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GENERAL NOTICE

ALGEMENE KENNISGEWING

NOTICE 680 OF 2008

DEPARTMENT OF PUBLIC SERVICE AND ADMINISTRATION

The Minister for the Public Service and Administration intends introducing the Public Administration Management Bill in June 2008 in Parliament. An explanatory summary of the Bill is hereby published in accordance with Rule 241(1)(c) of the Rules of the National Assembly.

EXPLANATORY SUMMARY OF THE PUBLIC ADMINISTRATION MANAGEMENT BILL

The Public Administration Management Bill (the draft Bill) proposes to provide for administration in the three spheres of government and for related personnel matters. It seeks to bring about the harmonisation of public administration personnel practices, systems and conditions of service over time, in order to facilitate efficient and effective delivery of services.

Under the current legislative framework, the law regulating the staffing of the national, provincial and local government is dealt with under different statutes. One of the primary objects of the draft Bill is to have one basic statute to do so. It is for this reason that all the provisions of the Public Service Act, 1994 and those provisions of the Municipal Structures Act, 1998, and Systems Act, 2000, dealing with staffing are to be repealed, and integrated into one statute. Accordingly, the draft Bill will apply to all departments and government components in the national and provincial spheres of government (i.e. the public service), and municipalities and municipal government components.

The object of the draft Bill is, with due regard to the values and principles in section 195(1) of the Constitution of the Republic of South Africa, 1996, to ensure efficient, quality, collaborative and accountable service delivery by institutions across three spheres to alleviate poverty and promote social and economic development of the people of the Republic. This object is to be achieved amongst others through—

- (a) providing for frameworks for personnel and public administration systems, practices and procedures in institutions;
- (b) removing and preventing unjustifiable disparities in conditions of service of employees in administration across three spheres;
- (c) providing for the setting of standards for services to be delivered by institutions and promoting a culture of service delivery across institutions;
- (d) providing for a senior management service across all institutions;
- (e) providing for standards of conduct and anti-corruption measures to promote service delivery, ethical conduct and professionalism of employees;
- (f) providing for electronic government as a key mechanism to improve internal effectiveness of institutions and service delivery; and

- (g) promoting innovation for the purpose of enhanced effective, efficient and economical service delivery.

The draft Bill respects the powers vested by the Constitution in municipalities, particularly their power to appoint, direct and dismiss their own employees. While the draft Bill does contain provisions that, in carefully circumscribed circumstances, empower the Minister for the Public Service and Administration (the Minister), to set limits on conditions of service of municipal employees, these provisions do not compromise or impede municipalities in exercising their rights or performing the functions conferred on them by the Constitution.

The draft Bill permits employers and trade unions in the local government sphere to negotiate conditions of service in their bargaining councils. This is, however, constrained by provisions that enable the Minister, over time, to address unjustifiable disparities within the public administration, including unjustifiable disparities between the local government and other spheres of government.

Where the interests of municipalities are affected, the draft Bill requires that the concurrence of national organised local government. The South African Local Government Association (SALGA) is currently recognised in terms of the Organised Local Government Act, 1997, as the national organisation representing the majority of provincial organisations which represent the majority of municipalities in their respective provinces. These include concurrence on norms and standards for conditions of service of members of the Senior Management Service as well as on regulations insofar as they apply to municipalities.

Since 1996 the Public Service Commission has monitored and evaluated the performance of the public service in relation to the administration of personnel practices and service delivery. The draft Bill envisages an expanded role for the Commission through an oversight mandate which includes national, provincial and local spheres of government.

KENNISGEWING 680 VAN 2008**DEPARTEMENT STAATSDIENS EN ADMINISTRASIE**

Die Minister vir die Staatsdiens en Administrasie beoog om die Wetsontwerp op die Openbare Administrasie-bestuur in Junie 2008 in die Parlement in te dien. 'n Verduidelikende opsomming van die Wetsontwerp word hiermee ooreenkomstig Reël 241(1) van die Reëls van die Nasionale Vergadering gepubliseer.

VERDUIDELIKENDE OPSOMMING VAN DIE WETSONTWERP OP DIE OPENBARE ADMINISTRASIE-BESTUUR

Die Wetsontwerp op die Openbare Administrasie-bestuur (die Konsepwetsontwerp) stel voor om vir administrasie in die drie regeringsfere en vir verbandhoudende personeelaangeleenthede voorsiening te maak. Dit beoog om openbare administrasie personeelpraktyke en -stelsels en diensvoorwaardes met tyd te harmoniseer ten einde voordelige en doeltreffende dienslewering te vergemaklik.

Kragtens die huidige regsraamwerk is die wetgewing wat personeelaangeleenthede van die nasionale, provinsiale en plaaslike regering reguleer in verskillende wette vervat. Een van die primêre oogmerke van die Konsepwetsontwerp is om een basiese wet te hê, wat dit doen. Vir dié rede staan al die bepalings van die Staatsdienswet, 1994, en dié bepalings van die Wette op Munisipale Strukture, 1998, en Munisipale Stelsels, 2000, wat met personeelvoorsiening handel, herroep te word en in een wet geïntegreer te word. Dienooreenkomstig, sal die Konsepwetsontwerp op alle departemente en regeringskomponente in die nasionale en provinsiale regeringsfere (d.w.s. die staatsdiens), en munisipaliteite en munisipale regeringskomponente van toepassing wees.

Die oogmerk van die Konsepwetsontwerp is, met behoorlike inagneming van die waardes en beginsels in artikel 195(1) van die Grondwet van die Republiek van Suid-Afrika, 1996, om voordelige, kwaliteits-, samewerkende en verantwoordigingspligtige dienslewering deur instellings regdeur drie sfere te verseker om armoede te verlig en sosiale en ekonomiese ontwikkeling van die mense van die Republiek te bevorder. Die oogmerk moet onder meer bereik word deur—

- (a) voorsiening vir raamwerke vir personeel en openbare administrasie-stelsels, praktyke en prosedures in instellings;
- (b) verwydering en voorkoming van onregverdigbare ongelykhede in diensvoorwaardes vir werknemers in administrasie regdeur drie sfere;
- (c) voorsiening vir die bepaling van standaard vir dienste wat deur instellings gelewer moet word en die bevordering van 'n kultuur van dienslewering regdeur instellings;
- (d) voorsiening vir 'n seniorbestuursdiens regdeur alle instellings;

- (e) voorsiening vir standarde vir gedrag en teen-korrupsie maatreëls om dienslewering, etiese gedrag en professionalisme van werknemers;
- (f) voorsiening vir elektroniese regerings as 'n sleutelmeganisme om interne doeltreffendheid en dienslewering te verbeter; en
- (g) bevordering van innovering met die oog op verhoogde voordelige, doeltreffende en ekonomiese dienslewering.

Die Konsepwetsontwerp respekteer die bevoegdhede wat deur die Grondwet in munisipaliteite gevestig word, spesifiek hul bevoegdhede om hul eie werknemers aan te stel, te bestuur en te ontslaan. Terwyl die Konsepwetsontwerp bepalinge bevat wat in versigtig-omskrewe omstandighede, die Minister vir die Staatsdiens en Administrasie (die Minister) in staat stel om beperkinge ten opsigte van die diensvoorwaardes van munisipale werknemers te stel, ondermyn of belemmer dié bepalinge nie munisipaliteite in die uitoefening van hul regte of die uitvoering van die funksies wat deur die Grondwet aan hul toegeken word nie.

Die Konsepwetsontwerp laat werkgewers en vakbonde in die plaaslike regeringsfeer toe om diensvoorwaardes in hul bedingingsrade te onderhandel. Dit word egter beperk deur bepalinge wat die Minister in staat stel om met tyd, onregverdigbare ongelykhede binne die openbare administrasie, met inbegrepe van onregverdigbare ongelykhede tussen die plaaslike regeringsfeer en ander regeringsfere, aan te spreek.

Waar die belange van munisipaliteite geraak word, vereis die Konsepwetsontwerp die instemming van nasionale georganiseerde plaaslike regering. Die 'South African Local Government Association' (SALGA) word huidiglik ingevolge die Wet op Georganiseerde Plaaslike Regering, 1997, erken as die nasionale organisasie wat die meerderheid provinsiale organisasies verteenwoordig, welke provinsiale organisasies in hul onderskeie provinsies die meerderheid munisipaliteite verteenwoordig. Dit sluit in instemming ten opsigte van norme en standarde vir diensvoorwaardes van lede van die Seniorbestuursdiens sowel as regulasies insoverre dit op munisipaliteite van toepassing is.

Sedert 1996 het die Staatsdienskommissie die werkverrigting van die staatsdiens met betrekking tot die administrasie van personeelpraktyke en dienslewering waargeneem en beoordeel. Die Konsepwetsontwerp beoog 'n uitgebreide rol vir die Kommissie deur 'n oorsigmandaat wat nasionale, provinsiale en plaaslike regeringsfere insluit.
