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KANTOOR VAN DIE PRESIDENT

No. 2095. 7 Desember 1994

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

No. 54 van 1994: Wet op die Menseregtekommissie, 1994.

OFFICE OF THE PRESIDENT

No. 2095. 7 December 1994

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

No. 54 of 1994: Human Rights Commission Act, 1994.

ACT

To regulate matters incidental to the establishment of the Human Rights Commission by the Constitution of the Republic of South Africa, 1993; and to provide for matters connected therewith.

*(Afrikaans text signed by the President.)
(Assented to 23 November 1994.)*

PREAMBLE

WHEREAS sections 115 up to and including 118 of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), provide for the establishment of a Human Rights Commission; the appointment of the members of the Commission; the conferring of certain powers on and assignment of certain duties and functions to the Commission; the appointment of a chief executive officer of the Commission; and the tabling by the President in the National Assembly and the Senate of reports by the Commission;

AND WHEREAS the Constitution provides that the Human Rights Commission shall, *inter alia*, be competent and obliged to promote the observance of, respect for and the protection of fundamental rights; to develop an awareness of fundamental rights among all people of the Republic; to make recommendations to organs of state at all levels of government where it considers such action advisable for the adoption of progressive measures for the promotion of fundamental rights within the framework of the law and the Constitution; to undertake such studies for report on or relating to fundamental rights as it considers advisable in the performance of its functions; to request any organ of state to supply it with information on any legislative or executive measures adopted by it relating to fundamental rights; and to investigate any alleged violation of fundamental rights and to assist any person adversely affected thereby to secure redress;

AND WHEREAS the Constitution envisages further powers, duties and functions to be conferred on or assigned to the Human Rights Commission by law, and that staff of the Commission be appointed on such terms and conditions of service as may be determined by or under an Act of Parliament;

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

Definitions

1. In this Act unless the context otherwise indicates—

- 5 (i) "Chairperson" means the chairperson of the Commission referred to in section 115(1) and (5) of the Constitution; (viii)
- (ii) "Commission" means the Human Rights Commission established by section 115(1) of the Constitution; (iii)
- 10 (iii) "committee" means a committee established under section 5; (ii)
- (iv) "fundamental rights" includes the fundamental rights contained in Chapter 3 of the Constitution; (i)
- (v) "investigation" means an investigation under section 9; (iv)
- (vi) "organ of state" includes any statutory body or functionary; (vii)
- 15 (vii) "premises" includes land, any building or structure, or any vehicle, conveyance, ship, boat, vessel, aircraft or container; (v) and

- (viii) "private dwelling" means any part of any building or structure which is occupied as a residence or any part of any building or structure or outdoor living area which is accessory to, and used wholly or principally for, the purposes of residence. (vi)

5 Seat of Commission

2. (1) The seat of the Commission shall be determined by the President.

(2) The Commission may establish such offices as it may consider necessary to enable it to exercise its powers and to perform its duties and functions conferred on or assigned to it by the Constitution, this Act or any other law.

10 Term of office of members of Commission

3. (1) The members of the Commission referred to in section 115(1) of the Constitution may be appointed as full-time or part-time members and shall hold office for such fixed term as the President may determine at the time of such appointment, but not exceeding seven years: Provided that not less than five members are appointed on a full-time basis: Provided further that the President shall remove any member from office if—

(a) such removal is requested by a joint committee composed as contemplated in section 115(3)(a) of the Constitution; and

(b) such request is approved by the National Assembly and the Senate by a resolution adopted by a majority of at least 75 per cent of the members present and voting at a joint meeting.

(2) The President may, in consultation with the Commission, appoint a part-time member as a full-time member for the unexpired portion of the part-time member's term of office.

(3) Any person whose term of office as a member of the Commission has expired, may be reappointed for one additional term.

(4) A member of the Commission may resign from office by submitting at least three months' written notice thereof to Parliament, unless Parliament by resolution allows a shorter period in a specific case.

30 Independence and impartiality

4. (1) A member of the Commission or a member of the staff of the Commission shall serve impartially and independently and exercise or perform his or her powers, duties and functions in good faith and without fear, favour, bias or prejudice and subject only to the Constitution and the law.

(2) No organ of state and no member or employee of an organ of state nor any other person shall interfere with, hinder or obstruct the Commission, any member thereof or a person appointed under section 5(1) or 16(1) or (6) in the exercise or performance of its, his or her powers, duties and functions.

(3) All organs of state shall afford the Commission such assistance as may be reasonably required for the protection of the independence, impartiality and dignity of the Commission.

(4) No person shall conduct an investigation or render assistance with regard thereto in respect of a matter in which he or she has any pecuniary or any other interest which might preclude him or her from exercising or performing his or her powers, duties and functions in a fair, unbiased and proper manner.

(5) If any person fails to disclose an interest contemplated in subsection (4) and conducts or renders assistance with regard to an investigation, while having an interest so contemplated in the matter being investigated, the Commission may take such steps as it deems necessary to ensure a fair, unbiased and proper investigation.

Committees of Commission

5. (1) The Commission may establish one or more committees consisting of one or more members of the Commission designated by the Commission and one or more other persons, if any, whom the Commission may appoint for that purpose and for the period determined by it.

(2) The Commission may extend the period of an appointment made by it under subsection (1) or withdraw such appointment during the period referred to in that subsection.

(3) The Commission shall designate a chairperson for every committee and, if it deems it necessary, a vice-chairperson.

(4) A committee shall, subject to the directions of the Commission, exercise such powers and perform such duties and functions of the Commission as the Commission may confer on or assign to it and follow such procedure during such exercising of powers and performance of duties and functions as the Commission may direct.

(5) On completion of the duties and functions assigned to it in terms of subsection (4), a committee shall submit a report thereon to the Commission.

(6) The Commission may at any time dissolve any committee.

Commission may approach President or Parliament

6. The Commission may, at any time, approach either the President or Parliament with regard to any matter relating to the exercising of its powers or the performance of its duties and functions.

Powers, duties and functions of Commission

7. (1) In addition to any other powers, duties and functions conferred on or assigned to it by section 116 of the Constitution, this Act or any other law, the Commission—

- (a) shall develop and conduct information programmes to foster public understanding of this Act, Chapter 3 of the Constitution and the role and activities of the Commission;
- (b) shall maintain close liaison with institutions, bodies or authorities similar to the Commission in order to foster common policies and practices and to promote co-operation in relation to the handling of complaints in cases of overlapping jurisdiction;
- (c) may consider such recommendations, suggestions and requests concerning fundamental rights as it may receive from any source;
- (d) shall carry out or cause to be carried out such studies concerning fundamental rights as may be referred to it by the President and the Commission shall include in a report referred to in section 118 of the Constitution a report setting out the results of each study together with such recommendations in relation thereto as it considers appropriate;
- (e) may bring proceedings in a competent court or tribunal in its own name, or on behalf of a person or a group or class of persons.

(2) All organs of state shall afford the Commission such assistance as may be reasonably required for the effective exercising of its powers and performance of its duties and functions.

Mediation, conciliation or negotiation by Commission

8. The Commission may, by mediation, conciliation or negotiation endeavour—

- (a) to resolve any dispute; or
- (b) to rectify any act or omission, emanating from or constituting a violation of or threat to any fundamental right.

Investigations by Commission

9. (1) Pursuant to the provisions of section 116(3) of the Constitution the Commission may, in order to enable it to exercise its powers and perform its duties and functions—

- (a) conduct or cause to be conducted any investigation that is necessary for that purpose;
- (b) through a member of the Commission, or any member of its staff designated in writing by a member of the Commission, require from

- any person such particulars and information as may be reasonably necessary in connection with any investigation;
- 5 (c) require any person by notice in writing under the hand of a member of the Commission, addressed and delivered by a member of its staff or a sheriff, in relation to an investigation, to appear before it at a time and place specified in such notice and to produce to it all articles or documents in the possession or custody or under the control of any such person and which may be necessary in connection with that investigation: Provided that such notice shall contain the reasons why such
- 10 person's presence is needed and why any such article or document should be produced;
- 15 (d) through a member of the Commission, administer an oath to or take an affirmation from any person referred to in paragraph (c), or any person present at the place referred to in paragraph (c), irrespective of whether or not such person has been required under the said paragraph (c) to appear before it, and question him or her under oath or affirmation in connection with any matter which may be necessary in connection with that investigation.
- 20 (2)(a) Any person questioned under subsection (1) shall, subject to the provisions of paragraph (b) and subsections (3) and (4)—
- (i) be competent and compelled to answer all questions put to him or her regarding any fact or matter connected with the investigation of the Commission notwithstanding that the answer may incriminate him or her;
- 25 (ii) be compelled to produce to the Commission any article or document in his or her possession or custody or under his or her control which may be necessary in connection with that investigation.
- (b) A person referred to in paragraph (a) shall only be competent and compelled to answer a question or be compelled to produce any article or
- 30 document contemplated in that paragraph if—
- (i) the Commission, after consultation with the attorney-general who has jurisdiction, issues an order to that effect; and
- (ii) the Commission is satisfied that to require such information from such person is reasonable, necessary and justifiable in an open and democratic society based on freedom and equality; and
- 35 (iii) in the Commission's judgement, such person has refused or is likely to refuse to answer a question or to produce any article or document on the basis of his or her privilege against self-incrimination.
- (3)(a) Any incriminating answer or information obtained or incriminating
- 40 evidence directly or indirectly derived from a questioning in terms of subsection (1) shall not be admissible as evidence against the person concerned in criminal proceedings in a court of law or before any body or institution established by or under any law: Provided that incriminating evidence arising from such questioning shall be admissible in criminal proceedings where the person stands trial on
- 45 a charge of perjury or a charge contemplated in section 18(b) of this Act or in section 319(3) of the Criminal Procedure Act, 1955 (Act No. 56 of 1955).
- (b) Subject to the provisions of subsection (2)(a)(i), the law regarding privilege as applicable to a witness summoned to give evidence in a criminal case in a court of law shall apply in relation to the questioning of a person in terms
- 50 of subsection (1).
- (4) Any person appearing before the Commission by virtue of the provisions of subsection (1)(c) and (d) may be assisted at such examination by an advocate or an attorney, or both, and shall be entitled to peruse such of the documents referred to in subsection (1)(c) or minutes as are reasonably necessary to refresh
- 55 his or her memory.
- (5) If it appears to the Commission during the course of an investigation that any person is being implicated in the matter being investigated, the Commission shall afford such person an opportunity to be heard in connection therewith by way of the giving of evidence or the making of submissions and such person or
- 60 his or her legal representative shall be entitled, through the Commission, to question other witnesses, determined by the Commission, who have appeared before the Commission in terms of this section.

(6) Subject to the provisions of this Act, the procedure to be followed in conducting an investigation shall be determined by the Commission with due regard to the circumstances of each case.

(7) The Commission shall from time to time by notice in the *Gazette* make known the particulars of the procedure which it has determined in terms of subsection (6).

(8) The Commission may direct that any person or category of persons or all persons the presence of whom is not desirable, shall not be present at the proceedings during the investigation or any part thereof.

10 Entering and search of premises and attachment and removal of articles

10. (1) Any member of the Commission, or any member of the staff of the Commission or a police officer authorised thereto by a member of the Commission, may, subject to the provisions of this section, for the purposes of an investigation, enter any premises on or in which anything connected with that investigation is or is suspected to be.

(2) The entry and search of any premises under this section shall be conducted with strict regard to decency and order, which shall include regard to—

- (a) a person's right to respect for and protection of his or her dignity;
- (b) the right to freedom and security of the person; and
- (c) the right to his or her personal privacy.

(3) A member or police officer contemplated in subsection (1) may, subject to the provisions of this section—

- (a) inspect and search the premises referred to in that subsection, and there make such enquiries as he or she may deem necessary;
- (b) examine any article or document found on or in the premises;
- (c) request from the owner or person in control of the premises or from any person in whose possession or control that article or document is, information regarding that article or document;
- (d) make copies of or take extracts from any book or document found on or in the premises;
- (e) request from any person whom he or she suspects of having the necessary information, an explanation regarding that article or document;
- (f) attach anything on or in the premises which in his or her opinion has a bearing on the investigation concerned;
- (g) if he or she wishes to retain anything on or in the premises contemplated in paragraph (f) for further examination or for safe custody, against the issue of a receipt, remove it from the premises: Provided that any article that has been so removed, shall be returned as soon as possible after the purpose for such removal has been accomplished.

(4) Any person from whom information is required in terms of subsection (3)(a), (c) and (e) may be assisted at such enquiry by an advocate or an attorney, or both, and shall at the commencement of such enquiry be so informed.

(5)(a) Subject to the provisions of subsection (6), the premises referred to in subsection (1) shall only be entered by virtue of an entry warrant issued by a magistrate, or judge of the Supreme Court, if it appears to such magistrate or judge from information on oath that there are reasonable grounds for believing that any article or document, which has a bearing on the investigation concerned, is in the possession or under the control of any person or on or in any premises within such magistrate's or judge's area of jurisdiction.

(b) Subject to the provisions of subsection (6), the functions referred to in subsection (3) shall only be performed by virtue of a search warrant issued by a magistrate, or judge of the Supreme Court, if it appears to such magistrate or judge from information on oath that there are reasonable grounds for believing that an article or document referred to in paragraph (a) is in the possession or under the control of any person or on or in any premises within such magistrate's or judge's area of jurisdiction.

(c) A warrant issued in terms of this subsection shall authorise any member of the Commission or any member of the staff of the Commission or a police officer

to perform the functions referred to in subsection (3) and shall to that end authorise such person to enter and search any premises identified in the warrant.

(d) A warrant issued in terms of this subsection shall be executed by day, unless the person issuing the warrant in writing authorises the execution thereof by night at times which are reasonable in the circumstances.

(e) A warrant issued in terms of this subsection may be issued on any day and shall be of force until—

- (i) it is executed; or
 - (ii) it is cancelled by the person who issued it or, if such person is not available, by any person with like authority; or
 - (iii) the expiry of one month from the day of its issue; or
 - (iv) the purpose for the issuing of the warrant has lapsed,
- whichever may occur first.

(f) A person executing a warrant under this section shall, at the commencement of such execution, hand the person referred to in the warrant or the owner or the person in control of the premises, if such a person is present, a copy of the warrant: Provided that if such person is not present, he or she shall affix a copy of the warrant to the premises at a prominent and visible place.

(g) A person executing a warrant under this subsection or an entry or search under subsection (6) shall, at the commencement of such execution, identify himself or herself and if that person requires authorisation to execute a warrant under this section, the particulars of such authorisation shall also be furnished.

(6) Subject to the provisions of subsections (2), (3), (4), (5)(g), (7) and (8), any member of the Commission, or any member of the staff of the Commission or a police officer upon request by a member of the Commission, may, without an entry and search warrant, enter and search any premises, other than a private dwelling; for the purposes of attaching and removing, if necessary, any article or document—

- (a) if the person or persons who may consent to the entering and search for and attachment and removal of an article or document consents or consent to such entering, search, attachment and removal of the article or document concerned; or
- (b) if he or she, on reasonable grounds, believes—
 - (i) that a warrant will be issued to him or her under subsection (5) if he or she applies for such warrant; and
 - (ii) that the delay in obtaining such a warrant would defeat the object of the entry and search.

(7) An entry and search in terms of subsection (6) shall be executed by day unless the execution thereof by night is justifiable and necessary.

(8)(a) A person who may lawfully under this section enter and search any premises may use such force as may be reasonably necessary to overcome any resistance against such entry and search of the premises, including the breaking of any door or window of such premises: Provided that such person shall first audibly demand admission to the premises and notify the purpose for which he or she seeks to enter and search such premises.

(b) The proviso to paragraph (a) shall not apply where the person concerned is on reasonable grounds of the opinion that any article or document which is the subject of the search may be destroyed or disposed of if the provisions of the said proviso are first complied with.

(9) If during the execution of a warrant in terms of section 10(5)(b) or a search in terms of section 10(6), a person claims that an article or document found on or in the premises concerned contains privileged information and refuses the inspection or removal of such article or document, the person executing the warrant or search shall, if he or she is of the opinion that the article or document contains information that has a bearing on the investigation and that such information is necessary for the investigation, request the registrar of the

Supreme Court which has jurisdiction or his or her delegate, to attach and remove that article or document for safe custody until a court of law has made a ruling on the question whether the information concerned is privileged or not.

Vacancies in Commission

- 5 11. (1) A vacancy in the Commission shall occur—
- (a) when a member's term of office expires;
 - (b) when a member dies;
 - (c) when a member is removed from office in terms of the second proviso to section 3(1); or
 - 10 (d) when a member's resignation, submitted in accordance with section 3(4), takes effect.
- (2) A vacancy in the Commission shall—
- (a) not affect the validity of the proceedings or decisions of the Commission; and
 - 15 (b) be filled as soon as practicable in accordance with section 115(3) of the Constitution.

Meetings of Commission

12. (1) The meetings of the Commission shall be held at the times and places determined by the Commission: Provided that the first meeting shall be held at
20 the time and place determined by the Minister of Justice.
- (2) If the Chairperson is absent from a meeting of the Commission, the Deputy Chairperson referred to in section 115(5) of the Constitution shall act as chairperson, and if both the Chairperson and Deputy Chairperson are absent from a meeting of the Commission, the members present shall elect one from
25 among their number to preside at that meeting.
- (3) The quorum for any meeting of the Commission shall be a majority of the total number of members.
- (4) The decision of the majority of the members of the Commission present at a meeting thereof shall be the decision of the Commission, and in the event of
30 an equality of votes concerning any matter, the member presiding shall have a casting vote in addition to his or her deliberative vote.
- (5) The Commission shall determine its own procedure and shall cause minutes to be kept of the proceedings.
- (6) The Commission shall from time to time by notice in the *Gazette* make
35 known the particulars of the procedure which it has determined in terms of subsection (5).

Remuneration and allowances of members of Commission

13. (1) The remuneration, allowances and other terms and conditions of office and service benefits of the full-time and part-time members of the Commission
40 shall be determined by the President in consultation with the Cabinet and the Minister of Finance.
- (2) The remuneration of the members of the Commission shall not be reduced during their continuation in office.
- (3) A part-time member of the Commission may, for any period during which
45 that member, with the approval of the Commission, performs additional duties and functions, be paid such additional remuneration as may be determined by the President in consultation with the Cabinet and the Minister of Finance.

Compensation for certain expenses and damage

14. (1) Subject to the provisions of subsection (2), the Commission may, with the
50 specific or general concurrence of the Minister of Finance, order that the expenses or a portion of the expenses incurred by any person in the course of or in connection with an investigation by the Commission, be paid from State funds.
- (2) Any person appearing before the Commission in terms of section 9(1)(c) who is not in the public service, shall be entitled to receive from moneys
55 appropriated by law for such purpose, as witness fees, an amount equal to the

amount which he or she would have received as witness fees had he or she been summoned to attend criminal proceedings in the Supreme Court held at the place mentioned in the written notice in question.

- (3) If a person has suffered damage in the course of the execution of an entry or search warrant in terms of section 10(5)(a) or (b) or an entry or search contemplated in section 10(6), under circumstances where no person responsible for the premises was present at the time of the causing of the damage and the damage was caused by force used to gain entry as contemplated in section 10(8)(a), the Commission may order that such damage be made good from State funds.

10 Reports by Commission

15. (1) The Commission may, subject to the provisions of subsection (3), in the manner it deems fit, make known to any person any finding, point of view or recommendation in respect of a matter investigated by it.

- (2) In addition to the report contemplated in section 118 of the Constitution, the Commission shall submit to the President and Parliament quarterly reports on the findings in respect of functions and investigations of a serious nature which were performed or conducted by it during that quarter: Provided that the Commission may, at any time, submit a report to the President and Parliament if it deems it necessary.

- (3) The findings of an investigation by the Commission shall, when it deems it fit but as soon as possible, be made available to the complainant and any person implicated thereby.

Staff, finances and accountability

16. (1) The Commission shall at its first meeting or as soon as practicable thereafter appoint a director as chief executive officer of the Commission in accordance with section 117(1) of the Constitution, who—

- (a) shall, in consultation with the Public Service Commission and the Minister of Finance and subject to subsection (5), appoint such staff in accordance with section 117(1) of the Constitution as may be reasonably necessary to assist him or her with the work incidental to the performance by the Commission of its functions;
- (b) shall be responsible for the management of and administrative control over the staff appointed in terms of paragraph (a), and shall for those purposes be accountable to the Commission;
- (c) shall, subject to the Exchequer Act, 1975 (Act No. 66 of 1975)—
- (i) be charged with the responsibility of accounting for State money received or paid out for or on account of the Commission;
- (ii) cause the necessary accounting and other related records to be kept;
- (d) may exercise the powers and shall perform the duties and functions which the Commission may from time to time confer upon or assign to him or her in order to achieve the objects of the Commission, and shall for those purposes be accountable to the Commission.

(2) The records referred to in subsection (1)(c)(ii) shall be audited by the Auditor-General.

- (3) The defrayal of expenditure in connection with matters provided for in this Act or in sections 115 up to and including 118 of the Constitution shall be subject to—

- (a) requests being received *mutatis mutandis* in the form as prescribed for the budgetary processes of departments of State; and
- (b) the provisions of the Exchequer Act, 1975, and the regulations and instructions issued in terms thereof, as well as the Auditor-General Act, 1989 (Act No. 52 of 1989).

- (4) The chief executive officer of the Commission shall be appointed on such terms and conditions and shall receive such remuneration, allowances and other service benefits as the Commission may determine in accordance with the regulations under section 19.

(5) The other staff of the Commission shall be appointed on such terms and

conditions and shall receive such remuneration, allowances and other service benefits as the chief executive officer may determine in accordance with the regulations under section 19.

- (6) The Commission may, in consultation with the Public Service Commission, in the exercise of its powers or the performance of its duties and functions by or under this Act, the Constitution or any other law, for specific projects, enter into contracts for the services of persons having technical or specialised knowledge of any matter relating to the work of the Commission, and with the concurrence of the Minister of Finance, determine the remuneration, including reimbursement for travelling, subsistence and other expenses, of such persons.

Legal proceedings against Commission

17. (1) The Commission shall be a juristic person.

- (2) The State Liability Act, 1957 (Act No. 20 of 1957), shall apply *mutatis mutandis* in respect of the Commission, and in such application a reference in that Act to "the Minister of the department concerned" shall be construed as a reference to the Chairperson.

(3) No—

- (a) member of the Commission;
(b) member of the staff of the Commission;
(c) person contemplated in section 16(6); or
(d) member of any committee, not being a member of the Commission, shall be liable in respect of anything reflected in any report, finding, point of view or recommendation made or expressed in good faith and submitted to Parliament or made known in terms of this Act or the Constitution.

25 Offences and penalties

18. A person who—

- (a) without just cause refuses or fails to comply with a notice under section 9(1)(c) or refuses to take the oath or to make an affirmation at the request of the Commission in terms of section 9(1)(d) or refuses to answer any question put to him or her under section 9(1)(d) or refuses or fails to furnish particulars or information required from him or her under that section;
(b) after having been sworn or having made an affirmation contemplated in section 9(1)(d), gives false evidence before the Commission on any matter, knowing such evidence to be false or not knowing or believing it to be true;
(c) wilfully interrupts the proceedings at an investigation or misbehaves himself or herself in any manner in the place where such investigation is being held;
(d) defames the Commission or a member of the Commission in his or her official capacity;
(e) in connection with any investigation does anything which, if such investigation were proceedings in a court of law, would have constituted contempt of court;
(f) anticipates any findings of the Commission regarding an investigation in a manner calculated to influence its proceedings or such findings;
(g) does anything calculated improperly to influence the Commission in respect of any matter being or to be considered by the Commission in connection with an investigation;
(h) contravenes any provision of section 4(2);
(i) fails to afford the Commission the necessary assistance referred to in section 4(3) or 7(2);
(j) acts contrary to the authority of an entry warrant issued under section 10(5)(a) or a search warrant issued under section 10(5)(b) or, without being authorised thereto under section 10, enters or searches any premises or attaches any article or document or performs any act contemplated in section 10(3),

shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months.

Regulations

19. (1) The President may, after the Commission has made a recommendation and after consultation with the Public Service Commission, make regulations regarding the following matters in relation to the staff of the Commission:

- (a) (i) The different categories of salaries and scales of salaries which shall be applicable to the different categories of members of staff;
- (ii) the requirements for appointment and the appointment, promotion, discharge and disciplinary steps;
- (iii) the recognition of appropriate qualifications and experience for the purposes of the determination of salaries;
- (iv) the procedure and manner of and criteria for evaluation, and the conditions or requirements for the purposes of promotion;
- (b) the powers, duties, conduct, discipline, hours of attendance and leave of absence, including leave gratuity, and any other condition of service;
- (c) the creation of posts on the establishment of the Commission;
- (d) the training of staff, including financial assistance for such training;
- (e) a code of conduct to be complied with by staff;
- (f) the provision of official transport;
- (g) the conditions on which and the circumstances under which remuneration for overtime duty, and travel, subsistence, climatic, local and other allowances, may be paid;
- (h) subject to section 17, the legal liability of any member of staff in respect of any act done in terms of this Act or any other law and the legal liability emanating from the use of official transport;
- (i) the circumstances under which and the conditions and manner in which a member of staff may be found to be guilty of misconduct, or to be suffering from continued ill-health, or of incapacity to carry out his or her duties of office efficiently;
- (j) the procedure for dealing with complaints and grievances of members of staff and the manner in which and time when or period wherein and person to whom documents in connection with requests and communications of such members of staff shall be submitted;
- (k) the membership or conditions of membership of a particular pension fund and the contributions to and the rights, privileges and obligations of members of staff or their dependants with regard to such a pension fund;
- (l) the membership or conditions of membership of a particular medical aid scheme or medical aid society and the manner in and the conditions on which membership fees and other moneys which are payable or owing by or in respect of members of staff or their dependants, to a medical aid scheme or medical aid society, may be recovered from the salaries of such members of staff and paid to such medical aid scheme or medical aid society;
- (m) the contributions to and the rights, privileges and obligations of members of staff or their dependants with regard to such a medical aid scheme or medical aid society;
- (n) in general, any matter which is not in conflict with this Act or the Constitution and which is reasonably necessary for the regulation of the terms and conditions of service of members of staff.

(2) Any regulation under this section relating to State expenditure, shall be made in consultation with the Minister of Finance.

Short title and commencement

20. This Act shall be called the Human Rights Commission Act, 1994, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*.