

#### 94. Regulations concerning redeployment and redundancy

- (1) The Governor may under section 108 make regulations prescribing arrangements for —
  - (a) redeployment and retraining; and
  - (b) redundancy,for employees who are surplus to the requirements of any department or organisation, or whose offices, posts or positions have been abolished, and specifying which parts of the Public Sector must comply with those regulations.
- (2) Without limiting the generality of subsection (1), regulations referred to in that subsection may provide for —
  - (a) the situation in which the whole or any part of —
    - (i) the undertaking of a department or organisation is, or is to be, sold or otherwise disposed of to; or
    - (ii) the production or provision of goods or services or both by a department or organisation is, or is to be, replaced by the production or provision of goods or services or both by, a person outside the Public Sector, and an employee of the department or organisation is offered a suitable office, post or position by that person;
  - (b) an employee referred to in paragraph (a) who —
    - (i) refuses the offer of a suitable office, post or position, to be directed by his or her employing authority to accept that offer; or
    - (ii) hinders or obstructs the process by which an employee is selected for the making of an offer of a suitable office, post or position, to be directed by his or her employing authority to refrain from that hindrance or obstruction;
  - (c) the terms and conditions (including remuneration) which are to apply to an employee who accepts an offer referred to in paragraph (a); and
  - (d) the terms and conditions (including remuneration) which are to apply to an employee who is dismissed under section 86(3)(a) or (9)(b)(i), 88(1)(b)(i) or 89(1).
- (3) Without limiting the generality of subsection (1), regulations referred to in that subsection may provide for —
  - (a) the registration of an employee (in this subsection called a **“registered employee”**) who is surplus to the requirements of a department or organisation, or whose office, post or position has been abolished, and who cannot be transferred within the department or organisation;
  - (b) the maximum period for which a registered employee may be registered;
  - (c) the circumstances in which the Minister may direct —
    - (i) a registered employee to accept redeployment between one department or organisation and another; and
    - (ii) the employing authority of a department or organisation to accept a registered employee directed under regulations made under this paragraph to accept redeployment to the

department or organisation, and that employing authority shall comply with that direction;

- (d) the retraining of a registered employee and for the terms and conditions (including remuneration) which are to apply to the registered employee;
  - (e) the terms and conditions (including remuneration) which are to apply to a registered employee who, with the prior approval of the Minister, accepts voluntary severance by resigning his or her office, post or position;
  - (f) the terms and conditions (including remuneration) which are to apply to a registered employee who accepts an offer of a suitable office, post or position inside or outside the Public Sector, and those which are to apply to a registered employee who does not; and
  - (g) the manner in which employing authorities are to notify the Minister of vacancies in offices, posts or positions within their departments or organisations, and the procedure to be followed before those vacancies can be filled.
- (4) A direction referred to in subsection (2)(b) or (3)(c)(i) is, if that direction is —
- (a) given to the employee concerned in accordance with the relevant regulations referred to in this section; and
  - (b) upheld by the Industrial Commission on a reference under section 95(3), or the period referred to in that section has expired without that direction having been so referred,

a lawful order for the purposes of section 80(a), but nothing in this subsection limits the meaning of “lawful order” in section 80(a).

- (5) Regulations referred to in subsection (1) cannot provide for an employee to be required to comply with a direction referred to in subsection (2)(b)(i) or (3)(c)(i) unless the employee is offered suitable employment within or outside the Public Sector.
- (6) For the purposes of this section, “**suitable office, post or position**” or “**suitable employment**” means office, post or position or employment, as the case requires —
- (a) which is suitable having regard to the respective responsibilities attached to it and to the office, post or position or employment occupied or held by the employee at the time when the relevant offer is made and to the experience, qualifications and competence of the employee;
  - (b) which does not require the employee to change his or her place of residence; and
  - (c) which satisfies such other criteria as are prescribed.

*[Section 94 amended by No. 57 of 1997 s. 99(2).]*