

EDUCATION LABOUR RELATIONS COUNCIL

RESOLUTION NO ⁷ OF 1995 *Edm JMM*
REGULATIONS REGARDING THE TERMS AND CONDITIONS OF EMPLOYMENT OF
EDUCATORS

The employer and employee organisations as defined in section 1 of the Education Labour Relations Act 1993, (Act No 146 of 1993), (hereinafter referred to as "the Act"), who are parties to the Education Labour Relations Council established in terms of section 6 of the Act, agree in terms of section 12 of the Act, to the following which shall constitute Resolution No ⁷ of 1995; *Edm JMM*

1. the enclosed document marked "Annexure 1" shall constitute an agreement of the Council;
2. the Minister be requested that the agreement be extended, in terms of section 12(6) of the Act, to apply to all employers and employees; and
3. the Minister shall publish the regulations in terms of the Educators' Employment Act, 1994.

Signed on this 29 day of September 1995 at Pretoria.

On behalf of the employer parties:

On behalf of the employee parties:

Signature Party

[Signature] DE including EGS HOA

[Signature] HODA HOA, DET

Signature Party

[Signature] TO / SAOU

[Signature] NICORINDOS

[Signature] G. AUTEK

[Signature] M. P. M. A. A. N. G. A.

[Signature] NOORDENLIK PROWINSIE

[Signature] APEK

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**REGULATIONS REGARDING THE TERMS AND CONDITIONS OF EMPLOYMENT
OF EDUCATORS**

The Minister of Education has, under section 28 read with sections 4(1), 5(1) and 9 of the Educators' Employment Act, 1994, made the regulations in the Schedule.

SCHEDULE

CHAPTER 1

APPLICATION OF REGULATIONS

DEFINITIONS

1. In these Regulations a word or expression to which a meaning has been assigned in the Act, shall have the meaning so assigned to it and, unless the context otherwise indicates -

"abroad" means any country outside the borders of the Republic of South Africa;

"opposite training" means training recognised by the Minister;

"approved qualification" means a degree, a diploma, a certificate or another qualification recognised by the Minister as a qualification for appointment as an educator;

"calendar month" means a period ranging from the first day up to and including the last day of any of the twelve months of a year;

"calendar year" means a period ranging from the first day of January of a year up to the last day of December of the same year;

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"cycle", in relation to sick leave, means a period of three years calculated from 1 January 1980 and each succeeding period of three years: Provided that, in the case of an educator appointed after 1 January 1980 whose date of appointment does not coincide with the commencement date of a cycle, the period of his or her service from the date of his or her appointment to the date of commencement of the following cycle shall for the purpose of these regulations be regarded as a full cycle;

"day of rest" means a Saturday, a Sunday or a public holiday;

"employer contribution" means the monthly amount referred to in regulation 64;

"employing department" means a department as defined in section 1(1) of the Public Service Act, 1994, in which the educator concerned is employed;

"head of education" means the head of the department responsible for education within a province.

"household" means -

- (a) an educator's spouse; and
- (b) an educator or his or her spouse's necessarily dependent child who is bona fide resident with such educator: Provided that if such a child studies at an institution for post-school education, whether intramurally or extramurally, he or she may be deemed to be a member of the household, but only -
 - (i) if he or she did not take up any permanent full-time employment (including any type of vocational training to which remuneration is attached) after leaving school, excluding compulsory military service which he or she had to undergo after leaving school or work during vacations or temporary full-time employment which he or she had taken up between -
 - (aa) leaving school and the commencement of the academic year; OR

(bb) leaving school and the commencement of such military service; or

(cc) the completion of such military service and the commencement of the academic year,

and had commenced his or her studies at such an institution at the commencement of the academic year following the completion of his or her schooling or military service; and

(ii) until -

(aa) he or she attains the minimum post-school qualification (or minimum combination of post-school qualifications) which will enable him or her to take up employment in the field of study for which he or she originally intended to qualify himself or herself; or

(bb) the normal duration of the course, as prescribed by the institution concerned, plus one academic year, expires, if it takes him or her longer than such prescribed period to attain the relevant qualification as a result of poor academic performance; or

(cc) he or she discontinues the relevant course of study; or

(dd) he or she changes his or her course of study,

whichever of the said four events occurs first; and

(c) a relative of an educator who is permanently resident with and necessarily dependent on him or her and whose income, from any source, does not exceed the sum of -

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- (i) the appropriate maximum basic social pension; plus
- (ii) the maximum allowance for a war veteran to whom a social pension has been awarded; plus
- (iii) the maximum allowance paid to a person as a result of a late application for a social pension,

and if the relative concerned is a social pensioner, then any allowances other than those mentioned in subparagraphs (ii) and (iii) above, which he or she may receive in terms of the relevant regulations referred to above, e.g. an attendant's allowance, should be ignored for the purposes of this paragraph: Provided that where two relatives so reside with him or her and are dependant on him or her and where the one relative would normally have been a dependent of the other relative, for instance a father and a mother, both such relatives may be regarded as members of his or her household only if half of their joint income, from any source, does not exceed the sum of the maximum basic social pension in question and the allowances contemplated in subparagraphs (i) to (iii) above; and

"**married housing**" means state housing designated for an educator with a household that normally lives with him or her;

"**maximum rand amount**" means an amount equal to 4/6 of the maximum membership fee as determined by the Minister for subsidy purposes;

"**medical scheme**" means a medical scheme which is registered in terms of an Act that governs the business of medical schemes;

"**member contribution**" means an amount equal to the subscription minus the monthly employer contribution;

"**membership fee**" means the full membership fee levied by a medical scheme;

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"month" means a period extending from a day in a month up to the day preceding the day corresponding numerically to that day in the following month, both days inclusive;

"office" means a state educational institution excluding a school;

"providing department" means the department in the province concerned responsible for the buying or erection of state housing and other related matters;

"province" means any one of the nine provinces established under section 124 of the Constitution of the Republic of South Africa, 1993;

"recognisable experience" means experience recognised in terms of regulation 11;

"salary increment" means the difference between the notch on the key salary scale applicable to an educator and the following higher notch on the same key salary scale;

"salary incremental date" means the date referred to in regulation 9;

"salary incremental period" means a period of 12 months or any other period approved by the Minister which must elapse before an educator's salary may be increased in accordance with the salary scale applicable to him;

"school" means any educational institution or that part of such an institution at which education and training, including pre-primary education, is provided and which is maintained, managed and controlled or subsidised by a provincial education department, excluding a university and technikon;

"school day" means a day in a school term on which tuition is scheduled to take place at a school, to pupils enrolled at such school;

"school holiday" means a period between any two consecutive school terms during which tuition is suspended;

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"school term" means any one of the periods into which a particular school year is divided for tuition purposes and fixed as such by the head of education for a particular school;

"service" means, for purposes of regulation 67, service with an employer under the Act, as well as service in a department of State in terms of an Act other than the Act including service in an institution established or being established by an Act of Parliament and which obtains or has obtained its funds in whole or in part from the State Revenue Fund;

"single housing" means state housing designated for an educator who does not have a household that normally lives with him or her;

"standard, non-standard and voetstoots housing" means housing as determined by the providing department;

"state housing" means housing, contemplated in regulation 68(2) of which the State is the owner or tenant;

"stationed" means the transfer and settlement of an educator abroad and includes an educator seconded to another Government or institution abroad, except in the case where a secondment agreement contains specific stipulations regarding medical assistance;

"subscription" means the amount a person must pay monthly in order to obtain membership of a registered medical scheme;

"the Act" means the Educators' Employment Act, 1994;

"transfer" means -

- (a) the moving of an employee and his or her household from one headquarters to another in the Republic or in a foreign country;
- (b) the temporary or permanent evacuation of an official quarters at the headquarters of an educator in order to occupy other accommodation; and

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(c) the evacuation by an educator of accommodation in order to occupy official quarters at his or her headquarters;

"year" means a period of 12 months extending from a day in a year to the day preceding the day corresponding numerically to that day in the following year, both days inclusive.

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CHAPTER 2

GENERAL CONDITIONS OF SERVICE AND SALARIES

APPOINTMENT, PROMOTION, TRANSFER AND
TERMINATION OF SERVICEQualifications for appointment and
promotion of educators

2. (1) No person shall be appointed as an educator either in a permanent, or temporary capacity, or on special contract, or be promoted, unless he or she complies with the experience requirements determined by the Minister and is in possession of an approved qualification and is able to submit satisfactory evidence thereof: Provided that an employer may appoint a person who is not in possession of an approved qualification as an educator in a temporary capacity for a specified period if the employer deems such appointment necessary and in the interest of education;
- (2) Subject to the provisions of subregulation (1) no person shall be appointed as an educator in a permanent capacity, unless he or she is a South African citizen and meets the requirements of section 212(4) of the Constitution of the Republic of South Africa, 1993.

Appointment on probation

3. (1) (a) An educator shall be appointed on probation for a period of at least 12 months, which period may be extended, on good cause shown, for a further period not exceeding 12 months.
- (b) An employer may approve the transfer or promotion of an educator during his or her period of probation: Provided that such transfer or promotion will be on probation and such

probation may be for a period of less than 12 months if such period together with the probation served in the former post, shall total at least 12 months.

- (c) The employer may, if it is deemed necessary, require that the promotion of an educator employed in a permanent capacity, be on probation: provided that the conditions in paragraphs (a) and (b) shall apply.
- (2) The probation period of an educator shall be extended by the number of days leave of whatever nature taken by him or her during a probation period or any extension thereof: Provided that a school holiday shall not be considered as leave for the purposes of this subregulation.
- (3) If the head of the relevant institution or office certifies that during his or her probation period or extended probation period, such educator has been diligent and his or her conduct uniformly satisfactory and that he or she is in all respects suitable for the post which he or she holds, the employer may confirm the permanent appointment, transfer or promotion if the educator has complied with all the conditions to which his or her appointment, transfer or promotion was subject.
- (4) For the purposes of subregulation (1) an appointment on probation shall, notwithstanding the fact that the period during which it was in force has expired and notwithstanding anything to the contrary contained in that subregulation, be deemed to continue until the educator concerned is notified in writing by the employer that his or her probationary appointment -

- (a) has been confirmed; or
 (b) has not been confirmed; or
 (c) has been extended for a further period:

Provided that a notification contemplated in paragraphs (a), (b) and (c) shall be directed to the educator not later than six months after the expiry of the period of his or her probationary appointment.

ment, and that when the period of probationary appointment is extended for a further period, that further period shall be computed from the date of which the first-mentioned period would have expired by effluxion of time in terms of subregulation (1).

**Reappointment of Educators who have
retired or who have been retired
on pension prematurely**

4. The reappointment of an educator, whether in a full-time or a part-time capacity in a post referred to in section 3(1) of the Act, who has retired or has been retired on pension before reaching his or her retirement age shall be approved by the employer: Provided that such reappointment shall be subject to the conditions as determined by the Minister.

Filling of vacant posts by educators

5. (1) Whenever a post becomes vacant, any educator may, notwithstanding anything to the contrary contained in these Regulations, with his or her consent be appointed in a permanent capacity by the employer to such vacant post.
- (2) Notwithstanding anything to the contrary contained in these Regulations, the employer may, subject to the provisions of regulation 2(1), appoint any person to a vacant post in a temporary capacity.

**Date on which salary commences
and terminates**

6. Subject to the provisions of subregulations (2), (3), (4), (5), (6), (7) and (8) an educator shall be paid a salary with effect from the date on which he
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or she assumes duty up to and including the date on which his or her service terminates.

- (2) An educator who renders service at an office from the first working day up to and including the last working day of a month shall be paid a salary with effect from the first day of the month in question up to and including the last day of such month.
 - (3) Subject to the provisions of subregulations (4) and (5) an educator employed at a school who is appointed during any school term and who renders service for a continuous period of at least 30 days during such school term shall be paid a salary-
 - (a) if such service begins on the first working day of the school term, from the first day of the month in which he or she assumes duty up to and including the last day he or she is so in service; or
 - (b) if such service terminates on the last working day of the school term, from the day such service begins up to and including the last day of the month concerned; or
 - (c) if such service does not begin on the first working day of the school term and also does not terminate on the last working day of the school term, from the day such service begins up to and including the last day he or she is so in service.
 - (4) If a school term commences within the same month in which the preceding school term ends, salary shall be paid under the circumstances referred to in subregulation (3)(a)-
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- (a) with effect from the first day following the closing date of the preceding school term; or
 - (b) with effect from the day following the date on which the services of the educator concerned terminated under any other education department if he or she so served as an educator at a school for a continuous period of at least 30 days, including the last working day of the preceding school term.
- (5) If a school term ends within the same month in which the following school term commences, salary shall, under the circumstances referred to in subregulation (3) (b), be paid up to and including the last working day of the school term in which the service of the educator concerned terminates at a school.
- (6) An educator employed at a school who is appointed during any school term and who renders service for a period of less than 30 days during such school term shall be paid a salary from the day on which such service begins up to and including the last day the educator is so in service, irrespective of whether such service begins on the first working day of the school term or terminates on the last working day of the school term: Provided that, if he or she renders service up to and including the last working day of the said school term and renders service as from the first working day of the following school term for a continuous period of at least 30 days, he or she shall be paid a salary for the intervening holiday period.
- (7) An educator employed at a school who is appointed during any school term and who renders service for a continuous period of at least 30 days, if such service terminates on the last working day of the last school term of the year concerned, shall be paid a salary up to and including the last day of such year.
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- (8) An educator whose resignation takes effect during any school holiday or on the first school day for educators following upon such school holiday, shall, in the application of this regulation be deemed to have terminated his or her service on the last day of the calendar month in which the previous school term ended; and
- (9) An educator whose services terminate on any date by reason of his or her having reached the retiring age as determined in regulation 15, shall receive salary up to and including the day preceding such date, unless the services of such educator are retained beyond such date, in which event he shall receive salary up to and including the last day on which he remains in service, subject to the provisions of regulation 6.
- (10) Notwithstanding the provisions of subregulation (3)(a) a person who has been appointed as an educator at a school in a permanent capacity and who, immediately after the completion of his or her course of training or instruction as an educator is called up for his or her initial period of compulsory military service and is therefore unable to assume duty on the first working day of a school term and to whom leave could have been granted in terms of regulation 49(1) had he or she already assumed duty, shall be paid a salary as if he or she had assumed duty on the first working day of the school term.

**Remuneration during school
holiday**

7. An educator whose services are terminated on the last day of a school term and who is reappointed and assumes duty within the first four school days for educators of the
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following school term and has rendered service for a continuous period of at least 30 days after assumption of duty, shall, notwithstanding the provisions of regulation 6, be entitled to receive salary in respect of the intervening school holiday for which he or she has not already received salary: Provided that if such an educator does not assume duty within the said first four school days and he or she has been granted leave with pay for a period including such four days, he or she shall be deemed to have assumed duty within such first four school days.

Salary increments

8. (1) Subject to the provisions of subregulation (2), the salary of an educator shall be increased by one salary increment within the limits of the salary scale applicable to him or her after completion of each salary incremental period and with effect from the first day of his or her incremental month.
- (2) If the head of the relevant institution or office issues a certificate in which it is declared, on good cause shown, that the conduct of an educator in terms of industry, discipline, punctuality and sobriety has not been uniformly satisfactory during a salary incremental period or that he or she has not performed his or her work uniformly satisfactorily during a salary incremental period, the salary of such an educator shall not be increased in terms of subregulation (1): Provided that the employer may grant approval for the salary of an educator to be increased in terms of subregulation (1) irrespective of whether a certificate referred to in this subregulation has been issued.
- (3) If the salary of an educator is not increased in terms of subregulation (1) or the proviso to subregulation (2) on account of the issuing of a certificate referred to in subregulation (2), such educator shall be notified by the employer in writing of the reasons therefor and also that on the expiry of a continuous period to be indicated but which shall not exceed a salary incremental period, a salary increment may be granted on condition that

a certificate is issued by the head of the relevant institution or office in which it is declared that the conduct and work of the educator referred to in subregulation (2) were satisfactory during such period.

- (4) (a) If the period mentioned in subregulation (3) is shorter than a salary incremental period, one salary increment shall be granted to the educator with effect from the first day of the month following the date on which the period mentioned expires: Provided that such salary increment may be granted only if the head of the relevant institution or office issues a certificate in which it is declared that the conduct and work of the educator referred to in subregulation (2) were satisfactory during such period.
- (b) If a salary increment has been granted to an educator in terms of paragraph (a), a further salary increment shall be granted to him after the expiry of a salary incremental period reckoned from the date on which his or her salary would have been increased in terms of subregulation (1) had such increment not been withheld in terms of subregulation (2).
- (c) The salary increment referred to in paragraph (b) may be granted only if the head of the relevant institution or office issues a certificate in which it is declared that the conduct and work of the educator referred to in subregulation (2) continued to be satisfactory from the date of the granting of the salary increment mentioned in subregulation (1) to the date immediately prior to that on which a salary increment may be granted in terms of this paragraph.
- (d) The provision of paragraphs (b) and (c) shall not apply to an educator if his or her salary is already equal to the maximum notch of the salary scale applicable to him.

- (5) If an educator is not granted a salary increment in terms of subregulation (4)(a) -
- (a) such educator shall be notified in writing by the employer of the reasons therefor and also that, on the expiry of a continuous period to be indicated and which shall be equal to the difference between the period mentioned in subregulation... (3) and a salary incremental period, a salary increment may be granted on condition that the head of the relevant institution or office issues a certificate in which it is declared that the conduct and work of the educator referred to in subregulation (2) was satisfactory during the continuous period mentioned;
 - (b) two salary increments shall be granted to such educator by the employer after the expiry of a salary incremental period reckoned from the date on which his or her salary would have been increased in terms of subregulation (1) if such increment had not been withheld in terms of subregulation (2);
 - (c) the salary increments referred to in paragraph (b) may be granted only if the head of the relevant institution or office issues a certificate in which it is declared that the conduct and work of the educator referred to in subregulation (2) were satisfactory during the continuous period mentioned in paragraph (a); and
 - (d) only one salary increment may be granted to such educator in terms of paragraphs (b) and (c) if his or her salary is already equal to the penultimate notch on the salary scale applicable to him.
- (6) (a) If the period mentioned in subregulation (3) is equal to a salary incremental period, two salary increments shall be granted to such educator after the expiry of such period.
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- (b) The salary increments referred to in paragraph (a) may be granted only if the head of the relevant institution or office issues a certificate in which it is declared that the conduct and work of the educator referred to in subregulation (2) were satisfactory during such period.
- (c) Only one salary increment may be granted to such educator in terms of paragraphs (a) and (b) if his or her salary is already equal to the penultimate notch of the salary scale applicable to him.
- (7) If an educator is not granted a salary increment in terms of subregulations (4)(b), (c), (d), (5)(b), (c), (d) or (6), the provision of subregulations (2), (3), (4) and (5) shall once again become applicable.
- (8) Subject to the provisions of this regulation the salary of an educator to whom a salary increment has been granted in terms of subregulations (4)(b), (5)(b) or (6) shall, after the expiry of each further salary incremental period, be increased by one salary increment within the limits of the salary scale applicable to him or her.

Salary incremental date

9. (1) The salary incremental date of an educator without recognisable experience appointed at post level 1 shall be the first day of the month in which the date of appointment falls.
- (2) The calculated date of appointment of an educator with recognisable experience appointed at post level 1 shall be the number of years, months and days of recognisable experience deducted from the actual date of appointment and the salary incremental date shall be the first day of the month in which the calculated date of appointment falls.
- 3(a) An educator who has not attained the maximum of the salary scale applicable to him or her and gains only one salary notch on appointment at

the higher post level, retains his existing salary incremental date.

- (b) An educator who has not attained the maximum of the salary scale applicable to him or her and gains two or more notches on appointment at the higher post level, the anniversary of the first day of the month in which he or she is appointed at the higher post level shall be his or her future incremental date except in the case of an educator who is appointed at post level 2 and who gains only two notches by the appointment at that post level, in which case he or she retains his or her salary incremental date.
- (c) An educator who is on the maximum of the salary scale applicable to him or her and who consequently does not qualify for further salary increments at the lower post level, takes the anniversary of the first day of the month in which he is appointed at the higher post level as his or her future salary incremental date.
- (d) In cases where the salary incremental date and the date of appointment at the higher post level fall on the same day, the salary increment must first be granted, after which the provisions of paragraphs (a), (b) and (c) shall apply.
- (4) An educator who is re-appointed, after a break in service, on post levels 2 and higher shall take the anniversary of the first day of the month in which he or she is re-appointed on this post level as his or her future incremental date.
- (5) Notwithstanding anything to the contrary contained in this regulation an educator's salary incremental date may be adjusted in consequence of specific measures issued at the time of a salary adjustment.

Classification into qualification
categories

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10. (1) The following measures shall apply for the classification of educators into the various qualification categories:

<u>Qualification category</u>	<u>Requirements for classification</u>
(a) A2	Std 10 or lower without apposite training
(b) A1	Std 6, 7, 8 or 9 plus at least two year's apposite training
(c) B	Std 10 plus one or two years apposite training
(d) C	Std 10 plus three years apposite training
(e) D	Std 10 plus four years apposite training
(f) E	Std 10 plus five years apposite training
(g) F	Std 10 plus six years apposite training which shall include a university degree recognised by the Minister
(h) G	Std 10 plus seven years apposite training which shall include a masters degree recognised by the Minister

- (2) The Minister shall determine the salary, scale or notch which shall be applicable to the qualification categories referred to in subregulation (1).

Experience

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11. (1) The types of experience and the extent of recognition of such experience on the appointment of an educator shall be as follows:
- (a) Actual educator's experience shall include all experience gained while the person held an educator's post: Provided that the period of initial compulsory military service shall be deemed to be actual educator's experience;
 - (b) appropriate experience shall include working experience which, in the opinion of the Minister, develops the candidate, directly and appositely, in all respects regarding knowledge, skill and attitude, for holding an educator's post;
 - (c) other experience shall include experience other than actual educator's experience and appropriate experience recognised by the Minister.
- (2) The different types of experience referred to in subregulation (1) shall be recognised to the following extent:
- (a) Actual educator's experience - full recognition.
 - (b) Appropriate experience - full recognition.
 - (c) Other experience - one year's recognition for every two years' experience (that is, the number of years, months and days of experience is divided by two and parts of days fall away).
- (3) All experience recognised in terms of subregulation (2) shall be deemed to be experience gained after a candidate has been placed in a qualification category.

Achievement recognition

12. (1) An educator may be granted the benefits referred to in subregulation (2) in consequence of the

recognition of an achievement in accordance with a system determined by the Minister.

(2) Benefits:

- (a) Salary recognition is granted at post level 1 on the basis of -
- (i) the allocation of a merit salary scale based on the number of achievement awards; and
 - (ii) the application of the notch-per-annum system.
- (b) The required period of experience for appointment at post levels 2 or higher is reduced by one year for every achievement award made.

Wrongly granted remuneration

13. (1) If an incorrect salary or salary scale on appointment, transfer or promotion or an incorrect advancement of salary within the limits of the appropriate salary scale was awarded or granted to an educator, 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 or her, the employer shall correct the educator's salary or salary scale with effect from the date on which the incorrect salary, salary scale or salary advancement commenced, notwithstanding the fact that the educator concerned was unaware that an error had been made in the case where the correction amounts to a reduction of his or her salary scale or salary.
- (2) If an educator referred to in subregulation (1) has in respect of his or her salary, including any portion of any allowance or other remuneration or any other benefit calculated on his or her basic salary or salary scale, or awarded to him or her by reason of his or her basic salary -

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- (a) been underpaid, an amount equal to the amount of the underpayment shall be paid to him or her, and that other benefit which he or she did not receive, shall be awarded to him or her as from a current date; or
- (b) been overpaid or received any such other benefit not due to him or her -
- (i) an amount equal to the amount of the overpayment shall be recovered from him or her by way of the deduction from his or her salary in instalments as may be determined by the employer, with due regard to the applicable Treasury Instructions 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 educator concerned shall have the right to be compensated by the employer for any patrimonial loss which he or she has suffered or will suffer as a result of that discontinuation or withdrawal.
- (3) With the approval of the Treasury the amount of a overpayment to be recovered in terms of subregulation (2)(b) may be remitted in whole or in part.

Unauthorised remuneration

14. (1) (a) If any remuneration, allowance or other reward is received by an educator in connection with the performance of his or her work with the employer other than in accordance with the provisions of the Act or these regulations, or is received contrary to the provisions of section 24(1)(b) of the Act, that educator shall pay into the relevant Provincial 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 employer, and if he or she does not do so, it shall be recovered from him or her by the employer by way of legal proceedings or in such manner as the Treasury may approve, and be paid into the relevant Provincial Revenue Fund.

- (b) The educator concerned may appeal against such a determination by the employer to the Member of the Executive Council who may make such order as he or she may think fit: Provided that the educator may declare a dispute on grounds of such order in terms of the provisions of the Education Labour Relations Act, 1993.
- (c) The employer may with the consent of the Department of State Expenditure determine that the educator concerned may retain the whole or a portion of the remuneration, allowance or reward.
- (2) If in the opinion of the employer an educator has received any remuneration, allowance or other reward referred to in subregulation (1)(a) and it is still in his or her possession or under his or her control or in the possession or under the control of any other person on his or her behalf, or, if it is money, has been deposited in any deposit-taking financial institution in his or her name or in the name of any other person on his or her behalf, the employer may in writing require that educator or that person or that 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.
- (3) (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 educator who has been made available to a national or provincial department or a council, institution, body or person contemplated in

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section 7 of the Act, shall be paid into the Provincial Revenue Fund.

- (b) In circumstances regarded by the employer as exceptional, he may recommend to the Treasury the payment out of the Provincial Revenue Fund to the educator concerned of an amount equal to that salary, allowance, fee, bonus or honorarium, or a portion thereof.

Retirement on pension

15. (1) (a) Subject to the provisions of this regulation, an educator shall have the right to retire on pension and shall be so retired on pension, on the date when he or she attains the age of 65 years.
- (b) If such educator attains the said age after the first day of a month, he or she shall be deemed to have attained it on the first day of the following month.
- (2) Notwithstanding the provisions of subregulation (1) an educator who was in employment immediately prior to the fixed date in terms of a law repealed by the Act, shall have the right to retire on pension at or on any time after attaining the retirement age applicable to him or her on such date and notwithstanding such repeal, such law shall for retirement purposes remain in force.
- (3) Notwithstanding the provisions of subregulations (1) and (2) -
- (a) but subject to paragraph (b), an educator who has reached the age of 60 years may, subject in every case to the approval of the Member of the Executive Council, be retired on pension; and
- (b) an educator who, immediately prior to the fixed date, was employed in a state educational institution under the control of an authority referred to in section 235(1)(a) of the

Constitution, and who has reached the age of 55 years may, subject to the approval of the Member of the Executive Council, be retired on pension.

- (4) Notwithstanding anything to the contrary contained in this regulation, an educator who has already attained the age of 50 years and who has completed at least 10 years actual uninterrupted service, which service is pensionable service as defined in the Government Service Pension Act, 1973, shall have the right to retire on pension prematurely with reduced pension benefits after having given written notice of at least 3 calendar months to the employer.
- (5) Notwithstanding anything to the contrary contained in any law the provisions of section 6(10) of the Government Service Pension Act, 1973, shall only apply to an educator who may retire at the age of 60.

**Discharge of an educator on account of
the abolition of his or her post or
a reduction, reorganisation or
re-adjustment of staff**

16. Subject to the provisions of regulation 5(2), the employer shall, if he or she intends to discharge an educator from service in terms of section 8(1)(b) of the Act, give such an educator three calendar months' written notice of such discharge.

REMUNERATIVE PAYMENTS OVER AND ABOVE SALARIES

Differentiated allowances

17. (1) An educator appointed at a state educational institution referred to in paragraphs (a), (b) or (c), in a post with a post level grading of post

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level 1 shall receive a non-pensionable allowance equal to the difference between the notch on the key scale on which the educator is and the following higher notch on the key scale:

(a) Schools for -

(i) aurally handicapped children (that is, deaf children and children who are hard of hearing);

(ii) visually handicapped children (that is blind children and weak-sighted children);

(iii) neurally handicapped children (that is, physically handicapped, epileptic children and cerebral palsied children); and

(iv) pupils with early child-autism.

(b) Training institutions for mentally retarded children.

(c) Reform schools or schools of industry as defined in the Child Care Act, 1983 (Act No 74 of 1983), including the Steinthal Junior Secondary School.

(2) A non-pensionable allowance shall be paid to an educator at post level 1 who holds the post of principal, which allowance is equal to the difference between the notch on the salary scale applicable to him and the following higher notch on the same key scale: Provided that -

(a) in the case of educators in category A2 who were appointed at post level 1 after 1 January 1984, the allowance shall be restricted to educators who are on notches up to and on the maximum of the standard salary scale applicable to category A2, as the case may be;

(b) the allowance shall not be payable to educators who were in employment on 31 March 1981 and are still uninterruptedly in service and who

received an added salary notch in terms of the provisions determined by the Minister;

- (c) in the case of educators, excluding those mentioned in paragraphs (a) and (b) above, the payment of the allowance shall be restricted to the maximum of -
- (i) the standard salary scale applicable to category C at post level 1 in the case of educators whose achievements have not been recognised; and
 - (ii) the appropriate merit salary scale referred to in regulation 12(2) applicable to educators in category C at post level 1 in the case of educators whose achievements have been recognised.
- (3) Educators who on 1 October 1984 held the post of Inspector: Schools excluding those who on 1 April 1981 chose to be remunerated according to personal fixed salaries, shall receive a non-pensionable allowance as determined by the Minister from time to time.
- (4) Educators who teach an agriculture subject, shall receive a non-pensionable allowance as determined by the Minister.

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Acting allowance

18. (1) To an educator who, with the approval of the employer temporarily occupies a post with a higher post level grading for an uninterrupted period of not less than 30 days, shall be paid an acting allowance referred to in subregulations (2) and (3).
- (2) To educators referred to in subregulation (1) who comply with all requirements for appointment to the higher post shall be paid a non-pensionable acting allowance equal to the difference between his or her present salary and the salary that would have been received if the educator had been appointed in the

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higher post: Provided that this calculation shall be made whenever the salary position of an educator changes: Provided further that a theoretical advancement on the higher post level which he or she occupies is not granted for purposes of re-calculating the allowance.

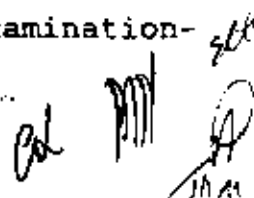
- (3) To educators referred to in subregulation (1) who do not comply with all the requirements for appointment to the higher post shall be paid a non-pensionable acting allowance equal to the difference between his or her present salary and the minimum notch of the applicable salary scale connected with the post which the educator occupies temporarily: Provided that the allowance shall be not less than one salary notch on the key scale: Provided further that the allowance must be revised whenever the salary position of the educator concerned changes.

**Allowance to educators who perform
supervisory duties at hostels**

19. If an educator performs control or supervisory duties and functions at a hostel attached to a state educational institution such educator shall receive, subject to such conditions as the Minister may determine, a non-pensionable allowance, which allowance shall be based on the control or supervisory duties and functions of such educator as well as the number of pupils accommodated at the hostel concerned.

Compensation for examination related work

20. (1) An educator may, with the approval of the employer, be paid a non-pensionable allowance as determined by the Minister in respect of the different categories of examination-related work referred to in subregulation (2).
- (2) For the purpose of this regulation "examination-related work" shall mean -



- (a) setting of a question paper and accompanying memorandum;
- (b) moderating of a question paper and accompanying memorandum;
- (c) translation of a question paper and accompanying memorandum;
- (d) marking of examination scripts and control marking by the chief examiner;
- (e) moderating of scripts;
- (f) remarking of examination scripts on appeal;
- (g) conducting of practical and oral examinations;
- (h) work done as chief examiner.

**Exemption from payment for instruction
by educational institutions**

21. An educator who, in his or her capacity as a student, must pay for instruction, or any other service resulting from such instruction, which he or she follows in accordance with one or other instructional programme approved by the employer and which is offered by a department of education responsible for education or an educational institution instituted, registered or administered in terms of a law, may on a basis approved by the employer, be compensated partly or in full in a direct or indirect manner for such expenditure.

Department-specific Awards

22. A non-pensionable allowance determined by the employer and according to a system determined by the Minister may be paid to an educator -

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- (a) who, in the opinion of the employer is unusually competent or who possesses unusual qualifications or who has rendered excellent service;
- (b) in order to promote the recruitment and retention of staff;
- (c) for the execution of specific assignments; or
- (d) because the employer is of the opinion that specific circumstances exist.

Official duty

23. (1) An educator shall be on official duty -
- (a) in the case of an educator at a school -
 - (i) during the service periods laid down in the school timetable which reflects the curriculum or the times approved by the employer for the school; and
 - (ii) during the times in which such other activities, which do not constitute part of the school timetable, but are related to school affairs, take place; and
 - (b) in the case of an educator at an institution, other than a school during the times approved by the employer.
- (2) An educator shall, during his or her official duty, give his or her full attention to the duties entrusted to him or her and shall not without the consent of the head of the relevant institution or office be absent from his or her school or institution during his or her hours of official duty.

Attendance registers

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24. The employer may determine that an attendance register be kept in which an educator shall record the time of his or her arrival at and departure from his or her place of duty.

Official channels of communication

25. (1) A request or communication from an educator in connection with a matter falling within the scope of the employer's power or duties shall be directed to the employer via the head of the relevant institution or office.
- (2) Notwithstanding subregulation (1), matters regarding the appointment, termination of service and leave privileges and enquiries about the remuneration of an educator shall be referred to the head of education by the principal of the school concerned.

Replying to questions

26. An educator shall reply explicitly to a question concerning his or her duties and powers put to him by a person who is competent to put such question: Provided that an educator shall not be obliged to furnish a reply which may incriminate him or her.

Lawful instructions

27. (1) Subject to the provisions of subregulation (2), an educator shall carry out a lawful instruction given to him or her, in writing or verbally, by an authorised person.
- (2) An educator may, at the time of a verbal instruction, request that such instruction be confirmed in writing and he or she may submit any complaint he or she may have in connection therewith to the employer for a decision.

**Residential addresses and
telephone numbers**

28. An educator shall notify the employer of his or her residential address and telephone number, if any, and of any change thereof and the employer or a person authorised by him or her shall keep a record thereof in a register which shall be kept for that purpose.

Full-time study courses

29. An employer may, on the terms and conditions he may determine, authorise an educator to follow a full-time study course approved by the employer and while such educator follows such course he or she shall be deemed to be on duty in an educator's post.

**Proof of marriage or change
of marital status**

30. An educator shall, within 30 days after entering into matrimony or after his or her marital status has changed, submit a certified copy of the marriage certificate, decree of divorce, or death certificate, as the case may be, to the employer: Provided that the employer may in his or her discretion demand the submission of the original certificate or decree.

**Reports on educators and
adverse remarks**

31. (1) A report, on a form determined by the Minister, shall be drawn up and submitted to the employer by the head of the relevant institution or office in respect of any educator as often as the employer may require.

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- (2) Subject to the provisions of subregulation (3), an educator on whom a report has been drawn up in terms of subregulation (1) shall not have access to such report.
- (3) Any adverse remark contained in a report referred to in subregulation (1) shall be brought to the notice of the educator concerned in writing and in its full context by the person who compiled the report.
- (4) The educator referred to in subregulation (3) shall sign the said report and return it to the compiler thereof together with such representations, in writing, as he may desire to submit in respect thereof.
- (5) The provisions of subregulations (1) to (4) shall also apply to adverse remarks made in respect of an educator in a written communication, except that such remarks shall be brought to the educator's attention by the head of the relevant institution or office.
- (6) If it comes to the attention of the employer that an adverse remark is unjustified, the employer may at any time, if he or she deems fit, declare any adverse remark in connection with an educator which has been brought to the attention of the educator in terms of subregulation (3) null and void and in such a case the educator shall be notified in writing of the nullification thereof.

**Management bodies on which
educators serve**

32. An educator who serves on the management of an association or body which designates members of the governing body of a state educational institution where the educator is employed, shall declare his interests and withdraw from the specific discussion.

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Part-time temporary educators

33. An educator appointed on a part-time basis in a temporary capacity shall not be eligible for any leave with pay and shall receive no remuneration during his or her absence from service, whether for vacation or other purposes.

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CHAPTER 3**LEAVE OF ABSENCE****Granting of leave of absence**

34. (1) Leave of absence from duty by an educator, as contemplated in these regulations, shall be granted by the employer with due regard to the requirements of the employer or state educational institution concerned.
- (2) When the services of an educator terminate for whatever reason, all his or her leave credit shall lapse on his or her last day of service and he or she cannot claim payment of the cash value of leave to his or her credit: Provided that the payment of a leave gratuity in terms of regulation 59 shall not be precluded by this regulation.

**Leave application forms, granting
and withdrawal of leave**

35. (1) Application for leave shall be made on a form approved by the employer and is subject to his or her approval and he or she may, on good cause shown, at any time withdraw leave already granted.
- (2) An educator, except an educator who has been suspended from duty or who is by sudden illness or other unavoidable circumstances prevented from remaining on or reporting for duty, shall not leave or stay away from work until he or she has applied for leave in writing and has been advised that his or her application has been approved.

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**Absence from duty to be
recorded as leave**

36. Leave of absence from duty by an educator shall be classified under one or more of the following categories:

- (a) Vacation leave;
- (b) sick leave;
- (c) special sick leave;
- (d) special leave for study purposes;
- (e) special leave for military training;
- (f) special leave for examination purposes;
- (g) special leave for quarantine purposes;
- (h) special leave for participating in sporting and cultural events;
- (i) special leave for urgent private affairs with regard to educators employed at schools;
- (j) special leave for confinement;
- (k) special leave for continuity of service; and
- (l) special leave in extraordinary circumstances.

Absence from duty not to be recorded as leave

37. An educator shall be deemed not to be absent from duty if he or she -

- (a) must appear as a witness -
 - (i) in any court;
 - (ii) in misconduct proceedings or in a misconduct investigation in terms of any law;

- (iii) at inquest proceedings;
 - (iv) at rent board proceedings except when such educator is the person who, in respect of such appearance, submitted a written complaint;
 - (v) before a commission or committee appointed by the State or before any committee or institution instituted by or in terms of any Act;
- (b) appears as defendant or co-defendant in civil proceedings arising from his or her official duties and in which the State or any statutory body or institution has a direct interest;
- (c) is taken into custody or must appear in any court on a criminal charge and the offence he or she is charged with is withdrawn or if he or she is acquitted of such offence on the merit of the case;
- (d) with the approval of the employer -
- (i) attends an instruction course or a lecture or has undertaken undergraduate or post-graduate studies;
 - (ii) attends an instruction course that is presented by a department as contemplated by the Public Service Act, 1994;
 - (iii) does practical work or does practice teaching to comply with the requirements for a formal qualification offered by a recognised tertiary or post-secondary educational institution;
 - (iv) in the interest of the employer or the organised teaching profession participates in any other activity or performs any other function.

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**Leave credit and leave computation:
Educators employed at schools**

38. (1) The leave credit of an educator employed at a school shall increase by $12/365$ of a day for every full day that the educator is in the service of the employer: Provided that no leave credit shall be earned for days on which the educator is absent on leave without pay.
- (2) An educator employed at a school who is required by the employer to perform duty during any period of a school holiday shall be credited, in addition to the leave credit referred to in subregulation (1), with half the number of days on which he or she was expected to perform such duty: Provided that -
- (a) such credit shall not exceed 24 days in any calendar year; and
- (b) such educator may within 90 days of the performance of such duty apply for the additional leave credit to be converted into a non-pensionable cash payment in accordance with the formula $A \times B / 365$, where "A" represents the number of additional days of leave credit and "B" represents the basic annual salary plus a non-pensionable allowance of such educator at the time of the performance of such duty during a school holiday.
- (3) In any computation of leave contemplated in this regulation, fractions of a day thus obtained shall be transferrable to a subsequent leave computation.
- (4) Where the service of an educator employed at a school terminates and he or she is reappointed after a break in service, his or her service prior to such appointment shall not be taken into account for leave purposes: Provided that the employer may, notwithstanding the provisions of regulation 34(2), restore the leave credit of such an educator to a maximum of 184 days.

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- (5) A person who is appointed as an educator at a school without a break in service, and who prior to such an appointment held a post of educator in the same or another province, shall retain his or her leave credit in terms of these regulations which was to his or her credit on the last day of his or her service with the same or his or her previous employer and such previous service shall be taken into account as service for the purposes of leave.
- (6) A person who is appointed as an educator at a school without a break in service, and who prior to such appointment was employed by any department as contemplated by the Public Service Act, 1994, (excluding an education department) or any body or institution having a pension or provident fund administered by or for the State, shall retain the leave which he or she has to his or her credit on the last day of his or her service with his or her previous employer, calculated at a maximum of 36 days per annum, reduced by the number of days of leave already granted: Provided that -
- (a) where a person who has immediately prior to such appointment held a post at a state educational institution, technikon or university, the leave credit of that person shall be calculated for leave purposes as if he or she had served the employer for the period he or she was employed by such state educational institution, technikon or university; and
- (b) the previous service contemplated in this sub-regulation shall be calculated as service for leave purposes.

**Leave credit and leave computation:
Educators employed at offices**

39. (1) The leave credit of an educator employed at an office who continues to render service in periods when teaching at schools is suspended shall increase as hereinafter set out for every day the educator is employed by the employer -

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- (a) if appointed before 1 July 1966, 38/365 of a day;
- (b) if appointed on or after 1 July 1966 -
 - (i) until 10 years of completed service - 30/365 of a day;
 - (ii) after 10 years of completed service - 36/365 of a day;
- (c) if appointed in terms of the Public Service Act, 1994, leave credit as provided for by regulations promulgated in terms of this Act:

Provided that no leave credit shall be granted for days on which the educator is absent on leave without pay.

- (2) The leave credit of an educator who is employed at an office and who has inspecting or subject advisory services with regard to education as part of his or her duties and who during periods when education is suspended cannot continue in full with his or her normal duties but who can still be expected during such periods when education is suspended to do office work, shall be increased by 26/365 of a day for every full day the educator is in the service of the employer; Provided that -
 - (a) no leave credit shall be granted for the days the educator is on leave without pay;
 - (b) if the educator performs duty during periods of non-accumulative leave during school holidays, a further one day of accumulative vacation leave shall be granted to him or her for every two days he or she so performs such duty; and
 - (c) in the case of educators whose vacation leave earning was 36 days per year on 1 January 1982, the total cumulative vacation leave earning may not exceed 36 days per year ending on 31 December.

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- (3) Where an educator contemplated in subregulation (2) who in any specific year ending on 31 December -
- (a) has a period of service of one year or more, 24 days non-accumulative leave during school holidays may be granted to him or her in that year; and
 - (b) has a period of less than one year of service, the number of days of non-accumulative leave during school holidays that may be granted in that year shall be determined on the basis of one day of non-accumulative leave for every 15 full days on duty.
- (4) In any computation of leave referred to in this regulation, a fraction of a day may be carried over to a subsequent leave computation.
- (5) Where the service of an educator employed at an office terminates and he or she is reappointed after a break in service, his or her service prior to such appointment shall not be taken into consideration for leave purposes: Provided that the employer may, notwithstanding the provisions of regulation 34(2), reinstate the leave credit of such an educator to a maximum of 184 days.
- (6) A person who is employed at an office as an educator without a break in service and who prior to such appointment held a post of educator in the same or another province shall retain his or her leave credit in terms of these regulations which was to his or her credit on the last day of service with the same or his or her previous employer, and such previous service shall be taken into account as service for purposes of leave.
- (7) A person who is appointed as an educator at an office without a break in service, and who prior to such appointment was in the service of any department as contemplated by the Public Service Act, 1994 (excluding an education department), or any body or institution having a pension or provident fund administered by or for the State shall retain the leave credit which he or she has to
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his or her credit on the last day of his or her service with his or her previous employer, calculated at a maximum of 36 days per annum, reduced by the number of days of leave already granted: Provided that -

- (a) where a person who immediately prior to such appointment held a post at a state educational institution, technikon or university, the leave credit of such person shall be calculated for leave purposes as if he or she had served the employer for the period he or she was employed by such state educational institution, technikon or university; and
- (b) the previous service referred to in this sub-regulation shall be taken into account as service for purposes of leave.

**General leave measures:
Educators employed at schools**

40. (1) In the case of an educator employed at a school any period of leave shall commence on the first day on which the educator is absent from duty and shall terminate on the last school day immediately preceding the day on which such educator resumes duty.
- (2) A school holiday that falls within a period of leave of the same type that is granted to an educator shall not be deemed to form part of such leave: Provided that where such holiday falls within a period of leave of the same kind, the conditions of remuneration for such holiday shall be the same as the conditions of remuneration for the last school day that immediately precedes such holiday.
- (3) A day of rest which falls within a period of leave or a school holiday which falls within a period of leave granted without pay shall be deemed to form part of such leave and shall be reckoned as such:

Provided that where a day of rest or school holiday falls between two different types of leave, and such day or days and such leave form a continuous period, any such day or days shall not be reckoned as leave.

- (4) An educator employed at a school who wishes to resume duty before a period of leave granted to him or her in terms of these regulations has expired shall not do so before having obtained prior approval from the employer.
- (5) If an educator employed at a school is granted more leave with full or half pay than that for which he or she qualifies at that particular stage in terms of these regulations, and such educator utilises such excess leave, the leave granted in excess may be deducted from leave which subsequently accrues to him or her: Provided that, in the event of the educator resigning or his or her services being terminated before sufficient leave credit has accrued to him or her for the purpose of such deduction, that portion granted in excess which exceeds his or her leave credit on the last day of his or her service shall be regarded as an overpayment of salary which shall either be recovered or written off in terms of the Exchequer Act applicable in the province concerned.
- (6) If an educator employed at a school gives notice of his or her resignation any leave with pay already granted to him or her shall be withdrawn with effect from the date of such notification or with effect from the date it is received and absence from duty on or after the first or last mentioned date, as the case may be, shall be treated as vacation leave without pay.
- (7) The provisions of subregulation (6) shall -
 - (a) apply only to absences during the last 30 days of an educator's service; and
 - (b) not apply to -

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- (i) sick leave;
 - (ii) special leave granted in terms of regulations 54(1) and 56;
 - (iii) vacation leave granted in terms of regulation 44(4) and (5); and
 - (iv) an educator appointed in a temporary capacity in terms of section 4(3)(b) of the Act, who gives longer than 24 hours notice of resignation.
- (8) (a) If the services of an educator employed at school are terminated for a reason other than that mentioned in subregulation (7), leave granted to him or her in respect of a period or periods which would have commenced on a date after the termination of his or her services shall be withdrawn.
- (b) The period of service of an educator employed at a school may not be extended in order to enable him or her to utilise leave which could have been granted to him or her if he or she was still in the service after the period in question.

**General leave measures:
Educators employed at offices**

41. (1) In the case of an educator employed at an office any period of leave shall commence on the first day on which the educator is absent from duty and shall terminate on the last day of work immediately preceding the day on which such educator resumes duty.
- (2) A day of rest which falls within a period of leave shall be deemed to form part of such leave and shall be reckoned as such: Provided that where a day of rest falls between two different kinds of leave, and such day or days and such leave form a

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continuous period, any such day or days shall not be reckoned as leave.

- (3) An educator employed at an office who wishes to resume duty before the period of leave granted to him or her in terms of these regulations, has expired, shall not do so before he or she has obtained prior approval from the employer.
- (4) If an educator employed at an office is granted more leave with full or half pay than that for which he or she qualifies at that particular stage in terms of these regulations, and such educator utilises such excess leave, the leave granted in excess may be deducted from leave which subsequently accrues to him or her: Provided that, in the event of an educator resigning or his or her services being terminated before sufficient leave credit has accrued to him or her for the purpose of such deduction, that portion granted in excess which exceeds his or her leave credit on the last day of his or her service shall be regarded as an overpayment of salary which shall either be recovered or written off in terms of the Exchequer Act applicable in the province concerned.

**Vacation leave:
Educators employed at schools**

42. (1) Subject to subregulation (4), vacation leave may be granted to an educator employed at a school for a period determined by the employer if such educator has the necessary leave to his or her credit for the period concerned: Provided that -
- (a) an application for vacation leave by an educator is received by the employer at least 90 days before the date on which the vacation leave commences: Provided further that the employer may approve applications at shorter notice;
- (b) a maximum of 180 days or two consecutive school terms (whichever is the greater) and

a minimum of 10 consecutive school days are granted: Provided that, in exceptional cases, the employer may approve other periods.

- (2) A period of vacation leave with full pay may be converted into vacation leave with half pay on the basis of two days with half pay for each day with full pay.
- (3) The employer may at any time, on good cause shown, require an educator employed at a school to take part or all of the vacation leave credit at his or her disposal: Provided that the maximum period of leave prescribed in subregulation (1)(b) shall not be exceeded.
- (4) Where the services of an educator employed at a school terminate and he or she is reappointed after an interruption of services with his or her leave credit restored in terms of regulation 38(4), no vacation leave from the restored leave credit shall be granted within two years after such appointment.
- (5) An educator who is guilty of abusing alcoholic liquor or drugs, may be granted available vacation leave with pay with a view to rehabilitation and further useful utilisation of his or her services, on condition that on completion of treatment a medical certificate and a complete report by the relevant medical practitioner or institution be submitted to the employer in which a report is given with regard to his or her co-operation and progress during treatment as well as a prognosis of the case.
- (6) If an educator referred to in subregulation (5) -
 - (a) does not have sufficient vacation leave to his or her credit to cover the periods of his or her absence with a view to his or her rehabilitation, vacation leave with full pay may, with due consideration of the merits and prognosis of the case, be granted for a full period of his or her absence: Provided that -

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- (i) the overgranting of vacation leave which has thus occurred be deducted from the future vacation leave accrual; and
- (ii) if such an educator resigns or his or her services are terminated before sufficient vacation leave has accrued to him or her for the purpose of such deduction, that portion of the overgrant which exceeds his or her vacation leave credit on his or her last day of service, shall be regarded as an overpayment of salary which shall either be recovered or written off in terms of the Exchequer Act applicable in the province concerned; and
- (b) is regarded as rehabilitated after a period of twelve months has elapsed since commencement of his or her treatment if verified as such in a report by the relevant medical practitioner, or the institution referred to in subregulation (5), the employer may approve that the vacation leave utilised for purposes of treatment up to a maximum equivalent to his or her annual leave accrual, at that particular stage, again be placed to his or her credit on condition that such a concession is granted once only: Provided that if such a certificate or report cannot be obtained from the above-mentioned parties, the employer may decide in his or her discretion on the basis of substantiated evidence of rehabilitation submitted for example by the relevant person's supervisor, minister, medical practitioner or social worker, whether such an educator can be regarded as rehabilitated.

**Vacation leave: Educators
employed at offices**

43. (1) Vacation leave may be granted to an educator employed at an office for a period determined by the employer, provided that such educator has the necessary leave to his or her credit for the period concerned.

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- (2) A period of vacation leave with full pay may be converted into vacation leave with half pay on the basis of two days with half pay for each day with full pay.
- (3) The employer may at any time require an educator employed at an office to take part or all of the vacation leave credit at the educator's disposal.
- (4) An educator who is guilty of abusing alcoholic liquor or drugs, may be granted available vacation leave with pay with a view to rehabilitation and further useful utilisation of his or her services on condition that on completion of treatment a medical certificate and a complete report by the relevant medical practitioner or institution be submitted to the employer in which a report is given with regard to his or her co-operation and progress during treatment as well as a prognosis of the case.
- (5) If an educator referred to in subregulation (4) -
- (a) does not have sufficient vacation leave to his or her credit to cover the periods of his or her absence with a view to his or her rehabilitation, vacation leave with full pay may, with due consideration of the merit and prognosis of the case, be granted for the full period of his or her absence: Provided that -
- (i) the overgranting of vacation leave which has thus occurred be deducted from the future vacation leave accrual; and
- (ii) if such an educator resigns or his or her services are terminated before sufficient vacation leave has accrued to him or her for the purpose of such deduction, that portion of the overgrant which exceeds his or her vacation leave credit on his or her last day of service, shall be regarded as an

overpayment of salary which shall either be recovered or written off in terms of the Exchequer Act applicable in the province concerned; and

- (b) is regarded as rehabilitated after a period of twelve months has elapsed since commencement of his or her treatment if verified as such in a report by the relevant medical practitioner, or the institution referred to in subregulation (4), the employer may approve that the vacation leave utilised for purposes of treatment up to a maximum equivalent to his or her annual leave accrual, at that particular stage, again be placed to his or her credit on condition that such a concession is granted once only: Provided that such a certificate or report cannot be obtained from the above-mentioned parties, the employer may decide in own discretion on the basis of substantiated evidence of rehabilitation submitted for example by the relevant person's supervisor, minister, medical practitioner or social worker, whether such an educator can be regarded as rehabilitated.

Sick leave: General provisions

44. (1) An application by an educator for sick leave for a continuous period of more than four days shall be supported by a certificate from a registered medical practitioner or a registered dentist: Provided that -
- (a) the employer may require that such medical certificate be submitted in support of any application for sick leave for a period of four days or less if he or she is of the opinion that circumstances warrant the submission of such certificate;
- (b) if the employer is satisfied that in exceptional cases an educator's absence for a

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continuous period not exceeding 14 days during any calendar year and for which a medical certificate is not submitted is bona fide owing to illness and if he is further satisfied that there are sufficient reasons for not submitting a medical certificate, he may at his or her discretion, grant exemption from the requirement to submit a medical certificate;

- (c) sick leave granted for an absence of four days or less and for which a medical certificate is not submitted may not exceed a total of 10 days during any calendar year; and
 - (d) any further absence for which a medical certificate is not submitted shall be covered by granting special leave for urgent private affairs in accordance with the provisions of regulation 43 with regard to an educator employed at a school, or vacation leave in accordance with regulation 44 with regard to an educator employed at an office.
- (2) Sick leave shall not be granted to an educator for -
- (a) any illness, indisposition or injury owing to misconduct or negligence of the educator or his or her failure to take reasonable precautions; or
 - (b) neurasthenia, insomnia, or other similar ill defined disease or condition of ill-health, unless the employer is satisfied that -
 - (i) such educator is not in a fit state of health to perform his or her duties; and
 - (ii) the condition of such educator is not a result of misconduct or negligence on the part of the educator or his or her failure to take reasonable precautions.

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- (3) Where sick leave is granted to an educator, the date on which such leave is deemed to have commenced and the date on which it is deemed to have ended shall be the dates determined by the employer, who may in determining the period of such leave take into consideration the medical requirements of the case and the interests of the state educational institution affected by the granting thereof.
- (4) Notwithstanding anything to the contrary contained in these regulations an educator may, at his or her written request, be granted vacation leave in lieu of any portion of sick leave granted with half pay or without pay: Provided that sick leave with half pay may be combined with vacation leave with half pay upon the request of the educator.
- (5) (a) In the event of an educator becoming ill while he or she is on vacation leave, the period during which he or she was ill may, subject to the provisions of subregulation (1), be converted into sick leave provided such educator applies for such concession in writing within 30 days after resumption of service.
- (b) Vacation leave without pay may not be converted into sick leave.
- (6) Notwithstanding the submission of a certificate referred to in subregulation (1), the employer may, on the grounds of further medical advice, refuse to grant sick leave with pay for any absence from duty to which the certificate relates, and such absence shall be deemed, in terms of regulation 54, to be special leave for urgent private affairs with regard to an educator employed at a school or vacation leave in accordance with regulation 43 with regard to an educator employed at an office.
- (7) Whenever the employer has reason to suspect that the state of health of an educator is such that he or she is unfit to perform his or her duties as an educator in a satisfactory manner, the employer may on a particular date call upon him or her to be examined at the expense of the State, by a medical practitioner nominated by the employer, and whenever the employer is satisfied that an educator is, owing to ill-health (including any mental or
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physical disability), unable to perform his or her duties as an educator satisfactorily, he may order such educator to take sick leave for a specific period.

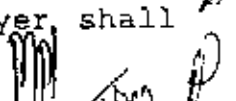
**Sick leave: Educators employed
at schools**

45. (1) Sick leave shall accrue to an educator employed at a school on the first day of a cycle, and with effect from that day the full provisions of the cycle concerned may be granted to him or her subject to the provisions of subregulation (2): Provided that unused sick leave prescribed for a particular cycle shall lapse at the end of that cycle and shall not be carried forward to the next cycle.
- (2) An educator employed at a school may be granted sick leave on account of his or her illness for 90 days on full pay and 90 days with half pay in the first cycle in which such educator renders service, which number of days of sick leave shall, after the completion of each cycle, be increased by three days with full pay and three days with half pay up to a maximum of 120 days with full pay and 120 days with half pay: Provided that -
- (a) such educator may be granted sick leave without pay for any further period which the employer may determine;
- (b) where an educator retains his or her leave credit in terms of regulation 38(4) the date of commencement of his or her cycle with his or her previous employer shall be regarded as the date of commencement of his or her cycle in terms of this regulation; and
- (c) an educator referred to in paragraph (b) shall not be granted further sick leave with pay during the unexpired period of the cycle in which he or she has thus been appointed in terms of regulation 38(4) than that which

could have been granted had all his or her service during such cycle been with his or her present employer.

- (3) Notwithstanding anything to the contrary contained in subregulation (2) additional sick leave may, after the completion of nine years of continuous service and up to and including the end of the cycle in which the nine-year period expires and in every three cycles after that, on the recommendation of a registered medical practitioner or a registered dentist, be granted to an educator employed at a school up to a maximum of 90 days with full pay and 90 days with half pay: Provided that the additional sick leave with full pay shall follow immediately upon the sick leave with full pay referred to in subregulation (2).

**Sick leave: Educators
employed at offices**

46. (1) Sick leave shall accrue to an educator employed at an office on the first day of a cycle, and with effect from that day the full provisions of the cycle concerned may be granted to him or her subject to the provisions of subregulation (2): Provided that unused sick leave prescribed for a particular cycle shall lapse at the end of that cycle and shall not be carried forward to the next cycle.
- (2) An educator employed at an office may be granted sick leave on account of his or her illness for 120 days on full pay and 120 days on half pay for every cycle in which such educator has done duty: Provided that -
- (a) such educator may be granted sick leave without pay for any further period which the employer may determine;
- (b) where an educator employed at an office retains his or her leave credit in terms of regulation 39(5) the date of commencement of his or her cycle with his or her previous employer shall
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be regarded as the date of commencement of his or her cycle in terms of the provisions of this regulation; and

- (c) an educator referred to in paragraph (b) shall not be granted further sick leave with pay during the unexpired period of the cycle in which he has been so appointed in terms of regulation 39(6) than that which could have been granted had all his or her service during such cycle been with his or her present employer.
- (3) An educator employed at an office who has completed at least 10 years of uninterrupted service and who owing to long standing ill health has used all the sick leave with full pay which could be granted to him or her in terms of subregulation (2) may be granted additional sick leave with full pay equal to his or her basic sick leave provision with full pay under the following conditions:
- (a) The additional sick leave with full pay may be granted for the entire remaining period of service of the educator, and not per cycle.
- (b) If the educator does not use all the additional sick leave with full pay within a cycle, the balance thereof shall remain to the credit of the educator for use in the next or ensuing cycles.
- (c) The additional sick leave with full pay shall be granted to the educator as soon as he has used all the basic sick leave with full pay which in terms of subregulation (2) was available during a cycle and before any ordinary sick leave with half pay is granted to him or her.
- (d) When additional sick leave with full pay is granted to an educator it shall be noted on his or her leave record that such leave is granted in terms of the provisions of this subregulation.

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Special sick leave

47. Notwithstanding anything to the contrary contained in regulation 45(1) or 46(1) as the case may be, an educator who is absent from duty owing to an injury sustained in an accident arising out of or in the course of performing his or her duties, or owing to an illness contracted in the course of or as a result of performing his or her duties as an educator may be granted special sick leave on full pay for the period during which he or she cannot perform such duties as a result of incapacity, or, if the case falls within the scope of the Compensation for Occupational Injuries and Diseases Act, 1993, (Act No 130 of 1993), he or she may be granted special sick leave with full pay equal to the difference between full pay and the compensation payable to him or her in terms of that Act: Provided that -
- (a) such leave shall not affect ordinary sick leave which may be granted in any cycle; and
 - (b) the absence from duty referred to in this regulation shall not be attributable to misconduct or negligence or failure by the educator to take reasonable precautions.

Special leave for study purposes

48. (1) Special leave may be granted to an educator for an approved course of study and for a period approved by the employer, on the basis that for each day of vacation leave on full pay which an educator uses for study, one additional day of special leave for study purposes on full pay, or on the educator's written request, two additional days special leave for study purposes on half pay may be granted, and for each day of vacation leave on half pay which an educator uses for study purposes, one additional day of special leave for study purposes on half pay may be granted.
- (2) If special leave for study purposes is granted to an educator in terms of subregulation (1), the
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employer may call for periodic progress reports in respect of the educator's studies and such educator shall enter into an agreement with the employer, in a form approved by the employer in terms of which he or she undertakes to serve the employer immediately after completion of the period of special leave for study purposes for a period (hereinafter referred to as the service period) equal to at least the period for which special leave for study purposes on full pay has been granted to him or her, or for a service period equal to half the period for which special leave for study purposes on ^{for stud_ pu} the case may be: Provided that if leave without pay has been granted to him or her during his or her service period, his or her service period shall be extended by the number of days for which leave without pay has been granted to him or her.

- (3) Special leave for study purposes shall not be deducted from the leave credit of the educator.

Special leave for military training

49. (1) Special leave for military training may be granted to an educator on full pay when such educator is required, in terms of the Defence Act, 1957, or a regulation published thereunder, or in terms of the Police Act, 1958, or any regulation published thereunder, to undergo continuous or uninterrupted or interrupted training or so to do service, except in the case of his or her initial continuous compulsory national service, in which case special leave for military training shall be granted and his or her salary reduced by an amount determined by his or her employer from time to time in due consideration of the circumstances of individual educators.
- (2) The educator shall submit written proof from the South African National Defence Force or the South African Police Service that he or she is required to undergo training or to do service.

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- (3) Special leave for military training granted in terms of subregulation (1) may include any period actually and necessarily taken up in travelling for the purpose for which the leave is granted.
- (4) Special leave for military training shall not be deducted from the leave credit of the educator.

**Special leave for examination purposes:
Educators employed at schools**

50. (1) An educator employed at a school may be granted special leave for examination purposes with full pay for each day on which such educator sits as a candidate for an examination approved for this purpose by the employer, and in addition one additional day of special leave on full pay may be granted for each day such educator actually sits for the examination, which additional day or days shall be taken before the last school day on which he or she writes the examination.
- (2) Over and above the special leave for examination purposes referred to in subregulation (1), the employer may, once only, grant continuous special leave for examination purposes for a maximum period of 16 school days to an educator employed at a school who has to sit for an examination in final year subjects towards the completion of a first degree or diploma approved for this purpose by the employer.
- (3) Special leave for examination purposes granted in terms of subregulation (1) may include any period actually and necessarily required for travelling in connection with such examination.
- (4) Special leave for examination purposes shall not be deducted from the leave credit of an educator employed at a school.
- (5) Special leave with full pay may be granted to an educator once only in respect of a re-examination or an end of year examination pertaining to a study
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course (or part of a study course) which an educator failed and which he or she has to repeat.

Special leave for examination purposes: Educators employed at offices

51. (1) The provisions of regulation 50 with the exception of subregulation (2), shall apply mutatis mutandis to an educator employed at an office.
- (2) Over and above the special leave for examination purposes contemplated in subregulation (1), the employer may, once only, grant continuous special leave for examination purposes for a maximum period of 16 working days to an educator employed at an office who has to sit for an examination in final year subjects towards the completion of a first degree or diploma approved for this purpose by the employer.
- (3) Special leave with full pay may be granted to an educator once only in respect of a re-examination or an end of year examination pertaining to a study course (or part of a study course) which an educator failed and which he or she has to repeat.

Special leave for quarantine purposes

52. (1) Where the employer in consultation with the medical practitioner is of the opinion that an educator suffers from or was exposed to a notifiable medical condition as contemplated in section 45 of the Health Act, 1977, the employer may grant special leave on full pay for quarantine purposes to such educator.
- (2) Any application for leave referred to in subregulation (1) shall be accompanied by a certificate from a registered medical practitioner stating the period of quarantine as well as the reasons necessitating such leave.

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- (3) Leave for quarantine purposes shall not exceed the period required for removal of the contagion or infection or disinfection.
- (4) Special leave for quarantine purposes shall not be deducted from the leave credit of the educator.

**Special leave for participating
in sporting and cultural events**

53. (1) Special leave on full pay for participating in sports and cultural events may be granted with the approval of the employer without such leave being deducted from the leave credit of an educator, when an educator -
- (a) is selected by an amateur sports body or a cultural institution recognised by the employer for this purpose -
 - (i) to take part as a competitor, coach or manager in a sports or cultural event beyond the borders of the Republic; or
 - (ii) to represent the country, province or region at an international, national, provincial or regional sports or cultural event within the Republic; or
 - (iii) to accompany a group or an individual from outside the country who is visiting the Republic, as a representative of such sports body or cultural institution; or
 - (iv) to attend international conferences or meetings of international sports bodies or cultural institutions; or
 - (b) acts as a referee, official, adjudicator or course leader at a sports or cultural event

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at an international level within or outside the Republic; or

- (c) as an individual is selected or invited to take part, or on his or her own initiative takes part in a sports or cultural event at an international or national level within or outside the Republic.

**Special leave for urgent
private affairs**

54. (1) With the approval of the employer, special leave for urgent private affairs may be granted to an educator employed at a school to attend to private affairs.
- (2) Special leave for urgent private affairs shall be on full pay if the educator has the necessary vacation leave to his or her credit and shall be deducted from such leave credit or shall be without pay if the educator no longer has any vacation leave to his or her credit.

Special leave for confinement

55. (1) Special leave on full pay for confinement (including the adoption of a child) may be granted to a female educator on the following basis and shall not be deducted from the educator's leave credit:
- (a) A maximum of 84 days (including weekends and public holidays that fall within this period) of special leave on full pay may be granted for confinement or adoption of a child, as the case may be.

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- (b) The educator shall have completed 12 months of uninterrupted service.
- (c) Prior service rendered at institutions mentioned in regulation 39(7) shall be taken into account for the purposes of paragraph (b) if there has been no interruption in service.
- (d) In the application of paragraph (c), the previous temporary or permanent service of an educator who terminated her permanent or temporary appointment and has been appointed without any interruption in service shall be taken into account.
- (e) The special leave referred to in this regulation may be granted, subject to the provisions of paragraph (i) to an educator for not more than two confinements or adoptions, as the case may be.
- (f) Special leave may be taken before or after the confinement, but it shall be uninterrupted and continuous with the confinement in all cases and it may also be continuous with periods of sick leave or any other type of leave.
- (g) Subject to the provisions of paragraph (h), special leave for confinement may not be converted, in part or as a whole, into any other type of leave after it has commenced.
- (h) Sick leave for absences from duty owing to a miscarriage, a still-birth or the termination of a pregnancy on medical advice may be granted in accordance with regulations 44, 45 or 46, as the case may be, before a period of special leave would have commenced.

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- (i) If the miscarriage, still-birth or termination of pregnancy referred to in paragraph (h) occurs after such a period of special leave has commenced, the said special leave for the period up to the miscarriage, still-birth or termination of pregnancy shall not be taken into account for the purposes of the restriction contained in paragraph (e).
- (j) Sick leave may be granted in accordance with the provisions of regulations 44, 45 or 46 as the case may be, for absences from duty from the date of the miscarriage, still-birth or termination of pregnancy referred to in paragraph (h).
- (2) (a) If a female educator does not qualify for special leave with full pay in accordance with subregulation 55(1), her absence from duty for purposes of her pregnancy and her confinement must be covered by the granting of her available vacation leave with full pay and thereafter vacation leave without pay.
- (b) In the cases referred to in subparagraph (a) sick leave may, however, be granted during a period of pregnancy, but not in respect of a period of vacation leave without pay already granted (see subregulation 44(5)(b)) or during her absence due to confinement.
- (c) Sick leave may be granted in respect of absence from duty as a result of a miscarriage, still birth or termination of pregnancy on medical advice.
- (3) (a) A female educator employed at a school may apply for special leave for confinement and such application shall be submitted at least 90 days prior to the expected date of her confinement.

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**Special leave for continuity
of service: Educators employed
at schools**

56. (1) Special leave without pay for a maximum of 120 days may be granted to an educator employed at a school and who was previously employed as educator by the same or another employer for the purpose of retaining the continuity of the educator's service.
- (2) The special leave referred to in subregulation (1) shall commence on the day immediately following the date on which such educator last received salary from his or her previous employer and shall expire on the day preceding the date of assumption of duty with the present employer in terms of such appointment.
- (3) The limitation of 120 days referred to in subregulation (1) shall not apply in cases where the period concerned extends from the day immediately following the last day of a school term to the day immediately preceding the first day of the school term after a full school term has elapsed.

**Special leave for continuity
of service: Educators employed
at offices**

57. (1) Special leave without pay to a maximum of 120 days may be granted to an educator employed at an office and who was previously employed as an educator by the same or another employer for the purpose of retaining the continuity of the educator's service.
- (2) The special leave referred to in subregulation (1) shall commence on the day immediately following the date on which such educator last received salary from his or her previous employer and shall expire on the day preceding the date of assumption of duty
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- (b) Special leave for confinement shall normally be granted to a female educator employed at a school as from 30 days prior to the expected date of confinement: Provided that, with due consideration of the circumstances at the school concerned and the state of health of the applicant, the employer may approve a shorter or a longer period.
- (c) Special leave for confinement for a female educator employed at a school shall terminate 90 days after the date of confinement: Provided that, with due consideration of the circumstances at the school concerned and the circumstances of the applicant, the employer may approve a shorter or a longer period.
- (d) If the period of special leave for confinement granted to an educator in terms of subregulation (1) exceeds 84 days, vacation leave on full pay to the extent that the educator has vacation leave to her credit, followed by vacation leave without pay, may be granted on the written request of the educator for the period in excess of 84 days.

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with his or her present employer in terms of such appointment.

**Special leave in extraordinary
circumstances**

58. (1) Subject to the provisions of section 10(1) and (2) of the Act, unauthorised absence by an educator, notwithstanding any disciplinary measures which may be taken against him or her, shall be regarded as special leave in extraordinary circumstances and such leave shall be without pay unless the employer in a specific case determines otherwise.
- (2) If, in the opinion of the employer, circumstances justify it, he or she may grant an educator special leave in extraordinary circumstances for any purpose or for any period he or she may determine, and such leave shall be without pay unless the employer determines otherwise.
- (3) Special leave in extraordinary circumstances shall not be deducted from the leave credit of the educator.

Leave gratuities

59. A leave gratuity, calculated as set out in regulations 61 and 62, may be paid -
- (a) to an educator whose service terminates as a result of retirement on pension: Provided that the voluntary resignation of an educator appointed in a temporary capacity in terms of section 4(3)(b) of the Act on or after attaining the age of 65 years shall also be regarded as retirement on pension;
- (b) to an educator as a result of termination of service -
- (i) in terms of section 8(1)(a), (b) and (c) of the Act; or
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- (ii) if he or she has been appointed on a contract basis, on account of the expiry of his or her period of service or his or her voluntary resignation according to the provisions of the contract;
- (c) to an educator on the termination of the service of an educator appointed in a temporary capacity in terms of section 4(3)(b) of the Act, after having completed at least five years of uninterrupted satisfactory service, unless special leave for the sake of continuity of service may be granted;
- (d) to an educator serving in a permanent capacity at his or her written request, where such educator has the option of retiring on pension before attaining the compulsory retirement age and does not retire before attaining such age; and
- (e) when an educator dies, to the following person(s) or the estate in the following order of precedence:
 - (i) The widow or widower of such educator;
 - (ii) the fully dependent children, including a stepchild or a lawfully adopted child, in equal shares;
 - (iii) the dependent parent or parents; and
 - (iv) the estate of the deceased.

**Calculation of the number
of days which may be converted
into a leave gratuity**

60. (1) A leave gratuity shall be payable to an educator whose service terminates in the circumstances set out in regulation 59(a) or (b) or (e), calculated against the total number of days of leave he or she has to his or her credit at the termination of his or her service.

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- (2) A leave gratuity up to a maximum of 184 days shall be payable to an educator referred to in regulation 59(c) or (d).
- (3) Any leave credit which remains after a leave gratuity is paid shall be retained by the educator.

**Calculation of the amount of
the leave gratuity**

61. The amount of the leave gratuity payable to an educator shall be calculated in terms of the number of days of leave that may be converted into the gratuity and at a rate equal to the total of the educator's basic salary plus any pensionable allowance payable on the date on which such gratuity is payable.

Payment of leave gratuity

62. If an educator has applied for the payment of a leave gratuity and such gratuity has been paid to him or her, he or she shall not be allowed to refund such gratuity and apply again for one at a later stage.

Payment of allowances during leave

63. The payment of an allowance for acting in a higher post or performing duties in a hostel which is not included in the salary of an educator, may be suspended by the employer during periods of leave.

CHAPTER 4

**MEDICAL ASSISTANCE, STATE HOUSING, SUBSISTENCE ALLOWANCE,
OFFICIAL JOURNEYS AND TRANSPORT, HOUSE OWNER
ALLOWANCE, SERVICE BONUS, LONG SERVICE
RECOGNITION AND RESETTLEMENT EXPENDITURE**

Medical assistance

Employer Contribution

64. (1) The monthly contribution by the employer in respect of the subscriptions payable to a medical scheme on a monthly basis is calculated in accordance with a basis determined by the Minister and shall be paid to the different medical schemes of which educators are members.
- (2) (a) In order to qualify for an employer contribution, an educator shall provide the employer with written proof of membership of the medical scheme of which he or she is a member, as well as of the monthly subscriptions applicable to him or her.
- (b) An educator shall notify the employer of any changes in membership of a medical scheme, as well as any change in subscriptions.
- (c) Notwithstanding the provisions of paragraphs (a) and (b), employers may in consultation with a medical scheme, make suitable arrangements regarding the particulars of educators who are members of such medical scheme including subscription of such educators.
- (3) A member contribution shall be deducted every month from an educator's salary by stop-order and paid to the medical scheme of which he or she is a member.
- (4) (a) Subject to the provisions of this Chapter, an employer contribution is payable to the medical

scheme on every salary pay date: Provided that if an educator obtains membership of a scheme that requires subscriptions to be paid in advance, the educator may make a double payment of subscriptions in one month in which case the employer contribution may be doubled.

- (b) The payment of the employer contribution shall be suspended with effect from the date on which an educator no longer qualifies for an employer contribution in terms of this Chapter.
- (5) If an educator is absent from duty without pay, during which subscriptions cannot be deducted from his or her salary, the employer may on application by an educator, continue with the payment of the employer contribution.

**Medical assistance to educators who are
stationed abroad or who are on official
visits abroad**

65. (1) The provisions of this regulation shall be -
- (a) applicable to an educator, as well as his or her dependants, who are stationed abroad and who receive medical treatment there or during visits to the Republic;
- (b) *mutatis mutandis* applicable to the husband and children of a married female educator who accompany her abroad;
- (c) subject to subregulation (3), *mutatis mutandis* applicable to the dependant children of educators stationed abroad who live in the Republic or who visit their parents abroad;
- (d) applicable to an educator who is on an official visit abroad.
- (2) (a) An educator stationed abroad -

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- (i) may be compensated by the Department of Foreign Affairs for the difference between the cost of a medical or related service abroad in respect of which an educator's medical scheme grants benefits and the actual benefits paid out by the medical scheme concerned in terms of its rules: Provided that the employers' contribution with regard to the services referred to in subregulation (8) shall be limited to an amount determined by the Minister;
- (ii) and his or her dependants may be compensated by the employer for subsistence and travelling expenses necessarily and inevitably incurred in order to acquire specific medical and related services elsewhere than at his or her station: Provided that the benefit is subject thereto that a particular service is not available at the educator's station or that it is of an unacceptably low standard; and
- (iii) may, notwithstanding the provisions of subparagraphs (i) and (ii) be paid subsistence and travelling expenses in cases where the employer is of the opinion that it would be a less expensive arrangement to convey such educator to a suitable place elsewhere than his or her station for medical treatment.
- (b) (i) If an educator is on an official visit abroad and he or she must necessarily and inevitably make use of medical services there, the difference between the cost of such treatment abroad and the cost of a similar service charged by a supplier of such a service in the Republic may be refunded to him or her by the employer.
- (ii) The provisions of subparagraph (i) shall *mutatis mutandis* be applicable in respect of the spouse of an educator who accompanies him or her officially.

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- (3) (a) In order for an educator stationed abroad to qualify for the benefits in this regulation, he or she has to be a member or a dependant of a member (recognised as such by the medical scheme) of a medical scheme in the Republic which grants benefits with regard to medical or related expenses incurred abroad and which is willing to make such payments to the Department of Foreign Affairs.
- (b) In the case where an educator is seconded to an institution abroad and he or she as a result thereof is compelled to obtain membership of a medical scheme to which the employees of the relevant institution have to become members, the medical assistance, where applicable, must be entrenched in the secondment agreement concerned.
- (4) (a) In order for an educator stationed abroad to qualify for the benefits in this regulation an amount in accordance with the tariffs as determined by the employer from time to time, and subject to subregulation (5), shall be deducted from the educator's salary and paid into the relevant Provincial Revenue Fund.
- (b) The amount referred to in paragraph (a) shall be payable from the first day of the month following the month in which the educator concerned leaves the borders of the Republic until the last day of the month in which he or she is transferred back to the Republic: Provided that this period shall not be regarded to be interrupted by periods of absence for whatever reason: Provided further that the husband and the children of a married female educator who accompanies her abroad shall be taken into account in determining the amount referred to in paragraph (a).
- (5) Children of a divorced educator stationed abroad who are registered as dependants of such educator's medical scheme but who are staying with the former spouse within the Republic, qualify mutatis mutandis for the benefits in this regulation: Provided that -

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- (a) they on a bona fide basis stay with the former spouse and otherwise comply with the requirements relating to dependant children referred to in the definition of "household";
 - (b) they are taken into account in determining the amount referred to in subregulation (4)(a);
 - (c) the amount referred to in subregulation (4)(a) is paid for the duration of the educator's stay abroad; and
 - (d) where applicable, the educator beforehand exercises a choice to let such children participate in the benefits in this regulation.
- (6) The subsistence and travelling expenses referred to in subregulation (2)(a)(ii) shall apply in cases where the necessity of accompaniment contemplated in paragraphs (a) and (c) is confirmed on the basis of a medical certificate -
- (a) when a parent accompanies a child who has to undergo medical treatment;
 - (b) when a spouse accompanies an educator who has to undergo medical treatment;
 - (c) when an educator accompanies his or her spouse who has to undergo medical treatment; and
 - (d) when the dependant children of an educator or those of his or her spouse accompany him or her or his or her spouse who has to undergo medical treatment: Provided that no alternative arrangement could be made for their care at the educator's station.
- (7) An educator stationed abroad experiencing problems in meeting the financial obligations resulting from the acquiring of a medical service that is recognised for benefit purposes by his or her medical scheme, may apply to the employer for relief-aid in the form of an advancement or the direct settlement of the medical bill: Provided

that the payment of the amount of the relief-aid for which application is made, has been demanded by the supplier of the service concerned and that it is taken into account when claims are being processed.

(8) The employer contribution in respect of -

- (a) crown- and bridgework of teeth;
- (b) spectacle frames; and
- (c) contact lenses,

is limited to an amount calculated in accordance with a basis determined by the Minister.

(9) An educator who is transferred abroad, as well as his or her dependants who will accompany him or her, shall prior to their departure undergo a medical examination by a registered physician at the cost of the employer: Provided that the employer may in his or her discretion and for reasons acceptable to him or her, grant exemption from such a medical examination.

(10) The submission, channelling and processing of claims shall be done in accordance with regulation 67.

(11) (a) In cases where an educator on an official visit abroad receives medical treatment, the contribution to be made by the employer towards the costs of such treatment may be determined after consultation with the medical scheme of which the educator is a member.

(b) If an educator referred to in paragraph (a) is not a member of a medical scheme the costs of a similar service must be determined by the employer after consultation with an acknowledged medical scheme.

(c) The provisions contained in subregulation (7), (8) and (9) shall mutatis mutandis apply to an educator referred to in paragraph (a).

(12) (a) The Department of Foreign Affairs -

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- (i) annually provides on its vote for the expenditure resulting from the granting of benefits referred to in subregulation (2)(a)(i) above with regard to all educators stationed abroad; and
 - (ii) is, where applicable, responsible for establishing the basis in accordance whereof foreign currencies are to be converted to Rand or vice versa.
- (b) Individual employers shall provide for the following expenses:
- (i) Expenses resulting from the medical treatment of educators on official visits abroad.
 - (ii) Subsistence and travelling expenses referred to in subregulation (2)(a)(ii), read with subregulation (6).
 - (iii) The granting of relief-aid as referred to in subregulation (7).
 - (iv) Expenses resulting from medical examinations referred to in subregulation (9).

**Procedure for the submission,
channelling and processing
of claims abroad**

66. (1) (a) The original bill in respect of medical assistance abroad, shall, under cover of a claim form of the medical scheme of which the educator is a member, be submitted to the mission or foreign office who shall ensure that -
- (i) the claim form is filled in correctly;
 - (ii) the bill is properly specified or that the type of service is understandable; and

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- (iii) proof of payment is provided.
- (b) The mission or foreign office shall pay the sum-total of the claim, or such other amount as determined in accordance with guidelines laid down by the Department of Foreign Affairs in consultation with other government institutions who have personnel abroad, to the educator in local currency.
- (c) The Department of Foreign Affairs checks and verifies the claim and sends it to the medical scheme of which the official is a member.
- (2) (a) The medical scheme determines in terms of its rules -
- (i) the benefits payable in respect of a specific claim and pays it to the Department of Foreign Affairs; and
- (ii) the member's liability in respect of a service not acknowledged by the scheme for benefit purposes.
- (b) With regard to the member's liability referred to in paragraph (a)(ii) the Department of Foreign Affairs determines the amount to be paid from State funds.
- (c) The mission or foreign office shall recover the member's liability referred to in paragraph (a)(ii) from him or her in local currency.

**Medical assistance to educators at
retirement or termination
of service**

67. (1) (a) The provisions contained in this regulation are applicable to an educator who retires with pension or whose service is terminated and who has been a member of a medical scheme prior to his or her retirement or termination of service.

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- (b) In the case of the death of an educator who has been a member of a medical scheme, including an educator who passes away prior to retirement or termination of service, the provisions contained in this regulation are also applicable to the surviving spouse who becomes a member of the medical scheme in his or her place: Provided that in the case of an educator who as a result of a customary marriage has more than one spouse, the continued employer contribution in respect of such an educator who passes away prior to or after retirement or termination of service, is limited to an amount not exceeding the employer contribution for one surviving spouse with or without dependants, as the case may be.
- (2) The extent to which assistance is rendered shall be as set out in subregulation (3) and will be calculated only once in accordance with the position which applies or had been applicable in respect of an educator at retirement or termination of service or at his or her death, as the case may be.
- (3) (a) The following educators or their surviving spouses, qualify for assistance in accordance with the basis as set out in paragraph (b) -
- (i) Educators who pass away or retire as a result of -
- (aa) the attainment of the normal retirement age referred to in regulation 15; or
- (bb) ill-health which cannot be ascribed to their own doing.
- (ii) Educators who are 60 years or older -

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- (aa) whose services are terminated by the employer as a result of the abolition of their posts or reorganisation, or to promote efficiency, or to economise;
- (bb) who, at their own request, retire with the approval of the employer (but not as a result of misconduct or incapacity), or as a result of a right to early retirement; or
- (cc) who retire according to a decision by the employer (but not as a result of misconduct or incapacity).

(b) Assistance in respect of the persons referred to in paragraph (a) is rendered on the following basis:

(i) In the event of retirement or termination of service or death prior to 10 June 1994 the rules as applied on the date of termination of service or death, remain applicable.

(ii) In the event of retirement or termination of service or death on or after 10 June 1994 of educators who, at the time of their retirement or termination of service or death, are members of a medical scheme and with -

(aa) at least 15 years service (which may include previous periods of service), the employer contribution is 4/6 of membership fees limited to 100% of the maximum rand amount;

(bb) at least 10 years but less than 15 years service (which may include previous periods of service, with the exception of previous periods of service which have already been acknowledged for the payment of a

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cash amount), a cash amount is payable equal to 24 times the monthly employer contribution to the medical scheme of which the person is a member at retirement or termination of service or death;

(cc) less than 10 years service, a cash amount is payable equal to 12 times the monthly employer contribution to the medical scheme of which the person is a member at retirement or termination of service or death.

(c) The following educators, or their surviving spouses, qualify for assistance in accordance with the basis as set out in paragraph (d):

Educators who have not yet reached the age of 60 years at retirement or termination of service and -

(i) whose services are terminated by the employer as a result of the abolition of posts or reorganisation or to promote efficiency or to economise;

(ii) who, at own request, retire with the approval of the employer (but not as a result of misconduct or incapacity), or according to a right to early retirement; or

(iii) who retire according to a decision by the employer (but not as a result of misconduct or incapacity).

(d) Assistance in respect of the persons referred to in paragraph (c) is rendered on the following basis:

(i) In the event of retirement or termination of service prior to 10 June 1994 the rules as applied on the date of termination of service, remain applicable.

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(ii) In the event of retirement or termination of service on or after 10 June 1994 educators who, at the time of their retirement or termination of service, are members of a medical scheme and -

(aa) who are at least 55 years old with at least 15 years service (which may include previous periods of service), the state contribution is 3/6 of membership fees, limited to 75% of the maximum rand amount;

(bb) who are at least 50 years but younger than 55 years old with at least 15 years service (which may include previous periods of service), the state contribution is 2/6 of membership fees, limited to 50% of the maximum rand amount;

(cc) who retire or whose services are terminated at an age younger than 50 years and who have at least 20 years service (which may include previous periods of service) at their disposal, such educators qualify for assistance according to the basis in subparagraph (ii) at attaining the age of 50: Provided that they are not receiving medical assistance on account of their employment by another employer.

State housing

68. (1) The provisions of this regulation shall not be applicable to an educator residing in a hostel attached to a state educational institution.

An employer may make state housing available to an educator when it is to be utilised as an instrument in the execution of his or her duties and because the work specifications of a specific post require

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that the incumbent thereof be available on the terrain where such duties are performed, within and outside his or her official hours of duty and educators occupying such posts shall be obliged to occupy the housing.

- (3) (a) Rent in respect of standard married housing is levied at 4% of the annual basic pensionable salary of the educator with a maximum as determined by the Minister.
- (b) Rent in respect of standard single housing is levied at 1% of the annual basic pensionable salary of the educator.
- (c) Rent in respect of non-standard and voetstoets housing shall be 75% of that of standard housing referred to in paragraph (a) or (b), as the case may be.
- (4) An educator who occupies state housing is liable for any levy, tax on services or other charge in respect of water, electricity, sanitation services, refuse removal, etc. which is payable to the local authority concerned or other institution: Provided that if it is not paid directly by the educator, payment must be made to the employer at the compensating tariffs as determined by the providing department with the approval of the Department of State Expenditure.
- (5) (a) The providing department is responsible for the maintenance of state housing, as well as of the permanent fixtures and the grounds (gardens excluded) that form part thereof.
- (b) The employer who rents housing with the view to making it available as state housing, is responsible for the maintenance, etc. of such housing.
- (c) The educator is liable and responsible for -
- (i) keeping the buildings and grounds clean and neat;

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- (ii) maintaining the garden;
 - (iii) all keys received by him or her;
 - (iv) the replacement of consumable articles such as fluorescent lights, light bulbs, etc; and
 - (v) repairing of damage to the housing caused through his or her own fault.
- (6) Should an educator to whom state housing is made available for occupation, be obliged to vacate such housing temporarily in order that it may be occupied by a substitute or to allow for essential repairs or renovations -
- (a) he or she is exempted from all obligations imposed upon him or her by this regulation, until he or she again occupies such housing; and
 - (b) the measures determined by the Minister apply *mutatis mutandis* to him or her, should he or she at the same time be obliged to remove his or her personal possessions from the relevant housing.
- (7) An educator is not exempted from his or her obligations in terms of this regulation during periods of leave or the performance of official duty away from his or her normal place of work.
- (8) Should an educator -
- (i) die; or
 - (ii) be discharged in terms of section 8(1)(b) or (c) of the Educators' Employment Act, 1994,

the educator and/or his or her household may, whichever is applicable, subject to this regulation, be permitted to stay in state housing for a period not exceeding three months following the month of his or her death or discharge.

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- (9) Only the educator and his or her household are allowed to occupy state housing and sub-letting may not take place, unless prior approval has been granted by the providing department or employer on conditions determined by the latter.
- (10) The employing department may supply furniture for state housing, in which case the educator shall pay the tariffs determined by the employing department with the approval of the Department of State Expenditure.
- (11) A department, the State or any person in the employment of a department or the State is not responsible for any loss of or damage to the personal possessions of an educator in state housing.

Other housing

69. (1) Other housing than state housing may be provided to an educator if in the opinion of the employer exceptional circumstances exist and it is in the interest of education and in cases where -
- (a) an educator who, in the interest of the employer, stays at a specific headquarters for a relatively short period;
 - (b) private housing is not available;
 - (c) educators whose posts were not identified for the provision of state housing, must be provided with housing at training centres; and
 - (d) educators are stationed at a place where, or in the vicinity of which, private housing does exist, but their work is of such a nature that it must be possible to reach them on short notice and that they must be able to report as a unit, as a result of which it is essential that they be accommodated at a specific place or near such a place.
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- (2) (a) If housing is provided in the circumstances set out in subregulation (1), rent shall be levied at market related tariffs.
- (b) Market related tariffs are rent which apply generally for the market in the area for comparable housing, or, where housing or comparable housing is not available, any other acceptable basis which reflects rent tariffs for the particular area, as whether the housing is purchased or erected by the providing department or rented by the employer department.
- (3) The provisions of subregulation (1) shall mutatis mutandis apply to housing contemplated in subregulation (2).

Accommodation expenditure

70. An educator who, with the approval of the employer is on official duty away from his headquarters, shall be compensated by the employer for the accommodation expenditure incurred by him or her of necessity during such a period in addition to his or her normal expenditure on the basis determined by the Minister.

Official journeys and transport

71. If it is required of an educator to perform official duties at a centre other than his or her headquarters and he or she has of necessity to make use of transport approved by the employer to travel between his or her headquarters and such centre he or she may be compensated in accordance with a tariff determined by the Minister by the employer for the expenditure involved.

Transport between residence and place of duty

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72. (1) A head of education may at his or her discretion authorise an educator to use government transport between his or her residence and place of duty, should exceptional transport problems arise regarding the performance of duty at a particular place of duty and which make it essential that government transport be provided.
- (2) If an educator is transported in terms of subregulation (1) he or she must pay for such transport according to the tariffs determined by the Minister.

**Home Owner Allowance Scheme:
Application and limits of scheme**

73. (1) In order to participate in the provisions of the Home Owner Allowance Scheme (hereinafter referred to as the scheme) either on the date of application or at any point of time during the allowance payment period, an educator shall comply with all the provisions of the regulations dealing with the scheme in so far as such provisions are applicable to him or her.
- (2) An educator who wishes to participate in the scheme shall -
- (a) be a contributing member of a statutory instituted pension or provident fund or shall be under an obligation to contribute to such a fund upon completion of a qualifying period of service;
 - (b) be employed in a full-time capacity;
 - (c) in the event of being a full-time educator, employed in a temporary capacity, be younger than 65 years of age; and
 - (d) not be married to a person who already participates in the scheme for the Public Service.

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- (4) If an educator or his or her spouse, in addition to the dwelling that he or she occupies, owns another paid-off dwelling or not paid-off dwelling (wherever located and in spite of the fact that the registered mortgage in the case of the other not paid-off dwelling is smaller or larger than the registered bond on the dwelling which he or she occupies) which is registered in his or her or his or her spouse's name and in respect of which he or she or his or her spouse previously for any period received an allowance (a subsidy) on the basis described in these regulations (or on a similar basis) on the strength of his or her or his or her spouse's service in the Public Service, an education department, the Department of Posts and Telecommunications, a provincial administration or with a council, institution or body established by or under a legal provision, as contemplated in section 15(1) of the Public Service Act, 1994, he or she qualifies for a reduced allowance.
- (5) If a reduced allowance is payable to an educator in terms of subregulation (4) and the other paid-off or not paid-off dwelling referred to in the said subregulation is sold, the provisions of regulation 75 are mutatis mutandis applicable: Provided that if the other paid-off or not paid-off dwelling is sold on a leasehold basis it is for this purpose still regarded as being in the possession of the educator or his or her spouse.
- (6) In order to qualify for participation in the scheme an educator shall own a dwelling -
- (a) which is registered in -
- (i) his or her name; or
- (ii) both his or her and his or her spouse's names; or
- (b) which is constructed on -
- (i) premises in respect of which the person(s) referred to in paragraph (a) has obtained

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a right of leasehold under a statutory provision; or

- (ii) tribal or state land in respect of which official ratification of the right to occupy such land, can be produced by the person(s) referred to in paragraph (a); or
- (c) that was obtained by the person(s) referred to in paragraph (a) by way of a contract of sale which will lead to the acquisition of right of possession a proprietary rights and in respect of which a registered mortgage was granted to him or her by an institution referred to in subregulation (9), but which cannot as yet be transferred in the said person(s) name(s), because -
- (i) surveying or town establishment, or the provision of sewerage or other services such as roads, water, electricity, etc., are not finalised; or
 - (ii) the person concerned, if surveying and town establishment is finalised, has not paid the required deposit on the purchase price of the dwelling in full; or
 - (iii) the final purchase price of the property has not yet been finalised and only a provisional purchase price is known at the time of signing the suspensive sale agreement; and
- (d) that is situated within the borders of the Republic of South Africa.
- (7) (a) The dwelling shall be occupied by the educator and, if applicable also his or her dependants: Provided that if an educator with dependants purchases or constructs or already owns a dwelling elsewhere than at his or her headquarters (e.g. the new headquarters to which he or she is to be transferred or the place where he or she wishes to settle after retirement), and this dwelling is occupied only

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by his or her dependants, and he or she joins them periodically, he or she should be deemed to comply with this requirement.

- (b) If, as a result of disaster (hurricane, flood, earthquake, fire damage, etc.) or intimidation, an educator is forced to vacate the dwelling temporarily the employer may continue with the payment of a home owner allowance subject to the conditions and for the period which is deemed reasonable.
- (c) The home owner allowance may also be paid to an educator who is officially compelled to occupy official quarters: Provided that such educators' -
- (i) private dwelling must be let, unless the employer is of the opinion that acceptable reasons exist why the dwelling cannot be let or letting would be impractical due to individual circumstances;
 - (ii) dwelling, if it is let, shall be let at a market-related tariff unless the employer is convinced that it is not possible, in which case a lower tariff can be accepted; and
 - (iii) home owner allowance shall be limited to the allowance payable on the compulsory instalment minus any rent received in a particular month.
- (8) The dwelling in respect of which a home owner allowance is paid must be situated in the vicinity of the workplace or headquarters of the educator concerned or must normally have been occupied by the educator should he or she not be living in official quarters, except in the case of an educator stationed at a place where no private housing is available or allowed, the employer may decide otherwise.
- (9) There shall be a registered mortgage (and not a leasehold contract) on the dwelling in respect of

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which a home owner allowance is paid, which mortgage was obtained from either -

- (a) the National Housing Board;
- (b) a local authority;
- (c) a financial institution registered with the Office for Banks in the South African Reserve Bank; or
- (d) any other body instituted by an Act of Parliament and which grants loans:

Provided that home loans granted by financial institutions created by statute for the development of inter alia, rural areas, e.g. development trusts or corporations, shall be deemed to be registered mortgages.

Calculation of home owners allowance

74. Subject to the provisions of these regulations, the allowance payable under the scheme is calculated according to the basis, conditions and limitations determined by the Minister.

Recognised loan amount

75. (1) For purposes of the scheme the recognised loan amount is the total of the whole or part of the registered mortgage that was used to buy, construct or to make immovable improvement or alterations (including structural maintenance) to the dwelling or to the premises of the dwelling which an educator occupies.
- (2) In determining the recognised loan amount which is used to calculate the allowance -
- (a) a particular registered mortgage, or the total of registered mortgages if an educator has more

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- than one such a loan on his or her dwelling, is considered the recognised loan amount if it is used as contemplated in subregulation (1);
- (b) the amount of registered mortgages or parts thereof which were not used for the purposes as contemplated in subregulation (1), shall be deducted from the registered mortgage, or the total of registered mortgages if an educator has more than one such a loan on his or her dwelling; and
- (c) the recognised loan amount, when applicable, shall be further reduced with the amount with which an educator should be penalised in accordance with regulation 76.
- (3) The amounts of registered mortgages which were not used for the purposes as contemplated in subregulation (1) and with which an educator is penalised in terms of the order of magnitude of the recognised loan amount which is used to calculate his or her allowance, shall not be transferable with regard to dwellings which he or she may later purchase or cause to be constructed.

**Employment of the proceeds from the sale
of a previously subsidised dwelling**

76. (1) If an educator or his or her spouse previously owned another dwelling (paid-off or not paid-off) which was registered in his or her or his or her spouse's name in respect of which he or she or his or her spouse previously for any period received a subsidy (or allowance on the basis set out in these regulations or a similar basis) on the grounds of his or her spouse's service in the Public Service, an education department, the Department of Posts and Telecommunications, a provincial administration or with a council, institution or body established by or under a legal provision and which was sold (for this purpose it is deemed to be sold on the date on which the property is registered in the name of the owner), he or she is expected (but not obliged) to

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use an amount equal to the full difference between the full selling price of the previous dwelling, on the one hand, and the total sum of the balance of the mortgage loan (if any) on the date of sale plus his or her sale costs plus purchasing costs (agent's commission, inspection fees, architect's fees, etc.) conveyancing costs and transfer fees on the new property, on the other hand, for the purpose of purchasing the dwelling (or for purchasing the premises and for the construction of the dwelling) which he or she occupies: Provided that -

- (a) the "other dwelling" referred to in this subregulation concerns only the last dwelling in respect of which a home owner allowance (previously housing subsidy) was paid; and
 - (b) a dwelling sold on the leasehold basis is not deemed to have been sold, since it is registered in the name of the "seller".
- (2) If an educator does not use (or did not use) the said amount for this purpose, the recognised loan amount on the dwelling which is occupied by the educator (or the total of the recognised loan amounts in the case of an educator who has registered more than one mortgage on his or her dwelling) must be reduced by the said amount for the purpose of calculating the allowance.
- (3) Subregulation (2) is applicable in the case of -
- (a) an educator who granted the purchaser of his or her previous dwelling an extension for payment of a part of the purchase price until such time as he or she produces proof that the shortfall has been paid in full on the registered mortgage (or the registered mortgages if more than one mortgage is registered in respect of the dwelling); or
 - (b) an educator who is holding back part of the proceeds for immovable improvement or alterations to the new home, until such time as he or she produces proof that the improvements

for which the amount concerned was held back have been completed.

- (4) The amount contemplated in subregulation (2) with which an educator is penalised in respect of a particular dwelling, in terms of the order of magnitude of the recognised loan amount which is used to calculate his or her allowance on such a dwelling, is not transferable with regard to dwellings which he or she may purchase or erect later.
- (5) An educator who sells a previous dwelling under the circumstances as contemplated in subregulation (1), but who fails or refuses to declare how the proceeds were spent, shall be completely excluded from participation in the scheme from the date of the sale of the previous dwelling: Provided however that he or she qualifies again for participation in the scheme from the salary pay day of the month in which he or she declares how the proceeds were spent.

**Date with effect from which the
home owners allowance is paid**

77. (1) An educator may be paid an allowance referred to in regulation 73, on each salary pay day.
- (2) An allowance contemplated in subregulation (1) shall be terminated if any of the conditions to which the scheme or such allowance is subject, is not complied with.
- (3) If an allowance contemplated in subregulation (1) is suspended in terms of subregulation (2), the allowance may be re-instated with effect from the date that the educator concerned complies with the said conditions.

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Home owners allowance payment period

78. (1) An allowance referred to in regulation 73 shall be paid for the duration of the redemption period to which the registered mortgage in respect of which the allowance is paid, is subject.
- (2) If an educator. -
- (a) on his or her appointment applies for an allowance in respect of a dwelling which he or she purchased or constructed before his or her appointment; or
- (b) whose allowance in respect of a dwelling was terminated for any reason, later again qualifies for an allowance in respect of the same dwelling on the grounds of changes in his or her circumstances,
- his or her date of appointment, or the date on which he or she again qualifies for the allowance concerned, as the case may be, is his or her allowance period commencement date. The educator's allowance period expiry date is (remains) as determined in accordance with subregulation (1).
- (3) If an educator has more than one registered mortgage in respect of the dwelling that he or she occupies, the allowance³ payment period with regard to each such mortgage is as contemplated in subregulations (1) and (2).
- (4) If any adjustment of the redemption period (extension or reduction) to which a registered mortgage loan is subject, is made, the allowance payment period shall be adjusted accordingly.

**Recognition of further or increased
registered mortgages**

79. (1) Subject to the provisions of regulation 75(1) and (2), an educator shall come into consideration for

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an increased monthly allowance whenever he or she negotiates a further or an increased registered mortgage and utilises the funds thus obtained -

- (a) to bring about any immovable improvement or alteration to the dwelling which is occupied by him or her or to the premises on which it is situated; or
 - (b) for the redemption of a private loan which was obtained to purchase or to construct the dwelling or to improve or alter it as contemplated in paragraph (a).
- (2) If a further or increased registered mortgage is utilised for immovable improvements or alterations, it shall be acknowledged for the purpose of allowances at the earliest from the date on which the said improvements or alterations were completed: Provided that the employer may approve that completed parts of such improvements or alterations be taken into account for the purpose of allowances.
- (3) The fact that the registered mortgage debt of an educator on his or her dwelling is to be redeemed within a few months or that the registered mortgage debt which he or she had on his or her dwelling was redeemed in full (in other words the mortgage is cancelled), does not mean that subregulation (1) is not applicable to him or her and such an educator can still obtain a further registered mortgage loan on his or her dwelling and if all the qualifying requirements are met, be paid an allowance in respect thereof.

Recognition of advances and reinstitution of existing registered mortgages

80. (1) An educator who obtains an advance or reinstitution of existing registered mortgages (i.e. an action which does not influence the order or magnitude of his or her existing registered mortgage loan amount), even if the funds are utilised for recog-

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nised purposes, shall not come into consideration for an increased monthly allowance.

- (2) If an educator obtains an advance or reinstatement on his or her existing registered mortgage whether or not he or she utilises the funds for the purposes as contemplated in regulation 79(1)(a) or (b) and his or her mortgagee adjusts (lengthens) the redemption period to which the existing loan is subject, the allowance payment period remains unaltered.

**Allowance payment during official duty
away from headquarters**

81. (1) If an educator and all his or her dependants, as a result of circumstances beyond his or her control and arising from his or her official duties are obliged to vacate the dwelling temporarily, payment of the allowance may, subject to subregulation (2), be continued from the date of such vacating until he or she and his or her dependants again occupy the dwelling.
- (2) The continued payment of the allowance in terms of subregulation (1) must be reduced with the rent received for the dwelling (for this purpose the person must indicate in writing that all steps are being taken to let the dwelling and he or she must inform the employer monthly of the rent received), on condition that this subregulation does not apply in respect of the first six months after a person and all his or her dependants have vacated the dwelling.
- (3) Subregulations (1) and (2) are *mutatis mutandis* applicable to a single educator (without dependants).

**Allowance payment on transfer to a foreign
country or from one headquarter to
another in the Republic**

82. If an educator who has been transferred as well as his or her dependants vacate the dwelling in respect of which he or she is receiving an allowance, payment of the allowance may be continued,
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regardless of whether the dwelling is being leased or not -

- (a) until such time that he or she sells the dwelling and for this purpose it is deemed to have been sold on the date on which the property is registered in the name of the new owner; or
- (b) until such time as he or she qualifies for an allowance in respect of a dwelling at his or her new headquarters; or
- (c) for a period of six months, calculated from the date that his or her transfer comes into effect, regardless of whether he or she and his or her dependants physically left his or her previous headquarters before, on or after that date,

whichever of the three periods is the shortest.

- (2) If the dependants of the transferred educator, or any of them, continue to occupy the dwelling at his or her previous headquarters, he or she shall be deemed still to be complying with the occupancy requirement laid down in regulation 73(7)(a) and payment of an allowance should be continued to him or her as long as such dependant continues to live in the dwelling and he or she continues to comply with all the qualifying requirements.
- (3) If the dependants of the transferred educator, referred to in subregulation (2), vacate the dwelling concerned -
 - (a) before expiry of the relevant (shortest) period as set out in subregulation (1), the allowance may still be paid to him or her for the remaining part of such period; or

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- (b) after expiry of the relevant (shortest) period as set out in subregulation (1), payment of the allowance shall be terminated from the date of such vacating.
- (4) Subregulations (1) to (3) shall *mutatis mutandis* be applicable to an educator -
- (a) whose services are made available to a neighbouring state under the technical aid scheme; or
- (b) who is transferred to another headquarters and who has to occupy official quarters there; or
- (c) who purchases or constructs a dwelling, but before payment of a home owner allowance can be effected, is transferred.
- (5) If a transferred educator after expiry of the period during which, in terms of paragraphs (1) to (4), the allowance is payable to him or her in respect of the dwelling at his or her former headquarters, experiences substantial difficulties to sell such dwelling, the employer may authorise continued payment of the allowance to the educator by applying the provisions in paragraphs (1) to (4) *mutatis mutandis* for a further period as determined by the employer in respect of the relevant dwelling: Provided that -
- (a) the educator experiences difficulties outside his or her control to sell the dwelling at his or her former headquarters at a price which covers his or her outstanding mortgage loan: Provided that if an educator prefers not to sell his or her dwelling, this provision shall not be applicable to him or her;
- (b) the continued allowance shall be calculated as if the educator is still occupying the dwelling;
- (c) the continued allowance be reduced with the rent received for the dwelling at the former headquarters and for this purpose the educator

must indicate in writing that all reasonable steps have been taken to let the dwelling and he or she must inform the employer monthly of the rent received and the rent so received must be market-related, unless the employer is convinced that rental at a market related tariff is not possible; and

- (d) the continued payment of the allowance is reconsidered every six months.
- (6) (a) An educator serving abroad qualifies for the continued payment of the home owner allowance in respect of the dwelling in the Republic on which an allowance was paid at the time of transfer or secondment.
- (b) The amount of the continued allowance is limited to the allowance payable on the compulsory instalment, minus any rent received in a particular month.
 - (c) Payment of the continued allowance takes place only on submission of proof of rent received on the dwelling and in cases where the dwelling cannot be leased for a limited period of time, educators must indicate their willingness in writing to let their dwellings: Provided that the rent obtained must be market-related, unless the employer is convinced that rental at a market-related tariff is not possible.

**Allowance payment on transfer to or
appointment in education**

83. The provisions of regulation 81(1) to (3) apply mutatis mutandis to an educator who is transferred in terms of section 6 of the Act, or who was in the employ of the Public Service as contemplated in the Public Service Act, 1994, and is appointed in Education without any interruption in service if he or she -

- (a) changes his or her station as a result of such transfer or appointment;

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- (b) at the time of such transfer or appointment owns a dwelling at his or her previous station in respect of which he or she received an allowance from his or her former employer.

Effect of leave of absence on allowances

84. Payment of an allowance under the scheme to an educator shall be continued during periods of leave of absence of any nature, whether with or without payment, or periods of suspension, in terms of section 14(2) of the Act, on condition that if -

- (a) he or she is absent on leave without payment, the allowance may be paid to him or her for a particular month only if he or she provides acceptable proof that the monthly repayment on his or her mortgage which was payable during that month has in fact been paid; and
- (b) he or she and his or her dependants vacate the dwelling during such period of leave of absence or suspension, the dwelling is not leased: Provided that if the dwelling is leased, payment of the allowance shall be terminated from the date of such leave.

Responsibility of participants in scheme

85. An educator who applies for an allowance under the scheme or who is in receipt of such allowance, shall -

- (a) substantiate his or her application with the necessary documentary evidence;
- (b) during his or her allowance payment period, report any change which may have an influence on the registered loan amount or the expiry date of his or her allowance payment period and where applicable, substantiate it with documentary evidence;

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- (c) make arrangements that his or her monthly instalments on his or her mortgage is recovered by stop-order from his or her salary and paid to the mortgagee; and
- (d) deliver a statement from the mortgagee which reflects the annual transactions with regard to his or her mortgage, on request to his or her employer.

Over- and underpayments of allowances

86. (1) If the amount of an allowance under the scheme paid to an educator is found to be incorrect the error shall be corrected immediately and any amount which because of such error was -
- (a) overpaid shall be recovered from the educator: Provided that if the amount cannot be recovered in a single sum, interest shall not be charged on the monthly outstanding balance; or
 - (b) underpaid, shall be paid to the educator.
- (2) (a) If discovered that an allowance is paid to an educator who does not qualify for it, or that an allowance higher than that for which he or she qualifies is paid as a result of the fact that he or she deliberately provided incorrect information or withheld relevant information -
- (i) payment of the allowance to him or her shall be suspended from the first pay date after it was discovered;
 - (ii) the amount paid or overpaid shall be recovered from him or her: Provided that if such amount cannot be recovered in a single sum but by monthly payments, interest shall be charged on the outstanding balance at the rate determined from time to time for this purpose by the Minister of Finance; and

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- (iii) he or she shall not come into consideration for an allowance again.
- (b) Any action taken under paragraph (a) shall not prevent action in accordance with the provisions with regard to misconduct as contained in the Act.

**General measures concerning the
payment of a home owner allowance**

87. (1) (a) If a dwelling is registered in the names of two or more persons none of whom are married to each other, the following shall be applicable in respect of each person who participates in the scheme :
- (i) If all the persons in whose names the dwelling is registered are educators who may take part in the scheme, the real loan amount is divided in the proportion to which the educators concerned obtained ownership in the property, thereby to determine the recognised loan amount of each educator.
- (ii) If not all of the persons in whose names the dwelling is registered are educators who may take part in the scheme, the real loan amount -
- (aa) is divided in the proportion to which the persons concerned have ownership in the property, thereby to determine the recognised loan amount for each person; or
- (bb) is divided by the number of persons concerned to determine the loan amount for each person,
- and whichever recognised loan amount is the smaller is used for allowances purposes.

- (iii) The allowance is paid for the normal allowance payment period, subject to the provisions of regulation 77.
 - (iv) When the dwelling is sold the gross return is divided in the proportion as used in subparagraphs (a)(i) or (ii), in order to determine the gross return and furthermore the usable net return in each case for purposes of the application of regulation 75.
- (b) The total of the monthly allowances payable in the case of educators as contemplated in paragraph (a)(i), or in the case of educators and those other persons as contemplated in paragraph (a)(ii) shall not be more than that payable if the dwelling was registered in only one person's name.
- (2) (a) No allowance shall be payable to an educator who occupies a dwelling that is registered in the name of a company, partnership or trust.
- (b) When a dwelling that was registered in the name of a deceased husband is kept in the last mentioned estate or in trust and it is clear from the testamentary directions that the widow who is employed as an educator will shortly acquire ownership of the dwelling (for example as soon as the estate has been administered) and she maintains the monthly instalments with regard to the mortgage of the dwelling concerned -
- (i) it shall be deemed that she complies with the ownership requirement and an allowance shall be paid to her if she complies with all the other requirements; and
 - (ii) her allowance period expiry date is that date when the registered redemption period to which the loan is subject will expire.

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- (3) Loans that do not comply with the provisions of regulation 73(9) shall not be acknowledged for allowance purposes: Provided that if such a loan is redeemed by an acknowledged mortgage, such mortgage may be recognised for allowance purposes to the extent which the private loan was used for recognised purposes as contemplated in regulation 79(1)(a).
- (4) Regulation 75 shall mutatis mutandis be applicable to an educator who divides his or her property on which an allowance is paid to him or her, and sells part of it on the basis that it is expected of an educator to pay off an amount equal to the difference between the full purchase price of the sold part and the total sum of his or her divisioning and sale costs, as well as any amount from the said return that is used by him or her for immovable improvements or alterations to or on the premises of the dwelling which he or she occupies: Provided that if the said return is not used accordingly, the provisions of regulation 75(2) shall be applicable.
- (5) (a) As mortgagees in general impose interest on registered mortgages for the period from the date of registration of the mortgage loan to the date before that on which the first obligatory capital and interest redemption (instalment) is payable, an educator who complies with the occupancy requirement as referred to in regulation 73(7) during the period that interest is imposed, may be payed an allowance on the interest paid directly by an educator to his or her mortgagee, in respect of the true period that interest was imposed or 30 days, whichever is the shorter period.
- (b) The allowance that is payable in accordance with paragraph (a), is calculated as follows:

$$A \times \frac{B}{30} = \text{allowance on interest,}$$

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A - represents the allowance that is payable in accordance with regulation 73 in respect of the recognised loan amount of the educator concerned; and

B - represents the true number of days (maximum 30) in respect of which interest was imposed.

(c) The provision in paragraph (a) shall only be applicable to the first or main mortgage loan on a dwelling, and an allowance is therefore not payable on the interim interest of a second or further mortgage loan on the dwelling that an educator occupies.

(6) If an educator divorces his or her spouse and as a result thereof the dwelling in respect of which he or she or his or her spouse previously for any period of time received an allowance (or subsidy) on the basis set out in these regulations or on a similar basis on the grounds of his or her or his or her spouse's service in the Public Service, the Department of Posts and Telecommunications, a provincial administration or with a council, institution or body established by or under a legal provision as meant in section 15(1) of the Public Service Act, 1994 -

(a) is sold so that the proceeds can be awarded to his or her spouse or that the proceeds can be divided between himself or herself and his or her spouse, his or her case should be dealt with in terms of the provisions of regulation 75 and for such purpose only 50% of the net proceeds from the sale of the dwelling as contemplated in the said regulation shall be taken into account if he or she obtains a further dwelling and applies for an allowance;

(b) is granted to his or her spouse (where, for example, the dwelling is transferred in his or her spouse's name or usufruct is granted to her or him), his or her case should be dealt with in terms of the provisions of regulation 75 as

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if he or she had sold the dwelling and for such purpose and in order to determine the net proceeds a realistic valuation of the dwelling's market value at the time that it is awarded to the spouse must be obtained: Provided that only 50% of the net proceeds as contemplated in the said regulation shall be taken into account when he or she obtains a further dwelling and applies for an allowance; or

- (c) is retained by him or her but is encumbered by further debt by obtaining a higher or further registered mortgage loan to reimburse his or her spouse for her or his part in the joint estate, his or her case is to be dealt with in terms of the provisions of regulation 75 as if he or she had sold the dwelling and bought another one and for such purpose and in order to determine the net proceeds, a realistic valuation of the dwelling's market value at the time of his or her divorce, must be obtained: Provided that an allowance based on an amount of not more than 50% of the net proceeds may be paid on the higher or further mortgage loan.

Service bonus

88. (1) (a) A non-pensionable service bonus is payable to educators in terms of this regulation.
- (b) An educator who does not qualify for leave is excluded from the provisions of this regulation.
- (2) (a) The date of payment of the service bonus referred to in subregulation (3) is the date on which an educator's salary is paid in the month in which his or her birthday falls: Provided that in the case of an educator whose birthday falls during any of the months of January, February or March, his or her service bonus is paid in April.

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(b) An educator whose services terminate for any reason with effect from the day following his or her service bonus pay date, nevertheless qualifies for the service bonus: Provided that a service bonus is not payable to an educator whose services terminate with effect from his or her service bonus pay date or any earlier date, for whatever reason, with the exception of an educator contemplated in subregulation (5).

(3) The service bonus is calculated as follows:

$$\text{Amount of the service bonus} = \frac{A}{365} \times B - \frac{C}{365} \times B + \frac{D}{E} \times \frac{B}{365}$$

where -

A represents the following service period (in days and not more than 365 days), as the case may be:

- * The service period of 12 months ending on the last day of the month that precedes the month in which the service bonus pay date for the educator concerned falls; or
- * the period which elapsed from the date of the (latest) appointment of the educator concerned up to the last day of the month preceding the month in which his or her service bonus pay date falls, if he or she had not been employed for the full period of 12 months as mentioned above;

B represents the following amount, namely -

- * 93% of the full gross basic salary (excluding any allowance, irrespective of whether it is pensionable or not) of the educator for the month in which his or her service bonus pay date falls, if he or she is a member of a pension fund or is not yet a member because he or she has not yet completed the qualifying service period for membership; or

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his full gross basic salary, a calculation shall be made according to the following formula, even if the reduction part of the formula referred to in subregulation (3) has the effect that no service bonus is payable to the educator:

$$28\% \times \frac{A}{365} \times B = \text{amount,}$$

where -

A represents the same as factor A in the formula in subregulation (4); and

B represents the full gross basic monthly salary of the officer or employee concerned for the month in which his or her service bonus pay date falls.

(b) The amounts calculated according to paragraph (a) in respect of all educators whose service bonus pay date falls in the same month should be added together and paid into the Civil Pension Stabilisation Account.

(5) A pro rata service bonus is payable when -

(a) the services of an educator is terminated for one of the reasons referred to in subregulation (6): Provided that he or she received a service bonus on his or her last service bonus pay date before his or her termination of service; or

(b) an educator dies.

(6) The reasons for termination of services contemplated in subregulation (5) (a) are the following:

(a) Retirement at reaching the voluntary or optional retirement age.

(b) Discharge of an educator -

(i) on account of continued ill-health without ^{etc} own default;

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- (ii) owing to the abolition of his or her post or reduction in or reorganisation or readjustment of departments or offices;
 - (iii) if, for reasons other than his or her own unfitness or incapacity, his or her discharge will promote efficiency or economy in the department or office in which he or she is employed, or will otherwise be in the interest of the Public Service; and
 - (iv) on account of unfitness for his or her duties or incapacity to carry them out efficiently (as opposed to misconduct).
- (c) Termination of the services of an educator on or after attaining the age of 60 years, for any reason, including voluntary resignation, but excluding -
- (i) voluntary resignation, in order to avoid discharge on account of misconduct or ill-health occasioned by own default;
 - (ii) discharge on account of misconduct or unsatisfactory service or ill-health occasioned by own default;
 - (iii) absconding;
- (d) Termination of an educator's services, irrespective of whether the department terminates his or her services, or he or she resigns voluntarily, because his or her spouse is transferred by the department in which he or she is employed and there being no vacant post available to him or her in any department at his or her spouse's new station: Provided that, should there be a post available for him or her (in any department) at his or her spouse's new station, but he or she refuses to accept it, no service bonus shall be paid to him or her.

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- (7) The pro rata service bonus contemplated in subregulation (5) is calculated as follows -

Amount of pro rata service

$$\text{bonus} = \frac{A \times B}{365} - \frac{C \times B}{365} + \frac{D \times B}{E \times 365}$$

where -

A represents the period (in days) extending from the first day of the month in which his or her last service bonus pay date fell (or from the date of appointment in the case of death if the deceased was not paid a service bonus previously), up to his or her last day of service;

B represents the applicable amount indicated below -

* 93% of the educator's full gross basic salary (excluding any allowance, irrespective of whether it is pensionable or not) in the month that his or her services terminate if he or she is a member of a pension fund or not yet a member because he or she has not yet completed the qualifying service period for membership; or

* an educator's full gross basic salary (excluding any allowance, irrespective whether it is pensionable or not) in the month that his or her services terminate if he or she does not qualify for membership of a pension fund;

C represents the number of days, if any, in respect of which the person concerned, during the appropriate period represented by factor A above, received no salary as a result of -

* vacation or special leave without salary granted to him or her; or

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- * unauthorised absences from service recorded as vacation leave without pay; or
 - * his or her having been suspended from his or her duties without remuneration according to the Act in terms of which he or she was appointed; or
 - * payment of his or her salary having been entirely suspended on the grounds of an offence which he or she committed while carrying out military service; and
- D represents the number of working hours, if any, in respect of which the person concerned during the appropriate period represented by factor A above, received no salary as a result of unauthorised absences from duty which is recorded as pro rata vacation leave without salary; and
- E represents the minimum number of working hours which an educator concerned must work per day.
- (8) A pro rata service bonus, calculated in accordance with the formula in subregulation (7) may be paid to an educator whose birthday falls in January, February or March, when his or her services terminate before his or her normal service bonus pay date in April as a result of his or her voluntary resignation, on condition that such person is still employed on the salary pay date of the month in which his or her birthday falls, in other words if an educator whose birthday is in February resigns with his or her last day of service 31 January, a pro rata service bonus may not be paid to him or her; if such an educator's services terminate on or after his or her normal salary pay date in February, he or she shall qualify for a pro rata service bonus on his or her last day of service.
- (9) In respect of each educator to whom in terms of the provisions in subregulation (5) a pro rata service bonus is payable based on an amount of 93% of his or her full gross basic salary, a calculation shall be made according to the following formula, even if the

reduction part of the formula contemplated in subregulation (7) has the effect that no pro rata service bonus is payable to the educator or employee:

$$28\% \times \frac{A}{365} \times B = \text{amount}$$

where -

- A represents the same as factor A in the formula in subregulation (7).
- B represents the full gross basic salary of the educator concerned for the month in which his or her service bonus pay date falls.

- (10) The amounts calculated according to subregulation (9) in respect of all educators whose pro rata service bonus pay date falls in the same month should be added together and paid into the Civil Pension Stabilisation Account.
- (11) (a) When an educator dies, the pro rata service bonus contemplated in subregulation (5)(b) must be paid in respect of -
- (i) marriages in terms of the Marriage Act, 1961 -
- (aa) to the surviving spouse; or
- (bb) if there is no surviving spouse, in equal shares to, or for the benefit of, minor or major children (including a legally adopted child) of the deceased, who at the time of his or her death were fully dependent on him or her; or
- (cc) if there is no surviving spouse or children, into his or her estate; and
- (ii) customary marriages -
- (aa) to the surviving spouse or in equal shares if there are more than one surviving spouse; or

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- (bb) if there is no surviving spouse, in equal shares to, or for the benefit of, minor or major children (including a legally adopted child) of the deceased, who at the time of his or her death were fully dependent on him or her; or
- (cc) if there is no surviving spouse or children, into his or her estate.
- (b) When an educator's services terminate for any reason other than death, and he or she dies after his or her services have terminated but before a pro rata service bonus is paid to him or her, such pro rata service bonus should be paid into his or her estate, irrespective of whether or not he or she has left behind a surviving spouse or fully dependent children.
- (c) The pro rata service bonus which on termination of services -
- (i) is payable to an educator should be used as a set-off against any departmental debt which he or she may have, unless such debt can be fully recovered by other means, for example outstanding salary and allowances or pension moneys, or unless subparagraph (ii) applies; or
- (ii) is payable to the surviving spouse or fully dependent children or into the estate of the deceased educator, shall not be used for the purposes mentioned in subparagraph (i).
- (d) For purposes of factor A in the formula in subregulations (3) and (7) previous uninterrupted service in a temporary or permanent capacity, as well as previous service at an institution contemplated in Public Service Regulation CS.7, may be acknowledged for service bonus purposes, on condition that this paragraph is not applicable to an educator if

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he or she has received a pro rata service bonus at the end of any previous service period.

(a) The service bonus is not part of salary or an allowance or pensionable and should therefore not be taken into account -

(a) in the calculation of service or leave gratuities, additional compensation, allowances or any other service benefit or compensatory measure which in any way is based on salary; and

(b) in the classification of educators according to their salaries for purposes of the granting of any service benefit or compensatory measure, overtime remuneration, any allowance, rent for official quarters, etc.

Long service recognition

89. (1) The authority to approve that an award be made to an educator for long service recognition rests with the employer.
- (2) Awards for long service recognition may, subject to this regulation, be made to educators appointed in a permanent capacity.
- (3) An employer may make the following awards for long service recognition:
- (a) A certificate and, if the educator so wishes, the discounting of a maximum of 10 days available vacation leave in cash after he or she has rendered 20 years of continuous and consistently satisfactory and devoted service.
- (b) A certificate and a wrist-watch and, if the educator so wishes, the discounting of a maximum of 15 days available vacation leave in cash after he or she has rendered 30 years of

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continuous and consistently satisfactory and devoted service.

- (4) (a) For purposes of the service requirement contemplated in subregulation (3), service in the Public Service contemplated in section 8 of the Public Service Act, 1994, may be acknowledged, as well as the following service on condition that there is no break in service during the transfer or appointment of the person concerned:
- (i) in terms of a former provincial ordinance;
 - (ii) rendered in terms of the -
 - Precious Stones Act, 1964 (Act 73 of 1964);
 - Water Act, 1956 (Act 54 of 1956); and
 - Development Trust and Land Act, 1936 (Act No 18 of 1936);
 - (iii) rendered in terms of any law as an educator;
 - (iv) at a statutory institution in those cases where a function and the personnel therewith were transferred from the Public Service and the same personnel, with a "retransferring" of such function to the Public Service, is appointed again in the Public Service.
- (b) An educator to whom a wrist-watch may be granted, may make a choice regarding the wrist-watch he or she wants and such choice is limited to the make and the model (and the distributors thereof).
- (c) If an educator elects to discount the available vacation leave referred to in subregulation (3), the actual applicable salary notch of the educator concerned as on the date of qualification for the award shall be used to calculate the amount to be paid to him or her.

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- (d) If a blind educator qualifies for the award of a wrist-watch, he or she may be permitted to purchase a braille wrist-watch of his or her choice from the South African National Council for the Blind: Provided that the cost involved, which can be arranged by means of an advance to the educator concerned, is limited to the maximum amount of the usual wrist-watch which could be awarded to him or her in terms of paragraph (b).
- (e) Wrist-watches may be awarded posthumously subject to the award being made to the surviving spouse only and the educator having already qualified for the award before his or her death.

Resettlement expenditure

90. (1) Upon the transfer, appointment or termination of service of an educator in terms of the Act or of his or her death, such an educator or his or her estate, whichever is applicable, shall be compensated by the employer for the reasonable resettlement expenditure actually and necessarily incurred as a result thereof within the framework of the provisions of this regulation and taking into account the following measures and guidelines:
- (a) The head of education, within the context of the provisions, determine policy regarding aspects such as maximum periods of compensation, limits of expenditure, restrictions in respect of the quantity and kind of personal effects, the number and brand of motor vehicles, classes of travel, means of transport, costs of property transfer and any other possible item of expenditure or facet of transfer costs which may come to the fore.
- (b) In considering the implications in terms of costs, it must be seen to that effective competition takes place where services are

rendered for the purpose of resettling an educator or employee and that all available alternatives are taken into consideration to ensure that the most suitable option is exercised under the circumstances.

- (c) The status of the educator being resettled in terms of his or her rank and taking into account the particular circumstances and underlying reasons.
 - (d) The principle of fairness and reasonableness by the employer in the application of the relevant measures.
 - (e) The delegation of any of the powers vested in the Minister in terms of the provisions of this regulation, must be done taking into account the provisions of the Exchequer Act, 1975 (Act No 66 of 1975).
- (2) The following expenses shall be payable to an educator on transfer:
- (a) The accommodation and transport expenditure of an educator and a member of his or her household arising from a visit beforehand to the new headquarters.
 - (b) The accommodation and transport expenditure of an educator and his or her household arising from the transfer to the new headquarters including the transport of personal effects from packing to the eventual unpacking thereof at permanent accommodation as well as the all-inclusive insurance cover thereof.
 - (c) The expense of storage of personal effects as well as the all-inclusive insurance thereof.
 - (d) The expense of interim accommodation at the old or new headquarters.
 - (e) The expense of customs duty, or other levies or fees arising from the transport of private motor vehicles across international borders.

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- (f) The transfer expense arising from the purchase of a dwelling or a building site and the erection of a building thereon which expenses shall include the costs of conveyance of the property, mortgage costs, expenses arising from the drafting of a contract and inspection fees: Provided that when transfer expenses are included in a mortgage loan, payment shall not be made to the educator personally, but directly to his or her mortgage loan account.
- (g) A single amount as determined by the head of education for each child attending school as assistance towards the expenditure of school books, uniforms, sport outfits and other requirements: Provided that the amount shall be effective from a date determined by the Minister and shall be revised quarterly on 1 January, 1 April, 1 July and 1 October, respectively, on the grounds of price increases as reflected in the Central Statistical Service's Consumer Price Index for Clothing and footwear for the first month of the previous quarter, rounded-off for the nearest higher full Rand.
- (h) A single amount to meet incidental expenses arising from resettlement, other than those for which specific provision is made in this regulation on the following basis:
- (i) If furnished accommodation is occupied permanently an amount equal to 35% of an educator's basic monthly pensionable salary as on the date of resettlement.
 - (ii) If unfurnished accommodation is occupied permanently an amount equal to 50% of a single educator's basic monthly pensionable salary as at the date of resettlement, or an amount equal to the basic monthly pensionable salary of an educator with dependents as on the date of resettlement.

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- (iii) An amount equal to 35% of the monthly norm station allowance in the local monetary unit as on the date of resettlement in the case of an educator who is transferred to a foreign country:

Provided that if the amount referred to in subparagraph (i) or (ii) is less than an amount calculated in accordance with the applicable percentage referred to in the said paragraphs and based on the monthly pensionable salary equal to the minimum notch for the standard salary scale of a Senior Provisioning Administration Officer in the Public Service, the applicable amount based on the last mentioned basis must be paid: Provided further that the amount referred to in subparagraphs (i) and (ii) shall not exceed an amount based on the basic monthly pensionable salary of a Director: Education;

- (i) The home owner allowance in respect of a dwelling at the previous headquarters may be continued with if the Member of the Executive Council so determine.
- (j) The travelling expenses incurred by an educator's school attending children who remain at the old headquarters for a period not exceeding a school year: Provided that such expenditure shall be limited to the most economical means of travel to and from the new headquarters at the beginning and end of school holidays and at the end of the school year.
- (3) (a) The travelling as well as transport expenses, insurance costs and storage costs for not longer than one month, of the personal effects of a candidate and his or her household who, on appointment in terms of the Act, necessarily has to relocate may be compensated on the same basis as that provided for in subregulation (2).
- (b) Persons referred to in paragraph (a) shall be bound contractually in writing to be in the
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service of the employer concerned for a period of not less than 12 months.

- (4) The accommodation and transport expenditure of an educator and his household who is expected to do parliamentary duty, at the beginning and end of a parliamentary session as well as the conveyance to and from Cape Town of essential personal effects and the all-inclusive insurance cover thereof may be compensated on the basis determined by the Minister.
- (5) (a) The expenses provided for in subregulation (2)(b)(c)(d) and (e), arising from moving from an existing place of residence to a place where an educator (excluding an educator who was recruited abroad) and his or her household wishes to settle in the Republic on termination of service, may be paid mutatis mutandis to such educator, or his or her household in the case of his or her death on the basis, conditions and requirements which the employer may determine.
- (b) The expenses provided for in subregulation (2)(b) may be paid mutatis mutandis on termination of service to an educator who was recruited abroad or his or her household in the case of his or her death, from his or her existing place of residence back to the place where initially recruited.
- (6) If an educator dies whilst on official duty away from his or her headquarters or whilst stationed abroad, including a member of his or her family who accompanies him or her officially, expenses arising therefrom (excluding funeral costs), shall be paid.

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Repeal of regulations and savings

91. (1) Subject to the provisions of subregulation (2) the Regulations listed in Annexure B are hereby repealed.
- (2) Anything done or deemed to have been done in terms of the provisions of the Regulations repealed by subregulation (1) and which may or shall be done in terms of these Regulations, shall be deemed to have been done in terms of the corresponding provision of these Regulations.

ANNEXURE B

1. Regulations promulgated under the Education Affairs Act (House of Assembly), 1988 (Act No 70 of 1988) as contained in:

Government Notice No	Dated	Extent of repeal
R.693	30 March 1990	The whole
R.290	24 January 1992	The whole
R.972	3 April 1992	The whole
R.1871	10 July 1992	The whole
R.2253	26 November 1992	The whole
R.695	30 March 1990	The whole
R.292	24 January 1992	The whole
R.1872	10 July 1992	The whole
R.3396	24 December 1992	The whole
R.2255	26 November 1992	The whole

2. Regulations promulgated under the Indians Education Act, 1965 (Act No 61 of 1965) as contained in:

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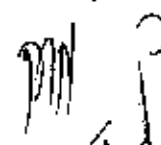
Government Notice No	Dated	Extent of repeal
R.1288	26 August 1966	The whole
R.911	30 May 1974	The whole
R.2260	22 October 1982	The whole
R.1563	5 July 1991	The whole
R.2501	25 October 1991	The whole
R.2584	11 Sept 1992	The whole

3. Regulations promulgated under the Education and Training Act, 1979 (Act No 90 of 1979) as contained in:

Government Notice No	Dated	Extent of repeal
R.1099	2 July 1993	The whole
R.493	18 March 1994	The whole

4. Regulations promulgated under the Coloured Persons Education Act, 1963 (Act No 47 of 1963) as contained in:

Government Notice No	Dated	Extent of repeal
R.1898	21 November 1963	Chapter B
R.675	11 April 1975	The whole
R.675	5 April 1984	The whole
R.7	3 January 1986	The whole
R.1611	12 July 1991	The whole
R.3178	20 November 1992	Regulations 3, 4 and 5
R.350	5 March 1993	The whole
R.826	14 May 1993	The whole

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5. Regulations promulgated under the Technical Colleges Act, 1981 (Act No 104 of 1981) as contained in:

Government Notice No	Dated	Extent of repeal
R.901	26 April 1991	The whole
R.1873	10 July 1992	The whole
R.2257	26 November 1993	The whole

6. Regulations promulgated under the Education Ordinance, 1953 (Ordinance No 29 of 1953) (Transvaal) in so far as it relates to conditions of service of educators at colleges of education and as contained in:

Administrator's Notice No	Dated
1053	23 December 1953
211	16 March 1960
219	28 March 1962
594	5 September 1962
888	2 December 1964
214	23 March 1966
609	19 July 1967
624	19 July 1967
625	19 July 1967
962	18 September 1968
348	2 April 1969
687	25 June 1969
1028	17 September 1969
470	29 April 1970
1355	18 November 1970
469	14 April 1971
135	9 August 1972
2154	6 December 1972

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7	3 January 1973
534	3 April 1974
1054	25 August 1976
490	20 April 1977
629	20 June 1979

Government Notice No	Dated
R.1877	10 July 1992

7. Regulations promulgated under the Education Ordinance, 1980 (Ordinance No 12 of 1980) (Orange Free State) as contained in:

Administrator's Notice No	Dated	Extent of repeal
310	18 November 1981	Chapter 9, in so far as it relates to conditions of service of educators at colleges of education
6	4 January 1985	In so far as it relates to conditions of service of educators at colleges of education

Government Notice No	Dated	Extent of repeal
R.1513	5 June 1992	In so far as it relates to conditions of service of educators at colleges of education
R.1876	10 July 1992	In so far as it relates to conditions of service of educators at colleges of education

8. Regulations promulgated under the Natal Education Ordinance, 1969 (Ordinance No 46 of 1969) (Natal) in so far as it relates to conditions of service of educators at colleges of education and as contained in:

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Provincial Notice No	Dated
328	6 July 1972
636	7 December 1972
24	1975
377	26 June 1975
504	1975
739	18 December 1975
340	1977
513	1981
292	8 August 1985

Government Notice No	Dated
R.1512	5 June 1992
R.1875	10 July 1992

9. Regulations promulgated under the Education Ordinance, 1956 (Ordinance No 20 of 1956) (Cape) in so far as it relates to conditions of service of educators at colleges of education and as contained in:

Government Notice No	Dated
R.1511	5 June 1992
R.1874	10 July 1992

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