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**CONSTITUTIONAL
ASSEMBLY**

**CONSTITUTIONAL
COMMITTEE**

**WEDNESDAY
14 JUNE 1995
09h00**

***AMENDED FORMULATION:
PUBLIC ADMINISTRATION***

SIXTH DRAFT - 13 JUNE 1995

Status: Prepared by CA law advisers as per instruction of CC sub-committee

PUBLIC ADMINISTRATION

Basic values and principles governing public administration

1. (1) Public administration at all levels of government, including institutions which are dependent on government funds or other sources of public money, shall be governed by the democratic values and principles enshrined in this Constitution. In particular the following principles shall be applicable:

- (a) A high standard of professional ethics shall be promoted and maintained in the public administration.
- (b) Good human resource management and development practices to maximise human potential shall be cultivated in the public administration.
- (c) Efficiency and the economic and effective use of resources shall be promoted in the public administration.
- (d) Public administration shall be accountable. Transparency through the provision of accessible, accurate and timeous information to the public shall be fostered.
- (e) Public administration shall be development oriented and the provision of services shall be conducted on the basis of impartiality and equity to all.

(f) new Public administration shall function on a basis of fairness and shall serve the public in an unbiased and impartial manner.¹

(g) Public administration shall be oriented towards public participation in policy-making. It shall be responsive to the needs of the people.

(h) Public administration shall be broadly representative of the South African people. *To achieve this the govt shall put in place mechanisms to redress past imbalances.* Employment and personnel management practices in the public administration shall be based on competency, objectivity and fairness.

ajachian - needs to be more active
Service *(2)* The terms and conditions of service of employees in the public (administration) shall be regulated by law. Employees shall be entitled to a fair pension in terms of a pension scheme regulated by law.

? at all levels

¹ New paragraph inserted by the CC sub-committee in compliance with CPXXX.

(3) A limited number of political appointments in the public administration may be made within the framework of the above principles and as regulated by law.²

(4) Laws regulating the public administration may differentiate between different sectors, administrations or institutions in the public administration.

→ moved to section 3? refer to committee

² The term "political appointments" remains problematic. The sub-committee considered the suggestion that instead of this term, "limited appointments by the executive" or "limited ministerial appointments" should be used. This suggestion, however, does not solve the problem because all appointments in the public service are in fact made by a Minister. The fact that appointments in the public service are made by a Minister, of course, does not mean that they are "political" appointments. The most appropriate way of distinguishing "political" appointments from other appointments is simply to state it in exactly these terms.

The sub-committee nevertheless instructed the CA law advisers to submit alternative formulations for further discussion in the CC. We suggest the following:

Option 1:

"(3) A limited number of persons may, as regulated by law, be appointed in the public administration by reason of their (political) commitment to (particular) government policy objectives, provided such appointments are otherwise within the framework of the above principles and as regulated by law."

DP?
+ NP
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Option 2:

"(3) A limited number of appointments in the public administration of persons known for their political preferences or affiliations may be made within the framework of the above principles and as regulated by law."

APPLS by the executive in man. posts in public admin (as account of the particular policy consid. of the executive) shall not be precluded.

Public Administration Commission

2. (1)³ *There shall be a P.A.C. for the R. as prescribed by nat. law.*

(2) The Public Administration Commission shall be independent and impartial.

(3) The Public Administration Commission shall perform such functions to *promote?* safeguard the basic values and principles governing the public administration as prescribed by a national law.

(4) The Public Administration Commission shall be accountable to Parliament for *all* its activities. *Each of the provinces shall be entitled to participate in the Com. thro' a special rep.*

(5) ~~Provincial representatives in the Public Administration Commission~~ shall be competent to exercise and perform such powers and functions of the Commission with regard to provinces as prescribed by a national law.

Public Service

3. There shall be a public service for the Republic structured and functioning in terms of a law. The public service shall loyally execute the lawful policies of the government of the day.

³ The sub-committee agreed to a reformulation of this subsection but was unable to agree to the precise wording. The options are:



Option 1:

"(1) There shall be a Public Administration Commission for the Republic. Each of the provinces shall be entitled to representation in the Commission."

Option 2:

"(2) There shall be a Public Administration Commission for the Republic. Each of the provinces shall be entitled to nominate a representative for appointment in the Commission."

as prescribed by nat. law. Each shall be a special repr. nomin. by the prov. thro' a special rep.

nominated by the province. ^{special} Sody representatives shall be competent to exercise & perform such powers & functions of the Commission with regard to his or her provinces as presented by national law.



Such repr shall be competent.