejected or amended by the Auditor-General at any time within a period of six calendar
40 months from the date upon which it was made or amended or further amended by the Board.
 (b) The rejection or amendment of a recommendation by the Auditor-General in terms of paragraph (a) shall be mentioned in the report contemplated in section 22.
 (c) Subject to the provisions of subsection (6), every recommendation of the
45 Board which relates to a particular person shall—
 (i) if the Auditor-General has amended it, be carried out forthwith, as so amended, by an authorized officer; and
 (ii) if the Auditor-General has not amended or rejected it, be carried out forthwith, as made or amended by the Board, by an authorized officer.
50 (3) If the Auditor-General has rejected a recommendation of the Board, the matter shall be dealt with in accordance with the decision of the Auditor-General without obtaining a further recommendation of the Board.
 (4) (a) A person shall not make an application for the rejection or amendment of a recommendation contemplated in subsection (2) to the Auditor-General
55 unless he has given the Board at least 14 days notice of his intention so to do.
 (b) A notice contemplated in paragraph (a) shall set forth the grounds upon which the person intends to base his application.
 (5) (a) A recommendation of the Board which does not relate to a particular person—

- (i) kan, voordat dit uitgevoer is, deur die Raad teruggetrek of gewysig of verder gewysig word te eniger tyd binne 'n tydperk van ses kalendermaande vanaf die datum waarop dit deur die Raad gedoen of die vorige keer gewysig is; en
- (ii) moet, as die tydperk bedoel in subparagraaf (i) verstryk het en dit nog nie uitgevoer of deur die Raad teruggetrek is nie, onverwyld soos deur die Raad gedoen of gewysig deur die Hoof van die Kantoor uitgevoer word,

maar die voorgaande bepalings belet nie die Raad om te eniger tyd enige aanbeveling betreffende die indiensneming of diensvoorwaardes van persone terug te trek of te wysig nie, al sou diensvoorrede daardeur verminder of persone daardeur diensvoorrede ontnem word.

(b) Die bepalings van subartikel (2) is *mutatis mutandis* van toepassing ten opsigte van 'n aanbeveling van die Raad betreffende enige aangeleentheid met betrekking tot persone, uitgesonderd persone wat ingevolge hierdie Wet aangestel is, ongeag of dié aanbeveling 'n besondere persoon raak of nie.

(6) 'n Aanbeveling van die Raad wat uitgewes uit die Ouditinkomstefonds meebring, mag nie uitgevoer word nie tensy die rekenpligtige beampte dié uitgewes goedkeur.

Jaarverslae deur Raad

22. (1) Die Raad stel so spoedig doenlik na 31 Maart van elke jaar, maar nie later nie as 30 Junie, 'n verslag op oor die aangeleenthede wat deur hom of namens hom behandel is gedurende die jaar wat op daardie dag geëindig het.

(2) 'n Verslag in subartikel (1) bedoel, word opgeneem in elke jaarverslag wat die Adjunk-ouditeur-generaal ingevolge artikel 10 opstel.

Voorstelle deur Adviserende Komitee en personeelverenigings

23. Wanneer die Raad die bevoegdhede wat ingevolge die bepalings van hierdie Wet by hom berus, uitoefen, moet hy voorstelle wat aan hom voorgelê mag gewees het deur die Adviserende Komitee van die Kantoor bedoel in artikel 49 en deur relevante erkende personeelverenigings, in ag neem.

Besoldiging en diensvoorwaardes van lede van Raad

24. Aan 'n lid van die Raad wat nie in die heeltidse diens van die Kantoor of die Staat is nie, word uit die Ouditinkomstefonds die besoldiging en toelaes betaal wat die Ouditeur-generaal met die instemming van die Ouditkommissie bepaal.

HOOFSTUK V

Aanstelling, Bevordering en Oorplasing in en na Poste in Kantoor

Kwalifikasies vir aanstelling

25. (1) Niemand mag vas aangestel word in, of soos beoog in artikel 28 oorgeplaas word na, of vas aangestel word in, hetsy op proef al dan nie, 'n pos in die Kantoor nie indien hy—

- (a) nie 'n Suid-Afrikaanse burger is nie, of nie 'n burger is nie van 'n gebied wat deel van die Republiek uitgemaak het en ingevolge 'n Parlements-wet 'n onafhanklike staat geword het;
- (b) aan 'n misdryf skuldig bevind is en gevonnissen is tot gevangenisstraf sonder die keuse van 'n boete en nie onvoorwaardelike kwytskelding ten opsigte daarvan verleen is nie; of
- (c) nie voldoen nie aan die vereistes beoog in artikel 19(12)(b).

(2) Al voldoen iemand nie aan die vereistes beoog in subartikel (1)(c) nie, kan hy op proef aangestel word, maar sy aanstelling mag nie bekragtig word nie tensy hy aan dié vereistes voldoen.

- (i) may, before it has been carried out, be withdrawn or amended or further amended by the Board at any time within a period of six calendar months from the date upon which it was made or amended the previous time by the Board; and
- 5 (ii) shall, if the period contemplated in subparagraph (i) has expired and it has not yet been carried out or withdrawn by the Board, be carried out forthwith by the Head of the Office as made or amended by the Board, but the preceding provisions do not preclude the Board from withdrawing or amending at any time, any recommendation regarding the employment or
- 10 conditions of service of persons, even if service benefits would thereby be reduced or persons deprived of service benefits.
- (b) The provisions of subsection (2) apply *mutatis mutandis* in respect of a recommendation of the Board regarding any matter relating to persons, other than persons appointed in terms of this Act, irrespective of whether or not such
- 15 recommendation affects a particular person.
- (6) A recommendation by the Board involving expenditure from the Audit Revenue Fund, shall not be carried out unless the accounting officer approves such expenditure.

Annual reports by Board

- 20 22. (1) As soon as practicable after 31 March of every year, but not later than 30 June, the Board shall draw up a report on the matters dealt with by it or on behalf of it during the year which ended on that date.
- (2) A report contemplated in subsection (1) shall be included in every annual report drawn up by the Deputy Auditor-General in terms of section 10 of this
- 25 Act.

Proposals by Advisory Committee and staff associations

23. When the Board exercises the powers conferred on it in terms of the provisions of this Act, it shall take into consideration proposals which may have been submitted to it by the Advisory Committee of the Office contemplated in
- 30 section 49 and by relevant recognized staff associations.

Remuneration and conditions of service of members of Board

24. A member of the Board who is not in the full-time service of the Office or the State shall be paid such remuneration and allowances from the Audit Revenue Fund as the Auditor-General may determine with the concurrence of
- 35 the Audit Commission.

CHAPTER V

Appointment, Promotion and Transfer in and to Posts in Office

Qualifications for appointment

25. (1) No person shall be appointed permanently in, or as contemplated in
- 40 section 28, be transferred to, or be appointed permanently in, any post in the Office, whether on probation or not, if he—
- (a) is not a South African citizen, or is not a citizen of any territory which formed part of the Republic and became an independent state in terms of an Act of Parliament;
- 45 (b) has been convicted of an offence and sentenced to imprisonment without the option of a fine and has not been granted an unconditional pardon in respect thereof; or
- (c) does not comply with the requirements contemplated in section 19(12)(b).
- 50 (2) Although a person may not comply with the requirements contemplated in subsection (1)(c) he may be appointed on probation, but his appointment shall not be confirmed unless he complies with the said requirements.

Aanstellings en aanvulling van vakatures

26. (1) By 'n aanstelling van iemand in 'n pos, of die aanvulling van 'n vakature, in die Kantoor—

- (a) mag daar nie op grond van geslag, ras, kleur of geloof teen iemand gediskrimineer word nie; 5
- (b) mag niemand wat vir die betrokke aanstelling of aanvulling gekwalifiseer is, onregmatig begunstig of benadeel word nie; en
- (c) mag, behoudens artikel 25, slegs die kwalifikasies, peil van opleiding, relatiewe verdienstelikheid, bekwaamheid en geskiktheid van die persone wat vir die betrokke aanstelling of aanvulling in aanmerking 10 kom en die toepaslike vereistes vir die betrokke aanstelling of aanvulling in ag geneem word.

(2) Vir die vul van 'n pos in die Kantoor moet die Raad, behoudens die bepalings van subartikel (1), óf—

- (a) die oorplasing of bevordering van 'n beampte aanbeveel; óf 15
- (b) indien die pos nie op bevredigende wyse deur so 'n oorplasing of bevordering gevul kan word nie, die aanstelling van 'n persoon wat nie 'n beampte is nie, aanbeveel.

Aanstelling van Adjunk-ouditeur-generaal, en sy werksaamhede

27. (1) (a) Die Ouditeur-generaal stel, behoudens die bepalings van hierdie Wet 20 en met die instemming van die Ouditkommissie, 'n Adjunk-ouditeur-generaal aan.

(b) Iemand wat by die inwerkingtreding van hierdie Wet die pos van Adjunk-ouditeur-generaal beklee, word geag ingevolge paragraaf (a) as sodanig aangestel te wees. 25

(2) Behoudens die bepalings van hierdie Hoofstuk en van Hoofstukke VI en VII—

- (a) moet—
 - (i) 'n persoon wat as Adjunk-ouditeur-generaal aangestel word; of
 - (ii) 'n persoon in subartikel (1)(b) bedoel, 30

die betrokke amp beklee vir 'n tydperk van vyf jaar of die korter tydperk wat die Ouditeur-generaal met die instemming van die Ouditkommissie bepaal, vanaf, in die geval van 'n persoon bedoel in subparagraaf (i), die datum van die betrokke aanstelling, en, in die geval van 'n persoon bedoel in subparagraaf (ii), die inwerkingtreding van hierdie Wet; 35
- (b) kan die ampstermyn van die Adjunk-ouditeur-generaal soos by paragraaf (a) voorgeskryf, by die verstryking daarvan verleng word, behoudens subartikel (3), met 'n tydperk of agtereenvolgende tydperke van minstens een maar hoogstens vyf jaar, soos die Ouditeur-generaal met die instemming van die Ouditkommissie bepaal; 40
- (c) moet by die aanstelling van die Adjunk-ouditeur-generaal die betrokke persoon se kennis van en ondervinding in ouditering, staatsfinansies en openbare administrasie ook in ag geneem word; en
- (d) mag die besoldiging, ander diensvoordele en -voorwaardes en pensioen-voordele van die Adjunk-ouditeur-generaal nie minder gunstig as dié 45 van 'n Departementshoof in die Staatsdiens wees nie.

(3) (a) Die Ouditeur-generaal moet met die instemming van die Ouditkommissie die betrokke beampte minstens ses kalendermaande voor die verstryking van die termyn bedoel in subartikel (2)(a) of enige voorheen verlengde termyn bedoel in subartikel (2)(b), skriftelik meedeel of hy van voorneme is om hom vir 'n verlengde termyn in diens te hou, al dan nie. 50

(b) Indien die Ouditeur-generaal die betrokke beampte aldus meedeel dat hy van voorneme is om hom vir 'n verlengde termyn in diens te hou, moet dié beampte binne een kalendermaand na die datum van die mededeling die Ouditeur-generaal skriftelik verwittig of hy die verlengde indienshouding aanvaar 55 of nie.

(c) Indien die betrokke beampte die Ouditeur-generaal aldus meedeel dat hy die verdere indienshouding aanvaar, word sy ampstermyn as Adjunk-ouditeur-generaal verleng met die verdere tydperk waarop hy en die Ouditeur-generaal, met die instemming van die Ouditkommissie, ooreengekom het. 60

Appointments and filling of vacancies

26. (1) When appointing any person in a post, or filling a vacancy in the Office—

- 5 (a) there shall not be discriminated against any person on the ground of sex, race, colour or creed;
- (b) no person who qualifies for the appointment or the filling of the vacancy concerned shall be wrongfully favoured or prejudiced; and
- 10 (c) only the qualifications, level of training, relative merit, efficiency and suitability of the persons who are eligible for the appointment or the filling of the vacancy concerned and the appropriate requirements for the appointment or the filling of the vacancy concerned shall, subject to section 25, be taken into account.

(2) For the filling of any post in the Office, the Board shall, subject to the provisions of subsection (1), recommend either—

- 15 (a) the transfer or promotion of an officer; or
- (b) if the post cannot satisfactorily be filled by such a transfer or promotion, the appointment of a person who is not an officer.

Appointment of Deputy Auditor-General, and his functions

27. (1) (a) The Auditor-General shall, subject to the provisions of this Act and 20 with the consent of the Audit Commission, appoint a Deputy Auditor-General.

(b) Any person who at the commencement of this Act occupies the post of Deputy Auditor-General, shall be deemed to have been appointed as such in terms of paragraph (a).

(2) Subject to the provisions of this Chapter and of Chapters VI and VII—

- 25 (a) a person—
 - (i) who is appointed as Deputy Auditor-General; or
 - (ii) who is such a person as is contemplated in subsection (1)(b), shall occupy the post concerned for a period of five years or such shorter period as the Auditor-General may, with the consent of the
- 30 the Audit Commission, determine, from, in the case of a person contemplated in subparagraph (i), the date of the appointment concerned, and, in the case of a person contemplated in subparagraph (ii), the commencement of this Act;
- (b) the term of office of the Deputy Auditor-General as prescribed by
- 35 paragraph (a) may, subject to subsection (3), be extended at the expiry thereof for a period or successive periods of at least one year but not exceeding five years, as the Auditor-General may, with the consent of the Audit Commission, determine;
- (c) when the Deputy Auditor-General is appointed, the knowledge of and
- 40 experience in auditing, state finances and public administration of the person concerned shall also be taken into consideration; and
- (d) the remuneration, other benefits and conditions of service and pension benefits of the Deputy Auditor-General shall not be less favourable than those of a head of a department in the Public Service.

45 (3) (a) The Auditor-General shall, with the consent of the Audit Commission, in writing inform the officer concerned at least six calendar months before the expiry of the term contemplated in subsection (2)(a) or any previously extended term contemplated in subsection (2)(b) whether or not he intends to retain him in service for an extended term.

50 (b) If the Auditor-General so informs the officer concerned that he intends to retain him in service for an extended term, such officer shall in writing inform the Auditor-General within one calendar month after the date of that communication whether or not he accepts the extended employment.

(c) If the officer concerned so informs the Auditor-General that he accepts the 55 further employment, his term of office as Deputy Auditor-General shall be extended by the further period upon which he and the Auditor-General have, with the consent of the Audit Commission, agreed.

(4) Die Adjunk-ouditeur-generaal oefen, behoudens die bepalings van hierdie Wet en die Wet op die Ouditeur-generaal, die bevel, toesig en beheer oor die Kantoor uit, is verantwoordelik vir die doeltreffende bestuur en administrasie van die Kantoor, met inbegrip van die doeltreffende benutting van personeel, die handhawing van dissipline en die behoorlike gebruik en versorging van die roerende en onroerende goed van die Kantoor, en hy moet ook die werksaamhede verrig wat voorgeskryf word. 5

(5) Die Adjunk-ouditeur-generaal kan, behoudens die bepalings van hierdie Wet, reëls maak en voorskrifte uitvaardig wat hy nodig ag vir die doeltreffende bevel, toesig en beheer oor die Kantoor. 10

Aanstelling, oorplasing en bevordering op proef

28. (1) Die aanstelling van 'n persoon in, en die oorplasing of bevordering van 'n beampte na, 'n pos in die Kantoor moet op proef geskied—
 (a) tensy, in die geval van 'n aanstelling, die Raad anders aanbeveel; of
 (b) indien, in die geval van 'n bevordering of oorplasing, die Raad aldus aanbeveel. 15

(2) (a) Behoudens die bepalings van paragrawe (b) en (c) moet die proeftyd aldus aanbeveel minstens 12 kalendermaande wees.

(b) Indien 'n beampte wat diens op proef doen, na 'n ander pos oorgeplaas of bevorder word, kan 'n korter diens tyd op proef in die nuwe pos aanbeveel of gelas word, wat saam met die proeftyd in diens in die vorige pos minstens 12 kalendermaande moet wees. 20

(c) Die proeftyd van 'n beampte moet verleng word met die getal dae verlof wat hy gedurende die proeftyd of enige verlenging daarvan geneem het.

(3) Indien die Hoof van die Kantoor, of die hoof van 'n organisasiekomponent in die Kantoor, sertifiseer dat die betrokke beampte gedurende die proeftyd of verlengde proeftyd ywerig en sy gedrag deurgaans bevredigend was, en dat hy in alle opsigte geskik is vir die pos wat hy beklee, en indien die beampte voldoen het aan al die voorwaardes waaraan sy aanstelling, oorplasing of bevordering onderworpe was, kan die persoon wat die bevoegdheid het om die betrokke aanstelling, oorplasing of bevordering te doen, die aanstelling, oorplasing of bevordering bekragtig, maar indien die aanstelling, oorplasing of bevordering op proef nie aldus bekragtig word nie moet die Hoof van die Kantoor die redes vir die nie-bekragtiging aan die Raad rapporteer, wat, behoudens die bepalings van subartikel (5), dié aanbeveling oor die aangeleentheid moet doen wat hy goeddink. 25 30 35

(4) Ondanks andersluidende bepalings van subartikel (2) of Hoofstuk VII, maar behoudens die bepalings van subartikel (5), kan 'n beampte wat op proef in diens is, deur die persoon wat die bevoegdheid van ontslag het, op aanbeveling van die Raad, uit die Kantoor ontslaan word, hetsy gedurende of by of na verstryking van die proeftyd— 40

(a) deur een maand kennis te gee; of

(b) onverwyld, indien sy gedrag of werkverrigting onbevredigend is.

(5) Ondanks andersluidende bepalings van artikels 29 en 44 moet 'n persoon in diens van die Kantoor wie se oorplasing of bevordering op proef nie bekragtig word nie en wat onmiddellik voor daardie oorplasing of bevordering op proef 'n beampte was, uitgesonderd 'n beampte op proef, op aanbeveling van die Raad oorgeplaas word na die pos wat hy tevore beklee het, of na 'n pos van gelyke gradering, en moet hy die salaris ontvang wat hy in sy vorige pos sou ontvang het as hy nie op proef oorgeplaas of bevorder was nie. 45 50

Oorplasings in Kantoor

29. (1) Behoudens die bepalings van hierdie Wet kan elke beampte of werknemer, wanneer dit na mening van die Raad dienstig is, oorgeplaas word uit die pos of betrekking wat hy beklee, na enige ander pos of betrekking in die Kantoor, ongeag of so 'n pos of betrekking in 'n ander afdeling is, of van 'n laer of hoër graad is, of binne of buite die Republiek is. 55

(2) (a) Die oorplasing van 'n beampte of werknemer uit een pos of betrekking na 'n ander pos of betrekking kan, behoudens die bepalings van paragraaf (b) en subartikel (3)(d), op gesag van die persoon wat die bevoegdheid het om oor te plaas, gedoen word. 60

(4) The Deputy Auditor-General shall, subject to the provisions of this Act and the Auditor-General Act, exercise command, supervision and control over the Office, is responsible for the efficient management and administration of the Office, including the efficient utilization of staff, the maintenance of discipline and the proper use and care of the movable and immovable property of the Office, and shall also perform the prescribed functions.

(5) The Deputy Auditor-General may, subject to the provisions of this Act, make rules and issue directives which he may deem necessary for the efficient command, supervision and control over the Office.

10 Appointment, transfer and promotion on probation

28. (1) The appointment of a person in, and the transfer or promotion of an officer to, a post in the Office shall be made on probation—

(a) unless, in the case of an appointment, the Board recommends otherwise; or

(b) if, in the case of a promotion or transfer, the Board so recommends.

(2) (a) Subject to the provisions of paragraphs (b) and (c), the period of probation so recommended shall not be less than 12 calendar months.

(b) If an officer who is serving on probation is transferred or promoted to another post, a lesser period of service in the new post on probation may be recommended or directed, which together with the period of probation served in the former post, shall total at least 12 calendar months.

(c) The period of probation of an officer shall be extended by the number of days' leave taken by him during the period of probation or any extension thereof.

(3) If the Head of the Office, or the head of an establishment component in the Office, certifies that during the period of probation or extended period of probation, the officer concerned has been diligent and his conduct uniformly satisfactory and that he is in all respects suitable for the post which he holds, and if the officer has complied with all the conditions to which his appointment, transfer or promotion was subject, the person having the power to make the appointment, transfer or promotion concerned, may confirm that appointment, transfer or promotion, but if the probationary appointment, transfer or promotion is not so confirmed the Head of the Office shall report the reasons for the non-confirmation to the Board, which shall, subject to the provisions of subsection (5), make such recommendation in the matter as it may deem fit.

(4) Notwithstanding anything to the contrary contained in subsection (2) or in Chapter VII; but subject to the provisions of subsection (5), an officer who is serving on probation may, on the recommendation of the Board, be discharged from the Office by the person having the power of discharge, either during or at or after the expiry of the period of probation—

(a) by the giving of one month's notice; or

(b) forthwith, if his conduct or performance is unsatisfactory.

(5) Notwithstanding anything to the contrary contained in sections 29 and 44, a person in the employ of the Office whose transfer or promotion on probation is not confirmed and who immediately prior to that transfer or promotion on probation was an officer, other than an officer on probation, shall on the recommendation of the Board be transferred to the post formerly held by him, or to a post of equivalent grading, and shall receive such salary as he would have received in his former post if he had not been transferred or promoted on probation.

Transfers within Office

29. (1) Subject to the provisions of this Act, every officer or employee may, when it is expedient in the opinion of the Board, be transferred from the post or position occupied by him to any other post or position in the Office, irrespective of whether such a post or position is in another division, or is of a lower or higher grade, or is within or outside the Republic.

(2) (a) The transfer of an officer or employee from one post or position to another post or position may, subject to the provisions of paragraph (b), and subsection (3)(d), be made on the authority of the person having the power to transfer.

(b) Die bepalings van hierdie subartikel word nie uitgelê nie as sou dit die Raad belet om die oorpasing van 'n beampte uit een pos na 'n ander pos in die Kantoor aan te beveel.

(3) 'n Beampte of werknemer—

- (a) se salaris of salarisskaal mag nie sonder sy instemming by oorpasing verlaag word nie, behalwe in ooreenstemming met die bepalings van Hoofstuk VII en artikel 44; 5
- (b) wat oorgeplaas is na, of in diens is in, 'n pos van 'n laer of hoër graad as sy eie graad sonder 'n verandering in sy salarisskaal, se oorpasing na 'n geskikte vakante pos waarby sy salarisskaal pas, moet deur die Raad aanbeveel word; 10
- (c) wat oorgeplaas is na, of in diens is in, 'n pos wat hoër as sy eie graad gegradeer is, of wat hergradeer is na, of omgeskep is in, 'n pos van 'n hoër graad as sy eie graad, is nie bloot uit hoofde van die oorpasing of diens op die hoër salarisskaal wat op die pos van toepassing is, geregtig nie; en 15
- (d) mag nie uit een pos oorgeplaas word na 'n ander pos wat van 'n hoër of laer graad as sy eie graad is of 'n ander benaming het nie, tensy die Raad die oorpasing aanbeveel het.

Oorpasing en afstaan van beamptes en werknemers

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30. (1) 'n Persoon wat 'n pensioengewende betrekking beklee in 'n pos by 'n instelling wat by 'n Parlements wet ingestel is en wat sy fondse regstreeks in die geheel of gedeeltelik uit die Staatsinkomstefonds verkry, kan met sy toestemming en dié van dié instelling en op aanbeveling van die Raad oorgeplaas word na en aangestel word in 'n pos in die Kantoor soos bedoel in artikel 26. 25

(2) (a) 'n Beampte of werknemer kan met sy instemming en op aanbeveling van die Raad vir 'n besondere diens of vir 'n bepaalde tydperk en op dié voorwaardes wat die Raad bepaal tot die beskikking gestel word van die Staat of 'n ander regering, of van 'n raad, inrigting of liggaam wat by of kragtens die een of ander wet ingestel is, of van 'n ander liggaam of persoon. 30

(b) So 'n beampte of werknemer bly terwyl hy aldus ter beskikking gestel is onderworpe aan hierdie Wet.

(3) 'n Persoon (in hierdie paragraaf die amptenaar genoem) in diens van die Staat of van 'n ander regering, of van 'n raad, inrigting of liggaam wat by of kragtens die een of ander wet ingestel is, of van 'n ander liggaam of persoon, kan op aanbeveling van die Raad deur die Kantoor in diens geneem word vir 'n bepaalde tydperk en op dié voorwaardes, uitgesonderd voorwaardes wat by of kragtens 'n pensioenwet bepaal word, wat die Raad na oorleg met die amptenaar se werkgever bepaal, en in so 'n geval kan 'n beampte of werknemer ingevolge subartikel (2), en op 'n uitruilgrondslag, vir dieselfde tydperk tot die beskikking van die amptenaar se werkgever gestel word. 40

HOOFSTUK VI

Diensbeëindiging

Aftreding en indienshouding

31. (1) (a) Behoudens die bepalings van hierdie artikel het 'n beampte die reg, en is hy verplig, om uit die Kantoor af te tree op die datum waarop hy die leeftyd in artikel 15(1)(a) van die Staatsdienswet bedoel, bereik. 45

(b) Indien so 'n beampte genoemde leeftyd na die eerste dag van 'n maand bereik, word hy geag dit op die eerste dag van die eersvolgende maand te bereik het. 50

(2) (a) Behoudens die bepalings van paragraaf (b) het iemand wat met ingang van 'n datum voor 24 Junie 1955 as 'n beampte in die Staatsdiens aangestel is en sonder onderbreking van diens 'n beampte geword het, of 'n beampte op wie die bepalings van artikel 7 van die Regeringsdienspensioenwet, 1973 (Wet No. 57 van 1973), van toepassing is, die reg om te eniger tyd voor of nadat hy, in die geval van 'n manlike beampte, die leeftyd van 60 jaar of, in die geval van 'n vroulike beampte, die leeftyd van 55 jaar bereik, skriftelik aan die Hoof van die 55

(b) The provisions of this subsection shall not be construed as precluding the Board from recommending the transfer of an officer from one post to another post in the Office.

(3) An officer or employee—

- 5 (a) shall not upon transfer suffer any reduction in his salary or scale of salary without his consent, except in accordance with the provisions of Chapter VII and section 44;
- (b) who has been transferred to, or is employed in, a post of a lower or higher grade than his own grade without a change in his scale of salary,
- 10 shall be recommended by the Board for transfer to a suitable vacant post to which his scale of salary is appropriate;
- (c) who has been transferred to, or who is employed in, a post which is graded higher than his own grade, or which is regraded or converted to a post of a higher grade than his own grade, shall not by reason only of
- 15 that transfer or employment be entitled to the higher scale of salary applicable to the post; and
- (d) shall not be transferred from one post to another post which is of a higher or lower grade than his own grade or bears a different designation, unless the Board has recommended the transfer.

20 Transfer and secondment of officers and employees

30. (1) A person holding a pensionable appointment in a post with an institution established by an Act of Parliament and which obtains its funds directly in whole or in part from the State Revenue Fund, may with his consent and that of such institution and on the recommendation of the Board be

25 transferred to and appointed in a post in the Office as contemplated in section 26.

(2) (a) An officer or employee may with his consent and on the recommendation of the Board and on such conditions as the Board may determine, be placed at the disposal of the State or another government, or of a council,

30 institution or body established by or under any law, or of any other body or person, for a particular service or for a stated period.

(b) Such an officer or employee remains subject to this Act while so placed at such disposal.

(3) A person (in this paragraph referred to as the official) in the service of the

35 State or of another government, or of a council, institution or body established by or under any law, or of any other body or person, may, on the recommendation of the Board, be employed by the Office for a stated period and on such conditions, other than conditions laid down by or under any pensions law, as may be determined by the Board after consultation with the employer of the

40 official, and in such a case, an officer or employee may in terms of subsection (2), and on an exchange basis, be placed at the disposal of the employer of the official for the same period.

CHAPTER VI

Termination of Service

45 Retirement and retention of services

31. (1) (a) Subject to the provisions of this section, an officer has the right and is obliged to retire from the Office on the date on which he attains the age contemplated in section 15(1)(a) of the Public Service Act.

(b) If such an officer attains the said age after the first day of a month, he is

50 deemed to have attained it on the first day of the following month.

(2) (a) Subject to the provisions of paragraph (b), a person who was appointed as an officer in the Public Service with effect from a date prior to 24 June 1955, and without an interruption of service became an officer or an officer to whom the provisions of section 7 of the Government Service Pensions Act, 1973 (Act

55 No. 57 of 1973), are applicable, has the right at any time before or after attaining, in the case of a male officer, the age of 60 years or, in the case of a female officer, the age of 55 years, to give written notification to the Head

Kantoor kennis te gee van sy begeerte om verplig te word om uit die diens van die Kantoor af te tree, en word hy—

- (i) indien die kennis gegee word minstens drie kalendermaande voor die datum waarop hy genoemde leeftyd bereik, aldus verplig om af te tree op die datum waarop hy die leeftyd bereik of, indien hy dit na die eerste dag van 'n maand bereik, op die eerste dag van die eersvolgende maand; of 5
- (ii) indien die kennis nie minstens drie kalendermaande voor die datum waarop hy genoemde leeftyd bereik, gegee word nie, aldus verplig om af te tree op die eerste dag van die vierde maand na die maand waarin die kennisgewing ontvang word. 10
- (b) (i) 'n Beampte wat die amp van Adjunk-ouditeur-generaal beklee, moet minstens ses kalendermaande voor die datum waarop hy genoemde leeftyd bereik, kennis gee van sy begeerte om verplig te word om uit die Kantoor af te tree, en indien hy aldus kennis gegee het, geld die bepalings van paragraaf (a)(i) *mutatis mutandis*. 15
- (ii) Indien so 'n beampte nie minstens ses kalendermaande voor die datum waarop hy genoemde leeftyd bereik aldus kennis gee nie, word hy aldus verplig om af te tree op die eerste dag van die sewende maand na die maand waarin die kennisgewing ontvang word. 20
- (3) (a) Behoudens die bepalings van hierdie artikel en artikel 27(3)(a) het 'n beampte wat die amp van Adjunk-ouditeur-generaal beklee die reg, en is hy verplig, om uit die Kantoor af te tree by verstryking van die termyn in artikel 27(2)(a) bedoel of van enige verlengde termyn in artikel 27(2)(b) bedoel, na gelang van die geval. 25
- (b) Indien 'n beampte ingevolge paragraaf (a) aftree of verplig is om af te tree, word hy geag ingevolge artikel 32(2)(b) uit die Kantoor ontslaan te wees.
- (4) (a) Behoudens die bepalings van paragraaf (b) kan 'n beampte wat die leeftyd van 60 jaar bereik het, onderworpe in elke geval aan die aanbeveling van die Raad en die goedkeuring van die Ouditeur-generaal, verplig word om uit die Kantoor af te tree. 30
- (b) In die geval van 'n beampte bedoel in subartikel (2) is die leeftyd waarop of waarna hy aldus verplig kan word om af te tree, in die geval van 'n manlike beampte 55 jaar en in die geval van 'n vroulike beampte 50 jaar.
- (5) (a) Die Ouditeur-generaal kan, op versoek van 'n Adjunk-ouditeur-generaal en onderworpe aan 'n aanbeveling van die Raad, hom toelaat om voor die verstryking van die termyn in artikel 27(2)(a) bedoel, of enige verlengde termyn in artikel 27(2)(b) bedoel, en ondanks die afwesigheid van enige rede vir ontslag ingevolge artikel 32(2), uit die Kantoor af te tree, indien daar 'n rede bestaan wat die Ouditeur-generaal voldoende ag. 40
- (b) As 'n Adjunk-ouditeur-generaal toegelaat word om ingevolge paragraaf (a) uit die Kantoor af te tree, word hy, ondanks andersluidende bepalings van subartikel (4), geag ingevolge dié subartikel uit die Kantoor af te getree het, en is hy geregtig op die pensioen waarop hy geregtig sou gewees het indien hy ingevolge daardie subartikel uit die Kantoor afgetree het. 45
- (6) (a) Die Ouditeur-generaal kan op versoek van 'n beampte en onderworpe aan 'n aanbeveling van die Raad, hom toelaat om, ondanks die afwesigheid van enige rede vir ontslag ingevolge artikel 32(2), uit die Kantoor af te tree indien daar na die oordeel van die Ouditeur-generaal 'n voldoende rede daarvoor bestaan en die aftrede tot voordeel van die Kantoor sal strek. 50
- (b) Die bepalings van subartikel (5)(b) is *mutatis mutandis* van toepassing op 'n beampte wat ingevolge paragraaf (a) toegelaat word om uit die Kantoor af te tree.
- (7) Indien die openbare belang vereis dat 'n beampte in sy pos in diens gehou word na die leeftyd waarop hy ooreenkomstig die bepaling van subartikel (1) verplig moet word om af te tree, kan hy met sy instemming aldus van tyd tot tyd op aanbeveling van die Raad en met die goedkeuring van die Ouditeur-generaal in diens gehou word vir verdere tydperke wat, behalwe met die goedkeuring, by besluit, van die Parlement, altesaam nie twee jaar te bowe mag gaan nie. 55

Ontslag van beamptes en werknemers

32. (1) (a) Behoudens die bepalings van paragraaf (b) berus die bevoegdheid om 'n beampte of werknemer te ontslaan by die Ouditeur-generaal, wat dié bevoegdheid aan 'n beampte kan deleger. 60

of the Office of his wish to be retired from the service of the Office, and he shall—

- (i) if that notification is given at least three calendar months prior to the date on which he attains the said age, be so retired on the date on which he attains that age, or, if he attains it after the first day of a month, on the first day of the following month; or
- (ii) if that notification is not given at least three calendar months prior to the date on which he attains the said age, be so retired on the first day of the fourth month after the month in which the notification is received.

(b) (i) An officer who occupies the office of Deputy Auditor-General shall give notification of his wish to be retired from the Office at least six calendar months prior to the date on which he attains the said age, and if he has so given notification, the provisions of paragraph (a)(i) apply *mutatis mutandis*.

- (ii) If such an officer has not so given notification at least six months prior to the date on which he attains the said age, he shall be so retired on the first day of the seventh month after the month in which that notification is received.

(3) (a) Subject to the provisions of this section and section 27(3)(a), an officer who occupies the office of Deputy Auditor-General has the right and is obliged to retire from the Office at the expiry of the term contemplated in section 27(2)(a) or of any extended term contemplated in section 27(2)(b), as the case may be.

(b) If an officer retires or is obliged to retire in terms of paragraph (a), he is deemed to have been discharged from the Office in terms of section 32(2)(b).

- (4) (a) Subject to the provisions of paragraph (b), an officer who has attained the age of 60 years may, subject in every case to the recommendation of the Board and the approval of the Auditor-General, be retired from the Office.

(b) In the case of an officer contemplated in subsection (2) the age at or after which he may be so retired, is in the case of a male officer 55 years and in the case of a female officer 50 years.

- (5) (a) The Auditor-General may, at the request of a Deputy Auditor-General and subject to a recommendation of the Board, allow him to retire from the Office before the expiry of the term contemplated in section 27(2)(a) or any extended term contemplated in section 27(2)(b), and notwithstanding the absence of any reason for discharge in terms of section 32(2), if there is a reason which the Auditor-General deems sufficient.

(b) If a Deputy Auditor-General is allowed to retire from the Office in terms of paragraph (a), he is, notwithstanding anything to the contrary contained in subsection (4), deemed to have retired from the Office in terms of the said subsection, and he is entitled to such pension as he would have been entitled to if he had retired from the Office in terms of that subsection.

- (6) (a) The Auditor-General may, at the request of an officer and subject to a recommendation of the Board, and notwithstanding the absence of any reason for discharge in terms of section 32(2), allow him to retire from the Office if, in the opinion of the Auditor-General, there is a sufficient reason therefor and the retirement will be to the advantage of the Office.

(b) The provisions of subsection (5)(b) shall *mutatis mutandis* apply to any officer who is allowed to retire from the Office in terms of paragraph (a).

- (7) If it is in the public interest to retain an officer in his post beyond the age at which he is to be retired in accordance with the provisions of subsection (1), he may with his consent be so retained from time to time, on the recommendation of the Board and with the approval of the Auditor-General, for further periods which shall not, except with the approval, by resolution, of Parliament, exceed in the aggregate two years.

55 Discharge of officers and employees

32. (1) (a) Subject to the provisions of paragraph (b), the power to discharge an officer or employee is vested in the Auditor-General, who may delegate that power to an officer.

- (b) In die geval van 'n beampte moet die Raad eers sy ontslag aanbeveel.
- (2) Elke beampte of werknemer kan uit die Kantoor ontslaan word—
- (a) weens voortdurende swak gesondheid;
 - (b) weens die afskaffing van sy pos of 'n vermindering of reorganisasie of herreëling van organisasiekomponente of kantore; 5
 - (c) indien, om ander redes as sy eie ongeskiktheid of onvermoë, sy ontslag doeltreffendheid of besuiniging in die organisasiekomponent waarin hy in diens is, sal bevorder, of andersins in belang van die Kantoor sal wees;
 - (d) weens ongeskiktheid vir sy pligte of onvermoë om hulle op bekwame wyse uit te voer; 10
 - (e) weens wangedrag;
 - (f) indien, in die geval van 'n beampte wat op proef aangestel is, sy aanstelling nie bekragtig word nie;
 - (g) op grond van wanvoorstelling van sy posisie met betrekking tot 'n voorwaarde vir vaste aanstelling; of 15
 - (h) indien sy voortgesette indienshouding 'n sekerheidsrisiko vir die Kantoor inhou.
- (3) (a) Indien 'n beampte kragtens subartikel (2)(g) ontslaan word, word hy geag kragtens subartikel (2)(e) ontslaan te wees.
- (b) Indien 'n beampte kragtens subartikel (2)(h) ontslaan word, word hy geag 20 kragtens subartikel (2)(d) ontslaan te wees.
- (4) (a) 'n Beampte se dienste kan, ondanks die afwesigheid van enige rede vir ontslag ingevolge subartikel (2), op aanbeveling van die Raad deur skriftelike kennisgewing beëindig word, en dié kennisgewing moet, in die geval van 'n beampte met minder as 10 jaar ononderbroke diens, een maand en, in die geval 25 van 'n beampte met 10 jaar of langer ononderbroke diens, drie maande wees.
- (b) 'n Aanbeveling kragtens paragraaf (a) ten opsigte van 'n beampte word gedoen slegs nadat die betrokke beampte 'n geleentheid gebied is om vertoë met betrekking tot sy posisie tot die Raad te rig, en nadat die Raad enige vertoë wat die beampte gerig het, behoorlik in aanmerking geneem het. 30
- (c) By die toepassing van paragraaf (a) op 'n beampte kan die Ouditeur-generaal die bevoegdheid by subartikel (1) aan hom verleen, slegs aan die Hoof van die Kantoor deleger.
- (5) (a) (i) 'n Beampte of werknemer wat sonder verlof van die hoof van sy organisasiekomponent vir 'n tydperk van meer as een kalendermaand van sy ampspligte wegbly, word geag weens wangedrag uit die Kantoor ontslaan te wees met ingang van die datum wat onmiddellik volg op die laaste dag waarop hy op sy plek van diens teenwoordig was.
- (ii) Indien so 'n beampte ander werk aanvaar, word hy geag ontslaan te wees soos vermeld, ongeag of genoemde tydperk verstryk het al dan nie. 40
- (b) Indien 'n beampte wat geag word aldus ontslaan te wees, hom te eniger tyd na die verstryking van die tydperk in paragraaf (a) vermeld vir diens aanmeld, kan die Raad, ondanks andersluidende bepalings van die een of ander wet, aanbeveel dat, onderworpe aan die goedkeuring van die Ouditeur-generaal, hy in die Kantoor herstel word in sy vorige of 'n ander pos of betrekking op die 45 voorwaardes wat die Raad aanbeveel, en in so 'n geval word die tydperk van sy afwesigheid van sy ampspligte geag afwesigheid met vakansieverlof sonder besoldiging te wees of verlof op die ander voorwaardes wat die Raad aanbeveel.

HOOFSTUK VII

Onbekwaamheid en Wangedrag

50

Onbekwame beamptes en werknemers

33. (1) Indien die Hoof van die Kantoor aan die Ouditeur-generaal verslag doen dat 'n beampte of werknemer, na sy mening, ongeskik is vir sy pligte of nie in staat is om hulle op bekwame wyse uit te voer nie, moet die Ouditeur-generaal 'n beampte aanstel om ondersoek na bedoelde bewerings in te stel. 55

(b) In the case of an officer the Board shall first make a recommendation for his discharge.

(2) Every officer or employee may be discharged from the Office—

- (a) on account of continued ill-health;
- 5 (b) owing to the abolition of his post or any reduction in or reorganization or readjustment of establishment components or offices;
- (c) if, for reasons other than his own unfitness or incapacity, his discharge will promote efficiency or economy in the establishment component in which he is employed, or will otherwise be in the interest of the Office;
- 10 (d) on account of unfitness for his duties or incapacity to carry them out efficiently;
- (e) on account of misconduct;
- (f) if, in the case of an officer appointed on probation, his appointment is not confirmed;
- 15 (g) on account of misrepresentation of his position in relation to a condition for permanent appointment; or
- (h) if his continued employment constitutes a security risk for the Office.

(3) (a) If an officer is discharged under subsection (2)(g), he is deemed to have been discharged under subsection (2)(e).

20 (b) If an officer is discharged under subsection (2)(h), he is deemed to have been discharged under subsection (2)(d).

(4) (a) The services of an officer may, notwithstanding the absence of any reason for discharge in terms of subsection (2), be terminated upon the recommendation of the Board by the giving of notice in writing, and such notice
25 shall, in the case of an officer with less than 10 years' continuous service, be one month and, in the case of an officer with 10 years' or more continuous service, be three months.

(b) A recommendation in terms of paragraph (a) in respect of an officer shall be made only after the officer concerned has been afforded an opportunity of
30 making representations to the Board with regard to his position, and after the Board has given due consideration to any representations made by the officer.

(c) In the application of paragraph (a) to an officer the Auditor-General may delegate the power conferred upon him by subsection (1) only to the Head of the Office.

35 (5) (a) (i) An officer or employee who absents himself from his official duties without permission of the head of his establishment component for a period exceeding one calendar month, is deemed to have been discharged from the Office on account of misconduct with effect from the date immediately following upon the last day of his attendance at his place of duty.

40 (ii) If such an officer assumes other employment, he is deemed to have been discharged as described, irrespective of whether or not the said period has expired.

(b) If an officer who is deemed to have been so discharged, reports for duty at any time after the expiry of the period mentioned in paragraph (a), the Board
45 may, notwithstanding anything to the contrary contained in any law, recommend that, subject to the approval of the Auditor-General, he be reinstated in the Office in his former or any other post or position on such conditions as the Board may recommend, and in such a case the period of his absence from his official duty is deemed to be absence on vacation leave without pay, or leave on such
50 other conditions as the Board may recommend.

CHAPTER VII

Inefficiency and Misconduct

Inefficient officers and employees

33. (1) If the Head of the Office reports to the Auditor-General that any
55 officer or employee is, in his opinion, unfit for his duties or incapable of carrying them out efficiently, the Auditor-General shall appoint an officer to inquire into those allegations.

- (2) Indien 'n ondersoek ingevolge subartikel (1) gehou gaan word, moet die betrokke beampte of werknemer skriftelik daarvan in kennis gestel word, en daarop het hy die reg—
- (a) op 'n skriftelike uiteensetting van die gronde waarop beweer word dat hy ongeskik vir sy pligte is of nie in staat is om hulle op bekwame wyse uit te voer nie; en 5
 - (b) om by die ondersoek teenwoordig te wees, om deur 'n ander persoon bygestaan of verteenwoordig te word, om getuienis af te lê en om, óf persoonlik óf deur 'n verteenwoordiger—
 - (i) aangehoor te word; 10
 - (ii) getuies op te roep;
 - (iii) iemand wat as getuie opgeroep is ter staving van genoemde bewerings, onder kruisverhoor te neem; en
 - (iv) insae te hê in stukke wat as getuienis voorgelê is.
- (3) Na afloop van die ondersoek moet die betrokke beampte of werknemer in kennis gestel word van die bevinding van die beampte wat die ondersoek gehou het, en indien daar bevind is dat hy ongeskik vir sy pligte is of nie in staat is om hulle op bekwame wyse uit te voer nie, het hy die reg om teen die bevinding by die Raad te appelleer. 15
- (4) Die prosedure by 'n ondersoek en die aanteken en verhoor van 'n appèl is soos voorgeskryf. 20
- (5) Indien die beampte wat die ondersoek gehou het, bevind het dat die betrokke beampte of werknemer ongeskik vir sy pligte is of nie in staat is om hulle op bekwame wyse uit te voer nie, moet die Raad met inagneming van die stukke wat op die bevinding en enige appèl betrekking het, by die Ouditeur-generaal aanbeveel— 25
- (a) dat geen verdere stappe in die saak gedoen word nie; of
 - (b) dat die betrokke beampte of werknemer na 'n ander pos oorgeplaas word of bykomend by die vaste diensstaat in diens gehou word; of
 - (c) dat sy salaris of graad of sowel sy salaris as graad verlaag word in die mate wat aanbeveel word; of 30
 - (d) dat teen hom opgetree word soos in paragraaf (b) sowel as in paragraaf (c) voorgeskryf; of
 - (e) dat hy uit die Kantoor ontslaan word met ingang van 'n datum wat die Ouditeur-generaal bepaal. 35
- (6) Die Raad moet die stukke wat op die ondersoek en, waar toepaslik, op die appèl betrekking het saam met sy aanbeveling ingevolge subartikel (5) aan die Ouditeur-generaal stuur, en die Ouditeur-generaal kan volgens die aanbeveling van die Raad handel of, behoudens die bepalinge van artikel 21, volgens enige ander aanbeveling wat kragtens subartikel (5) gemaak kan word. 40

Onbekwame Hoof van Kantoor

34. (1) Indien daar na die mening van die Ouditeur-generaal redelike gronde bestaan om te vermoed dat die Adjunk-ouditeur-generaal ongeskik vir sy pligte is of nie in staat is om hulle op bekwame wyse uit te voer nie, moet die Ouditeur-generaal dienooreenkomstig aan die Ouditkommissie verslag doen, en die Ouditkommissie kan 'n persoon of persone aanstel om ondersoek na die bewerings in te stel. 45
- (2) Die bepalinge van artikel 33(2) tot (6) is *mutatis mutandis* van toepassing op 'n ondersoek ingevolge subartikel (1) van hierdie artikel, en vir dié doel moet 'n verwysing in artikel 33(5) en (6) na die Ouditeur-generaal, as 'n verwysing na die Ouditkommissie uitgelê word. 50

Wangedrag

35. 'n Beampte is aan wangedrag skuldig en daar kan ooreenkomstig die bepalinge van artikel 36 met hom gehandel word, indien hy—
- (a) 'n bepaling van hierdie Wet oortree of versuim om aan 'n bepaling daarvan te voldoen; 55
 - (b) 'n daad wat tot nadeel strek van die administrasie, dissipline of doeltreffendheid van die Kantoor, verrig, laat verrig of toelaat of oogluikend toelaat dat dit verrig word;

(2) If an inquiry is to be held in terms of subsection (1), the officer or employee concerned shall be notified in writing thereof, and thereupon he has the right—

- 5 (a) to a written statement setting out the grounds on which he is alleged to be unfit for his duties or incapable of carrying them out efficiently; and
- (b) to be present at the inquiry, to be assisted or represented by any other person, to give evidence and—
 - (i) to be heard;
 - (ii) to call witnesses;
 - 10 (iii) to cross-examine any person called as a witness in support of the said allegations; and
 - (iv) to have access to documents produced in evidence, either personally or through a representative.

(3) At the conclusion of the inquiry, the officer or employee concerned shall 15 be notified of the finding of the officer who conducted the inquiry, and if it was found that he was unfit for his duties or that he was incapable of carrying them out efficiently, he has the right to appeal to the Board against that finding.

(4) The procedure at an inquiry and the noting and hearing of an appeal are as prescribed.

20 (5) If the officer who conducted the inquiry found that the officer or employee concerned was unfit for his duties or incapable of carrying them out efficiently, the Board shall, having regard to the documents relating to the finding and any appeal, recommend to the Auditor-General—

- (a) that no further action be taken in the matter; or
- 25 (b) that the officer or employee concerned be transferred to another post or be employed additional to the fixed establishment; or
- (c) that his salary or grade or both his salary and grade be reduced to an extent recommended; or
- (d) that action be taken against him as prescribed in paragraph (b) as well 30 as paragraph (c); or
- (e) that he be discharged from the Office from a date to be fixed by the Auditor-General.

(6) The Board shall send the documents relating to the inquiry and, where applicable, to the appeal, together with its recommendation in terms of 35 subsection (5), to the Auditor-General, and the Auditor-General may act according to the recommendation of the Board or, subject to the provisions of section 21, according to any other recommendation which can be made under subsection (5).

Inefficient Head of Office

40 34. (1) If in the opinion of the Auditor-General there are reasonable grounds for believing that the Deputy Auditor-General is unfit for his duties or incapable of carrying them out efficiently, the Auditor-General shall report to the Audit Commission accordingly, and the Audit Commission may appoint a person or persons to inquire into the allegations.

45 (2) The provisions of section 33(2) to (6) apply *mutatis mutandis* to an inquiry in terms of subsection (1) of this section, and for that purpose a reference in section 33(5) and (6) to the Auditor-General shall be construed as a reference to the Audit Commission.

Misconduct

50 35. An officer is guilty of misconduct and may be dealt with in accordance with the provisions of section 36, if he—

- (a) contravenes or fails to comply with any provision of this Act;
- (b) performs or causes or permits to be performed or connives at any act 55 which is to the prejudice of the administration, discipline or efficiency of the Office;

- (c) 'n wettige bevel aan hom gegee deur 'n persoon wat die bevoegdheid het om dit te gee, nie gehoorsaam nie, dit veronagsaam of opsetlik versuim om dit uit te voer, of deur woord of gedrag hom aan insubordinasie skuldig maak;
- (d) nalatig of traag is by die uitvoering van sy pligte; 5
- (e) sonder toestemming van die Ouditeur-generaal enige private agentskap of private werk in enige aangeleentheid wat met die verrigting van sy amptelike werksaamhede of die uitvoering van sy ampspligte in verband staan, onderneem;
- (f) hom in die openbaar ten nadele van die Kantoor uitlaat; 10
- (g) van sy posisie in die Kantoor gebruik maak om die belange van 'n politieke party of ander belangebeskermingsgroep te bevorder of te benadeel;
- (h) probeer om uit politieke of buitebronne ingryping in verband met sy posisie en diensvoorwaardes in die Kantoor te verkry, tensy dit geskied om herstel van 'n grief deur bemiddeling van die Parlement of 'n erkende personeelvereniging langs erkende kanale te probeer verkry; 15
- (i) hom op 'n skandelijke, onbehoorlike of onbetaamlike wyse gedra, of, terwyl hy aan diens is, hom aan growwe onbeleefdheid teenoor 'n persoon skuldig maak; 20
- (j) buitensporig van sterk drank of bedwelmende middels gebruik maak;
- (k) insolvent word of 'n akkoord met sy skuldeisers aangaan, of indien 'n bevel tot gyseling deur 'n geregshof teen hom gegee is, tensy daar bewys word dat sy insolvensie of akkoord of die gee van die bevel deur onvermydelike teenspoed veroorsaak is; 25
- (l) in geldelike moeilikheid raak, tensy daar bewys word dat sy geldelike moeilikheid nie die gevolg is van onversigtigheid of ander laakbare oorsaak nie en nie nadelig is vir die getroue uitvoering van sy pligte nie;
- (m) sonder voorafverkreë toestemming van die Hoof van die Kantoor, inligting wat hy ingewin of bekom het as gevolg van sy werk in die Kantoor, openbaar maak anders as in die uitvoering van sy ampspligte, of die inligting vir 'n ander doel as vir die uitvoering van sy ampspligte gebruik, hetsy hy die inligting openbaar maak, al dan nie; 30
- (n) sonder toestemming van die Ouditeur-generaal enige kommissie, geld of geldelike of ander beloning (wat nie die emolumente is wat ten opsigte van sy pligte aan hom betaalbaar is nie) aanneem of eis ten opsigte van die uitvoering van sy pligte, of die versuim om dit uit te voer, of versuim om die Hoof van die Kantoor of, indien hy die Hoof van die Kantoor is, die Ouditeur-generaal van die aanbod van so 'n kommissie, geld of ander beloning te verwittig; 35
- (o) hom roerende en onroerende goed van die Kantoor wederregtelik toeëien of onbehoorlik gebruik daarvan maak in omstandighede wat nie op 'n misdryf neerkom nie; 40
- (p) 'n misdryf pleeg;
- (q) sonder verlof of geldige rede van sy kantoor of diens afwesig is; 45
- (r) 'n valse of onjuiste verklaring aflê in die wete dat dit vals of onjuis is met die oog op die verkryging van enige voorreg of voordeel met betrekking tot sy amptelike posisie of sy pligte, of op die benadeling van of skadeberokkening aan die Kantoor of 'n lid van die Kantoor;
- (s) 'n reël van die konstitusie van 'n mediese hulpfonds of hulpskema of hulpvereniging waarvan hy ingevolge hierdie Wet verplig is om lid te wees, oortree of versuim om daaraan te voldoen; of 50
- (t) 'n bepaling van 'n voorgeskrewe gedragskode oortree of versuim om daaraan te voldoen. 60

Optrede in geval van wangedrag

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36. (1) Wanneer 'n beampte, uitgesonderd die Adjunk-ouditeur-generaal, van wangedrag beskuldig word, kan die Adjunk-ouditeur-generaal of 'n beampte deur hom gemagtig, eersgenoemde beampte skriftelik onder sy handtekening van daardie wangedrag aankla, en die aanklag moet 'n aansegging bevat of van 'n aansegging vergesel gaan waarby die aangeklaagde beampte aangesê word om binne 'n redelike tydperk wat in die aansegging vermeld moet word aan 'n persoon

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- (c) disobeys, disregards or makes wilful default in carrying out a lawful order given to him by a person having the authority to give it, or by word or conduct displays insubordination;
- 5 (d) is negligent or indolent in the carrying out of his duties;
- (e) undertakes, without permission of the Auditor-General, any private agency or private work in any matter connected with the performance of his official functions or the carrying out of his official duties;
- (f) publicly comments to the prejudice of the Office;
- 10 (g) makes use of his position in the Office to promote or to prejudice the interests of any political party or other interest-protecting group;
- (h) attempts to secure intervention from political or outside sources in relation to his position and conditions of service in the Office, unless it is undertaken to obtain redress of any grievance through Parliament, or a staff association via recognized channels;
- 15 (i) conducts himself in a disgraceful, improper or unbecoming manner, or, while on duty, is grossly discourteous to any person;
- (j) uses intoxicants or stupefying drugs excessively;
- (k) becomes insolvent or compromises with his creditors, or has a decree of civil imprisonment made against him by any court of law, unless it is shown that his insolvency or composition or the making of the decree has been occasioned by unavoidable misfortune;
- 20 (l) becomes pecuniarily embarrassed, unless it is shown that his pecuniary embarrassment has not been occasioned by imprudence or other reprehensible cause and is not prejudicial to the faithful carrying out of his duties;
- 25 (m) without first having obtained the permission of the Head of the Office, discloses, otherwise than in carrying out his official duties, information gained by or conveyed to him as a result of his employment in the Office, or uses that information for any purpose other than for carrying out his official duties, whether or not he discloses that information;
- 30 (n) accepts, without permission of the Auditor-General, or demands in respect of the carrying out of or the failure to carry out his duties any commission, fee or pecuniary or other reward (not being the emoluments payable to him in respect of his duties) or fails to report to the Head of the Office, or, if he is the Head of the Office, to the Auditor-General, the offer of such a commission, fee or reward;
- 35 (o) misappropriates or makes improper use of any property of the Office under circumstances not amounting to an offence;
- (p) commits an offence;
- 40 (q) absents himself from his office or duty without leave or valid cause;
- (r) makes a false or incorrect statement, knowing it to be false or incorrect, with a view to obtaining any privilege or advantage in relation to his official position or his duties, or to causing prejudice or injury to the Office or a member of the Office;
- 45 (s) contravenes any rule of the constitution of a medical aid fund or aid scheme or aid society of which he is required to be a member in terms of this Act, or fails to comply therewith; or
- (t) contravenes or fails to comply with any provision of a prescribed code of conduct.

50 Action in cases of misconduct

36. (1) When an officer, other than the Deputy Auditor-General, is accused of misconduct, the Deputy Auditor-General or an officer authorized by him may charge the first-mentioned officer in writing under his hand with that misconduct, and the charge shall contain or shall be accompanied by a direction calling
55 upon the officer charged to send or deliver within a reasonable period specified

wat ook daarin vermeld moet word, 'n skriftelike erkenning of ontkenning van die aanklag en, indien hy dit verlang, 'n skriftelike verduideliking betreffende die wangedrag waarvan hy aangekla word, te stuur of by hom af te lewer.

(2) 'n Beamppte kan te eniger tyd voor of nadat hy kragtens hierdie artikel aangekla is, in sy diens geskors word op die voorwaardes wat voorgeskryf word. 5

(3) (a) Indien die aangeklaagde beamppte erken dat hy aan die aanklag skuldig is, word hy geag skuldig te wees aan wangedrag soos aangekla.

(b) Indien hy die aanklag ontken of versuim om aan die aansegging in subartikel (1) bedoel, te voldoen, moet die Ouditeur-generaal 'n beamppte aanstel om ondersoek na die aanklag in te stel. 10

(4) By 'n ondersoek ingevolge subartikel (3) het die aangeklaagde beamppte die reg—

(a) om, indien die wangedrag waarvan hy aangekla word, op 'n misdryf neerkom waaraan hy deur 'n gereghof skuldig bevind is, redes aan te voer waarom hy, na sy mening, verkeerdelik skuldig bevind is; of 15

(b) om by die ondersoek teenwoordig te wees, deur 'n ander persoon bygestaan of verteenwoordig te word, getuienis af te lê en, óf persoonlik óf deur 'n verteenwoordiger—

(i) aangehoor te word;

(ii) getuies op te roep; 20

(iii) iemand wat as getuie opgeroep is ter stawing van die aanklag, onder kruisverhoor te neem; en

(iv) insae te hê in stukke wat as getuienis voorgelê is.

(5) Na afloop van die ondersoek moet die aangeklaagde beamppte van die bevinding van die beamppte wat die ondersoek gehou het, in kennis gestel word, 25 en het hy die reg—

(a) indien hy skuldig bevind is, om teen die bevinding by die Raad te appelleer; en

(b) indien hy voor of tydens die ondersoek in sy diens geskors is, om in die voorgeskrewe omstandighede weer diens te aanvaar en om enige 30 emolumente wat vir die tydperk van skorsing van hom weerhou is, te ontvang soos voorgeskryf.

(6) Die prosedure by 'n ondersoek ingevolge subartikel (3) en die aanteken en verhoor van 'n appèl bedoel in subartikel (5)(a) is soos voorgeskryf.

(7) Indien die aangeklaagde beamppte aan die aanklag skuldig bevind word of 35 indien hy erken dat hy aan die aanklag skuldig is, moet die Raad, met inagneming van die stukke wat op die ondersoek en, waar toepaslik, op die appèl betrekking het, by die Ouditeur-generaal aanbeveel—

(a) dat hy gewaarsku of berispe word; of

(b) dat hy 'n boete van hoogstens R10 000 opgelê word; of 40

(c) dat hy na 'n ander pos oorgeplaas of bykomend by die vaste diensstaat in diens gehou word; of

(d) dat sy salaris of graad of sowel sy salaris as sy graad verlaag word in die mate wat aanbeveel word; of

(e) dat hy ontslaan word of aangesê word om te bedank uit die Kantoor met 45 ingang van 'n datum wat die Ouditeur-generaal bepaal.

(8) (a) Behalwe waar 'n aanbeveling kragtens paragraaf (e) van subartikel (7) gedoen word, kan die Raad aanbevelings kragtens meer as een van die paragrawe van dié subartikel doen.

(b) Die Raad kan die doen van 'n aanbeveling vir 'n tydperk van hoogstens 12 50 kalendermaande uitstel.

(c) Indien 'n beamppte wat aangesê is om met ingang van 'n bepaalde datum te bedank, versuim om aldus te bedank, word hy geag met ingang van daardie datum weens wangedrag ontslaan te wees.

(d) 'n Boete wat kragtens subartikel (7)(b) opgelê is, kan verhaal word deur die 55 aftrekking van die salaris van die betrokke beamppte in dié paaielemente wat die Ouditeur-generaal bepaal.

(9) Die Raad moet die stukke wat op die ondersoek en, waar toepaslik, op die appèl betrekking het, saam met sy aanbeveling kragtens subartikel (7), aan die Ouditeur-generaal stuur, en die Ouditeur-generaal kan volgens die aanbeveling 60 van die Raad of die Hoof van die Kantoor handel of, behoudens die bepalings van artikel 21, in die geval van 'n aanbeveling deur die Raad, volgens enige ander aanbeveling wat kragtens subartikel (7) gemaak kan word.

- in the direction to a person likewise specified, a written admission or denial of the charge and, if he so desires, a written explanation regarding the misconduct with which he is charged.
- (2) An officer may at any time before or after he has been charged under this section be suspended from duty on such conditions as may be prescribed.
- (3) (a) If the officer charged admits that he is guilty of the charge, he is deemed to be guilty of misconduct as charged.
- (b) If he denies the charge or fails to comply with the direction contemplated in subsection (1), the Auditor-General shall appoint an officer to inquire into the charge.
- (4) At an inquiry in terms of subsection (3) the officer charged has the right—
- (a) if the misconduct with which he is charged, amounts to an offence of which he was convicted by a court of law, to show cause why, in his opinion, he was wrongly convicted; or
- (b) to be present at the inquiry, to be assisted or represented by another person, to give evidence and—
- (i) to be heard;
- (ii) to call witnesses;
- (iii) to cross-examine any person called as a witness in support of the charge; and
- (iv) to have access to documents produced in evidence, either personally or through a representative.
- (5) At the conclusion of the inquiry the officer charged shall be notified of the finding of the officer who conducted the inquiry, and he has the right—
- (a) if he has been found guilty, to appeal against the finding to the Board; and
- (b) if he was suspended from his duty before or during the inquiry, to resume duty under the prescribed circumstances and to receive, as prescribed, any emoluments which were withheld during the period of suspension.
- (6) The procedure at an inquiry in terms of subsection (3) and the noting and hearing of an appeal contemplated in subsection (5)(a) are as prescribed.
- (7) If the officer charged is found guilty of the charge or if he admits that he is guilty of the charge, the Board shall recommend, having regard to the documents relating to the inquiry and, where applicable, to the appeal, to the Auditor-General—
- (a) that he be cautioned or reprimanded; or
- (b) that a fine not exceeding R10 000 be imposed upon him; or
- (c) that he be transferred to another post or be employed additional to the fixed establishment; or
- (d) that his salary or grade or both his salary and grade be reduced to the extent recommended; or
- (e) that he be discharged or called upon to resign from the Office from a date to be fixed by the Auditor-General.
- (8) (a) Except where a recommendation is made under paragraph (e) of subsection (7), the Board may make recommendations under more than one of the paragraphs of the said subsection.
- (b) The Board may postpone the making of a recommendation for a period not exceeding 12 calendar months.
- (c) If an officer who has been called upon to resign from a stated date, fails so to resign, he is deemed to have been discharged with effect from that date on account of misconduct.
- (d) A fine imposed under subsection (7)(b) may be recovered by the Auditor-General from the salary of the officer concerned in such instalments as the Auditor-General may determine.
- (9) The Board shall send the documents relating to the inquiry and, where applicable, to the appeal, together with its recommendation under subsection (7), to the Auditor-General, and the Auditor-General may act according to the recommendation of the Board or the Head of the Office or, subject to the provisions of section 21, in the case of a recommendation by the Board, according to any other recommendation which can be made under subsection (7).

Wangedrag van Hoof van Kantoor

37. (1) Wanneer die Adjunk-ouditeur-generaal van wangedrag beskuldig word, kan die Ouditeur-generaal die aangeleentheid rapporteer aan die Ouditkommissie, wat die Ouditeur-generaal kan gelas om hom van daardie wangedrag aan te kla, en as 'n ondersoek ingevolge artikel 36(3)(b), saamgelees met subartikel (2) van hierdie artikel, nodig word, kan die Ouditkommissie 'n persoon of persone aanstel om die ondersoek in te stel. 5

(2) Die bepalings van artikel 36(2) tot (9) is *mutatis mutandis* van toepassing op verrigtinge wat op 'n lasgewing kragtens subartikel (1) van hierdie artikel volg, en vir dié doel word 'n verwysing in artikels 36(3)(b), 36(7)(e), 36(8)(d) en 36(9) na die Ouditeur-generaal uitgelê as 'n verwysing na die Ouditkommissie, en 'n verwysing in artikel 36 na die beampte wat die ondersoek instel, as 'n verwysing na die persoon of persone wat ingevolge subartikel (1) van hierdie artikel aangestel is. 10

HOOFSTUK VIII

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*Verpligtinge, Regte en Voorregte van Beamptes en Werknemers***Verpligtinge, regte en voorregte**

38. 'n Beampte of werknemer moet die verpligtinge aan hom opgelê by hierdie Wet of enige ander wet nakom, en hy het die regte en daar kan aan hom die voorregte verleen word wat by of kragtens hierdie Wet of enige ander wet voorgeskryf word. 20

Voorbehoud betreffende regte en verpligtinge

39. Geen bepaling van hierdie Wet word uitgelê as sou dit enige bestaande, oplopende of voorwaardelike reg, aanspreeklikheid of verpligting van enige persoon kragtens of uit hoofde van 'n ander wet ophef of afbreuk daaraan doen nie. 25

Ander werk deur beamptes en werknemers

40. Tensy anders in sy diensvoorwaardes bepaal—

- (a) moet elke beampte en werknemer al sy tyd tot die beskikking van die Kantoor stel; 30
- (b) mag geen beampte of werknemer besoldigde werk buite sy werk in die Kantoor verrig of hom verbind om dit te verrig nie, sonder toestemming verleen, op aanbeveling van die Raad, deur die Ouditeur-generaal of 'n beampte deur die Ouditeur-generaal gemagtig; en
- (c) kan geen beampte of werknemer aanspraak maak op addisionele besoldiging ten opsigte van enige amptelike plig of werk wat hy vrywillig verrig of deur 'n bevoegde gesag aangesê word om te verrig nie. 35

Ongemagtigde besoldiging

41. (1) (a) (i) Indien enige besoldiging, toelae of ander beloning deur 'n beampte of werknemer in verband met die verrigting van sy werk in die Kantoor ontvang word anders as ooreenkomstig die bepalings van hierdie Wet of 'n aanbeveling van die Raad, of in stryd met die bepalings van artikel 40(b) ontvang word, moet daardie beampte of werknemer 'n bedrag gelyk aan die bedrag van daardie besoldiging, toelae of ander beloning in die Ouditinkomstefonds stort, of waar dit nie uit geld bestaan nie, die waarde daarvan soos bepaal deur die Hoof van die Kantoor, en indien hy dit nie doen nie, moet dit deur die Hoof van die Kantoor op die wyse wat hy goedvind of deur middel van regsproses, op hom verhaal en in die Ouditinkomstefonds gestort word. 40 45

(ii) Die betrokke beampte of werknemer kan teen so 'n bepaling deur die Hoof van die Kantoor by die Ouditeur-generaal appelleer, wat die bevel kan gee wat hy goeddink. 50

(iii) Die Raad kan aanbeveel dat die betrokke beampte of werknemer die geheel of 'n gedeelte van die besoldiging, toelae of beloning kan behou.

Misconduct of Head of Office

37. (1) When the Deputy Auditor-General is accused of misconduct, the Auditor-General may report the matter to the Audit Commission, which may direct the Auditor-General to charge him with that misconduct, and if an inquiry becomes necessary in terms of section 36(3)(b), read with subsection (2) of this section, the Audit Commission may appoint a person or persons to hold the inquiry.

(2) The provisions of section 36(2) to (9) apply *mutatis mutandis* to any proceedings following upon a direction under subsection (1) of this section, and for that purpose a reference in sections 36(3)(b), 36(7)(e), 36(8)(d) and 36(9) to the Auditor-General shall be construed as a reference to the Audit Commission, and a reference in section 36 to the officer conducting the inquiry as a reference to the person or persons appointed in terms of subsection (1) of this section.

CHAPTER VIII**Obligations, Rights and Privileges of Officers and Employees****Obligations, rights and privileges**

38. An officer or employee shall fulfil the obligations imposed upon him by this Act or any other law, and he has the rights and may be granted the privileges which are prescribed by or under this Act or any other law.

20 Saving regarding rights and obligations

39. No provision of this Act shall be construed as abrogating or derogating from any existing, accruing or contingent right, liability or obligation of any person under or by virtue of any other law.

Other work by officers and employees

- 25 40. Unless otherwise provided for in his conditions of employment—
- (a) every officer and employee shall place the whole of his time at the disposal of the Office;
 - (b) no officer or employee shall perform or engage himself to perform remunerative work outside his employment in the Office, without permission granted, on the recommendation of the Board, by the Auditor-General or an officer authorized by the Auditor-General; and
 - 30 (c) no officer or employee may claim any additional remuneration in respect of any official duty or work which he performs voluntarily or is required by a competent authority to perform.

35 Unauthorized remuneration

41. (1) (a) (i) If any remuneration, allowance or other reward is received by an officer or employee in connection with the performance of his work in the Office otherwise than in accordance with the provisions of this Act or a recommendation of the Board, or is received contrary to the provisions of section 40(b), that officer or employee shall pay into the Audit Revenue Fund an amount equal to the amount of such remuneration, allowance or other reward, or, where it does not consist of money, the value thereof as determined by the Head of the Office, and if he does not do so, it shall be recovered from him by the Head of the Office in such manner as he may deem fit or by way of legal proceedings and be paid into the Audit Revenue Fund.

(ii) The officer or employee concerned may appeal against such a determination by the Head of the Office to the Auditor-General, who may make such order as he may think fit.

(iii) The Board may recommend that the officer or employee concerned may retain the whole or a portion of the remuneration, allowance or reward.

(b) Indien 'n beampte of werknemer vermeld in paragraaf (a) na die oordeel van die Hoof van die Kantoor enige besoldiging, toelae of ander beloning bedoel in daardie paragraaf ontvang het en dit nog in sy besit of onder sy beheer is of ten behoeve van hom in die besit of onder die beheer van iemand anders is, of, indien dit geld is, in 'n depositonemende finansiële instelling gestort is op sy naam of op naam van iemand anders ten behoeve van hom, kan die Hoof van die Kantoor die beampte of werknemer of so iemand anders of die finansiële instelling skriftelik aansê om, in afwagting van die uitslag van geregtelike stappe vir die verhaal van daardie besoldiging, toelae of beloning of die waarde daarvan, nie daaroor te beskik nie, of, indien dit geld is, nie oor 'n ooreenstemmende bedrag geld te beskik nie, na gelang van die geval. 5 10

(c) 'n Persoon of 'n finansiële instelling in paragraaf (b) bedoel wat 'n aansegging ingevolge daardie paragraaf nie nakom nie, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R10 000 of gevangenisstraf vir 'n tydperk van hoogstens twee jaar. 15

(d) Die bepalinge van hierdie artikel is ook van toepassing op 'n beampte wat die Hoof van die Kantoor is, en in so 'n geval moet 'n verwysing na die Hoof van die Kantoor uitgelê word as 'n verwysing na die Ouditeur-generaal.

(2) (a) Behoudens die bepalinge van paragraaf (b) moet enige salaris, toelae, geld, bonus of honorarium wat betaalbaar is ten opsigte van die dienste van 'n beampte of werknemer wat tydelik tot die beskikking gestel is van die Staat of 'n ander regering of van 'n raad, inrigting, liggaam of persoon bedoel in artikel 30(2), in die Ouditinkomstefonds gestort word. 20

(b) Die Raad kan onder omstandighede wat hy as buitengewoon beskou, aanbeveel dat daar aan die betrokke beampte uit die Ouditinkomstefonds 'n bedrag betaal word wat gelyk is aan daardie salaris, toelae, geld, bonus of honorarium, of 'n gedeelte daarvan. 25

Opdra van ander werksaamhede aan beamptes en werknemers

42. Die Ouditeur-generaal, die Hoof van die Kantoor of die hoof van 'n organisasiekomponent of takkantoor kan 'n beampte of werknemer onder sy beheer gelas om tydelik ander pligte te verrig as dié wat normaalweg aan so 'n beampte of werknemer opgedra word of wat by die graad, benaming of indeling van sy pos pas, en hy moet so 'n lasgewing gehoorsaam. 30

Sessie van emolumente

43. Geen beampte of werknemer mag sonder skriftelike goedkeuring van die Adjunk-ouditeur-generaal die reg op die geheel of 'n gedeelte van enige salaris of toelae wat aan hom betaalbaar is, sedeer nie. 35

Verlaging van salarisse

44. 'n Beampte of werknemer se salaris of salarisskaal mag nie sonder sy instemming verlaag word nie behalwe ooreenkomstig die bepalinge van Hoofstuk VII of artikel 48 of ingevolge 'n Parlements-wet. 40

Griewe en versoeke van beamptes en werknemers

45. (1) Indien 'n beampte of werknemer 'n klag of 'n grief oor 'n amptelike handeling of versuim het, of indien 'n beampte of 'n werknemer 'n versoek of mededeling aan die Raad wil rig, het hy die reg om die klag, grief, versoek of mededeling by die betrokke gesag onder die voorgeskrewe omstandighede en op die voorgeskrewe voorwaardes en wyse in te dien, en daardie gesag moet dit op die voorgeskrewe wyse aan die Raad voorlê. 45

(2) Indien 'n beampte of werknemer 'n klag, handeling, versoek of mededeling ingevolge subartikel (1) aan die Raad voorgelê het en nie met die beslissing van die Raad tevrede is nie het hy die reg om op die voorgeskrewe wyse na die Ouditeur-generaal te appelleer. 50

(3) 'n Klag, handeling, versoek of appèl soos in subartikel (1) of (2) bedoel word binne drie kalendermaande nadat dit deur die betrokke persoon aan die Raad of die Ouditeur-generaal, na gelang van die geval, voorgelê is, afgehandel. 55

(b) If in the opinion of the Head of the Office an officer or employee mentioned in paragraph (a) has received any remuneration, allowance or other reward contemplated in that paragraph, and still has it in his possession or under his control or it is in the possession or under the control of any other person on his behalf, or, if it is money, has been deposited in any deposit-taking financial institution in his name or in the name of any other person on his behalf, the Head of the Office may in writing require the officer or employee or such other person or such financial institution not to dispose thereof, or, if it is money, not to dispose of a corresponding sum of money, as the case may be, pending the outcome of any legal steps for the recovery of that remuneration, allowance or reward or the value thereof.

(c) A person or financial institution contemplated in paragraph (b) who or which fails to comply with a requirement in terms of that paragraph, is guilty of an offence and liable on conviction to a fine not exceeding R10 000 or to imprisonment for a period not exceeding two years.

(d) The provisions of this section also apply to an officer who is the Head of the Office, and in such a case a reference to the Head of the Office shall be construed as a reference to the Auditor-General.

(2) (a) Subject to the provisions of paragraph (b), any salary, allowance, fee, bonus or honorarium which may be payable in respect of the services of an officer or employee placed temporarily at the disposal of the State or any other government or of a council, institution, body or person contemplated in section 30(2), shall be paid into the Audit Revenue Fund.

(b) In circumstances regarded by the Board as exceptional, it may recommend the payment out of the Audit Revenue Fund to the officer or employee concerned of an amount equal to that salary, allowance, fee, bonus or honorarium, or a portion thereof.

Assignment of other functions to officers and employees

42. The Auditor-General, the Head of the Office or the head of an establishment component or a branch office may direct any officer or employee under his control temporarily to perform duties other than those ordinarily assigned to such an officer or employee or appropriate to the grade, designation or classification of his post, and he shall comply with such a direction.

Cession of emoluments

43. No officer or employee shall without written approval of the Deputy Auditor-General cede the right to the whole or any part of any salary or allowance payable to him.

Reduction of salaries

44. The salary or scale of salary of an officer or employee shall not be reduced without his consent except in accordance with the provisions of Chapter VII or section 48 or in terms of an Act of Parliament.

Grievances and requests of officers and employees

45. (1) If an officer or employee has a complaint or a grievance concerning an official act or omission, or if an officer or employee wants to address a request or communication to the Board, he has the right to lodge that complaint, grievance, request or communication with the authority concerned under the prescribed circumstances, on the prescribed conditions and in the prescribed manner, and that authority shall submit it to the Board in the prescribed manner.

(2) If an officer or employee has submitted a complaint, act, request or communication to the Board in terms of subsection (1) and he is not satisfied with the decision of the Board he has the right to appeal to the Auditor-General in the prescribed manner.

(3) A complaint, act, request or appeal as contemplated in subsection (1) or (2) shall be dealt with within three months after it has been submitted by the person concerned to the Board or the Auditor-General, as the case may be.

(4) Indien 'n beampte of werknemer na 'n beslissing van die Ouditeur-generaal op 'n appèl ingevolge subartikel (2) van mening is dat 'n onbillike arbeidspraktyk soos in die Wet op Arbeidsverhoudinge, 1956 (Wet No. 28 van 1956), omskryf, teenoor hom toegepas is, het hy, ondanks andersluidende bepalings van enige ander wet, die reg om op die voorgeskrewe wyse by die Nywerheidshof wat ingevolge eersgenoemde wet ingestel is, aansoek te doen om 'n bevel kragtens dié Wet. 5

Politieke regte van beamptes en werknemers

46. 'n Beampte of werknemer mag nie aktief aan partypolitieke aktiwiteite of aktiwiteite wat na mening van die Ouditeur-generaal die onafhanklikheid van die Kantoor kan kompromitteer, deelneem nie: Met dien verstande dat bedoelde verbod nie die bywoning van openbare vergaderings as 'n gewone lid van die publiek uitsluit nie. 10

HOOFSTUK IX

Diverse

15

Besoldiging van beamptes en werknemers

47. (1) Behoudens die bepalings van artikel 21 moet beamptes en werknemers die salarisse, lone en toelaes betaal word ooreenkomstig die skale wat vir hulle range en grade deur die Raad ingevolge artikel 19(10)(f) aanbeveel is.

(2) Op aanbeveling van die Raad, maar behoudens die bepalings van artikel 21— 20

- (a) kan beamptes of werknemers of klasse beamptes of werknemers by aanstelling, oorplasing of bevordering hoër salarisse of lone as die minimum bedrae van die toepaslike skale betaal word;
- (b) kan beamptes of werknemers of klasse beamptes of werknemers spesiale verhoging in salarisse toegestaan word binne die skale wat op hulle van toepassing is; en 25
- (c) kan die salaris of loon van 'n beampte of werknemer wat buitengewoon bekwaam is of wat spesiale kwalifikasies besit of wat voortreflike diens gelever het en, as dit in belang van die Kantoor is, van enige beampte of werknemer, spesiaal verhoog word binne die skaal wat op hom van toepassing is; of kan daar aan hom 'n salaris of loon ooreenkomstig 'n hoër skaal betaal of enige ander geskikte beloning toegeken word. 30

Foutief toegestane besoldiging

48. (1) Indien 'n foutiewe salaris of salarisskaal by aanstelling, oorplasing of bevordering, of 'n foutiewe verhoging in salaris binne die perke van die salarisskaal op sy graad van toepassing, aan 'n beampte of werknemer toegeken of toegestaan is, of toegeken of toegestaan is teen die korrekte kerf of skaal maar op 'n tyd wanneer of in omstandighede waaronder dit nie aan hom toegeken of toegestaan behoort te gewees het nie, moet die Hoof van die Kantoor daardie beampte of werknemer se salaris of salarisskaal regstel met ingang van die datum waarop die foutiewe salaris, salarisskaal of salarisverhoging in werking getree het, ondanks die bepalings van artikel 29(3)(a) en ondanks die feit dat die betrokke beampte of werknemer onbewus daarvan was dat 'n fout begaan is in die geval waar die regstelling neerkom op 'n verlaging van sy salarisskaal of salaris. 35 40 45

(2) Indien 'n beampte of werknemer bedoel in subartikel (1) ten opsigte van sy salaris, met inbegrip van enige gedeelte van 'n toelae of ander besoldiging of enige ander voordeel wat op sy basiese salaris of salarisskaal bereken is of op grond van sy basiese salaris aan hom toegeken is—

- (a) onderbetaal is, moet 'n bedrag gelyk aan die bedrag van die onderbetaling aan hom betaal word, en moet die ander voordeel wat hy nie ontvang het nie, vanaf 'n lopende datum aan hom toegeken word; of 50
- (b) oorbetaal is, of so 'n ander voordeel ontvang het wat hom nie toekom nie—

- (4) If an officer or employee, after a decision by the Auditor-General on an appeal in terms of subsection (2), is of the opinion that an unreasonable labour practice, as defined in the Labour Relations Act, 1956 (Act No. 28 of 1956), was applied against him, he has the right, notwithstanding anything to the contrary contained in any other law, to apply in the prescribed manner to the Industrial Court established in terms of the said Act, for an order under the said Act.

Political rights of officers and employees

46. An officer or employee may not actively participate in party-political activities or activities which, in the opinion of the Auditor-General, can compromise the independence of the Office: Provided that that prohibition does not prevent the attendance of public meetings as an ordinary member of the public.

CHAPTER IX

Miscellaneous

15 Remuneration of officers and employees

47. (1) Subject to the provisions of section 21, officers and employees shall be paid the salaries, wages and allowances in accordance with the scales recommended by the Board for their ranks and grades in terms of section 19(10)(f).

- (2) On the recommendation of the Board, but subject to the provisions of section 21—

- (a) officers or employees or classes of officers or employees may on appointment, transfer or promotion be paid higher salaries or wages than the minimum amount of the appropriate scales;
- (b) officers or employees or classes of officers or employees may be granted special advancement in salaries within the scales applicable to them; and
- (c) the salary or wage of an officer or employee of exceptional ability or possessing special qualifications or who has rendered meritorious service, and, if it is in the interest of the Office, of any officer or employee, may be specially advanced within the scale applicable to him or he may be paid a salary or wage in accordance with a higher scale or may be granted any other fitting reward.

Wrongly granted remuneration

48. (1) If an incorrect salary or scale of salary on appointment, transfer or promotion, or an incorrect advancement of salary within the limits of the scale of salary applicable to his grading, was awarded or granted to an officer or employee, or was awarded or granted at the correct notch or scale but at a time when or in circumstances under which it should not have been awarded or granted to him, the Head of the Office shall correct the salary or scale of salary of that officer or employee with effect from the date on which the incorrect salary, scale of salary or salary advancement commenced, notwithstanding the provisions of section 29(3)(a) and notwithstanding the fact that the officer or employee concerned was unaware that an error had been made in the case where the correction amounts to a reduction of his scale of salary or salary.

- (2) If an officer or employee contemplated in subsection (1) has in respect of his salary, including any portion of any allowance or other remuneration or any other benefit calculated on his basic salary or scale of salary or awarded to him by reason of his basic salary—

- (a) been underpaid, an amount equal to the amount of the underpayment shall be paid to him, and that other benefit which he did not receive, shall be awarded to him as from a current date; or
- (b) been overpaid or received any such other benefit not due to him—

- (i) moet 'n bedrag gelyk aan die bedrag van die oorbetalings op hom verhaal word by wyse van die aftrekking van sy salaris van die paalemente wat die Hoof van die Kantoor bepaal, indien hy in diens van die Kantoor is, of, indien hy nie aldus in diens is nie, by wyse van die aftrekking van enige bedrae wat deur die Kantoor aan hom verskuldig is, of by wyse van geregtelike stappe, of gedeeltelik op eersgenoemde en gedeeltelik op laasgenoemde wyse; en 5
 - (ii) moet daardie ander voordeel vanaf 'n lopende datum gestaak of ingetrek word, maar die betrokke beampte of werknemer het die reg om deur die Kantoor vergoed te word vir enige vermoënsregtelike skade wat hy as gevolg van daardie staking of intrekking gelyk het of sal ly. 10
- (3) Die Hoof van die Kantoor kan die bedrag van 'n oorbetalings wat ingevolge subartikel (2)(b) verhaal moet word, geheel of gedeeltelik kwytsteld.

Adviseerende Komitee van Kantoor

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49. (1) Daar word hierby 'n komitee ingestel wat die Adviseerende Komitee van die Kantoor heet en wat bestaan uit—

- (a) die voorgeskrewe getal beamptes, wat nie een derde van die getal lede van die Komitee oorskry nie, deur die Ouditeur-generaal benoem; en
 - (b) die voorgeskrewe getal beamptes wat beamptes in die Kantoor verteenwoordig, en wat, onderworpe aan die voorgeskrewe voorwaardes en uitsonderings, benoem word deur die relevante en erkende personeelverenigings soos bedoel in artikel 54(1)(l). 20
- (2) Die Adviseerende Komitee van die Kantoor moet die Raad adviseer betreffende— 25
- (a) enige aangeleentheid waarmee die Raad ingevolge hierdie Wet of enige ander wet moet of kan handel;
 - (b) reëls en voorgestelde reëls, en wetgewing en voorgestelde wetgewing, vir sover dit die beamptes of werknemers raak of mag raak; en
 - (c) ander aangeleenthede wat voorgeskryf word. 30

Pensioen- en uitdienstredingsvoordele

50. (1) Ondanks andersluidende bepalings van enige ander wet word 'n beampte of werknemer ten opsigte van pensioen- en uitdienstredingsvoordele behandel asof—

- (a) in die geval van 'n beampte, hy in diens is in 'n pos wat ingedeel is in 'n afdeling van die staatsdiens vermeld in artikel 7(1)(a)(i) van die Staatsdienswet; of 35
 - (b) in die geval van 'n werknemer, hy 'n werknemer van die Regering is op wie artikel 5(2) van die Wet op die Pensioenfonds vir Tydelike Werknemers, 1979 (Wet No. 75 van 1979), van toepassing is; en 40
 - (c) in die geval van die Adjunk-ouditeur-generaal, hy 'n departementshoof soos in artikel 6 van die Staatsdienswet bedoel, is.
- (2) Enige belastingtoegewings wat ingevolge die Inkomstebelastingwet, 1962 (Wet No. 58 van 1962), voor of na die inwerkingtreding van hierdie Wet op persone in diens van die Staat van toepassing was of is, is ook op beamptes en werknemers van toepassing. 45

Mediese voordele

51. Ondanks andersluidende bepalings van enige ander wet word 'n beampte of werknemer wat nog by die Kantoor in diens is of met pensioen uit diens tree of getree het, ten opsigte van lidmaatskap van 'n mediese hulpvereniging behandel asof hy 'n beampte of werknemer in die Staatsdiens is. 50

Beperking van regsgedinge

52. (1) Geen regsgeding mag teen die Kantoor of 'n persoon ten opsigte van enige beweerde handeling ingevolge hierdie Wet of die Wet op die Ouditeur-generaal, of enige beweerde versuim om iets te doen wat ingevolge hierdie Wet 55

- (i) an amount equal to the amount of the overpayment shall be recovered from him by way of the deduction from his salary of such instalments as the Head of the Office may determine if he is in the service of the Office; or, if he is not so in service, by way of deduction from any amounts due to him by the Office or by way of legal proceedings, or partly in the former manner and partly in the latter manner; and
- (ii) that other benefit shall be discontinued or withdrawn as from a current date, but the officer or employee concerned has the right to be compensated by the Office for any patrimonial loss which he has suffered or will suffer as a result of that discontinuation or withdrawal.

(3) The Head of the Office may remit the amount of an overpayment to be recovered in terms of subsection (2)(b) in whole or in part.

15 Advisory Committee of Office

49. (1) There is hereby established a committee to be known as the Advisory Committee of the Office, consisting of—

- (a) the prescribed number of officers nominated by the Auditor-General, who shall not be more than one-third of the number of members of the Committee; and
- (b) the prescribed number of officers representing officers in the Office, who shall, subject to the prescribed conditions and exceptions, be nominated by the relevant and recognized staff associations as contemplated in section 54(1)(l).
- (2) The Advisory Committee of the Office shall advise the Board regarding—
- (a) any matter with which the Board is required or empowered to deal under this Act or any other law;
- (b) rules and proposed rules, and legislation and proposed legislation, in so far as they affect or may affect the officers or employees; and
- (c) such other matters as may be prescribed.

Pension and retirement benefits

50. (1) Notwithstanding anything to the contrary contained in any other law, an officer or employee shall, in respect of pension and retirement benefits, be dealt with as if—

- (a) in the case of an officer, he is in service in a post classified in a division of the public service mentioned in section 7(1)(a)(i) of the Public Service Act; or
- (b) in the case of an employee, he is an employee of the Government to whom section 5(2) of the Temporary Employees Pension Fund Act, 1979 (Act No. 75 of 1979), applies; and
- (c) in the case of the Deputy Auditor-General, he is a head of a department as contemplated in section 6 of the Public Service Act.

(2) Any income tax concessions which, in terms of the Income Tax Act, 1962 (Act No. 58 of 1962), were or are applicable to persons in the service of the State before or after the commencement of this Act, shall also be applicable to officers and employees.

Medical benefits

51. Notwithstanding anything to the contrary contained in any other law, an officer or employee who is still in the service of the Office or retires or has retired on pension, shall in respect of membership of a medical aid association, be dealt with as if he is an officer or employee in the Public Service.

Limitation of actions

52. (1) No legal proceedings shall be instituted against the Office or any person in respect of any alleged act in terms of this Act or the Auditor-General Act, or any alleged omission to do anything which in terms of this Act or the said

of genoemde Wet op die Ouditeur-generaal gedoen behoort te gewees het, ingestel word nie, tensy die regsgeeding ingestel word voor die verstryking van 'n tydperk van 12 kalendermaande na die datum waarop die eiser kennis van die beweerde handeling of versuim gehad het, of na die datum waarop redelikerwys verwag kon word dat die eiser van die beweerde handeling of versuim bewus sou wees, na gelang van watter datum die vroegste is. 5

(2) Geen sodanige regsgeeding mag ingestel word voor die verstryking van minstens een kalendermaand nadat 'n skriftelike kennisgewing, waarin besonderhede aangaande die beweerde handeling of versuim verstrekkend word, van die voorneme om die regsgeeding in te stel, aan die verweerder bestel is nie. 10

Beperking van aanspreeklikheid

53. (1) Die Kantoor of iemand in diens van die Kantoor is nie aanspreeklik nie teenoor enige ander persoon (uitgesonderd 'n beampte of werknemer van die Kantoor wat in die uitvoering van sy pligte optree) wat gebruik maak van enige voertuig, vliegtuig of vaartuig wat die eiendom van die Kantoor is of wat deur of ten behoeve van die Kantoor gebruik word of wat deur die Kantoor vir gebruik deur iemand anders beskikbaar gestel word, of teenoor die gade of 'n ouer, kind of ander afhanklike van so 'n ander persoon, of teenoor enigiemand wat wetlik verplig is om enigeen van so 'n ander persoon se afhanklikes te onderhou, vir enige verlies of skade wat veroorsaak word deur of voortspruit uit of op enige wyse in verband staan met die gebruik van so 'n voertuig, vliegtuig of vaartuig. 15 20

(2) Die bepalinge van subartikel (1) raak nie die aanspreeklikheid van iemand in diens van die Kantoor wat genoemde verlies of skade opsetlik veroorsaak nie.

Personeelreëls

54. (1) Die Ouditeur-generaal kan, behoudens die bepalinge van hierdie Wet, nadat die Raad 'n aanbeveling gedoen het, reëls uitvaardig betreffende— 25

- (a) die indiensneming van persone en die oorplasing, bevordering en indienshouding van beamptes en werknemers;
- (b) die pligte, bevoegdhede, gedrag, dissipline, diensure en verlof van beamptes en werknemers en hulle ander diensvoorwaardes, met inbegrip van die bewoning van amptelike wonings; 30
- (c) 'n gedragskode wat beamptes en werknemers moet nakom;
- (d) reise in amptelike diens, en die vervoervoorregte van beamptes en werknemers;
- (e) die voorwaardes waarop en die omstandighede waarin besoldiging vir oortyddiens, en reis-, verblyf-, klimaats-, plaaslike en ander toelaes, aan beamptes en werknemers betaal moet word; 35
- (f) die omstandighede waarin geneeskundige ondersoek vir die doeleindes van 'n bepaling van hierdie Wet vereis word, en die vorm van geneeskundige verslae en sertifikate; 40
- (g) die besondere klasse beamptes en werknemers wat verplig kan word om sekerheid te stel, en die bedrag en vorm daarvan;
- (h) die omstandighede waarin en die voorwaardes en wyse waarop bevind kan word dat 'n beampte ongeskik vir sy pligte is of nie in staat is om hulle op bekwame wyse uit te voer nie, en die voorwaardes en wyse waarop hy teen so 'n bevinding kan appelleer; 45
- (i) die wyse waarop 'n beampte van wangedrag aangekla moet word, die omstandighede waarin, die voorwaardes en wyse waarop en tyd wanneer 'n beampte in sy diens geskors kan word, die wyse waarop teen 'n skuldigbevinding aan wangedrag geappelleer kan word, en die verhoor van so 'n appèl; 50
- (j) die prosedure vir die behandeling van klagtes en griewe van beamptes, en die wyse waarop en die tyd wanneer stukke in verband daarmee en in verband met versoeke en mededelings van beamptes en werknemers, aan die Raad voorgelê moet word; 55
- (k) die samestelling, werksaamhede en prosedure van die Adviserende Komitee van die Kantoor;
- (l) die erkenning van personeelverenigings;

Auditor-General Act, should have been done, unless the legal proceedings are instituted before the expiry of a period of 12 calendar months after the date on which the claimant had knowledge, or after the date on which the claimant might reasonably have been expected to have knowledge, of the alleged act or omission, whichever is the earlier date.

(2) No such legal proceedings shall be instituted before the expiry of at least one calendar month after a written notification, in which particulars as to the alleged act or omission are given, of intention to institute those proceedings has been served on the defendant.

10 Limitation of liability

53. (1) The Office or any person in the service of the Office is not liable to any other person (except an officer or employee of the Office acting in the execution of his duty) who makes use of any vehicle, aircraft or vessel which is the property of the Office or which is used by or on behalf of the Office or which has been made available by the Office for use by any person, or to the spouse, or any parent, child, or other dependant of such other person, or to any person who is required by law to maintain any of the dependants of such other person, for any loss or damage caused by or arising out of or in any way connected with the use of such a vehicle, aircraft or vessel.

(2) The provisions of subsection (1) do not affect the liability of any person in the service of the Office who wilfully causes the said loss or damage.

Staff rules

54. (1) Subject to the provisions of this Act, the Auditor-General may, after the Board has made a recommendation, make Rules regarding—

- (a) the employment of persons and the transfer, promotion and continued employment of officers and employees;
- (b) the duties, powers, conduct, discipline, hours of attendance and leave of absence of officers and employees and their other conditions of service, including the occupation of official dwellings;
- (c) a code of conduct with which officers and employees shall comply;
- (d) journeys on official duty, and transport privileges of officers and employees;
- (e) the conditions on which and the circumstances under which remuneration for overtime duty, and travelling, subsistence, climatic, local and other allowances, shall be paid to officers and employees;
- (f) the circumstances under which medical examination shall be required for the purposes of any provision of this Act, and the form of medical reports and certificates;
- (g) the particular classes of officers and employees who may be required to provide security, and the amount and form thereof;
- (h) the circumstances under which, the conditions on which and the manner in which an officer may be found unfit for his duties or incapable of carrying them out efficiently, and the conditions on which and the manner in which he may appeal against such a finding;
- (i) the manner of charging an officer with misconduct, the circumstances under which, the conditions on which, the manner in which, and the time when an officer may be suspended from service, the manner in which a finding of guilty of misconduct may be appealed against, and the hearing of such an appeal;
- (j) the procedure for dealing with complaints and grievances of officers, and the manner in which and time when documents in connection therewith and in connection with requests and communications of officers and employees, shall be submitted to the Board;
- (k) the composition, functions and procedure of the Advisory Committee of the Office;
- (l) the recognition of staff associations;

- (m) die algemene sekerheid in die Kantoor, en die sekerheidsvereistes waaraan beamptes en werknemers moet voldoen;
 - (n) alle aangeleenthede wat ingevolge hierdie Wet voorgeskryf moet of kan word;
 - (o) die aanwysing of instelling van 'n gesag of meer as een gesag en die bevoegdhede van so 'n gesag om onder vermelde omstandighede ten opsigte van 'n beampte of werknemer of klas beamptes of werknemers 'n afwyking van die bepalings van 'n voorskrif te magtig; en 5
 - (p) enige aangeleentheid wat nodig of dienstig geag word om voor te skryf ten einde die oogmerke van hierdie Wet te verwesenlik. 10
- (2) (a) Reëls wat kragtens hierdie Wet uitgevaardig word, moet op die wyse wat die Ouditeur-generaal goedgevind, bekend gemaak word.
- (b) Die verval van 'n reël ingevolge hierdie subartikel raak nie die geldigheid van enigiets wat kragtens die reël voor die verval daarvan gedoen is nie.

Delegering van bevoegdhede

15

55. (1) Die Adjunk-ouditeur-generaal kan, behoudens die voorwaardes wat hy bepaal, enige bevoegdheid of plig by of kragtens hierdie Wet aan hom verleen of opgedra, behalwe die bevoegdheid aan hom verleen by hierdie subartikel, aan 'n beampte deleger of opdra.

(2) 'n Delegering of opdrag kragtens subartikel (1) belet nie die Adjunk-ouditeur-generaal om die betrokke bevoegdheid of plig self uit te oefen of te verrig nie. 20

Wysiging van Wette, en voorbehoud

56. (1) Behoudens die bepalings van subartikel (2) word die Wette in die Bylae genoem hierby gewysig in die mate uiteengesit in die derde kolom van die Bylae. 25

(2) Enigiets wat gedoen is ingevolge 'n bepaling wat by subartikel (1) gewysig word en ingevolge hierdie Wet gedoen sou kon word, word geag ingevolge die ooreenstemmende bepaling van hierdie Wet gedoen te wees.

(3) Iets wat ingevolge die Staatsdienswet met betrekking tot die kantoor van die Ouditeur-generaal gedoen is en ingevolge hierdie Wet gedoen sou kon word, word geag ingevolge laasgenoemde Wet gedoen te wees. 30

Kort titel en inwerkingtreding

57. (1) Hierdie Wet heet die Ouditreëlingswet, 1992, en tree op 1 April 1993 in werking.

(2) Die voorbehoudsbepaling by artikel 14 van die Interpretasiewet, 1957 (Wet No. 33 van 1957), is nie van toepassing nie ten opsigte van 'n bevoegdheid in genoemde artikel bedoel wat ingevolge hierdie Wet uitgeoefen word. 35

- (m) the general security in the Office, and the security requirements with which officers and employees shall comply;
 - (n) all matters which are required to be or may be prescribed under this Act;
 - 5 (o) the designation or establishment of an authority or more than one authority and the powers of such an authority to authorize a departure from the provisions of a directive in respect of an officer or employee or class of officers or employees under stated circumstances; and
 - 10 (p) any matter which may be considered necessary or expedient to prescribe in order to achieve the objects of this Act.
- (2) (a) Rules made under this Act shall be made known in the manner that the Auditor-General may deem fit.
- (b) The lapsing of a rule in terms of this subsection does not affect the validity of anything done under the rule prior to the lapsing thereof.

15 Delegation of powers

55. (1) The Deputy Auditor-General may, subject to such conditions as he may determine, delegate or assign any power or duty conferred or imposed upon him by or under this Act, excepting the power conferred upon him by this subsection, to an officer.
- 20 (2) A delegation or assignment under subsection (1) shall not prevent the Deputy Auditor-General from himself exercising the power or performing the duty concerned.

Amendment of Acts, and savings

56. (1) Subject to the provisions of subsection (2), the Acts mentioned in the
- 25 Schedule are hereby amended to the extent set out in the third column of the Schedule.
- (2) Anything done in terms of any provision amended by subsection (1) and which could be done in terms of this Act, is deemed to have been done under the corresponding provision of this Act.
- 30 (3) Anything done in terms of the Public Service Act with reference to the office of the Auditor-General and which could be done in terms of this Act shall be deemed to have been done in terms of the last-mentioned Act.

Short title and commencement

57. (1) This Act shall be called the Audit Arrangements Act, 1992, and shall
- 35 come into operation on 1 April 1993.
- (2) The proviso to section 14 of the Interpretation Act, 1957 (Act No. 33 of 1957), shall not apply in respect of any power contemplated in the said section and exercised in terms of this Act.

Bylae

WETTE GEWYSIG

No. en jaar van Wet	Kort titel	In hoeverre gewysig
66 van 1975	Skatkiswet, 1975	<p>1. Die wysiging van artikel 1 deur die woordskrywing van "Ouditeur-generaal" deur die volgende omskrywing te vervang:</p> <p>" 'Ouditeur-generaal' die persoon wat ingevolge artikel [41] 2 van die Wet op die Ouditeur-generaal, 1989 (Wet No. 52 van 1989), as sodanig aangestel is;".</p> <p>2. Die skapping van artikel 15(3)(d).</p>
111 van 1984	Staatsdienswet, 1984	<p>1. Die wysiging van artikel 1 deur die omskrywing van "departementshoof", "hoof van 'n departement" of "hoof van die departement" deur die volgende omskrywing te vervang:</p> <p>" 'departementshoof', 'hoof van 'n departement' of 'hoof van die departement' 'n beampte in artikel 6(2) bedoel [en vir sover dit die Kantoor van die Ouditeur-generaal betref en behoudens die bepalings van die Wet op die Ouditeur-generaal, 1989 (Wet No. 52 van 1989), ook die Adjunk-ouditeur-generaal];"</p> <p>2. Die wysiging van artikel 2 deur subartikel (3A) te skrap.</p> <p>3. Die wysiging van artikel 7 deur—</p> <p>(a) subparagraaf (iv) van paragraaf (a) van subartikel (1) te skrap; en</p> <p>(b) paragraaf (b) van subartikel (2) te skrap.</p> <p>4. Die wysiging van Bylae 1 deur die woorde "Kantoor van die Ouditeur-generaal" in Kolom 1, en die woord "Adjunk-ouditeur-generaal" in Kolom II, te skrap.</p>

Schedule

ACTS AMENDED

No. and year of Act	Short title	Extent of amendment
66 of 1975	Exchequer Act, 1975	1. The amendment of section 1 by the substitution for the definition of "Auditor-General" of the following definition: " 'Auditor-General' means the person appointed as such in terms of section [41] 2 of the Auditor-General Act, 1989 (Act No. 52 of 1989);". 2. The deletion of section 15(3)(d).
111 of 1984	Public Service Act, 1984	1. The amendment of section 1 by the substitution for the definition of "head of department", "head of a department" or "head of the department" of the following definition: " 'head of department', 'head of a department' or 'head of the department' means an officer contemplated in section 6(2) [and, in so far as it concerns the Office of the Auditor-General and subject to the provisions of the Auditor-General Act, 1989 (Act No. 52 of 1989), also the Deputy Auditor-General]; ". 2. The amendment of section 2 by the deletion of subsection (3A). 3. The amendment of section 7 by— (a) the deletion of subparagraph (iv) of paragraph (a) of subsection (1); and (b) the deletion of paragraph (b) of subsection (2). 4. The amendment of Schedule 1 by the deletion of the words "Office of the Auditor-General" in Column 1, and the words "Deputy Auditor-General" in Column II.

