

SOUTH AFRICA SURVEY

1996/97

ELIZABETH SIDIROPOULOS

ANTHEA JEFFERY

SHAUN MACKAY

HERMA FORGEY

CHERYL CHIPPS

TERENCE CORRIGAN

Research staff

South African Institute of Race Relations

with contributions from

Carmel Musiker

Kecia Rust

Tanya Zack

Published with the financial assistance of the United

States Agency for International Development

SOUTH AFRICAN INSTITUTE OF RACE RELATIONS

JOHANNESBURG

1997

Published by the South African Institute of Race Relations

Auden House, 68 De Korte Street

Braamfontein, Johannesburg, 2001 South Africa

Copyright South African Institute of Race Relations, 1997

ISSN 1027-1724 PD 11/1997

ISBN 0-86982-454-6

Members of the media are free to reprint or report information, either in whole or in part, contained in this publication on the strict understanding that the South African Institute of Race Relations in acknowledged.

Otherwise no part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronical, mechanical, photocopy, recording or otherwise, without the prior permission of the publisher.

This publication was made possible through support provided by USAID/South Africa under the terms of Grant No 674-0301-A-00-6081-00. Opinions expressed herein are those of the author(s) and do not necessarily reflect the views of the US Agency for International Development.

INTRODUCTION

In our continuing attempts to make the *Survey* more user friendly we have redesigned it this year to make for easier reading and use of the book. The floating margins on each page display interesting tidbits of information or controversial statements found in the text. Apart from our usual Bird's Eye View, Key Points and Key Projections, this year the *Survey* also provides a Policy Review at the end of each chapter. This section serves to highlight key policy issues and associated problems and developments during the period under review. In maintaining its objectivity, however, the *Survey* does not make any policy recommendations.

Each chapter also has sections on policy implementation to monitor the extent to which government policy has been implemented and its effects on the poorest of the poor. The policy documents issued during the period under review have all been reported. Where possible, we have kept track of what has come into effect and what has been achieved. This increased focus on policy and implementation forms part of the Institute's new public policy programme, sponsored by the United States Agency for International Development. Inter alia, the programme seeks to enrich public debate on policy matters.

Last year we introduced a human rights review in the *Government, Constitution, and Human Rights*

chapter, which highlighted each of the main rights in the transitional constitution's bill of rights. This year the Institute is bringing out a separate publication, the *Bill of Rights Report*, which will deal with both legislation and judicial decisions affecting the bill of rights.

Apart from statistics on the state of play at present, the *Survey* also looks at trends over time. For example the chapter on *The Economy* has tables of some economic indicators going back to 1946.

Although the preliminary results of the 1996 population census were to have been published in January 1997, they have been delayed and were not out by the middle of June, when the *Survey* went to press. The chapter on *Population* makes use of the most recent population estimates as compiled by various research bodies.

We always try to publish the latest and most up-to-date data. However, sometimes information from government departments is not published timeously or easily accessible. In such cases the latest available is used. When information comes to hand after chapters have been written we include it in the Bird's Eye View or the Policy Review. Members seeking more recent statistics or other information can telephone the Institute's Chief Librarian, Mrs Ellen Potter, at (011)403-3600, fax her on (011)403-3671, or e-mail her at sairr@icon.co.za

Elizabeth Sidiropoulos

Senior Research Manager

South African Institute of Race Relations

ACKNOWLEDGEMENTS

The writers of this *Survey* wish to thank all those who assisted in producing it. We are grateful to those who provided information, sometimes tirelessly answering our multitude of queries—other nongovernmental organisations, trade unions, companies, government officials, members of Parliament, officials of political parties, academics and other researchers.

We are indebted to John Gaunt, Robin Hamilton and Elizabeth Kraayenbrink for their work in editing some of the chapters.

Our appreciation goes to Connie Matthews, Sarah Zwane and Pinky Makhubu for typesetting the *Survey*.

The Institute's chief librarian, Ellen Potter, and the assistant librarian, Tamara Dimant, assisted by Eunice Halo, Elizabeth Koloko, Mildred Monyane, Alfred Nkungu and Prisca Nkungu obtained much of the material and provided the excellent press clipping service essential for the writing of the *Survey*.

We are grateful to Sarah Zwane, Carmel Musiker and Robin Hamilton for their work in style editing and checking the typeset manuscript. We thank Naomi Musiker, who has once again compiled our invaluable index.

We wish to make special mention of Connie Matthews and Sarah Zwane for their dedication and willingness to meet deadlines at all costs and for their long service to the *Survey*.

Last but not least our thanks to the Institute's chief executive, John Kane-Berman, for his guidance and advice.

NOTES

1. The abbreviations MPL and MEC in the *Survey* refer to members of the provincial legislature and members of the executive council of a province. Although the press sometimes refers to provincial MECs as ministers, the *Survey* follows the nomenclature of the constitution.

2. Abbreviations used in the charts, graphs and tables refer to the following:

EC

—

Eastern Cape

FS

—

Free State

Gau

—

Gauteng

KN

—

KwaZulu-Natal

Mpu

Mpumalanga

NW

North West

NC

Northern Cape

WC

Western Cape

3. Military ranks were abolished in the police force in December 1995. The *Survey* now follows the new rank structure. All officers who were previously warrant officers are now inspectors. Lieutenants and captains now both hold the rank of captain. Majors and lieutenant colonels are superintendents, colonels are senior superintendents and brigadiers are directors. A major general becomes an assistant commissioner and a lieutenant general a provincial, divisional or deputy commissioner. A full general becomes a commissioner. The ranks of constable, sergeant and captain have been retained as they are internationally acceptable police ranks.

4. The new constitution, which came into effect in February 1997, has altered the name of the Appellate Division of the Supreme Court to the Supreme Court of Appeal. The provincial and local divisions of the Supreme Court are now high courts. The *Survey* has used the nomenclature that was in operation when the relevant decisions were made.

5. References to **Fast Facts** and **Frontiers of Freedom** are respectively to monthly and quarterly publications dealing with current events, published by the Institute. References to the *Bill of Rights*

Report are to the Institute's separate publication dealing with the bill of

CONTENTS

POPULATION

SECURITY

ARTS AND CULTURE

EDUCATION

BUSINESS

EMPLOYMENT AND INDUSTRIAL RELATIONS

WELFARE

HEALTH

GOVERNMENT AND CONSTITUTION

POLITICS

THE ECONOMY

LIVING CONDITIONS

DETAILED CONTENTS

POPULATION

BIRD'S EYE VIEW

KEY POINTS

KEY TRENDS

POLICY

Government Policy

Draft White Paper on Population Policy

Abortion

Language

LEGISLATION

Aliens Control Amendment Act of 1995

POPULATION STATISTICS

The 1996 Census

Population Size

Population Trends and Forecasts

Fertility Rate

Infant Mortality Rate

Life Expectancy

Population Growth

The Impact of Aids on Population Growth

Population Control

Male/female Distribution

Religion

Marital Status

Language

Age

Education Levels

Economic Status

Human Development Index

URBANISATION

Policy

EMIGRATION AND IMMIGRATION

Policy

Labour Market Commission

Work Permits, Permanent Residence, Refugees, and Asylum Seekers

Trends

Economically Active People

Emigration

Immigration

Legal Immigration

Citizenship

Permanent Residence

Illegal Immigration

Repatriation and Deportation

Refugees and Asylum Seekers

POLICY REVIEW

KEY PROJECTIONS

SECURITY

BIRD'S EYE VIEW

KEY POINTS

POLICY

LEGISLATION

Correctional Services Amendment Act of 1996

Correctional Services Second Amendment Act of 1996

Special Investigation Units and Special Tribunals Act of 1996

International Co-Operation in Criminal Matters Act of 1996

Extradition Amendment Act of 1996

Proceeds of Crime Act of 1996

Justice Laws Rationalisation Act of 1996

Judicial Matters Amendment Act of 1995

Magistrates' Courts Amendment Bill

Proposed Legislation

CRIME

Statistics and Trends

Reported Offences and Crime of Various Types

Attacks on the Elderly

Attacks on Farms and Smallholdings

Murder

Rape

Child Abuse

Vehicle Hijacking

Robbery

Fraud and White-Collar Crime

Counterfeiting of Money

Gangs

Crime Syndicates

Arms Smuggling, Caches and Theft

Drug Smuggling

Violence in the Taxi Industry

Provincial Patterns

Attacks on the Elderly

Attacks on Farms and Smallholdings

Murders

Rape

Hijackings

Arms Smuggling, Caches and Theft

Drug Smuggling

Initiatives to Combat Crime

Government Initiatives

Other Initiatives

Political Parties

Business

Other Organisations

Private Security Firms

Successes/failures

SOUTH AFRICAN POLICE SERVICE

Policy

Annual Plan of the South African Police Service: 1996/97

Structure

Training

Personnel

Police Conduct

JUSTICE

Policy

Death Sentence

Legislation

Witness Protection

Personnel

Trials

State V Eugene Alexander de Kock

State V Dirk Johannes Coetzee and Others

State V Peter Msane and Others (the 'malan Trial')

Prison Population Reduction and Releases

Closure of Prisons

Escapes

Assaults on Prisoners

Personnel

SOUTH AFRICAN NATIONAL DEFENCE FORCE

Policy

Legislation

Restructuring and Integration

Deployment of Troops

INTELLIGENCE

Policy

POLICY REVIEW

ARTS AND CULTURE

BIRD'S EYE VIEW

KEY POINTS

NATIONAL POLICY

Arts and Culture Task Group

Draft White Paper on Arts, Culture and Heritage

Arts and Culture

National Arts Council

Performing Arts Councils

Visual Arts

Arts Education

Literature

Library and Information Services

Infrastructure

Human Resource Development

Funding Sources

Heritage

Heritage Institutions

National Monuments

National Place Names

National Heritage Council

Foreign Co-Operation

Comments and Criticism

Afrocentric/eurocentric Debate

The Film Industry

PROVINCIAL POLICY

LEGISLATION

National Archives of South Africa Act of 1996

Films and Publications Act of 1996

National Arts Council Bill

National Lexicography Units Bill

Legal Deposit Bill

National Film and Video Foundation Bill

FINANCE

IMPLICATIONS

National Arts Coalition

Performing Arts Councils

Performing Arts Council of the Transvaal

Cape Performing Arts Board

Kwazulu-Natal Playhouse Company

State-Funded Orchestras

National Symphony Orchestra

Cape Town Symphony Orchestra

Transvaal Philharmonic Orchestra

Pietermaritzburg Philharmonic Society

Theatres

State Theatre

CIVIC Theatre

Market Theatre

Kwazulu-Natal Playhouse

National Libraries

OTHER INITIATIVES

Private Sector

Public Sector

PROVINCIAL DEVELOPMENTS

Eastern Cape

Gauteng

Kwazulu-Natal

Mpumalanga

POLICY REVIEW

EDUCATION

BIRD'S EYE VIEW

KEY POINTS

HUMAN RESOURCES

Qualification Profile of the Population

Level of Education

Artisans

Literacy

Teachers

Types of Qualification

Graduates

Artisans

Education Output

Matriculation Pass Rate

Trends in Matriculation Output

Trade Tests Passed

Trends in Artisan Output

Teacher Qualifications Obtained

Technikon Diplomas and Certificates Awarded

University Degrees, Diplomas and Certificates Awarded

All University and Technikon Awards

Trends in University and Technikon Output

EDUCATIONAL RESOURCES

Finance

The Budget

Provincial Allocations

Allocations to Levels of Education

Breakdown of Provincial Budgets

Per Capita Expenditure

Special Projects

Financial Assistance to Students

Schooling

Pupils

Enrolment

Provision of Schools and Classrooms

Eastern Cape

Free State

Gauteng

Kwazulu-Natal

Mpumalanga

North West

Northern Cape

Northern Province

Western Cape

Pupil/classroom Ratios

Private Schooling

Independent Schools

Home-Based Schooling

Teachers

Teacher Numbers

Teacher Training Facilities and Qualifications

Pupil/teacher Ratios

Teacher Supply and Redeployment

Disruptions and Other Problems in School Education

Technical Training and Apprenticeships

Enrolment at Technical Colleges

Industrial Training and Apprenticeship

Tertiary Education

Enrolment at Teacher Training Colleges

Enrolment at Universities and Technikons

Disruptions to Tertiary Education

Other Problems in Tertiary Education

Adult Education

EDUCATIONAL RESTRUCTURING

National Level

Preprimary Policy

Interim Policy for Early Childhood Development

Secondary Education Policy

Education White Paper 2: the Organisation, Governance and Funding of Schools

Tertiary Education Policy

Report of the National Commission on Higher Education

Green Paper on Higher Education Transformation

National Qualifications Framework

Curricula

Curriculum Framework for General and Further Education and Training

Structures for the Development of National Policy Regarding Curriculum and Related Issues

Language

Legislation

National Education Policy Act of 1995

South African Schools Act of 1996

Implementation

Transformation at Tertiary Institutions

Students Organisations

Universities

Technikons

Teacher Training Colleges

Provincial Level

Legislation

Free State

Gauteng

Kwazulu-Natal

Mpumalanga

Northern Province

DEVELOPMENTS IN THE PROVINCES

Eastern Cape

Gauteng

Kwazulu-Natal

Mpumalanga

Northern Province

Western Cape

POLICY REVIEW

KEY PROJECTIONS

BUSINESS

BIRD'S EYE VIEW

KEY POINTS

SMALL BUSINESS

Policy

Central Government

Provincial Government

Legislation

Marketing of Agricultural Products Act of 1996

Labour Relations Act of 1995

National Small Business Act of 1996

Developments

BLACK BUSINESS

Policy

Developments

Successes and Failures

Major New Ventures

Business Organisations

Comments

Finance

Foreign Aid

Constraints on Black Business

INFORMAL SECTOR

Statistics

Hawkers

Shebeens and Taverns

Spaza Shopowners

Stokvels

Small Farmers

Taxis

Criminal Business

PRIVATISATION

Policy

Legislation

Telecommunications Act of 1996

Developments

REGULATION OF BUSINESS

Legislation

National Gambling Act of 1996

Labour Relations Act of 1995

Legislation on Employment Standards and Employment Equity

Legislation on Competition

Regulations on the Dispensing of Drugs

Provincial Legislation

Gauteng

ENCOURAGEMENT OF BUSINESS

Policy

Legislation

Revenue Laws Amendment Act of 1996

Investment Incentives

TRADE

Policy

Trade Liberalisation

Developments

Effects on Industry

Clothing and Textile Industries

Footwear

Motor Industry

Agriculture

Trade Agreements

Southern Africa

Southern African Customs Union

Southern African Development Community

European Union

Other

POLICY REVIEW

EMPLOYMENT AND INDUSTRIAL RELATIONS

BIRD'S EYE VIEW

KEY POINTS

POLICY

Growth, Employment and Redistribution

Green Paper: Policy Proposals for a New Employment Standards Statute

Nonstandard Employment

Variation of Employment Standards

Employment Standards Commission

Working Time

Maternity Rights and Family Responsibilities

Child Labour

The Individual Employment Relationship

Enforcement

Administrative Obligations

Criticism and Alternative Proposals

Green Paper: Policy Proposals for a New Employment and Occupational Equity Statute

Criticism and Alternative Proposals

Labour Market Commission

Industrial Strategy

Wage Determination

Collective Bargaining

Minimum Wages

Productivity Enhancement

The Social Plan

Unemployment Insurance Fund

Public Works Programmes

Employment Equity

Labour Migration

Criticism and Alternative Proposals

Gold Mining's Labour Markets: Legacies of the Past, Challenges of the Present

Green Paper: Skills Development Strategy for Economic and Employment Growth in South Africa

Other Policy Documents

Growth for All, an Economic Strategy for South Africa

Social Equity and Job Creation, the Key to a Stable Future

Criticism

LEGISLATION

Labour Relations Act of 1995

Labour Relations Amendment Act of 1996

Mine Health and Safety Act of 1996

Public Service Amendment Act of 1996

Integration Measures in Respect of Labour Laws, Amendment and Adjustments Act of 1996

ECONOMICALLY ACTIVE POPULATION

Structure of the Workforce

Domestic Service and Agriculture

Private and Public Sectors

The Informal Sector

Male/female Breakdown

Sectoral Breakdown

Urban/rural Breakdown

Provincial Breakdown

Immigrants and Emigrants, Migrant Workers and Illegal Workers

Immigrants and Emigrants

Migrant Workers

Illegal Workers

Unemployment

Statistics and Trends

Unemployment Insurance Fund

Affirmative Action

Public Sector

Private Sector

Productivity

Skill Shortages and Losses

Wages and Incomes

Income Levels

Racial Breakdown: State of Play

Differing Trends by Race

Overall Income Trends

Rich/poor Income Disparities

Wages

Pay Inequalities

Remuneration Trends

Earnings and Job Trends by Sector

Mining Wages and the Gold Price

Manufacturing Wages by Sector and Race

Public Vs Private Sector Wages

Wage Settlements

Impact of Tariffs on Wages

Household Subsistence Levels

INDUSTRIAL RELATIONS

Trade Unions

Trade Union Membership

Unionisation by Race and Sex

Unionisation by Province

Commission into the Future of the Unions

Union Groupings

Employer Organisations

National Economic Development and Labour Council

Bargaining

Collective Bargaining Institutions

Industrial Councils

Bargaining Councils

Workplace Forums

Labour Orders

Dispute Resolution

Conciliation Boards

Commission for Conciliation, Mediation and Arbitration

Labour Courts

Strikes

Fatalities and Violence in Strikes

Lockouts

Workplace and Union Issues

Privatisation

Mine Safety

Safety in Other Industries

Violence on Mines

Social Clauses in Trade Agreements

REGIONAL DEVELOPMENTS

POLICY REVIEW

KEY PROJECTIONS

WELFARE

BIRD'S EYE VIEW

KEY POINTS

FINANCE

The Budget

Provincial Welfare Budgets

Irregularities in Welfare Departments

PUBLIC WELFARE SERVICES AND PAYMENTS

Social Pensions

Old-Age Pensions and Old-Age Homes

Disabled People

Children

Feeding Schemes

Child Labour

Child Abuse

Women

PRIVATE WELFARE SERVICES

POLICY

White Paper for Social Welfare

Social Assistance and Security

The Aged

Women

Children

The Chronically ILL

Criticism and Alternative Proposals

Integrated National Disability Strategy of the Government of National Unity

The Lund Committee on Child and Family Support

LEGISLATION

Hague Convention on the CIVIL Aspects of International Child Abduction Act of 1996

Social Assistance Act of 1992

Welfare Laws Amendment Act of 1996

Special Pensions Act of 1996

Child Care Amendment Act of 1996

Non-Profit Organisations Bill

IMPLEMENTATION

POLICY REVIEW

HEALTH

BIRD'S EYE VIEW

KEY POINTS

HEALTH INDICATORS

Infant Mortality Rates

Diseases

Notifiable and Communicable Disease Statistics

Aids

Policy

Statistics

Projections

Assurance and Insurance

Treatment

Alcoholism and Drug Abuse

Cancers

Chronic Diseases of Lifestyle

Malaria

Malnutrition

Measles

Mental Illness

Tobacco-Related Diseases

Tuberculosis

Typhoid Fever

HEALTH RESOURCES

Finance

The National Budget

Allocation of Expenditure to Provinces

Provincial Health Budgets

Irregularities in the Health Department

Medical Aid Schemes

Proposals for Restructuring Medical Aid Schemes

Health Services

Medical Personnel

Doctors

Nurses

Other Health Personnel

Hospitals and Clinics

Public Hospitals

Private Hospitals

Psychiatric Hospitals

Public Clinics

Strikes

Primary Health Care

Medicines

Natural Medicines

Family Planning

Vaccination

Termination of Pregnancy

Occupational Health

HEALTH POLICY

National Policy

Restructuring the National Health System for Universal Primary Health Care

Criticism

National Drug Policy for South Africa

Criticism and Alternative Proposals

National Legislation

Mine Health and Safety Act of 1996

Choice on Termination of Pregnancy Act of 1996

Medicines and Related Substances Control Act of 1965: General Regulations

Draft National Health Bill

Provincial Level

Free State

Gauteng

POLICY REVIEW

KEY PROJECTIONS

GOVERNMENT AND CONSTITUTION

BIRD'S EYE VIEW

KEY POINTS

CONSTITUTIONAL NEGOTIATIONS

Adoption of a New Text

Certification of the New Text

Adoption of an Amended Text

International Mediation

THE TERMS OF THE NEW CONSTITUTION

Founding Provisions

The Bill of Rights

Principles of Co-Operative Governance

The National Legislature

The Structure and Powers of the National Assembly

The Structure and Powers of the National Council of Provinces

Enactment of Legislation

Legislation Amending the Constitution

Legislation Falling Within Concurrent Provincial Jurisdiction

Legislation on Specific Issues Where the 'concurrent' Procedures Apply

Concurrent Legislation Which May Be Introduced Only in the National Assembly

Ordinary Bills Not Affecting the Provinces

Money Bills

Mediation Committee

Referral of Legislation to the Constitutional Court

Legislation on Matters of Exclusive Provincial Jurisdiction

Intervention by Parliament in the Exclusive Sphere

Conflicts Between National and Provincial Legislation

National Executive

Provinces

Local Government

Courts and the Administration of Justice

State Institutions 'to Strengthen Constitutional Democracy'

Public Administration

Security Services

Traditional Leaders

Finance

Financial and Fiscal Commission

Central Bank

Provincial and Local Financial Matters

General Provisions

International Law

Self-Determination

Funding for Political Parties

Schedules to the 1996 Constitution

AMENDMENTS TO THE 1993 TRASITIONAL CONSTITUTION

CENTRAL GOVERNMENT

Government of National Unity

Withdrawal of National Party

Dismissal by the African National Congress of Mr Bantu Holomisa

Statutory Institutions Created by the 1993 Constitution

Financial and Fiscal Commission

Council of Traditional Leaders

Truth and Reconciliation Commission

Volkstaat Council

Public Protector

Human Rights Commission

PROVINCIAL GOVERNMENT

Drafting of Provincial Constitutions

Kwazulu-Natal

Western Cape

Provincial Governments

Eastern Cape

Leadership Changes

Boundary Disputes

House of Traditional Leaders

Free State

Leadership Changes

Gauteng

Constitutional Developments

Kwazulu-Natal

Leadership and Other Changes

The Siting of the Capital

Boundary Disputes

House of Traditional Leaders

Mpumalanga

Boundary Disputes

House of Traditional Leaders

North West

Provincial Capital

Northern Cape

Northern Province

Boundary Disputes

House of Traditional Leaders

METROPOLITAN AND LOCAL GOVERNMENT

Policy

Central Government's Policy

Political Parties

African National Congress

Conservative Party

Democratic Party

Freedom Front

Inkatha Freedom Party

National Party

Pan-Africanist Congress

Legislation

Constitution of the Republic of South Africa Amendment Act of 1996

Local Government Transition Act Amendment Act of 1996

Constitution of the Republic of South Africa Act of 1996

Draft Legislation

Finance

Effects of Boycotts

Electricity

Rent and Service Charges

Financial Capacity

Allocations to Municipal Infrastructure

Local Government Elections

Kwazulu-Natal

Election Date

Voter Registration

Registration of Political Parties

Areas in Which Local Government Elections Were Further Delayed

Results

Western Cape

Election Date

Voter Registration

Registration of Political Parties

Results

Disputes

Elections in Other Provinces

POLICY REVIEW

The Content of the Bill of Rights

The Ambit of Provincial Powers

The Judicial Branch of Government

State Institutions Supporting Constitutional Democracy

Traditional Leaders and Customary Rule

POLITICS

BIRD'S EYE VIEW

KEY POINTS

POLITICAL PARTIES

African National Congress

Afrikaner Weerstandsbeweging

Azanian People's Organisation

Conservative Party

Democratic Party

Freedom Front

Inkatha Freedom Party

National Party

Pan-Africanist Congress

South African Communist Party

POLITICAL CONFLICT AND TENSION

Conflict Between the African National Congress and the Inkatha Freedom Party Inkwazulu-Natal

Peace Initiatives in Kwazulu-Natal

PARAMILITARY GROUPS

Self-Defence Units

Self-Protection Units

Umkhonto We Sizwe

Unofficial Police and Army Units

CONFLICT AND VIOLENCE IN OTHER SPHERES

People's Courts

Necklacing

Killing of Witches

Conflict in the Taxi Industry

Policy

Incidents of Taxi Violence

TRUTH AND RECONCILIATION COMMISSION

Appointment, Functions and Powers

First Interim Report

Committee on Human Rights Violations

Individual Submissions

Submissions by Political Parties and Other Groups

Committee on Amnesty

The Work of the Investigating Unit

Committee on Reparation and Rehabilitation

Controversy Surrounding the Commission

POLICY REVIEW

THE ECONOMY

BIRD'S EYE VIEW

KEY POINTS

MACRO-ECONOMIC PICTURE

The Growth Rate

Consumption

Savings and Investment

Provincial Growth

Income Per Head

Unemployment

Skill Shortages

Productivity Constraints

Poverty

The Balance of Payments

The Gold Price

The Exchange Rate

Exchange Controls

Inflation

The Consumer Price Index

Food Prices

Producer Price Inflation

Interest Rates

Investment

Trade

FISCAL POLICY

Fiscal Management

Consolidated National and Provincial Budget

Deficit

Public Debt

The Budget and the Poor

The Reconstruction and Development Programme

Taxation

Proposals on Provincial Surcharge

Provincial Budgets

Eastern Cape

Free State

Gauteng

Kwazulu-Natal

Mpumalanga

North West

Northern Cape

Northern Province

Western Cape

NATIONAL ECONOMIC POLICY

Growth, Employment and Redistribution

Accelerated Growth

Fiscal Policy

Monetary and Exchange Rate Policy

Trade and Industry

Employment

Economic Proposals of Business

Crime and Violence

Government Spending and Revenues

Privatisation

The Labour Market

Export Drive

Implementation

Economic Proposals of Labour

POLICY REVIEW

KEY PROJECTIONS

LIVING CONDITIONS

BIRD'S EYE VIEW

KEY POINTS

INFRASTRUCTURE

Policy

Municipal Infrastructure Investment Framework

Funding

Public Funding

Private Funding

Implementation

DOMESTIC ENERGY

Policy

Legislation

Licensing Electricity Supply

Sources of Energy

Users of Electricity

Electrification

Targets

Connections

HOUSING

National Policy

National Subsidy Policy

People's Housing Process

Special Ministerial Task Team on Short-Term Delivery

Alternative Proposals to the White Paper

Other Policy Matters

Public-private Partnerships

Rental Housing

Devolution of Delivery Responsibility

Rural Housing

Delivery Gap (R18 000–r45 000)

Bridging Finance

Legislation

Housing Amendment Act of 1996

Housing Bill

Implementation

National Housing Finance Corporation

South African Housing Trust

Finance

Central Government Allocations to the Provinces

Expenditure

Delivery

Subsidies

Houses

Building Industry

End-User Finance

Interest Rates

Non-Payment and Properties in Possession

Record of Understanding

Risk-Targeted Initiatives

National Urban Reconstruction and Housing Agency

Mortgage Indemnity Scheme

Servcon Housing Solutions

National Home Builders Registration Council

Shortages and Demand

Provincial Developments

Provincial Shortages

Budget and Expenditure

Delivery Statistics

Eastern Cape

Free State

Gauteng

Kwazulu-Natal

Mpumalanga

North West

Northern Cape

Northern Province

Western Cape

MUNICIPAL SERVICES

Refuse Disposal

LAND

Policy

Green Paper on Land Reform

Land Restitution

Land Redistribution

Land Tenure Reform

Farm Dwellers

Commission of Inquiry into the Provision of Rural Financial Services (Strauss Commission)

Constitutional Protection of Property Rights

Legislation

Land Reform (Labour Tenants) Act of 1996

Interim Protection of Informal Land Rights Act of 1996

Communal Property Association Act of 1996

Upgrading of Land Tenure Rights Amendment Act of 1996

Land Administration Amendment Bill

Land Restitution and Reform Laws Amendment Bill

Implementation

Statistics

Land Restitution

Land Redistribution

Land Claims and Redistribution

Land Reform Pilot Programme

Finance

POSTAL SERVICES

Policy

Legislation

Statistics

Targets

Implementation

Finance

TELECOMMUNICATIONS

Policy

Privatisation and Competition

Legislation

Telecommunications Act of 1996

Statistics

State of Play

Targets

Implementation

Rural Access

Cellular Telephones

New Affordable Telephone Service

Finance

ROADS AND TRANSPORT

Policy

Legislation

Road Accident Fund Act of 1996

National Roads Amendment Act of 1996

Proposed Legislation

Statistics

Finance

Roads

Construction and Maintenance

Tariffs

Policy

Statistics

Safety

Fuel

Bus Transport

Policy

Subsidies

Taxi Industry

Policy

Statistics

Finance

Violence

Policy Implementation

Rail Transport

Policy

Statistics

Finance

Restructuring

WATER AND SANITATION

Policy

Water

Sanitation

Legislation

Statistics

Water

Sanitation

Progress

Targets

Finance

Regional Co-Operation

POLICY REVIEW

KEY PROJECTIONS

POPULATION

BIRD'S EYE VIEW

The South African population is expected to grow by more than half between 1996 and 2026. However, the growth rate is expected to slow down to just under 1% by then. Fertility rates and infant mortality rates will also drop, while life expectancy will continue to increase.

Accurate figures on the population in 1996 will be available only once the results of the October 1996 census are published. However, estimates of the size of the population ranged from 42m to 44m.

There are provincial disparities in demographic indicators. Gauteng and the Western Cape have lower fertility rates and higher life expectancy. The North West, the Northern Province and the Eastern Cape have much higher fertility rates and lower life expectancy.

A significant proportion of the population was under the age of 15 in 1996—just under 40% of the African population was in this age group. Slightly more than half of the population was urbanised in 1995, a proportion expected to rise to nearly three quarters by 2010. Zulu, Xhosa and Afrikaans were the most widely spoken languages in South Africa in 1994.

During 1996 a white paper on population policy was published. It identified a number of problems such as high fertility and infant mortality rates, and proposed strategies to deal with them.

According to the United Nations Development Programme, in 1993 South Africa had a medium level of human development as measured by the human development index (HDI), placing it 100th out of 174 countries.

South Africa experienced a net loss of people through emigration in 1995, a trend which continued in 1996. The 'brain drain' also continued in this period.

A new policy with regard to citizens of member states of the Southern African Development Community was announced in June 1996. Such people could apply for exemption from repatriation and acquire permanent residence in South Africa if they complied with certain conditions, including having been resident in the country for more than five years and being engaged in formal or informal economic activity.

The debate surrounding the number of illegal immigrants in the country, and their effect on the economy and society, continued. A labour market commission said the inflow of undocumented people was a fairly recent phenomenon (since 1990) and it was therefore unlikely that the country had absorbed 5m–8m foreigners (as some believed) in this short space of time. The minister of home affairs, Chief Mangosuthu Buthelezi, said that illegal immigration could be stemmed with the implementation of a new act, which provided for more effective control over the movement of people into and out of South Africa.

KEY POINTS

- The 1996 population census took place between 10th and 31st October 1996 and was expected to cost some R369m over three years.
- The Institute for Futures Research (IFR) at the University of Stellenbosch estimated the total population to be 41,97m in 1996, some 4% lower than the Development Bank of Southern Africa (DBSA) estimate of 43,8m in 1995.
- Of the 41,97m people in South Africa in 1996, 76,7% were African, 12,4% were white, 8,4% were coloured and 2,5% were Asian.
- The IFR estimated the average fertility rate (number of children born live to a woman in her childbearing years—15–49) in 1996 to be 3,49. The fertility rate among African women was the highest (4), followed by coloured women (2,38), Asian women (2,16) and white women (1,76).
- The DBSA said that in 1994 some 22% of the population had Zulu as their home language, 18% Xhosa, 15% Afrikaans and 10% Northern Sotho. About 9,5% of the population had English as their home language.
- According to the DBSA, the average annual rate of increase in the population between 1985 and 1995 was 2,59%. The IFR estimated the average annual population growth rate between 1991 and 1996 to be 2,02%.
- According to the DBSA, some 56% of the population were in the economically active age group (15–64) in 1994 and 1995. In 1995 more than 42% of Africans were under the age of 15, while only 21% of whites were in this age group. The IFR estimated that some 60% of the population was in the 15–64 age

group in 1996.

- South Africa experienced a net loss of 2 596 economically active people in the first nine months of 1996—a 20% increase on the corresponding figure for 1995.
- According to the DBSA, the level of urbanisation in 1995 was about 52%. Between 1990 and 1995 the average annual rate of increase in the formal urbanised population was 4,9%.
- The Centre for Policy Studies said that a study of illegal immigrants in the North West province showed that many were self-employed and economically productive. While many South Africans considered them to be a drain on the economy, they were in fact contributing skills and resources and not merely ‘consuming’ them.
- The Institute for Defence Policy said that in 1994 illegal immigrants were involved in some 14% of general crimes recorded. In the same year 12 400 illegal immigrants were apprehended for crimes—1,5% of the total number of recorded crimes.

KEY TRENDS

- According to the Central Statistical Service (CSS), in the 15 years from 1975 to 1990, the fertility rate among coloured people dropped from 4,1 to 2,5—a decrease of 39%. The fertility rate of whites dropped by 32%, while that of Asians dropped by 30%.
- The average annual population growth rate in South Africa dropped by only 0,01 percentage points between 1911 and 1995, the CSS said.
- The DBSA said that the literacy rate in South Africa increased from 61,4% in 1991 to 73,2% in 1995 (although this improvement was partly attributed to under-recording in the 1991 census).
- The average number of years of study for people under 25 increased from 5,43 in 1980 to 6,86 in 1991—a 26% increase, according to the CSS. In this 12-year period the average number of years of schooling in the Northern Province increased by 64%.
- According to the Bureau of Market Research (BMR) at the University of South Africa, in the ten years from 1985 to 1994 the personal disposable income of Africans increased by more than 35%, while that of Asians and coloured people increased by some 24%. In the same period the personal disposable income of whites dropped by 2,5%.
- Africans’ share of total personal disposable income in the 10-year period from 1985 to 1994 increased by 6,5 percentage points, while whites’ share dropped by 7,6 percentage points. Asians and coloured people showed marginal increases of 0,4 and 0,8 percentage points respectively, the BMR said.

- The CSS said that South Africa had a human development index (HDI) of 0,677 in 1991, compared with 0,577 in 1980. (HDI is a measure of socio-economic development. The HDI indicates a country's relative position on scale of 0–1. Countries with an HDI below 0,5 are considered to have a low level of human development, those between 0,5 and 0,8 a medium level, and those above 0,8 a high level.)
- In 1980 and 1991 Africans had the lowest HDI of the four population groups—0,394 and 0,5 respectively. However, during that period they moved from a low to a medium level of human development.
- The HDI of the non-urban population in South Africa showed a 23% increase between 1980 and 1991, but remained below 0,5. The HDI of the urban population moved from a medium (0,639) to a high level (0,807) in that period.
- The Africa Institute of South Africa said that 62% of the South African population was urbanised in 1995, compared with 47% in 1960.
- In the 55 years from 1940 to 1995, some 1,2m people immigrated to South Africa, while more than 532 000 people emigrated.

POLICY

Government Policy

Draft White Paper on Population Policy

The ministry for welfare and population development published a draft white paper on population policy in October 1996, which identified certain population issues needing attention in order to achieve sustainable and equitable human development. The white paper proposed programmes to reduce poverty, mortality and unwanted fertility, ensure environmental sustainability, promote gender equality and create economic and educational opportunities. Civil society and the private sector should be consulted on and co-operate in the design and implementation of population and development issues, the paper said.¹ [¹ Ministry for Welfare and Population Development, Draft White Paper for a Population Policy, *Government Gazette*, no 17529, September 1996]

The following policy objectives were identified:² [² Ibid]

- the availability of reliable and up-to-date information in order to inform policy making and programme design, implementation, monitoring and evaluation;
- the systematic integration of population factors into all government policies, plans, programmes and strategies; and

- a co-ordinated approach in the design and implementation of programmes that had an effect on major national population concerns.

Those policy objectives would be achieved through the following strategies:³ [3 Ibid]

- improving the collection, analysis, interpretation and dissemination of population data;
- ensuring that data (where possible) were broken down by gender to permit the ‘application of gender-sensitive techniques’, and by geographical units to inform policy making at local level;
- reducing poverty by meeting people’s basic needs for social security, employment, education and training, housing, basic infrastructure and social services;
- improving the quality, accessibility, availability and affordability of primary health care services (including reproductive health care) to the entire population in order to reduce mortality and unwanted fertility. This would focus on disadvantaged groups, under-serviced areas and adolescents;
- reducing the high incidence of crime and violence, especially violence against women;
- promoting responsible and healthy reproductive and sexual behaviour among adolescents and the youth to reduce teenage pregnancies, abortion and the spread of sexually transmitted diseases;
- improving the quality, accessibility, availability and affordability of education, with an emphasis on ‘gender-sensitive and vocational education and the promotion of women’s educational opportunities at tertiary level’;
- promoting equal participation of men and women in all areas of family and household responsibilities;
- creating employment-generating growth focusing on economic opportunities for young people and women;
- providing social services, infrastructure and better employment opportunities in the rural areas as an alternative choice to urbanisation;
- reducing backlogs in urban infrastructure and making provision for increases in the urban population;
- reviewing the nature and impact of international migration in order to formulate and implement an appropriate policy;

- developing opportunities for training in demography and population studies;
- incorporating population education into school curricula in relevant learning areas; and
- ensuring environmental sustainability.

The white paper said that the cabinet committee for social and administrative affairs would be responsible for ensuring the implementation, monitoring and evaluation of the policy. All parliamentary and provincial legislature portfolio committees, whose responsibilities related to population and development issues, should ensure that all current and future legislation was consistent with the goals and objectives of the policy. They should also monitor the implementation of the policy. Units set up in national and provincial welfare departments would facilitate the incorporation of population policy into national and provincial development strategies at all levels of government.⁴ [⁴ Ibid]

Abortion

The Choice on Termination of Pregnancy Act was assented to by the president in November 1996 and provided for abortion on demand for all women within the first 12 weeks of pregnancy (see also 1995/96 Survey, pp4–5). A woman would be allowed to have an abortion without informing or seeking the consent of her partner, or in the case of a minor, her parents and the father of the child.⁵ [⁵ *Business Day* 13 August 1996] (See 1995/96 Survey, p4.) (For more details see chapter on *Health*.)

Language

A 13-member Pan South African Language Board was inaugurated in April 1996. Professor Nxalati Golele was elected chairwoman of the board, and Dr Neville Alexander deputy chairman. The board was set up in terms of the Pan South African Language Board Act of 1995. (See 1995/96 Survey, p5.) It was envisaged that the board would establish and promote a policy of multilingualism in South Africa and advise the government on language legislation.⁶ [⁶ *Sowetan* 25 April 1996] (See 1995/96 Survey, pp 5, 509.)

In May 1996 constitutional negotiators settled on 11 official languages for South Africa in the final constitution (see also Bill of Rights Report and chapter on *Government and Constitution*).⁷ [⁷ *Cape Times* 1 May 1996; Anthea Jeffery and Martin Schönteich, *Bill of Rights Report*, South African Institute of Race Relations, Johannesburg, 1997]

LEGISLATION

Aliens Control Amendment Act of 1995

The Aliens Control Amendment Act of 1995 came into effect on 1st July 1996, providing more effective control over the movement of people into and out of South Africa (see 1995/96 Survey, pp5–6). The minister of home affairs, Chief Mangosuthu Buthelezi, said that the act would provide a sound legal basis for ‘effective alien control’. He called on the government and all political parties to support the department in its application of the stricter control measures as this could stem the influx of illegal immigrants who ‘pose a threat to [the reconstruction and development programme] and the prosperity of [South African] citizens’. (See also *Illegal immigration* below.)⁸ [⁸ Telephonic interview with Mrs Carin Wilkins, senior communications officer, Department of Home Affairs, 21 October 1996; *Hansard* (NA) 8 col 2111, 4 June 1996]

POPULATION STATISTICS

The 1996 Census

The minister for posts, telecommunications and broadcasting, Mr Jay Naidoo, said that the population census would take place between 10th and 31st October 1996. The country would be demarcated into approximately 80 000 enumeration areas consisting of about 120 dwellings each. Altogether 80 000 enumerators, mainly black, and all with at least a matric qualification, would visit some 10m households. The questionnaire would be available in all 11 official languages. Households could choose to be interviewed in the language of their choice rather than filling in the questionnaire themselves. Results would be published within a year. The census would cost R369m over three years, amounting to R8 per head.⁹ [⁹ *Hansard* (NA) 6 cols 1634–1635, 22 May 1996] The previous census was in 1991.

The chief director of demographic surveys and co-ordinator of Census 1996 at the Central Statistical Service (CSS), Mr Pali Lehohla, said that South Africans would be enumerated as inhabitants of one country and not as people belonging to different homelands or regions. Census information would be used to identify areas where there were shortages in the supply of water, electricity and sanitation. It would also provide information on levels of unemployment and education and socio-economic conditions which could be used for the reconstruction and development programme and the government’s macro-economic strategy (see also chapter on *The Economy*).¹⁰ [¹⁰ *SA Now*, vol 1 no 5, June 1996; *The Citizen* 14 September 1996] Earlier in the year the head of the CSS, Dr Mark Orkin, said that classification by race, sex and class had to be reintroduced into statistics to track inequalities and the demise of racism and sexism.¹¹ [¹¹ **Fast Facts** No 2 1996]

The CSS encountered a number of problems during the census. In some areas enumerators were intimidated, harassed and their census material burnt, mostly by groups of unemployed people demanding to be employed as enumerators, and by people refusing to be counted.¹² [¹² *The Citizen* 16 October 1996] Mr Lehohla said that two enumerators were raped, six died in car accidents, five cars carrying enumerators were hijacked and an enumerator in Pretoria was shot at. A government census vehicle was set alight by residents of Tafelkop in the Northern Province, who demanded to be counted as part of Mpumalanga.¹³ [¹³ *Business Day* 1 November 1996]

The deadline for the completion of the census (31st October 1996) was extended after enumerators failed to cover the whole country within the specified time. In some areas in KwaZulu-Natal counting started only on 28th October because of recruitment problems and uncertainty over land boundaries. Problems experienced in Gauteng included a shortage of enumerators and difficulties in gaining access to properties.¹⁴ [¹⁴ *The Citizen* 9 November 1996, *The Star* 13 November 1996]

Population Size

Three differing sets of population estimates were published during the year under review. One, published by the **Development Bank of Southern Africa (DBSA)** in April 1996, estimated the South African population in 1995 to be more than 43,8m, of whom 77% were African, 12% white, 9% coloured and 2% Asian. The following table provides a breakdown of the figures by province and race:¹⁵ [¹⁵ Johan Calitz, *Population of SA: Updated Estimates, Scenarios and Projections, 1990–2020*, Centre for Policy and Information, Development Bank of Southern Africa (DBSA), Development Paper no 109, April 1996, p39–42]

DBSA — Population size by province and race: 1995

Province

African

Asian

Coloured

White

Total^a

Eastern Cape

6 719 944

14 831

540 187

392 539

7 667 503

Free State

2 270 375

878

74 387

377 044

2 722 686

Gauteng

4 707 962

155 625

357 056

2 175 493

7 396 136

KwaZulu-Natal

7 518 342

805 491

138 147

609 468

9 071 447

Mpumalanga

2 599 374

11 518

16 649

299 053

2 926 596

North West

3 409 494

7 668

38 788

271 679

3 727 627

Northern Cape

242 602

1 859

403 812

129 125

777 399

Northern Province

5 511 439

5 380

7 084

137 905

5 661 810

Western Cape

759 991

29 430

2 150 122

929 697

3 869 240

Total^a

33 739 523

1 032 680

3 726 232

5 322 003

43 820 444

a

Figures may not add up owing to different methodologies used to calculate figures for the provinces and total

The most populous province was KwaZulu-Natal (9,1m), followed by the Eastern Cape (7,7m) and Gauteng (7,4m). The Northern Cape and the Free State were the least populous provinces, with 0,7m people and 2,7m people respectively.

The **Institute for Futures Research (IFR) at the University of Stellenbosch** estimated the total population in South Africa in 1996 to be 41,97m, some 4% lower than the DBSA's estimate for 1995.¹⁶ [16 Institute for Futures Research (IFR), *Forecasts of the South African Population, 1991–2026*, University of Stellenbosch, 1996, p35] The institute provided the following breakdown of its figures:¹⁷ [17 IFR, *Forecasts of the South African Population, 1991–2026*, pp35, 47, 57, 67, 77; IFR, *Forecasts of the Eastern Cape Population, 1991–2026*, pp9, 21, 43, 65, 87,

IFR, *Forecasts of the Free State Population, 1991–2026*, pp9, 21, 43, 65, 87; IFR, *Forecasts of the Gauteng Population, 1991–2026*, pp9, 21, 43, 65, 87; IFR, *Forecasts of the KwaZulu/Natal Population 1991–2026*, pp9, 21, 43, 65, 87; *Forecasts of the Mpumalanga Population, 1991–2026*, pp9, 21, 43, 65, 87; IFR, *Forecasts of the North-West Population, 1991–2026*, pp9, 21, 43, 65, 87; IFR, *Forecasts of the Northern Cape Population, 1991–2026*, pp9, 21, 43, 65, 87; IFR, *Forecasts of the Northern Province Population, 1991–2026*, pp9, 21, 43, 65, 87; IFR, *Forecasts of the Western Cape Population, 1991–2026*, pp9, 21, 43, 65, 87]

IFR — Population size by province and race: 1996

Province

African

Asian

Coloured

White

Total^a

Eastern Cape

6 124 400

15 400

443 100

375 200

6 958 100

Free State

2 412 200

1 100

75 800

375 900

2 865 000

Gauteng

4 454 400

157 800

285 100

2 159 300

7 056 700

KwaZulu-Natal

7 326 800

823 100

114 000

604 800

8 868 700

Mpumalanga

2 683 700

11 300

16 900

300 600

3 012 500

North West

3 197 500

8 400

39 300

271 400

3 516 600

Northern Cape

244 800

1 800

401 700

123 200

771 500

Northern Province

5 107 700

4 400

7 000

142 200

5 261 300

Western Cape

634 900

30 300

2 144 000

850 700

3 659 900

South Africa^a

32 186 400

1 053 500

3 527 000

5 203 400

41 970 300

a

Figures may not add up owing to different methodologies used to calculate figures for the provinces and total figures

Presented as percentages, these figures yield the following

IFR — Racial breakdown of each province's population: 1996^a

Province

African

Asian

Coloured

White

Eastern Cape

88,02%

0,22%

6,37%

5,39%

Free State

84,20%

0,04%

2,65%

13,12%

Gauteng

63,12%

2,24%

4,04%

30,60%

KwaZulu-Natal

82,61%

9,28%

1,29%

6,82%

Mpumalanga

89,09%

0,38%

0,56%

9,98%

North West

90,93%

0,24%

1,12%

7,72%

Northern Cape

31,73%

0,23%

52,07%

15,97%

Northern Province

97,08%

0,08%

0,13%

2,70%

Western Cape

17,35%

0,83%

58,58%

23,24%

South Africa

76,69%

2,51%

8,40%

12,40%

a

Figures have been rounded and add up horizontally.

The pie chart below shows the proportional distribution of the population by prov

According to the IFR, there were some 41,97m people in South Africa in 1996, of whom 76,7% were African, 12,4% white, 8,4% coloured and 2,5% Asian. Africans were in the majority in seven of the nine provinces, while the Northern Cape and the Western Cape had more coloured people than any other population group. Some 23% of all Africans and 78% of all Asians were in KwaZulu-Natal. About 61% of all coloured people were in the Western Cape. Some 41% of all whites were in Gauteng.

The **Bureau of Market Research at the University of South Africa** estimated the total population in 1996 to be 41,8m—a 2,1% growth on the 1995 figure. The African population increased by 713 200 between 1995 and 1996, which was 53 times higher than the increase in the Asian population, 21 times higher than the increase in whites, and 15 times higher than the coloured increase. From 1991 to 1996 the African population increased by 2,4%, the Asian population by 1,3%, the coloured population by 1,4% and the white population by 0,7% a year.¹⁹ [¹⁹ *Business Day*, *The Citizen* 29 August 1996; *The Mercury* 4 September 1996]

Population Trends and Forecasts

It should be noted that the shorter a forecast period, the more reliable the forecast is likely to be.

According to the World Bank, South Africa's annual rate of population growth between 2000 and 2005

would be 2%, compared with 2,6% for Africa and 1,3% for the world. The South African fertility rate (3,3)—defined as the number of children born live to a woman of childbearing age, ie between 15 and 49 years—would be lower than that of Africa (5), but higher than that of the world (2,8). South Africa's infant mortality rate (39,4 deaths per 1000 live births) would also be significantly lower than that of Africa in this period (78,9 deaths per 1 000 live births).²⁰ [²⁰ Ibid]

The following table provides comparative projections of the population growth rates, infant mortality rates, life expectancy estimates and fertility rates of various countries as estimated by the World Bank:²¹ [²¹ Ibid]

World population trends: 2000–2005

Average annual growth rate

Infant mortality rate^a

Life expectancy^b

Fertility rate^c

Argentina

0,82%

20,8

73,4 years

2,1

Australia

0,91%

5,3

78,4 years

1,9

Botswana

2,48%

26,8

68,8 years

3,6

Brazil

1,21%

44,8

68,6 years

2,2

Egypt

1,54%

36,4

65,7 years

2,9

Germany

(0,29%)

4,8

77,7 years

1,3

Hungary

(0,33%)

10,9

70,8 years

1,8

Malaysia

1,61%

9,6

73,2 years

2,6

Mozambique

2,95%

146,7

45,6 years

7,0

Nigeria

2,61%

67,8

55,9 years

4,8

South Africa

1,95%

39,4

66,9 years

3,3

South Korea

0,70%

8,2

73,7 years

1,8

Taiwan

0,72%

4,6

77,0 years

1,8

United States

0,81%

6,3

79,2 years

2,1

Africa

2,57%

78,9

55,8 years

5,0

World

1,31%

48,8

68,0 years

2,8

a

Number of deaths per 1 000 live births.

b

Life expectancy at birth.

c

Number of children born live to a woman of childbearing age

Fertility Rate

According to the IFR, South Africa's fertility rate for the period 1996–2001 would be 3,27. (The fertility rate is defined as the number of children born live to a woman of childbearing age—15–49 years.) The following table provides a breakdown of fertility rates by race from 1975 to 1990, as calculated by the Central Statistical Service (CSS) (fertility rates for the African population were not available):²² [22 Fax communication from Mrs Ilse van Reenen, information officer, Central Statistical Service (CSS), 8 November 1996]

Fertility rate^a by race: 1975–90

Asian

Coloured

White

1975

3,3

4,1

2,5

1976

3,1

4,0

2,4

1977

2,9

3,9

2,3

1978

2,9

3,6

2,2

1979

2,8

3,6

2,2

1980

2,8

3,5

2,0

1981

2,8

3,6

2,1

1982

2,8

3,6

2,0

1983

2,8

3,4

2,1

1984

2,9

3,3

2,1

1985

2,7

3,2

2,0

1986

2,5

3,0

1,9

1987^b

2,3

2,8

1,8

1988

2,3

2,7

1,8

1989

2,3

2,6

1,7

1990

2,3

2,5

1,7

a

Number of children born live to a woman of childbearing age (15 – 49 years).

b

Figures from 1987 to 1990 are estimates.

In the 15 years from 1975 to 1990, the fertility rate among coloured people dropped from 4,1 to 2,5—a decrease of 39%. The fertility rate of whites dropped by 32%, while that of Asians dropped by 30%. Whites reached replacement fertility (2,1) in 1981 (ie two children born to replace two parents plus 0,1 to ensure population growth).

South Africa's fertility rate is expected to drop by some 42% over the next 30 years to 2,03 by 2026. During that time the fertility rate among Africans will drop to replacement level or 2,1, according to the **IFR**. Asian and coloured women would have a fertility rate of 1,5 by 2026, while white women would reach this rate earlier—between 2006 and 2011. Once a fertility rate of 1,5 was reached, the age-specific fertility patterns of these three population groups would be similar to the 'late child-bearing' model of the United Nations (UN), that is, maximum fertility in the age group 25–29, followed by age groups 20–24 and 30–34.

The IFR estimated that African women would reach a fertility rate of 2,1 (replacement level) in 2026, and 1,5 by 2036. The age-specific fertility schedule would resemble the 'early child-bearing' model of the UN associated with maximum fertility in the age group 20–24 and fertility at ages 15–19 almost as high as th

The following table provides a breakdown of fertility rates by race from 1991 to 2026 as estimated by the IFR:²⁴ [24 Ibid, pp35, 47, 57, 67, 77]

IFR —Fertility rate^a by race: 1991–2026

1991-96

1996-2001

2001-06

2006-11

2011-16

2016-21

2021-26

African

4,00

3,69

3,38

3,06

2,75

2,44

2,13

Asian

2,16

2,05

1,94

1,83

1,72

1,61

1,50

Coloured

2,38

2,24

2,09

1,94

1,79

1,65

1,50

White

1,76

1,68

1,59

1,50

1,50

1,50

1,50

South Africa

3,49

3,27

3,03

2,79

2,55

2,30

2,03

a

The fertility rate is the number of children born live to a woman of childbearing age (15–49 years).

In the five-year period between 2021 and 2026, the fertility rate would drop below replacement level to 2,03 and the population would start to decrease.

The following bar chart compares fertility rates by race in 1991–96 and

The **DBSA** provided estimates for the period 1990–2020. It linked its projections to two scenarios. A high economic growth rate and a well-integrated population development programme (scenario A) would result in the African fertility rate declining more rapidly than prior to 1995. In scenario B the fertility rate among Africans would continue to decline but more slowly than in scenario A. This would be caused by, among other things, an overstrained health system and rural people migrating to urban areas but not adopting urban-dominated value systems, which include low fertility behaviour. The DBSA predicted that the fertility rate among coloured people would continue to drop rapidly from high fertility to moderate fertility. Replacement fertility (2,1) would be reached between 2005 and 2010. The fertility rate among whites would drop as low as 1,5 by 2015, the DBSA said. Its fertility rate scenarios by race for the period 1990–2020 are shown below:²⁵ [²⁵ Calitz, *Population of SA*, p15]

DBSA — Fertility rate by race: 1990–2020

1990–95

1995–2000

2000–05

2005–10

2010–15

2015–20

African(A)^a

4,3

3,9

3,5

2,9

2,2

2,2

African (B)^b

4,3

4,1

4,0

3,8

3,7

3,5

Coloured

2,9

2,6

2,3

2,1

2,0

2,0

Indian

2,3

2,1

2,0

1,9

1,8

1,8

White

1,7

1,7

1,6

1,6

1,6

1,5

a

Scenario A: Significant improvement in living conditions among Africans because of a high economic growth rate and a well-integrated population development programme.

b

Scenario B: Continued high population growth rate and poverty.

The table below provides fertility rates from 1991 to 2026 by province as estimated by the

IFR — Fertility ratea by province: 1991–2026

Province

1991–96

1996–01

2001–06

2006–11

2011–16

2016–21

2021–26

Eastern Cape

3,76

3,49

3,21

2,93

2,65

2,37

2,08

Free State

3,61

3,37

3,11

2,86

2,60

2,34

2,06

Gauteng

3,15

2,94

2,72

2,52

2,36

2,16

1,95

KwaZulu-Natal

3,61

3,39

3,13

2,87

2,61

2,34

2,06

Mpumalanga

3,72

3,46

3,20

2,93

2,66

2,38

2,09

North West

3,78

3,51

3,23

2,95

2,67

2,38

2,09

Northern Cape

2,76

2,58

2,40

2,23

2,09

1,92

1,73

Northern Province

3,92

3,63

3,33

3,03

2,73

2,42

2,12

Western Cape

2,50

2,35

2,20

2,06

1,93

1,79

1,63

South Africa

3,49

3,27

3,03

2,79

2,55

2,30

2,03

a

The fertility rate is the number of children born live to a woman of childbearing age (15–49 years).

By 2026 fertility rates in Gauteng, the Northern Cape and the Western Cape would be below two children per woman of chil

A report by the Gender Research Project at the Centre for Applied Legal Studies in May 1996 said that statistics by the Community Agency for Social Enquiry showed that in 1992/93 more than 50% of all women in Gauteng in the 16–30 age group had had children. Some 59% of women in Gauteng had given birth to their first child before the age of 20, and 69% of all pregnancies were unplanned. About 75% of pregnant women at school had had to drop out because of the birth of the child.²⁷ [²⁷ *The Star* 3 May 1996]

Infant Mortality Rate

See chapter on *Health*.

Life Expectancy

The IFR said that from 1996 to 2001 the estimated average life expectancy at birth for the population in South Africa would be 65,6 years. The life expectancies of Africans and coloured people would be below this level for the same period, while those of Asians and whites would be significantly higher. Among coloured people, however, life expectancy would increase by some 18% over the period 1991–2026, well above the national average increase of 11%. The life expectancy of whites, already the highest in 1996, would improve by only 5% by 2026. The IFR said that women in all four population groups were expected to have longer life expectancies than men (six years more by 2026).

The following table shows estimated life expectancies at birth by race and sex from 1991 to 2026, according to the IFR:²⁸ [28 IFR, *Forecasts of the South African Population, 1991–2026*, pp35, 47, 57, 67, 77]

Life expectancy by race and sex: 1991–2026

1991 1992 2000 2002 2012 2012 2026 African

Male

59,8

61,2

62,6

63,9

65,3

66,6

68,0

Female

66,8

68,0

69,2

70,4

71,6

72,8

74,0

Average

63,2

64,5

65,8

67,1

68,4

69,6

70,9

Asian

Male

65,3

66,7

68,2

69,6

71,1

72,5

74,0

Female

72,5

73,7

75,0

76,2

77,5

78,7

80,0

Average

68,8

70,2

71,5

72,8

74,2

75,6

76,9

Coloured

Male

58,5

60,6

62,7

64,7

66,8

68,9

71,0

Female

66,7

68,4

70,1

71,8

73,6

75,3

77,0

Average

62,5

64,4

66,3

68,2

70,1

72,0

73,9

White

Male

69,5

70,3

71,0

71,8

72,5

73,3

74,0

Female

76,6

77,2

77,8

78,3

78,8

79,4

80,0

Average

73,0

73,6

74,3

75,0

75,6

76,3

76,9

South Africa

Male

60,9

62,2

63,5

64,8

66,1

67,4

68,8

Female

68,0

69,2

70,3

71,5

72,6

73,7

74,8

Average

64,4

65,6

66,9

68,1

69,3

70,5

71,7

The bar chart below compares average life expectancy by race in 1991–96 and 2021–26:

The table below provides life expectancy forecasts by province from 1991 to 2026, according to the IFR:²⁹ [29 IFR, various provincial forecasts of the South African population, 1991–2026]

Life expectancy by province: 1991–2026

Province

1991 1992 2002 2002 2012 2012 2026 Eastern Cape

63,7

65,0

66,2

67,5

68,8

70,0

71,3

Free State

64,4

65,5

66,7

67,9

69,1

70,3

71,5

Gauteng

65,8

66,9

68,1

69,1

70,3

71,3

72,4

KwaZulu-Natal

64,3

65,5

66,7

68,0

69,2

70,4

71,6

Mpumalanga

64,1

65,3

66,5

67,7

69,0

70,2

71,3

North West

63,9

65,1

66,4

67,6

68,8

70,0

71,2

Northern Cape

64,3

65,7

67,2

68,7

70,2

71,6

73,1

Northern Province

63,5

64,8

66,0

67,3

68,5

69,8

71,0

Western Cape

64,9

66,4

67,8

69,3

70,8

72,2

73,7

South Africa

64,4

65,6

66,9

68,1

69,3

70,5

71,7

By 2001 people in Gauteng would have the longest life expectancy (66,9 years), followed by those in the Western Cape (66,4 years). People in the Northern Province would have the shortest life expectancy (64,8 years). However, the situation was expected to change by 2026, when people in the Western Cape would have the longest life expectancy (73,7 years), followed by the Northern Cape (73,1 years). The Northern Province would still have the lowest (71 years).³⁰ [³⁰ Ibid]

Population Growth

The Central Statistical Service provided a breakdown of the average annual population growth rate from 1911 to 1995:³¹ [³¹ Fax communication from CSS, 28 August 1996]

Average annual population growth rate: 1911–95^a

Year

African

Asian

Coloured

White

Total

1911^b

2,03%

3,12%

2,39%

1,93%

2,07%

1921

1,57%

0,73%

0,37%

1,76%

1,49%

1936

2,29%

1,90%

2,32%

1,86%

2,19%

1946

1,73%

2,65%

1,89%

1,70%

1,76%

1951

1,79%

5,15%

3,51%

2,18%

2,10%

1960

2,65%

2,87%

3,43%

1,64%

2,53%

1970

3,57%

2,92%

3,23%

2,09%

3,25%

1980^c

2,78%

2,31%

2,19%

1,58%

2,52%

1991^c

2,78%

1,78%

1,90%

1,07%

2,47%

1995

2,40%

1,40%

1,43%

0,67%

2,06%

a

Figures for the periods between 1911 and 1970 indicate the average annual growth rate since the previous census. Figures for 1980, 1991 and 1995 indicate the average annual growth rate since the previous year in the table, ie the 1980 figure is the average annual growth rate since 1970, and so on.

b

Increase on 1904 figure.

c

Includes the former ‘independent’ homelands.

Both the Institute for Futures Research (IFR) and the Development Bank of Southern Africa (DBSA) published forecasts of population growth.

The **IFR** estimated that between 1996 and 2026 the South African population would increase by 54% to 64,65m people. Thirty years hence, 82,6% of the total would be African, 8,3% white, 7,1% coloured and 2% Indian. The overall population growth rate is expected by the IFR to more than halve between now and 2026—it will shrink from 2,02% in 1991–96 to 0,96% in 2021–2026. Whites were expected to reach a zero growth rate between 2011 and 2016, after which they would experience a negative growth rate. The growth rate of Africans was expected to decline from 2,35% in 1996 to 1,15% in 2026, the IFR said.³² [³² IFR, *Forecasts of the South African Population, 1991–2026*, pp35, 47, 57, 67, 77; *Sunday Times* 28 April 1996] The World Bank, however, estimated that by 2025 South Africa’s average annual population growth rate would be 1,14%, compared with 1,86% for the whole of Africa and 0,96% worldwide.³³ [³³ E Bos et al, *World Population Projections, Estimates and Projections with Related Demographic Statistics*, 1994/95, The World Bank, 1994]

The following table shows projected average annual population growth rates from 1991 to 2026 by race, according to the IFR (brackets denote a

IFR — Average annual population growth rate: 1991–2026

1991-96

1996-2001

2001-06

2006-11

2011-16

2016-21

2021-26

African

2,35%

2,20%

2,00%

1,79%

1,60%

1,39%

1,15%

Asian

1,31%

1,21%

1,05%

0,86%

0,65%

0,44%

0,26%

Coloured

1,45%

1,35%

1,19%

1,00%

0,81%

0,62%

0,43%

White

0,55%

0,45%

0,30%

0,12%

0,00%

(0,12%)

(0,24%)

South Africa

2,02%

1,89%

1,72%

1,53%

1,36%

1,17%

0,96%

The table below shows the population increase in each province in ten-year intervals, according to the I

IFR — Population increase by province: 1996–2026

Province

1996

2006

Increase^a

2016

Increase^b

2026

Increase^c

Eastern Cape

6 958 100

8 470 800

22%

9 922 500

17%

11 215 000

13%

Free State

2 865 000

3 417 100

19%

3 925 400

15%

4 342 000

11%

Gauteng

7 056 700

7 994 600

13%

8 675 700

9%

9 190 800

6%

KwaZulu-Natal

8 868 700

10 845 700

22%

12 772 400

18%

14 405 300

13%

Mpumalanga

3 012 500

3 687 300

22%

4 354 700

18%

4 907 900

13%

North West

3 516 600

4 265 400

21%

4 967 600

16%

5 566 300

12%

Northern Cape

771 500

878 400

14%

973 400

11%

1 038 500

7%

Northern Province

5 261 300

6 643 200

26%

8 131 400

22%

9 390 600

15%

Western Cape

3 659 900

4 079 700

12%

4 388 000

8%

4 591 300

5%

South Africa^d

41 970 300

50 282 100

20%

58 111 200

16%

64 647 800

11%

a

Increase on 1996 figure.

b

Increase on 2006 figure.

c

Increase on 2016 figure.

d

Figures may not add up owing to rounding.

In the 30 years from 1996 to 2026, the South African population was expected to increase by 54%. The smallest increases would be in the Western Cape (25%), Gauteng (30%) and the Northern Cape (35%), while the largest increases were expected in the Northern Province (78%), Mpumalanga (63%) and KwaZulu-Natal (62%).

The **DBSA** published a report in April 1996 entitled *Population of SA: Updated Estimates, Scenarios and Projections, 1990–2020*, which presented future demographic data based on two scenarios. In scenario A it was expected that the government would continuously consider the effect of population factors in the planning and implementation phases of economic development. Population policy would address all aspects of demographic behaviour that could have a negative impact on economic development. The result would be high economic growth and a well-integrated population development programme. The demographic and economic situation of Africans would change significantly. For instance, the high infant mortality rates among Africans and coloured people would start declining as the living conditions of those groups began to improve.

In scenario B the cycle of poverty and high population growth would continue despite massive funding in those areas. This scenario would be characterised by an ineffective or non-existent population programme. Economic input would not be sufficient to meet the needs of demographic investment, such as housing, education and infrastructure. Present demographic trends for all four population groups would therefore continue.

Between 1985 and 1995 the annual average rate of increase in the population was 2,59%, according to the DBSA. South Africa's population growth rate was high compared with other developing countries. Between 1980 and 1990 the average annual population growth rate of lower-income countries (such as Ethiopia, Mozambique, Rwanda and Zimbabwe) was 2,8%, while that of upper middle-income countries (such as Botswana, Greece, Hungary and Malaysia) averaged 1,8%. Although South Africa was classified as an upper middle-income country, its population growth rate was more in line with that of lower-income countries.³⁶ [³⁶ Calitz, *Population of SA*, pp3, 9–13]

The table below shows projected population growth from 1990 to 2020, as estimated

DBSA — Population size: 1990–2020^a (in millions)

1990

1995

2000

2005

2010

2015

2020

African (A)^b

29,7

33,7

38,2

42,6

46,6

50,4

54,3

African (B)^c

29,7

33,9

38,6

43,9

49,6

55,7

62,0

Coloured

3,2

3,5

3,8

4,1

4,3

4,5

4,7

Indian

1,0

1,0

1,1

1,2

1,2

1,3

1,3

White

5,0

5,2

5,3

5,4

5,4

5,4

5,4

Total (A)

38,9

43,5^d

48,4

53,2

57,5

61,6

65,7

Total (B)

38,9

43,6^d

48,8

54,5

60,5

66,9

73,4

a

Figures may not add up owing to rounding.

b

Scenario A: Significant improvement in living conditions among Africans because of a high economic growth rate and well-integrated population development programme.

c

Scenario B: Continued high population growth rate and poverty.

d

These figures may not correspond to DBSA figures in Population size above because of different methodologies used in calculation

According to the DBSA, scenario A (a low fertility rate and high economic growth rate) would result in a total population of 65,7m people in 2020—a 51% increase on 1995. Scenario B (static economic growth and continued high population growth) would result in a population of 73,4m people—an increase of 68% on 1995. The difference between the two scenarios in 2020 would be some 7,7m people.³⁸ [³⁸ Ibid]

The DBSA said that the effect of large-scale immigration to South Africa had to be taken into account when doing population projections. South Africa had for some time experienced an influx of legal and illegal immigrants. The net gain of immigrants averaged 10 000 people per year over the ten-year period prior to 1995. Because in the past the ‘reality of African immigration was ignored by everybody’, these movements had been largely undocumented. Hence, estimates of the number of undocumented illegal immigrants differed widely (see also *Illegal immigration* below). As the demographic effect of large-scale immigration on population growth was considerable, two possible scenarios with regard to immigration were selected by the DBSA. The following table shows projections of estimated African population growth, including possible immigration figures, from 1990 to 2020 (migration assumptions for non-African population groups were not provided as the demographic effect of the immigration of those groups would be very small):³⁹ [³⁹ Ibid, pp17–19]

DBSA — Population size and immigration: 1990–2020 (in millions)

1990

1995

2000

2005

2010

2015

2020

African (A)^a + 100 000^c

29,7

34,3

39,3

44,4

49,0

53,4

57,9

African (B)^b + 100 000^c

29,7

34,4

39,8

45,7

52,2

58,9

65,9

African (B)^b + 200 000^d

29,7

34,9

40,9

47,6

54,7

62,1

69,9

a

Scenario A: Significant improvement in living conditions among Africans because of a high economic growth rate and well-integrated population development programme.

b

Scenario B: Continued high population growth rate and poverty.

c

Number of immigrants per year — moderate immigration.

d

Number of immigrants per year — higher immigration.

In scenario A, assuming moderate to high immigration (100 000 people per year), it was estimated that there would be 3,6m more people in 2020 (an increase of 7%) than if there were no immigration. Higher immigration (200 000 people per year) in scenario B would increase the African population by 13%, to 69,9m people in 2020, 7,9m more than if there was no immigration. The total population would number

81,3m people, 7,8m (or 9,6%) more than if there were no immigration.⁴⁰ [⁴⁰ Ibid, p19]

The Bureau of Market Research (BMR) at the University of South Africa said in October 1996 that the South African population would grow at a rate of 1,7% a year, from 42,1m people in 1996 to 54,1m in 2011. (The projected figure for 2011 included illegal immigrants. Calculations were based on the 1991 estimated figure of 422 200 illegal immigrants in South Africa.) However, if AIDS-related deaths continued at the current rate, there could be 750 000 fewer people than the projected 54,1m in 2011, the BMR

The Impact of AIDS on Population Growth

The Department of Health, in a report published in 1996 by the BMR, estimated that by 2009 the number of deaths owing to AIDS (495 263) would exceed the number of all other deaths (485 809). By 2010, some 12% of the total population would be HIV positive (compared with less than 1% in 1990), while AIDS deaths would exceed all other deaths by 8%.⁴² [⁴² Bureau of Market Research (BMR), *Global Population Growth and Structural Changes in the RSA Population, 1951–2011*, University of South Africa, Research Report 232, 1996]

The following table provides a breakdown, from 1990 to 2010, of the estimated number of deaths attributable to AIDS and all other deaths:⁴³ [⁴³ Ibid]

Actual and projected AIDS and other deaths: 1990–2010

No of People with HIV

Proportion of population

No of people with AIDS

Proportion of population

AIDS deaths

Other deaths

AIDS deaths as proportion of total deaths

1990

36 240

0,1%

292

0,0%^a

358

335 525

0,1%

1995

756 237

1,9%

19 820

0,0%^a

17 987

377 419

4,5%

2000

2 606 517

5,8%

172 835

0,4%

131 546

419 530

23,9%

2005

4 509 870

9,2%

468 788

0,1%

331 966

456 666

42,1%

2010

6 087 248

11,6%

775 298

1,5%

532 948

492 642

52,0%

a

More than zero but too small to record

In his book entitled *The High Road: Where are we now?*, Mr Clem Sunter, the chairman of corporate

affairs at the Anglo American Corporation of South Africa, said that AIDS would reduce life expectancy in South Africa from 63,4 years to 40 by 2010—by 37%. The birth rate would be less affected because most adult AIDS deaths occurred after childbearing age, and HIV prevalence was lower in rural areas where birth rates were higher. It was estimated that by 2010, some 26% of women between the ages of 15 and 59 could be infected with HIV, while 18% of men in that age group could be infected. Some 600000 people could be sick with AIDS by 2010, compared with the 3 143 reported cases in 1995.⁴⁴ [⁴⁴ Clem Sunter, *The High Road: Where are we now?*, Tafelberg, Human and Rousseau, 1996, pp 41–48] (See also chapter on *H*

Population Control

The draft white paper for a population policy, published in October 1996, proposed improving the quality, accessibility, availability and affordability of primary health care services to the entire population in order to reduce mortality and unwanted fertility. Primary health care services would include reproductive health services, aimed at encouraging sexual and reproductive health. Reproductive health services would provide information and education on contraception, infertility, abortion and various other reproductive health conditions. The white paper also proposed promoting responsible and healthy sexual and reproductive behaviour among adolescents to reduce the incidence of teenage pregnancies, abortion and sexually transmitted diseases (see *Policy* above).⁴⁵ [⁴⁵ Ministry for Welfare and Population Development, Draft White Paper for a Population Policy, *Government Gazette*, no 17529, September 1996]

Male/Female Distribution

Two sets of figures for the male/female breakdown of the population were published in 1996. (Discrepancies between provincial male/female ratios provided by the Development Bank of Southern Africa (DBSA) and those provided by the Institute for Futures Research (IFR) at the University of Stellenbosch are the result of different base data and methodologies used by these organisations.) The following table shows the provincial distribution of males and females in South Africa in 1995 according to the **DBSA**:⁴⁶ [⁴⁶ Calitz, *Population of SA*, p30]

DBSA — Male/female distribution in South Africa: 1995

Province

Male

Proportion

Female

Proportion

Majority^a

Total

Eastern Cape

3 890 282

50,7%

3 777 221

49,3%

113 061 (M)

7 667 503

Free State

1 333 445

49,0%

1 389 241

51,0%

55 796 (F)

2 722 686

Gauteng

3 864 472

52,2%

3 531 664

47,8%

332 808 (M)

7 396 136

KwaZulu-Natal

4 455 694

49,1%

4 615 753

50,9%

160 059 (F)

9 071 447

Mpumalanga

1 434 688

49,0%

1 491 908

51,0%

57 220 (F)

2 926 596

North West

1 775 731

47,6%

1 951 896

52,4%

176 165 (F)

3 727 627

Northern Cape

386 105

49,7%

391 294

50,3%

5 189 (F)

777 399

Northern Province

2 766 048

48,9%

2 895 762

51,1%

129 714 (F)

5 661 810

Western Cape

1 911 146

49,4%

1 958 094

50,6%

46 948 (F)

3 869 240

South Africa

21 817 611

49,8%

22 002 833

50,2%

185 222 (F)

43 820 444

a

The numerical difference between the male (M) and female (F) populations.

According to the DBSA, there were more women (50,2%) than men (49,8%) in South Africa in 1995. Gauteng and the Eastern Cape were the only provinces with more males than females. The DBSA attributed this to the fact that there were more job opportunities for men in those provinces. The North West and the Northern Province had the highest proportion of females.⁴⁷ [⁴⁷ Ibid]

The **IFR** said that in 1996 there were slightly more women (50,6%) than men (49,4%) in South Africa. The greatest disparity between the number of men and women was in the Northern Province (46,3% males compared with 53,7% females), which also had the highest proportion of females. The number of 'additional' females in the province (388 300) was equivalent to 16% of the male population. KwaZulu-Natal (52,2%) and the Eastern Cape (52%) also had high proportions of females. Gauteng (52,7%) and the Free State (52,1%) had the highest proportion of males.

The table below gives a breakdown of the provincial distribution of males and females in 1996 as projected by

IFR — Male/female distribution in South Africa: 1996

Province

Male

Proportion

Female

Proportion

Majority^a

Total

Eastern Cape

3 342 200

48,0%

3 615 900

52,0%

273 700 (F)

6 958 100

Free State

1 491 400

52,1%

1 373 600

47,9%

117 800 (M)

2 865 000

Gauteng

3 721 100

52,7%

3 335 600

47,3%

385 500 (M)

7 056 700

KwaZulu-Natal

4 240 100

47,8%

4 628 600

52,2%

388 500 (F)

8 868 700

Mpumalanga

1 518 700

50,4%

1 493 800

49,6%

24 900 (M)

3 012 500

North West

1 777 700

50,6%

1 738 900

49,4%

38 800 (M)

3 516 600

Northern Cape

387 800

50,3%

383 700

49,7%

4 100 (M)

771 500

Northern Province

2 436 500

46,3%

2 824 800

53,7%

388 300 (F)

5 261 300

Western Cape

1 826 500

49,9%

1 833 400

50,1%

6 900 (F)

3 659 900

South Africa

20 742 000

49,4%

21 228 300

50,6%

486 300 (F)

41 970 300

a

The numerical difference between the male (M) and the female (F) pop

Religion

The following table shows the most popular religions or denominations in South Africa in 1991, the latest year for which figures were available (figures are based on the 1991 census but include 1993 estimates on Venda and exclude the other former 'independent' homelands):⁴⁹ [49 1995/96 *Survey*, p16]

Religious affiliation: 1991^a

African

Asian

Coloured

White

Total

Christian

African independent churches

6 968 084

0

0

0

6 968 084

Dutch Reformed^b

1 064 709

0

563 783

1 595 021

3 223 513

Gereformeerde

0

0

0

119 859

119 859

Nederduitsch Hervormde

0

0

0

246 188

246 188

Afrikaans churches^c

0

1 375

0

0

1 375

Roman Catholic

1 790 160

13 800

233 364

315 092

2 352 416

Methodist

1 384 046

1 861

94 833

333 926

1 814 666

Anglican^d

647 268

4 635

232 493

291 679

1 176 075

Apostolic Faith Mission

135 687

0

63 005

225 046

423 738

Lutheran

686 219

1 618

81 161

0

768 998

Presbyterian

308 028

834

0

89 922

398 784

Congregational

238 065

0

129 104

0

367 169

Full Gospel

0

21 677

0

0

21 677

Other Christian churches^e

1 436 617

79 260

713 283

725 875

2 955 035

Subtotal

14 658 883

125 060

2 111 026

3 942 608

20 837 577

Hindu

0

385 679

0

0

385 679

Islamic

0

166 609

157 801

0

324 410

Jewish

0

0

0

65 373

65 373

Non-Christian but unspecified

31 498

6 895

5 675

7 050

51 118

Subtotal

31 498

559 183

163 476

72 423

826 580

Unspecified and no religion

7 502 899

302 420

1 006 046

1 046 754

9 858 119

Total

22 193 310

986 799

3 280 548

5 061 785

31 522 442

a

Figures may not add up owing to rounding.

b

Refers to the Nederduitse Gereformeerde Kerk.

c

Refers to the Nederduitse Gereformeerde Kerk, the Nederduitsch Hervormde Kerk and the Gereformeerde Kerk. The number of Asians belonging to these churches was very small and no further breakdown is available.

d

Includes the Anglican Church, the Church of England, the Church of England in South Africa and the Church of the Province of Southern Africa.

e

Includes, among others, the Afrikaanse Protestantse Kerk, the Baptist Church, the Greek Orthodox Church, the Pentecostal Protestant C

Marital Status

The following table provides a breakdown of the marital status of the population of South Africa (excluding the former 'independent' homelands) in 1991, the latest year for which figures were available:⁵⁰ [Ibid, p17]

Marital status of the population by race: 1991^a

AfrColIndWhiTotProportion

Never married

Younger than 18 years

9 550

1 320

360

1 308

12 610

40,7%

18 years and older

5 090

760

150

700

6 700

21,6%

Married^b

5 050

910

420

2 410

8 780

28,3%

Unmarried but living together

1 000

130

10

100

1 240

4,0%

Widowed

700

110

50

280

1 140

3,7%

Divorced

260

50

10

200

530

1,7%

a

Figures may not add up owing to rounding.

b

Includes common law marriages.

The Central Statistical Service said in October 1996 that some 133 300 marriages were performed in South Africa in 1994, compared with 120 160 in 1993—an increase of 10,9%. In 1994 some 29 900 divorces were granted. The number of divorces in 1994 was equivalent to 22,4% of the number of marriages that year. Some 61% of divorces were granted to whites, 17% to coloured people, 16% to Africans and 6% to Asians.⁵¹ [⁵¹ *The Citizen* 16 October 1996]

Language

The tables below provide a breakdown of the distribution of home languages by province in 1994, the latest year for which figures were available (figures may differ from those in the 1995/96 *Survey* as they have been revised):⁵² [⁵² Calitz, *Population of SA*, pp95–101]

Proportional distribution of home languages in each province: 1994^a

Province

Afrikaans

English

A/E^b

Ndebele^c

Northern Sotho

Southern Sotho

Eastern Cape

8,93%

3,86%

0,08%

0,00%

0,01%

0,14%

Free State

15,09%

1,52%

0,10%

0,20%

0,92%

59,27%

Gauteng

19,72%

17,19%

0,39%

0,85%

8,43%

11,52%

KwaZulu-Natal

1,93%

16,84%

0,07%

0,00%

0,04%

0,35%

Mpumalanga

8,57%

1,83%

0,08%

6,43%

15,98%

2,79%

North West

9,00%

1,04%

0,08%

0,03%

0,73%

3,23%

Northern Cape

68,42%

2,74%

0,11%

0,00%

0,13%

0,74%

Northern Province

3,64%

0,65%

0,02%

1,37%

62,48%

0,91%

Western Cape

61,81%

20,71%

0,71%

0,00%

0,05%

0,27%

Proportion of total

14,97%

9,52%

0,19%

0,83%

9,9

Proportional distribution of home languages in each province: 1994^a (continued)

Province

Swazi

Tsonga

Tswana

Venda

Xhosa

Zulu

Other^d

Eastern Cape

0,00%

0,00%

0,01%

0,00%

86,69%

0,06%

0,17%

Free State

0,20%

0,64%

4,81%

0,04%

9,25%

5,99%

1,98%

Gauteng

1,22%

3,89%

7,38%

1,16%

6,08%

19,36%

2,82%

KwaZulu-Natal

0,03%

0,03%

0,01%

0,00%

1,20%

78,67%

0,82%

Mpumalanga

25,15%

11,52%

1,89%

0,11%

1,45%

22,15%

2,04%

North West

0,27%

0,81%

78,91%

0,12%

4,18%

0,56%

1,02%

Northern Cape

0,01%

0,14%

19,56%

0,01%

6,37%

0,27%

1,50%

Northern Province

0,32%

26,47%

1,91%

1,01%

0,22%

0,41%

0,59%

Western Cape

0,01%

0,02%

0,05%

0,00%

15,46%

0,08%

0,82%

Proportion of total

2,25%

4,69%

9,07%

0,35%

18,13%

22,00%

1,26%

a

Figures should add up horizontally but, owing to rounding, may not.

b

Afrikaans/English. Afrikaans and English are spoken equally in the home.

c

Includes Northern and Southern Ndebele.

d

Includes, among others, Dutch, German, Greek, Italian, Portuguese, French, Tamil, Hindi, Telegu, Gujarati, Urdu

The Development Bank of Southern Africa said that in 1994 some 22% of the population had Zulu as

their home language, 18% Xhosa, 15% Afrikaans and 9,9% Northern Sotho. About 9,5% of the population had English as their home language. In 1994 more people in the Northern Cape and the Western Cape had Afrikaans as their home language than any other language. Some 87% of people in the Eastern Cape spoke Xhosa in the home, while in KwaZulu-Natal about 79% of people spoke Zulu in the home.⁵³ [⁵³ Ibid]

Age

Both the Development Bank of Southern Africa (DBSA) and the Institute for Futures Research (IFR) at the University of Stellenbosch published age profiles of the population. According to the DBSA, some 56% of the South African population was in the economically active age group (15–64) in 1994 and 1995. According to the IFR, more than 60% of the population was in the 15–64 age group in 1996, compared with the DBSA's figure of 56% in 1995.

The following tables provide provincial breakdowns of the age profile of South Africa in 1994, 1995 and 1996:⁵⁴ [⁵⁴ Ibid; IFR, *Forecasts of the South African Population, 1991–2026*, p43–81]

DBSA — Age profile by province: 1994–95^a

1994

1995

Province

0–14

15 – 64

65+

0–14

15 – 64

65+

Eastern Cape

43,1%

51,7%

5,2%

40,1%

54,6%

5,3%

Free State

31,9%

64,1%

4,0%

38,8%

55,3%

5,9%

Gauteng

35,1%

58,1%

6,8%

35,0%

58,2%

6,8%

KwaZulu-Natal

39,2%

55,4%

5,3%

39,2%

55,5%

5,3%

Mpumalanga

41,5%

53,3%

5,2%

39,7%

54,6%

5,6%

North West

40,4%

54,2%

5,4%

40,3%

54,2%

5,5%

Northern Cape

32,8%

61,1%

6,1%

32,8%

61,2%

6,1%

Northern Province

40,4%

54,2%

5,4%

41,5%

53,4%

5,2%

Western Cape

30,8%

62,6%

6,6%

30,7%

62,7%

6,5%

South Africa

38,2%

56,2%

5,6%

38,2%

56,1%

5,7%

a

Figures should add up horizontally but may not, owing to

IFR — Age profile by province:^a 1996^b

Province

0–14 years

15–64 years

65+

Eastern Cape

37,9%

56,8%

5,3%

Free State

32,8%

63,2%

4,0%

Gauteng

27,0%

68,2%

4,8%

KwaZulu-Natal

37,1%

58,7%

4,2%

Mpumalanga

37,0%

59,6%

3,4%

North West

34,6%

61,3%

4,1%

Northern Cape

31,1%

63,9%

5,0%

Northern Province

43,1%

53,2%

3,7%

Western Cape

28,3%

66,2%

5,5%

South Africa

34,9%

60,6%

4,5%

a

Figures may not add up owing to rounding.

b

Figures for 1996 are not strictly comparable with those for 1994 and 1995 because they are from different sources.

In 1996 some 43% of people in the Northern Province were under the age of 15, compared with 27% in Gauteng.

In 1995 more than 42% of Africans were under the age of 15, while only 21% of whites were. Some 38% of the population was in the 0–14 age group, while 6% was over 65. About 38% of the African

population was under the age of 15 in 1996.

The bar chart below shows the age profile of each of the prov

The following table shows the age profile by race in 1995 and 1996 (figures for 1995 are from the DBSA, while those for 1996 are from the IFR):⁵⁵ [⁵⁵ Ibid]

Age profile by race: 1995–96^a

1995

1996^b

0–14

15–64

65+

0–14

15–64

65+

African

42%

53%

5%

38%

59%

4%

Asian

28%

68%

4%

28%

68%

4%

Coloured

31%

64%

5%

31%

65%

4%

White

21%

68%

11%

21%

69%

10%

South Africa

38%

56%

6%

35%

61%

5%

a

Figures may not add up owing to rounding.

b

Figures for 1996 are not strictly comparable with those for 1995 because they are from different s

Education Levels

The following table provides a provincial breakdown of literacy rates in South Africa in 1991 and 1995 (the latest year for which figures were available), according to the Development Bank of Southern Africa (DBSA):⁵⁶ [56 1995/96 *Survey*, p20]

Literacy rate by province: 1991 and 1995^a

Province

1991

1995

Eastern Cape

67,7%

77,8%

Free State

60,0%

69,0%

Gauteng

69,0%

87,8%

KwaZulu-Natal

58,7%

73,3%

Mpumalanga

54,6%

68,3%

North West

55,8%

70,5%

Northern Cape

67,6%

67,0%

Northern Province

52,7%

64,8%

Western Cape

71,9%

81,0%

Average

61,4%

73,2%

a

Although the 1995 figures show an improvement in literacy rates, in most of the provinces this is partly attributed to under-recording in the 1991 census.

According to the DBSA, Gauteng had the highest literacy rate, followed by the Western Cape and the Eastern Cape. The Northern Province and the Northern Cape had the lowest literacy rates.⁵⁷ [⁵⁷ Ibid] (See also chapter on *Education*.)

The table below shows the average number of years of schooling by province in 1980 and 1991 (the latest year for which figures were available), as calculated by the Central Statistical

Years of schooling^a by province: 1980 and 1991

Province

1980

1991

Increase

Eastern Cape

4,63

6,65

43,6%

Free State

5,13

6,50

26,7%

Gauteng

7,35

8,59

16,9%

KwaZulu-Natal

4,91

6,48

32,0%

Mpumalanga

3,92

5,34

36,2%

North West

4,35

5,75

32,2%

Northern Cape

5,42

6,25

15,3%

Northern Province

2,82

4,61

63,5%

Western Cape

7,63

8,45

10,8%

Average

5,43

6,86

26,3%

a

Average number of years of study for people 25 years and older.

In 1991 the population in Gauteng had, on average, the most years of schooling (8,6 years), while people in the Northern Province had the fewest (4,6 years). However, between 1980 and 1991 the average number of years of schooling in the Northern Province increased

Economic Status

A report published in 1996 by the Bureau of Market Research at the University of South Africa showed that in the ten years from 1985 to 1994, the personal disposable income of Africans increased by more than 35%, while that of Asians and coloured people increased by some 24%. In the same period the personal disposable income of whites dropped by 2,5%.⁶⁰ [⁶⁰ HdeJ van Wyk, *Personal Disposable Income of South Africa by Population Group and District, 1985–1994*, BMR, University of South Africa, report no 226, 1996]

The following table provides a breakdown of personal disposable income by race in 1985 and 1994:⁶¹ [⁶¹ Ibid]

Personal disposable income:^a 1985^b and 1994

1985 Proportion of total^c

1994 Proportion of total^c

Real increase/ (decrease) 1985–94

African

84 060,7

32,0%

114 003,4

38,5%

35,6%

Asian

9 552,5

3,6%

11 845,5

4,0%

24,0%

Coloured

21 237,8

8,1%

26 352,4

8,9%

24,1%

White

147 655,9

56,2%

143 908,0

48,6%

(2,5%)

Total

262 506,9

100%

296 109,3

100%

12,8%

a

Total personal income minus income tax and compulsory employee contributions, ie the amount of available income households can spend on consumer goods and services.

b

Constant 1994 prices.

c

Figures should add up vertically but, owing to rounding, may not.

Africans share of total personal disposable income in the 10-year period from 1985 to 1994 increased by 6,5 percentage points, while whites' share dropped by 7,6 percentage points. Asians and coloured people showed marginal increases of 0,4 and 0,8 percentage points respectively.⁶² [⁶² Ibid]

The pie charts show the proportional distribution of personal disposable income by race:

In 1994 Gauteng had the highest proportion of the national disposable income (38,2%), followed by KwaZulu-Natal (15,4%) and the Western Cape (15%) (see also chapter on *Employment and Industrial Relations*).

Human Development Index

The human development index (HDI) is a measure of socio-economic development. It is a composite of three factors: life expectancy, per capita income, and level of education. The HDI indicates a country's relative position on a scale of 0–1. Countries with an HDI below 0,5 are considered to have a low level of human development, those between 0,5 and 0,8 a medium level, and those above 0,8 a high level.

According to the United Nations Development Programme, South Africa had an HDI of 0,649 in 1993. South Africa ranked 100th out of 174 countries. Other countries with medium human development levels included Georgia (0,645) and Indonesia (0,641). There was, however, a disparity in the HDI of the different provinces. The Western Cape had the highest HDI, at 0,791, ranking it between Belarus (0,787) and the Seychelles (0,792), while the Northern Province had the lowest HDI, at 0,450, placing it between Myanmar (0,451) and Pakistan (0,442).⁶³ [⁶³ United Nations Development Programme, *Human Development Report 1996*, Oxford University Press, New York, 1996]

The Central Statistical Service (CSS) provided the following HDIs for the provinces in 1980 and 1991, the latest year for which provincial figures were available:⁶⁴ [⁶⁴ 1995/96 *Survey*, p22]

Human development index by province: 1980 and 1991

1980

1991

Increase

Eastern Cape

0,416

0,507

21,9%

Free State

0,556

0,657

18,2%

Gauteng

0,634

0,818

29,0%

KwaZulu-Natal

0,491

0,602

22,6%

Mpumalanga

0,513

0,694

35,3%

North West

0,483

0,543

12,4%

Northern Cape

0,545

0,698

28,1%

Northern Province

0,367

0,470

28,1%

Western Cape

0,643

0,826

28,5%

Average

0,557

0,677

21,5%

The CSS said that South Africa had an HDI of 0,677 in 1991, compared with 0,557 in 1980. Between 1980 and 1991, the Eastern Cape, KwaZulu-Natal and the North West moved from a low to a medium level of human development. The HDI of Mpumalanga increased by more t

The CSS provided the following HDIs according to race in 1980 and 1991, the latest years for which figures were available:⁶⁵ [65 Ibid]

Human development index by race: 1980 and 1991

1980

1991

Increase

African

0,394

0,500

26,9%

Asian

0,655

0,836

27,6%

Coloured

0,532

0,663

24,6%

White

0,739

0,901

21,9%

Total population^a

0,557

0,677

21,5%

a

The HDI for the total population is a weighted average.

In 1980 and 1991 Africans had the lowest HDI—0,394 and 0,5 respectively. However, during that period they moved from a low to a medium level. In 1991 whites (0,901) had an HDI similar to New Zealand's (0,907), while Africans' HDI (0,5) was similar to that of the Maldives (0,511). Between 1980 and 1991 both the white and the Asian population moved from a medium to a high level of human development.

The CSS said that although the HDI of the non-urban population in South Africa showed a 23% increase between 1980 and 1991, it remained below 0,5. The HDI of the urban population moved from a medium (0,639) to a high level (0,807) in that per

URBANISATION

According to the Development Bank of Southern Africa (DBSA), the level of urbanisation in 1995 was

about 52%. Between 1990 and 1995 the average annual rate of increase in the formal urbanised population was 4,9%.⁶⁷ [⁶⁷ Calitz, *Population of SA*, p6]

The DBSA said that African urbanisation had not progressed along the same lines as that of other population groups since the 1950s, largely because of various influx control mechanisms. During the 1960s and 1970s urban growth among Africans was the result of natural increases, rather than rural–urban migration. By the mid-1980s influx controls were eased and rural people migrated to urban areas.

The following table provides DBSA estimates and projections of the urban/rural distribution of the population from 1990 to 2020. The ‘A’ and ‘B’ scenarios differ according to whether or not the living conditions of Africans improve significantly:⁶⁸ [⁶⁸ Ibid, p26]

Urban/rural distribution of the population:^a 1990–2020 (millions)

1990

1995

2000

2005

2010

2015

2020

Greater metropolitan areas^b

African A^c

9,53

12,44

15,53

18,80

22,09

25,78

29,85

African B^d

9,53

12,49

15,70

19,36

23,53

28,49

34,12

Coloured

1,80

2,00

2,20

2,39

2,57

2,78

2,99

Indian

0,86

0,91

0,97

1,02

1,07

1,11

1,14

White

3,32

3,40

3,49

3,56

3,60

3,62

3,61

Total Ac

15,52

18,75

22,19

25,77

29,33

33,29

37,59

Total B^d

15,52

18,80

22,36

26,33

30,77

36,00

41,86

'Second order' urban areas^e

African A^c

2,20

2,80

3,55

4,35

5,17

6,09

7,06

African B^d

2,20

2,81

3,59

4,48

5,51

6,73

8,06

Coloured

0,26

0,30

0,35

0,41

0,46

0,51

0,57

Indian

0,03

0,04

0,04

0,04

0,05

0,05

0,05

White

0,78

0,81

0,82

0,84

0,85

0,86

0,86

Total Ac

3,56

3,95

4,76

5,64

6,53

7,51

8,54

Total B^d

3,56

3,96

4,80

5,77

6,87

8,15

9,54

'Third order' urban areas^f

African A^c

2,03

2,59

3,24

4,01

4,80

5,59

6,51

African B^d

2,03

2,61

3,28

4,13

5,11

6,18

7,44

Coloured

0,74

0,78

0,81

0,83

0,84

0,85

0,85

Indian

0,07

0,07

0,07

0,07

0,07

0,07

0,07

White

0,61

0,61

0,62

0,62

0,62

0,61

0,59

Total A^c

3,45

4,05

4,74

5,53

6,33

7,12

8,02

Total B^d

3,45

4,07

4,78

5,65

6,64

7,71

8,95

Rural areas ^g

African A^c

15,92

15,89

15,83

15,47

14,54

12,89

10,86

African B^d

15,92

15,94

16,01

15,94

15,49

14,25

12,41

Coloured

0,46

0,46

0,45

0,43

0,41

0,37

0,33

Indian

0,02

0,02

0,02

0,02

0,02

0,02

0,02

White

0,34

0,34

0,34

0,34

0,33

0,33

0,32

Total A^c

16,72

16,71

16,64

16,26

15,30

13,61

11,53

Total B^d

16,72

16,76

16,82

16,73

16,25

14,97

13,08

Total

African A^c

29,68

33,72

38,15

42,63

46,60

50,35

54,28

African B^d

29,68

33,85

38,58

43,91

49,64

55,65

62,03

Coloured

3,26

3,54

3,81

4,06

4,28

4,51

4,74

Indian

0,98

1,04

1,10

1,15

1,21

1,25

1,28

White

5,05

5,16

5,27

5,36

5,40

5,42

5,38

Grand Total A^c

38,97

43,46

48,33

53,20

57,49

61,53

65,68

Grand Total B^d

38,97

43,59

48,76

54,48

60,53

66,83

73,43

a

Figures should add up vertically, but may not, owing to rounding.

b

Gauteng, Durban/Pietermaritzburg, Cape metropolitan area and Port Elizabeth/Uitenhage. If the metropolitan

population reached 55% of the total population in 2020, metropolitan areas would have population sizes as shown here.

c

Significant improvement in living conditions among Africans owing to high economic growth and a well-integrated population development programme.

d

Continued high population growth rate and poverty — demographic trends for all four population groups do not change.

e

Cities and major towns including Bethal, Bethlehem, Bloemfontein/Botshabelo, East London/Mdantsane, Ermelo, George, Grahamstown, Kimberley, King William's Town/Bisho/Zwelitsha, Klerksdorp, Kroonstad, Ladysmith/eZakheni, Middelburg, Mmabatho, Nelspruit, Newcastle/Osizweni/Madadeni, Pietersburg/Seshego, Potchefstroom, Richards Bay/Empangeni, Rustenburg, Secunda, Welkom/Odendaalsrus/Virginia and Witbank.

f

Urban population not included in the metropolitan areas or second-order urban areas.

g

Population not included in the metropolitan

The DBSA said that in 1995 some 37% of the African population was resident in the greater metropolitan areas. Most whites were living in the metropolitan areas in 1995 (66%), as were most Indians (88%) and coloured people (56%).⁶⁹ [⁶⁹ Ibid]

The following table provides a proportional breakdown of the urban/rural distribution of each race in each year indicated (the proportions below are based on scenario B, but do not differ substantially from A's proportions):⁷⁰ [⁷⁰ Ibid]

Proportional urban/rural distribution of the population by race: 1995–2020

1995

2000

2005

2010

2015

2020

Urban^a

African

45,2%

50,0%

54,3%

58,5%

63,3%

68,0%

Coloured

65,0%

66,9%

69,0%

70,8%

72,9%

75,1%

Indian

91,3%

91,8%

92,2%

92,6%

92,8%

93,0%

White

81,6%

81,8%

82,1%

82,4%

82,7%

83,1%

Total

52,2%

55,7%

58,9%

62,2%

66,1%

70,0%

Rural^b

African

54,8%

50,0%

45,7%

41,5%

36,7%

32,0%

Coloured

35,0%

33,1%

31,0%

29,2%

27,1%

24,9%

Indian

8,7%

8,2%

7,8%

7,4%

7,2%

7,0%

White

18,4%

18,2%

17,9%

17,6%

17,3%

16,9%

Total

47,8%

44,3%

41,1%

37,8%

33,9%

30,0%

a

Includes greater metropolitan areas and larger towns.

b

Includes smaller towns and rural areas.

According to the DBSA, some 68% of Africans would be living in urban areas by 2020, compared with

45% in 1995. Three quarters of coloured people would be urbanised by 2020, compared with 65% in 1995. The increases for the Indian and white populations would be less significant, as they were already mostl

A report by the Africa Institute of South Africa provided the following estimates and projections of the size of the urban population in South Africa from 1960 to 2010, compared with Africa and the world:⁷²

[⁷² Africa Institute of South Africa, *Africa at a Glance, Facts and Figures: Quality of Life, Economic Activities and Political Change, 1995/96*, July 1995]

Urban population: 1960–2010

Region

As

Average annual growth of the urban population

1960

1995

2000

2010

1960–65

1980–85

1995–2000

World

34%

48%

51%

56%

2,8%

3,1%

2,8%

Developed world

60%

74%

75%

78%

2,2%

1,0%

0,8%

Developing world

22%

41%

45%

52%

3,5%

4,6%

3,7%

Africa

18%

37%

41%

47%

4,9%

4,9%

4,7%

South Africa^a

47%

62%

65%

73%

2,9%

3,5%

3,7%

a

Includes the DBSA's metropolitan, second- and third-order urban areas.

For the last 50 years Africa's urban population has been growing more rapidly than the continent's total population, according to the Africa Institute of South Africa. Although only 37% of people in Africa were urbanised in 1995, urban populations were growing faster than anywhere else in the world. Gauteng had the largest urban areas south of the equator, consisting of five urban agglomerations (a cluster of large and smaller towns that have developed around a large city)—Greater Pretoria; the Vaal Triangle; and the central, east and west Witwatersrand. With the exception of Cairo (Egypt), Gauteng and Kinshasa-Brazzaville (Zaire, Congo), all other large agglomerations were centred on major ports,

including Durban and Cape Town. Of the eight urban agglomerations in Africa, three were in South Africa (Gauteng, Durban/Pietermaritzburg and south-west Cape). Johannesburg, with 2,5m inhabitants, was the ninth largest city in Africa, while Cape Town was the twelfth largest (2,4m) and Pretoria the thirtieth largest (1,2m). The following table provides a breakdown of the urban populations of the three urban agglomerations in South Africa in 1960 and 1995:⁷³ [⁷³ Ibid]

Urban agglomerations in South Africa: 1960 and 1995

Region

1960

1995

Increase/ (decrease)

Proportion^a

Gauteng

Greater Pretoria

420 000

1 200 000

186%

4,5%

Witwatersrand

2 200 000

5 750 000

161%

21,5%

Vaal Triangle

180 000

800 000

344%

3,0%

Subtotal

2 800 000

7 750 000

177%

29,0%

Durban/Pietermaritzburg

Greater Durban

680 000

1 800 000

165%

6,7%

Pietermaritzburg

130 000

500 000

285%

2,3%

Other towns^b

60 000

1 600 000

2 567%

6,0%

Subtotal

870 000

3 900 000

348%

15,0%

South-west Cape

Cape Peninsula

800 000

790 000

(1,0%)

2,9%

Cape Flats^c

N/A

1 590 000

N/A

5,9%

Boland towns^d

110 000

370 000

236%

1,3%

Subtotal

910 000

2 750 000

202%

10,0%

Total^e

4 580 000

14 400 000

214%

54,0%

a

Proportion of total urban population in 1995.

b

Includes Amanzimtoti, Camperdown, Inanda, Lower Tugela, Mpumalanga (town) and Ndwedwe.

c

Includes Khayelitsha, Mitchell's Plain and Nyanga.

d

Includes Paarl, Somerset West, Stellenbosch and Wellington.

e

Subtotals add up vertically.

Policy

No policy on urbanisation had been published at the time of writing.

EMIGRATION AND IMMIGRATION

Policy

Speaking in the National Assembly in June 1996, the minister of home affairs, Chief Mangosuthu Buthelezi, said that bilateral discussions with South Africa's neighbouring countries, initiated in 1995, would continue in 1996 on matters such as visas, reciprocal measures relating to entry into countries, citizenship, naturalisation and problems regarding illegal immigrants. Discussions had already been held with Botswana, Mozambique, Namibia and Zimbabwe. Chief Buthelezi also announced that South Africa had acquired observer status at the International Organisation for Migration in Geneva. This organisation enabled governments to 'exchange experiences' regarding migration.⁷⁴ [⁷⁴ *Hansard* (NA) 8 col 2111, 4 June 1996]

Chief Buthelezi announced in the same month that citizens of Southern African Development Community (SADC) member states in South Africa who complied with certain conditions would be able to apply for exemption from repatriation and acquire permanent residence. Applicants would qualify for exemption if they could provide evidence of the following:⁷⁵ [⁷⁵ *Ibid*]

- continuous residence in the country for five or more years prior to 1st July 1996;
- no criminal record;
- engagement in formal or informal economic activity;

- an ongoing relationship with a South African partner or spouse; or
- dependent children who were born in the country.

Applications could be submitted between 1st July 1996 and 30th September 1996.⁷⁶ [⁷⁶ *Hansard* (NA) 8 col 2110, 4 June 1996] Some 84800 applications were received by the latter date. The department later announced that the deadline for applications for permanent residence would be extended to 29th November because it had not been possible to accommodate all the applications in the three-month period.⁷⁷ [⁷⁷ *Business Day* 1 October 1996] Some 204 000 applications had been received by 6th November 1996.⁷⁸ [⁷⁸ *The Star* 7 November 1996]

Earlier in the year Chief Buthelezi had told the parliamentary committee on home affairs that the South African population could increase by up to 12m people if an estimated 600 000 exemptions were granted. Exemptions went beyond individuals to include families, resulting in up to 20 people immigrating for one exemption granted, he said.⁷⁹ [⁷⁹ *Business Day*, *The Citizen* 20 March 1996]

The executive director of the Institute for Democracy in South Africa, Professor Wilmot James, said that to assume that those eligible for exemption would bring along ten to 20 family members indicated a poor understanding of the dynamics of regional migration. Research on migration indicated that many migrants retained a base in their country of origin and preferred not to bring their dependants with them but sent back earnings to support them.⁸⁰ [⁸⁰ *The Star* 24 May 1996]

Throughout the period under review various viewpoints were expressed about illegal immigration and what policies should be adopted towards the phenomenon. Details appear under *Illegal immigration* below.

Labour Market Commission

In 1995 the Presidential Commission to Investigate the Development of a Comprehensive Labour Market Policy (the labour market commission) was established to review and make recommendations (see also chapter on *Employment and Industrial Relations*). The commission presented its report in June 1996. With regard to the wide-ranging estimates of the number of illegal immigrants in the country, the commission said that the inflow of undocumented people to South Africa was a relatively recent phenomenon, dating for the most part from 1990. It was therefore unlikely that the country had absorbed 5m–8m foreigners, legal and illegal, since then. Had it done so, the effect of illegal immigrants on the labour market and social services would have been much more significant than it appeared to have been. Among the commission's proposals were the following:

- labour migration policy should conform with non-discriminatory, internationally accepted principles and should not be in conflict with the constitution;

- immigration laws should be replaced by a single immigration statute, regulating the entry of all foreigners into the country—all foreign workers would therefore be treated equally;
- national skills requirements should be taken into account when allocating immigration or work permits;
- a more liberal approach to the granting of immigration and work permits to skilled applicants should be adopted as this would address the problem of skills shortages in the country and would lead to a more realistic pricing of labour;
- the Department of Labour should undertake annual surveys of occupational vacancies in the country so as to assist the Department of Home Affairs in administering its migration policy;
- a preferential policy for member countries of the Southern African Customs Union and Mozambique should be adopted, allowing access for unskilled workers from these countries on a continuing basis. These workers would not be restricted to work in the mining and agricultural sectors;
- sanctions against people employing foreign workers illegally should be increased; and
- South Africa should not agree to the implementation of all the proposals of the Draft Protocol on the Free Movement of Persons in SADC Region of June 1995 as this would be politically and economically unsustainable because of the highly uneven development in the SADC region. (The protocol aimed to remove the control of movement of citizens within member states.)⁸¹ [⁸¹ Report of the Presidential Commission to Investigate the Development of a Comprehensive Labour Market Policy, *Restructuring the South African Labour Market*, June 1996]

Work Permits, Permanent Residence, Refugees, and Asylum Seekers

For details on policy regarding these matters, see *Legal immigration, Permanent residence, and Refugees and asylum seekers* below.

Trends

The following table provides a breakdown of the number of immigrants to, and emigrants from, South Africa from 1940 to 1995 as well as the net gain or loss of people, according to the Central Statistical Service:⁸² [⁸² **Fast Facts** No 8 1996; CSS, *South African Labour Statistics*, 1994]

Immigration and emigration: 1940–95

Immigrants

Emigrants

Net gain/(loss)

1940

3 526

2 723

803

1941

1 964

2 428

(464)

1942

1 991

2 021

(30)

1943

994

2 167

(1 173)

1944

1 049

2 459

(1 410)

1945

2 949

4 881

(1 932)

1946

12 030

9 095

2 935

1947

29 827

8 040

21 787

1948

36 734

7 623

29 111

1949

15 576

9 403

6 173

1950

13 663

14 956

(1 293)

1951

15 890

15 546

344

1952

18 975

9 877

9 098

1953

17 267

10 324

6 943

1954

16 719

11 461

5 258

1955

16 684

12 636

4 048

1956

15 238

13 031

2 207

1957

14 631

11 034

3 597

1958

14 701

8 954

5 747

1959

12 598

9 502

3 096

1960

9 805

12 705

(2 900)

1961

16 373

15 046

1 327

1962

20 972

9 162

11 810

1963

38 013

7 272

30 741

1964

40 896

8 293

32 603

1965

38 337

9 479

28 858

1966

48 051

10 289

37 762

1967

38 937

11 289

27 648

1968

40 548

10 945

29 603

1969

41 446

9 313

32 133

1970

41 523

9 278

32 245

1971

35 845

8 407

27 438

1972

32 776

7 884

24 892

1973

24 016

6 401

17 615

1974

35 910

7 428

28 482

1975

50 464

10 255

40 209

1976

46 239

15 641

30 598

1977

24 822

26 000

(1 178)

1978

18 669

20 686

(2 017)

1979

18 680

15 694

2 986

1980

29 365

11 363

18 002

1981

41 542

8 791

32 751

1982

45 784

6 832

38 952

1983

30 483

8 247

22 236

1984

28 793

8 550

20 243

1985

17 284

11 401

5 883

1986

6 994

13 711

(6 717)

1987

7 953

11 174

(3 221)

1988

10 400

7 767

2 633

1989

11 270

4 911

6 359

1990

14 499

4 722

9 777

1991

12 379

4 256

8 123

1992

8 686

4 289

4 397

1993

9 824

8 078

1 746

1994

6 398

10 235

(3 8

In the 55 years from 1940 to 1995, some 1,2m people immigrated to South Africa while more than 532 000 people emigrated. From 1990 to 1995 the flow of immigrants to South Africa slowed down, and the

number of people leaving the country almost doubled. South Africa experienced net losses of people during the Second World War, and in 1950, 1960, 1977–78, 1986–87 and 1994–95.

The line chart shows the net gain or loss of people from 1940–95:

Economically Active People

According to the CSS, a total of 4 526 economically active people emigrated from South Africa in 1995, compared with 4 860 in 1994—a decrease of 7%. However, because of a drop in the number of immigrants, there was a 21% increase in the *net loss* of economically active people. In 1996 the number of economically active immigrants increased by 13% on 1995, while the number of economically active emigrants increased by 14%. Economically active immigrants numbered 1 995, while 5 163 economically active people emigrated—a net loss of 3 168.⁸³ [⁸³ CSS, *Tourism and Migration, January 1996*, Statistical Release PO351, 13 May 1996; *The Star* 17 April 1997]

In 1996, 843 people in professional, semi-professional and technical occupations immigrated, while 1 970 people in those occupations emigrated. This resulted in a net loss of 1 127 professional, semi-professional or technical people—a 28% increase in the net loss of people in those occupations compared with 1995 when the net loss was 882.⁸⁴ [⁸⁴ *Business Day* 18 April 1997]

The following tables provide a breakdown by occupation of the net gain/ loss of economically active people from 1975 to 1995 (figures for 1987 were not available. A breakdown by occupation was not available for 1996):⁸⁵ [⁸⁵ CSS, *Tourism and Migration, January 1996*, Statistical Release PO351, 13 May 1996]

Net gain/(loss) of economically active people by occupation: 1975–86

Year

Professional

Administrative

Clerical

Sales Workers

Service Workers

Agricultural

Production

Not classifiable

Total

1975

19 220

757

2 744

839

538

191

4 995

1 453

30 737

1976

3 943

1 133

2 595

792

470

178

3 555

453

13 119

1977

(507)

77

300

119

12

131

(229)

(621)

(718)

1978

(943)

(184)

45

127

88

160

(171)

(310)

(1 188)

1979

(169)

(70)

410

290

138

180

308

31

1 118

1980

2 041

517

1 484

604

641

212

2 106

369

7 974

1981

3 652

862

2 313

750

634

174

4 650

631

13 666

1982

4 918

1 112

2 851

951

725

155

7 114

1 079

18 905

1983

2 764

839

1 831

672

525

174

3 147

708

10 660

1984

2 751

926

1 601

614

562

179

2 901

456

9 990

1985

614

241

498

188

240

46

1 140

(22)

2 945

1986

(1 215)

(227)

(413)

(240)

35

(2)

(282)

(149)

(2 493)

Total

37 069

5 983

16 259

5 706

4 608

1 778

29 234

4

Net gain/(loss) of economically active people by occupation: 1988–95^a

Year

Professional

Managerial^b

Clerical and sales

Transport^c

Agricultural

Service workers

Manufacturing and construction

Total

1988

(901)

250

395

8

43

131

329

255

1989

367

476

826

12

40

135

688

2 544

1990

888

598

1 349

26

63

209

1 018

4 151

1991

1 031

561

1 042

75

59

191

334

3 293

1992

710

278

471

44

(2)

126

(55)

1 572

1993^d

N/A

N/A

N/A

N/A

N/A

N/A

N/A

N/A

1994

(857)

(148)

(608)

(26)

6

(7)

(652)

(2 292)

1995

(882)

(290)

(611)

(34)

(21)

(23)

(903)

(2 764)

Total

356

1 725

2 864

105

188

762

759

6 759

a

In 1987 the CSS changed its classification of occupations to the Standard Classification of Occupations. Data from 1st January 1987 are therefore not strictly comparable with data prior to this date.

b

Includes administrative.

c

Includes delivery and communication.

d

For a period in 1993 the Department of Home Affairs utilised a computerised system to record the number of travellers to and from South Africa. A distinction could not be made between emigrants and other departing South African citizens

According to the CSS, for two or more years after the 1976 Soweto upheavals and the renewed political violence in 1984, there were net losses or low net gains of economically active people in all occupational categories. In 1976 South Africa gained some 15 000 fewer professionals than in the previous year, while in 1986 the country had a net lost 1 215 professionals. Between 1988 and 1990 there were net increases in the number of economically active people. From 1991, however, the numbers dropped, and in 1994 and 1995 economically active emigrants exceeded immigrants.⁸⁶ [⁸⁶ CSS, *South African Statistics*, 1994; CSS, *Tourism and Migration, January 1996*, Statistical Release PO351, 13 May 1996]

From 1975 to 1986 the country gained 37 069 professionals—an average of 3089 per year, while from 1988 to 1995, the net gain was only 356, an average of 51 per year. (Data from 1st January 1987 are not strictly comparable with data prior to this date.)⁸⁷ [⁸⁷ Ibid]

In 1994 and 1995 there was a net loss of more than 1 700 people in professional occupations. Although there was a net gain of 86 medical practitioners in 1994, this figure dropped to 14 in 1995. In 1995 there was a greater *net loss* of engineers (33%) and people in dental (175%), educational (23%) and accounting (15%) occupations than in 1994.⁸⁸ [⁸⁸ CSS, *Tourism and Migration, January 1996*, Statistical Release PO351, 13 May 1996]

South Africa experienced a net loss of people in almost all occupational categories since 1994, according to the CSS. From 1990 to the end of 1995, 7 206 professionals immigrated, while 6 316 emigrated, resulting in a net gain of only 890 professionals. (Figures for 1993 are not included as information for that year is not available.)⁸⁹ [⁸⁹ Ibid; CSS, *South African Statistics*, 1994]

Emigration

The Central Statistical Service (CSS) said that in 1995 some 8 725 people emigrated officially from South Africa, compared with 10235 in 1994—a drop of 15%. The country, however, still experienced a net loss of 3661 people, as there were fewer immigrants. Most people emigrated to the United Kingdom (UK) (2045), Australia (1507), New Zealand (939) and the United States (US) (882).⁹⁰ [⁹⁰ CSS, *Tourism and Migration, January 1996*, Statistical Release PO351, 13 May 1996] In 1996 some 9 708 people emigrated from South Africa—an 11% increase on 1995. Of the 5 163 who were economically active, 38% were in professional, semiprofessional or technical occupations. The most popular destinations were Europe (3 198), Oceania (3 035), and North and South America (1 786).⁹¹ [⁹¹ 17 April 1997]

Immigration

Legal Immigration

According to the Central Statistical Service (CSS), in 1995 some 5 064 people immigrated to South Africa, compared with 6 398 in 1994—a decrease of 21%. Most immigrants were from the United Kingdom (1046), Zimbabwe (405), Japan (303), Germany (249) and the Republic of China on Taiwan (247).⁹² [⁹² CSS, *Tourism and Migration, January 1996*, Statistical Release PO351, 13 May 1996] In 1996, 5 407 people immigrated to South Africa—a 7% increase. Of these, 1 995 were economically active. Most immigrants were from Europe (2 315), Africa (1 601) and Asia (1 137).⁹³ [⁹³ **Fast Facts** No 5 1997; *The Star* 17 April 1997]

In July 1996 the minister of home affairs, Chief Mangosuthu Buthelezi, appealed to foreign companies in South Africa not to appoint foreign workers to positions that could be filled by local workers unless it was ‘absolutely necessary’. Companies should also provide for training of local workers as this would show support for the reconstruction and development programme (RDP), Chief Buthelezi said. The Department of Home Affairs could not grant work permits to foreign workers who did not have special skills or qualifications not readily available in South Africa, as this would deprive South African citizens and other permanent residents of their right to earn a living.⁹⁴ [⁹⁴ *The Citizen* 24 July 1996]

In August 1996 foreign professionals claimed that racial prejudice and incompetence at the Department of Home Affairs were deterring them from obtaining work permits or permanent residence in South Africa. Foreign professionals claimed that the department issued white foreigners with renewals that were six months longer than black applicants’. Renewals were costly and reasons were not provided if the permit was denied. A spokesman for the department, Mr Marks Nkwana, denied this, saying that visas and work permits were considered strictly on merit and in accordance with the aims of the RDP to reserve, where possible, employment opportunities for South African citizens. Permits were issued for a standard period irrespective of nationality, race, colour or creed. The department was ‘legally bound’ not to issue work permits to non-South Africans who could take a job away from a South African citizen.

There was no obligation to provide reasons for the department's decisions.⁹⁵ [⁹⁵ *The Star* 5 August 1996]

Citizenship

According to the Department of Home Affairs, 12 540 people were granted South African citizenship in 1995 (compared with 17 432 in 1994). In 1995 some 566 people were deprived of, or renounced, their South African citizenship (1 679 in 1994). Permission was granted to 12 765 South African citizens who were also citizens of other countries, to make use of their passports from those countries.⁹⁶ [⁹⁶ Department of Home Affairs, annual report 1995] From January 1995 to April 1996, some 16 892 people obtained South African citizenship.⁹⁷ [⁹⁷ *Business Day* 13 August 1996]

The CSS gives the following breakdown of the South African population according to citizenship in 1991 (the latest date for which figures are available):⁹⁸ [⁹⁸ 1995/96 *Survey*, p29]

Population according to citizenship: 1991

Region
African
Asian
Coloured
White
Total
South Africa ^a
21 150 764
976 720
3 275 969
4 678 124
30 081 577

Rest of Africa

451 472

959

5 354

50 539

508 324

Americas

111

143

51

9 383

9 688

Asia

630

4 897

155

8 865

14 547

Europe

1 974

536

650

302 122

305 282

Oceania

253

80

81

5 869

6 283

Unspecified

39 854

2 128

3 413

7 475

52 870

Foreign visitors

1 413

1 156

46

5 734

8 349

Total^b

21 646 471

986 620

3 285 719

5 068 111

30 986 920

a

Excludes the former 'independent' homelands.

b

Figures may not add up owing to rounding.

According to the CSS, in 1991 some 97% of people living in South Africa were South African citizens. About 0,5m people were citizens from other African countries, while some 0,3m people had European cit

Permanent Residence

The following table shows the number of immigrants from selected countries and regions granted and refused permanent residence in 1994 and 1995:100 [¹⁰⁰*Hansard* (NA:Q) 4 cols 689–692, 9 May 1996]

Permanent residence: 1994 and 1995

Permanent residence granted

Permanent residence refused

Region/country

1994

1995

1994

1995

Africa

760

1 446

445

277

Canada

34

84

15

9

Europe

2 269

2 447

1 106

466

Hong Kong

91

86

126

68

India

464

307

342

86

Israel

78

69

42

9

Middle East

0

1

9

1

Pakistan

100

89

63

14

South America

86

298

44

76

Taiwan

813

525

824

364

United Kingdom

700

1 118

329

83

Total

5 395

6 470

3 345

1 453

In August 1996 Ziana (a Zimbabwean news agency) reported that Southern African Development Community (SADC) countries had failed to agree on a draft protocol on the free movement of people within the region. The protocol would allow for citizens of any SADC country to settle in the country of their choice within the region, and would remove visa requirements within the region.

The Social Assistance Act of 1992, implemented from 1st March 1996, discontinued the payment of social pensions and social assistance grants to people who had been granted permanent residence in South Africa. Permanent residents qualifying for pensions and grants prior to the implementation date would continue to receive their benefits, but no new permanent residents would qualify. A spokesman for the Department of Welfare said that providing for permanent residents was too expensive and that many of them received pensions from their country of origin. There had also been problems in the past when social pensions were paid to illegal immigrants, the department said (see also chapter on *Welfare* and 1992/93 *Survey*, p

Illegal Immigration

In February 1996 a letter of intent was signed by the minister of defence, Mr Joe Modise, and the Mozambican minister of defence, Mr Aguiar Real Mazula, allowing the South African National Defence Force (SANDF) to undertake crossborder 'hot-pursuit' operations in Mozambique, in an attempt to curb gun and drug smuggling and illegal migration (see also chapter on *Security*).¹⁰³ [¹⁰³ *The Mercury* 7 February 1996] At the time of writing a formal defence agreement had not been signed.¹⁰⁴ [¹⁰⁴ Telephonic interview with Captain I C Little, acting director: foreign relations, Defence Secretariat, 27 August 1996]

In February 1996, a member of the Gauteng legislature, Mr Humphrey Ndlovu (Inkatha Freedom Party), said that the government needed to take strong action to stop illegal immigrants from entering South Africa as they resorted to crime and squatting when they could not find work or housing. However, he said, the IFP deplored the forced removal of people as this was often conducted in a heartless manner.¹⁰⁵ [¹⁰⁵ *The Citizen* 12 February 1996]

A spokesman for the National Party (NP) in the Gauteng legislature, Mr Daryl Swanepoel, said the following month that illegal immigrants in South Africa were restricting housing development, robbing South Africans of jobs and 'ruining' the informal sector. Women and children were given free medical treatment at the expense of South Africans, and their children were educated in government schools, all of which could lead to the failure of the RDP. Other problems associated with the inflow of illegal immigrants included an increase in illegal firearms, drug smuggling, crime and the 'spread of diseases'. Mr Swanepoel said that control mechanisms had to be put in place at all provincial hospitals, clinics and schools to ensure that only legal residents were accommodated.¹⁰⁶ [¹⁰⁶ **Frontiers of Freedom**, second quarter

1996] In response, the South African Institute of Race Relations called on the Gauteng government to reject the NP's proposal for denying basic state services to illegal immigrants, as this would be a gross denial of basic and inalienable human rights. The Institute said that a policy effectively calling for the forced removal of 5% of the country's population would not succeed, just as the NP government's policy of forced removals had not succeeded. The NP's claim that illegal immigrants robbed South Africans of jobs, exacerbated crime and poverty, and spread diseases, was unproven, the Institute said.¹⁰⁷ [¹⁰⁷ Ibid] The president of the South African Institute of Artisans, Mr Ravi Moodley, said in May 1996 that illegal immigrants should not be viewed as a sociopolitical problem, but rather as a vast pool of skills and talent. Allowing illegal immigrants to work and earn a living would help to solve problems such as the growing crime rate and skills shortages. He said that immigrants were an asset whose skills and entrepreneurial spirit could be exploited to help the country grow. Foreigners determined to succeed could do more to uplift the economy of southern Africa than any government policy, he said.¹⁰⁸ [¹⁰⁸ *Business Day* 16 May 1996]

A member of the Gauteng legislature, Mrs Annelize van Wyk (NP), said in June 1996 that the Gauteng government could be spending up to R208m a year subsidising the education of some 80 000 to 100 000 illegal immigrants. (These figures were supplied by the Transvaalse Onderwysersvereniging.) 'The Department of Education should have a register of children of illegal immigrants attending our schools,' she said. The MEC for education in Gauteng, Ms Mary Metcalfe, said that the figures supplied by the Transvaalse Onderwysersvereniging had not been verified and cautioned people about 'fanning the fires of xenophobia and causing hysteria'. The leader of the Democratic Party (DP) in the Gauteng legislature, Mr Peter Leon, said that although the DP wanted stronger border controls, illegal immigrants could not be refused basic health care or education. The president of the South African Democratic Teachers' Union, Mr Duncan Hindle, said that the union's members did not think it was a teacher's job to query where their pupils came from.¹⁰⁹ [¹⁰⁹ *The Star* 12 June 1996]

In July 1996 Mrs Sheena Duncan of the Black Sash said that the country's attitude towards illegal immigrants was 'appalling'. The government spent vast sums of money on deporting economically active people who contributed a great deal to South Africa's economic growth. Illegal immigrants were not 'stealing' jobs but were creating their own opportunities and were not 'stealing' houses as they were not eligible for state-subsidised housing. Illegal immigrants paid their value added tax, worked in factories, farms and mines and were allowed to vote in the 1994 general election, but were not accorded the support they were entitled to after their continued contribution to the country's wealth accumulation. Mrs Duncan called on the parliamentary committee on home affairs to initiate discussion on immigration and citizenship policies, and said that green and white papers and public consultation were needed to formulate those policies.¹¹⁰ [¹¹⁰ Ibid 9 July 1996]

A report published by the Institute for Futures Research at the University of Stellenbosch in February 1996 said that illegal immigration to South Africa could be linked to civil war, famine, drought and adverse economic conditions in southern Africa. The exact number of illegal immigrants in South Africa could not, for obvious reasons, be determined. Rough estimates varied from 2m to 8m. In addition to underlying causes, the following factors were identified as facilitating the movement of illegal

immigrants into the country:¹¹¹ [111 IFR, University of Stellenbosch, *Migration Processes, Systems and Policies—With Special Emphasis on South African International Migration*, Occasional Paper no 25, February 1996]

- long international borders;
- a long coastline;
- political and humanitarian factors working against more effective use of electrified fences on the Mozambican and Zimbabwean borders;
- insufficient manpower to patrol borders effectively;
- fewer powers accorded to the SANDF in ‘operational areas’ adjacent to international boundaries compared with those under the previous government;
- the inability of government departments to deal with large numbers of illegal immigrants because of staff shortages;
- the cost of border protection;
- non-uniform application of entry procedures (such as insufficient security measures at certain airports);
- political indecision and contradictory pronouncements by political leaders in South Africa;
- farmers’ and employers’ regarding illegal immigrants as sources of cheap, more reliable and non-unionised labour;
- corruption and fraud in government departments and an increase in forged identity documents; and
- the potential for abuse of refugee status.

According to the study, the inflow of illegal immigrants had a detrimental effect on the socio-economic structure and development of the country, and on safety and security. It was argued that illegal immigrants exacerbated the high levels of unemployment and crime, drained natural resources and created problems for social welfare services, planning and the RDP, and were therefore costly. This could result in xenophobia, ethnic antagonism, civil conflict and violent backlash. The government’s response to the inflow of illegal immigrants was to try to keep them out and send home those who succeeded in entering. The only way South Africa would be able to reduce the flow, the report said, would be to support economic and social development and political stability in the southern African region, thereby providing people with an incentive to stay in their own countries.¹¹² [112 Ibid]

In May 1996 researchers at the Institute for Defence Policy said that the government was ‘misguided’ in directing scarce resources to reinforce border security measures. The SANDF border protection units monitoring the Mozambican and Zimbabwean borders claimed a 90% success rate in apprehending illegal immigrants crossing the electrified fence. A fact often overlooked by the government was that a large number of immigrants entered South Africa legally and later became illegal after their temporary residence permit expired (the CSS estimated this figure to be 750 000 people in 1995). Stronger internal controls were therefore necessary, such as tamper-proof identity cards. The institute said that in 1994 police statistics claimed that some 14% of *general* crimes recorded (which include shellfish and diamond smuggling, and prostitution) involved illegal immigrants. In the same year some 12400 illegal immigrants were apprehended for serious crimes—1,5% of the total number of recorded crimes. The popular perception was, however, that illegal immigrants were overwhelmingly responsible for crime. The institute agreed that in order to address the root causes of illegal migration in southern Africa, it was necessary to focus on regional economic development.¹¹³ [¹¹³ *Business Day* 21 May 1996]

The director of the Institute for Strategic Studies at the University of Pretoria, Professor Mike Hough, said that taking the crime rate into consideration, any contribution to crime, especially from illegal immigrants, was unacceptable. In 1994 the South African Police Service (SAPS) repatriated some 45 600 illegal immigrants, of whom more than 12 400 had been apprehended for serious crimes—27% of the total number of illegal immigrants arrested by the police. Professor Hough said that the development of southern Africa was ideal as a long-term solution for illegal migration, but not practicable as there was diminishing hope that many development targets in South Africa itself could be met.¹¹⁴ [¹¹⁴ *Ibid* 23 May 1996]

Later in the month the president, Mr Nelson Mandela, said that South Africa could not be ‘very tough’ with illegal immigrants from neighbouring countries because countries such as Mozambique had given the African National Congress asylum during the apartheid years, and so were considered ‘home’ for decades. Illegal immigrants were therefore regarded as ‘brothers and sisters’.¹¹⁵ [¹¹⁵ *Sowetan* 24 May 1996]

The CSS said in June 1996 that illegal immigrants would be included in the national census in October 1996, but statistics would not provide a breakdown of the number of illegal immigrants. Census questionnaires would not require individuals to declare the legality of their residential status.¹¹⁶ [¹¹⁶ *Business Day* 7 June 1996]

A researcher at the Centre for Policy Studies, Ms Maxine Reitzes, said that government policy towards illegal immigrants in South Africa was counterproductive. A study of illegal immigrants in the North West province showed that many were self-employed and economically productive. While many South Africans considered them to be a drain on the economy, they were in fact contributing skills and resources and not merely ‘consuming’ them. Because the proposed bill of rights did not grant illegal immigrants the right to economic activity, they were constitutionally denied opportunities to create wealth, and were instead constitutionally ‘forced’ to consume it. The study also found that illegal immigrants were not involved in crime in the area any more than local residents, but were in fact

increasingly becoming targets of crime because they did not report violations for fear of being arrested and repatriated. Illegal immigrants were threatening to retaliate if members of the SAPS and local communities continued to harass them, Ms Reitzes said. Members of the SAPS were accused of indiscriminate arrests and repatriations and complicity in the looting of illegal immigrants' homes.¹¹⁷ [¹¹⁷ Ibid 29 August 1996]

In August 1996 the national commissioner of the SAPS, Commissioner George Fivaz, said that the moratorium on police officer recruitment restricted the effective control of South African borders. The shortage of officers meant that the country's borders were 'virtually uncontrolled' and detectives were overworked. While 1 600 officers were needed to control points of entry effectively, only 740 were assigned to border control duties, he said.¹¹⁸ [¹¹⁸ *Cape Times* 29 August 1996]

Repatriation and Deportation

Repatriation is the process whereby a person who has illegally entered a country or whose temporary residence has expired is restored to his/her country of origin. Deportation is where a person is sent back to his/her country of birth from the country where he/she is legally resident if his/her presence in that country becomes undesirable for some reason, or if he/she commits a criminal offence. The person receives a fine or sentence in court, and is not allowed to re-enter the country from which he/she was deported.

According to the Department of Home Affairs, 157084 illegal immigrants were repatriated during 1995, compared with 90692 in 1994—an increase of 73%.¹¹⁹ [¹¹⁹ Department of Home Affairs, annual report 1995] This was because of better co-operation from the public and the establishment of a tracing unit by the SAPS, the department said.¹²⁰ [¹²⁰ *Business Day* 15 February 1996] Most repatriations had been to Mozambique (131689), Zimbabwe (17549) and Lesotho (4087). In 1995 repatriations to Mozambique comprised 84% of all repatriations, compared with 79% in 1994.¹²¹ [¹²¹ Department of Home Affairs, annual report, 1995]

In the first six months of 1996 a total of 80 566 people were repatriated, mostly to Mozambique (69 269), Zimbabwe (6 858), Lesotho (1 544) and Malawi (1014). Repatriation to those four countries accounted for more than 97% of all repatriations in this period.¹²² [¹²² Fax communication from Mr G W Orr, Department of Home Affairs, 12 August 1996]

The Department of Home Affairs said in its 1995 annual report that 648 deportation orders had been issued, compared with 215 in 1994. Only 75 deportation orders were executed in 1995 because many of the orders could be carried out only after offenders had served their sentences.¹²³ [¹²³ Department of Home Affairs, annual report 1995] In the first six months of 1996 a total of 257 deportation orders were issued, 154 of which were issued to Mozambican citizens.¹²⁴ [¹²⁴ Fax communication from Mr G W Orr, Department of Home Affairs, 12 August 1996]

Refugees and Asylum Seekers

An asylum seeker is a person who seeks the status of refugee, but whose status has not yet been determined by the host country. Such a person is given ‘temporary’ asylum until his/her status is determined and must in the interim be treated in terms of internationally accepted principles pertaining to the protection and treatment of asylum seekers. The host country does not declare an asylum seeker to be a refugee, but merely determines whether such a person qualifies to be a refugee in terms of the Convention Relating to the Status of Refugees of 1951. A refugee is therefore a person who qualifies as such, in terms of the definition of the convention. Once the host country has determined the asylum seeker’s status, it must then consider whether that person should be granted asylum or not. Asylum is therefore not automatically granted to a refugee.

Speaking in the National Assembly in June 1996, Chief Buthelezi said that South Africa had in January acceded to the Convention Relating to the Status of Refugees of 1951, the Protocol Relating to the Status of Refugees of 1967, and the Organisation of African Unity Convention Governing Specific Aspects of Refugee Problems in Africa of 1967. These internationally accepted principles were already being applied by the Department of Home Affairs.¹²⁵ [¹²⁵ *Hansard* (NA) 8 col 2111, 4 June 1996] Legislation to incorporate these principles into South African law was being drawn up in 1996.¹²⁶ [¹²⁶ Telephonic interview with Mrs Carin Wilkins, senior communications officer, Department of Home Affairs, 22 October 1996]

According to the Department of Home Affairs, 10 545 applications for refugee status were received in 1995. The following table provides a breakdown of the number of applications received, approved and refused by geographic origin in 1995:¹²⁷ [¹²⁷ Department of Home Affairs, annual report 1995]

Applications for refugee status: 1995

Geographic origin

Applications received

Applications approved

Application refused

Africa

8 737^a

2 030

2 256

Asia

1 504

3

811

Europe

277

14

21

Middle East

27

0

3

Other

0

0

0

Total

10 545^b

2 047

3 091

a

There were 2 875 applications from citizens of Angola and 2 449 applications from citizens of Zaire.

b

At the time of publication of the department's annual report 5 407 applications were being proc

Some 300 refugees and asylum seekers from 12 African states gathered at the office of the United Nations High Commissioner for Refugees (UNHCR) in Pretoria in July 1996, demanding that their repatriations be deferred until they could be settled in other countries. A spokesman for the group said that refugees were not being treated according to the United Nations protocol for people seeking asylum and that the government had notified several refugees that they had 14 days to leave the country. A memorandum handed to the UNHCR regional representative for southern Africa, Mr Nicolas Bwakira, demanded, among other things, that a neutral tribunal be set up to hear asylum cases that had been rejected, and that those who had asylum be provided with financial assistance and job opportunities. Mr Bwakira said that granting asylum was a decision only the government could make.¹²⁸ [¹²⁸ *The Star* 30 July 1996]

The Department of Home Affairs replied that the UNHCR would help refugees or asylum seekers to resettle in other countries only if their current country of asylum was considered unsafe—this was not the case in South Africa. Once an application for refugee status or asylum was rejected, the applicant was no longer considered an asylum seeker with the relevant rights and privileges, the department said. Those who were recognised as refugees were allowed to work while they were in the country, but the department rejected claims by refugees that they had a 'right' to work opportunities and financial assistance from the state.¹²⁹ [¹²⁹ *Business Day*, *The Citizen* 31 July 1996]

The Department of Home Affairs provided the following table showing the number of applications for asylum received from refugees, as well as the number of applications finalised and outstanding from September 1993 to July 1996:¹³⁰ [¹³⁰ Fax communication from Mrs M Marques, Department of Home Affairs, 26 August 1996]

Applications for asylum: September 1993–July 1996

Country

Applications received

Applications finalised

Applications outstanding

Angola

3 477

3 015

462

Burundi

338

47

291

China

404

151

253

Ethiopia

592

465

127

Ghana

334

71

263

India

1 141

514

627

Nigeria

1 849

226

1 623

Pakistan

1 513

1 093

420

Rwanda

495

200

295

Senegal

669

41

628

Somalia

1 667

933

734

Zaire

2 383

1 855

528

Other

2 945

729

2 216

Total

17 807

9 340

8 467

The Department of Home Affairs received 17 807 applications for asylum from September 1993 to 31st July 1996. The greatest numbers of applications (excluding the category 'other') were received from Angolan (3477), Zairean (2383) and Nigerian (1849

POLICY REVIEW

The head of the Central Statistical Service, Dr Mark Orkin, said that classification by race, sex and class had to be reintroduced into statistics to track inequalities and the demise of racism and sexism.

Demographic information is needed to formulate and implement various government policies. The government said it would use information from the 1996 census to refocus the reconstruction and development programme and the macro-economic strategy on areas where it was needed. The census would provide a clearer picture of water and sanitation shortages, housing needs, and employment and education levels. Demographic indicators such as infant mortality rates, fertility rates, life expectancy and education levels are widely believed to be indicative of the living conditions of the population. A low level of unemployment, access to clean water and sanitation, and adequate health and education facilities contribute to low infant mortality, low fertility rates, and longer life expectancy.

The Choice on Termination of Pregnancy Act, assented to by the president in November 1996, provided for abortion on demand for all women within the first 12 weeks of pregnancy. The new legislation would allow a woman to have an abortion without informing or seeking the consent of the father of the child, or in the case of a minor, her parents and the father of the child.

The draft white paper for a population policy proposed that population issues be taken into account in the drafting of all government policies and legislation. Further proposals included reducing poverty, improving basic living conditions and promoting healthy and responsible reproductive and sexual behaviour.

During the period under review, government population policies focused on keeping illegal immigrants out of the country, and formalising the residential status of those already living in the country for more than five years.

In an attempt to provide for more effective control over the movement of foreigners into and out of South Africa, the government implemented the Aliens Control Amendment Act from 1st July 1996. The government considered the act an important 'legal basis' for controlling illegal immigrants in the country. However, the Department of Home Affairs said it would not effectively reduce the number of illegal immigrants entering the country.

A number of organisations monitoring migration policy suggested that the only way to stem the flow of illegal immigrants to South Africa was by assisting neighbouring countries to improve their socio-economic conditions, thereby creating an incentive for people to stay in their own countries. However, they said that this long-term goal would be unattainable because South Africa was having trouble reaching its own development goals. South Africa's regional trade policy—which promotes increased trade between itself and neighbouring countries—is not primarily focused on reducing the inflow of illegal immigrants to the country, but aims to contribute to the socio-economic upliftment of the region in the long-term.

The labour market commission proposed that South Africa should not agree to implement the proposals of a June 1995 Draft Protocol on the Free Movement of Persons in the SADC region. The protocol aimed to remove the control of movement of citizens between member states. This, the commission said, would be politically and economically unsustainable for South Africa because it could lead to a large

inflow of job seekers from other southern African countries.

The government also sought to formalise the residential status of citizens of Southern African Development Community (SADC) countries in South Africa. Those SADC citizens who complied with certain conditions could apply for exemption from repatriation and acquire permanent residence in South Africa.

The 'brain drain' continued in 1996 for the third consecutive year. There were renewed calls by the government upon white professionals not to leave the country, and for companies to employ local people. However, affirmative action policies (both in the public and the private sector) and escalating crime are seen by many as major causes of the emigration of skilled people. A number of white men, many of whom are in professional or semi-professional occupations, fear becoming redundant because of affirmative action policies, and may choose to leave the country at a time when there is a severe skills shortage.

KEY PROJECTIONS

- The Institute for Futures Research (IFR) at the University of Stellenbosch estimated that over the 30-year period between 1996 and 2026 the South African population would increase by 54% to 64,65m. However, the overall population growth rate would drop from 2,02% in 1991–96 to 0,96% in 2021–26.
- The World Bank said that by 2025, South Africa's average annual population growth rate would be 1,14%, compared with 1,86% for the whole of Africa and 0,96% for the world as a whole.
- According to the Development Bank of Southern Africa (DBSA), high economic growth and a well-integrated population development programme would result in a 51% increase in the total population between 1995 and 2020, while a continued high population growth rate and poverty would result in a 68% increase. The difference between the two scenarios in 2020 would be some 7,7m people.
- The Bureau of Market Research at the University of South Africa said that the South African population would grow at a rate of 1,7% a year, from 42,1m people in 1996 to 54,1m in 2011. However, if AIDS-related deaths continued at the current rate, there could be 750 000 fewer people than the projected 54,1m in 2011.
- The Department of Health estimated that by 2009 the number of deaths owing to AIDS would exceed the number of all other deaths. By 2010 some 12% of the total population would be HIV-positive (compared with less than 1% in 1990), while AIDS-deaths would exceed all other deaths by 8%.
- The chairman of corporate affairs at the Anglo American Corporation of South Africa, Mr Clem Sunter, said that AIDS would reduce life expectancy in South Africa from 63,4 years to about 40 by 2010. Some 600 000 people could be sick with AIDS by 2010, compared with the 3 143 reported cases in 1995.

- The IFR said that the fertility rate in South Africa would drop to 3,27 between 1996 and 2001 and to 2,03 by 2026. The fertility rate of African women would drop to 2,13 by 2026, while the fertility rates of coloured, Asian and white women would drop to 1,5.
- Between 2000 and 2005 the average fertility rate in South Africa (3,3) would be lower than that of Africa (5), but higher than that of the world (2,8), the World Bank said.
- According to the DBSA, a high economic growth rate and a well-integrated population development programme would result in the African fertility rate dropping from 4,3 in 1990 to 2,2 in 2020. A continued high population growth rate and increased poverty would result in the fertility rate declining more slowly, to 3,5 in 2020
- South Africa's infant mortality rate (39,4 deaths per 1 000 live births) would be significantly lower than that of Africa (78,9 deaths per 1 000 live births) between 2000 and 2005, according to the World Bank.
- According to the IFR, the average life expectancy at birth for the South African population would increase from 64,4 in 1991 to 71,7 in 2026. The average life expectancy of Africans would increase from 63,2 to 70,9, while that of coloured people would increase from 62,5 to 73,9.
- By 2026, people in the Western Cape would have an average life expectancy of 73,7 years, compared with 71 years in the Northern Province, the IFR said.
- In the period 2000–05 life expectancy in South Africa would average 66,9 years. This would be 19,9% higher than the African average and 1,6% lower than the average for the world.
- The DBSA estimated that by 2020, assuming moderate to high immigration, the population would increase by some 7% more (3,7m people) than if there was no immigration. Assuming higher immigration the population would increase by 9,6% (7,8m people).
- The Africa Institute of South Africa estimated that 65% of the South African population would be urbanised by 2000, compared with 41% of Africa and 51% of the world.
- According to the DBSA, some 68% of Africans would be living in urban areas by 2020, compared with 45% in 1995. Three quarters of coloured people would be urbanised, compared with 65% in 1995.

SECURITY

BIRD'S EYE VIEW

Crime continued to pose a threat to the security of South Africans. In 1995 the country had a murder rate 718% higher than the international average. Car hijackings rose by 12% from 1994 to 1995, while the number of trucks with freight hijacked increased by 102%.

Long-term trends confirmed the rise in crime. Serious violent crimes such as assault (with intent to inflict grievous bodily harm), murder, and rape increased over the 21-year period from 1974/75 to 1995. Assault went up by about 24%, murder by 119%, and rape by 149%.

The period under review saw attempts by the government, the private sector and ordinary South Africans to deal with the escalation in crime. In May 1996 the government launched a National Crime Prevention Strategy aimed at improving the functioning and co-ordination of government departments in fighting crime. In addition, several legislative measures aimed at curtailing crime were approved by Parliament.

In August 1996 an anticrime group calling itself People Against Gangsterism and Drugs (Pagad) gained national prominence when its members shot and burnt to death an alleged gang leader during a protest march against gangsterism and drug smuggling on the Cape Flats.

Despite the increase in crime the South African Police Service revealed that it was functioning with 15% fewer personnel than were necessary for it to operate effectively.

During 1996 calls were made for the reinstatement of the death penalty by political parties and the public. A survey revealed that nearly three quarters of South Africans favoured its reinstatement. Despite this, the president, Mr Nelson Mandela, declared in September 1996 that the death penalty would not be reinstated.

Two prominent cases involving alleged 'hit-squad' activities were concluded in October 1996. The trial of the former minister of defence, General Magnus Malan, and 19 others on charges of alleged involvement in the KwaMakhutha massacre (KwaZulu-Natal) in 1987, was concluded with the acquittal of all the accused on all charges. In the other a former commander of a police antiterrorist unit stationed at Vlakplaas (near Pretoria), Colonel Eugene de Kock, was found guilty on 89 counts including murder and was sentenced to two life terms plus 212 years in prison.

While no changes were made to the bail system during 1996 proposals were put forward to this effect. The government announced that it was considering the prohibition of bail for certain categories of serious crimes while the Department of Justice suggested that witnesses be allowed to give evidence in bail applications, and communities should be involved in the consideration of bail.

KEY POINTS

- Crime cost South Africa about R31bn in 1995, according to a Nedcor study. Crimes against households

cost about R1,7bn, crimes against businesses R15,8bn and commercial crime about R13bn.

- The Nedcor study showed that of every 1 000 crimes committed in South Africa only 450 were reported, 230 were solved and 100 were brought to trial. Of those prosecuted, only 77 were convicted, of whom 33 were imprisoned but only eight served sentences of two years or longer. Of the eight imprisoned, only one would be rehabilitated.
- In June 1996 the head of the crime investigation unit of the South African Police Service (SAPS), Commissioner Wouter Grové, told Parliament's safety and security standing committee that an average of 52 people were murdered every day, a rape was committed every 30 minutes, a car was stolen every nine minutes, and an armed robbery was committed every 11 minutes in South Africa.
- Crimes often associated with political objectives all decreased since 1994. Public violence dropped from 19 583 incidents in 1993 (its highest level ever) to 750 incidents in 1995, ie by 96%.
- Theft of motor vehicles increased by 275%, housebreaking (business and residential) by about 223% and robbery by 171% over the 21-year period from 1974/75 to 1995, while theft out of or from motor vehicles increased by 62% from 1988 to 1995.
- The minister for safety and security, Mr Sydney Mufamadi, said in March 1996 that the number of child abuse cases investigated in 1995 increased by some 20% compared with 1994, and by 65% compared with 1993.
- In June 1996 Mr Mufamadi told Parliament that there were 481 known crime syndicates (with a combined number of 2178 primary suspects) operating in South Africa.
- In August 1996 the government announced a package of anticrime measures, including proposed legislation to enable the courts to decide on length of imprisonment before a prisoner would be eligible for parole or remission of sentence, and the Proceeds of Crime Act of 1996, which would prohibit money laundering and provide for the state to confiscate the proceeds of crime from the perpetrator.
- According to Mr Mufamadi, cocaine, dagga, hashish, heroin, LSD and mandrax, with a combined value estimated at R1,25bn, were confiscated by the SAPS in 1995, compared with R7,28bn in 1994.
- The minister of correctional services, Dr Sipo Mzimela, said that South African prisons were overcrowded by 21% in January 1996.

POLICY

The final constitution of South Africa (as adopted by the Constitutional Assembly and certified by the Constitutional Court in December 1996) said that the following principles would govern national

security:¹ [¹ Constitution of the Republic of South Africa Act, 1996]

- the empowerment of South Africans to live as equals, to live in peace and harmony, to be free from fear and want, and to seek a better life;
- the preclusion of any South African citizen from participating in armed conflict, nationally or internationally, except as provided for in terms of the constitution or national legislation;
- the pursuit of national security in compliance with the law, including international law; and
- the subjection of national security to the authority of Parliament and the national executive.

In May 1996, speaking on a defence white paper, the minister of defence, Mr Joe Modise, said that national security was no longer viewed as a 'predominantly military or police problem' but that it had been broadened to incorporate 'political, economic, social and environmental matters'.² [² *Hansard* (NA) 5 col 1091, 14 May 1996] Mr Modise added that the objectives of security policy at national level encompassed:³ [³ *Ibid*]

- the consolidation of democracy;
- the achievement of social justice;
- economic development and a safe environment; and
- a substantial reduction in the level of crime, violence and political instability.

The objectives of security policy included the defence of the sovereignty, territorial integrity and political independence of the South African state, and the promotion of regional security, Mr Modise added.⁴ [⁴ *Ibid*] The government recognised that the greatest threats to the security of the South African people were socio-economic problems such as poverty, unemployment, the lack of housing, the absence of adequate social services and the high levels of crime. Accordingly, one of the government's highest priorities was reconstruction and development. This, he said, was the principal long-term means of promoting the security of citizens and thereby the stability of the country.⁵ [⁵ *Ibid*]

LEGISLATION

This section deals with security legislation in general and includes justice, police, defence force and correctional services legislation.

Correctional Services Amendment Act of 1996

The Correctional Services Amendment Act of 1996, promulgated in May 1996, made provision for interim measures regarding the detention of unconvicted youths accused of having committed certain serious offences. The act provided for the detention of suspects under the age of 14 years immediately after arrest, in a police cell or lock-up for no longer than 24 hours and for the detention of suspects under the age of 18 for no longer than 48 hours —if the detention was in the interests of justice and the youth could not be placed in the care of his or her parent or guardian or in a place of safety.

The act provided further that an unconvicted youth between the ages of 14 and 18 years should not be detained in a police cell or lock-up for longer than 48 hours **except** where the presiding officer had reason to believe that such detention was necessary for the administration of justice and the protection of the public and that no place of safety was available for the youth's detention 'within a reasonable distance' from the court. The factors to be considered in deciding whether the interests of justice and the safety and protection of the public necessitated detention for more than 48 hours were the disposition of the accused to commit crimes, the risk of the youth's absconding from a place of safety and the risk of the youth's causing harm to other people awaiting trial at a place of safety.⁶ [⁶ *Government Gazette* no 17186, 10 May 1996] A youth between the ages of 14 and 18 could be detained in a prison for periods of longer than 48 hours only where (in addition to the conditions mentioned above) he or she was accused of a serious offence such as murder, rape, robbery with a dangerous weapon, assault with intent to inflict grievous bodily harm, and kidnapping. Every 14 days, however, the youth had to be brought before the court which made the order for reconsideration of such order.⁷ [⁷ *Ibid*]

Correctional Services Second Amendment Act of 1996

The Correctional Services Second Amendment Act, promulgated in November 1996, amended the Correctional Services Act of 1959 so as to regulate the transformation of the Department of Correctional Services into a non-military organisation. The act also made provision for, inter alia, the deletion of provisions permitting the infliction of corporal punishment and the detention of judgement debtors.⁸ [⁸ Correctional Services Second Amendment Bill, B68–96]

Special Investigation Units and Special Tribunals Act of 1996

The Special Investigation Units and Special Tribunals Act, passed in November 1996, provided a mechanism through which allegations of corruption and serious maladministration and misappropriation of public money could be investigated and through which remedial steps (which would ordinarily have been pursued through the courts of law) could be taken. It provided for the president to establish special investigating units, each headed by a judge of the Supreme Court, who would have the competence to appoint the other members of the unit. It also provided for the president to establish special tribunals whenever he established a special investigating unit so that the tribunals could adjudicate upon disputes emanating from the investigations of that unit. The tribunal would be headed by a judge and would have

not more than five additional members appointed from the ranks of judges, magistrates or lawyers. The act provided for the tribunals to have the power to issue suspension orders or interdicts and to make any order which they thought appropriate to give effect to their rulings or findings. The act stipulated that accused parties could appeal to the Supreme Court against a ruling of a tribunal.⁹ [⁹ Special Investigation Units and Special Tribunals Bill, B76–96]

International Co-Operation in Criminal Matters Act of 1996

The International Co-operation in Criminal Matters Act of 1996 set out the procedures for the state to obtain evidence for a trial or tribunal from foreign states and for such states to obtain evidence from witnesses in South Africa.¹⁰ [¹⁰ International Co-operation in Criminal Matters Bill, B75–96] It also provided for a South African court to request assistance in the execution of a fine or compensatory order made by it, from a foreign state, and vice versa.¹¹ [¹¹ Ibid]

Extradition Amendment Act of 1996

The Extradition Amendment Act, approved by Parliament in November 1996, amended the principal act so as to provide for the extradition, to certain ‘designated’ foreign countries with which South Africa had no formal extradition treaties, of people accused of ‘extraditable offences’. It also provided for the regulation of inquiries concerning offences committed in foreign countries and set out the conditions under which the minister of justice could refuse to hand over an alleged offender to a foreign country.¹² [¹² *Government Gazette* no 1877, 20 November 1996]

Proceeds of Crime Act of 1996

The Proceeds of Crime Act of November 1996 made provision for:¹³ [¹³ *Business Day* 1 November 1996]

- the courts to confiscate the proceeds of crime in general;
- offences to be listed in order to criminalise money laundering; and
- foreign confiscation and restraint orders to be enforceable in South Africa.

In February 1996, when the minister for safety and security, Mr Sydney Mufamadi, announced his intention to introduce the legislation, he said that the confiscation orders would be aimed at the proceeds of crime, would not be limited to the offence from which the proceeds were derived, and would be imposed in addition to other sentences.¹⁴ [¹⁴ *Hansard* (NA:Q) 1 col 38, 21 February 1996] The aim of the legislation would be to ensure that in addition to any other punishment, the courts would have the power to make an order of payment to the state of any amount by which the court found a defendant to have benefited from the proceeds of his or her crime. Money laundering and assisting another person to

benefit from the proceeds of such a crime would be an offence.¹⁵ [¹⁵ Ibid]

Justice Laws Rationalisation Act of 1996

The Justice Laws Rationalisation Act of 1996, which was gazetted in April 1996, made provision for the rationalisation and consolidation of a host of statutes by extending the operation of certain laws to certain areas (mostly former homeland territories) forming part of South Africa, in substitution for certain other laws applicable in those areas. It repealed the laws which were substituted.¹⁶ [¹⁶ *Government Gazette* no 17129, 19 April 1996]

Judicial Matters Amendment Act of 1995

The Judicial Matters Amendment Act of 1995, which was gazetted in October 1995, provided, inter alia, for the Magistrates Act of 1993 to be applicable throughout South Africa (including the former homelands) and validated certain transfers of magistrates and the performance of certain functions by certain magistrates.¹⁷ [¹⁷ *Government Gazette* no 16733, 4 October 1995]

Magistrates' Courts Amendment Bill

The Magistrates' Courts Amendment Bill provided, inter alia, that judgement debtors would no longer be jailed for failing to pay debts. The bill also provided for simplified and less costly procedures for debt recovery as well as the manner of execution of such procedures. The bill provided for such judgement debts to be paid off in instalments. In addition, the bill provided for a pre-judgement attachment remedy, provisional sentencing in magistrate's courts, and debt recovery by means of application proceedings to the court rather than the summons procedure. It further provided for the attachment of property as security for debt.¹⁸ [¹⁸ Magistrates' Courts Amendment Bill, B27-96] The bill had not been passed at the time of writing.

Proposed Legislation

In August 1996 the minister for safety and security, Mr Sydney Mufamadi, announced that draft legislation containing measures to prohibit the paramilitary training of individuals or groups would be presented to the cabinet for its approval and subsequently incorporated into the Judicial Matters Amendment Bill. The legislation was aimed at prohibiting the following:¹⁹ [¹⁹ *The Star* 6 August 1996]

- instruction or training in the making or use of firearms or explosives;
- training, organisation or equipping of people in order for them to use or display physical force in promoting a political objective; and

- training of people in the conduct of any military or paramilitary operation.

The legislation was, however, not incorporated into the Judicial Matters Amendment Bill or any other legislation.

In December 1996 the South African Institute of Race Relations reported that MPs of the African National Congress (ANC) intended to table legislation which would allow the state to confiscate property which was suspected to have been used to commit a crime, even if its owner had not been convicted.²⁰ [20 **Fast Facts** No 12 1996] The chairman of the portfolio committee on justice, Mr Johnny de Lange MP (ANC), said that he was keen to see such legislation along the lines of the United States (US) model introduced in Parliament early in 1997.²¹ [21 *Ibid*]

The US law allowed the state to bring an action against an item of property which was believed to have been used to commit a crime. For the state to succeed in obtaining a 'civil asset forfeiture' order against the property, there was no requirement that its owner be convicted of a crime, or even have had knowledge of it.²² [22 *Ibid*]

CRIME

According to a Nedcor report on crime published in June 1996, crime cost South Africa R31bn in 1995. The report found that crimes against households had cost about R1,7bn, crimes against businesses R15,8bn and commercial crime about R13bn.²³ [23 *The Nedcor Project on Crime, Violence and Investment*, June 1996] The authors of the report pointed to what they called the 'criminal justice funnel', which showed that of every 1000 crimes committed in the country only 450 were reported, 230 were solved and 100 were brought to trial. Of those prosecuted, only 77 were convicted, of whom 33 were imprisoned but only eight served sentences of two years or longer. Of the eight imprisoned, only one would be rehabilitated. An estimated 94% of all prisoners would immediately become involved in crime again once they were released, the report said. The authors argued that the only way out of the funnel was to increase co-ordination between government departments and target resources to areas where they would be used most effectively, such as the filling of vacant prosecutors' posts.²⁴ [24 *Ibid*]

South Africa had a reported murder rate of about 45 per 100 000 people in 1995 compared with an international average of 5,5 per 100 000, according to the report. Only the Bahamas, Lesotho and Swaziland had higher rates of murder than South Africa. The United States (US) had a reported rate of nine murders per 100 000 people.²⁵ [25 *Ibid*] The South African rate of assault was 840 per 100 000 people, compared with an international average of 142. In 72 countries for which a full range of crime statistics was available, murder and assault made up 3% of all reported crime while in South Africa this figure was no less than 16%.²⁶ [26 *Ibid*]

The Nedcor report said that South Africa's recorded crime rate was 5 651 per 100 000 people in 1995

while the international average was 2 662 per 100 000. This placed South Africa roughly on a par with countries such as Norway, the US and France. But the authors warned that it was estimated that the under-reporting of crime in South Africa could be as high as 50%.²⁷ [²⁷ Ibid]

In its survey of 2 163 adult South Africans of all races in urban and rural areas the Nedcor project found that in the first eight months of 1995 some 27% of hostel residents, 24% of coloured township residents, 22% of Indian township residents, 26% of African township residents, 25% of squatter camp residents, and 18% of metropolitan suburban residents experienced some form of violence or crime in which the property or the household or its adult inhabitants were the targets or victims. The more affluent suburban areas were not as seriously affected by crime as the areas in which poorer people lived.²⁸ [²⁸ Ibid]

The survey also revealed that 45,6% of all respondents rated crime as South Africa's most serious problem, above unemployment (18,1%), political violence (7,6%), the need for economic growth (3,7%), affordable housing (3,6%), racial discrimination (2,3%), poor education (2%), and other diverse problems (17,1%).²⁹ [²⁹ Ibid]

A second part of the Nedcor survey measured the impact of crime and violence on South African business. A total of 111 large businesses (including corporations and finance and investment houses), 160 small businesses (having a staff of under 30 and in which the owners had a day-to-day involvement), 47 business clusters, and 59 local experts representative of business and employer organisations in the security industry were surveyed. The survey sought to measure the impact of crime and violence on business over the preceding 24 months. The larger businesses, on average, experienced 1,2 crimes per business over the 24-month period. Smaller businesses experienced an average of 0,88 crimes per premises while business clusters experienced 0,6 crimes per cluster. The report estimated that the annual cost of crime to business amounted to R15,8bn per year.³⁰ [³⁰ Ibid]

The Nedcor report concluded that:³¹ [³¹ Ibid]

- the indications of rising crime rates went back at least to 1980 and earlier but intense public concern over this had been masked by political conflict and the rigid separation of communities that kept the crime rate low in affluent areas. Consequently the issue did not develop the political profile it had recently developed;
- in both the 1980s and the 1990s most crimes were committed against poor people. Since 1990, overall crime rates had advanced 'relentlessly';
- any reduction in a type of crime in a given year had been minimal, with the upward trend resuming the following year. The exception to this was public violence, for 'obvious political reasons';
- certain types of crime, especially vehicle hijacking, had increased dramatically; and

- although South Africa had a high crime rate it did not appear to be ‘way out of line’ with the rest of the world—except in the case of violent crimes such as assault and murder.

In June 1996 the head of the crime investigation unit of the South African Police Service (SAPS), Commissioner Wouter Grové, told Parliament’s safety and security standing committee that an average of 52 people were murdered every day, a rape was committed every 30 minutes, a car was stolen every nine minutes, and an armed robbery was committed every 11 minutes. He said that police detectives had dealt with about 2m serious crimes in 1995. Commissioner Grové added that the burden of case dockets (up to 30 at a time for some investigators) had become unbearable.³² [³² *Sunday Tribune* 9 June 1996] The national commissioner of the SAPS, Commissioner George Fivaz, said that the crisis the SAPS was facing in combating crime was exacerbated by a shortage of staff and resources.³³ [³³ *The Star* 7 June 1996]

Statistics and Trends

At the beginning of 1996 the South African Police Service (SAPS) implemented a new system of crime monitoring which, inter alia, took into consideration all cases reported to all police stations in South Africa. Previously, statistics were only gleaned from stations under the jurisdiction of the former South African Police. The crime statistics for the first eight months of 1996 and 1995 cannot therefore be compared with other crime statistics in this chapter. Figures for the first eight months of 1995 were also derived through the new system and therefore differ from earlier figures for that year.

Reported Offences and Crime of Various Types

Below is a table of crimes to the person reported to the police in the period 1974–95:³⁴ [³⁴ All figures have been taken from the South African Police annual reports except for 1993 and 1994, when figures were taken from the South African Police Crime Combating and Investigation Unit’s 1994 report, *Broad Perspective on the Incidence of Crime and the Activities of the Specialist Units of the Division*; and 1995, when figures were taken from the South African Police Service (SAPS), *Report on the Incidence of Serious Crime During 1995*, April 1996]

Crimes to the person: 1974–95^a

Assault^b

Murder

Rape

Robbery^c

1974/75

138 586

8 662

14 815

37 896

1975/76

135 705

6 000

15 394

38 981

1976/77

135 397

7 560

15 109

44 141

1977/78

127 735

5 959

15 175

43 884

1978/79

127 659

6 913

15 263

42 686

1979/80

134 682

8 356

16 149

45 442

1980/81

123 310

7 434

15 318

39 816

1981/82

119 898

8 084

15 535

38 626

1982/83

121 716

8 573

15 342

38 229

1983/84

125 002

9 462

15 785

37 755

1984/85

123 100

8 959

16 085

39 302

1986

109 755

9 913

15 816

48 533

1987

120 779

9 800

18 145

46 288

1988

125 571

10 631

19 368

45 847

1989

128 887

11 750

20 458

50 636

1990

124 030

15 109

20 321

61 132

1991

129 626

14 693

22 761

68 936

1992

136 322

16 067

24 360

78 644

1993

144 504

19 583

27 037

87 102

1994

157 315

18 312

32 107

95 763

1995

171 656

18 983

36 888

102 809

a

Not all crimes have been included. Prior to 1987 the South African Police (SAP) annual reports covered the period from 1st July of a particular year to 30th June of the following year. From 1987 the reporting period changed to run from 1st January to 31st December of a particular year (a calendar year). The SAP did, however, supply comparative figures for the 1986 calendar year in its 1987 report.

b

With intent to inflict serious bodily harm (excluding common assault).

c

Including robbery with aggravating circumstances.

The chart below plots the trend in cases of assault and

The following chart shows the increase in rapes and murders in the period 1974–95:

Serious violent crimes such as assault (with intent to inflict grievous bodily harm), murder, and rape increased over the 21-year period from 1974/75 to 1995. Assault went up by about 24%, murder by 119%, and rape by 149%. Robbery increased by 171% over the 21-year period.

The number of crimes to property reported to the police in the period 1974–95 are shown in the table below:³⁵ [35 Ibid]

Crimes to property: 1974–95^a

Theft of motor vehicle

Theft out of or from motor vehicle^b

House breaking^c

Shop lifting

1974/75

26 092

N/A

90 842

N/A

1975/76

31 534

N/A

97 747

N/A

1976/77

36 900

N/A

110 733

N/A

1977/78

38 323

N/A

124 307

N/A

1978/79

38 716

N/A

132 966

N/A

1979/80

39 854

N/A

135 074

N/A

1980/81

36 558

N/A

120 194

N/A

1981/82

44 483

N/A

139 273

N/A

1982/83

44 771

N/A

148 766

26 224

1983/84

44 372

N/A

153 440

27 245

1984/85

48 584

N/A

166 812

31 450

1986

67 008

N/A

212 922

38 053

1987

59 936

N/A

235 693

40 833

1988

57 851

116 813

182 754

40 477

1989

58 298

122 385

187 946

41 601

1990

68 649

149 606

225 158

48 935

1991

71 120

160 179

260 661

51 658

1992

71 532

154 247

254 941

58 371

1993

77 906

166 295

259 645

62 166

1994

94 710

177 734

276 050

63 274

1995

97 947

189 692

293 204

59 109

a

Not all crimes have been included. Prior to 1987 the South African Police (SAP) annual reports covered the period from 1st July of a particular year to 30th June of the following year. From 1987 the reporting period changed to run from 1st January to 31st December of a particular year (a calendar year). The SAP did, however, supply comparative figures for the 1986 calendar year in its 1987 report.

b

Theft out of or from motor vehicle was not separated from theft in general before July 1987.

c

Business and residential premises

The chart below shows the increase in theft of motor vehicles and housebreaking from 1974 to 1995:

Crimes such as theft of motor vehicles and housebreaking (business and residential), all showed an increase over the 21-year period. Theft of motor vehicles increased by 275% and housebreaking by about 223%. Theft out of or from motor vehicles increased by 62% from 1988 to 1995.

Not all crimes were included in the statistics provided by the police for 1974–95. Below are some of the other crimes reported to the police in that period:³⁶ [³⁶ Ibid]

Other crimes reported: 1974–95^a

Arson

Contravention of the explosives act

Illegal possession of arms and ammunition

Public violence

1974/75

N/A

N/A

1 498

375

1975/76

N/A

N/A

1 651

191

1976/77

N/A

N/A

5 045^b

1 074

1977/78

N/A

N/A

31 364^b

884

1978/79

N/A

N/A

4 751

172

1979/80

N/A

N/A

5 389

600

1980/81

N/A

N/A

N/A

N/A

1981/82

N/A

N/A

N/A

N/A

1982/83

N/A

803

3 852

317

1983/84

N/A

168

3 871

N/A

1984/85

4 724

206

3 650

4 408

1986

5 576

424

5 192

8 156

1987

4 466

305

5 409

1 973

1988

4 882

280

4 696

1 368

1989

5 563

208

5 059

3 173

1990

7 171

327

7 322

4 756

1991

23 920^c

378

9 706

2 402

1992

6 389

448

10 580

2 250

1993

6 854

507

9 542

5 695

1994

7 056

532

8 838

961

1995

6 562

304

8 344

750

a

Not all crimes have been included. Prior to 1987 the South African Police (SAP) annual reports covered the period from 1st July of a particular year to 30th June of the following year. From 1987 the reporting period changed to run from 1st January to 31st December of a particular year (a calendar year). The SAP did, however, supply comparative figures for the 1986 calendar year in its 1987 report.

b

The report said that the high increase in these offences occurred as a result of (i) people failing to relicence firearms and (ii) people giving false information when applying for a firearm.

c

Some 12 000 cases of arson with origins of a doubtful nature were reported in Natal during June 1991

Since South Africa's general election in 1994, crimes often associated with political objectives, such as contravention of the Explosives Act of 1956, illegal possession of arms and ammunition, and public violence, have all decreased. In particular, public violence declined from 19 583 incidents in 1993 (its highest level ever) to 750 incidents in 1995—a drop of 96%.

Attacks on the Elderly

According to the minister for safety and security, Mr Sydney Mufamadi, there were 1 071 attacks on the elderly during 1995 (a decrease of 10% over the 1 190 reported in 1994).³⁷ [³⁷ *Hansard* (NA:Q) 3 cols 335–338, 18 March 1996] (See also *Murder* below.)

Attacks on Farms and Smallholdings

Reported attacks on farms and smallholdings increased by 27,5% from 432 in 1994 to 551 in 1995.³⁸ [³⁸ SAPS, *Report on the Incidence of Serious Crime During 1995*, April 1996] (See also *Murder* below.)

Murder

The number of murders in 1995 (18983) increased by 3,7% over the 18 312 reported in 1994. The number of murders had risen by 119% since the 8 662 reported in 1974/75.

In November 1996 the SAPS said that 15809 murders had been committed in South Africa during the first eight months of 1996—8,2% fewer than the 17229 reported for the same period in 1995.³⁹ [³⁹ Crime Information Management Centre report, *The Incidence of Serious Crime—January to August 1996*, 21 November 1996. Statistics from two stations in the Eastern Cape were excluded.]

During 1995, 325 elderly people were murdered in their homes, according to Mr Mufamadi.⁴⁰ [⁴⁰ *Hansard* (S:Q) 1 col 32, 29 February 1996] In the same period 121 people had been murdered on farms and smallholdings. In the first three months of 1996, 25 people were murdered on farms and smallholdings.⁴¹ [⁴¹ *Hansard* (S:Q) 4 col 366, 17 May 1996] This was a monthly rate of 8,3 against a monthly rate of 10,1 in 1995.

Rape

A total of 36 888 rapes were reported to the SAPS in 1995—an increase of 15,3% over the 32 003 reported in 1994.⁴² [⁴² SAPS, *Report on the Incidence of Serious Crime During 1995*, April 1996] In 1996 Mr Mufamadi told Parliament that 23 806 rapes had been reported to the SAPS in the first six months of 1996.⁴³ [⁴³ *Beeld* 11 October 1996] This meant a monthly rate of 3968 compared with a monthly rate of 3 074 the previous year. Rape was thus on the increase.

Child Abuse

Mr Mufamadi said in March 1996 that 28432 cases of child abuse were investigated in 1995—an increase of some 20% over the 23664 cases investigated in 1994, and a 65% increase over the 17194 investigated in 1993.⁴⁴ [⁴⁴ *Hansard* (S:Q) 2 col 99, 14 March 1996]

In August 1996 a spokesman for a special unit set up to deal with domestic violence, child protection and rape, Inspector Janalie Quinn, said that the police in Gauteng had arrested 1 405 suspects since January 1996 for crimes against children. Insp Quinn said that 842 of those arrests were for rape, 242 for assault, 168 for indecent assault, 86 for kidnapping or abduction, 41 for sodomy, 14 for incest and 12 for attempted murder.⁴⁵ [⁴⁵ *The Citizen* 16 August 1996] (See also chapter on *Welfare*.)

Vehicle Hijacking

According to a report by the SAPS, the number of car hijackings increased by 11,6% from 9716 in 1994 to 10839 in 1995. An average of 903 cars per month, or 30 per day, were hijacked in South Africa in

1995.⁴⁶ [⁴⁶ SAPS, *Report on the Incidence of Serious Crime During 1995*, April 1996]

There were 8740 car hijackings from January to August 1996⁴⁷ [⁴⁷ Crime Information Management Centre report, *The Incidence of Serious Crime—January to August 1996*, 21 November 1996. Two police stations in the Eastern Cape were excluded from these statistics.] —an average of 1093 hijackings per month or 36 per day. No comparable figures were available under the new statistical system for the corresponding period in 1995.

The number of trucks with freight hijacked in 1995 (1692) showed an increase of 102,4% over the 836 reported incidents in 1994.⁴⁸ [⁴⁸ SAPS, *Report on the Incidence of Serious Crime During 1995*, April 1996] Their estimated value rose from R169m in 1994 to R310,4m in 1995.⁴⁹ [⁴⁹ *The Star* 31 May 1996] Some 550 trucks with goods worth an estimated R82,5m were hijacked in the first three months of 1996.⁵⁰ [⁵⁰ *Ibid*]

Some 2640 trucks with freight were hijacked in the first eight months of 1996⁵¹ [⁵¹ Crime Information Management Centre report, *The Incidence of Serious Crime—January to August 1996*, 21 November 1996] —an average of 330 hijackings per month or 11 per day. Comparable figures for 1995 were not available under the new statistical system.

Hijacked vehicles and goods are smuggled through KwaZulu-Natal, Mpumalanga, North West, and the Northern Province north into countries such as Botswana, Zaire and Zambia. The vehicles are often driven across dry river beds in order to avoid border controls.⁵² [⁵² *Millennium* October/November 1996]

Robbery

The number of robberies with aggravating circumstances dropped by 2% from 68150 in 1994 to 66 838 in 1995, while other robberies increased by 33% from 27048 in 1994 to 35 971 in 1995.⁵³ [⁵³ SAPS, *Report on the Incidence of Serious Crime During 1995*, April 1996] There were 45 260 robberies with aggravating circumstances in the first eight months of 1996 plus 33202 other robberies.⁵⁴ [⁵⁴ Crime Information Management Centre report, *The Incidence of Serious Crime—January to August 1996*, 21 November 1996. Two police stations in the Eastern Cape were excluded from these statistics.]

There were 137 bank robberies in South Africa in 1995, Mr Mufamadi said. The police did not as a matter of policy make public the losses incurred during these robberies. Mr Mufamadi added, however, that the figures were ‘almost certainly incomplete’ because there had not previously been a special category for bank robberies in the crime code list used by the police.⁵⁵ [⁵⁵ *Hansard* (NA:Q) 7 col 1135, 10 June 1996]

In November 1996 the SAPS reported that there had been about 452 bank robberies in the first eight months of 1996. This figure had not been verified at the time of writing.⁵⁶ [⁵⁶ Crime Information Management Centre report, *The Incidence of Serious Crime—January to August 1996*, 21 November 1996]

Some 307 thefts of cash in transit were committed in the first eight months of 1996.⁵⁷ [⁵⁷ Ibid]

In November 1996 the SAPS reported there had been a combined total of 222 572 business and residential housebreakings (including attempted housebreakings) during the first eight months of 1996, an increase of 1,1% over the 220099 during the same period in 1995.⁵⁸ [⁵⁸ Ibid]

Fraud and White-Collar Crime

Statistics published by the SAPS's National Crime Information Management Centre in April 1996 revealed that white-collar crime cost South Africa about R2,8bn in potential losses in 1995, a decrease of R1,9bn (40,5%) from the 4,7bn potential loss in 1994. Similarly, the 51117 cases reported in 1995 were 4,3% fewer than the 53 441 reported in 1994.⁵⁹ [⁵⁹ SAPS, *Report on the Incidence of Serious Crime During 1995*, April 1996]

The centre said that fraud made the largest contribution to commercial crime figures as it comprised some 86% of all cases reported to the commercial crime unit during 1994 and 79,8% of all such cases in 1995. Fraud was responsible for about 51% of the monetary value of all reported commercial crime in 1994 and some 80,6% of the monetary value of all reported commercial crime in 1995. The remaining cases consisted mainly of transgressions of several statutory regulations such as the Companies Act of 1973, the Close Corporations Act of 1984 and the Reserve Bank Act of 1989.⁶⁰ [⁶⁰ Ibid]

A spokesman for the commercial crime unit, Assistant Commissioner Manie Schoeman, said 28252 cases of commercial crime involving R1,5bn were reported in the first six months of 1996 (some 8% more cases than in 1995 but 12% less in value). Fraud constituted 80%, forgery and uttering 8,7%, and theft 3,4%. Other commercial crimes accounted for the remaining 7,9%. Only about 6% of these cases (1701) had been finalised during the first six months of 1996. In that period 360 perpetrators were sentenced to jail terms.⁶¹ [⁶¹ *The Citizen* 3 September 1996, *Sowetan* 4 September 1996]

During a three-day countrywide police operation at the end of July 1996 aimed at apprehending white-collar criminals, 539 people were arrested for offences involving a total of more than R22m.⁶² [⁶² *The Citizen* 31 July 1996]

Counterfeiting of Money

In 1995 the SAPS arrested 380 people for counterfeiting money, 60 of whom were convicted during that year, Mr Mufamadi said.⁶³ [⁶³ *Hansard* (S:Q) 4 col 312, 9 May 1996] Counterfeit South African bank notes with a total face value of R38,5m were seized in 1995, compared with counterfeit notes with a total face value of R29m seized in 1994. Counterfeit United States (US) bank notes with a total face value of US \$13,9m were seized in South Africa during 1995, compared with US\$5,7m in 1994.⁶⁴ [⁶⁴ Ibid]

In the first two months of 1996 the police seized counterfeit South African bank notes with a total face value of R7m and US bank notes with a face value of US\$1m.⁶⁵ [⁶⁵ Ibid] Some 66 people were arrested in the same period for counterfeiting bank notes. Eight of them were convicted.⁶⁶ [⁶⁶ Ibid]

Gangs

The belief among people in the Western Cape that the government was not doing enough to combat gangsterism led to about 200 members of a group calling itself People Against Gangsterism and Drugs (Pagad) raiding the home of an alleged drug lord on the Cape Flats in August 1996. The chief co-ordinator of Pagad, Mr Farook Jaffer, said the raid was in reaction to a threat by a Cape Flats gang, 'The Firm', that it would destroy mosques if the public did not leave the gang alone. He said that Pagad was not prepared to 'stand back and watch gangs destroy the community'.⁶⁷ [⁶⁷ *The Argus* 2 August 1996] In the same month members of Pagad shot and burnt to death the leader of a Cape Flats gang outside his home (see also *Initiatives to combat crime* below).⁶⁸ [⁶⁸ *Sowetan* 15 August 1996] A few days after the killing, Pagad members issued an ultimatum to gangs to stop dealing in drugs or they would 'take them out'.⁶⁹ [⁶⁹ *The Star* 7 August 1996] The gangsters threatened to retaliate by attacking businesses owned by Pagad members as well as mosques.⁷⁰ [⁷⁰ Ibid]

This prompted an announcement by Mr Mufamadi that two units—the visible gang unit and the gang investigation unit—collectively consisting of 79 members, had been put in place in the Western Cape. He added that 260 members of the South African National Defence Force would be used to strengthen the Western Cape gang units' numbers.⁷¹ [⁷¹ *Sowetan* 15 August 1996]

In October 1996 gangsters threatened to unleash 'an all out war' against the police and Pagad if they did not adopt a 'conciliatory approach towards gangs'.⁷² [⁷² Ibid 15 October 1996] A gang leader, Mr Glen Khan, said that all gangsters on the Cape Flats wanted to 'hang up their knives and grenades' if the government promised not to confiscate the proceeds of their crimes as was envisaged in the Proceeds of Crime Act (see *Legislation* above). He added that the gangsters would be prepared to offer R50m to the government towards the establishment of factories and other legitimate employment so as to allow gangsters to be rehabilitated.⁷³ [⁷³ Ibid] The gangsters said that they wanted to meet government representatives to work out a 'joint peace plan'. They also wanted the government to agree to withdraw all pending criminal cases against them 'in the interests of peace'. In return they would stop drug dealing and other criminal activities, the gangsters said.⁷⁴ [⁷⁴ Ibid]

A spokesman for the Department of Justice, Mr Paul Setsetse, said that the minister of justice, Mr Dullah Omar, would meet the gangsters only when they had shown a firm commitment to stop their criminal activities. He denied allegations that the ministry had initiated a meeting with a group representing the interests of gangsters on the Cape Flats and calling itself the Community Outreach Forum.⁷⁵ [⁷⁵ Ibid]

There were between 30 000 and 80 000 active gang members belonging to about 137 gangs in the Western Cape in October 1996, the commander of the gang investigation unit in the Western Cape, Superintendent A J Heyliger, said. Most of them were involved in the sale and distribution of illegal drugs.⁷⁶ [⁷⁶ Fax communication from Superintendent A J Heyliger, 11 October 1996] Supt Heyliger added that at least 100 of these gangs operated on the Cape Flats in areas such as Athlone, Bellville South, Bishop Lavis, Eersterivier, Elsiesrivier, Grassy Park, Mannenberg and Philippi. Intelligence sources indicated that a large number of the gangs in these areas had consolidated under the umbrella of an organisation known as 'The Firm' which launched gang-related actions in an organised way. Supt Heyliger revealed that his unit had investigated 461 cases and arrested 365 gang members since February 1995. Most cases involved murder and attempted murder although abduction, intimidation, rape and robbery cases were also investigated. The investigations indicated that most of these crimes were committed against rival gang members and were closely related to the fight for 'turf' (areas in which they peddled and distributed drugs) between the various gangs in the area.⁷⁷ [⁷⁷ Ibid]

In September 1996 a spokesman for the SAPS in Gauteng, Captain Jan Combrink, said that the Fast Guns and Varados gangs (each with an estimated 1000 members) were the main gangs in Gauteng. They operated mainly in the suburbs of Westbury, Western Township, Eldorado Park and Eersterus (Pretoria).⁷⁸ [⁷⁸ Telephonic interview with Captain Jan Combrink, 19 September 1996]

Crime Syndicates

In June 1996 Mr Mufamadi told Parliament that there were 481 known crime syndicates (with a combined number of 2178 primary suspects) operating in South Africa—a nominal increase of 0,2% over the 480 reported in September 1995 (see 1995/96 Survey, p66). Drug trafficking was the largest area of syndicate activity (136 syndicates), followed by vehicle and weapons smuggling (112), commercial/foreign exchange/fraud (85), and diamond and gold-related crime syndicates (71). Other syndicates were involved in combinations of these crimes. Some 14280 prosecutions were instituted against syndicate members in 1995, an increase of 78,6% over the 7995 in 1994. However, no statistics were available on the number of convictions, Mr Mufamadi added.⁷⁹ [⁷⁹ *This Week in Parliament*, 21 June 1996, p15] At least 187 of these syndicates operated internationally, while 125 of them were active in sub-Saharan Africa.⁸⁰ [⁸⁰ SAPS, *Report on the Incidence of Serious Crime During 1995*, April 1996]

An SAPS document entitled *Report on the Incidence of Serious Crime During 1995* and published in April 1996 said that vehicle theft or hijacking was linked, inter alia, to the illegal arms trade and drug trafficking. Drug trafficking was in turn linked to money laundering and fraud.⁸¹ [⁸¹ Ibid] The report said that although the SAPS was investigating 62 cases against syndicates at the end of 1995, all known syndicates were monitored on a continuous basis.⁸² [⁸² Ibid]

In September 1996 a spokesman for the National Crime Investigation Service, Director Reg Crewe, said that 50 syndicates had been smashed and 153 people arrested since undercover police investigations into

drug manufacturing, car hijacking and diamond dealing were launched in May. Most of these syndicates were based in Gauteng, KwaZulu-Natal and the Western Cape.⁸³ [⁸³ *Sowetan* 25 September 1996]

Arms Smuggling, Caches and Theft

In March 1996 Mr Mufamadi told the Senate that 6372 AK-47 machine guns had been seized by the police in the period from 1st January 1991 to 31st January 1996.⁸⁴ [⁸⁴ *Hansard* (NA:Q) 2 col 255, 6 March 1996] Mr Mufamadi added that 16291 unlicensed firearms had been confiscated by the police in 1995.⁸⁵ [⁸⁵ *Hansard* (S:Q) 2 cols 113–114, 14 March 1996] Of the confiscated firearms, 1392 were AK-47 machine guns and 256 were submachine guns.⁸⁶ [⁸⁶ *Hansard* (S:Q) 3 cols 214–215, 28 March 1996]

There were 16 135 firearms reported stolen and 1 496 reported lost during 1995. There were also 8344 cases of illegal possession of firearms and ammunition reported during 1995, compared to 8 808 such cases in 1994, representing a slight drop. KwaZulu-Natal was the region in which the highest number of these cases was reported—3060, or 36,7% of the total.⁸⁷ [⁸⁷ SAPS, *Report on the Incidence of Serious Crime During 1995*, April 1996] Mr Mufamadi told Parliament that 3473 firearms were reported stolen in the first three months of 1996—a 32% increase over the same period in 1995. The majority of these (1941) were retrieved in KwaZulu-Natal.⁸⁸ [⁸⁸ *The Citizen* 1 June 1996]

Combined operations in 1995 between the SAPS and the Mozambican police (operations Rachel I and II) in Mozambique led to the recovery and destruction of 143153 rounds of ammunition, 1666 explosive devices and 1686 firearms, some of which might otherwise have found their way into South Africa.⁸⁹ [⁸⁹ SAPS, *Report on the Incidence of Serious Crime During 1995*, April 1996]

Some arms caches were found in 1996. The largest was discovered in March when the police, acting on a tip-off, unearthed a variety of bombs containing more than 60kg of explosives on a smallholding near Bloemfontein. The cache included landmines and antipersonnel bombs. Bags of prepared explosives and commercial detonators were also found.⁹⁰ [⁹⁰ *The Citizen* 12 March 1996]

In June 1996 the police recovered 63 firearms, a grenade launcher, 352 rounds of ammunition, an M26 hand grenade and several traditional weapons on a raid at the Glebelands Hostel and the adjoining Umlazi township near Durban.⁹¹ [⁹¹ *The Natal Witness* 26 June 1996]

The table below provides a breakdown of the number of firearms and explosives seized by the SAPS firearm investigation unit during 1994 and 1995:⁹² [⁹² SAPS, *Report on the Incidence of Serious Crime During 1995*, April 1996]

Number of weapons seized by police in South Africa: 1994 and 1995

1994

1995

Increase (decrease)

AK-47 machine guns

1 589

1 392

(12,4%)

Rifles

2 277

2 144

(5,8%)

Pistols

5 397

7 289

35,1%

Revolvers

2 364

2 842

20,2%

Homemade firearms

3 123

2 624

(16,0%)

Total (Firearms)

14 750

16 291

10,4%

Hand grenades

481

404

(16,0%)

Mortars

250

86

(65,6%)

Limpet mines

7

2

(71,4%)

RPG-7 projectiles

37

9

(75,7%)

Land mines

6

7

16,7%

Total (Explosives)

781

5

The table above illustrates that while the total number of firearms seized increased by 10,4% between 1994 and 1995, the number of AK-47 machine guns and rifles seized dropped. The number of explosives seized decreased by 35% over the number seized in 1994 and only land mines showed an increase over 1994.

Of the total number of firearms seized during 1995, the most seized in any one province—6708 (41,2%)—were in KwaZulu-Natal.⁹³ [⁹³ Ibid] Mr Mufamadi said that 4465 prosecutions were instituted for the possession of unlicensed firearms during 1995.⁹⁴ [⁹⁴ *Hansard* (S:Q) 3 col 215, 28 March 1996]

Drug Smuggling

According to Mr Mufamadi, quantities of cocaine, dagga, hashish, heroin, LSD and mandrax, with a combined value estimated at R1,25bn, were confiscated by the SAPS in 1995, compared with R7,28bn in 1994.⁹⁵ [⁹⁵ *Hansard* (S:Q) 2 col 120, 14 March 1996] The SAPS said that reasons for the very large decline (481%) in the value of these drugs seized—in particular dagga and mandrax (the two drugs of major concern to the SAPS)—were ‘the restructuring of the SAPS’ (see 1994/95 Survey, pp138–139 and 1995/96 Survey, p75) and ‘the creation of national and provincial narcotics units’. The attention paid to restructuring and the creation of these units had detracted from SAPS efforts at combating drug smuggling. The increased sophistication of drug syndicates, with regard to technological aids and intelligence capabilities, was another contributing factor, the police service said.⁹⁶ [⁹⁶ SAPS, *Report on the Incidence of Serious Crime During 1995*, April 1996]

The quantity of cocaine seized in 1995 increased by more than 139% over 1994, while the amount of heroin seized decreased by 76%.⁹⁷ [⁹⁷ (S:Q) 2 col 120, 14 March1996]

The table below illustrates the value and quantities of a selection of drugs confiscated by the SAPS in 1994 and 1995:⁹⁸ [⁹⁸ Ibid]

A selection of drugs confiscated by the SAPS: 1994 and 1995

Drug

Quantity

Estimated value in rands

1994

1995

1994

1995

Dagga

7 182 906kg

1 192 812kg

7 182 906 000

1 192 812 000

Cocaine

78 388g

187 615g

19 597 000

46 903 750

Hashish

27 086g

7 858g

270 860

78 580

Heroin

24 745g

5 942g

6 186 250

1 485 500

LSD

16 701 units

4 107 units

417 525

77 675

Mandrax

4 753 221 tablets

886 846 tablets

71 301 975

13 472 437

Total

N/A

N/A

7 280 679 610

1 254 829 942

N/A — Not applicable as different units of measure are used for different

Some 19 580 drug-related crimes were reported to the SAPS in the first six months of 1996 compared to 22 038 such crimes for the corresponding period in 1995.⁹⁹ [⁹⁹ Fax correspondence from the SAPS, 23 October 1996]

Violence in the Taxi Industry

According to the national commissioner of the SAPS, Commissioner George Fivaz, 195 people were killed and 281 injured in 530 incidents of violence-related crimes in the taxi industry during 1995.¹⁰⁰ [¹⁰⁰ *Beeld* 1 November 1996] This was marginally fewer than the 197 people killed and 314 injured in 1994 (see 1995/96 Survey, p61).

At the end of October 1996 Commissioner Fivaz said that 136 people had been killed and 208 injured in 335 incidents of taxi-related violence since the beginning of 1996.¹⁰¹ [¹⁰¹ *Ibid*] This amounted to 14 deaths and 21 injuries per month and suggested an annualised figure of 163 deaths and 250 injuries for 1996.

While 145 suspects were arrested in 1995 in connection with taxi-related violence, 363 such suspects were arrested in the first ten months of 1996.¹⁰² [¹⁰² *Ibid*]

Provincial Patterns

For the most part, the statistics below indicate that most of the crimes occurred in the more populous provinces of the country (KwaZulu-Natal, Gauteng and the Eastern Cape), while the fewest crimes occurred in the least populous province, the Northern Cape.

In 1995 KwaZulu-Natal was the most populous province, with 8,5m people, followed by Gauteng and the Eastern Cape, with 6,8m and 6,4m respectively. The Northern Cape, with a population of 0,8m, was

the least populous province, and it is consistently the province with the least number of crimes.¹⁰³ [¹⁰³ 1995/96 *Survey*, p7]

Attacks on the Elderly

Some 28,8% of the 1071 attacks on the elderly in 1995 occurred in KwaZuluNatal, followed by Gauteng (27,1%). The fewest attacks (1,5%) occurred in the Northern Cape.¹⁰⁴ [¹⁰⁴ *Hansard* (NA:Q) 3 cols 335–338, 18 March 1996]

Attacks on Farms and Smallholdings

The highest proportion of the 551 reported attacks on farms and smallholdings in 1995 occurred in Mpumalanga (29%), followed by KwaZulu-Natal (20,5%), while the fewest number of attacks occurred in the Northern Cape (1,6%).¹⁰⁵ [¹⁰⁵ SAPS, *Report on the Incidence of Serious Crime During 1995*, April 1996]

Murders

Some 28% of the 11 698 murders that were reported to the SAPS in the first six months of 1996 occurred in KwaZulu-Natal, followed by Gauteng (22%), the Eastern Cape (15%), the Western Cape (13%), the Free State (5%), the North West (5%), Mpumalanga (4%), the Northern Province (4%), and the Northern Cape (3%).¹⁰⁶ [¹⁰⁶ *Beeld* 11 October 1996]

Some 28% of murders on farms and smallholdings in 1995 occurred in KwaZulu-Natal, followed by Mpumalanga (24%) and Gauteng (18%).¹⁰⁷ [¹⁰⁷ *Hansard* (S:Q) 4 col 366, 17 May 1996]

Rape

Gauteng had the single largest proportion of rapes in the first six months of 1996 (26%), followed by KwaZulu-Natal (17,3%), the Western Cape (13%), the Eastern Cape (12,2%), the North West (8,6%), the Free State (7,6%), the Northern Province (6,6%), Mpumalanga (5,7%), and the Northern Cape (3,2%).¹⁰⁸ [¹⁰⁸ *Beeld* 11 October 1996]

Hijackings

The table below illustrates the number of cars hijacked in 1994 and 1995 according to former South African Police (SAP) region:¹⁰⁹ [¹⁰⁹ SAPS, *Report on the Incidence of Serious Crime During 1995*, April 1996]

Car hijackings nationwide: 1994 and 1995

Former SAP region

1994

1995

Increase/(decrease)

Eastern Cape

158

248

57,0%

Eastern Transvaal

305

370

21,3%

Free State

113

106

(6,2%)

Far Northern Transvaal

43

41

(4,7%)

Natal

952

940

(1,3%)

Northern Cape

10

8

(20,0%)

Western Cape

174

248

42,5%

Western Transvaal

33

130

293,9%

Witwatersrand and Northern Transvaal

7 928

8 748

10,3%

Total

9 716

10 839

11,6%

About 80,7% of all car hijackings in 1995 occurred in the Witwatersrand and Northern Transvaal region —excluding the far Northern Transvaal¹¹⁰ [¹¹⁰ *The Star* 31 August 1996] —amounting to an average of 729 per month or 24 per day.¹¹¹ [¹¹¹ *Hansard* (NA:Q) 2 col 203, 5 March 1996]

More than 60% of the 8740 car hijackings in South Africa from January to August 1996 occurred in Gauteng (5251), followed by KwaZulu-Natal (1944), Mpumalanga (386), the North West (342), the Eastern Cape (341), the Western Cape (216), the Free State (136), the Northern Province (114), and the Northern Cape (10).¹¹² [¹¹² Crime Information Management Centre report, *The Incidence of Serious Crime—January to August 1996*, 21 November 1996]

In 1995 the hijacking of trucks with freight occurred primarily in the Witwatersrand and Northern Transvaal—excluding the far Northern Transvaal—(1409 or 83,2%).¹¹³ [¹¹³ SAPS, *Report on the Incidence of Serious Crime During 1995*, April 1996]

More than 62% of hijackings of trucks with freight in the first eight months of 1996 occurred in Gauteng, followed by KwaZulu-Natal (17%). The Northern Cape had only 0,2% of hijackings.¹¹⁴ [¹¹⁴ Crime Information Management Centre, *The Incidence of Serious Crime—January to August 1996*, 21 November 1996]

The table below illustrates the number of trucks with freight hijacked in 1994 and 1995, according to former SAP

Hijacking of trucks with freight nationwide: 1994 and 1995

Former SAP region

1994

1995

Increase/(decrease)

Eastern Cape

3

15

400,0%

Eastern Transvaal

71

87

22,5%

Free State

61

69

13,1%

Far Northern Transvaal

6

21

250,0%

Natal

50

72

44,0%

Northern Cape

1

0

(100,0%)

Western Cape

8

8

0%

Western Transvaal

11

11

0%

Witwatersrand and Northern Transvaal

625

1 409

125,4%

Total

836

1 69

Arms Smuggling, Caches and Theft

More than 41% (6708) of the 16291 unlicensed firearms confiscated by the police in 1995 were recovered in KwaZulu-Natal, followed by Gauteng, where about 24% (3842) were recovered. The fewest firearms 0,3% (48) were confiscated in the Northern Cape.¹¹⁶ [¹¹⁶ *Hansard* (S:Q) 3 cols 214–215, 28

March 1996]

More than half of these 4 465 cases for the possession of unlicensed firearms during 1995 (2267) were in KwaZulu-Natal, the next largest number being in Gauteng (734). The fewest cases were recorded in the Northern Cape (22).¹¹⁷ [¹¹⁷ Ibid]

Drug Smuggling

The single largest proportion of drug-related crimes in the first half of 1996 was in the Western Cape (26%), followed by KwaZulu-Natal (18%), Gauteng (15%), the Eastern Cape (12%), the Free State (10%), the North West (7%), Mpumalanga (5%), the Northern Cape (4%), and the Northern Province (3%).¹¹⁸ [¹¹⁸ Fax correspondence from the SAPS, 23 October 1996]

Initiatives to Combat Crime

Government Initiatives

In May 1996 the government launched a National Crime Prevention Strategy. The strategy provided for improving the functioning and co-ordination of government departments in fighting crime. It also aimed to alter community values, upgrade physical security, tackle cross-border crime, and intensify co-operation between individuals and officials in an attempt to improve the criminal justice process. Key elements of the plan were: the enhancement of the police service's ability to gather intelligence on criminals and syndicates, greater co-ordination in bail and sentencing policies, a better turnaround in prosecution times, and a significant reduction in corruption in the police force and the judiciary.

The four pillars of the plan were:¹¹⁹ [¹¹⁹ SAPS, *National Crime Prevention Strategy*, May 1996]

- the development of a criminal justice system capable of certain and rapid deterrence;
- the altering of community values in order to create public pressure against crime;
- the limiting of opportunities for crime, including maximising the constraints on crime through urban upgrading such as street lighting; and
- the intensification of regional co-operation in the fight against cross-border crime.¹¹⁹ [¹¹⁹ SAPS, *National Crime Prevention Strategy*, May 1996]

The Democratic Party (DP) spokesman on crime, Mr Douglas Gibson MP, said that his party did not believe that the strategy had any prospect of curbing crime in the near future.¹²⁰ [¹²⁰ *Business Day* 23 May

1996]

The 1996/97 annual plan of the South African Police Service (SAPS) provided a long-term vision for improving the functioning and co-ordination of the SAPS in fighting crime (see *South African Police Service* below).

Police and local communities, in a combined effort to combat crime, organised themselves into community policing forums in several parts of the country. Community representatives and the SAPS in each area worked together to prioritise policing activities and formulate plans of action to combat crime. In the period under review more than 950 of these forums were formed. The forums were established in terms of the South African Police Service Act of 1995 (see 1995/96 Survey, p74). KwaZulu-Natal established the most forums (170), followed by the Western Cape (132) and Gauteng (121) (see *South African Police Service* below).

On 13th June 1996 the SAPS launched its year-long Sword and Shield plan to combat crime. The plan began with a campaign to arrest 10 000 of the country's most wanted criminals within its first month of operation. On 16th July the acting national police commissioner, Commissioner Morgan Chetty, announced that 7 099 of the 10 000 most wanted criminals had been arrested.¹²¹ [¹²¹ *The Citizen* 18 July 1996] Of those, 1 703 suspects were arrested in the Western Cape, 1 649 in Gauteng, 1092 in the Free State, 659 in the North West, 799 in the Eastern Cape, 528 in the Northern Province, 292 in KwaZulu-Natal, 197 in Mpumalanga and 180 in the Northern Cape.¹²² [¹²² *Ibid* 22 July 1996] The planned arrests were dogged by controversy when the spokespeople of several political parties questioned whether the SAPS did in fact have a list of the country's 10 000 most wanted criminals. Also, after the arrests of the 7 099 criminals were announced, the minister of justice, Mr Dullah Omar, cast some doubt on the number of arrests made when he said that his department had not seen any increase in the number of new cases handled in the courts.¹²³ [¹²³ *Ibid*] In reaction, the national commissioner of police, Commissioner George Fivaz, ordered police officials to compile a list of dates on which any of the 7 099 criminals had appeared or would appear in court.¹²⁴ [¹²⁴ *Beeld* 23 July 1996] In August 1996 Commissioner Fivaz made the list public and said that 2 099 (29,5%) of the 7099 criminals had been released on bail.¹²⁵ [¹²⁵ *Ibid* 14 August 1996]

In August 1996 the minister for safety and security, Mr Sydney Mufamadi, announced that two units—the visible gang unit and the gang investigation unit—had been put in place in the Western Cape. The units would be strengthened by 260 members of the South African National Defence Force (SANDF). His announcement followed clashes between gangsters and a group calling itself People Against Gangsterism and Drugs (Pagad).¹²⁶ [¹²⁶ *Sowetan* 15 August 1996] Their reason for taking the law into their own hands was that the police were not doing enough to combat gangsterism and drugs (see also *Gangs* above and *Other initiatives* below).

In the same month the president, Mr Nelson Mandela, admitted that crime was 'out of control'. He promised that the government would take firm action to deal with it.¹²⁷ [¹²⁷ *The Sunday Independent* 1

September 1996] Shortly after this Commissioner Fivaz announced that an extra 1000 police officers would be deployed in Gauteng in an effort to clamp down on killer hijackers and murderers of police. He said that the police would adopt a ‘gloves-off’ approach towards criminals and apply the ‘maximum lethal force allowed by law’ in fighting violent crime. Two special 50-person detective teams would hunt down hijackers and police killers. Four extra helicopters from the South African Air Force would be used in Gauteng, and the SANDF would be asked for 500 extra troops to support the police.¹²⁸ [¹²⁸ *The Citizen* 30 August 1996]

The government also announced a package of anticrime measures in August 1996, including proposed legislation to enable the courts to state how long a criminal had to be imprisoned before being eligible for parole or remission of sentence. The government said that a specialist team of prosecutors would be dedicated to a campaign against drug-related crimes in the Western Cape and new anticorruption measures within the SAPS would be negotiated with police employee organisations.¹²⁹ [¹²⁹ *Ibid* 23 August 1996]

Other measures announced included:¹³⁰ [¹³⁰ *Ibid*]

- the signing into law by the president of the Regulation of Public Gatherings Act of 1993, which granted the government far-reaching powers for the management of public gatherings and demonstrations. This legislation was drafted in 1993 by the Commission of Inquiry Regarding the Prevention of Public Violence and Intimidation (the Goldstone commission) but was only operative from 1996 (see 1993/94 Survey, p292);
- a prohibition on the carrying of firearms at public gatherings in specified magisterial districts;
- the investigation of all firearm licences held by known gang leaders (previous convictions would lead to licences being revoked);
- the upgrading of equipment at boundary posts in the Western Cape in order to block the entry of drugs into the province;
- the development—within the broad parameters of the National Crime Prevention Strategy (see *South African Police Service* below)—of a provincial crime prevention plan in each province;
- the introduction of new legislation to facilitate the investigation and prosecution of criminals, provide tougher sentences, protect witnesses, and speed up trials;
- a meeting between the minister of justice, prosecuting attorneys, and chief magistrates in which the minister would ‘call on them to ensure that public safety and the integrity of the justice system’ were prime considerations in granting bail and imposing sentences;

- the possible prohibition of bail for certain categories of serious crime;
- an announcement by the minister of correctional services that all prisoners would serve at least half their sentences before being considered for parole and that serious offenders would serve at least two thirds of their sentences before being considered for parole;
- the isolation of prisoners convicted of gang-related offences and the tackling of the gang culture in prisons; and
- steps to inhibit gang activity by preventing gangs from interacting with their members in prisons.

Shortly after the announcement of these measures Mr Omar announced a package of legislative measures aimed at curtailing crime. The package included laws to extradite criminals despite the absence of formal treaties with certain countries; the establishment of special investigative units and tribunals to deal with corruption within the public service; the outlawing of money laundering; attachment of the assets of fugitives from justice; the enforcement of judgements made in other countries; and the combating of child abduction (see *Legislation* above).¹³¹ [¹³¹ *Sunday Times* 1 September 1996]

The proposed legislation included the **Proceeds of Crime Bill**, the **International Co-operation in Criminal Matters Bill**, the **Extradition Amendment Bill**, and the **Special Investigation Units and Special Tribunals Bill**. In addition, an amendment would be made to the Criminal Procedure Act of 1955 in order to regulate and strengthen the ability of the police to use entrapment without contravening the constitution, Mr Omar said. (For details of these bills see *Legislation* above.)¹³² [¹³² *Ibid*]

In June 1996 the MEC for safety and security in Gauteng, Ms Jessie Duarte, announced the proposed establishment of an intensively patrolled 'safety lung' in the Johannesburg central business district (CBD). Ms Duarte said that the initiative was part of her department's aim to reduce the level of crime in the CBD and would entail dividing the area into blocks and creating sectoral policing; installing closed-circuit television monitoring systems; increasing police visibility with motorcycle and foot patrols; intensifying tourist policing; and designating areas for hawkers.¹³³ [¹³³ *Saturday Star* 22 June 1996] The business sector would also be involved in the project.

In July 1996 the deputy provincial commissioner of police in KwaZulu-Natal, Deputy Commissioner Moses Khanyile, launched the province's police plan for the 1996/97 financial year, saying that it was part of the Sword and Shield national police plan. Police strategies would include at least two roadblocks per month in each of the province's station areas, at least three joint army 'clean up' operations, and at least 1 400 smaller sweep operations. He added that police visibility, witness protection and crime intelligence would all be enhanced.¹³⁴ [¹³⁴ *The Citizen* 25 July 1996]

Other Initiatives

Political Parties

In June 1996 a member of the **Inkatha Freedom Party (IFP)** in the Senate, Mr Philip Powell, said that the party's plans to fight crime included the following:¹³⁵ [¹³⁵ *The Natal Witness* 20 June 1996]

- a referendum on the reintroduction of the death penalty;
- tougher sentencing for violent crime;
- the tightening of bail conditions for violent offenders;
- the establishment of a crime commission in every IFP-controlled local authority in order to develop community-driven anticrime programmes;
- a dramatic improvement in the employment conditions of policemen and women;
- the transfer of control of the police force to provincial and local government level;
- the granting of full crime-prevention powers to local government policing agencies;
- the support and encouragement of private-sector anticrime initiatives;
- the provision of a secure and remedial environment for juvenile offenders;
- the urgent building of more police stations—especially in historically disadvantaged communities; and
- the rapid expansion of the police reservist volunteer system in order to help address shortfalls in personnel.

In August 1996 the leader of the **Democratic Party (DP)** in the Gauteng provincial legislature, Mr Peter Leon, said that the government should consider the creation of an overarching crime prevention ministry with sweeping powers, located in the office of the president.¹³⁶ [¹³⁶ *Sunday Tribune* 18 August 1996]

In November 1996 the DP brought out a policy document aimed at curbing crime—*Winning the War Against Crime: Practical Solutions*. In the document the party called, inter alia, for:¹³⁷ [¹³⁷ Democratic Party, *Winning the War Against Crime: Practical Solutions*, 16 November 1996]

- cities and towns to become the central focus of crime prevention initiatives and said that local authorities and the SAPS should formulate community safety charters aimed at reducing crime in specific areas;
- the replacement of community policing forums (see *South African Police Service* below) with crime prevention councils;
- the detention of juvenile offenders in ‘boot camps’;
- the sale or outsourcing of South African prisons;
- specific minimum sentences for persistent dealers in hard drugs, secondtime perpetrators of violent sex crimes and sex offenders;
- a victim’s charter with compulsory compensation for the victims of crime and the introduction of a victims’ clause in the national constitution;
- measures to deal with violence in the home;
- the establishment of a national criminal justice academy for the training of detectives, prosecutors, probation officers, social workers, correctional service employees, and local authority crime prevention officials;
- a voluntary national service in the SAPS;
- the establishment of a dedicated anticrime fund into which the confiscated proceeds of crime could be deposited;
- a regional extradition treaty applicable to the Southern African Development Community; and
- the establishment of a national drugs commission.

The DP also suggested the establishment of an independent anticorruption agency to focus on corruption within the criminal justice system. A national crime justice audit committee should be created to measure the performance of key portfolios in the criminal justice system against the objectives of the National Crime Prevention Strategy (see *South African Police Service* below).¹³⁸ [¹³⁸ Ibid]

The leader of the **National Party (NP)**, Mr F W de Klerk, said that crime could be effectively combated if, inter alia, members of the SANDF could be used for protective services so that more members of the police service could be deployed in crime investigations. Mr de Klerk also suggested eliminating the

backlog in the courts by reappointing those experienced prosecutors who had left the legal system.¹³⁹ [¹³⁹ *Beeld* 23 August 1996]

The NP in Gauteng said that what was needed was the introduction of a holistic law enforcement strategy which would also include:¹⁴⁰ [¹⁴⁰ *The Citizen* 4 June 1996]

- the tightening of bail conditions;
- the more stringent use of parole so that prisoners would serve the bulk of their sentences; and
- tighter border control to keep out illegal immigrants, who contributed to crime and took away job opportunities from South Africans.

Business

During the period under review the private sector and various business communities embarked on initiatives to combat crime in their areas. The private sector's efforts were spearheaded by Business Against Crime, a campaign that grew out of a joint anticrime initiative in August 1995 between Business South Africa and the Council of South African Banks. In May 1996 Mr Mufamadi expressed his thanks to Business Against Crime for securing the services of an international management consultancy to assist with the provision of basic management services at 100 of the SAPS's poorest performing police stations.¹⁴¹ [¹⁴¹ *Hansard* (NA) 8 col 1857, 31 May 1996]

Inter alia, Business Against Crime:¹⁴² [¹⁴² *Financial Mail* 6 September 1996]

- assisted the departments of correctional services, justice, and safety and security to document blockages in the criminal justice system;
- donated 100 BMW motor vehicles to the Gauteng SAPS to help fight vehicle-related crimes. Plans were being made to expand this assistance to Durban and Cape Town;
- helped with the installation of closed-circuit television surveillance cameras in a pilot project operating in the Benoni city centre (east Rand). Similar projects were planned for Cape Town, Durban, Johannesburg and Port Elizabeth at the time of writing;
- provided accommodation for police in the Johannesburg CBD;
- provided members of the SAPS with a cellular telephone service;
- provided guidelines for business to become involved in community police forums;

- facilitated campaigns by certain businesses for sales linked to cash donations to the SAPS;
- helped establish a set of minimum standards for cargo handlers at ports of entry to improve security against hijackers and thieves;
- helped establish a task team to combat theft of precious metals; and
- helped establish a regional communications network between chiefs of police in southern Africa.

In July 1996 an initiative was launched against crime in KwaZulu-Natal involving business, church, community, and labour leaders and the SAPS in the province. The initiative, also termed Business Against Crime, was to be linked to a similar organisation in Gauteng, the chairman of the initiative, Mr Terry Rosenberg, said. He added that negotiations were already under way for the police in Durban to get 40 high-speed BMW motor vehicles for a special vehicle anti-hijacking unit.¹⁴³ [¹⁴³ *Sunday Tribune* 23 June 1996]

Other Organisations

The perceived inability of the police to remove gangs and drugs from communities led to vigilante action in the Cape Flats (outside Cape Town). In August 1996 a predominantly Muslim group calling itself People Against Gangsterism and Drugs (Pagad) marched through the Cape Flats to deliver an ultimatum to gang leaders in the area. The march ended in the wounding of several people and the death of a gang leader. The group had earlier demanded

that Mr Omar take decisive action to arrest drug dealers in the Western Cape.¹⁴⁴ [¹⁴⁴ *The Citizen* 14 August 1996] A lecturer in Islamic studies at the University of South Africa, Mr Ismael Jaffer, said that Muslim communities throughout South Africa were ‘flooded’ with drugs. He claimed that Pagad had been ‘going to the police’ for two years but had been ‘shoved aside’.¹⁴⁵ [¹⁴⁵ *Ibid*]

Mr Mufamadi and Mr Omar condemned Pagad’s vigilante actions in taking the law into its own hands and said that this would not be tolerated. Commissioner Fivaz condemned the illegal display of arms at the march and said that co-operation between Pagad and the police in the fight against crime would be possible only if the actions of Pagad represented legitimate community aspirations and it acted within the law.¹⁴⁶ [¹⁴⁶ *The Star* 13 August 1996] One of Pagad’s leaders, Mr Moegamat Edries, was arrested on charges of murder and sedition but the charges against him were subsequently withdrawn due to lack of evidence.¹⁴⁷ [¹⁴⁷ *The Citizen* 18 September 1996] In October 1996 two brothers, Nur and Ozeer Booley, appeared in the Cape Town magistrate’s court in connection with the death of a gang leader in August. They were released on bail.¹⁴⁸ [¹⁴⁸ *Ibid* 17, 24 October 1996] Their trial had not been concluded at the time of writing (see also *Gangs* above).

In August 1996 several other groups fashioned on Pagad emerged in Durban, Johannesburg, Pietermaritzburg, Port Elizabeth, and Pretoria. In Gauteng, the premier of the province, Mr Tokyo Sexwale, held a meeting with Muslim leaders in which they agreed to co-operate with the police in the struggle against crime, gangsterism and drugs.¹⁴⁹ [¹⁴⁹ Ibid 17 August 1996] Mr Sexwale stressed the need for strategies that would prevent the spreading of vigilante action to other parts of the country.¹⁵⁰ [¹⁵⁰ Ibid]

In December 1996 anticrime groupings from Cape Town, Johannesburg, Kimberley and Port Elizabeth united to form a national anticrime body, People Against Drugs and Gang Violence. The new organisation's national coordinator, Mr Abdul Salaam, said that regional anticrime organisations would dissolve to form the new body.¹⁵¹ [¹⁵¹ Ibid 9 December 1996]

In the same month a meeting was held between the leadership of Pagad and several government officials including, Mr Omar, Mr Mufamadi, the minister of correctional services, Dr Sipo Mzimela, and the attorney general of the Western Cape, Mr Frank Kahn. The meeting resolved to establish a permanent committee composed of members of the government and Pagad to investigate problems between the government and the organisation.¹⁵² [¹⁵² Ibid 4 December 1996] The leader of the DP, Mr Tony Leon, dismissed the meeting as 'an outrageous stunt' and urged the government to defend the rule of law against the 'outlaw group'.¹⁵³ [¹⁵³ *The Star* 5 December 1996]

Despite warnings from Mr Mufamadi that the Regulation of Public Gatherings Act of 1993 outlawed the wearing of masks or the obscuring of the face and the display of dangerous weapons, Pagad continued to hold armed protest marches in which its members wore masks. Mr Mufamadi warned that the government would enforce the regulations.¹⁵⁴ [¹⁵⁴ *The Citizen* 7 November 1996] Thirteen members of Pagad were subsequently arrested after they held an illegal protest march at Cape Town International Airport during which several people, including members of the police, were injured.¹⁵⁵ [¹⁵⁵ *The Star* 17 December 1996]

In December 1996 the president of the Free State Agricultural Union, Mr Piet Gous, announced that farmers in the Northern Province and the North West had set up commando-style self-defence units and had begun armed patrols in surplus armoured vehicles of the SANDF. He said that successive attacks on farmers in the two provinces had made them feel as if they were under siege. His organisation had been 'flooded' with calls from farmers complaining about attacks, he added. The farmers had become frustrated because police took so long to react to their calls. Mr Gous said that he had advised the farmers to shoot to kill if their lives were threatened.¹⁵⁶ [¹⁵⁶ *The Sunday Independent* 15 December 1996]

A police spokesman, Superintendent Leon Engelbrecht, said that vigilante action would not be tolerated and appealed to the farmers to work with community policing forums in order to ensure effective co-operation with security officials. He did not want to see Pagad-style vigilante groups develop in the rural areas, he added.¹⁵⁷ [¹⁵⁷ Ibid]

Private Security Firms

The period under review also saw a 41% increase in the number of private security companies and a 124% increase in the number of active security officers employed by them. According to the Security Officers' Board (the regulatory body of the private security industry), there were approximately 110000 active security officers employed by about 3300 security companies in South Africa in June 1996. Some 61 000 of these security officers had been employed since the beginning of 1995, when 961 new security companies were registered. The board's registrar, Mr Frans Lubbe, said that the country's high crime rate had contributed to the marked increase in private security companies during this period. He added that most private security companies were engaged in securing the premises of their clients.¹⁵⁸ [¹⁵⁸ *New Nation* 28 June 1996] The board had a total of 338 training centres with 811 accredited instructors.¹⁵⁹ [¹⁵⁹ Telephonic interview with the deputy registrar of training at the Security Officers' Board, Mr Doug Neilsen, 28 January 1997] The administrator of the Security Association of South Africa, Mr Frank Simms, said however, that the increase in the number of security firms was partly owing to the enforcement of stricter measures against security companies not registered with the board but which had been in operation. The appointment of inspectors by the board had persuaded many previously unregistered companies to register, he said.¹⁶⁰ [¹⁶⁰ Telephonic interview with the administrator of the Security Association of South Africa, Mr Frank Simms, 29 January 1997]

Successes/Failures

A spate of criminal attacks on high-profile people in Gauteng during August 1996 (including the president of the Constitutional Court, Mr Justice Arthur Chaskalson) led to an admission by the president, Mr Nelson Mandela, that crime was 'out of control'. Mr Mandela assured the country that the government was 'getting on top of the situation' and said he was confident that it was making progress in its fight against crime.¹⁶¹ [¹⁶¹ *The Sunday Independent* 1 September 1996] Mr Mufamadi said that the African National Congress (ANC) would have to mobilise popular sentiment against crime, which was 'currently running high'. Mr Omar told reporters that the ANC favoured a rigorous re-examination of legislation relating to the criminal justice system, to ensure that it was adequate to combat crime. This included the possibility of mandatory and minimum sentences for serious crimes.¹⁶² [¹⁶² *The Citizen* 2 September 1996]

In August 1996 Mr Omar moved out of his home in Rylands (Cape Town) and into a 'safe house' amid fears that he would become a target in the feud between Pagad and the gangs operating in the Western Cape. Mr Omar said that he had moved out of his house in order to protect his family.¹⁶³ [¹⁶³ *Business Day* 15 August 1996] Mr De Klerk said that the fact that Mr Omar had to move out of his home was an admission by the government that it could not effectively protect a minister against violence. The Freedom Front said that the move confirmed the fact that anarchy had already broken out in certain parts of South Africa.¹⁶⁴ [¹⁶⁴ *The Citizen* 16 August 1996]

The NP spokesman on safety and security, Mr André Fourie, said that the government was clearly losing control of crime.¹⁶⁵ [¹⁶⁵ *Ibid* 7 August 1996] In September 1996, the minister of housing, Ms Sankie

Mthembi-Mahanyele, told a conference of the National African Federated Chamber of Commerce and Industry that South Africa's high levels of crime were beginning to have a serious effect on the delivery of low-cost housing, particularly in Gauteng and KwaZulu-Natal. The levels of crime had resulted in major contractors 'shying away' from tendering for these jobs, she said. When they did tender they pushed up their rates to include down time in case they could not get on site, damages that might occur to their vehicles, and theft of materials. Crime was putting contractors' lives at risk, leading to spiralling costs and slowing work down, she added.¹⁶⁶ [¹⁶⁶ *Business Day* 4 September 1996]

Although the high levels of crime continued some successes were claimed in various parts of the country.

In **May 1996** the police area commissioner for the **North Rand**, Assistant Commissioner Carel Victor, announced that a combination of efforts between communities and the police in the area had resulted in a 28,7% reduction in crime between April 1995 and April 1996. He added that crimes targeted included armed robbery, hijacking, housebreaking, rape, theft from motor vehicles and theft of motor vehicles. More than 4500 vehicles and 12800 people were searched during this period and vehicles worth more than R3,1m plus stolen goods valued at R27 000 were recovered.¹⁶⁷ [¹⁶⁷ *Ibid* 15 May 1996]

In the same month a spokesman for the SAPS in the **Vaal Triangle**, Superintendent Piet van Deventer, said that a comprehensive anticrime campaign there had resulted in the crime rate in the Vaal Triangle dropping by an average of about 15% over the first three months of 1996. All categories of crime had been reduced except crimes against children, which had risen by 27% (partly because of a campaign to encourage children to report abuse).¹⁶⁸ [¹⁶⁸ *The Argus* 11 May 1996] He added that violent crimes had shown the most notable decrease—serious assault cases were down by 36%, armed robbery by 32%, vehicle hijacking by 18%, rapes by 15%, and murders by 13%.¹⁶⁹ [¹⁶⁹ *Ibid*]

In **June** the **KwaZulu-Natal** provincial commissioner of police, Commissioner Chris Serfontein, said that the province's priority crimes unit had been successful in solving more than 70% of crimes investigated by its members.¹⁷⁰ [¹⁷⁰ *The Citizen* 7 June 1996]

In **July** the commander of the Ocean View Police Station (**Cape Town**), Inspector Kevin Tiltman, announced that between 25th June 1996 and 25th July 1996 all categories of crime in the area were down compared with the same period in 1995. This, he said, 'was due to constant pressure' from the crime prevention unit, 'the good work of two neighbourhood watches in the area, and the influence of residents who were determined to restore order'.¹⁷¹ [¹⁷¹ *The Argus* 30 July 1996]

At the end of July the commercial crime unit of the SAPS arrested 539 suspects and retrieved more than R22m in a three-day countrywide operation, Operation Witbroodjie. More than 2 000 premises were searched during the operation.¹⁷² [¹⁷² *Beeld* 31 July 1996]

Operation Rooikat—launched in June 1996 and conducted in the **Johannesburg, Randburg** and **Sandton** areas—recovered stolen property worth more than R5,7m and resulted in the arrest of 3300 people by the end of July 1996. A police spokesman, Sergeant Mark Reynolds, said that 84 stolen vehicles and 167 unlicensed firearms had also been seized by the police.¹⁷³ [¹⁷³ *The Citizen* 31 July 1996] In addition, serious crime in the Johannesburg area (with the exception of murder and commercial crime) dropped by about 7,1% between March and June 1996, compared with the same period in 1995, Sergeant Reynolds said.¹⁷⁴ [¹⁷⁴ *Beeld* 31 July 1996]

The **Gauteng** highway patrol, created in December 1995 following a donation by the car manufacturer BMW of 100 vehicles, was instrumental in reducing the hijacking rate in the province, the commander of the patrol, Superintendent David van Vuuren, said. (The donation was part of the Business Against Crime initiative—see *Other initiatives* above.)¹⁷⁵ [¹⁷⁵ *The Star* 15 February 1996] In some areas the hijacking rate had been reduced from about 16 per day to two per day, Supt van Vuuren said.¹⁷⁶ [¹⁷⁶ *Ibid* 31 July 1996] In May 1996 an SAPS spokesman, Superintendent Jan Combrink, said that the highway patrol had made 235 arrests (205 in connection with car theft or hijacking) and had recovered 104 stolen cars since December 1995.¹⁷⁷ [¹⁷⁷ *Business Day* 16 May 1996]

In illustrating the success of the Gauteng highway patrol Supt Combrink pointed out that 908 hijackings had taken place in September 1995, 1 032 in October 1995 and 970 in November 1995. Steady declines began to occur in December 1995 (after the highway patrol began operating), when 723 cars were hijacked. The figures for January, February and March 1996 were 656, 738 and 783 respectively.¹⁷⁸ [¹⁷⁸ *Ibid*] In August the chairwoman of Business Against Crime (BAC), Ms Wendy Lucas-Bull, said that in just over six months 2 945 stolen vehicles had been recovered, 517 suspects arrested, 6 066 motorists assisted and 987 complaints attended to by the highway patrol.¹⁷⁹ [¹⁷⁹ *Saturday Star* 24 August 1996]

At the beginning of **August** the station commander of the **Pretoria** Central Police Station, Director Ephraim Beetha, announced that a joint operation by the police and the city council—codenamed Operation Kwana and launched in April 1996—had resulted in a 30% drop in crimes such as car theft, housebreaking, petty theft, rape, robbery and theft from vehicles in central Pretoria.¹⁸⁰ [¹⁸⁰ *The Star* 15 August 1996] Director Beetha said that a total of 67% of the 1 100 cases reported to police stations since the start of Operation Kwana had been solved through direct arrests. There had also been a 6,7% drop in serious crime, with 6 766 crimes reported in the area from 1st April 1996 to 31st July 1996, compared to 7 254 for the same period in 1995.¹⁸¹ [¹⁸¹ *Ibid*]

In **September** the head of the SAPS's national standards and management services division, Commissioner André Pruis, said that the police plan was working well, but could still be improved upon. All plans were in place from national to station level, and were being implemented. He added that rural and urban community safety networks and task forces were being established to deal with priority crimes in each police station area in the country. Commissioner Pruis said that 8 388 sweep operations had been carried out in the two months following 13th June 1996 and had resulted in 119 708 arrests.

Some 4 408 stolen vehicles had been recovered, 3 568 firearms seized and 4 229 roadblocks set up. Several theme operations such as Operation White Collar—aimed at commercial crime—in which about 500 arrests were made, were also carried out. Commissioner Pruis said, however, that more personnel were needed for the SAPS to increase visible policing and move from reactive to proactive policing.¹⁸² [182 *The Citizen* 5 September 1996]

SOUTH AFRICAN POLICE SERVICE

Policy

Annual Plan of the South African Police Service: 1996/97

In June 1996 the annual plan of the South African Police Service (SAPS) for 1996/97 was published. The minister for safety and security, Mr Sydney Mufamadi, said that the government had put in place the framework for two anticrime strategies—one focusing on reducing crime through prevention and the other on combating existing crime. The first strategy was the National Crime Prevention Strategy (see *Government initiatives* above). The second strategy, which was linked to the first, involved improving the effectiveness of key government departments in the criminal justice system.¹⁸³ [183 SAPS, *Annual Plan of the South African Police Service, 1996/1997*]

The national commissioner of the SAPS, Commissioner George Fivaz, said that the plan incorporated the philosophy and principles of community policing in all spheres of policing.¹⁸⁴ [184 *Ibid*] The aims and objectives of the community safety plan, which began in March 1995, became part of the police plan. Vehicle hijacking and other vehicle-related crimes, taxi violence, police corruption, the possession of and trafficking in illegal weapons, narcotic-related offences, serious economic offences, political massacres, and bank robberies were identified as national crime priorities in the plan. Priority crimes were also identified for each of the provinces.¹⁸⁵ [185 *Ibid*]

The police plan outlined the following key priorities for the 1996/97 financial year:¹⁸⁶ [186 *Ibid*]

- the raising of the levels of safety and security through improved quality of service;
- the reduction of violent crime;
- the restriction of organised crime;
- the reduction of hijackings and other related vehicle crimes;
- the combating of commercial crime;

- the establishment of effective crime intelligence;
- the targeting of corruption within the police service;
- the effective control and policing of the illegal movement of people and goods;
- the management of public order policing in an acceptable and effective manner;
- the enhancement of operational effectiveness through the development, education and training of personnel;
- the equitable distribution of resources between the national and provincial functions and through the establishment of minimum resource levels at all police stations and units and the redistribution of surpluses;
- the enhancement of morale among members of the service; and
- the enhancement of equality and representivity in the service.

In a detailed briefing on the plan in June 1996, the head of the SAPS's national standards and management services division, Commissioner André Pruis, said that the operational strategy would include:¹⁸⁷ [¹⁸⁷ *The Star* 14 June 1996]

- the establishment of 42 additional task forces to trace and arrest 10 000 of the country's most wanted suspects by July 1996 (see *Successes/failures* above);
- the introduction of electronic and camera surveillance in certain business districts;
- the introduction of nationwide computerised fingerprinting and vehicle tracking systems;
- the formation of policing partnerships with sectors such as business, agriculture, hawkers, and the security industry;
- the division of police station areas into sectors and the launching of a combined total of some 10 000 sweeps in these sectors;
- the implementation of at least 15 theme-driven initiatives to focus the public's attention on specific problems such as child abuse, drugs, hijackings, and political massacres;
- the hunting down of criminals within the police force;

- the increase of co-operation with the South African National Defence Force;
- discussions with the government on the recruitment of additional personnel and funding for the SAPS; and
- the building of mobile police stations—complete with communications networks, holding cells, and safes—in shipping containers.

Structure

The new constitution of South Africa said that the South African Police Service (SAPS) would function in the national, provincial and, where appropriate, local spheres.¹⁸⁸ [¹⁸⁸ Constitution of the Republic of South Africa Act, 1996] It further stated that a member of the cabinet would be responsible for policing and the determination of national policy after consulting provincial governments and taking into account the needs and priorities of the province as determined by the relevant provincial executive council. The constitution said that each province would be entitled to:

- monitor police conduct;
- have oversight of the effectiveness and efficiency of the police service;
- promote good relations between the police and the community;
- assess the effectiveness of visible policing; and
- liaise with, and make recommendations to, the cabinet member responsible for policing with respect to crime and policing in the province.

According to the constitution, the president must appoint a national commissioner of police to control and manage the police force. The national commissioner would exercise control over and manage the police service in accordance with national policing policy and the directives of the cabinet member responsible for policing.¹⁸⁹ [¹⁸⁹ Ibid]

The national commissioner, with the concurrence of the relevant provincial executive council, must appoint a provincial commissioner for each province. The minister for safety and security would mediate where agreement could not be reached on the appointment.¹⁹⁰ [¹⁹⁰ Ibid]

The provincial police commissioner must report to the provincial legislature annually on policing in the province, and must send a copy of the report to the national commissioner. The constitution provided for

a provincial executive council to institute proceedings for removal, transfer, or disciplinary action (in accordance with national legislation) against its provincial police commissioner if he or she loses the confidence of that council.¹⁹¹ [¹⁹¹ Ibid]

Provincial police commissioners would be responsible for policing as prescribed by national legislation and, subject to the power of the national commissioner, for exercising control over and managing the police service.¹⁹² [¹⁹² Ibid]

In addition the constitution provided for a civilian secretariat to be established through national legislation. This secretariat would function under the direction of the cabinet member responsible for policing.¹⁹³ [¹⁹³ Ibid] Such legislation (contained in the South African Police Service Act of 1995) was passed in 1995 under the provisions of the transitional constitution and Mr Azhar Cachalia was appointed secretary for safety and security (see 1995/96 Survey, pp74–75).

The constitution provided for national legislation to create a framework for the establishment, powers, functions and control of municipal police services. A committee composed of the minister for safety and security and the MEC charged with policing in each province had to be established in order to ensure effective co-ordination of the police service among the different levels of government. The constitution also provided for a provincial executive council to summon the provincial commissioner of police to appear before it or any of its committees to answer questions.

In September 1996 the Greater Johannesburg Transitional Metropolitan Council approved a report on the establishment of a metropolitan police force, which set out a number of models for such a force. The deputy chairman of the council's security and emergency services committee, Mr Paulo Andrade, said that the council hoped to have all the details worked out by the time possible amendments were made to the South African Police Service Act of 1995 so as to empower local authorities to establish their own police forces.¹⁹⁴ [¹⁹⁴ *Business Day* 5 September 1996] (No amendments had been made at the time of writing.) In a paper published by the Institute for Defence Policy, a researcher into police forces, Mr Dirk Besdziek, said that problems existed over how municipal police forces could be established because the act provided an insufficient legislative framework for their establishment.¹⁹⁵ [¹⁹⁵ *The Star* 5 July 1996]

Training

In June 1996 the national commissioner of the South African Police Service (SAPS), Commissioner George Fivaz, said that only 25% of South Africa's police detectives were considered to be properly trained. Certain highly specialised detective units had only 3% of their personnel properly trained. Commissioner Fivaz said that the SAPS had already initiated steps to improve the investigative capacity and quality of SAPS detectives.¹⁹⁶ [¹⁹⁶ *Business Day* 7 June 1996] In March the minister for safety and security, Mr Sydney Mufamadi, had said that it was envisaged that 3400 detectives would be trained during the 239 specialised training courses that had been scheduled for the training of detectives during the period 1st January 1996 to 31st March 1997. It was estimated that 4111 detectives (24,7%) would

still be untrained on 31st March 1997 (excluding personnel changes). He added that 168 specialised training courses had also been scheduled for the training of members attached to specialised units. It was estimated that 11995 detectives would have undergone crime investigation and intelligence related training during that period, he said. More than 40% of officers in Johannesburg did not possess a driver's licence and about one third had not passed matric, the magazine *Finance Week* reported in April 1997. The magazine said that some of the former local authority policemen had no formal training whatsoever.¹⁹⁷ [¹⁹⁷ *Hansard* (NA:Q) 2 cols 328–330, 14 March 1996; *Finance Week* 3 April 1997]

Personnel

In March 1996 Mr Mufamadi told Parliament that the SAPS was committed to the creation of an effective, efficient and representative police force which was orientated towards community needs. To these ends the SAPS had embarked on a number of projects including a Community Policing Pilot Project and a Representivity and Equal Opportunity Programme.¹⁹⁸ [¹⁹⁸ *Hansard* (NA:Q) 3 cols 405–406, 20 March 1996] The degree to which a police officer was representative of the community within which a police post became vacant would be one of the factors taken into consideration when filling such a post, Mr Mufamadi said.¹⁹⁹ [¹⁹⁹ *Ibid*]

In May 1996 Mr Mufamadi told Parliament that in 1985 there were 52590 active police officers, while in 1990 there were 82252—an increase of some 36%. The number of active SAPS members for every 1000 members of the population, however, dropped from 2,3 in 1985 to 2,2 in 1990. In 1995 there were 102340 active police officers—2,5 for every 1000 members of the public.²⁰⁰ [²⁰⁰ *Hansard* (NA:Q) 3 col 418, 20 March 1996] The United States had an average of 2,3 law enforcement officers for every 1000 members of the public in October 1993.²⁰¹ [²⁰¹ *World Almanac and Book of Facts* 1996] A senior researcher at the Institute for Defence Policy, Mr Mark Shaw, said that when measured per head of population the number of SAPS personnel (346 civilians per police officer) compared favourably with an international average of about 1014 civilians per police officer.²⁰² [²⁰² *The Star* 7 August 1996]

In August 1996 research conducted by the human resources department of the SAPS found that the ideal national count for the SAPS to function effectively would be 161 755 staff members.²⁰³ [²⁰³ *Mail and Guardian* 2 August 1996] This figure was 15,1% more than the 140541 personnel already in the SAPS in May 1996.²⁰⁴ [²⁰⁴ SAPS, *Annual Plan of the South African Police Service, 1996/1997*] In November 1996 Mr Mufamadi said that the government was committed to lifting the moratorium on the hiring of new police personnel introduced in 1994. He said that the time had come to increase the size of the police service. The moratorium was lifted in May 1997.²⁰⁵ [²⁰⁵ *Business Day* 26 November 1996, 23 May 1997]

In December 1996 Commissioner Fivaz said that since August 1996, 1 198 members of the police service had applied to take early retirement in terms of the civil servant severance packages which were applicable to the SAPS. At the time of writing 1 082 of these applications had been approved. Senior

staff among those seeking retirement packages included two divisional commissioners, six assistant commissioners, 27 directors, 74 senior superintendents, 174 superintendents, 188 captains and 260 inspectors. Commissioner Fivaz said that many police personnel were taking the early retirement package because they could invest the money while opting for a second career.²⁰⁶ [²⁰⁶ *The Sunday Independent* 15 December 1996]

The head of the SAPS National Crime Investigation Service, Commissioner Wouter Grové, was among those taking early retirement. Commissioner Grové, however, said that his decision to retire had been largely motivated by the involvement of politicians in investigations into sensitive crimes.²⁰⁷ [²⁰⁷ *Sunday Times* 15 December 1996]

The table below shows the number of police officials (including office personnel), police stations and community policing forums in 1996:²⁰⁸ [²⁰⁸ *Hansard* (NA:Q) 4 cols 561, 673, 9 May 1996; SAPS, Annual Plan of the South African Police Service, 1996/ 1997]

SAPS personnel, police stations and community policing forums — May 1996

Police officials^a

Civilians per police official

Police officials who worked overtime^b

Police stations

Community policing forums

Eastern Cape

18 352

399

1 602

205

117

Free State

11 189

287

8 182

109

98

Gauteng

32 317

249

15 518

123

121

KwaZulu-Natal

22 748

437

15 296

180

170

Mpumalanga

7 173

499

3 972

95

82

North West

10 676

354

5 069

87

68

Northern Cape

3 496

237

1 812

85

76

Northern Province

9 679

630

6 620

91

87

Western Cape

13 065

328

6 301

146

132

National head office

11 846

–

8 894

–

–

National

140 541

346^c

73 266

1 121

951

a

Includes office personnel (22%).

b

Figures are for 1995.

c

National average as supplied by the SAPS. (The national average of 346 civilians per police officer excludes the almost 20 000 civilian personnel listed as part of the total number of SAPS officials.) Averages may not work out owing to rounding.

Although KwaZulu-Natal was the most populous province it had only 70% of the number of police officials of Gauteng. There were 437 civilians for every police official in KwaZulu-Natal (the third highest nationally, after the Northern Province and Mpumalanga), compared with 249 in Gauteng. KwaZulu-Natal was also under equipped in terms of police stations in 1996, with 16% of the number of police stations but 21% of the national population.

In April 1996 the SAPS abolished its compulsory police reserve force. The SAPS said that members of the police force who resigned after two years of service had been obliged to stay on as members of the compulsory police reserve force, do at least one month of service, and be available for emergency call-ups. The SAPS emphasised that members of the compulsory reserve were not police reservists, who performed voluntary service. The SAPS called on members of the police force who resigned after two years of service to consider enlisting as police reservists. The National Party said that the abolition of the compulsory police reserve force was surprising when considered against the backdrop of the country's high crime rate. It added that 'such a valuable force of experienced officers should not be lost but rather retained in order to strengthen

The deputy minister for safety and security, Mr Joe Matthews, told Parliament that the SAPS reservist force (voluntary) had a total of 26236 members as at 16th May 1996. He added that the reservist force was seen as part of community policing and could, therefore, expand in the future.²¹⁰ [²¹⁰ *Hansard* (NA:Q) 5 col 876, 22 May 1996]

Mr Mufamadi told Parliament that 237 members of the SAPS were killed and 829 injured in 1995. The table below shows the number of police officers murdered on duty from 1983 to 1996:²¹¹ [²¹¹ *The Citizen* 8 June 1996; *Hansard* (NA:Q) 3 col 418, 20 March 1996]

Members of the police murdered on duty: 1983–96

Year

Number

Inc1983/84^a

48

N/A

1984/85^a

39

(19%)

1985/86^a

68

74%

1986^b

29

(57%)

1987^c

67

131%

1988^c

80

19%

1989^c

71

(11%)

1990^c

107

51%

1991^c

137

28%

1992^c

226

65%

1993^c

280

24%

1994^c

255

(9%)

1995

237

(7%)

1996^d

197

(17%)

Total

1 841

—

a

1 July–30 June.

b

1 July–31 December.

c

1 January–31 December.

d

Provisional.

e

Increases/decreases are not all strictly comparable.

N/A — Not available.

Police Conduct

In June 1996 the director of a national anticorruption unit aimed at cleaning up the police service, Director Stef Grobler, disclosed that more than 800 allegations of police corruption were investigated by his team between January 1995 and May 1996. Half of these were in Gauteng.²¹² [²¹² *Mail and Guardian* 7 June 1996] About 170 officers had been arrested as a result of the team's inquiries and 351 cases were pending, Director Grobler said.²¹³ [²¹³ *Ibid*] In August an SAPS spokesman, Senior Superintendent Eric Pelser, revealed that more than 300 SAPS members had been arrested for corruption since the beginning

of 1996.²¹⁴ [²¹⁴ *Cape Times* 2 August 1996] In the same month the minister for safety and security, Mr Sydney Mufamadi, announced that he had set up a seven-member unit to investigate corruption within the police service in the Western Cape and that 88 complaints had been investigated and 21 dockets opened against police officers.²¹⁵ [²¹⁵ *Sowetan* 15 August 1996]

In 1995 a total of 833 complaints of assault were laid against members of the SAPS. Altogether 241 resulted in convictions, Mr Mufamadi told Parliament in March 1996.²¹⁶ [²¹⁶ *Hansard* (S:Q) 2 col 43, 4 March 1996]

In September Mr Justice Philip Levinsohn ordered the reinstatement of Captain Mandlenkosi Vilakazi as commander of the government-appointed special investigation unit in northern KwaZulu-Natal. Capt Vilakazi was suspended from his post after the Inkatha Freedom Party (IFP) said that his unit had been responsible for the death of an IFP member, Mr Ngiyane Mhlongo, in police custody in April 1996. Capt Vilakazi instituted legal action to set aside his suspension.²¹⁷ [²¹⁷ *Business Day* 5 September 1996] Judge Levinsohn said that Capt Vilakazi's suspension had no force and effect as he had not been afforded a proper hearing before action was taken against him. The head of the unit investigating the charges against Capt Vilakazi, Superintendent Pieter Nortjé, said that the investigations had 'thus far indicated that Capt Vilakazi and his unit were not responsible for the murder'. He said that his unit was trying to establish what had caused Mr Mhlongo to fall in Eshowe Prison (KwaZulu-Natal), as this had led to his eventual death.²¹⁸ [²¹⁸ *Ibid*]

According to the final constitution, each province would have the power to investigate, or appoint a commission of inquiry into, complaints of police inefficiency or a breakdown in relations with the police and any community. An independent police complaints body established by national legislation would investigate any complaints of misconduct lodged by a provincial executive council against a member of the police in the province.²¹⁹ [²¹⁹ Constitution of the Republic of South Africa Act, 1996]

JUSTICE

Policy

In July 1996 the Department of Justice unveiled its draft strategic plan for the transformation and rationalisation of justice in South Africa. The plan planned to make changes to bail and parole policies and to make justice 'practically accessible to all'.

In the plan the department said that it believed prosecutors should be enabled to help the courts impose sentences, attorneys general should have the right to appeal on merit against acquittal, witnesses should be allowed to give evidence in bail applications involving serious offences, and communities should be involved—through panels of assessors—in the consideration of bail applications. (In March 1996 Mr Mufamadi told Parliament that 6217 people charged with crimes in 1995 were out on bail at the time

they were arrested.)²²² [222 *Ibid*; *Hansard* (NA:Q) 2 col 295, 13 March 1996]

Furthermore, the plan suggested that a policy be developed whereby parole would be invoked only when a prisoner had served a substantial part of his sentence; that presiding judges and magistrates be involved in parole hearings; that an intermediate mechanism be formed to oversee parole; that attorneys general be served with parole applications; and that the power to grant parole be vested in an independent parole board.²²³ [223 *Business Day* 10 July 1996]

Other aspects of the plan included:²²⁴ [224 *Ibid*]

- ensuring uniformity in sentencing;
- reviewing the witness protection programme;
- facilitating the implementation of class actions for consumers;
- introducing administrative assistants for metropolitan prosecutors;
- using lay assessors in criminal cases in magistrate's courts and divisions of the Supreme Court;
- introducing night courts; and
- implementing a state attorneys' briefing policy to lawyers from previously disadvantaged communities.

Death Sentence

The chairman of the parliamentary portfolio committee on justice, Mr Johnny de Lange, said that 444 people who had been sentenced to death up to June 1995 would have their cases referred back to the courts for new sentences in terms of the Criminal Law Amendment Bill which was approved by the cabinet in September 1996 but still had to be tabled in Parliament at the time of writing. He said that people sentenced to death were effectively sitting in prison without a sentence since the Constitutional Court had declared the death penalty to be unconstitutional in June 1995.²²⁵ [225 *The Citizen* 4 September 1996] (See also 1995/96 Survey, pp465–466.) The proposed legislation sought to formally abolish the death sentence. It also set out the procedure to be followed in resentencing former death row inmates. Where the original trial judge was not present the judge president of that division of the Supreme Court would be given the authority to designate another judge to pass sentence. In each case, the judge would have to consider evidence recorded at the trial as well as arguments in relation to sentence. Mr de Lange added that it was intended that the new sentences should not be subject to parole, except on review of the trial court concerned. The proposed legislation would also abolish the death penalty in the Defence Act of

1957.226 [²²⁶ Ibid]

A meeting on peace, stability and safety which was held by the African National Congress (ANC) in Cape Town at the end of August 1996 called for the party to re-examine its policy on the death penalty.²²⁷ [²²⁷ Ibid 2 September 1996] The call occurred after a spate of attacks on high-profile people in Gauteng during August 1996. The ANC Youth League, however, rejected the call for the reimposition of the sentence while the Freedom Front, the Inkatha Freedom Party and the National Party welcomed it.²²⁸ [²²⁸ *Beeld* 3 September 1996]

The National African Federated Chamber of Commerce and Industry (Nafcoc) also called for the reinstatement of the death penalty.²²⁹ [²²⁹ *The Citizen* 5 September 1996] A survey conducted by the Human Sciences Research Council (HSRC) in July 1996 revealed that more than 71% of South Africans favoured the reinstatement of the death penalty. A senior researcher at the HSRC, Mr Mandla Seleokane, said that a recent survey by the University of Stellenbosch had found that 64% of ANC members favoured the return of the death penalty (see also Bill of Rights Report).²³⁰ [²³⁰ *Business Day* 5 September 1996; Anthea Jeffery and Martin Schönteich, *Bill of Rights Report*, South African Institute of Race Relations, Johannesburg, 1997]

In September 1996 the president, Mr Nelson Mandela, however, declared that the death penalty would not be reinstated. Capital punishment would not reduce crime levels, which would be brought down only by the security forces doing their work, he added.²³¹ [²³¹ *The Citizen* 7 September 1996] The minister of justice, Mr Dullah Omar, said that finding an effective deterrent for crime took precedence over the death penalty issue. He added that the reintroduction of the death penalty would serve little purpose if most criminals still escaped arrest.²³² [²³² Ibid 10 September 1996]

Legislation

The following legislation pertinent to justice is discussed in this chapter: the Judicial Matters Amendment Act of 1995, the Justice Laws Rationalisation Act of 1996, and the Magistrates' Courts Amendment Act of 1996 (see Legislation at the beginning of this chapter for details).

Witness Protection

The minister of justice, Mr Dullah Omar, said in February 1996 that there were 102 people (including dependants) under the witness protection programme. He added, however, that the numbers changed constantly. The cases in which they were scheduled to testify involved, inter alia, politically motivated crimes, crimes involving crime syndicates, the taxi industry and other criminal acts ranging from murder and rape to fraud.²³³ [²³³ *Hansard* (NA:Q) 1 cols 12–13, 21 February 1996] Mr Omar said that there were 40 people under the programme during 1995, some of whom had subsequently left it.²³⁴ [²³⁴ Ibid]

Personnel

In July 1996 Gauteng prosecutors embarked on a work-to-rule policy after giving Mr Omar an ultimatum to announce salary increases before 19th July 1996 or face possible strike action. Work-to-rule meant that they would work only official hours. The action was taken after an earlier announcement by Mr Omar that magistrates would receive pay increases ranging from 20% to 171%.²³⁵ [²³⁵ *Business Day* 8 July 1996] Prosecutors in other provinces followed suit shortly after.

Mr Omar initially responded by saying that it was legally impossible for him to decide upon a salary rise for prosecutors as they were part of the public service,²³⁶ [²³⁶ *Ibid* 10 July 1996] but he undertook to prepare legislation urgently to remove prosecutors from the public service so as to improve the conditions of service of state advocates and attorneys. Magistrates had been delinked in 1993.²³⁷ [²³⁷ *The Citizen* 2 August 1996] The matter was resolved on 30th July 1996 when the work-to-rule action was ended after Mr Omar made new salary increase proposals to the prosecutors.²³⁸ [²³⁸ *Ibid* 31 June 1996] The proposals included nominal salary increases and higher rates for overtime work.²³⁹ [²³⁹ *Cape Argus* 18 September 1996]

Trials

State v Eugene Alexander de Kock

The trial of Colonel Eugene de Kock (see 1995/96 Survey, pp76, 83), which had started in February 1995, came to an end in October 1996. In January 1996 all charges against the three co-accused in the trial were withdrawn in the Transvaal Provincial Division of the Supreme Court in Pretoria. Charges were withdrawn against Mr David Brits, Mr Blackie Swart (both former Vlaakplaas operatives), and a former member of the Pretoria murder and robbery squad, Mr Deon Gouws.²⁴⁰ [²⁴⁰ *The Citizen* 27 January 1996] The case against the other co-accused, Messrs Simon Radebe, Eric Sefadi and Freek Pienaar, was postponed.²⁴¹ [²⁴¹ *Ibid*]

In May 1996 Col de Kock admitted that he had helped a former high-ranking security officer, Major Nick van Rensburg, and others, to plan the attack which claimed the lives of an informer and three policemen in the 1989 Motherwell (Port Elizabeth) bomb blast.²⁴² [²⁴² *Business Day* 14 May 1996]

In August 1996 counsel for Col de Kock concluded final argument in the case and admitted that the state had proved 41 of the 121 charges, including six of murder, against him.²⁴³ [²⁴³ *Ibid* 14 August 1996] Col de Kock was subsequently found guilty on 89 counts including murder (6), conspiracy to commit murder (2), culpable homicide (1), fraud (66), defeating the ends of justice (1), assault with intent to do grievous bodily harm (1), attempted murder (1), possession of illegal arms and ammunition (9), abduction (1), and accessory to culpable homicide (1). He was acquitted on 32 counts including 30 of fraud, one of abduction and one of illegally possessing arms and ammunition.²⁴⁴ [²⁴⁴ *The Star* 28 August 1996]

Giving evidence in mitigation of sentence in September 1996 Col de Kock told the court that South African security agents had assassinated the then prime minister of Sweden, Mr Olof Palme, in 1986. He claimed that a fellow security policeman, Mr Craig Williamson, had been involved in the assassination as part of an operation called Long Reach. Col de Kock named a former member of the Swedish intelligence services, Mr Bertil Wedin, as the assassin.²⁴⁵ [²⁴⁵ *The Citizen* 3 October 1996] Messrs Williamson and Wedin denied the accusations.²⁴⁶ [²⁴⁶ *Ibid*] The president, Mr Nelson Mandela, said he had never suspected that South Africa could have been involved in the assassination but added that special measures would be taken to ensure that ‘justice is done’ if the country had indeed been involved in the incident. He cautioned, however, that Col de Kock’s allegations had not been established as fact.²⁴⁷ [²⁴⁷ *Ibid* 4 October 1996] At the time of writing a special investigation team had begun evaluating Col de Kock’s allegations and the Swedish government had sent investigators to South Africa to follow the leads into Mr Palme’s assassination.²⁴⁸ [²⁴⁸ *The Star* 1 October 1996, *The Citizen* 3 October 1996]

In his testimony, Col de Kock also said that a former state president, Mr P W Botha, had ordered the bombing of Khotso House, the then headquarters of the South African National Council of Churches, in 1988. His legal counsel argued that the judge should take into account (as mitigation) evidence to the Truth and Reconciliation Commission by the former commissioner of police, General Johan van der Merwe, that Mr Botha had ordered the bombing (see chapter on *Politics*).²⁴⁹ [²⁴⁹ *The Citizen* 24 October 1996] Mr Botha denied ordering the bombing.²⁵⁰ [²⁵⁰ *The Star* 22 November 1996]

In October 1996 Mr Justice Willie van der Merwe sentenced Col de Kock to two life terms plus 212 years in prison.²⁵¹ [²⁵¹ *The Citizen* 31 October 1996] The African National Congress and the Pan-Africanist Congress said that the sentence was ‘welcome’ while the Conservative Party (CP) described it as ‘excessive’. A CP spokesman, Mr Daan du Plessis, said that it was ‘unacceptable’ that those who were part of the [liberation] struggle were not being prosecuted ‘while the witch hunt against members of the security forces’ continued.²⁵² [²⁵² *Ibid* 1 November 1996]

State v Dirk Johannes Coetzee and Others

In August 1996 four former policemen accused of the murder of a human rights lawyer, Mr Griffiths Mxenge in November 1981, appeared in the Durban and Coast Local Division of the Supreme Court in Durban. The accused included a selfconfessed police ‘hit-squad’ member, Captain Dirk Coetzee, a former askari, Mr David Tshikalanga, and two former security policemen, Messrs Andrew Taylor and Almond Nofemela. A fifth accused, Brigadier Johannes van der Hoven, did not appear because of a heart condition.²⁵³ [²⁵³ *Ibid* 16 August 1996] Capt Coetzee was the first security policeman to admit publicly to participating in police ‘hit-squad’ activities (see 1989/90 *Survey*, p199). He said that he had applied to the Truth and Reconciliation Commission for amnesty in March 1996 in connection with the murder.²⁵⁴ [²⁵⁴ *Ibid*] He testified before the commission in November 1996.²⁵⁵ [²⁵⁵ *Ibid* 1 October 1996]

In September 1996 Capt Coetzee said that the South African security police had been responsible for the assassination of a representative of the African National Congress (ANC) in Paris, Ms Dulcie September, in March 1988. He asserted that a special security police unit under the command of Mr Craig Williamson had been behind the assassination.²⁵⁶ [²⁵⁶ Ibid] At the time the South African government had denied any involvement in the incident.²⁵⁷ [²⁵⁷ Ibid] Mr Williamson denied involvement in the incident.²⁵⁸ [²⁵⁸ Ibid 3 October 1996]

Capt Coetzee also backed claims by Col de Kock that the South African security police had been involved in the assassination of Mr Palme (see *State v Eugene de Kock* above). He said, however, that Mr Palme had been killed by a member of the former Rhodesian special forces, who was also a member of Long Reach, Captain Anthony White.²⁵⁹ [²⁵⁹ Ibid] Capt White denied the allegations and agreed to cooperate with investigators into the murder.²⁶⁰ [²⁶⁰ *The Star* 1 October 1996]

State v Peter Msane and Others (the ‘Malan Trial’)

In May 1995 all 20 of the accused in the KwaMakhutha trial, including General Magnus Malan (former minister of defence), applied for the charges against them to be withdrawn. The accused were allegedly involved in the massacre at KwaMakhutha (KwaZulu-Natal) in 1987 when 13 people had been killed. The state alleged that the attack was carried out by a ‘hit squad’ of the Inkatha Freedom Party (IFP) (trained by the South African Defence Force) set up to eliminate members of the ANC and its allies during the 1980s (see 1995/96 Survey, p45). The prosecutor in the trial, the attorney general of KwaZulu-Natal, Mr Tim McNally, opposed the applications for dismissal, saying that the state believed sufficient evidence existed to implicate all of the 20 accused on at least a charge of conspiracy to commit murder.²⁶¹ [²⁶¹ *The Citizen* 17 May 1996]

Three of the accused—the former chief director of military intelligence in the South African Defence Force (SADF), General Tienie Groenewald, a former staff officer in charge of military intelligence at the Natal Command of the SADF, Commandant Jacobus Victor, and a former commander of Ferntree military base, Colonel Gerrit Griesel—were discharged on the grounds that the state failed to submit sufficient evidence against them.²⁶² [²⁶² *Sowetan* 23 May 1996]

In October 1996 the remaining accused were acquitted of all charges against them. In his judgement Mr Justice Jan Hugo said that the evidence of the state’s witnesses had been unreliable. He found that the inference by the state that documents on Project Marion (a plan sanctioned by the State Security Council to give paramilitary training to members of the IFP) pointed to a plot by the SADF to murder opponents of the IFP, was ‘not the only reasonable inference’ that could be drawn. There was no express mention in the documents of the KwaMakhutha operation, of ‘hit squads’, murder, or unlawful deeds. Judge Hugo ruled that the document revealed no unlawful aim and no ‘meeting of minds’ among the accused which might have amounted to a conspiracy to murder.²⁶³ [²⁶³ *The Citizen* 12 October 1996]

He criticised the way in which the case had been investigated and prosecuted. He reproached the investigation task unit (ITU) of the South African Police Service (SAPS) into 'hit-squad' activity in KwaZulu-Natal, for transferring remarks by witnesses from one statement to another, thereby 'perpetuating errors and contaminating the evidence', and for apparently having 'coached' witnesses on their testimony. He also criticised the head of the unit, Superintendent Frank Dutton, for giving evidence in court which was 'misleading, and probably deliberately so'.²⁶⁴ [²⁶⁴ Ibid 16 October 1996] Judge Hugo said that the failure of Mr McNally to call important witnesses had led to a lack of corroboration of crucial evidence against some of the accused.²⁶⁵ [²⁶⁵ *The Star* 11 October 1996] Other inadequacies in Mr McNally's prosecution, according to Judge Hugo, were the following:²⁶⁶ [²⁶⁶ *Sunday Times* 13 October 1996]

- the failure to charge the president of the IFP, Chief Mangosuthu Buthelezi, as a co-conspirator. In his reply Mr McNally said that the opinion of all the 'top military men' who had been in contact with Chief Buthelezi during the period in which the murders occurred was that he was 'a man of non-violence who favoured the peaceful option';
- the failure to deal with the type of training given to trainees in the Caprivi Strip (Namibia); and
- the failure to question the accused on whether they foresaw the possibility that the training could lead to the murders.

Judge Hugo concluded that the 'careless way' in which the attack had been planned and executed tended to support the suggestion by counsel for the defence that the operation was not an authorised military operation. It seemed likely, however, that the operation must have had backing from 'somewhere', he said, but added that the question was 'from where and from whom?'.²⁶⁷ [²⁶⁷ *The Star* 11 October 1996]

After the trial Mr McNally attributed the failure of the prosecution to the weight that the judge had given to his (the judge's) finding that there could be an innocent interpretation to the intentions of the accused and the fact that he (Mr McNally) could not have foreseen that the main witnesses for the state would be found to be unreliable by the court. He denied rumours that he had been pressured by any political grouping into prosecuting the case or that he had been unconvinced of its ability to succeed.²⁶⁸ [²⁶⁸ *The Citizen* 12 October 1996] Mr McNally added that Judge Hugo's judgement left little doubt that the massacre had been carried out by IFP supporters trained in the Caprivi Strip and in the pay of the SADF.²⁶⁹ [²⁶⁹ Ibid]

After the trial Supt Dutton said that he stood by the investigation and was proud of it. He pointed out that three international observers, an advocate from the office of the KwaZulu-Natal attorney general, and a board of civilian lawyers overseeing the activities of the ITU had expressed their satisfaction with the investigation.²⁷⁰ [²⁷⁰ Ibid 16 October 1996]

The Freedom Front (FF), the IFP and the National Party (NP) welcomed the verdict. The leader of the

NP, Mr F W de Klerk, said that 'justice has prevailed'. He said that the time had come for investigations and ensuing court cases into allegations of gross human rights violations against senior ANC politicians.²⁷¹ [²⁷¹ Ibid 12 October 1996] The leader of the FF, General Constand Viljoen, said that he was 'heartened' that justice had prevailed, while the leader of the CP, Dr Ferdi Hartzenberg, said the finding that the state witnesses had been unreliable emphasised that a 'witch hunt' was being conducted against the Afrikaner and the IFP.²⁷² [²⁷² Ibid]

The ANC in KwaZulu-Natal questioned the handling of the case by Mr McNally.²⁷³ [²⁷³ Ibid] Its spokesman in the province, Mr Dumisani Makhaye, said that Mr McNally's 'failure to come up with the evidence' would have led to 'any judge in any country' acquitting the accused.²⁷⁴ [²⁷⁴ *Sunday Times* 13 October 1996] The ANC also said that 'in the eyes of our people this verdict may not be acceptable. It is doubtful whether our people will ever have confidence in the judicial system if it remains the same'.²⁷⁵ [²⁷⁵ **Fast Facts** No 11 1996] The president, Mr Nelson Mandela, said that he 'fully accepted' the decision and expressed his confidence in the judiciary. He added, however, that the state would continue its investigations into who was responsible for directing alleged 'third-force' activities.²⁷⁶ [²⁷⁶ *The Citizen* 12 October 1996] The chairman of the Truth and Reconciliation Commission (see chapter on *Politics*), Archbishop Desmond Tutu, said that the commission had not ruled out the possibility of conducting its own investigations into the issues raised in the trial.²⁷⁷ [²⁷⁷ Ibid]

Prison Population Reduction and Releases

In June 1996 the minister of correctional services, Dr Sipo Mzimela, told Parliament that he supported recommendations that a prisoner first serve at least half of his or her sentence before being considered for parole (see also *Policy* under *Justice* above). He added, however, that the perception that parole was one of the main reasons for the increased crime rate was false. Some 80% of prisoners released on parole did not return to prison, he said.²⁷⁸ [²⁷⁸ *This Week in Parliament*, 21 June 1996, p8]

On 31st December 1995 there were 112572 prisoners in custody, of whom 27320 (24,3%) were unsentenced and 85252 (75,7%) were sentenced prisoners. Of the unsentenced prisoners 26 646 (97,5%) were males and 674 (2,5%) were females, while 83392 (97,8%) of the sentenced prisoners were males and 1 860 (2,2%) were females.²⁷⁹ [²⁷⁹ Department of Correctional Services, annual report 1995] There was an average of 23610 prisoners awaiting trial on the last day of each month in 1995.²⁸⁰ [²⁸⁰ *Hansard* (NA:Q) 4 cols 619–621, 9 May 1996] There were 28364 unconvicted prisoners in South African prisons on 31st January 1996.²⁸¹ [²⁸¹ *Hansard* (NA:Q) 4 cols 615–619, 9 May 1996]

The daily average prison population for 1995 (110 069) was down marginally on the 110 933 daily average recorded in 1994.²⁸² [²⁸² Department of Correctional Services, annual report 1995]

In May 1996 Dr Mzimela said that South African prisons could accommodate 94384 prisoners on 31st

January 1996 but that there were 114233 prisoners, ie prisons were overcrowded by 21%. (On 31st January 1995 there were 22,3% more prisoners than there was prison capacity for.)²⁸³ [²⁸³ *Hansard* (NA:Q) 4 cols 615–619, 9 May 1996]

In 1995 the estimated gross daily cost of keeping a prisoner was R61,30, which represented a 16,6% increase on the R52,58 gross daily cost in 1994. The estimated gross daily cost of probationers rose by 63,2%, from R8,61 in 1994 to R14,04 in 1995.²⁸⁴ [²⁸⁴ Department of Correctional Services, annual report 1995]

Dr Mzimela told the Senate in May 1996 that in December 1995 there were 228 prisons in South Africa, 46 of which were in the Eastern Cape, 32 in the Free State, 23 in Gauteng, 38 in KwaZulu-Natal, 17 in Mpumalanga, 13 in the North West, 12 in the Northern Cape, seven in the Northern Province, and 40 in the Western Cape. He added that nine new prisons were planned for 1996 (two in Gauteng, one in KwaZulu-Natal, one in the North West and five in the Western Cape),²⁸⁵ [²⁸⁵ *Hansard* (S:Q) 4 col 317, 9 May 1996] and said that this was expected to increase the accommodation capacity of South African prisons by approximately 8537, to 102921, which would not address the problem of overcrowding fully.²⁸⁶ [²⁸⁶ *Hansard* (NA:Q) 4 cols 615–619, 9 May 1996]

A total of 28269 prisoners benefited from an amnesty announced by the president to all prisoners who were sentenced to imprisonment on or before 27th April 1995 (certain classes of prisoner, such as those sentenced for maltreating children and those sentenced in terms of the Sexual Crimes Act of 1957, were excluded from this amnesty). Of these prisoners, 4444 were released while 21965 were placed out on parole earlier and 1 860 were placed out under correctional supervision earlier.²⁸⁷ [²⁸⁷ Department of Correctional Services, annual report 1995] Dr Mzimela said that a total of 50135 prisoners had been released in 1995 (including those released under the amnesty).²⁸⁸ [²⁸⁸ *Hansard* (NA:Q) 4 col 781, 15 May 1996] No amnesty was granted in 1996.

On 4th May 1995 the president approved a special remission of the unexpired portion of their sentences to all prisoners sentenced for possession of any firearm, ammunition, explosive or explosive device in contravention of the stipulations of any act, provided such possession could be related to a political motive associated with the 'conflicts of the past'. At the time that the annual report of the Department of Correctional Services was being compiled 31 people had benefited from this remission while an additional ten cases were under investigation.²⁸⁹ [²⁸⁹ Department of Correctional Services, annual report 1995]

The head of the department's functional services division, Commissioner Timothy Khoza, told the parliamentary portfolio committee on correctional services that a lack of accommodation in prisons meant that children awaiting trial were being kept in the same prisons as convicted adults. At the end of July 1996 there were 557 unconvicted children under 18 years of age in South African prisons. Of those, 28% (155) were being held for violent crimes such as murder, rape and robbery. He said that the prisons in the Free State had the highest number of child detainees (216), followed by the Western Cape (165) and KwaZulu-Natal (136).²⁹⁰ [²⁹⁰ *Business Day* 4 September 1996] The rest were being detained in other provinces.

Closure of Prisons

During 1995 Dr Mzimela closed down nine prisons with the combined capacity to accommodate 1285 prisoners, because they did not ‘comply with the standards for humane detention and could not be viably restored’. The Department of Correctional Services said that the reduction in available cell accommodation between 1994 (95 695 places) and 1995 (94381 places) could primarily be ascribed to the closure of those prisons.²⁹¹ [²⁹¹ Department of Correctional Services, annual report 1995]

Escapes

The table below shows the number of prisoners who escaped in 1994 and 1995:²⁹² [²⁹² Ibid]

Prison escapees in 1994 and 1995

1994

1995

Increase/(decrease)

From prison

468

417

(10,9%)

Outside prison (work teams)

658

658

0%

Outside prison (hospital custody, courts or under escort)

90

102

13,3%

Absconders and erroneous releases

17

70

311,8%

Total

1 233

1 247

1

The overall number of prisoners who escaped from prison went up only slightly (1,1%) from 1994 to 1995. The majority of escapees in 1994 (1229) and 1995 (1243) were male. Prison escapes through absconding or erroneous release, however, increased by 312%.²⁹³ [²⁹³ Ibid]

In the first nine months of 1996 some 1 015 prisoners escaped from South African prisons.²⁹⁴ [²⁹⁴ *The Star* 11 February 1997]

Assaults on Prisoners

In May 1996 Dr Mzimela told Parliament that in 1994 there had been 1 880 complaints from prisoners about assaults on them by prison warders and 1311 such complaints in 1995. As a result 440 prison warders were charged with assault on these prisoners in 1994 while 461 were charged in 1995. Twenty-two prison warders were convicted in 1994 and 11 in 1995.²⁹⁵ [²⁹⁵ *Hansard* (NA:Q) 4 cols 584–585, 9 May 1996]

Personnel

On 31st December 1995 the Department of Correctional Services had a staff complement of 29 503 against its requirement of 35 770—a shortage of 6 267 staff members. The department said that the ratio of offenders to personnel was 4,9:1 in 1995. It added that its promotion policy was based on a ratio of 70:30 in favour of under-represented groups.²⁹⁶ [²⁹⁶ Department of Correctional Services, annual report 1995]

Some 33 322 mandays were lost during 1995 owing to illegal strikes by prison personnel. (The department provides an essential service in terms of the Public Service Labour Relations Act of 1994 and its personnel may, therefore, not strike.)²⁹⁷ [²⁹⁷ Ibid]

SOUTH AFRICAN NATIONAL DEFENCE FORCE

Policy

At the end of January 1996 the president, Mr Nelson Mandela, said that he had been upset by a parliamentary committee recommendation that Afrikaans no longer be used in the South African National Defence Force (SANDF). Tampering with languages was the policy of neither the African National Congress (ANC) nor the government, he added.²⁹⁸ [²⁹⁸ *The Star* 1 February 1996] Mr Mandela's remarks were occasioned by an earlier recommendation of the joint parliamentary standing committee on defence that English be the only language used in the SANDF for the purposes of command, control and instruction.²⁹⁹ [²⁹⁹ Ibid] However, in May 1996 the deputy minister of defence, Mr Ronnie Kasrils, noted that the White Paper on Defence provided for the minister of defence to establish dedicated working groups to oversee the implementation of policy on language, sexual orientation and equal opportunity in the defence force.³⁰⁰ [³⁰⁰ *Hansard* (NA) 5 col 1096, 14 May 1996]

At the time of writing the SANDF was in the process of preparing a defence review, a strategic planning document to provide broad policy directives against which the future planning, implementation, and funding of the defence force could be worked out.³⁰¹ [³⁰¹ *Enterprise* July 1996] The issues of language, sexual orientation and equal opportunity were expected to be resolved through the review.

Speaking on a White Paper on Defence in the National Assembly in May 1996 the minister of defence, Mr Joe Modise, said that the overarching theme of the white paper was that of transformation. He added that the transformation process of the SANDF was guided by the following principles:³⁰² [³⁰² *Hansard* (NA) 5 cols 1089–1090, 14 May 1996]

- national security would be sought primarily through efforts to meet the political, economic, social, and cultural rights and needs of the population and through efforts to promote and maintain regional security in South Africa;
- South Africa would pursue peaceful relations with other states as well as a high level of political, economic, and military co-operation with southern African states in particular;
- South Africa would adhere to international law on armed conflict and to all international treaties to which it was party;

- the SANDF would have a primarily defensive orientation and posture;
- South Africa was committed to the international goals of arms control and disarmament. It would participate in and seek to strengthen efforts to prevent the proliferation of arms;
- the country's force levels, armaments and military expenditure would be determined by policy which would take into account the external and internal security environment as well as the social and economic imperatives of the reconstruction and development programme;
- the SANDF would be a balanced, modern, affordable and technologically advanced military force capable of executing its tasks effectively and efficiently;
- the functions of the SANDF would be determined by the national constitution and the Defence Act of 1957;
- the primary role of the SANDF would be the military defence of South Africa against external aggression. Deployment in an internal policing capacity would be limited to exceptional circumstances and subject to parliamentary approval;
- the SANDF would be subordinate and fully accountable to Parliament and the executive;
- the SANDF should respect human rights and the democratic political process and work within the parameters of the national constitution;
- defence policy and military activities would be 'sufficiently transparent to ensure meaningful parliamentary debate';
- the SANDF would not further or prejudice party-political interests;
- the SANDF would develop a nonracial, non-sexist institutional culture;
- the composition of the SANDF should broadly reflect the composition of South Africa; and
- the SANDF would respect the rights and dignity of all its members within the normal constraints of military discipline and training.

The white paper was unanimously accepted by both houses of Parliament in May 1996.

In an interview in July 1996, the chief of the SANDF, General Georg Meiring, said that affirmative action in the defence force meant not only equal opportunities for all but also the empowerment of

everyone through training. There were large numbers of defence personnel undergoing bridging training to enable them to meet the expectations of the particular rank that they had received. He added that the integration process in which the former South African Defence Force, the defence forces of the former homelands and the 'liberation' forces had merged to form a single national defence force, had greatly enhanced the process of affirmative action.³⁰³ [³⁰³ *Enterprise* July 1996]

Gen Meiring said that as a member of the Inter-state Defence Committee formed under the Southern African Development Community (SADC), the SANDF played a major role in the region. He added, however, the SANDF did not want to be seen as playing the role of 'big brother'. The defence force worked together with other SADC countries to achieve stability in the region and co-operated with them to address problems of common concern such as drugs and arms smuggling. Gen Meiring said that the SANDF also had an important role to play in peace operations including, inter alia, helping the South African Police Service to crack down on crime and providing humanitarian assistance.³⁰⁴ [³⁰⁴ *Ibid*]

Legislation

There was no legislation on the SANDF during the period under review, although a white paper was approved by Parliament in May 1996 (see Policy above).

Restructuring and Integration

In a speech delivered to the South African Institute of Race Relations in January 1996, the director of internal communication of the SANDF, Brigadier William Le Crerar, said that the SANDF had just over 100000 full-time personnel, including 25000 civilians. This number would increase as an expected 18000 more members of the former 'liberation' armies were integrated into the SANDF. As a result, the SANDF's strength would be neither affordable nor strategically appropriate, he said. The SANDF therefore planned to reduce the force to 90 000 full-time members, including civilians, by the year 2000. This figure would be achieved by natural attrition, demobilisation or rationalisation.

Demobilisation would involve the voluntary release by the SANDF of former members of Umkhonto we Sizwe (Umkhonto)—the ANC's former armed wing—who did not wish to serve or were unable to serve owing to age, ill health or because they did not meet the SANDF's entry requirements. Members opting for demobilisation would receive a severance package ranging from R12000 for those who joined Umkhonto after 1990 to R42000 for those who joined in the 1960s. The demobilisation process commenced on 22nd January 1996.³⁰⁵ [³⁰⁵ Brigadier W Le Crerar, director of internal communication of the South African National Defence Force (SANDF), 'The Transformation of the SANDF and its Role in Stabilising South Africa', address to a briefing of the South African Institute of Race Relations, 30 January 1996]

Rationalisation would involve the reduction and reorganisation of the SANDF and would be based on budgetary considerations and the desired and affordable size of the SANDF, he added.³⁰⁶ [³⁰⁶ *Ibid*]

Brigadier Le Crerar said that the assembly of members of Umkhonto and the Azanian People's Liberation Army (Apla)—the former armed wing of the PanAfricanist Congress—should be completed by late 1996 and bridging training for them would be completed by 1997. He said that virtually all members of the former homeland security forces had been integrated into the SANDF.³⁰⁷ [³⁰⁷ Ibid]

In February 1996 the SANDF's commanding officer in KwaZulu-Natal, Major General Chris le Roux, disclosed that more than R85m would be spent on integrating 2 200 members of the self-protection units of the Inkatha Freedom Party (IFP) into the defence force.³⁰⁸ [³⁰⁸ *Business Day* 8 February 1996] On 5th June 1996 the minister of defence, Mr Joe Modise, reported that the first members of these self-protection units had been integrated into the SANDF.³⁰⁹ [³⁰⁹ *Hansard* (NA) 8 col 1096, 14 May 1996]

In March the Defence Command Council (the SANDF's highest decision-making body) decided that the last formal intake of members of Umkhonto would take place in August 1996. The council said the biggest disappointment during the integration process was that only 308 of an estimated 2220 members of Apla had reported for that organisation's last formal intake. This had meant that of the 6 000 eligible Apla members only 3963 (about 66%) had reported in time to join the SANDF.³¹⁰ [³¹⁰ *The Star* 14 March 1996] Apart from members of the former 'liberation' armies', about 11 500 members of the former homeland armies, of whom 700 were officers, were integrated into the SANDF.³¹¹ [³¹¹ *Hansard* (NA) 8 col 2300, 5 June 1996]

In May Mr Modise told Parliament that the process of restructuring and integrating the defence force would be completed by early 1997.³¹² [³¹² *Hansard* (NA:Q) 5 col 895, 22 May 1996] In June he revealed that almost 21000 former 'liberation army' personnel had been integrated into the SANDF (leaving some 13000 still to be integrated).³¹³ [³¹³ *Hansard* (NA) 8 col 2298, 5 June 1996]

In an interview in July, the acting chairman of the SANDF's integration committee, Major General Andrew Masondo, said that some 90% of the candidates for integration had been absorbed into the army, 6% into the medical services, 2% into the navy and 1% into the chaplains' service.³¹⁴ [³¹⁴ *Enterprise* July 1996] Over 3000 had opted for demobilisation while others had joined the South African Police Service.³¹⁵ [³¹⁵ *Hansard* (NA) 8 col 2298, 5 June 1996]

Mr Modise indicated in June 1996 that the SANDF's downsizing (see 1995/96 Survey, p87) would not be implemented as planned. He said that the short-term contracts granted mainly to former members of the 'liberation' armies had been extended indefinitely.³¹⁶ [³¹⁶ *Business Day* 6 June 1996]

In November 1996 the president assented to the Special Pensions Act which provided for special pensions to be paid to members of formerly banned or restricted organisations (ie the African National Congress and the Pan Africanist Congress) who had 'made sacrifices or served the public interest in the cause of establishing a democratic constitutional order'. It also prescribed rules for determining persons

eligible for such pensions (see also chapter on Welfare).³¹⁷ [³¹⁷ Special Pensions Act of 1996, *Government Gazette* no 17564, 8 November 1996] According to the deputy minister of finance, Ms Gill Marcus, it was estimated that about 30 000 people would qualify for special pensions.³¹⁸ [³¹⁸ *The Citizen* 24 October 1996]

Deployment of Troops

Some 4 000 troops were deployed daily in 1996 to combat serious crimes countrywide while about 2 700 troops were deployed on a daily basis to patrol South Africa's borders, Mr Modise told Parliament in June 1996.³¹⁹ [³¹⁹ *Hansard* (NA) 8 col 2294, 5 June 1996] In addition, the SANDF had rendered service in disaster relief and humanitarian aid in Mpumalanga, KwaZulu-Natal, Mozambique and Tanzania. The defence force also provided logistical aid to Angola in an effort to help that country rid itself of active land mines.³²⁰ [³²⁰ *Ibid*]

An average of 1 600 soldiers were deployed on a daily basis in KwaZulu-Natal to help the South African Police Service maintain the rule of law as well as to combat crime and political violence, Mr Modise added. Additional troops had been deployed for the local government elections in June 1996.³²¹ [³²¹ *Ibid*]

In September 1996 several international peacekeeping experts began to prepare the SANDF for possible involvement in international peace support operations. According to the SANDF, it aimed to 'orientate members of the defence force on the command, control, doctrine, and planning of peace support operations at the strategic, operational and tactical levels'.³²² [³²² *The Star* 10 September 1996]

INTELLIGENCE

Policy

In June 1996 the deputy minister for intelligence services, Mr Joe Nhlanhla, announced that a commission would be appointed to review civilian intelligence services. This ministerial intelligence review commission would investigate new ways to strengthen the intelligence service to meet new challenges. It would also probe how co-operation with other agencies could be enhanced and how obsolete parts of the service could be cut out. A full review of all legislation, regulations and directives governing the service would be conducted.³²³ [³²³ *Business Day* 7 June 1996]

Mr Nhlanhla added that the mushrooming of private security companies calling themselves intelligence agencies was a 'grave and worrying situation'. He said that the government would study laws governing private intelligence structures in other countries to see how they operated.³²⁴ [³²⁴ *Ibid*]

POLICY REVIEW

The formulation of policies aimed at reducing the levels of criminal activity was at the forefront of security policy in South Africa during 1996. Successes in combating crime were claimed in parts of Gauteng, KwaZulu-Natal and Cape Town. There were, however, several issues on which policy had yet to be adequately developed—including the following:

- Disregard for the law' groups such as People Against Gangsterism and Drugs (Pagad). The organisation continued with its armed marches and vigilante activities against alleged gangsters despite warnings from the government that these activities were illegal. Other groups fashioned on Pagad have emerged in metropolitan areas countrywide;
- A legislative framework within which local authority police services could be established. The Democratic Party (DP) and the Inkatha Freedom Party support the institution of such police services and have said that crime would be combated more effectively at local level. The Greater Johannesburg Transitional Metropolitan Council has approved a plan for a metropolitan police force for the area. No legislative framework, however, existed for the establishment of such police forces at the time of writing;
- Despite the planned building of nine new prisons in 1996 there will still be a shortage of prison accommodation for more than 10000 prisoners. Because of budgetary constraints, the DP has suggested that the private sector could build and run prisons (for a profit) on behalf of the state;
- Despite the increase in crime the South African Police Service says that it has 15% fewer personnel than is required for it to function effectively. This has been worsened by the government's moratorium on the hiring of new police personnel. (The moratorium was lifted in May 1997.);
- The high crime rate and the perceived inability of the police to deal with it has led to growing support among the public for the reinstatement of the death penalty;
- Some 6217 people charged with crimes in 1995 were out on bail at the time they were arrested. The government is examining the terms for bail. The Department of Justice has suggested that witnesses should be allowed to give evidence, and communities should be involved—through panels of assessors—in bail applications involving serious offences;
- Some 25% of all detectives in the SAPS would be untrained in 1997 despite efforts by the police to train them all. This has been worsened by senior police officers leaving the SAPS. The DP has suggested the establishment of a national criminal justice academy where detectives and other criminal justice personnel can be trained;
- Despite the efforts of the SAPS national anticorruption unit, corruption is still perceived to be one of the major problems confronting the criminal justice system. There have been suggestions by the DP that an independent anticorruption squad be formed. The final constitution made provision for an independent police complaints body (established by national legislation) to investigate any complaints of

misconduct lodged by a provincial executive council against a member of the police in that province; and

- The SAPS says that about 22% of all police personnel are involved in administrative duties including finances, forensics, logistics and teaching at police colleges. This further reduces the number of police personnel actually out 'on the beat' policing crime.

ARTS AND CULTURE

BIRD'S EYE VIEW

During the period under review the Department of Arts, Culture, Science and Technology published a draft white paper which covered the arts, culture, literature, libraries, heritage, place names, and science and technology. The white paper aimed to extend central government support to a broader range of arts and culture institutions and forms in South Africa. Well-established arts organisations, such as the performing arts councils (PACs), would not be disbanded but would be funded primarily by the provincial governments and local municipalities. Central government subsidies to the PACs would be scaled down over three years, after which only their core infrastructure, staff and 'essential' activities would be subsidised.

The white paper evoked extensive criticism, from directors of performing arts groups in particular. Their concerns focused on funding and that South African artists could not be trained to replace overseas performers almost immediately, as the white paper suggested.

Performing arts groups began to investigate strategies to safeguard their survival. The Cape Town Symphony Orchestra (CTSO) launched a R50m fundraising venture in September 1996. By the end of the year the CTSO had raised the R10m needed to stave off its closure. In early 1997 the National Symphony Orchestra, facing closure after the South African Broadcasting Corporation announced that it would withdraw its annual subsidy to it in April, launched a national pledge campaign to raise money to carry on as an independent body. The State Theatre sought to reconstitute ballet and contemporary dance companies and regional theatres as separate independent companies, and to implement retrenchment in some arts departments. Alternative sources of funding for the Transvaal Philharmonic Orchestra were also sought.

In 1996/97 the budget of the Department of Arts, Culture, Science and Technology was cut by 11%. Business and Marketing Intelligence, which conducts surveys of arts and sport sponsorship in South Africa, said that corporate arts sponsorship in 1996 amounted to between 2% and 3% of total corporate social responsibility budgets. Attempts to increase business's support of the arts saw the launching of Business Arts South Africa in February 1997, an organisation which would receive donations for the arts from the private sector.

The Department of Arts, Culture, Science and Technology also drafted a number of bills during the year under review. The National Lexicography Units Bill provided for the establishment and management of national lexicography units for each of South Africa's official languages. The Films and Publications Act provided for the establishment of a film and publications board to appoint committees to classify films and publications and restrict the distribution of, ban or determine age restrictions on such material.

KEY POINTS

- The *Draft White Paper on Arts, Culture and Heritage*, tabled in Parliament in November 1996, provided for, among other things, the creation of a national arts council to distribute public funds to artists, cultural institutions, nongovernmental organisations and community-based organisations, and to conduct research, especially with regard to arts and culture policy.
- The white paper proposed that a national heritage council (NHC) be set up as a statutory body to 'bring equity to heritage promotion and conservation'. The NHC would provide funding to institutions and projects under its remit; advise on policies for research, collections management, curation, exhibits and education; and establish the panels needed to promote its mandate. The council would also play a co-ordinating and consultative role in advising on national cultural symbols.
- Following the white paper's proposal to decrease government subsidies to the performing arts councils (PACs) in the period 1996–99, their subsidy allocations dropped from R103m in 1995/96 to R95m in 1996/97.
- In 1996/97 the Department of Arts, Culture, Science and Technology was allocated a budget of R540m—a decrease of 11,4% compared with 1995/96. Of the total, science and technology received R271m (50,2%) and arts and culture R253m (46,9%) (the remaining 2,9% was allocated to administrative costs).
- The department would seek to widen tax benefits for organisations promoting arts, culture and heritage, according to the white paper.
- The deputy minister of arts, culture, science and technology, Ms Brigitte Mabandla, said that the government aimed to include the interests of most South Africans rather than continue 'privileging' classical arts forms such as ballet, opera and classical music.
- The National Archives of South Africa Act, passed in September 1996, provided for the establishment of a national archives of South Africa, as a branch of the public service. Its function would include preserving public and nonpublic records; making public records more easily accessible; ensuring the proper management of public records; and supporting, setting standards and providing guidelines for provincial archives services.
- In February 1996 the minister of arts, culture, science and technology, Dr Ben Ngubane, appointed a task group to review the roles, and possible amalgamation of, the State Library in Pretoria, the South

African Library in Cape Town and the South African Library for the Blind in Grahamstown.

- The new minister of arts, culture, science and technology, Mr Lionel Mtshali, announced in November 1996 that a South African film and video foundation would be set up in 1997 as part of a strategy to develop South Africa's film industry.

NATIONAL POLICY

Arts and Culture Task Group

In 1994 the minister of arts, culture, science and technology, Dr Ben Ngubane, appointed the Arts and Culture Task Group (Actag) to devise proposals for a 'democratic arts and culture dispensation' which would be used as guidelines for a white paper on arts and culture. Actag's final recommendations (some of which were later incorporated into a white paper), published in July 1995, included the following:¹ [¹ *The Citizen* 1 August 1995]

- the setting up of national and provincial councils for the arts, culture, heritage, film, and library and information services to advise the government on funding and policy in their respective areas;
- the disbandment of the four performing arts councils and the deployment of their staff and infrastructure in a 'new arts and culture dispensation';
- the abolition of the Foundation for the Creative Arts, a government funding agency, which Actag said was underfunded and associated with apartheid. There was, however, an urgent need for state funding for arts, cultural, heritage, film and information programmes under threat of collapse because of the withdrawal of foreign funding;
- the scrapping of all forms of censorship and the abolition of the Publications Control Board and all censorship laws, which had stunted South African literature; and
- the making of private sector donations to public art galleries tax deductible.

Actag also made recommendations on local arts and culture policy. These included the following:² [² *Daily Dispatch* 1 August 1995]

- community arts and culture centres should be established in South Africa;
- a minimum of three regional centres for community arts and education should be set up to service each province;

- existing government infrastructure, such as museums, national parks, performing venues and public libraries, should be shared with community arts and culture initiatives;
- a rural arts and development unit should be created for rural communities; and
- a community arts and culture development ‘parabody’ should be established.

Draft White Paper on Arts, Culture and Heritage

Arts and Culture

National Arts Council

The *Draft White Paper on Arts, Culture and Heritage*, tabled in Parliament in November 1996, provided for the establishment of a statutory body, the national arts council (NAC), to distribute public funds to artists, cultural institutions, nongovernmental organisations (NGOs) and community-based organisations, and to provide study bursaries in the fields of arts and culture to practitioners, administrators and educators. The NAC would receive a grant from the Department of Arts, Culture, Science and Technology and would be subject to the provisions of the Reporting by Public Entities Act of 1992 and other treasury requirements.³ [³ Department of Arts, Culture, Science and Technology, *Draft White Paper on Arts, Culture and Heritage*, 4 June 1996]

Each province would elect one member to the NAC board. In addition, the minister would appoint between nine and 14 members, using the recommendations of a public selection process.

The Foundation for the Creative Arts, formed in 1989 as a section 21 company under the Companies Act of 1973 to provide public assistance to those creative arts not supported through the performing arts councils, would be deregistered and its infrastructure and resources incorporated into the NAC.⁴ [⁴ Ibid]

In 1997, its first year of operation, the NAC would have a budget of R10m, which would be increased to R20m in 1998 and to R30m in 1999.⁵ [⁵ *The Star* 7 November 1996]

Performing Arts Councils

There are four performing arts councils (PACs) in South Africa. They are the Performing Arts Council of the Transvaal, the Cape Performing Arts Board, the Performing Arts Council of the Orange Free State and the KwaZulu-Natal Playhouse Company (formerly the Natal Performing Arts Council).

According to the white paper, provincial governments and local municipalities, rather than the central government, would take primary responsibility for funding PACs. Government subsidies to the PACs

would be scaled down over the next three years (between 1995/96 and 1996/97 their subsidy was reduced by 9,5%). At the end of the three-year period, the central government would subsidise only the core infrastructure and staff and 'essential' activities of the PACs. All other allocations would be funded through the NAC. According to the white paper, the PACs would have to diversify their funding base.⁶ [6 Department of Arts, Culture, Science and Technology, *Draft White Paper on Arts, Culture and Heritage*, 4 June 1996]

The white paper proposed that PAC infrastructure, such as offices and theatres, should be the joint financial responsibility of the central government, and the municipality or metropolitan area and province in which the PAC was located. This would help to facilitate equal access by arts and culture institutions to PAC infrastructure. Other performing arts organisations affiliated to the PACs would be able to apply to the NAC for grants-in-aid. The white paper said that the transformation process would be completed by 2000.⁷ [7 Ibid]

Visual Arts

According to the white paper, the Department of Arts, Culture, Science and Technology would, in conjunction with the government, parastatals and NGOs at national, provincial and local level, ensure that public institutions, such as museums, which had previously focused on a limited definition of the visual arts, take cognisance of craft and design heritage and acknowledge this in their acquisition and education policies.

The white paper said that the department would investigate the creation of a mechanism such as an 'artbank' to serve as a self-funding agency to provide opportunities for the development and marketing of cultural industries.⁸ [8 Ibid]

Arts Education

According to the white paper, the Department of Arts, Culture, Science and Technology would promote the right to education and training in arts, culture and heritage through the transformation of arts education in the formal school system and the development and extension of community-based education structures. Arts, culture and heritage education which redressed past cultural biases and stereotypes would be incorporated into educational structures at all levels of learning. The department would facilitate this incorporation through representation on all appropriate national arts, culture and heritage education policy, curriculum and accreditation structures. The department would also set up interministerial arts and educational advisory bodies to ensure communication in line with this policy, where relevant.⁹ [9 Ibid]

Literature

The white paper referred to the role of the Pan South African Language Board and the Language Task Group in promoting language equality. This would be complementary to the transformation of literature

in education policy to develop oral, reading, writing, comprehension and critical skills. In the long term there would be coherence between preschool, primary, secondary and tertiary levels of education in the areas of language and literature. Measures to ensure this would be sought in co-operation with the Department of Education.

The electronic media would be used to promote and develop literature through the introduction of programmes centred on literature, writing and reading in all languages on public, private and community radio and television services. The department would encourage public, private and community broadcasting services to commission local writers, create incentives and provide training opportunities to write and develop literary materials for the media. The department would support the promotion of literature and reading in the popular press and other printed media.

The white paper said that translation would be promoted as an integral part of the development of literature. The NAC would make grants for the translation of literary works in the 11 official languages as well as from foreign into local languages. Provincial language committees would assist in the training of translators.¹⁰ [¹⁰ Ibid] At the time of writing, the provinces were in various stages of establishing language committees.¹¹ [¹¹ Telephonic interview with Dr A Beukes, state language planner, State Language Services, 10 February 1997]

Library and Information Services

According to the white paper, the equal distribution of library and information services would be addressed through the implementation of national norms and standards, provincial co-ordination, and the involvement of local government and community structures. In addition, funding mechanisms, such as grants-in-aid, would be implemented to assist under-resourced community-based libraries, most of which were funded by local government. The co-ordination, development and financing of community libraries would, however, be a joint responsibility of provincial and local government. Ways of linking community and school libraries to increase their effectiveness would be investigated.

The white paper said that the department currently funded three national libraries: the State Library in Pretoria, the South African Library in Cape Town and the South African Library for the Blind in Grahamstown. There was, however, no structure in place to promote and co-ordinate library and information services at national level. An interministerial working group had been appointed to advise on matters relating to those services. (See also *National libraries* below.)

The white paper recommended that a national advisory council be set up to assist in the formulation of library and information services policy, to provide co-ordinating networks and mechanisms, and to set priorities for extending those services. The council would serve as a vehicle for co-ordination at national level and would advise the provinces on linkages between the central and provincial governments.¹² [¹² Department of Arts, Culture, Science and Technology, *Draft White Paper on Arts, Culture and Heritage*, 4 June 1996]

Infrastructure

The white paper said that infrastructure provision in the rural and black urban areas should include the development of facilities to educate and promote enjoyment of the arts. The department would therefore develop the concept of multifunctional, multidisciplinary community arts centres through several pilot projects. Such centres would cater for the production of art forms such as music, dance, film and theatre, and would also house a gallery, a library and a museum. Provincial and local arts and culture forums and communities would be involved in the process so as to determine guidelines for the development, governance and maintenance of arts and culture infrastructure.

The white paper added that the department would, in addition, seek to develop partnerships with the private sector, provincial and local authorities, overseas countries and local communities. An initiative aimed at the promotion of crafts was also being developed.¹³ [¹³ Ibid]

Human Resource Development

According to the white paper, human resource development would include the training of arts and culture practitioners to create works of art in various disciplines; teachers to educate children and adults in arts and culture; and administrators, curators and managers to organise and manage cultural institutions and projects. Education and training programmes for this purpose would be organised within the National Qualifications Framework (see chapter on *Education*). The department's representation on the National Training Board would help to ensure that the training needs of cultural industries were met. Potential audiences and markets for the arts would also need to be educated and trained.

The white paper said that there were shortcomings in formal arts education systems as a result of such systems having largely served the needs of cultural institutions developed during apartheid. The department would address those shortcomings through co-operation with the Department of Education and the Council of Culture Ministers.¹⁴ [¹⁴ Ibid]

Funding Sources

The white paper identified three sources of funding for arts and culture. These were the public sector, the private sector and the international community.

Public Sector

The department would seek the co-operation of other government departments in promoting arts and culture in South Africa. For example, the Department of Trade and Industry could help to develop cultural industries, while the Department of Environmental Affairs and Tourism could help to boost cultural tourism, particularly as 1997 had been declared the year of culture and tourism.

National funding policy would be devised in consultation with provincial authorities to provide for a system that was suited to the individual needs of each province but still nationally coherent. Funds

would be directed to infrastructure provision, projects and practitioners. Provincial and local funds would be provided to ensure sustainability and, where possible, to supplement national funding available for infrastructure. The department would aim to obtain 5% of the funds distributed through the proposed state lottery to finance arts and culture.¹⁵ [¹⁵ Ibid]

Private Sector

Publicly funded cultural institutions would have to become more commercially driven and organised along business lines. The Department of Arts, Culture, Science and Technology would seek the co-operation of the private sector in helping such institutions to achieve a more business-like approach. The department acknowledged that the private sector was likely to become more involved in supporting the arts if such involvement had a positive impact on profits. The department would therefore try to facilitate mutually beneficial partnerships between the private sector, cultural institutions and NGOs. Discussions were under way to establish a national association for business sponsorship of the arts. (The organisation, Business Arts South Africa, was launched in February 1997—see also *Private sector* under *Other Initiatives* below.)¹⁶ [¹⁶ Ibid]

In some countries overseas, tax incentives were used to encourage the private sector to invest in the development and promotion of the arts. According to the white paper, the department would investigate how current legislation in South Africa could best be utilised for tax-efficient donations. At the same time the department would seek to widen tax benefits for the promotion of the arts, culture and heritage.¹⁷ [¹⁷ Ibid]

International Community

The white paper said that the department would continue to encourage the international community to support cultural NGOs. The department would also seek foreign assistance in development and training programmes, building organisational capacity and developing infrastructure such as community arts centres.¹⁸ [¹⁸ Ibid]

Heritage

According to the white paper, a central aim of the department would be to provide opportunities for the equitable development of heritage programmes and institutions through ‘redress measures and democratisation’.¹⁹ [¹⁹ Ibid]

Heritage Institutions

The white paper said that the department currently funded the Declared Cultural Institutions (these included some 400 museums managed at local and provincial level and all the national zoological gardens). The provision of museum services, however, lacked co-ordination because of the absence of a

national museum policy. Planning was fragmented, many communities did not have access to museums and cultural collections tended to be 'biased'. Funds were needed to allow new museums and those outside the current national network access to national funding. The white paper added that the department would conduct a review of the Declared Cultural Institutions.²⁰ [20 Ibid]

National Monuments

According to the white paper, national monuments should not be seen in isolation but should be 'identified in a systematic programme for "cultural mapping"'. The central and provincial governments would encourage communities to locate and mark the heritage sites important to their identity. The National Monuments Council would become the National Monuments Division, an organ within a national heritage council (NHC) (see *National heritage council* below), to effectively redress imbalances and to ensure co-ordination between the central and provincial governments. The National Monuments Act of 1969 would be replaced by legislation which maximised co-ordination across all fields of national heritage conservation. The National Monuments Division would act on recommendations for new sites to be declared national monuments, or for objects to be declared national 'cultural treasures'.

National Place Names

The white paper said that the National Place Names Committee, a body which advises the minister and the department on the naming of places in South Africa, had been mandated to consider proposals for the approval of new place names and for changing place names. The committee could also advise on the revision of names on its own initiative.

The National Place Names Committee would be renamed the National Place Names Division, and would form part of the NHC. Its remit would be broadened through legislation. The National Place Names Division would, in consultation with provincial governments, be responsible for identifying place names in need of revision, co-ordinating requests for advice on new geographical names, communicating decisions effectively to the relevant government departments and the public, and liaising with international organisations concerned with geographical names.²¹ [21 Ibid]

National Heritage Council

The white paper proposed that a national heritage council (NHC) be set up as a statutory body to 'bring equity to heritage promotion and conservation'. The council would comprise 23 members, including professionals from museums, art galleries, archives, architecture, education and natural sciences, finance and law; representatives from civil society; and one member appointed by the MEC for cultural affairs in each province. Members would serve for a three-year period. The council would receive a parliamentary grant and would provide funding to institutions and projects under its remit.

The council would also advise on policies for research, curation, exhibits and education, and establish the panels needed to promote its mandate. In addition, the council would play a co-ordinating and

consultative role in advising on national cultural symbols.

Funding requests would be classified according to projects requiring operational support and those needing financing for project requirements only. The NHC would review the budgets of organisations applying for funding and would recommend to the department what proportion of the amount requested should be provided. This assessment would be based on defined criteria, such as performance measurement and regional requirements.

According to the white paper, the department and the council would set up a national initiative to facilitate the development of living heritage projects in provinces and local communities. The aim would be to encourage the development of a structure and environment in which communities could initiate projects. Resources would be sought to:

- record living heritage practices;
- develop an inventory of 'living heritage resources' (the white paper uses the term 'heritage resources' in preference to 'monuments'. Heritage resources protected by current legislation include places of natural beauty; buildings; street landscapes; objects of historical importance; geological, palaeontological and archaeological sites and objects; rock art; shipwrecks; and graves of historical victims and victims of conflict);
- encourage awareness of heritage among disadvantaged communities; and
- encourage museums to conserve living heritage through audio-visual media.

The white paper said that the department would, in addition, liaise with the Department of Education and provincial departments responsible for cultural affairs to develop information for heritage education in schools and in nonformal education. The department and NHC would consult with practitioners and provincial heritage services to develop a strategy and code of ethics for using living heritage resources for cultural tourism. The strategy would seek to empower communities, particularly in rural areas, to promote traditional customs.²² [²² Ibid]

Foreign Co-Operation

The white paper said that it was the aim of the department to facilitate 'international cultural exchange' so as to give more South African artists international exposure and to allow them to benefit from that exposure and international expertise. The department would concentrate on:²³ [²³ Ibid]

- enabling administrators and managers to acquire training and experience abroad. Research would be conducted into international arts and culture administration courses with a view to implementing similar programmes in South Africa;

- allowing international arts educators to participate in the nonformal training of practitioners, administrators and arts educators in the short to medium term;
- enabling artists in each discipline to benefit from international exchange programmes;
- encouraging South Africans to participate in international exhibitions, arts festivals and arts forums; and
- encouraging local arts institutions to host international artists-in-residence for a period during which they could pass on their skills to South African artists.

The white paper added that the national arts council (NAC) would liaise with overseas arts and culture institutions to encourage promotion and development of the arts and culture, as well as with international heritage organisations on matters of heritage conservation, such as cultural sites for the world heritage list. Knowledge, training and facilities in the southern African region would be shared to develop a network of information on indigenous African customs and beliefs. This would help to promote regional development and to create common markets and audiences for artistic, cultural and heritage industries in southern Africa.²⁴ [24 Ibid]

Comments and Criticism

The acting chairman of the Foundation for the Performing Arts, Professor Phillip Lloyd, said in June 1995 that the process of drafting the white paper had been ‘hijacked by a group with a hidden agenda [Actag], determined to create a monstrous bureaucracy to control funding’. Professor Lloyd questioned whether the process of choosing a national arts council and provincial, local and regional councils, through a panel of arts and culture experts, was truly democratic. The funding mechanism referred to in the draft was also flawed; for example, objectives for state funding made no reference to arts and culture. In addition, criteria listed in the draft for applicants to qualify for state funding, such as need and intrinsic merit, were not easily measurable. Professor Lloyd added that while the draft claimed that PACs had ‘large, unwieldy, bureaucratic structures created to swallow up large portions of funds and hamper the development of the performing arts’, PACs had in fact a ‘minuscule bureaucracy’ considering the turnover of their business.²⁵ [25 *Business Day* 8 June 1995]

The deputy minister of arts, culture, science and technology, Ms Brigitte Mabandla, said in July 1996, in a reply to a critique of the white paper published in *Business Day*, that the aim of the department was to broaden arts and culture to include the interests of the majority of South Africans rather than preserve a ‘classical art tradition’ through privileging one set of art forms. In reply to the editorial’s comment that the white paper was vague on issues of practical administration and the structuring of future arts institutions, Ms Mabandla said that this argument was based on ‘a narrow interest in the so-called classical arts traditionally promoted by the performing arts councils’. The white paper attempted to set out a framework to ensure that the arts, culture and heritage of all South Africans were protected,

promoted and developed, while trying to retain existing cultural formations and maximise their functions, Ms Mabandla said.²⁶ [²⁶ Ibid 18 July 1996]

Ms Mabandla added that the NAC was not a “bureaucratic monolith” that would ‘devour scarce resources’ (as stated in the editorial) but would make use of the resources of the Foundation for the Creative Arts. In addition, the council’s members would be non-salaried and honorary. The council would operate independently of the government and would ensure universal access to funding for all South Africa’s art forms. (In April 1997 Mr John Kani was appointed to chair the NAC.) Although the white paper did not solve every problem facing arts and culture in South Africa, Ms Mabandla said, it did succeed in reconciling public policies for arts, culture and heritage.²⁷ [²⁷ Ibid; *Business Day* 2 April 1997]

An article by a journalist, Ms Michelle Joubert, published in the *Financial Mail* in November 1996, said that the implementation of funding proposals in the white paper was likely to lead to the closure of many performing arts groups. While state funds withdrawn from these bodies were intended for a wide range of arts and cultural initiatives, the central arts bureaucracy could absorb an increasing proportion of the available finance.²⁸ [²⁸ *Financial Mail* 8 November 1996] Although the previous government’s policy to channel funds almost exclusively to the PACs ‘was long due for change’, critics believed that the white paper ‘condones demolition of existing groups to make way for the new’. The new government’s intended policy had been to sponsor through the NAC at least one company of each traditional art form. According to the director of arts and culture in the Department of Arts, Culture, Science and Technology, Ms Carol Steinberg, this plan was, however, rejected as other arts forms would suffer. Mr Lionel Mtshali, who replaced Dr Ben Ngubane as minister of arts, culture, science and technology in September 1996, added that the PACs had a ‘misconception of the white paper’ and that its goal was financial independence for them.²⁹ [²⁹ Ibid]

According to the MEC for education and cultural affairs in the Western Cape, Ms Martha Olckers, the NAC’s effectiveness would depend largely on its composition. While some members should be involved in community arts structures, others should have business backgrounds. The NAC should not have a political dimension. Ms Olckers said that the white paper’s stipulation that artists should apply for sponsorship to regional and local government or the private sector if the NAC was unable to provide funding, was also problematic. The regional government was given this portfolio without staff or funds. On the other hand there were no tax concessions to business for donating to the arts in South Africa.³⁰ [³⁰ Ibid]

Ms Joubert said that another major practical problem with the white paper was its assumption that artists could be trained overnight. The paper stated that funding from the NAC would depend partly on the participation of South African artists and referred in particular to orchestras, some of which drew up to 80% of their members from overseas. According to Mr Mtshali, once the contracts of foreign musicians had terminated, local talent must be used. Ms Joubert said, however, that although most orchestras had training programmes in place, it would take years for players³¹ [³¹ Ibid]

The white paper's proposal that funding be granted on a project basis which would have to be accommodated in the state's financial year was also problematic because a production's planning scale could take up to three years. In addition, artists could not be signed up without some kind of guarantee that a budget was available.³² [³² Ibid]

Afrocentric/Eurocentric Debate

The chairman of the parliamentary portfolio committee on arts, culture, language, science and technology, Mr Wally Serote, said in September 1995 that as long as African culture was sidelined, South Africa would not be able to express its democratic and nonracial character and its true identity. He added that it was an unrealistic perception that European culture should dominate African culture because South Africa was an African country and the majority of its people were African.³³ [³³ *The Argus* 16 September 1995]

The minister of arts, culture, science and technology, Dr Ben Ngubane, said in March 1996 that one of his department's achievements had been to bring 'balance' in the debate about Afrocentric and Eurocentric art forms.³⁴ [³⁴ *The Star* 19 March 1996] The deputy minister of arts, culture, science and technology, Ms Brigitte Mabandla, added in June 1996 that the department's role was to develop a 'complex, inclusive and non-prescriptive notion of what constitutes the national culture'. Within such a context the department would actively address 'colonial and apartheid legacies'.³⁵ [³⁵ *Sunday Times* 9 June 1996] Ms Mabandla said that rather than to continue to 'privilege' classical art forms such as ballet, opera and classical music, traditionally promoted by the four performing arts councils, over other arts forms in South Africa, the government aimed to overcome 'narrow' interests and to include the interests of the majority of South Africans.³⁶ [³⁶ *Business Day* 18 July 1996]

The Film Industry

The minister of arts, culture, science and technology, Mr Lionel Mtshali, said in November 1996 that a South African film and video foundation would be established in 1997 as part of a strategy to develop South Africa's film industry. A bill providing for the establishment of the foundation and a board to manage it had been approved by the cabinet. Until this legislation was passed by Parliament, a panel comprising South African film producers, financiers and distributors appointed by the minister would advise the department on the disbursement of the R10m interim film fund for 1996. Functions of the foundation, which would have a budget of about R10m, would include the following:³⁷ [³⁷ *The Star* 18 November 1996]

- promoting the South African film industry;
- supporting the training of film practitioners, and the distribution and exhibition of films; and

- administering funds made available for aspirant film makers and for training and development in this field.

PROVINCIAL POLICY

According to the director of arts and culture in the Western Cape, Ms H du Preez, although the Department of Arts, Culture, Science and Technology laid down a basis for a national arts and culture policy in South Africa in its *Draft White Paper on Arts, Culture and Heritage*, certain difficulties arising from the white paper's proposals would have to be resolved before provincial policy could be formulated and implemented. For example, it was unlikely that a national arts council would have the capacity to process the flood of applications for funding from arts and culture organisations. In addition, not all of the provinces had the capacity or resources to run their own arts councils. Issues such as this would have to be resolved before the provinces could develop arts and culture policies.³⁸ [³⁸ Telephonic interviewculture, Department of Education and Cultural Affairs, Western Cape, 7 February 1997]

LEGISLATION

National Archives of South Africa Act of 1996

The National Archives of South Africa Act, promulgated in October 1996, provided for the establishment of a national archives as a branch of the public service, to be managed by a national archivist appointed by the minister on the basis of professional experience. The functions of the national archives would include:³⁹ [³⁹ National Archives of South Africa Act of 1996, *Government Gazette* no 17471, 2 October 1996]

- preserving public and nonpublic records with 'enduring value' for use by the public and the state, and making such records accessible to the public;
- ensuring the proper management of public records;
- collecting nonpublic records of national significance which could not be 'more appropriately preserved' by another institution, with due regard to the need to document aspects of the 'nation's experience' neglected by archives repositories in the past;
- maintaining a national automated archival information retrieval system, in which all provincial archival services should participate;
- supporting, setting standards and providing guidelines for provincial archives services;
- promoting an awareness of archives and records management; and

- promoting the preservation and use of a national archival heritage.

The act further provided for the creation of a national archives commission comprising the national archivist and nine members with archival experience. The commission would, among other things, advise the minister and the national archivist and promote the co-ordination of archival policy for planning at national and provincial levels.⁴⁰ [⁴⁰ Ibid]

Films and Publications Act of 1996

The Films and Publications Act, assented to by the president in October 1996, aimed to regulate the distribution of publications and the exhibition and distribution of films through the classification of, and the setting of age restrictions on, such material. The act made provision for the appointment by the president of a film and publication board and a review board. The film and publication board, or classification committees appointed by it, could ban a film or publication, or restrict its distribution to adults-only premises, or age restrict it. Publications could be censored only upon complaint from the public, whereas all films would have to be submitted to the board prior to distribution. Newspapers belonging to the Newspaper Press Union would be exempted from the act. Appeals against the decisions of the board and its committees could be made to the review board and the courts.⁴¹ [⁴¹ Films and Publications Act of 1996, *Government Gazette* no 17560, 8 November 1996]

A section of the act criminalised the distribution of publications, the broadcast or exhibition of films, and the presentation of plays, which ‘advocate hatred that is based on race, ethnicity, gender or religion, and which constitutes incitement to cause harm’; or ‘amount to propaganda for war’; or incite to imminent violence. This provision did not apply to bona fide scientific, documentary, artistic, literary matter ‘which, judged within context, is of such nature’, nor to bona fide discussion, argument or opinion on a matter of public interest.

The schedules to the act laid out the grounds on which the board could censor. Films and publications could be banned if they contained visual presentations of violent sexual conduct, bestiality, ‘degrading’ sexual conduct, extreme violence or people younger than 18 years having sex or ‘engaging in a lewd display of nudity’. The written word could also be banned if it ‘explicitly’ described people younger than 18 having sex. Furthermore, a film or publication could be restricted to adult premises if ‘it contained a visual presentation, simulated or real, of explicit sexual conduct which, in the case of sexual intercourse, included an explicit visual presentation of genitals’, or if it described in writing violent or degrading sexual conduct, bestiality or extreme violence.

Age restrictions could be imposed if this was necessary to protect children from harmful or disturbing material. Bona fide scientific, literary or documentary material ‘judged within context’, was exempted from being banned or restricted to adults-only premises. Art mostly was not exempted.⁴² [⁴² Ibid]

According to the South African Institute of Race Relations, the act curtailed freedom of expression. In

some respects the new act was 'more draconian' than the old Publications Act of 1974. The penalties which could be imposed on people who possessed, distributed or exhibited banned material, violated age restrictions, or exhibited films which had not been classified by the censor board, were harsher than those contained in the old act, the Institute said. In amending the bill the portfolio committee in the National Assembly increased the maximum prison penalty from two to five years, and increased the number of offences for which this penalty could be imposed. Under the Publications Act, the maximum penalty for most offences was six months' imprisonment. Five-year sentences were reserved only for people guilty of distributing or publishing material which had already been banned for possession. The new act stipulated that people could be imprisoned for up to five years for distributing material which was found to be criminal only after the event. (See also Bill of Rights Report.)⁴³ [⁴³ *The Star* 17 September 1996; Anthea Jeffery and Martin Schönreich, *Bill of Rights Report*, South African Institute of Race Relations, Johannesburg, 1997]

National Arts Council Bill

The National Arts Council Bill, approved by the cabinet in July 1996, provided for the establishment of a statutory body which would be responsible for the development and promotion of the full range of South African art forms, as well as the council's support services. At the time of writing, the bill was with the parliamentary portfolio committee on arts, culture, language, science and technology for discussion.⁴⁴ [⁴⁴ *Ibid* 9 July 1996; telephonic interview with Mr C Wright, Department of Arts, Culture, Science and Technology, 28 November 1996; telephonic interview with Mr V Beukes, Department of Arts, Culture, Science and Technology, 17 April 1997]

National Lexicography Units Bill

The National Lexicography Units Bill, published in November 1996, provided for the establishment and management of national lexicography units for each of South Africa's official languages. The units would be responsible for initiating, maintaining, completing and, where necessary, improving the compilation of dictionaries and other products by collecting, arranging and storing the general vocabulary of the language concerned; editing, adapting and publishing the collected material according to lexicographical principles in printed and electronic form; and granting researchers access to the language material and sources of the unit. Units would be managed by a board which would, among other things, formulate the policy to achieve the objectives of each unit, and govern and advise the unit in accordance with the resources at its disposal.⁴⁵ [⁴⁵ National Lexicography Units Bill, B103-96]

At the time of writing, the National Lexicography Units Bill was with the parliamentary portfolio committee on arts, culture, language, science and technology for discussion.⁴⁶ [⁴⁶ *The Star* 9 July 1996; telephonic interview with Mr J Viljoen, Department of Arts, Culture, Science and Technology, 6 February 1997]

Legal Deposit Bill

The Legal Deposit Bill, approved by the cabinet in July 1996, provided for the deposit of printed and

other media (including audiovisual material and electronic publications) published or produced in South Africa, as well as those produced abroad and intended for distribution nationally.⁴⁷ [⁴⁷ *The Star* 9 July 1996] At the time of writing, the bill was with the Department of Justice for certification.⁴⁸ [⁴⁸ Telephonic interview with Mr A Roos, Department of Arts, Culture, Science and Technology, 3 December 1996; telephonic interview with Ms R Cillie, Department of Arts, Culture, Science and Technology, 6 February 1997]

National Film and Video Foundation Bill

The National Film and Video Foundation Bill, approved by the cabinet in July 1996, provided for the establishment of a 14-member council which would finance, research, and map out development and education, to promote the film industry. The bill also provided for the creation of a film and video initiative and a film development fund.⁴⁹ [⁴⁹ *The Star* 9 July 1996] At the time of writing, the bill was with the Department of Justice for certification and an interim film fund had been set up to administer funding to the film industry.⁵⁰ [⁵⁰ Telephonic interview with a spokeswoman from the Department of Arts, Culture, Science and Technology, 28 November 1996; telephonic interview with Mr V Beukes, Department of Arts, Culture, Science and Technology, 6 February 1997]

FINANCE

In 1996/97 the Department of Arts, Culture, Science and Technology was allocated a budget of R540m—a decrease of 11,4% compared with 1995/96. According to the minister of arts, culture, science and technology, Dr Ben Ngubane, the decrease was a result of the transfer of funds to the provincial governments, which did not have arts and culture budgets in 1995/96 (funding had previously been channelled through the national department). If, however, the budgetary allocation for arts and culture as a whole was taken into account, there was an increase of 1%. Of the total departmental budget, science and technology received R271m (50,2%) and arts and culture R253m (46,9%) (the remaining 2,9% was allocated to administrative costs). According to the minister, ‘special investigations’ being carried out in science and technology had necessitated a larger budget in this area than in arts and culture.⁵¹ [⁵¹ *The Star* 19 March 1996, *Mail and Guardian* 28 March 1996]

Dr Ngubane added that R50m from money allocated to the reconstruction and development programme fund would be given to community arts upliftment and the development of sporting facilities. In terms of the *Draft White Paper on Arts, Culture and Heritage*, community arts would receive funding from the central, provincial and local governments.⁵² [⁵² *Ibid*] Dr Ngubane said that the 1995/96 subsidy allocation of R103m to the performing arts councils (PACs) would be reduced to R95m in 1996/97. This would make available additional funding for ‘other priorities’ such as the establishment of a national arts council to allocate funds to specific projects in arts and culture.⁵³ [⁵³ *Ibid*]

Dr Ngubane said in March 1996 that the budgets of art galleries and museums currently funded by his department would be cut (the nominal funding given to these galleries and museums would remain the same for 1996/97, thus representing a drop in real terms).⁵⁴ [⁵⁴ *The Citizen* 8 March 1996]

The Arts and Culture Alliance (an umbrella organisation comprising a broad range of arts and culture interest groups) said in March 1996 that although the science and technology budget had increased by 18% between 1995/96 and 1996/97, the arts and culture budget had decreased proportionately. In addition, in 1996/97 less than 20% of the national arts and culture budget had been devolved to the provinces (Gauteng, for example, was allocated less than R2m for the promotion of arts and culture, while the Performing Arts Council of the Transvaal alone received R30m).⁵⁵ [⁵⁵ *Mail and Guardian* 28 March 1996]

IMPLICATIONS

Following the announcement of the reduction in subsidies to performing arts groups in 1995 in line with the government's policy to widen its support to a broader range of arts and cultural forms in South Africa (see *Afrocentric/Eurocentric debate* above), many of arts councils to state-funded orchestras, began to investigate strategies to ensure their survival.

National Arts Coalition

The National Arts Coalition, a nonracial organisation of arts groups in South Africa formed in 1992 to seek an influential role in the creation of a democratic arts dispensation, said at its annual general meeting in December 1995 that it would formulate a new role and policy as a result of certain developments in arts and culture, such as the imminent establishment of the national arts council (NAC). One of its new initiatives would be the creation of a research institute to address issues related to private and public funding and to assist in the development and implementation of a national arts policy.⁵⁶ [⁵⁶ *New Nation* 15 December 1995] The coalition was, however, dissolved in December 1995 as it felt its role would be superfluous following the establishment of the NAC.⁵⁷ [⁵⁷ Telephonic interview with Mr Mike van Graan, former head of the National Arts Coalition, 10 February 1997]

Performing Arts Councils

In terms of the National Arts Council Bill, which was still being finalised at the time of writing (see also *National Arts Council Bill* above), the performing arts councils (PACs) would have three years (1996–99) to adjust to a substantial decrease in state funding. At the end of the three-year period the central government would subsidise only the councils' core infrastructure. The councils would then have to apply to the NAC for funding (see *National Policy* above). (In the past the councils received 46% of the government's arts budget. They generated some 18% of their income through the box office.)⁵⁸ [⁵⁸ *Business Day* 9 July 1996]

The government's decision to cut subsidies to the PACs was prompted by the recommendations of the Arts and Culture Task Group (Actag), a committee appointed by the minister of arts, culture, science and technology, Dr Ben Ngubane, in 1994 (see also *Arts and Culture Task Group* above). Actag

recommended in July 1995 that the PACs be disbanded and that independent bodies should be created in the Eastern Cape, Mpumalanga and the Northern Province. In the same month the government appointed an interim arts and culture council to investigate nominations for new boards for the PACs.⁵⁹ [⁵⁹*The Star* 4 September 1995]

In October 1995 the boards of the PACs were reconstituted to facilitate transformation of the councils so as to create equal access to public resources in the performing arts.⁶⁰ [⁶⁰*Sowetan* 26 October 1995]

Performing Arts Council of the Transvaal

In October 1995 Mr John Kani, an actor who was also executive director of the Market Theatre in Johannesburg, was elected chairman of the board of the Performing Arts Council of the Transvaal (Pact).⁶¹ [⁶¹*Sunday Times* 29 October 1995]

In September 1995 the Council of Culture Ministers, a national body comprising the minister of arts, culture, science and technology and provincial arts and culture MECs, placed a moratorium on the appointment of new staff and the issuing of retirement packages for officials of PACs. The former chief executive officer of Pact, Mr Louis Bezuidenhout, said in the same month that 25% of Pact's budget had been cut and the organisation had inadequate funds to pay staff.

A commission investigating Pact said in June 1996 that there was a lack of transparency and accountability regarding funds allocated to it. The commission supported the government's phasing out of funding for the PACs, but said the money available should be directed to the development of arts and culture among local communities rather than to the NAC. The commission further recommended that once government subsidies had been phased out in three years' time, Pact should have to apply for funding like any other arts company. The government was responsible for ensuring that Pact served the larger community, with theatres being accessible to local communities.⁶⁴ [⁶⁴*Business Day* 25 June 1996]

In 1996 Pact announced that from 1st April 1997 the Pact Ballet Company and contemporary dance companies would be replaced with the Pact Dance Company. The new company would be supported by Pact until 1999, at which stage it was hoped it would be self-supporting. Dancers' contracts would end by 31st March 1997 and those not employed by the new company would receive retrenchment packages. Although Pact employees complained about delays in retrenchment packages in December 1996, the chief executive officer of Pact, Mr Alan Joseph, said that transformation did not 'happen overnight' and that Pact had 'come a long way'.⁶⁵ [⁶⁵*Mail and Guardian* 20 December 1996]

Cape Performing Arts Board

Following the government's announcement of subsidy cuts to the PACs in 1995, the Cape Performing Arts Board (Capab) reduced its number of planned performances and 79 staff members were given retrenchment packages. This process was stopped by Dr Ngubane and at the end of the 1995 financial

year Capab received additional funding.⁶⁶ [⁶⁶ *Financial Mail* 8 November 1996] The reduction of funding over three years (1996–99) to Capab was, however, under way, according to the director of arts and culture in the Western Cape, Ms H du Preez.⁶⁷ [⁶⁷ Telephonic interview with Ms H du Preez, director of arts and culture, Department of Education and Cultural Affairs, Western Cape, 7 February 1997]

Kwazulu-Natal Playhouse Company

The KwaZulu-Natal Playhouse Company said in a statement in December 1996 that the National Assembly had acknowledged the company as South Africa's most progressive PAC in terms of transformation. According to the statement, the playhouse company had begun transforming in 1993, when the Natal Performing Arts Council (Napac) became the KwaZulu-Natal Playhouse Company following a process involving communities in KwaZulu-Natal, artists, local authorities, Napac staff and the media.⁶⁸ [⁶⁸ *New Nation* 20 December 1996]

State-Funded Orchestras

During the period under review, the future of state-funded orchestras became uncertain after the public sector's withdrawal of their subsidies.⁶⁹ [⁶⁹ *Financial Mail* 8 November 1996]

National Symphony Orchestra

In January 1997 the chief executive of South African Broadcasting Corporation (SABC) radio, Mr Govin Reddy, said that the SABC would withdraw its R15m annual subsidy to the National Symphony Orchestra (NSO) on 1st April 1997.⁷⁰ [⁷⁰ *The Star* 9 January 1997, *Mail and Guardian* 17 January 1997] (According to the music director of the NSO, Mr Richard Cock, it cost only about 1% of the SABC's budget.) Following the announcement, the NSO received numerous offers of financial support from members of the business community and the general public. The NSO would also launch a national pledge campaign to contribute towards the R12m to R15m needed annually to maintain it as an independent body.⁷¹ [⁷¹ *Sowetan* 22 January 1997] Later in January, however, members of the NSO and its negotiating committee said that the SABC's decision not to continue funding without first consulting the orchestra was an unfair labour practice. The NSO gave the SABC an ultimatum to reverse its decision and to enter into consultations.⁷² [⁷² *The Star* 29 January 1997] In February 1997 the SABC agreed to start negotiations about the orchestra's future.⁷³ [⁷³ *Ibid* 6 February 1997]

Cape Town Symphony Orchestra

A R50m fundraising venture for the Cape Town Symphony Orchestra (CTSO), in which five-year loans would be invested in a unit trust scheme (the Cape Town Symphony Orchestra Investor Plan), was launched by the orchestra in September 1996. The scheme, intended to raise enough funds to meet the R8m annual expenditure of the CTSO, was initiated following the Cape Town City Council's

withdrawal of the orchestra's R4m annual subsidy in June 1996. The Cape Chamber of Business said in October 1996 that it would invest R30 000 in the unit trust scheme.⁷⁴ [⁷⁴ *The Star Business Report* 13 September 1996; *Business Bulletin of the Cape Chamber of Commerce and Industry*, 9 October 1996]

By December 1996 the CTSO had raised the R10m needed to prevent its closure. Donors included the provincial government (R2m), the Cape Metropolitan Council (R1m) and members of the corporate sector including Safren, Sanlam and Rembrandt. The CTSO would merge with the Cape Philharmonic Orchestra, part of the Cape Performing Arts Board.⁷⁵ [⁷⁵ *Financial Mail* 20 December 1996; *The Citizen* 18 December 1996]

Transvaal Philharmonic Orchestra

The chief executive officer of the State Theatre (now chief executive officer of Pact), Mr Alan Joseph, said in October 1996 that following the cut in government subsidies to the theatre, the Transvaal Philharmonic Orchestra, one of its affiliated structures, would seek alternative sources of funding (see also *State Theatre* below).⁷⁶ [⁷⁶ *The Citizen* 11 October 1996] The marketing director of the orchestra, Mr Robert Perry, said in February 1997 that the orchestra was being 'repositioned' to make it more 'user-friendly'. The orchestra would launch its 'new image' campaign at a concert in April 1997.⁷⁷ [⁷⁷ Telephonic interview with Mr R Perry, marketing director, Transvaal Philharmonic Orchestra, 24 February 1997]

Pietermaritzburg Philharmonic Society

In July 1995 the Pietermaritzburg Philharmonic Society was allocated a budget of R120 000 by the Pietermaritzburg City Council, compared with R480 250 in 1994 (a 75% cut). The purpose of the budget cut was to facilitate the formation of an umbrella regional arts and culture council.⁷⁸ [⁷⁸ *The Natal Witness* 28 July 1995]

Theatres

State Theatre

Mr Joseph said in October 1996 that the State Theatre and its companies would restructure following the adoption of the *Draft White Paper on Arts, Culture and Heritage*. The theatre's restructuring would involve the following:⁷⁹ [⁷⁹ *The Citizen* 11 October 1996]

- alternative sources of funding would be sought for the Transvaal Philharmonic Orchestra;
- ballet and contemporary dance companies would be reconstituted as separate independent companies with their own boards of directors;

- the Windybrow Theatre in Hillbrow (Johannesburg) would become autonomous, with its own board of directors; and
- retrenchment would be undertaken in some arts departments, including the Permanent Opera Chorus and Opera Soloists, and the Permanent Drama Company.

The restructuring of the State Theatre (which is in Pretoria) was expected to be complete by April 1997. The theatre would, in addition, have to apply to the national arts council for funding, owing to the reduction of state subsidies to the performing arts councils over the next three years, Mr Joseph said.⁸⁰ [80 *Business Day*, *The Citizen* 11 October 1996]

Civic Theatre

According to the arts editor of *The Sunday Independent*, Mr Robert Greig, in 1996 out of an annual operating subsidy of R12m, the Civic Theatre was only able to use R7m for staging productions and employing artists. This was because the balance of the subsidy, which is provided by the Johannesburg City Council, went towards the cost of servicing a R132m refurbishment debt incurred by the city council during the 1980s and 1990s. (The purpose of the refurbishment was to update the theatre and to allow it to accommodate large productions from the Performing Arts Council of the Transvaal in Pretoria.)⁸¹ [81 *The Star* 21 August 1996] In September 1996 the budget of the theatre was cut from R7m to R5m.⁸² [82 *Ibid* 25 September 1996]

Market Theatre

In April 1995 the minister of arts, culture, science and technology, Dr Ben Ngubane, announced that the Market Theatre in Johannesburg would receive a grant of R3m from his department. A further R2m would be donated as a 'challenge' grant: the government pledged to equal every rand raised by the Market Theatre from other sources.⁸³ [83 D Burger (ed), *South Africa Yearbook 1996*]

Kwazulu-Natal Playhouse

The allocation of the Pietermaritzburg City Council to the KwaZulu-Natal Playhouse in Durban was cut from R36 000 in 1994 to R6 000 in 1995 as the council felt the theatre did not 'adequately service' the needs of the city.⁸⁴ [84 *The Natal Witness* 28 July 1996]

National Libraries

In February 1996 the minister of arts, culture, science and technology, Dr Ben Ngubane, appointed a working group to review the roles of the State Library in Pretoria and the South African Library in Cape Town (the two libraries have shared national functions since 1987) and the possibility of combining

them and the South African Library for the Blind in Grahamstown into one 'National Library of South Africa' (see also *Library and information services* under *Draft White Paper on Arts, Culture and Heritage* above). The group, headed by the university librarian of the University of the North West, Mr Andrew Khutsoane, and comprising representatives from the African Library Association of South Africa; the Library and Information Workers' Organisation; the South African Institute of Librarianship and Information Science; the Department of Arts, Culture, Science and Technology; the Department of Education; the two national libraries and the South African Library for the Blind, was due to present a report to the minister in January 1997. The group would also investigate the inclusion of the South African Library for the Blind in the National Libraries Act of 1985.⁸⁵ [⁸⁵ *The Argus* 8 February 1996, 6 August 1996] At the time of writing, the investigation of the task group was still under way.

OTHER INITIATIVES

Private Sector

A spokeswoman for Business and Marketing Intelligence (BMI) (an organisation which conducts surveys of corporate social investment, and arts and sport sponsorship in South Africa), Ms Bets Nel, said in August 1996 that corporate arts sponsorship in 1996 amounted to about R30m—between 2% and 3% of total corporate social responsibility budgets. Arts sponsorship had steadily declined as a proportion of corporate social investment in recent years. Although this form of sponsorship was unlikely to drop further, it would not increase because companies considered other forms of social investment, such as education and community development, more important, Ms Nel said.

Furthermore, according to the *Draft White Paper on Arts, Culture and Heritage* of the Department of Arts, Culture, Science and Technology, in some countries overseas, tax incentives were used to encourage the private sector to invest in the development and promotion of the arts. In South Africa, however, legislation allowing for tax incentives in respect of investment of this nature was very specific. The Income Tax Act of 1962 provided that the income of all public religious, charitable and educational institutions be exempt from tax. The act also provided that 5% of a donor's taxable income be regarded as before-tax expenditure if the donation was made to a fund set up for the sole purpose of receiving money to be used to finance education and training by schools, universities and colleges (the legislation would also apply if the recipient of the donation was an educational organisation in the arts and culture field).

According to BMI, state funding for the arts would decrease in the future and local authority funding would not compensate for this decline. Arts organisations would become increasingly dependent on alternative funding sources. Companies tended to support arts organisations with highly innovative approaches and also based their support on what benefits the company could derive from the sponsorship, BMI said.

The director general of the Association for Business Sponsorship of the Arts in the United Kingdom (UK), Mr Colin Tweedy, visited South Africa in September 1996 to advise on the setting up of Business

Arts South Africa, an organisation which would receive donations from business as a form of corporate social investment, and also actively involve the private sector in the arts in other ways. Business Arts South Africa would operate in a similar way to the UK organisation (according to Mr Tweedy, the funding of the Association for Business Sponsorship of the Arts had increased from £500 000 since its establishment in 1976, to £84m). Mr Tweedy said that South African business should become involved in arts and culture sponsorship as this was not only a social investment but also a commercially viable activity.

The Arts and Culture Trust was set up by Nedcor, Sun International and the Department of Arts, Culture, Science and Technology in 1994 to promote the development of arts and culture throughout South Africa and in disadvantaged communities in particular.⁹⁰ [90 Nedcor, *Nedcor and Economic Equity in South Africa*, 1996] In December 1996 the chairman of the trust, Mr Andries Oliphant, announced that in 1997 the trust would award bursaries to a value of some R0,25m to various formal and nonformal arts and culture institutions. The bursaries would be used to assist disadvantaged students in the field of arts and culture.

Another private funder of arts and culture in South Africa was the Standard Bank. Since 1983 the bank has sponsored the Standard Bank National Arts Festival in Grahamstown (Eastern Cape). The Standard Bank Gallery in Johannesburg is the venue for exhibitions of art, crafts and photography. Each year artists who receive the Standard Bank Young Artists of the Year Award display their work in the gallery. Since 1978 the bank has, in collaboration with the University of the Witwatersrand, sponsored a collection of African art, parts of which are displayed at the gallery. Standard Bank also co-sponsored the Africa 95 art exhibition, held in Whitechapel Gallery in London in 1995.

The Spier Festival Trust run by Spier Wine Estate, near Stellenbosch (Western Cape), aimed to ensure the development of performing arts of international standards in the Western Cape. The trust organised an annual music and cultural festival held at Spier's open-air amphitheatre, at which emerging, talented South African artists could perform with international counterparts. The trust encouraged private sector sponsorship of the festival through incentives, such as free use of the estate's conference and entertainment facilities (R1m a year is needed to attract international performers).

Public Sector

The Living Arts Project, aimed at fostering a closer working relationship between the South African Broadcasting Corporation (SABC) and South African artists, was launched at the SABC headquarters in Auckland Park (Johannesburg) in August 1996. The project would promote live performances and art, with SABC centres throughout South Africa hosting programmes ranging from art exhibitions, live music shows and poetry recitals to theatrical performances, dance and comedy. All performances would be open to the public and recorded for broadcast purposes.

PROVINCIAL DEVELOPMENTS

Eastern Cape

The arts and culture council of the Eastern Cape was launched in August 1995. According to the director of arts, culture and music in the provincial department of education, Ms L G Msengana Ndlela, the council would act as an advisory body to the Eastern Cape MEC for education, culture and sport, Ms Nosimo Balindlela, on issues related to arts and culture. The council would also try to ensure that all members of the Eastern Cape community had access to arts and culture facilities and resources. Council members had been appointed by Ms Balindlela in terms of provincial legislation as an interim measure for the establishment of cultural institutions and events. Members of the council included people drawn from theatre, the performing arts, visual arts, music and community arts, Ms Ndlela said.

Gauteng

In February 1996 the Gauteng Department for Sport, Recreation and Culture allocated about R1,3m to be distributed among 52 arts and culture community bodies in the province. The organisations qualified for funding if they were non-profitmaking, 'viable' structures, and fit to 'properly manage' the funds they received. The department also required that the beneficiary organisations submit a progress report, including an audited statement, within a specified time to ensure funds were being used properly. The director of the department, Mr Victor Modise, said that the department would also provide technical assistance where required.

In June 1996 a meeting was held between the MEC for education in Gauteng, Ms Mary Metcalfe, and several specialised commissions which had been set up to make recommendations on a range of arts disciplines (including the arts, libraries, heritage and performing arts). The meeting sought to formulate recommendations for an arts and culture policy for the province and to ensure that allocation of public funds to arts development was not unduly influenced by political considerations, but led by arts and culture groups.

An interim Gauteng arts and culture council, comprising various arts professionals, was subsequently launched in October 1996. The MEC for sport, recreation and culture in Gauteng, Mr Peter Skosana, said that the council, which would represent Gauteng on the national arts council, would advise his department on policy issues, such as partnerships in the area of arts and culture between the various levels of government, and help develop a fundraising strategy. The council would, in addition, make recommendations for legislation providing for the formation of a permanent arts and culture council in the province. The interim council would operate until April 1997, the expected date for the passage of such legislation. The council was allocated R2m to distribute to arts and culture organisations in the province.

The acting director of arts, culture and heritage in Gauteng, Mr Sydney Selepe, said in February 1997 that although his department had not formulated an arts and culture policy for the province, it was in the process of drafting legislation such as a Gauteng arts council bill and a heritage resource bill.

Kwazulu-Natal

The acting chairwoman of the Transitional Regional Arts and Culture Council (Tracc) in KwaZulu-Natal (an umbrella body of arts and culture organisations operating from Pietermaritzburg and set up to administer arts funding in the province), Ms Ann Grayson, said in July 1996 that the cut in subsidies to the performing arts councils had made available funds to be allocated to arts and culture in each of the nine provinces. Each province would be divided into regions with an arts and culture council headed by a committee. The committee would be responsible for funding arts projects using money provided by central, provincial and local government, Ms Grayson said.

In April 1996 Tracc elected a transitional committee to lead the council until its first annual general meeting in September, when it would appoint a regional arts and culture council to replace the transitional council.

In July 1996 Mr Paris Dlamini was appointed co-ordinator of Tracc.

In the same month the general secretary of Tracc, Mr John Mitchell, said that he would resign from the organisation as its executive committee tended to ignore sections of the body's constitution which it found 'inconvenient'. A former chairman of Tracc who represented the Arts and Culture Alliance on the Tracc executive committee, Mr Piwe Mkhize, said in July 1996 that the body operated with an 'absolute lack of trust, goodwill and common purpose' and that it was divided by 'professional jealousy, racism and hypocrisy'. Tracc should not be permitted to administer funds given the conflicting interests of members but should act merely as an advisory body to the city council, Mr Mkhize said. (Tracc had recently provided R25 760 to various arts organisations in the region, including R4 500 to the Arts and Culture Alliance and R3 000 to the Pietermaritzburg Arts Festival.)

Ms Grayson said in July 1996 that all decisions made by the executive committee were reached by consensus and that three co-signatories were needed before any money was released.

Mpumalanga

According to the premier of Mpumalanga, Mr Mathews Phosa, a Department of Sports, Arts, Culture and Recreation had been established in the province in 1996 to highlight career opportunities in arts and culture and create infrastructure such as recording and film studios. Mr Phosa said in January 1997 that Mpumalanga was one of the preferred film and video production destinations in the country. It was important that local producers, scriptwriters and technicians worked with international filmmakers when they came to the province.

POLICY REVIEW

A central objective of the Department of Arts, Culture, Science and Technology has been to work

towards the redistribution of resources to a broader range of arts, culture and heritage forms and institutions, as proposed in the department's policy document, the *Draft White Paper on Arts, Culture and Heritage*.

State-funded arts groups have criticised the white paper's funding proposals, in particular the reduction of government subsidies to such groups between 1996 and 1999 and the creation of a national arts council (NAC) to administer funding. Performing arts organisations such as the Foundation for the Performing Arts have referred to the NAC as a 'monstrous bureaucracy to control funding'. While state funds withdrawn from these organisations are intended for a wide range of arts and cultural initiatives, the central arts bureaucracy could absorb an increasing proportion of the available finance. The deputy minister of arts, culture, science and technology, Ms Brigitte Mabandla, has said that the council will operate independently from government and will ensure universal access to funding for all South Africa's art forms.

The implementation of funding proposals in the draft white paper is likely to lead to the closure of many performing arts groups. Directors of such groups find the stipulation that the performing operations of state theatres must be self-funding within three years unrealistic. The MEC for education and cultural affairs in the Western Cape, Ms Martha Olckers, has criticised the white paper's stipulation that artists should apply for sponsorship to regional and local government or the private sector if the NAC is unable to provide funding. Most regional governments were given this portfolio without staff or funds. Business, on the other hand, does not have incentives such as tax concessions to encourage it to donate to the arts in South Africa.

Directors of arts groups have also criticised the white paper's assumption that artists can be trained overnight. Funding from the NAC will depend partly on the participation of South African artists. Some orchestras, however, draw up to 80% of their members from overseas. The minister of arts, culture, science and technology, Mr Lionel Mtshali, has said that once the contracts of foreign musicians have terminated, local talent must be used. Although most orchestras have training programmes in place, it will take years for players to reach professional standards.

Criticism from the performing arts councils that the white paper is vague on issues of practical administration and the structuring of future arts institutions, has been seen by Ms Mabandla as being based on 'a narrow interest in the so-called classical arts traditionally promoted by the performing arts councils'.

EDUCATION

BIRD'S EYE VIEW

Several educational policy documents (covering preprimary through to tertiary education) were published by the Department of Education during the period under review. Legislation was tabled in Parliament. The *Interim Policy for Early Childhood Development* set out guidelines for the

implementation of a 'compulsory reception year' (ie the equivalent of a preprimary year or grade 0). The South African Schools Act of 1996 provided for a new pattern of school organisation consisting of public and independent schools to replace the former apartheid system. It terminated the model C system and established governing bodies for all public schools. The governing bodies were given extensive powers, including the right to levy school fees. However, no child could be excluded because of his/her parents' non-payment of fees.

The *Green Paper on Higher Education Transformation* proposed a single co-ordinated higher education system encompassing colleges, private education providers, technikons and universities. It also provided for expanded student enrolments. All policy proposals formed part of a national qualifications framework which would integrate education and training into one system and facilitate movement between different types of educational institutions.

A number of curriculum proposals were made at both national and provincial levels by the National Consultative Forum on Curriculum. The proposals represented a paradigm shift from the former emphasis on 'curriculum input' (or subject input) to 'curriculum output' (meaning students' ability to use what they have learned in different ways and apply it to different circumstances).

The 1996/97 budget's allocation to education increased by nearly 11% compared with 1995/96. The budget provided for a 20% shift from the higher-than-average-funded provinces to the lower-than-average-funded provinces. The shift required that teachers be redeployed from provinces and schools where an excess existed to provinces and schools which had a shortage of teachers.

There were relatively few disruptions at schools in 1996. However, a survey conducted by the Education Policy Unit at the University of the Witwatersrand revealed a serious 'collapse of a culture of learning and teaching' in Gauteng schools. The problem was characterised by high rates of pupil and teacher absenteeism, poor motivation, a lack of basic facilities and frequent incidents of violence. Perceptions of a drop in standards at public schools led to a significant increase in the number of private schools during 1996.

Most tertiary institutions on the other hand experienced serious student disruptions, which caused damage worth millions of rands. Student demands related primarily to dissatisfaction with the 'transformation' process, admission policies and student funding. The minister of education, Professor Sibusiso Bengu, said however, that the government could not introduce free tertiary education.

KEY POINTS

- In 1996 about 53% of matric candidates passed, the same as in 1995. In both 1995 and 1996, 15% obtained matriculation exemption.
- Per capita expenditure on education in 1996/97 in the Western Cape was 149% of the national average. The figure for Gauteng was 131%. In the Northern Province and the Eastern Cape it was 88% and 82%

respectively.

- According to the Human Sciences Research Council, in 1994 altogether 435000 people held degrees in South Africa. Some 28,1% of the degrees were in literature and philosophy, 12,4% in commerce, 9,5% in the natural sciences and 7,5% in education.
- In 1994 white students were awarded 54% of university degrees, diplomas and certificates, and Africans 34%, according to the Department of Education. In 1975 white students were awarded 89% of university degrees. African students were awarded 5% of university degrees and diplomas in 1975.
- White students were awarded 64% of all technikon diplomas and certificates in 1994, while Africans received 17%. In 1993 white students were awarded 73% of technikon diplomas and certificates and African students 14%.
- The total number of degrees, diplomas and certificates awarded by universities increased by 29% from 1990 to 1994. The number of diplomas and certificates awarded by technikons increased by 44%.
- In 1995 there were 1,2m craft and related trade workers in South Africa, an increase of 2,5% over 1994.
- The number of people who registered for apprenticeship contracts dropped by 48% from 1991 to 1995. The number who completed apprenticeship contracts dropped by 25% over the same period.
- According to a study by Dr A Pouris, research in the social sciences in South Africa, measured by the number of articles published annually, had grown by 42% between 1981 and 1994. Research in the life sciences (including biology, clinical medicine, immunology, molecular biology, pharmacy and neurology) had dropped by 21% over the same period.
- According to the Central Statistical Service, in 1995 some 2,6m people over 20 years old had no education.
- About 2m people had some form of post-matriculation education, of whom 49% were white, 42% were African, 5% were coloured and 4% were Indian.
- About 46% of African teachers were underor unqualified in 1994. In 1984, ten years earlier, 70% of African teachers (excluding teachers in the 'independent' homelands) were underor unqualified.

HUMAN RESOURCES

Qualification Profile of the Population

Level of Education

According to the *October Household Survey*, an annual sample survey done by the Central Statistical Service (CSS), in 1995 some 2,8m people over 20 years old had no education. Of these, 92% were African and 6% were coloured people. Some 4m people over 20 years old had matriculation only. Of those, the majority (51%) were Africans, followed by whites (37%), coloured people (6%), and Indians (5%). About 2m people had some form of post-matriculation education, of whom 49% were white, 42% were African, 5% were coloured and 4% were Indian. The following table gives the education levels of the population of 20 years of age and over in 1995:1 [1 Central Statistical Service (CSS), *October Household Survey 1995*, Statistical Release, PO317, 27 November 1996]

Education levels of people over the age of 20: 1995

African

Coloured

Indian

White

Total^a

No education

2 640 000

182 000

34 000

8 000

2 864 000

Grade 1 – standard 1

706 000

96 000

6 000

4 000

813 000

Standard 2

776 000

82 000

9 000

2 000

868 000

Standard 3

801 000

108 000

12 000

5 000

927 000

Standard 4

979 000

169 000

23 000

10 000

1 181 000

Standard 5

1 233 000

235 000

34 000

14 000

1 516 000

Standard 6

1 533 000

305 000

71 000

176 000

2 084 000

Standard 7

1 056 000

186 000

36 000

104 000

1 382 000

Standard 8/NTC1^b

1 472 000

231 000

90 000

649 000

2 442 000

Standard 9/NTC2

1 242 000

100 000

44 000

158 000

1 543 000

Standard 10/NTC3

2 110 000

268 000

207 000

1 545 000

4 131 000

Diploma/certificate with standard 9 or less

110 000

9 000

3 000

50 000

173 000

Diploma/certificate with matriculation

634 000

78 000

39 000

549 000

1 300 000

Degree

188 000

24 000

35 000

403 000

649 000

Other

1 000

0

0

4 000

5 000

Unspecified

194 000

8 000

1 000

19 000

223 000

Total^a

15 676 000

2 079 000

644 000

3 700 000

22 100 000

a

Figures may not add up owing to rounding.

b

NTC— National Technical Certificate.

Women constituted 61% of people with no education and men 39%. The proportions of people with matriculation were almost equally divided between men (51%) and women (49%). However, more men (62%) than women (38%) had degrees.² [² Ibid]

Below is a graphic representation of the education levels of people 20 yea

Artisans

According to the CSS, in 1995 there were 1,2m craft and related trade workers in South Africa, an increase of 2,5% over 1994. Of those, 53% were African, 28% were white, 14% were coloured people and 5% were Indian.³ [³ Ibid]

Literacy

A report entitled A Survey of Adult Basic Education in South Africa in the 90s, published in 1996 by the Joint Education Trust, defined illiteracy as fewer than seven years of formal schooling (that is less than a standard 5 level) or its equivalent. The report estimated that in 1994 there were approximately 7,5m people aged 15 and older who were illiterate or 'severely under-educated'. Nearly 3m were totally unschooled and another 4,5m had so little primary education that they were 'barely literate'. With a total adult population of nearly 26m, the figures represented an adult illiteracy rate of 29%. However, the report said that of the 7,5m illiterate people only 5,3m were 'potential participants' in adult basic education.⁴ [⁴ A Harley et al, *A Survey of Adult Basic Education in South Africa in the 90s*, 1996] The remaining 2,2m illiterate people were either of subnormal intelligence or over 65 years of age.

Teachers

In 1994 (the latest year for which figures were available), 64% of all teachers were fully qualified, 29% were underqualified (less than matric and a three-years teaching qualification) and 7% were unqualified (no teaching qualification), according to the Education Foundation. Most teachers in Gauteng and the Western Cape were qualified (78% and 77% respectively). The North West had the highest proportion of underand unqualified teachers (48%), followed by the Eastern Cape and the Free State (42% each).

The following table provides a breakdown by race of the number of qualified, underand unqualified teachers in 1994:⁶ [⁶ Ibid]

Teacher qualifications by race: 1994

African

Coloured

Indian

White

Total

Proportion

Unqualified

24 567

8

5

1

24 581

7,2%

Underqualified

85 404

10 875

970

494

97 743

28,6%

Qualified

131 556

26 456

12 287

49 280

219 579

64,2%

Total

241 527

37 339

13 262

49 775

341 903

100,0%

About 46% of African teachers were underor unqualified in 1994. The proportion of underor unqualified coloured teachers was 29%, Indian 7% and white 1%. In 1984, ten years earlier, 70% of African teachers (excluding teachers in the 'independent' homelands), 42% of coloured teachers and 11% of Indian teachers were underor unqualified. The proportion of underor unqualified teachers in Bophuthatswana was 70%, in the Transkei 72% and in Venda 64%. In the former Natal and Cape, 8% and 2% of white teachers respectively were underand unqualified in 1983.⁷ [⁷ 1985 *Survey*, p382] (Figures for the Transvaal and the Orange Free State were not avail

Types of Qualification

Graduates

According to a register of graduates compiled by the Human Sciences Research Council (HSRC), some 435 000 people held degrees in South Africa in 1994. The register included people who had obtained degrees but had emigrated or died without notification being given to the HSRC.

Literature and philosophy degrees comprised the greatest single proportion of degrees held (28%). These included degrees in communication, clinical psychology, counselling psychology, development studies, journalism, languages, literature, media studies, mental health, philosophy, political science, police sciences, social sciences and translation. Some 12% of all degrees held were in commerce, followed by the natural sciences (10%) and education (8%). Of the total number of degrees held by whites only 5% were education degrees, compared with 17% in the case of Africans, 15% for Indians and 14% in the case of coloured people. Some 43% of degrees held by Africans and 25% of degrees held by whites were in literature and philosophy. Most degrees (58%) were held by men, while women held 42%. The table below gives a breakdown of the number of degrees held in 1994, according to the HSRC register, followed by a proportional breakdown:⁸ [⁸ Information provided by Mr Johan Jacobs, Human Sciences Research

Council, 5 September 1996]

Types of degrees held by the South African population: 1994^a(a numerical breakdown)^b

African

Coloured

Indian

White

Unspecified

Total

Accounting, management and administration

655

358

1 667

21 681

778

25 139

Administration

1 586

161

344

1 981

130

4 202

Architecture

38

29

70

4 558

459

5 154

Agriculture, forestry and food technology

444

17

13

8 596

229

9 299

Commerce

2 902

984

2 493

44 056

3 433

53 868

Dentistry

224

97

274

2 889

194

3 678

Economics

58

153

16

2 413

181

2 821

Education

8 176

1 975

3 319

17 045

1 920

32 435

Engineering

330

214

564

24 413

922

26 443

Fine arts

164

99

116

5 374

254

6 007

Home economics

32

1

5

1 420

39

1 497

Land surveying

13

4

7

675

19

718

Law

2 612

672

1 539

19 613

1 640

26 076

Library and information

219

77

57

2 175

92

2 620

Literature and philosophy^c

20 952

5 751

5 512

82 700

7 306

122 221

Medicine and optometry

966

438

1 950

18 706

1 253

23 313

Natural sciences

2 582

1 278

2 168

33 675

1 747

41 450

Nursing

3 937

346

216

4 277

348

9 124

Other human sciences

31

101

116

3 131

154

3 533

Other health sciences

438

172

447

6 803

406

8 266

Personnel management

69

1

9

843

42

964

Pharmacy

175

160

765

4 833

193

6 126

Quantity surveying

27

8

58

1 672

87

1 852

Social work

1 762

4 29

506

5 856

366

8 919

Theology

374

178

57

5 300

72

5 981

Town and regional planning

47

13

18

1 495

42

1 615

Veterinary sciences

36

3

10

1 677

17

1 743

Total

48 849

13 719

22 316

327 857

22 323

435 064

a

Data for the following universities are not complete: University of Transkei — no information since 1988; Rand Afrikaans University — no information for 1989 and 1990; universities of the North and Zululand — no information since 1992; and University of Natal — no information since 1993. Data for graduates from the universities of Medunsa, North West, Potchefstroom, Rhodes and Stellenbosch include figures for 1995.

b

The above proportional breakdown of degrees held by the population differs from the figures in the 1995/96 Survey (pp99–100) because different categories of fields of study were used. The categories used in the 1994/95 Survey corresponded with the categories used by the Department of Education, while the categories used in the above table were supplied by the HSRC. In addition, the table above included some 1995 data for five of the universities which were not included in the previous Survey.

c

Includes degrees in communication, clinical psychology, counselling psychology, development studies, journalism, languages, literature, media studies, mental health, philosophy, political science, police sciences, soc

Types of degrees held by the South African population: 1994^a(a proportional breakdown)

African

Coloured

Indian

White

Unspecified

Total

Accounting, management and administration

1,3%

2,6%

7,5%

6,6%

3,5%

5,8%

Administration

3,2%

1,2%

1,5%

0,6%

0,6%

1,0%

Architecture

0,1%

0,2%

0,3%

1,4%

2,1%

1,2%

Agriculture, forestry and food technology

0,9%

0,1%

0,1%

2,6%

1,0%

2,1%

Commerce

5,9%

7,2%

11,2%

13,4%

15,4%

12,4%

Dentistry

0,5%

0,7%

1,2%

0,9%

0,9%

0,8%

Economics

0,1%

1,1%

0,1%

0,7%

0,8%

0,6%

Education

16,7%

14,4%

14,9%

5,2%

8,6%

7,5%

Engineering

0,7%

1,6%

2,5%

7,4%

4,1%

6,1%

Fine arts

0,3%

0,7%

0,5%

1,6%

1,1%

1,4%

Home economics

0,1%

0,0%

0,0%

0,4%

0,2%

0,3%

Land surveying

0,0%

0,0%

0,0%

0,2%

0,1%

0,2%

Law

5,3%

4,9%

7,0%

6,0%

7,3%

6,0%

Library and information

0,4%

0,6%

0,3%

0,7%

0,4%

0,6%

Literature and philosophy

42,9%

41,9%

24,7%

25,2%

32,7%

28,1%

Medicine and optometry

2,0%

3,2%

8,7%

5,7%

5,6%

5,4%

Natural sciences

5,3%

9,3%

9,7%

10,3%

7,8%

9,5%

Nursing

8,1%

2,5%

1,0%

1,3%

1,6%

2,1%

Other human sciences

0,1%

0,7%

0,5%

1,0%

0,7%

0,8%

Other health sciences

0,9%

1,3%

2,0%

2,1%

1,8%

1,9%

Personnel management

0,1%

0,0%

0,0%

0,3%

0,2%

0,2%

Pharmacy

0,4%

1,2%

3,4%

1,5%

0,9%

1,4%

Quantity surveying

0,1%

0,1%

0,3%

0,5%

0,4%

0,4%

Social work

3,6%

3,1%

2,3%

1,8%

1,6%

2,1%

Theology

0,8%

1,3%

0,3%

1,6%

0,3%

1,4%

Town and regional planning

0,1%

0,1%

0,1%

0,5%

0,2%

0,4%

Veterinary sciences

0,1%

0,0%

0,0%

0,5%

0,1%

0,4%

Total^b

100%

100%

100%

100%

100%

100%

a

Data for the following universities are not complete: University of Transkei — no information since 1988; Rand Afrikaans University — no information for 1989 and 1990; universities of the North and Zululand — no information since 1992; and University of Natal — no information since 1993. Data for graduates from the universities of Medunsa, North West, Potchefstroom, Rhodes and Stellenbosch include figures for 1995.

b

Figures may not add up owing to rounding.

The chart below provides a breakdown of the top eight types of degrees

Artisans

At the time of writing the Human Sciences Research Council was compiling information on the total number of qualified artisans, according to different disciplines. (See also *Artisans* above.)

Education Output

A report published by the Foundation for Research Development in 1996, entitled *SA Science and*

Technology Indicators, revealed that there were vast disparities between African and coloured pupils on the one hand and Indian and white pupils on the other in mathematics and science. In 1993, fewer than 20% of all Africans who passed matric did mathematics or physical science, and of those who did, about 20% passed it on higher grade. In contrast, 61% of white pupils passed matric with mathematics (a third of whom were on higher grade) and 44% with physical science (half of whom were on higher grade). In 1994, there were on average more than 137 pupils per qualified mathematics teacher. In African schools there were 215 pupils per qualified mathematics teacher.⁹ [⁹ Foundation for Research Development, *SA Science and Technology Indicators*, 1996]

Although more black students were enrolling at universities and technikons, the report found that 'disappointingly few' enrolled for courses in science, engineering and technology. In 1993 Africans accounted for 27% of degrees awarded in the social sciences and humanities (43% of the student numbers), but for only 9% of degrees awarded in the natural sciences and engineering (18% of the student numbers). Very few Africans enrolled for postgraduate degrees. In 1992 only 17% of African academic staff in natural science faculties at previously black universities had doctorates (compared with 37% of white staff at those universities), while 51% of African academics had no more than an honours degree.

The low proportion of African science and engineering students was reflected in the composition of the science and engineering workforce. In 1992, only 18% of this workforce were Africans, compared with 72% whites. The report noted that there was a need to improve the relationship between the output of higher education institutions and the requirements and absorption capacity of the labour market. In 1995 South Africa had 3,3 scientists and engineers per 1000 of the population. This compared unfavourably with Japan (71 scientists and engineers per 1000 population), Canada (64), and the United Kingdom (53). Brazil, a developing country similar to South Africa, had 11.

In the past South Africa relied on immigration to supplement its skilled human resources. Between 1965 and 1985 net immigration contributed 20% of the increase in high-level personnel. However, in 1994 there was a net loss of 875 professional, semi-professional and technical personnel (the category into which scientists and engineers fell). (See also chapter on *Population*.)

The report found that expenditure on research and development (R & D) in South Africa had remained static, with no real increase between 1983 and 1993. Government support for R & D dropped to 0,7% of government expenditure in 1993/94. Those figures compared unfavourably with levels of expenditure in Japan (3%), Germany (4%) and the United States (6%), indicating that competitive economies emphasised government-funded R & D as a strategy for economic growth. The drop in R & D expenditure was accompanied by a 20% decline in the share of South African science articles in international literature from 1988 to 1994, as indexed by the Institute for Scientific Information. Over the same period arts and humanities articles increased by 43%. There were also decreases in the number of South African patents registered at the South African Patent Office, the report said.¹⁰ [¹⁰ Ibid]

According to a former rector of Rand Afrikaans University, Professor C F Crouse, South Africa needed

to double its output of science graduates over the next two decades—particularly in areas such as engineering and agriculture—in order to develop economically. The number of science graduates would have to grow by 4,3% annually to achieve a ratio of 5,49 graduates per 10000 people by 2012 (up from 2,38 per 10000 people in 1996). The number of engineering graduates would have to grow by 7,6% annually to reach a ratio of 1,92 engineers per 10000 people by 2012 (up from the ratio in 1996 of 0,44 engineers per 10000 of the population). The number of agricultural graduates would have to grow by 8,5% annually over the same period to reach a ratio of 0,56 agriculturalists per 10000 people (up from 0,11 per 10000 of the population in 1996). According to Professor Crouse, there was a direct relation between average gross domestic product per capita and the average output of graduates per 10000 people. Taking both the humanities and the natural sciences into account, to reach a plateau of 14,56 graduates per 10 000 people, South Africa needed to produce 2,4% more graduates annually. Professor Crouse said that such a growth rate was feasible provided the critical fields of engineering and agriculture received more attention.¹¹ [¹¹ *Higher Education Review* 7 June 1996]

The minister of arts, culture, science and technology, Dr Ben Ngubane, said in July 1996 that ‘despite South Africa’s considerable infrastructure for human resource development, education had been skewed in favour of graduates instead of technicians’. Dr Ngubane added that South Africa had a very low ratio of engineers—30 engineers per 1m people—compared with its biggest trading partners such as Germany and Japan (with 350 and 500 engineers per 1m people respectively).¹² [¹² *The Star* 10 July 1996]

The Sunday Independent reported in November 1996 that several technikons had started awarding professorships to their top academics after a decision by the Committee of Technikon Principals to allow this. Dr Eddie Strydom, executive director of the Committee of Technikon Principals, said that professorships had become a feature of higher education in South Africa as they gave technikons the opportunity to award academic achievers suitably. In order to qualify for a professorship an academic had to have a doctorate or similar qualification and had to be involved in research, have published books, articles or papers, or have registered patents. The person also had to be an internal and external examiner of advanced students and should have teaching expertise as well as academic and other awards. Senior lecturers, principal lecturers, heads of departments, deans, rectors and academic vice rectors were eligible for selection. Several technikons, including the technikons of the Cape, Free State, Natal, Peninsula, Pretoria, Vaal Triangle and the Witwatersrand already awarded or were in the process of awarding professorships.¹³ [¹³ *The Sunday Independent* 10 November 1996]

Matriculation Pass Rate

In 1996, 53% of candidates who wrote the matriculation examinations passed (preliminary figures)—the same proportion as in the previous year. The number of candidates who obtained matriculation exemption remained the same at 15%. In 1996 the matric examinations were the first written on a nonracial basis. It was also the first time that provinces had to assume complete responsibility for all aspects of the examinations, from setting papers, through to their distribution, marking, processing and publication of results.¹⁴ [¹⁴ Education Policy Unit, *Quarterly Review of Education and Training in South Africa*, December

1996]

The minister of education, Professor Sibusiso Bengu, said that the results indicated that racial disparities were still predominant as provinces with more black candidates (mainly the rural ones) had lower pass rates than those which had fewer. The results also showed that in most provinces subjects such as accounting, biology, geography, mathematics and physical science recorded a pass rate below 40%.¹⁵ [¹⁵ Statement by Professor Sibusiso Bengu, minister of education, on the 1996 matric results, 3 January 1997]

Leakages of the 1996 matriculation examinations were reported in various provinces, including Gauteng, KwaZulu-Natal, the Northern Cape and the Northern Province.¹⁶ [¹⁶ Various newspaper clippings] The superintendent general of education in Gauteng, Mr James Maseko, said that ‘unscrupulous people, probably including staff in the department, had for a number of years been involved in a well-organised syndicate which profited from the leaking and selling of examination papers’.¹⁷ [¹⁷ *The Citizen* 25 October 1996]

According to Professor Bengu, three independent investigations into the matriculation examinations—by the public protector, the Khumalo commission in Gauteng, chaired by Mr Bongani Khumalo, and a task team appointed by Professor Bengu—found that the problems experienced during the examinations did not ‘compromise the integrity of the exams’. This view was corroborated by the South African Certification Council, established to ensure that certificates were issued on the basis of the same standards across the board.¹⁸ [¹⁸ *Sunday Times* 12 January 1996, *The Star* 9 January 1996]

The president of the National Professional Teachers’ Organisation of South Africa, Mr Leepile Taunyane, said that a thorough analysis should be conducted to determine the root cause of the poor matric results. He said that ‘administrative inefficiencies’ and ‘deplorable results’ could not be condoned.¹⁹ [¹⁹ *Sowetan* 13 January 1996]

The general secretary of the South African Democratic Teachers’ Union, Mr Thulas Nxesi, said that candidates should not be assessed only on the matric examination, but that a system of continuous assessment should be introduced which stretched from sub A to matric. He said that the stealing of exam papers was a direct result of the high premium placed on the final exams and did not necessarily show what learners were able to do.²⁰ [²⁰ *City Press* 5 January 1996]

According to the chairman of the South African Federation for State-aided Schools, Dr Hennie van Deventer, the ‘discrepancies in the matric results were the climax of an exam characterised by faulty question papers, leaks and corruption’.²¹ [²¹ *The Citizen* 31 December 1996]

In its reaction the National Party said that there was a need in 1997 for a major effort to promote a culture of teaching and learning in a number of provinces if quality education for all was to be achieved. The Democratic Party (DP) said that the pass rate indicated ‘a painful lack of real progress in township schools’. The overall results were disappointing as they represented no discernible improvements on the

results of previous years, according to the DP.²² [²² *Daily Dispatch* 28 December 1996]

The MEC for education in Gauteng, Ms Mary Metcalfe, said in January 1997 that a decision on some 95 schools in the province, which were linked to investigations into irregularities in the matric examinations, was to be made in February 1997. The results of some 1077 candidates, who were suspected of having cheated in the exams, were withheld by the provincial department. Those pupils were summoned to appear at hearings held by the Gauteng Department of Education. Pupils who were found guilty could be banned from rewriting the exams for up to two years, while those co-operating with the investigations would be allowed to write supplementary examinations in February 1997.²³ [²³ *Business Day* 9 January 1997]

The MEC for education, art, culture and sport in the Northern Province, Dr Aaron Motsoaledi, said in December 1996 that a screening process in the appointment of matric exam markers had revealed several unqualified markers—including preschool teachers. Earlier in the month the provincial education department had dismissed 6100 markers who went on strike while protesting against their allowance and tax to be paid on this. Dr Motsoaledi said that papers which had been marked by unqualified teachers would be remarked by qualified ones.²⁴ [²⁴ *Rapport* 15 December 1996, *Sowetan* 11 December 1996]

The table below shows a racial breakdown of the number of matriculation candidates, the pass rate and matric exemptions from 1975 to 1996:²⁵ [²⁵ 1995/96 *Survey*, p101; information provided by the Department of Education, 14 January 1997]

Matriculation examination results by race: 1975–96^a

African

Coloured

Indian

White

Total

1975

Candidates

8 378

3 746

4 327

N/A

N/A

Pass^b

64%

63%

85%

N/A

N/A

Matric exemption^c

42%

33%

23%

N/A

N/A

1976

Candidates

9 593

6 417

4 198

N/A

N/A

Pass^b

83%

50%

86%

N/A

N/A

Matric exemption^c

35%

17%

26%

N/A

N/A

1977^d

Candidates

8 225

5 569

4 871

N/A

N/A

Passb

72%

66%

89%

N/A

N/A

Matric exemption^c

28%

17%

32%

N/A

N/A

1978^d

Candidates

9 804

6 891

4 979

N/A

N/A

Pass^b

76%

66%

90%

N/A

N/A

Matric exemption^c

33%

15%

33%

N/A

N/A

1979^e

Candidates

14 574

7 654

5 229

49 168

76 625

Pass^b

73%

89%

87%

95%

90%

Matric exemption^c

28%

32%

31%

49%

42%

1980^e

Candidates

29 973

8 389

5 510

49 839

93 711

Pass^b

53%

63%

86%

95%

78%

Matric exemption^c

16%

17%

35%

50%

35%

1981

Candidates

57 529

9 269

5 986

52 507

125 291

Pass^b

50%

56%

85%

94%

71%

Matric exemption^c

12%

14%

39%

47%

28%

1982

Candidates

70 241

10 207

6 622

52 418

139 488

Pass^b

48%

67%

84%

95%

Matric exemption^c

10%

17%

37%

46%

25%

1983

Candidates

82 449

11 076

7 403

53 317

154 245

Pass^b

48%

71%

86%

94%

68%

Matric exemption^c

10%

15%

42%

46%

24%

1984

Candidates

86 191

14 138

10 508

57 005

167 842

Passb

49%

73%

87%

92%

68%

Matric exemption^c

11%

15%

34%

45%

24%

1985

Candidates

82 815

11 052

11 109

59 991

164 967

Pass^b

47%

64%

88%

92%

67%

Matric exemption^c

12%

12%

32%

44%

25%

1986

Candidates

100 012

17 624

11 406

64 327

193 369

Pass^b

52%

68%

87%

93%

69%

Matric exemption^c

13%

15%

33%

44%

25%

1987

Candidates

150 119

18 289

12 429

64 672

245 509

Pass^b

56%

73%

95%

95%

70%

Matric exemption^c

16%

19%

37%

43%

25%

1988

Candidates

187 123

21 456

13 221

69 549

291 349

Pass^b

57%

66%

95%

96%

69%

Matric exemption^c

16%

16%

41%

42%

24%

1989

Candidates

209 319

22 666

14 191

70 666

316 842

Pass^b

42%

73%

94%

96%

58%

Matric exemption^c

10%

18%

41%

42%

19%

1990

Candidates

255 498

22 315

14 542

68 097

360 452

Pass^b

37%

82%

95%

96%

53%

Matric exemption^c

8%

21%

45%

41%

17%

1991

Candidates

304 315

22 405

14 258

67 490

408 468

Pass^b

41%

83%

96%

96%

54%

Matric exemption^c

11%

22%

50%

41%

18%

1992

Candidates

342 038

24 419

14 485

67 549

448 491

Pass^b

44%

86%

95%

97%

56%

Matric exemption^c

10%

21%

49%

41%

17%

1993^f

Candidates

366 501

25 735

15 203

65 019

472 458

Pass^b

39%

86%

91%

97%

51%

Matric exemption^c

8%

21%

45%

42%

15%

1994^f

Candidates

392 434

25 375

15 092

62 507

495 408

Pass^b

49%

87%

93%

97%

58%

Matric exemption^c

13%

22%

51%

42%

18%

1995^f

Candidates

N/A

N/A

N/A

N/A

531 453

Pass^b

N/A

N/A

N/A

N/A

53%

Matric exemption^c

N/A

N/A

N/A

N/A

15%

1996^g

Candidates

N/A

N/A

N/A

N/A

537 203

Pass^b

N/A

N/A

N/A

N/A

53%

Matric exemption^c

N/A

N/A

N/A

N/A

15%

a

Figures differ from the 1994/95 Survey because a different source, the Research Institute for Education Planning at the University of the Free State, provided all the figures in December 1995.

b

Proportion of total candidates who passed matric.

c

Proportion of total candidates who obtained a matriculation exemption.

d

Excludes the Transkei and Bophuthatswana.

e

Excludes the Transkei, Bophuthatswana and Venda.

f

Results of supplem

The following graph shows the overall matric pass rate by race from 1979 to 1996:

The following graph shows the trends in the number of matric candidates from 1979 to 1994 by race:

According to the Independent Examinations Board (IEB), which ran national public examinations in schools and adult education centres, the number of schools writing the IEB examinations had increased from 29 in 1995 to 97 in 1996. The total number of matric pupils writing the examinations had increased from 1 335 to 2 960 over the same period (these figures are not included in the table on matriculation results above). In 1995, 95% of candidates writing the IEB examinations had passed and 577 distinctions had been obtained.²⁶ [26 Information provided by Mrs A C Kotze, Independent Examinations Board, 29 August 1996, 23 January 1997] In 1996, 97% of the full-time pupils who wrote IEB examinations passed.²⁷ [27 *The Star* 24 December 1996]

Trends in Matriculation Output

In the period 1981–96 the total number of pupils writing matric increased by 329%, according to figures provided by the Department of Education (formerly the Department of National Education). The number of white pupils varied between 49 200 in 1979 and 62 500 in 1996, after having reached more than 70600 enrolments in 1989. In contrast, African pupils showed a consistent increase from 8 400 in 1975 to 392400 in 1994 (an increase of 4 584%).²⁸ [28 **Fast Facts** No 2 , 1997] A racial breakdown of matric pupils in 1995 and 1996 was unavailable as data was no longer recorded according to race but according to province.

According to the Department of Education, from 1981 to 1988 the combined overall pass rate varied from a high of 71% in 1981 to a low of 67% in 1985. Thereafter it dropped to below 60%, reaching a low of 51% in 1993. From 1979 to 1994 the pass rate for white pupils hovered around 95%, while the pass rate for Indian and coloured pupils improved significantly. However, the pass rate of African students reached its highest level in 1988 (57%) after which it dropped to 39% in 1993. In 1995 (the

latest year for which African figures were available), 43% of Africans passed.

Overall matriculation exemption declined from 42% in 1979 to 15% in 1996. However, the matriculation exemption rate in that period showed a marked improvement among Indians, an early decline among coloured pupils followed by a steady improvement, and a decline among whites (who had a matriculation exemption rate of 42% in 1994, compared with 51% for Indians). The exemption rate for African students was the highest in 1987 and 1988 (16%), after which it declined to 8% in 1993. In 1994 it increased again to 13%.²⁹ [29 Ibid]

Trade Tests Passed

In 1995, 10761 apprentices wrote trade tests to qualify themselves as nationally recognised artisans. Of these, 62% passed—an increase of 12% over the number who had passed in 1994 but a drop of 29% over the number who had passed in 1993 (see *Industrial training and apprenticeship* below).

The following table shows the number of people who wrote trade tests and the number who passed between 1980 and 1995:³⁰ [30 1995/96 *Survey*, p109; information provided by the Department of Labour, 2 September 1996]

Trade tests written and passed: 1980–95

Year

Written

Passed

Proportion passed

Test passed increase/(decrease)

1980

9 016

5 033

55,8%

N/A

1981

9 098

5 299

58,2%

5,3%

1982

10 604

5 892

55,6%

11,2%

1983

12 757

6 531

51,2%

10,8%

1984

14 577

7 243

49,7%

10,9%

1985

16 565

8 404

50,7%

16,0%

1986

14 757

7 693

52,1%

(8,5%)

1987

N/A

N/A

N/A

N/A

1988

N/A

N/A

N/A

N/A

1989

14 431

6 716

46,5%

N/A

1990

12 885

6 095

47,3%

(9,2%)

1991

12 785

6 220

48,7%

2,0%

1992

14 285

7 276

50,9%

17,0%

1993

16 599

9 371

56,5%

28,8%

1994

10 617

5 943

56,0%

(36,6%)

1995

10 761

6 676

62,0%

12,3%

N /A —

Trends in Artisan Output

Figures provided by the Department of Labour (formerly the Department of Manpower) showed that from 1980 to 1995 the number of trade tests passed increased by 33%.³¹ [³¹ 1994/95 *Survey*, p235] However, the number of trade tests passed dropped by 40% from 1993 to 1995 mainly because of a 35% drop in the number of trade tests written over that period. In 1995 the pass rate was 62%, the highest in the 15-year period. The lowest pass rate was in 1989—47%.

Teacher Qualifications Obtained

A spokesman for the Department of Education, Mr M Loots, said in October 1996 that the Department of Education was unable to provide figures on the number of teachers who had qualified in 1995 or earlier as the department had not established a data base to monitor teacher output.³² [³² Personal communication with Mr M Loots, Department of Education, 1 October 1996]

Technikon Diplomas and Certificates Awarded

The table below gives a breakdown of the number of diplomas and certificates awarded by technikons from 1990 to 1994:³³ [³³ 1995/96 *Survey*, p107; information provided by the Department of Education, 26 August 1996]

Diplomas and certificates awarded by technikons: 1990–94

1990

1991

1992

1993

1994

Agriculture^a

408

368

427

469

419

Architecture^b

492

527

619

694

710

Commerce^c

2 471

3 028

3 275

3 762

4 171

Communication

216

243

279

340

297

Computer science

537

552

613

602

657

Education

235

267

216

231

299

Engineering

2 914

2 973

3 506

3 698

3 889

Health sciences

1 131

1 305

1 329

1 518

1 607

Home economics

442

505

575

545

690

Industrial arts

199

237

260

285

272

Languages^d

10

7

51

51

51

Law

5

8

484

29

63

Library and museum sciences

63

51

57

69

69

Life and physical sciences

471

452

747

574

667

Mathematics

30

27

22

47

79

Philosophy, religion and theology

5

7

7

4

16

Physical education^e

9

6

12

17

25

Psychology

9

6

25

30

26

Public administration

954

888

631

944

1 137

Social sciences

196

268

396

427

594

Visual and performing arts

520

556

516

586

598

Total^f

11 314

12 279

14 048

14 922

16 336

a

Includes renewable resources.

b

Includes environmental design (eg quantity surveying, building management and town planning).

c

Includes business and management sciences.

d

Includes linguistics and literature.

e

Includes health education and leisure.

f

A formula was used by the Department of Education to calculate the above figures. They therefore do not add up to the totals given. The totals

In 1994 a total of 16336 diplomas and certificates were awarded by technikons in South Africa. African students were awarded 17% of all diplomas and certificates (up from 14% in 1993), and white students 64% (down from 73% in 1993—see 1995/96 Survey, p105).

The number of certificates and diplomas awarded by technikons increased by 44% in the period 1990–94. Diplomas and certificates in engineering were the single most popular, comprising 26% and 24% of all diplomas and certificates awarded in 1990 and 1994 respectively. These were followed by diplomas and certificates in commerce (22% of all diplomas and certificates awarded in 1990, increasing to 26% in 1994). Diplomas and certificates awarded in health sciences were the third most popular and remained at about 10% of the total in both 1990 and 1994.

University Degrees, Diplomas and Certificates Awarded

In 1994 (the latest year for which figures were available) a total of 57 124 degrees, diplomas and

certificates were awarded by universities in South Africa—an increase of 6% over the 54081 awarded in 1993. White students were awarded most of the degrees, diplomas and certificates (54%). African students were awarded 34%. Degrees awarded to Indian and coloured students comprised 6% each of the total.³⁴ [³⁴ Information provided by the Department of Education, 26 August 1996]

The total number of degrees awarded by universities increased by 29% from 1990 to 1994. Commerce degrees comprised the single largest proportion of degrees awarded—17% in both 1990 and 1994. Social sciences degrees were the second most popular, constituting 13% of degrees awarded in 1990 and dropping to 12% in 1994. General arts (ie degrees in languages, philosophy, religion and theology, psychology, social sciences, and visual and performing arts) comprised 32% of total degrees awarded in both years. The number of arts degrees awarded increased by 27% from 1990 to 1994.

Engineering degrees awarded increased by 24% from 1990 to 1994 but comprised only 5% and 4% of the total number of degrees awarded respectively in those years. Similarly, degrees awarded in mathematics increased by 27% from 1990 to 1994 but constituted only 2% of all degrees awarded in the same years. The number of degrees awarded in life and physical sciences dropped from 7% of all degrees in 1990 to 6% in 1994.

The following table gives a breakdown of the type of degrees awarded by universities from 1990 to 1994 (excluding the former ‘independent’ homelands):³⁵ [³⁵ 1995/96 *Survey*, pp103–104; information provided by the Department of Education, 26 August 1996]

Degrees awarded by universities in South Africa: 1990–94

1990

1991

1992

1993

1994

Agriculture^a

620

678

608

585

567

Architecture^b

638

673

704

642

825

Commerce^c

5 991

6 779

7 359

7 700

7 548

Communication

324

411

440

442

452

Computer science

574

619

606

656

740

Education

3 421

4 527

4 259

4 382

4 976

Engineering

1 602

1 716

1 824

1 900

1 991

Health sciences

3 498

3 539

3 761

3 638

3 980

Home economics

153

174

214

191

188

Industrial arts

0

1

0

0

0

Languages^d

2 722

3 365

3 528

3 744

3 931

Law

2 651

3 360

3 439

3 827

4 169

Library and museum sciences

207

261

273

204

268

Life and physical sciences

2 339

2 505

2 541

2 618

2 635

Mathematics

668

783

830

862

847

Military science

16

14

3

5

7

Philosophy, religion and theology

1 058

1 148

1 067

1 119

1 216

Physical education^e

290

286

374

363

383

Psychology

2 584

3 046

3 136

3 297

3 461

Public administration

985

1 295

1 322

1 314

1 359

Social sciences

4 417

4 982

5 068

5 229

5 288

Visual and performing arts

648

649

704

657

634

Total^f

35 395

40 810

42 003

43 377

45 465

a

Includes renewable resources.

b

Includes environmental design.

c

Includes business and management sciences.

d

Includes literature and linguistics.

e

Includes health education and leisure.

f

The Department of Education used a formula when calculating the above figures. They therefore do not add up to the totals given. The totals are nevertheless accurate.

The total number of certificates and diplomas awarded by universities increased by 30% in the period 1990–94. Most diplomas and certificates awarded were in education (78% in 1990 and increasing to 80% in 1994). These were followed by diplomas and certificates in commerce (6% in 1990 and 1994) and health sciences (4% in 1990 and 1994).

The table below gives a breakdown of the diplomas and certificates awarded by univ

Diplomas and certificates awarded by universities in South Africa: 1990–94

1990

1991

1992

1993

1994

Agriculture^a

0

6

7

3

7

Architecture^b

4

14

24

24

37

Commerce^c

520

599

638

748

729

Communication

26

18

20

41

14

Computer science

212

220

247

267

227

Education

6 985

7 312

8 200

8 233

9 319

Engineering

96

77

119

113

107

Health sciences

391

461

396

397

417

Home economics

11

9

7

8

1

Languages^d

41

95

99

109

132

Law

197

100

187

233

179

Library and museum sciences

136

177

182

156

145

Mathematics

6

19

6

12

6

Philosophy, religion and theology

8

13

6

5

13

Physical education^e

1

9

19

18

16

Psychology

24

14

10

11

11

Public administration

188

141

159

138

157

Social sciences

27

50

53

93

76

Visual and performing arts

69

72

70

72

56

Total^f

8 976

9 427

10 455

10 704

11 659^g

a

Includes renewable resources.

b

Includes environmental design.

c

Includes business and management sciences.

d

Includes literature and linguistics.

e

Includes health education and leisure.

f

The Department of Education used a formula when calculating the above figures. They therefore do not add up to the totals given. The totals are nevertheless accurate.

g

Includes ten diplomas and certificates awarded in li

All University and Technikon Awards

Of the total number of degrees, diplomas and certificates awarded at tertiary institutions in 1994, 56% went to whites, 30% to Africans, 6% to coloured people and 8% to Indians. Some 20% of awards at universities and technikons in 1994 were made in education, 17% in commerce, and 8% each in health sciences, engineering, and social sciences.

The table below shows the total number of degrees, diplomas and certificates awarded by universities and technikons in 1994, according to race:³⁷ [³⁷ Information provided by the Department of Education, 26 August 1996]

Degrees, diplomas and certificates awarded by universities and technikons: 1994^a

African

Coloured

Indian

White

Total

Agriculture

152

12

24

805

993

Architecture

110

68

170

1 223

1 571

Commerce

1 319

497

1 020

9 612

12 448

Communication

103

21

53

586

763

Computer science

127

103

171

1 221

1 622

Education

10 162

967

651

2 814

14 594

Engineering

505

224

508

4 750

5 987

Health sciences

1 713

361

697

3 233

6 004

Home economics

59

48

53

719

879

Industrial arts

11

10

27

224

272

Languages

2 334

192

142

1 446

4 114

Law

788

231

424

2 969

4 412

Library and museum sciences

142

42

40

259

483

Life and physical sciences

554

293

346

2 118

3 311

Mathematics

133

45

119

635

932

Military science

0

0

0

7

7

Philosophy, religion and theology

391

145

61

647

1 244

Physical education

42

22

13

347

424

Psychology

703

223

221

2 351

3 498

Public administration

1 051

245

210

1 147

2 653

Social sciences

1 799

442

567

3150

5 958

Visual and performing arts

72

48

53

1 115

1 288

Total

22 270

4 239

5 570

41 378

73 457

a

A formula was used by the Department of Education to calculate the number of people who obtained a degree, certificate or diploma according to major subject. Figures may therefore not add up.

The bar chart below shows the number of degrees, diplomas and certificates awarded

Trends in University and Technikon Output

Figures provided by the Department of Education showed that the total number of degrees, diplomas and certificates awarded by universities increased by 29% from 1990 to 1994. Over the same period the total number of diplomas and certificates awarded by technikons increased by 44%.

From 1991 to 1994 the total number of degrees, diplomas and certificates awarded by universities to

Africans increased by 42%, while those awarded to whites increased by only 1%. Similarly, the total number of diplomas and certificates awarded by technikons to Africans from 1991 to 1994 increased by 167% and those awarded to whites increased by 10% (a racial breakdown of qualifications awarded in 1990 was unavailable).³⁸ [³⁸ 1993/94 *Survey*, pp740, 743]

The total number of degrees, diplomas and certificates awarded by universities in education increased by 37% from 1990 to 1994, followed by commerce (27%), mathematics (27%), engineering (24%), health sciences (13%), and life and physical sciences (13%). Similarly, the total number of diplomas and certificates awarded by technikons in commerce increased by 69% from 1990 to 1994, followed by health sciences, and life and physical sciences (both 42%), and engineering (34%), according to the Department of Education.³⁹ [³⁹ *Ibid*]

EDUCATIONAL RESOURCES

Finance

According to the 1996 report of the Department of Education, the government would not be able to meet its educational policy commitments in the short and medium term without allocating more resources to this sector. The report warned that the ‘conventional wisdom that equity and quality in education and training could be achieved solely through the redistribution and more efficient use of existing resources was misleading’. The ‘unacceptably high’ repetition, dropout and failure rates were caused by poorly qualified teachers, and a lack of learning materials and physical infrastructure. In order to create a more efficient system additional investment would be required to ‘rectify the underlying causes of such wastage’. In addition, an estimated 50 000–65 000 classrooms were required in terms of current enrolment and some 800 000 nonschool students between the ages of six and 16 had to be brought back into the system. Furthermore, the department needed additional resources to provide for early childhood development, adult basic education and training, and other forms of nonformal education and training.⁴⁰ [⁴⁰ Department of Education, annual report June 1994–December 1995]

The minister of education, Professor Sibusiso Bengu, said in February 1996 that the government would help tertiary students find nonstate resources to clear outstanding tuition fees. However, he rejected calls for student debts at black tertiary institutions to be written off. At the beginning of 1996 outstanding fees at such institutions amounted to some R100m. Government funds could not be taken from other vital projects to fund students, Professor Bengu added.⁴¹ [⁴¹ *Business Day* 26 February 1996]

Some R1bn was lost annually because an estimated 100 000 students failed every year, the rector of the University of Pretoria, Professor ‘Flip’ Smit, said in January 1996.

The Budget

According to the *Budget Review*, the 1996/97 budget had ‘prioritised’ education by allocating nearly a

quarter of general non-interest expenditure to this vote. A total amount of R35,2bn was allocated to education (some 20% of the total budget and the single largest allocation), according to the first print of the estimate of expenditure (an increase of 10,7% over the preliminary allocation of R31,8bn to education expenditure in 1995/96).⁴³ [⁴³ Department of Finance, *Budget Review*, 13 March 1996]

The *Budget Review* said that the allocation for the national Department of Education amounted to R5,49bn in 1996/97, compared with a revised estimate of R4,33bn in 1995/96 (an increase of 27%). The main items in that vote (from which tertiary education was funded) comprised transfers totalling R3,6bn and R1,3bn to universities and technikons respectively. In the financial years 1995/96 to 1996/97 the average funding level (ie the amount allocated as a proportion of the funding requirement) of subsidies to universities increased from 65,6% to 68% and in the case of technikons from 62,1% to 68,6%.⁴⁴ [⁴⁴ Ibid]

An amount of R300m was included in the budget of the national department for the first phase of a national financial aid scheme for students at universities and technikons (see *Financial assistance to students* below). Some R160m was allocated for the development of youth or community colleges.⁴⁵ [⁴⁵ Ibid] (A further R1bn—over and above the budget—would be transferred from the reconstruction and development fund to address the backlog in school classrooms—see *Provision of schools and classrooms* below.) Expenditure on adult basic and community education and training would increase from R1,6m to R2,5m (by 56,3%).⁴⁶ [⁴⁶ Republic of South Africa, *Estimate of Expenditure to be defrayed from the National Revenue Account during the Financial Year ending 31 March 1997*, RP2–1996]

According to the national department's 1996 report, the long-term restructuring of the budget in accordance with the policy commitments in the *White Paper on Education and Training*, published in 1995, could start 'in earnest' only with the 1997/98 budget as the process up to May 1996 had been largely driven by the 'constraints of the transition'.⁴⁷ [⁴⁷ Department of Education, annual report June 1994–December 1995]

According to Professor Bengu, the country could not afford to establish equity at the same level as former coloured or white education because this would require 9,2% or 10,5% of gross national product respectively and would therefore be unattainable.

Professor Bengu said in February 1996 that although the African National Congress remained committed to free, compulsory education for all pupils for the first ten years of schooling, this could not be implemented immediately because of a lack of funding.⁵¹ [⁵¹ *The Citizen* 12 February 1996]

Provincial Allocations

In 1996/97, R29,7bn was allocated to education in the nine provinces, which were responsible for education at school and college (including technical college) level. This represented an increase of 8% over the 1995/96 allocation. In 1996/97 KwaZulu-Natal received the highest proportion of the provincial

education allocation (19,5%), followed by the Eastern Cape (16,9%), Gauteng (15,5%), the Northern Province (14,3%), the Western Cape (10,8%), the North West (7,6%), Mpumalanga (6,7%) and the Free State (6,6%). The Northern Cape received the lowest (2,2%).⁵² [52 Republic of South Africa, *Estimate of Expenditure to be defrayed from the National Revenue Account during the Financial Year ending 31 March 1997*, RP2-1996]

The following table compares the allocations to the various provincial departments of education in 1995/96 and 1996/97:⁵³ [53 1995/96 *Survey*, p110; Republic of South Africa, *Estimate of Expenditure to be defrayed from the National Revenue Account during the Financial Year ending 31 March 1997*, RP2-1996]

Budgetary allocations to provincial education departments: 1995/96 and 1996/97^a

1995/96 Rbn

1996/97 Rbn

Increase (decrease)

Eastern Cape

4,50

5,02

11,6%

Free State

1,96

1,95

(0,5%)

Gauteng

4,55

4,60

1,2%

KwaZulu-Natal

5,37

5,79

7,8%

Mpumalanga

1,77

1,98

11,9%

North West

1,90

2,25

18,4%

Northern Cape

0,69

0,65

(5,9%)

Northern Province

3,61

4,27

18,1%

Western Cape

3,12

3,22

3,4%

Total

27,48

29,74

8,2%

a

Figures may not add up owing to rounding. Proportional increases and decreases are based on original

The following table compares the proportional allocations to each province in 1995/96 and 1996/97 (the column on the right giving each province's population as a proportion of the whole population):⁵⁴ [⁵⁴

Institute for Futures Research, *Forecasts of the South African Population, 1991–2026*, University of Stellenbosch, 1996; 1995/96 *Survey*, p110; Republic of South Africa, *Estimate of Expenditure to be defrayed from the National Revenue Account during the Financial Year ending 31 March 1997*, RP2–1996]

Proportional allocations to provincial education departments: 1996/97

1995/96

1996/97

Population in relation to total population

Eastern Cape

16,4%

16,9%

16,6%

Free State

7,2%

6,6%

6,8%

Gauteng

16,5%

15,5%

16,8%

KwaZulu-Natal

19,6%

19,5%

21,1%

Mpumalanga

6,5%

6,7%

7,2%

North West

6,9%

7,6%

8,4%

Northern Cape

2,5%

2,2%

1,8%

Northern Province

13,1%

14,3%

12,5%

Western Cape

11,3%

10,8%

8,7%

Total

100%

100%

100%

The nine provincial departments of education made the following allocations for education in 1995/96 and 1

Education expenditure in the provinces: 1995/96 and 1996/97^a

1995/96 Rbn

1996/97 Rbn

Increase/ (decrease)

Eastern Cape

4,50

4,96

10,2%

Free State

1,97

2,05

3,9%

Gauteng

4,55

4,54

(0,2%)

KwaZulu-Natal

5,42

5,85

7,9%

Mpumalanga

1,80

2,02

12,2%

North West

1,80

2,28

26,5%

Northern Cape

0,68

0,64

(5,7%)

Northern Province

3,86

4,16

7,7%

Western Cape

3,03

3,17

4,7%

Total

27,60

29,66

7,5%

a

Figures may not add up owing to rounding. Proportional increases and decreases are based on original

Professor Bengu said in March 1996 that an agreement had been reached with the MECs for education to reach equity in provincial education funding over a period of five years, with a shift of 15% in the 1995/96 budget from the higher-than-average-funded provinces to the lower-than-average-funded provinces. However, the following inequity still existed in 1996/97 (1995/96 figures are given in brackets): the Western Cape was funded at 139% of the national average (158% in 1995/96), Northern Cape at 132% (148%), Gauteng at 123% (138%) and the Free State at 109% (113%). On the other hand, the Eastern Cape was funded at 83% of the national average (75%), the Northern Province at 85% (76%), KwaZulu-Natal at 96% (94%), Mpumalanga at 97% (90%) and the North West at 97% (89%). According to the minister, another shift of 20% was made in the 1996/97 budget. The shift would require teachers to be redeployed from higher-than-average-funded provinces to lower-than-average-funded provinces (see *Teacher supply and redeployment* below).⁵⁶ [⁵⁶ *Hansard* (S:Q) 3 cols 179–180, 28 March 1996; information provided by Mr D Hindle, Department of Education, 6 January 1997]

Allocations to Levels of Education

According to Professor Bengu, R3,7bn was spent in 1995 on the introduction of free education for sub A pupils in state schools around the country. (This did not include free education for sub A pupils in model C schools.) The amount was 12,6% of the total 1995/96 budget allocated to provincial education departments for college and school education. It also represented 11,1% of the total education budget (including universities and technikons).⁵⁷ [⁵⁷ *Hansard* (S:Q) 1 col 10, 22 February 1996]

The table below gives a breakdown of the estimated expenditure on pretertiary through to tertiary education from 1992/93 to 1995/96 (the latest available figures published in the 1996 *Budget Review*):⁵⁸ [⁵⁸ Department of Finance, *Budget Review*, 13 March 1996]

Estimated education expenditure: 1992/93–1995/96^a

1992/93 Rm

1993/94 Rm

1994/95 Rm

1995/96 Rm

Preprimary, primary and secondary

21 018

23 794

27 064

27 860

Tertiary

3 375

3 967

4 561

5 583

Total

24 393

27 761

31 625

33 443

a

Figures for 1992/93–1994/95 are revised estimates and figures for 1995/96 are budgeted figures.

Expenditure on tertiary education as a proportion of total education expenditure increased from 14% in 1992/93 to nearly 17% in 1995/96. The pie charts below compare expenditure in 1992/93 and 19

Breakdown of Provincial Budgets

The table below gives a breakdown of the amounts allocated by the provinces to the various sectors of

education in 1996/97:⁵⁹ [Various estimates of expenditure for the provinces 1996/97]

Breakdown of provincial education expenditure: 1996/97

Eastern Cape Rm

Free State Rm

Gauteng Rm

Administration

383,2

102,9

214,3

Auxiliary/associated services

70,2

135,8

65,5

Nonformal education

70,0

14,7

35,5

Public schools

4 091,6

1 652,3

3 640,3

Private schools

10,3

16,1

128,6

Special schools

77,1

37,0

183,8

Teacher training

148, 8

51,7

131,3

Technical colleges

108,2

39,6

138,1

Total

4 959,5

2 050,2

Breakdown of provincial education expenditure: 1996/97 (continued)

KwaZulu-Natal Rm

Mpumalanga Rm

North West Rm

Administration

163,8

49,3

57,6

Auxiliary/associated services

89,5

31,8

26,7

Nonformal education

10,5

42,5

11,7

Public schools

5 195,5

1 745,7

1 972,8

Private schools

29,8

5,1

7,1

Special schools

93,6

45,8

41,4

Teacher training

175,5

58,4

53,0

Technical colleges

91,1

36,5

13,0

Other

0,4

—

95,0

Total

5 849,6

2 015,1

Breakdown of provincial education expenditure: 1996/97 (continued)

Northern Province^a

Administration

32,7

698,8

115,2

Auxiliary/associated services

1,8

—

46,3

Nonformal education

2,5

9,8

9,0

Primary education

—

1 746,7

—

Public schools

550,9

–

2 575,2

Private schools

3,2

–

25,2

Secondary education

–

1 409,1

–

Special schools

19,7

62,5

228,3

Teacher training

14,3

172,4

78,9

Technical colleges

11,4

57,4

94,8

Other

0,3

–

0,3

Total

636,8

4 156,7

3 173,4

a

The Northern Province did not allocate money to public and private schools but instead to primary and secondary education. However, this would include money allocated to public and private education.

–

This particular item was not included in the relevant provincial budget.

Per Capita Expenditure

In September 1995 Professor Bengu gave the following breakdown of per capita expenditure on pupils in public schools between 1992/93 and 1994/95 (excluding the former ‘independent’ homelands):⁶⁰ [⁶⁰ *Hansard* (NA:Q) 15 cols 1905–1906, 14 September 1995]

Average per capita expenditure on pupils in public schools:1992/93–1994/95

Year

Rand/head

Increase (decrease)

1992/93

2 111

N/A

1993/94

2 349

11,3%

1994/95

2 409

2,6%

N/A — Not available.

According to a discussion document on the education budget, in 1996/97 the following amounts were to be spent per capita on education in each of the province

Per capita expenditure on education according to province: 1996/97^a

Province

Rand/head

Proportion of national average

Eastern Cape

1 913

82,4%

Free State

2 389

102,9%

Gauteng

3 047

131,3%

KwaZulu-Natal

2 145

92,4%

Mpumalanga

2 109

90,9%

North West

2 255

97,2%

Northern Cape

3 078

132,6%

Northern Province

2 049

88,3%

Western Cape

3 460

149,1%

National average

2 321

100,0%

a

Figures are not comparable with 1995/96 figures as different sources were used.

Per capita expenditure in the Western Cape would be one-and-a-half times the national average, while in the Eastern Cape it would be just over four fifths of that figure.

The following bar chart compares education expenditure per head

Special Projects

Professor Bengu said in March 1996 that R5,9m or 0,61% of the total amount of R973m allocated for the primary school nutrition programme in 1994/95 and 1995/96 had been misappropriated.

Misappropriation of funds had occurred in five of the nine provinces—the Eastern Cape, KwaZulu-

Natal, Mpumalanga, the Northern Province and the Western Cape.⁶² [⁶² *Hansard* (S:Q) 2 cols 53–54, 6 March 1996]

According to the minister of health, Dr Nkosazana Zuma, the school feeding programme targeted 15 894 schools countrywide, feeding 5,9m pupils a day. The programme was funded by the Department of Health (see also chapter on *Welfare*).⁶³ [⁶³ *Hansard* (S:Q) 3 cols 357–358, 20 March 1996]

In November 1996 the Open Society Institute, an international philanthropic organisation, donated R70m to the Open Society Foundation for South Africa to fund a mathematics, science and technology education initiative in the Eastern Cape and the Northern Province. The programme targeted those two provinces because of their high matric failure rates and the large number of schoolgoing pupils there, according to the executive director of the foundation, Professor Michael Savage.⁶⁴ [⁶⁴ *Business Day* 15 May

1996, *The Sunday Independent* 10 November 1996]

The Swedish International Development Agency signed a R23m agreement with the South African branch of the World University Service (WUS-SA) in May 1996 to fund adult basic education and training to alleviate illiteracy in South Africa.⁶⁵ [⁶⁵ *The Argus* 23 May 1996]

The deputy director general in the president's office, Dr Bernie Fanaroff, said in May 1996 that a national school building plan worth R1bn—over and above the education budget—had been approved by the steering committee of the reconstruction and development programme (RDP). The plan aimed to address the 'huge backlog of classrooms and new schools', especially in provinces unable to afford 'major capital expenditure'. The Eastern Cape was allocated the highest proportion of the funding (R263m), followed by the Northern Province (R238m), KwaZulu-Natal (R203m), the North West (R95m), Mpumalanga (R70m), Gauteng (R58m), the Western Cape (R35m), the Free State (R31m) and the Northern Cape (R8m).⁶⁶ [⁶⁶ *Business Day* 14 May 1996; *South Africa Now*, May 1996]

In addition, R200m was allocated in 1996 to the Culture of Learning Project, which formed part of the RDP. Some 3218 schools were to be renovated in the nine provinces and extensive governance training offered to school governing bodies around the country. By the end of August 1996, 1651 schools had been renovated. However, in most of the provinces the training of school governing bodies had not yet commenced.⁶⁷ [⁶⁷ Interview with Ms L R Chanza, assistant programme manager, RDP Culture of Learning National Co-ordinating Office, 29 August 1996]

Financial Assistance to Students

Professor Bengu said that a survey of 17 campuses in September 1996 revealed that students owed at least R281m in unpaid fees to universities. (The survey excluded the universities of Fort Hare and Vista and the Medical University of Southern Africa, although they were owed considerable amounts.) The University of the North was owed the most (R88m), followed by the University of Zululand (R60m). A spokesman for the University of Zululand, Mr Dirk Rezelman, said that the debts represented a crisis and that appeals to the government were 'falling on deaf ears'.⁶⁸ [⁶⁸ *Cape Argus* 23 September 1996]

A national student fund to benefit previously disadvantaged tertiary-level students was launched in June 1996 by Professor Bengu. The Tertiary Education Fund of South Africa (Tefsa) was given the responsibility to manage the government's contribution to the National Student Financial Aid Scheme. The government pledged R300m on the basis that this would be augmented by funds raised from other sources (see *The budget* above). Fundraising for the scheme would be co-ordinated by a working committee chaired by Dr Nthato Motlana and administered by Tefsa.⁶⁹ [⁶⁹ Department of Education, annual report June 1994–December 1995]

However, *Mail and Guardian* reported in August 1996 that the working committee had not raised any funds to date. The group, known as the Eminent Persons Group (EPG), was 'seriously concerned about

the lack of momentum regarding their endeavours to raise some R300m for student loans and bursaries in 1996'. This money was to be raised in addition to the government's R300m. According to the *Mail and Guardian*, the delays were partly caused by the withdrawal of the National Party (NP) from the government as the former deputy minister of education, Mr Renier Schoeman of the NP, was in charge of the fundraising process. According to Mr Roy Jackson, the head of Tefsa, more money had to be injected into tertiary education to avoid another registration crisis in 1997 (as had happened in 1996)—when students who wanted to register might not have the funds to do so.⁷⁰ [⁷⁰ *Mail and Guardian* 8 August 1996]

The financial aid scheme was to be a combination of loans and bursaries.

The bursary component (40%) was conditional on students passing all their courses. The maximum allocation per student per year would be R10000 and the minimum R800. According to Professor Bengu, tertiary loans would be granted at a zero real interest rate. Loan repayments would start at 1% of salary when the borrower's salary reached R26 300 a year, rising to a maximum of 6% of salary at an annual income of R59 300.⁷¹ [⁷¹ *Business Day* 28 June 1996]

In order to qualify for aid students had to be studying for a first tertiary educational qualification, or for a second qualification only if it was required to enable the student to practise in a chosen profession. The student also had to have financial need.⁷² [⁷² *Hansard* (NA:Q) 4 cols 782–784, 15 May 1996]

Mr Jackson estimated in April 1996 that the number of students receiving loans would increase from around 35 000 in 1995 to between 60 000 and 70 000 in 1997. Historically black universities would gain the most from the additional finance allocated to tertiary education in 1996/97, with the exception of universities in the former 'independent' homelands, which were relatively well funded during the apartheid years and were facing funding cuts. The universities of Durban-Westville, the North and the Western Cape would receive the largest student loan allocations in 1996/97—R33,8m, R22,5m and R16,3m respectively, while the University of Zululand would receive nearly R15m. The University of the Witwatersrand (Wits) would receive R13,1m, Natal R15m, Pretoria R3,9m and Stellenbosch R2,5m. Among technikons the Peninsula Technikon would get the largest allocation, R12,5m, Mr Jackson said.⁷³ [⁷³ *The Sunday Independent* 28 April 1996]

According to Mr Jackson, the allocation of funds was based on a predetermined formula which took into account the number of needy students at each institution (excluding white students) and the cost of study at the various institutions.⁷⁴ [⁷⁴ Personal communication with Mr Roy Jackson, Tefsa, 26 September 1996]

According to Professor Bengu, there was not sufficient money in the education budget to wipe out student arrears. Resources would have to be found outside the government to address student debt, he said.⁷⁵ [⁷⁵ *Mail and Guardian* 1 March 1996] Later, in August 1996, Professor Bengu complained that students had utilised only R75m of the funds made available by the government. However, according to Mr Jackson, money was being withdrawn according to schedule and would all be utilised by March 1997.⁷⁶

[⁷⁶ Ibid 8 August 1996]

In December 1996 preliminary budgetary plans by the Department of Education indicated that most universities, but particularly those that were previously predominantly white, would receive ‘substantial subsidy cuts’ as well as cuts to the national student financial aid scheme in 1997. The vice chancellor of Wits, Professor Robert Charlton, said the cuts would make it ‘impossible’ for the university to increase its intake of black students, most of whom needed financial aid and extra tuition to compensate for their inferior education. Several other universities also indicated that the cuts would reduce funds available for bursaries and loans, affecting mostly disadvantaged students. A spokesman for the Department of Education, Mr Lincoln Mali, said that the figures were provisional and still had to be debated by the cabinet in 1997.⁷⁷ [⁷⁷ *Business Day* 13 December 1996, *Mail and Guardian* 20 December 1996]

Schooling

Pupils

Enrolment

The minister of education, Professor Sibusiso Bengu, said in August 1996 that the year’s enrolment figures were unavailable. At the time of writing the provinces were still processing the information and would make it available to the national department in 1997 only. The department had also not yet finalised 1995 enrolment figures.⁷⁸ [⁷⁸ *Hansard* (NA:Q) 8 cols 1373–1374, 12 August 1996]

According to the Research Institute for Education Planning at the University of the Free State, in 1995 some 11,8m pupils were enrolled at schools in South Africa. No comparisons with previous years were possible as different sources were used. The following table shows the number of enrolments in 1995 according to province:⁷⁹ [⁷⁹ Research Institute for Education Planning (Riep), *Education and Manpower Development*, 1996]

Pupil enrolments according to province: 1995

Primary school enrolments

Secondary school enrolments

Total enrolments

Proportion of total pupils

Eastern Cape

1 752 238

573 131

2 325 369

19,8%

Free State

468 629

229 770

698 399

5,9%

Gauteng

894 107

514 528

1 408 635

12,0%

KwaZulu-Natal

1 820 925

756 342

2 577 267

21,9%

Mpumalanga

613 229

300 446

913 675

7,8%

North West

622 778

292 651

915 429

7,8%

Northern Cape

125 554

47 002

172 556

1,5%

Northern Province

1 187 868

729 154

1 917 022

16,3%

Western Cape

575 178

261 389

836 567

7,1%

Total

8 060 506

3 704 413

11 764 919

100%

KwaZulu-Natal had the highest proportion of all pupils in the country (22%), followed by the Eastern Cape (20%), the Northern Province (16%) and Gauteng (12%). Each of those four provinces had more than 1m pupils enrolled. The Northern Cape had the few

The number of primary school enrolments increased by 31% from 1985 to 1995 (from 6,1m to 8,1m), while the number of secondary enrolments increased by 98% (from 1,9m to 3,7m). The ratio of primary to secondary enrolments decreased from approximately 3:1 in 1985 to 2:1 in 1995.⁸⁰ [⁸⁰ 1986 *Survey*, pp431–432]

No official figures were available in 1996 on the number of children of schoolgoing age who were not attending school, according to Professor Bengu. The 1996 census would give the first firm estimation, he said. The latest available figures had been calculated by the National Business Initiative for Growth, Development and Democracy in 1993, which estimated that some 822000 pupils were not attending school at the time.⁸¹ [⁸¹ *Hansard* (NA:Q) 7 col 1227, 13 June 1996]

Provision of Schools and Classrooms

Professor Bengu said in May 1996 that it was impossible to give an accurate breakdown of the classroom shortages for primary and secondary schools and that this information would become available only once the school register of needs had been completed (see *Implications* below).⁸² [⁸² *Hansard* (NA:Q) 5 cols 925–926, 27 May 1996]

According to the Research Institute for Education Planning at the University of the Free State, in 1994

there were some 26182 schools in South Africa (excluding special and private ordinary schools)—464 schools for Indians, 1971 for coloured people, 2208 for whites and 21539 for Africans. Some 82% of all schools in South Africa were for Africans.⁸³ [⁸³ 1995/96 *Survey*, p116]

In 1995/96 a total of 4308 classrooms were built in South Africa—most were in Gauteng (1292) and the Northern Province (1 063). In the North West 511 classrooms were built, in KwaZulu-Natal 457, in the Western Cape 435, in Mpumalanga 263, in the Eastern Cape 151, in the Free State 91 and in the Northern Cape 45.⁸⁴ [⁸⁴ *Hansard* (NA:Q) 8 col 1404, 12 August 1996] Comprehensive information on progress in the provision of schools and classrooms in 1996/97 was not available at the time of writing. Developments in the provinces are described below.

Eastern Cape

(1995 enrolment: 2325369)

The MEC for education, culture and sport in the Eastern Cape, Ms Nosimo Balindlela, said in March 1996 that 400 emergency classrooms were being built with funds from the reconstruction and development programme (RDP) and 52 schools had been renovated as part of a presidential lead project. In addition, more than 500 schools benefited from the premier's fund, which had allocated R20000 to each school for renovations. The general shortage of classrooms in the province was exacerbated by the shortage of about 20000 classrooms in the former Transkei.⁸⁵ [⁸⁵ *Daily Dispatch* 13 March 1996]

The Eastern Cape Department of Education said that it aimed to build about 2000 emergency prefabricated classrooms worth some R60m to alleviate chronic overcrowding (this target included the 400 classrooms which were being built in March 1996). According to a spokesman for the department, Mr Phaphama Mfenyana, the rural Transkei area would be the main beneficiary. Although most of the new classrooms were temporary, some would have to suffice for 'some time' before permanent structures could be built. By August 1996 some 500 classrooms had been erected and the rest were expected to be completed by the end of 1996. The United Nations Educational, Scientific and Cultural Organisation assisted with funding.⁸⁶ [⁸⁶ *Ibid* 6 March 1996; information provided by a spokesman for the Eastern Cape Department of Education, Mr Phaphama Mfenyana, 14 August 1996] In addition, some R42m was to be spent on a school building programme, according to the regional director of education, Mr Zama Tom. The money would be divided among 28 schools in the region.⁸⁷ [⁸⁷ *Daily Dispatch* 26 January 1996]

According to Ms Balindlela, by August 1996 some 450 schools in the province had been electrified and 950 more schools were targeted for electrification.⁸⁸ [⁸⁸ *Eastern Province Herald* 15 October 1996]

Free State

(1995 enrolment: 698399)

In May 1996, 184 classrooms were being built in the Free State and a further 854 being planned. Consultants had been employed for the planning of additional facilities at 31 schools and 37 farm schools. The additional facilities would cost about R52m.⁸⁹ [⁸⁹ *Die Volksblad* 15 May 1996]

Gauteng

(1995 enrolment: 1408635)

The Gauteng Department of Education received R11,4m for school renovations from the RDP in 1995, which was distributed among 1414 schools. Another 253 schools were to receive funds early in January 1996.⁹⁰ [⁹⁰ *Sowetan* 9 January 1996, *Business Day* 10 January 1996]

The MEC for education, Ms Mary Metcalfe, said in June 1996 that a ‘potential crisis’ was looming in Gauteng because of insufficient funds to build new schools to serve rapid land and housing development programmes. Some R350m was needed in 1996 alone to provide classrooms for 60000 pupils in eight of the province’s 18 districts. The province had allocated R55m for capital expenditure during 1996/97 but this would provide only three new secondary and 12 primary schools, Ms Metcalfe said.⁹¹ [⁹¹ *Business Day* 12 June 1996] The average school occupancy level in the eight critically overcrowded districts ranged from 174% in Pretoria East/Mamelodi to 115% in Kempton Park/Tembisa. Some individual schools registered levels as high as 500%.⁹² [⁹² *Ibid* 16 May 1996]

About 60 new schools would be built over the next three years with R350m which was available for capital works, the superintendent general of education in Gauteng, Mr James Maseko, said in May 1996. Mr Maseko estimated that in 1996 some 58600 pupils were without classrooms.⁹³ [⁹³ *Ibid*]

Kwazulu-Natal

(1995 enrolment: 2577267)

The Mercury reported in November 1995 that there was a shortage of 15000 classrooms in KwaZulu-Natal.⁹⁴ [⁹⁴ *The Mercury* 23 November 1995]

Mpumalanga

(1995 enrolment: 913675)

In Mpumalanga the MEC for education, Mr David Mabuza, said in May 1996 that the province needed an additional 5000 classrooms to provide some 200000 pupils with proper school accommodation.⁹⁵ [⁹⁵ *The Citizen* 30 May 1996]

North West

(1995 enrolment: 915429)

Some 1700 new classrooms had been erected in 1995/96 in the North West.⁹⁶ [⁹⁶ *Business Day* 17 May 1996] Projected expenditure on the construction of schools between 1996 and 1999 would amount to R700m. Eighty new schools were to be built in 1996.⁹⁷ [⁹⁷ *The Citizen* 13 January 1996, *Brits Pos* 16 January 1996] The department had allocated R200m for the building of schools in the 1996/97 financial year.⁹⁸ [⁹⁸ *Business Day* 17 May 1996] In September 1996 it was reported that 70 classrooms had been renovated in the province and 72 new classrooms built through a project sponsored by Gencor and called 'Invest in a School Campaign'. Some 6 000 pupils would be accommodated as a result.⁹⁹ [⁹⁹ *Sowetan* 13 September 1996]

A cement company, Alpha, announced in October 1996 that it would donate R417m over five years to build more than 140 schools and other infrastructural projects in the North West. The project would be a joint venture between Alpha and the North West Builders Federation.¹⁰⁰ [¹⁰⁰ *Ibid* 23 October 1996]

Northern Cape

(1995 enrolment: 172 556)

The Northern Cape Department of Education announced in May 1996 that 30 of the projects forming part of the school rehabilitation programme had been completed with RDP funds totalling more than R6m.¹⁰¹ [¹⁰¹ *Ibid* 15 March 1996]

Northern Province

(1995 enrolment: 1917022)

The MEC for education, art, culture and sport in the Northern Province, Dr Aaron Motsoaledi, said in March 1996 that the R237m allocated to the province for building classrooms was not enough to address the shortage.¹⁰² [¹⁰² *Northern Review* 8 March 1996] Of the 60000 classrooms needed nationwide, some 35000 were required in the Northern Province. There were more than 200 registered schools in the province which did not have any physical structures.¹⁰³ [¹⁰³ *Sowetan* 10 January 1996] In addition, classrooms were needed for some 85000 pupils to complete their matric.¹⁰⁴ [¹⁰⁴ *Noord Transvaler* 12 January 1996, *Business Day* 17 May 1996] The provincial education department had erected 1000 new classrooms during the 1995/96 financial year and had allocated R200m for the building of schools during 1996/97.¹⁰⁵ [¹⁰⁵ *Business Day* 17 May 1996]

Western Cape

(1995 enrolment: 836567)

In the Western Cape 45 schoolbuilding projects were in different phases of planning and construction in 1996 and would create 674 additional classrooms at an estimated cost of R154m. In addition, 5752 renovation and maintenance projects, amounting to some R43m, were being undertaken.¹⁰⁶ [¹⁰⁶ Information provided by the Western Cape Department of Education, 6 November 1996]

Pupil/Classroom Ratios

Professor Bengu said in August 1996 that no information was available on average pupil/classroom ratios. The information would become available once the school register of needs had been completed.¹⁰⁷ [¹⁰⁷ *Hansard* (NA:Q) col 1405, 12 August 1996]

Private Schooling

Independent Schools

The following table shows the number of enrolments and teachers at private schools as well as the number of such schools per province in 1995.¹⁰⁸ [¹⁰⁸ Information provided by the Education Foundation, 5 September 1996; fax communication from the Western Cape Department of Education, 23 September 1996]

Number of enrolments and teachers at private schools:1995

Schools

Enrolments

Teachers

Primary schools

Secondary schools

Eastern Cape^a

27

N/A

N/A

N/A

Free State

23

4 493

2 198

300

Gauteng

272

45 176

40 551

5 391

KwaZulu-Natal

93

3 986

16 347^b

N/A

Mpumalanga

21

2 570

915

257

North West

22

2 992

1 848

237

Northern Cape

9

477

908

98

Northern Province

31

4 314

4 468

383

Western Cape

67

10 494

5 872

1 073

Total

565

N/A

N/A

N/A

a

The Eastern Cape Department of Education did not have information on all private schools in the province but only those schools registered for subsidy purposes. Approximately 5 000 pupils were enrolled at these schools but some did not provide enrolment figures. A breakdown of primary and secondary enrolments as well as the number of teachers was unavailable. In addition to the 27 primary, secondary and combined schools in the province some 121 preprimary schools were also registered with the department.

b

Of these, 3 795 pupils attended secondary schools only and 12 552 attended combined schools (ie combining primary and secondary schools).

N/A— No

According to the Education Policy Unit at the University of the Witwatersrand, insecurity generated by the government's policy to redeploy teachers led to the 'mushrooming' of private schools (partly because of parents' fears of a drop in standards as experienced teachers in the public sector opted for retrenchment packages). South African business was actively promoting private schooling, and a number of new and expensive private schools opened during the course of 1996 (see *Developments in the Provinces* below for a discussion on subsidies to private schools).¹⁰⁹ [¹⁰⁹ Education Policy Unit, *Quarterly Review of Education and Training in South Africa*, 15 June 1996]

The *Financial Mail* reported in May 1996 that more parents were turning their backs on the public education system and sending their children to private schools. According to the *Financial Mail*, middle-class parents were not interested in educational equity but in schools' delivering good results. (Parents countrywide, particularly those who had children in model C schools, expressed concern over standards dropping under a new education system.)¹¹⁰ [¹¹⁰ *Financial Mail* 31 May 1996] According to Mr Mark

Henning, director of the Independent Schools Council, the number of private schools grew from 93 in 1991 to 550 in 1995 (by 491%).¹¹¹ [¹¹¹ *F & T Weekly* February 1996]

However, according to the chairman of the South African Federation for State-aided Schools, Dr Hennie van Deventer, the cost to parents of maintaining present levels of provisioning in model C schools (which were state-aided public schools) would increase substantially under the new system—particularly as parents of public school pupils would have to pay more heavily for the additional teachers they might want to recruit. These additional teachers would be paid out of school funds but employed by the state. They would therefore enjoy state packages, which were generally higher than those offered by model C schools. Parents were reportedly also concerned about teachers' morale—particularly among black teachers. These factors combined had led to the 'unprecedented level of interest in independent schools'.¹¹² [¹¹² *Financial Mail* 31 May 1996]

Home-Based Schooling

The chairman of the Association for Home Schooling, Mr Leendert van Oostrum, said in 1996 that there were approximately 1200 home schooling families in South Africa, 600 of whom were associated with known support organisations. It was estimated that at least as many families were 'homeschooling underground'. (Support organisations were formed in the Eastern Cape, KwaZulu-Natal and the Western Cape in response to government 'persecution' of parents' practising home schooling and included organisations such as the Association for Home Schooling.) According to Mr van Oostrum, most of the home schoolers were primarily interested in the 'high quality of education available through this option', although many parents also preferred home schooling because of the religious convictions of the family. The majority of home schooling families came from rural, English-speaking communities. A very small proportion (less than 2%) adopted home schooling to avoid racially integrated schools. Home schooling was gaining popularity in reaction to changes in society and education in particular. However, it also formed part of an international trend, Mr van Oostrum said.¹¹³ [¹¹³ *Frontiers of Freedom* No 10, 1996]

Mr van Oostrum added that the South African Schools Act of 1996 for the first time recognised home schooling—although it gave wide discretion to the heads of provincial education departments to refuse to register a child for home schooling. The act required the head of the department to be satisfied that home schooling was in the interests of the child and that the education received at home satisfied the minimum requirements of the curriculum at public schools.¹¹⁴ [¹¹⁴ *Ibid*] (See *South African Schools Act of 1996* below.)

Teachers

Teacher Numbers

The Research Institute for Education Planning at the University of the Free State provided the following breakdown of the number of teachers in each province for 1994 as well as projections of the number of

teachers needed in 1995, 1996 and 2000:115 [¹¹⁵ Information provided by Riep, 15 November 1996]

Actual number of teachers in 1994 and the number needed in 1995–2000^a

1994 (Actual)

1995 (Need)

1996 (Need)

2000 (Need)

Eastern Cape

Primary

37 269

45 403

46 769

54 212

Secondary

20 053

16 620

17 488

20 993

Subtotal

57 322

62 023

64 257

75 205

Free State

Primary

14 991

13 004

13 310

14 979

Secondary

8 203

7 237

7 541

8 819

Subtotal

23 194

20 241

20 851

23 798

Gauteng

Primary

27 264

22 145

22 617

25 021

Secondary

23 289

14 905

15 573

18 478

Subtotal

50 553

37 050

38 190

43 499

KwaZulu-Natal

Primary

41 007

43 551

44 535

49 841

Secondary

23 211

20 448

21 310

25 691

Subtotal

64 218

63 999

65 845

75 532

Mpumalanga

Primary

14 815

13 838

14 238

16 349

Secondary

8 569

7 137

7 390

8 683

Subtotal

23 384

20 975

21 628

25 032

North West

Primary

18 565

13 834

13 896

14 835

Secondary

10 286

7 036

7 200

8 085

Subtotal

28 851

20 870

21 096

22 920

Northern Cape

Primary

4 728

3 479

3 550

3 855

Secondary

2 468

1 580

1 668

1 947

Subtotal

7 196

5 059

5 218

5 802

Northern Province

Primary

31 369

30 206

30 724

33 402

Secondary

19 745

20 365

21 095

23 715

Subtotal

51 114

50 571

51 819

57 117

Western Cape

Primary

19 840

14 046

14 303

15 311

Secondary

11 923

7 202

7 574

8 775

Subtotal

31 763

21 248

21 877

24 086

Total

Primary

209 848

199 506

203 942

227 805

Secondary

127 747

102 530

106 839

125 186

Grand total

337 595

302 036

310 781

352 991

a

Calculations for 1995–2000 were based on a primary pupil/teacher ratio of 40:1 and a

The table shows that in 1995 there was an excess of some 35000 teachers based on 40:1 and 35:1 pupil/teacher ratios in primary and secondary schools respectively. The Eastern Cape was the only province with a teacher shortage (4700). KwaZulu-Natal and the Northern Province had small surpluses of teachers. The remaining provinces, in particular Gauteng and the Western Cape, had surpluses of between 540 and 13500 teachers. By 2000, four of the provinces, Gauteng, the North West, the Northern Cape and the Western Cape would still need fewer teachers than they had in 1994, while all the other provinces would need more teachers.

Teacher Training Facilities and Qualifications

According to Professor Bengu, ‘the country did not have a shortage of mathematics or science teachers but some of the teachers in those subjects were not adequately trained’. The recruitment of mathematics and science teachers and students was mainly the responsibility of the provinces. However, the national Department of Education had launched a project called ‘System’ (Students and Youth into Science, Technology, Engineering and Mathematics) which aimed to recruit students to become teachers in those fields. The programme offered students with a matric qualification who had underperformed in science and mathematics the opportunity to undertake a full year of study in those subjects. At the end of the programme students would obtain a qualification equivalent to a senior certificate and would then register for a teacher’s diploma in science and mathematics. The initial programme (in eight of the provinces) would run from July 1996 to June 1997 and would involve some 800 students. The second programme would start in 1997 in all nine provinces and would involve some 5000 students.¹¹⁶ [116

Hansard (S:Q) 4 cols 254–255, 9 May 1996]

During the period under review most provinces introduced measures to limit the intake of new teacher training students and to encourage the study of subjects such as mathematics and science where teachers were fewer. The **Mpumalanga** Department of Education said in January 1996 that the growing number of unemployed teachers in the province had necessitated the scaling down by 40% of the student intake at teacher training colleges in 1996. Further cuts would have to be made over the next five years, which could cause the closure of some of the six teacher training colleges in the province. The announcement was made following a statement by the MEC for education in the province, Mr David Mabuza, that teacher training colleges in the province were producing almost 2000 teachers annually although only

200 posts were created each year. Most of the new teachers qualified in the humanities, including history and biblical studies, while very few qualified in the much needed subjects of science, mathematics and technical subjects.¹¹⁷ [¹¹⁷ *The Citizen* 10 January 1996]

In the **Northern Province** 15 of the 22 teacher training colleges would also be closed. (More than 7000 teachers were unemployed in the province and the figure was expected to rise in 1996.)¹¹⁸ [¹¹⁸ *Sowetan* 10 January 1996] The remaining seven colleges would continue with teacher training, admitting students with matriculation exemption and specialising in mathematics and science.¹¹⁹ [¹¹⁹ *Noord Transvaler* 12 January 1996]

A colleges of education rationalisation team, set up by the Gauteng provincial department in June 1996 to investigate the viability of these colleges, recommended in October 1996 that the nine colleges in the province be amalgamated and reduced to four (ie the East Rand College of Education, Sebokeng College of Education, the Onderwyskollege in Pretoria and the Johannesburg College of Education). Those colleges would recruit academic staff and support services from existing colleges in Gauteng. According to the rationalisation team, the number of students undergoing initial teacher training would be reduced from 7 000 to 5 000. The remaining colleges should be converted into community colleges offering a mixture of part-time courses, bridging courses in mathematics, science and technology, and English and vocationally orientated courses. The closure of the teacher training colleges would result in an estimated saving of R30m per year and would increase the student/lecturer ratios from 5:1 at some colleges to 15:1.¹²⁰ [¹²⁰ *Business Day* 21 October 1996, *Sowetan* 23 October 1996]

In both the **Free State** and **KwaZulu-Natal** bursaries were to be awarded to teacher training students who specialised in subjects such as mathematics, science, technical and commercial subjects only. In KwaZulu-Natal bursaries for students in other subjects were to be gradually phased out from 1996. Students would be accepted at only 13 of the 15 teacher training colleges in the province. The remaining two colleges admitted teachers who were improving their qualifications only and could not enrol any new students in 1996.¹²¹ [¹²¹ *The Citizen* 5 January 1996, *Beeld* 23 January 1996, *Die Volksblad* 14 May 1996] The North West also announced that the number of students admitted to colleges of education was to be cut by 50% in 1996 and that 60% of new students would be admitted into mathematics, science, technology and other subjects where there was a scarcity of teachers.¹²² [¹²² *The Citizen* 2 December 1996] In the **Northern Cape** two colleges of education were amalgamated in 1996.¹²³ [¹²³ *Sowetan* 15 March 1996] The **Western Cape** said that the eight colleges of education in the province would be amalgamated to four from 1997. The number of first-year students admitted in 1996 had decreased to some 60% of those in 1995.¹²⁴ [¹²⁴ Fax communication from the Western Cape Department of Education, 6 November 1996]

See also *Teachers* under *Level of education* above.

Pupil/Teacher Ratios

The Department of Education said in July 1996 that pupil/teacher ratios (PTRs) of 40:1 in primary schools and 35:1 in secondary schools should be phased in from 1996 and achieved by 2000 (see *Teacher supply and redeployment* below).¹²⁵ [¹²⁵ *Business Day* 3 May 1996] (In 1981 a report by the Human Sciences Research Council, chaired by Professor J P de Lange, had recommended a national pupil/teacher ratio of 30:1 by 2000. This meant that by 2000 the number of white teachers would have to drop by 21000 while African teachers would have to increase by 144000.)¹²⁶ [¹²⁶ Report of the Main Committee of the HSRC Investigation into Education, *Provision of Education in the RSA*, 1981] Professor Bengu gave the following breakdown of PTRs in 1995 by province:¹²⁷ [¹²⁷ *Hansard* (S:Q) 7 cols 541–542, 12 August 1996]

Pupils/teacher ratios by province: 1995^a

Primary school ratio

Secondary school ratio

Average^b

Eastern Cape

48,7:1

28,4:1

41,6:1

Free State

33,2:1

29,9:1

32,0:1

Gauteng

31,2:1

23,9:1

28,1:1

KwaZulu-Natal

41,1:1

29,8:1

37,0:1

Mpumalanga

38,1:1

32,7:1

36,1:1

North West

33,6:1

25,1:1

30,3:1

Northern Cape

29,2:1

22,9:1

27,2:1

Northern Province

37,9:1

34,6:1

36,6:1

Western Cape

26,4:1

20,6:1

24,3:1

a

Includes special and private schools where pupil/teacher ratios are generally below the 40:1 and 35:1 ratios set by the government for primary and secondary schools respectively.

b

Weighted

Only two provinces had PTRs above the 40:1 set by the government for primary schools. The PTR in secondary schools was below 35:1 in all the provinces in 1995.

In April 1996 the South African Principals' Association, which represented some 4 000 principals from primary, secondary and special schools, criticised the government's policy on pupil/teacher ratios of 35:1 for secondary schools and 40:1 for primary schools. In practice it would mean much larger classes and 'perpetuate a second-rate education system'.¹²⁸ [¹²⁸ *The Citizen* 3 April 1996]

Teacher Supply and Redeployment

According to Professor Bengu, the 20% shift of funds in the 1996/97 budget from richer to poorer provinces necessitated that teachers be redeployed from higher-than-average-funded provinces to lower-than-average-funded provinces (see *Provincial allocations* above).¹²⁹ [¹²⁹ *Hansard* (S:Q) 3 q cols 179–180, 28 March 1996] Educators could opt for voluntary severance packages or, alternatively, educators in excess would be placed on a provincial redeployment list for transfer and on a central redeployment list if transfer was not possible within the province. The implementation of the measures was to be decided upon by the provincial education departments. Preferences of educators regarding schools to which they wanted to be transferred would be taken into account when deciding on their redeployment, Professor Bengu said.¹³⁰ [¹³⁰ *Hansard* (SQ) 5 q cols 385–387, 23 May 1996]

In April 1996 the president, Mr Nelson Mandela, assured teachers that no one would be retrenched 'as long as he was president'.¹³¹ [¹³¹ *Business Day* 15 April 1996] However, in May he said that it had become clear that many teachers faced with redeployment would opt for retrenchment or early retirement.¹³² [¹³²

Saturday Star 18 May 1996] Eighteen foreign countries had been approached for funds for teachers' severance packages and for upgrading teachers' qualifications. The initiative was part of a drive to ensure that rationalising the education system would involve as few job losses as possible through redeployment and skills upgrading.¹³³ [¹³³ *Business Day* 8 May 1996] The cost of the severance packages was estimated at R600m.¹³⁴ [¹³⁴ *Saturday Star* 18 May 1996]

In April 1996 a comprehensive agreement, the 'Three Year Conditions of Service Adjustment Package for Educators', was reached in the Education Labour Relations Council between the Department of Education, the South African Democratic Teachers' Union (Sadtu) and the National Professional Teachers' Organisation of South Africa (Naptosa). The plan included a new salary grading scheme, the 'rightsizing of teacher numbers', restructuring of the pension fund and improved medical benefits. Teachers would receive average salary increases of 15,7% from July 1996, while some would receive increases as high as 48%. The 'rightsizing' programme, which aimed to set national pupil/teacher ratios of 40:1 and 35:1 in primary and secondary schools respectively, would start in 1996 and continue until 2000. Voluntary severance packages would be offered for a limited period in 1996 for those who preferred to leave the service.¹³⁵ [¹³⁵ *Business Day* 3 May 1996] Any educator would be allowed to apply for a severance package, but it would have to be approved by the provincial education department.¹³⁶ [¹³⁶ *The Mercury* 26 June 1996] Rightsizing committees comprising representatives from the Department of Education, school governance committees, staff members and observers from unions would be established to make recommendations regarding excess teachers. Provincial and national redeployment agencies would be established to compile a data base of excess teachers and facilitate their transfer.¹³⁷ [¹³⁷ *Mail and Guardian* 16 May 1996]

Three teacher organisations, Sadtu, Naptosa and the South African Teachers' Association (Sata), said in February 1996 that they supported the government's plan to transfer teachers made redundant by rationalisation to other areas, but warned that the teachers and the schools concerned needed to be consulted. All three organisations opposed retrenchments. The director of Sata, Mr Mike Reeler, warned that politicians and the media were 'fooling the public by asserting that it was easy to move teachers between schools and across provinces'.¹³⁸ [¹³⁸ *Sunday Times* 18 February 1996]

According to the general secretary of Sadtu, Mr Thulas Nxesi, retrenchment had been explicitly ruled out of the agreement reached in the Education Labour Relations Council in line with Mr Mandela's undertaking that no teachers would be forced out of employment.¹³⁹ [¹³⁹ *The Citizen* 4 May 1996]

A former president of Sadtu, Mr Duncan Hindle, said in May 1996 that the agreement offered some protection against the most qualified and committed teachers' leaving by allowing the government to approve their severance packages but retain their services for a further 18 months. Teachers who accepted the package would not be allowed to work in the public service again. Sata, which was affiliated to Naptosa, said that it had reservations about the government's administrative capacity to handle the redeployment of thousands of teachers. Sata believed that the insistence that teachers who

took the package never work for the state again was an unfair labour practice. As the union represented teachers employed mostly in model C schools, it would like the government to offer governing bodies the opportunity to raise funds and employ excess teachers at their own expense.¹⁴⁰ [¹⁴⁰ *Mail and Guardian* 10 May 1996]

Mr Peter Buckland from the National Business Initiative for Growth, Development and Democracy said in January 1996 that the moving of teachers to poorer areas brought with it a 'host of legal, financial and social obstacles', including travel and relocation costs and in some cases, accommodation costs. Other issues relating to the moving of teachers were teachers' resistance to moving on the one hand and communities' antagonism towards 'outside teachers' taking up jobs when their own teachers were unemployed.¹⁴¹ [¹⁴¹ *Ibid* 19 January 1996]

Naptosa warned in June 1996 that the voluntary severance package offered to teachers could cause many highly experienced teachers to leave the profession—particularly teachers over 50 years old, who were the most experienced. According to the association, 'to tempt good educators and the top leadership of schools out of the system to avoid the political hot potato of redundancy is short-sighted in the extreme'.¹⁴² [¹⁴² *Sunday Times* 2 June 1996]

In the same month teachers accused Professor Bengu of 'moving the goalposts' when he said that severance packages would be considered only as the very last option if staff could not be redeployed in needy areas around South Africa. According to Sata, this was contrary to the Education Labour Relations Council agreement. It would have a 'totally negative effect on the already low morale of teachers', the organisation said.¹⁴³ [¹⁴³ *Eastern Province Herald* 15 June 1996] However, a spokesman for Sadtu, Mr Don Pasquallie, said that the minister had made it clear from the beginning that not all teachers who applied for severance packages would necessarily qualify for them. This was particularly the case in provinces such as the Eastern Cape, where there was a shortage of between 15000 and 20000 teachers.¹⁴⁴ [¹⁴⁴ *The Argus* 21 June 1996]

Mr Reeler said in June 1996 that the procedures laid down in the step-by-step manual to schools on redeployment (issued by the Department of Education to all schools) were 'unworkable' mainly because of the timeframe within which such redeployment had to occur. It would be a lengthy process to establish which teachers were in excess. Teachers with various combinations of subjects might be needed. According to Mr Reeler, the association opposed retrenchments per se but realised that some posts would have to be eliminated in order to establish equity. However, the association called on the government to return to the old process of retrenchments, which would not exclude teachers from working in the education service again.¹⁴⁵ [¹⁴⁵ *Ibid* 29 July 1996; telephonic interview with Mr Mike Reeler, director of the South African Teachers' Association, 15 October 1996]

The National Party (NP) and the Freedom Front challenged the minister of education to disclose where the funds for teachers' voluntary severance packages would come from, following media reports in August 1996 that they would come from the government's pension fund. The NP spokesman on

education, Mr Renier Schoeman, said that such a step would be totally unacceptable as it would not be in the interests of those teachers who remained in the state's service.¹⁴⁶ [¹⁴⁶ *The Citizen* 30 August 1996]

In October 1996 the Department of Education said that 17000 public school teachers had applied for voluntary retrenchment. More than 13000 of the applications came from teachers in Gauteng (9% of the province's teachers), the Western Cape (17% of the province's teachers) and KwaZulu-Natal (no proportion available). A task team had been appointed to cost the resignations. Naptosa said that the number of retrenchment requests underlined the impracticality of teacher redeployment.¹⁴⁷ [¹⁴⁷ *Mail and Guardian* 25 October 1996]

Provincial Developments

According to the Department of Education, five of the provinces, the Free State, Gauteng, the North West, the Northern Cape and the Western Cape, had a combined excess of some 15000 teachers in 1996. However, in 1996 there was an overall shortage of some 2000 teachers nationally, according to the Department of Education. The chief director of human resources in the department, Mr Duncan Hindle, said that no reduction in the total number of posts was foreseen because of the expected growth in pupil numbers. The 'rightsizing' process started in April 1995 and would be completed by 2000. In 1996 some 18000 teachers applied for voluntary retrenchment packages. Some 12000 packages had been granted by December 1996. The department estimated that it would cost R1,1bn to grant packages to all the teachers who had applied for them in 1996 (based on calculations made by the Gauteng Department of Education at an average cost of R66333 per educator). According to the department, 'serious problems' were experienced with the funding of voluntary severance packages and the remuneration of excess staff in provinces which had to downsize. For various reasons it was not possible to reduce all the excess positions immediately. The government undertook to foot the bill only in the four provinces deemed to have a surplus of teachers—Gauteng, the Free State, and the Northern and Western Cape.¹⁴⁸ [¹⁴⁸ Information provided by Mr D Hindle, Department of Education, 6 January 1997] The department noted that the pupil/teacher ratios of 40:1 and 35:1 would result in classes larger than that because management staff was also included in the ratio.¹⁴⁹ [¹⁴⁹ Education Policy Unit, *Quarterly Review of Education and Training in South Africa*, December 1996]

The following table provided by the department shows the estimated number of teachers in excess or required in each province in 1996; the number of applications for voluntary retrenchment packages and the number approved; and the financial implications of granting the packages in 1996 (note that the estimated numbers of teachers in excess or short supply differ from the figures provided under *Teacher numbers* above, because different organisations compiled the figures using different methodologies).¹⁵⁰ [¹⁵⁰ Information provided by Mr D Hindle, Department of Education, 6 January 1997]

Teacher redeployment estimates: 1996

No of teachers in excess/ (shortage)

No of voluntary retrenchment applications

No of voluntary retrenchments approved

Cost of no of applications (R)

Cost of no granted (R)

Eastern Cape

(6 507)

1 397

1 176

92 677 201

78 007 608

Free State

1 548

888

830

47 428 095

30 115 182

Gauteng

3 000

4 360

2 725

289 211 880

198 990 000

KwaZulu-Natal

(3 000)

3 010

0

186 395 730

66 333 000

Mpumalanga

(300)

847

4

56 184 051

265 332

North West

2 800

921

921

63 016 350

49 683 417

Northern Cape

1 400

497

493

27 594 528

198 999

Northern Province

(6 885)

345

161

28 589 523

1 724 658

Western Cape

5 932

5 384

5 482

357 136 872

349 508 577

Total

(2 012)

17 649

11 792

1 148 234 230

774

At the start of the 1996 school year the **Eastern Cape** had an estimated shortage of 22000 teachers, based on 40:1 and 23:1 pupil/teacher ratios in primary and secondary schools respectively. According to a statistician of the provincial education department, Mr Marius Heunis, some of the province's schools had more teachers than needed but if those teachers were to be redeployed, there would still be a shortage of 17000. The permanent secretary for education, Dr Ronnie van Wyk, said in January 1996 that 10000 teachers were urgently needed to wipe out the backlog.¹⁵¹ [¹⁵¹ *Eastern Province Herald* 24 January 1996] A spokesman for the department, Mr Phaphama Mfenyana, said in November 1996 that excess teachers at schools would be chosen for redeployment by drawing lots if school rightsizing committees could not decide who should leave and who should stay. However, teachers who felt that they had been unfairly targeted by such committees could declare a legal dispute and take court action.¹⁵² [¹⁵² *Ibid* 17 September 1996] The MEC for education, culture and sport in the Eastern Cape, Ms Nosimo Balindlela, assured teachers in March 1996 that none would be retrenched but that they might be transferred to areas of need. This would be done after 'consultation and through negotiation', she said.¹⁵³ [¹⁵³ *Daily Dispatch* 1 March 1996]

According to Ms Mary Metcalfe, MEC for education in **Gauteng**, voluntary redeployment had been introduced to address the problem of overcrowding, understaffing and staffing of new schools. The department could not advertise any posts until redeployment was in place.¹⁵⁴ [¹⁵⁴ *Sowetan* 2 April 1996] A total of 3 122 teachers in the province had to be redeployed from overstaffed schools to fill some of the 3 372 posts in understaffed schools, the superintendent general of education in Gauteng, Mr James Maseko, said. According to Mr Maseko, the province would try to redeploy teachers within their present districts.¹⁵⁵ [¹⁵⁵ *Financial Mail* 17 May 1996] According to Ms Metcalfe, if a school was found to have more teachers than needed, these would be redeployed to schools within a radius of 5–10km of the one they were at. There was also scope for interprovincial redeployment but generally each province would redeploy within its own boundaries, she added.¹⁵⁶ [¹⁵⁶ *The Citizen* 27 June 1996]

In May 1996 Ms Metcalfe appealed to teachers not to act 'hastily in applying for severance packages' as the Gauteng education department did not want to lose their expertise.¹⁵⁷ [¹⁵⁷ *Ibid* 21 May 1996] Teachers should not assume that they would automatically receive severance packages if they had applied for them.¹⁵⁸ [¹⁵⁸ *Ibid* 27 June 1996] *Business Day* said in July 1996 that teachers applying for retrenchment packages indicated 'little confidence in the present education administration, and a great deal of uncertainty about the future'. 'Reluctant transferees' risked being accused of racism, though black schools might be distant, conditions difficult and travelling dangerous. The newspaper said that the sensible solution was to offer financial incentives and improve facilities, rather than reduce the number

of teachers, thus losing some of the more experienced ones.¹⁵⁹ [¹⁵⁹ *Business Day* 19 July 1996]

In October 1996 the department said that 4000 teachers had applied for voluntary severance packages of whom 584 were school principals and 176 deputy principals. The cost of the packages had not been budgeted for as the national Department of Education would make available additional funds for this purpose.¹⁶⁰ [¹⁶⁰ *Ibid* 31 October 1996]

In February 1996 the **KwaZulu-Natal** Department of Education said that it planned to redeploy more than 1000 teachers after agreement had been reached between schools and the department in the provincial Education Labour Relations Council. Rightsizing committees, consisting of representatives of school management, would decide which teachers were in excess in each school. Teachers' organisations would also be represented and would be able to intervene in the process. The number of teachers to be allocated to each school would be determined by a formula set by optimal class size. The optimal class size at junior primary schools was set at between 35 and 40 children and that at secondary schools between 30 and 40.¹⁶¹ [¹⁶¹ *The Mercury* 26 February 1996]

The department said in May 1996 that there were some 5 000 excess teacher posts in the province, mainly among white and Indian urban teachers, which would have to be eliminated over the next three years. The cuts were needed to align the province's pupil/teacher ratio with national education policy. According to the acting superintendent of education, Mr Sydney Shabalala, teachers were reluctant to go to areas where their safety could not be guaranteed.¹⁶² [¹⁶² *Business Day* 22 May 1996] It was reported in May 1996 that some 100 teachers from Ghana and Liberia were being employed by the education department in KwaZulu-Natal in rural schools where local teachers refused to teach. (Professor Bengu had indicated earlier that teaching posts would be allocated to foreigners only if local teachers were not available to fill them.) According to the chairman of the education portfolio committee in the KwaZulu-Natal legislature, Mr Roger Burrows, it was 'extraordinarily difficult' to get teachers to work in rural areas. Several suggestions had been made to deal with the problem, including the option of not promoting teachers unless they had completed a three-year service period at a rural school.¹⁶³ [¹⁶³ *The Mercury* 22 May 1996]

According to Mr Andrew Layman, chairman of the provincial redeployment agency, although teachers had applied for retrenchment packages, the province did not have excess teachers (certain schools did, however, have too many teachers, while others had too few). In terms of the agreement reached in the Education Labour Relations Council, the province was obliged to offer teachers the opportunity to apply for packages.

At the time of writing the provincial Department of Education and provincial teacher organisations were discussing the criteria by which to grant packages. Mr Layman said that teachers who did not apply for packages would be given the opportunity to apply for available positions at other schools which were to be advertised by the provincial department. No final decision had been taken regarding excess teachers who did not apply for packages and who did not wish to be redeployed. Mr Layman indicated that such

cases might have to be decided by the courts.¹⁶⁴ [¹⁶⁴ Telephonic interview with Mr Andrew Layman, chairman of the KwaZulu-Natal provincial redeployment agency, 16 October 1996]

Indian teachers in the province said in October 1996 that they had not been consulted on rightsizing and claimed that it was merely a guise for 'forced integration'. According to these teachers, the department set out plans in a document, published in August 1996, to redeploy some 3800 excess teachers from former House of Delegates (Indian) schools in urban areas to understaffed rural schools, thereby creating vacancies for African and coloured teachers at urban schools. Teachers at some 65 schools in the province had indicated that they rejected the document as it had 'far-reaching consequences for their careers and the lives of their families' and 'smacked of hidden racism'.¹⁶⁵ [¹⁶⁵ *Post* 2 October 1996] The *Post* reported that parents from 11 schools in the province formed a committee to support teachers' rejection of the rightsizing document. Parents objected to having been given only observer status on rightsizing committees as parents comprised the majority on school governing bodies.¹⁶⁶ [¹⁶⁶ *Ibid* 9 October 1996]

In **Mpumalanga** at the beginning of 1996 there were reportedly more than 3000 unemployed teachers.¹⁶⁷ [¹⁶⁷ *The Citizen* 10 January 1996]

The **North West** Department of Education said in March 1996 that preference would be given to unemployed local teachers to fill the positions of about 500 'expatriate' teachers whose contracts had expired in 1995. These teachers had been appointed by the former Bophuthatswana administration to teach mathematics and science because of a shortage of local teachers in those subjects.¹⁶⁸ [¹⁶⁸ *Business Day* 7 March 1996] The department subsequently decided to extend the work permits of the expatriate teachers to the end of June 1996, mainly for administrative reasons. Expatriate teachers could also keep their positions if competent local teachers were unavailable.¹⁶⁹ [¹⁶⁹ *Sunday Times* 14 April 1996] However, the branch of Sadtu in the province demanded that expatriate teachers be removed immediately and their positions filled by unemployed local teachers.¹⁷⁰ [¹⁷⁰ *Ibid*]

In March 1996 it was reported that the **Northern Cape** had an oversupply of 1400 teachers, who would be offered redeployment or retirement.¹⁷¹ [¹⁷¹ *Sowetan* 15 March 1996] The Northern Cape chamber of the Education Labour Relations Council agreed that by the end of 1996 all schools should reach pupil/teacher ratios of 28:1 in secondary schools and 33:1 in primary schools.¹⁷² [¹⁷² *Diamond Fields Advertiser* 3 May 1996]

The **Northern Province** MEC for education, art, culture and sport, Dr Aaron Motsoaledi, said in June 1996 that about 1000 teachers had been placed in 'finishing schools' which were established in the province to assist matriculants.¹⁷³ [¹⁷³ *Business Day* 12 June 1996]

In March 1996 in an agreement between the **Western Cape** Department of Education and provincial teacher unions (including Sadtu, the Cape Teachers' Professional Association, and the Western Cape Council of Teachers' Organisations) it was agreed that 6000 posts would be abolished by the end of June

1996 but that teachers would be given the options of redeployment elsewhere in the province, voluntary redundancy or transfer to another province. Teachers would be retrenched only as a 'last resort'. In terms of the agreement the pupil/teacher ratio for the province in 1996 was set at 36:1 in primary and 26:1 in secondary schools. Thereafter, ratios would be revised regularly until national goals (of 40:1 and 35:1 in primary and secondary schools respectively) were reached by April 2000. By then an estimated 12000 teachers would have lost their posts through rationalisation.¹⁷⁴ [¹⁷⁴ Ibid 20 March 1996; *The Teacher* August 1996]

However, according to the MEC for education in the Western Cape, Ms Martha Olckers, the impact would be limited in 1996 and schools would be assisted to keep as many of their teachers, above the agreed ratio, as were necessary to complete the academic year without disruption. The funds to implement the policy did not form part of the provincial education budget and would have to be sought elsewhere.¹⁷⁵ [¹⁷⁵ Ibid] Soon afterwards Ms Olckers announced that R330m had been made available by the Western Cape legislature to pay all excess teachers until the end of the 1996 academic year.¹⁷⁶ [¹⁷⁶ *Cape Times* 20 March 1996] However, in May 1996 the newly formed Western Cape Parent, Teacher and Pupil Forum organised a march by some 15000 teachers in the province calling for the scrapping of the intended rationalisation plan and the institution of negotiations.¹⁷⁷ [¹⁷⁷ *The Argus* 24 May 1996]

The MEC for finance in the Western Cape, Mr Kobus Meiring, said in September 1996 that the severance packages for teachers in the province would cost an estimated R200m, which formed part of a projected provincial education deficit of R472m. The cost of employing excess teachers for an additional two quarters would add a further R222m.¹⁷⁸ [¹⁷⁸ *Business Day* 13 September 1996]

Other Issues Concerning Teachers

Aside from teacher redeployment, significant issues during the period under review included teacher behaviour and developments within teacher unions. In June 1996 Professor Bengu warned teachers who came to work drunk to 'clean up their act or to get out of education'. Teachers could not attribute their behaviour to the uncertainties around the transformation of basic education as this was not reason enough to neglect their basic duty. Professor Bengu said he was 'appalled' by reports that significant numbers of teachers were bringing their profession into disrepute through chronic absenteeism, late reporting for duty, early knocking off or behaviour such as drunkenness. He also said that students were not expected to be seen on the streets during school hours, or in places of leisure when they should be studying.¹⁷⁹ [¹⁷⁹ *Sowetan* 12 June 1996]

In February the Cape Teachers' Professional Association (CTPA), representing mainly coloured teachers, broke away from the Western Cape Council of Teachers' Organisations (a federation of Afrikaans, English and some black teachers) to 'ensure that they had a louder voice' in the retrenchment talks in the Western Cape. The president of the CTPA, Mr Archie Vergotine, said that the staff of white model C schools did not represent the racial composition of pupils in the Western Cape. Those schools should lose more teachers than their allocated quota, thus opening posts for coloured teachers who could

be redeployed from overstuffed coloured schools on the Cape Flats. According to Mr Vergotine, it was time for model C schools to adopt an affirmative action campaign to ensure the racial composition of their staff reflected that of their pupils.¹⁸⁰ [¹⁸⁰ *Cape Times* 7 February 1996]

A new trade union to represent Afrikaans teachers, the South African Teachers' Union, was established in the Western Cape by some 25000 teachers in August 1996. Seven unions representing mainly white Afrikaans teachers left Naptosa because of differences of opinion over mother-tongue education and single-medium schools as well as the insistence of Naptosa that the organisation use English as its official language. According to Naptosa, the new trade union could complicate negotiations with the government on conditions of service in the profession.¹⁸¹ [¹⁸¹ *Ibid* 28 June 1996, *Business Day* 11 August 1996]

Disruptions and Other Problems in School Education

During the period under review no prolonged, nationwide teacher strikes or boycotts occurred. However, incidents of disruption occurred throughout the country for different reasons, including violence and gang-related problems at schools, a shortage of classrooms and facilities, problems with teachers, and racial clashes—particularly in cases where teachers and parents at model C schools refused to accept black pupils. In Potgietersrus (Northern Province) a group of whites tried to prevent three African children from enrolling in a formerly white school in January 1996.¹⁸² [¹⁸² *Sowetan* 25 January 1996] The school was subsequently temporarily closed by its management body.¹⁸³ [¹⁸³ *The Argus* 27 January 1996] In April 1996 the Congress of South African Students and Sadtu claimed that a secondary school in Vryburg (North West) was 'violating pupils' rights by not allowing black pupils' to enrol, leading to a rampage by pupils which caused damage of some R35000.¹⁸⁴ [¹⁸⁴ *The Citizen* 30 April 1996] However, in some cases disruptions were caused by 'seemingly trivial' demands. At the Hulwazi High School in Daveyton (east Rand) students requested new soccer jerseys, that the school close early on Wednesdays and that girls be allowed to wear trousers in winter. Failure to meet their demands led to a riot among a 'significant section' of the pupils. Students set the principal's car alight, smashed school windows and vandalised telephones.¹⁸⁵ [¹⁸⁵ *Mail and Guardian* 7 June 1996]

Many schools, particularly in KwaZulu-Natal, suffered from gang-related violence and vandalism. In KwaMashu and Umlazi teachers from some 200 schools went on a three-week strike in August 1996 to demand improved security after the killing of several of their colleagues by unknown gunmen. Sadtu had made proposals to the MEC for education in the province, Dr Vincent Zulu, to improve security, including recruiting and training school guards and installing lights, fences and telephones.¹⁸⁶ [¹⁸⁶ *Business Day* 20, 21 August 1996] However, failure to respond to those demands led to a march by several thousand teachers around the province to call for adequate security, and to the occupation of the province's education department. The classes of an estimated 100 000 pupils were disrupted as a result.¹⁸⁷ [¹⁸⁷ *The Mail* 21 August 1996, *Business Day* 27 August 1996] Teachers returned to work at the beginning of September 1996, after the provincial education department had agreed to improve security at schools.¹⁸⁸ [¹⁸⁸ *The*

Citizen 3 September 1996]

The Western Cape Department of Education announced in February 1996 that its six-month experiment, which involved employing private security firms to patrol 71 schools in the province to protect them against vandalism and gang-related violence, would be discontinued. The department said that the exercise was done purely on an 'experimental basis' and that it had proved very expensive. The project had cost the education department R4m.¹⁸⁹ [¹⁸⁹ *The Argus* 23 February 1996]

Factors other than violent disruptions, also contributed to the absence of learning and teaching in schools. Although many schools did not necessarily experience violent disruptions to education, they lacked proper schooling. Professor Walter Saunders, formerly professor of English at the universities of Bophuthatswana and Venda, said in 1996 that there was a serious lack of schooling taking place at black schools. In many of those schools it was estimated that 'as few as 100 actual teaching days out of a possible 195 were realised in practice. A critical reason for this [was] the high incidence of absenteeism among pupils, teachers and (most serious of all) the principals themselves'. According to Professor Saunders, there was in general a serious inadequacy of facilities and textbooks and in the quantity and quality of learning, little or no adherence to timetables, teacher demotivation and a shortage of funds as parents were not paying school fees (see also *Schooling* above).¹⁹⁰ [¹⁹⁰ **Frontiers of Freedom** No 10 1996]

A survey by the Education Policy Unit at the University of the Witwatersrand, of factors contributing to or undermining the establishment of a successful climate of teaching and learning (in Gauteng) was published in July 1996. The report noted that the 'collapse of a culture of learning and teaching' was evident particularly in secondary schools, where attendance was sporadic, principals did not address problems, teachers had lost the desire to teach, and vandalism, gangsterism, rape and drug abuse were rampant. The report identified the following four issues as having significant impact on the culture of learning and teaching:¹⁹¹ [¹⁹¹ L Chisholm and S Valley, *The Culture of Learning and Teaching in Gauteng Schools*, June 1996]

- the condition of school buildings correlated with academic standards. Schools with the worst pass rates had the worst facilities while schools with relatively higher pass rates had better facilities. The worst secondary schools had no electricity or water, no proper ablution facilities, no telephones and insufficient furniture. Very few had libraries, laboratories or staffrooms. Adequate and decent facilities created a positive environment and provided the minimum conditions for effective learning and teaching. Alternative sources of money needed to be found to address the lack of resources at schools and the worst-off schools had to be prioritised by the provincial education redress fund;
- the leadership, management and administration of schools were crucial in promoting effective learning. Better-functioning schools had principals who inspired confidence and had not been 'engulfed in the social conflicts and problems in the schools'. Development programmes for the management personnel of schools were crucial. Complementary strategies to restore respect for the leadership and authority of principals among parents, pupils and teachers were needed;

- conflictual relationships between all sectors of the school community caused the absence of effective teaching and learning. Trust and respect had to be restored between teachers and pupils. Parental involvement was crucial to restore morale among pupils; and
- socio-economic circumstances greatly affected schools. Many pupils faced a lack of basic necessities such as food, parental love, care and, in some cases, shelter. Social problems in education were symptomatic of a broader social crisis and required broader solutions such as addressing the issue of unemployment.

According to the report, communication between provincial departments of education and schools had to improve and clarification had to be provided on issues such as the roles and functions of various roleplayers, admission policies and alternatives to corporal punishment. According to Ms Mary Metcalfe, MEC for education in Gauteng, the solution was not in a 'single momentous educational event' but in a process whereby each school addressed problems step by step.¹⁹² [¹⁹² *Sunday Times* 7 July 1996]

In December 1996 several publishers expressed concern over provincial delays in ordering textbooks. By the end of 1996 most provinces were three months late in finalising their orders, which meant that pupils would receive their textbooks only in April or May 1997. Dr Ihron Rensburg, acting director general of education, said that provinces had delayed ordering books until they knew about the strategy of the new curriculum which was to be introduced in 1998. The new curriculum would take seven to eight years to be put in place and until that process was completed, it was decided that provinces should only top up existing books. Because of financial constraints, KwaZulu-Natal had decided not to order any new textbooks except for new schools. The KwaZulu-Natal education department cut its planned book budget of R160m to R2m because of a huge provincial budget deficit.¹⁹³ [¹⁹³ *Ibid* 15 December 1996]

Technical Training and Apprenticeships

Enrolment at Technical Colleges

According to the minister of education, Professor Sibusiso Bengu, in 1995 there were 154 688 pupils enrolled at 144 technical colleges in South Africa (the latest year for which figures were available as the department had not yet published 1996 figures). Of those, 46% were male and 54% were female. The table below gives a breakdown of the actual number of enrolments at technical colleges by province in 1995 (a breakdown of enrolments according to level of qualification was unavailable).¹⁹⁴ [¹⁹⁴ *Hansard* (NA: Q) 8 cols 1408–1409, 12 August 1996]

Enrolment at technical colleges: 1995^a

Number of colleges

Male

Female

Total

Eastern Cape

25

15 000

30 000

45 000

Free State

10

5 200

8 000

13 200

Gauteng

33

15 000

24 000

39 000

KwaZulu-Natal

23

3 733

2 572

6 305

Mpumalanga

9

8 698

4 819

13 517

North West

6

4 587

2 559

7 146

Northern Cape

6

872

1271

2 143

Northern Province

14

6 940

2 334

9 274

Western Cape

18

11 774

7 329

19 103

Total

144

71 804

82 884

154 688

a

Figures are e

The table below shows enrolment at technical colleges from 1987 to 1995 (figures are for the actual number enrolled and not for the full-time equivalent):¹⁹⁵ [¹⁹⁵ 1994/95 *Survey*, p256]

Enrolment at technical colleges: 1987–95

Number enrolled

Increase/(decrease)

1987^a

54 078

N/A

1988^a

58 795

8,7%

1989^a

65 374

11,2%

1990^a

72 174

10,4%

1991^a

76 435

5,9%

1992^a

89 933

17,7%

1993^a

93 044

3,5%

1994^a

91 974

(1,1%)

1995^b

154 688

—

a

Excludes the former 'independent' homelands.

b

1995 figures are not comparable with earlier figures, as earlier figures excluded the 'independent' homelands.

N/A— Not available.

The number of students enrolled increased steadily between 1987 and 1993, from some 54000 to 93000 students. In 1994 there was a slight drop

Industrial Training and Apprenticeship

In 1995, 22313 apprenticeship contracts were in operation—a drop of 1% from 1994. The largest proportion of contracts (33%) was in the metal industry, followed by mining (19%). From 1991 to 1995 the number of apprenticeship contracts in operation dropped by 17% from 26714 to 22313. The number of apprentices in the metal industry dropped the most (by 2246 or 24%), while the number of apprentices in printing grew the most (by 887 or 72%).

According to the Department of Labour, the number of new apprentices contracted had been declining since 1991. The department was investigating new ways of promoting training to meet the need for skilled people. The decline in the registration of apprentices could be attributed to the weak economic climate and a generally poor commitment to training in the country, the department said.

In 1996, 180 designated trades had been approved by the department and were administered by 20 accredited training boards.¹⁹⁶ [¹⁹⁶ Information provided by Mr G A Jordan, Department of Labour, 2 September 1996]

In September 1996 Mr Manoli Kulutbanis, a consultant with Interdependence and Transformation in South Africa, a management consultancy company, predicted a net shortage of artisans in the

manufacturing sector in two years' time. Research by the Steel and Engineering Industries Federation of South Africa showed that by 1998 more artisans would be retiring from than entering the industry. According to Mr Kulutbanis, companies (including parastatals such as Eskom, Telkom and Transnet) were offering fewer apprenticeships than in the past, while many small companies had stopped offering apprenticeships. The main reasons for the decline were the high cost of training (estimated at a total of R100000 per artisan) and the difficulty of gaining accreditation. The apprenticeship system was regarded as inflexible because it tied employers into contractual relationships with apprentices for two to four years. The government dropped tax concessions for training in 1991.¹⁹⁷ [¹⁹⁷ *The Star* 27 September 1996]

During the period under review the Department of Labour was involved in three training initiatives, ie the training of apprentices for artisan status, the training of unemployed people and the training of other workers. Employers were primarily responsible for the training of employed workers while the Department of Labour assisted in the form of rebates and loans. By July 1996, 28 industry training boards had been accredited by the department to conduct training in their respective industries, while five more training boards were preparing for accreditation.

Artisan status could be achieved by the following means:

- training as a contracted apprentice in a designated trade and passing a trade test;
- training as a trainee at a technical college and passing a trade test after two years of shopfloor experience; and
- passing a trade test on the basis of sufficient experience and training, the duration of which had to equal the period of training required for an apprentice.

Trade tests were conducted by the Central Organisation for Trade Testing at Olifantsfontein (Gauteng) or by certain accredited training boards such as for the building and mining industries. In addition, the department promoted the in-service training of workers other than apprentices or trainees by providing loans from the Manpower Development Fund and grants-in-aid to trade unions and employers' organisations for training in labour relations. The minister had also imposed training levy schemes on all employers in 18 of the industries at their request, in terms of the Manpower Training Act of 1981.

The Manpower Training Act of 1981 provided for the voluntary registration of three types of training centres, ie regional, private and industry training centres. In 1996 there were nine regional, and 1 358 private training centres but no industry training centres. There were also nine training centres in the former homelands. The department further ran a Scheme for the Training of Unemployed Persons. An amount of R80m was allocated for this purpose in 1995/96.

The following table shows the number of people trained under the various training programmes from 1991 to 1995:¹⁹⁸ [¹⁹⁸ Department of Labour, annual report 1995]

Number of people trained under various programmes: 1991–95

Types of training

1991

1992

1993

1994

1995

Apprentices in training

26 714

25 785

21 677

22 015

22 313

Private training centres^a

262 511

211 829

85 736

—

—

Regional training centres

24 160

23 560

27 538

29 019

26 506

Special training schemes^b

9 185

13 667

9 086

10 568

8 376

Trainees in training

340

563

547

536

386

Training centres in former homelands

N/A

N/A

N/A

N/A

18 340

Training levy schemes

13 475

34 608

30 974

28 209

26 494

Unemployed persons

160 555

137 655

133 817

124 863

131 790

Total

496 940

447 667

309 375

215 210

234 205

a

Registration of private training centres was not compulsory and statistics were no longer available.

b

Refers to training schemes established in terms of section 48 of the Labour Relations Act of 1956 for the clothing, furniture, jewellery and precious metals, metal and engineering, and motor industries.

N/A — Not available.

The following table shows the number of apprenticeship contracts by industry which were in operation from 1991

Apprenticeship contracts in operation: 1991–95

1991

1992

1993

1994

1995

Aerospace

501

386

206

208

257

Automobile manufacturing

499

450

547

577

523

Building

786

853

659

582

641

Chemical, oil and allied industries^a

266

195

112

125

435

Diamond cutting

9

5

5

3

2

Electrical contracting

397

437

479

479

521

Eskom

453

754

689

689

210

Furniture

271

309

423

322

129

Government undertakings

476

457

307

286

357

Hairdressing

695

632

823

823

809

Jewellers and goldsmiths

127

103

104

93

135

Local authority undertakings

574

628

447

447

525

Metal

9 567

8 472

6 972

6 988

7 321

Mining

3 929

4 703

4 067

4 473

4 120

Motor

5 033

4 547

4 173

4 173

3 616

Printing

1 236

1 035

661

751

2 123

Sugar refining

119

99

92

74

95

Textile

0

0

19

30

15

Transnet

1 704

1 689

885

876

473

Tyre and rubber

72

31

7

16

6

Total

26 714

25 785

21 677

22 015

22 313

a

Previously called explosives an

The graph shows the trend in apprenticeship contracts in operation from 1991 to 1995:

The number of people who completed apprenticeship contracts dropped by 25% from 1991 to 1995. The following table shows the number of apprenticeship contracts completed from 1991 to 1995:

Apprenticeship contracts completed: 1991–95

1991

1992

1993

1994

1995

Aerospace

299

98

213

52

159

Automobile manufacturing

73

29

4

44

33

Building

442

133

355

270

307

Chemical, oil and allied industries^a

118

16

138

18

162

Diamond cutting

5

0

3

3

1

Electrical contracting

82

83

99

259

121

Eskom

115

16

174

66

101

Furniture

15

22

46

166

79

Government

189

32

242

103

112

Hairdressing

391

367

497

233

166

Jewellers and goldsmiths

22

4

34

42

83

Local authority undertakings

82

87

344

137

212

Metal

2 067

1 977

2 695

1 092

1 989

Mining

1 326

1 352

1 249

299

858

Motor

1 222

498

1 733

810

358

Printing

310

429

596

103

221

Sugar refining

45

6

30

27

38

Textile

0

0

0

0

0

Transnet

162

47

879

233

223

Tyre and rubber

22

16

31

3

12

Total

6 987

5 212

9 362

3 960

5 235

a

Previously called explosives an

The number of people who registered for apprenticeship contracts dropped by 48% from 1991 to 1995: from 10 758 in 1991 to 5 545 in 1995.²⁰⁰ [200 Ibid]

According to the green paper on a skills development strategy, published in March 1997, South African companies' expenditure on training appeared to be on a par with other middle-income countries, but was well below the levels of industrial and fast industrialising nations. The best figure currently available was that South African companies spent 2,7% of payroll on training (excluding the parastatals). This figure was, however, 'heavily biased' towards large companies and compared with an average of between 4% and 7% in countries of the Organisation for Economic Co-operation and Development and a similar figure for a country such as South Korea. However, there were important variations: parastatals spent over 4% of payroll on training; manufacturing, services and trade, spent on average 2% of payroll on training; and construction, transport, and communication sectors spent less than 1,5% of payroll.

More importantly, if skills development was viewed as an important element in raising the productivity and competitiveness of individual firms, then the incidence of education and training across firms was an important indicator and had been found to be high, with only 12% of all firms in the sample doing no training. This figure was on a par with other developing economies such as Malaysia and Columbia, at 13% and 16% respectively, but much higher than countries such as Mexico and Indonesia.

However, when broken down it revealed that of small firms 25% did no training at all. About 42% of all firms spent less than 1% on training. This figure rose to 65% of all firms who spent less than 2% of payroll on training.

Examining the nature of the training, at least 40% of firms in South Africa did not provide their employees with any structured learning or training. This was confirmed by the findings of the *ILO Country Review on South Africa*, where 87% of a sample of manufacturing firms claimed to train, but of these, about 70% provided only initial induction or informal training to entry level workers. Of 91% of firms claiming to provide retraining to their workers, 74% said that it was informal on-the-job training. In terms of firm size, over 80% of small firms and 56% of firms with more than 400 employees provided no structured training to their workforce.²⁰¹ [²⁰¹ Department of Labour, *Green Paper: Skills Development Strategy for Economic and Employment Growth in South Africa*, March 1997]

Tertiary Education

Enrolment at Teacher Training Colleges

According to the Department of Education, in 1994, 78190 full-time equivalent students were enrolled at teacher training colleges in South Africa (the latest year for which figures were available as the department had not yet published 1995 or 1996 figures). The table below gives a provincial breakdown of the number of full-time equivalent students enrolled at teacher training colleges (see also *Teacher supply and redeployment* above):²⁰² [²⁰² 1995/96 *Survey*, p130]

Enrolment at teacher training colleges: 1994

Number

Proportion^a

Eastern Cape

15 164

19,4%

Free State

4 301

5,5%

Gauteng

12 177

15,6%

KwaZulu-Natal

12 855

16,4%

Mpumalanga

3 468

4,4%

North West

4 850

6,2%

Northern Cape

814

1,0%

Northern Province

19 705

25,2%

Western Cape

4 856

6,2%

Total

78 190

100,0%

a

Figures may not add up owing to rounding.

The number of student teachers enrolled at teacher training colleges in South Africa increased from 43098 in 1985 to 78190 in 1994—by 81% (excluding the number of student teachers in the Ciskei). In 1985 the majority of student teachers (59%) were Africans, followed by whites (25%).²⁰³ [²⁰³ 1985 *Survey* pp384–385; 1986 *Survey*, Part 2 pp441–442] No racial breakdown was available

Enrolment at Universities and Technikons

The vice chancellor of the University of South Africa, Professor Marinus Wiechers, said in Durban in April 1996 that a crisis was looming in tertiary education, with an unexpected ‘explosion’ of student numbers over the next ten years. He said that the 21 universities in the country were teaching approximately 350000 students and that in fewer than ten years they would have to accept 1m new entrants annually. Most of the universities would be unable to cope with the demands for mass higher education. To a large extent higher education would have to be ‘privatised’, leaving it to private institutions and community colleges to ‘drastically extend’ the reach of higher education, Professor Wiechers said.²⁰⁴ [²⁰⁴ *The Mercury* 18 April 1996]

The following table illustrates university enrolment by institution and race in 1996.²⁰⁵ [²⁰⁵ Replies from various universities, 1996]

University enrolment: 1996

Universities

African

Coloured

Indian

White

Unspecified

Total

Cape Town

4 057

2 139

917

8 373

0

15 486

Durban-Westville

5 487

141

3 996

213

0

9 837

Fort Hare

4 713

7

3

24

296

5 043

Free State

2 768

463

45

6 811

0

10 087

Medunsa^a

2 867

39

533

165

0

3 604

Natal

5 620

387

4 749

5 337

143

16 236

The North

17 341

19

14

10

0

17 384

North West

5 864

2

8

2

0

5 876

Port Elizabeth

1 348

698

169

3 272

0

5 487

Potchefstroom

2 007

226

94

7 726

157

10 210

Pretoria

5 266

256

397

20 041

0

25 960

Rand Afrikaans

N/A

N/A

N/A

N/A

N/A

21 184

Rhodes

1 685

159

416

2 574

0

4 834

Stellenbosch

604

1 782

166

12 997

6

15 555

Transkei

N/A

N/A

N/A

N/A

N/A

7 038

Unisa^b

63 113

4 988

11 543

48 810

0

128 454

Venda

7 299

0

0

0

7

7 306

Vista

31 452

564

62

105

0

32 183

Western Cape

7 361

5 613

630

186

0

13 790

Witwatersrand

5 349

354

2 341

9 948

0

17 992

Zululand

7 780

14

55

103

0

7 952

Total

N/A

N/A

N/A

N/A

N/A

381 498

a

Medical University of Southern Africa.

b

University of South Africa

N/A— Not available.

The following table shows the increase in the total number of students enrolled at universit

University enrolment: 1985–96^a

Total number enrolled

Increase/(decrease)

1985

211 756

N/A

1986

233 625

10,3%

1987

250 243

7,1%

1988

272 445

8,9%

1989

286 359

5,1%

1990

285 986

(0,1%)

1991

323 889

13,3%

1992

318 944

(1,5%)

1993

329 892

3,4%

1994

360 250

9,2%

1995

385 221

6,9%

1996

381 498

(1,0%)

a

Figures for 1995 and 1996 are preliminary figures.

N/A — No

Enrolments at universities increased by some 80% between 1985 and 1996.

The table below illustrates technikon enrolment by race and institution in 1996:²⁰⁷ [207 Replies from various technikons, 1996]

Technikon enrolment: 1996

Technikons

African

Coloured

Indian

White

Unspecified

Total

Border

2 123

2

3

98

0

2 226

Cape

1 271

2 277

214

6 297

0

10 059

Free State

3 028

258

8

3 111

7

6 412

Eastern Cape^a

3 045

0

0

0

0

3 045

Mangosuthu

4 779

4

10

50

0

4 843

M L Sultan

4 007

158

3 912

372

0

8 449

Natal

3 826

213

1 150

3 093

37

8 319

Northern Transvaal

8 853

25

11

21

0

8 910

Peninsula

64

585

13

163

27

852

Port Elizabeth

4 091

1 087

111

3 760

0

9 049

Pretoria

7 158

205

165

8 572

0

16 100

South Africa

47 681

5 458

3 084

24 390

0

80 613

Setlogelo

2 391

0

9

0

0

2 400

Vaal Triangle

5 917

145

128

3 571

0

9 761

Witwatersrand

6 177

482

646

4 963

4

12 272

Total

104 411

10 899

9 464

58 461

75

183 310

a

Formerly called the Transkei Technikon.

The following table shows the increase in the total number of students enrolled at technikons from

Technikon enrolment: 1985–96^a

Total number enrolled

Increase/(decrease)

1985

59 118

N/A

1986

43 490

(26,4%)

1987

56 446

29,8%

1988

56 815

0,7%

1989

75 797

33,4%

1990

92 721

22,3%

1991

105 722

14,0%

1992

113 870

7,7%

1993

138 443

21,6%

1994

167 885

21,3%

1995

190 191

13,3%

1996

183 310

(3,6%)

a

Figures for 1995 and 1996 are preliminary.

N/A — No

Between 1985 and 1996 technikon enrolment increased by some 210%.

Disruptions to Tertiary Education

During the period under review many tertiary institutions experienced disruptions, which were often accompanied by violence. The minister of education, Professor Sibusiso Bengu, said in June 1996 that the cost of ‘destruction and damage to property’ at universities as a result of student protest from January 1995 to June 1996 amounted to some R5m.²⁰⁹ [²⁰⁹ *Hansard* (NA:Q) 7 cols 1359-1360, 21 June 1996] From January 1995 to April 1996, 26 cases of student unrest at technikons and 36 cases at universities were brought to the attention of the Department of Education. According to Professor Bengu, the reasons for unrest varied from specific internal institutional problems to problems with the transformation of the institution and more generally with the transformation of higher education.²¹⁰ [²¹⁰ *Hansard* (NA:Q) 7 cols 1285–1286, 19 June 1996]

According to a spokesman for the minister of education, Mr Lincoln Mali, the government could not trace any ‘pattern in student disruptions’ but had identified common features. These included a lack of negotiation between students and management, racial clashes, issues of funding and polarised student bodies which could not negotiate or compromise ‘beyond party lines’. Mr Mali said that the government condoned the right of students to protest but not the right to damage institutions during protests.²¹¹ [²¹¹ *Higher Education Review* 24 May 1996]

In May 1996 a member of the South African Students' Congress (Sasco), Ms Stephanie Allais, said that there was no 'national programme co-ordinating student resistance'. However, there was a link between protests and the publication of the interim report of the National Commission on Higher Education (see *Report of the National Commission on Higher Education* below). Ms Allais accused the commission of 'excluding important stakeholders and disregarding submissions which conflicted with particular partisan interests represented by the commission'. Another reason for the protests was the need for transformation at tertiary institutions—students were frustrated by a shortage of bursaries, financial exclusions and curricula which had not changed since the apartheid years, Ms Allais added.²¹² [²¹² Ibid 26 May 1996]

In the same month the Pan-Africanist Congress (PAC) called for the appointment of a commission of inquiry into the process of transformation and Africanisation of the education system, citing racism and conservatism in tertiary institutions as the reasons for the slow pace of change. The PAC said that 'black students have started at a disadvantage, they do not have the money to pay and should not be expected to until everything is equal between white and black students'.²¹³ [²¹³ *The Citizen* 30 May 1996] Sasco called for an investigation into the role of administrators in 'causing the crisis' at tertiary institutions and particularly into their 'poor conflict resolution styles, managerial incompetence, racism, financial mismanagement and abuse of administrative power'. The investigation should form part of a transformation programme rather than a legal inquiry, Sasco said. The organisation also called on the police to stop interfering in campus conflict as 'racist police units have sided with white students in attacking black students' in many campus disputes.²¹⁴ [²¹⁴ *Higher Education Review* 31 May 1996]

The president, Mr Nelson Mandela, said in July 1997 that he had 'reached the limit' of his patience with criminal actions by students who broke the law and interfered with the rights of others while protesting during campus demonstrations. The president of the Pan-Africanist Students' Organisation, Mr Ignatius Molapo, said after a meeting with Mr Mandela that delays in the transformation of educational institutions to reflect the population composition had left students with no option but to use 'hard-core means' in highlighting demands. Mr Molapo said that 'the problems of transformation have been carrying on for too long'. Mr Mandela conceded that students had genuine grievances such as not being able to afford the fees and that the pace of transformation was too slow.²¹⁵ [²¹⁵ *Business Day* 13 June 1996]

In July 1996 the head of the Tertiary Education Fund of South Africa, Mr Roy Jackson, expressed concern that campus turmoil could cause a great deal of 'trepidation and reservation' to overseas donors investing funds in tertiary education in South Africa. This concern was also shared by Mr Mandela.²¹⁶ [²¹⁶ *Mail and Guardian* 5 July 1996]

In August 1996 thousands of students marched to the offices of Mr Mandela as well as the offices of six provincial premiers to hand them a list of their demands, which included the following:²¹⁷ [²¹⁷ *Business Day* 8 August 1996]

- the termination at 'white' institutions, of admission criteria such as language policies, which were used

to exclude certain students;

- the establishment of broad transformation forums at institutions, with the power to make decisions which would be binding;
- the establishment of a national redress fund for disadvantaged students;
- a moratorium on the exclusion of students who owed institutions money;
- an end to the privatisation of services such as accommodation and catering on campuses; and
- an undertaking that recommendations made by the NCHE on tertiary restructuring would not be used as a framework for legislation governing the tertiary education sector.

The march was organised by Sasco, various students' representative councils and other student organisations. However, according to Professor Bengu, the student protests were an attempt to force the government to make money available to pay student debts, or to finance a moratorium on the exclusion of students who were unable to pay. Professor Bengu said that Sasco should explain to the public how it expected the government to provide free higher education when it was unable to provide sufficient funds for schools and teachers, free and compulsory education, opportunities for learners with special needs and adult basic education.²¹⁸ [²¹⁸ *Higher Education Review* 8 August 1996]

Other Problems in Tertiary Education

A survey published by the Foundation for Research Development (FRD) in March 1996, and entitled *Survey on Factors affecting the Quality of Research*, highlighted various problems in tertiary institutions. A strong feeling was recorded among respondents that students of all races, but particularly students from poorly resourced African schools, were ill-prepared for tertiary education. Students (both white and black) lacked competence in scientific English and had insufficient pretertiary preparation in mathematics and science. The authors of the report found this fact surprising since scientific literacy was generally regarded as a problem for students from disadvantaged communities only and not for white students from well-resourced schools. Academic development courses had been introduced at most of the previously white universities to fill the gap between inadequate schooling and advanced study. Those courses, the survey said, had helped students from disadvantaged backgrounds. However, lecturers said that they were so 'bogged down' by teaching 'incompetent students' basic concepts (particularly in English, mathematics and science) that they should already have grasped by the time they got to university that they did not have time for quality research. Classes were also normally large.²¹⁹ [²¹⁹ Foundation for Research Development, *Survey on Factors affecting the Quality of Research*, March 1996]

A survey conducted by the South African Institute of Race Relations in 1996 found that although all tertiary institutions offered basic academic support, such as English proficiency and study methods,

teaching at previously black universities was geared towards students from disadvantaged backgrounds. Those universities, therefore, did not provide specialised academic support programmes.²²⁰ [²²⁰ South African Institute of Race Relations, *WK Kellogg Foundation Bursary Review*, unpublished document, June 1996]

According to the FRD, figures on expenditure on research and development in 1993 (the latest year for which figures were available) did not indicate that longterm development was one of South Africa's priorities. In 1993/94 the country devoted R2,6bn to research and development, reflecting a drop of 25,5% in real terms from the R2,8bn spent in 1991, according to the foundation. South Africa was ranked 32nd out of 42 countries for expenditure on research and development as a proportion of gross domestic product, according to the World Economic Forum's *World Competitiveness Report*. The main research field in South Africa remained engineering, which received R1bn or 40% of total spending on research and development in 1993. In 1991 the natural sciences received 80% of spending and social sciences the remaining 20%. This had changed to 89% of funding to the natural sciences and 11% to social sciences in 1996.²²¹ [²²¹ *Higher Education Review* 28 April 1996]

According to a study done by Dr A Pouris, national funding policies had strengthened already active disciplines but failed to improve 'weak disciplines of national importance'. Research in the social sciences and humanities grew by 42% between 1981 and 1994—probably as a result of the growth of social science faculties at universities. Research output (measured by the number of academic papers published) in the traditional sciences such as physics and chemistry grew by approximately 15%, in land and primary sector sciences such as agriculture by 14%, in technology sciences such as engineering and mathematics by 8% and in multidisciplinary sciences by 7%. However, research in the life sciences (biology, clinical medicine, immunology, microbiology, molecular biology, pharmacy and neurology) dropped by 21%. Although the number of papers published annually had remained stable since 1987, totalling some 3 300 a year, by 1994 the country's world share of publications had dropped to almost the same level it was in the early 1980s, Dr Pouris noted.²²² [²²² *Ibid* 5 July 1996]

In August 1996 the director general of arts, culture, science and technology, Mr Roger Jardine, said that a national audit, to assess the strengths and weaknesses of South Africa's science and technology system, and a 'foresight exercise', to identify areas of science and technology likely to yield economic and social benefits for South Africa in the next 20 years, had been implemented. The audit would be completed by mid-1997.²²³ [²²³ *The Star* 2 September 1996]

Adult Education

In February 1996 the minister of education, Professor Sibusiso Bengu, launched a mass literacy campaign, called the 'Ithuteng Ready to Learn Campaign', which aimed to reach 90000 adults in 1996 and 1997. Some 10 000 learners in each province were to be taught literacy and numeracy skills equivalent to standard 2. The project targeted learners through adult education night schools run by the former Department of Education and Training. The project was funded by the government (R50m) while the National Literacy Co-operation would assist in its implementation.²²⁴ [²²⁴ *Ibid* 12 February 1996, *Daily*

Dispatch 12 February 1996] The campaign formed part of the government's Adult Basic Education and Training Programme. Each province had received R5,4m to kick-start the project. The programme would run for five years and would target 5% of the adult population needing literacy.²²⁵ [²²⁵ Education Policy Unit, *Quarterly Review of Education and Training in South Africa*, 15 June 1996; *Hansard* (NA:Q) 7 cols 1173–1174, 12 June 1996]

In the same month the National Literacy Co-operation, a nongovernmental organisation, launched a literacy programme known as the '1000 Learner Unit Campaign'. The programme aimed to reach 1000 learners in each province through traditional learning sites. The Education Policy Unit reported in June 1996 that eight of the provinces had succeeded in recruiting and training adult educators.²²⁶ [²²⁶ Education Policy Unit, *Quarterly Review of Education and Training in South Africa*, 15 June 1996; personal communication with Mr Derrick Peo, National Literacy Co-operation, 16 September 1996]

Speaking in Parliament in March 1996 Professor Bengu said that adult education was largely donor funded.²²⁷ [²²⁷ *Hansard* (NA:Q) 3 col 369, 20 March 1996]

Many adult basic education initiatives were undertaken by private companies on an individual basis. It was therefore difficult to quantify how many companies and other organisations were involved in adult basic education and how many people had been targeted by such education.

The National Union of Mineworkers (NUM) and the Chamber of Mines of South Africa reached an agreement in February 1996 which would allow more than 250000 gold and coal miners to be paid for time taken off work to further their education. The agreement was labelled as the 'first of its kind' to cover so many workers and was expected to encourage a major turnout for adult basic education and training on the mines. According to the NUM, more than 62% of the estimated 512000 workers in the mining industry were functionally illiterate. The assistant general secretary of the NUM, Mr Gwede Mantashe, said that the agreement would go a long way towards miners' gaining skills and training over the next few years, which would cushion the impact of job losses.²²⁸ [²²⁸ *The Star* 9 February 1996]

A project, called PowerMatric, which aimed to give students the opportunity to obtain a matric qualification via satellite, was launched in February 1996. Matric lessons were beamed via satellite to some 120 learning centres (ie major corporations, parastatals, schools, community centres and the police) throughout South Africa outside of working hours. Students would write examinations certified by the Independent Examinations Board. The project was funded by a R6,5m sponsorship by Sanlam, an assurance company. According to the managing director of Sanlam, Mr Desmond Smith, the company was confident that the programme would develop into the largest adult education initiative in the country. PowerMatric was available to all people who had failed or had not completed matric for various reasons.²²⁹ [²²⁹ *Sunday Times* 21 January 1996, 31 March 1996]

In the first year of study students could choose a noncompulsory businessorientated certificate in addition to matric subjects. In their second year, students followed a compulsory finishing programme

which included vocational guidance and life skills.²³⁰ [²³⁰ *Business Day* 21 February 1996] According to Mr Ken Gardner, a spokesman for Sanlam, some 3500 students enrolled for PowerMatric in 1996. Three subjects were offered in 1996 (Afrikaans, English and Business Economics) and this would be expanded to ten subjects in 1997. The programme essentially offered practical subjects to enable students to obtain employment after finishing the programme.²³¹ [²³¹ Telephonic interview with Mr Ken Gardner, Sanlam, 12 August 1996]

EDUCATIONAL RESTRUCTURING

National Level

Preprimary Policy

Interim Policy for Early Childhood Development

In 1996 the Department of Education published a document entitled *Interim Policy for Early Childhood Development* which preceded the introduction of a national Early Childhood Development (ECD) Pilot Project. The project was the first step towards implementing a compulsory reception year (grade 0) as part of the government's aim to provide ten years of compulsory schooling. The pilot project would last three years. The document's policy proposals would act as a guide to the development of this project. It set out guidelines for the accreditation, curriculum, employment, provision and training of educators and the funding of ECD services.²³² [²³² Department of Education, *Interim Policy for Early Childhood Development*, undated; Department of Education, annual report June 1994–December 1995]

The ECD policy document encompassed all children from birth to at least age nine and, through the introduction of the pilot project, aimed to establish strategies and services to help families and communities (particularly those from poor backgrounds) to meet the needs of children (emotional, mental, moral, physical and social) in this age group. The document noted that only between 9% and 11% of all South African children up to six years old have had access to public or private ECD facilities. In particular, attention would have to be paid to African children, girls in rural areas, and children of working and rural mothers.

According to the document, all children aged five to six years would eventually be in the reception year. However, children who were not in the reception year (including children younger than five and older than six) needed targeted provision of ECD. The government would be responsible for creating a broad range of ECD programmes, including 'programmes targeting children and families in homes, centres and schools, supporting and educating ECD practitioners, and strengthening institutional resources and capacities'.

The reception year would offer an enriched play and activity-based curriculum in various forms, including play groups, childminding, family-based programmes and schools. Practitioners would have to

be accredited within the national accreditation framework set out by the Department of Education. Providers of the reception programme would qualify for government subsidies, regardless of the location of delivery (including private homes), provided that the practitioner met the accreditation guidelines and programmes and complied with the requirements of the national ECD pilot project. The document recommended a pupil/teacher ratio of 30:1 in the reception year but said that practical constraints might result in a ratio of 40:1. The provision of ECD services would be phased in over five years because of resource constraints. Priority would be given to children who had already reached their fifth birthday prior to the beginning of the first term of school in the reception year. Children older than five who had missed the reception year would also be allowed admission to a reception programme.²³³ [233 Department of Education, *Interim Policy for Early Childhood Development*, undated]

The document did not specify the cost of the programme, but identified the following sources of funding—national, provincial and local government; the private sector; organised labour; community organisations; parents and donor agencies. The document said that employers had a ‘distinct’ responsibility to contribute to meet their employees’ childcare needs.

The Department of Education regarded the establishment of a statutory consultative body, to represent all sectors in the ECD field, as a priority. In the meantime the department had established an ad hoc co-ordinating committee for ECD to advise on the development of an interim policy. The committee would facilitate the development of provincial forums where provincial education departments, the formal sector, and nongovernmental organisations involved in ECD participated. These forums would continue to function as consultative structures until the establishment of permanent structures.

Secondary Education Policy

Education White Paper 2: the Organisation, Governance and Funding of Schools

A second white paper, entitled *Education White Paper 2: The Organisation, Governance and Funding of Schools*, was gazetted in February 1996. (The first white paper was published in March 1995 and dealt with the creation of a new organisational structure for a national department of education and nine provincial education departments.) The white paper, which based its proposals on the Report of the Committee to Review the Organisation, Governance and Funding of Schools (the Hunter report), proposed a new pattern of school organisation to replace the former apartheid system (see 1995/96 Survey, pp134–135)²³⁴ [234 The Organisation, Governance and Funding of Schools, *Government Gazette* No 16987, 14 February 1996] The proposals made in the white paper, together with some amendments, were incorporated into the South African Schools Act, which was passed by Parliament in October 1996 (see *South African Schools Act of 1996* below).

Tertiary Education Policy

The ‘broad transformation’ of tertiary institutions formed part of the government’s overall vision of a National Qualifications Framework (see below) which would integrate education and training and link

all educational institutions from preprimary to tertiary level. The Department of Education's commitment to the transformation of higher education in South Africa was an attempt to ensure equitable access for all students to tertiary education and to prepare tertiary institutions for the challenges of producing sufficiently qualified students in the necessary fields to meet the country's future needs.

Report of the National Commission on Higher Education

The National Commission on Higher Education (NCHE) was appointed in January 1995 to investigate all aspects of higher education and to make policy recommendations. An interim report, *A Framework for Transformation*, was published in April 1996. A final report, entitled *An Overview of a New Policy Framework for Higher Education Transformation*, was handed to the minister of education in August 1996.²³⁵ [235 National Commission on Higher Education, *An Overview of a New Policy Framework for Higher Education Transformation*, 22 August 1996] The recommendations made by the report formed the basis of the *Green Paper on Higher Education Transformation*, which was published in December 1996 by the Department of Education (see Green Paper on Higher Education Transformation below).

The interim report was criticised by academics and student organisations. A group of some 100 black academics, mostly from previously black universities, criticised the interim report on the grounds that it 'failed to identify a coherent philosophy of education'. The academics emphasised the need for 'Africanisation' of tertiary education—ie 'replacing Europe with Africa in what was taught and studied and the language in which this took place'.²³⁶ [236 *Mail and Guardian* 10 May 1996]

Seven student organisations said in June 1996 that they had no confidence in the commission. They said that it had succeeded in 'marginalising and silencing the views of all stakeholders and had displayed a deep contempt for public dissent'. The commission had also failed to develop any proposals on curricula development and language policy at tertiary institutions and lacked the commitment to redress past racial imbalances.²³⁷ [237 *The Citizen* 8 June 1996] Student protests followed in August 1996. Students said that the interim report did not tackle racial imbalances in tertiary education. Members of the South African Students' Congress (Sasco) demanded the immediate establishment of broad transformation forums on campuses, a moratorium on financial exclusions, the immediate establishment of a national loan and bursary scheme, a ban on language policies that served as barriers to learning, and an undertaking by the minister not to use the final report on higher education as the framework for a new policy but rather to implement a consultative process towards a new higher education act. However, the minister of education, Professor Sibusiso Bengu, accused students of 'shooting down' the commission before it had published its final report. The 'harsh reality' was that the government did not have the money to meet the demands of students, he added.²³⁸ [238 *Higher Education Review* 11 August 1996]

Mr Kevin Nkoane, a researcher at the Centre for Education Policy Development, which was established by the African National Congress in 1993, said that the programmes offered at colleges of education and universities were sometimes so different and incompatible that a merger between the two (as suggested

in the report) would have major implications for staff training.²³⁹ [²³⁹ *The Teacher* August 1996] However, according to Mr Glen Fisher, acting director of the Education Policy Unit at the University of the Western Cape, the document was ‘a bold step into the unknown’ and removed the fragmented divisions of universities, technikons and colleges.²⁴⁰ [²⁴⁰ *The Star* 2 September 1996]

Green Paper on Higher Education Transformation

In December 1996 the Department of Education published the *Green Paper on Higher Education Transformation* which was based on the report of the National Commission on Higher Education (see *Report of the National Commission on Higher Education* above). The green paper would be followed by a white paper and a higher education bill in 1997. The green paper proposed that higher education should be planned, governed and funded as a single co-ordinated system encompassing universities, technikons, colleges (agricultural, education and nursing) and public providers.²⁴¹ [²⁴¹ Department of Education, *Green Paper on Higher Education Transformation*, December 1996]

Structure and Growth

The green paper said that the recommendations by the National Commission on Higher Education to increase the number of enrolments from 800000 to 1,5m over ten years should be treated as ‘provisional’, until further demographic and labourmarket analyses had been made. The expansion of higher education should target black students, particularly Africans and coloured students. The programmes offered by institutions would be registered on the National Qualifications Framework (NQF) and a new quality assurance system would be developed for higher education. Distance education would be expanded. According to the green paper, the expansion of higher education should take place mainly in the technikon and colleges sectors. Those sectors would offer vocational programmes, particularly in the fields of engineering, science and technology. The development of comprehensive ‘multicampus institutions’, which offered a full range of programmes from diplomas and certificates to postgraduate degrees, should be investigated. Other proposals on the structure and growth of higher education included the following:²⁴² [²⁴² *Ibid*]

- private provision of higher education should be encouraged;
- a ‘three-year rolling national higher education plan’ should be developed;
- higher education institutions would also develop three-year plans detailing their proposed programme combinations, enrolment levels, race and gender targets, and plans for new programmes, and academic and research development;
- a single qualifications framework should be developed for all higher education qualifications and all higher education programmes should be registered on the NQF;

- an independent body, the higher education quality committee, should be established to co-ordinate quality assurance in the higher education sector. The Certification Council for Technikon Education should form the nucleus of the committee (certification of university programmes was previously done by the Department of Education);
- the higher education quality committee should accredit programmes and audit institutions (quality assurance should not be linked directly to funding);
- a pass in the proposed further education certificate (the equivalent of matric) should be the minimum statutory requirement for entry into all higher education programmes;
- a national higher education information and admission service should be established to ‘facilitate the administration of student applications’ and provide information to applicants’; and
- research should be encouraged by increasing the proportion of private and public funding spent on it.

Governance

According to the green paper, institutions should enjoy academic freedom (freedom from interference in terms of any political, religious or social orthodoxy) and institutional autonomy (self-regulation and administrative independence). However, institutional autonomy would be limited as student recruitment would be subject to overall targets and the distribution of numbers between major fields of study as set out in the national education plan. In addition, with regard to curriculum planning and assessing academic performance, the proposals on accreditation and the NQF as well as the existence of the South African Qualifications Authority would curtail autonomy.

An independent advisory body, a council on higher education, would be created which would include members of tertiary institutions. The council would, among other things, advise the minister on the allocation of public funds among higher education providers. (This proposal differed from that of the National Commission on Higher Education which suggested that two statutory bodies, a higher education forum and a higher education council, be appointed.) A new branch of higher education in the Department of Education, which had already been established, would develop policy, undertake national planning and allocate funds. Institutions would be responsible for reviewing governance arrangements, such as the composition of their councils, senates and academic boards. The green paper recommended that 60% of council members should be external to the institution to ‘sustain public confidence’. Institutions would establish broad transformation forums to address transformation issues. Independent assessors could be appointed to advise the minister in circumstances which might ‘bring an institution into disrepute on the basis of mismanagement, corruption or persistent turmoil’.

Funding

The green paper proposed a new funding framework which would consist of a ‘formula funding

component' to generate 'block grants' to institutions and an 'earmarked funding' component to achieve specific objectives. These objectives would include academic development, capital works and equipment, curriculum development, libraries and information technology, the redress of inequities in access and capacity, research development, staff development, student financial assistance, and planned improvements in operational efficiency. The department would advise the government to increase funds for earmarked funding for the period 1998–2000 to meet urgent needs in higher education. Redress funding would be directed particularly at previously disadvantaged institutions. The three-year plans of institutions would encompass their planned enrolments as well as the fields and levels of study in which they planned to expand enrolments. Institutions would be able to enrol more students than the agreed number but additional enrolments would not be publicly subsidised. Institutions would be allowed to determine their own tuition fees for subsidised student places as well as student places outside the publicly funded quota. Government funding rates per student would vary according to the broad field and level of study but would be standard for all institutions. The government-funded student quota would comprise the number of full-time equivalent student enrolments in an approved course of study.

The green paper proposed a three-phase implementation strategy. During the initial phase (December 1996 to June 1998) the main focus would be on establishing the new governance and funding structures. The second phase (July 1998 to December 1999) would focus on drafting the first comprehensive plan for higher education and finalising all issues regarding the new public funding framework. In the third phase (January 2000 onwards) the new statutory structures and higher education organisations would assume their full responsibilities. The first full run of the funding formula would start at the beginning of this phase and institutions would start implementation of their first three-year plans.

Comments and Criticism

The *Higher Education Review* reported in December 1996 that tertiary institutions were concerned that the use of 'independent assessors' to investigate campuses in crisis could 'leave the door open for government interference in the affairs of autonomous universities'. The green paper also failed to explain how the expansion of higher education was to be funded. According to a deputy director general of education, Mr John Samuels, reforms would be funded chiefly by making better use of existing resources in institutions and by seeking additional funds from the government.²⁴³ [²⁴³ *Higher Education Review* 13 December 1996]

The National Party (NP) spokesman on education, Mr Renier Schoeman, said in January 1997 that the strong government control envisaged in the green paper might have a negative effect on the present tertiary system. He warned that if a higher education act was not drawn up carefully, it could have a 'very disturbing' effect on the relationship between the state and institutions, which might in turn harm the quality of training in higher education. The green paper introduced 'extremely complex changes' and such an 'ambitious programme' that it was highly improbable it would be implemented in the timeframe envisaged. The NP said that it was essential that a financing programme and business plan be drawn up to determine the cost of the proposed changes.²⁴⁴ [²⁴⁴ *Sowetan* 30 January 1997]

National Qualifications Framework

In February 1996 the Committee for Development Work on the National Qualifications Framework (NQF) published a discussion document entitled *Lifelong Learning through a National Qualifications Framework* (NQF). The NQF offered an ‘outcome-based’ model of education and training. It did not set down the curriculum for any course but instead focused on programmes designed to help learners to achieve certain outcomes (ie what the learner should be able to understand and apply). Outcomes were defined by the document as the ‘results of a learning process (formal, nonformal or informal), ie what a learner should be able to demonstrate an understanding of and an ability to apply appropriately’.

The main recommendations of the discussion document were that South Africa should adopt an eight-level framework with three identified ‘bands’. The bands would be broad groupings of positions or levels on the NQF similar to the notions of primary, secondary and tertiary education. However, the bands would integrate education and training. The three bands suggested in the document were the following:²⁴⁵ [²⁴⁵ Report of the Ministerial Committee for Development Work on the NQF, *Lifelong Learning through a National Qualifications Framework*, February 1996]

- **band one**—general education and training. This band would correspond with the first level of the NQF. Learners could obtain general education certificates either through formal schooling or through adult basic education (abet) and training courses;
- **band two**—further education and training. This band would consist of levels two to four of the NQF. Certificates could be earned through schools, the workplace, industry training boards or colleges; and
- **band three**—higher education and training. This band would comprise levels five to eight of the NQF. Higher education and training certificates would be awarded through universities, technikons or colleges. The lowest level (level five) would qualify a learner to obtain diplomas and occupational certificates at the workplace or tertiary institutions. The highest level (level eight) would encompass doctorates and further research degrees awarded by universities, and research or professional institutions.

Certificates awarded would be based on the number of credits earned by each student. Every ten hours of study would earn one credit. Standards generating bodies would develop unit standards for the various levels to be registered on the NQF.²⁴⁶ [²⁴⁶ Ibid]

In May 1996 the South African Qualifications Authority (SAQA), consisting of 26 members, was appointed by the minister of education, as recommended by the Committee for Development Work on the National Qualifications Framework. The members included representatives from education and training providers, trade unions, business and nongovernmental organisations.²⁴⁷ [²⁴⁷ *SA Labour Bulletin*, 4 August 1996] The SAQA would oversee the development of the NQF and set up structures and processes

to develop standards and qualifications. It would also accredit bodies responsible for monitoring those standards and qualifications and register them. Education and training quality assurers would be responsible for monitoring the quality of provision of education and training against the standards which had been set.²⁴⁸ [248 Ibid]

The above document was followed by the publication in June 1996 of *The National Qualifications Framework Working Document*, which was drawn up by an NQF 'development team' (consisting of officials from the Department of Education). The team was appointed to develop recommendations regarding the NQF, which were to be submitted to the SAQA in order to assist the latter to become operational.²⁴⁹ [249 Department of Education, *National Qualifications Framework Working Document*, June 1996] Among other things, the working document suggested 13 fields of study, ie agriculture and nature conservation; culture/arts; business, commerce and management studies; communication studies and language; computing and information technology; education, training and development; manufacturing, engineering and technology; human and social studies; law, military science and security; medical science, health and social services; physical science, mathematical and life sciences; utility services; and planning and construction.

The following table illustrates the proposed structure of the NQF:²⁵⁰ [250 Report of the Ministerial Committee for Development Work on the NQF, *Lifelong Learning through a National Qualifications Framework*, February 1996]

Proposed structure for the National Qualifications Framework

NQF level

Band

Types of qualifications and certificates

Locations of learning for units and qualifications

1

General education and training

PreAbet level 1^d

Abet programmes, community programmes, industry training boards, labour market schemes, NGOs,^e night schools, occupation, schools, private providers, unions, upliftment programmes, work-based training, workplace etc.

Foundation phase^a

Abet level 2^d

Intermediate phase^b

Abet level 3^d

Senior phase^c

Abet level 4^d

General education and training certificate

2

Further education and training

School, college, training certificates, mix of units from all^f

Colleges (ie community, nursing, police, private and technical), industry training boards, labour market schemes, schools, unions, workplace etc.

3

School, college, training certificates, mix of units from all^f

4

School, college, training certificates, mix of units from all^f

Further education and training certificate

5

Higher education and training

Diplomas, occupational certificates

Colleges, technikons, universities, private and professional institutions, workplace etc.

6

First degrees, higher diplomas

Colleges, technikons, universities, private and professional institutions, workplace etc.

7

Higher degrees, professional qualifications

Professional, research and tertiary institutions

8

Doctorates, further researchdegrees

Professional, research and tertiary institutions

a

The foundation phase comprises the reception year to standard 1.

b

The intermediate phase comprises standards 2–4.

c

The senior phase comprises standards 5–7.

d

Adult basic education and training.

e

Nongovernmental organisations.

f

A mix of units refers to learners obtaining credits by combining school, technical colleges, private and other

providers of education in his/her learning programme. For example, a matric pupil (level 4 on the NQF) could do 60% of the year's work at a secondary school, 20% at a 'transformed' technical college, 10% at a higher education and training institution, and 10% at a private provider (for example art o

Curricula

During the period under review a number of curriculum proposals were made at both national and provincial level. According to the annual report of the Department of Education, in the past curricula had perpetuated class, ethnic, gender and race divisions and emphasised separateness rather than 'nationhood'. In addition, curricula previously had not focused on developing learners who were independent and critical thinkers. It was therefore 'imperative that curricula be restructured to reflect the values and principles of the new democratic society'.²⁵¹ [²⁵¹ Department of Education, annual report June 1994–December 1995]

In May 1996 the Department of Education said that compulsory arts education for all school pupils up to standard 7 was 'likely to be implemented' at schools by the beginning of 1998. According to a spokesman for the department, guidelines would be published early in 1997 for arts curricula covering dance, drama, music and visual arts. The department was working with the departments of labour and arts, culture, science and technology on a plan to train enough teachers so that all pupils would have access to at least one arts subject every year and possibly more.²⁵² [²⁵² *Mail and Guardian* 3 May 1996]

In Gauteng a business plan for pilot projects in arts education was submitted to the provincial departments of education, and of arts and culture in May 1996. It was drawn up by a task team appointed by the Gauteng education department's reconstruction and development policy planning unit, and the arts and culture department. The business plan covered pilot projects in a range of activities, from management of the arts to teacher training and the promotion of arts generally. According to the project co-ordinator of the task team, Mr Pid MacLarty, schools indicated that they were interested in implementing arts education but lacked the skills and facilities to do so.²⁵³ [²⁵³ *Ibid*]

The Tourism Association of KwaZulu-Natal and the Rural Foundation said in October 1996 that they had put forward a proposal in April to the national government to introduce tourism education into the primary school syllabus. The aim was to create a tourism culture and awareness among children. Readers' and teachers' manuals in Afrikaans, English and Zulu for grade 1 to standard 1 were produced and piloted in 12 schools in KwaZulu-Natal in 1995. More schools were targeted in that province and in the Western Cape in 1996. A spokesman for the Tourism Association of KwaZulu-Natal, Mr Lodewyk de Klerk, said that the course had been developed by teachers as a form of language and mathematics instruction and was not a content subject.²⁵⁴ [²⁵⁴ *The Natal Witness* 10 January 1996; personal communication with the Tourism Association of KwaZulu-Natal, 16 October 1996]

The Department of Education announced in October 1996 that a new curriculum would be introduced in January 1998 in adult education centres, colleges, early childhood centres and schools. The emphasis would be shifted from a content-based system to one which focused on 'learning by doing, learning how

to learn and learning through group experience'. Current subjects would be replaced with broad learning categories covering arts and culture, communications, economic and management sciences, human and social sciences, life orientation, literacy and language, numeracy and mathematics, physical and natural sciences, and technology. Technology would be introduced as a new learning programme but not at the expense of 'traditional subjects' such as history. The programme would include information, communication and electronic technology. The first phase would involve the introduction of the new curriculum in grades 1 and 7, and then phased into other grades until 2001 when the whole education system would be covered.²⁵⁵ [255 Education Policy Unit, *Quarterly Review of Education and Training in South Africa*, December 1996] Changes to the matriculation examinations would come into effect only in 2001. Pupils would from then on be assessed continuously and not on the final examinations only.²⁵⁶ [256 Statement by Dr Ihron Rensburg, deputy director general of education, 23 October 1996]

Various teacher organisations criticised the government for trying to 'steamroller' through curricula changes before the 1999 general election in a bid to 'catch votes'. The director of the National Professional Teachers' Organisation of South Africa, Mr Andrew Pyper, said that the organisation was not opposed to the new curriculum but was concerned about its being implemented within one year. The South African Democratic Teachers' Union said that it was unhappy that its members had not been given a chance to participate in the drawing up of the new curriculum. The Education Policy Unit at the University of the Witwatersrand welcomed the changes.²⁵⁷ [257 *Business Day* 28 October 1996]

Professor Bengu said in October 1996 that he had approved the experimental introduction for two years of technology training for pupils from standard 8 to matric.²⁵⁸ [258 *Daily Dispatch* 14 October 1996]

A national Consultative Forum on Curriculum was appointed in 1995 to facilitate the development of a new curriculum framework for general and further education and training and to investigate the appropriate nature of structures for curriculum development. The forum produced two discussion documents dealing with curriculum frameworks and structures respectively (see *Curriculum Framework for General and Further Education and Training* and *Structures for the Development of National Policy Regarding Curriculum and Related Issues* below).²⁵⁹ [259 Statement by Professor Sibusiso Bengu, minister of education, 27 February 1996]

Curriculum Framework for General and Further Education and Training

The *Curriculum Framework for General and Further Education and Training* reflected a 'significant paradigm shift in the way learning and teaching had been viewed in traditional curricula'. Whereas the focus in the past had been on 'curriculum input' (learning content) the report proposed shifting it to 'curriculum output' (ie the results of learning). The shift in focus should encourage the development of flexible and relevant curricula, the report noted.²⁶⁰ [260 Department of Education, Curriculum]

The report said that progression would be based on a system of credits awarded for attaining 'learning outcomes'—irrespective of where and when they had been attained—rather than through age or course

cohorts. Learning programmes should facilitate progression from one class, phase or learning outcome to another from any starting point in the education and training system. Learning programmes should be flexible to enable students, particularly those in adult basic and further education and training, to choose what, where, when, how and at what pace they wanted to study, as many of them would be unable to enrol for full-time courses.

The report focused on two bands only, general, and further education and training (see *National Qualifications Framework* above). The general education and training band was further subdivided into four school phases and four levels for adult basic education and training (abet). The three phases consisted of the early childhood development and foundation phase (from ages 0 to 9 years and started the foundation phase with the reception year), the intermediate phase (standards 2–4) and the senior phase (standards 5–7) (see table on the proposed structure for the National Qualifications Framework above). During the senior phase learners should be informed about career and further learning opportunities.²⁶¹ [²⁶¹ Ibid]

The provision of abet aimed to enable individuals to develop communication skills in one or more languages, numeracy skills, a critical understanding of society and the context in which they worked and lived, as well as technical and practical skills. Abet also aimed to recognise knowledge acquired from life and work experiences.

The further education and training band would reflect ‘the integrated approach to education and training’ by moving away from a system where only secondary schools and technical colleges offered such education, to include, among others, community centres and colleges, distance education, and participation in labour market programmes, as providers of education.

The Education Policy Unit at the University of the Witwatersrand noted in December 1996 that most people involved in education and training were struggling with the new concepts around ‘outcomes-based’ education. The ‘discourse around the NQF was characterised by a wealth of acronyms, proposed structures and organograms, but with little discussion of the concrete content conveyed by these, and almost total absence of critical reflection on the meaning and implication of outcomes-based education and training’.²⁶² [²⁶² Education Policy Unit, *Quarterly Review of Education and Training in South Africa*, December 1996]

Structures for the Development of National Policy Regarding Curriculum and Related Issues

The report *Structures for the Development of National Policy regarding Curriculum and Related Issues* was published in February 1996 by the Department of Education.²⁶³ [²⁶³ Report of the Consultative Forum on Curriculum, *Structures for the Development of National Policy regarding Curriculum and Related Issues*, February 1996] It proposed that the responsibility for drawing up curricula be removed from the national Department of Education and that control of the function be placed in the hands of a national institute for curriculum development. The document called for the establishment of a national institute for lifelong learning and

development together with similar provincial institutes. Although fully funded from the education budget, these structures would operate both inside and outside the Department of Education in collaboration with different interest groups. They would be in charge of developing curriculum frameworks and national guidelines for learning programmes as well as for capacity building in the provinces, and monitoring and evaluating projects. The institutes should not focus narrowly on curriculum development, but should link curriculum development, teacher training, support services, and assessment and evaluation.

Language

The African National Congress (ANC) said in a statement in January 1996 that it was not against Afrikaans as a medium of instruction either at schools or at universities. The statement followed an earlier one by a spokesman on education for the ANC, Dr Blade Nzimande, that the party wanted to do away with Afrikaans schools and universities. The ANC said that this was a 'gross distortion' of its position. As there were still schools in predominantly Afrikaansspeaking areas it was inevitable that such schools would have Afrikaans as the predominant medium of instruction. Similarly, at university level, Afrikaansspeaking students should have the benefit of education in their home language. However, the ANC had a problem with Afrikaans institutions retaining Afrikaans as the sole medium of instruction as this would exclude the majority of South Africans from institutions of higher learning. The ANC was of the view that Afrikaans universities, in particular, had to become progressively multilingual institutions.²⁶⁴ [²⁶⁴ *The Citizen* 29 January 1996]

The chairman of the South African Federation for State-aided Schools, Dr Hennie van Deventer, said in February 1996 that the federation was concerned about language policy and the possibility that the government might try to force schools to become double-medium or parallel-medium schools. This would mean that minority groups, and especially Afrikaners, would lose their right to protect their own educational culture, Dr van Deventer said.²⁶⁵ [²⁶⁵ *Ibid* 12 February 1996]

Professor Bengu indicated in March 1996 that school governing bodies would be given the power to determine the language and admission policies of schools, which would have to be approved by the provincial authorities.²⁶⁶ [²⁶⁶ *Rapport* 17 March 1996] However, racial or language exclusivity would not be tolerated. Every child had the right to be admitted to any public school of his or her choice and racism, disguised as the protection of culture or language, would be ended immediately, he added.²⁶⁷ [²⁶⁷ *The Citizen* 20 March 1996]

At the time of writing there was not yet any clarity on how language policy was to be implemented at school level. Speaking at the University of Potchefstroom in March 1996, Professor Bengu said that schools should be compelled to offer at least three languages, two of them languages of instruction. The third should be offered as a subject only. Pupils should have full command over the literature, culture and history of their own language and be able to communicate, even minimally, in two other languages. Home language instruction should become the underlying principle of all teaching, he added.²⁶⁸ [²⁶⁸ *Ibid*]

30 March 1996]

However, a number of principals of schools in townships in Pretoria said in April 1996 that they preferred their pupils being taught in English as it would prepare them for international competition and communication. A number of Afrikaner bodies on the other hand pressed the ANC for the entrenchment of mother-tongue education in the final constitution.²⁶⁹ [²⁶⁹ Ibid 3 April 1996]

In April 1996 the Constitutional Court ruled that all language competence testing as an admission requirement at Gauteng schools should be banned. The ruling came after the Democratic Party (DP), the National Party (NP) and the Freedom Front sought to have three clauses of the provincial School Education Act of 1995 (Gauteng) declared unconstitutional on the grounds that they infringed the right to establish schools based on a common language, culture or religion (see 1995/96 Survey, pp142–143, 511–512). However, according to the Constitutional Court, the constitution did not place a duty on the state to establish schools based on common culture, language or religion. The constitution only provided for individuals to establish such schools if they desired, it said. (See also Bill of Rights Report.)²⁷⁰ [²⁷⁰ *The Star* 8 April 1996, *Business Day* 9 April 1996; Anthea Jeffery and Martin Schönteich, *Bill of Rights Report*, South African Institute of Race Relations, Johannesburg, 1997]

Die Volksblad reported in May 1996 that the minister of education as well as the MECs for education in the Eastern Cape, Mpumalanga and the Northern Province had rejected the continued existence of single-medium schools. The MECs for education in Gauteng and the Northern Cape did not rule out such schools but said that ‘language should not be confused with race’ as an excuse to keep children out of schools.²⁷¹ [²⁷¹ *The Star* 17 May 1996] According to the premier of Mpumalanga, Mr Mathews Phosa, no pressure should be exerted in 1996 on schools to implement double or parallel-medium systems. However, the principle of double-medium schools should underlie all efforts to ‘address all cultural groups’ concern about education’ and proper planning in this regard should be done for 1997.²⁷² [²⁷² *Die Volksblad* 2 February 1996]

The Department of Education and representatives of Afrikaans communities announced in June 1996 that a working group would be established to develop ways of implementing the new constitution’s language rights in education. The working group would be set up under the director general of education, Dr Chabani Manganyi. The group’s terms of reference would be worked out by representatives of Afrikaans-speaking communities in consultation with representatives of provinces and other stakeholders.²⁷³ [²⁷³ *The Citizen* 25 June 1996]

There was much debate in 1996 about whether universities (particularly Afrikaans-speaking ones) should change their media of instruction so as to accommodate more students from black communities.

In January 1996 the rector of the University of Pretoria, Professor ‘Flip’ Smit, told first-year students that they had to realise they were studying at a university where the medium of instruction was Afrikaans. Students therefore could not demand to be taught in English. However, students could write

tests and examination papers in either Afrikaans or English. The university would also duplicate courses in English if there were sufficient student numbers.²⁷⁴ [²⁷⁴ *Beeld*, *Eastern Province Herald* 24 January 1996] The deputy secretary general of the ANC, Ms Cheryl Carolus, subsequently said that the ANC had never called for the abolition of Afrikaans at universities as was alleged by several newspapers. The ANC promoted the use of Afrikaans, but not to the detriment of other languages. The ANC called on universities to adapt to the political and constitutional changes in the country. Since not all students were able to study in Afrikaans, universities had to take steps to ensure that they became more accessible to the broader community. Ms Carolus said that universities should at least offer a choice of two languages of instruction. The 'exclusive' use of Afrikaans, as advocated by Professor Smit, created a stumbling block in the transformation process because language and transformation went 'hand in hand', Ms Carolus said.²⁷⁵ [²⁷⁵ *Beeld* 30 January 1996]

Rapport said in February 1996 that two of the five Afrikaans-speaking universities in South Africa had changed their media of instruction. The University of the Western Cape (UWC) had changed its medium of instruction to English and the University of the Free State had changed to parallel-medium instruction in 1994. According to a spokesman for the UWC, Professor Stanley Ridge, the university offered dual-medium instruction officially but in reality most classes were in English as the student population had been changing since the 1980s. The university was examining its language policy at the time of writing.²⁷⁶ [²⁷⁶ Personal communication with Professor Stanley Ridge, University of the Western Cape, 1 October 1996] *Rand Afrikaans University* offered English lectures for Englishspeaking students at night. According to Professor Hans du Plessis, former chairman of the language commission of the *Federasie van Afrikaanse Kultuurvereniginge* (FAK), it was unacceptable that Afrikaans-medium universities had to switch to double-medium instruction but not English medium universities. He argued that there was space for both Afrikaans and English-language universities in the country.²⁷⁷ [²⁷⁷ *Rapport* 4 February 1996]

The South African Students' Congress demanded in March 1996 that the University of Stellenbosch change its language policy in order to make the university more accessible to non-Afrikaans speaking students. The university said, however, that only 24% of the 1996 intake of first-year students did not have Afrikaans as their home language.²⁷⁸ [²⁷⁸ *The Citizen* 4 March 1996]

In November 1996 the council of the University of Stellenbosch announced that Afrikaans would remain the medium of instruction. Other languages could be used if necessary to facilitate effective teaching. The council described the university as an 'inclusive Afrikaans-language institution' which aimed to develop Afrikaans as an academic and scientific language.²⁷⁹ [²⁷⁹ *Die Volksblad* 19 November 1996]

The *Cape Times* reported in October 1996 that a special task team had been appointed by Professor Bengu to investigate the practicalities of offering mother-tongue education in South Africa. Professor Bengu said that the country was 'too diverse to guarantee every single child a mother-tongue education and some exceptions would have to be made'.²⁸⁰ [²⁸⁰ *Cape Times* 29 October 1996]

Legislation

In November 1996 five acts aimed at facilitating the transformation of South African universities were assented to by the president. The acts set out the restructuring of university councils and other university structures such as senates, students' representative councils and broad transformation forums on campuses. The acts included the University of Durban-Westville (Private) Amendment Act, the University of Port Elizabeth (Private) Amendment Act, the University of Transkei (Private) Act, University of Venda (Private) Act, and the University of Zululand (Private) Amendment Act.²⁸¹ [²⁸¹ Information provided by Mr Reg Morgan, Legislation and Proceedings, Parliament, 15 November 1996]

National Education Policy Act of 1995

The DP, the NP and the Inkatha Freedom Party challenged the National Education Policy Bill in the Constitutional Court in September 1995 (after both houses of Parliament had passed it) on the grounds that it gave the minister of education excessive powers to compel the provinces to implement national education policies which might be in conflict with provincial policy (see 1995/96 Survey, p137).²⁸² [²⁸² *Business Day* 8 March 1996]

In April 1996 the Constitutional Court found that the bill was not unconstitutional on any of the grounds submitted by the parties. The court said that the bill provided for the development of a national education policy by the education minister in accordance with the provisions of the constitution. The court rejected the argument that the bill compelled provinces to amend their legislation to comply with national education policy or that it empowered the minister to oblige provinces to adopt national policy. However, the provinces had to comply with national standards which had been formulated in accordance with the constitution.²⁸³ [²⁸³ *Ibid* 4 April 1996] The National Education Policy Act was promulgated in April 1996.²⁸⁴ [²⁸⁴ *Government Gazette* no 17118, 24 April 1996]

South African Schools Act of 1996

In November 1996 the South African Schools Act was assented to by the president. Its main aim was to establish a unified national school system as set out in the second white paper, published in February 1996 (see *Education White Paper 2: The Organisation, Governance and Funding of Schools* above). The act included proposals on funding and the powers of governing bodies, which had not been finalised in the white paper.²⁸⁵ [²⁸⁵ *Sunday Times* 9 June 1996; *Government Gazette* no 17579, 15 November 1996]

The act recognised only two categories of schools—public (including special public schools) and independent schools. All public schools would be governed by governing bodies. Model C schools (see 1992/93 Survey, p591–592) would become public schools and their immovable property would revert to the state. A public school could also be situated on private property provided that an agreement had been reached between the owner and the provincial authorities. This applied to church, farm, mine and plantation schools.

The following provisions were included in the act:²⁸⁶ [²⁸⁶ *Government Gazette* no 17579, 15 November 1996]

- school attendance should be compulsory from the year in which a child turned seven to age 15 or the ninth grade;
- no admission tests should be administered and a public school should admit learners without discriminating in any way;
- no pupil should be refused admission on the grounds that his or her parents were unable to pay school fees; and
- corporal punishment should not be administered to any pupils (at public or independent schools).

Each public school should appoint a governing body comprising parents, teachers, the principal, nonteaching staff and pupils in grade 8 or higher at the school. Parents had to constitute the majority of voting members. The act set out extensive powers and functions for school governing bodies, including the following:²⁸⁷ [²⁸⁷ *Ibid*]

- to develop the mission statement and constitution of the school;
- to determine the admission policy of the school, subject to the act and provincial laws;
- to determine the language policy of the school, subject to provincial legislation and provided it did not discriminate against any race group;
- to adopt a code of conduct for learners at the school;
- to determine school times;
- to recommend the appointment of educators and non-educator staff;
- to administer school buildings and grounds;
- to draw up an annual budget; and
- to establish rules for voluntary religious observance at school, subject to provincial legislation.

Governing bodies could, however, apply for additional powers such as to maintain school property, to

determine the extramural curriculum and the choice of subjects in terms of provincial curriculum policy, to purchase textbooks and other educational material and to pay for services to the school. Provincial education departments had to provide training for all governing bodies to enable them to perform their functions effectively.

The act provided for education for learners with special education needs at ordinary public schools where this was 'reasonably practicable'. Provincial MECs for education could, in addition, establish special public schools for learners with special education needs.

With regard to the funding of public schools the act made the following provisions:

- the state had to fund public schools equitably;
- the minister of education could set norms and standards for the funding of public schools;
- governing bodies had to attempt to supplement the resources provided by the state;
- governing bodies could charge school fees provided that a majority of parents at the school supported this;
- governing bodies would determine procedures for the exemption of parents who were unable to pay school fees; and
- parents were liable to pay school fees and could be prosecuted for failure to do so.

Parents were allowed to raise additional fees to supplement funding from the state, provided that no pupil unable to pay fees was turned away.

Former state-aided schools, which included model C schools, could continue to create unsubsidised posts for teachers, out of school funds, until 31st December 1997.²⁸⁸ [²⁸⁸ Ibid]

The act guaranteed every person the right to establish an independent school provided that it was registered with the provincial department and did not discriminate on the grounds of race. Subsidies could be granted (but were not compulsory) to independent schools. A parent could also apply for the registration of the learner to receive education at home.

Criticism and Alternative Proposals

In September 1996 the **Conservative Party (CP)** asked the parliamentary education portfolio committee to amend legislation to allow for state schools for Afrikaners. A CP spokesman, Mr Daan van der

Merwe, said that he ‘could not pretend that children of other races would be welcome in the Afrikaner school’.²⁸⁹ [²⁸⁹ *The Citizen* 3 September 1996] The CP threatened to embark on passive resistance and civil disobedience if the bill was promulgated.²⁹⁰ [²⁹⁰ *Ibid* 17 October 1996]

Thousands of teachers in Gauteng marched to the Gauteng legislature to protest against certain clauses in the South African Schools Bill. According to a spokesman for the **South African Democratic Teachers’ Union (Sadtu)**, the organisation opposed the automatic disqualification of children older than 15 from schools, the right of governing bodies to enforce school fees and to sue parents who failed to pay, and the right to implement language policies. The inclusion of these clauses would undermine the principles of democratic governance of schools. It would also exclude ‘those from underprivileged communities [from] gaining access to quality education’.²⁹¹ [²⁹¹ *Sowetan* 3 September 1996] Sadtu suggested that pupils, teachers and parents be equally represented on school governing bodies. The formulation of admission, religious and language policies should be the responsibility of the provincial education departments and not the school governing bodies. Sadtu accused the government of reneging on the promise of free and compulsory education by allowing governing bodies to sue parents who could not pay the school fees. Sadtu was of the opinion that independent schools should not receive any funding from the government as the public school system needed more funds to be sustainable.²⁹² [²⁹² *The Citizen* 3 September 1996]

The **South African Federation for State-aided Schools** said that the bill did not provide for a subsidy to help parents unable to pay school fees. Such parents would have to be carried by those willing to pay. The federation warned that governing bodies’ inability to refuse children whose parents did not pay school fees could become a ‘nightmare’ for school governing bodies and education departments.²⁹³ [²⁹³ *The Citizen, Sowetan* 17 October 1996]

Three political parties, the **African Christian Democratic Party (ACDP)**, the **Freedom Front (FF)** and the **NP** voted against the bill. An NP spokesman on education, Mr Renier Schoeman, accused the ANC of ‘butchering the original bill’ because the subsequent bill downgraded parental power and ‘relegated parent bodies to functionaries’ instead of role players. The NP further said that the bill negated the view that state intervention in school governance should be limited to the minimum. The bill gave schools ‘diminished delegated’ powers and not original powers—especially in the way admissions were dealt with and it ignored the obligations placed on all arms of government to respect the constitution, the NP said. The ACDP objected to the bill because it outlawed corporal punishment at schools. The FF said that the scrapping of admission tests administered by governing bodies would enforce integration and make religion ‘taboo’. The bill also omitted the right to mother-tongue education and the principle of pro rata funding for different language groups.²⁹⁴ [²⁹⁴ *The Citizen, The Star* 30 October 1996, *Sowetan* 1 November 1996]

A spokesman for the **Democratic Party (DP)** on education, Mr Mike Ellis, said that although the DP supported the bill, certain clauses could be in breach of the constitution, particularly with regard to the powers assigned to the minister of education.²⁹⁵ [²⁹⁵ *Ibid*]

The **National Coalition of Home Schoolers** said that the clause on home schooling created legal uncertainty and fell short of international standards of freedom in education. The coalition would have preferred a uniform set of regulations that would apply equally to all home schoolers to avoid potential selective discrimination by provincial authorities.²⁹⁶ [²⁹⁶ *The Citizen* 30 October 1996]

Implementation

Since its creation in 1994, the national Department of Education has attempted to transform education, from preprimary to tertiary level, by initiating a wide variety of policy investigations and appointing various bodies to undertake new functions proposed in policy documents. The following section highlights some of the steps taken by the department in 1996 to implement policy proposals.

The second white paper, published in February 1996, noted the need for the establishment of an education management information system (see *Education White Paper 2: The Organisation, Governance and Funding of Schools* above). The national Department of Education subsequently appointed a consortium comprising the Human Sciences Research Council, the Education Foundation and the Research Institute for Education Planning at the University of the Free State to generate a school register of needs. All registered preprimary, primary, and secondary schools, as well as technical colleges, would be surveyed regarding their physical conditions and needs. Private schools would be surveyed as far as possible. The survey would also be used to develop a geographic information system which would involve plotting the geographical location of schools. The data generated would provide information for decision making and planning processes at national and provincial level to redress backlogs in buildings, classrooms, water and electricity, and other areas.²⁹⁷ [²⁹⁷ Education Foundation, *Edusource Data News*, July 1996] The geographic information system could be used to improve access to schools by ensuring that new schools were built in areas of high population density with the necessary road and transport facilities.²⁹⁸ [²⁹⁸ Department of Education, annual report June 1994–December 1995]

Based on recommendations in the white paper that the capacity of governing bodies be strengthened, the Department of Education established a National Task Team on Education Management Development in March 1996. The team was to plan a national strategy for education management development in South Africa, to suggest a suitable institutional framework (including the establishment of a central national institute) and to develop proposals on how to fund such a programme. The team was also required to plan practical activities to improve the capacity of education managers at all levels (including national, provincial, district and school levels and of school governing bodies). The task team was expected to report to the minister of education towards the end of 1996.²⁹⁹ [²⁹⁹ Statement by Dr Chabani Manganyi, director general of education, 4 March 1996]

A national distance education body, the National Association of Distance Education Organisations of South Africa, was launched in August 1996 by organisations in the distance education field including the University of South Africa (Unisa), Technikon South Africa, Vista University and various nongovernmental organisations such as the South African Institute for Distance Education, the South

African Committee for Higher Education and the Open Learning Systems Education Trust. The aims of the organisation were to 'facilitate collaboration among distance education organisations in South Africa; advocate awareness, understanding and application of distance education among policy makers, practitioners and learners; and promote research and evaluation of distance education and open learning in South Africa'.³⁰⁰ [³⁰⁰ *Higher Education Review* 31 May 1996]

The first meeting of the South African Qualifications Authority took place in August 1996 (see *National Qualifications Framework* above). The authority was appointed by Professor Bengu, in consultation with the minister of labour. Mr Samuel Isaacs, the director of the Centre for Continuing Education at the Peninsula Technikon, was appointed chairman.³⁰¹ [³⁰¹ Department of Education, statement by Dr Trevor Coombe, deputy director general of education, 2 August 1996]

Transformation at Tertiary Institutions

The issue of transformation and the manner in which it should be effected were hotly debated at various tertiary institutions during the period under review. In February 1996 the vice chancellor of the University of the Witwatersrand, Professor Robert Charlton, described transformation as a 'thorny and emotive' issue because of the different meanings attached to it. Transformation in the broad sense referred to a university system (including students, staff and governing councils) which reflected the composition of the broader South African society. In this sense the university had committed itself to redress the damage done by 'apartheid education'. Transformation sometimes referred to 'democratisation', which, in its extreme form, entailed that students and workers had as much say as academics in matters such as the appointment of the vice chancellor. A third interpretation of transformation referred to changing from a 'Eurocentric' perspective to an 'African' perspective. However, a more moderate view would require that the university continually scrutinise procedures and governance, and refine these to ensure maximum compliance with the fundamental principles underpinning the new constitution, Professor Charlton said.³⁰² [³⁰² *The Star* 1 February 1996]

Speaking in Parliament in March 1996, Professor Bengu said that his ministry was committed to the 'democratic transformation of institutions of higher learning'. Professor Bengu said that the ministry had encouraged all institutions to establish democratic broad transformation forums as a basis for the realisation of a smooth transformation. These forums had to be fully inclusive of all stakeholders on campus and their key function would be to negotiate the direction and pace of change within each institution. A national conference, held in February 1996, mandated the minister to develop a framework for the transformation of higher education. The report of the National Commission on Higher Education, published in August, laid the basis for a fundamental restructuring of the higher education system (see also *Report of the National Commission on Higher Education* above).³⁰³ [³⁰³ *Hansard* (NA:Q) 2 cols 101–102, 14 March 1996]

According to Professor Bengu, statistics showed that some change had taken place in the racial composition of academic staff at universities and technikons but that it was not enough. African and coloured staff had increased by 14% and 60% respectively at universities in the period 1990–95 and by

41% and 25% respectively at technikons. Over the same period Indian and white staff had declined by 61% and 14% respectively at universities and by 54% and 55% respectively at technikons. However, at both universities and technikons white staff still comprised more than 50% of all staff members.³⁰⁴ [³⁰⁴ Ibid]

At a second conference on transformation, held in July 1996, Professor Bengu warned tertiary institutions resisting it that he would ‘intervene and drive them towards transformation’ if they did not ‘fall into line’ with South Africa’s democratic values. It was the minister’s duty, he said, to ensure that all institutions became accessible to all and that they conduct their business in a democratic and transparent way. Mr Tony Leon, leader of the DP, said in reaction that Professor Bengu was ‘obsessed with government intervention’ and that his statement would undermine and destroy the fabric of South Africa’s education system and the autonomy of universities.³⁰⁵ [³⁰⁵ *Business Day* 30 July 1996, *The Citizen* 31 July 1996]

Delegates at the conference (including representatives from universities, technikons and colleges of education, as well as students, labour and staff representatives) discussed a draft framework drawn up by the Department of Education, which proposed a definition for transformation and a timetable for change. The document also allowed for the continued use of police to handle conflict on campuses after mediation and arbitration had been used or if an institution’s management judged any situation to be a threat to property or person.³⁰⁶ [³⁰⁶ *Business Day* 30 July 1996] Delegates, however, failed to reach agreement on the issues of financial aid to students, the need for a government-fixed moratorium on financial exclusions, conflict resolution mechanisms, law enforcement on campuses and privatisation of services. However, broad agreement was reached on a ‘vision’ of transformation, educational principles, a general definition of how transformation should be effected and an agreement on the structures which should be set up on the various campuses.³⁰⁷ [³⁰⁷ *The Star* 31 July 1997] According to Mr Lincoln Mali, a spokesman for Professor Bengu, the exact definition of transformation was not available at the time of writing as the conference had ‘broadly’ accepted the proposed definition provided that ‘further work be done on it’.³⁰⁸ [³⁰⁸ Personal communication with Mr Lincoln Mali, Department of Education, 1 October 1996] Professor Itumeleng Mosala, chief director of higher education and training and related programmes at the Department of Education, said in October 1996 that a national task team had been appointed to ‘take the process forward’ by monitoring the transformation process and writing a green paper.³⁰⁹ [³⁰⁹ Personal communication with Professor Itumeleng Mosala, Department of Education, 3 October 1996]

The Democratic Student Alliance (representing four students’ organisations at universities and technikons) said that they were dissatisfied with the conference’s failure to resolve issues tabled by students, including financial aid, admission policy and curriculum review. Government sources on the other hand expressed frustration with students’ attempts to use the conference as a platform to present their point of view on issues being investigated by the National Commission on Higher Education.³¹⁰ [³¹⁰ *Business Day* 31 July 1996]

Students Organisations

In January 1996 the Gauteng branch of the South African Students' Congress (Sasco) launched a campaign called Operation Access which aimed to open up previously white tertiary institutions to more 'disadvantaged' or black students without financial exclusions. The campaign would consist of peaceful mass action. Sasco called on the government and tertiary education institutions to extend admission policies, review the subsidy formula for universities and technikons, and make broad transformation forums compulsory at institutions of higher education.³¹¹ [³¹¹ *The Star* 18 January 1996] Sasco accused several tertiary institutions, including Pretoria Technikon; Rand Afrikaans University; and the universities of Potchefstroom, Pretoria and the Witwatersrand, of remaining inaccessible to black students.³¹² [³¹² *Sowetan* 26 January 1996]

Universities

According to Professor Gillis de Korte, vice principal of the Medical University of Southern Africa (Medunsa), transformation was at an advanced stage there. Students were represented on the senate, and academic committees were involved in budget planning and curriculum development. Students and worker representatives were also given the opportunity to make nominations for appointments, interview candidates and state their preferences. Some 40% of the academic staff were black. The transformation process was co-ordinated by a 'broad transformation forum' which comprised the deans, management and representatives from various students' organisations and three staff unions. According to the former president of the Students' Representative Council, Mr Pogiso Mokgothu, the student relationship with management was no longer antagonistic but aimed rather at solving problems. According to a spokesman at the university, Dr Jacques Kriel, the new attitude and calm prevailing on campus were reflected in improved examination results.³¹³ [³¹³ *Business Day* 15 April 1996]

The new vice chancellor of the **University of Cape Town**, Dr Mamphela Ramphele, described the university as being 'light years ahead of other institutions regarding transformation'. Some 23,6% of all students were African in 1995, compared with 2,7% in 1984. In 1995 first-time African undergraduates passed 72% of their courses compared with 64% in 1985. In the 1980s the university pioneered an admission test to identify talented students by measuring their proficiency in English and ability to reason rather than accepting what they had learned at school. According to Dr Ramphele, the university had since found a high correlation between students' test results and their academic success. About half of first-year black students enrolled in 1995 were admitted on this basis. The universities of Pretoria and Stellenbosch were using the same method.³¹⁴ [³¹⁴ *Financial Mail* 10 May 1996]

In October 1996 the **University of the Free State** elected Professor Stef Coetzee as rector and Professor Bernito Khotseng as vice rector, the first African to be appointed to that position there. Members of Sasco objected to Professor Coetzee's appointment, saying that the university was still dominated by white Afrikaners.³¹⁵ [³¹⁵ *Mail and Guardian* 18 October 1996]

In June 1996 the **University of Natal** launched a broad transformation forum after three years of

discussion involving all sectors at the university (the council, the executive, academic and non-academic staff, the senate, students and workers). The primary function of the forum was to make recommendations on key issues, which would then be discussed by the senate and the council. Should the council or the forum be unable to support a recommendation it would be referred back to the forum for further discussion. The issues to be discussed in the forum included admissions and exclusions, university governance, curricula, affirmative action and equal opportunity, staff development and training, and the naming or renaming of facilities on campus.³¹⁶ [³¹⁶ *The Natal Witness* 12 June 1996]

The **University of Pretoria** appointed Professor Johan van Zyl as vice chancellor in October 1996. The appointment was rejected by Sasco, Paso and the Azanian Students' Congress, which labelled Professor van Zyl a 'white racist'. The Conservative Party said that it was concerned about the appointment because it regarded Professor van Zyl as 'far left'. The African National Congress Youth League said that it was satisfied that democratic procedures, agreed to by all interested parties, had been followed in the appointment and that the new rector should be given the opportunity to prove the allegations against him wrong.³¹⁷ [³¹⁷ *The Citizen* 9 October 1996]

The council of the **University of South Africa** (Unisa) said in June 1996 that it would initiate a transformation forum on campus.³¹⁸ [³¹⁸ *Ibid* 29 June 1996] However, in July 1996 Professor Simon Maimela, vice principal of the university, said that the university had failed to implement transformation and that it did not have a proper strategy on affirmative action. The principal, Professor Marinus Wiechers, in turn accused student bodies of being unprepared and delaying the establishment of a transformation forum.³¹⁹ [³¹⁹ *Sowetan* 9 July 1996] In the same month a steering committee was established comprising members of the National Education, Health and Allied Workers' Union, the Black Academic Forum and the Students' Representative Council, to draw up proposals for the transformation of the university.³²⁰ [³²⁰ *The Star* 10 July 1996] The council of the university said in July 1996 that it was prepared to address its own composition in order to become more representative of the university's interest groups. Any decisions regarding the composition of the university council would be done in terms of the recommendations of the transformation forum, which was still to be elected.³²¹ [³²¹ *Business Day* 26 July 1996]

In December 1995 the rector of the **University of the Western Cape** (UWC), Professor Cecil Abrahams, called on the three universities in the Western Cape (ie the universities of Cape Town, Stellenbosch and the Western Cape) to take 'joint responsibility for their disadvantaged students' and to take some of the load off the UWC by establishing a common admission centre. Such a centre would enable students to send their enrolment applications to a central office where 'disadvantaged' applicants would be divided among the three universities according to a predetermined proportion. Professor Abrahams said that such a system would reduce the responsibility of any one university dealing with all the backlogs apartheid had created.³²² [³²² *Mail and Guardian* 19 January 1996]

Evaluating progress made by the **University of the Witwatersrand**, Professor Charlton said that in 1995, 40% of all students (including postgraduates) who had enrolled were black and 52% of all first-

year enrolments were black. However, the disappointing matric results meant that the pool of qualified applicants for admission (particularly in mathematics) had not grown in 1996. In addition, a third of the support staff was black. The university experienced problems recruiting and retaining black academics, because of a shortage of qualified black academic staff, particularly in the scientific disciplines.³²³ [³²³ *The Star* 1 February 1996] A transformation forum, known as FFACT (Forum for Further Accelerated and Comprehensive Transformation at Wits), consisting of representatives of all interested internal and external groups was set up and consensus was reached on most aspects (see 1995/96 Survey, p140). Agreement was reached in July 1996 between the forum, the council and the senate on the selection procedure for the appointment of the university's vice chancellor.³²⁴ [³²⁴ *The Citizen* 20 July 1996] The new council brought the university closer to recommendations by the National Commission on Higher Education that councils restructure themselves to take 60% of their membership from outside their institutions. Although the new council at the university fell short of the 60% recommendation, it increased outside representation to about 50%. The new council would include representatives from provincial and local governments, the professions, organised labour and the university's support staff. The council would increase its members to 49. Academic staff representation would increase from seven to 12 and the student complement from three to five. Support staff would have two members and the convocation three.³²⁵ [³²⁵ *Business Day* 13 August 1996] The university appointed Professor Sam Nolutshungu as vice chancellor in November 1996.³²⁶ [³²⁶ *Mail and Guardian* 1 November 1996] However, he declined the position early in 1997, citing 'health-related reasons'.³²⁷ [³²⁷ Various newspaper articles]

Technikons

Following the promulgation of the Technikons Act of 1993 (see 1993/94 Survey, p730) many technikons began awarding degrees (including masters' and doctoral programmes) to students in 1995. Technikon degrees would be recognised for university studies. In order to introduce a degree a technikon had to receive accreditation from the Certification Council for Technikon Education, which would establish whether the technikon met the necessary requirements.³²⁸ [³²⁸ *Higher Education Review* 3 May 1996] In May 1996 Professor Bengu said that 12 technikons had received ministerial approval to offer degrees and that in 1996, 8 132 students had registered for degree studies at technikons. Students would be awarded degrees in some 64 fields of study.³²⁹ [³²⁹ *Hansard* (NA:Q) 4 cols 700–701, 10 May 1996]

The **ML Sultan Technikon** and **Technikon Natal** said in May 1995 that a merger of the two institutions was to take place. The technikons aimed to break down barriers created by apartheid (ML Sultan Technikon and Natal Technikon catered for Indian and white students respectively under apartheid) and to utilise limited resources more effectively. The two technikons said that **Mangosuthu Technikon**, which catered for African students, should also become part of the merger.³³⁰ [³³⁰ *Business Day* 13 May 1996]

In September 1996 the **Vaal Triangle Technikon** became the first technikon to adopt a transformation charter. The charter provided guidelines for responsible student leadership, academic excellence and

accountable management. It committed all signatories (including the council, management, staff and students) to a programme of transformation. The charter rejected any form of discrimination on the basis of sex, language, race or political and religious beliefs.³³¹ [³³¹ *Sowetan* 18 September 1996, *The Sunday Independent* 29 September 1996]

Following various incidents of student unrest at **Technikon South Africa**, the technikon placed an advertisement in all the major newspapers in July 1996 in which it committed itself to a process of transformation. According to the technikon, a transformation task team was established in 1995 to facilitate the establishment of a broad transformation forum. Management and student representatives also agreed on national and regional election organising committees to plan the election of a fully representative student structure later in 1996.³³² [³³² *Sowetan* 5 July 1996]

Teacher Training Colleges

At the time of writing no issues relating to transformation had been reported at teacher training colleges.

Provincial Level

Legislation

Free State

The provincial School Education Bill, tabled in December 1995, provided for nine years of free compulsory education. The bill did not make provision for admission criteria. It did provide for the establishment of governing bodies at all public schools and allowed public schools to ask parents to contribute to a school fund.³³³ [³³³ *Die Volksblad* 14 December 1995]

Gauteng

In April 1996 the Gauteng Department of Education published for public discussion the Regulations for Governing Bodies of Public Schools. The powers allocated to governing bodies included decisions regarding the mission, goals and objectives of the schools; the school budget; curricula; recommendations regarding teacher appointments; and exercising control over the grounds and buildings of the school—in line with the powers set out in the South African Schools Act of 1996 (see *South African Schools Act of 1996* above).³³⁴ [³³⁴ Regulations for Governing Bodies of Public Schools, *Provincial Gazette Extraordinary* No 165, 23 April 1996]

Kwazulu-Natal

In April 1996 the KwaZulu-Natal School Education Bill, abolishing the previous five education

departments in the province, was passed by the provincial legislature, paving the way for the creation of a unified KwaZulu-Natal Department of Education. The bill allowed for the provincial MEC for education to determine education policies after public comment and consultation with various educational interest groups. It provided for two categories of schools—independent and public (the latter comprising state schools, community schools, state-aided schools and state-subsidised schools, ie model C schools). Corporal punishment was abolished. The provincial MEC for education had the right to determine the school fees to be paid by parents.³³⁵ [³³⁵ *The Natal Witness* 2 April 1996]

Mpumalanga

The province's Education Bill was passed in December 1995. The bill opened access to education to all learners, irrespective of culture, language, race or religion. The bill also provided for the creation of governing bodies at public schools and for an education council at provincial level, which would give all interested parties the opportunity to contribute to policy issues.³³⁶ [³³⁶ *Witbank Nuus* 22 December 1995]

Northern Province

The Northern Province School Education Act of 1995 was passed in 1995 and came into operation on 29th December 1996.³³⁷ [³³⁷ Northern Province, *Provincial Gazette* No 124, 22 December 1995]

DEVELOPMENTS IN THE PROVINCES

Eastern Cape

In January 1996 the national Department of Health announced it would provide R30m for the province's primary school feeding scheme. The amount was expected to ensure the sustainability of the project for the last quarter of the 1995/96 budget (until the end of March 1996). The targeted pupils for the programme stretched from preschool classes to standard 2.³³⁸ [³³⁸ *Daily Dispatch* 11 January 1996]

A full-scale audit of schools in the Eastern Cape was launched early in 1996 after the discovery of 'ghost schools' which existed on paper only and which allegedly swallowed large sums from the provincial education department.³³⁹ [³³⁹ *New Nation* 19 January 1996]

Some 80% of model C schools in the Eastern Cape had decided to become public schools, the MEC for education, culture and sport in the Eastern Cape, Ms Nosimo Balindlela, announced in February 1996.³⁴⁰ [³⁴⁰ *Daily Dispatch* 20 February 1996]

The Algoa and Delwer colleges of education said in October 1996 that they had decided to become affiliated to the University of Port Elizabeth in order to give effect to the National Commission on Higher Education's recommendation to integrate colleges of education, among others, into universities

and technikons (see *Report of the National Commission on Higher Education* above). The agreement aimed to create parity in the educational qualifications offered by the three institutions. The university would help to determine standards for the two colleges, moderate the final-year examination papers, assist with the redesign of curricula and co-operate with the colleges to ensure high level teacher education. College students' qualifications would have national status and they would be able to obtain credits for university courses.³⁴¹ [³⁴¹ *Higher Education Review* 20 October 1996]

Gauteng

In June 1996 the MEC for education in Gauteng, Ms Mary Metcalfe, said that the total number of pupils attending primary and secondary schools had increased by at least 32000 in 1996, while some 60000 pupils were without classrooms.³⁴² [³⁴² *Business Day* 20 June 1996]

By March 1996 the provincial education department had established four branches of a Gauteng Youth College to provide learners who had obtained poor matric symbols over the past eight years with the opportunity to complete their studies. The curricula followed by the centres combined the alternative curricula for adults which had been developed by the South African Committee for Higher Education and a range of technical courses. The classes would be open to learners who failed matric between 1988 and 1995 but who passed their first language.³⁴³ [³⁴³ *Sowetan* 15 March 1996] Students could obtain a senior certificate after two years of study.³⁴⁴ [³⁴⁴ Ibid undated clipping] Approximately 1 000 students had applied for admission in 1996 but this figure was still below the target of 6000 set by the Gauteng Youth College.³⁴⁵ [³⁴⁵ Ibid 12 April 1996]

Previously white primary schools in Gauteng were warned by the provincial education department in August 1996 not 'to protect their privileged status' by filling their capacity by 'illegally' starting a preschool year. According to the education department, some schools prevented black pupils of schoolgoing age from enrolling by filling their schools with white three and four-year olds. The province had not introduced a compulsory reception year (ie grade 0) as proposed in the *Interim Policy for Early Childhood Development*, for budgetary reasons. According to education officials, it was not possible to check on every school to determine which ones were filling available places with grade 0 pupils to prevent black pupils from registering. In terms of the South African Schools Act of 1996 schools had to accept any child of seven years or older unless the school was full.³⁴⁶ [³⁴⁶ *The Star* 19 August 1996]

Private schools in Gauteng were informed in August 1996 that their subsidies were to be cut retroactively from the start of the 1996/97 financial year by between 10% and 30% as the provincial department did not have the funds to continue their subsidies. A further 20% cut was expected to be implemented in 1997.³⁴⁷ [³⁴⁷ *Sowetan* 17 September 1996] According to the department's deputy director general of policy and administration, Mr Enver Motala, the department had no constitutional obligation to fund these schools.³⁴⁸ [³⁴⁸ Ibid 6 September 1996] The national director of the Independent Schools Council, Mr Mark Henning, said that the cuts would lead to the closure of some valuable schools. The

schools worst hit would be those in the townships and the inner city, he said.³⁴⁹ [³⁴⁹ Ibid 21 August 1996, *The Star* 23 August 1996] Parents of pupils at Roman Catholic schools said that by cutting the subsidy the government was denying their children the right to education.³⁵⁰ [³⁵⁰ *Sowetan* 27 August 1996] According to Ms Metcalfe, the decision would not be rescinded and, if private schools were to close down as a result, the pupils would be absorbed into public schools.³⁵¹ [³⁵¹ Ibid 29 August 1996]

The Independent Schools Joint Liaison Committee, which represented Roman Catholic, Jewish, and independent schools, said that many schools would be forced to close or increase fees. The committee also said that the cuts were unexpectedly introduced in the fourth quarter of the academic year—throwing school budgets into disarray.³⁵² [³⁵² *The Star* 9 September 1996] Muslim and Jewish schools accused the provincial education department of ‘undermining their religious freedom’ and said that they had received ‘better treatment from the old National Party government’.³⁵³ [³⁵³ *Business Day* 6 September 1996] The subsidy cut was also criticised by the Democratic Party (DP) and the National Party (NP). The decision was an act of administrative injustice as the cuts were to be implemented before private schools had been warned to adjust their budgets. The DP referred the issue to the Human Rights Commission.³⁵⁴ [³⁵⁴ *Sowetan* 18 September 1996]

The Gauteng Department of Education announced in October 1996 that subsidies to private schools would be cut by 10% only and not by the 30% announced initially.³⁵⁵ [³⁵⁵ Ibid 11 October 1996]

Kwazulu-Natal

In April 1996 the Eastern Seaboard Association of Tertiary Institutions in KwaZulu-Natal announced that from 1997 a central applications office would receive and process all applications for admission to the eight tertiary education institutions in the province. The central application centre would enable students to apply to several institutions using one form and in so doing save tertiary institutions some R500000. According to the executive director of the institution, Professor John Butler-Adam, the central application centre would eventually be linked to a bursary office through which students could apply for finance.³⁵⁶ [³⁵⁶ *The Sunday Independent* 28 April 1995]

KwaZulu-Natal’s first community college project was launched at Richards Bay in February 1996. The project had the support of various companies in the province and the national and provincial education departments. The project would co-ordinate the various training skills available in the greater Richards Bay area, survey the educational and technical needs of people, and direct them to schools, companies and other places which offered such courses. The training included courses such as sewing, business skills and technical skills. The courses would be offered on a modular basis and students would receive certificates. The community colleges targeted the out-of-school youth between the ages of seven and 14 to equip them with skills, as well as matriculants who had failed or who did not qualify for university entry.³⁵⁷ [³⁵⁷ *The Natal Witness* 19 February 1996, *Echo* 22 February 1996]

Mpumalanga

An agreement was signed between Mpumalanga and the United Kingdom (UK) in February 1996 in terms of which the UK would spend R14m in the province over three years, a spokesman for the provincial Department of Education, Mr Oupa Pilane, said. The project was known as the Primary School Initiative and consisted of retraining 1600 primary school teachers in English, mathematics, science and technology. Five colleges of education and teacher training centres would be used for training serving primary school teachers. Training would be undertaken by nongovernmental organisations and education department officials.³⁵⁸ [³⁵⁸ *The Citizen* 5 February 1996, *The Argus* 6 February 1996]

Northern Province

In February 1996 the Department of Education in the Northern Province applied for a court order to force the Potgietersrus Primary School to admit three black pupils after the school's governing body had failed to respond to a government ultimatum urging it to allow pupils of all races.³⁵⁹ [³⁵⁹ *The Argus* 2 February 1996] The Transvaal Provincial Division of the Supreme Court in Pretoria rejected attempts by the school governing board to refuse admission on the grounds of race, culture or language. A school board application for an appeal to the Constitutional Court was also dismissed by the Supreme Court. According to the premier of the Northern Province, Mr Ngoako Ramatlhodi, 'it had never been the government's intention to humiliate the school or parents but white children had to grow up as part of the new, nonracial South Africa'.³⁶⁰ [³⁶⁰ *Business Day* 23 February 1996] The registration of the school was finally approved by the department in November 1996.³⁶¹ [³⁶¹ *The Citizen* 6 November 1996]

White parents subsequently decided to withdraw their children from the school and educate them at the school's hostel. However, a local magistrate ruled that the children could not be educated at the hostel and the school was then moved to a smallholding.³⁶² [³⁶² *Ibid* 22 April 1996] In June 1996 an application by the Potgietersrus Volkskool to be registered with the provincial education department was provisionally turned down for the third time as senior department officials expressed concern over the standard of certain facilities. Dissatisfied parents accused the department of applying stalling tactics. Referring to facilities in tents and the lack of proper toilets and unhygienic conditions at schools registered at Mahwelereng (the black township outside Potgietersrus), the parents said that the department was inconsistent in its consideration of applications for registration. The provincial leader of the NP, Mr André Fourie, said in reaction that the establishment of private schools should be considered favourably, should communities prefer Afrikaans or mother-tongue tuition.³⁶³ [³⁶³ *Ibid* 24 June 1996]

Western Cape

The *Cape Times* reported in February 1996 that the MEC for education in the Western Cape, Ms Martha Olckers, had approved the sale of land by model C schools to the value of more than R4,5m. This was done in 'apparent defiance' of the government's intention to stop the practice. Four schools had sold off

land by February 1996 and another 13 had received approval to do so from the provincial education department. The funds raised in this way were to be used for upgrading school facilities.³⁶⁴ [³⁶⁴ *Cape Times* 21 February 1996]

Ms Olckers said in July 1996 that the first two youth colleges in the province would open in January 1997 to train illiterate people to matriculation standard in practical subjects such as plumbing and electrical work to enable them to obtain employment on graduating. The colleges would be housed in buildings left vacant by the closure of four teacher training colleges. Ms Olckers estimated that there were 1m people between 18 and 40 years old in the province who had no education beyond standard 4.

The provincial education department announced in March 1996 that all new public schools to be built would include facilities to accommodate physically disabled children. Formerly 'special' schools were the only ones to accommodate such pupils and integration into mainstream education had not been encouraged. Recent studies indicated that as many as 50% of schoolgoing children across the country needed some sort of specialised education, the chairman of the Western Cape Association for the Physically Disabled, Mr Russell Vollmer, said.³⁶⁵ [³⁶⁵ *The Argus* 29 March 1996]

POLICY REVIEW

Although a number of official education policy documents were published, several problems were not dealt with. Among these was the breakdown in teaching in some parts of South Africa. A survey conducted by the Education Policy Unit at the University of the Witwatersrand revealed a serious breakdown in teaching, particularly at secondary schools in Gauteng. Various factors, such as poor facilities, ineffective leadership and administration of schools, poor relations between pupils and teachers, and poor socio-economic circumstances of pupils contributed to the problem. The government had published no proposals on ways to deal with this problem. Other problems and policy issues facing education included the following:

- **educational standards:** The number of private schools increased significantly in 1996 and more schools opted to write matriculation examinations set by the Independent Examinations Board. These developments were largely attributed to fears of a drop in standards at public schools;
- **implementation of the South African Schools Act:** The South African Schools Act allowed governing bodies to charge fees if the majority of parents agreed to it. However, no pupils could be denied access because of the nonpayment of fees. It was not clear how governing bodies would enforce payments where parents refused to pay;
- **the low output of science graduates:** According to Professor C F Crouse, former rector of Rand Afrikaans University, the output of science graduates needed to double over the next two decades for South Africa to achieve economic development;

- **the low output of technicians compared with graduates:** South Africa was training fewer than one technician for every engineer while a 'normal ratio' should be ten technicians for every engineer, Dr Ben Ngubane, minister of arts, culture, science and technology said;
- **a drop in research output at tertiary institutions:** Research output was declining because of a lack of funds, incentives and facilities, according to the Foundation for Research Development. South Africa had to improve research in the fields of science and technology, finance and infrastructure to address its weaknesses in human resources and international competitiveness;
- **literacy figures and programmes:** Although the government identified adult literacy as a problem area its budgetary allocation was fairly small and the various literacy programmes depended largely on donor funding. In 1994 an estimated 7,5m people aged 15 and older were illiterate or 'severely under-educated';
- **introduction of new curriculum in 1998:** Various teacher organisations expressed concern over the proposed introduction of an 'outcome-based' curriculum for schools in 1998, saying that not enough time was allowed for implementation. Radical changes included replacing current subjects by new broad learning categories;
- **language policy in schools and universities:** No language policy had been published but the government had appointed a task team to investigate the practicality of offering mother-tongue education in South Africa. Much debate took place during 1996 on the issue of language at universities and schools. Many Afrikaans-speaking people believed Afrikaans was being discriminated against at schools and universities;
- **transformation at tertiary institutions:** Students continued to express dissatisfaction at the failure of tertiary institutions and the government to resolve issues such as financial aid and admission policy and to conduct a curriculum review. Indications were that the issues of transformation and financial aid to students would continue to dominate the tertiary transformation debate for some time to come; and
- **reduced government funding of tertiary education:** Most universities and student organisations were deeply concerned about preliminary plans by the government to cut subsidies and student financial aid. They warned that universities would not be able to assist black students and that expenditure on essential equipment and facilities would have to be cut.

The intention of the Department of Education to redeploy teachers in order to achieve uniform pupil/teacher ratios throughout the country drove many teachers, particularly experienced ones, to apply for voluntary severance packages during 1996. More teachers were applying for packages than the number of packages made available. The department had no plan to deal with teachers not wishing to redeploy or to take voluntary retrenchment. The full impact of the loss of experienced teachers would be felt only in 1997. The department also failed to state the actual cost of all retrenchment packages and who would

provide the funds for it.

Proposals in the *Green Paper on Higher Education Transformation* aimed to create a single system comprising colleges, technikons, universities and private providers and the transformation of colleges into comprehensive ‘further-education colleges’. Further debate on a number of issues raised in the green paper would continue during 1997. This would include the right of the government to appoint an independent assessor to investigate issues on campuses—as well as other proposed infringements on the autonomy of institutions.

KEY PROJECTIONS

- In September 1996 Mr Manoli Kulutbanis, a consultant with Interdependence and Transformation in South Africa, a management consultancy company, predicted a net shortage of artisans in the manufacturing sector in two years’ time.
- The vice chancellor of the University of South Africa, Professor Marinus Wiechers, said in April 1996 that in fewer than ten years the 21 universities in the country would have to accept 1m new entrants annually.

BUSINESS

BIRD’S EYE VIEW

During the period under review the government embarked on a series of initiatives aimed at developing the small business sector, encouraging black economic empowerment and privatising some state assets. It also aimed to improve South Africa’s international competitiveness and establish incentives for international investors.

The National Small Business Act of 1996 provided a framework for empowering small, medium and micro-enterprises (SMMEs) and set up two statutory bodies to promote small business. In addition, the government established the Centre for Small Business Promotion and Khula Enterprise Finance to support small business with advice, research and finance. Investment in industry was encouraged through measures that included easing of exchange controls and grants of tax holidays to approved companies starting new businesses.

In 1996 the government revised and simplified its tender procedures and took steps to assist small business and black entrepreneurs in tendering for government contracts .

Furthermore, in October 1996 the minister for public enterprises, Ms Stella Sigcau, announced that her ministry had approved in principle the creation of a ‘national empowerment fund’ to allow

disadvantaged communities to play a part in the privatisation of South Africa's parastatals.

In addition, the year saw a number of big financial transactions involving black business. In one such transaction, a black business grouping, the National Empowerment Consortium, paid R2,7bn for a 35% stake in Johnnies Industrial Corporation, an industrial holding company with shares in several major corporations including South African Breweries, Omni Media (the holding company of Times Media), the Premier Group and Toyota South Africa. In November 1996, in another major transaction, the African Mining Group—a black consortium led by Capital Alliance Holdings—concluded an agreement to buy a 34,9% stake in JCI Limited for R2,88bn. The chairman of the Micro Business Chamber, Mr Lawrence Mavundla, said that black economic empowerment initiatives in South Africa had served to enrich only a small group of about 300 black people with whom the white private sector was prepared to do business.

In December 1996 the Marketing of Agricultural Products Act set a 13-month deadline for the dismantling of all agricultural control boards. The minister for agriculture and land affairs, Mr Derek Hanekom, said that the act would end the 'statutory marginalisation' of marketing opportunities for small farmers.

In 1996 South Africa was involved in negotiating several trade agreements including one with the European Union (EU) to gain access to the Lomé Convention. South Africa and other members of the Southern African Development Community signed a free trade protocol in August 1996 which committed the region to establishing a free trade zone within eight years.

KEY POINTS

- According to a senior research officer at the Ntsika Enterprise Promotion Agency, Mr Christo Abrahams, there were about 316 350 micro-enterprises in South Africa, providing employment to 476 600 people.
- By the end of 1996 there were 17 black-led companies with a market capitalisation of R26,5bn listed on the Johannesburg Stock Exchange (JSE), compared with 11 such companies with a market capitalisation of R4,3bn in May 1995. Black companies held about 10% of the market capitalisation on the JSE.
- Organisations representing small business criticised the Labour Relations Act of 1995, on the grounds that it would allow minimum wage regulations agreed to in central bargaining forums (which were generally dominated by larger firms and trade unions) to be imposed on small employers. Most small businesses would not be able to afford the higher wages agreed to centrally, they argued.
- The chief director of the State Tender Board, Mr Jan Breytenbach, said that the government was 'unbundling contracts into smaller and more manageable entities'. If a larger company was given a 90% tender for a project, the other 10% should be given to small, medium and micro-enterprises.

- The managing director of the Small Business Development Corporation (SBDC), Mr Jo Schwenke, said that the 'lack of black applicants for formal mainstream business loans was a problem'. The SBDC would encourage more black entrepreneurs to apply.
- In 1996 whites held the greatest number of franchises in South Africa with 86%, followed by Africans with 7%, Indians with 5% and coloured people with 2%.
- An Eskom survey in 1995 found that Africans conducted 72% of all in-home business, whites 23% and coloured people and Indians 2% each.
- In April 1996 the minister of public works, Mr Jeff Radebe, said that more than 50 black firms had been granted consultancy contracts as a result of the pilot roster system launched in September 1995 to ensure that black consultancy groups gained access to state contracts.
- In a survey conducted by the South African Institute of Race Relations, some 30% of coloured and 21% of African 'unemployed' respondents indicated that they were working in the informal sector. The figure for Indian and white respondents was somewhat lower at 15%.
- The minister of transport, Mr Mac Maharaj, said that the minibus taxi industry catered for about 2,2m people daily in South Africa. About 50% were running illegally, leading to uncontrolled competition, which had bred problems such as violence.

SMALL BUSINESS

In October 1996 a senior research officer at the Ntsika Enterprise Promotion Agency (Nepa), Mr Christo Abrahams, told the parliamentary committee on trade and industry that there were about 316 350 micro-enterprises in South Africa, providing employment to 476 600 people.¹ [¹ *The Citizen* 19 October 1996]

Policy

Central Government

In its 1995 annual report the Department of Trade and Industry (DTI) said that some of the objectives of the government's national small business strategy were to:² [² Department of Trade and Industry, 1995 annual report]

- create an enabling environment for small businesses;
- facilitate equalisation of wealth, income and earning opportunities;

- address the legacy of apartheid-based disempowerment of black business;
- support the advancement of women in all sectors;
- create long-term jobs;
- stimulate sector-focused economic growth;
- strengthen cohesion between small enterprises;
- ‘level the playing fields’ between big business and small business as well as between rural and urban business; and
- prepare small business to meet the challenges of an internationally competitive economy.

In June 1996 the director of the Centre for Small Business Promotion in the DTI, Mr Alroy Dirks, told the Cape Chamber of Commerce and Industry that the department had decided to concentrate on:³ [³ *Business Bulletin of the Cape Chamber of Commerce and Industry* 1 July 1996]

- creation of a policy and regulatory environment that would favour the creation and development of small, medium and micro-enterprises (SMMEs). Tax, interest rates and procurement policies would be important in this respect; and
- the provision of wholesale services aimed at assisting private and nongovernmental organisations (NGOs) that provided services to the SMMEs. In particular, the government had identified the need for helping those financial services organisations prepared to work with SMMEs

At the end of 1995 four institutions were created to support small business: the Centre for Small Business Promotion, the National Small Business Council, the Ntsika Enterprise Promotion Agency (Nepa), and Khula Enterprise Finance (see *National Small Business Act of 1996* below and 1995/96 Survey, p155).

Mr Dirks said that all these institutions were developing programmes aimed at small businesses. These included a programme for lending to NGOs and banks, a manufacturing technology programme, a fund to boost competitiveness in South African business and industry, and a programme for strengthening business associations.⁴ [⁴ Ibid]

In its macro-economic strategy document *Growth, Employment and Redistribution*, published in June 1996, the government said that SMMEs were a key element in its strategy for employment creation and income generation. A major effort would be made to implement the policies outlined in the white paper

on the development and promotion of small business (see 1995/96 Survey, p155). The simplified regional industrial development programme would be continued in a modified form as a grant programme tailored to the needs of small and medium enterprises. However, targets for the development and promotion of small businesses were not set out in the strategy document.⁵ [⁵ Department of Finance, *Growth, Employment and Redistribution*, June 1996]

In July 1996 the minister of public works, Mr Jeff Radebe, said that the government was restructuring 'unfair' public sector procurement policies which hampered small business in gaining access to mainstream projects funded by the public sector. Black-owned SMMEs had been particularly disadvantaged through poor access to information on government contracting opportunities, tender and contract conditions, he said.⁶ [⁶ *The Star* 25 July 1996]

The chief director of the State Tender Board, Mr Jan Breytenbach, said that the government was 'unbundling contracts into smaller and more manageable entities'. If a larger company was given a 90% tender for a project, the other 10% should be given to SMMEs.⁷ [⁷ *Ibid*] Mr Breytenbach said that a task team had been appointed to review the state's procurement policies.⁸ [⁸ *Business Bulletin of the Cape Chamber of Commerce and Industry*, 23 October 1996]

In August 1996 the head of marketing and business linkages at Nepa, Ms Sizeka Rensburg, called for the government to set procurement targets in order to encourage parastatals to buy goods and services from small business. She said that small businesses should organise themselves into joint ventures to strike procurement contracts.⁹ [⁹ *The Star* 2 August 1996]

In the following month the minister of trade and industry, Mr Alec Erwin, said that the government was prepared to offer nonfinancial backing to small businesses and help create an environment conducive to opportunities for small businesses through legislative changes. The government was not prepared to provide emerging business with financial subsidies, although it was in favour of finance at 'favourable rates'. He said that eventually, emerging business would have to 'learn to live' with market rates.¹⁰ [¹⁰ *Ibid* 4 September 1996]

In October 1996 the chief executive of the National Small Business Council, Mr Monde Tabata, said that the council would work closely with chambers of business in representing the interests of small business. It was, however, not a lending body though it would offer several services, including information on finance and joint ventures, training and other related services.¹¹ [¹¹ *Sowetan* 31 October 1996]

Provincial Government

The premier of **Mpumalanga**, Mr Mathews Phosa, said in May 1996 that his government's Department of Economic Affairs and Tourism had been working on a business plan to ensure maximum participation by small business. Mr Phosa called on the national government to consider relaxing border regulations

to encourage the small business sector to make use of opportunities in neighbouring countries.¹² [¹² *Business Day* 3 May 1996] He said that SMMEs could play a role in the export route that South Africa was developing from Gauteng to Maputo harbour in Mozambique.¹³ [¹³ *Ibid*]

In September 1996 the MEC for economic affairs and tourism in **KwaZulu-Natal**, Mr Jacob Zuma, told a conference of the National African Federated Chamber of Commerce and Industry that his government remained committed to transforming proposed development nodes around KwaZulu-Natal into black economic empowerment opportunities.¹⁴ [¹⁴ *Ibid* 4 September 1996] At the same conference, the premier of KwaZulu-Natal, Dr Frank Mdlalose, said that his government viewed the coming allocation of casino licences as an ideal opportunity for black business to participate in joint ventures with established gaming institutions. His government intended to address imbalances in the awarding of government tenders and was considering how it could 'grow the share and value of tenders allocated to the emergent black business sector', he said.¹⁵ [¹⁵ *The Mercury* 2 September 1996] In October 1996 the MEC for transport in KwaZulu-Natal, Mr Sibusiso Ndebele, said that the provincial government was considering awarding long-term contracts in the transport field to emergent contractors in the hope that financial institutions would grant them loans. He said that his department was committed to programmes which were 'race and gender-affirmative'.¹⁶ [¹⁶ *The Natal Witness* 2 October 1996]

In the same month the premier of the **North West**, Mr Popo Molefe, said that his government would take smaller businesses and subcontractors into account in granting contracts, especially in remote places. This would be done through reforming the tender process.¹⁷ [¹⁷ *Beeld* 10 October 1996]

Legislation

Marketing of Agricultural Products Act of 1996

The Marketing of Agricultural Products Act, promulgated in December 1996, set a 13-month timetable for dismantling the remaining control boards and provided for a national agricultural marketing council to advise the minister of agriculture.¹⁸ [¹⁸ *Government Gazette* no 17711, 31 December 1996] Introducing the bill in the National Assembly, the minister for agriculture and land affairs, Mr Derek Hanekom, said that the days of single-channel marketing, fixed prices and control board domination were over. He said that the 'statutory marginalisation' of marketing opportunities for small farmers had been allowed to exist for far too long and the act would bring an end to 'this untenable situation'.¹⁹ [¹⁹ *Business Day* 19 October 1996] The president of the South African Agricultural Union (SAAU), Mr Chris du Toit, said that the new act had the full support of the SAAU.²⁰ [²⁰ *Farmer's Weekly* 5 July 1996]

Labour Relations Act of 1995

In November 1996 the minister of labour, Mr Tito Mboweni, announced the implementation of the

Labour Relations Act of 1995 (see chapter on *Employment and Industrial Relations* and 1995/96 Survey, pp284–299).²¹ [²¹ *The Star* 12 November 1996] Inter alia, the act provided for the minister of labour to extend the terms of a collective agreement to bind non-parties to the agreement. In practice this means that bargaining councils (which are generally dominated by larger firms and trade unions) can impose minimum wage regulations on small employers. Small businesses could, however, apply to an independent body for exemption. The secretary of the KwaZulu-Natal branch of the Institute of Directors in Southern Africa, Mr Vernon O’Connell, warned of a threat of closures among small businesses. Small businesses would be adversely affected because they generally lacked access to labour expertise and were not adequately represented on employer bodies. The move to central bargaining also ‘inevitably presented problems for small businesses since they simply could not afford the higher wages agreed centrally’.²² [²² *Ibid* September 1996]

The act was also criticised by the director of the Small Business Project, Ms Chris Darroll (see *Business organisations* below), who said that the extension of industrial council agreements to non-parties was ‘totally unacceptable’. She said that the exemption procedure would mean ‘having to apply to a whole new bureaucracy’ and called for the automatic exemption from industrial council agreements of all small, medium and micro-enterprises (SMMEs).²³ [²³ *Enterprise* October 1996] In October 1996 the Labour Relations Second Amendment Bill, a private member’s bill from a senator of the Democratic Party, Mr James Selfe, which would have exempted small businesses from the extension of bargaining council agreements unless such businesses requested inclusion, was blocked by the Select Committee on Private Members’ Legislative Proposals and Petitions from introduction into Parliament.²⁴ [²⁴ **Fast Facts** No 12 1996]

The executive director of the Confederation of Employers of Southern Africa, Mr Hein van der Walt, said that the extension of industrial council agreements to non-parties was unconstitutional because it violated the rights to freedom of association and economic activity.²⁵ [²⁵ *Enterprise* October 1996]

National Small Business Act of 1996

The National Small Business Act, promulgated in November 1996, defined a small business as a separate and distinct entity (including a co-operative enterprise or nongovernmental organisation(NGO)) managed by one owner or more which, with its branches or subsidiaries, carried out its activities predominantly in certain prescribed sectors or subsectors of the economy and which fell within prescribed parameters (see table below). In a schedule the act classified small business by economic sector as medium, small, very small, or micro, according to certain criteria (number of employees, turnover, and asset value). The act defined a small business organisation as an entity consisting mainly of people carrying on small business concerns in any economic sector, or which had been formed with the purpose of representing or promoting the interests of small business concerns. This included any federation consisting wholly or partly of such an association and also any branch of such an organisation.²⁶ [²⁶ *Government Gazette* no 17612, 27 November 1996]

The table below illustrates the criteria in the schedule to classify small enterprises:²⁷ [27 Ibid]

Classification of small business

Sector or subsector

Size

Total full-time paid employees Fewer than

Total annual turnover Less than R

TotAgriculture

Medium

100

4,00m

4,00m

Small

50

2,00m

2,00m

Very small

10

0,40m

0,40m

Micro

5

0,15m

0,10m

Mining and quarrying

Medium

200

30,00m

18,00m

Small

50

7,50m

4,50m

Very small

20

3,00m

1,80m

Micro

5

0,15m

0,10m

Manufacturing

Medium

200

40,00m

15,00m

Small

50

10,00m

3,75m

Very small

20

4,00m

1,50m

Micro

5

0,15m

0,10m

Electricity, gas and water

Medium

200

40,00m

15,00m

Small

50

10,00m

3,75m

Very small

20

4,00m

1,50m

Micro

5

0,15m

0,10m

Construction

Medium

200

20,00m

4,00m

Small

50

5,00m

1,00m

Very small

20

2,00m

0,40m

Micro

5

0,15m

0,10m

Retail and motor trade and repair services

Medium

100

30,00m

5,00m

Small

50

15,00m

2,50m

Very small

10

3,00m

0,50m

Micro

5

0,15m

0,10m

Wholesale trade, commercial agents and allied services

Medium

100

50,00m

8,00m

Small

50

25,00m

4,00m

Very small

10

5,00m

0,50m

Micro

5

0,15m

0,10m

Catering, accommodation and other trade

Medium

100

10,00m

2,00m

Small

50

5,00m

1,00m

Very small

10

1,00m

0,20m

Micro

5

0,15m

0,10m

Transport, storage and communications

Medium

100

20,00m

5,00m

Small

50

10,00m

2,50m

Very small

10

2,00m

0,50m

Micro

5

0,15m

0,10m

Financial and business services

Medium

100

20,00m

4,00m

Small

50

10,00m

2,00m

Very small

10

2,00m

0,40m

Micro

5

0,15m

0,10m

Community, social and personal services

Medium

100

10,00m

5,00m

Small

50

5,00m
2,50m
Very small
10
1,00m
0,50m
Micro
5
0,15m
0,10m

The minister of trade and industry could change the criteria in the schedule by regulation in order to take account of inflation, macro-economic shifts in the economy, legislation affecting small business, and any other matter which could have an effect on the functionality of the schedule.

The memorandum to the bill said that the various classifications were necessary in order to provide clarity as to which enterprises qualified for government assistance for small business. The classification would also help the setting of policy for a particular class of small business.²⁸ [28 National Small Business Bill, B96-96] If an enterprise's workers increased or its turnover went up then it could fall into another class and would consequently qualify for government assistance appropriate to that class.

The act also dealt with the establishment of a National Small Business Council (NSBC) as a statutory body. The council would promote the interests of small businesses and advise national, provincial and local governments on social and economic policy affecting them. The council would comprise two representatives from each of the nine provincial small business councils and not more than five other people in a representative or expert capacity. The council would be funded by Parliament and other sources, including business and donor organisations.²⁹ [29 *Government Gazette* no 17612, 27 November 1996] The act provided for a national co-ordinator to be appointed by the minister of trade and industry after consultation with the council.

In addition, the legislation provided for the establishment of the Ntsika Enterprise Promotion Agency

(Nepa) as a statutory body to assist small business.³⁰ [³⁰ Ibid] The main functions of Nepa were:³¹ [³¹ Department of Trade and Industry, annual report 1995]

- to expand, co-ordinate and monitor the provision of training, advice, counselling and any other nonfinancial services to small business;
- to provide financial support to service providers that provide services to small business;
- to consult with the government in order to facilitate access by small business to raw material and other products and to markets for their products and services;
- to formulate and co-ordinate a national programme of policy research, collection and dissemination of information concerning small business;
- to investigate at the request of the director general of trade and industry, the effect of legislation on small business; and
- to make recommendations to organs of government on policy affecting small business.

The NSBC and Nepa were established as section 21 companies on the initiative of the DTI in December 1995. Once the National Small Business Act was promulgated they were converted into statutory bodies.³² [³² *The Citizen* 17 October 1996]

Developments

At the end of 1995 the Centre for Small Business Promotion (CSBP), the National Small Business Council, the Ntsika Enterprise Promotion Agency (see *Legislation* above) and Khula Enterprise Finance were created as part of the Department of Trade and Industry to support small business (see 1995/96 Survey, pp155–157).³³ [³³ *Business Bulletin of the Cape Chamber of Commerce and Industry*, 1 July 1996] Khula Enterprise Finance would provide a number of financial products, including loans and a national credit guarantee fund to institutions such as NGOs, commercial banks and development corporations that financed small, medium and micro-enterprises (SMMEs). The fund would help SMMEs obtain bank loans as the state would assume some of the risk.³⁴ [³⁴ *Financial Mail* 19 April 1996]

In February 1996 the Department of Public Works said that all tender documents would be in English rather than Afrikaans in an attempt to involve more small black businesses in the process. A spokesman for the department said that provision would be made for people who wanted documents in other languages, including Afrikaans, and that tender advice centres would be instituted to help people with technical language and to simplify tender forms.³⁵ [³⁵ *Business Day* 16 February 1996]

In July 1996 the departments of trade and industry, and public works co-hosted a trade exhibition called 'Enterprise Africa' at the World Trade Centre. The chief director of the CSBP, Dr Alistair Ruiters, said the exhibition was aimed at helping SMMEs to gain access to new markets through bringing them, the public sector, the private sector and various small business intermediaries together.³⁶ [³⁶ *Enterprise* June 1996] The minister of trade and industry, Mr Alec Erwin, said that the exhibition represented a co-ordinated attempt by the government to deliver tangible results for small business.³⁷ [³⁷ *African Business* June 1996] The minister of public works, Mr Jeff Radebe, said that SMMEs were an important force in generating jobs but that this would not come about through market forces alone and it was therefore important to have conscious and proactive state intervention.³⁸ [³⁸ *Ibid*]

In May 1996 the MEC for economic affairs and the reconstruction and development programme in the Western Cape, the Rev Chris Nissen, said that few contracts from the provincial government appeared to be reaching black entrepreneurs. His department's role was to inform other departments about potential bidders among SMMEs and to monitor to what extent they were awarded to small businesses, particularly those from disadvantaged communities.³⁹ [³⁹ *Saturday Argus* 25 May 1996] Mr Nissen said that his department was working with big business and the Business Opportunity Network (an organisation that facilitates linkages between small business and big business) to arrange for smaller businesses to be included in contracts.⁴⁰ [⁴⁰ *Ibid*]

In June 1996 the chairwoman of the Gauteng Tender Board, Dr Danisa Baloyi, said that after March 1996 the Gauteng government had begun a process of increasing the number of tenders to SMMEs. She said that emerging black businesses were starting to gain confidence in the tendering system. The board would investigate setting aside a portion of government contracts for SMMEs.⁴¹ [⁴¹ *Business Day* 4 June 1996]

In December 1996 the MEC for economic affairs in the Eastern Cape, Mr Smuts Ngonyama, launched the Centre for Investment and Marketing to help boost business in the province. The government-funded centre would provide market information and support for business, including small business. Mr Ngonyama said that the province had already invested about R50m in SMMEs, creating some 12 000 new jobs.⁴² [⁴² *The Citizen* 9 December 1996]

BLACK BUSINESS

In November 1994 there were eight black-led companies with a market capitalisation of R3,5bn listed on the Johannesburg Stock Exchange (JSE).⁴³ [⁴³ *Business Day* 20 December 1996] By May 1995 the numbers had increased to 11 such companies with a market capitalisation of R4,3bn (see 1995/96 Survey, p158). In April 1996 the president of the JSE, Mr Roy Andersen, said that there were currently 14 black-led businesses listed on the JSE with a combined value of over R8bn.⁴⁴ [⁴⁴ *New Nation* 19 April 1996] By the end of 1996 there were 17 black-led companies with a market capitalisation of R26,5bn listed on the

exchange.⁴⁵ [⁴⁵ *Business Day* 15 January 1997]

The proportion of the franchise market held by Africans in 1995 was 5%. Indians had 3%, coloured people 1%, and whites 91%. In October 1996 a survey on franchising by Parker Gordon Associates (a business consultancy) concluded that whites held the greatest number of franchises in South Africa with 86,2%, followed by Africans with 6,5%, Indians with 5,2% and coloured people with 2,1%.⁴⁶ [⁴⁶ *The Citizen* 15 October 1996] The consultancy said that it had identified 212 franchised systems operating in the country with a total of 11 702 franchised outlets (an average of 55 outlets per franchised system).⁴⁷ [⁴⁷ Fax correspondence from Parker Gordon Associates, 31 January 1997]

The total turnover of franchises in the 1994/95 financial year was R12,6bn and this amount increased by 60% to R21,2bn in the 1995/96 financial year, Parker Gordon Associates said. These figures excluded petroleum retail figures.⁴⁸ [⁴⁸ *The Citizen* 15 October 1996]

Policy

In February 1996 the minister of public works, Mr Jeff Radebe, announced that lucrative government contracts which were previously awarded to 'a handful of white-controlled companies' would be made available to black businesses. A strong emphasis would be placed on whether tendering companies had effective affirmative action programmes before contracts were awarded. The state tendering system had been overhauled and simplified to make it more accessible to small business and the new strategy to be employed with state tenders would facilitate joint ventures and partnerships between black enterprises and established companies.⁴⁹ [⁴⁹ *New Nation* 16 February 1996] Small businesses previously disadvantaged by unfair discrimination would be given preference for public works contracts of less than R2m. Mr Radebe said that a 30-day period would be enforced as the maximum for payment to government contractors.⁵⁰ [⁵⁰ *Business Day* 14 February 1996] (The move followed complaints by small businesses that they were being paid months after they had completed government jobs and that this had been placing an unnecessary financial burden on their businesses.) Mr Radebe also announced that government tender advice centres would be established throughout the country and that the government would assist in compiling and disseminating tender information in a simplified form.⁵¹ [⁵¹ *Ibid*]

A strategy document for state tendering, published in May 1996, proposed a points system (see below) for tenderers, based on the use of local resources and equity shareholding. Affirmative action principles, labour-intensive construction, and involvement in development programmes were also among the criteria that contractors would have to meet. The document proposed that the government pay a premium of up to 17,65% over and above the lowest tenderer to contractors meeting the criteria. It proposed a review of the state's database of suppliers with the view to incorporating small, medium and microenterprises. The state should also waive the need for security on contracts of less than R100 000 in order to facilitate the entry of emerging contractors into the construction industry. A price preference system on contracts of less than R2m was being considered, whereby preference would be given to

tenders from businesses which focused on black economic empowerment, equity shareholding and joint ventures. A procurement ombudsman would be appointed to intervene on complaints from business about the state tendering system, while state tender requirements would be simplified. Early payment cycles would be introduced to assist emerging contractors with cash flow problems, with 30 days as the maximum payment period. Interest would be payable on late payments where the supplier was not responsible, the document proposed.⁵² [⁵² Ibid 13 May 1996]

In September 1996 a new tender system was approved by the minister of finance, Mr Trevor Manuel, for contracts worth less than R2m. The new scheme was based on a points system whereby the tender price would count for 88 points out of 100 while an additional ten points would be given to companies owned by 'historically disadvantaged groups'. A further two points would be added if they had substantial female representation on their boards. Mr Manuel also approved a tender policy for the Department of Trade and Industry that made provision for ten points to be allocated to companies that complied with the principles of the reconstruction and development programme (see 1995/96 Survey, p561). The security guarantee provision for contracts below R100 000 was scrapped and guarantees for bigger contracts were relaxed. For building contracts of less than R1m a guarantee of 2,5% of the value of the contract would be necessary while a guarantee of 5% would be needed for contracts of more than R1m. A guarantee of 10% would be necessary for all larger contracts. State departments were instructed to gather information on small businesses and to approach them when they wanted to make purchases of less than R20000. They were also directed to make their contractual requirements in the smallest possible units so as to enable small businesses to bid for them.⁵³ [⁵³ *Beeld* 12 September 1996]

In April 1997 Mr Manuel introduced a green paper on procurement policy which proposed changes to the state's tendering system to make state tenders more accessible to small and medium enterprises.⁵⁴ [⁵⁴ *Business Day* 11 April 1997]

Earlier, in June 1996 the government agreed to reopen the pilot roster after a number of associations representing the various professions in the construction industry requested that it reconsider the criteria required to qualify. The roster had been launched in 1995 as a mechanism for channelling government contracts to 'previously disadvantaged' firms (see 1995/96 Survey, p268). The shortage of black professionals meant that there were not many small and medium enterprises which could qualify for the roster—the roster allocated a large number of points for black equity in firms.⁵⁵ [⁵⁵ *The Star* 29 July 1996]

In the same month Professor Louise Tager, the chairwoman of Transnet (the state-owned transport group), said that the group's procurement policy would seek to ensure that half its goods and services were acquired from blacks, women and the disabled. Professor Tager said that conscious efforts had already been made to use the services of black professionals, including lawyers, chartered accountants, engineers, architects and land surveyors. Transnet bought R9bn worth of goods and services annually, some of which were put out to tender. The group's tender board was being reconstituted and a new chairman would be appointed, she added.⁵⁶ [⁵⁶ *Business Day* 5 June 1996] In October 1996 an executive director of Transnet, Ms Gloria Serobe, said that Transnet had waived normal procedures in awarding a

large scrap metal contract to Xisaka—a black-owned scrap metal company in which the South African Railway and Harbours Workers' Union had a stake—in order to promote black economic empowerment.⁵⁷ [⁵⁷ Ibid 29 October 1996]

In August 1996 Telkom, the government-owned telecommunications company, announced that it was seeking to increase the number of contracts awarded to black empowerment ventures. Mr Mike Nkosi, the person responsible for economic empowerment at Telkom, said that he was exploring ways of overcoming obstacles for black-owned companies wanting to supply Telkom. In evaluating future bids from Telkom's traditional suppliers, the company would take into account issues such as the proportion of black shareholding (not only directorships).⁵⁸ [⁵⁸ *Sowetan* 20 August 1996] Sub-contracting and outsourcing to black-owned companies and professionals, affirmative action in the company and community upliftment plans would also be considered, he added.⁵⁹ [⁵⁹ *Business Day* 14 August 1996]

Developments

In an address to the Black Management Forum in November 1995 the president, Mr Nelson Mandela, said that the government could ensure that business opportunities presented themselves to black business only by encouraging foreign investors and established sectors of South African business to engage in joint ventures with emerging business. In order to seize these opportunities, however, black business had to 'act with boldness', he warned.⁶⁰ [⁶⁰ *Enterprise* February 1996]

In March 1996 the chairman of Corporate Africa, Dr Nthato Motlana, said that black businesses should be accorded a chance of meaningful participation in the Johannesburg Stock Exchange (JSE) if South Africa's economy was to be built on a 'solid foundation'. He pointed out that black companies still held only 2% of the market capitalisation on the JSE.⁶¹ [⁶¹ *New Nation* 1 March 1996] By the end of 1996 black companies held about 10% of the market capitalisation on the JSE with 17 companies listed.⁶² [⁶² *The Star* 16 January 1997]

In April 1996 the minister of public works, Mr Jeff Radebe, said that black consultants had already begun to benefit from the pilot roster system launched in September 1995 to ensure that black consultancy groups gained access to state contracts. He said that more than 50 black firms had been granted consultancy contracts.⁶³ [⁶³ *Sowetan* 22 April 1996]

In July 1996 the minister of transport, Mr Mac Maharaj, urged black businessmen to co-operate with each other in order to improve their chances of securing government tenders for large-scale infrastructural projects. He said that there was minimal black participation in the government's 150 development projects. Black businesses would have to form partnerships among themselves and with local big business and foreign companies if they wanted to become meaningful players in government projects.⁶⁴ [⁶⁴ *The Star* 5 July 1996]

The roster system was, however, earlier criticised by the Association of Black Architects (ABA) and the Science and Engineering Academy of South Africa (Seasa). The president of ABA, Mr Peter Melefone, said that his organisation objected to the stipulation which said that firms would be awarded consultancy contracts on the basis of their proximity to projects. ABA also did not agree with a recommendation that firms should be appointed on a joint venture basis in projects where the estimated value of a consultancy contract exceeded R2,5m. ABA felt that projects should be allocated according to individual firms' experience and abilities and that firms should be able to compete for contracts anywhere in South Africa.⁶⁵ [⁶⁵ *Sowetan* 28 March 1996] The president of Seasa, Dr Gordon Sibiyi, said that the format of invitations to make submissions for tenders to the government was very complicated, which had led to the roster system's failing to reach out to black professionals as intended.⁶⁶ [⁶⁶ *Ibid*]

In February 1997 the director of architectural services in the Department of Public Works, Mr Gerard Damstra, said that the department favoured extending the pilot roster system beyond its July 1997 deadline and had applied to the State Tender Board in this regard. The system had already provided work for 328 qualifying architectural, engineering and quantity surveying firms, he said. However, the department had not decided on the form that the extended system would take.⁶⁷ [⁶⁷ *Business Day* 5 February 1997]

The president of the Association of South African Quantity Surveyors, Mr Koos Klopper, said in the same month that most of his association's 2 500 members worked in small practices and had failed to qualify for the pilot roster system as they could not afford to employ black professionals, or had been handicapped by the shortage of registered black quantity surveyors. He said that he intended to meet Mr Radebe to discuss the introduction of a new roster system.⁶⁸ [⁶⁸ *Ibid*]

In April 1996 Mr Radebe said that the government would investigate measures to ensure that black-led publications benefited from the restructuring of the tender process. The government would review how its advertising agents executed their briefs.⁶⁹ [⁶⁹ *Ibid* 3 April 1996] The pledge followed a meeting with editors of black magazines and newspapers in which they asked Mr Radebe to commit at least 20% of government advertising to community newspapers, black-controlled publications and publications serving the black community. The meeting agreed that the editors and the government would set up a joint monitoring team to review government advertising allocations at regular intervals.⁷⁰ [⁷⁰ *Ibid*]

In August 1996 a black-owned accounting services firm, Nkonki, Sizwe, Ntsaluba and Ebony Financial Services, said that the government was not generally following the example of black-owned companies and parastatals in taking on black auditors. The firm said that less than 2% of the national budget for consultancy had been allocated to black accounting firms. Black-controlled firms such as New Africa Investments, Real Africa Investments (Real) and Worldwide African Investment Holdings had taken on black auditing firms, as had Eskom, KwaZulu-Natal Transport, Telkom and Transnet.⁷¹ [⁷¹ *Ibid* 30 August 1996]

Successes and Failures

In April 1996 Mathomo, a black-controlled retail group with a turnover of R135m, was listed on the JSE. The group's major shareholders were the Mineworkers' Investment Company (an investment vehicle for the National Union of Mineworkers), the Charne Group (a family business involved in the clothing industry) and Standard Corporate and Merchant Bank. Mathomo had 85 stores countrywide at the time of writing.⁷² [⁷² *The Star* 28 March 1996; *African Business* June 1996]

The Safrican Insurance Company (Safrian) increased its turnover from R45,5m in the year ending in December 1994 to R82m in the financial year ending in March 1996. Insaka, a consortium of black investors in which Thebe Investment Corporation (Thebe) was the major shareholder, had a 51% share in Safrican.⁷³ [⁷³ *Business Day* 29 May 1996]

In May 1996 Community Bank, a black-led bank launched in 1994 to provide loan capital for low-cost housing, was placed under curatorship. The registrar of banks, Mr Christo Wiese, said that the bank had gone into curatorship because its backers—the Development Bank of Southern Africa, the Industrial Development Corporation, the Independent Development Trust and several major banks—had refused to come to its assistance in a liquidity crisis.⁷⁴ [⁷⁴ *Saturday Star* 18 May 1996] The bank was, however, rescued in October. Community Bank would now operate as a wholly owned subsidiary of Unibank, the curator of the bank, Mr Stewart Patterson, said.⁷⁵ [⁷⁵ *Business Day* 23 October 1996]

Kagiso Khulani Supervision Food Services, a subsidiary of Kagiso Trust Investments (KTI), announced in May 1996 that it had increased its turnover by about 25% to R447m in the 1995/96 financial year. During the year the company won contracts to supply meals at several universities, including those of Cape Town, the North West and Stellenbosch. The director of business development at the company, Mr Zuzi Buthelezi, said that its immediate aim was to dominate the tertiary education market.⁷⁶ [⁷⁶ *Sowetan* 20 May 1996]

In July 1996 KTI signed an agreement with Crown Agents, one of Britain's leading developmental organisations, to co-operate on business and developmental projects. Crown Agents was involved with Japanese aid programmes worth US\$1bn in sub-Saharan Africa

Also in July 1996, SA Express, a black-controlled airline formed by a partnership between Thebe (51%) and South African Airways (SAA) (49%) in 1995, said that it was planning to expand its routes to include destinations not covered by SAA. The company's main focus was the servicing of small towns in South Africa.⁷⁹ [⁷⁹ *Business Day* 31 July 1996] SA Express had assets of R600m and a turnover of R250m in 1996.⁸⁰ [⁸⁰ *Sowetan* 29 July 1996]

In August 1996 African Bank was relaunched after having been placed under curatorship in September 1995 (see 1995/96 Survey, p160). The curatorship was terminated in April 1996 after the bank was rescued when the government and several other new shareholders stepped in. The new shareholders were Natal Building Society (38%), New Africa Investments (21%), Metropolitan Life (21%) and the

government (15%). The remaining 5% was spread among individual black investors.⁸¹ [⁸¹ Ibid 1 April, 30 August 1996] The managing director of the bank, Mr Colin Franks, said that it would embark on a strategy of rural expansion as part of its repositioning plan.⁸² [⁸² Ibid 30 August 1996]

Kilimanjaro Investments, a bottling company, announced in September 1996 that it had increased its income by 23% to R6,4m in the year to June 1996. The company and Kunene Brothers (see 1995/96 Survey, p164) said that they were considering a joint venture to buy a stake in Amalgamated Beverages Industries, a bottler of Coca Cola.⁸³ [⁸³ *Business Day* 27 September 1996]

Major New Ventures

In March 1996 Times Media Limited (TML) agreed to sell a 30% stake, worth R12m, in its Port Elizabeth newspapers to Eastern Province Media Trust (EPMT), a black business consortium. A new company, Times Media Eastern Cape, was formed to own the *Eastern Province Herald*, the *Evening Post*, the *Weekend Post*, *Our Times* and *Algoa Sun*. TML said that it would consider any future request by EPMT to increase its shareholding to 49%.⁸⁴ [⁸⁴ *The Citizen* 26 March 1996]

In the same month Thebe acquired sole ownership of Bhekisizwe Computer Systems (a company with a R30m turnover) when it acquired Persetel Holding's 49% share in the company for an undisclosed sum.⁸⁵ [⁸⁵ *The Star* 5 March 1996]

Africa Truck and Bus, a black-controlled commercial-vehicle dealership, was created in March 1996 through a joint venture between MAN Truck and Bus (MAN), the Foundation for African Business and Consumer Services (Fabcos), the National African Federated Chamber of Commerce and Industry (Nafcoc) and Baobab Solid Growth, an investment company. Nafcoc, Fabcos and MAN each held a 30% share while Baobab Solid Growth held the remaining 10%. The deputy chairman of Africa Truck and Bus, Mr Wolf Meurer, said that the company aimed to develop a black-owned and -run professional dealership for MAN products within the next three to five years.⁸⁶ [⁸⁶ Ibid 21 March 1996]

Also in March 1996 Dynamo Investments, an investment group chaired by Dr Oscar Dhlomo, bought a 15% stake in the dairy products company Clover South Africa for R87,8m.⁸⁷ [⁸⁷ Ibid 13 March 1996]

In May 1996 Worldwide African Investment Holdings (Worldwide) acquired a 5% share in Bid Corporation (Bidcorp), the pyramid holding company for the Bidvest group, with holdings worth about R4,4bn. The chairman of Worldwide, Professor Wiseman Nkuhlu, said that his group had paid 'market value' for the stake, which was worth about R90m on the JSE at the time. Bidcorp owned 71% of Bidvest.⁸⁸ [⁸⁸ *Business Day* 31 May 1996] In August 1996 Worldwide also paid R228m to increase its 5% share in Plessey, a telecommunications and electronics company with a R1bn turnover, to 26%. This gave it joint control of the company with Sankorp, which also held a 26% share.⁸⁹ [⁸⁹ *Cape Times* 8 August 1996]

Also in May, Vuna Industrial Holdings (Vuna), the industrial arm of Thebe, bought a 20% stake in a medical supplies group, Macmed Health Care, for R54,4m. The chief executive officer of Vuna, Mr Yaseen Bhayat, said that Vuna intended to become a leading player in South Africa's health care market.⁹⁰ [⁹⁰ *The Star* 17 May 1996] In August 1996 Vuna acquired a 10% interest in the information technology company International Computers Limited South Africa, with an option to purchase a further 15%⁹¹ [⁹¹ *Beeld* 30 August 1996] and in November 1996 it formed a new engineering company, Vuna Group Five Technologies, with Group Five Engineering. Vuna owned 51% of the shares in the new company, Group Five holding the remainder. The company would focus on electrical projects in the building industry.⁹² [⁹² *Ibid* 1 November 1996]

In June 1996 four financial consultancies (Ebony Financial Services, Nkonki and Nkonki Chartered Accountants, Ntsaluba Incorporated Chartered Accountants, and Sizwe and Company) amalgamated to form Nkonki, Sizwe, Ntsaluba and Ebony Financial Services, one of the largest black-controlled auditing firms in the country.⁹³ [⁹³ *Sowetan* 6 June 1996]

In June 1996 Capital Alliance (a financial services group whose shareholders included the Mineworkers' Social and Benefit Investment Company and the South African Clothing and Textile Workers' Union Investment Group) took control of Saflife, a listed life insurance group, through a consortium led by Mr Mzi Khumalo, chief executive of Capital Alliance. Saflife was the holding company for Amalgamated General Assurance Holdings, which in terms of the agreement would wholly own Capital Alliance and NDH Bank. The new group had a market capitalisation value of more than R1bn.⁹⁴ [⁹⁴ *Business Day* 21 June 1996]

In June 1996 Fabcos, which owned 51% of Fabfoods, a contract catering company, acquired the remaining 49% of the company's equity from Fedics Food Services.⁹⁵ [⁹⁵ *Sowetan* 21 June 1996]

In July 1996 Real and Sanlam joined forces to form a new asset management company, Real Africa Asset Management Company. Real would hold 51% of the new company and Sanlam the other 49%. The company began business with R1bn worth of assets under management.⁹⁶ [⁹⁶ *The Star* 5 July 1996] Real also concluded a deal which resulted in its acquiring a 50% stake in Durolink, a specialised structured finance and corporate finance transaction house, for R11m. The managing director of Durolink, Mr Michael Bolton, said that Durolink intended to apply for a banking licence and listing on the JSE in due course.⁹⁷ [⁹⁷ *The Citizen* 30 July 1996]

Omar Sharif Gauteng, a joint venture company consisting of Omar Sharif Southern Africa, the Soweto Sports and Cultural Foundation, and Hotel and Leisure Concepts International (Holco), announced in July 1997 that it would bid for a licence to build a R2bn casino and sports complex in Soweto. The Soweto Sports and Cultural Foundation would own 47% of the venture, Omar Sharif Southern Africa 33% and Holco 20%.⁹⁸ [⁹⁸ *The Star* 5 July 1996]

Kagiso Publishers, a subsidiary of KTI, announced in July 1996 that it had purchased the Craft Press group for an undisclosed amount from the Bophuthatswana National Provident Fund. The group was worth about R28m.⁹⁹ [⁹⁹ *Beeld*, *Business Day* 3 July 1996]

Peu Investments, a black investment holding group, and Taylor Woodrow Construction, a British company, formed a joint venture, Taylor Woodrow South Africa, in July 1996.¹⁰⁰ [¹⁰⁰ *The Star* 10 July 1996] The company would be involved in construction, engineering and infrastructural development, including water reticulation.¹⁰¹ [¹⁰¹ *Ibid*]

In August 1996 the National Empowerment Consortium (NEC) (consisting at the time of a consortium of about 50 black-controlled companies and trade unions) announced that it had concluded an agreement with the Anglo American Corporation of South Africa (Anglo) to buy a 20% stake in Johnnies Industrial Corporation (Johnnic), an industrial holding company with shares in several major corporations including South African Breweries, Omni Media (the holding company of Times Media), the Premier Group and Toyota South Africa, at a 12% discount price.¹⁰² [¹⁰² *Business Day* 30 August 1996, *Sowetan* 22 October 1996]

The NEC was to buy the shares from Anglo, which held 47,4% of Johnnic shares.¹⁰³ [¹⁰³ *Business Day* 30 August 1996] Mr Cyril Ramaphosa, the NEC's chief negotiator, said that NEC members would raise funds from financial institutions and their own resources while the trade unions would raise the money from their pension and provident funds, which would own the shares but pass the voting rights on to the unions.¹⁰⁴ [¹⁰⁴ *The Star* 29 August 1996] The agreement allowed for the NEC to increase its share in Johnnic to 35% over a period of 18 months after the initial purchase. In addition, there was a retail offer, which the NEC would administer, of up to 6% of Johnnic to smaller black investors, including individuals. The NEC would have first option, for five years, to buy the remaining 6,4% of the shares that Anglo would hold in Johnnic.¹⁰⁵ [¹⁰⁵ *Business Day* 30 August 1996] Johnnic's board was to be reconstituted to have 20 members, half of whom would come from the NEC. The chairman would come from among the NEC's ten directors.¹⁰⁶ [¹⁰⁶ *The Star* 29 August 1996]

Part of the agreement was that individual members of the NEC would not sell their shares for two years or hold more than a 25% share in Johnnic.¹⁰⁷ [¹⁰⁷ *Business Day* 30 August 1996, *The Star* 29 August 1996] In October 1996 the NEC paid R2,7bn for a 35% stake in Johnnic rather than the initial 20% which it was required to buy in terms of the agreement with Anglo.¹⁰⁸ [¹⁰⁸ *Sunday Tribune* 27 October 1996] Fifteen organisations representing labour purchased half the shares while the other half were purchased by eight business organisations.¹⁰⁹ [¹⁰⁹ *The Sunday Independent* 27 October 1996] Mr Ramaphosa was elected chairman of Johnnic.¹¹⁰ [¹¹⁰ *Business Day* 28 October 1996]

A black-owned coal mining company, Kuyasa Mining, announced in August 1996 that it was to start operations in November 1996 in Delmas (Mpumalanga) at a mine purchased from Ingwe Mining. The

company revealed that it also had an option to purchase a larger coal deposit from a private mining company, Gefco.¹¹¹ [¹¹¹ *Sowetan* 30 August 1996]

In the same month Kagiso Publishers reached agreement with Perskor, a group with interests in the newspaper and publishing industries, which would have resulted in its becoming one of three partners controlling Perskor (the other two being Dagbreek Trust and the Rembrandt group). The three partners would have collectively held 52% of Persbel, which in turn owned 63% of Perskor.¹¹² [¹¹² *City Press* 11 August 1996] Minority shareholders in Perskor objected to the transaction on the grounds that its implementation would have disadvantaged them. Kagiso Publishers was not worth the R240m Perskor had paid for it, they said.¹¹³ [¹¹³ *Sowetan* 25 September 1996] In October 1996 a former judge, Mr Mervyn King, who was appointed to arbitrate the matter, decided in favour of the minority shareholders and said that the implementation of the agreement would have resulted in ‘an unlawful expropriation’ of shareholders’ interests. This was because implementation of the transaction would have involved the payment of substantial compensation by Perskor minorities to Dagbreek Trust.¹¹⁴ [¹¹⁴ *The Star* 22 October 1996] Mr Jan Cronjé, an assistant chief manager at Rand Acceptance Bank (the company which structured the transaction), said that the management of Kagiso and Perskor had decided to go ahead with the transaction, which would probably be completed by the end of January 1997.¹¹⁵ [¹¹⁵ *Beeld* 23 October 1996] The transaction had, however, not been completed by the end of February 1997.

Three black auditing, accounting and business consulting firms (Kgosana, Magondo, Mokgabudi, Tshikovhi and Company; M Brey and Associates; and IS Pillay and Boyd) combined to form KMMT Brey in August 1996. The combined company had a turnover of R20m, with 15 partners, between 100 and 150 professionals, and 50 support staff.¹¹⁶ [¹¹⁶ *Sowetan* 2 August 1995]

In September 1996 a new black-owned company, Kago Industries, bought a 30% stake in Analysis, Management and Systems, an electronic systems developer and manufacturer, for an undisclosed amount.¹¹⁷ [¹¹⁷ *The Citizen* 6 September 1996]

Also in September 1996, the first black-led stockbroking firm, Legae Securities, was launched on the JSE. The firm was capitalised at R3m and two of the black directors, Mr Emmanuel Ledige and Mr Ramasimong Tau, held 60% of the shares. The firm said that it would focus initially on equity agency dealings for institutional clients.¹¹⁸ [¹¹⁸ *Ibid*]

In the same month Breakwater Investments Company, a black-controlled investment company co-chaired by Mr Don Ncube, acquired a majority shareholding in the Modus Corporation, a Cape Town-based computer stationery group and one of the largest of its kind in South Africa.¹¹⁹ [¹¹⁹ *Cape Times* 12 September 1996]

In October 1996 a new black-led banking group, Citizen Bank Holdings, was founded following the merger of Bophuthatswana Building Society, Citizen Bank, Future Bank, and Thebe subsidiary Msele

Corporate and Merchant Bank (Msele). Msele said that it had the controlling interest (35%) in what it described as the country's largest black-controlled banking group with a start-up capital base of R200m. First National Bank (with a 25% shareholding) said that it would provide 'liquidity support' as the venture established itself. The remaining shares were held by black business and consumer organisations.¹²⁰ [¹²⁰ *The Star* 25 July 1996, *Sunday Times* 13 October 1996] Later in the same month the group held discussions with Unibank to merge with it. A successful merger would have resulted in Citizen Bank Holdings' assets increasing to about R2,5bn.¹²¹ [¹²¹ *Business Day* 24 October 1996] Discussions had not been concluded at the time of writing.

In November 1996 Vuna bought a 34% share in JHI Holdings, a holding company with major subsidiaries operating in the commercial and residential property fields and one of the country's biggest property services groups, in a cash and equity swop estimated at R15m.¹²² [¹²² *The Citizen* 6 November 1996]

In the same month the African Mining Group (AMG)—a black consortium led by Capital Alliance—concluded an agreement to buy a 34,9% stake in JCI (a mining finance house with gold, ferrochrome, coal and base metal interests) from Anglo for R2,88bn payable on 28th February 1997. Other consortium members included Thebe, Women's Development Bank Investment Holdings, and Co-ordinated Network Investments.¹²³ [¹²³ *Beeld* 27 November 1996, *Sunday Tribune* 1 December 1996] AMG were also guaranteed right of first refusal on Anglo's remaining 13% share in JCI. Thebe subsequently withdrew from the consortium.¹²⁴ [¹²⁴ *Sunday Tribune* 1 December 1996, *Business Day* 22 January 1997]

The deal was renegotiated after AMG failed to raise the required capital and in April 1997 a black-controlled financial services company—Saflife (see above)—financed the purchase of 30% (as opposed to the original sale offer of 34,9%) of JCI. Saflife—which controlled 47,3% of Capital Alliance—stepped in after the financial institutions which had initially agreed to finance the deal, withdrew because of the high premium (about 6% over the market price) agreed on. AMG in turn, acquired an 11% stake in Saflife, which effectively gave AMG an 11% stake in JCI. In addition, in terms of the new deal, AMG members were given an option to purchase a further 4,9% of JCI over a year at the original sale price.¹²⁵ [¹²⁵ *Business Day* 10 April 1997, 14 April 1997]

Business Organisations

The general secretary of the National African Federated Chamber of Commerce and Industry (Nafcoc), Mr Mashudu Ramano, said in April 1996 that the government should establish a black economic empowerment fund to support black consortiums that wanted to buy portions of unbundled companies or privatised parastatals. He said that he wanted the government to sell its shares in companies such as Sasol, the synthetic oil producer, and Iscor, the iron and steel maker, and use the proceeds to fund the proposed empowerment fund.¹²⁶ [¹²⁶ *Sowetan* 2 April 1996] In the same month Nafcoc published its proposals for economic growth and employment. The document, entitled *Growth and Development with Equity Strategy*, recommended three broad policies to:¹²⁷ [¹²⁷ *The Citizen* 2 April 1996]

- encourage capital formation and development;
- encourage people to invest and participate in business; and
- turn urban and rural areas into viable economic entities.

In promoting these policies Nafcoc said that the government should focus on:

- development of growing small and medium businesses;
- black economic empowerment; and
- ensuring that the established business sector continued to provide export-orientated growth.

Nafcoc reiterated its call that by 2000 (see also 1995/96 Survey, p165):¹²⁹ [¹²⁹ *Nafcoc Business Annual*, 1996]

- at least 40% of the JSE should be controlled by the black community;
- at least 30% of all listed companies' board members should be black;
- all listed companies should have at least 60% black management;
- at least 50% of these companies' outside purchases should come from black-owned suppliers and contractors; and
- at least 50% of the rand value of products and services bought by the state should be sourced from black business.

Nafcoc also argued for stronger competition policy to discourage 'anticompetitive behaviour' and to bring about 'a reduction in market dominance thus allowing new entrants'.¹³⁰ [¹³⁰ *Ibid*]

In the following month the president of Nafcoc, Mr Joe Hlongwane, said that a policy statement from the government would allow black business to lobby for empowerment, focusing on funding and the transfer of technical skill. He said that much of what was termed black economic empowerment to date had been perceived as failing to create jobs, and benefiting the few instead of the many.¹³¹ [¹³¹ *Business Day* 21 May 1996]

At Nafcoc's annual conference in Durban in September 1996, Mr Hlongwane said that more emphasis had to be given to the development of small, medium and micro-enterprises. To facilitate these changes—including the removal of certain business regulations—a flexible labour market, a lenient monetary policy and a strong new competition policy were needed, he said.¹³² [¹³² *The Mercury* 3 September 1996] Also in September, Nafcoc and the Afrikaanse Handelsinstituut signed an agreement to work towards the formulation of a single body representing business in South Africa. Mr Hlongwane said that the move was aimed at economic empowerment and promoting joint ventures between members of the two organisations. He added, however, that a slow approach would be adopted because black business feared being swallowed by the unification process while Afrikaner business feared that its culture might be eroded.¹³³ [¹³³ *Ibid* 5 September 1996]

In July 1996 ten leading black business and professional bodies, including Nafcoc, the Black Management Forum and the Foundation for African Business and Consumer Services, formed the Black Business Council to jointly lobby the government on black economic empowerment issues. The council identified a number of issues on which it planned to do such lobbying. This included the sale of South African Broadcasting Corporation radio stations and the government's omission of black asset management companies from a list of organisations earmarked to receive Public Investment Commission funds.¹³⁴ [¹³⁴ *Business Day, Sowetan* 5 July 1996]

In October 1996 the Black Editors' Forum and the Conference of Editors established the South African National Editors' Forum after agreeing to 'speak with a single voice in defence of press freedom and to jointly address injustices of the past in the media industry'. The organisation was to comprise members of the print and broadcast media, as well as representatives of interest groups and journalism educators. The chairman of the Black Editors' Forum, Mr Thami Mazwai, was elected chairman of the new organisation.¹³⁵ [¹³⁵ *Business Day, Sowetan, The Citizen* 21 October 1996]

Some of the other business organisations which emerged during the period under review, and are discussed below, were not racially based.

In January 1996 the first provincial chamber of commerce was established in Gauteng. Affiliates of the South African Chamber of Business in the province formed the Gauteng Association of Chambers of Commerce and Industry. The founding chairman of the chamber, Mr Frank Cauldwell, said that the chamber's mission was to improve communication and co-operation between business and the provincial legislature, and to act as an umbrella organisation for individual chambers in the province.¹³⁶ [¹³⁶ *The Citizen* 14 February 1996, *The Star Business Report* 26 March 1996]

In March 1996 the South African National Federation of Independent Business (Sanfib) and its associate foundation, the Small Business Project (SBP), were launched. The executive director of the SBP, Ms Chris Darroll, said that the organisation was formed to give small and independent business owners a voice in government decision making. It existed to 'champion and advocate the interests of small business owners by advancing their concerns on legislative, regulatory and policy matters'. The

federation would monitor and evaluate all legislation and regulations imposed by the government that could affect small business. The organisation would target businesses employing between five and 200 workers and expected to sign up 1 500 members in 1996.¹³⁷ [¹³⁷ *The Citizen* 22 March 1996]

Comments

The general manager of Msele Financial Holdings (a subsidiary of Thebe), Mr Litha Nyhonyha, said that he feared that black business could not be trusted to 'pick and choose only those deals which offer real economic empowerment'. He said that it was not too difficult to imagine white corporate South Africa paying substantial sums of money to get black sleeping partners, especially if company profits were dependent on government business or licences. Such payment would be an investment to guarantee future profits. The process of black economic empowerment should be audited to ensure that the deals were genuine and not just 'window dressing', he added.¹³⁸ [¹³⁸ *Enterprise* February 1996]

In May 1996 the press secretary of the Department of Trade and Industry (DTI), Mr Ismail Lagardien, said that his department could not guarantee that investors would invest in a way which would build capacity and empower blacks. A small group of black millionaires had been created overnight. This situation could lead to minority white economic domination being replaced by minority black economic domination. Mr Lagardien said that simple equity sharing or other types of 'window dressing' were short-sighted and doomed to fail. His department favoured investments which resulted in new technology, skills training and support for black entrepreneurs and business leadership.¹³⁹ [¹³⁹ *New Nation* 31 May 1996]

In May 1996 Dr Oscar Dhlomo, chairman of Dynamo Investments (a blackled investment fund) (see 1995/96 Survey, p163), said that black business needed to reach consensus on what was meant by the term 'black economic empowerment'. He said that black entrepreneurs who risked their personal finances to empower themselves by establishing companies and thus creating jobs, were being accused of enriching themselves.¹⁴⁰ [¹⁴⁰ *Business Day* 30 May 1996] Also in May, the premier of Gauteng, Mr Tokyo Sexwale, criticised the practice of white business joining with black business 'just because they want legitimacy'. He said that whites should set up new companies with blacks in which they could work together as partners rather than incorporate them into their existing large corporations. Mr Sexwale also said that blacks should begin to examine what the term 'black economic empowerment' meant.¹⁴¹ [¹⁴¹ *New Nation* 31 May 1996]

Speaking at a conference on corporate governance hosted by the Institute of Directors in Southern Africa in September 1996, the secretary general of the African National Congress and a member of the National Empowerment Consortium (see *Major new ventures* above), Mr Cyril Ramaphosa, said that by pooling resources blacks would be able to accumulate the capital which would 'overcome economic apartheid'. Blacks needed to participate in the economy as owners and equity participation was the key component of black economic strategy. Ownership of wealth-generating assets was one way to achieve this. Privatisation of government assets would open opportunities for black business. Mr Ramaphosa urged

financial institutions to 'break free' from the conservative, risk-free credo which prevented their properly assessing risk in emerging black markets.¹⁴² [¹⁴² *Business Day* 5 September 1996] Black economic empowerment was a very deliberate means to achieve participation of disadvantaged South Africans in the mainstream economy. A programme for black economic empowerment should include the substantial broadening of equity ownership, the promotion of entrepreneurship and the development of skills, Mr Ramaphosa said.¹⁴³ [¹⁴³ *Directorship* October 1996]

Speaking at the launch of the Micro Business Chamber in November 1996 the chairman of the chamber, Mr Lawrence Mavundla, said that black economic empowerment initiatives in South Africa had served to enrich only a small group of about 300 black people. He said that the white private sector had targeted a small group of black people with whom it was prepared to do business and had made them richer than they already were. He said that the sale of Johnnic assets to the NEC had done little to create new jobs.¹⁴⁴ [¹⁴⁴ *The Star* 6 November 1996]

In October 1996 a special correspondent (unnamed) for the *South African Labour Bulletin* questioned whether the benefits of the Johnnic deal would accrue to black people, thus aiding black economic advancement. The correspondent pointed out that New Africa Investments Limited (Nail), a member of the NEC, had financed its purchase of shares in Johnnic through money contributed by Metropolitan Life (an insurance company controlled by Nail).¹⁴⁵ [¹⁴⁵ *SA Labour Bulletin*, October 1996] Metropolitan Life was owned predominantly by white shareholders and thus any economic benefit from the Johnnic deal would accrue to white shareholders, the article concluded.¹⁴⁶ [¹⁴⁶ *Ibid*]

Finance

In December 1995 the Department of Trade and Industry (DTI) launched Khula Enterprise Finance (Khula), a wholesale finance provider for the small business sector with an initial capitalisation of about R250m (see *Policy* above). The then minister of trade and industry, Mr Trevor Manuel, said that Khula would lend money at roughly market-related prices. An additional R250m would come from the DTI, the Department of Finance, funds administered previously by the Small Business Development Corporation (SBDC) and the Development Bank of Southern Africa.¹⁴⁷ [¹⁴⁷ *SA Development Monitor* March 1996] In January 1997 the chief executive of Khula, Mr Sizwe Tati, said that the organisation had approved R40m worth of loans since its establishment at the end of 1995 and had already disbursed R28m of this amount.¹⁴⁸ [¹⁴⁸ *Sowetan* 23 January 1997]

In February 1996 government ministers from Lesotho, South Africa, Zambia and Zimbabwe signed a declaration of intent in which they undertook to empower small and medium-sized construction enterprises in the region. They undertook to collaborate to:¹⁴⁹ [¹⁴⁹ *Ibid* 22 February 1996]

- promote skills, business education and training in the industry;

- advocate the use of appropriate technology;
- encourage labour-based construction and material production;
- negotiate a regional pact which would define minimum working conditions for construction labour;
- co-operate in sourcing donor funds to ensure that the benefits of the declaration were shared throughout the region; and
- negotiate regional co-operation agreements between professional institutions to allow cross-border practice.

In March 1996 the managing director of the Get Ahead Foundation (Get Ahead), Mr Don MacRobert, said that the foundation had provided more than R10,7m in micro loans to grassroots entrepreneurs in 1995, enabling almost 15 000 people to establish or expand their own businesses. He said that the foundation's stokvel micro-lending programme was servicing about 24 000 people, 90% of whom were woman.¹⁵⁰ [¹⁵⁰ *SA Development Monitor* March 1996] In September 1996 Get Ahead announced that it had received R3,6m from the United States-based W K Kellogg Foundation (Kellogg). In terms of the agreement with Kellogg the funds would be used to finance stokvels. Mr MacRobert said that Get Ahead granted loans ranging from R700 to R3 000 which were distributed to micro-enterprises through stokvel associations. Get Ahead currently had more than 10 000 borrowers and aimed to create or sustain more than 50 000 jobs in 1996. The current rate for repayment of Get Ahead micro loans was 93%, he added.¹⁵¹ [¹⁵¹ *Sowetan* 9 September 1996]

In the same month the chief director of the Centre for Small Business Promotion, Dr Alistair Ruiters, said that the government could bring together close to R1bn to develop small and medium enterprises in 1996. He said that this would make the government the primary mover for small business development in the medium term.¹⁵² [¹⁵² *Business Day* 22 March 1996]

Liberty Life Association of Africa, a large insurance company, invested R50m in the Kagiso Trust's investment unit, which funded projects and acquisitions aimed at economically empowering black communities, in May 1996. The chairman of the trust, Mr Eric Molobi, said that the company had invested more than R1bn since 1986 in education, employment and infrastructure projects.¹⁵³ [¹⁵³ *The Star* 29 May 1996]

In June 1996 the Industrial Development Corporation, which offered small businesses cheap loans, said that it had loaned R613m for the year to June 1995, helping 252 small businesses. The uptake had markedly declined since then, disbursements for the nine months to March 1996 amounting to just R297m.¹⁵⁴ [¹⁵⁴ *Business Day* 7 June 1996]

A new loan scheme was launched by Trust Bank and the African Consumer Council (Acoco) in July 1996 to enable Acoco members to acquire loans of about R4 500 each to purchase shares in Acoco Mills and Bakeries. The shareholders in the company would form a chain by opening small distribution bureaus. Acoco's president, Mr Eldridge Mathebula, said that the venture would give consumers access to bigger business rather than just spaza shops.¹⁵⁵ [¹⁵⁵ *Sowetan* 17 June 1996]

In August 1996 the SBDC announced three new methods of financing directed at black entrepreneurs and aimed at improving access to capital by small and medium-sized businesses. They were:¹⁵⁶ [¹⁵⁶ *The Star* 11 August 1996]

- equity partnerships whereby the SBDC would inject risk capital into a business in return for a share in future profit and the capital appreciation of the business;
- property partnerships involving the SBDC's providing a loan to enable the business to place a deposit for its premises, with a second bond as security. The SBDC would take up a minority shareholding while the loan was being repaid at market-related rates; and
- risk partnerships under which the SBDC would take a minority shareholding in viable business with low security.

The managing director of the SBDC, Mr Jo Schwenke, said that the finance would range from R50 000 to R3m, to be repaid at market-related prices.¹⁵⁷ [¹⁵⁷ *Ibid*] He said that the SBDC had identified equity financing as an urgently needed funding mechanism as well as an empowerment tool, but stressed that the organisation would keep medium and longer-term loans as the core of its business. He added that the 'lack of black applicants for formal mainstream business loans was a problem' and the SBDC would, therefore, put more effort into encouraging black entrepreneurs to apply.¹⁵⁸ [¹⁵⁸ *Ibid*] Mr Schwenke said that of the 2 653 applicants for loans exceeding R50 000 in 1995, only 19,5% (518) were African while 68,8% (1825) were white. The rest of the applicants were coloured people (6,5%) or Indians (5,2%).¹⁵⁹ [¹⁵⁹ *Sunday Times* 28 January 1996]

From its inception in 1981 to the end of 1995, the SBDC had approved 56235 loans worth R2,3bn and had facilitated an estimated 417 000 jobs.¹⁶⁰ [¹⁶⁰ *Ibid*] In 1995 the SBDC granted 7 811 loans worth R34,7m. At least 68,5% of loans went to black entrepreneurs and 32,5% to whites. Out of the 2 653 applications for loans exceeding R50 000 for the nine months to December 1995, only 851 applications, worth about R186m, had been approved. Of these, 73,2% were from whites, 16,3% from Africans, and 5,2% each from coloured people and Indians.¹⁶¹ [¹⁶¹ *Ibid*] The government said that it would reduce its 50% share in the SBDC to 20% by 31st December 1997 and the money realised from the sale of these shares was scheduled to be transferred to the small business unit of the DTI.¹⁶² [¹⁶² Department of Trade and Industry, annual report 1995]

In September 1996 South African Breweries announced that it had given R2,6m to small businesses nationwide in its 'Kickstart 96' project, aimed at providing start-up capital to unemployed people. Candidates with suitable business proposals were given loans, after first undergoing a business training programme.¹⁶³ [¹⁶³ *The Argus* 2 September 1996]

In October 1996 the minister for public enterprises, Ms Stella Sigcau, announced that her ministry had approved in principle the creation of a national empowerment fund to allow disadvantaged communities to play a role in the privatisation of South Africa's parastatal companies. She said that the initial proposals were to establish the fund as a loan vehicle that would not have the same 'onerous conditions and high interest rates' that disadvantaged communities had to face when they dealt with formal financial institutions.¹⁶⁴ [¹⁶⁴ *Business Day* 22 October 1996] The director general of the Department of Public Enterprises, Professor Siphoshe Shabalala, said that no firm decisions had been taken on the fund's form. Contributions could be sought from the government, overseas aid organisations and companies, and the fund would either be overseen by government or managed independently. Alternatively, a portion of shares from the privatisation of state assets could be set aside for black economic empowerment.¹⁶⁵ [¹⁶⁵ *Ibid*]

Foreign Aid

In February 1996 the South African government and the government of Norway signed an agreement by which Norway pledged R32m to support South Africa's small business sector.¹⁶⁶ [¹⁶⁶ *Ibid* 13 February 1996]

In April 1996 the European Union (EU) said that it was disappointed that South African firms were not taking full advantage of its European Community Investment Partners scheme (see 1995/96 Survey, p168). Since South Africa had been admitted to the scheme in 1994 only 25 projects—worth about R22m—had been approved, the European Community's ambassador to South Africa, Mr Erwan Fouéré, said.¹⁶⁷ [¹⁶⁷ *Ibid* 29 April 1996] The EU announced in July 1996 that it would give R51,4m in aid for a programme to develop trade and investment for small and medium enterprise.¹⁶⁸ [¹⁶⁸ *The Citizen* 30 July 1996] In September 1996 the Get Ahead Foundation announced that it had received R3,6m from the United States-based W K Kellogg Foundation. In terms of the agreement with Kellogg the funds would be used to finance stokvels (see *Finance* above).¹⁶⁹ [¹⁶⁹ *Sowetan* 9 September 1996]

The National Small Business Council announced in October 1996 that it was to receive a R9m grant from a German chamber of commerce to develop its productive capacity.¹⁷⁰ [¹⁷⁰ *Ibid* 22 October 1996]

Constraints on Black Business

A study commissioned by the National African Federated Chamber of Commerce and Industry (Nafcoc) stated in July 1996 that blacks were still being prevented from entering the mainstream economy despite having gained political power. The study said that barriers to black participation in the economy

included the monopolistic and oligopolistic nature of the banking industry, discrimination against small enterprises, unfamiliarity with established business practices, high collateral and deposit requirements, the concentration of banks in predominantly white areas, and the Usury Act of 1968.¹⁷¹ [¹⁷¹ *The Star* 18 July 1996] The study said that the provision allowing individual loans of less than R6 000 to be exempt from the requirements of the act meant that lenders could charge interest rates above the maximum rates provided for in the act.

INFORMAL SECTOR

Statistics

An Eskom Omni Panel survey, commissioned by Eskom in 1995, found that Africans conducted 72% of all in-home business, whites 23%, and coloured people and Indians 2% each. The survey found that 40% of these businesses were in retail sales, 16% in liquor, 13% in clothing, 10% in services, 6% in administration, 5% in small manufacturing, 4% in transport, and 2% each in art, building and other concerns.¹⁷² [¹⁷² *Nafcoc Business Annual* 1996]

The 1995 *October Household Survey* found that there were about 1,7m people working in the informal sector in South Africa, of whom 1,3m worked for their own account. Some 77% of self-employed women in the informal sector tended to be in personal services (street vending and domestic work), while 40% of selfemployed men in the informal sector were in trade, catering and accommodation. Some 9% of males and 5% of females were involved in small-scale manufacturing. About 37% of males in the informal sector were engaged in activities such as building, house painting and woodworking, while 20% described their occupation in terms of managing or running a micro-business, for example a taxi or hawking concern (see also chapter on *Employment and Industrial Relations*).¹⁷³ [¹⁷³ Central Statistical Service, Living in]

A study by the South African Institute of Race Relations in 1996 found that a 'significant proportion' of people who claimed to be unemployed were in fact productively employed in the informal sector of the economy. Their monthly personal expenditure matched that of unskilled people in full employment. In a survey conducted by the Institute, some 30% of coloured and 21% of African 'unemployed' respondents indicated that they were working in the informal sector. The figure for Indian and white respondents was somewhat lower at 15% (see also chapter on *Employment and Industrial Relations*).¹⁷⁴ [¹⁷⁴ **Fast Facts** No 9 1996]

Hawkers

In January 1996 the Central Johannesburg Partnership (a partnership between business and government aimed at combating crime and reviving central Johannesburg) said that street hawkers in central Johannesburg sold goods estimated at R500m annually and earned an estimated R100m in profit. The executive director of the African Council for Hawkers and Informal Businesses (Achib), Mr Freddy

Monyemangene, said that his organisation's membership had grown by about 21% in 1995. Achib's members earned an average of R800 per month.¹⁷⁵ [¹⁷⁵ *The Star* 23 January 1996]

The National Hawkers' Co-operative was launched in Durban in February 1996 to buy goods in bulk and sell them at a discount to members. The co-operative's consultant, Mr Anup Singh, said that the organisation planned to recruit 20 000 members in KwaZulu-Natal and realise a share capital of some R2,5m. He said that hawkers would be able to buy shares in the co-operative and would also be eligible for loans ranging from R100 to R5000. The chairman of the co-operative, Mr Benedict Dlamini, said that the organisation planned to expand to other provinces.¹⁷⁶ [¹⁷⁶ *The Mercury* 28 February 1996]

In January 1995 Anglo American Property Services (Ampros) launched its informal trader of the month competition to reward outstanding traders. The competition was part of an Ampros project which involved demarcating areas for informal traders' stalls outside its properties. In return for a small rent (about R30), hawkers were given the exclusive right to trade outside Ampros buildings. Ampros said that the programme had met with such success that there were waiting lists at all locations. Leading property administrators in the city had requested advice on setting up similar programmes outside their buildings, Ampros added.¹⁷⁷ [¹⁷⁷ *The Star* 19 January 1995]

The Durban City Council began enforcing street trading bylaws in the Durban central business district (CBD) in January 1996. Trading was permitted only in demarcated zones and trading in West Street without permits was prohibited.¹⁷⁸ [¹⁷⁸ *Business Day* 16 January 1996]

In April 1996 the Greater Johannesburg Transitional Metropolitan Council (GJTMC) announced that bylaws would 'soon' be promulgated to control street trading in the city.¹⁷⁹ [¹⁷⁹ *The Star* 4 April 1996] At a meeting in April 1996 between the mayor of the GJTMC, Mr Isaac Mogase, and hawkers in the Johannesburg CBD, it was agreed that stringent measures would be applied to keep trading areas clean and control the influx of foreign hawkers. Every street hawker would wear an identification permit while doing business. A process would be implemented to register hawkers. Applicants for registration would have to be South African citizens or legal immigrants who had been in the country for five years and who had traded in the Gauteng area for 12 months or more; and be self-employed, a partner in a business, or earn less than R120 per week if employed. Hawkers trading on behalf of absentee bosses should be paid at least R120 per week. The meeting agreed that hawkers could continue trading until 10th June 1996, when the council would introduce the regulations.¹⁸⁰ [¹⁸⁰ *Business Day* 16 April 1996] The GJTMC, however, agreed to reconsider its proposals after hundreds of hawkers marched on the Gauteng legislature in a bid to prevent the introduction of the bylaws. They claimed that they had not been consulted on their formulation.¹⁸¹ [¹⁸¹ *The Star* 22 April 1996]

In the same month the Gauteng provincial government published draft model street trading bylaws for the province to which all local authorities would be obliged to conform when drafting their own regulations.¹⁸² [¹⁸² *Business Day* 19 April 1996] In January 1997 street trading bylaws were promulgated for

the GJTMC area. The bylaws prohibited street traders from placing their property in certain places, including roadways, except where they conducted trade from a trailer or motor vehicle. Such trailer or vehicle was prohibited from obstructing pedestrian or traffic movement. Traders' property could not cover an area of a public road or public area exceeding eight square metres unless otherwise approved by the council. A minimum space of 1,5m had to be left on sidewalks for pedestrian traffic.¹⁸³ [¹⁸³ *Provincial Gazette* (Gauteng) no 311, 8 January 1997]

Street traders were, inter alia, also prohibited from:

- displaying their goods outside a private property without the consent of the owner or occupier of the property concerned;
- obstructing a fire hydrant;
- interfering with vehicles parked alongside their places of trade; and
- trading in a portion of a public road contiguous to a building used exclusively for residential purposes if the owner or occupier of the building objected to such trading and the trader had been informed of this by an authorised official.¹⁸⁴ [¹⁸⁴ *Ibid*]

Traders or their employees who contravened the street trading bylaws would be liable to a fine (not specified) or imprisonment for a period not exceeding three months.¹⁸⁵ [¹⁸⁵ *Ibid*]

In May 1996 the South African Chamber of Hawkers and Independent Business (Sachib) announced the launch of a campaign, Operation Product Watchdog, to lobby the government to raid the warehouses of retailers who sold counterfeit goods and engaged in piracy. The campaign followed the arrest of a Sachib member who was found 'unwittingly' selling counterfeit audio tapes. Sachib's Gauteng director, Mr Charles Mahlangu, warned that the credibility of hawkers was at stake. Hawkers often unwittingly bought counterfeit goods because they were sold at discount prices.¹⁸⁶ [¹⁸⁶ *The Star* 29 May 1996]

Shebeens and Taverns

In June 1996 about 200 shebeen owners belonging to the South African Liquor Traders' Association (Salta) protested outside the Johannesburg city hall against what they termed unfair treatment by the government and the police. They demanded that the police stop raiding their shebeens and wanted the Gauteng government to issue them with permits, claiming that applications for permits in 1985 had not received a response, forcing them to become illegal operators. The association's chairman, Mr Churchill Mrasi, said that his organisation wanted the Liquor Act of 1989 abolished as it had been drafted without shebeen owners' consent.¹⁸⁷ [¹⁸⁷ *Sunday Tribune* 2 June 1996]

There were too many shebeens in Gauteng and if the industry was not regulated urgently the same problems as were found in the taxi industry would plague the shebeen industry, the Gauteng MEC for economic affairs and finance, Mr Jabu Moleketi, said in September 1996. He added, however, that the Gauteng legislature would have to create other business opportunities if it wanted to regulate the industry as shebeens were the only means of survival for many township residents.¹⁸⁸ [188 *Beeld* 4 September 1996]

In September 1996 the head of consumer affairs in the Gauteng Department of Economic Affairs and Finance, Ms Collette Caine, said that there were about 20 000 illegal and 865 legal shebeens in the province. Mr Mrasi said that of the 35 000 Salta members only about 6 000 were licensed.¹⁸⁹ [189 *Ibid*, *The Star* 6 March 1997]

In March 1997 the minister for safety and security, Mr Sydney Mufamadi, said that there were about 58 025 shebeens in South Africa, 24 276 of which were in Gauteng.¹⁹⁰ [190 *The Star* 6 March 1997]

Spaza Shopowners

In May 1996 Nestlé South Africa launched a training programme and a competition to assist township spaza shopowners to raise standards and increase sales. The corporate market development manager of Nestlé, Mr Bernard Magabe, said that the competition was aimed at encouraging the development of spaza shops in terms of housekeeping, merchandising and appropriate products.¹⁹¹ [191 *Sowetan* May 1996]

Stokvels

According to a survey conducted by Market Research Africa (MRA) in November 1995, some 29% of Africans were members of some sort of stokvel. Two thirds belonged to burial societies and the rest were divided among party stokvels, investment clubs and the Western Cape's umgalelo clubs which involved minimum contributions and two-day parties to raise funds for members.¹⁹² [192 *The Sunday Independent* 24 March 1996] MRA said that its surveys had revealed that burial societies largely involved contributions of up to R30 monthly. Of the more investment-orientated stokvels, however, more than 50% of members contributed between R90 and R250 monthly, MRA said.¹⁹³ [193 *Ibid*]

During the period under review several pyramid schemes claiming to be stokvels collapsed when the management absconded with the funds, having promised returns of up to 3 000%. In February 1996 Future Progress, based in Rustenburg (North West), was closed and the fund's managers vanished with investors' money.¹⁹⁴ [194 *Sowetan* 15 February 1996] In the same month the director of another pyramid scheme based in Sandton (Gauteng) and claiming to be a stokvel, The Mini Millionaire, disappeared with investors' money totalling about R21m.¹⁹⁵ [195 *Mail and Guardian* 23 February 1996] In March 1996 Prolite Upliftment was closed and some R3,5m invested with the fund disappeared.¹⁹⁶ [196 *Sowetan* 18

March 1996] Mr Andrew Lukhele, the chairman of the National Stokvels' Associations of South Africa, condemned the pyramid schemes which claimed to be stokvels because they gave stokvels a 'bad name'. He said that an institute for informal finance should be created to educate and advise stokvel investors and organisers and perhaps have a regulatory role on the industry.¹⁹⁷ [¹⁹⁷ *Saturday Star* 9 March 1996]

In December 1995 Sun Multi Serve (Sun), a savings fund, was closed after the registrar of banks, Mr Christo Wiese, obtained a court order to this effect. Mr Wiese said that Sun was not a stokvel as it had purported, but a pyramid scheme. Its assets (about R50m) were frozen and placed under Mr Wiese's control.¹⁹⁸ [¹⁹⁸ *The Citizen* 9 January 1996] Sun described itself as a stokvel (see 1995/96 Survey, p172) but was holding about five times the amount (R9,99m) legally permitted stokvels in terms of the Banks Act of 1990.¹⁹⁹ [¹⁹⁹ *Ibid*] Hundreds of Sun members marched on the South African Reserve Bank to protest against the closure of the fund. Representatives of Sun, the reserve bank and the Department of Finance held talks in January 1996 to try to resolve the matter.²⁰⁰ [²⁰⁰ *Ibid*] In October investigations by the Office for Serious Economic Offences uncovered theft amounting to 'millions of rands' by some of Sun's managers. A senior state advocate, Mr Frank Naidoo, said that the office was investigating charges relating to the contravention of the Banks Act and the Gambling Act of 1966 as well as harmful business practices.²⁰¹ [²⁰¹ *Business Day* 14 October 1996]

In October 1996 the reserve bank and the directors of Sun announced an agreement whereby the bank would return the R51m (including interest) belonging to Sun. The cash would either be distributed among investors or retained in 28 new legal stokvels which had been created by Sun, depending on the wishes of the investors. An adviser to Sun, Mr David Mogasoa, said that only 65 cents would be repaid for every rand invested.²⁰² [²⁰² *City Press* 18 August 1996] Investors lost about R28m.²⁰³ [²⁰³ *Business Day* 14 October 1996] In January 1997 the general secretary of Sun, Mr Nicholas Neniels, denied charges by the press that Sun's directors had fled with millions of rands from the scheme's coffers. The Office for Serious Economic Offences said that possible charges of theft and contravention of the Banks Act would be brought against directors if they were found to have stolen money.²⁰⁴ [²⁰⁴ *The Star* 17 January 1997] At the time of writing about 200 investors in Rustenburg (North West) were taking legal action to have the scheme liquidated so that they could recoup their money.²⁰⁵ [²⁰⁵ *Ibid*]

Small Farmers

In its *Green Paper on South African Land Policy*, published in February 1996, the Department of Land Affairs said that provision would be made for aspiring entrepreneurs (especially women and emergent black farmers) to acquire rural land for agriculture and other production purposes. Those entrepreneurs deemed to qualify for restitution by the Commission on Restitution of Land Rights would be provided with a once-off subsidy structured as a discount on land purchase. Individual farmers would receive a discount subsidy of 20% for the first R50 000 worth of land and a 10% discount subsidy to cover an additional R50 000—a maximum subsidy of R15 000 per farmer (see also chapter on *Living Conditions*).²⁰⁶ [²⁰⁶ Department of Land Affairs, *Green Paper on South African Land Policy*, February 1996]

At its congress in October 1996 the South African Agricultural Union rejected the government's R15 000 per family settlement and land acquisition grant as unrealistic, claiming that the grant was a waste of taxpayers' money as it was inadequate to establish a prospective black farmer and would create mass dumping grounds for rural people instead (see also chapter on *Living Conditions*). Union members warned that the grant would lead to more communal farming which in turn would put land and water resources under increasing pressure.²⁰⁷ [²⁰⁷ *Business Day* 18 October 1996] Addressing the congress, the minister of trade and industry, Mr Alec Erwin, said that if land were not provided for the needy, farmers would suffer increasing land invasions.²⁰⁸ [²⁰⁸ *Ibid*]

In February 1996 the deputy minister of agriculture, Ms Thoko Didiza, said that while her department's previous policy emphasised the growth of large-scale commercial farming, the new policy emphasised food security at national and household levels. The Department of Agriculture's campaign entitled 'Broadening Access to Agricultural Thrust', aimed at assisting the development of subsistence farmers through the promotion of training and provision of finance (see 1995/96 Survey, p174), would make support and services available to previously disadvantaged farmers, she added.²⁰⁹ [²⁰⁹ *African Business* February 1996] Ms Didiza said that her department accepted that few black farmers had title deeds and that this had prevented them from gaining access to finance. Financial intermediaries would be encouraged to relax traditional collateral requirements and would be asked to be flexible in adjusting the payback periods to suit clients' cash flow. Generous subsidisation packages for black farmers similar to those given whites under the previous government would not be forthcoming, she said.²¹⁰ [²¹⁰ *Ibid*]

In October 1996 the minister for agriculture and land affairs, Mr Derek Hanekom, said that a programme of land redistribution, intended to redress racially skewed ownership, meant that many large farms owned by a single white family would in future have to be subdivided or run as communal operations by blacks (see also chapter on *Living Conditions*).²¹¹ [²¹¹ *The Star* 17 October 1996]

In October 1996 the director general of agriculture, Dr Frans van der Merwe, said that his department was reviewing its credit policy to include farmers without access to security. The department was bound by the Agricultural Credit Act of 1966, which required farmers to put up security for any loans from the Agricultural Credit Board, he said.²¹² [²¹² *The Citizen* 17 August 1996]

In December 1996 *Finansies en Tegniek*, a business magazine, reported that the Land and Agricultural Bank of South Africa had received 503 loan applications from emergent black farmers between 1993 (when the bank first began granting loans to creditworthy black farmers) and the end of 1995. Only 278 of these applications had been approved.²¹³ [²¹³ *Finansies en Tegniek* 20 December 1996]

In February 1996 the chairwoman of the **Gauteng** standing committee for agriculture and conservation, Dr Trish Hanekom, said that the province was looking at releasing about 43 000ha of state agricultural land with an additional 1 000ha–2 000ha in the south west of the province for the initial phases of a

small farmer settlement programme.²¹⁴ [214 *Business Day* 21 February 1996] In March 1996 the Gauteng legislature formally adopted the Gauteng Small Farmers' Settlement Programme, aimed at giving the province's poor rural citizens the opportunity to own or lease agricultural land. Presenting the programme, Dr Hanekom said that its main beneficiaries would be farmworkers, labour tenants, sharecroppers and women.²¹⁵ [215 *Sowetan* 14 March 1996]

In August 1996 the Gauteng government announced that it intended to use about 14 000ha of agricultural land under its control to establish small-scale farmers.²¹⁶ [216 *F & T Weekly* 23 August 1996] (This land was part of the 43 000ha that the Gauteng government was considering releasing for its small farmer settlement programme.) The MEC for agriculture and the environment in the province, Ms Nomvula Mokonyane, said that about 7 000ha of this land lay north east of Bronkhorstspuit and the rest in south-west Gauteng. Land would be leased to small-scale farmers and they would have the option to purchase the land after three years or to renew the lease for an additional three years, provided the land was not earmarked for township development by 2001 (about half the land was originally bought for township erection).²¹⁷ [217 *Ibid*] Land would have to be used exclusively for farming and the rental to be paid by farmers would be based on the land's agricultural potential as determined by the department, plus the value of any improvements made to the property at state expense. Disadvantaged communities would be given preference in the allocation of land. People who earned between R1500 and R3500 per month would be targeted.²¹⁸ [218 *The Citizen* 13 August 1996] Ms Mokonyane said that prospective farmers would undergo a training programme at the expense of the department and would receive about R1500 a month in aid from it.²¹⁹ [219 *F & T Weekly* 23 August 1996]

The MEC for housing and land affairs in Gauteng, Mr Dan Mofokeng, said that the programme was aimed at addressing the 'skewed' land-holding patterns by redistributing agricultural land to farmworkers, labour tenants and people from disadvantaged communities. A number of the prospective farmers had already undergone training to ensure that the land was used in a productive and sustainable manner, he said.²²⁰ [220 *The Citizen* 13 August 1996]

In September 1996 a R1m agricultural training centre was handed to the South West Gauteng Farmers' Co-operative by Murray and Roberts Properties. The managing director of Murray and Roberts Properties, Mr Sean Flanagan, said that the main functions of the centre would be to train and educate farmers in accounting, business planning, bookkeeping, costing and other business-related skills. He announced that the Israeli government had pledged to send two agricultural experts to establish and run the centre for four years.²²¹ [221 *Sowetan* 23 September 1996]

In April 1996 the Zulu monarch, King Goodwill Zwelithini, said that **KwaZulu-Natal** needed an injection of farming know-how so that black farmers could be as productive as white ones. Farmers on smaller plots needed to learn how to utilise their land better, he said.²²² [222 *The Citizen* 3 April 1996] In October 1996 the executive director of the KwaZulu-Natal Finance Corporation (KFC), Dr Marius Spies, announced that the KFC would provide R30m into the second phase of a black agricultural

empowerment project as part of a joint venture with Illovo Sugar. The project was aimed at establishing emergent commercial farmers on medium-scale farms created out of subdivided sections of some of Illovo Sugar's estate land. The first phase of the project saw the establishment of 20 medium-scale sugar cane farmers on three segmented estates previously owned by the company. The land was sold at market value with a 25-year sugar cane supply agreement attached to the title deeds.²²³ [223 *The Star* 17 October 1996]

The MEC for agriculture, land and environmental affairs in the **Northern Province**, Dr Tienie Burgers, announced in May 1996 that about 10 000ha of state land would be leased to black farmers in the province. He added that talks would also be held with traditional leaders to facilitate the release of 'communal farming land' as part of the project.²²⁴ [224 *The Citizen* 23 May 1996] Some R37m had been allocated to support farmers in the province during 1996, the bulk of which went to emerging black farmers.²²⁵ [225 *Northern Review* 25 October 1996]

In October 1996 a group of 20 **Western Cape** black farmworkers and a businessman formed a company, Nuwe Begin Boerdery, to start farming fruit for the export market. The farmworkers activated a R15 000 per family land acquisition grant from the government and went into a 50/50 partnership with a private sector investment company, New Farmers' Development. Nuwe Begin Boerdery bought a R2,1m fruit farm in Montagu (Western Cape).²²⁶ [226 *Business Day* 21 October 1996]

Taxis

The minister of transport, Mr Mac Maharaj, said in October 1996 that the minibus taxi industry catered for about 2,2m people daily in South Africa (see also chapter on *Living Conditions*).²²⁷ [227 *Sowetan* 31 October 1996] An estimated 50% of minibus taxis were running illegally, leading to uncontrolled competition which had bred problems such as violence, Mr Maharaj said.²²⁸ [228 *The Star* 7 August 1996]

A member of the secretariat of the National Taxi Task Team (NTTT), Ms Ester Crous, said that there were an estimated 80 000 legal and 70 000 illegal minibus taxis operating in South Africa. She added, however, that the bulk of illegal taxis were expected to be legalised during 1997 as they had been given the opportunity to register with their provincial taxi offices (see below) in order to meet special legalisation requirements.²²⁹ [229 Telephonic interview with a member of the secretariat of the National Taxi Task Team (NTTT), Ms Ester Crous, 14 February 1997]

In June 1996 the then MEC for public transport and roads in Gauteng, Mr Olaus van Zyl, said that there were more than 50 000 minibus taxis in Gauteng run by about 30 000 owners.²³⁰ [230 *The Star* 26 June 1996]

In January 1996 the government accepted the interim proposals of the NTTT (see 1995/96 Survey, p175).²³¹ [231 *Ibid* 26 February 1996] The proposals called for minibus taxi operators and their associations to be registered and for each province to establish a provincial register of minibus taxi associations. A standard constitution to be promulgated under an intended transportation act would have to be adopted

by associations and their members in order for them to qualify for registration, the proposals said. Furthermore, broad measures regarding the governance of associations and their meetings should include a code of conduct for owners and drivers. Only permit holders should be eligible for registration and illegal operators would be encouraged to get permits. Financial assistance from the government should be proffered as a 'sweetener' to get operators to adhere to the code of conduct, the task team suggested. The task team also proposed that co-operatives be encouraged so that the industry could be restructured into formal business units. Other proposals included:²³² [²³² NTTT, *Interim Recommendations*, November 1995]

- the amendment of current legislation to allow permit holders to exchange their 16-seater permits for 25-seater vehicle permits;
- the compilation of provincial data bases on minibus taxis, operators and drivers;
- the compilation of a booklet covering a vehicle maintenance schedule;
- the reduction of the minibus taxi accident rate by 5% a year;
- the establishment of vehicle repair and maintenance centres at bigger ranks;
- the provision of defensive driving (where drivers are taught to react appropriately to hazardous situations on the road) and life skills to taxi drivers; and
- the initiation by the national government of a process of consultation with local authorities for the building and upgrading of ranks and the provision of stopping bays on all minibus taxi routes.

In February 1996 some 275 delegates representing the taxi industry in each province accepted the recommendations of the NTTT as adopted by the government and at a plenary session of the NTTT.²³³ [²³³ *Business Day* 19 February 1996]

A Green Paper on National Transport Policy published in March 1996, and based largely upon the recommendations of the NTTT, said that the minibus taxi industry should be formalised and measures introduced to enhance its viability. Minibus taxis would have to register as legal businesses or associations and operate in terms of permits granted to them for specific routes (see also chapter on *Living Conditions*). The number of taxis permitted along a route would be determined by demand. Financial and technical assistance would be offered to taxis to enable them to improve their viability.²³⁴ [²³⁴ Department of Transport, *Green Paper on National Transport Policy*, March 1996]

In August 1996 Mr Maharaj announced that provincial taxi offices would be set up around the country to register all associations and their members. The offices would implement the recommendations of the

NTTT and a taxi registrar would be appointed in each province to register and assist associations.²³⁵ [²³⁵ *The Star* 7 August 1996] The first such office had already opened in Gauteng in January 1996.²³⁶ [²³⁶ *Business Day* 31 January 1996] Mr Maharaj later said, however, that taxis operators would not be forced to register but would be encouraged to do so by the government. To encourage registration there would be economic and other forms of assistance (including driver training programmes and administration and business skills training) for those who joined, he said.²³⁷ [²³⁷ *Ibid* 30 September 1996]

In August 1996 the MEC for transport in KwaZulu-Natal, Mr Sibusiso Ndebele, officially opened the KwaZulu-Natal provincial taxi office. Mr George Mahlalela was appointed as KwaZulu-Natal taxi registrar. Mr Ndebele said that the office would act as a permanent communication and liaison mechanism between the taxi industry and the provincial government.²³⁸ [²³⁸ *Sowetan* 31 October 1996]

The administrator of the NTTT, Mr Leno Sikonifi, said that provincial taxi offices had been opened in Gauteng, KwaZulu-Natal, Mpumalanga and the Western Cape at the time of writing. None of the other provinces had opened taxi offices although all had appointed registrars who had begun registering taxis in their respective offices.²³⁹ [²³⁹ Telephonic interview with the administrator for the NTTT, Mr Leno Sikonifi, 5 February 1997]

In the Western Cape, however, two rival taxi organisations, the Cape Organisation of Democratic Taxi Associations and the Cape Amalgamated Taxi Association refused to surrender their existing route permits and register with the provincial taxi office. The Western Cape MEC for transport and public works, Mr Leonard Ramatlakane, took the matter to the Cape of Good Hope Provincial Division of the Supreme Court in an attempt to get the organisations to comply with an agreement to register which they had signed in September 1996.²⁴⁰ [²⁴⁰ *Business Day* 7 November 1996] Mr Justice Gerhardus Kühn postponed the case to a date to be agreed to by the parties and added that it did not appear that Mr Ramatlakane's application would succeed as the agreement had no contractual basis.²⁴¹ [²⁴¹ *Ibid*] The case was later withdrawn and legislation aimed at regulating the taxi industry in the province was introduced in the provincial legislature in December 1996. The Road Transportation Amendment Bill (Western Cape) provided for the existing route and area-based permits—which frequently led to taxi violence in the Western Cape because they often overlapped—to be replaced with new route-based permits. These permits would include a detailed description of the routes or networks of minibus taxis, including passenger pick-up and set-down points. The bill made it a condition for minibus taxi operators to register with the provincial taxi office before being issued or reissued with a legal permit to operate along any route.²⁴² [²⁴² *Ibid* 3 December 1996] The bill had not been passed at the time of writing.

Criminal Business

In June 1996 the minister for safety and security, Mr Sydney Mufamadi, told Parliament that there were 481 known crime syndicates (with a total of 2178 primary suspects) operating in South Africa. Drug trafficking was the largest area of activity (136 syndicates), followed by vehicle and weapons smuggling

(112), commercial/foreign exchange/fraud (85), and diamond and gold-related crime syndicates (71). Other syndicates were involved in combinations of these crimes.²⁴³ [²⁴³ *This Week in Parliament*, 21 June 1996] At least 187 of these syndicates operated internationally and of these 125 were active in sub-Saharan Africa (see also chapter on *Security*).²⁴⁴ [²⁴⁴ South African Police Service report, *Report on the Incidence of Serious Crime during 1995*, April 1996] Between 1st January 1996 and 30th June 1996, 154 suspects were arrested during investigations into organised crime. Commodities ranging from counterfeit currency, drugs, firearms and unwrought precious metals to vehicles, with an estimated value of R26m, were seized during these arrests.²⁴⁵ [²⁴⁵ South African Police Service, *The Incidence of Serious Crime—January to June 1996*, 18 November 1996]

PRIVATISATION

During the period under review the debate on the privatisation of state assets continued. In March 1996 *Enterprise* said that state assets likely to go on sale could be worth as much as R100bn.²⁴⁶ [²⁴⁶ *Enterprise* March 1996]

Policy

In May 1996, the president, Mr Nelson Mandela, said that privatisation was a ‘fundamental policy’ of the African National Congress and would be implemented as ‘government policy’.²⁴⁷ [²⁴⁷ *The Citizen* 25 May 1996] This statement was backed by the minister for public enterprises, Ms Stella Sigcau, who said that she was confident that the unions, which had earlier expressed opposition to privatisation (see 1995/96 Survey, p177), could be brought on board.²⁴⁸ [²⁴⁸ *Business Day* 29 May 1996]

Also in May 1996, the minister of finance, Mr Trevor Manuel, told a briefing of the World Economic Forum in Cape Town that not every state-owned corporation was a loss-maker. Unless they were placing strain on the national fiscus they would not be sold without being evaluated in terms of jobs and growth and their ability to assist in deficit reduction.²⁴⁹ [²⁴⁹ *Ibid* 24 May 1996] Earlier, in March 1996, the leader of the National Party and deputy president from the largest minority party, Mr F W de Klerk, said that the government should progress with privatisation and ensure that the capital raised through the sale of state assets either lowered government debt or financed state capital expenditure programmes.²⁵⁰ [²⁵⁰ *Ibid* 26 March 1996]

In June 1996 Ms Sigcau announced that the government and labour had agreed to form task teams to decide which state assets should be privatised. The teams would examine restructuring proposals in each sector, including minerals and energy, telecommunications, transport, trade and industry, and defence. She added that the government would first consider privatising assets that would not have a social effect (eg loss of jobs), such as Sun Air and Abacor, the abattoir company. She stressed that the restructuring would have an ‘appropriate developmental orientation’ and create jobs.²⁵¹ [²⁵¹ *Ibid* 13 June 1996]

The government appointed the Hong Kong and Shanghai Investment Bank (HSBC) and its subsidiary Simpson McKie James Capel to advise it on the restructuring of state assets. The company had been involved in a wide range of privatisation exercises, including Ashanti Gold Fields, British Gas, and Entel, the Argentinian state-owned telephone company.²⁵² [²⁵² *Financial Mail* 16 August 1997] In October 1996 Ms Sigcau said that HSBC had completed protocols on corporate governance and share participation schemes for parastatals.²⁵³ [²⁵³ *The Star* 22 October 1996]

In a green paper published in October 1996 the Department of Public Works said that it would embark on a programme to privatise some of its services. The director general of the department, Mr Siphoshezi, said that some maintenance, property management and other essential services should be privatised and offered to small, medium and micro-enterprises (SMMEs). He said that SMMEs would be given priority consideration in outsourcing of maintenance.²⁵⁴ [²⁵⁴ *Ibid* 25 October 1996]

Legislation

Telecommunications Act of 1996

At the end of October 1996 the Telecommunications Bill, which, inter alia, made provision for a liberalisation process in which fixed line telephony would be subject to competition at the end of a six-year period, was passed. The bill was supported by the African National Congress, the Inkatha Freedom Party and the Pan-Africanist Congress but opposed by the Democratic Party, the Freedom Front and the National Party (NP). The NP said that the bill had not 'lived up to the promises' made in the telecommunications white paper (see also chapter on *Living Conditions*).²⁵⁵ [²⁵⁵ *Business Day* 2 October 1996, *The Star* 1 November 1996]

Developments

The government's plans for privatising state assets were stalled in December 1995 when the Congress of South African Trade Unions (Cosatu), the Federation of South African Labour Unions and the National Council of Trade Unions objected to an announcement by the deputy president, Mr Thabo Mbeki, that the government would privatise key public enterprises (see 1995/96 Survey, p177).

In May 1996 the government and organised labour signed a national framework agreement (NFA) that guaranteed consultation between the two on the issue of privatisation. The agreement allowed the cabinet to make all final decisions on privatisation proposals, subject to parliamentary approval where necessary.²⁵⁶ [²⁵⁶ *The Star* 23 May 1996] The general secretary of Cosatu, Mr Sam Shilowa, reiterated his union's opposition to privatisation of state assets (see 1995/96 Survey, p177). He said that where private ownership meant lay-offs as a means of generating greater profits, Cosatu could not support it.²⁵⁷ [²⁵⁷ *Business Day* 24 May 1996] In September 1996, however, Mr Shilowa said that Cosatu had always believed that there was a need for restructuring state assets but that the debate was now on the content of such

restructuring. Cosatu was still opposed to the wholesale privatisation of all state assets. The debate over privatisation should consider all forms of ownership, including nationalisation, privatisation (where necessary), joint ventures, the opening of new entities and a partnership between the public and private sectors.²⁵⁸ [²⁵⁸ *The Star* 19 September 1996]

In June 1996 the minister for public enterprises, Ms Stella Sigcau, told Parliament that the cabinet had approved in principle that South African Airways (SAA) be separated from Transnet as 'soon as possible' with a clean balance sheet. As a more independent corporation SAA would attract a major strategic investor to purchase a portion of its equity, she said.²⁵⁹ [²⁵⁹ *Hansard* (NA:Q) 6 col 1056, 5 June 1996]

In October 1996 HSBC, the government's privatisation adviser, warned against the sale of a stake in Transnet and Eskom to strategic equity partners. (Transnet operated SAA, Spoornet (railways), Portnet (harbours), Petronet (pipelines), PX (container distribution) and Autonet. Its assets were about R39,2bn. In 1995 the group reported its first profit (R118m) in four years. Electricity supplier Eskom's assets stood at R4,1bn; it had a net income of R2,7bn and an operating income of R5,8bn in 1995.)²⁶⁰ [²⁶⁰ *Mail and Guardian* 23 February 1996] HSBC's managing director of international corporate finance, Mr Arnold Shipp, said that it would not be appropriate to invite an equity partner to take a share in Transnet because it was in a state of restructuring itself. He also said that an equity partner for Eskom would not be necessary partly because of Eskom's ability to generate funding. Eskom was not a business in which there were pressures to introduce outside management, funding or technology, he added.²⁶¹ [²⁶¹ *The Star* 22 October 1996]

In August 1996 the minister of defence, Mr Joe Modise, said that he had accepted the recommendation in a report presented to him by the Ministry of Defence Acquisition Work Group (consisting of representatives of the defence industry, the defence secretariat, the defence force, and Armscor) that Armscor be maintained as a state corporation.²⁶² [²⁶² *Hansard* (NA:Q) 8 col 1573, 14 August 1996] Arms manufacturer Denel (formerly part of Armscor) began trading as a commercial company reporting to the minister for public enterprises in 1992. Its assets were about R4,1bn. Its total income was R325m in 1995.²⁶³ [²⁶³ *Mail and Guardian* 23 February 1996] Mr Modise said the minister for public enterprises would have to decide whether to privatise Denel or not.²⁶⁴ [²⁶⁴ *Hansard* (NA:Q) 8 col 1573, 14 August 1996]

In October 1996 the managing director of Sun Air, Mr Johan Borstlap, said that the company was likely to be privatised by March or April 1997. Although the company's strategic partner would be chosen by the government, the staff were expected to have a say in the matter. Mr Borstlap said that he did not believe that Sun Air would be 'swallowed up' by an international airline after privatisation. He said that airlines including Virgin Atlantic had shown an interest in acquiring a stake in Sun Air. It was possible that the strategic partner would not be an airline.²⁶⁵ [²⁶⁵ *The Star* 22 October 1996] In the following month Ms Sigcau also revealed that negotiations to privatise Sun Air were at an advanced stage and that they should be concluded by early 1997. She also said that SAA would probably be established as a company independent of Transnet in order to give private sector companies a chance to acquire an interest in it.²⁶⁶

[²⁶⁶ *Beeld* 5 November 1996]

In the same month the minister for posts, telecommunications and broadcasting, Mr Jay Naidoo, announced that the government was to sell up to 30% of Telkom to an international strategic equity partner. A further 10% would be sold to workers (primarily from Telkom and the telecommunications sector) and disadvantaged communities, possibly at a discount price, he said. Good progress had been made with trade unions on the NFA. Mr Naidoo emphasised that the aim of the sale was to encourage local manufacturing in the telecommunications sector. It would also contribute towards the government's aim to create a climate conducive to investments to ensure that the economy grew. The ministry had identified seven potential strategic partners: Deutsche Telekom (Germany); France Télécom; KPN (Netherlands); Malaysia Telecom; South-western Bell Communications (United States), Stet (Italy); and Telia (Sweden). He said that there were no preferred bidders at that stage.²⁶⁷ [²⁶⁷ *Business Day* 11 October 1996] By February 1997 the ministry had eliminated KPN, Stet and Telia from its list of potential strategic partners.²⁶⁸ [²⁶⁸ *Ibid* 7 February 1997] The sale was expected to raise between R5bn and R8bn and the bulk of the proceeds would go into the expansion of Telkom's telephone network (see also chapter on *Living Conditions*).²⁶⁹ [²⁶⁹ *The Star* 11 October 1996]

In the same month Ms Sigcau said that privatisation of state assets would begin in March 1997. Telkom would be the first to be privatised and would be followed by the transport sector and Aventura holiday resorts.²⁷⁰ [²⁷⁰ *The Citizen* 15 October 1996] In October 1996 the South African Communist Party (SACP) said that the government's plans for privatisation amounted to forfeiting state resources 'for quick cash'. In the October issue of its journal *Umsebenzi*, the party said that only partial privatisation would be acceptable. It said that it did not support wholesale nationalisation or wholesale privatisation. Those assets which were used by former governments to perpetuate apartheid and whose retention would not benefit the majority of the people should be identified and sold. The government, however, would lose the ability it had to use profits from viable state companies if it privatised them. It would get the revenue from privatisation, which would be a one-off thing, but would lose out on the annual profits from such enterprises. The SACP said that the sale of these assets would put the government at 'the mercy of multinationals' such as the Anglo American Corporation of South Africa and that this would hamper transformation.²⁷¹ [²⁷¹ *The Star* 25 October 1996]

In November 1996 Ms Sigcau came out in support of using part of the proceeds of the proposed privatisation of Sun Air to finance the establishment of a pilot training school.²⁷² [²⁷² *Ibid* 4 November 1996]

REGULATION OF BUSINESS

Legislation

National Gambling Act of 1996

The National Gambling Act was gazetted in July 1996. Its provisions were substantially the same as those provided for in the bill (see 1995/96 Survey, p178). It provided for a maximum of 40 casinos in South Africa and a provincial allocation of casinos. It also provided for the establishment of a national gambling board which would, inter alia, be responsible for ensuring compliance with national standards in the gaming industry and which would ensure that no one obtained a dominant share of the market.²⁷³ [273 *Government Gazette* no 17307, 3 July 1996] During the period under review all nine provinces had formulated legislation on gambling to regulate the industry in their provinces. Only Gauteng, Mpumalanga and KwaZulu-Natal, however, had set up their provincial gambling boards at the time of writing.²⁷⁴ [274 *Sunday Tribune* 19 January 1997]

In September 1996 the Constitutional Court declared two provisions in the act unconstitutional. The court found that the section which enabled authorities to take dice, playing cards or other items that could be used for gambling, as prima facie evidence of a contravention of the act, infringed the constitutional right to be presumed innocent until proven guilty. The section which entitled the authorities to assume that an accused person in charge of particular premises had allowed gambling if entrance to police access was obstructed or prevented by anyone was also declared unconstitutional. In terms of the act the accused would have to prove that he or she did not permit gambling on the premises under such circumstances. This was in breach of the right to be presumed innocent, the court declared.²⁷⁵ [275 *Business Day* 13 September 1996]

Labour Relations Act of 1995

(See chapter on *Employment and Industrial Relations*.)

Legislation on Employment Standards and Employment Equity

Green papers on these issues were published during 1996, but at the time of writing has not been translated into legislation. (See chapter on *Employment and Industrial Relations*.)

Legislation on Competition

In February 1996 the minister of trade and industry, Mr Trevor Manuel, announced that legislation to promote competition in South African industry was still in the planning stage.²⁷⁶ [276 *The Citizen* 14 February 1996] This was despite the fact that a draft bill had been submitted to him in September 1995 (see 1995/96 Survey, p181).²⁷⁷ [277 *Ibid*] In the following month Mr Manuel announced that he was putting together a new team to start drafting a new competition bill. He was not satisfied with the current draft legislation as it was 'full of holes'. He said that the central issue was whether legislation should break down existing monopolies or whether it should be aimed at preventing an abuse of the dominant position of the conglomerates. Other policy decisions—such as whether action should be taken before or after acquisitions and mergers—would stem from this.²⁷⁸ [278 *The Star* 20 March 1996] Mr Manuel also warned

black conglomerates such as New Africa Investments and Real Africa Investments not to follow directly in their white counterparts' footsteps in establishing pyramid structures. He said that he did not have problems with pyramid structures 'in principle' but that there was a need for control once 'incestuous' relationships developed and vertical integration began to hinder fair competition. There could not be separate legislation for black and white-owned business.²⁷⁹ [²⁷⁹ Ibid 12 March 1996]

In May 1996 the new minister of trade and industry, Mr Alec Erwin, issued a press statement on competition policy with reference to the drafting of new legislation to replace the Maintenance and Promotion of Competition Act of 1979 (see 1995/96 Survey, p179). He said that it was increasingly important to have an effective body of competition law in order to improve the overall performance and efficiency of the economy and to create a consumer-friendly society. The government would consult with all interested parties, including business and labour, in order to achieve the most effective outcome in this regard.²⁸⁰ [²⁸⁰ *This Week in Parliament* 21 May 1996]

In June 1996 Mr Erwin appointed a new task team on competition policy. The team included the chairman of the Competition Board, Dr Pierre Brooks, whose group had drafted the original bill which Mr Manuel rejected. Other members included a Cape Town advocate, Mr Willem Pretorius, Professor Dennis Davis (a lawyer), Mr David Lewis (a former unionist), and Mr Tsediso Ntaopane, (a member of the parliamentary standing committee on trade and industry). Mr Erwin said that the new draft would be discussed in the National Economic Development and Labour Council (Nedlac) as well as by the parliamentary standing committee on trade and industry.²⁸¹ [²⁸¹ *Business Day* 21 June 1996] Mr Erwin subsequently appointed Mr Robin McGregor of McGregor's Research Services, and Ms Christine Qunta, a lawyer, to the board in November 1996.²⁸² [²⁸² *The Star* 6 November 1996]

In September 1996 Mr Erwin announced that a new draft on competition policy had been completed and would be presented to Nedlac for discussion in mid-October 1996. He said that legal experts would begin drafting proposed legislative changes—a process that would be completed in January 1997—whereafter the legislation would be tabled in Parliament.²⁸³ [²⁸³ *Business Day* 16 September 1996] The document had, however, not been presented to Nedlac at the time of writing.

Regulations on the Dispensing of Drugs

In July 1996 the minister of health, Dr Nkosazana Zuma, gazetted regulations to compel doctors to use only the generic prescription so as to enable pharmacists to dispense a cheaper alternative where one existed and to enforce a licensing system for medical practitioners dispensing drugs (see also chapter on *Health*).²⁸⁴ [²⁸⁴ Regulation no R.1150 of 1996, *Government Gazette* no 17317, 12 July 1996] Drug manufacturers said that the regulations could prevent doctors from prescribing brand name medicines.²⁸⁵ [²⁸⁵ *Business Day* 3 October 1996] But the deputy director of policy and planning in the Department of Health, Dr Ayanda Ntsaluba, said that the regulations did not amount to a prohibition on prescribing branded drugs and were intended to oblige doctors and pharmacists to make patients aware of the availability of cheaper

generic drugs. The doctor and the patient would, however, both retain the right to choose a branded product.²⁸⁶ [²⁸⁶ Ibid] In October 1996 a pharmaceutical company, SmithKline Beecham, began legal proceedings against Dr Zuma over the regulations. The company argued that the regulation would make the prescription of generic drugs mandatory, and limit the dispensing of medicines.²⁸⁷ [²⁸⁷ *The Citizen* 19 October 1996]

In August 1996 dispensing doctors formed the National Convention of Dispensing Doctors (NCDD) in an attempt to fight the provisions aimed at prohibiting doctors from dispensing medicines without a licence.²⁸⁸ [²⁸⁸ *Mail and Guardian* 23 August 1996] The NCDD said that the department was taking away the doctor's tools to treat his patients and that many who consulted doctors in disadvantaged areas expected the doctor to help them cure their illnesses rather than merely diagnose them.²⁸⁹ [²⁸⁹ Ibid] The South African Medical and Dental Practitioners' Association said that people without medical aid benefits would suffer most because many private doctors charged people not belonging to such schemes about R50 for a consultation and medicine. They would now have to pay separately for the consultation and still spend an additional amount on medicine from a pharmacy.²⁹⁰ [²⁹⁰ *The Citizen* 2 August 1996]

The National Party's spokesman on health, Dr Willem Odendaal, said that market forces should determine the best providers of health services and patients should have the right to choose who should dispense medicine to them.²⁹¹ [²⁹¹ Ibid 26 August 1996]

In support of the measure to prohibit doctors dispensing unless they were licensed, the Gauteng Pharmacists' Forum, a group representing Gauteng pharmacists, said that the 'black entrepreneurial pharmacist' in the townships had little chance of establishing a full service while doctors continued to dispense medicines. The organisation said that dispensing doctors showed 'a total disregard for the real concern about a patient's best interest' and were often motivated by incentives offered by manufacturers when dispensing drugs.²⁹² [²⁹² *The Star* 17 September 1996]

The department later said that doctors in townships and rural areas would not be prohibited from dispensing as long as no adequate alternative service existed. They would, however, be required to ensure that the requirements for good dispensing practice were met.²⁹³ [²⁹³ *The Citizen* 3 September 1996]

Dr Zuma withdrew the regulation in October 1996. She said that she had done this in the face of an overwhelming response from the public and the drugs industry. Her department was preparing new draft regulations which would take into account some of the comments received.²⁹⁴ [²⁹⁴ Ibid 19 October 1996]

Provincial Legislation

Gauteng

Consumer Affairs Act of 1996 (Gauteng)

The Consumer Affairs Bill was passed by the Gauteng legislature in September 1996. The legislation made provision for a consumer court with the power to impose fines of up to R200000 and to order the temporary closure of businesses under investigation. It also provided for a consumer protector's office to investigate unfair business practices and, where necessary, issue orders to prohibit such practices and to negotiate and conclude arrangements to stop them. It could refer matters to the consumer court where arrangements could not be negotiated.²⁹⁵ [²⁹⁵ *Business Day* 6 September 1996] The MEC for economic affairs and finance in Gauteng, Mr Jabu Moleketi, said that the court's functions would not overlap those of the ordinary courts of law. It would not award damages although it could order the reimbursement of consumers or settle contractual disputes.²⁹⁶ [²⁹⁶ *Ibid*] (See also chapter on *Government and Constitution*.)

Gauteng was the first province to pass such legislation although the other provinces were in various stages of promulgating similar legislation at the time of writing.²⁹⁷ [²⁹⁷ *Ibid*]

ENCOURAGEMENT OF BUSINESS

Policy

In its macro-economic strategy document *Growth, Employment and Redistribution*, published in June 1996, the government said that in order to stimulate competitive and labour-absorbing industrial development, an accelerated depreciation scheme would be introduced for all new investments in manufacturing (see also chapter on *The Economy*). The tax allowance programme would apply to qualifying equipment, factory plants and machinery brought into use for the first time during the period 1st July 1996 to 31st September 1999. Approved new projects would get a tax holiday of a maximum of six years, which could not be used beyond the tenth year after the initial investment.²⁹⁸ [²⁹⁸ Department of Finance, *Growth, Employment and Redistribution*, June 1996]

In November 1996 the minister of trade and industry, Mr Alec Erwin, said that the government would increase several supply-side incentives to encourage job creation and investment. These included industrial innovation incentives, training and technology, and human resource programmes. He acknowledged that incentives had lagged behind tariff reform but said that this was partly because the government was still preparing the incentives.²⁹⁹ [²⁹⁹ *The Citizen* 6 November 1996]

In the same month Mr Erwin announced a series of industry support measures aimed at accelerating investment and making South African companies more internationally competitive. This included tax holidays (see *Legislation* below) and a small/medium manufacturing development scheme to assist new investment. Under the small business manufacturing development programme, which would replace the regional industrial development programme (see 1991/92 *Survey*, p443), firms with assets of less than R3m would be given an establishment grant to ease cash flow problems. Mr Erwin said that the final decision on the evaluation of projects qualifying for these grants would lie with the central government through the Regional Industrial Development Board.³⁰⁰ [³⁰⁰ *Business Day* 27 November 1996] He announced

that the short-term export finance guarantee for small and medium-sized enterprises, which had been operational since October 1996, would be a collaborative effort between the Credit Guarantee Insurance Corporation and banking institutions. Exporters who had orders could approach one of the major participating banks in South Africa to obtain finance which would be guaranteed by Credit Guarantee and reinsured with the Department of Trade and Industry's reinsurance fund.³⁰¹ [³⁰¹ *Sowetan* 28 November 1997]

Legislation

Revenue Laws Amendment Act of 1996

The Revenue Laws Amendment Act of 1996, promulgated in September 1996, amended the Income Tax Act of 1962 to provide, inter alia, a tax holiday scheme of between two and six years for new projects undertaken by businesses. The tax holiday entailed companies paying zero tax for the specified period. To qualify for the tax holiday, applications had to be with the Regional Industrial Development Board for approval on or before 30th September 1999. In approving a project the board had to take into account:³⁰² [³⁰² *Government Gazette* no 17463, 30 September 1996]

- the financial viability of the project;
- its effect on national competitiveness;
- the utilisation of resources (including human resources);
- utilisation of competitive technology; and
- the project's commitment to the upgrading and training of local skills.

This provision came into effect on 1st October 1996.

The amendment also made special provision for the accelerated depreciation of new and unused machinery and factories by providing for a deduction of 33% on the value of such assets in the year of assessment in which they were brought into use and in the two successive years of assessment. Such depreciation, however, applied only to machinery or factories acquired during the period

The allowance that companies could claim on buildings or improvements to buildings was increased from 5% (plus any other allowances under the act of 1962) to 10% (plus any other allowances under the act) provided that such buildings and improvements were made between 1st July 1996 and 30th September 1999 and were brought into use before 30th September 1999.³⁰⁴ [³⁰⁴ *Ibid*]

The legislation amended the Income Tax Act of 1962 to allow companies qualifying for tax holidays to be exempt from the payment of secondary tax on dividends declared during the period of such a tax holiday.³⁰⁵ [³⁰⁵ Ibid]

The African National Congress, the Inkatha Freedom Party (IFP) and the National Party (NP) welcomed the legislation but the NP argued that the period for writing off existing factory plant and machinery (five years) was too long. The Democratic Party welcomed the concept of tax incentives but said that the processing of the bill 'in a hurry' meant that the legislation was not as good as it could have been.³⁰⁶ [³⁰⁶ *This Week in Parliament* 20 September 1996]

Mr Fabian Goody, an international tax partner at Price Waterhouse, said that the scheme could end up pouring revenue into the coffers of foreign tax authorities rather than the corporations whose investments the government hoped to attract. He said that where a British company invested in South Africa through a subsidiary that qualified for a tax holiday and such a company wanted to distribute its earnings back to Britain, the British tax authorities would get 70% of the tax holiday and only 30% would go to the corporate investor.³⁰⁷ [³⁰⁷ *The Star* 4 September 1996] Mr Kevin McManus, a tax partner at the same company, said that Britain was not unique in its treatment of foreign dividends: the United States adopted a similar approach. He said that a carefully targeted discretionary grants system and a cut in secondary tax on companies might encourage investment as effectively, but more cheaply than tax holidays.³⁰⁸ [³⁰⁸ Ibid]

Dr Colin Wood, an international strategic business development consultant, warned that there was potential for damage to existing companies in the implementation of the tax holiday by way of unfair competition from new companies.³⁰⁹ [³⁰⁹ Ibid November 1996]

Investment Incentives

Incentives to be implemented on 1st October 1996 allowed for tax holidays of up to six years for certain new businesses and accelerated depreciation of new factory plant and machinery (see *Legislation* above).

In addition, the minister of trade and industry, Mr Alec Erwin, announced in June 1996 that access to domestic credit by foreign-owned companies would be relaxed as part of a policy directed specifically at foreign investors. Although a measure of foreign funding would still be required, the new regulations would allow for local borrowing capability to be enhanced by doubling the current borrowing limit. In terms of the new regulations, a wholly non-resident-owned entity would be able to borrow 100% of shareholders' equity.³¹⁰ [³¹⁰ *This Week in Parliament* 18 June 1996] In addition, approved institutional investors would be allowed to make foreign currency transfers during 1996 of up to 3% of net inflow of funds during the 1995 calendar year.³¹¹ [³¹¹ Ibid]

TRADE

According to a report by Absa Bank, Europe was South Africa's biggest trading partner in 1995; nearly 30,5% of South Africa's exports went to European countries and 48,6% of all South African imports came from Europe. The bulk of South Africa's merchandise exports to Europe in 1995 (excluding gold) went to the United Kingdom (31,6%), followed by Germany (19,5%), Italy and Belgium (11,6% each), the Netherlands (10,6%) and other countries in Europe (15,1%). Exports to American countries accounted for 7,6% of total exports. The bulk of South Africa's merchandise exports to American countries in 1995 (excluding gold) went to the United States (61,3%), followed by Canada (8,5%), Argentina (5,6%), Chile (2,8%), Mexico (1,7%) and other countries in the Americas (20,1%).³¹² [³¹² Absa Bank, *A Presentation of South Africa's Foreign Trade*, June 1996]

The South African Foreign Trade Organisation (Safto) said that South Africa's total exports to the rest of the world increased from R103,1bn in 1995 to R126,1bn in 1996 (by 22%), while imports increased from R97,2bn to 115,5bn (by 19%). South Africa's imports from Africa amounted to 3% of South Africa's total imports in both 1995 and 1996.³¹³ [³¹³ Figures provided by the South African Foreign Trade Organisation (Safto), 27 February 1997] Imports increased by 19% from R2,85bn in 1995 to R3,31bn in 1996. However, South African exports to Africa increased by 25% from R13,91bn in 1995 to R17,43bn in 1996.³¹⁴ [³¹⁴ Figures provided by Safto, 27 February 1997] Absa Bank said that although total trade with Africa had increased since 1994, it did not foresee an increase to more than 10% of South Africa's total foreign trade within the next decade.³¹⁵ [³¹⁵ *The Star* 18 July 1996] (See also chapter on *The Economy*.)

Policy

The provision of jobs and salaries was the primary objective of trade and industry policy, the minister of trade and industry, Mr Alec Erwin, told Parliament in June 1996. He said that free markets alone could not provide increased employment and a reasonable income for South Africans, but added that he believed that full state intervention in economic activity was a recipe for inefficiency and stagnation.³¹⁶ [³¹⁶ *Business Day* 21 June 1996] Mr Erwin warned that engaging in a strategic manner with the forces of globalisation, as well as increasing competition and free trade, held dangers for mismanaged economies. He said that South Africa would have to become more competitive in exports.³¹⁷ [³¹⁷ *Ibid*]

Outlining government policy on exchange control as expressed in its macroeconomic strategy document *Growth, Employment and Redistribution*, the minister of finance, Mr Trevor Manuel, said that new measures resulting from the current round of trade liberalisation included allowing corporate entities which exported and imported goods from abroad to offset the cost of imports against the proceeds of exports, provided the set-off took place within 30 days.³¹⁸ [³¹⁸ Department of Finance, *Growth, Employment and Redistribution*, June 1996; *This Week in Parliament* 18 June 1996]

Mr Manuel said that efforts to improve the access of South African firms to foreign markets would

concentrate on exploring special arrangements with major trading blocks and continuing participation in the multilateral World Trade Organisation process as well as other initiatives. A further key element would be the gradual integration of the economies of southern Africa through the trade and investment protocols of the Southern African Development Community (SADC).³¹⁹ [³¹⁹ Ibid]

Trade Liberalisation

In November 1996 the president of the Clothing Federation of South Africa, Mr Bernard Richard, said that certain anomalies were introduced with the first leg of the seven-year tariff phase-down on 1st September 1995. The clothing industry stakeholders had submitted proposals to the government on this but 13 months later these proposals had not been gazetted. In addition, the industry was still waiting for the second leg of the phase-down which was due to be implemented in September 1996, but had not been. He said that the industry believed that the government had made a mistake in not implementing supply-side measures at the same time as the tariff phase-down, which was one of the reasons why between 13 000 and 17 000 jobs had been lost in the industry in 1996. Clarity was urgently needed about whether the duty credit certificate (DCC) system, which was due to expire in March 1998, was to be extended. The system provided import credits to exporters. Mr Richards said that the industry could increase its exports by 25% to 30% but because it worked at least a year ahead it needed to know if the DCC was to be extended, otherwise it could lose export opportunities. He said that without the DCC scheme, clothing exports would be ‘decimated’ and that it was therefore ‘a matter of urgency’ that the DCC scheme be extended until the tariff phase-down period ended in 2003.³²⁰ [³²⁰ *The Star* 29 November 1996]

Mr Richards said that a joint forum of the clothing and textile industries in November 1996 had agreed that incentives, such as investment allowances, should be extended to existing industries, particularly labour-intensive industries. Investment allowances needed to be backdated to 1st September 1995. In addition, the joint forum called for the phasing out period of trade barriers in terms of the SADC for sensitive industries such as the clothing and textile industries to be extended to 15 years (from the eight years envisaged in the SADC protocol signed in August 1996) (see *Trade agreements* below). The local content definition in the bilateral agreement with Zimbabwe (see *Trade agreements* below), should be extended to all 14 existing bilateral agreements within the region, especially Malawi, in order to get away from the ‘sewing on buttons and exporting syndrome’—where a country exports goods manufactured in another country as being manufactured in its own country after doing a minimal amount of work. The joint forum also said that the government should grant three-year work permits to foreigners who had technical expertise in the clothing or textile industries in order to help counterbalance the large ‘brain drain’ of recent years.³²¹ [³²¹ Ibid]

In December 1996 the president of the South African Textile Federation, Mr Mike Hankinson, said that his organisation could not support the Clothing Federation of South Africa on the extension of the DCC system. The system would hurt the textile industry because the credit points awarded for exports of outsourced goods would be offset against new imports of textiles and clothing.³²² [³²² Ibid 2 December 1996]

In February 1997, the director for new developments of Gregory Knitting Mills (a member of the Frame Textile Corporation), Mr David Sable, criticised the government's tariff policy and its lack of supply-side incentives. The government had backed down on clearly defined supply-side incentives which had been included as part of a package deal under which the clothing and textile industries had agreed to reduce the tariff phase-down period in the industries from 12 years to ten years (see 1995/96 Survey, p185). The government had claimed that it could not afford the supply-side measures agreed to and had reduced the tariff phase-down period for the industries to seven years, Mr Sable said.³²³ [³²³ *Business Day* 26 February 1997]

Mr Sable criticised the fact that after two years of tariff reform most supplyside measures were only now being 'readied for implementation'. He said that the few measures that had already been introduced were either not what industry needed or, because of stringent qualification criteria, were limited in their applicability.³²⁴ [³²⁴ *Ibid*]

Developments

In June 1996 the minister of trade and industry, Mr Alec Erwin, denied claims by business that the government was reducing tariffs too quickly. He said that only about 5% to 10% of the country's tariffs were above South Africa's binding offer made to the World Trade Organisation (WTO).³²⁵ [³²⁵ *Ibid* 1 July 1996] The director general of trade and industry, Dr Zaverh Rustomjee, said that tariffs in the textile and clothing industries had been reduced faster than required by the WTO, after unions and firms in the industries had agreed to this.³²⁶ [³²⁶ *Ibid* 14 February 1997]

In the following month Mr Erwin said that the government could reduce some tariffs further than was agreed to at the WTO if the need arose and that the decision would be taken in conjunction with business. Protectionism had led to economic decline in South Africa in the 1980s. He added, however, that a degree of protection was necessary as no country could remove protection completely.³²⁷ [³²⁷ *Sowetan* 5 July 1996] South Africa committed itself to the reduction of its 12 000 tariff lines to 6 000 between 1995 and 2000 (see 1995/96 Survey, p184).

In October 1996 the Congress of South African Trade Unions (Cosatu) said in a written submission to the parliamentary portfolio committee on trade and industry that a general reduction of tariffs would be inappropriate as the necessary supply-side measures (such as subsidised raw materials and plant upgrades, export incentives and training) had not been implemented. The fact that the rand had depreciated was not a reliable indicator that domestic industry was in a position to compete in international markets on a sustainable basis, Cosatu said. 'A more reliable indicator would be the productivity gains resulting from the recommended supply-side and social adjustment mechanisms when these are effectively put in place.'³²⁸ [³²⁸ *Business Day* 2 October 1996]

In the same month the parliamentary portfolio committee on trade and industry recommended a review of tariff and industrial policy, after it had heard 18 presentations on the subject from business, labour,

the government, and the United Nations Conference on Trade and Development.³²⁹ [329 *The Citizen* 19 October 1996] The committee said that the review should take place within the framework of the National Economic Development and Labour Council and should focus on tariff levels, the appropriateness of planned tariff reductions, and the supply-side incentives needed to compensate for these cuts.³³⁰ [330 *Ibid*] The potential impact of tariff cuts had to be evaluated. The committee also recommended that:³³¹ [331 *Ibid*]

- boards with representatives from labour, business and the government be set up to deal with education and training and the sciences;
- further consideration be given to the relation between tariff reductions, industrial policy and micro-economic issues, and in particular the link between tariff reductions and exchange rate depreciation;
- effective anti-dumping measures be developed as a matter of urgency;
- a 'buy South African' campaign be considered for selected competitive products;
- a council for economic co-ordination be set up to consider industrial policy in the context of broader economic policy; and
- consideration be given to using tax incentives to encourage firms and industries to invest in training and upgrading of human resources.

Effects on Industry

In January 1997 the Nedcor economic unit said that the lowering of import tariffs had compelled many South African industries to upgrade machinery and equipment so as to improve efficiency in a bid to compete with imports. The unit said that industries involved in manufacturing food, iron and steel, industrial chemicals, paper, nonferrous metal products, and machinery and equipment, collectively increased their investment in machinery and equipment by 41% in 1994 and 23% in 1995. Together these industries represented about 63% of all South Africa's manufacturing exports.³³² [332 *Nedcor Guide to the Economy*, fourth quarter 1996]

The unit said that the rise in capital outlay had reduced the average age of capital equipment from 4,7 years in the first quarter of 1989 to 3,5 years in the fourth quarter of 1995. But the modernisation process had also been followed by a significant rationalisation of jobs in these industries. Employment in the manufacturing sector rose by 0,2% in 1994 and by 0,9% in 1995, the Nedcor economic unit said.³³³ [333 *Ibid*]

Clothing and Textile Industries

In January 1996 the assistant general secretary of the South African Clothing and Textile Workers' Union, Mr Ebrahim Patel, said that up to 100 000 jobs could be lost in the clothing and textile industries if the government did not support them during the tariff reduction phase. The government had committed itself to financing a social adjustment programme and providing financial incentives to companies to encourage them to absorb retrenched workers, but had not implemented them because of fiscal constraints.³³⁴ [334 *Business Day* 25 January 1996] In March 1996 the president of the South African Textile Federation, Mr Mike Hankinson, said that there was growing concern in the industry over the government's lack of support, particularly in controlling illegal imports and in supplying finance to help restructure the industry during the reduction of tariffs. He said that the Department of Trade and Industry (DTI) had reported 'unrecorded' imports of textiles between 1990 and 1994 that may have cost the country between R400m and R600m.³³⁵ [335 *Mail and Guardian* 22 March 1996]

In February 1997, the director for new developments of Gregory Knitting Mills, Mr David Sable, charged that the government was 'dragging its feet' in the fight against illegal imports. He said that the government had made little progress in installing an effective computer system, amending legislation to incorporate more severe and widely applicable penalties, implementing methods for the disposal of seized goods that would not disrupt local industry, and paying customs officials market-related salaries in order to attract staff of a high calibre. Mr Sable was responding to a statement earlier in that month by Dr Rustomjee in which he declared that the rationalisation of the tariff system was giving customs officials the 'upper hand' against smugglers.³³⁶ [336 *Business Day* 26 February 1997]

The minister of trade and industry, Mr Trevor Manuel, said in February 1996 that the suggestion that 100 000 jobs would be shed as a result of tariff reductions was 'wildly speculative'. He said that tariff cuts had been necessary in terms of South Africa's obligations to the WTO. The government was trying to promote competitiveness but 'recognises that there will be pain and will try to ensure that the pain is shared'.³³⁷ [337 *Ibid* 21 February 1996]

In August 1996 the new minister of trade and industry, Mr Alec Erwin, admitted that tariff cuts would take place in the clothing and textile industries more quickly than the WTO expected (seven instead of 12 years) but that this had been decided on jointly by the government, business and labour as being in the best interests of the industry as a whole.³³⁸ [338 *Mail and Guardian* 16 August 1996]

The following month the director of the Clothing Federation of South Africa, Mr Hennie van Zyl, said that the industry would continue to face increasing pressure on the domestic market from imports as tariff levels were phased down and preferential access to the South African market was granted to neighbouring countries (see *Southern African Development Community* below).³³⁹ [339 *Sowetan* 9 September 1996]

Footwear

In June 1996 the Footwear Manufacturers' Association of South Africa said that increased imports had

forced manufacturers to eliminate more than 4 000 jobs in the first three months of 1996. Twenty-five factories had closed down. The executive director of the association, Mr Dennis Linde, said that any improvement in the industry would hinge on the government's helping reverse the damage done by cheap footwear imports from the People's Republic of China which were 'killing' the local industry.³⁴⁰ [340 *Business Day* 5 June 1996] The DTI announced that it was considering using new anti-dumping legislation to launch an investigation into cheap Chinese imports.³⁴¹ [341 *Ibid*] A meeting between the DTI and a Chinese trade delegation was held in August 1996 with a view to addressing the complaints.³⁴² [342 *The Star* 14 August 1996] The situation had been compounded by illegal imports entering the country at badly manned customs and excise ports of entry.³⁴³ [343 *Ibid*]

In July 1996 a study under the aegis of the DTI concluded that the industry was in decline, 140 factories having been closed since 1991. This had resulted in the number of jobs in the industry dropping from 35 000 in 1991 to 28 000 in 1996 and output falling from 88m to 58m pairs of shoes (a decline of 34%). Over the same five-year period, imports of shoes had increased from 12m to about 63m (an increase of 425%) while an additional 10m pairs were smuggled into the country.³⁴⁴ [344 *Ibid* 23 July 1996]

Motor Industry

In August 1996 Mr Erwin said that the government would not allow cheap used cars to be imported into South Africa for commercial purposes as this would undermine the local motor industry. Permits to import used cars were given to private owners only, resulting in about 50 used cars a month entering the country legally. Mr Erwin said that the illegal importation of used cars through neighbouring countries or directly into South Africa was of concern to the government. The government was pursuing the lowering of vehicle prices through a phased reduction of tariffs on new vehicles. Large-scale importation of used vehicles would undermine this policy, he said.³⁴⁵ [345 *The Citizen* 16 August 1996]

In the same month the Industrial Development Corporation said that an estimated R10bn trade shortfall in the automotive sector in 1996 was set to rise to R14bn by 1997 as a result of cheap imports which were increasingly flooding the local market.³⁴⁶ [346 *Sowetan* 14 August 1996] The president of the Motor Industries Federation, Mr Phillip Myburgh, said that the reduction of duties had resulted in the re-entry into the South African market of various companies that had divested from the country in the sanctions years, as well as of new companies from the Pacific Rim. New entrants had already claimed about 10% of the new vehicle sales market. This had negatively affected dealers' margins, which were already under pressure as a result of cost-cutting by domestic manufacturers competing against imports, Mr Myburgh said.³⁴⁷ [347 *The Star* 30 October 1996] In October 1996 the former managing director of Volkswagen (South Africa), Mr Peter Searle, said that the greatest threat to the local motor industry was uncompetitiveness, mainly as a result of protection of the industry in the past as well as bad economies of scale. He said that a 60% import tariff was charged on imported cars compared to 150% in 1994 and this would force South African companies to become more competitive.³⁴⁸ [348 *Beeld* 25 October 1996]

In the following month the DTI said that it intended to lift restrictions on new tyre and inner tube imports in January 1997 but that restrictions on used tyres would remain. The South African Tyre Manufacturers' Conference (SATMC) said that its members had been lobbying for ad valorem duties to be increased from 25% to 43% in 1997 and that this should be followed by an annual 'phase-down' to 30% in 2002. The organisation said that the DTI's insistence that import permits continue to be issued could be contradictory to agreements reached in the WTO.³⁴⁹ [³⁴⁹ *Finance Week* 19 September 1996] The SATMC said that illegal tyre imports were a problem and that they were estimated at about R320m annually, compared with those of the local industry (including retreads) at R3,2bn annually.³⁵⁰ [³⁵⁰ *Ibid*]

Agriculture

In February 1996 the government published a green paper on a customs tariff policy for agricultural products. The paper was prompted by tension between the DTI and farmers in 1995 over imports of chicken, beef, mutton and pork. Farmers accused the DTI of failing to police imports properly and said the government had failed to respond quickly enough to calls for tariff adjustments in cases of unfair competition.³⁵¹ [³⁵¹ *Business Day* 26 February 1996]

The deputy minister for agriculture, Ms Thoko Didiza, said that the aim of the paper was to pinpoint vulnerable areas in South Africa's agricultural trade because of agricultural subsidy support levels in the United States and other trading partners of South Africa. The paper suggested that the difference between the landed cost of the imported product and the price of the local product should form the basis for protection. It proposed that viable farming industries faced with 'abnormal' competition be protected.³⁵² [³⁵² *Ibid*] Reacting to the publication of the paper, the president of the South African Agricultural Union, Mr Chris du Toit, said that tariffs needed to be applied fairly, while a spokesman for the National African Farmers' Union, Mr Steve Mokwena, said that the paper would stimulate debate, as many emerging farmers were looking to break into the export market.³⁵³ [³⁵³ *Ibid*] According to the DTI, the green paper was due to be sent to the cabinet in February 1997 and would be made public once approved by the cabinet.

In April 1996 the president, Mr Nelson Mandela, said that the government would not provide the wine-making industry with tariff protection. He said that the country had to ensure that it was internationally competitive because of merit and not because of protection. In order to improve the competitiveness of the wine industry, the government was reviewing all its regulations, controls, licensing and competition, he added.³⁵⁴ [³⁵⁴ *The Citizen* 25 April 1996] The chairman of KWV Investments (a South African wine co-operative), Mr Lourens Jonker, said that the co-operative was preparing to 'convince the authorities' that a well-considered, responsible and conservative tariff structure was essential for the industry.³⁵⁵ [³⁵⁵ *Ibid*]

Trade Agreements

Southern Africa

Southern African Customs Union

Although members of the Southern African Customs Union (Sacu) in July 1995 endorsed principles aimed at democratising the administration of the union in areas such as the determination of import tariffs, by October 1996 they had not concluded a review of the Sacu agreement (see 1995/96 Survey, p187). In October 1996 negotiators from the five member states (Botswana, Lesotho, Namibia, Swaziland and South Africa) met to resolve outstanding issues that were holding up talks to modernise the union. The director of southern African trade relations in the Department of Trade and Industry, Mr Mfundo Nkuhlu, said that there was pressure for the outstanding issues to be finalised because of the impending trade agreement between South Africa and the European Union (EU) and the protocol treaty that had been concluded under the auspices of Southern African Development Community (SADC) (see below). The key issues that remained unresolved included finding an alternative formula on revenue sharing from the customs pool. Mr Nkuhlu said that negotiators still had to flesh out the functions of proposed institutions including a ministers' council, a commission of senior officials and an independent secretariat.³⁵⁶ [³⁵⁶ *Business Day* 9 October 1996] In November 1996 the minister of trade and industry, Mr Alec Erwin, said that agreement in Sacu had 'essentially' been reached and the final details on the revenue sharing formula were being concluded. The basis of that agreement was that South Africa did not seek further revenue from the formula but was prepared to give stability to its Sacu partners on their revenue shares.³⁵⁷ [³⁵⁷ *Mail and Guardian* 8 November 1996]

Southern African Development Community

In August 1996 South Africa concluded an agreement in principle with Zimbabwe whereby South Africa would relax its local content rules, which had been a condition for the preferential tariffs on Zimbabwean clothing and textiles. The tariffs, which ranged from 63% to 78% in August 1996, were cut to less than 30% from September 1996 and were to be cut to 20% by 2000. Initially, Zimbabwe had wanted an 18% clothing tariff while South Africa offered 40% and stipulated that such products had to contain 25% Zimbabwean local content. Under the new agreement any product that had undergone two manufacturing processes in Zimbabwe would qualify for the tariffs. Zimbabwe also wanted the agreement to be extended to other sectors, including agricultural products, and South Africa undertook to respond to this request.³⁵⁸ [³⁵⁸ *Business Day* 6 August 1996] Mr Brian Brink, the executive director of the South African Textile Federation, said that the organisation was comfortable with the local-content specifications. He added, however, that the clothing industry had compromised on the trade pact only on the understanding that it would dissolve into the SADC trade protocol within three years (see below).³⁵⁹ [³⁵⁹ *The Star* 7 August 1996]

The deputy director of foreign trade relations, Mr Busi Gaboo, said that the tariff offer was in line with recommendations of the World Trade Organisation (WTO). The Zimbabwean agreement would be the basis for trade agreements with other SADC countries, he added.³⁶⁰ [³⁶⁰ *Business Day* 6 August 1996] The minister for industry and commerce in Zimbabwe, Dr Nathan Shamuyarira, said that the agreement effectively reopened the South African market to those Zimbabwean manufacturers able to compete on

price.³⁶¹ [³⁶¹ Ibid]

Also in August 1996, a free trade protocol was signed by leaders of the SADC, which committed the region to establishing an EU-style free trade zone within eight years. Angola did not sign, citing internal political and technical reasons. The president, Mr Nelson Mandela, was elected chairman of the organisation.³⁶² [³⁶² *Sowetan* 26 August 1996] Mr Erwin said that before the treaty could be signed the deal would have to be approved by the internal government structures of the member countries and a detailed list would have to be negotiated which specified the exact schedule for tariff reductions. Mr Erwin said that the SADC had set a goal of six months for the completion of the list.³⁶³ [³⁶³ *The Star* 5 September 1996] The protocol committed the region to phasing out all tariff and nontariff barriers within eight years. The protocol also permitted countries to protect 'infant' industries. It allowed members to apply to the SADC council of ministers for exemptions to the treaty 'where the development of existing industries or the creation of new industries is justified'. The protocol also allowed for countries to apply anti-dumping measures. Countries could further apply for an extension of the period for phasing out tariffs as well as for 'safeguard' measures to protect local industry from other SADC competitors where a product was being imported 'in such increased quantities, absolute or relative to domestic production, and under such conditions as to cause serious injury to the domestic industry'. Under the protocol, goods produced in any SADC signatory country from foreign materials would be considered locally produced if local processing accounted for more than 35% of the final value of the goods. The protocol also stated that member states would adopt policies to promote cross-border investment, but it did not deal with restrictions on foreign majority ownership of businesses or repatriation of profits from foreign investment. Disputes arising from the protocol would be dealt with by experts appointed by the SADC council of ministers.³⁶⁴ [³⁶⁴ Ibid]

To deal with the possibility of conflicting treaties (such as the Lomé Convention), the protocol pledged members to conform to WTO rules. It also enshrined a principle which held that once the treaty came into force signatories would not be able to raise import tariffs on products from other signatory countries.³⁶⁵ [³⁶⁵ Ibid]

South African diplomats, however, said that there were dozens of existing bilateral and internal regulations in southern Africa that would make the implementation of free trade difficult in the near future. These would have to be addressed in the drawing up of the free trade agreement.³⁶⁶ [³⁶⁶ *The Citizen* 26 August 1996]

Reacting to the conclusion of the protocol, the South African Agricultural Union (SAAU) and the Southern African Poultry Association called on the government to move cautiously in liberalising trade with its neighbours. The SAAU argued that a sophisticated cross-border control system would have to be put in place before implementation of a regional trade liberalisation programme. The poultry association said that it was in favour of expanding trade in southern Africa 'on even playing fields'. It said, however, that measures would have to be in place to prevent countries from becoming back doors for large inflows of products to South Africa from other countries not included in the protocol.³⁶⁷ [³⁶⁷

Business Day 2 October 1996]

In October 1996 Mr Erwin said that South Africa would have to open its markets more rapidly to the SADC than to trading blocks such as the EU. He said that South African exports to other members of the community were growing too fast and that this would cause problems as imports from SADC countries were minimal (3% of South Africa's total exports). He said that South Africa would encourage both trade and investment within the SADC.³⁶⁸ [³⁶⁸ *Ibid* 24 October 1996]

In November 1996 Mr Erwin said that 'exciting progress' had been made in SADC talks about a free trade treaty. He said that he was hopeful that the treaty would be in place within six months.³⁶⁹ [³⁶⁹ *Mail and Guardian* 8 November 1996]

European Union

In March 1996 the European Union (EU) approved a negotiating mandate for a free trade agreement with South Africa to evolve over ten to 12 years. The deal, however, excluded 38,6% of South Africa's farm produce. Among the items excluded were alcohol, apples, beef, butter, canned fruit, cut flowers, fresh oranges (according to the season), fruit juice, grape juice, lemons, maize, melons, pears, poultry, powdered skimmed milk, sorghum and sugar.³⁷⁰ [³⁷⁰ *Business Day* 26 March 1996]

A phased reduction of tariffs and duties was proposed for less sensitive agricultural products, under the European Commission's plan in which EU markets would open to South African imports faster than South African markets opened to European ones. In return, the EU wanted South Africa to reciprocate on an initial group of items with the remaining reductions of duties to follow over ten years. The same approach was proposed for manufactured goods. A clause in the EU's negotiating mandate provided for the possible liberalisation of 'highly sensitive' products from South Africa over an extended timeframe of 12 years. Portugal, however, wanted parallel trade liberalisation with South Africa in the textile trade. Britain and Sweden expressed concern over the large exclusion lists while Spain demanded that a 'satisfactory' opening of South African waters to its fishing fleet should be in place by the time the free trade agreement was signed.³⁷¹ [³⁷¹ *Ibid*]

In response to South Africa's request for closer alignment with the EU's partners in the Lomé Convention (the EU's trade and aid agreement with 70 African, Caribbean and Pacific (ACP) countries) the EU proposed that South Africa be given qualified membership of the trade and aid convention. It would be allowed to participate in the EU-ACP political dialogue in the joint assembly. South African firms would be allowed to tender for regional projects financed by the European Development Fund in ACP countries, which financed Lomé.³⁷² [³⁷² *Ibid* 29 March 1996] However, in June 1996 the minister of finance, Mr Trevor Manuel, told Parliament that the EU and certain member states were insisting on linking the finalisation of the Lomé protocol to the conclusion of the bilateral trade negotiations.³⁷³ [³⁷³ *This Week in Parliament* 4 June 1996] South Africa was the only SADC member that was not also a member of

the Lomé Convention at the time of writing.³⁷⁴ [³⁷⁴ *The Star* 5 September 1996] In October 1996 a joint assembly of the EU and its ACP partners backed South Africa in its bid to gain membership of the convention. The assembly called on the EU to pave the way for South Africa to join the convention.³⁷⁵ [³⁷⁵ *Business Day* 2 October 1996]

In May 1996 the then minister of agriculture, Dr Kraai van Niekerk, told a news briefing in Brussels (Belgium) that South Africa supplied only 2% of the EU's imports and therefore would not be able to flood the European market with its products. He added that the exclusions were not in line with the EU offer, which was intended to assist South Africa develop its domestic economy.³⁷⁶ [³⁷⁶ *Financial Mail* 7 June 1996]

In September 1996 South Africa's partners in the Southern African Customs Union (Sacu) (comprising Botswana, Lesotho, Namibia, South Africa and Swaziland) expressed fears that their countries would lose revenue if South Africa signed the agreement with the EU. Under the Sacu agreement goods were traded in the union area free of duty and quotas, with one third of all revenue to the Sacu revenue pool going to Sacu members.³⁷⁷ [³⁷⁷ *The Citizen* 25 September 1996] The EU was Sacu's largest trading partner, with R26,8bn exports to the EU, while EU members exported R44bn to Sacu member countries. The lowering of tariffs in South African markets would result in a ripple effect on South Africa's trading partners in the region.³⁷⁸ [³⁷⁸ *Sowetan* 10 September 1996] The director of the Namibian Economic Policy Research Unit, Dr Henning Melber, said that the proposed deal could cost the revenue pool between 450m and 825m European Currency Units (ECU) per year. The fear was that with the influx of highly competitive European commodities, South Africa was less likely to import from its neighbours in the future.³⁷⁹ [³⁷⁹ *The Citizen* 20 July 1996] The Namibian government estimated that it would lose about 15% of its annual revenue if the tariffs were lowered.³⁸⁰ [³⁸⁰ *Sowetan* 10 September 1996]

In October 1996 the EU announced that it would ensure that an eventual accord with South Africa would not cripple the economies of South Africa's neighbours in Sacu. Although details of how this would be achieved were not forthcoming at the time, analysts predicted that it would probably be through an undertaking by the EU to boost aid to the affected countries, to compensate for any losses sustained as a result of the agreement between the EU and South Africa.³⁸¹ [³⁸¹ *The Star* 30 October 1996]

In January 1997 talks with the EU on a trade agreement resumed. The chief director of foreign trade relations in South Africa's Department of Trade and Industry (DTI), Mr Faizel Ismail, said that South Africa's mandate addressed several concerns, including that:³⁸² [³⁸² *The Citizen* 22 January 1997]

- the trade agreement should be asymmetrical in South Africa's favour with the EU opening a greater proportion of its markets to South Africa than South Africa to the EU;
- the agreement should take into account South Africa's neighbours in Sacu who could lose valuable customs levies because of a bilateral trade liberalisation agreement;

- the EU had to pay more attention to the impact of any trade agreement on the SADC, which planned its own internal free trade area in eight years (see *Southern African Development Community* above); and
- the EU should revise its proposal to exclude 38,6% of South African farm produce from a future free trade agreement.

In a further round of negotiations held in Brussels (Belgium) in February 1997, the South African delegation called for access to article 303 of the Lomé Convention, which gave a 10% price preference to ACP tenderers over nonACP tenders for contracts of less than 5m ECU. A 15% concession was made for supplies contracts.³⁸³ [³⁸³ *Business Day* 27 February 1997] The EU, however, argued that access to article 303 would have disadvantaged South Africa's neighbouring states as they would not be able to compete equally with South Africa's much larger economy.

Agreement was reached in principle on South Africa's qualified membership of the Lomé Convention after South Africa withdrew its demand for access to article 303. The South African ambassador to the EU, Dr Eltie Links, said that South African firms would be able to bid for projects financed under the Lomé Convention on the same basis as EU companies.³⁸⁴ [³⁸⁴ *Ibid*] Spain, which could veto the agreement, warned that it planned to block it because it was unhappy with the way in which negotiations on the convention had been separated from the rest of the proposed trade agreement with the EU. The Lomé aspects of the negotiations had been 'rushed' without sufficient progress in other areas such as fisheries and trade, Spain's delegates said.³⁸⁵ [³⁸⁵ *The Star* 27 February 1997] (Spain reportedly wanted its fishing boats to be granted access to South African waters and threatened not to sign any trade agreement with South Africa unless South Africa agreed to stop exporting fortified wine to EU countries under a 'sherry' label.)³⁸⁶ [³⁸⁶ *Business Day* 21 February 1997]

An EU commissioner, Mr Joao de Deus Pinheiro, said that he was optimistic that Spain would be persuaded to lift its veto on South Africa's admission to the Lomé Convention.³⁸⁷ [³⁸⁷ *The Star* 26 February 1997] The agreement on South Africa's admission to the Lomé Convention had not been formalised at the time of writing.

Other

In May 1996 a note of understanding between Beijing (People's Republic of China) and Pretoria was signed. The deputy director general of the DTI, Mr Gerrit Breyll, said that this had resulted in the reduction of customs duties that had made South African products 10% to 15% more costly than those of their competitors in the Chinese market.³⁸⁸ [³⁸⁸ *Ibid* 26 July 1996]

Fourteen countries on the Indian Ocean rim came together in Mauritius in September 1996 to take forward an initiative to create a trade network between them. Delegates finalised a charter for an Indian

rim regional co-operation association, which was to be submitted to each government for signature.³⁸⁹ [389 *Business Day* 19 September 1996] The deputy director of regional economic organisations in the Department of Foreign Affairs, Mr Eli Bitzer, said that the initiative began in March 1995 with seven countries, but that an additional seven had joined by September 1996. The countries participating in the initiative included Australia, Kenya, India, Indonesia, Madagascar, Malaysia, Mauritius, Mozambique, Oman, Singapore, South Africa, Sri Lanka, Tanzania and Yemen.³⁹⁰ [390 *Ibid*] Mr Bitzer said that the association would identify interests that were common to all countries on the rim as well as ways whereby they could benefit from co-operation. Australia was responsible for promoting trade while India and Mauritius had been charged with establishing research facilities on Mauritius to support the association's initiatives, he added.³⁹¹ [391 *Ibid*]

In October 1996 Iran signed an agreement with South Africa to increase cooperation in trade, industry and mining. The agreement provided for the organisation of commercial fairs and for increased sugar exports from South Africa. It also made provision for co-operation between the two countries in the metals and pharmaceutical industries. The agreement further covered issues such as customs tariffs, trade taxes, and regulations on the transit and storage of goods.³⁹² [392 *The Citizen* 3 October 1996]

POLICY REVIEW

Despite an array of policy incentives and legislation aimed at promoting the small business sector, privatising some state assets and improving South Africa's international competitiveness, there are still several issues on which policy has yet to be adequately developed.

The negative effects of trade liberalisation are being felt in several industries including the clothing, footwear, textile, and motor industries, where jobs are being lost due to cheap as well as illegal imports. In addition the government has not adequately responded to demands from industry for supply-side incentives (such as subsidised raw materials and plant upgrades, export incentives and training), according to the Congress of South African Trade Unions. Also, according to the president of the Clothing Federation of South Africa, Mr Bernard Richard, there is no clarity about whether the duty credit certificate system, which was due to expire in March 1998, is to be extended. The system provides import credits to clothing exporters.

Provisions in the Labour Relations Act of 1995 which allow the minister of labour to extend the terms of an agreement to include non-parties to the agreement have come under considerable attack from small business organisations who argue that they will not be able to afford the higher wages agreed to centrally. The executive director of the Confederation of Employers of Southern Africa, Mr Hein van der Walt, said that the extension of industrial council agreements to non-parties would be unconstitutional because it would violate the rights to freedom of association and economic activity.

Through the establishment of provincial taxi offices to register taxis and assign specific routes to them the government hopes to reduce violence in the industry. Reactions, such as that of the of two rival taxi

organisations in the Western Cape, the Cape Organisation of Democratic Taxi Associations and the Cape Amalgamated Taxi Association, who refused to surrender their existing route permits and register with the provincial taxi office, will make it difficult to assign permits to routes that are already overtraded.

According to Dr Colin Wood, an international strategic business development consultant, new companies accessing tax advantages introduced specifically for them, can provide unfair competition for established companies who might not be able to compete with them because of these tax advantages.

The Standard Bank's director of public finance, Mr Colin Coleman, says he believes that one of the key challenges facing the privatisation process is the reaching of consensus between the ANC and its alliance partners on the shape, form and speed of privatisation.³⁹³ [³⁹³ *Finance Week* 19 December 1996] Also, the government has yet to take a firm decision on what is to be done with the money realised from privatisation.

In a bid to encourage small black farmers the government has given those who qualify access to a R15 000 per family settlement and land acquisition grant. The South African Agricultural Union says that the grants are inadequate to establish a prospective black farmer and will instead create mass dumping grounds for rural people.

The MEC for economic affairs and finance in Gauteng, Mr Jabu Moleketi, says that there are too many shebeens in the province and if the industry is not regulated urgently the same problems attendant in the taxi industry would plague the shebeen industry.

Despite the fact that a draft bill was submitted to the then minister of trade and industry, Mr Trevor Manuel, in September 1995, new legislation on competition has not been tabled in Parliament yet.

The president of Nafcoc, Mr Joe Hlongwane, has warned that much of what is termed black economic empowerment to date is perceived as failing to create jobs, and benefiting the few instead of the many.

EMPLOYMENT AND INDUSTRIAL RELATIONS

BIRD'S EYE VIEW

Unemployment was the focus of growing attention during the period under review. The Central Statistical Service (CSS) estimated the rate at 29% in 1995. However, both the International Labour Organisation (with a figure of 20%) and the South African Institute of Race Relations (25%) questioned the accuracy of the CSS estimates.

Affirmative action continued in the public sector. Surveys of private sector organisations found that more companies were implementing affirmative action. At junior and middle management levels,

companies were recruiting and promoting blacks on the basis of potential rather than proven capability. Experience and proven expertise remained the main criteria for senior managers and executive board members.

A number of bodies provided for in the Labour Relations Act of 1995 (which came into effect in November 1996) were established. The Commission for Conciliation, Mediation and Arbitration provided a range of dispute resolution services, while the Labour Court replaced the Industrial Court. The Labour Appeal Court was also established.

In September 1996 the Constitutional Court ruled that the right of an employer to lock out striking workers need not be included in the bill of rights. The right to strike was, however, entrenched in the constitution.

Some 1,7m mandays were lost because of industrial action in 1996, according to industrial relations consultants Andrew Levy and Associates (ALA). Although this was slightly higher than the figure for 1995 (1,6m), it was well below the figures for the preceding three years.

During the period under review a number of policy documents dealing with employment standards, affirmative action and labour market flexibility were published. The green paper on employment standards aimed to guarantee basic rights to all workers, promote fairness and equity in the workplace, and facilitate job creation. The paper's key proposal was for 'regulated flexibility', which would balance the protection of minimum standards with the requirements of a flexible labour market. According to the green paper on affirmative action, employers would be required to submit an employment equity plan for approval by the minister of labour, detailing measures to accelerate the recruitment, training and promotion of black people, women and the disabled.

In February 1996 the government, the Congress of South African Trade Unions, the Federation of South African Labour Unions and the National Council of Trade Unions signed a national framework agreement which set out objectives and guiding principles for the restructuring of state assets.

According to the Bureau of Market Research at the University of South Africa, the real personal disposable income of Africans increased by more than a third between 1985 and 1994, while that of whites dropped by nearly 3%.

KEY POINTS

- The Central Statistical Service (CSS) said that the economically active population of South Africa in 1995 was approximately 14,4m. Of those, 10,2m people (71%) were working in either the formal or the informal sector.
- The CSS estimated that some 1,7m people (or 17% of all people working) were in the informal sector of the economy in 1995. About 76% of the total number of people working in the informal sector were

self-employed .

- The CSS estimated the unemployment rate in 1995 to be 29%. The unemployment rate among Africans was the highest, at 37%, compared with 22% among coloured people, 13% among Asians and 6% among whites.
- The South African Reserve Bank said that at the end of 1995 there were 440000 fewer jobs in the non-agricultural private sector of the economy than at the end of 1988. The public sector employed some 130 000 more people at the end of 1995 than at the end of 1988.
- According to the minister of labour, Mr Tito Mboweni, total job opportunities had increased from 4,95m in 1994 to 5,24m in 1995 (by 290 000).
- According to the Department of Labour, registered union membership increased by 9% between 1994 (2,47m) and 1995 (2,69m).
- An industrial relations consultancy, Andrew Levy and Associates (ALA), estimated total union membership (registered and unregistered) in 1995 to be 2,9m, compared with 3,2m in 1994—a drop of 10%.
- Total union membership (registered and unregistered) of 2,95m represented approximately one fifth of the economically active population in 1995, according to the Department of Labour. ALA said, however, that 39% of all those working in the formal sector were union members.
- The South Africa Foundation said that between 1981 and 1994 there had been little or no growth in formal sector employment. Some 3,5m people had joined the workforce in that time. Only one out of every 30 new entrants to the labour market had found a job in the formal sector of the economy.
- The South African Reserve Bank said that real disposable income per head in 1995 was lower than it had been in 1971. Real disposable income per head had increased by only 2,5% since the second half of 1993, after dropping some 12% between 1989 and 1993.
- A vice president of the South African Institute of Race Relations, Professor Lawrence Schlemmer, said that the ratio of average white to average African household income had dropped from 5,5:1 in 1988 to below 3:1 in 1995.
- According to the reserve bank, growth in labour productivity in the non-agricultural sectors of the economy amounted to 3,3% in 1995—the highest rate of increase in a calendar year since 1978.

POLICY

A number of policy documents dealing with employment and industrial relations were published in the period under review.

Growth, Employment and Redistribution

In June 1996 the minister of finance, Mr Trevor Manuel, presented the macroeconomic policy framework of the government's growth and development strategy to Parliament. The document, entitled *Growth, Employment and Redistribution (GEAR)*, noted that job creation was inadequate and that economic growth of 3% a year would fail to reduce unemployment. *GEAR* envisaged an economic growth rate of 6% per year and the acceleration of employment creation to reach 409000 jobs a year in 2000.¹ [¹ *Business Day* 14 June 1996] This would be achieved through regulated labour flexibility and the promotion of continued improvements in productivity.² [² Department of Finance, *Growth, Employment and Redistribution*, June 1996, p17] (See chapter on *The Economy*.)

Green Paper: Policy Proposals for a New Employment Standards Statute

In February 1996 the Department of Labour published *Green Paper: Policy Proposals for a New Employment Standards Statute* aimed at replacing the Basic Conditions of Employment Act of 1983 (BCEA) and the Wage Act of 1957. Proposals in the green paper covered areas such as working time, maternity rights, child labour, sick and annual leave, and the protection of part-time and contract workers. The paper also proposed that the Wage Board be reconstituted as an employment standards commission and its functions extended. The proposals were submitted to the National Economic Development and Labour Council for consideration by organised labour, organised business and the government. Negotiations at Nedlac were continuing at the time of writing.

The green paper's key proposal was one of 'regulated flexibility', aimed at balancing the protection of minimum standards with the requirements of a flexible labour market. The two main aspects of regulated flexibility were the enforcement of a revised body of basic employment standards, and rules and procedures to allow deviation from these standards where necessary.

Other aspects of the green paper included:

- promoting collective bargaining as a means of varying employment standards and introducing flexible working arrangements;
- ensuring that legislation was compatible with job creation;
- implementing more effective enforcement mechanisms for employment standards;
- reducing employers' administrative burdens;

- addressing sexual discrimination; and
- using international standards as guidelines for proposed new legislation.

The green paper proposed that legislation should cover all employees except members of the security forces and intelligence services, unpaid employees of charitable organisations and trainees (to the extent that their conditions of employment were regulated under other legislation).

The minister of labour, in consultation with the relevant minister, would have the power to exclude the application of any provisions of the proposed legislation to employees of the state, the South African Police Service and educational institutions. The minister would also have the power to exclude the application of provisions of the legislation to employees above a defined level of earnings.³ [³ Ministry of Labour, *Green Paper: Policy Proposals for a New Employment Standards Statute*, Notice 156 of 1996, 23 February 1996]

Nonstandard Employment

The green paper proposed the following in order to provide more protection and improve the benefits of part-time employees, temporary workers, home workers, employees of contractors, workers supplied by labour brokers and 'piece' workers:⁴ [⁴ Ibid]

- part-time employees should be protected by the same employment standards as cover full-time employees;
- part-time employees should be entitled to the same benefits as full-time employees (but on a proportional basis in terms of the number of hours worked);
- a part-time employee who had been employed for two years or longer should be given preference over any person not in employment when being considered for a vacancy for which he or she was suitably qualified;
- an employer who made use of a labour contractor should be jointly and severally liable if the contractor violated any employment standards;
- an employment standards commission should have the power to recommend that employment standards be extended to workers falling outside the formal definition of an employee; and
- certain wage determinations and bargaining council (formerly industrial council) agreements, as well as provisions in the BCEA relating to 'piece' workers in agriculture, should be made generally applicable to all piece-rate workers to protect them against abuse.

Variation of Employment Standards

The green paper proposed that employment standards legislation should provide for deviation from standards in certain circumstances, to ensure that South Africa could compete with international economies whose employment standards and social costs of production were lower than those of South Africa. Employment standards could be varied by means of:⁵ [5 Ibid]

- **collective bargaining agreements.** These should allow variation in any employment standards, but certain limitations should be placed on agreements to ensure that the broad policy goals of the statute were not undermined. Collective agreements should not vary to the detriment of employees' fundamental rights and protection. Variation by means of collective bargaining agreements should be permitted only if it was not against the public interest. Exemptions would be granted by collective agreements or by ratification by the employment standards commission. Collective bargaining agreements could also allow for variation of certain employment standards within defined limits without requiring administrative exemption from the collective agreement or ratification from the commission. This included arrangements to promote flexible working time. Bargaining council agreements should also have greater scope than other collective agreements to vary employment standards;
- **wage determinations.** A restructured wage board (the employment standards commission) would provide a mechanism to allow variation in employment standards to suit the needs of particular sectors. The jurisdiction of the wage board should be extended to the agricultural and domestic sectors;
- **variations by administrative procedure.** The power to grant an exemption from any aspect of the new legislation should be conferred on the minister of labour. Where an employment standard was the subject of negotiation between an employer and a representative trade union in a workplace, variation should not be allowed unless there was a collective agreement or the trade union consented; and
- **individual employment contracts.** Legislation should define matters that could be varied in terms of individual contracts of employment, such as working on Sundays and the scheduling of annual leave.

Employment Standards Commission

The green paper recommended that the Wage Board be replaced by an employment standards commission and that its functions be extended to include powers granted to statutory councils in the Labour Relations Act of 1995. The commission's principal functions would be to regulate employment standards for sectors not covered by a bargaining council, to ratify provisions in collective agreements which would affect third parties or the public interest, and to advise the minister of labour on issues relating to employment standards and the impact of government policies on job creation. The green paper made no recommendations on the policies that would guide the commission in determining minimum wage levels. The paper stated that the employment standards commission should be able to subpoena information that it would require to conduct investigations and make recommendations.⁶ [6 Ibid]

Working Time

The green paper said that the Department of Labour aimed to reduce ordinary working hours to 40 hours a week, in line with international standards. Reduction in working hours would have to be compatible with employment creation and should not lead to job losses. Any adjustment in pay caused by a reduction in working hours must be implemented in terms of an agreed upon national strategy. The reduction of working hours should also be coupled with more flexible working time arrangements. The green paper's proposals regarding working hours and flexibility arrangements included:

- reducing the working week from 46 hours (for day workers) and 48 hours (for shift workers) to 45 hours. The weekly limit for employees who worked excessive hours (such as security workers) should be reduced over a period of two years from 60 hours to 48 hours;
- limiting total daily working time (ordinary time and overtime) to 12 hours. The total working time in any sector or occupation in which there was a high level of exposure to health and safety risks should be limited to nine hours unless otherwise provided for by the minister and the relevant occupational health and safety authority;
- retaining the limit of ten hours overtime per week;
- making provision for overtime to be exchanged for paid time off or additional leave;
- permitting more flexible working arrangements, such as a compressed working week and the averaging of working hours. A compressed working week would be limited to 12 hours of normal work on any day for four days a week only. The 'averaging' of working hours should be regulated through collective agreements. An averaging period would be limited to four weeks and no more than 40 hours per week over that period;
- introducing a rest period of a minimum of 36 continuous hours per week (although this could be averaged over two weeks);
- removing restrictions on work on Sundays but retaining double payment for Sunday work;
- adjusting the overtime compensation system by increasing overtime pay from time-and-a-third to time-and-a-half, and by allowing employees to substitute overtime payment for additional time off;
- introducing an allowance for night workers at 20% of an employee's normal pay;
- allowing an employee suffering from a health condition associated with the performance of night work to be transferred to suitable day work where practicable;
- increasing annual leave entitlement from two weeks to three weeks; and

- setting minimum standards for sick leave provisions, but allowing for more flexibility in the administration of sick leave.

The green paper said that the implementation of the proposals on working time would require thorough consultation with stakeholders. Special provisions for small business would also have to be made.⁷ [⁷ Ibid]

Maternity Rights and Family Responsibilities

The green paper recommended that new legislation should entitle a female employee to four months' unpaid maternity leave, during which time employment would be secure. A woman should not be required to work for six weeks after childbirth unless agreed to by a doctor. Women should be allowed to reduce their working hours to make provision for parental responsibilities. If a woman was employed in night work or work which could be harmful to her or her child she should be entitled to alternative work during pregnancy and for one year after the birth of the child. The green paper also proposed that male employees with more than one year's service should be entitled to three days' paid paternity leave or childcare leave during the year of the birth of the child. The leave period could not be accrued.⁸ [⁸ Ibid]

Child Labour

Children under the age of 15 years should not be allowed to work without ministerial permission, the green paper said. An exemption would, however, be granted only to an individual employer to employ a child over 12 years, and only if the child's wellbeing and education were not at risk. Children between the ages of 15 and 18 years should not be permitted to perform work which was inappropriate to their age or harmful to their health.⁹ [⁹ Ibid]

The Individual Employment Relationship

The following proposals were made regarding the individual employer–employee relationship:¹⁰ [¹⁰ Ibid]

- provisions in the Labour Relations Act of 1995 relating to unfair labour practices and unfair dismissal should be transferred to the proposed new legislation (see 1995/96 Survey, p298);
- an employer should give an employee four weeks' notice of termination of employment unless the dismissal was on account of the employee's conduct. In the first four weeks of employment one week's notice could be given. An employee who resigned should also give four weeks' notice of termination of employment;
- no employer should discriminate against an employee for exercising his or her right in terms of the proposed legislation or for co-operating with a person responsible for the enforcement of an employment

standard; and

- an employee should have the right to receive written particulars of his or her
- employment conditions, and to a certificate of service on termination of employment.

Enforcement

The green paper suggested that to ensure greater compliance with employment standards, an integrated system of enforcement should replace enforcement through criminal courts. Inspectors should be able to issue administrative penalties to employers who did not keep prescribed records and ‘compliance notices’ to employers who were in violation of the law. An employee should be entitled to institute a claim arising out of his or her employer’s failure to comply with employment standards in the Small Claims Court, the Labour Court or the Commission for Conciliation, Mediation and Arbitration (CCMA). An inspector should be permitted to institute arbitration proceedings before the CCMA on behalf of an employee. The paper added that criminal sanctions should, however, be retained for specified breaches of employment standards, including the employment of children, and for repeated breaches of employment standards.¹¹ [¹¹ Ibid]

Administrative Obligations

It was proposed that a single reporting form be introduced to reduce and simplify an employer’s obligation to maintain records and submit returns to the Department of Labour.¹² [¹² Ibid]

Criticism and Alternative Proposals

Business South Africa (BSA) expressed concern about whether the green paper would be able to strike a balance between maintaining labour standards and ensuring job creation. BSA said that the introduction of a 40-hour week would have a detrimental effect on the South African economy. Compulsory reduction of the working week would increase the costs of production and, therefore, have a negative effect on economic growth, inflation and employment. Rigid employment conditions would damage the employment-creating capacity of South Africa’s economy. Proposals made by BSA included the short-term exemption from the legislation of trainees, new employees, casual workers, workers who earned commission and small businesses.¹³ [¹³ *Business Day* 26 March 1996]

The Congress of South African Trade Unions (Cosatu) welcomed the policy proposals, but said that it was disappointed that a 40-hour working week would not be legislated for immediately, as the reduction of working hours would compel employers to hire more workers and create more jobs. Cosatu also welcomed the proposal that all workers should be covered by the new legislation, saying that it was an ‘immense’ victory for domestic and agricultural workers, who had been previously excluded.¹⁴ [¹⁴ *The Star* 19 February 1996] Cosatu, however, objected to the possible exclusion of highly paid workers from the

scope of the legislation, the implications of work on Sundays, and the green paper's failure to increase maternity, childcare and paternity leave.¹⁵ [¹⁵ *Business Day* 26 March 1996]

The chairman of the Free State Agricultural Union, Mr Daan Slabbert, said that the proposed 40-hour week would increase rather than counter unemployment. In the long term it would become impossible for farmers to keep redundant or unproductive labourers in service, he said.¹⁶ [¹⁶ *The Star Workplace* 20 March 1996]

Dr Theo Alant MP (National Party) said that the economy had virtually no capacity to create jobs, because of structural deficiencies. This required structural adjustments and not 'artificial attempts to create more jobs'. Dr Alant said that the proposals in the green paper did not support the need for employment flexibility and international competitiveness. Forced reduction in working hours would not create jobs. Mr David de Villiers Graaff MP (NP) said that increasing the minimum wage would have a negative effect on the poor and the unemployed. Increasing the cost of employing somebody denied others the opportunity of getting a job at all, he said.¹⁷ [¹⁷ *Hansard* (NA: Q) 1 cols 8–9, 21 February 1996]

During discussions on the green paper at the National Economic Development and Labour Council, the representatives of labour, business and the government could not reach consensus on a number of issues, including working hours, maternity leave, child labour and the variation of minimum standards.¹⁸ [¹⁸ *Business Day* 4 December 1996]

Green Paper: Policy Proposals for a New Employment and Occupational Equity Statute

In May 1996 the minister of labour, Mr Tito Mboweni, appointed an 11-member team to draft an employment equity bill. The team included representatives of government departments, labour lawyers and the former head of the Equal Opportunities Commission in the United Kingdom, Ms Valerie Amos. No representative of business was appointed.¹⁹ [¹⁹ *The Star Business Report* 30 May 1996; Ministry of Labour, *Green Paper: Policy Proposals for a New Employment and Occupational Equity Statute*, Notice 804 of 1996, 1 July 1996]

In July 1996 the Department of Labour published *Green Paper: Policy Proposals for a New Employment and Occupational Equity Statute*. The document outlined legislative proposals on employment equity aimed at redressing discrimination in the labour market. Employment equity would focus on:²⁰ [²⁰ Ministry of Labour, *Green Paper: Policy Proposals for a New Employment and Occupational Equity Statute*, 1 July 1996; Anthea Jeffery, *Business and Affirmative Action*, South African Institute of Race Relations, Johannesburg, 1996]

- eradicating discrimination of any kind in the recruitment, training, payment and benefits of employees; and
- encouraging employers to transform their organisations so as to remove the 'unjustified barriers to

employment' encountered by black people, women and people with disabilities, and to accelerate the training and promotion of individuals from these groups.

In order to prevent employers from using discriminatory recruitment and selection methods, 'critical areas of transformation' would include:²¹ [21 Ibid]

- developing advertising mechanisms that would reach all 'realistic candidates' for new jobs. Advertising through newspapers with limited audiences and 'word-of-mouth' recruitment should be avoided;
- redefining selection criteria in terms of the skills required for particular tasks rather than formal educational requirements, seniority or psychometric testing. Selection criteria should not discriminate against individuals with university degrees from previously black institutions. Grading systems separating groups on the basis of race or sex should be redefined, and discriminatory language policies should be prohibited;
- allowing representative bodies (including people from previously disadvantaged groups), from within or outside the organisation, to participate in decision-making procedures relating to recruitment and promotion; and
- developing internal appeals procedures which would have legitimacy 'with all stakeholders'.

The green paper proposed that the new legislation should require employers to conduct an 'organisational audit' with relevant employee representatives prior to the formulation of an employment equity plan. The audit would include information on the number of employees, and pay and benefits broken down according to race, sex and disability; human resource development programmes; transport, housing and childcare arrangements available to employees; languages used in the workplace; procedures for recruitment, training, promotion, retrenchment and for resolving grievances.

The green paper proposed that employers develop plans to promote employment equity and remove hindrances to the recruitment, training and promotion of disadvantaged groups in the workplace. Such plans should include goals and timetables for their implementation.

Only organisations in primary categories—as determined by the cabinet—would have to submit an employment equity plan for approval by the minister of labour. Other employers would have to provide plans for inspection by the minister if requested to do so by employee representatives or other 'important stakeholders'. Once it had been approved, an employer would be legally obliged to implement the plan and to report on its progress. The Department of Labour would develop guidelines to 'minimise official discretion in assessing the acceptability of plans'. Large or strategically placed employers would be obliged to implement employment equity processes more rigorously and report on them in greater detail.

The green paper said that the success of the organisational audit and employment equity plan would depend on the development of internal structures to implement the plan. Larger organisations would have to appoint an official who would be responsible for activities related to employment equity. A body representing all employees had to participate in the auditing and planning processes and in the establishment of internal appeals and grievance procedures. Workplace forums would take on this role where possible.²² [22 Ibid]

Government institutions responsible for promoting employment equity would include:

- the directorate for equal opportunities in the Department of Labour, which would formulate and implement policy, develop codes of good practice, examine the practices and policies of employers to assess whether they were ‘perpetuating discrimination and disadvantage’, establish performance indicators and timetables, collect data from employers and monitor the implementation of employment equity plans;
- the labour inspectorate, which would monitor and enforce employment equity activities that ‘do not require highly specialised knowledge or discretion’;
- bargaining councils (collective bargaining forums), which would submit regular reports to the minister of labour to establish ‘sectoral patterns and norms’;
- the Commission for Conciliation, Mediation and Arbitration (CCMA), which would resolve employment equity disputes that could not be resolved in the workplace;
- the Labour Court and Labour Appeal Court, which were specialist tribunals for labour law and related matters. Their powers to order costs against a party to a dispute would be extended to disputes on employment equity; and
- an employment equity advisory council, which would give advice on policy issues and monitor progress in attaining employment equity and representivity.

The new legislation would allow class action suits against employers by trade unions or other groups. In enforcing employment equity, the normal onus of proof would be reversed, that is, the employer would have to prove that discrimination did not occur and that employment equity plans had been implemented.

Incentives and sanctions to ensure employers’ compliance with employment equity legislation would include the following:²³ [23 Ibid]

- the government, in granting tenders or subsidies, would favour employers who promoted employment

equity;

- the CCMA or the Labour Court could prescribe corrective action if an employer violated employment equity requirements. An employer would, for instance, be required to promote an employee who was denied promotion on discriminatory grounds; and
- the Department of Labour would explore what administrative and legal sanctions to impose for non-compliance with employment equity legislation, such as the imposition of fines.

Introducing the green paper, Mr Mboweni said that the proposals did not amount to reverse discrimination, but would instead ensure a situation where there would be no discrimination against any group. The director of equal opportunities, Mr Mpho Makwana, said that the proposals went beyond affirmative action, which was only 'a means to an end' and which had become discredited because of the way in which it had been implemented.²⁴ [²⁴ *The Citizen* 2 July 1996, *Business Day* 3 July 1996]

Criticism and Alternative Proposals

A spokesman for the Freedom Front, Mr Joseph Chirole, said that his party was concerned that the green paper was based on 'politics' and not on sound economic management principles. The proposals were an attempt to 'legalise permanent discrimination against whites in the guise of equal opportunities', he said.²⁵ [²⁵ *The Citizen* 3 July 1996]

The Democratic Party (DP) welcomed the broad goals set by the document. The spokesman for the party on labour, Mr James Selfe, said that although employment equity goals were necessary, it was important to judge whether they would promote or retard economic growth and job creation. The government would have to remain flexible as each business had its own needs and constraints.²⁶ [²⁶ *Ibid*]

In August 1996 the leader of the DP, Mr Tony Leon, criticised the government's affirmative action plans, which he described as 'euphemistic clouds of racial quotas and group preference' masquerading as transformation. While 'discrimination and systematic, purposeful repression' had no place in the new South Africa, neither did preference, reverse discrimination or quotas. Affirmative action assumed that cultural, ethnic, racial or sexual differences were somehow critical to the performance of an employee. Replacing a manager of one colour with one of another colour (regardless of qualification) as a symbolic gesture towards 'representation' did nothing to help someone who was unemployed and unable to feed his family. 'Merely establishing a new executive 'boardoisie' by sacking the old only adds to the unemployment rolls,' Mr Leon said. Real transformation in South Africa required job creation, improved education and training, economic growth, privatisation of uncompetitive parastatals and bridging the 'enormous gap' in standards of living. The government should help transformation by encouraging economic growth and 'not by creating new bureaucracies to regulate and oversee the racial composition of the private sector'. Insisting on group solutions to inequality ignored the reality that it was the individual that benefited from affirmative action programmes, Mr Leon said.²⁷ [²⁷ Mr Tony Leon MP, leader of the Democratic Party, 'Racial Quotas, Economic Competitiveness and Transnet', address to the Johannesburg Press

Club Annual General Meeting, Johannesburg, 7 August 1996]

The Federation of South African Labour Unions said that it welcomed the fact that the document did not prescribe legal quotas, as these were impracticable and undesirable. The federation said that the empowerment of previously disadvantaged groups through active training programmes was an important part of a successful affirmative action plan.²⁸ [²⁸ *The Citizen, Business Day* 3 July 1996]

Black business and professional bodies criticised the proposed legislation for not prescribing targets. The Foundation for African Business and Consumer Services said that the green paper was 'not robust enough' in this respect, while the National African Federated Chamber of Commerce and Industry (Nafcoc) said that it lacked vision. The general secretary of Nafcoc, Mr Mashudu Ramano, said that targets should be set so that a company's affirmative action performance could be judged. The Black Management Forum said that the document 'bordered on the unethical' in permitting companies to continue with inequitable policies. The head of the forum's transformation division, Mr Loyiso Mbabane, said that the forum would demand that the government set targets and non-negotiable timeframes for the implementation of affirmative action programmes.²⁹ [²⁹ *The Star Business Report* 16 July 1996] The forum also criticised the sanctions for noncompliance proposed by the green paper. Withholding government contracts or subsidies for non-compliance affected only those companies seeking government contracts or financial assistance, the forum said.³⁰ [³⁰ *Ibid* 23 July 1996; Jeffery, *Business and Affirmative Action*, p18]

In response to these criticisms, Mr Makwana said that it was 'futile to prescribe rigid targets because conditions varied from sector to sector'. Targets could become inconsistent with economic growth, requiring changes in the law. It was necessary to have a law which 'creates an environment for workers and employers to set goals as partners... The government cannot act in a draconian manner and accelerate conflict in the market place', he said.³¹ [³¹ *The Star Business Report* 16 July 1996; Jeffery, *Business and Affirmative Action*, p18]

The director and publisher of the *Innes Labour Brief*, Dr Duncan Innes, welcomed the paper, saying that 'a system that enables employers and employees to develop their own equity plan...is adopting an approach which is both flexible and empowering'. He added, however, that there were two potential difficulties in implementing the proposed system. Firstly, it was doubtful whether the government would have the capacity to process the large quantities of data that would be generated, or to analyse complex employment equity plans, and secondly, it was uncertain whether the CCMA and the courts would be able to deal effectively with the large number of disputes that were likely to arise.³² [³² Jeffery, *Business and Affirmative Action*, p18]

A labour lawyer with the legal firm Webber Wentzel Bowens, Mr J D Verster, expressed concern at what he called the element of coercion in the green paper. 'To coerce or bribe companies into adopting affirmative action measures is not in line with the underlying objectives of equal opportunity in the workplace,' he said. Placing an emphasis on compliance with government regulation was unlikely to

create optimal human resource development in a discrimination-free environment. He added that eliminating overt discrimination by employers was a legitimate aim, but 'burdening employers with reducing inequalities not caused by discrimination' was unacceptable. He suggested that companies should be encouraged to seek assistance and advice in introducing effective and sustainable employment equity programmes voluntarily. This would lead to genuine affirmative action appointments rather than tokenism. Organisations that did not implement such programmes would, owing to skills shortages, become uncompetitive and unprofitable.³³ [³³ *Business Day* 7 August 1996; Jeffery, *Business and Affirmative Action*, p18]

At the time of writing the Congress of South African Trade Unions was still discussing the document.

Labour Market Commission

In June 1996 the Presidential Commission to Investigate the Development of a Comprehensive Labour Market Policy (the labour market commission) published its report (see also 1995/96 Survey, p251). The report included proposals on flexibility in the labour market, increasing productivity, affirmative action legislation, the migrant labour system, unemployment, measures to accelerate job creation, human resource development and the Unemployment Insurance Fund. The commission also recommended a 'presidential jobs summit' of business, labour and the government to negotiate a 'national accord for employment and growth'.³⁴ [³⁴ Report of the Presidential Commission to Investigate the Development of a Comprehensive Labour Market Policy (labour market commission), *Restructuring the South African Labour Market*, June 1996]

The commission's proposals focused on creating a balance between an economy requiring high levels of flexibility and adaptability from its labour market, and labour market security (including protection from arbitrary loss of employment or income, and protection against discrimination).³⁵ [³⁵ Ibid; *The Star* 21 June 1996]

The commission identified the following factors as necessary for creating labour-absorbing economic growth:³⁶ [³⁶ Ibid]

- macro-economic policies that co-ordinated the steady and sustainable growth of demand for goods and services with the supply of such goods and services;
- stable relationships between business, labour and the government;
- exchange rate policies which did not prejudice domestic producers and which avoided the employment-reducing effects of an overvalued rand and the inflationary effects of excessively rapid depreciation;
- policies aimed at increasing labour-intensive businesses' access to credit markets; and
- public-sector employment programmes which produced necessary infrastructure such as housing and

rural public works.

In August 1996 the minister of labour, Mr Tito Mboweni, appointed a committee to review the proposals of the commission and make recommendations to him.³⁷ [³⁷ *Business Day* 23 August 1996]

Below are some of the areas on which the labour market commission's report focused.

Industrial Strategy

The commission noted that South African manufacturing was dominated by highly capital-intensive industries which required skilled labour, such as the chemical industry and the electricity supply industry. The emphasis of the government, however, was on job creation and labour-intensive investment. The commission argued for an industrial policy that 'actively supports and rewards labour-intensive investment, as long as such investments can be made sufficiently profitable to warrant directing scarce capital resources in their direction'. According to the commission, the following areas required more attention:³⁸ [³⁸ Labour market commission, *Restructuring the South African Labour Market*, June 1996]

- more effective deployment of the resources of the Industrial Development Corporation in job creation;
- a review of natural resource beneficiation (the treatment of raw materials to improve their properties), which consumed large amounts of capital but generated little employment;
- increased support for labour-intensive production; and
- more effective phasing in of trade liberalisation and the introduction of measures to support liberalisation. This was necessary to limit short-term job losses, maintain support for the restructuring process, and retain the skills and discipline acquired through work experience.

Given the country's vast supply of unskilled, unemployed labour, the commission said that the system of wage determination should not undermine firms' attempts to compete in lower-wage product lines. Industrial policy should encourage companies to improve their products and compete in more demanding product ranges. The wage determination system should not discourage firms from locating themselves in these product sectors.

According to the labour market commission, human resource development (HRD) should be a critical component of an industrial strategy aimed at increasing job creation through labour-intensive investment. The HRD strategy should be directed at the requirements of those sectors where sustainable employment opportunities could be created, namely the manufacturing and service sectors.³⁹ [³⁹ *Ibid*]

Proposals to upgrade the country's human resources included the following:

- all training should be transferable and credit-bearing across firms and sectors;
- unskilled and semi-skilled workers should receive multi-skilling rather than task-specific training;
- adult basic education should be directed at unskilled and semi-skilled workers;
- training should be provided on full pay in working time, where possible;
- firms which made use of contract workers should be responsible for the training of these workers;
- a nationally negotiated human development enterprise index should be introduced to provide a measure of the extent to which human development could be promoted. The progress of firms improving HRD in the workplace should be tracked, while those firms doing well on the index should be rewarded;
- companies involved in highly capital-intensive projects which employed few, highly skilled people, should be encouraged to train workers rather than 'poaching' them from other projects or companies; and
- companies should be required to train each worker involved in the construction phase of a project to a higher, accredited level than that at which he or she entered the project.

Wage Determination

Collective Bargaining

The commission proposed a decentralised bargaining system in which minimum rates and conditions would be set at industry level and supplementary bargaining would take place at enterprise level. It would be left to each bargaining council to determine at which level various issues would be negotiated, and to set conditions and guidelines for supplementary bargaining at enterprise level.

The commission added that there was some justification for legal intervention to 'plug gaps in the bargaining system', relating specifically to the extension of a collective agreement to all employers and employees in an industry who were not party to the agreement. The minister of labour should have more discretion in deciding whether or not to extend bargaining council agreements to non-parties. (The Labour Relations Act of 1995 compels the minister to extend an agreement reached by more than 50% of an industry but discourages him from extending an agreement where this is not the case.) The minister should take less account of the representativeness of parties, and more account of the special circumstances of non-parties and the possibility of job destruction and creation, the commission said.

The commission proposed two ways in which to deal with the problems associated with extending collective agreements to small and medium enterprises (SMEs), such as unaffordable benefits or minimum wages. The first option—which the commission preferred—would be to set a ‘simpler, less onerous schedule of minimum conditions’ for SMEs. This approach would provide for the different circumstances of SMEs, while ensuring that all employers and employees would be covered by one, basic labour law. This would also reduce the need for exemption from agreements. The second option would be to continue the practice of extending agreements to all non-parties in the industry. Although individual SMEs should continue to apply for exemption, variations from minimum conditions should be easier to obtain.

The commission proposed that bargaining councils define small businesses by turnover rather than employment numbers when considering an application for exemption. Furthermore, the viewpoint of the employees of a small business applying for exemption should be taken into account and exemptions should be partial and for a specified period. As a business became more established, there would be a rise in the level of compliance required with the bargaining council agreement. Although the Labour Relations Act of 1995 provided for small business representation on bargaining councils, the commission suggested that employer organisations make a concerted effort to recruit small businesses. There should also be a co-ordinator on the councils to facilitate small business participation.⁴⁰ [40 Ibid; **Fast Facts** No 8 1996]

Minimum Wages

The labour market commission submitted that setting one national minimum wage was ‘unrealistic’. Rather, minimum wages and conditions should be set at sectoral level. A restructured wage board should set minimum wages and working conditions in sectors where no effective collective bargaining existed. The commission noted, however, that minimum wages would have to be set at modest levels to avoid harming job creation and would have to be introduced incrementally. Variable and nonvariable minimum wages and conditions should be determined by legislation.

The commission said that setting minimum wages at appropriate levels in the agricultural sector could eliminate extremely low wages, increase employment opportunities and ensure the more productive use of labour. Setting a minimum wage would also reduce the number of non-South African agricultural workers. The commission acknowledged that setting a minimum wage for domestic workers was not easily enforceable and could discourage the employment of domestic workers. The commission proposed that the Wage Board, in conjunction with local authorities, set minimum conditions appropriate to particular areas.

Productivity Enhancement

The commission suggested that a government co-ordinating body should be established to develop policies to promote productivity and to ensure that government policies, in general, did not reduce productivity. Furthermore, the commission proposed that the governing body of the National

Productivity Institute (NPI) be restructured to include equal representation of employer organisations, employee organisations and the government. In so far as the NPI was a publicly funded organisation, its mandate should reflect the government's approach to productivity enhancement (job creation and increased workplace co-operation and participation). (See also *Productivity* below.)

With regard to the introduction of a 40-hour working week, as proposed in the *Green Paper: Policy Proposals for a New Employment and Occupational Equity Status* (see above), the commission said that it should be effected slowly and incrementally. The impact on employment and productivity should be assessed at each stage of the process before further reductions were introduced.⁴² [⁴² Ibid]

The Social Plan

The commission proposed the formulation of a social plan to alleviate the impact of retrenchments, especially in small towns, rural areas and among unskilled workers. In the commission's view, legislative and institutional support was required to ensure greater efficacy of measures to alleviate the impact of economic restructuring. The commission recommended that the social plan include the following measures:⁴³ [⁴³ Ibid; **Fast Facts** No 8 1996]

- employers would be required to engage employees and their unions, and in some cases the government, in the proposed restructuring and retrenchment
- process. Section 189(2) of the Labour Relations Act of 1995, which made provision for this, should be strengthened by including a specific requirement to negotiate a social plan. Negotiations should incorporate measures to limit job losses and to alleviate the impact of job losses;
- retrenchment procedures should specify criteria for identifying workers who would be dismissed, along with minimum periods of notice prior to retrenchment and minimum levels of severance pay;
- a training programme for retrenched workers should be incorporated into the social plan. The programme should focus on income-generating opportunities and regional labour demand. Where such opportunities did not exist, training should be focused on adult basic education. The departments of labour and education, along with industry training boards, should conduct the training or basic adult literacy programmes, as retrenching firms would not have the means or incentives to undertake training;
- while a company engaged in retrenching would be responsible for severance pay, a social plan fund should be established to support social plan programmes negotiated between companies and their employees. The fund would only be used to extend social funds established at plant, sector, regional or local level. The fund would be financed by the reconstruction and development programme, the national public works programme, the regional industrial development programme and foreign donors;
- employers would be required to notify the Department of Labour of planned retrenchment or closure.

Legislation should be amended to reintroduce a provision that had required mining companies to ‘seek government permission’ before retrenching 20% or more of the workforce in any 12-month period; and

- the Department of Labour should establish a section to monitor developments in mining, facilitate industrial relations in the industry, facilitate the establishment of workplace forums and statutory councils, and monitor compliance with section 189 of the Labour Relations Act. Government subsidies to protect jobs, primarily at marginal mines, should be considered.

The commission also recommended that a ‘cautious and pragmatic’ approach be adopted towards tariff reform and public service downsizing.⁴⁴ [⁴⁴ Ibid]

Unemployment Insurance Fund

The commission recommended that Unemployment Insurance Fund (UIF) eligibility be extended to cover as many workers as possible, including domestic workers. (At present, part-time workers, contract workers, domestic workers and employees of the central government are excluded.) The exclusion of workers earning above R69 420 should be removed. The commission said that this measure would increase the number of high-paying contributors (who were less likely to become unemployed), making the UIF more solvent and allowing for a greater degree of redistribution. A minimum benefit for low-paid workers and a maximum benefit for high-paid workers should also be considered, the commission said.

The commission recommended that UIF evaders be traced through their contribution to other employee benefits and that penalties and fines for non-paying employers be increased. Furthermore, the UIF should be given access to companies’ income tax returns to detect non-payment or underpayment of UIF contributions by employers.⁴⁵ [⁴⁵ Ibid]

Public Works Programmes

With regard to state job-creation programmes, the commission recommended that the community-based public works programme (a presidential lead project within the national public works programme) be directly funded by the Department of Public Works for a period of four years, subject to continuing evaluation. This would ensure a medium-term, conditional commitment to the programme by the government. It would also allow nongovernmental organisations involved in the programme to commit resources to managing and implementing employment programmes. The commission supported the decentralisation of the programme to provincial and local level as this would generate greater community participation in development plans.

The commission proposed that the government, through the national public works programme, use its ‘leverage with the private sector to intervene in various ways in the construction industry’, including discouraging labour-only subcontracting and other ‘more flexible methods of production’. In respect of

publicly funded projects, the commission said that private contractors should be required to contribute towards the training of their subcontracted workers, while the same requirement for private contracts should be considered.

Further recommendations included that public sector construction projects be made more labour intensive. The commission acknowledged, however, that labour-intensive methods of production were difficult to implement, often yielded a poorer-quality product, and were costly.⁴⁶ [⁴⁶ Ibid]

Employment Equity

The commission recommended that legislation on employment equity be promulgated 'as soon as possible'. The commission said that non-discrimination and equal opportunities in the labour market alone could not produce employment equity in a 'reasonable timeframe'. Therefore, there was a need for 'deliberate policy intervention directed at dealing with discrimination and rectifying the effects of past disadvantage in the labour market'. The commission's affirmative action strategy included employer-provided skills and training programmes designed to 'reduce the socio-economic disadvantage of the majority'.⁴⁷ [⁴⁷ Labour market commission, *Restructuring the South African Labour Market*, June 1996]

Specific proposals pertaining to affirmative action included the following:

- affirmative action policies should be aimed at blacks, women and people with disabilities;
- legislated quotas should be avoided in favour of a target-based approach, ie the legislation should be enabling rather than prescriptive;
- employers should be required to draw up their own employment equity plans, of which targets and timeframes would form an integral component. Legislation should, however, contain suggested targets and timeframes. These should be flexible to allow for sectoral, economic and commercial differences;
- legislation should require each employer, including nongovernmental organisations, corporations and the public sector, to draw up affirmative action plans (after consultation with their employees and unions) to be submitted to the Department of Labour for examination. The department would monitor the progress and implementation of the plan;
- consideration should be given to exempting employers below a certain size (determined by number of employees and turnover) from the requirements of affirmative action legislation;
- an affirmative action plan should provide a breakdown of the demographic status of the workforce, a list of quantitative and qualitative targets, and an indication of how targets would be achieved. The plan should span a period of several years and include annual progress reporting; and

- the department should start by collecting basic data from larger employers. As time and resources permitted, the scope of data collection could be extended to smaller firms and more complex information.

The commission acknowledged that most of the information needed for the drawing up of an affirmative action plan would have to be collected ‘by other means’ because a job applicant could not be legally required to disclose his or her race to an employer. The commission rejected the notion that the monitoring of the racial composition of the workforce required a return to ‘formalised systems of racial classification, and [was] thus simply apartheid by another name’. Affirmative action should be directed specifically at Africans, Asians and coloured people and should take the demographics of a region into account. The commission recommended that ‘where applicable’ employees be given the option of refusing to classify themselves according to race.

Furthermore, employment equity plans and progress reports should be made available to the public to make firms ‘subject to a degree of public accountability’. Employers should be required to publish indicators of ‘employment equity status’ in their annual financial reports.

Firms which failed to submit an acceptable employment equity plan and progress reports to the department would be subject to legal sanction and denied access to government resources such as state contracts, loans from the Industrial Development Corporation, training subsidies and state grants. Employment equity disputes and grievances would be referred to the Commission for Conciliation, Mediation and Arbitration.⁴⁸ [48 Ibid]

The commission proposed further that employment equity legislation formalise the non-discrimination provisions in the bill of rights. The bill’s equality section would be applied ‘horizontally’ to the extent that it would be enforceable by employees against employers (see also Bill of Rights Report and chapter on *Government and Constitution*).⁴⁹ [49 **Fast Facts** No 8 1996; Anthea Jeffery and Martin Schönteich, *Bill of Rights Report*, South African Institute of Race Relations, Johannesburg, 1997]

Labour Migration

Labour migration policy should be thoroughly reviewed as it was unsatisfactory, according to the labour market commission. The migrant labour system in its existing form should be phased out (see chapter on *Population*). The commission also recommended that the Department of Labour conduct annual surveys of occupational vacancies in the country as this information was important for the development of a coherent labour migration policy.⁵⁰ [50 Labour market commission, *Restructuring the South African Labour Market*, June 1996]

The commission noted that the entry of foreign workers into the South African labour market was regulated by a dual system of control—immigration and work permits under the Aliens Control Act of 1991, and bilateral treaties between South Africa and Botswana, Lesotho, Mozambique and Swaziland.

This system discriminated against workers entering the country in terms of bilateral treaties because they remained perpetual contract workers, while those entering the country in terms of the Aliens Control Act were allowed to obtain permanent residence.

Compulsory deferred payment schemes associated with bilateral treaties should be phased out within five years, as these undermined the basic human right that entitled workers to receive their full pay, the commission said. Employee contracts regulated by bilateral treaties were outmoded and contradicted international requirements because they did not contain details of the occupation the worker would be engaged in or the remuneration he or she would receive. Migrant workers should be fully informed of their conditions of work before their arrival in South Africa.

The commission stated further that:⁵¹ [⁵¹ Ibid]

- national skills requirements should be taken into account when allocating immigration or work permits;
- a more liberal approach to the granting of immigration and work permits to skilled applicants should be adopted as this would address the problem of skills shortages in the country and would lead to a more realistic pricing of labour;
- a preferential policy for member countries of the Southern African Customs Union and Mozambique should be adopted, allowing access for unskilled workers from these countries on a continuing basis. These workers would not be restricted to work in the mining and agricultural sectors; and
- sanctions on people employing foreign workers illegally should be increased.

(See also chapter on *Population*.)

Criticism and Alternative Proposals

In an initial response to the labour market commission report, the Congress of South African Trade Unions (Cosatu) said that South African workers had a negative view of social accords because they tended to focus on wage restraints as a measure for promoting investment.⁵² [⁵² The *Shopsteward* June/July 1996] Cosatu said that it would resist any attempts to amend provisions in the Labour Relations Act relating to the extension of bargaining council agreements to non-parties.⁵³ [⁵³ Business Day 21 June 1996] The recommendations on labour market flexibility were also criticised.⁵⁴ [⁵⁴ Eastern Province Herald 21 June 1996] Cosatu said it supported the following proposals of the labour market commission:⁵⁵ [⁵⁵ The *Shopsteward* June/July 1996]

- extending Unemployment Insurance Fund coverage to a wider range of workers;

- phasing out the deferred payment system; and
- setting negotiated targets for affirmative action.

The federation rejected proposed nonstatutory measures relating to the social plan, saying that it would demand a social plan act. Cosatu said that although multiple shifts led to more jobs and an improvement in capital productivity, they were often accompanied by social, health and family problems.⁵⁶ [⁵⁶ Ibid]

The Afrikaanse Handelsinstituut welcomed the report and said that it supported any measures aimed at alleviating unemployment. The organisation said that it favoured the proposal that a balance should be found between job creation, job security with reasonable remuneration, and competitive business.⁵⁷ [⁵⁷ Eastern Province Herald 21 June 1996] The South African Chamber of Business also welcomed the report, but said that ‘particular attention’ would have to be given to the compatibility of the report with the goals of the government’s macro-economic strategy (see chapter on *The Economy*), especially with regard to labour market flexibility.⁵⁸ [⁵⁸ Business Day 21 June 1996] The efficacy of a social accord would have to be carefully assessed. ‘An essential prerequisite would be a common economic vision between business and labour, which is unfortunately not yet in place,’ the chamber said.⁵⁹ [⁵⁹ Mail and Guardian 21 June 1996]

Gold Mining’s Labour Markets: Legacies of the Past, Challenges of the Present

In December 1996 the Department of Labour published a report on labour markets in the gold mining sector. The report, entitled *Gold Mining’s Labour Markets: Legacies of the Past, Challenges of the Present*, focused on the ‘nature of internal labour markets’, and living and working conditions on mines and their impact on society. According to the chief director of labour market policy, Dr Guy Mahone, the key message of the report was that the ‘labour market regime pertaining to the gold mines [was] archaic and inefficient’ in terms of the industry’s long-term competitiveness, the rights of workers and the interests of society as a whole (including the effects of the ‘labour regime’ on workers, their families and communities dependent on mines). The report also recommended a series of short-, medium and long-term proposals regarding wages, skills development, housing, and health and safety. According to the minister of labour, Mr Tito Mboweni, a more comprehensive investigation into working conditions on mines would be launched in 1997.⁶⁰ [⁶⁰ Department of Labour, *Gold Mining’s Labour Markets: Legacies of the Past, Challenges of the Present*, Labour Market Policy Papers 1, 1996; *The Citizen* 18 December 1996, *Business Day* 24 December 1996]

Green Paper: Skills Development Strategy for Economic and Employment Growth in South Africa

In March 1997 the Department of Labour published *Green Paper: Skills Development Strategy for*

Economic and Employment Growth in South Africa. (See chapter on *Education*.)

Other Policy Documents

Growth for All, an Economic Strategy for South Africa

In February 1996 the South Africa Foundation published *Growth For All, An Economic Strategy for South Africa*—a macro-economic strategy aimed at solving South Africa's economic problems through a comprehensive 'reform programme'. This included dealing with crime and violence, streamlining government spending and revenues, implementing a 'brisk' privatisation programme, creating a more flexible labour market and promoting rapid growth in the export of manufactured goods. Regarding the labour market, the report proposed that reforms were needed to allow a 'free entry, flexible wage sector' of the formal labour market to develop next to the existing high-wage, capital-intensive sector. This two-tier labour market would require the elimination of the extensions of bargaining council agreements to non-parties; maintaining only those minimum labour standards that did not affect the poor and the unemployed; avoiding implementing minimum wage regulations which threatened jobs; and making the second tier more flexible through legislative changes aimed at encouraging new jobs and investment. Such a strategy would allow the unemployed and new workers to compete for jobs..)

Social Equity and Job Creation, the Key to a Stable Future

In April 1996 the labour constituency at the National Economic Development and Labour Council (Nedlac) published an economic policy framework entitled *Social Equity and Job Creation, The Key to a Stable Future*. The document was produced by the Congress of South African Trade Unions (Cosatu), the National Council of Trade Unions and the Federation of South African Labour Unions.

The general secretary of Cosatu, Mr Sam Shilowa, said that the document outlined organised labour's priorities and demands in areas such as job creation and productivity, and would contribute to the broader economic debate on growth and development.⁶² [⁶² Business Day 2 April 1996; *Mayibuye* May 1996]

The document stated that social equity in South Africa should entail substantial redistribution of wealth, eradication of poverty, promotion of workers' rights, increased employment, development of the full human potential of the population, and the provision of basic infrastructure and services to all citizens. Social equity would be achieved through six 'pillars of growth'. The first 'pillar' was a job creation programme which would include, among others:⁶³ [⁶³ Proposals of the South African Labour Movement *Social Equity and Job Creation, The Key to a Stable Future*, *The Shopsteward* April/May 1996; *Financial Mail* 5 April 1996]

- labour-intensive public works and mass housing programmes, targeting the long-term unemployed, women and youth, and including training;
- modernising the industrial base to increase exports and to recapture parts of the domestic market lost to

imports;

- cutting overtime work and replacing it with new full-time employment (job sharing);
- implementing a ‘pragmatic programme’ which would lower import tariffs ‘carefully and not faster than required’ under the terms of the General Agreement on Tariffs and Trade;
- setting up social adjustment programmes to absorb, retrain and place workers displaced by restructuring;
- implementing wage and income policies that would stimulate and expand domestic demand for local goods and services;
- introducing a 4% levy on company payrolls to finance the training and development of workers. The levy would be introduced initially on all firms with a turnover of R500 000 or more a year;
- increasing productivity;
- creating labour-intensive jobs in the private sector. The Industrial Development Corporation should shift its focus to labour-intensive projects;
- discontinuing retrenchments in the private and public sectors;
- redistributing land to the poor to promote small-scale farming; and
- stimulating sustainable economic activity by reviewing and moderating monetary policies.

The second ‘pillar’ included measures to redirect state spending towards social services for the poor, and increasing the redistributive features of tax policy. The document recommended a tax on the wealthy through increased corporate taxation, a reduction in value added tax (VAT) (and the removal of VAT on basic foods, medicine, water, electricity and education), a 55% tax rate on individuals earning more than R200 000 a year, a capital gains tax and a luxury goods tax. The document opposed a sharp reduction in the budget deficit because this would bring deflationary pressures and would slow economic growth and job creation.⁶⁴ [64 Proposals of the South African Labour Movement *Social Equity and Job Creation*; *The Shopsteward* April/May 1996; *Financial Mail* 5 April 1996; *Business Day* 2 April 1996]

The third ‘pillar’ proposed that an anti-trust policy be negotiated to break the ‘stranglehold of big business on the economy’.⁶⁵ [65 Proposals of the South African Labour Movement *Social Equity and Job Creation*, *The Shopsteward* April/May 1996; *Financial Mail* 5 April 1996]

The fourth ‘pillar’ was the improvement of workers’ rights by:⁶⁶ [66 Ibid]

- setting up centralised bargaining forums;
- legislating for six months' paid maternity leave, one week's paid paternity leave, and one week's childcare leave;
- introducing a 40-hour working week;
- introducing training programmes geared towards multi-skilling ; and
- developing a workers' rights index. Companies tendering for government contracts should be required to report on their compliance with the standards set out in the index. This would include contributing 4% of payroll towards training programmes, participating in centralised bargaining institutions where those existed, and agreeing not to employ 'scab' labour during legal strikes.

The document proposed that the top 58 companies in South Africa (those named in the document) should publicly agree to publish information on the salary packages of each of their executive directors, 'particularly their [chief executive officers]'. Those companies should also commit themselves to reducing the wage gap within the company to no more than 8:1 (ie the highest paid person should not earn more than eight times that of the lowest paid person).⁶⁷ [⁶⁷ Ibid]

The proposed fifth 'pillar', that of greater industrial democracy, would be achieved through workplace forums, reducing managerial prerogative through legislation, granting workers the right to elect 50% of the members on company boards and giving organised labour 'immediate' representation on mutual insurance companies (such as Old Mutual and Sanlam).⁶⁸ [⁶⁸ Ibid]

The sixth 'pillar' proposed promoting economic development and workers' rights internationally. Measures to achieve this included:⁶⁹ [⁶⁹ Ibid]

- helping the southern African region to develop economically by providing technical assistance and aid, and assisting the growth of trade unionism; and
- campaigning for a social clause to be part of all multilateral and bilateral trade agreements.

Criticism

In response to the document, the South African Chamber of Business (Sacob) said that the proposals were 'highly prescriptive' and could undermine attempts to create jobs and wealth.

The Freedom Front rejected the proposals, saying that too much attention was being paid to what bigger

trade unions were saying, while smaller unions and employers were not being heard. The labour affairs spokesman, Mr Pieter Groenewald, stated that a ban on overtime would compel farmers and small businesses to employ more workers, which they could not afford. Redistribution of land to the poor was also unacceptable because it would not necessarily be in the interests of production.⁷² [72 The Citizen 3 April 1996]

The chief economist of Standard Bank, Mr Nico Czypionka, said that any increase in business taxes would deter foreign companies, whose interest in fixed investment was 'tenuous at best'.⁷³ [73 Mail and Guardian 4 April 1996]

LEGISLATION

Labour Relations Act of 1995

The Labour Relations Act of 1995 came into effect on 11th November 1996, 12 months after it was signed into law (see 1995/96 Survey, pp 284–308). The act promoted centralised bargaining, entrenched the right to strike and introduced workplace forums and bargaining councils. It also provided for a number of new dispute resolution mechanisms, including the Commission for Conciliation, Mediation and Arbitration, and the Labour Court. (See 1995/96 Survey, pp284–301.)⁷⁴ [74 Business Day 11 November 1996]

Labour Relations Amendment Act of 1996

The Labour Relations Amendment Act of 1996 made a number of technical changes to the principal act, but also provided for, among other things, the Commission for Conciliation, Mediation and Arbitration, or an accredited agency, to perform dispute resolution functions on behalf of bargaining councils. In terms of the amendment act, bargaining councils could perform dispute resolving functions without approval from the CCMA, if parties to the dispute were represented on them. Approval to resolve disputes would be required only if non-parties were involved (previously all dispute resolution functions had to be approved by the CCMA). The jurisdiction of the Labour Court was extended to include dispute resolution in terms of a dispute between a trade union and an applicant for trade union membership (such disputes usually arising under closed-shop arrangements where a prospective employee is denied trade union membership). The amendment act also provided for workplace forums to refer an unresolved 'joint-decision making' dispute for arbitration, where the workplace forum and the employer could not agree on changes to the employer's disciplinary code and procedure, and workplace rules.

Mine Health and Safety Act of 1996

The Mine Health and Safety Act, providing for the protection of the health and safety of employees and other persons at mines, came into effect on 15th January 1997. The act stemmed from the 1994 Commission of Inquiry into Safety and Health in the Mining Industry, which had criticised the industry

and the government for flaws in the inspection and enforcement of health and safety rules in the mining industry.⁷⁶ [⁷⁶ The Star Business Report 20 February 1996] The act required employers and employees to identify hazards and to control and minimise the risks relating to health and safety at mines. It also provided for employee participation in matters of health and safety through representatives and committees at mines.⁷⁷ [⁷⁷ Mine Health and Safety Act no 29 of 1996]

Mine employers would be required to negotiate a comprehensive health and safety agreement with representative trade unions.

Public Service Amendment Act of 1996

The Public Service Amendment Act, assented to by the president in April 1996, removed the ‘unjust differentiation’ between ‘officers’ (permanent staff) and ‘employees’ (contract and temporary staff) as defined in the Public Service Act of 1994. All state employees would be deemed ‘officers’, with all the provisions in the act pertaining to officers applying to such persons. The act retained the retirement age of 65 years.⁸² [⁸² Public Service Amendment Act no 13 of 1996] However, in November 1996 the Public Service Second Amendment Act was assented to by the president, which provided for public servants to retire at the age of 55 years.⁸³ [⁸³ Public Service Second Amendment Act no 67 of 1996, *Government Gazette* no 17562, 8 November 1996]

Integration Measures in Respect of Labour Laws, Amendment and Adjustments Act of 1996

The Integration Measures in Respect of Labour Laws, Amendment and Adjustments Act was assented to by the president in November 1996. The act was a product of the Integration of Labour Laws Act of 1994, which had provided for the integration of the labour laws of the former homelands into national labour law. The act repealed a number of homeland acts which had been omitted from the integration act.⁸⁴ [⁸⁴ Integration Measures in Respect of Labour Laws, Amendment and Adjustments Act no 68 of 1996, *Government Gazette* no 17563, 8 November 1996]

ECONOMICALLY ACTIVE POPULATION

According to the 1995 *October Household Survey* by the Central Statistical Service (CSS), there were 14,4m economically active people in South Africa. (The CSS defined the economically active population (EAP) as all people aged 15 and older who were working or were available for work.) The following table provides a breakdown of the EAP by race and sex in October 1995:⁸⁵ [⁸⁵ Central Statistical Service (CSS), *October Household Survey 1995*, Statistical Release PO317, 27 November 1996]

Economically active population by race and sex: October 1995

Male

Female

Total^a

Proportion of total EAP

African

5 506 000

4 419 000

9 925 000

69,1%

Asian

278 000

148 000

426 000

3,0%

Coloured

849 000

703 000

1 551 000

10,8%

White

1 464 000

990 000

2 453 000

17,1%

Total

8 096 000

6 259 000

14 356 000

100,0%

a

Figures may not add up owing to rounding.

The table below provides a breakdown of the EAP by sex and provi

Economically active population by sex and province: October 1995

Province

Male

Female

Total^a

Proportion of total EAP^a

Eastern Cape

873 000

866 000

1 739 000

12,1%

Free State

588 000

462 000

1 050 000

7,3%

Gauteng

2 155 000

1 430 000

3 584 000

25,0%

KwaZulu-Natal

1 492 000

1 232 000

2 724 000

19,0%

Mpumalanga

582 000

390 000

973 000

6,8%

North West

691 000

456 000

1 147 000

8,0%

Northern Cape

172 000

113 000

285 000

2,0%

Northern Province

543 000

576 000

1 119 000

7,8%

Western Cape

1 000 000

734 000

1 734 000

12,1%

Total^a

8 096 000

6 259 000

14 356 000

100,0%

a

Figures may not add up owing to r

According to the CSS, Africans accounted for 69% of the EAP, followed by whites (17%), coloured people (11%) and Asians (3%). Gauteng had the highest proportion of the EAP, at 25%, followed by KwaZulu-Natal (19%), the Eastern Cape and the Western Cape (both 12%). The Northern Cape (2%) had the lowest proportion of the EAP.

The table and graph below show the number of formal and informal sector workers and the unemployed as a proportion of the total EAP:⁸⁷ [⁸⁷ Ibid]

Economically active population: October 1995

Number

Proportion of EAP

Formal sector

8 412 000

59%

Informal sector

1 740 000

12%

Unemployed

4 204 000

29%

Total EAP

14 356 000

10

Structure of the Workforce

Domestic Service and Agriculture

The number of employed formal domestic and agricultural workers dropped by 7% between 1985 and 1995. In 1985 these workers comprised 22,3% of employed formal workers. By 1995 the proportion had dropped to 21,1%.

The table below shows employment in the formal domestic service and agricultural sectors in various years from 1985 to 1995:⁸⁸ [88 South African Labour Bulletin, vol 20 no 1, February 1996]

Domestic and agricultural workers: 1985–95

Employed formal workers excluding domestic and agricultural workers

Employed formal domestic and agricultural workers

Number of employed formal workers

Domestic and agricultural workers as a proportion of employed workers

1985

6 090 900

1 751 800

7 842 700

22,3%

1987

6 265 500

1 751 000

8 016 500

21,8%

1989

6 454 500

1 702 200

8 156 700

20,9%

1991

6 315 600

1 671 900

7 987 500

20,9%

1993

6 115 365

1 642 300

7 757 665

21,2%

1995

6 074 600

1 627 800

7 702 400

2

Private and Public Sectors

According to the South African Reserve Bank, employment in the nonagricultural private sector of the economy dropped by 12% between 1989 and 1994 (ie at an average annual rate of 2,5%) before increasing by 0,7% in 1995. At the end of 1995 there were 440000 fewer jobs in the non-agricultural private sector of the economy than at the end of 1988. However, employment in the public sector continued to show a 'distinct upward trend'. It increased at an average annual rate of 1,5% from 1989 to 1992; it dropped by 1,2% in 1993 and increased by 0,5% in both 1994 and 1995. At the end of 1995 the public sector employed some 130 000 more people than at the end of 1988. The average level of formal sector employment in 1995 was more or less equal to the 1982 level, and 6,4% below the 1989 peak level.

The following table provides a breakdown of the number of workers in the public and private sectors from 1990 to 1995, as calculated by the reserve bank (figures may differ from those in the 1995/96 Survey because the figures below have been seasonally adjusted):⁸⁹ [⁸⁹ South African Reserve Bank (SARB), annual economic report, 1996; telephonic interview with Mr Pieter Weideman, deputy economist, economics division, SARB, 29 January 1996]

Private and public sector employment: 1990–95^a

Year

Public sector

Increase (decrease)

Private sector^b

Increase (decrease)

Total^c

Increase (decrease)

1990

1 724 591

—

3 908 714

—

5 633 304

—

1991

1 766 131

2,4%

3 770 630

(3,5%)

5 536 760

(1,7%)

1992

1 786 913

1,2%

3 640 010

(3,5%)

5 426 923

(2,0%)

1993

1 764 710

(1,2%)

3 550 004

(2,5%)

5 314 714

(2,1%)

1994

1 773 889

0,5%

3 506 844

(1,2%)

5 280 733

(0,6%)

1995

1 783 165

0,5%

3 532 268

0,7%

5 315 433

0,7%

a

Average number of employees over four quarters.

b

Excludes agriculture.

c

Figures may not add up owing to r

The following pie charts show the proportions of workers in the public and private sectors in 1990 and 1995:

A discussion document published in March 1996 by the minister without portfolio, Mr Jay Naidoo, said that only 0,3% of disabled people were employed in the formal sector of the economy. This could be attributed to inadequate educational facilities, discriminatory and ineffective legislation, discrimination by employers and a lack of vocational rehabilitation.⁹⁰ [90 Ministry in the Office of the President, Integrated National Disability Strategy of the Government of National Unity, *Government Gazette* no 17038, 14 March 1996]

The Informal Sector

According to the Central Statistical Service (CSS), in 1995 some 1,74m (17%) of the total number of people working (10,2m) were involved in the informal sector. (The informal sector, as defined by the CSS, consists of all people or businesses who are not registered and/or who defined themselves as being in the informal sector at the time of the October 1995 household survey.) Of the total number of people working in the informal sector, 1,33m (76%) were selfemployed. The CSS estimated that the monthly contribution of the selfemployed in the informal sector to gross domestic product was approximately R2,7bn in 1995. (Information on the informal sector in the October 1995 household survey gave details

only about those employed for their own account and not about employees in the informal sector.) The following table provides a breakdown of the number of self-employed people in the informal sector by race and sex in 1995, according to the CSS:⁹¹ [91 CSS, *October Household Survey 1995*, Statistical Release PO317, 27 November 1996]

Informal sector self-employment by race and sex: October 1995

Male
Female
Total ^a
Proportion ^a
African
264 000
772 000
1 036 000
78,1%
Asian
22 000
7 000
29 000
2,2%
Coloured
32 000
95 000

127 000

9,6%

White

76 000

59 000

136 000

10,2%

Total^a

394 000

934 000

1 327 000

100,0%

a

Figures may not add up owing to rounding.

About 58% of self-employed people in the informal sector in 1995 were African women. For every man in the informal sector, there were more than two women.

The following table shows informal sector self-employment by sex and provi

Informal sector self-employment by sex and province: October 1995

Province

Male

Female

Total^a

Proportion

Eastern Cape

40 000

127 000

168 000

12,7%

Free State

15 000

136 000

151 000

11,4%

Gauteng

120 000

162 000

281 000

21,2%

KwaZulu-Natal

71 000

173 000

244 000

18,4%

Mpumalanga

21 000

72 000

92 000

6,9%

North West

38 000

77 000

115 000

8,7%

Northern Cape

3 000

22 000

25 000

1,9%

Northern Province

39 000

72 000

111 000

8,4%

Western Cape

46 000

94 000

140 000

10,5%

Total^a

394 000

934 000

1 327 000

100,0%

a

Figures may not add up owing to

Gauteng accounted for the single largest proportion of people in the informal sector (21%), followed by KwaZulu-Natal (18%) and the Eastern Cape (13%). The single largest number of men in the informal sector was in Gauteng. They made up 43% of the total number of self-employed people in Gauteng and 30% of the total number of self-employed men in the informal sector countrywide.⁹³ [⁹³ Ibid]

A study by the South African Institute of Race Relations in 1996 found that a 'significant proportion' of people who claimed to be unemployed were in fact productively employed in the informal sector of the economy. Their monthly personal expenditure matched that of unskilled people in full employment. Some 30% of coloured and 21% of African 'unemployed' respondents indicated that they were working in the informal sector. The figure for Indian and white respondents was somewhat lower at 15%.⁹⁴ [⁹⁴ Fast Facts No 9 1996]

(See *Unemployment* below as well as chapter on *Business*.)

Male/Female Breakdown

The table below provides a breakdown of the male/female distribution of people working by occupation in October 1995, according to the CSS:95 [⁹⁵ CSS, *October Household Survey 1995*, Statistical Release PO317, 27 November 1996]

Male/female distribution of people working by occupation: October 1995^a

Occupational group

Male

Female

Total^b

Proportion of total number of people working^b

Legislators, senior officials and managers

462 000

124 000

586 000

5,8%

Professionals

226 000

139 000

364 000

3,6%

Technicians and associated professionals

553 000

602 000

1 155 000

11,4%

Clerks

438 000

782 000

1 220 000

12,0%

Service workers and shop and market sales workers

678 000

457 000

1 134 000

11,2%

Skilled agricultural and fishery workers

120 000

18 000

138 000

1,4%

Craft and related trade workers

1 084 000

134 000

1 219 000

12,0%

Plant/machine operators and assemblers

1 002 000

160 000

1 162 000

11,4%

Elementary occupations^c

1 620 000

1 416 000

3 037 000

29,9%

Armed forces

17 000

1 000

19 000

0,2%

Occupation unspecified

71 000

48 000

118 000

1,2%

Total^b

6 272 000

3 879 000

10 152 000

100,0%

a

Includes formal and informal sector employment.

b

Figures may not add up owing to rounding.

c

Refers to unskilled

Of the 10,2m people working, 62% were men and 38% were women. Some 26% of men were in elementary (unskilled) occupations, 17% in craft and related trades, while 16% were working as plant or machine operators or assemblers. Nearly 37% of women were in elementary occupations, 20% in clerical positions, and 16% in technical or associated professional occupations. Women outnumbered men in technical and clerical occupations.⁹⁶ [96 Ibid]

Sectoral Breakdown

Community, social and personal services employed the single largest number of people in 1995 (31%). Wholesale, retail trade, catering and accommodation services employed the second largest number (17%).

The table below provides a sectoral breakdown by race of people working in October 1995:⁹⁷ [97 Ibid]

Employment by economic sector and race: October 1995

African

Asian

Coloured

White

Total^a

Agriculture, hunting, forestry and fishery

957 000

5 000

226 000

107 000

1 295 000

Community, social and personal services

2 188 000

66 000

308 000

576 000

3 137 000

Construction

273 000

14 000

89 000

107 000

483 000

Electricity, gas and water

49 000

1 000

7 000

37 000

95 000

Financing, insurance, real estate and business services

204 000

31 000

48 000

371 000

654 000

Manufacturing

859 000

99 000

235 000

333 000

1 526 000

Mining and quarrying

354 000

4 000

13 000

101 000

471 000

Transport, storage and communication

285 000

20 000

46 000

169 000

520 000

Wholesale, retail trade, catering and accommodation services

966 000

121 000

216 000

466 000

1 769 000

Other

125 000
 9 000
 17 000
 51 000
 201 000
 Total
 6 260 000
 369 000
 1 205 000
 2 318 000
 10 152 000

a

Figures may not add up owing to

Urban/Rural Breakdown

The CSS said that in 1995, 63% of the economically active population (EAP) was in urban areas. A little over half of the African EAP was in urban areas, compared with 96% of the Asian and 91% of the white. Some 53% of unemployed Africans were in rural areas, while among Asians, coloured people and whites more than 90% of the unemployed were in urban areas. The following table provides a breakdown of the working and the unemployed by location and race in October 1995:⁹⁸ [⁹⁸ Ibid]

Distribution of the working and the unemployed by race and location: October 1995

Working

Unemployed^a

Total^b

African

Urban

3 465 000

1 728 000

5 193 000

Rural

2 794 000

1 937 000

4 731 000

Subtotal

6 260 000

3 665 000

9 925 000

Asian

Urban

353 000

55 000

408 000

Rural

16 000

2 000

18 000

Subtotal

369 000

57 000

426 000

Coloured

Urban

942 000

322 000

1 265 000

Rural

262 000

24 000

287 000

Subtotal

1 205 000

347 000

1 551 000

White

Urban

2 111 000

125 000

2 235 000

Rural

208 000

11 000

218 000

Subtotal

2 318 000

135 000

2 453 000

All races

Urban

6 871 000

2 230 000

9 101 000

Rural

3 281 000

1 974 000

5 254 000

Total^b

10 152 000

4 204 000

14 356 000

a

Refers to the expanded definition of unemployment, ie people 15 years and older who were not in paid employment or self-employed, were available for employment or self-employment, and had the desire to work and to take up employment or self-employment.

b

Figures may not add u

Provincial Breakdown

Some 23% of economically active Africans and 43% of economically active whites were in Gauteng. About 76% of the Asian EAP were in KwaZulu-Natal and 62% of the coloured EAP were in the Western Cape, the CSS said.⁹⁹ [⁹⁹ Ibid]

The table below shows the provincial distribution of the economically active population in October 1995, according to the CSS:¹⁰⁰ [¹⁰⁰ Ibid]

Provincial distribution of the EAP: October 1995

Province

Employed workers

Proportion of provincial total

Unemployed^a

Unemployment rate

Total^b

Eastern Cape

1 019 000

58,6%

721 000

41,4%

1 739 000

Free State

776 000

73,9%

274 000

26,1%

1 050 000

Gauteng

2 835 000

79,1%

750 000

20,9%

3 584 000

KwaZulu-Natal

1 823 000

66,9%

901 000

33,1%

2 724 000

Mpumalanga

648 000

66,6%

325 000

33,4%

973 000

North West

771 000

67,2%

376 000

32,8%

1 147 000

Northern Cape

208 000

73,0%

77 000

27,0%

285 000

Northern Province

660 000

59,0%

459 000

41,0%

1 119 000

Western Cape

1 412 000

81,4%

323 000

18,6%

1 734 000

Total

10 152 000

70,7%

4 204 000

29,3%

14 356 000

a

Refers to the expanded definition of unemployment, ie people 15 years and older who were not in paid employment or self-employed, who were available for paid employment or self-employment, and who had the desire to work and to take up employment or self-employment. Figures may not add up owing to rounding.

b

Figures may not add up owing to rounding.

Although the Northern Province had only 8% of the total EAP, it had 11% of the unemployed. In the Eastern Cape there was just over one person working for every unemployed person. In Gauteng and the Western Cape the ratio was much higher—four people in work for every unem

Immigrants and Emigrants, Migrant Workers and Illegal Workers

Immigrants and Emigrants

A report published by the CSS in May 1996 said that 5 064 people immigrated to South Africa in 1995, 35% of whom were economically active. Of the 8 725 people who emigrated in this period, 52% were economically active (see also chapter on *Population*).¹⁰¹ [¹⁰¹ CSS, *Tourism and Migration, January 1996*, Statistical Release PO351, 13 May 1996]

The single highest proportion of economically active immigrants and emigrants in 1994 and 1995 were in professional occupations. There was a drop in the number of immigrants in all occupational categories in 1995. South Africa experienced a net loss of some 2 764 economically active people in 1995, 32% of whom were in professional occupations.¹⁰² [¹⁰² CSS, *October Household Survey 1995*, Statistical Release PO317, 27 9 November 1996] (See also chapter on *Population*.) In 1996, 1 995 economically active people immigrated to South Africa, while 5 163 economically active people emigrated, resulting in a net loss of 3 168 people (36% of whom were in professional, semi-professional or technical occupations).

The following table provides an occupational classification of economically active immigrants and emigrants in 1994 and 1995.¹⁰³ [¹⁰³ CSS, *Tourism and Migration, January 1996*, Statistical Release PO351, 13 May 1996]

Occupational classification of economically active immigrants and emigrants: 1994 and 1995

Immigrants

Emigrants

Occupation

1994

1995

Increase (decrease)

1994

1995

Increase (decrease)

Professional

1 103

798

(27,7%)

1 960

1 680

(14,3%)

Managerial and administrative

490

374

(23,7%)

638

664

4,1%

Clerical and sales

400

250

(37,5%)

1 008

861

(14,6%)

Transport, delivery and communications

19

7

(63,2%)

45

41

(8,9%)

Agricultural workers

20

5

(75,0%)

14

26

85,7%

Service workers

115

79

(31,3%)

122

102

(16,4%)

Artisans and apprentices

184

103

(44,0%)

402

319

(20,6%)

Production

76

58

(23,7%)

67

40

(40,3%)

Occupation unspecified

161

88

(45,3%)

604

793

31,3%

Total

2 568

1 762

(31,4%)

4 860

4 5

Migrant Workers

Figures compiled by the Chamber of Mines of South Africa showed that in 1994, 45% of workers on its member mines were from other countries, compared with 38% in 1984. Between 1984 and 1994 the number of foreign workers on chamber coal mines dropped by some 67% and on chamber gold mines by 20%. In the same period the number of foreign workers on other chamber mines (platinum, diamond etc) increased by about 60%. Of the 368 463 workers employed on member mines in 1994, some 24% were from Lesotho and 14% from Mozambique.

Employment on member mines dropped by 31% over the ten-year period. The number of South African employees on member mines dropped by 39%, while foreign workers dropped by 19%. About 77% of the jobs lost between 1984 and 1994 were among South African workers.¹⁰⁴ [¹⁰⁴ Chamber of Mines of South Africa, *Statistical Tables*, 1994]

The following table provides a breakdown of the countries of origin of employees on member mines of the Chamber of Mines of South Africa in 1984 and 1994, the latest year for which figures were available, and the increase/ decrease over the ten-year period:¹⁰⁵ [¹⁰⁵ Ibid]

Country of origin of employees on member mines of the Chamber of Mines of South Africa: 1984 and 1994

Country of origin

1984

1994^a

IncGold mines

South Africa

253 548

155 586

(38,6%)

Botswana

17 257

10 043

(41,8%)

Lesotho

95 675

80 200

(16,2%)

Malawi

15 120

—

—

Mozambique

44 195

42 686

(3,4%)

Swaziland

10 833

14 208

31,2%

Zimbabwe

2

—

—

Other areas

219

275

25,6%

Subtotal

436 849

302 998

(30,6%)

Coal mines

South Africa

46 583

14 704

(68,4%)

Botswana

8

—

—

Lesotho

9 514

2 385

(74,9%)

Malawi

208

—

—

Mozambique

1 277

1 208

(5,4%)

Swaziland

634

243

(61,7%)

Zimbabwe

7

1

(85,7%)

Other areas

—

15

—

Subtotal

58 231

18 556

(68,1%)

Other mines

South Africa

30 120

32 363

7,4%

Botswana

1 477

1 920

30,0%

Lesotho

3 123

4 836

54,9%

Malawi

2 004

—

—

Mozambique

2 292

6 725

193,4%

Swaziland

206

896

335,0%

Zimbabwe

—

—

—

Other areas

1

169

16 800,0%

Subtotal

39 223

46 909

19,6%

Total

534 303

368 463

(31,0%)

a

Figures apply only to daily

The table below provides a breakdown of the average number of employees in service on Chamber of Mines gold mines from 1970 to 1995:¹⁰⁶ [¹⁰⁶ Ibid]

Average annual number of employees on Chamber of Mines member gold mines: 1970–95

Year

Average number of employees in service

Inc1970

416 846

N/A

1971

416 785

0,0%^a

1972

405 102

(2,8%)

1973

422 635

4,3%

1974

396 084

(6,3%)

1975

370 595

(6,4%)

1976

395 007

6,6%

1977

416 951

5,6%

1978

434 422

4,2%

1979

449 702

3,5%

1980

469 257

4,3%

1981

478 938

2,1%

1982

475 769

(0,7%)

1983

487 761

2,5%

1984

498 421

2,2%

1985

513 832

3,1%

1986

534 255

4,0%

1987

530 574

(0,7%)

1988

515 739

(2,8%)

1989

505 262

(2,0%)

1990

473 685

(6,2%)

1991

424 250

(10,4%)

1992

406 792

(4,1%)

1993

386 653

(5,0%)

1994

391 288

1,2%

1995

377 017

(3,6%)

a

Decrease too small to record.

N/A— Not available.

There was a decline in the average number of employees on member gold mines in almost every year from 1987 to 1995 (with the exception of 1994, when there was a slight increase). Employment on chamber gold mines in 1995 was the lowest it had been

In June 1996 the Presidential Commission to Investigate the Development of a Comprehensive Labour Market Policy (the labour market commission) recommended that the migrant labour system in its existing form be phased out.¹⁰⁷ [¹⁰⁷ Labour market commission, *Restructuring the South African Labour Market*, June 1996] (See also *Labour market commission* above.)

Illegal Workers

The Aliens Control Amendment Act of 1995 came into effect from 1st July 1996, providing more effective control over the movement of people into and out of South Africa. According to the minister of home affairs, Chief Mangosuthu Buthelezi, the act would provide a sound legal basis for ‘effective alien control’ (see chapter on *Population*).¹⁰⁸ [¹⁰⁸ Hansard (NA) 8 cols 2111, 4 June 1996] Accurate figures for the number of illegal aliens in South Africa were not available, but estimates ranged from 2m to 8m.

In June 1996 Chief Buthelezi announced that citizens of member states of the Southern African Development Community who were in South Africa and who complied with certain conditions could apply for exemption from repatriation and acquire permanent residence. Applicants who could prove that they had been resident in the country for five years prior to 1st July 1996; did not have a criminal record; were engaged in formal or informal economic activity; had an ongoing relationship with a South African partner or spouse; or had dependent children who were born in the country, would qualify for exemption.¹⁰⁹ [¹⁰⁹ Hansard (NA) 8 col 2110, 4 June 1996] (See also chapter on *Population*.)

According to the Department of Home Affairs, 157 084 illegal immigrants were repatriated in 1995, compared with 90 692 in 1994—an increase of 73%. Repatriations to Mozambique comprised 84% of all repatriations in 1995. The department said that the increase in the number of repatriations was the result of better co-operation from the public and the establishment of a tracing unit by the South African Police Service. During 1996/97 more than R7,57m was spent on repatriating 180 713 illegal immigrants.¹¹⁰ [¹¹⁰ Department of Home Affairs, annual report 1995; *Business Day* 15 February 1996; *The Citizen* 10 April 1997]

Unemployment

Statistics and Trends

The Central Statistical Service (CSS) distinguishes between the strict and the expanded definitions of unemployment. The strict definition refers to people 15 years and older who are not employed but are available for work, and who have taken specific steps to seek employment in the four weeks prior to a given point in time. The expanded definition refers to people 15 years and older who are not employed, but are available and have the desire to work, irrespective of whether or not they have taken active steps to find work. The 1995 *October Household Survey*, conducted by the CSS, found that 16,5% of the population was unemployed according to the strict definition of unemployment, while 29,3% were unemployed according to the expanded definition. The table below shows unemployment by strict and expanded definition (comparison with 1994 was not possible because different methodologies were used for drawing samples):¹¹¹ [¹¹¹ Ibid]

Unemployment: strict and expanded definition: October 1995

Strict definition

Expanded definition

Number

Rate

Number

Rate

African

1 641 000

20,8%

3 665 000

36,9%

Asian

43 000

10,3%

57 000

13,4%

Coloured

225 000

15,7%

347 000

22,3%

White

90 000

3,7%

135 000

5,5%

Total

1 999 000

16,5%

4 204 000

29,3%

(All figures below refer to the expanded definition of unemployment.) In 1995 the unemployment rate among Africans was highest, at 37%, compared with 22% among coloured people, 13% among Asians, and 6% among whites.¹¹² [¹¹² CSS, *Living in South Africa, Selected Findings of the 1995 October Household Survey*, 1996]

The following table provides a breakdown of the number of unemployed and the rate of unemployment by race and sex in October 19

Unemployment^a by race and sex: October 1995

Male

Female

Total^b

African

Number

1 592 000

2 073 000

3 665 000

Rate

28,9%

46,9%

36,9%

Asian

Number

28 000

29 000

57 000

Rate

9,9%

19,9%

13,4%

Coloured

Number

151 000

195 000

347 000

Rate

17,8%

27,8%

22,3%

White

Number

54 000

82 000

135 000

Rate

3,7%

8,3%

5,5%

Total

Number

1 824 000

2 380 000

4 204 000

Rate

22,5%

38,0%

29,3%

a

Refers to the expanded definition of unemployment.

b

Figures may not add up owing to rounding.

In 1995 some 87% of all the unemployed were African. Coloured people accounted for 8% of the unemployed, whites for 3% and Asians for 1%. The highest rate of unemployment was among African women (47%) and the lowest was among w

The table below provides a breakdown of the number of unemployed people and the rate of unemployment by province and location:¹¹⁵ [115 Ibid]

Urban/rural unemployment^a by province: October 1995

Province

Number of unemployed^b

Unemployment rate

Eastern Cape

Urban

290 000

33,6%

Rural

431 000

49,2%

Subtotal

721 000

41,4%

Free State

Urban

198 000

31,6%

Rural

75 000

17,8%

Subtotal

274 000

26,1%

Gauteng

Urban

730 000

21,5%

Rural

20 000

10,1%

Subtotal

750 000

20,9%

KwaZulu-Natal

Urban

340 000

23,9%

Rural

561 000

43,2%

Subtotal

901 000

33,1%

Mpumalanga

Urban

100 000

29,6%

Rural

225 000

35,4%

Subtotal

325 000

33,4%

North West

Urban

141 000

24,7%

Rural

235 000

40,7%

Subtotal

376 000

32,8%

Northern Cape

Urban

65 000

34,9%

Rural

13 000

12,7%

Subtotal

77 000

27,2%

Northern Province

Urban

55 000

24,2%

Rural

403 000

45,3%

Subtotal

459 000

41,0%

Western Cape

Urban

311 000

21,1%

Rural

11 000

4,4%

Subtotal

323 000

18,6%

South Africa

Urban

2 230 000

24,5%

Rural

1 974 000

37,6%

Total

4 204 000

29,3%

a

Refers to the expanded definition of unemployment.

b

F

According to the CSS, in 1995 the Eastern Cape had the highest overall rate of unemployment (41%) and the Western Cape had the lowest (19%). The province with the largest number of unemployed people was KwaZulu-Natal (901 000)—some 21% of the unemployed. The Northern Cape had the highest urban unemployment rate (35%), while the Eastern Cape had the highest rural unemployment rate (49%). Fifty percent of the rural unemployed were in two provinces—the Eastern Cape and KwaZulu-Natal—while the Northern Province accounted for another 20%.¹¹⁶ [¹¹⁶ Ibid]

The following table provides an age profile of the unemployed in October 1995:¹¹⁷ [¹¹⁷ Ibid]

Age profile of the unemployed: October 1995

Age group

African

Asian

Coloured

White

Total^a

15–20

207 000

11 000

43 000

20 000

280 000

20-24

791 000

14 000

105 000

29 000

939 000

25-29

858 000

7 000

64 000

14 000

944 000

30-34

636 000

7 000

48 000

14 000

705 000

35-39

444 000

6 000

32 000

12 000

493 000

40-44

280 000

3 000

24 000

12 000

319 000

45-49

209 000

2 000

16 000

13 000

240 000

50-54

136 000

3 000

9 000

9 000

157 000

55-59

71 000

3 000

5 000

7 000

85 000

60-64

21 000

—

1 000

2 000

24 000

65+

12 000

—

1 000

4 000

17 000

Total^a

3 665 000

57 000

347 000

135 000

4 204 000

a

Figures may not add up owing to

Some 45% of unemployed Africans and 49% of coloured people were between 20 and 29 years of age. About 44% of unemployed Asians and 36% of unemployed whites were between 15 and 24 years old.

In its annual economic report, the South African Reserve Bank said that 1995 was the first calendar year since 1989 in which an increase in employment was registered in the non-agricultural formal sector of the economy. However, the increase was relatively low at 0,7%. Between 1983 and 1995 the average annual growth in employment in the formal non-agricultural sector stagnated, while the economically active population grew by an average of 2,8% a year.¹¹⁸ [¹¹⁸ SARB, annual economic report, 1996]

The reserve bank added that growth in overall employment in 1995 was 'too small to have a sufficient impact' on the number of unemployed people. It was estimated that in 1995 aggregate unemployment would have increased by some 280 000 workers (to about 5m), representing an unemployment rate of approximately one out of every three economically active people. The reserve bank attributed a 'major part of unemployment' to structural weaknesses in the job-creating capacity of the economy.¹¹⁹ [¹¹⁹ Ibid]

In December 1996 the reserve bank said some 104 000 employment opportunities in the private sector

were lost between the second quarter of 1995 and the second quarter of 1996. It was estimated that nearly 1m potential workers had not succeeded in finding a job in the formal sector since the beginning of the economic recovery (in the second quarter of 1993).¹²⁰ [¹²⁰ Ibid] However, in February 1997 the minister of labour, Mr Tito Mboweni, said that the reserve bank's figures were questionable. According to Mr Mboweni, 290000 new job opportunities had been created since March 1994. Total job opportunities increased from 4,95m in 1994 to 5,24m in September 1996, he said.¹²¹ [¹²¹ F & T Weekly 21 February 1997]

In February 1996 the South Africa Foundation said in a report entitled *Growth for All, An Economic Strategy for South Africa* that unemployment was South Africa's biggest challenge, affecting between 40% and 45% of the population. The foundation estimated that the unemployment rate would increase from 32,7% in 1994 to 40,4% in 2004, unless 'firm policy action' was taken. Between 1981 and 1994 there had been little or no growth in formal-sector employment, during which time some 3,5m people had entered the labour market. Only one out of every 30 new entrants to the labour market had found a job in the formal sector of the economy in this period, the foundation said. Furthermore, some 65% of the 2,3m unemployed people under the age of 30 years had never had a job, and most had been unemployed for more than four years.¹²² [¹²² South Africa Foundation, *Growth For All*, February 1996]

A study on unemployment by the South African Institute of Race Relations in 1996 found that official estimates of unemployment were too high. According to a provisional estimate made by the Institute, the rate of unemployment was just under 25%. A 'significant proportion' of people who claimed to be unemployed were active in the informal sector of the economy—some 30% of coloured and 21% of African 'unemployed' respondents were working in the informal sector,

The study, conducted by Professor Lawrence Schlemmer, vice president and visiting research fellow at the Institute, found further that respondents ascribed the major cause of unemployment to the presence of illegal immigrants and foreign workers. The following table provides a breakdown of the perceived causes of unemployment by race and employment status:¹²⁴ [¹²⁴ Ibid No 7 1996]

Perceived causes of unemployment by race and employment status: 1996

African

Coloured

Indian

White

Unem-ployed

Em-UnaEm-UnaEm-UnaEm-Too many foreign workseekers

80%

79%

86%

77%

100%

90%

81%

78%

Business selfish and uncaring

77%

78%

74%

71%

62%

38%

56%

33%

Lack of education skills and training

78%

76%

67%

71%

71%

64%

86%

83%

Lack of investment in new industries

60%

70%

77%

76%

92%

66%

86%

70%

Trade union wage demands

52%

57%

72%

61%

41%

51%

76%

85%

Government can solve problem but is not concerned

68%

67%

92%

68%

74%

52%

76%

55%

The Institute said that although most respondents believed that foreign workers were the prime cause of unemployment in the country, there was no convincing evidence to suggest that those workers were taking large numbers of jobs away from South Africans. The Institute suggested that the majority of the unemployed were not prepared to work at the same income levels as foreign workers. The perceived hostility towards foreign workers could, therefore, be a form of ‘scapegoating’ rather than the result of competition for scarce jobs.¹²⁵ [¹²⁵ Ibid]

Furthermore, supporters of the African National Congress (ANC) and the Inkatha Freedom Party (IFP) were ‘emphatic’ in blaming business self-interest for unemployment. With regard to trade union wage demands, the study found that the majority of South Africans believed that this had a significant effect on unemployment and in creating inflexibility in the labour market. Democratic Party, IFP, National Party and right-wing supporters endorsed this view strongly, as did African semi-skilled workers and people earning less than R600 a month. Unemployed Africans, Indians and supporters of the Pan-Africanist Congress were the most inclined to disagree with this view. Some 53% of ANC supporters said that trade union pressure was at least partly to blame for unemployment. This, the Institute said, was

surprising considering the prominence of the Congress of South African Trade Unions within the ANC alliance.¹²⁶ [¹²⁶ Ibid]

The Institute's study also indicated that most South Africans thought that the government should be much more concerned about unemployment.

Another study on unemployment, commissioned by the International Republican Institute, showed that 69% of South Africans believed that the government should be primarily responsible for job creation, and that a 'substantial' proportion of the population expected the government to do so 'in a very directive manner' through state employment schemes and nationalisation strategies. This approach was most pronounced among Africans.¹²⁷ [¹²⁷ Ibid]

The Institute for Futures Research at the University of Stellenbosch said in April 1996 that there could be 14,2m unemployed people in South Africa by 2026. An annual economic growth rate of between 6% and 7% was needed to create jobs for new entrants to the labour market. A much higher growth rate was needed to reduce the unemployment rate (estimated at 33% in 1996), the institute said.¹²⁸ [¹²⁸ The Star Workplace 17 April 1996]

In June 1996 the minister of finance, Mr Trevor Manuel, said that the government aimed to pursue policies that would lead to the creation of 270 000 new jobs a year until 2000 and 400 000 a year after that. The unemployment rate would be reduced to 8% by 2020. Mr Manuel said that without 'some major changes in direction' economic growth would not exceed 3% a year and fewer than 100 000 jobs a year would be created. The unemployment rate would reach 37% by 2020 if the present rate of economic growth continued.¹²⁹ [¹²⁹ Saturday Star 15 June 1996]

In the same month a report on the South African economy by the International Labour Organisation said that the unemployment rate was about 20%. The report rejected the idea that South Africa suffered from structural unemployment and said that figures by the CSS were 'distorted and exaggerated'. The report provided a number of reasons for challenging unemployment surveys by the CSS and the World Bank, including their omission of small, informal businesses and mining hostels. A co-compiler of the report, Mr Guy Standing, said that the type of employment that was growing rapidly in South Africa was not being included in surveys. There was no proof of 'jobless growth' and this idea should be 'treated with scepticism'. Unemployment could not be equated with poverty because most of the poorest people in South Africa were not unemployed but the 'working poor', he said. The report also said that South Africa's labour market was more flexible by international standards than was popularly believed, especially with regard to employment, wages and the degree of work organisation.¹³⁰ [¹³⁰ Business Day 20 June 1996]

In its 1995 annual report the Department of Labour said that although it had spent R32,2m on training some 48 800 people in 1995 for entry into the formal sector, only 10 200 (21%) had found employment. About R37m was spent on basic skills training (aimed at equipping unemployed people with skills that could be used in the informal sector) for some 54 000 people, 15 000 of whom were active in the

informal sector. A further R12,6m was spent on training unemployed people in construction-related skills.¹³¹ [¹³¹ Department of Labour, annual report 1995; *The Star Business Report* 19 September 1996]

Unemployment Insurance Fund

According to the annual report of the Unemployment Insurance Fund (UIF), in 1995 the fund had a surplus of more than R35m, compared with a deficit of R102m in 1994. Between 1994 and 1995, total income increased by some 12%. The report attributed this increase to among other things, the inclusion within the ambit of the fund of workers earning up to R69 420 a year from 1st April 1995 (previously the maximum earnings ceiling was R63 648). In 1996 payouts amounted to R2,1bn (provisional figure)—an increase of 13%.¹³² [¹³² Unemployment Insurance Fund, annual report 1995; *Sowetan* 9 April 1997]

The table below gives a breakdown of UIF income from 1991 to 1995:¹³³ [¹³³ Ibid]

Unemployment Insurance Fund income: 1991–95

Year	Con	Int	Sta	Oth	Tot	Increase
1991						
	1	180				
		183				
		7				
		20				
	1	390				
		14,3%				
1992						
	1	304				
		158				

7

53

1 522

9,5%

1993

1 447

91

7

38

1 583

4,0%

1994

1 765

39

7

31

1 842

16,4%

1995

1 959

44

7

47

2 057

11,7%

The table below provides a breakdown of expenditure of the UIF from 1991 to 1995:¹³⁴ [134 Ibid]

Unemployment Insurance Fund expenditure: 1991–95

Year

BenOthForTotal^a

RmInc1991

1 231

70

47

1 354

–

1992

1 558

86

47

1 752

29,4%

1993

2 031

107

_b

2 128

21,5%

1994

1 828

126

_b

1 944

(8,6%)

1995

1 871

150

_b

2 021

4,0%

a

Figures may not add up owing to rounding.

b

Handled as transfer payments, not as a separate expense item.

The following table provides a breakdown of the benefits paid from the UIF from 1991 to 1995:¹³⁵ [135
Ibid; fax communication from Mrs Laetitia Venter, Unemployment Insurance Fund finance division, 20 February 1997]

Benefits paid from the Unemployment Insurance Fund: 1991–95

Year
UneIllMatDepTot1991
926
102
156
47
1 231
1992
1 215
115
172
56
1 558
1993
1 650
141

176

64

2 031

1994

1 464

128

175

68

1 828

1995

1 495

117

190

69

1 871

In February 1996 the UIF commissioner in Umtata (Eastern Cape), Mr Vuyani Qina, was relieved of his duties following maladministration of the fund, which had led to a backlog of 25000 claims involving R63m. The director general of labour, Mr Siphon Pityana, said that an investigation showed that financial records in the Umtata office of the UIF had not been audited and normal accounting functions had not been performed. Some 25 000 applications for UIF relief received over a period of eight years had not been processed and there had been a 'breakdown' at the 29 magisterial paypoints in the Transkei, Mr Pityana said. Special work teams were set up to run the Umtata office and a firm of auditors, Coopers and Lybrand, was appointed to investigate alleged irregularities.¹³⁶ [¹³⁶ Business Day 6 February 1996]

In June 1996 the Presidential Commission to Investigate the Development of a Comprehensive Labour Market Policy (the labour market commission) recommended that UIF eligibility should be extended to

cover as many workers as possible, including domestic workers. The exclusion of workers earning more than R69 420 a year should be removed. Such a move would increase the number of high-paying contributors (with lower risks of becoming unemployed), making the UIF more solvent and allowing for a greater degree of redistribution. A minimum benefit for low-paid workers and a maximum benefit for high-paid workers should also be considered, the commission said (see *Labour market commission* above and 1995/96 Survey, p251).¹³⁷ [¹³⁷ Labour market commission, *Restructuring the South African Labour Market*, June 1996; **Fast Facts** No 8 1996]

Affirmative Action

In March 1996 the deputy president from the majority party, Mr Thabo Mbeki, said that South Africa would ‘explode’ unless the government introduced affirmative action to achieve a nonracist and nonsexist society. Mr Mbeki said that it was impossible for South African society to generate a spontaneous mechanism to address racism and that ‘conscious and purposeful intervention’ could not be avoided.¹³⁸ [¹³⁸ The Citizen 30 March 1996]

The Department of Labour’s affirmative action proposals were set out in the *Green Paper: Policy Proposals for a New Employment and Occupational Equity Statute* published in July 1996. (See *Green Paper: Policy Proposals for a New Employment and Occupational Equity Statute* above.)

The Freedom Front (FF) said in July 1996 that the exodus of professional people from South Africa was the result of unfair affirmative action and the fact that white people saw no future for themselves in the country. The FF called on the government to take note of the effect its policies had on the economy, saying that ‘no economy can grow if top professional people are being driven out of the country’.¹³⁹ [¹³⁹ Ibid 5 July 1996]

At a seminar on affirmative action held by the South African Institute of Race Relations in August 1996 the political editor of the *Sowetan*, Mr Mathatha Tsedu, said that continued reference to race was unavoidable. Because black people had in the past been ‘discriminated against as a group’ and ‘remained disadvantaged as a group’, it followed that they should be ‘affirmed as a group’.¹⁴⁰ [¹⁴⁰ Jeffery, *Business and Affirmative Action*, p19]

A vice president of the Institute, Professor Lawrence Schlemmer, said that if affirmative action was to succeed it should be focused primarily on ‘inputs’ rather than ‘outcomes’. Training and development for all should be emphasised ‘rather than forcing the system to conform to certain output criteria’. International experience showed that affirmative action based on quotas or targets eroded efficiency and competition and benefited mainly an emergent middle class, Professor Schlemmer said. Employers should be committed to recruiting black candidates wherever white and black applicants were equal in merit. Where applicants were not equal in merit, the job should go to the best qualified. Because this would bring about a relatively slow rate of change, increased impetus should be given to training.¹⁴¹ [¹⁴¹ Ibid, p20]

At the seminar the president of the Black Management Forum, Mr Lot Ndlovu, said that success in affirmative action required the setting of targets because this 'induce[d] movement' and provided a measurement of employment equity. Most black people would accept race classification if it served a good purpose. Mr Ndlovu warned against putting too much emphasis on training, saying that blacks could find themselves in 'perpetual training'. The economy would not grow without equality and fairness in business and this could only be achieved through affirmative action. Mr Ndlovu warned that if affirmative action was not implemented, there would be increasing instability and a government facing elections in 1999 would 'legislate more harshly'.¹⁴² [¹⁴² Ibid, p19]

A lecturer in economics at the University of Stellenbosch, Ms Rachel Jafta, queried whether affirmative action would achieve its stated goals, ie increasing company loyalty and commitment, eradicating discrimination, enhancing racial sensitivity and increasing efficiency and performance. Ms Jafta said that the focus should [lie] on meeting the needs of the most disadvantaged, while 'treating all South Africans equally in the eyes of the law'. It was particularly important to address the needs of the rural poor through improved infrastructure, access to finance, and development of skills. Special attention had to be given to the crisis in education. Black children suffered from shortages of books and basic facilities as well as teacher chalk-downs. She added that short-cut solutions should be avoided and that the government should not have 'different standards based on race'.¹⁴³ [¹⁴³ Ibid]

In July 1996 a research company, Product Development Laboratories (PDL), said that black South Africans, especially those with tertiary qualifications, were rejecting affirmative action positions because of the stigma of tokenism. A director of PDL, Mr Stranger Kgamphe, said that the poor perception of affirmative action among black people was a result of companies' rushing to appoint black people without preparing them for the positions. A positive attitude towards affirmative action by management would eliminate the negative attitude of junior staff, Mr Kgamphe said.¹⁴⁴ [¹⁴⁴ The Star Business Report 1 July 1996]

According to the 1996 *Directory of Directorships* by Mr Robin McGregor, the number of directorships (private sector and parastatals) held by women increased by 229% in 1996, while the number of black male directors increased by 29% in the same period. Some 94% of the 8401 directors in South Africa were white men, 65 of whom held more than ten directorships each.¹⁴⁵ [¹⁴⁵ Business Day 1 February 1996]

A nationwide survey among urban adults conducted by Market Research Africa in September 1996, found that seven out of ten African respondents supported affirmative action, compared with four out of ten coloured people. White and Indian respondents were 'firmly opposed to it'. Some 62% of white and 59% of Indian respondents said that affirmative action was a 'bad' policy. The survey also found that 69% of African respondents felt that they should be the main beneficiaries of affirmative action.¹⁴⁶ [¹⁴⁶ Ibid 3 January 1997]

The table below provides a breakdown of urban adults' views on affirmative action by race:¹⁴⁷ [¹⁴⁷ Ibid]

Urban adults' views of affirmative action by race: 1996

African

Indian

Coloured

White

National average

Good policy

74%

26%

40%

16%

54%

Bad policy

7%

59%

32%

62%

26%

Neither

8%

11%

15%

14%

10%

Don't know

12%

4%

13%

8%

11%

The table below shows urban adults' views on affirmative action by r

Urban adults' views of affirmative action by region: 1996

Eastern Cape

Free State

Gauteng

KwaZulu-Natal

Northern Province/ Mpumalanga

North West/ Northern Cape

Western Cape

Good policy

61%

72%

48%

54%

66%

68%

38%

Bad policy

19%

19%

25%

29%

27%

15%

36%

Neither

6%

3%

14%

6%

3%

7%

18%

Don't know

15%

5%

13%

11%

5%

10%

Affirmative action was favoured by 72% of respondents in the Free State, compared with 38% in the Western Cape. In Gauteng, fewer than half the respondents said that affirmative action was a good policy.¹⁴⁹ [¹⁴⁹ Ibid]

Public Sector

According to the Central Statistical Service, the number of African employees in government departments increased by some 13% between June 1995 and June 1996. The number of coloured and Indian employees remained the same, while the number of whites dropped by about 4%.¹⁵⁰ [¹⁵⁰ The Citizen, *The Star Business Report* 2 November 1996]

The deputy head of human resource development at Spoornet, Mr Anton Verwey, said in January 1996 that by 2000, blacks would account for 80% of all trainees, 70% of supervisors, 50% of junior managers, 40% of middle managers, 30% of senior managers and 20% of executive directors in the organisation. This would reflect the demographic composition of the South African population and was in line with targets set by the Black Management Forum. To achieve its objectives, Spoornet had adopted a 13-point human resources plan. The primary commitment of the plan was to appoint two black people for every white person employed and to promote from within the organisation where possible. Evaluations would be based on competence rather than on formal qualifications and experience.¹⁵¹ [¹⁵¹ Sunday Times Business Times 21 January 1996]

The South African Broadcasting Corporation (SABC) said in December 1996 that its targeted 'corrective action ratio' of 50% white to 50% black employees would be reached by December 1997. At

the end of October 1996 about 55% of the SABC's staff were white and 45% were black—a 'major improvement' on the ratio of 73% white to 27% black in 1993. At top management level the targeted ratio (50/50) had been surpassed, while at senior management level some 53% of employees were white. The SABC said it was working towards creating a staff complement where women accounted for 40% of all employees. In October 1996 women comprised some 36% of the total staff complement.¹⁵² [¹⁵² SABC Intercom 5 December 1996]

In December 1996 the minister for the public service and administration, Dr Zola Skweyiya, announced that the 'Jobs for South Africa' project had been halted. There had been problems and delays in filling the posts because of the 'rationalisation and restructuring' of the public service. The project, launched in 1994, aimed to fill 11000 affirmative action posts in the public sector. Some 2m applications had been received. Dr Skweyiya said that it had subsequently been found that there were only 9629 vacancies. However, 4 222 posts (44%) were scrapped because of rationalisation. Another 2 311 (24%) were filled by appointments, transfers or promotions including 1 096 Africans, 151 Asians, 268 coloured people and eight disabled people. Women accounted for 44% of the total number of people appointed or promoted. Dr Skweyiya said that the remaining vacancies would be filled by national departments and provincial governments.¹⁵³ [¹⁵³ The Citizen 13 December 1996, *Sowetan* 12 December 1996] (See also 1995/96 Survey, p271.)

During the period under review the government sought to introduce preferential policies favouring blacks and women in awarding state tender contracts. In May 1996 the minister of finance, Mr Trevor Manuel, said that the task team investigating affirmative action in respect of the awarding of state tender contracts had proposed that a preference system be introduced to target the 'previously disadvantaged' sectors of the community. The preference system would be based on equity owned by black people and women. The preference system had been approved as an interim measure by the cabinet and was in the process of being implemented by national departments and by the provinces, Mr Manuel said (see also chapter on *Business*).¹⁵⁴ [¹⁵⁴ Hansard (NA:Q) cols 765–766, 15 May 1996]

The State Tender Board announced in September 1996 that Mr Manuel had approved the introduction of a point preference system for the granting of government tenders. The system, which applied to contracts of less than R2m, would award points to tenderers with company equity owned by black people and women. The price of the bid would count 88 points, company equity owned by 'previously disadvantaged individuals' would count ten points, and company equity owned by women two points. The contract would, therefore, not be awarded to the lowest bidder, but to the company which scored the most points (see also chapter on *Business*).¹⁵⁵ [¹⁵⁵ Business Day 12 September 1996]

Private Sector

A joint study published in 1995 by the Black Management Forum and Ernst and Young Management Services showed that 80% of companies surveyed claimed to have implemented affirmative action as part of their strategic decision making, while 6% had followed the example of competitors and other companies in implementing affirmative action. Some 16% had implemented affirmative action programmes because of pressure from employees, and 21% had done so because of 'market pressure'. A

further 26% of companies surveyed had implemented affirmative action programmes out of fear of legislative action. The survey also showed that 70% of respondents monitored over a five-year period had a reported success rate of 80% in implementing affirmative action. Most respondents did not favour affirmative action legislation or a quota system.¹⁵⁶ [¹⁵⁶ Enterprise February 1996]

According to a report by a firm of management consultants, FSA-Contact, published in July 1996, 'poaching' of affirmative action employees by other companies dropped by 6% between 1995 and 1996.¹⁵⁷ [¹⁵⁷ Pretoria News 17 July 1996] The number of organisations with affirmative action programmes dropped from 94% in 1995 to 82% in 1996. The consultancy attributed this to the fact that more organisations responded to the survey in 1996 because proposed employment equity legislation was compelling them to pay attention to the issue.¹⁵⁸ [¹⁵⁸ Business Day 17 July 1996] The number of African professionals increased by 11% between 1993 and 1996, while the number of white professionals dropped by 15%. In 1996 Africans accounted for about 8% of senior management, compared with 7% in 1993.¹⁵⁹ [¹⁵⁹ Sowetan 19 July 1996] Salary packages offered by South African businesses to attract affirmative action employees dropped significantly between 1994 and 1996. In 1994 there was an average 30% difference between (the higher) salary packages offered to affirmative action candidates and those offered to other candidates. By 1996 the difference had dropped to about 10%.¹⁶⁰ [¹⁶⁰ Ibid 17 July 1996] Between 1994 and 1996 there was a 25% increase in the number of organisations targeting women for affirmative action positions, while fewer than two thirds of organisations surveyed targeted the disabled, the consultancy said.¹⁶¹ [¹⁶¹ The Citizen 17 July 1996] Some 12% of organisations surveyed indicated that they had experienced a deterioration in the quality of work as a result of affirmative action.¹⁶² [¹⁶² Pretoria News 17 July 1996]

The National African Federated Chamber of Commerce and Industry (Nafcoc) said in August 1996 that the government should institute tangible affirmative action policies to ensure empowerment of the 'previously disadvantaged'. The secretary general of Nafcoc, Mr Mashudu Ramano, said that because of apartheid the majority of the population had been excluded from the mainstream economy, and rectifying the situation demanded more than lifting discriminatory practices. Black economic empowerment was both a process and a deliberate programme of bringing about the meaningful participation of blacks in the mainstream of the economy, he said. Nafcoc continued to call for the following targets to be achieved by 2000:¹⁶³ [¹⁶³ New Nation 30 August 1996]

- at least 30% of board members of all companies listed on the Johannesburg Stock Exchange should be black;
- at least 40% of JSE companies' shareholding should be controlled by blacks;
- at least 50% of the value of outside contracting should be from black-owned suppliers and contractors; and
- at least 60% of management should be black.

(In February 1997 there were 18 black-led companies listed on the JSE—2,9% of all companies listed.) According to Nafcoc, however, there was no effective system in place for monitoring the progress of these targets.¹⁶⁴ [¹⁶⁴ Telephonic interview with Mr Phillip Tekane, director, Nafcoc, 12 March 1997]

In July 1996, the Graduate School of Business at the University of Cape Town published a report which showed that since September 1994, almost all 130 South African firms participating in a five-year study of affirmative action implementation had made little progress in recruiting and promoting women. Between 1994 and 1996 the number of women at management level had increased by an average of only 1%. In 1996 some 16% of managers in the ‘Top 15’ affirmative action companies were black, compared with a national average of 10%. Black managers in those companies comprised some 71% of all new management recruits, compared with 20% in 1994. It was estimated that black managers would comprise some 30%–35% of all managers by 2000.¹⁶⁵ [¹⁶⁵ The Mercury 29 July 1996]

The president of the Cape Chamber of Commerce and Industry, Mr Geoffrey Ashmead, said in November 1996 that affirmative action legislation should be avoided at all costs if South Africa wanted to avoid replacing a ‘previously disadvantaged’ group with a ‘future disadvantaged’ group. Mr Ashmead said that affirmative action legislation could lead to ‘legalised prejudice’ and not to the intended ‘enfranchisement’ of blacks.¹⁶⁶ [¹⁶⁶ Business Day 20 November 1996]

The South African Institute of Race Relations published a study in 1996 on business leaders’ views on affirmative action. The study canvassed views on the meaning of affirmative action, and the different ways in which it was being implemented, what government policy should be, and the costs and benefits of affirmative action. The study found that business leaders had divergent views of what affirmative action meant, although many saw it as a means of addressing past wrongs and as a necessary response to demographic factors and a changed political and economic environment.

Most of the 22 business leaders interviewed felt that they had succeeded in removing formal discriminatory measures in the workplace but that strong informal barriers remained in place and were difficult to counter. Affirmative action was also seen as consisting primarily of increased training and development for staff, particularly black staff members. The study also found that a majority of business leaders had committed themselves to recruiting or promoting blacks on the basis of potential rather than proven capability. However, in order to maintain or improve productivity and efficiency, and to alleviate the concerns of white staff, many were willing to appoint on the basis of potential at junior and middle management levels. Experience and proven expertise remained the main criteria for senior managers and executive board members.

Many business leaders set targets for the percentage of black people they wished to have at different levels within specified timeframes. Some, however, refused to set targets because these could become inflexible quotas which led to token appointments and a drop in productivity. All business leaders were opposed to the implementation of mandatory racial quotas. Reasons cited included the additional

monetary cost of carrying people unable to contribute effectively and the loss of staff morale that quotas would engender. It would also be impossible to meet legitimate shareholder expectations. On the form government policy on affirmative action should take, most business leaders said that the government should not play a role at all. It should rather be left to business to implement affirmative action in its own way. However, if government was to become involved, its role should be to promote rather than to prescribe. Tax incentives for training would encourage companies to increase their contributions to this important aspect of affirmative action.

Almost all business leaders agreed that the costs of affirmative action far outweighed its benefits. However, most believed that affirmative action was a necessary measure and that the benefits would become apparent over time as skills were enhanced and productive capacity increased. The study found further that companies experienced problems with 'poaching' and a shortage of skills. Many business leaders denied that affirmative action involved any element of reverse discrimination, and were concerned about alleviating the fears of white staff and preventing a further loss of skills from the country. Business leaders also questioned whether combating unemployment would best be achieved by forcing the private sector to give jobs to the 'previously disadvantaged', rather than enabling it to contribute in other ways to increase wealth and economic opportunity.¹⁶⁷ [¹⁶⁷ Jeffery, *Business and Affirmative Action*, pp12-13]

Productivity

The Presidential Commission to Investigate the Development of a Comprehensive Labour Market Policy (the labour market commission) said in June 1996 that the major factors restricting productivity enhancement were not related to labour market regulations or legislation, but were 'more attitudinal'. This referred to the relationship South African firms had with their external environment, including suppliers, other firms within the same industry, tertiary educational institutions and science councils. Productivity constraints within firms included a general lack of education and training of the workforce and a lack of management skills in leadership, mentoring and work reorganisation. Elements in the workplace which had a negative effect on productivity enhancement included:¹⁶⁸ [¹⁶⁸ Labour market commission, Restruc]

- authoritarian and racist supervision of the shopfloor;
- a hostile relationship between management and unions on the shopfloor;
- the absence of workplace democracy and inadequate worker participation structures;
- the workforce not identifying with productivity issues; and
- volatile industrial relations.

The commission said, however, that there had been considerable progress towards overcoming these internal obstacles. The dispute resolution mechanisms in the Labour Relations Act and the introduction of workplace forums were designed to reduce the level of industrial action, increase workplace democracy and provide institutional support to productivity enhancement at enterprise level.

The commission said that it supported the government's co-operative approach to labour relations, that is, that both workers' and management's rights and obligations should be enshrined in legislation. In the long term this would facilitate productivity more effectively than a system where 'management's prerogatives were reinforced at the expense of workers' rights'.¹⁶⁹ [¹⁶⁹ Ibid]

The South African Reserve Bank said that the year-to-year growth in labour productivity (ie the number of units of output obtained per unit of labour input) amounted to 3,3% in 1995—the highest rate of increase in a calendar year since 1978.¹⁷⁰ [¹⁷⁰ SARB, *Quarterly Bulletin*, December 1996] In 1995 labour productivity growth in the manufacturing sector was 6,8%. Growth in productivity was aided by a 60% drop in the number of mandays lost through strikes and work stoppages in 1995 and 'declining aggregate employment'. The slowdown in the rate of increase in the nominal remuneration of workers and the rise in productivity had led to a drop in the rate of increase of nominal unit labour costs from 17,3% in 1990 to 6,1% in 1995. The lower nominal increase in unit labour costs had contributed to the drop in price inflation since the early 1990s.¹⁷¹ [¹⁷¹ Ibid]

The table below provides a breakdown of the proportional change in labour productivity, remuneration per worker and unit labour costs in the private and public non-agricultural sectors of the economy from 1991 to 1995, as calculated by the reserve bank (brackets denote a decrease):¹⁷² [¹⁷² Ibid]

Change in labour productivity, remuneration per worker and unit labour costs: 1991–95

Year
Labour productivity ^a
Remuneration per worker ^b
Unit labour costs ^b
1991
0,3%
1,4%

1,1%

1992

1,1%

1,6%

0,5%

1993

2,7%

(0,4%)

(3,1%)

1994

2,7%

3,1%

0,6%

1995

3,2%

0,9%

(2,3%)

a

Compared with same period in the previous year.

b

At constant prices.

According to the National Productivity Institute (NPI), multifactor productivity (ie capital and labour productivity combined) in the private economy (including large public corporations such as Eskom, but excluding general government) increased by 3% between 1993 and 1994 (the latest date for which figures were available). Multifactor productivity in the private economy dropped by an average of 0,1% a year between 1970 and 1994. This was the result of labour productivity increasing by only 1,1% a year, while capital productivity dropped.¹⁷³ [¹⁷³ National Productivity Institute (NPI), *Productivity Focus 1996*, January 1996] In 1994 there was a 4% increase in labour productivity and an increase of 2% in capital productivity.¹⁷⁴ [¹⁷⁴ NPI, annual report, 1995; NPI, *Productivity Focus*, 1996]

The following table shows increases or decreases in capital productivity, labour productivity and multifactor productivity in the private economy from 1971 to 1994 (brackets denote decreases. Figures are revised annually and therefore may not correspond with figures in the 1995/96 *Surv*

Increase/decrease in productivity in the private economy: 1971–94

Multifactor productivity^a

Labour productivity

Capital productivity

1971

0,7%

2,8%

(1,6%)

1972

0,1%

1,8%

(3,9%)

1973

1,2%

0,4%

(1,7%)

1974

1,9%

2,6%

(0,5%)

1975

(2,6%)

0,6%

(4,4%)

1976

(2,3%)

0,3%

(3,7%)

1977

(2,5%)

(0,5%)

(5,6%)

1978

1,1%

1,9%

(1,2%)

1979

1,6%

2,1%

(0,1%)

1980

2,6%

2,6%

1,5%

1981

0,5%

2,4%

0,0%

1982

(5,4%)

(3,8%)

(6,1%)

1983

(3,3%)

(0,8%)

(6,9%)

1984

3,7%

5,0%

2,0%

1985

(1,5%)

0,2%

(3,5%)

1986

(1,0%)

(1,0%)

(1,3%)

1987

1,0%

0,9%

1,0%

1988

3,7%

4,0%

3,3%

1989

1,4%

1,8%

1,1%

1990

(1,4%)

(0,6%)

(2,1%)

1991

(0,3%)

1,4%

(2,3%)

1992

(1,8%)

(0,6%)

(3,0%)

1993

2,9%

4,4%

1,6%

1994

3,0%

4,3%

2,1%

a

Capital and labour indices are combined to give an aggregate labour and capital index which is the multifactor

The table below shows the average annual increase or decrease in multifactor productivity by province from 1970 to 1993, according to the NPI:¹⁷⁶ [176 Ibid]

Average annual change in multifactor productivity by province: 1970–93

Province

Increase/(decrease)

Eastern Cape

0,2%

Free State

(1,0%)

Gauteng

(0,3%)

KwaZulu-Natal

0,3%

Mpumalanga

(0,1%)

North West

(1,4%)

Northern Cape

0,8%

Northern Province

0,4%

Western Cape

0,3%

Tota

According to the institute, although regional information was poor, the statistics were indicative of trends. The Northern Cape (0,8%) had the highest average annual growth in multifactor productivity between 1970 and 1993, followed by the Northern Province (0,4%) and KwaZulu-Natal (0,3%). Gauteng's multifactor productivity dropped by an average of 0,3% a year. In the North West multifactor productivity dropped by an average of 1,4% a year.¹⁷⁷ [¹⁷⁷ Ibid]

Skill Shortages and Losses

The South African Institute of Artisans said in May 1996 that trade and industry in South Africa was suffering from a 'drastic' shortage of artisans in most disciplines. The number of apprentices trained in South Africa had dropped from 33 000 a year in 1975 to about 5000 in 1995—by 85%.¹⁷⁸ [¹⁷⁸ Business Day 20 May 1996]

A former rector of Rand Afrikaans University, Professor C F Crouse, said in June 1996 that manpower was the main driving force behind economic development and that South Africa would have to more than double its output of science graduates over the next 20 years if it wanted to develop and succeed economically. The number of science graduates per 10 000 people had to increase by 4,3% a year. According to Professor Crouse, there was a direct relation between average gross national product (GNP) per head and the average output of graduates per 10000 people. South Africa had 8,27 graduates

per 10000 people and a GNP of US\$2460. The United Kingdom (UK) had 33,13 graduates per 10000 and a GNP of US\$14570. Two areas which were crucial for development in South Africa were agriculture and engineering. The shortfall of South African graduates in agriculture and engineering was 'alarming' and it would require a concerted effort to rectify the imbalance. To bring South Africa on to a par with countries such as Australia, the UK and Israel (in terms of the number of graduates per 10 000 and GNP per head), the number of agricultural graduates per 10 000 people would have to increase by 8,5% a year over the next 20 years, while the number of engineering graduates would have to increase by 7,6% a year. (See

The leader of the National Party, Mr F W de Klerk, said in March 1997 that South Africa produced 'dramatically fewer' engineers than countries in the developed world. Tertiary institutions in South Africa produced only 32 engineers per 1m people, compared with 600 per 1m in Japan.¹⁸⁰ [¹⁸⁰ Cape Argus 11 March 1997] In 1995, 319 engineers emigrated from South Africa, while only 178 immigrated. (See chapter on *Population*.)¹⁸¹ [¹⁸¹ CSS, *Tourism and Migration, January 1996*, Statistical Release PO315, 13 May 1996]

A survey of 400 companies by a firm of management consultants, FSA-Contact, found that 5% of middle-management and high-level specialised staff who had resigned between August 1995 and August 1996, had emigrated. Of those who had emigrated, 53% cited crime and violence as their reason. Some 20% said that they were emigrating because of a drop in the standard of living. The survey also found that the skills shortage was leading companies to pay premium salaries to attract the right candidates. Some 41% of companies surveyed indicated that they were prepared to pay 6% to 10% above the market rate, while 20% indicated that they would pay 10% to 15% more. Only 1% were prepared to pay more than 25% above the market rate.¹⁸² [¹⁸² Business Day 26 September 1996]

In 1995, 1 680 people in professional occupations emigrated from South Africa, while 798 immigrated. This represented a net loss of 882 professionals (see *Immigrants and emigrants* above and chapter on *Population*).

In September 1996 the president, Mr Nelson Mandela, called on skilled workers in South Africa not to leave the country, saying that their expertise was 'vital to transformation'. It was important for those people who had educational opportunities which had been denied to the majority of the population to 'stay with us and to help us'. Mr Mandela noted that the high level of crime and violence had compelled many South Africans to leave the country against their will, but said that the 'overwhelming majority' of the population were prepared to face the country's problems instead of running away.¹⁸³ [¹⁸³ The Citizen 27 September 1996]

The Black Management Forum (BMF) said in October 1996 that unless the development of black managerial skills in South Africa was speeded up, the country was heading for a skills shortage which could inhibit economic growth. The shortage of managers was estimated at between 300000 and 400 000 people. The president of the BMF, Mr Lot Ndlovu, said that the skills base in South Africa was too small to carry economic growth rates exceeding 4% to 5% a year. Economic policies were ignoring the importance of skills development, which meant that skills would have to be imported at the risk of

antagonising black people, who would feel even more marginalised. According to the BMF, the immigration of skilled people had to be managed properly. Skilled people should be allowed to immigrate to South Africa for a certain period, during which time they would have to impart their skills and knowledge to local people.¹⁸⁴ [¹⁸⁴ The Star Business Report 31 October 1996]

(See also chapters on *Education* and *Population*.)

Wages and Incomes

Income Levels

Racial Breakdown: State of Play

According to the Central Statistical Service (CSS), some 36% of employed workers earned less than R1 000 a month in 1995. The single largest proportion of African and coloured employed workers (46% each) earned less than R1000 a month. Some 12% of Asian and 5% of white employed workers earned less than R1 000 a month. The single largest proportion of white employed workers (31%) earned between R4000 and R7999 a month, while 18% of Asian, 5% of coloured and 4% of African employed workers were in that income category.

The table below shows the proportions of the four races in various income categories in October 1995, as calculated by the CSS:¹⁸⁵ [¹⁸⁵ CSS, *October Household Survey 1995*, Statistical Release PO317, 27 November 1996]

Employed worker's earnings^a by race and income level: October 1995^b

R/month

African

Asian

Coloured

White

Total^b

Nil

0,2%

0,3%

0,2%

0,5%

0,3%

1-999

46,4%

11,6%

45,7%

4,9%

35,5%

1 000-1 499

18,2%

18,3%

21,3%

6,9%

16,0%

1 500-2 499

18,5%

20,4%

16,0%

15,3%

17,6%

2 500–3 999

10,7%

21,2%

10,4%

22,6%

13,7%

4 000–7 999

4,3%

17,8%

4,7%

31,2%

11,0%

8 000–12 499

0,4%

4,0%

0,5%

9,5%

2,7%

12 500–19 999

0,2%

1,3%

0,2%

3,3%

1,0%

20 000–29 999

0,1%

0,5%

0,1%

1,6%

0,4%

30 000–59 999

0,1%

0,8%

0,2%

1,4%

0,4%

60 000+

0,0%^c

0,3%

0,0%^c

0,9%

0,2%

Unspecified

0,8%

3,5%

0,8%

2,1%

1,2%

a

Gross monthly earnings including wages, salaries, state social grants, etc.

b

Figures should add up vertically but may not, owing to rounding.

c

Denotes a proportion too small to record.

The 1996 All Media and Products Survey (Amps), published by the South African Advertising Research Foundation, showed that more than 22% of households in South Africa were earning below R500 a month in 1996. Some 31% of African households earned less than R500 a month, compared with 3% of coloured, Indian and white households. A fifth of coloured, Indian and white households earned more than R9000, compared with fewer than 1% of African households.¹⁸⁶ [¹⁸⁶ South African Advertising Research Foundation, *All Media Products Survey 96 and Trends 1992–96*, 1995]

The Amps report provided the following breakdown of income groups in South Africa in 1996 by race and leve

Household incomes by race and level: 1996^a

Income group R/month

Total population

Africans

Coloured people Indians, whites^b

Whites

1–499

22,5%

30,8%

2,9%

0,7%

500–899

17,7%

23,0%

5,1%

2,0%

900–1 399

17,2%

21,1%

7,8%

3,8%

1 400–2 499

14,5%

14,7%

14,0%

10,1%

2 500–3 999

8,8%

5,9%

15,5%

14,5%

4 000–5 999

6,9%

2,6%

17,1%

18,2%

6 000–8 999

6,0%

1,3%

17,2%

21,5%

9 000+

6,4%

0,5%

20,5%

29,2%

a

Figures should add up vertically but may not, owing to rounding.

b

Individual groups too small to

In 1996 African households were earning, on average, R1 252 a month, compared with R7108 earned by white households, said Amps. There was a 9% increase in the average monthly income of the population between 1995 and 1996. The average monthly income of white households increased by some 9% while that of Africans increased by 10%.¹⁸⁸ [¹⁸⁸ Ibid]

The table below shows the average monthly household income by race in 1995 and 1996 and the change over that period, as calculated by Amps:¹⁸⁹ [¹⁸⁹ Ibid]

Average monthly household income by race: 1995 and 1996

Total population

Africans

Coloured people, Indians, whites^a

Whites

Average R/month: 1995

2 364

1 137

5 197

6 494

Average R/month: 1996

2 579

1 252

5 727

7 108

Increase/ (decrease) 1995–96

9,1%

10,1%

10,2%

9,5%

a

Individual groups too small to recor

Differing Trends by Race

A report published in 1996 by the Bureau of Market Research (BMR) at the University of South Africa showed that in the ten years from 1985 to 1994, the real personal disposable income of Africans increased by more than 35%, while that of Asians and coloured people increased by some 24%. In the same period the real personal disposable income of whites dropped by nearly 3%.¹⁹⁰ [¹⁹⁰ HdeJ van Wyk, *Personal Disposable Income of South Africa by Population Group and District, 1985–1994*, Bureau of Market Research, University of South Africa, 1996]

The bar chart below shows the change in real personal disposable income between 1985 and 1994 by

race:

The following table provides a breakdown of real personal disposable income by race in 1985 and 1994 and shows how the relative shares changed:¹⁹¹ [Ibid]

Real personal disposable income:^a 1985b and 1994

1985 Proportion of total^c

1994 Proportion of total^c

Increase/(decrease) 1985–94

African

84 060,7

32,0%

114 003,4

38,5%

35,6%

Asian

9 552,5

3,6%

11 845,5

4,0%

24,0%

Coloured

21 237,8

8,1%
26 352,4
8,9%
24,1%
White
147 655,9
56,2%
143 908,0
48,6%
(2,5%)
Total
262 506,9
100,0%
296 109,3
100,0%
12,8%

a

Total personal income minus income tax and compulsory employee contributions, ie the amount of available income households can spend on consumer goods and services.

b

Constant 1994 prices.

Column figures may not add up owing to rounding.

The pie chart below shows each race's proportion of real personal disposable income in 1985:

The pie chart below shows each race's proportion of real personal disposable income in 1994:

A vice president of the South African Institute of Race Relations, Professor Lawrence Schlemmer, said that the ratio of average white to average African household income had dropped from 5,5:1 in 1988 to below 3:1 in 1995.¹⁹² [¹⁹² Financial Mail 15 November 1996]

Overall Income Trends

The reserve bank said that real disposable income per head in 1995 was lower than it had been in 1971. Real disposable income per head had increased by only 2,5% since the second half of 1993, after dropping some 12% between 1989 and 1993.¹⁹³ [¹⁹³ The Star Business Report 13 March 1996]

According to the BMR, average personal disposable income per head in South Africa in 1995 was R8 065. This was expected to rise to R9 475 in 1997—a real increase of 0,5% a year (with an inflation rate of 6,9% in 1995/96 and an estimated inflation rate of 9% in 1997).¹⁹⁴ [¹⁹⁴ F & T Weekly 10 January 1997]

Rich/Poor Income Disparities

According to the 1996 Human Development Report published by the United Nations Development Programme, South Africa had one of the largest income disparities in the world. The poorest 40% of households in South Africa earned only 9% of the country's income, while the richest 20% earned 19 times more than the poorest 20%, the report said.¹⁹⁵ [¹⁹⁵ Sunday Times 21 July 1996]

Wages

Pay Inequalities

The Presidential Commission to Investigate the Development of a Comprehensive Labour Market Policy (the labour market commission) reported in 1996 that 10% of South Africa's 7,4m formal-sector employees earned less than R250 a month, and 38% earned less than the household minimum living level of R970 a month. The commission noted a senior civil servant earned 20 times as much as the lowest-level civil servant while a mine manager's remuneration was 25 times that of the lowest-paid mine labourer. The commission said that such inequality was a reflection of 'structural, apartheid-based

inequalities in education, training and jobs' and related shortages of skilled professional people.¹⁹⁶ [¹⁹⁶ Labour market commission, *Restructuring the South African Labour Market*, June 1996]

The ministry of finance said in its macro-economic strategy document, *Growth, Employment and Redistribution*, that real African wage income in the non-primary sectors of the economy had increased by 4,5% a year in real terms over the past two decades. However, in 1993 the average household had an income of R1 360 a month, while the poorest received R47—a richer to poorer ratio of 29:1. According to the Bureau for Economic Research at the University of Stellenbosch, the ratio of white earnings to African earnings in the manufacturing sector was only 3,4:1. There was thus a greater economic divide between the employed and the unemployed than between African and white, according to the South African Institute of Race Relations.¹⁹⁷ [¹⁹⁷ Fast Facts No 1 1997]

Remuneration Trends

In September 1996 the South African Reserve Bank said that the increase in the average nominal remuneration per worker was 10% in 1993 and 12% in 1994. In 1995 growth in the nominal remuneration per worker dropped to 9%. This was the first single-digit increase in nominal remuneration per worker since 1972. The rate of increase in the nominal remuneration of workers in the private sector rose from 10% in 1994 to 11% in 1995, while the increase in the public sector slowed down from a rate of 15% in 1994 to 7% in 1995.¹⁹⁸ [¹⁹⁸ SARB, *Quarterly Bulletin*, September 1996]

Earnings and Job Trends by Sector

The table below provides a breakdown of earnings by economic sector, along with changes in the level of employment in June 1995 and June 1996:¹⁹⁹ [¹⁹⁹ Fast Facts No 3 1997]

Job trends and earnings by economic sector: June 1995–June 1996

Sector

Contribution of sector to GDP

Proportion of workforce^a

Change in number of employees^b

Increase/ (decrease) in number of people

Change in total monthly earnings^b

Change in average real earnings^b

Mining

8,8%

10,7%

(6,2%)

(37 346)

10,5%

11,1%

Electricity, gas and water

4,9%

0,8%

1,1%

428

20,5%

12,5%

Construction

2,9%

6,2%

(9,2%)

(33 200)

3,6%

7,8%

Wholesale and retail trade, catering and accommodation

15,7%

13,5%

(0,3%)

(2 452)

9,5%

3,5%

Manufacturing

24,6%

27,3%

1,1%

16 251

9,3%

1,9%

Transport,^c storage and communication

8,0%

5,4%

(0,9%)

(2 623)

11,4%

6,0%

Financial inter- mediation, insurance, real estate and business services

15,3%

4,0%

6,6%

13 157

12,1%

(1,0%)

Community, social and personal services^d

15,7%

31,1%

2,9%

46 276

14,3%

4,8%

Agriculture

5,3%

—

—

—

—

—

Total

100,0%

100,0%

—

(491)

—

—

a

Non-agricultural, formal sector.

b

Change on same quarter of the previous year.

c

Excluding taxis, local authorities and the former 'independent' homelands.

d

Mainly

Mining Wages and the Gold Price

Wage negotiations between the National Union of Mineworkers and the Chamber of Mines brought the lowest minimum wage for underground workers on chamber gold mines to R752, and to R678 on chamber coal mines in 1996. The highest minimum wage paid to underground workers was R960 on

chamber gold and R1 061 on chamber coal mines. In March 1997 the NUM tabled a demand for a minimum wage of R1 200,200 [²⁰⁰ Business Day 10 April 1997]

The following table provides a breakdown of the average monthly real wage in the mining sector and the average London gold price from 1980 to 1994 (the figure for the average monthly wage in 1995 was not available):²⁰¹ [²⁰¹ CSS, *South African Labour Statistics*, 1995; 1995/96 *Survey*, p541; Chamber of Mines of South Africa, *Statistical Tables 1989*, p15]

Average monthly real wages in the mining sector and the average annual London gold price: 1980–94

Gold price in American dollars

Gold price in South African rands^a

Average monthly wage^b R

Increase (decrease) in average monthly real wage

1980

612,86

1 880,67

1 020

–

1981

459,85

1 361,36

1 066

4,5%

1982

375,85

1 213,38

1 104

3,6%

1983

424,31

1 247,75

1 102

(0,2%)

1984

360,45

1 248,25

1 136

3,1%

1985

317,29

1 447,31

1 121

(1,3%)

1986

367,59

1 443,95

1 091

(2,7%)

1987

446,60

1 344,39

1 117

2,4%

1988

437,09

1 301,29

1 183

5,9%

1989

381,54

1 142,89

1 209

2,2%

1990

383,58

991,88

1 235

2,2%

1991

362,19

866,90

1 231

(0,3%)

1992

343,72

746,37

1 218

(1,1%)

1993

359,70

816,61

1 231

1,1%

1994

384,05

748,73

1 170

(5,0%)

a

The rand price of gold is expressed in real terms with 1990 as the base year.

b

At constant 1990 prices.

The line graph below shows the trends in average monthly real wages in the mining sector between 1980 and 1994 and the average London gold price in constant ra

Real wages in the mining sector were highest in 1990. In 1980 the average price of gold in rands was R1 881. Average real monthly wages were, however, higher in 1994, when the price of gold was R749, than in 1980. In 1980 the average monthly wage was 54% of the price of gold (South African rands), while in 1994 it was 156% of the gold price.

Manufacturing Wages by Sector and Race

The table below provides a breakdown of annual real earnings of workers in the manufacturing sector by race in various years from 1975 to 1995 and the increase/decrease over five years (brackets denote a decrease):²⁰² [202 Bureau for Economic Research, University of Stellenbosch, *Trends*, October 1996]

Annual real earnings of workers in the manufacturing sector: 1975–95

1975

1980

1985

1990

1995

African

Real earnings (R)

8 480

10 305

11 390

12 620

12 821

Change in real earnings^a

2,6%

4,2%

(1,9%)

(0,8%)

1,0%

Change in real earnings 1975–95

—

—

—

—

51,2%

Asian

Real earnings (R)

12 671

14 229

16 350

18 471

20 221

Change in real earnings^a

5,9%

3,7%

(4,3%)

2,3%

(1,5%)

Change in real earnings 1975–95

—

—

—

—

59,6%

Coloured

Real earnings (R)

11 329

12 427

13 173

13 705

14 197

Change in real earningsa

1,1%

5,2%

(2,0%)

2,4%

0,8%

Change in real earnings 1975–95

—

—

—

—

25,3%

White

Real earnings (R)

42 881

45 486

45 472

43 288

41 910

Change in real earningsa

0,5%

5,1%

(5,0%)

1,1%

(2,4%)

Change in real earnings 1975–95

—

—

—

—

(2,3%)

Total population

Real earnings (R)

16 917

18 635

19 650

19 854

20 959

Change in real earnings^a

2,2%

4,0%

(3,0%)

0,0%

0,8%

Change in real earnings 1975–95

—

—

—

—

23,9%

a

Average annual chang

Between 1975 and 1995, real earnings of Asians increased by 60%, those of Africans by 51%, and coloured people by 25%. Real earnings of whites dropped by 2%. The ratio of average white to average African real earnings in the manufacturing sector dropped from 5:1 in 1975 to 3:1 in 1995.

Public vs Private Sector Wages

The minister for the public service and administration, Dr Zola Skweyiya, said in September 1996 that the wage gap between the private and public sectors was narrowing. Studies indicated that the minimum wage of unskilled workers in the public service placed them in the top 20% of unskilled workers in the country. The average salaries of skilled workers in the public service also compared favourably with

their counterparts in the private sector, Dr Skweyiya said.²⁰³ [203 F & T Weekly 27 September 1996]

Wage Settlements

Andrew Levy and Associates said that the overall level of wage settlements was 9,9% in 1996, indicating that unions were moderating their wage demands. (This figure applied to the negotiated wage settlements in the bargaining units monitored by the consultancy's *Wage Settlement Survey*.) Although overall wage settlements were lower than in 1995 (11,5%), the increases were two percentage points above the inflation rate. The high wage settlement levels in 1995 had resulted from union perceptions that the economy was growing and that companies could afford wage increases above the inflation rate.²⁰⁴ [204 Andrew Levy and Associates, annual report, 1996/97; *The Sunday Independent* 28 January 1996] The average increases negotiated in centralised bargaining structures in 1996 were slightly lower at 9,1%. The consultancy calculated the average minimum wage across all sectors at R1590 a month. The lowest minimum wage was recorded in the transport sector (R1058), while the highest was in the metal manufacturing industry (R2043).²⁰⁵ [205 Andrew Levy and Associates, *Wage Settlement Survey Quarterly Report*, September 1996, annual report 1996/97; *Business Day*, *The Star Business Report* 27 September 1996]

The head of the economics division at the South African Reserve Bank, Mr Bernie de Jager, said in May 1996 that excessive wage demands could cause an increase in the inflation rate and 'completely nullify' potential advantages presented by the depreciation of the rand (see also chapter on *The Economy*). Mr de Jager said that nominal wage increases should be constrained (ie matching or below the inflation rate) to improve South Africa's international competitiveness.²⁰⁶ [206 Sowetan 17 May 1996; telephonic interview with Mr Bernie de Jager, head of the economics division, SARB, 25 February 1997]

In October 1996 the minister of labour, Mr Tito Mboweni, called for moderate wage increases, saying that this would increase the net wealth of the economy and would ensure that everyone had a fair and equal chance of creating and benefiting from that wealth. Higher wages depended on improved productivity, lower levels of unemployment, and on ensuring that the rewards of the improvements were shared fairly, he said.²⁰⁷ [207 The Star Business Report 23 October 1996]

Impact of Tariffs on Wages

In August 1996 the International Monetary Fund (IMF) said that protective import tariffs were primarily responsible for the excessive wages paid to skilled workers as well as the high unemployment level. South Africa's high import tariffs kept the prices of manufactured goods artificially high. This allowed manufacturers to pay unproductively high wages to skilled workers. Inflated prices hampered international competitiveness and job creation. The IMF said that although the South African economy was absorbing most skilled workers, it was at a wage level which made local manufacturers uncompetitive internationally.²⁰⁸ [208 Ibid 16 August 1996]

According to the government's macro-economic strategy document, *Growth, Employment and*

Redistribution, international trade between developed and developing countries placed downward pressure on unskilled wages and upward pressure on skilled wages. Trade liberalisation and increased international competition in South Africa would force down unskilled wages. If this was not accommodated by the labour market, then unemployment would rise and irregular, insecure forms of unemployment would increase, the document said.²⁰⁹ [²⁰⁹ Department of Finance, *Growth, Employment and Redistribution*, 1996]

Household Subsistence Levels

The household subsistence level is defined as an estimate of the income needed by an individual household if it is to maintain a minimum level of health and decency in the short term. It is calculated as the lowest retail cost of a budget of necessities of adequate quality, including food, clothing, fuel, lighting, washing and cleaning materials, rent, and transport.

The table below shows household subsistence levels (HSLs) for a low-income family of six in September 1995 and September 1996, as calculated by the Institute for Development Planning and Research at the University of Port Elizabeth.²¹⁰ [²¹⁰ Institute for Development Planning and Research, *The Household Subsistence Level of the Major Urban Centres of the Republic of South Africa*, September 1996, fact paper no 103, University of Port Elizabeth]

Household subsistence levels for low-income families: September 1995 and September 1996

Centre

September 1995 R/month

September 1996 R/month

Increase

Benoni

1 061,14

1 173,32

10,6%

Bloemfontein

1 061,84

1 152,13

8,5%

Boksburg

1 060,88

1 173,93

10,7%

Brakpan

1 059,67

1 150,83

8,6%

Brits

1 072,18

1 199,91

11,9%

Cape Town

1 056,63

1 097,54

3,9%

Durban

1 035,01

1 166,05

12,7%

East London

1 075,41

1 247,21

16,0%

George

1 034,11

1 115,52

7,9%

Germiston

1 082,56

1 178,15

8,8%

Johannesburg

1 055,11

1 172,02

11,1%

Kimberley

1 083,35

1 197,81

10,6%

King William's Town

994,55

1 080,76

8,7%

Krugersdorp

1 052,60

1 165,76

10,8%

Mossel Bay

1 056,76

1 134,13

7,3%

Pietermaritzburg

949,05

1 094,80

15,4%

Port Elizabeth

979,57

1 113,71

13,7%

Pretoria

1 040,02

1 216,69

17,0%

Springs

990,34

1 146,95

15,8%

Uitenhage

959,17

1 076,10

12,2%

Umtata

1 013,16

1 159,36

14,4%

Vaal Triangle

1 0

According to the Institute for Development Planning and Research, the increase in the HSL between September 1995 and September 1996 in the lower-income category in the five major urban centres

(Cape Town, Durban, Johannesburg, Port Elizabeth and Pretoria) was 11,7%. The cheapest centres for low-income groups to live in, as measured by the HSL, were Uitenhage (R1076), King William's Town (R1081) and Pietermaritzburg (R1095), while the most expensive centres were East London (R1247), Pretoria (R1217) and Brits (R1200).

HSLs for a lower middle-income family of five in September 1995 and September 1996, as calculated by the Institute for Development Planning and Research at the University of Port Elizabeth, are shown below:²¹¹ [211 Ibid]

*Hou*Centre

September 1995 R/month

September 1996 R/month

Increase

Bloemfontein

1 306,29

1 397,27

7,0%

Cape Town

1 220,80

1 349,49

10,5%

Durban

1 332,21

1 495,75

12,3%

East London

1 238,40

1 472,49

18,9%

George

1 221,18

1 343,86

10,0%

Johannesburg

1 262,55

1 364,01

8,0%

Kimberley

1 239,84

1 343,44

8,4%

King William's Town

1 197,52

1 335,95

11,6%

Mossel Bay

1 216,14

1 290,79

6,1%

Port Elizabeth

1 136,92

1 297,70

14,1%

Pretoria

1 273,91

1 441,56

13,2%

Uitenhage

1 175,23

1 283,85

9,2%

The average increase in the HSL for the lower middle-income groups in the five major urban centres from September 1995 to September 1996 was 11,6%, which was higher than the CPI-weighted annual increase of 7,5%, the institute said. Durban (R1496), East London (R1472) and Pretoria (R1442) were the most expensive centres for lower middle-income groups to live in, while Uitenhage (R1284), Mossel Bay (R1291) and Port Elizabeth (R1298) were the cheapest.

INDUSTRIAL RELATIONS**Trade Unions**

Trade Union Membership

The Department of Labour said that 2,69m workers belonged to registered trade unions in 1995, compared with 2,47m in 1994—a 9% increase. The number of registered trade unions increased by 35 during 1995, bringing the total at the end of the year to 248.²¹² [²¹² Department of Labour, annual report 1995]

According to the department, the membership of unregistered trade unions almost halved between 1994 and 1995, from 510 000 to 260 000. Total union membership (registered and unregistered) of 2,95m represented approximately 20% of the economically active population.²¹³ [²¹³ Ibid]

Andrew Levy and Associates (ALA) estimated total union membership (registered and unregistered) in 1995 to be 2,9m—a drop of 9% on the 1994 figure. Of an estimated workforce of 16m people (including unemployed people actively seeking work), some 18% were unionised. However, if only those employed in the formal sector were taken into account, union membership would be closer to 39%. The decline in union membership since 1994 was caused mainly by widespread retrenchment and rationalisation of companies, according to ALA. This downward trend would continue until there was a significant increase in formal employment. The adoption of the Labour Relations Act of 1995 would lead to an increase in union membership in the agricultural sector. The consultancy noted that although there had been a decrease in total union membership in 1995, there was an increase in the membership of registered trade unions. The decrease was among unregistered unions, suggesting that there was a perception that registered unions were better able to achieve their members' objectives.²¹⁴ [²¹⁴ Andrew Levy and Associates, annual report 1995/96; annual report 1996/97]

The director of the National Labour and Economic Development Institute, Mr Jeremy Baskin, said in February 1996 that between 1985 and 1995 union membership had more than doubled and stood at over 3m in 1995. Membership growth had slowed down from the early 1990s, dropping by some 6% from 1994.²¹⁵ [²¹⁵ S A Labour Bulletin February 1996]

The following table provides a breakdown of union membership in various years from 1985 to 1995:²¹⁶ [²¹⁶ Ibid; CSS, *South African Statistics*, 1994]

Union membership: 1985–95

Union membership

Proportion of employed workers^a

Proportion of employed workers excluding domestic service and agriculture^a

Proportion of EAP^b

1985

1 391 423

18%

23%

14%^c

1987

1 879 400

23%

30%

18%^c

1989

2 130 117

26%

33%

19%^c

1991

2 750 400

34%

44%

23%^c

1993

3 272 768

42%

54%

27%^c

1995

3 065 860

40%

50%

21%^d

a

Refers to workers employed in the formal sector only.

b

Economically active population including unemployed and informal workers.

c

Mid-year estimates.

d

October household survey estimate.

Between 1985 and 1995 union membership more than doubled, although the number of people employed in the formal sector dropped by 2%. Union membership as a proportion of the economically active population, however, increased from 14% in 1985 to 21% in 1995. In 1995 some 40% of all workers with jobs belonged to unions. This figure rose to 50% if workers in the agricultural and domestic sectors were excluded. According to Mr Baskin, South Africa had the highest unionisation rate

of any developing country, despite a high level of unempl

Unionisation by Race and Sex

African workers tended to be more unionised than the other population groups because they had generally been in lower-paying and less-skilled jobs, and unions had provided them with more bargaining power, Mr Baskin said ²¹⁸ [²¹⁸ Ibid]

The Central Statistical Service (CSS) provided the following breakdown of unionisation by race and sex in 1994 (figures for 1995 were not available):²¹⁹ [²¹⁹ Ibid; CSS, *October Household Survey 1994*, Statistical Release, PO317, 30 March 1995]

Unionisation by race and sex: 1994

Race

Male

Female^a

Total

African

35,1%

36,0%

35,4%

Asian

32,7%

33,2%

32,9%

Coloured

29,5%

31,5%

30,3%

White

26,9%

16,5%

22,7%

Total

32,4%

29,3%

31,3%

a

Excludes domestic work

The CSS's 1995 *October Household Survey* found that approximately one third of the 10,2m workers in South Africa belonged to trade unions. Some 39% of African male and 36% of African female workers belonged to trade unions. Trade union membership was the lowest among white male (28%) and female (17%) workers. (The CSS did not provide a statistical breakdown of the level of unionisation in 1995. The figures above were calculated as proportions of individual race groups and not as proportions of the total workforce.)²²⁰ [²²⁰ CSS, *Living in South Africa, Selected Findings of the 1995 October Household Survey*, 1996]

Unionisation by Province

The table below provides a breakdown of unionisation by province in 1994, according to the CSS (figures for 1995 were not available):²²¹ [²²¹ S A Labour Bulletin February 1996; CSS, *October Household Survey 1994*, Statistical Release, PO317, 30 March 1995]

Unionisation by province: 1994

Province

Level of unionisation

Working population^a

Eastern Cape

31,8%

966 046

Free State

27,0%

727 872

Gauteng

37,6%

2 479 832

KwaZulu-Natal

30,6%

1 857 841

Mpumalanga

30,6%

600 655

North West

23,7%

754 562

Northern Cape

15,9%

188 801

Northern Province

30,6%

644 364

Western Cape

29,7%

1 421 000

National average

31,3%

9 640 972

a

Refers to people employed in the formal and informal sectors.

Gauteng had the highest level of unionisation because of its level of industrialisation, while the Northern Cape was predominantly agricultural and, therefore, had a much lower level. According to Mr Baskin, the figures for the Free State, Gauteng and North West would be higher if the survey had included hostel re

Commission into the Future of the Unions

In July 1996 the Congress of South African Trade Unions (Cosatu) announced that it had set up the Commission into the Future of the Unions (the September commission) to investigate the future direction of the federation in a changing political and economic environment. The commission was headed by a vice president of Cosatu, Ms Connie September.²²³ [223 Ibid April 1996; *Business Day* 18 July 1996]

Ms September said that the main task of the commission would be to identify ‘key organisational and policy challenges’ facing Cosatu, including the economic pressures of increased globalisation.²²⁴ [²²⁴ Ibid] In September 1996 the commission held regional forums across the country to hear submissions from workers, shopstewards and other officials.²²⁵ [²²⁵ The Shopsteward October/November 1996] Issues raised included the federation’s apparent lack of political vision, lack of communication between the federation and its affiliates, organisational discipline and the need for a plan to achieve socialism.²²⁶ [²²⁶ Sowetan 12 November 1996] The commission was to publish its findings in March 1997.²²⁷ [²²⁷ The Shopsteward June/July 1996]

Union Groupings

According to Andrew Levy and Associates, Cosatu remained the largest trade union federation in 1996. It had a membership of 1743172 workers, compared with 1568514 in 1995 (an increase of 11%). The largest union affiliated to Cosatu was the National Union of Mineworkers with 310596 members, followed by the National Union of Metalworkers of South Africa with 230000. The second largest trade union federation in 1996 was the Federation of South African Labour Unions (Fedsal), with 255206 members. The National Council of Trade Unions was the third largest trade union grouping, with an estimated 220000 members.²²⁸ [²²⁸ Fax communication from Andrew Levy and Associates, 24 January 1997]

A municipal employees’ trade union, the Independent Municipal and Allied Trade Union (affiliated to Fedsal), was launched in March 1996. The union, claiming a membership of 80000, was an amalgamation of five unions—the Durban Municipal Employees’ Society, the Johannesburg Municipal Employees’ Association, the National Union of Employees of Local Authorities, the South African Association of Municipal Employees, and the South African Local Authorities and Allied Workers’ Union.²²⁹ [²²⁹ The Citizen 9 March 1996] The deputy general secretary of the new union, Mr Alan Rutherford, said that the union was necessary because there were ideological differences between its members and those of the Cosatu-affiliated South African Municipal Workers’ Union.²³⁰ [²³⁰ Ibid 29 February 1996]

In April 1997 the Federation of South African Labour Unions (Fedsal) and the Federation of Organisations Representing Civil Employees merged to form the second biggest trade union federation in South Africa. The Federation of Unions of South Africa, claiming 515 000 members and 25 affiliates, would take up the seat held by Fedsal at the National Economic Development and Labour Council.²³¹ [²³¹ The Star 2 April 1997]

Employer Organisations

The Department of Labour said that four new employer organisations had been registered in 1995, and the registration of seven organisations had been cancelled because of a ‘lack of interest’ on the part of their members, or because of mergers with other employer organisations. This brought the total number of registered employer organisations at the end of the year to 188. Between 1991 and 1995 the number of employer organisations dropped by 12% from 214 to 188. According to the department, there were

ten registered employer federations at the end of 1995.²³² [²³² Department of Labour, annual report 1995]

National Economic Development and Labour Council

During the period under review, the National Economic Development and Labour Council (Nedlac) focused on the development of the institution and the work programme of its four chambers.

The trade and industry chamber concentrated on matters relating to the economic and social dimensions of trade, such as negotiations with the European Union and on the social clause in trade agreements. The chamber agreed to develop a strategy to promote human rights and workers' rights internationally. The chamber also focused on developing supply-side measures to support industrial development, and established the governing body of a competitiveness fund to improve technical and marketing support to small, medium and micro enterprises.²³³ [²³³ Nedlac, annual report 1995/96]

The development chamber began drawing up plans for urban and rural development strategies, including campaigns to 'mobilise the nation behind the [reconstruction and development programme]'. The chamber also considered the role of public works and infrastructure projects in creating jobs, government housing delivery, and the feasibility of establishing a national development agency to provide and co-ordinate support to civil society organisations.²³⁴ [²³⁴ Ibid]

The labour market chamber concluded negotiations on the Labour Relations Act of 1995 and continued to work on the implementation of the act. This included the establishment of the Commission for Conciliation, Mediation and Arbitration. Additional issues covered included the ratification of six International Labour Organisation conventions, negotiations on the Mine Health and Safety Act of 1996 and the Green Paper: Policy Proposals for a New Employment Standards Statute, and research into collective bargaining trends. The chamber would also conduct negotiations on the *Green Paper: New Employment and Occupational Equity Statute*, a white paper on human resource development, and the findings of the Presidential Commission to Investigate the Development of a Comprehensive Labour Market Policy (the labour market commission).²³⁵ [²³⁵ Ibid]

The focus of the public finance and monetary policy chamber was on the 1996/97 national budget. The chamber also discussed the abolition of exchange controls and a draft bill on tax amnesty.²³⁶ [²³⁶ Ibid]

Bargaining

Collective Bargaining Institutions

Industrial Councils

The Department of Labour said that no new industrial councils had been registered in 1995, but six councils were deregistered on their own resolution. There were 80 registered industrial councils at the

end of 1995 which collectively administered 124 agreements. In 1995 some 50000 employers were subject to industrial council agreements, while the conditions of employment of about 1,8m workers were regulated by such agreements. The number of disputes referred to industrial councils increased from 7 639 in 1994 to 8 912 in 1995—by 17%. Of these, only 30% were resolved.²³⁷ [237 Department of Labour, annual report 1995]

The following table provides a breakdown of the activities of industrial councils from 1991 to 1995:²³⁸ [238 Ibid]

Industrial council activities: 1991–95

- 1991
- 1992
- 1993
- 1994
- 1995

Increase/ (decrease) 1991–95

Industrial councils

- 89
- 87
- 86
- 86
- 80

(10%)

Agreements

Number

141

187

163

156

124

(12%)

Exemptions

7 769

7 310

7 469

6 735

4 315

(44,5%)

Number of employers involved in agreements

35 969

24 456

20 702

23 745

50 194

39,5%

Number of workers involved in agreements

Wage agreements

488 158

735 533

313 572

353 634

823 823

68,8%

Pension and provident fund agreements

1 242 437

806 211

761 849

637 636

543 986

(56,2%)

Medical fund agreements

506 568

258 391

272 090

200 911

395 307

(22,0%)

Total number of workers

2 237 163

1 800 135

1 347 511

1 192 181

1 763 116

(21,2%)

Disputes

Disputes handled

5 209

6 050

6 865

7 639

8 912

71,1%

Disputes settled

2 101

2 077

2 042

2 014

2 646

25,9%

Although the overall number of workers covered by industrial council agreements dropped between 1991 and 1995, the number of workers covered by industrial council wage agreements increased by 69%. The number of employers subject to industrial council agreements increased by 40%. Some 71% more disputes were referred to industrial councils in 1995 than in 1991. However, 40% of disputes were resolved at industrial council level in 1991, while only 30% were resolved in 1995. The remaining disputes were either referred to the industrial court, settled by the disputing parties, or remained u

Bargaining Councils

In terms of the Labour Relations Act of 1995 all existing industrial councils are deemed to be bargaining councils (see also 1995/96 Survey, pp289, 305). The minister of labour, Mr Tito Mboweni, said that the Department of Labour had held regional meetings with industrial councils in Cape Town, Durban, Johannesburg and Port Elizabeth in February 1996 to inform them of the content and requirements of the new act. In April 1996 the department addressed the liaison committee of industrial councils on the process and requirements of converting from an industrial council to a bargaining council.²⁴⁰ [²⁴⁰ Hansard (S:Q) 4 cols 362–364, 16 May 1996]

In November 1996 employers in the chemical industry and six unions signed a framework agreement to establish a national bargaining council in the industry, which would cover more than 150 000 workers.²⁴¹ [²⁴¹ Business Day 26 August 1996; telephonic interview with Mr Beki Ntshali Ntshali, collective bargaining coordinator, Chemical Workers' Industrial Union, 18 November 1996]

Negotiations had commenced in 1995 after the Chemical Workers' Industrial Union tabled a demand for centralised bargaining in the chemical industry.²⁴² [²⁴² Business Day 28 February 1996] The agreement provided for a national bargaining council with seven subsector chambers covering sectors such as industrial chemicals, petroleum, pharmaceuticals and rubber.²⁴³ [²⁴³ Ibid 26 August 1996]

Workplace Forums

The Labour Relations Act of 1995 provided for the establishment of workplace forums to facilitate consultation and joint decision making between workers and management in the workplace. Forums could be established in workplaces with more than 100 employees and could be initiated only by a representative trade union. The union had to apply to the Commission for Conciliation, Mediation and Arbitration to establish the forum (see *Commission for Conciliation, Mediation and Arbitration* below and 1995/96 Survey, pp293–295, 305). The act came into effect on 11th November 1996. At the time of writing, no workplace forums had been established.

Labour Orders

A labour order for the security services industry was approved by the minister of labour, Mr Tito Mboweni, and implemented from 15th April 1996. (In terms of section 51A (3) of the Labour Relations Act of 1956, any group or association of employers in an industry or trade in which there is no registered industrial council may submit proposals to the minister of labour concerning conditions of employment of employees in the industry, and request that such proposals be declared binding on all employers and employees in the industry.) The order, negotiated between employer and labour representatives, would standardise employment conditions in the industry by regulating working time, minimum wages and other employee benefits. The chairman of the South African National Security Employers' Association, Mr Don Masterson, said that the order was the 'beginning of a process to sort out the hundreds of unscrupulous operators' who exploited their labour forces and undermined the profitability of legitimate businesses.²⁴⁴ [²⁴⁴ The Star 8 April 1996; *S A Now* April 1996; Department of Labour, Security Services Trade: Order, *Government Gazette* no 17089, 6 April 1996]

In the same month Mr Mboweni approved a labour order for the goods transportation and storage trade.²⁴⁵ [²⁴⁵ Department of Labour, Goods Transportation and Storage Trade: Order, *Government Gazette* no 17087, 6 April 1996]

Dispute Resolution

Conciliation Boards

According to the Department of Labour, 20 754 applications for the establishment of conciliation boards were received in 1995, compared with 18744 in 1994. Boards were established in 73% of these cases, while the remaining applications were rejected as they did not comply with the requirements of the Labour Relations Act of 1956. Boards settled 19% of disputes referred to them while 24% of deliberations were unsuccessful. The remainder were still in negotiations at the time of the publication of the report.²⁴⁶ [²⁴⁶ Department of Labour, annual report 1995]

Commission for Conciliation, Mediation and Arbitration

The Commission for Conciliation, Mediation and Arbitration was launched in November 1996 in terms of the Labour Relations Act of 1995. The commission, consisting of 31 full-time and 93 part-time commissioners, was to provide a range of dispute resolution services at no cost. Additional services would include administering ballots and assisting in the establishment of workplace forums and statutory councils.²⁴⁷ [²⁴⁷ The Star Business Report 4 November 1996; *Industrial Democracy Review* June/July 1996] Mr Charles Nupen was appointed as director of the commission. An initial budget of R92m was allocated for the year to 30th March 1997.²⁴⁸ [²⁴⁸ The Star Business Report 11 November 1996] The Department of Labour said

that the new system would run concurrently with the conciliation board system until the latter had been phased out.²⁴⁹ [²⁴⁹ Department of Labour, annual report 1995]

Labour Courts

The Department of Labour said that the Industrial Court had received 12 807 new cases in 1995. Only 27% of cases received in 1995 were finalised by the end of the year. The Labour Appeal Court received 194 new cases in 1995, and 172 cases were carried forward from the previous year (ie 366 in total). Of these, 62% were resolved by the end of the year.²⁵⁰ [²⁵⁰ Ibid]

The Agricultural Labour Court received 353 new cases in 1995, compared with 66 in 1994. Some 254 cases were resolved in 1995.²⁵¹ [²⁵¹ Ibid]

The Labour Relations Act of 1995 provided for the establishment of a Labour Court with the same status as a division of the Supreme Court (see 1995/96 Survey, pp296–297). In April 1996 the National Economic Development and Labour Council and the South African Law Commission appointed Mr Justice John Myburgh of the Witwatersrand Local Division of the Supreme Court in Johannesburg as the president of the new Labour Court. Mr Justice Johan Froneman of the Eastern Cape Division of the Supreme Court was appointed its vice president. The judges were appointed following a joint selection process which included a public hearing in March 1996.²⁵² [²⁵² S A Now April 1996] The president, Mr Nelson Mandela, announced the names of the judges who would serve in the Labour Court and the Labour Appeal Court in October 1996. The Labour Appeal Court judges appointed were Mr Justice Edwin Cameron, Mr Justice J H Conradie and Mr Justice C R Nicholson. Professor D Basson and Ms E Revellas were appointed Labour Court judges.²⁵³ [²⁵³ The Star Business Report 14 October 1996] The minister of labour, Mr Tito Mboweni, said that only two people would be appointed to the Labour Court until a suitable black candidate was found for the third position.²⁵⁴ [²⁵⁴ Sowetan, *The Star* 14 October 1996]

In November 1996 the Witwatersrand Local Division of the Supreme Court in Johannesburg dismissed an appeal by East Rand Proprietary Mines (ERPM) to overturn an Industrial Court ruling that the dismissal of 350 Zulu mineworkers in 1994 constituted an unfair labour practice. The mine had dismissed the workers following months of ethnic clashes at the Cinderella hostel in Boksburg (Gauteng) which had resulted in neither the mine nor the National Union of Mineworkers (NUM) being able to guarantee the Zulu workers' safety. The Zulu workers, who had been sent home or housed in temporary accommodation on the mine, had been dismissed on the basis of a 'no fault termination' for operational reasons, after workers from other ethnic groups had opposed their return to the mine. Handing down judgement, Judge Cameron said: 'The question in this appeal is under what circumstances, if ever, an employer may dismiss employees who are the target of ethnic hostility from other employees, and whose safety in the workplace the employer in consequence cannot guarantee.' Judge Cameron noted that the mine faced an 'intractable dilemma' in that it was paying workers who were not productive, and that while the Zulu workers were not at fault, it would have been impossible to dismiss the 6000 employees opposed to their presence. While management was allowed to dismiss

employees whose safety it could not guarantee, this should only occur when there was no other alternative. Judge Cameron upheld the Industrial Court ruling that the dismissal had been premature and unfair, saying that ERPM had dismissed the workers at a time when talks between management, the NUM and the Zulu workers could have continued. The mine could also have redeployed the workers elsewhere within the group. He added that it would be 'unwise' to reinstate the dismissed workers, because there was no evidence to suggest that the situation at the hostel had changed and that their safety could be guaranteed.²⁵⁵ [²⁵⁵ Business Day 26 November 1996]

Strikes

The right to strike was entrenched in the bill of rights of the new constitution, which was assented to by the president in December 1996 (see Bill of Rights Report and chapter on *Government and Constitution*).²⁵⁶ [²⁵⁶ Constitution of the Republic of South Africa, no 108 of 1996, *Government Gazette*, no 17678, 18 December 1996; Jeffery and Schönteich, *Bill of Rights Report*, South African Institute of Race Relations, Johannesburg, 1997]

In January 1997 Andrew Levy and Associates (ALA), a labour relations consultancy, reported that 1,7m mandays were lost as a result of industrial action in 1996. Although this figure was higher than the 1,6m mandays lost in 1995, it was still well below the corresponding figures for 1994 (3,9m), 1993 (3,6m) and 1992 (4,2m). The consultancy said that this 'levelling off' was because major wage agreements negotiated at centralised level were concluded (after extensive negotiations) without any large-scale industrial action. Wage disputes accounted for 57% of strikes in 1996, while 37% were related to employees' grievances and 3% to disciplinary measures taken by employers. Retrenchment and trade union recognition accounted for 3% of strikes. Strike action in the public sector in 1996 showed a significant decrease compared with 1995. The consultancy attributed this to the three-year wage agreement negotiated earlier in 1996 (which included raising the minimum wage by 7,5%), the 'rightsizing' of the public sector and the introduction of a grading system to reduce wage differentials. The state, as an employer, was also handling labour matters in a more procedural manner, which resulted in less conflict. The consultancy said that the main industries affected by strike action in 1996 were the textile (42%), mining (29%) and automobile (10%) industries.²⁵⁷ [²⁵⁷ Fax communication from Andrew Levy and Associates, 28 January 1996] According to the consultancy, many strikes during 1996 were characterised by 'high levels of unruly behaviour'.²⁵⁸ [²⁵⁸ The Citizen 1 October 1996]

Fatalities and Violence in Strikes

In August 1996 production at the Union and Rustenburg sections of Rustenburg Platinum Mines (North West) was brought to a standstill following unrest which left a security guard dead. Some 4000 workers did not report for their shifts following widespread intimidation and death threats by a group of about 1 000 workers, dismissed in July, who had not reapplied for their jobs.²⁵⁹ [²⁵⁹ Ibid 3 August 1996, *Business Day* 5 August 1996]

Later in the month the South African Police Service (SAPS) and the South African National Defence

Force (SANDF) executed a 'clean-up operation' near the Swartklip section of Rustenburg Platinum Mines after receiving information that a group of about 600 men were living in the hills and fields near the mine and were in possession of firearms. The men were believed to be part of the group of workers who had been dismissed earlier in the month. During the operation members of the SAPS and SANDF came under automatic weapon fire. In the ensuing shootout, four people were killed and 48 wounded. Two firearms and several rounds of ammunition were confiscated and 183 people were arrested.²⁶⁰ [²⁶⁰ The Citizen 24 August 1996]

In July 1996, 11 mineworkers were killed and 29 injured at the East Driefontein mine in Carletonville (Gauteng) after violence broke out during protest action. Some 40 000 workers participated in a one-day strike at five mines which was intended to highlight a protest by the National Union of Mineworkers (NUM) in connection with wage negotiations with the Chamber of Mines of South Africa.²⁶¹ [²⁶¹ Business Day 19 July 1996] Four people died from injuries sustained during the protest march and seven others died in subsequent clashes. A spokesman for the SAPS, Superintendent Milica Moss, said that it appeared that the major cause of the violence was conflict between the NUM and the Inkatha Freedom Party-aligned United Workers' Union of South Africa.²⁶² [²⁶² Ibid 23 July 1996] The tension was later diffused after mine management, union representatives and the SAPS reached agreement on the election of peace monitors, the handling of dangerous weapons and employees' return to work.²⁶³ [²⁶³ Ibid 25 July 1996]

Some 80 000 members of the South African Clothing and Textile Workers' Union embarked on a national nine-day strike in July 1996.²⁶⁴ [²⁶⁴ The Citizen 24 July 1996] Employers in the industry responded by instituting a lockout of workers on strike.²⁶⁵ [²⁶⁵ Business Day 25 July 1996] A number of companies claimed that strikers were burning tyres and erecting barricades outside company premises, damaging gates and physically abusing workers who were not on strike.²⁶⁶ [²⁶⁶ The Citizen 31 July 1996, *Business Day* 1 August 1996]

In December 1996 striking hospital workers emptied rubbish bins and buckets of sand in four wards at Matikwane Hospital in Mpumalanga after management reportedly refused to accede to demands for better working conditions. Striking workers, mostly non-nursing staff, sprayed the rubbish and sand with fire hoses before security staff could evict them.²⁶⁷ [²⁶⁷ Business Day 18 December 1996]

In January 1997 Afrox obtained a Supreme Court interdict against a group of 62 striking workers, prohibiting them from intimidating or threatening the safety of people at the company's Pretoria West premises, or from hampering the conduct of their employer's business. The company said that striking workers were endangering lives by preventing the company from delivering life-supporting medicinal gases to hospitals. Furthermore, striking workers were reportedly threatening non-striking employees, interfering with the distribution of the company's products, damaging company property and perpetrating acts of sabotage. The workers were protesting against a staggered shift system introduced for drivers transporting hazardous chemical substances.²⁶⁸ [²⁶⁸ Ibid 30 January 1997]

In February 1997 a 60-year old worker at the Mondi Paper Merebank Mill was shot dead by unknown

gunmen, allegedly after refusing to join a strike at the mill. The company said that since the start of the strike the homes of other nonstriking workers had been shot at and stoned. A number of violent incidents occurred during the strike by members of the Paper, Print, Wood and Allied Workers' Union, who were demanding a wage increase of 14% across the board. A spokesman for the union said that the union distanced itself from the murder and intimidation.²⁶⁹ [²⁶⁹ Ibid 12 February 1997, *The Citizen* 13 February 1997]

Lockouts

In September 1996 the Constitutional Court ruled that the right of an employer to lock striking workers out of company premises should not be included in the bill of rights of the final constitution.²⁷⁰ [²⁷⁰ Business Day 9 September 1996] The court said that a lockout was not a fundamental right and could not be regarded as the inverse of workers' right to strike.²⁷¹ [²⁷¹ The Star 27 September 1996] The ruling came after months of intense negotiations and an illegal nationwide one-day strike by the Congress of South African Trade Unions (Cosatu) in April. Cosatu objected to the inclusion of the clause, saying that it was not in line with international law and was against the principles of the reconstruction and development programme.²⁷² [²⁷² Sowetan 22 April 1996] The strike, which had the full support of the African National Congress, was widely condemned by business organisations and a number of political parties, including the National Party and the Democratic Party (see chapter on *Government and Constitution*).²⁷³ [²⁷³ The Star 23 April 1996]

Workplace and Union Issues

Privatisation

In February 1996 the government, Cosatu, the Federation of South African Labour Unions (Fedsal) and the National Council of Trade Unions (Nactu) signed a national framework agreement (NFA) on the privatisation and restructuring of state assets.²⁷⁴ [²⁷⁴ Industrial Democracy Review February/March 1996] The agreement followed union opposition to an announcement in December 1995 by the executive deputy president from the majority party, Mr Thabo Mbeki, that the government would privatise key public enterprises. A committee was set up to negotiate an agreement after the unions opposed the government's privatisation plans, which, they said, would lead to major job losses (see 1995/96 Survey, pp310–312). The then deputy minister of finance, Mr Alec Erwin, said that the government and unions had agreed on the objectives of restructuring, certain guiding principles, and on the setting up of structures, including a six-a-side strategic implementation committee which would also act as a dispute resolution mechanism.²⁷⁵ [²⁷⁵ The Citizen 8 February 1996]

The main objectives of the restructuring of state assets programme included:²⁷⁶ [²⁷⁶ Hansard (NA) 1 cols 70–84, 21 February 1996]

- increasing economic growth and employment;

- meeting basic needs and improving the quality and delivery of affordable services;
- redeploying assets (proceeds from the restructuring process) to enhance growth and employment;
- developing infrastructure by mobilising and redirecting private sector capital;
- reducing state debt (by using proceeds from the restructuring process, where appropriate);
- enhancing the competitiveness and efficiency of state enterprises; and
- developing human resources.

The NFA stated that organised labour and employees of the relevant public enterprises should participate in formulating privatisation policy. Furthermore, restructuring should not occur at the expense of workers in state enterprises—therefore, ‘every effort should be made to retain employment’, and a social plan should be implemented to assist workers affected by retrenchments. Restructuring must also ‘redistribute wealth, boost the small and medium enterprises, have sustainable affirmative action implications and facilitate genuine black economic empowerment’.²⁷⁷ [²⁷⁷ Ibid] The NFA was to remain in force until 27th April 1999.²⁷⁸ [²⁷⁸ The Citizen 8 February 1996]

The minister for public enterprises, Ms Stella Sigcau, said in February 1996 that the government would spend R3m on special advisers to assist labour during negotiations on the restructuring of state assets.²⁷⁹ [²⁷⁹ Mail and Guardian 10 May 1996] A budget of R10m was approved for the government’s team of advisers.²⁸⁰ [²⁸⁰ Business Day 14 February 1996]

Addressing an economics meeting of the World Economic Forum in Cape Town in May 1996, the general secretary of Cosatu, Mr Sam Shilowa, said that although the federation supported the restructuring of state assets for the upliftment of South Africa’s people, it was opposed to privatisation being the central tool for doing so. Cosatu also opposed the privatisation of institutions central to the reconstruction and development programme (RDP). If the state’s service and welfare functions were privatised, its programmes for water, telephone and electricity delivery would fail. Basic services would also be more costly. Mr Shilowa added that there were better ways of raising revenue. The government could implement a 5% levy on pretax profit and a 5% prescribed asset investment rule for the pensions industry to ‘kickstart’ the housing programme.²⁸¹ [²⁸¹ The Star Business Report 24 May 1996] The minister of finance, Mr Trevor Manuel, said that although the government was committed to restructuring state assets, it would not succumb to international pressure for rapid privatisation.²⁸² [²⁸² Business Day 24 May 1996] Later in the month Cosatu called on business to stay out of the debate on the restructuring of state assets so as not ‘to complicate’ the issue. The federation said that business was ‘motivated by greed to get a share of the spoils and furtherance of their ideological position’.²⁸³ [²⁸³ The Citizen 30 May 1996]

During a visit to Germany in the same month, the president, Mr Nelson Mandela, said that privatisation was a fundamental policy of the African National Congress (ANC) and would be implemented.²⁸⁴ [²⁸⁴ Ibid 24 May 1996] Referring to Cosatu's resistance to privatisation Mr Mandela said, 'We have to discuss it and bring our allies on board. I don't believe that this would be difficult.'²⁸⁵ [²⁸⁵ Ibid 25 May 1996] The Democratic Party, the Inkatha Freedom Party and the National Party called on Mr Mandela to ensure that the ANC-led government backed him on his statement.²⁸⁶ [²⁸⁶ Ibid 24 May 1996]

In June 1996 the Communications Workers' Union said that it would consider partial privatisation of Telkom, provided that this contributed to the RDP and guaranteed jobs. The president of the union, Mr Thlalesang Sekano, said that an equity partner would have to show commitment to services in rural areas, training and affirmative action.²⁸⁷ [²⁸⁷ The Star Business Report 7 June 1996]

In the same month Ms Sigcau announced the creation of ministerial or labour committees in government departments with jurisdiction over major parastatals. The committees, consisting of Ms Sigcau, the minister of the relevant department, and a representative from labour, were to formulate proposals on which restructuring options should be pursued for each parastatal. Ms Sigcau said the committees were 'a vehicle to fast-track the decision-making process over restructuring'.²⁸⁸ [²⁸⁸ Business Day 13 June 1996]

In September 1996 Cosatu said that it would support the sale of a portion of the equity of parastatals, provided the state remained the majority shareholder. Parastatals providing education, electricity, health, housing, municipal services, postal services, public transport, roads, state forests, telecommunications and water should remain in state hands. However, state assets which did not provide benefits to the majority of the people should be identified and sold, Cosatu said.²⁸⁹ [²⁸⁹ Ibid 16 September 1996]

During the period under review there were a number of marches, strikes and protests against proposed privatisation by unions in the communications, transport, metal and municipal sectors.

Mine Safety

The government mining engineer, Mr Dick Bakker, said in February 1996 that routine mine safety inspections were not being carried out, because of shortages of government safety inspectors. Routine inspections were 'very, very few and far between' and inspectors were busy mostly with accident inquiries. Although 50 black inspectors had been employed and sent on a three-year training course, between 250 and 350 inspectors were needed. Mr Bakker said that higher salaries were needed to recruit inspectors and to retain those who were leaving for better-paid jobs in the private sector. The Public Service Commission was, however, 'obstructing' a proposal for better salaries.²⁹⁰ [²⁹⁰ The Star Business Report 9 February 1996]

In the same month the cabinet approved the allocation of R30m for the implementation of recommendations made in 1995 by the Commission of Inquiry into Safety and Health in the Mining Industry (the Leon commission) (see 1995/96 Survey, pp312–313). Among the commission's

recommendations was the restructuring of the mining inspectorate and a new salary structure for it. The Department of Mineral and Energy Affairs said that although the funds had been made available, the department was waiting for the Public Service Commission to approve the proposed new structures.²⁹¹ [291 Business Day 21 February 1996]

In April 1996 Mr Justice Ramon Leon presented a report on the joint inquest-inquiry into the 1995 Vaal Reefs mine disaster, which had killed 104 mineworkers (see 1995/96 Survey, p313). Judge Leon recommended that the Vaal Reefs Exploration and Mining Company, two of its officials and three employees be prosecuted for culpable homicide. The driver of the locomotive would not face charges of culpable homicide because, although his negligence was one of the direct causes of the accident, 'a reasonable person in his position would not have foreseen the possibility of death'. The inquiry found that the accident was a result of a series of events caused by negligence.²⁹² [292 Business Day, *The Citizen*, *The Star* 19 April 1996; *Business Day* 26 April 1996]

The president of the National Union of Mineworkers (NUM), Mr James Motlatsi, welcomed the findings, saying that it was 'the first time management has been rightly held responsible for its failure to provide decent health and safety conditions on the mines'. The union said that it would file civil suits against the company for compensation on behalf of the families of its members who had died in the accident. The chief executive officer of Anglo Gold, a division of the Anglo American Corporation of South Africa, Mr Bobby Godsell, said that the company accepted responsibility for designing and maintaining safe mines, but that all employees and unions had to play a role in ensuring safe work practices.²⁹³ [293 Business Day, *The Citizen*, *The Star* 19 April 1996; *Business Day* 26 April 1996]

The Department of Labour said that 10 281 workplace accidents were reported in 1995, 942 of which were fatal.²⁹⁴ [294 Department of Labour, annual report 1995]

The following table provides a breakdown of the number of fatalities and reportable injuries on South African mines in various years from 1905 to 1995:²⁹⁵ [295 Fax communication from the Chamber of Mines of South Africa, 6 February 1996; telephonic interview with Mrs Diann Owen-Thomas, chief statistician, Chamber of Mines of South Africa, 27 November 1996]

Fatalities and reportable injuries on South African mines: 1905–95

Year

Fatalities

Fatality rate^a

Reportable injuries

Reportable injury rate^b

Gold mines

1905

762

4,67

892

5,46

1915

706

2,86

1 992

8,07

1925

483

2,32

3 959

19,01

1935

708

2,12

12 878

38,60

1945

524

1,42

23 488

63,58

1955

581

1,46

23 150

58,13

1965

639

1,48

28 037

60,18

1975

498

1,32

19 238

50,90

1985

539

1,03

13 168

25,13

1995^c

415

1,27

6 246

19,14

Coal mines

1905

64

6,38

—

0,00

1915

53

2,05

—

0,00

1925

86

2,35

419

11,43

1935

141

4,88

1 024

35,43

1945

116

2,25

3 113

60,46

1955

88

1,48

3 564

59,97

1965

84

1,04

2 622

32,43

1975

100

1,30

1 608

20,91

1985

93

0,78

806

6,76

1995^c

31

0,53

237

4,03

Other mines

1905

20

2,60

—

0,00

1915

18

0,87

—

0,00

1925

31

0,56

168

3,02

1935

12

0,80

228

15,21

1945

28

1,01

523

18,92

1955

44

0,69

1 070

16,88

1965

116

0,99

1 617

12,90

1975

167

0,96

3 766

21,71

1985

74

0,88

846

7,59

1995^c

36

0,26

1 451

10,50

a

Number of fatalities per 1 000 employees in service.

b

Number of reportable injuries per 1 000 employees in service.

c

Fig

The fatality rate on coal and other mines dropped by an average of more than 90% between 1905 and 1995. The reportable injury rate on gold mines, however, increased by some 832% between 1905 and 1975. Between 1975 and 1995 the reportable injury rate dropped by 62% on gold mines, 81% on coal mines and 52% on other mines.

The table below provides a breakdown of the categories of deaths and injuries on member mines of the

Chamber of Mines of South Africa from 1990 to 1995:²⁹⁶ [296 Chamber of Mines of South Africa, South African Mining Industry, Statistical Tables 1995, 1996, pp2–15]

Deaths and injuries on member mines of the Chamber of Mines of South Africa: 1990–95

1990

1991

1992

1993

1994

1995

Pressure burst

Deaths

147

93

131

128

94

68

Injuries

485

476

460

576

563

463

Fall of ground

Deaths

161

211

176

172

147

140

Injuries

2 226

2 109

2 222

2 045

1 843

1 687

Trucks and tramways

Deaths

103

58

77

68

81

168

Injuries

2 043

1 788

2 073

1 890

1 780

1 612

Falling material

Deaths

18

17

13

13

14

13

Injuries

1 082

879

1 135

1 060

943

868

Explosives

Deaths

50

10

13

17

5

3

Injuries

112

37

48

58

49

61

Falling in shafts and excavations

Deaths

41

29

25

27

27

25

Injuries

174

108

127

156

166

139

Other shaft accidents

Deaths

20

34

44

19

21

20

Injuries

82

196

169

171

154

174

Electricity

Deaths

6

2

3

7

11

5

Injuries

35

26

33

23

31

35

Machinery

Deaths

6

3

7

5

5

4

Injuries

285

206

234

424

522

491

Slipping and falling

Deaths

—

1

—

4

6

5

Injuries

614

556

617

599

608

542

Explosion of gas

Deaths

5

—

2

2

5

10

Injuries

14

4

18

25

28

17

Burning and scalding

Deaths

2

1

2

2

1

1

Injuries

57

43

39

36

43

33

Splinters

Deaths

—

—

1

—

—

1

Injuries

195

137

176

187

130

131

Heat stroke

Deaths

3

2

5

4

9

4

Injuries

3

3

4

2

4

2

Heat exhaustion

Deaths

—

—

—

—
—
—

Injuries

12
4
10
15
17
23

Other causes

Deaths

40
40
21
15
29
16

Injuries

1 638
1 672

1 593

1 411

1 300

1 123

Total

Deaths

602

501

520

483

455

The following bar charts show the total number of deaths and injuries on member mines of the Chamber of Mines from 1990 to 1995:

The number of deaths on Chamber of Mines member mines dropped by 20% between 1990 and 1995, while the number of injuries dropped by 18%. Some 64% of deaths in 1995 were caused by the fall of ground and by trucks and tramways. Fall of ground resulted in some 23% of all injuries. Between 1990 and 1995 there was a 72% increase in the number of injuries caused by machinery.

Safety in Other Industries

The Department of Labour said that 10 281 incidents were reported in 1995, 942 of which were fatal. The department investigated 10 566 incidents in 1995 (275 incidents reported in 1994 were investigated in 1995).

The number of incidents investigated by the department increased by 33% between 1991 and 1995. The number of fatal incidents increased by 99% in this period. In 1995 the transport sector accounted for 52% of all fatalities. The number of fatalities in the transport sector increased by 1540% between 1991

and 1995. The department said that most fatalities in the transport sector involved trains. The number of incidents in the railway industry increased significantly from 1992 when responsibility for health and safety in the railway industry was transferred to the Department of Labour.

According to the department, 61% of incidents in 1995 occurred during the first three months of employment (19% during 1994), indicating that employees were not being sufficiently trained in health and safety awareness and in utilising safe work practices.²⁹⁷ [²⁹⁷ Department of Labour, annual report, 1995]

The table below shows the number of incidents investigated by the Department of Labour in various industries (except mining) from 1991 to 1995:²⁹⁸ [²⁹⁸ Ibid]

Incidents by industry: 1991–95

1991

1992

1993

1994

1995

Agriculture and forestry

449

480

612

591

632

Banks, finance and insurance

20

28

22

22

30

Building and construction

864

741

894

828

931

Charitable, religious and political associations, trade unions

23

32

29

21

25

Chemical

502

511

562

530

665

Diamond, asbestos and bitumen

31

35

35

34

73

Educational services

60

53

88

63

95

Entertainment and sport

27

13

36

31

31

Fishing

22

10

8

6

5

Food, drink and tobacco

917

785

983

828

926

Glass, bricks and tiles

278

236

192

166

205

Iron and steel

1 741

1 780

1 996

1 735

1 998

Leather

69

44

0

0

0

Local authorities

926

803

962

913

945

Medical services

49

49

79

116

105

Personal services, hotels

71

92

122

98

130

Printing and paper

258

277

238

205

240

Professional services

47

32

54

29

68

Textile

314

275

302

248

313

Timber

556

573

600

504

555

Trade

487

439

559

440

526

Transport

215

778

1 589

1 551

2 015

Other

9

20

17

9

43

Total

7 935

8

The following table shows the number of fatalities investigated by the department in various industries (except mining) from 1991 to 1995:²⁹⁹ [²⁹⁹ Ibid]

Fatalities by industry: 1991–95

1991

1992

1993

1994

1995

Agriculture and forestry

86

103

119

145

82

Banks, finance and insurance

1

2

1

1

0

Building and construction

123

92

97

103

114

Charitable, religious and political associations, trade unions

0

3

1

0

0

Chemical

17

11

17

13

14

Diamond, asbestos and bitumen

1

2

1

0

0

Educational services

1

1

4

5

2

Entertainment and sport

2

0

3

3

0

Fishing

0

0

0

2

0

Food, drink and tobacco

9

21

17

27

18

Glass, bricks and tiles

11

8

9

11

8

Iron and steel

35

31

46

52

59

Leather

0

0

0

0

0

Local authorities

75

72

66

60

89

Medical services

1

1

1

2

3

Personal services, hotels

10

13

7

12

12

Printing and paper

4

5

4

4

3

Professional services

3

1

2

0

1

Textile

2

1

1

3

2

Timber

20

17

19

16

23

Trade

42

13

30

20

17

Transport

30

165

283

433

492

Other

1

1

1

1

3

Tot

Violence on Mines

In September 1996 a commission of inquiry was appointed to investigate the cause of two months of violent conflict at the East Driefontein, Leeudoorn (both in Gauteng) and Northam (Northern Province) mines, which had left 42 mineworkers dead and some 203 injured. The Commission of Inquiry into the Recent Violence and Occurrences at the East Driefontein, Leeudoorn and Northam Mines, headed by Mr Justice John Myburgh, found that:³⁰⁰ [³⁰⁰ Report of the Commission of Inquiry into the Recent Violence and Occurrences at the East Driefontein, Leeudoorn and Northam Mines, 5 October 1996]

- all three mines were owned by companies within the Gold Fields group of companies;
- the employees involved in the violence were migrant workers housed in single-sex hostels on mine property;

- at the East Driefontein and Leeudoorn mines the hostels were segregated mainly according to ethnic group;
- the first clashes on each mine were all preceded by mass action by the NUM directed at, among others, Zulu-speaking employees;
- at each mine the clashes were between members of the NUM and Zuluspeaking workers, although at the Northam mine some 60% of the Zuluspeaking workers were members of the NUM; and
- one of the major consequences of the violence was that at all three mines Zulu-speaking workers were afraid to return to work. At East Driefontein these workers refused to work for about one month, while at Leeudoorn and Northam mines almost all the Zulu-speaking workers left the mine and did not return, or returned and subsequently resigned.

The commission further noted that party-political differences played a role in mine violence (tension between supporters of the Congress of South African Trade Unions (Cosatu) aligned to the African National Congress and supporters of the United Workers' Union of South Africa (Uwusa) aligned to the Inkatha Freedom Party). Another factor in the mine violence was the migrant labour system as it tended to maintain ethnic and cultural divisions within the workforce. Furthermore, the single-sex hostel system with its overcrowding and lack of privacy was a 'breeding ground for antisocial behaviour'.³⁰¹ [³⁰¹ Ibid]

The commission said that two elements had influenced the events which had occurred at the mines, namely the antagonistic relationship between Gold Fields and NUM and the fact that the hostels at East Driefontein and Leeudoorn mines were largely segregated. More than 10000 dangerous weapons were seized during the period of violence, including firearms and gunpowder. The number of people arrested by the South African Police Service was small relative to the number and seriousness of the crimes, mainly because neither the NUM nor Uwusa co-operated with the police. This, the commission said, was probably out of fear of retaliation, despite the availability of a witness protection programme.³⁰² [³⁰² Ibid]

The commission made a number of recommendations aimed at addressing medium-term issues such as the integration of hostels and the relationship between the NUM and Gold Fields, as well as long-term issues such as the migrant labour system and single-sex hostels. Recommendations included:³⁰³ [³⁰³ Ibid]

- peace forums should be established;
- an agreement should be negotiated at mine level on the possession of dangerous weapons in hostels;
- a committee on intergroup violence on the mines should be established at Chamber of Mines of South

Africa level or mining house level. The committee should consist of an independent chairman, a representative of management, a representative of the NUM and further ad hoc appointments. Members of the committee should be experts on intergroup violence on mines;

- the witness protection programme should be publicised at each mine and management and unions should make an effort to persuade hostel residents to make use of it;
- a new housing policy should be negotiated at each mine by management, union representatives and representatives of other hostel residents;
- the NUM and Gold Fields should meet with a view to resolving their differences;
- the NUM should issue a public statement in which it committed itself to abide by the NUM/Chamber of Mines of South Africa recognition agreement, to abide by agreed grievance procedures, and to comply with the provisions of the Labour Relations Act of 1995;
- Gold Fields management should make every effort to facilitate the return of the Zulu-speaking workers who had resigned or who had left the mine as a result of the violence; and
- the policy of segregation of hostels should be abolished.

Judge Myburgh recommended that the terms of reference of the commission be extended for six months to determine which steps to take to address issues such as the migrant labour system, workers' employment and living conditions and intergroup violence on the mines.³⁰⁴ [³⁰⁴ Ibid] In November 1996 the cabinet extended the commission's terms of reference for one year. However, Judge Myburgh would not head the commission. At the time of writing the commission had not reconvened.³⁰⁵ [³⁰⁵ Business Day 13 November 1996; information provided by the office of Mr Justice John Myburgh, 21 April 1997]

In September an estimated 27 people died in and around two Randgold mines in Stilfontein (North West) during a week of ethnic clashes between Sotho and Xhosa mineworkers. The violence was reportedly triggered after a series of home-made bombs exploded at a settlement on the Springvale farm near Stilfontein, which housed mining contract workers. A spokesman for the Buffelsfontein gold mine, Mr Jan Schoonhoven, said that the bombing of the settlement appeared to have resulted from the death of a Xhosa mineworker. A number of mineworkers insisted that he had been murdered by residents of the settlement. Police records showed, however, that the deceased had been killed in a road accident.³⁰⁶ [³⁰⁶ The Star Business Report 26 September 1996; *The Citizen* 10, 26 October 1996] In October 1996, 22 people were charged on counts ranging from public violence to attempted murder relating to the incidents on the mine. A further 26 people were arrested in November 1996 on similar charges.³⁰⁷ [³⁰⁷ Business Day 28 November 1996]

Social Clauses in Trade Agreements

In April 1996 labour, the government and business in the National Economic Development and Labour Council (Nedlac) agreed on a framework which would link labour standards with trade agreements.³⁰⁸ [³⁰⁸ The Argus 3 July 1996] The 'social clause framework' would commit the government to call for the inclusion of trade union rights, collective bargaining and a ban on child and prison labour in new trade agreements. Trade partners would, however, not be obliged to agree to the inclusion of the social clause when signing a trade agreement.³⁰⁹ [³⁰⁹ Business Day 5 March 1996, 8 October 1996; *The Citizen* 4 July 1996] The executive director of Nedlac, Mr Jayendra Naidoo, said that the framework meant that South Africa would campaign to improve the rights and conditions of workers across the world through international organisations and through bilateral trade talks.³¹⁰ [³¹⁰ The Star 4 July 1996] In implementing the framework, South Africa would have to ratify the seven International Labour Organisation conventions relating to labour standards.³¹¹ [³¹¹ The Citizen 4 July 1996] The framework agreement would be monitored by the trade and industry chamber at Nedlac through ongoing reports from the government on all trade negotiations.³¹² [³¹² Sowetan 5 July 1996]

REGIONAL DEVELOPMENTS

In February 1996 a Swazi newspaper, The Times of Swaziland, criticised the South African government and several organisations for interfering in Swaziland's internal affairs by drafting a letter to the Swazi High Commission in Pretoria, expressing their concern at the dispute between the Swazi government and organised labour in the country, and condemning the absence of democracy in Swaziland. The Swazi government and the country's biggest labour federation, the Swaziland Federation of Trade Unions, had been locked in dispute over several political and labour issues which had led to an eight-day national strike in January 1996. The federation had called the strike to pressurise the Swazi government to unban political parties and allow free political activity. In March 1997 members of the Congress of South African Trade Unions (Cosatu) imposed a blockade at a number of South Africa/Swaziland border posts. The blockade was called in solidarity with Swazi trade unions calling for political and labour reform in their country. Incidents of stone-throwing and teargassing were reported. The Swazi government condemned the action by Cosatu, saying that it amounted to South African government interference in Swaziland's internal affairs. However, the minister of foreign affairs, Mr Alfred Nzo, denied this. He stated that Cosatu was an independent organisation and that it was 'normal' for the federation to be engaged in worker solidarity.³¹³ [³¹³ The Citizen 12 February 1996]

In February 1996 government ministries from Lesotho, South Africa, Zambia and Zimbabwe signed a declaration of intent to empower small and medium construction enterprises in the region by making money available to emerging contractors and promoting joint undertakings between larger and small enterprises. The countries agreed:³¹⁴ [³¹⁴ Sowetan 22 February 1996]

- to promote skills, training and business education and to ensure career development;
- to promote the use of technology and encourage labour-based construction and material production;

- to negotiate a regional labour agreement which would define minimum working conditions;
- to co-operate in the sourcing of donor funds to ensure that the benefits were evenly distributed; and
- to negotiate regional co-operation agreements between professional institutions so as to allow those institutions' members to practise their profession in the region.

The Zimbabwean minister for public construction and national housing, Mr Enos Chikowore, said that the declaration would open up the construction market to the benefit of the region.

POLICY REVIEW

The relationship between employment levels and labour market flexibility was the main policy issue debated during the period under review. Disagreement arose as to whether or not the labour market was sufficiently flexible.

A green paper on employment standards was published by the Department of Labour. It aimed to protect minimum employment standards. Business South Africa (BSA) expressed concern at whether the green paper would be able to strike a balance between maintaining labour standards and ensuring job creation. Proposals such as the compulsory reduction of the working week would increase the costs of production and would therefore have a negative effect on economic growth, inflation and employment, BSA argued. The Congress of South African Trade Unions (Cosatu) said that the green paper was not prescriptive enough. Cosatu expressed disappointment that a 40-hour week would not be legislated for immediately. The reduction in working hours would compel employers to hire more workers, thereby creating more jobs, the federation said.

Following the publication of the proposals of the Presidential Commission to Investigate the Development of a Comprehensive Labour Market Policy (the labour market commission), the South African Chamber of Business said that particular attention would have to be paid to the compatibility of the proposals with the government's macro-economic strategy, known as GEAR. Cosatu said that workers had a negative view of social accords because they tended to focus on wage restraints as a measure for promoting investment. The federation also criticised the high level of labour market flexibility proposed by the commission. The South African Institute of Race Relations said that although the commission proposed greater flexibility in the labour market, it also wanted controls to be extended to areas and activities where these were absent. This included a role for the government in certain retrenchment decisions, minimum wages set in sectors where no collective bargaining existed and the monitoring of affirmative action in the private sector by the labour ministry.

The level of labour market flexibility was debated during the period under review. The South Africa Foundation argued that the South African labour market was one of the most rigid in the world. Job

creation was hampered by the 'continental-type' industrial relations system established in South Africa, which had 'devastating consequences' for poor people. The International Labour Organisation said, however, that South Africa's labour market was more flexible by international standards than was popularly believed, especially with regard to employment, wages and the degree of work organisation.

Proposals for affirmative action legislation were published by the Department of Labour in 1996. They rejected legal quotas in favour of negotiated targets. Employers would be compelled to draw up an employment equity plan in consultation with employees and 'other stakeholders', which would set targets for employing, promoting, and training people from 'previously disadvantaged' groups. Employers would be legally obliged to implement the plan, and would have to report to the Department of Labour on the success of doing so. Although the broad principles of the green paper were widely accepted and welcomed, a number of organisations expressed concern at the level of coercion in the green paper and the effect that this would have on economic growth, job creation and productivity. The Democratic Party said that although employment equity goals were necessary, the government would have to remain flexible as each business had its own needs and constraints. The government should help transformation by encouraging economic growth and not by 'creating new bureaucracies to regulate and oversee the racial composition of the private sector'. Black business and professional bodies criticised the green paper for not prescribing quotas. The National African Federated Chamber of Commerce and Industry said that quotas should be set so that a company's affirmative action performance could be judged, while the Black Management Forum said that it would demand that the government set quotas and non-negotiable timeframes for the implementation of affirmative action programmes.

Surveys of private sector organisations found that although more companies were implementing affirmative action programmes as part of their strategic decision making, problems were being experienced with tokenism, skills shortages, 'poaching' and a deterioration in the quality of work. A study by the South African Institute of Race Relations found that business leaders were opposed to the implementation of mandatory racial quotas. Business leaders questioned whether reducing unemployment would best be achieved by forcing the private sector to give jobs to the 'previously disadvantaged', rather than enabling it to create wealth and economic opportunity in other ways.

Although the fatality rate and reportable injury rate on gold, coal and other mines dropped significantly between 1975 and 1995, measures to increase health and safety on mines were introduced in the form of the Mine Health and Safety Act of 1996. The act entrenched the right of workers to refuse to work in dangerous conditions. It also reversed the 'onus of proof' in the case of certain prosecutions: mine managers and owners would be required to prove that they complied with obligatory health and safety standards.

The South African Institute of Race Relations questioned whether the 'skills revolution' put forward by the Department of Labour in its green paper on a *Skills Development Strategy for Economic and Employment Growth in South Africa*, would in fact lead to increased economic and employment growth. The Institute also said that it was too much government intervention in the current apprenticeship training system that resulted in training bottlenecks, and not the failure of the market to generate competitive levels of training, as suggested by the green paper.

The government's decision to start privatising certain parastatals ran into opposition from a number of trade unions in the communication, transport, metal and municipal sectors. However, in February 1996 Cosatu, the Federation of South African Labour Unions and the National Council of Trade Unions signed an agreement with the government which stipulated the objectives of restructuring and the principles that would guide the process. Cosatu said later in the year that it would support the partial privatisation of parastatals, provided the state remained the majority shareholder. Parastatals providing basic services such as health, housing, municipal and postal services, public transport and telecommunications should remain in state hands. State assets which did not provide benefits to the majority of the people should be identified and sold, the federation said.

No legislation regarding the labour market was passed during the period under review. The Labour Relations Act of 1995, however, came into effect in November 1996.

KEY PROJECTIONS

- The South Africa Foundation estimated that the unemployment rate would increase from 32,7% in 1994 to 40,4% in 2004, unless 'firm policy action' was taken.
- The Institute for Futures Research at the University of Stellenbosch said that there could be 14,2m unemployed people in South Africa by 2026.
- The minister of finance, Mr Trevor Manuel, said that the government aimed to create 270000 new jobs a year until 2000 and 400 000 a year after that. The unemployment rate would be reduced to 8% by 2020.
- Mr Manuel said that without 'some major changes in direction' economic growth would not exceed 3% a year and fewer than 100 000 jobs a year would be created. The unemployment rate would reach 37% by 2020 if the present rate of economic growth continued.
- The deputy head of human resource development at Spoornet, Mr Anton Verwey, said that by 2000, blacks would account for 80% of all trainees, 70% of supervisors, 50% of junior managers, 40% of middle managers, 30% of senior managers and 20% of executive directors in the organisation.
- The Graduate School of Business at the University of Cape Town estimated that black managers would comprise some 30%–35% of all managers by 2000.

WELFARE

BIRD'S EYE VIEW

The Department of Welfare published the final draft of its welfare white paper in 1996. It proposed a new welfare strategy which emphasised development and self-reliance to meet the needs of the most vulnerable.

Several pieces of welfare legislation were passed in 1996. The Special Pensions Act provided for 'special pensions' to be paid to members of political organisations (the African National Congress and the Pan-Africanist Congress) who took part in the struggle against apartheid. An amount of R450m had been allocated in the 1996/97 year for the payment of these special pensions. The Social Assistance Act, which came into effect in 1996, discontinued the payment of social pensions and grants to foreigners who had been granted permanent residence.

In August 1996 the Lund Committee on Child and Family Support proposed a new system of state maintenance grants to children and families. The proposals aimed to reach more children, particularly African children, by reducing the benefits to each child, to a flat rate of between R70 and R125 per child.

The Department of Welfare published a discussion document which aimed to address the needs of the estimated 5m disabled people in South Africa. The department would endeavour to facilitate and integrate disability issues into government development strategies, planning and programmes.

In 1997/98 the central government allocated R18,43bn for social security and welfare. The bulk of this would be spent by the nine provincial governments.

Subsidies to old-age homes were cut by R50m in 1996/97, and would affect 800 old-age homes which received government subsidies. From 1st April 1996 subsidies would be paid to those pensioners in old-age homes with a gross monthly income of less than R1300.

A report compiled by the National Progressive Primary Health Care Network found that the R623m primary school nutrition scheme had a 'limited impact' on the nutritional well-being of primary school children. Children received 20% of the required daily allowance for energy and about 50% of the daily protein allowance from the programme.

In order to reduce fraud, theft and inefficiency in the department, partly owing to duplicate and invalid records, a national social grants register was installed in May 1996. All beneficiaries and new applicants for grants would have to register and submit an identity document and a set of fingerprints to positively identify themselves.

During the period under review crimes against children continued to increase, according to a report by the Human Sciences Research Council and the child protection unit. The report called for immediate steps to speed up the criminal justice system to ensure that such crimes received priority.

KEY POINTS

- According to the 1995/96 annual report of the Department of Welfare, 7,7m people were living in households which received social grants.
- Some R107m had been paid in maintenance support to 144583 single parents in 1995—an average of R740 per single parent a year.
- Between July 1994 and June 1995 the reported number of child rape cases grew by 60%, according to a study by the Human Sciences Research Council and the child protection unit of the South African Police Service. Almost two thirds of suspected offenders were not prosecuted.
- All crimes against children increased by 66% between 1993 and 1995. Of these crimes, assault with intent to do grievous bodily harm increased by 70%.
- According to the minister of welfare and population development, Ms Geraldine Fraser-Moleketi, in 1996 an estimated 12,8% of the population (5m people) were disabled. About half were hearing impaired or intellectually handicapped.
- In 1996 more than R14m in pension and grant monies had been stolen in some 54 armed robberies, according to the minister for safety and security, Mr Sydney Mufamadi.
- According to Ms Fraser-Moleketi, every year some 10% of the funds allocated for the payment of social pensions were lost to fraud, theft and inefficiency.
- In 1996/97 the average allocation per head to welfare was the highest in the Western Cape (R561) and the lowest in Mpumalanga (R234). The average allocation per head in South Africa was R336.
- According to the final draft of the *White Paper for Social Welfare*, welfare expenditure could not increase until higher economic growth rates were realised.
- In 1995/96, R2,8bn was spent on assisting the disabled. KwaZulu-Natal received 23% followed by the Eastern Cape (21%) and the Western Cape (15%). Although these provinces, combined, received 59% of funds for the disabled, they had 47% of the total number of disabled in South Africa.
- Some 87% of the social services budget was spent on residential institutions and 88% of people in old-age homes were white.
- It was estimated that about 74% of the elderly population, which was roughly the proportion eligible for grants, had access to social assistance.
- Various civil society organisations criticised the implementation of the child support benefit plan, saying that the proposed R75 a month per child was too low.

The Department of Welfare had three cabinet ministers during 1996. In January 1996 Mr Abe Williams MP (National Party) resigned when it was revealed that he was being investigated by the Office for Serious Economic Offences in connection with allegations of fraud, corruption and bribery with regard to social pensions.¹ [¹ *Business Day, The Star* 22 January 1996] At the time of writing no charges had been laid. Mr Williams was succeeded by Mr Patrick McKenzie MP (NP). However, in July 1996 Ms Geraldine Fraser-Moleketi MP (African National Congress) became minister of welfare and population development when the NP withdrew from the government of national unity.

FINANCE

According to the 1996 *Budget Review*, grants paid by provincial welfare departments amounted to 88% of government spending on welfare (excluding social security funds, ie funds for poverty alleviation programmes) and constituted approximately 7,5% of government spending. Grants for elderly people comprised 60% of the total grants budget, and grants for disabled people 24%, while maintenance grants and foster care made up most of the balance. By the end of May 1995 there were 2,85m beneficiaries of grants. The 1995/96 *Budget Review* noted that social security was a ‘vital poverty alleviation programme’ which benefited African women, children in need of care and the rural poor in particular. It was estimated that about 74% of the elderly population, which was roughly the proportion eligible for grants, had access to social assistance. However, the costs of a comprehensive extension of disability benefits and social security for families were prohibitive. The strategy regarding social security for disabled persons had to be linked to active labour market policies and employment creation, the *Budget Review* said.² [² Department of Finance, *Budget Review*, 13 March 1996]

Funds for social welfare services comprised 8% of the national welfare budget, of which residential institutions took up the bulk of funds. The *Budget Review* noted that residential programmes were costly and alternatives were, therefore, being investigated. Consideration was being given to a five-year phasing in of ‘family-centred and community-based’ strategies.³ [³ *Ibid*]

The Budget

The minister of welfare and population development, Mr Patrick McKenzie, said in May 1996 that the total welfare budget for 1996/97 amounted to R14,3bn, ie 9,8% of total government expenditure and 2,9% of gross domestic product (GDP). There had been a 7,4% increase in the budget for social security (mainly in the form of grants) over 1995/96 and a 1,6% increase in expenditure on welfare services (ie programmes to rehabilitate people, and to increase self-reliance and social development among South Africans). Mr McKenzie said that the government was unlikely to increase spending on social security in future as it already constituted the largest portion of the welfare budget. Almost all welfare spending took place at provincial level and only 0,5% of the total welfare budget was allocated to the national Department of Welfare.⁴ [⁴ *Hansard* (NA:Q) 5 cols 1210–1211, 16 May 1996]

In terms of the functional classification of the consolidated national and provincial budgets for 1997/98, R18,43bn was allocated to social security and welfare, the bulk of this to be spent by the nine provincial governments. As a proportion of consolidated national and provincial expenditure this amounted to 9,8% (an increase of 0,5 percentage points from 1996/97). It amounted to 3% of GDP (about the same proportion as in 1996/97).⁵ [⁵ Department of Finance, *Budget Review*, 1997]

The parliamentary portfolio committee on welfare expressed concern about allegations that welfare allocations were being redirected at provincial level to other departments. There was also an urgent need to separate the budget for the allocation of social services from the social security budget. The committee noted that these two allocations were combined, which caused the services component to be marginalised. The committee said that if social services and poverty alleviation services were not prioritised, reliance on social security would continue.⁶ [⁶ *Hansard* (NA) 5 cols 1199–1200, 15 May 1996]

Provincial Welfare Budgets

The nine provincial departments of health made the following allocations for welfare in the 1995/96 and 1996/97 financial years:⁷ [⁷ Gauteng Provincial Government, *Estimate of Revenue and Estimate of Expenditure for the Financial Year ending 31 March 1997*; North West Province, *Estimate of Expenditure to be defrayed from the Provincial Revenue Fund during the Financial Year ending 31 March 1997*; Northern Province, *Estimate of Revenue and Estimate of Expenditure for the Financial Year ending 31 March 1997*; Province of the Eastern Cape, *Estimate of Revenue and Estimate of Expenditure for the Financial Year ending 31 March 1997*; Province of the Free State, *Estimate of Revenue and Estimate of Expenditure for the Financial Year ending 31 March 1997*; Province of KwaZulu-Natal, *Estimate of Revenue and Estimate of Expenditure for the Financial Year ending 31 March 1997*; Province of Mpumalanga, *Estimate of Revenue and Estimate of Expenditure for the Financial Year ending 31 March 1997*; Province of Northern Cape, *Estimate of Revenue and Estimate of Expenditure for the Financial Year ending 31 March 1997*; Province of the Western Cape, *Estimate of Revenue and Estimate of Expenditure for the Financial Year ending 31 March 1997*]

Allocations to provincial welfare services: 1995/96 and 1996/97

199

199

InAlloEastern Cape

2 526

2 641

4,6%

380

Free State

828

888

7,2%

310

Gauteng

1 794

1 789

(2,8%)

254

KwaZulu-Natal

2 881

3 092

7,3%

349

Mpumalanga

670

706

5,4%

234

North West

880

1 026

16,6%

292

Northern Cape

386

418

8,3%

542

Northern Province

1 377

1 487

8,0%

283

Western Cape

1 957

2 055

5,0%

561

Total

13 299

14 102

6,0%

336

a

Figures may not add up owing to rounding.

b

Based on estimates of the size of the population in 1996 by the Institute for Futures Research at the University of Stellenbosch.

The bar chart below compares the allocations to provincial welfare services per head in 1996/97:

The amounts allocated by the provinces to the various sectors of welfare in 1996/97 were as follows:⁸ [8 Ibid]

Provincial welfare spending by sector: 1996/97

EasFreGauKwaMpuAdministration

95,5

5,0

74,2

12,5

25,7

Auxiliary/associated services

5,

3,

0,

1,

–

Facilities development, maintenance

12

–

33

–

–

Social assistance^a

133,4

47,1

223,8

111,4

21,2

Social development^b

10,4

10,0

1,4

1,7

1,7

Social security^c

2 324,4

780,2

1 395,2

2 892,8

643,4

Social welfare services^d

58,6

42,4

60,5

72,0

13,6

Other

—

—

—

0,4

—

Total^e

2 641,0

887,8

1 788,7

3 091,8

705,6

a

Includes assistance to homes for the aged, children, drug addicts, welfare organisations and transit centres for offenders.

b

Includes community and population development programmes.

c

Includes grants for the disabled, family and child care, and the aged.

d

Includes management and maintenance of services in homes, places of safety or treatment centres for the aged, children, chronically ill, drug dependants, families and offenders.

e

Figures may not add up owing to rounding.

Provincial welfare spending by sector: 1996/97 (continued)

North West Rm

Northern Cape Rm

Northern Province Rm

Western Cape Rm

Administration

8,0

28,0

36,7

20,1

Auxiliary/associated services

0,

0,

9,

–

Facilities development, maintenance

2,

–

15

–

Social assistance^a

29,2

25,7

38,1

186,8

Social development^b

5,5

3,3

10,5

9,8

Social security^c

944,2

346,9

1 340,0

1 770,4

Social welfare services^d

36,5

13,5

36,9

68,2

Other

—

—
—
—

Total^e

1 026,3

418,2

1 487,1

2 055,3

a

Includes assistance to homes for the aged, children, drug addicts, welfare organisations and transit centres for offenders.

b

Includes community and population development programmes.

c

Includes grants for the disabled, family and child care, and the aged.

d

Includes management and maintenance of services in homes, places of safety or treatment centres for the aged, children, chronically ill, drug dependants, families and offenders.

e

Figures may not add up owing to rounding.

The table below shows the total amounts allocated by all provinces to the various sectors of welfare in 1996/97, and each sector's proportion of the tota

Total provincial welfare spending by sector: 1996/97

Amount Rm

Proportion^a Rm

Social security^b

12 437,5

88,2%

Social assistance^c

816,7

5,8%

Social welfare services^d

402,2

2,9%

Administration

305,7

2,2%

Facilities development, maintenance

63,8

0,5%

Social development^e

54,3

0,4%

Auxiliary/associated services

20,9

0,1%

Other

0,4

0,0%^f

Total

14 101,5

100,0%

a

Figures may not add up owing to rounding.

b

Includes grants for the disabled, family and child care, and the aged.

c

Includes assistance to homes for the aged, children, drug addicts, welfare organisations and transit centres for offenders.

d

Includes management and maintenance of services in homes, places of safety or treatment centres for the aged, children, chronically ill, drug dependants, families and offenders.

e

Includes community and population development programmes.

f

Proportion too sma

Irregularities in Welfare Departments

The portfolio committee on welfare said in its report in May 1996 that there was a need for a central and uniform system of pension payouts to avoid corruption. The committee called for an investigation into all allegations of corruption and fraud as a matter of urgency.¹⁰ [¹⁰ *Hansard* (NA) 5 cols 1200–1221, 15 May 1996]

In November 1996 the minister for safety and security, Mr Sydney Mufamadi, said that in 1996 more than R14m in pension and grant monies had been stolen in some 54 armed robberies. Mr Mufamadi said that steps taken to prevent the robberies included increasing the number of security guards at pension paypoints, briefing informers to gather information on planned robberies, ensuring constant contact between the police and security companies while transporting money, and instituting high-density patrols at paypoints.¹¹ [¹¹ *Sowetan* 1 November 1996]

In June 1996 the minister of welfare and population development, Ms Geraldine Fraser-Moleketi, said that every year some 10% of the funds allocated for the payment of social pensions were lost to fraud, theft and inefficiency. There was a lack of basic informational data bases, especially in the former ‘independent’ homelands, and the former welfare departments had different systems or no system at all, Ms Fraser-Moleketi said. An investigation into the pension system had found that some 14600 beneficiaries on the national social security register had died or had never existed. By removing these names the Department of Welfare would save about R72m a year. Ms Fraser-Moleketi said that the department aimed to create an accountable, transparent pension system which was efficient, sustainable and more effective.¹² [¹² *Sunday Tribune* 30 June 1996]

PUBLIC WELFARE SERVICES AND PAYMENTS

In April 1996 a committee was set up to oversee the restructuring of the social security system (see also *Irregularities in welfare departments* above).

Social Pensions

The Department of Welfare said in its annual report for 1995/96 that in 1993 some 7,7m people were living in households which received social grants.¹³ [¹³ Department of Welfare, annual report 1995/96]

The department said in March 1996 that social grants would increase by an average of R20 a month for individuals from 1st July 1996. Old-age grants, disability grants, single-parent grants and grants to

parents with disabled children would increase to R430 a month.¹⁴ [¹⁴ *The Citizen* 14 March 1996] (In the 1997/98 budget an increase of R1bn in provision for social security raised the grant to R470 a month.)¹⁵ [¹⁵ **Fast Facts** No 4 1997] Warveteran grants would increase from R428 to R448 a month, maintenance grants for parents to R135 and foster child grants to R305.¹⁶ [¹⁶ *The Citizen* 14 March 1996]

An amount of R450m had been allocated in the 1996/97 financial year for the payment of special pensions to members of the former liberation armies (see also *Special Pensions Act of 1996* below).¹⁷ [¹⁷ *Business Day* 14 March 1996]

In May 1996 the minister of welfare and population development, Mr Patrick McKenzie, announced that the 14 different computer systems of the social security system had been successfully amalgamated and a new, national computer network implemented on 1st May 1996. The national social grants register which would eliminate duplicate and invalid records was also installed in the same month. All beneficiaries and new applicants for grants would have to register and submit an identity document and a set of fingerprints to positively identify themselves. The new register was expected to list between 2,7m and 3m beneficiaries. Mr McKenzie said that his department was working towards setting up an on-line communication link between the national social grants register and the population register in order to improve the verification of beneficiaries and to prevent fraudulent claims.¹⁸ [¹⁸ *Hansard* (NA) cols 1212–1213, 16 May 1996]

In October 1996 the Gauteng Tender Board granted a contract for the outsourcing of the social pension payout system to Cash Payment Services, a company jointly owned by First National Bank and Sinamandla. The MEC for welfare and population development in Gauteng, Mr Ignatius Jacobs, said that the new system would improve services to the poor in the province by reducing delays in payments and improving conditions for people waiting in queues.¹⁹ [¹⁹ *The Citizen* 22 October 1996]

Old-Age Pensions and Old-Age Homes

Ms Fraser-Moleketi said in September 1996 that there had been a R50m cut in subsidies to old-age homes in the 1996/97 financial year, which would affect all 800 homes receiving government subsidies. The R50m would be redirected to new priority services for people with the human immuno-deficiency virus (HIV) and those with AIDS, child and family welfare services, community-based care and developmental initiatives. From 1st April 1996 subsidies would be paid only to those pensioners in old-age homes with a gross monthly income of less than R1 300. The welfare reprioritisation committee had developed guidelines for the financing of welfare programmes in line with the draft *White Paper for Social Welfare* (see *White Paper for Social Welfare* below). The proposed changes focused mainly on freeing resources by ‘cutting back on excessive institutional care, especially for the elderly’, the minister said.²⁰ [²⁰ *Hansard* (NA:Q) 10 cols 1947–1949, 4 September 1996; *The Citizen* 17 May 1996]

Ms Fraser-Moleketi said that the decision to cut subsidies to old-age homes had been taken in 1995 after

extensive negotiations with all stakeholders. She added that it was necessary to address racial gaps and imbalances, and to focus on what would benefit the country as a whole. Some 87% of the social services budget was spent on residential institutions and 88% of people in old-age homes were white.²¹ [²¹ *Sunday Tribune* 2 June 1996]

Disabled People

In March 1996 the government published proposals relating to disabled people in the *Integrated National Disability Strategy of the Government of National Unity* (see *Policy* below).

Ms Fraser-Moleketi said in August 1996 that an estimated 12,8% of the South African population (5m people) were disabled. The following table provides a proportional breakdown of figures for different types of disability in South Africa in 1996:²² [²² *Hansard* (NA:Q) 8 cols 1586–1588, 14 August 1996]

Disabilities in South Africa: 1996

DiNumber of disabled^a

ProProportion of total population^a

Autism

8 394

0,2%

0,02%

Cerebral palsy

104 926

2,0%

0,25%

Chronic illness

209 852

3,9%

0,50%

Disabled aged

67 152

1,2%

0,16%

Epilepsy

83 941

1,6%

0,20%

Genetic defects

209 852

3,9%

0,50%

Hearing impairment

1 468 961

27,3%

3,50%

Intellectual handicap

1 259 109

23,4%

3,00%

Mental disability

104 926

2,0%

0,25%

Physical disability

671 525

12,5%

1,60%

Speech impairment

1 049 258

19,5%

2,50%

Visual impairment

138 502

2,6%

0,33%

Total

5 376 395

100,0%

12,81%

a

Figures are based on estimates of the size of the population in 1996 by the Institute for Futures Research at the University of Stellenbosch. Figures may not add up owing to rounding.

The table below provides a breakdown of the financial aid made available to the disabled in the 1995/96 financial year in each province (projected figures):²³ [²³ Ibid]

Financial aid to the disabled: 1995/96

Province

Services to disabled people R

DisProportion of total funds

Proportion of total population^a

Eastern Cape

39 181 000

556 160 000

20,6%

16,6%

Free State

3 607 000

150 746 000

5,3%

6,8%

Gauteng

38 079 000

293 494 000

11,5%

16,8%

KwaZulu-Natal

18 537 000

655 501 000

23,3%

21,1%

Mpumalanga

3 855 000

95 984 000

3,5%

7,2%

North West

4 666 000

237 387 000

8,4%

8,4%

Northern Province

1 454 000

248 376 000

8,6%

12,5%

Northern Cape

2 832 000

95 924 000

3,4%

1,8%

Western Cape

18 471 000

425 123 000

15,4%

8,7%

Total

130 682 000

2 758 695 000

100,0%

100,0%

a

A breakdown of the number of disabled people in each province was not available. Figures show the proportion of the total population in each province, based on an estimate of the size of the population in 1996 by the Institute for Futures Research at the University of Stellenbosch

Children

In its 1995/96 annual report the Department of Welfare said that some R107m in maintenance support had been paid to 144583 single parents in 1995 (an average of R740 per single parent per year).²⁴ [24 Department of Welfare, annual report 1995/96]

In May 1996 the minister of welfare and population development, Mr Patrick McKenzie, said that in 1995 the number of street children had been 'contained' (ie their numbers had not grown). This had been made possible through early identification of street children and the referral of high-risk and vulnerable children, the reintegration of street children with their families and communities, the broad range of social services made available to street children and outreach programmes being aggressively promoted in the provinces. Mr McKenzie said, however, that owing to poverty, the disintegration of family life, unemployment, socio-economic instability and violence the absolute number of street children had not been reduced.²⁵ [25 *Hansard* (NA:Q) 4 cols 745–747, 15 May 1996]

In September 1996 the cabinet approved a recommendation of its interministerial committee on young people at risk that the control and management of all residential child and youth care facilities should fall under the Department of Welfare. This included 32 places of safety, 12 schools of industry and nine reform schools. Previously, responsibility for the welfare of children rested with various departments, including education, justice and correctional services.²⁶ [26 *The Citizen* 19, 20 September 1996]

The committee found that of the 30 000 children in various institutions, more than 60% were accommodated in terms of the Child Act of 1983 and were not in trouble with the law. The committee said that the department should ensure that the 'control and punishment' approach in residential care facilities was changed to one of 'developmental care and discipline'. In its investigations the committee found that methods of discipline in almost every facility were 'punitive and startlingly inappropriate' and contravened standards set by international agreements and the bill of rights. Isolation cells were widely used as punishment in a number of facilities, during which time children were deprived of warm clothes, education and exercise.²⁷ [27 *Cape Argus* 19 September 1996]

The interministerial committee on young people at risk found further that human and material resources were unequally distributed between the provinces (with most facilities being in the Eastern Cape, Gauteng and the Western Cape). In many cases they were 'extremely inadequate'. There was also a serious lack of trained personnel.²⁸ [28 *The Citizen* 19, 20 September 1996] Only 54% of senior child and youth care personnel in places of safety or detention held a basic qualification for this type of work. The screening process for placing a child did not adequately determine the suitability of a facility for a child

and the people making placement decisions had often never visited the facilities they endorsed.²⁹ [²⁹ *Cape Argus* 19 September 1996]

The committee identified the following as the basic principles of residential child and youth care:³⁰ [³⁰ *Sowetan* 29 May 1996]

- access to a programme of education and care regardless of the length of stay of the child;
- free contact with family and friends unless otherwise ordered by a court of law;
- personal privacy, free time and the right to one's own possessions;
- protection from all forms of exploitation, discrimination and abuse;
- the right to participation in sport, and to recreational and cultural activities;
- admission to centres should not be restricted on the basis of race, religion, sexual orientation or cultural heritage; and
- facilities should be located where young people, families and communities had easy access to them.

The interministerial committee on young people at risk stated that the prevention of crime by youth was a priority. Crime prevention programmes should be aimed at the widest range of young people from the earliest age possible. Young people should take part in rectifying their mistakes and must be 'empowered to practise the principles of restorative justice'. Harsh and degrading punishment must be excluded from the education system, the committee said.³¹ [³¹ *Ibid*]

The committee made further recommendations regarding procedures for the arrest and detention of alleged youth offenders. Basic training in children's rights should be included in the training curriculum for police officers. The children's court must be restructured so as to become the 'central axis of youth justice', the committee said.³² [³² *Ibid*]

According to the 1997 *Budget Review*, several projects aimed at transforming the probation system and upgrading the provision of residential care of young people had been initiated following the committee's report. The reform of probation services had also started and would include the training and retraining of all probation personnel.³³ [³³ Department of Finance, *Budget Review*, 1997]

Feeding Schemes

A report compiled by the National Progressive Primary Health Care Network found that the primary school nutrition programme was 'alleviating temporary hunger' and improving the concentration and attendance of children in many schools. However, the R623m feeding scheme had a limited impact on the nutritional well-being of primary school children. Children were receiving only a small proportion of their daily energy and nutritional needs from the programme (20% of the required daily allowance for energy and about 50% of the daily allowance for protein).³⁴ [³⁴ *Mail and Guardian* 15 March 1996]

The report said that the 'quality, timing and supply of food, especially in the peripheral areas, [was] problematic'. In the Eastern Cape, gross overspending, fraud, the lack of a reliable data system and indiscriminate feeding had led to the termination of the nutrition programme in 1995. It was reinstated in 1996 only after a R35m grant from the Department of Health.³⁵ [³⁵ *Ibid*]

The report criticised the 'virtual absence of non-governmental organisation (NGO) and community-based organisation participation' in the feeding programme. The expertise and experience of a number of NGOs which had fed thousands of schoolchildren for many years had been sidelined by the government once the nutrition programme started, the report said.³⁶ [³⁶ *Ibid*]

The manager of Operation Hunger in the Eastern Cape, Ms Sheelagh Shelver, said that if the aim of the programme was to improve the nutritional status of children, the nutrition programme had been a 'waste of money'. Under the government's nutrition programme primary school children were fed on schooldays only. In the past, Operation Hunger had run community kitchens in conjunction with feeding schemes in more than 1 000 of the neediest schools in the Eastern Cape, which had fed schoolchildren throughout the year.³⁷ [³⁷ *Ibid*]

The director of the National Progressive Primary Health Care Network, Mr Irwin Friedman, said that feeding schemes should rather be directed towards preschool children, many of whom were dying of malnutrition. Malnutrition at preprimary level often caused learning problems in schoolgoing years, he said.³⁸ [³⁸ *Ibid*]

According to the 1997 *Budget Review*, R500m was given to 3,2m children in 12 300 schools in 1996/97 via the primary school nutrition programme.³⁹ [³⁹ **Fast Facts** No 4 1997]

Child Labour

In December 1996 the minister of welfare and population development, Ms Geraldine Fraser-Moleketi, outlined a five-point plan to end child labour in South Africa. This plan included social and economic development for children, compulsory education, legislation to control the employment of children, and a programme of enabling children to claim their rights (see also chapter on *Employment and Industrial Relations*).⁴⁰ [⁴⁰ *The Citizen* 12 December 1996]

Child Abuse

In 1996 a study conducted jointly by the Human Sciences Research Council and the child protection unit (CPU) of the South African Police Service (SAPS) found that there had been a 60% rise in the reported number of child rape cases between July 1994 and June 1995. Crimes against children were increasing at a rate of almost 29% a year and if this trend continued the CPU would be dealing with more than 1m cases a year by 2000. Almost two thirds of suspected offenders were not prosecuted. Only 7% of those prosecuted went to prison. The study found further that some 62% of offences against children were of a sexual nature, 84% of children knew the perpetrator, 48% of offences occurred in the presence of other people, and 75% of abused children were female (see also chapter on *Security*).⁴¹ [⁴¹ Ibid 6 June 1996, *The Star* 10 July 1996, *Sowetan* 12 December 1996]

The study called for immediate steps to speed up the criminal justice process and to ensure that cases of child abuse and neglect received priority. There was also a need for a comprehensive strategy to treat the victims of abuse. In 1994/95 more than 44% of victims of abuse did not receive counselling. Victims were also likely not to receive adequate therapy, a proper police investigation or a fair trial. 'The risk of a child being abused in the system is very high,' the study said.⁴² [⁴² *The Citizen* 6 June 1996, *The Star* 10 July 1996, *Sowetan* 12 December 1996]

Abused and neglected children who did not receive adequate counselling and treatment often grew up to be maladjusted adults with substance abuse problems and suffering from mental illness. These adults were also more likely to batter or abuse their own children, according to the study.⁴³ [⁴³ *The Star* 10 July 1996]

The CPU said in December 1996 that 11 167 cases of child rape had been reported between January 1996 and early December 1996, an increase of 11% on 1995.⁴⁴ [⁴⁴ *Sowetan* 12 December 1996]

The following table provides a breakdown of the number of cases of child abuse (ie crimes committed against children under the age of 18 years) dealt with by the CPU of the SAPS in 1993, 1994 and 1995 and the increase between 1993 and 1994, and 1994 and 1995:⁴⁵ [⁴⁵ *Hansard* (NA:Q) 3 cols 417–418, 20 March 1996; *The Star* 10 July 1996]

Crimes committed against children: 1993–95

1993

1994

Increase

1995

Increase

Abduction

522

743

42%

805

8%

Sexual offences

1 034

1 094

6%

1 121

2%

Child care offences

1 969

2 694

37%

3 499

30%

Common assault

2 364

3 246

37%

3 768

16%

Assault with intent to do grievous bodily harm

1

1

42

2

19 Attempted murder

175

213

22%

244

15%

Incest

146

156

7%

221

42%

Indecent assault

3 439

3 904

14%

4 044

4%

Kidnapping

654

906

39%

978

8%

Rape

4 736

7 559

60%

10 037

33%

Sodomy

431

491

14%

660

34%

Other cases (eg public indecency)

385

753

96%

833

11%

Total

17 194

23 664

38%

28 482

20%

All categories of crimes against children increased between 1993 and 1995. The total number of crimes against children grew by 66% between 1993 and 1995. Rape increased by 112% between 1993 and 1995, while assault with intent to do grievous bodily harm increased by 70%.

The bar chart below shows some of the more common crimes committed against children in 1993–95:

Women

The Department of Welfare said in its 1995/96 annual report that it had made R3m available for pilot projects aimed at meeting the developmental needs of unemployed women with children under the age of five years. The programmes would provide women with the necessary skills to enter the labour market.⁴⁶ [⁴⁶ Department of Welfare, annual report 1995/96] In September 1996 the department launched the first phase of the programme in the Northern Province. The programme focused on agricultural development and aimed to produce fresh vegetables which would be used particularly to feed children under five years of age who suffered from malnutrition and other poverty-related diseases.⁴⁷ [⁴⁷ *The Star* 17 September 1996]

PRIVATE WELFARE SERVICES

According to the draft *White Paper for Social Welfare*, published in 1996, there were about 10 000 organisations in South African civil society which had a welfare and developmental focus. These organisations were either based in the formal welfare sector (ie government-subsidised organisations or religious organisations delivering welfare services, some of which were government subsidised), or the informal welfare sector (organisations which did not receive government subsidies). The majority of organisations registered as welfare organisations in terms of the Fundraising Act of 1978 were government-subsidised, ie in the formal sector.⁴⁸ [⁴⁸ Department of Welfare, *White Paper for Social Welfare*, 1996]

In May 1996 the minister of welfare and population development, Mr Patrick McKenzie, said that in the 1995/96 financial year the government had spent some R1,1bn on nongovernmental organisations providing welfare services. The government subsidised the salaries of approximately 2400 social workers in the voluntary private welfare sector. Since 1963 there had been no increases granted to salaries through the subsidy system and salaries in the private sector had not kept track with those in the public sector. Mr McKenzie announced that from April 1997 the department would start financing social programmes and subsidising social work posts in the private sector.⁴⁹ [⁴⁹ *Hansard* (NA) 5 cols 1217–1218, 16 May 1996]

In July 1996 the new minister of welfare and population development, Ms Geraldine Fraser-Moleketi, announced an 8,5% pay rise for voluntary social workers in state-subsidised posts—the first increase for social workers in the private sector in three years. Ms Fraser-Moleketi said that the salary increase would address the ‘looming crisis’ in the private welfare sector where salaries were much lower compared with the public sector, and where social workers were ‘disillusioned’, suffered from ‘burnout’, and were leaving the profession.⁵⁰ [⁵⁰ *The Citizen* 24 July 1996]

POLICY

The minister of welfare and population development, Ms Geraldine Fraser-Moleketi, said in December

1996 that her department would shift its priorities in 1997 from reliance on welfare benefits to antipoverty programmes co-ordinated by several departments. She added that ‘cumbersome centralised management processes, intricate tendering processes, a resistance to change on the part of some officials and a lack of skills due to staff taking voluntary retrenchment packages’ hampered performance by staff in the welfare department. Ms Fraser-Moleketi said that staff working with pension and grant monies might need a security clearance in future. New legislation should allow for sustainable financing options in the form of business ventures for nongovernmental organisations. A new financial management framework for welfare programmes would be in place by April 1997, according to Ms Fraser-Moleketi.⁵¹ [⁵¹ Ibid 6 December 1996]

White Paper for Social Welfare

In 1996 the Department of Welfare published the final draft of the White Paper for Social Welfare. The participation of civil society and the private sector was vital to achieve the goals set out in the white paper. A national plan of action for the next five years (and starting in 1997) would be developed, based on the white paper.⁵² [⁵² Department of Welfare, *White Paper for Social Welfare*, 1996]

The white paper stated that the ‘high expectations’ concerning the delivery of welfare services could not be met in the short term in the light of declining economic growth, poverty and unemployment. Welfare expenditure could expand only once higher economic growth rates had been realised. A five-year, zero-based plan to reform the welfare budget would be developed.⁵³ [⁵³ Ibid]

The white paper noted that the salaries of welfare personnel were generally extremely low and service conditions were poor. There was a shortage of welfare personnel, particularly in rural areas and informal settlements. The white paper proposed a five-year affirmative action programme as well as the redeployment of personnel from over-serviced areas to areas in need of additional staff but no targets were set. The government would also develop volunteer programmes to extend welfare services.⁵⁴ [⁵⁴ Ibid]

According to the white paper, a comprehensive national welfare act, a new fundraising act, and a new prevention and treatment of drug dependency act would be in place by the end of 1997.⁵⁵ [⁵⁵ Ibid]

(The white paper also said that employers and employees would be encouraged to contribute ‘more effectively’ to retirement. In the long term retirement provision by all employees in formal employment would be made compulsory. Furthermore, a new retirement scheme would be initiated for selfemployed people and people in the informal sector. Retirement contributions should also be fully transferable when changing employment.)

Social Assistance and Security

Social assistance played a vital role in alleviating poverty, particularly in the case of Africans. The white

paper said that an increased demand for social assistance could be expected in the future from poor African women and people with AIDS and the human immuno-deficiency virus (HIV). The white paper made the following proposals with regard to social assistance and security:⁵⁶ [⁵⁶ Ibid]

- social assistance programmes should be made more efficient through the rationalisation of computer systems, and the development of the national social grants register and automated fingerprint technology;
- all beneficiaries would be reregistered to integrate them into the national social grants register—this would address abuse of the system;
- social assistance to the elderly would continue in the form of old age grants but eligibility would be determined by a means test;
- public works programmes should be identified in which social security beneficiaries could take up work; and
- the state would be the provider of last resort of social assistance, as there was limited scope for alternative sources of financing for this.

The Aged

A national ageing strategy was being developed which would place the responsibility of old-age provision on each individual, the white paper said. Oldage homes should provide for the frail elderly only. Provision of frail care should be limited to a maximum of 2% of the number of persons over 65 years. (This would exclude some 1,85m elderly people from frail care in 1996.) The government would be responsible to provide for the needs of the poor, destitute and frail older persons who required 24-hour care. Family care would, however, form the ‘baseline of age management programmes’.⁵⁷ [⁵⁷ Ibid]

Women

The white paper said that women, particularly African women, were very vulnerable to socio-economic hardships. Illiteracy and poverty were the main obstacles to women’s advancement. Welfare programmes should advocate the elimination of all forms of violence against women and the right of women to control their own fertility. Community development programmes would be encouraged to promote ‘capacity-building programmes’, micro enterprises, small business development and co-operative enterprises for women.⁵⁸ [⁵⁸ Ibid]

Children

The white paper identified crime as a serious problem on the increase among children and youth. The

department was developing a national plan of action to transform the child and youth care system. Children and juveniles would be held in custody as a last resort and wherever possible should be released into the care of their parents or guardians while awaiting trial.⁵⁹ [⁵⁹ Ibid]

The Chronically Ill

‘One-stop welfare services’ should be developed to provide care for the chronically ill and people with HIV/AIDS. The rights of people with HIV/AIDS to continued employment and social benefits should be protected at ‘all costs’. They were also entitled to confidentiality. The white paper said that institutions such as hospices would be supported by the government in cases where families refused or were unable to care for people with HIV/AIDS.⁶⁰ [⁶⁰ Ibid]

Criticism and Alternative Proposals

The *Financial Mail* said in November 1996 that the white paper failed to explain how the government would ‘balance its commitment to maintain existing welfare services while extending benefits to the vast indigent population within a five-year period’. The budgetary implications of the white paper had not yet been assessed. The former minister of welfare and population development and the National Party spokesman on welfare, Mr Patrick McKenzie, suggested the creation of a special task team, to calculate the affordability of the white paper’s proposals over a five-year period.⁶¹ [⁶¹ *Financial Mail* 8 November 1996]

The Congress of South African Trade Unions (Cosatu) said in the same month that the white paper failed to give consideration to the possibility of setting up new forms of social assistance to address the plight of millions who were destitute and unemployed. Cosatu recommended that the government should consider establishing a general social assistance scheme which could provide ‘modest benefits’ to all households which could prove that they lived off less than a certain monthly income. The proposal requiring employees and workers to bear additional costs through increased social insurance payments would lead to an increase in the nonwage costs of employment. This could in turn prove to be a ‘powerful disincentive’ for employers wanting to continue with job creation and could create an incentive for employers to reduce the workforce by outsourcing (ie through contracting work out to outside companies), according to Cosatu.⁶² [⁶² *New Nation* 8 November 1996]

Integrated National Disability Strategy of the Government of National Unity

In March 1996 the *Integrated National Disability Strategy of the Government of National Unity* was published by the ministry in the office of the president as a discussion document for public comment. A white paper on the integrated national disability strategy was to be published after public comment had been received.⁶³ [⁶³ Ministry in the Office of the President, ‘Integrated National Disability Strategy of the Government of National Unity’, *Government Gazette* no 17038, 14 March 1996]

The discussion document identified the following as primary objectives of the integrated national

disability strategy:

- to facilitate the integration of disability issues into government developmental strategies, planning and programmes;
- to develop an integrated management system for the co-ordination of disability planning, implementation and monitoring at all levels of government; and
- to develop ‘capacity building strategies’ that would enhance the government’s ability to implement recommendations in the strategy.

The document said that special groups of disabled people who needed special attention included women, children, the elderly, people living in rural areas, and refugees or displaced people.

The following recommendations were made in the document:⁶⁴ [⁶⁴ Ibid]

- a medium and long-term strategy should be developed to inform society about persons with disabilities, their needs and their potential contribution;
- the government should develop strategies to ensure effective and equal medical care for people with disabilities and programmes to redress discrimination within the health sector;
- a national rehabilitation policy and strategy should be formulated and implemented. Community-based rehabilitation should form the basis of such a strategy;
- ‘personal assistance support’ by the state should form part of the disability service-delivery system, including subsidies for personal assistants for employees (personal assistants for the disabled include interpreters for deaf people and guides, readers and drivers for blind people);
- a national strategy for personal assistance programmes and the supply and maintenance of assistant devices to the disabled (such as wheelchairs and Braille material) should be developed;
- a clear policy with regard to environmental accessibility must be adopted. This included the allocation of a realistic budget to allow for the upgrading of public buildings, the introduction of tax incentives to owners of private sector buildings that need upgrading, and the application of a ‘no-access–no-funding’ policy;
- children with disabilities should have access to the widest possible educational and social opportunities, be educated in as normal an environment as possible, and be provided with the resources needed to ‘realise their highest potential’;

- the Department of Labour should develop a national strategy for the employment of people with disabilities;
- sport for disabled people should be integrated into the broader development programmes for sport, and state-owned sport and recreational facilities should be made accessible to disabled people;
- the Department of Housing should develop a national strategy for a programme to reintegrate people with disabilities into society through appropriate modifications to the housing subsidy scheme, and through a programme which limited institutional care as a means of caring for people with disabilities;
- a national strategy and programme of action regarding data collection, research and dissemination of information on disabilities should be formulated. A data bank on disability should be established which would include statistics on the living conditions of people with disabilities, services and programmes available, and the different groups of people with disabilities;
- the specific needs of people with disabilities should be incorporated into general development plans at national, provincial and local level;
- a task force should be established to develop a national strategy for the ongoing development, assessment and monitoring of legislation affecting people with disabilities; and
- a comprehensive and integrated strategy should be developed regarding government support for disabled people's organisations.

The Lund Committee on Child and Family Support

In August 1996 the Lund Committee on Child and Family Support submitted its report to the minister of welfare and population development, Ms Geraldine Fraser-Moleketi. The committee was set up earlier in the year to investigate the system of state maintenance grants to children and families and the private maintenance system, and to develop alternative strategies in relation to social security for children and families.⁶⁵ [*65 Report of the Lund Committee on Child and Family Support*, August 1996]

The committee developed proposals which integrated the promotion of parents' financial responsibility with the introduction of a flat-rate child support benefit. The child support benefit would be financed by phasing out the parent allowance part of the state maintenance grant over five years. This would enable the government to reach more children—especially African children who had effectively been excluded from the state maintenance grant system for a number of reasons—without increasing the welfare budget.⁶⁶ [*66 Sunday Tribune* 22 September 1996; Report of the Lund Committee on Child and Family Support, August 1996]

The committee calculated that a flat rate of R70 would reach between 13% and 21% of children under the age of nine, while a flat-rate of R125 would reach between 7% and 12%.

The committee further recommended that:⁶⁷ [⁶⁷ *Report of the Lund Committee on Child and Family Support*, August 1996]

- the benefit should be paid to the primary care-giver of a child according to a simple means test;
- the benefit should be payable from birth up to the age of nine years (currently 18 years) and only two children per household should qualify for it;
- the level of the grant should be derived from the household subsistence level for food and clothing for children;
- a condition for receiving the benefit should be the proper registration of the birth of the child as well as certain positive health-related activities such as growth monitoring and immunisation;
- the money should be transferred into a bank account on a quarter-yearly basis; and
- welfare staff should encourage women who would be affected by the phasing out of the parent allowance to receive other training.

According to the 1997 *Budget Review*, the committee's recommendation for a flat-rate child support benefit had been accepted by the cabinet and would be phased in from 1997 at a cost of R75m that year.⁶⁸ [⁶⁸ Department of Finance, *Budget Review*, 1997; **Fast Facts** No 4 1997]

The chairwoman of the committee, Ms Francie Lund, said that if the proposals were accepted there would be economic and social consequences for those on the present system. The committee believed, however, that the proposals formed the basis for a 'sustainable, enduring and healthy lifeline' which would benefit many of the poorest children over the longer term.⁶⁹ [⁶⁹ *Business Day* 19 September 1996]

With regard to the private maintenance system, the committee said that the court system was 'seriously inadequate' and that measures to speed up the handling of maintenance cases should be implemented immediately. Many fathers were not paying maintenance because the system encouraged a culture of nonpayment among them. The committee said further that a more 'women-friendly' environment should be created in courts and court hours should be extended. Special police-tracing units should be created to track down defaulting fathers. Defaulters should be blacklisted with credit bureaus to warn potential creditors that the offender already had other debt.⁷⁰ [⁷⁰ *Cape Times* 19 September 1996]

LEGISLATION

Hague Convention on the Civil Aspects of International Child Abduction Act

of 1996

In November 1996 the Hague Convention on the Civil Aspects of International Child Abduction Act was assented to by the president. The act provided for the application of the Hague Convention on the Civil Aspects of International Child Abduction, which was concluded in 1980, to South Africa. The main aim of the convention was:⁷¹ [⁷¹ *Government Gazette* no 17584, 20 November 1996]

- to secure the prompt return of children wrongfully removed to or retained in any contracting state; and
- to ensure that the rights of custody and of access under the law of one contracting state were effectively respected in the other contracting states.

Social Assistance Act of 1992

The Social Assistance Act of 1992, together with the Social Assistance Amendment Act of 1994, came into effect on 1st March 1996. The acts provided for a uniform social assistance and pension system for all South Africans. People who qualified for social grants included the aged, disabled and war veterans. Maintenance grants would be granted to parents under 'prescribed conditions'. The act also discontinued the payment of social pensions and social assistance grants to people who had been granted permanent residence in South Africa. Permanent residents qualifying for pensions and grants prior to the implementation date would continue to receive their benefits, but no new permanent residents would qualify (see also chapter on *Population*).⁷² [⁷² Social Assistance Act no 59 of 1992; Social Assistance Amendment Act no 54 of 1994]

The Black Sash criticised the act, saying that it was discriminatory to exclude permanent residents, because they paid tax and contributed fully to South African society. However, according to a spokesman for the Department of Welfare, it was too expensive to provide social grants to permanent residents and many of them received pensions from their countries of origin. The expense was, therefore, not justified. Permanent residents who had been receiving pensions prior to March 1996 would continue to receive them, but no new permanent residents would qualify for grants.⁷³ [⁷³ *Mail and Guardian* 16 August 1996]

Welfare Laws Amendment Act of 1996

The president assented to the Welfare Laws Amendment Act in November 1996. The act amended the Social Work Act of 1978 to enlarge the membership of the South African Interim Council for Social Work. It further provided for the establishment of programmes for the prevention and treatment of drug dependency which were aimed at persons in treatment centres. The act amended the Social Assistance Act of 1992 to authorise financial awards to unregistered, nonprofit organisations which provided developmental social welfare services. It extended the application of certain laws relating to welfare services to the former 'independent' homelands.⁷⁴ [⁷⁴ Welfare Laws Amendment Act, no 106 of 1996, *Government*

Gazette no 17615, 27 November 1996]

Special Pensions Act of 1996

In November 1996 the president assented to the Special Pensions Act. The act provided for special pensions to be paid to members of formerly banned or restricted organisations (ie the African National Congress (ANC) and the Pan-Africanist Congress) who had ‘made sacrifices or served the public interest in the cause of establishing a democratic constitutional order’. It also prescribed rules for determining people eligible for such pensions. Recipients had to be 35 years or older and had to have been prevented from providing for their own pensions for at least five years prior to 2nd February 1990. Pension payouts would only start at the age of 50 years. The surviving spouse or dependant of a person who would have qualified for a pension would be entitled to a ‘survivor’s lump sum benefit’. A special pensions board would be established to inform the relevant persons of their right to receive benefits, as well as of the qualifications and procedures in applying for benefits.⁷⁵ [⁷⁵ *Government Gazette* no 17564, 8 November 1996]

According to the deputy minister of finance, Ms Gill Marcus, it was estimated that about 30 000 people would qualify for special pensions. The bill was supported by the majority of political parties, including the ANC, the Democratic Party and the National Party. The Inkatha Freedom Party (IFP) opposed the bill.⁷⁶ [⁷⁶ *The Citizen* 24 October 1996] The IFP said that the fact that the act specified banned or restricted organisations meant that the IFP’s ‘years of struggle for democracy [were] seen as irrelevant’ (see also chapter on *Politics*).⁷⁷ [⁷⁷ *Ibid* 17 October 1996]

Child Care Amendment Act of 1996

The Child Care Amendment Act was assented to by the president in November 1996. The act provided for the delegation of powers to the provinces and extended the application of the act to the former homelands. It further regulated the adoption of children. The act provided for the registration of shelters, as well as extended inspection of children’s homes and places of care. The right to legal representation for children was extended to all stages of a proceeding in the children’s court.⁷⁸ [⁷⁸ *Government Gazette* no 17606, 2 November 1996]

Non-Profit Organisations Bill

In August 1995 the Second Draft Proposal Concerning Non-Profit Organisations Bill was published by a group called the Independent Study into an Enabling Environment for Nongovernmental Organisations. The proposed legislation would allow for, among other things, a government-dominated board to subpoena documents from nonprofit organisations and replace their boards of trustees if it felt this to be in ‘the public interest’.

Following a protest among nonprofit organisations, led by the South African Institute of Race Relations,

the proposed bill was withdrawn in 1996. At the time of writing, new legislation was being drawn up by the Department of Welfare and was expected to be tabled in Parliament in 1997.

IMPLEMENTATION

The Department of Welfare allocated R3m in 1996 for nine projects, one in each province, to fund programmes aimed at providing economic opportunities for unemployed women with children under five years of age. The first project, a vegetable farm in the Northern Province, was launched in November 1996 (see also *Women* above).⁷⁹ [⁷⁹ *Business Day* 3 November 1996]

In terms of the 1997/98 functional classification of the national and provincial consolidated budgets, R75m was allocated for the introduction of a basic child benefit scheme to provide a minimum level of support to poor households with young children, as recommended by the Lund Committee on Child and Family Support. The scheme would replace maintenance grants. (See *The Lund Committee on Child and Family Support* above.)⁸⁰ [⁸⁰ **Fast Facts** No 4 1997]

There were a number of other 'implementation initiatives' undertaken by the Department of Welfare. These are discussed under the relevant sections.

POLICY REVIEW

In 1996 the Department of Welfare published the final draft of the *White Paper for Social Welfare*. The white paper suggested that the aged should take more responsibility to provide for their retirement. Old-age homes should provide for the frail elderly only and should be limited to a maximum of 2% of the population over 65 years. More emphasis would be placed on family care for the elderly and on addressing racial gaps and imbalances.

The Lund Committee on Child and Family Support suggested that a flat-rate child support benefit should be introduced to reach more (African) children. The parent allowance part of the state maintenance grant should be phased out over five years. The child support benefit should be reduced and only up to two children per household should qualify for it. The proposals of the committee would be discussed further during 1997 before implementation. Various civil society organisations, including the Congress of South African Trade Unions (Cosatu), the Black Sash and the South African Council of Churches called for the suspension of implementation of the child support benefit plan. The organisations said that the plan, contrary to promises made by Ms Fraser-Moleketi, would reduce spending on child welfare by R2,5bn over the next five years. The organisations also said that the R75 a month was below the household subsistence level for food and clothing for children under six years. According to the Institute for Democracy in South Africa, the amount should be reassessed, taking into account the full range of children's needs and not only food and clothing.⁸¹ [⁸¹ *Business Day, Sowetan* 22 April 1997; *The Citizen* 21, 22 April 1997]

In 1996 the Department of Welfare withdrew the Second Draft Proposal Concerning Non-Profit Organisations Bill after protest by nonprofit organisations. The proposed legislation would have allowed for, among other things, a government-dominated board to subpoena documents from nonprofit organisations and replace their boards of trustees if it felt this to be in the 'public interest'. New legislation was being drawn up and was expected to be tabled in Parliament in 1997.

HEALTH

BIRD'S EYE VIEW

Tuberculosis (TB) continued to be the most serious notifiable disease in 1996, more than 35000 cases having been reported by August 1996. The government had launched a new strategy called 'Dots' to ensure that patients took their TB medicine regularly.

At the same time the combating of AIDS was expanded to schoolchildren with the introduction of new curricula for standards 5–7 which covered HIV/AIDS issues. The number of AIDS cases was expected to exceed 100000 by the year 2000.

A malaria epidemic broke out in 1996 as a result of good rains in KwaZulu-Natal, Mpumalanga and the Northern Province. In 1996 some 29160 cases had been reported countrywide.

In 1996/97 some R17,1bn was allocated to health, representing a 0,5% increase in real terms on the 1995/96 budget. (In 1997/98 the health budget was R20,2m representing 3,3% of GDP) The allocations to KwaZulu-Natal and the Western Cape dropped by 9,2% and 4,7% respectively in real terms. Gauteng received a real increase of 2,8%. In all three provinces the cutbacks necessitated drastic reductions in staff and services provided. A decision to close three hospitals in Gauteng and downgrade another four to primary health care centres was opposed by health workers in the province. The Western Cape Department of Health indicated that it would have to retrench some 2000 staff in 1996/97 to reach nationally determined staff targets.

In April 1996 free primary health care was introduced at all primary health care facilities at an estimated cost of R5,3bn. Drugs on the essential drugs list were also to be provided free of charge at such facilities. However, various health care organisations complained that the introduction of free primary health care was not adequately planned or budgeted for, resulting in severe overcrowding, shortages of supplies and poor working conditions at clinics.

A proposal was made by the Interim National Medical and Dental Council of South Africa to introduce two years of additional postgraduate training for medical practitioners, starting in 1998. The parliamentary portfolio committee on health referred the proposal back to the council for further research.

During the period under review several controversial issues dominated the health debate. In February 1996 it was revealed that the Department of Health had spent R14m provided by the European Union on an AIDS play without the necessary authorisation. An inquiry was launched by the public protector, who recommended that the play be scrapped.

This was followed by the passing of legislation to allow abortion on demand, after months of public debate between pro and anti-abortion lobbies. The legislation provided for legal abortions to be performed in the first 20 weeks of pregnancy under specified conditions.

KEY POINTS

- According to the Institute for Futures Research at the University of Stellenbosch, in the period 1991–96 coloured people had the highest infant mortality rate per 1000 live births (60,5) followed by Africans (59), Indians (34,1) and whites (19,3).
- A study by the South African Vitamin A Consultative Group, published in 1995, found that almost one in four children up to the age of six years was stunted and one in ten underweight. Some 660000 preschool children countrywide were believed to be malnourished and 1,5m stunted because of long-term malnutrition.
- According to the study, a third of children had a ‘marginal vitamin A status’, which was considered a ‘serious public health problem’, one in five children was anaemic and one in ten was iron depleted. The study found that in 1995 six out of ten children were fully immunised by their first birthday.
- According to the Department of Health, in 1994 some 95% of children had been immunised against TB, 73% had received three doses of vaccine against tetanus, 72% had received four doses of poliomyelitis vaccine, and 76% had been immunised against measles. In total, 63% of children were fully immunised by their first birthday.
- The South African Medical Research Council said that a new vaccine against diarrhoea would be licensed in 1997. The new vaccine could prevent 16% of deaths in children under five years of age if administered to babies younger than six months.
- Dr James McIntyre, a specialist gynaecologist at Baragwanath Hospital, said in January 1996 that AIDS figures provided by the Department of Health represented a ‘considerable underestimate’ of the true picture and that there were already likely to be between 40000 and 80 000 cases of AIDS in the country. (According to the Department of Health, by August 1995 there were officially 8405 cases of AIDS in South Africa.)
- The minister of health, Dr Nkosazana Zuma, said that a survey conducted on women attending antenatal clinics in 1995 showed that 10% were infected with HIV. Nearly 10% of teenage girls attending antenatal clinics tested HIV positive. The infection rate was believed to be doubling every 15–

18 months. This figure rose to 14% of women in 1996, an increase of 36% over 1995.

- The survey also showed that in 1995 KwaZulu-Natal had the highest HIV infection rate, 18,2%, followed by Mpumalanga, 16%.
- According to the Cancer Association of South Africa, in 1996 about 7m South Africans, a third of the adult population, smoked. Some 52% of adult men and 17% of women smoked.
- Between 1992 and 1995 the coloured population had the highest overall smoking rate (59%), followed by Indians (36%), whites (35%) and Africans (31%).
- The incidence rate of tuberculosis (TB) in 1995 was highest in the Western Cape (682 per 100000 people), followed by the Northern Cape (410). Mpumalanga (82) and the Northern Province (41) had the lowest incidence rates.
- In 1995 an estimated 140000 people in South Africa had TB—far more than the 5000 infected with malaria and the 3000 infected with measles—the two next most prevalent notifiable diseases, the Department of Health said.
- According to the Department of Health, in 1995 an estimated 23% of all TB cases were HIV positive, increasing to 27% in 1996.
- In 1994/95 the Western Cape had the highest per capita allocation of health funds (R579), followed by Gauteng (R514). The North West had the lowest (R249).
- Inspections carried out by the Medicines Control Council in 1996 revealed that more than 50% of dispensing doctors allowed untrained people to dispense medicines and 39% of doctors stored medicines incorrectly. In 27% of cases medicines did not have adequate labels and patients were given insufficient information regarding the use and expiry dates of medicines.
- In 1994, R6,6bn was spent on drugs in South Africa (or 22% of total health expenditure). Of this amount as much as R1,9bn (29%) was spent in the public sector.
- An estimated R500m to R1,2bn was lost annually in the public sector through the theft and wastage of drugs, according to the 1995 report of the Department of Health.
- According to Dr Zuma, in 1996/97 the projected expenditure on the provision of primary health care was R5,3bn and that on hospital services R9,3bn.
- In 1996 some 6,5m people (15%, of the population) including dependants were covered by medical aid schemes, according to the Representative Association of Medical Aid Schemes (Rams).

- The number of people seeking advice from the Gauteng family planning services increased from 1,3m in 1992/93 to more than 2,8m in 1994/95, according to the Gauteng MEC for health, Mr Amos Masondo.
- According to Dr Zuma, in 1993 some 36 000 incomplete abortions (ie residues of pregnancy surgically removed) had been reported by hospitals and some 42 000 in 1995.

HEALTH INDICATORS

Infant Mortality Rates

The infant mortality rate is defined as the number of live-born children who die before the age of one year per 1000 live births. Two differing sets of estimates of infant mortality rates were published during the year under review. According to a report by the **Institute for Futures Research** at the University of Stellenbosch published in 1996, in the period 1991–96 coloured people had the highest infant mortality rate (60,5), followed by Africans (59), Indians (34,1) and whites (19,3).

South Africa's infant mortality rate over the ten-year period from 1996 to 2006 was expected to decline by about 20%. The Indian infant mortality rate was expected to drop by 29%, while the infant mortality rates of coloured people, whites and Africans were expected to drop by 27%, 22% and 20% respectively. The following table shows the projected infant mortality rate from 1991 to 2026 according to race:¹ [¹ Institute for Futures Research, *Forecasts of the South African Population, 1991–2026*, University of Stellenbosch, 1996]

IFR — Estimated infant mortality rate^a by race: 1991–2026

1991–96

1996–01

2001–06

2006–11

2011–16

2016–21

2021–26

African

59,0

53,0

47,2

41,6

36,2

31,0

26,0

Asian

34,1

29,0

24,1

19,8

15,2

9,8

6,8

Coloured

60,5

52,2

44,2

36,4

29,1

22,3

16,1

White

19,3

17,1

15,0

12,0

9,8

8,2

6,8

South Africa

56,1

50,4

44,9

39,5

34,3

29,2

24,4

a

Number of deaths of infants under one year per 1 000 live births.

The bar chart below compares estimated infant mortality rates by race in 1996–2001 and

Gauteng (60) had the highest infant mortality rate for the period 1991–96, followed by the Northern Province (57) and the Eastern Cape (56). The Western Cape had the lowest rate (53). It was expected that in the 30-year period between 1996 and 2026, the infant mortality rate in the Western Cape would decline by 67%, while those of the Northern Cape and Gauteng would decline by 64% and 63% respectively. In the other provinces the infant mortality rates would drop by between 54% and 55%. The following table gives a breakdown of the estimated infant mortality rates in each province from 1991 to 2026:² [2 Ibid]

IFR — Estimated infant mortality rate^a by province: 1991–2026

1991–96

1996–2001

2001–06

2006–11

2011–16

2016–21

2021–26

Eastern Cape

56,3

50,8

45,4

40,1

34,9

30,0

25,3

Free State

54,6

49,3

44,2

39,1

34,1

29,3

24,8

Gauteng

60,3

53,8

47,6

41,2

34,9

28,6

22,3

KwaZulu-Natal

54,5

49,2

44,1

39,0

34,0

29,2

24,7

Mpumalanga

55,2

49,9

44,8

39,6

34,6

29,8

25,3

North West

55,7

50,3

45,0

39,8

34,8

30,0

25,4

Northern Cape

55,3

48,8

42,4

36,1

30,2

24,9

20,0

Northern Province

56,5

51,1

45,8

40,6

35,4

30,5

25,9

Western Cape

53,4

46,9

40,6

34,3

28,3

22,8

17,6

South Africa

56,1

50,4

44,9

39,5

34,3

29,2

24,4

a

Number of deaths of infants under one year per 1 000 live births.

In its projections of the infant mortality rate for Africans the **Development Bank of Southern Africa** (DBSA) based its calculations on two different scenarios. In scenario A the rate would decrease rapidly from 53 in 1990–95 to 15 in 2015–20 (ie by 72%). Crucial factors for scenario A would be an improvement in quality of life because of better housing, electricity, clean water and a drop in the unemployment rate. In scenario B general living conditions would not improve markedly and the infant mortality rate for Africans would not drop below 40 deaths per 1000 births—a drop of only 24% in the 30-year period. The following table provides a breakdown of infant mortality rates by race from 1990 to 2020 as estimated by

DBSA — Infant mortality ratea by race: 1990–2020

1990–95

1995–2000

2000–05

2005–10

2010–15

2015–20

African (A)^b

53,4

39,0

26,7

20,6

16,9

15,1

African (B)^c

53,4

49,5

46,7

43,9

41,7

40,8

Coloured

42,4

36,5

30,7

24,8

18,9

15,5

Indian

13,4

11,1

9,7

9,7

9,7

9,7

White

10,2

9,7

9,7

9,7

9,7

9,7

a

Number of deaths of infants under one year per 1 000 live births.

b

Scenario A — significant improvement in economic conditions among Africans owing to high economic growth rate and a well-integrated population development programme.

c

Scenario B — Continued high population growth rate and po

Diseases

Notifiable and Communicable Disease Statistics

The Department of Health provided the following figures on notifiable diseases (ie diseases which have to be reported to the Department of Health) in the nine provinces for 1995 and 1996 (note that the number of reported cases was generally lower than the actual number of cases, particularly malaria and tuberculosis):⁴ [⁴ Information provided by the Department of Health, 19 November 1996]

Not

Malaria

Measles

Meningococcal infection

Tetanus

1995

1996

1995

1996

1995

1996

1995

1996

Eastern Cape

10

4

1 371

89

36

0

4

0

Free State

39

34

329

519

13

1

6

1

Gauteng

275

808

1 391

642

37

75

2

0

KwaZulu-Natal

2 432

3 049

1 277

2 277

8

7

3

4

Mpumalanga

1 825

2 129

436

737

4

5

4

4

North West

163

43

338

267

4

11

4

0

Northern Cape

2

7

113

68

8

1

0

0

Northern Prov- ince

1

2

54

1

3

0

14

8

Western Cape

27

52

972

661

280

212

3

1

Outside South Africa^a

14

10

1

0

0

0

0

0

Total

5 996

9 127

6 777

6 569

393

312

40

18

Notifiable diseases on South Africa according to province:1995 and 1996 (continued)

Tuberculosis

Typhoid

Viral hepatitis

1995

1996

1995

1996

1995

1996

Eastern Cape

12 788

2 121

59

0

127

12

Free State

9 495

6 923

3

1

41

54

Gauteng

13 651

10 003

77

34

412

306

KwaZulu-Natal

10 220

6 610

167

50

136

168

Mpumalanga

2 475

1 690

244

132

65

63

North West

5 234

1 907

12

0

18

6

Northern Cape

3 174

1 260

5

0

38

31

Northern Province

2 529

1 412

179

134

176

81

Western Cape

24 823

17 324

6

10

493

400

Outside South Africa^a

13

16

1

0

1

1

Total

84 402

49 266

753

361

1 507

1 122

a

The source of infection was outside of the borders of South Africa but cases were reported in So

The number of malaria cases increased by 34% from 1995 to 1996. Tuberculosis (TB) accounted for the single largest number of cases of notifiable diseases in 1995 and 1996. Some 29% of TB cases in 1995 and 35% in 1996 were in the Western Cape.

The following table shows the number of notifiable diseases by race reported in 1995 and 1996:⁵ [5 Ibid]

Notifiable diseases in South Africa by race:1995 and 1996

Malaria

Measles

Meningococcal infection

Tetanus

1995

1996

1995

1996

1995

1996

1995

1996

African

5 493

8 514

5 167

5 528

123

114

37

14

Coloured

11

17

964

678

215

175

2

2

Indian

10

12

49

55

2

2

1

1

White

377

563

319

281

35

17

0

1

Race unknown

105

21

278

27

18

4

0

0

Total

5 996

9 127

6 777

6 569

393

312

Notifiable diseases in South Africa by race:1995 and 1996 (continued)

Tuberculosis

Typhoid

Viral hepatitis

1995

1996

1995

1996

1995

1996

African

57 337

34 423

711

336

514

330

Coloured

23 440

13 311

8

4

360

261

Indian

726

440

8

1

32

27

White

817

589

20

9

409

494

Race unknown

2 082

503

6

11

192

10

Total

84 402

49 266

753

361

1 507

1 122

The following pie charts give a proportional breakdown by race of reported cases of TB in 1995

The minister of health, Dr Nkosazana Zuma, said in June 1996 that in 1994 close to 17000 deaths had occurred countrywide from communicable diseases (ie contagious diseases)—most deaths occurred as a result of TB. Only an improved standard of living, which would include access to clean water, sanitation and proper nutrition, would curb the high fatality rate. Strategies to reduce deaths from communicable diseases included the national TB control programme, which aimed to improve the cure rate from about 75% to 85%. An efficient immunisation programme was in place to control diseases such as diphtheria, hepatitis B, measles, poliomyelitis (polio), tetanus and whooping cough. Dr Zuma said that the last case of polio in South Africa had occurred in 1989. In order to eradicate the disease and for the country to be certified poliofree by the World Health Organisation, a mass polio immunisation campaign had been conducted in 1995. Another campaign was to be conducted in August and September 1996. Malaria control was also receiving priority in affected areas of the country.⁶ [⁶ *Hansard* (NA:Q) 7 cols 1303–1304, 19 June 1996]

The director of communicable diseases at the Department of Health, Dr Neil Cameron, said in November 1996 that regulations governing the entry into South Africa of people who had infectious diseases would be tightened. This followed the death of a nurse who had contracted the Ebola virus while treating a patient from Gabon. Airline carriers which airlifted patients with infectious diseases would have to inform airport health authorities in advance of such patients and ascertain if the appropriate medical care was available in South Africa. Such patients would then be transferred to the Rietfontein Hospital in Gauteng (which specialised in tropical and infectious diseases) and nursed using barrier methods if they had a high fever. It was also decided that an association would be formed to help tighten health controls and screen patients.⁷ [⁷ *Business Day, The Citizen* 27 November 1996]

AIDS

According to the acting head of the HIV/AIDS and sexually transmitted diseases (STD) directorate, Dr Glaudine Mtshali, the implementation of many of the plans to combat AIDS had been delayed during

1996 by the restructuring of the national and provincial health departments.⁸ [⁸ *Mail and Guardian* 29 November 1996]

In 1996 the Department of Health commissioned a theatre production on AIDS called *Sarafina II*. The production was scrapped after several irregularities regarding its financing were revealed (see also *Irregularities in the health department* below). The parliamentary portfolio committee on health criticised the production in a report published in June 1996, saying that it had wasted ‘substantial resources and departmental time’ which could have been used more productively on targeting the high-risk groups identified by the department.

Policy

It was reported in February 1996 that the government had not yet taken a decision on whether or not to screen pregnant women for the human immuno-deficiency virus (HIV). Although research showed that steps taken during and after pregnancy could reduce the risk of mothers transmitting the virus to their babies, the government allegedly lacked the resources to implement them. Routine testing for pregnant women would also require counselling and follow-up procedures which the ‘overloaded, cash-strapped health system’ was unable to offer. At the time of writing some hospitals, particularly academic hospitals, did routine testing for HIV while others had stopped testing until broad policy decisions had been taken. According to Ms Liz Floyd, Gauteng director of health promotion, there was no national policy on the issue and provinces were struggling with this ‘controversial policy area’.¹⁰ [¹⁰ *Mail and Guardian* 9 February 1996] Ms Rose Smart, the director of the HIV/AIDS and STD directorate, said in March 1997 that the department was developing guidelines on the screening of pregnant women for HIV/AIDS.¹¹ [¹¹ Personal communication with Ms Rose Smart, director of HIV/AIDS and STD directorate, Department of Health, 4 March 1997]

The programme director of the HIV/AIDS and STD directorate, Dr Quarraisha Abdool Karim, said earlier, in January 1996, that the fight against AIDS comprised five strategies:¹² [¹² *Business Day* 17 January 1996]

- sex education at schools;
- mass media campaigns in major cities and ‘AIDS taxis’—ie minibus taxis which distributed information on AIDS and free condoms;
- condom distribution;
- improvement of STD clinics; and
- the preparation of people to provide care for people with AIDS from the hospital to the home.

In February 1996 the female condom was introduced at clinics. Nurses had been trained to promote its use. However, Dr Abdool Karim said that many provinces did not yet have the necessary structures in place and in some provinces there were only one or two people running the AIDS programme. It was therefore largely the responsibility of the national department to implement the programme in the provinces.¹³ [¹³ Ibid]

A special working group investigating health care in South African jails, consisting of prison health officers and health care professionals, recommended in March 1996 that condoms be distributed to all prisoners and that prisoners with HIV or AIDS should no longer be segregated from other prisoners. The group also recommended that prison staff and prisoners be educated in the management of HIV/AIDS, that psychological counselling be provided to HIV positive prisoners and that prisoners' HIV/AIDS status be kept confidential.¹⁴ [¹⁴ *Mail and Guardian* 1 March 1996]

The AIDS Law Project, which formed part of the Centre for Applied Legal Studies at the University of the Witwatersrand (Wits), said in the same month that a prisoner who had contracted the HIV virus in prison after prison staff had refused to give him condoms was to sue the minister of correctional services, Dr Sipo Mzimela. The head of the project, Mr Zackie Achmat, said that the minister's condoms policy was 'directly responsible for the spread of HIV' and that the department's HIV policy violated prisoners' human rights.¹⁵ [¹⁵ *The Citizen* 13 March 1996] The chairman of the parliamentary correctional services committee, Mr Carl Niehaus, confirmed in May 1996 that the legal case was in a preparatory stage and that the prisoner would be represented by the AIDS Legal Network and the Legal Resources Centre at Wits.¹⁶ [¹⁶ *The Natal Witness* 13 May 1996]

Dr Mzimela subsequently announced in the same month that condoms would be distributed freely to prisoners. Prison inmates with HIV/AIDS would no longer be segregated at night.¹⁷ [¹⁷ *Business Day* 17 May 1996] However, Mr Niehaus warned against issuing condoms without educating prisoners and prison staff about the dangers of HIV infection and AIDS. Mr Niehaus said that if the preparations for the programme were not done properly the distribution of condoms could be more harmful than helpful.¹⁸ [¹⁸ *The Citizen* 19 June 1996]

In August 1996 Mr Niehaus called for an immediate end to the practice of pre-employment HIV testing in the Department of Correctional Services. Dr Mzimela had said earlier that testing was necessary to ensure the safe custody of prisoners. However, Mr Niehaus said that it 'affronted the spirit' of the bill of rights and violated the national AIDS plan and the Labour Relations Act of 1995. The testing policy was to be reviewed by the cabinet.¹⁹ [¹⁹ *Business Day* 22 August 1996]

In April 1996 the South African Police Service (SAPS) announced that it would end testing of applicants for jobs for HIV before accepting them permanently into the service. The decision was announced after 400 applicants who had been rejected on the grounds of their HIV status threatened to take legal action. Previously such people could be employed in a temporary capacity only. The new head of the AIDS

Law Project at Wits, Mr Mark Heywood, welcomed the decision by the SAPS and said that the next task would be to ‘tackle the South African National Defence Force’ which still followed a policy of preemployment HIV testing.²⁰ [²⁰ Ibid 4 April 1996, *Sunday Tribune* 7 May 1996]

In the same month the South African Law Commission said that it was drawing up final recommendations to the government on law reform relating to HIV and AIDS issues. In a working paper published in 1995 by the South African Law Commission it was suggested that unfair discrimination against a person on the grounds of being HIV positive should be prohibited. It proposed further that HIV testing should not be a prerequisite for admission to schools or for continued school attendance. An employee should also not be obliged to inform his or her employer of HIV infection. Comments received on the report reflected ‘major differences of opinion between interest groups’ and a project committee had therefore been appointed to assist the commission. In March 1997 the government announced that all screening for HIV/AIDS as a prerequisite for employment in government departments would be abolished with immediate effect.²¹ [²¹ *Business Day*, *The Citizen* 16 August 1996; *The Citizen*, *The Star* 26 March 1997]

In June 1996 Dr Zuma said in Parliament that a life skills programme, which included an HIV/AIDS component, had been developed jointly with the Department of Education. The programme had been included in the core curriculum for standards 5–7 in 1996. It would be introduced in the other standards at the beginning of 1997.²² [²² *Hansard* (NA) 8 col 2189, 4 June 1996]

Statistics

The following table shows the number of reported cases of AIDS from 1990 to July 1996 according to province.²³ [²³ Information provided by the Department of Health, 9 October 1996]

Reported cases of AIDS according to province: 1990 to July 1996

1990

1991

1992

1993

1994

1995

1996^a

Total

Eastern Cape

10

32

70

148

271

164

0

695

Free State

8

39

45

61

421

534

0

1108

Gauteng

118

153

253

174

82

11

0

791

KwaZulu-Natal

141

177

366

911

2 015

1 587

3

5200

Mpumalanga

9

65

40

121

194

109

0

538

North West

3

5

16

79

275

637

4

1 019

Northern Cape

3

10

10

64

108

92

7

294

Northern Province

5

2

7

128

229

102

0

473

Western Cape

39

44

63

86

85

70

0
387
Total
336
527
870
1 772
3 680
3 306
14
10 505
a

To July 1996.

According to Ms Ronel Swanevelder of the Department of Health, the above table did not accurately reflect the extent of the AIDS epidemic because notification of the disease was done on a voluntary basis only. Furthermore, in 1996 most of the provinces failed to submit any figures on AIDS to the national department. The failure of provinces to report cases was largely the result of internal restructuring and a shortage of personnel in most of the provincial health departments.²⁴ [²⁴ Personal communication with Ms Ronel Swanevelder, Department of Health, 11 October 1996]

The following table shows the total number of reported AIDS cases by mode of transmission and race from 1982 to J

Reported cases of AIDS by race and mode of transmission: 1982 to July 1996

African

Coloured

Indian

White

Race unknown

Total

Blood transfusion

14

2

0

18

0

34

Haemophiliac

5

1

0

18

0

24

Heterosexual

6 302

251

11

54

24

6 642

Homo/bisexual

108

34

4

409

3

558

IVDU^a

1

0

0

2

0

3

Mother to child

1 068

19

1

1

5

1 094

Unknown

2 395

69

3

17

24

2 508

Total

9 893

376

19

519

56

10 863

a

Intravenous drug

The following pie chart shows the main modes of transmission of AIDS between 1982 and 1996:

In keeping with past trends, some 91% of reported AIDS cases to July 1996 involved Africans. Some 5% of cases involved whites, 3% coloured people and 0,2% Indians. Among Africans, 64% of cases were transmitted by heterosexual contact while 79% of cases among whites were caused by homosexual or bisexual contact. The disease was evenly spread between men and women. Heterosexual contact caused 61% of AIDS transmissions, while in 10% of cases the disease was transmitted from mother to child.

Writing in the *South African Medical Journal* in January 1996 Dr James McIntyre, senior specialist gynaecologist at Baragwanath Hospital's maternity unit, said that because AIDS was not a notifiable disease the AIDS statistics supplied by the Department of Health represented a 'considerable underestimate' of the true picture. According to the department, by August 1995 there were officially 8 405 cases of AIDS in South Africa. However, Dr McIntyre estimated that the 'true number of South African AIDS cases' was likely to be between 40000 and 80000.²⁶ [²⁶ *South African Medical Journal*, January 1996]

Dr Zuma said in May 1996 that the latest survey, conducted in 1995, on women attending antenatal clinics showed that 10,4% of women across the country had been infected with HIV. Nearly 10% of teenage girls attending antenatal clinics tested HIV positive. The survey showed that the highest rate of infection occurred in the 20–24 year age group, where 13,1% of women tested HIV positive. According to Dr Zuma, the infection rate doubled every 15–18 months.²⁷ [²⁷ *Business Day* 9, 21 May 1996; *Daily Dispatch* 15 May 1996]

According to the Department of Health, the proportions of women attending antenatal clinics who were infected with HIV in 1994 and 1995 were as follows:²⁸ [²⁸ Information provided by the Department of Health, 23 July 1996]

HIV-infection rates of women attending antenatal clinics: 1994 and 1995

1994

1995

Rate increase

Eastern Cape

4,5%

6,0%

33,3%

Free State

9,2%

11,0%

19,6%

Gauteng

6,4%

12,0%

87,5%

KwaZulu-Natal

14,4%

18,2%

26,4%

Mpumalanga

12,2%

16,2%

32,8%

North West

6,7%

8,3%

23,9%

Northern Cape

1,8%

5,3%

194,4%

Northern Province

3,0%

4,9%

63,3%

Western Cape

1,2%

1,7%

41,7%

South Africa

7,6%

10,4%

36,8%

The department said that from the results of the antenatal surveys it was estimated that some 1,8m people in the country were infected with HIV by the end of 1995 (compared with 1,1m by the end of

1994). The department had responded to the increase in infection by raising the HIV/AIDS budget from R20m in 1994/95 to R95m in 1995/96, Dr Zuma said.²⁹ [²⁹ *Business Day* 9, 21 May 1996; *Daily Dispatch* 15 May 1996; information provided by the Department of Health, 23 July 1996]

However, the head of the AIDS Law Project, Mr Zackie Achmat, said in March 1996 that up to 2m South Africans could be HIV positive. He also said that the doubling time for the disease was 5–12 months, which meant that by 1997 some 4m people would be HIV positive. Between 12% and 16% of the sexually active population was currently i

Projections

A study on the effect of AIDS on KwaZulu-Natal, conducted by the Economic Research Unit at the University of Natal and published in January 1996, found that the epidemic would have a severe impact on the province. The study revealed that the population growth rate in the province would slow down considerably. Without the AIDS epidemic the population would have reached 14,4m by 2016 but with the AIDS epidemic it would increase to only 10,4m (some 28% less). AIDS would also cause a rise in the under-five-year mortality rate and in the mortality rate in the 25–40-year age group, which would reduce the size of the labour force. There would be a significant increase in the demand for health and social services—particularly in the care of orphans. The report estimated that by 2000 there would be up to 250000 AIDS orphans in KwaZulu-Natal. The increase in AIDS would lead to hospital beds being filled with people with AIDS.³¹ [³¹ A Whiteside et al, *The Impact of HIV/AIDS on Planning Issues in KwaZulu-Natal*, Town and Regional Planning Supplementary Report, 1995]

The report said further that many households in KwaZulu-Natal would face financial difficulty as income earners fell ill and died. This would affect their ability to pay for a range of services from housing bonds to water and electricity. The increase in mortality would also result in a more rapid uptake of land for cemeteries. The increased number of funerals (estimated to be three times higher than without the epidemic) would result in greater economic loss as workers took time off work to attend funerals. The report projected that by 2000 some 76000 people in the province would be dying annually from causes other than AIDS, but with the epidemic, deaths would rise to 199000.

Education in KwaZulu-Natal would also be affected as the number of schoolgoing pupils would grow at a slower rate. However, the report noted that there was such a backlog in educational facilities that school planning and construction should continue. Evidence suggested that the best care for people with AIDS was symptomatic management of the disease at primary care level. Hospitalisation of such patients would be ‘unaffordable and unrealistic’. The most cost-effective care for patients who were terminally ill could be provided by the hospice movement, according to the report.³² [³² *Ibid*]

Dr McIntyre said in January 1996 that the highest prevalence rate of HIV would occur among women between 20 and 25 years of age. By 2010 the AIDS epidemic was expected to create between 65 000 and 137 000 orphans in Soweto alone. Unless the epidemic could be ‘turned around’ expenditure on HIV/AIDS could take up at least a third and possibly as much as 75% of the health budget within the

next decade, he added.³³ [³³ *Eastern Province Herald* 22 January 1996]

The World Bank said in February 1996 in a draft report that one in five adults in South Africa would be infected with HIV by 2005, with 500 new infections occurring daily by that year. Economic growth would be affected as 1% of gross national product would be lost and direct health costs would consume up to 75% of the total health budget. According to the report, the effect of the epidemic on savings throughout southern Africa would be sufficient to reduce per capita growth by as much as 0,5% annually. Most countries could expect a doubling of present infant mortality rates and a tripling of adult mortality rates by the end of the century.³⁴ [³⁴ *Business Day* 14 February 1996]

In October 1996 Dr Clive Evian, director of the Alexander Forbes AIDS Consulting and Support Unit, said that 2000 people were being infected daily with HIV. Figures extrapolated from the Department of Health's testing at antenatal clinics showed that the current number of people infected with HIV was likely to be 2,4m. In 30 months' time the figure would probably double to 4,8m, according to Dr Evian. South Africa could expect to accumulate between 5m and 7m HIV infections and about 1,5m cases of AIDS by 2005, since the rate of new infections was likely to slow down as people became more aware of the disease.³⁵ [³⁵ *The Star* 28 October 1996] (Mr Clem Sunter, chairman of corporate affairs at the Anglo American Corporation of South Africa also provided projections of HIV/AIDS cases in South Africa—see chapter on *Population*.)

Assurance and Insurance

The managing director of the Pride Group (an independent financial services company), Mr Bryan Hirsch, said in January 1996 that insurers had faced a 37% increase in AIDS claims in 1995. Mr Hirsch said that costs related to AIDS would have a significant impact on final retirement values of investments over 20 years or more and many workers would be 'in for a shock when nest-eggs turned out to be much smaller than anticipated'.³⁶ [³⁶ *Ibid* 15 January 1996] According to Mr Chris Bosenberg, Sanlam group benefits chief consultant, costs to the retirement industry for AIDS related medical and death benefits would double over the next five years.³⁷ [³⁷ *The Citizen, Sowetan* 28 May 1996; *The Citizen* 26 June 1996]

In March 1996 Metropolitan Life launched a life cover plan called Inclusive Life Policy for HIV positive people. The company said that it hoped to attract between 3500 and 4000 new clients. Although the cover offered was not as comprehensive and premiums were higher than those offered to HIV negative people, the AIDS Consortium, an umbrella body representing all organisations involved in HIV/AIDS at the University of the Witwatersrand, said that it was an 'affordable, meaningful and transparent policy'. To qualify for the policy people had to be reasonably healthy—either in stage one or two of the infection as defined by the World Health Organisation.³⁸ [³⁸ *The Star* 22 March 1996]

Southern Life said in June 1996 that it had declined 1263 insurance policy claims owing to AIDS/HIV in the financial year ended 31st March 1996—an increase of 35% over figures for the previous year. According to Southern Life, 2,3% of its life assurance applications were made by HIV positive people.³⁹

[39 *Sowetan* 24 June 1996]

According to Mercantile and General Reinsurance, which collated AIDS figures for the life assurance industry, there had been a 24% increase in AIDS-related claims in the first six months of 1996 compared with the same period in 1995. However, according to Mr Peter Doyle of Metropolitan Life, the actual number of AIDS-related life assurance claims could be much higher as AIDS was not a notifiable disease and many deaths were reported as a result of associated diseases (see Tuberculosis below).⁴⁰ [40 *Saturday Star* 19 October 1996]

Treatment

Dr Zuma said in November 1996 that the Department of Health would not consider subsidising a new 'cocktail therapy' for people with AIDS. The cost of the treatment amounted to R4000 per person per month and had to be taken for life. The treatment was not a vaccine and would therefore not influence the number of new infections occurring daily. In the light of other health issues which needed to be addressed it was 'not likely that the department would prioritise the treatment', Dr Zuma said. Experts warned that the annual cost of the treatment would be around R50000 per person and, taking into account the number of infected people, the cost could exceed two thirds of the national health budget.⁴¹ [41 *The Star* 12 November 1996]

Alcoholism and Drug Abuse

According to the Department of Welfare, in 1995 there were an estimated 64000 drug abusers and 1,5m alcoholics in South Africa. Most drug abusers (55000) used cannabis. In 1995 some 29000 drug and alcohol abusers received treatment or rehabilitation services. Large increases in the use of heroin and cocaine were reported during 1995, particularly in Gauteng, KwaZulu-Natal and the Western Cape. The drug 'ecstasy' was also rapidly increasing in popularity.⁴² [42 Department of Welfare, *Annual Reports Questionnaire for 1995: Drug Abuse*, 1996]

Cancer

At the time of writing no recent statistics on cancer from the Department of Health were available. According to the Cancer Association of South Africa (Cansa), by 2000 an estimated 70000 South Africans would die annually of cancer. Between 80% and 90% of all cancers were said to be caused by external factors such as the environment, diet, lifestyle and smoking, rather than by inherited factors.⁴³ [43 *The Argus* 22 February 1996] Cansa said that cervical cancer was one of the most common forms of cancer affecting women and the most common cause of cancer deaths among women. Some 36% of cancer cases among African women were cervical cancer, compared with 22% in coloured women and 3% in white women. However, the Department of Health had no national screening policy for cervical cancer in place.⁴⁴ [44 *Ibid*]

Chronic Diseases of Lifestyle

A report entitled *Chronic Diseases of Lifestyle in South Africa* was published by the South African Medical Research Council (MRC) in 1996. The report said that some 40% of South Africans in the economically active age group of 24–64 years died from ‘chronic diseases of lifestyle’ (CDL), which included among others cerebrovascular diseases, ischaemic heart disease, lung diseases, and nutrition and tobacco-related cancers. The report said that these diseases resulted from things such as smoking, lack of exercise, and inadequate diet. The report estimated that 38% of 15-year-old men and 25% of 15-year-old women could expect to die from CDL before the age of 60. All races were affected by CDL—urban Africans and coloured people tended to die as a result of strokes, while ischaemic heart disease caused most deaths among whites and Indians.⁴⁵ [⁴⁵ *South African Medical Journal*, April 1996]

Malaria

In 1996, 29160 cases of malaria were reported in South Africa, an increase of 214% over 1995 (based on preliminary figures). In 1996, 158 people died from the disease (an increase of 732% over the previous year). Most cases were reported in Mpumalanga (43%), KwaZulu-Natal (36%) and the Northern Province (17%).⁴⁶ [⁴⁶ Information provided by the Department of Health, 26 March 1997] According to the *South African Health Review*, the number of malaria cases in South Africa had risen steadily in the 1980s and the 1990s, particularly in the low altitude areas of KwaZulu-Natal, Mpumalanga and the Northern Province. The review noted that some 38% of all malaria cases reported between 1987 and 1990 were classified as imported from neighbouring countries. It was therefore necessary that control measures be taken in collaboration with neighbouring countries.⁴⁷ [⁴⁷ Department of Health, *Epidemiological Comments*, 1 October 1996; Health Systems Trust and Henry J Kaiser Family Foundation, *South African Health Review 1996*, 1996]

The Department of Health said in March 1996 that the number of malaria cases had increased sharply since the beginning of the year. The increase was attributed to high rainfall in the malaria areas of KwaZulu-Natal, Mpumalanga and the Northern Province.

Malnutrition

In 1995 the South African Vitamin A Consultative Group published the findings of a study which found that almost one in four children surveyed was stunted and one in ten underweight. If the findings were extrapolated to the whole population some 660 000 preschool children were likely to be malnourished and 1.5m stunted because of long-term malnutrition. Stunting was found to be more prevalent in rural than in urban communities, in children living in traditional or informal housing, and in those whose mothers were less educated. One in five children was anaemic and one in ten was iron depleted. Anaemia and poor iron status were more prevalent in urban areas, and children in the 6–23 month age group were the most severely affected.⁴⁸ [⁴⁸ South African Vitamin A Consultative Group, *Children aged 6 to 71 months in South Africa, 1994: Their anthropometric, vitamin A, iron and immunisation coverage status*, 1995]

Measles

In 1995, 6777 cases of measles were reported in South Africa, the highest number of cases reported after tuberculosis. This represented an increase of 100% over 1994 (3390 cases). Most of the cases were reported among Africans (76%) and coloured people (14%). The incidence rate per 100000 population in 1995 was, however, higher for coloured people (17) than for Africans (12). The national incidence rate was 12 per 100000 population. Children under one year of age were most affected by the disease (with an incidence rate of 56), followed by children between one and four years of age (41).⁴⁹ [49 Health Systems Trust and Henry J Kaiser Family Foundation, *South African Health Review 1996*, 1996; 1995/96 *Survey*, p206]

Mental Illness

About 19% of children and adolescents in informal settlements in Khayelitsha (Cape Town) had diagnosable psychiatric disorders, according to a study published by the South African Medical Research Council (MRC) in 1996. Those included depressive, antisocial and anxiety disorders. More children suffered from such disorders in unserviced areas without shacks, running water or sanitation. The study highlighted the need for mental health services in informal settlements. The report found that more families needed psychiatric help (29%) than needed food (24%).⁵⁰ [50 *Cape Times* 5 June 1996]

Tobacco-Related Diseases

According to a study by the MRC conducted in November 1996, 'unacceptably' high smoking rates in the Western Cape were reflected in the highest incidence of tobacco-related deaths in the country (20% of adult deaths in the province). The Northern Cape and the North West also had high smoking rates. The high smoking rates in the Northern and Western Cape could possibly be ascribed to the rapid increase in the smoking rates of their coloured populations. The implications of these high smoking rates had already been reflected in a 100% increase in the lung cancer mortality rate among coloured men and a 300% increase among coloured women over the past two decades in the Western Cape, the study claimed.⁵¹ [51 *South African Medical Journal*, November 1996]

The MRC study found that 34% of adults smoked (52% of men and 17% of women), and that the total number of smokers had been increasing by 1% a year since 1992. In 1995 the coloured population had the highest overall smoking rate (59%), followed by Indians (36%), whites (35%) and Africans (31%). Of the provinces, the Northern Cape had the highest smoking rate (55% of adults), followed by the Western Cape (48%) and the North West (46%). The following table shows the proportion of adults who smoked by race in each of the provinces in 1995.⁵² [52 *Ibid*]

Proportion of adults who smoke by province and race: 1995^a

African

Coloured

Indian

White

Total

Eastern Cape

30%

24%

—

24%

29%

Free State

40%

65%

—

34%

40%

Gauteng

35%

70%

12%

38%

37%

KwaZulu-Natal

32%

58%

38%

24%

33%

Mpumalanga

23%

43%

56%

23%

23%

North West

45%

43%

—

54%

46%

Northern Cape

50%

68%

38%

32%

55%

Northern Province

13%

—

—

40%

14%

Western Cape

23%

61%

—

37%

48%

South Africa

31%

59%

36%

35%

34%

a

A dash indicates the absence of significant numbers of that particular race in the province.

In January 1996 a study aimed at determining the health risks of smoking in South Africa was launched by the National Cancer Registry of the South African Institute for Medical Research. The registry said that two questions related to smoking would be included on death certificates in Gauteng and the Western Cape and would be answered by the deceased's next-of-kin or an acquaintance. The first results would be analysed when 100000 death certificates with the necessary information had been obtained. The project aimed to analyse 300000 death certificates over a three to five-year period to establish the links between tobacco, specific diseases and m

Cansa said in February 1996 that the government should compel the tobacco industry to reduce the tar and nicotine content of cigarettes in order to limit the damage to health. At present there is no legal limit on tar and nicotine in cigarettes. Cansa said that South Africa was still 'lagging behind other countries in the control of tobacco' and called for more 'stringent' action from Parliament. A national tobacco control programme should be established to conduct mass media and education programmes, while the government should declare its 'commitment to control and counter the commercial interests of the tobacco industry'. The tobacco industry should be prevented from developing new markets among groups currently enjoying low smoking rates, such as young people and adult Indian and African women. According to Cansa, about 7m South Africans (a third of the adult population) smoked. The majority of smokers were male. Almost half of South African households had smokers, which meant that millions of nonsmokers were exposed to the risks of passive smoking.⁵⁴ [⁵⁴ Ibid 21 February 1996, *The Argus* 22 February 1996]

Tuberculosis

According to the Department of Health, the incidence rate of tuberculosis (TB) increased by 6% between 1995 and 1996, from 340 to 362 cases per 100000 population. The estimated number of TB cases increased from some 141000 in 1995 to 159000 in 1996 (by 13%). (The department said that the number of reported cases—80000 in 1995—was far below the estimated number of cases of TB.) In 1995 an estimated 23% of all TB cases were HIV positive, increasing to 27% in 1996. The table below details the estimated incidence rate, the number of cases of TB and the proportion that were HIV positive by province in 1995 and 1996.⁵⁵ [⁵⁵ Information provided by Ms Courtenay Singer, Department of Health, 27 February 1997]

Estimated TB cases in South Africa: 1995 and 1996

TB incidence rate^a

TB cases

Proportion of cases HIV positive

1995

1996

1995

1996

1995

1996

Eastern Cape

460

504

30 466

34 371

15,8%

20,4%

Free State

254

282

7 361

8 272

27,5%

32,1%

Gauteng

341

375

23 996

26 378

20,6%

25,2%

KwaZulu-Natal

339

381

29 469

34 178

40,4%

45,0%

Mpumalanga

257

286

7 448

8 716

34,9%

39,5%

North West

246

271

8 145

9 557

21,3%

25,9%

Northern Cape

312

340

2 583

2 675

9,0%

13,6%

Northern Province

237

260

12 753

13 927

12,1%

16,7%

Western Cape

511

559

19 035

20 615

7,4%

12,0%

South Africa

340

362

141 255

158 689

23,4%

27,0%

a

Cases per 100 000 population.

The TB incidence rate in the Western Cape was one-and-a-half times the national rate in 1996. However, only 12% of TB cases in the Western Cape were HIV positive, compared with 45% in K

The following bar chart shows the incidence rate of TB in 1995 and 1996 by province:

Coloured people had the highest incidence rate of TB (612 per 100000 population), followed by Africans (159), Indians (64) and whites (14).⁵⁶ [⁵⁶ Health Systems Trust and Henry J Kaiser Family Foundation, *South African Health Review 1996*, 1996]

According to the director general of health, Dr Olive Shisana, a study of TB by the department and the World Health Organisation revealed that South Africa had the worst TB epidemic out of 150 countries investigated. TB accounted for more than 80% of all communicable diseases notified to the department. Some 2000 of those infected had contracted a multidrug-resistant TB, a strain which killed almost 80% of its victims. Another 20% of cases were attributed to HIV infection as the increase in HIV accelerated the speed of TB infection within communities. The study noted that TB killed more South Africans than AIDS, malaria, measles and murder combined. Dr Shisana expected the annual number of TB cases reported to double within the next ten years to more than 200000. If current trends continued, some 3,5m people would become infected with TB by 2006, according to Dr Zuma.⁵⁷ [⁵⁷ Press release by Dr Nkosazana Zuma, *Tuberculosis (TB) National Health Priority*, 7 November 1996] Multidrugresistant TB, for which there was 'virtually no cure' would increase to 'frightening new levels' if action was not taken immediately.⁵⁸ [⁵⁸ *The Citizen* 25 June 1996; *Business Day*, *The Star* 26 June 1996; information provided by Dr Harry Hausler, Department of Health, 11 February 1997]

The chairman of the Western Cape South African National Tuberculosis Association (Santa), Dr Dave Perkins, said that a major reason for the high TB figures was poor TB control programmes. Control programmes could be improved by providing more education, improving staff attitudes, particularly those of nurses, and providing more clinics for vaccinating patients. Dr Perkins pointed out that many infected people discontinued their medication prematurely when they no longer experienced the symptoms of TB. However, they were not yet free of the infection and needed to complete their treatment.⁵⁹ [⁵⁹ *The Argus* 16 March 1996] The *South African Health Review* noted that factors contributing to the high TB figures included the emergence of multidrug-resistant TB; poor socio-economic circumstances such as drought and poor living conditions; and the increase in HIV infection. The development of both TB and AIDS were enhanced in people infected with TB and HIV, according to the review (see also *AIDS* above).⁶⁰ [⁶⁰ Health Systems Trust and Henry J Kaiser Family Foundation, *South African Health Review 1996*, 1996]

The national director of communicable disease control of the Department of Health, Dr Neil Cameron, said in March 1996 that the TB control programme in South Africa was being refocused to improve the

rate of cure at the first treatment of symptoms. The new programme was to introduce a TB clinic register to all clinics which implemented TB treatment in the country to measure the patient's course of treatment and outcome accurately. The new strategy included a 'directly observed treatment shortcourse' or 'Dots', whereby health workers would observe a patient taking doses of medicine.⁶¹ [⁶¹ *South African Medical Journal*, February 1996] The new programme also included the formation of a Southern African TB Control Initiative with ten other southern African countries to facilitate co-operation in training, cross-border follow-up, drug procurement, peer review, programme management and research.⁶² [⁶² *Ibid* March 1996]

Glaxo Wellcome (a pharmaceutical manufacturer) said in March 1996 that it was investing R60m over five years in a search for new drugs to treat TB in collaboration with the MRC and academic institutions in the United Kingdom and Canada.⁶³ [⁶³ *Chasa*, January/March 1996; *The Star* 22 March 1996]

The Department of Health announced in November 1996 that it had declared TB to be South Africa's top health priority, because more people died of it than from all other communicable diseases.⁶⁴ [⁶⁴ *The Citizen* 8 November 1996] The department said that it would intensify efforts to treat TB patients and to find the most cost-effective way of implementing the national TB control programme, 'Dots'. According to Dr Zuma, the new programme would prevent 1,7m cases of TB and 50000 deaths, and would save some R2bn over the next ten years. The goal was to cure 85% of new smear positive cases by 2000.⁶⁵ [⁶⁵ *The Star* 8 November 1996; press release by Dr Zuma, *Tuberculosis: National Health Priority*, 7 November 1996]

Typhoid Fever

The number of typhoid cases reported dropped by 9% from 1994 to 1995, to 753. The incidence rate dropped from 17 per 100000 population in 1985 to two in 1994. It was concentrated among Africans, particularly those residing in underserved areas, where there were no clean water supplies or adequate sanitation. In 1995 the incidence rate per 100000 population was two among Africans, 0,8 among Indians, 0,4 among whites and 0,2 among coloured people. The more rural provinces had high incidence rates. Mpumalanga's incidence rate was eight per 100000 population and the Northern Province's was 3,4.⁶⁶ [⁶⁶ Department of Health, *Epidemiological Comments*, October 1996] It was therefore necessary to continue monitoring the disease and to improve infrastructure in the affected areas, according to the *South African Health Review*.⁶⁷ [⁶⁷ Health Systems Trust and Henry J Kaiser Family Foundation, *South African Health Review 1996*, 1996; 1995/96 *Survey*, p207]

HEALTH RESOURCES

Finance

According to the 1996 *Budget Review*, an estimated 23% of the population was covered by medical

insurance or had access to health care at the workplace. Total health expenditure in the public and private sectors was estimated at 8,5% of gross domestic product, which was higher than health expenditure in comparable developing countries. The *Budget Review* noted that inpatient and outpatient care at hospitals accounted for 75% of national and provincial health expenditure, of which more than 50% went to academic and tertiary referral institutions located in five major metropolitan centres.⁶⁸ [68 Department of Finance, *Budget Review*, 13 March 1996]

The National Budget

In 1996/97 a total amount of R17,2bn was allocated to health. The 1996/97 health budget represented a nominal increase of 11,7% over the 1995/96 budget of R14,4bn, and a real increase of 2,6%.⁶⁹ [69 Republic of South Africa, Estimate of Expenditure to be Defrayed from the National Revenue Account during the Financial Year ending 31 March 1997]

An amount of R712m was allocated to the national Department of Health in 1996/97, a decline of some 67% on the R1,19bn allocated the previous year. The substantial reduction was attributed to budgetary restructuring associated with the allocation of more functions to the provinces.⁷⁰ [70 Department of Finance, *Budget Review*, 13 March 1996] The amount allocated to the national department included R310m for improvements to capital equipment, to be distributed to the provinces on the basis of a national audit of facilities which was being undertaken. (Most expenditure on health took place at provincial level.)⁷¹ [71 Republic of South Africa, *Estimate of Expenditure to be Defrayed from the National Revenue Account during the Financial Year ending 31 March 1997*]

In 1997/98 altogether R20,2bn was allocated to health, representing 10,7% of total government expenditure (up from 10,4% in 1996/97) and 3,3% of gross domestic product (GDP) (the same as in 1996/97). (In 1995 the United States spent approximately 14% of GDP on health, while countries such as Austria, France, Germany and Canada spent in the region of 10%. Britain spent some 7% of GDP on health. The average expenditure on health in the developing countries was 0,9% of GDP, as opposed to 5,6% in industrialised countries.)⁷² [72 *The Economist*, 15 March 1997; budget speech by the minister of finance, 12 March 1997] Health received the second highest allocation, after education, in the consolidated national and provincial budget in both 1996/97 and 1997/98.)⁷³ [73 Department of Finance, *Budget Review*, 1997]

Allocation of Expenditure to Provinces

According to the parliamentary portfolio committee on health, over the previous three years there had been 'significant movements' of funds for health to previously underfunded provinces. The overall real increase for the core health services (such as primary health care, hospitals, emergency services and nurse training) between 1995/96 and 1996/97 was 0,9% (including the allocation to the national Department of Health).⁷⁴ [74 National Assembly Portfolio Committee on Health, *Report on the 1996/97 Health Budget Vote*, 4 June 1996]

The following table shows allocations by central government for health to the provinces for 1994/95, 1995/96 and 1996/97 at constant 1995 prices:⁷⁵ [⁷⁵ Ibid]

Central government allocations to the provinces for health: 1994/95–1996/97^a

1994/95

——*1995/96*——

——*1996/97*——

Rm

Rm

Real increase/ (decrease)

Rm

Real increase/ (decrease)

Eastern Cape

1 938,8

1 974,2

1,8%

2 230,3

13,0%

Free State

1 123,4

1 064,9

(5,2%)

1 117,1

4,9%

Gauteng

3 730,6

3 342,2

(10,4%)

3 437, 0

2,8%

KwaZulu-Natal

2 890,2

3 097,2

7,2%

2 814,0

(9,1%)

Mpumalanga

524,9

576,0

9,7%

698,8

21,3%

North West

883,1

917,7

3,9%

1 003,8

9,4%

Northern Cape

203,2

267,2

31,5%

260,4

(2,6%)

Northern Province

1 148,5

1 444,4

25,8%

1 404,1

(2,8%)

Western Cape

2 221,7

2 053,4

(7,6%)

1 956,7

(4,7%)

South Africa

354,5

348,6

(1,7%)

300,6

(13,8%)

Total

15 019,0

15 085,8

0,4%

15 222,8

0,9%

a

At constant 1995 prices.

Between 1994/95 and 1996/97 the health budget allocation to the Western Cape dropped the most in real terms (by 12%), followed by Gauteng (8%), KwaZulu-Natal (3%) and the Free State (0,6%). Allocations to the other provinces increased dramatically—the highest increase was to Mpumalanga (33%), the Northern Cape (28%) and the Northern Province (22%).

The portfolio committee said that the introduction of a resource allocation formula in the 1995/96 and

1996/97 financial years had been both 'controversial' and 'difficult'. Although various interest groups had generally accepted the reallocation of resources, much criticism had been levelled at the time scales for implementation of the formula, the accuracy of the criteria used to measure equity for the different provinces and the presumed inability of provinces to absorb large increases and cuts. The committee recommended that the formula used to allocate funds be subjected to an extensive technical review if it was to be used in future.⁷⁶ [⁷⁶ Ibid]

In 1996/97 a total of R16,49bn was allocated by the central government to provincial health services, a nominal increase of 15,2% on the 1995/96 allocation. Budgetary allocations to three provinces, the Eastern Cape, Mpumalanga and the North West, were higher than the national average while all the other provinces received increases below the nation

In addition, an allocation of R1,6bn from RDP funds was made to the provinces, including R680m for free health services, R500m for primary school nutrition programmes and R450m for the costs of restructuring hospitals from tertiary to primary care.⁷⁸ [⁷⁸ *Business Day* 14 March 1996] The following table shows the breakdown of preliminary allocations from the central government to the various provincial health departments in 1995/96 and 1996/97:⁷⁹ [⁷⁹ Republic of South Africa, *Estimate of Expenditure to be Defrayed from the National Revenue Account During the Financial Year ending 31 March 1997*]

Central government allocations^a to

1995/96

Rm

1996/97

Rm

Increase (decrease)

Eastern Cape

1 974,2

2 502,7

26,8%

Free State

1 060,2

1 230,9

16,1%

Gauteng

3 241,9

3 726,2

14,9%

KwaZulu-Natal

2 907,8

3 130,7

7,7%

Mpumalanga

604,7

783,6

29,6%

North West

917,7

1 109,6

20,9%

Northern Cape

262,3

289,2

10,2%

Northern Province

1 444,4

1 594,7

10,4%

Western Cape

1 893,3

2 120,2

12,0%

Total

14 306,6^c

16 487,8^d

15,2%

a

At current prices.

b

Figures may not add up owing to rounding.

c

Excludes carry-through costs of 1994/95 salary improvements.

d

Excludes carry-through costs of 1995/96 salary improvements, as well as amounts provided in votes for works departments of provinces.

The table below shows the per capita allocation by province for 1995/96 and 1996/97:80

Per capita allocations by province: 1995/96–1996/97^a

1995/96

R

1996/97

R

Increase
(decrease)

Eastern Cape

284

360

27%

Free State

370

430

16%

Gauteng

460

528

15%

KwaZulu-Natal

328

353

8%

Mpumalanga

201

260

29%

North West

261

316

21%

Northern Cape

340

375

10%

Northern Province

275

303

10%

Western Cape

517

579

12%

South Africa

341

393

15%

a

The per capita allocations were calculated based on 1996 population figures provided by the Institute for Futures Research at the University of Stel

In 1996/97 the Western Cape received the highest per capita allocation for health, followed by Gauteng, and the Free State. The per capita allocations to these provinces were above the national average of R393, while the other provinces were below the national average. Four provinces (Mpumalanga, the Eastern Cape, the North West and Free State) received higher per capita increases than the national average in 1995/96 and 1996/97. The allocations to the Western Cape, the Northern Cape, the Northern Province and KwaZulu-Natal were below the national average increase while that of Gauteng was the same.

Provincial Health Budgets

The nine provincial departments of health made the following allocations for health in the 1995/96 and 1996/97 financial years in current prices (the amounts allocated by the central government to each province for health differs from the amounts allocated by the various provinces as each one determines its own final budget):⁸¹ [81 Gauteng Provincial Government, *Estimate of Revenue and Estimate of Expenditure for the Financial Year ending 31 March 1997*; North West Province, *Estimate of Expenditure to be Defrayed from the Provincial Revenue Account During the Financial Year ending 31 March 1997*; Province of the Eastern Cape, *Estimate of Revenue and Estimate of Expenditure for the Financial Year ending 31 March 1997*; Province of the Free State, *Estimate of Revenue and Estimate of Expenditure for the Financial Year ending 31 March 1997*; Province of KwaZulu-Natal, *Estimate of Revenue and Estimate of Expenditure for the Financial Year ending 31 March 1997*; Province of Mpumalanga, *Estimate of Revenue and Estimate of Expenditure for the Financial Year ending 31 March 1996*; Province of the Northern Cape, *Estimate of Revenue and Estimate of*

Expenditure for the Financial Year ending 31 March 1997; Province of the Western Cape, *Estimate of Revenue and Estimate of Expenditure for the Financial Year ending 31 March 1997*]

Health budgets of the provinces: 1995/96 and 1996/97

1995/96

Rm

1996/97

R

Increase
(decrease)

Eastern Cape

1 975,8

2 509,5

27,0%

Free State

1 065,2

1 301,9

22,2%

Gauteng

3 346,5

3 832,9

14,5%

KwaZulu-Natal

3 097,2

3 239,5

4,6%

Mpumalanga

596,2

823,6

38,1%

North West

1 037,8

1 180,7

13,8%

Northern Cape

267,2

298,5

11,7%

Northern Province

1 444,4

1 553,9

7,6%

Western Cape

1 871,7

2 364,5

26,3%

Total

14 702,1

17 105,0

16,5%

The table below gives an estimated breakdown of the amounts allocated by the provinces to the various types of health expenditure for 1

Breakdown of provincial health expenditure: 1996/97

Total expenditure

Rm

Proportion of total provincial expenditure

District health services

6 082,0

35,6%

Provincial hospital services

5 414,3

31,7%

Academic health services

3 293,0

19,3%

Administration

787,2

4,6%

Health facilities development and maintenance

646,8

3,8%

Health care support services

463,7

2,7%

Health sciences

354,2

2,1%

Other

108,9

0,6%

Total^a

17 105,1^b

100,0%

a

Figures may not add up owing to rounding.

b

Total minus R46m for internal charges in Gauteng health

Irregularities in the Health Department

In February 1996 the parliamentary portfolio committee on health revealed that the Department of Health had used funds donated by the European Union (EU) to fund a R14m musical theatre production on AIDS, known as Sarafina II.⁸³ [⁸³ *Mail and Guardian* 9 February 1996, *The Star* 15 February 1996, *Sunday Times* 9 June 1996] Following calls by the Democratic Party (DP) and the AIDS Consortium to investigate irregularities in awarding the contract for the play, the public protector, Mr Selby Baqwa, agreed to investigate the matter.⁸⁴ [⁸⁴ *Business Day*, *The Citizen* 7 March 1996]

The report of the public protector, published in May 1996, found that the tendering procedures followed by the department had been ‘completely flawed and defective’ and that the department had not complied with the regulations of the State Tender Board or the contract with the EU. The report recommended that the production be stopped and the assets and equipment bought for it be repossessed to recoup an estimated R5m of the funding.⁸⁵ [⁸⁵ *The Star* 6 May 1996] The report also found that the expenditure on the play had been unauthorised and that the EU had not been informed about it.⁸⁶ [⁸⁶ *Ibid* 4 June 1996]

The minister of health, Dr Nkosazana Zuma, responded to the report by announcing that the Department of Health had decided to terminate its involvement in the play but that an unnamed private donor would foot the bill for funds that had already been spent on it.⁸⁷ [⁸⁷ *Business Day* 6 June 1996] An investigation was subsequently launched by the public protector into the identity of the donor following intense speculation in the media. However, the unnamed donor was said to have withdrawn the offer in August 1996. Dr Zuma said that the expenditure on the production would be treated as ‘unauthorised expenditure’. Opposition parties, in particular the DP and the National Party, expressed dissatisfaction with the way in which the issue had been handled and called for the dismissal of Dr Zuma.⁸⁸ [⁸⁸ *The Star* 2 September 1996] (See also *AIDS* above.) The president, Mr Nelson Mandela, blamed the withdrawal of the sponsor on a ‘media uproar’ over his identity. Mr Mandela claimed that the Sarafina II controversy was a smokescreen for a campaign by multinational companies to oppose Dr Zuma’s programme to cut the price of drugs. He said that there was no scandal in the manner in which Dr Zuma had acted.⁸⁹ [⁸⁹ *Ibid*, *Business Day* 11 September 1997]

Medical Aid Schemes

A senior manager at Sanlam, Mr David Hickey, said in February 1996 that contributions to medical aid schemes would increase by about 20% in 1997, largely because of overuse and abuse of benefits. Employers would be under greater pressure to investigate alternative forms of medical insurance as their contributions to medical aid schemes would represent more than 10% of their employees’ salaries.⁹⁰ [⁹⁰ *Business Day* 21 February 1996]

Republic Ratings (a credit risk agency) said in June 1996 that based on 1994 and 1995 financial statements medical aid schemes had improved their ability to pay medical bills, in spite of contribution increases being lower in 1994 than in 1993. The major medical aid schemes had tightened up on their financial controls, which had significantly contributed to reducing the potential for widescale abuse. Membership figures of medical aid schemes had increased marginally in 1994, after a 12,5% drop in 1993.⁹¹ [⁹¹ *Saturday Star* 22 June 1996] According to the Representative Association of Medical Aid Schemes (Rams), in 1996 some 6,5m people (15% of the population), including dependants, were covered by medical aid schemes.⁹² [⁹² Information provided by the Representative Association of Medical Aid Schemes, 1 April 1997]

Rams announced in September 1996 that medical aid reimbursement rates for doctors and private hospitals would be increased by an average of 8% in 1997. Although the medical profession had demanded higher increases, Rams said that 'there was no reason why health professionals should get higher increases than the average man in the street'. However, certain services, such as doctors' consultation benefits, would be increased by 25%.⁹³ [⁹³ *The Citizen* 16 September 1996]

In October 1996 some private hospitals and pharmacies complained about delays in payment and in the confirmation of medical aid scheme numbers which had led to cashflow problems and in the case of some pharmacies, to closure. A group of concerned pharmacists, the Aggrieved Pharmacists' Association, had entered into negotiations with medical aid scheme administrators to find a solution to these problems. According to Dr Annette van der Merwe, the executive director of the Hospital Association of South Africa, which represented the majority of private hospitals in the country, medical aid schemes appeared 'unable to identify their members', which led to fraudulent claims. When private hospitals had confirmed patients' membership with medical aid schemes, payments for medical services were often later reversed when medical aid schemes realised that patients had resigned from schemes at the time of treatment.⁹⁴ [⁹⁴ *The Star* 11, 15 October 1996]

Proposals for Restructuring Medical Aid Schemes

Mr Gavin Watkins, managing director of Ginsburg, Malan and Carsons Consultants and Actuaries, said in March 1996 it was a 'major possibility' that traditional medical aid schemes would disappear within a number of years. In future employers were likely to offer employees tax-efficient packages which would include a contribution towards a health plan. Escalating medical costs and the reduced availability of state health care would necessitate the changes.

In December 1996 a working group in the Department of Health announced plans to restructure the medical aid industry. In terms of the proposals, both medical aid schemes and life insurance companies would have to submit their health insurance products for registration with the Registrar of Medical Schemes. Only those products which offered a minimum package of hospital care, which did not rate people according to their risk and which covered health funding needs from 'cradle to grave' would be registered. Products which discriminated on any basis and excluded the sick and elderly would not be allowed. All medical aid schemes would contribute to a 'risk equalisation fund', which would pool risks

between medical aid schemes and would compensate those who had more sick and elderly members. Medical aid schemes would also no longer be allowed to stop paying the costs of members who had a particular condition when members exceeded their limit. Medical aid schemes would have to pay the full cost for a set of defined conditions, including emergency care, emergency surgery and chronic conditions such as diabetes. The proposals of the task team would be discussed further in 1997 before draft legislation was drawn up.⁹⁵ [⁹⁵ *Business Day* 23 December 1996]

According to Mr Adrian Gore, managing director of Momentum Health, the proposals was 'fundamentally flawed' and could result in employees paying more for medical cover. Mr Gore said that two of the key concepts were the 'guaranteed' cover and 'community rating', which meant that medical aid schemes would be compelled to accept any applicant provided he or she could pay the contributions. Differences in contributions would be permissible on the basis of income and number of dependants only. The proposals meant that the risk pool would shrink while the level of risk would increase. Young and healthy people would withdraw in large numbers. This would push up the premiums and create a financial crisis in the medical aid industry within a few years, Mr Gore said.

The managing director of Duff and Phelps Credit Rating (formerly Republic Ratings), Mr Dave King, warned that the strict implementation of the proposed system could result in the large, 'traditionally black sector' of the population subsidising the diminishing 'traditionally rich white sector'. The proposals failed to address the 'fundamental problem' of escalating medical costs. Mr King said that in line with the proposed return to cross subsidisation, measures such as paying out bonuses to low claiming members and savings accounts would be outlawed. Payments to service providers would no longer be linked to a minimum set of benefits and each fund would determine what it was prepared to pay service providers (such as doctors). Service providers would no longer be able to recover any fee or co-payment directly from the member. However, he welcomed the more stringent reporting measures proposed, as well as diverse risk pools and higher solvency levels.⁹⁶ [⁹⁶ *Finance Week*, 6 March 1997; *F & T Weekly*, 28 March 1997; *Sunday Times Business Times* 16 February 1997]

Managed Health Care

The *South African Medical Journal* reported in April 1996 that the Anglo American Corporation of South Africa and Southern Life had formed a managed health care organisation called Southern HealthCare JV in September 1995 and that Sanlam had also taken steps to provide managed health care schemes. (Managed health care paid health care providers such as doctors a fixed fee per patient instead of the traditional fee for services rendered by health care providers).⁹⁷ [⁹⁷ Health Systems Trust and the Henry J Kaiser Family Foundation, *South African Health Review* 1996, 1996] According to the journal, these developments represented 'only the beginning of a cascade of reforms in both the public and private health care sectors'. The changes were necessitated by the constantly escalating costs of the present fee-for-service dispensation, which rendered fee-for-service medicine unaffordable to employers and employees. The other major impetus for change was the quest for equity (described as universal access to essential health care services regardless of the ability to pay) and this factor was expected to affect mainly the public

sector.⁹⁸ [⁹⁸ *South African Medical Journal*, April 1996]

In May 1996 an organisation called the Association of Private Practising Doctors and Dentists of South Africa was established to 'advise the profession against the dangerous aspects of American-style managed health care innovation, which is aimed at destroying the patient's free choice of doctor'. In June 1996 the Medical Association of South Africa's federal council passed a resolution declaring that the association would establish evaluation guidelines to assess all managed care contracts.⁹⁹ [⁹⁹ *Ibid*, July 1996]

The medical director of Sanlam Health, Dr Herc Hoffman, said in July 1996 that an estimated 70% of about 4m principal members of medical aid schemes in South Africa would subscribe to managed health care by 2000. Managed health care would also enable lower-income earners to belong to an affordable scheme. Dr Hoffman said that the aim of managed health care was to cut costs to medical aid schemes and to members while at the same time widening the net to make medical aid accessible to more people.¹⁰⁰ [¹⁰⁰ *Business Day* 5 July 1996]

In October 1996 Southern HealthCare JV announced that it had secured contracts with Clinic Holdings and the Apex HealthCare Network of hospitals, as well as a network of doctors, to form the first private hospital network under the new managed health care model. Most services would start in January 1997.¹⁰¹ [¹⁰¹ *Ibid* 15 October 1996]

Health Services

Medical Personnel

The table below shows the number of health care personnel registered with the Interim National Medical and Dental Council of South Africa, the South African Interim Nursing Council and the Interim Pharmacy Council of South Africa between 1990 and 1995:¹⁰² [¹⁰² Information provided by the Interim National Medical and Dental Council of South Africa, 29 October 1996; information provided by the Democratic Nursing Organisation of South Africa, 31 October 1996; information provided by the South African Pharmacy Council, 29 October 1996]

Registered health care workers: 1990–95^a

Dentists^b

Doctors^b

Nurses^c

Pharmacists^b

Supplementary^d

Total

1990

3 775

23 139

148 558

9 073

26 255

210 800

1991

3 944

26 614

151 610

9 280

27 912

219 360

1992

3 998

25 375

155 679

9 277

29 727

224 056

1993

4 024

25 967

157 497

9 388

33 517

230 393

1994

4 029

26 452

158 538

9 511

35 373

233 903

1995

4 102

27 297

N/A^e

9 682

N/A

N/A

a

Figures include registered health care personnel not resident in South Africa. The number of registered health care personnel in South Africa may therefore be lower.

b

Includes the former 'independent' homelands.

c

Includes most nurses working in the former 'independent' homelands.

d

Supplementary health care workers are primarily involved in preventative, promotive and rehabilitative work. Figures include the former 'independent' homelands.

e

At the time of writing the South African Interim Nursing Council was compiling the names of nurses registered with the four former nursing councils. The process was delayed because of the duplication of names on several council lists.

N/A — Not

The following table shows the number of health care workers in each province in 1994/95 (the latest date for which figures were available) according to information provided by the Regional Health Information Management Systems (ReHMIS) data base and the Representative Association of Medical Schemes.¹⁰³ [¹⁰³ Health Systems Trust and the Henry K Kaiser Family Foundation, *South African Health Review 1996*, 1996]

Distribution of health care personnel in the private and public sectors by province: 1994/95

EC

FS

Gau

KN

Mpu

NW

NC

NP

WC

Total

Dentists

Public

27

18

183

44

18

40

3

18

67

418

Private

174

130

1 565

363

114

64

58

62

800

3 330

Subtotal

201

148

1 748

407

132

104

61

80

867

3 748

Doctors

Public

649

300

3 006

1 219

199

357

112

274

1 255

7 371

Private

892

683

3 443

2 362

435

261

184

210

1 597

10 067

Subtotal

1 541

983

6 449

3 581

634

618

296

484

2 852

17 438

Nurses

Public

17 001

6 700

20 038

24 500

4 012

7 793

1 793

11 459

10 040

103 336

Private

1 283

889

6 711

2 848

447

814

173

174

3 247

16 586

Subtotal

18 284

7 589

26 749

27 348

4 459

8 607

1 966

11 633

13 287

119 922

Pharmacists

Public

85

47

246

208

45

59

27

55

179

951

Private

1 107

958

6 472

1 933

595

647

176

326

2 627

14 841

Subtotal

1 192

1 005

6 718

2 141

640

706

203

381

2 806

15 792

Specialists

Public

120

202

984

673

17

42

10

39

600

2 687

Private

234

161

1 643

564

72

86

39

46

812

3 657

Subtotal

354

363

2 627

1 237

89

128

49

85

1 412

6 344

Others^a

3 117

1 477

3 494

5 168

506

1 367

336

1 631

2 802

19 898

Total

Public

20 999

8 744

27 951

31 812

4 797

9 658

2 281

13 476

14 943

134 661

Private

3 690

2 821

19 834

8 070

1 663

1 872

630

818

9 083

48 481

Total

24 689

11 565

47 785

39 882

6 460

11 530

2 911

14 294

24 026

183 142

a

Includes community health workers, dieticians, therapists, and other unspecified categories of health workers in the public sector. Figures on the corresponding categories working in the private

In 1994/95 some 135000 health personnel were working in the public sector, according to the ReHMIS data base. Most (83%) were based in hospitals as opposed to primary health care facilities. Nurses constituted the biggest category of personnel in both the public (77%) and private (34%) sectors. Some 86% of all nurses worked in the public sector. However, the majority of pharmacists (94%), dentists (89%), specialists (58%), and doctors (58%) worked in the private sector.¹⁰⁴ [¹⁰⁴ Ibid]

Doctors

The minister of health, Dr Nkosazana Zuma, said in 1996 that some 12949 doctors were being trained in South Africa, 10324 of whom were undergraduates and 2625 postgraduates.¹⁰⁵ [¹⁰⁵ *Hansard* (NA:Q) 7 col 1300, 19 June 1996]

In November 1996 the Medical Association of South Africa advised doctors who might have been involved in human rights violations to seek amnesty from the Truth and Reconciliation Commission (TRC).¹⁰⁶ [¹⁰⁶ *The Citizen* 27 November 1996] Earlier in the same month health care professionals agreed to set up a special committee to co-operate with the TRC in examining human rights abuses committed during the apartheid years by health workers, including doctors. The committee would start its work in January 1997 and would co-ordinate submissions to the TRC in preparation for a special health-sector hearing planned for the first half of 1997.¹⁰⁷ [¹⁰⁷ Ibid 25 November 1996] (See also chapter on *Politics*.)

Emigration

The Medical Association of South Africa (Masa) said in January 1996 that it was concerned about the reported increase in the number of doctors emigrating as health services were already under extreme pressure. The chairman of Masa's federal council, Dr Bernard Mandell, said that doctors' difficult working conditions and inadequate remuneration had had an 'extremely demoralising effect'. The uncertainty surrounding the future health care dispensation also contributed to doctors' emigrating. Masa's comments followed earlier attempts by Dr Zuma to stop the British health authorities from recruiting South African doctors.¹⁰⁸ [¹⁰⁸ *The Sunday Independent* 14 January 1996, *The Citizen* 18 January 1996]

In the same month the director general of health, Dr Olive Shisana, warned the medical schools at the universities of Cape Town and the Witwatersrand that the department was considering giving financial incentives to medical schools whose graduates stayed in South Africa. Dr Shisana said that the department was 'taking a critical investor's look' at English-language medical schools because a high

proportion of their graduates seemed to emigrate.¹⁰⁹ [¹⁰⁹ *The Star* 16 January 1996] However, statistics from agencies recruiting local doctors to work in the United Kingdom (UK) revealed that between June 1994 and December 1995 as many medical graduates from Afrikaans-medium as English-medium universities had gone to the UK. One of the recruitment agencies revealed that in January 1995, 150 medical graduates had been recruited for work in the UK, the largest group of whom were from the University of Stellenbosch.¹¹⁰ [¹¹⁰ *Business Day* 17 January 1996]

The South African Medical and Dental Practitioners' Association, which represented mainly black doctors, called on the government to levy fines of R400 000 on doctors who emigrated—roughly the same amount as that spent by the government to educate a single medical student.¹¹¹ [¹¹¹ *Ibid*]

A spokesman for the Department of Health, Mr Vincent Hlongwane, said in June 1996 that the department 'desperately' needed about 2000 doctors to fill positions, many of which had been left vacant as a result of the 'exodus' of doctors after the general election in April 1994. The positions had been advertised, but very few doctors had applied.¹¹² [¹¹² *Sowetan* 5 June 1996]

Compulsory Community Service

Masa proposed in July 1996 that an additional two years of postgraduate vocational training should be introduced in 1998 for student doctors. The aim of such additional training would be to ensure that 'adequate standards of education and training for health care professionals' were in place. (In July 1995 a working group had been appointed by Dr Zuma to investigate among other things, compulsory community service.) The Junior Doctors' Association of South Africa (Judasa) said in July 1996 that the proposal 'looked like a cover-up for earlier proposals (made by the Department of Health) to perform compulsory community service'.

However, Judasa said that it found it 'strange' that while South African doctors were in great demand overseas, the council required more training. While Judasa agreed with the principle of vocational training it argued for a voluntary system to be tested by means of a pilot scheme and to be introduced gradually.¹¹⁵ [¹¹⁵ *Business Day*, *The Citizen* 25 July 1996] The dean of health sciences at the University of the Witwatersrand, Professor Max Price, said that although he supported community service as a fair repayment of society's investment in doctors' training, it should be phased in so as not to affect students currently in the final two years of their studies.¹¹⁶ [¹¹⁶ *The Star* 25 July 1996]

In September 1996 the parliamentary portfolio committee on health referred the proposal for two years' community service back to the council to elaborate on the specific skill deficiencies of medical graduates and on the amount of extra training time needed, as well as where such training was to take place.¹¹⁷ [¹¹⁷ *Cape Times*, *The Star* 19 September 1996] The council said in November 1996 that a technical committee was investigating the implementation of compulsory vocational training and would present its final report by April 1997.¹¹⁸ [¹¹⁸ *The Star* 27 November 1996]

Doctor Organisations

Doctors in private practice formed a new lobby group called the Managed Care Coalition in May 1996. The coalition represented some 6000 doctors countrywide and aimed to assist doctors in the growing trend towards managed health care. It would negotiate on behalf of its members with managed care organisations, medical aids and the public sector. The coalition aimed to establish national standards, protocols and guidelines on, among other things, prescription medicines and required tests of doctors' competence. It would also educate doctors about practice management and advise them on becoming legal entities so that they could contract their services as a business unit to health care organisations or to the government.¹¹⁹ [¹¹⁹ Ibid 17 May 1996; *Managed Care and Quality Review*, June 1996]

Cuban Doctors

In 1997 there were 292 Cuban doctors in South Africa. The first group of 97 doctors arrived in January 1996, the second group of 110 arrived in July 1996 and the third group of 86 in February 1997.¹²⁰ [¹²⁰ Information provided by Mr Johan Grundling, Department of Health, 5 March 1997] (See also 1995/96 Survey, p215.)

There was widespread criticism of the standard of treatment received from Cuban doctors. A practising South African doctor in the public sector said in 1997 that the Cuban doctors' 'diagnostic and therapeutic skills are not adequate for what is needed here'.¹²¹ [¹²¹ *Frontiers of Freedom* No 11 1997]

In October 1996 doctors in the Northern Cape accused the Department of Health of attempting to 'whitewash' alleged malpractice by Cuban doctors in the province. The *Cape Argus* reported that the Interim National Medical and Dental Council of South Africa had received 25 complaints of malpractice against six Cuban doctors involving 13 patients in the province. However, prior to an investigation by the council, the Northern Cape Department of Health and Welfare had appointed a medical review committee to investigate the complaints. The committee found that there were 'no substantial complaints' about the quality of care rendered by the Cuban doctors.¹²² [¹²² *Cape Argus* 5 October 1996]

Conditions of Service

Professor David Morrell, chairman of the full-time practice committee of Masa, said in July 1996 that the salaries of all doctors in state hospitals had been increased, and that most would receive increases of between 50% and 80% in 1996. The minimum increase would be 30% and would include payment for the average of 16 hours per week overtime. According to Professor Morrell, it was too early to say how the salary increases would influence doctors in state hospitals although several had indicated that they would no longer plan to leave the public sector for private practice.¹²³ [¹²³ *The Star* 17 July 1996]

In 1996 the Public Service Commission announced that retrenchment packages would be made available to all civil servants from May in order to 'rightsize' the civil service. Although any public servant,

including health workers, could apply for the package, each provincial head of department had to approve or reject the package based on each province's need. No national targets were set with regard to the number of packages to be granted in each province. At the time of writing no figures were available on the number of applications or packages granted.¹²⁴ [¹²⁴ Information provided by the Public Service Commission, 13 March 1997]

In June 1996 the Western Cape Department of Health introduced voluntary severance packages for health personnel, in line with the general national downsizing of the public service. At the time, a national moratorium on the filling of 'hundreds of essential hospital posts' was still in place. By June 1996 more than 50% of senior nursing staff at the 'already understaffed' Tygerberg Hospital had applied for the packages. The chief superintendent of Tygerberg Hospital, Dr Abdul Rahman, said that the severance packages would mean the loss of a substantial number of experienced staff who could not be replaced overnight. It took 15 years to make a good neurosurgeon, and Tygerberg was one of the academic hospitals which trained such specialists. If 60% of the specialists left, the whole service would collapse, Dr Rahman said.¹²⁵ [¹²⁵ *The Argus* 22 June 1996]

The head of surgery at the medical school at the University of Cape Town, Professor Johan Terblanche, said that the introduction of a voluntary severance scheme was not cost effective as people taking the package would have to be replaced.¹²⁶ [¹²⁶ *Ibid*]

The head of the Western Cape Department of Health, Dr Tom Sutcliffe, said in September 1996 that in order to reach a provincial staff target set by the national department of 29800 by 2000, some 3500 staff would have to be retrenched, 2000 in 1996/97, 800 in 1997/98 and the remainder over the following three years. The retrenchments would mean closing 500 beds in 1996/97.

In November 1996 the MEC for health and social services in the Western Cape, Mr Ebrahim Rasool, expressed concern that the 'potentially devastating use of voluntary severance packages was not the best tool for rationalising the health service as it would lead to the loss of vital expertise'.¹²⁸ [¹²⁸ *Business Day* 15 November 1996]

The deputy director general of finance and economics in **Gauteng**, Mr Roland Hunter, said in August 1996 that 2500 health employees in the province, including 750 nurses and 30 doctors, had applied for voluntary severance packages.¹²⁹ [¹²⁹ *The Star* 21 August 1996]

In April 1997 district surgeons in the Free State lodged a successful challenge in the Labour Court against the province's decision to terminate their contracts as part of the restructuring of district health services. Mr Justice R Zondo said that in terms of their service agreements, part-time district surgeons were state employees and not contracted workers whose services could summarily be terminated on notice. According to Professor Hugo Pienaar, legal council for the Medical Association of South Africa (Masa), the judgement meant that the department would have to deal with part-time district surgeons in terms of the Labour Relations Act of 1995. Any termination of service service would require

comprehensive consultation and negotiation with the doctors concerned and Masa (as their recognised trade union), before any restructuring could take place, according to Professor Pienaar.¹³⁰ [¹³⁰ *Business Day*, 8 April 1997]

Nurses

In March 1996 the South African Nursing Association (Sana) announced that all nurses in the public sector would receive 'substantial' pay increases and that overtime payment had also increased. The average increases would be 29,5%. The increases formed part of a new salary grading system for the public service which would be implemented over three years from 1996. Agreement had also been reached between nursing unions and the government to implement a voluntary severance package to assist in the rightsizing of the public service.¹³¹ [¹³¹ *Cape Times* 13 March 1996, *The Natal Witness* 11 March 1996]

The South African Interim Nursing Council said in July 1996 that it would attempt to root out all illegal nursing schools in the country. The council had received numerous complaints from students who had attended nursing colleges which were not accredited. Students were therefore not eligible to write the Interim Nursing Council examinations.¹³² [¹³² *The Star* 11 July 1996, *The Citizen* 27 July 1996]

According to the executive director of the Democratic Nursing Organisation of South Africa (Denosa), Mrs Eileen Brannigan, Sana had reached agreement with Denosa to join the organisation in October 1996. The agreement meant that nurses from all races would for the first time be represented by a single nonracial body.¹³³ [¹³³ Telephonic interview with Mrs Eileen Brannigan, executive director of the Democratic Nursing Organisation of South Africa, 31 October 1996]

Other Health Personnel

According to the Interim National Medical and Dental Council of South Africa, the following numbers of health personnel (other than dentists, doctors, nurses and pharmacists) were registered in South Africa in 1993 and 1994 (the latest years for which figures were available):¹³⁴ [¹³⁴ 1995/96 *Survey*, p217]

Registered health personnel: 1993 and 1994

1993

1994

Increase
(decrease)

Ambulance and emergency-care assistants

3 219

4 449

38,2%

Anaesthetic practitioners

8

8

0,0%

Biokinetic practitioners

111

126

13,5%

Biomedical engineers

11

10

(9,1%)

Chiropodists

160

161

0,6%

Clinical biochemists

29

27

(6,9%)

Clinical technologists

368

387

5,2%

Dental therapists

158

180

13,9%

Dieticians

779

862

10,7%

Electro-encephalographic technicians

66

61

(7,6%)

Food inspectors

32

29

(9,4%)

Health inspectors

2 630

2 678

1,8%

Masseurs

34

33

(2,9%)

Medical orthotists and prosthetists

283

292

3,2%

Medical physicists

79

85

7,6%

Medical scientists

390

372

(4,6%)

Medical technologists

4 052

4 152

2,5%

Occupational therapists

1 781

1 888

6,0%

Optical dispensers

137

138

0,7%

Optometrists

1 296

1 382

6,6%

Oral hygienists

757

787

4,0%

Physiotherapists

3 301

3 430

3,9%

Psychologists

7 169

6 869

(4,2%)

Radiation technologists

9

9

0,0%

Radiographers

3 699

3 883

5,0%

Remedial gymnasts

3

3

0,0%

Speech therapists, audiologists and audiometrists

975

1 031

5,7%

Other

1 981

2 041

3,0

In March 1996 the council approved guidelines drawn up by Masa to regulate the relationship between doctors and practitioners of alternative medicine (ie practitioners who were not registered with the council, the nursing council or the pharmacy board). According to the guidelines, doctors would no longer be prohibited from communicating with alternative practitioners. It was, however, considered generally inadvisable for a doctor to refer a patient to any practitioner who was not subject to a registering and disciplinary body. In South Africa many practitioners of alternative medicine were not registered with any statutory council and it was therefore up to the doctor to use his or her discretion when referring patients to alternative practitioners. Doctors were also allowed to assist with the training of alternative practitioners if requested to do so.¹³⁵ [¹³⁵ *South African Medical Journal*, March 1996]

Hospitals and Clinics

In 1995 there were approximately 3830 health facilities in South Africa, 2953 of which were clinics in the public sector, 425 hospitals, 153 community health centres and eight academic health service complexes. A total of 217 hospitals and 74 clinics were in the private sector. According to the Department of Health, a national health facility audit was being undertaken to provide information on the exact number and nature of health facilities in the country. According to the director of health facilities and planning in the Department of Health, Mr Malcolm Jones, public hospitals had previously been administered by different provincial and homeland administrations and little information was therefore available on them. The audit would exclude academic health complexes and their various tertiary hospitals, as well as clinics, which would be audited at a later stage.¹³⁶ [¹³⁶ *Ibid*]

In 1994 the average hospital density (ie the number of hospital beds per 1000 population) was 3,6. According to the Department of Health, the hospital density had declined from 7,5 in 1976 to 4,6 in 1987 and 3,6 in 1994. The density in metropolitan areas was higher than the national density (four per 1000 population), followed by urban areas (three per 1000). Small towns had a density far below the national average (two per 1000). In five provinces the hospital density was above the national average—the Free State (3,7), the North West (3,8), the Northern Cape (4,2), Gauteng (4,6) and the Western Cape (4,9). The hospital densities in the Eastern Cape (3,2), the Northern Province (2,5) and Mpumalanga (1,9) were below the national density.¹³⁷ [¹³⁷ Department of Health, annual report 1995]

In May 1996, 11 hospitals in South Africa were accredited as centres of excellence in a programme developed by the private health sector, the department and health providers to raise the standards of public and private hospitals to international level. The accreditation was undertaken by the Council for Health Service Accreditation of Southern Africa. Hospitals and the council had worked together for a year to identify and resolve problems before applying for accreditation. An additional 40 hospitals had enrolled in the programme. According to the managing director of the council, Dr Stuart Whittaker, the council aimed to accredit most of the country's hospitals within the next seven years.¹³⁸ [¹³⁸ *Business Day* 10 May 1996]

Public Hospitals

The table below shows the estimated number of public health care facilities in each province in 1995:¹³⁹ [¹³⁹ Department of Health, annual report 1995]

Public health care facilities in each province: 1995

Academic health complexes

Regional and community hospitals

Community health centres^a

Clinics^b

Total

Eastern Cape

1

89

8

620

718

Free State

1

37

7

275

320

Gauteng

3

34

12

443

492

KwaZulu-Natal

1

87

16

394

498

Mpumalanga

0

20

3

185

208

North West

0

32

20

278

330

Northern Cape

0

33

6

128

167

Northern Province

0

42

22

313

377

Western Cape

2

51

59

317

429

Total

8

425

153

2 953

3 539

a

Includes provincial day hospitals.

b

Includes primary health care centres, provincial clinics and local authority clinics.

Dr Zuma said that at least one third of the hospitals in South Africa needed major upgrading or repairs at an estimated cost of between R6bn and R8bn. An additional R2bn was required to purchase modern equipment. The department had allocated R241m for repairs throughout the country in

The MEC for health in **Gauteng**, Mr Amos Masondo, said in September 1996 that thousands of patients faced a waiting period of between two and three years for surgery at Johannesburg Hospital. Some 2000 patients were waiting for cataract operations, 200 for hip or knee surgery, and 140 for cardio-thoracic surgery. In an effort to reduce the waiting lists it had been proposed that surgery be done on an overtime basis.¹⁴¹ [¹⁴¹ *The Citizen*, *The Star* 26 September 1996]

In a report published by Mr Masondo in July 1996 it was revealed that goods worth R12m had been stolen from state hospitals in the province since 1993. This included 166 vehicles, of which only 15 had been recovered. The hospitals worst hit were Baragwanath and Johannesburg. A spokesman for the health department, Mr Popo Maja, said that the theft was 'symptomatic of bad management in the previous era'.¹⁴² [¹⁴² *Business Day* 3 July 1996] A private investigator who had investigated theft at hospitals for the former Transvaal Provincial Administration, Mr Declan Condon, said the R12m quoted by the Gauteng health department was 'probably a gross underestimation'. While investigating theft at Baragwanath Hospital in 1989 it had been found that that hospital alone had lost R2m in that year. Organised crime syndicates and intimidation were the main problems obstructing health authorities from clamping down on theft, Mr Condon said.¹⁴³ [¹⁴³ *The Star* 3 July 1996]

In November 1996 Mr Masondo said that patients owed Gauteng hospitals R162m in unpaid bills for 1996, R124m of which was owed to academic hospitals. An amount of R27m was to be written off as bad debt in 1995/96, compared with R21m being written off in 1994/95. Johannesburg Hospital was owed the most (R58m) followed by the H F Verwoerd Hospital (R33m).¹⁴⁴ [¹⁴⁴ *Sowetan*, *The Star* 4 November 1996]

In November 1996 the Gauteng provincial legislature adopted a working committee report which proposed changes to the names of 11 hospitals. Various political parties, including the Democratic Party, the Inkatha Freedom Party and the National Party (NP), objected to the proposals, saying that several of the hospitals had been renamed in memory of African National Congress 'heroes', rather than reflecting the names of a wide range of people who had contributed to liberation. The committee proposed, among others, that the J G Strijdom Hospital be renamed the Helen Joseph Hospital and the H F Verwoerd Hospital the Pretoria Academic Hospital. Baragwanath Hospital would become the Chris Hani Baragwanath Hospital. The recommendations had to be ratified by the cabinet before implementation.¹⁴⁵ [¹⁴⁵ *Business Day* 22 November 1996]

The provincial MEC for health in **KwaZulu-Natal**, Dr Zweli Mkhize, said in November 1996 that an investigation would be conducted by lawyers and the police to unearth fraud and corruption at hospitals in the province. A number of crime syndicates had been involved in fraud which included order book theft to create fraudulent payments to suppliers and manipulation of computerised financial systems, Dr

Mkhize said.¹⁴⁶ [¹⁴⁶ Ibid 13 November 1996]

The MEC for health and social services in the **Western Cape**, Mr Ebrahim Rasool, said in June 1996 that radical cuts in the budgets of the province's three academic hospitals (Groote Schuur, Tygerberg and the Red Cross War Memorial Children's hospitals) had threatened key services and resulted in staff cuts, rising workloads, and poor and failing equipment. The budgets of the three hospitals had been cut by R98m in 1996/97. Mr Rasool warned that the pace and scale of changes prescribed by the national department were unmanageable. If implemented, they would result in 'a massive reduction in the scope and standard of services offered in the province'. The NP said that the cuts in the Western Cape would result in the dismissal of at least 4500 personnel and the closure of more than 1000 beds. While the number of staff members had dropped by 32% since 1990, the number of patients had risen by some 24%. The cuts would result in about 60000 inpatients and 557000 outpatients being turned away from hospitals every year, the NP said. above.)

Private Hospitals

In 1995 there were 217 private hospitals and 74 private day clinics in South Africa. The following table shows the number of private hospitals and clinics according to province:¹⁴⁸ [¹⁴⁸ Department of Health, annual report 1995]

Private hospitals and clinics according to province: 1995

Hospitals

Clinics

Total

Eastern Cape

10

3

13

Free State

14

7

21

Gauteng

78

44

122

KwaZulu-Natal

31

3

34

Mpumalanga

19

3

22

North West

17

4

21

Northern Cape

14

0

14

Northern Province

4

0

4

Western Cape

30

10

40

Total

217

74

291

Forty two percent of private hospitals and clinics were in Gauteng in 1995. The Northern Province had the fewest private hospitals (four) and

Psychiatric Hospitals

A report entitled *Human Rights Violations and Alleged Malpractices in Psychiatric Institutions* was published by the mental health and substance abuse committee of the Department of Health in January 1996. A total of 32 institutions throughout the country had been investigated by the committee, including public psychiatric institutions and psychiatric wards in general hospitals. Conditions in the hospitals were found to range from 'appalling' to 'broadly acceptable'. According to the report, previously white institutions were found to be better off than previously black ones. Among those with the worst conditions were the Umzimkulu Hospital in the former Transkei and Westfort Hospital in Pretoria, with both having old, dilapidated buildings and squalid conditions. Both were alleged to be unfit for human occupation.¹⁴⁹ [¹⁴⁹ *South African Medical Journal*, April 1996; Department of Health, *Report, Human Rights and Alleged Malpractices in Psychiatric Institutions*, January 1996]

According to the report, recorded violations of human rights in psychiatric institutions ranged from lack of privacy in bathrooms to assault and the sexual abuse of female patients. Incidents of drug and alcohol abuse among hospital staff were common. Previously black institutions in particular experienced a serious shortage of skilled personnel. The report said that psychiatric care in its existing form reinforced institutionalisation, the abuse of patients and violation of their rights.¹⁵⁰ [¹⁵⁰ Ibid]

Public Clinics

The *South African Medical Journal* reported in August 1996 that 73 clinics which had been closed because of a lack of equipment would be re-equipped.¹⁵¹ [¹⁵¹ *South African Medical Journal*, August 1996] According to the 1997 *Budget Review*, during 1996 a total of 102 new clinics were built or still under construction. The Department of Health planned to build a further 272 new clinics and upgrade 326 in 1997.¹⁵² [¹⁵² Department of Finance, *Budget Review*, 1997]

According to the MEC for health and welfare in the **Eastern Cape**, Dr Trudi Thomas, many clinics in the former Transkei lacked drugs and basic equipment, despite various initiatives to address the problem.¹⁵³ [¹⁵³ *Business Day* 20 May 1996]

A spokesman for the **Gauteng** Department of Health, Mr Popo Maja, said in May 1996 that 20 newly built and upgraded primary health care clinics would be opened in the province in 1996 as part of the national primary health care programme. In addition all provincial primary health care clinics were to be opened for longer hours (from 7am to 7pm) and clinics with maternity wards were to be open 24 hours a day. The department also announced that from September 1996 people who visited hospitals with a primary health care complaint and without a letter of reference from a clinic would be charged R50.¹⁵⁴ [¹⁵⁴ *Beeld* 9 May 1996]

An investigation by *Sowetan* in April 1996 revealed that 30 clinics in the **Northern Province**, built by the Independent Development Trust at a cost of more than R25m, were not being used. Although the clinics were fully equipped, a spokesman for the provincial health department said that there were no nurses or medicines for the clinics.¹⁵⁵ [¹⁵⁵ *Sowetan* 19, 22 April 1996]

According to the *South African Health Review*, many clinics around the country lacked basic facilities such as water, electricity and telephones. More than half of the 645 clinics in the Eastern Cape did not have grid electricity, nor did 126 of the 300 clinics in the North West. Approximately one third of clinics in the Northern Province and the North West, nearly half of the clinics in the Eastern Cape and a fifth of clinics in KwaZulu-Natal did not have adequate water supplies.¹⁵⁶ [¹⁵⁶ Health Systems Trust and Henry J Kaiser Family Foundation, *South African Health Review 1996*, 1996]

Strikes

No prolonged national or provincial strikes occurred at hospitals or clinics during the period under review. Isolated incidents were reported at hospitals relating to demands for tighter security, job selection policies, the reinstatement of suspended workers and higher salaries.¹⁵⁷ [¹⁵⁷ Various newspaper clippings]

Primary Health Care

According to the 1995 report of the Department of Health, the public health service would provide a comprehensive primary health care (PHC) service, comprising personal and nonpersonal health care services. Personal services would include curative, promotive and preventive services such as basic optometry, basic rehabilitation services, counselling, family planning, health education, HIV/AIDS education, immunisation, maternal and child care, mental health, nutrition, oral health, the provision of essential drugs, and screening for common diseases. Nonpersonal services would include communicable and noncommunicable disease control, health-related water and sanitation services, school and nutritional health services, and other environmental health services. Structures known as district health authorities were to be established at local level and they would be responsible for all district PHC and hospital services (see also 1995/96 Survey, pp231–232).¹⁵⁸ [¹⁵⁸ Department of Health, annual report 1995]

According to Dr Zuma, in 1996/97 the projected expenditure on the provision of PHC was R5,3bn and that on hospital services R9,3bn.¹⁵⁹ [¹⁵⁹ *Hansard* (S:Q) 5 col 409, 30 May 1996] (Provision of PHC was expected to cost about R7,3bn in 2000/01.)¹⁶⁰ [¹⁶⁰ *The Citizen* 28 March 1996]

The Department of Health introduced free PHC in April 1996. Medical services free of charge were provided at public PHC facilities such as clinics, community health care centres and day hospitals. Free health care for pregnant women and children under six years of age was to be continued and medicines on the essential drugs list would also be provided free of charge. Other services to be provided included accident and emergency services, communicable and endemic disease prevention, family planning and immunisation. Patients would have to visit PHC facilities before being referred to a hospital. Patients who went directly to public hospitals without a referral letter would be charged a fee of up to R50 to discourage the unnecessary use of hospitals. According to Dr Zuma, the provision of free PHC would be fully implemented in all the provinces by July 1996.¹⁶¹ [¹⁶¹ *Business Day*, *The Citizen* 27 March 1996; *The Citizen* 2 April 1996; information provided by the Department of Health, 18 November 1996]

Dr Zuma emphasised that the implementation of PHC depended on the availability of facilities. The building and upgrading of clinics therefore formed an essential part of the whole programme (see *Public clinics* above for statistics on clinic building).¹⁶² [¹⁶² *The Citizen* 28 March 1996]

The Hospital Personnel Trade Union of South Africa (Hospersa) welcomed free PHC in principle but said that there was ‘considerable dissatisfaction’ with its timing. Neither staffing structures nor conditions of employment had been sufficiently altered to compensate personnel for the expected increase in workload. There were insufficient PHC nurses and the district health system was not yet in

place, Hospersa said.¹⁶³ [¹⁶³ *The Star* 1 April 1996] The Freedom Front (FF) also criticised the plan, saying that it was an ‘expensive disaster’ as the country’s health care infrastructure was too weak to implement it successfully. The FF warned that lack of consultation about the implementation of the plan could lead to unrest among nurses as they tried to adjust to ‘massive’ new workloads.¹⁶⁴ [¹⁶⁴ *Ibid* 2 April 1996]

According to the National Society of Community Nurses of South Africa, the implementation of the PHC policy was ‘premature’. Clinics had not been planned and equipped to handle large numbers of people and basic emergency treatment could not be provided there, since clinics lacked the necessary equipment. Budgets did not provide for PHC medication. The society also said that posts had not been planned or allocated for the additional staff needed at the clinics. A referral network was not yet in place and referred patients were experiencing transport problems because of irregular public transport.¹⁶⁵ [¹⁶⁵ *The Citizen* 3 April 1996]

A study by the Child Health Unit at the University of Cape Town (UCT) and the Health Systems Trust, published in April 1996, found that the introduction of free health care led to an increase of patients at most public health facilities. This suggested that the previous system of user fees was a deterrent to people’s using public health services. Most health workers felt that although the provision of free health care helped to prevent serious diseases or deaths, it had aggravated problems in the public health sector, among them poor working conditions, low pay, a shortage of medicine, overcrowding and poor staff morale. Initial poor planning for the transformation meant that clinics were underequipped for the sudden influx of patients. Long queues and the resultant dissatisfaction with the policy made it difficult for both health care providers and patients. However, people living in rural areas and informal settlements generally felt that health care had improved.¹⁶⁶ [¹⁶⁶ Child Health Unit (University of Cape Town) and the Health Systems Trust, *Free Health Care for Pregnant Women and Children under Six in South Africa*, April 1996]

Dr David McCoy of the Child Health Unit at UCT said that although the policy had led to an increased utilisation of most health care facilities, it was difficult to say whether this had caused a real benefit in terms of health outcome, or whether the beneficiaries of the policy were those who most required health care. Dr McCoy also said that the provision of free PHC services at hospitals had worsened their workload. The problem would be solved only by improving the quality of primary level services—otherwise patients would continue to bypass clinics and go to hospitals. In addition, primary level nurses in particular had to be given greater support in terms of accommodation, working facilities, and training and teaching.¹⁶⁷ [¹⁶⁷ *Ibid*; *Mail and Guardian* 9 November 1996]

The National Progressive Primary Health Care Network said in November 1996 that it was concerned about the shortage of medicines and inadequate service delivery at PHC facilities. A shortage of medicine had compelled some patients to return two or more times to clinics to receive treatment. This was not ‘cost effective’ for either the consumer or the provider, according to the network. The problem was exacerbated by transport difficulties in rural areas.¹⁶⁸ [¹⁶⁸ *Mail and Guardian* 9 November 1996]

In the same month, at a seminar held at the University of the Western Cape, nurses complained that the

introduction of free PHC had placed a 'heavy burden on them'. Some nurses were seeing up to 200 patients a day. Nurses said that patients should be required to pay a nominal amount for services to prevent abuse of the system and to encourage them to take care of minor complaints (for example colds and headaches). Some patients went from clinic to clinic for medicines which they then sold. According to Mrs Eileen Brannigan, executive director of the Democratic Nursing Organisation of South Africa, nurses received little training for PHC and no extra pay for the added risk. Nurses in rural areas in particular were under 'enormous pressure' to do things they were not always competent to do, Mrs Brannigan said.¹⁶⁹ [¹⁶⁹ *Focus on SA*, November 1996]

Medicines

National expenditure on drugs amounted to about R6,6bn in 1994 (or 22% of total health expenditure), according to the 1995 report of the Department of Health. Of this amount, as much as R1,9bn (29%) was spent in the public sector. Drug costs, particularly in the private sector, were high by international standards. An estimated R500m to R1,2bn was lost annually in the public sector through theft and wastage of drugs. In addition, pharmaceutical personnel in most public sector facilities lacked basic drug supply management skills.¹⁷⁰ [¹⁷⁰ Department of Health, annual report 1995]

The *South African Health Review* estimated that in 1995, R4,7bn was spent on prescription pharmaceuticals, of which R3,1bn was dispensed to medical aid members and R1,6bn was purchased by the public sector. However, the latter did not 'necessarily reach its intended users, due to poor control systems and mechanisms'. An additional R1,7bn worth of pharmaceuticals was sold over the counter.¹⁷¹ [¹⁷¹ Health Systems Trust and the Henry J Kaiser Family Foundation, *South African Health Review 1996*, 1996]

In order to address the problems of high costs, theft and wastage, the department announced a new national drug policy, effective from April 1996, which would reduce the price of medicines in state PHC clinics (see also *National Drug Policy for South Africa* below). The policy provided for an essential drug list (EDL), consisting of some 160 drugs which satisfied the most common ailments of the majority of the population. These drugs would be available free of charge at every PHC facility. A committee consisting of medical and pharmaceutical experts was appointed to select drugs for the EDL. The EDL was published in March 1996.¹⁷² [¹⁷² *Sowetan* 22 February 1996, *Business Day* 23 February 1996; Health Systems Trust and the Henry J Kaiser Family Foundation, *South African Health Review 1996*, 1996]

A pricing committee was established by the department to monitor and regulate drug prices in both the private and public sectors. The committee would investigate various measures to reduce expenditure on drugs (see *National Drug Policy for South Africa* below). If these measures failed to reduce the price of drugs, price controls would be considered.¹⁷³ [¹⁷³ *Sowetan* 22 February 1996, *Business Day* 23 February 1996]

According to a spokesman for the Department of Health, Mr J Vorster, by November 1996 the EDL was at different stages of implementation in the various provinces. Some provinces had procured the drugs on the list and were busy training staff on how to implement the new policy.¹⁷⁴ [¹⁷⁴ Telephonic interview with

Mr J Vorster, Department of Health, 19 November 1996]

Natural Medicines

In November 1996 two organisations, the Confederation of Complementary Health Associations of South Africa (Cochasa) and the People's Health Alliance Rejecting Medical Authoritarianism, Prejudice and Conspiratorial Tyranny, were formed by some natural health practitioners. The organisations complained that the Medicines Control Council inspectorate was harassing homeopaths and dispensers of natural medicines by blocking imports of such remedies, raiding their premises and removing up to 80% of their medicines. The chairman of Cochasa, Mr Michael O'Brien, said that the raids appeared to have been prompted by complaints to the council from established natural medicine companies. These companies were losing their market share as many new products had entered the market since the 1994 general election. According to Mr O'Brien, Cochasa was holding talks with the department and the parliamentary portfolio committee on health in a bid to set up an alternative council to deal with the regulation of natural medicines, remedies and products.¹⁷⁵ [¹⁷⁵ *Mail and Guardian* 22 November 1996]

Family Planning

The MEC for health in Gauteng, Mr Amos Masondo, said in February 1996 that the number of people seeking advice from the province's family planning services had increased from 1,3m in 1992/93 to more than 2,8m in 1994/95. Mr Masondo said that one of the deficiencies of the system was a virtually exclusive focus on women. Youth were also not satisfactorily reached in an effort to reduce teenage pregnancies. Mr Jack Bloom, the Democratic Party spokesman on health in Gauteng, said that the numbers of people using the family planning services in Gauteng were 'extremely impressive' as it meant that 75% of the target market was being reached. (It was estimated that there were about 4m women of childbearing age in Gauteng.) However, Mr Bloom questioned the effectiveness of the service as the birth rate had not dropped. He said that family planning should enjoy much higher priority.¹⁷⁶ [¹⁷⁶ *The Citizen* 1 February 1996] (See also chapter on *Population*.)

Vaccination

According to the 1995 report of the Department of Health, a survey conducted in 1994 had found that 95% of children had been immunised against tuberculosis (TB), 73% had received three doses of vaccine against tetanus, 72% had received four doses of poliomyelitis vaccine, and 76% had been immunised against measles. In total, 63% of children were fully immunised by their first birthday.¹⁷⁷ [¹⁷⁷ Department of Health, annual report 1995] By July 1996 some 76% of one-year-old babies had been immunised against polio and 85% against measles. The department aimed to immunise 5,3m children under five years against polio and measles in a mass campaign in 1996, entitled the 'Kick polio out of Africa campaign'.¹⁷⁸ [¹⁷⁸ *The Citizen* 27 July 1996]

Dr Zuma said that the department aimed to eradicate polio from South Africa completely by 1998, to

reduce measles to fewer than 4000 cases a year over five consecutive years and to increase immunisation coverage to 90% for all the vaccines in the primary childhood series (see 1995/96 Survey, pp226–227).¹⁷⁹ [¹⁷⁹ *Business Day* 5 August 1996] Launching the immunisation campaign in August 1996, the president, Mr Nelson Mandela, called on all African countries to conduct mass immunisation campaigns against polio. The disease crippled more than 12000 children in Africa every year, he said.¹⁸⁰ [¹⁸⁰ *Ibid*]

A survey conducted by the South African Vitamin A Consultative Group in 1995 found that six out of ten children were fully immunised by their first birthday. Children in rural areas were less likely to be fully immunised, while children living in traditional rural households were more likely not to be immunised at all. The survey suggested that a surveillance programme be developed to allow for the rapid reporting of disease and for the control of outbreaks with targeted immunisation responses. Provinces should also seek to eliminate areas of low immunisation coverage. A lifetime health record should be established for each person containing information on allergies, birth history, chronic treatment, growth monitoring, immunisation and serious diseases such as TB.¹⁸¹ [¹⁸¹ South African Vitamin A Consultative Group, *Children aged 6 to 71 months in South Africa, 1994: Their anthropometric, vitamin A, iron and immunisation coverage status*, 1995]

In August 1996 the Gauteng provincial health department announced that it would make available more than 1000 immunisation points in the province as part of the national campaign to root out measles and polio. The department said that the campaign was necessary as routine immunisation at clinics reached only about 75% of children.¹⁸² [¹⁸² *Business Day* 7 August 1996] Other provinces such as the Eastern Cape, the Free State and KwaZulu-Natal also announced plans to participate in the national campaign.¹⁸³ [¹⁸³ Various newspaper clippings]

In November 1996 the South African Medical Research Council (MRC) announced that a new vaccine against diarrhoea had been developed and would be licensed in 1997. Diarrhoea caused up to 28% of deaths in children under five years of age in South Africa. The new vaccine could prevent some 16% of such deaths if administered to babies younger than six months.¹⁸⁴ [¹⁸⁴ *The Citizen* 8 November 1996]

Termination of Pregnancy

Dr Zuma said in March 1996 that 36238 incomplete abortions (ie residues of pregnancy surgically removed) had been reported by hospitals in 1993 and 41875 in 1995 (no figures were provided for 1994).¹⁸⁵ [¹⁸⁵ *Hansard* (NA:Q) 2 col 308, 14 March 1996] However, in a survey conducted by the MRC in 1994 it was estimated that 45000 women presented themselves to public hospitals annually with incomplete abortions. The majority (84%) were African and 11% were coloured women. Their average age was 28 years. The survey estimated that 425 women died annually because of incomplete abortions. The cost of treating women with incomplete abortions was estimated at R18,7m a year. The MRC said that the study clearly indicated that a ‘large’ number of women underwent backstreet abortions every year and that many of these women developed complications after unsafe abortions.¹⁸⁶ [¹⁸⁶ *Hansard* (NA:Q) 8 cols 1456–1458, 12 August 1996; information provided by the South African Medical Research Council, 11 November 1996]

The Department of Health said that in 1994, 2180 women underwent legal abortions in South Africa (the latest year for which figures were available). Of these, the majority (61%) were whites, followed by coloured women (18%), Africans (17%) and Indians (3%). The largest proportion of legal abortions was performed on women between 20 and 24 years (28%), while 17% were performed on women younger than 20 years.¹⁸⁷ [¹⁸⁷ *Hansard* (NA:Q) 8 cols 1456–1458, 12 August 1996]

A study by the MRC in 1996 revealed that if abortion was legalised, between 26000 and 175000 abortions were likely to be performed at state institutions annually at a cost of between R8m and R42m. The MRC said that 60000 abortions annually was the ‘most realistic’ number and the cost would be R14m (ie R1m more than it cost the state annually to provide treatment to some 13000 women who had experienced complications from unsafe abortions). However, assuming that the state had sufficient funds to provide free abortions, it did not have the facilities or sufficient trained and willing personnel to perform some 5000 abortions a month. The MRC calculated that the average cost of treating a routine first-trimester abortion without a general anaesthetic would be R136 at primary health care level and R168 in a regional hospital. However, the average cost of a second-trimester abortion would be R417.¹⁸⁸ [¹⁸⁸ *Financial Mail* 1 November 1996]

The director of maternal, child and women’s health in the Department of Health, Dr Eddie Mhlanga, said that private and state hospitals would initially be designated to perform abortions while primary health care centres would be able to offer abortions in the long term. This meant that the burden would initially fall on tertiary and secondary hospitals, many of which were battling to cope with existing patient loads. Moreover, the state did not know what proportion of staff would be willing to perform abortions.¹⁸⁹ [¹⁸⁹ *Ibid*]

Following the adoption of the Choice on Termination of Pregnancy Bill in October 1996 (see *Choice on Termination of Pregnancy Act of 1996* below), Dr Mhlanga said that the department planned a ‘phased’ implementation of abortion. The first phase would be implemented in 1997 when state hospitals and some private clinics would be authorised to conduct abortions. Dr Mhlanga said that the department was concerned about adequate facilities, transport and staff being available if complications arose. The department did not consider it necessary to increase budgets to cope with the additional abortions as hospitals would save money on treating emergencies after ‘botched’ illegal abortions. Also, indirect savings would come from a reduction in the number of full-term pregnancies.¹⁹⁰ [¹⁹⁰ *Mail and Guardian* 29 November 1996]

According to the registrar of medical aid schemes, Mr Danie Kolver, medical aid schemes were unlikely to pay for abortions unless they were medically necessary as most did not pay for elective procedures. The government could not compel medical aid schemes to pay for abortions as benefits were no longer determined by statute.¹⁹¹ [¹⁹¹ *Financial Mail* 1 November 1996]

Mr Gary Taylor, the human resources director at Medscheme, said in November 1996 that only a very

small minority of medical aid schemes would be willing to pay for abortions unless medically necessary. He argued that most medical aid schemes would classify abortion as elective surgery, which was not normally covered by them. However, according to the Representative Association of Medical Schemes, medical schemes were obliged to pay for the termination of pregnancy if 'legitimate surgical procedures [were] performed by qualified and registered medical practitioners, provided the benefits for such procedures [were] provided for in the rules of the medical schemes concerned'.¹⁹² [¹⁹² *Mail and Guardian* 29 November 1996]

Occupational Health

A survey published in 1996 by the Epidemiological Research Unit (ERU), which conducts research mainly into mining diseases, found that 70% of former gold mineworkers in the Libode district (Eastern Cape) suffered from lung diseases related to their former occupations. Some 500 gold mineworkers aged between 35 and 95 years were randomly selected from almost 12000 mineworkers in the area and surveyed. Preliminary results showed that about 13% of the study group had pulmonary TB, 32% had first and second degree pneumoconiosis (dust disease) and 23% had both. The results indicated that rural communities and rural hospitals were carrying a huge burden of mining-related diseases, the report said. If the prevalence of occupational lung disease in the Libode district was similar to that of other areas providing labour for the mines, thousands of ill former workers could potentially claim huge amounts in compensation, particularly if such claims were to include the asbestos, coal and other mining industries. The ERU estimated that as much as R70m could be sought in compensation if the survey results were applied to all mining recruits between 1968 and 1980. However, the report found that few claims had been lodged because mineworkers and medical staff were generally unaware of legal provisions and there was a severe shortage of clinics where medical examinations could be held.¹⁹³ [¹⁹³ *The Sunday Independent* 28 April 1996, *The Star* 29 April 1996]

Reacting to the report, the National Union of Mineworkers (NUM) said that the mining industry was responsible for unhealthy working conditions. In addition, the Department of Health had failed to ensure that proper medical examinations of mineworkers were held. The NUM said that the department had a responsibility to provide clinics where former mineworkers could be examined.¹⁹⁴ [¹⁹⁴ *The Sunday Independent* 28 April 1996]

The chief executive officer of Anglo Gold, Mr Bobby Godsell, warned against the dangers of extrapolation of the results to the whole of southern Africa. The study needed to be supported by other research. In particular, a control study should be done in a rural area where no recruitment to the mines had taken place. Such a study could show how much disease, in particular TB, could be attributed to mining and how much to other causes. However, Mr Godsell admitted that the survey revealed a serious problem which the industry had to address.¹⁹⁵ [¹⁹⁵ *Saturday Star* 27 April 1996]

The acting director of the National Centre for Occupational Health (NCOH), Dr David Rees, announced in September 1996 the launch of a surveillance system called the Surveillance of Work-related and

Occupational Respiratory Diseases in South Africa (Sordsa). The NCOH would collaborate with two specialist doctors' organisations which would collect basic information on occupational diseases (particularly respiratory diseases), including the industry in which the diseases occurred, the working environment and suspected chemical causes of such diseases. The main diseases to be monitored were asthma, bronchitis, chronic obstructive airways disease, pneumoconiosis, TB, and various forms of lung cancer and nonmalignant lung diseases. The Sordsa team would provide the NCOH, the Department of Labour and the mining industry with data on diseases according to region, occupation and disease frequency. The information would then be used to counter hazards by improving working conditions and increasing protection to workers in high-risk areas.¹⁹⁶ [¹⁹⁶ *The Star* 4 September 1996]

HEALTH POLICY

National Policy

Restructuring the National Health System for Universal Primary Health Care

In March 1996 the National Health System Task Group published a final revised report entitled *Restructuring the National Health System for Universal Primary Health Care*. The task team had been appointed by the Department of Health in 1995 to analyse responses received to a report published earlier in 1995 by the Committee of Inquiry into a National Health Insurance System.¹⁹⁷ [¹⁹⁷ Department of Health, *Restructuring the National Health System for Universal Primary Health Care—Executive Summary*, March 1996] (See 1995/96 Survey, pp229–233.)

The final report did not differ substantially from the one published in 1995. However, the final report extended the period of implementing free primary health care (PHC) services from five to eight years. The cost of providing PHC services was revised downwards in the final report, which said that it would cost some R5,3bn in 1996/97, increasing to R7,3bn in 2000/01 (at constant 1995 prices) (the first report had said that PHC for the total population would cost R6bn in 1996/97 and would increase to R10bn by 2000/01, based on an initial two visits per person per year and increasing to five visits by 2000/01). The final report based these estimates on a lower number of PHC visits per person per year, ie an average of 1,8 visits in 1995/96, increasing to 2,8 visits by 2000/01.¹⁹⁸ [¹⁹⁸ *Ibid*]

The main source of funding for public health services would remain general revenues, supplemented by revenue to be generated by public hospitals through the introduction of mandatory health insurance for hospital benefits. Although the final report dropped an earlier proposal of a dedicated payroll tax to fund public health care services, it said that it nevertheless 'remained interested' in such an alternative. The report estimated that allocations to the health budget would have to grow by 2% a year in real terms to allow for increased expenditure on PHC services.

The report confirmed earlier proposals that all employed individuals should obtain private health insurance coverage for at least a minimum core package of public hospital services (see 1995/96 Survey,

p232). Preliminary estimates suggested that on average such coverage would cost R400 per person per year. The total cost for a family of three could amount to R56 a month. The report estimated that some 5m to 6m individuals would be newly covered under this proposal, and that between R1bn and R2bn could be generated additionally through hospital user charges, depending on the rate of expansion of coverage. It would be essential, however, for hospitals to retain a portion of the revenues which they generated and for the remainder to be retained by the health services rather than returned to general provincial revenues. This would allow hospitals to improve the service conditions of staff and service delivery.¹⁹⁹ [¹⁹⁹ Ibid]

The first phase of the plan was implemented in April 1996 with the introduction of free PHC services at public facilities (see *Primary health care* above). However, the second phase of the plan, including 'regulatory reforms' in the private health sector, required legislation for implementation.²⁰⁰ [²⁰⁰ *Sunday Times* 31 March 1996] At the time of writing the department had not yet published draft legislation.

Criticism

Commenting on the 1995 draft of the national health insurance system, the managing director of D & E Health Benefits (medical aid administrators), Mr Robin Melville, said that most companies were concerned about the 'bottomline impact' of the health plan in so far as it provided a mandatory basic hospital or medical aid plan to all employed people, especially if the tax deductibility of medical aid contributions fell away. According to the draft, a portion of all contributions to the basic plan would be channelled into an equalisation fund that would distribute funds to schemes according to their profile of high-risk members. It was important that the equalisation fund be implemented responsibly and not result in 'badly-managed schemes being subsidised by the well-managed schemes', Mr Melville said.²⁰¹ [²⁰¹ *The Star* 12 January 1996, 8 February 1996]

The *Financial Mail* said in March 1996 that the final report did 'little' to address concerns regarding the plan's costs, which had been underestimated. The list of services to be provided under the final plan had grown. Calculations in the final report did not appear to have been adjusted to take into account the longer timeframe allowed for implementation (from five to eight years). The *Financial Mail* also questioned the assumption that the average number of visits per person would rise from 1,8 to 2,8 from 1997/98 to 2000/01, particularly in light of the HIV epidemic. According to the *Financial Mail*, if the model turned out to have been undercosted, any tax or levy in any part of the model would 'simply be raised by a government desperate to appease health care expectations'.²⁰² [²⁰² *Financial Mail* 22 March 1996]

According to the Free Market Foundation of Southern Africa, although the implementation period for the proposed policy was projected to be eight years, budget projections were only supplied for the five years up to 2000/01. The foundation said that the report listed 'numerous deficiencies' which had to be rectified, such as the need to increase salaries, appoint new staff, provide new facilities such as clinics, train staff, establish various bodies and ensure an adequate supply of essential drugs at all PHC facilities. However, to suggest that these and envisaged services would occur at a real average annual increase in

expenditure of 8,3% was not credible. In addition, estimated expenditure was based on an average of 1,8 visits per person per year but medical aid schemes generally found that the average number of visits for their members was six per person per year for a much smaller range of services than envisaged by the report.²⁰³ [203 Free Market Foundation of Southern Africa, *Notes on 'Restructuring the National Health System for Universal Primary Health Care'*, 25 March 1996]

National Drug Policy for South Africa

In January 1996 the Department of Health published the *National Drug Policy for South Africa* which outlined how pharmaceutical services were to be managed. The policy aimed to address lack of equity in access to essential drugs, rising drug prices, irrational use of drugs, losses through malpractice and poor security, and cost-ineffective procurement. The national drug policy would be co-ordinated by the South African Drug Action Programme, established within the Department of Health (see also *Medicines* above).²⁰⁴ [204 Department of Health, *National Drug Policy*, January 1996]

The policy document said that the Medicines Control Council (MCC) would be responsible for drug regulation and control in South Africa, including the rationalisation of drugs, as well as for the registration of practitioners and premises. Medical practitioners and nurses would not be allowed to dispense drugs, except where separate pharmaceutical services were not available. Medical personnel allowed to dispense drugs would have to obtain licences from the MCC. Ownership of pharmacies by lay persons would be considered provided that the pharmacy was managed on a full-time basis by a registered pharmacist.²⁰⁵ [205 Ibid]

A pricing committee would be established in the ministry of health to monitor and regulate drug prices. The pricing structure of pharmaceutical manufacturers, wholesalers and providers of services (such as clinics and hospitals) would be 'transparent'. The wholesale and retail percentage mark-up system would be replaced with a pricing system based on a fixed professional fee. All drugs would be supplied free of charge at primary care level. A payment would be levied for drugs supplied by the state at secondary and tertiary levels. The drug policy recommended that the international nonproprietary name (INN) or generic name of medicines be used to reduce drug costs. The availability of generic, essential drugs would be encouraged by providing incentives to produce such drugs in the country. Prescriptions in both the private and the public sector would be written using the approved name (INN). The MCC would compile a list of products that could not be substituted by generic equivalents.

The policy document noted that a national essential drugs list committee, which had been appointed by the minister of health, would be responsible for the selection of drugs to be used in the public sector. The committee would draw up and review regularly a national list of essential drugs using generic names. The list would be prepared for three levels of health care providers, ie primary, secondary and tertiary hospital care (see also *Medicines* above).

Price negotiations for the procurement of essential drugs for the public sector would be undertaken at

national level, using national and international tendering, the policy document said. Provincial authorities would purchase drugs directly from suppliers after contracts had been awarded. Although preference would be given to national manufacturers, the government could procure medicines on the international market if it offered the lowest available prices. Tenders would be called for by generic name only.²⁰⁶ [²⁰⁶ Ibid] Drug procurement and distribution for the public sector would be limited to drugs on the EDL.²⁰⁷ [²⁰⁷ *Business Day* 23 February 1996]

The policy document stated that the core curricula of all educational programmes for medical, paramedical and pharmaceutical personnel would be assessed and revised to ensure sufficient exposure to PHC and essential drugs. In addition, traditional healers would be encouraged to work more closely with the formal health care sector, particularly in programmes such as immunisation monitoring and AIDS management. A national list of 'essential traditional medicines' would be approved by the MCC.²⁰⁸ [²⁰⁸ Department of Health, *National Drug Policy for South Africa*, January 1996]

According to the *South African Medical Journal*, the minister of health, Dr Nkosazana Zuma, had made it clear that the policy should be regarded as a set of guidelines. She had left the issue of the implementation of many of the aspects 'deliberately vague', stating that this would depend on 'whether stakeholders will self-regulate according to policy'. If not, legislation to implement the drug policy would be considered within the next two years.²⁰⁹ [²⁰⁹ *South African Medical Journal*, April 1996]

Criticism and Alternative Proposals

The draft national drug policy was criticised before its official publication in January 1996 by three organisations, the Pharmaceutical Manufacturers' Association, the National Association of Pharmaceutical Manufacturers and the South African Association of Pharmacists. The organisations had lodged a complaint with the Competition Board, saying that the department's policy proposals contravened competition policy. They were concerned about the proposals to introduce price controls, a pricing system that could encourage collusion, a 'potentially discriminatory and unworkable' remuneration system for wholesale and retail sellers of drugs, mandatory generic substitution and the creation of a state monopoly. If the state was to become the 'virtual sole buyer' of drugs the pricing committee could be used to entrench a powerful state monopoly.²¹⁰ [²¹⁰ *Financial Mail* 12 January 1996]

The organisations also warned against the possible expansion of the EDL to the private sector. The organisations suggested that medical schemes should be allowed to buy directly from pharmaceutical companies in order to supply their members. Such a move would bypass the wholesale and retail mark-ups in the distribution chain, which could amount to 100%. A further concern related to proposals to replace wholesale and retail mark-ups with a system based on professional fees, as this could lead to single item scripts costing more than at present. The department had not given any indication of what the fee would be and how it would be controlled.²¹¹ [²¹¹ Ibid]

Responding to the new drug policy, the managing director of Glaxo Wellcome in South Africa, Mr

Andrew Witty, welcomed the EDL but warned that such a list in the private sector would be ‘illogical’. At present the private sector bought drugs at about six to 15 times the price offered to the public sector, thereby effectively subsidising the public sector. However, an EDL in the private sector would upset this balance and the low prices offered to the state would end, he said.²¹² [²¹² *The Star* 28 March 1996]

The executive director of the Representative Association of Medical Aid Schemes, Mr Reg Magennis, said that an EDL could be useful in a system of private managed health care where contracts between doctors and medical aid schemes were more specific than at present. If patients found that the list met their requirements, they could choose to withdraw their medical aid membership and go to public clinics where the medicine was dispensed for nothing, Mr Magennis said. If the public sector succeeded in cutting prices dramatically, pharmaceutical manufacturers could increase prices to the private sector even further to recover losses.²¹³ [²¹³ *Ibid*]

In November 1996 Mr Braam Volschenk, a legal adviser to the Medical Association of South Africa, warned that a flat fee for medicine could increase the prices of cheap medicines (as the fee could be more expensive than the actual medicine) and proposed that further research be conducted into the issue. However, at the same time the Pharmaceutical Society of South Africa said that it was working with the department to implement the flat fee as soon as possible.²¹⁴ [²¹⁴ *The Star* 15 November 1996]

National Legislation

The parliamentary portfolio committee on health said in June 1996 that it had raised concerns with the Department of Health regarding the formal procedure followed in drafting the national health bill. The department had not presented a green and then a white paper before tabling legislation. Instead the department regarded two policy documents, *Towards a National Health System* and *Restructuring the National Health System for Universal Primary Health Care* as forming the basis of the national health bill and serving the purposes of both a green and a white paper. The department said, however, that it was consolidating the documents into a single white paper. In April 1997 the department tabled a white paper outlining the transformation of the health system.²¹⁵ [²¹⁵ The National Assembly portfolio committee on health, *Report on the 1996/97 Health Budget Vote*, 4 June 1996; *Business Day* 17 April 1997]

Mine Health and Safety Act of 1996

In June 1996 the president assented to the Mine Health and Safety Act of 1996. The act set out regulations to protect the health and safety of all persons employed on mines (see chapter on *Employment and Industrial Relations*).

Choice on Termination of Pregnancy Act of 1996

The Choice on Termination of Pregnancy Act was assented to by the president in November 1996, following months of debate between the pro-abortion and anti-abortion lobbies. The act provided for

abortions to be performed on request under the following conditions:²¹⁶ [²¹⁶ Choice on Termination of Pregnancy Act, *Government Gazette* no 17602, 22 November 1996]

- abortions could be performed within the first 12 weeks of pregnancy by a registered midwife or medical practitioner who had undergone the prescribed training;
- abortions could be performed between the first 12 and 20 weeks of pregnancy by a medical practitioner if the pregnancy posed a serious health threat to the mother or child, if the pregnancy resulted from sexual abuse or if the pregnancy would significantly affect the social or economic circumstances of the woman;
- abortions could be performed after the first 20 weeks of pregnancy if a medical practitioner was of the opinion that the pregnancy would endanger the mother's life or if the foetus was likely to be severely malformed;
- counselling should be 'promoted' before and after the abortion;
- the consent of the woman only would be required and a minor would not be obliged to consult with her parents or guardian before applying for an abortion; and
- the identity of any woman who requested or obtained an abortion would remain confidential. (See also chapter on *Population*.)

The act omitted an earlier proposal compelling medical practitioners who objected to performing abortions to refer the patient to another practitioner or midwife.

The African Christian Democratic Party, the Inkatha Freedom Party and the National Party (NP) opposed the bill but allowed their members to vote according to their consciences. The African National Congress and the Democratic Party (DP) supported the bill.²¹⁷ [²¹⁷ *The Natal Witness* 11 October 1996]

The NP said in October 1996 that it would take up abortion as an election issue in 1999. Ms Sheila Camerer MP (NP) said that the party was considering referring the act to the Constitutional Court.²¹⁸ [²¹⁸ *Business Day* 23 October 1996] Before the act was passed the DP expressed concern about the fact that minors, who would be entitled to legal abortions without the consent of their parents, were not sufficiently protected or assisted in exercising a proper choice on the question of abortion.²¹⁹ [²¹⁹ *Ibid* 25 October 1996] The Medical Association of South Africa (Masa) shared the DP's concern, saying that the provision ran counter to existing principles regarding medical consent for minors. Masa argued that a child might not be in a position to fully understand the risks or implications of the procedure, and would in any event require parental consent to any emergency interventions which might result from the procedure.²²⁰ [²²⁰ *Financial Mail* 1 November 1996]

Medicines and Related Substances Control Act of 1965: General Regulations

In June 1996 the Department of Health published draft general regulations in terms of the Medicines and Related Substances Control Act of 1965. The proposed regulations provoked much protest, as well as the launch of legal proceedings. As a result, they were withdrawn. New ones would be prepared, taking account of comments received. In their original form the regulations proposed the following:²²¹ [²²¹

Medicines and Related Substances Control Act, 1965, General Regulations, *Government Gazette* no 17317, 12 July 1996]

- all medicines should contain labels bearing prescribed information and be colour coded to indicate whether they were sold to the state, were prepackaged into patient-ready packs by the state, or were sold for export;
- the international nonproprietary name (INN) of medicines should be published on all medicine labels;
- patient information leaflets should be distributed with all medicines;
- all prescriptions should be written using the INN or generic name of the product;
- all manufacturers and distributors of medicine should be licensed by the director general; and
- no medical practitioner or dentist would be allowed to dispense medicine unless he or she was licensed and had completed a supplementary course in dispensing practices.

The proposed regulations were opposed by many pharmaceutical companies and doctors. The South African Medical and Dental Practitioners' Association, representing mainly black doctors, warned in August 1996 that people with no medical aid benefits would suffer the most if doctors and dentists were prevented from dispensing medicine. The deputy chairman of the association, Dr Norman Mabasa, said that many private practitioners charged people not belonging to a medical aid about R50 for a consultation and medicine. However, the proposals would compel people to pay for the consultation separately and to spend 'a lot more money' on medicine from a pharmacy. According to Dr Mabasa, medical practitioners filled an important void caused by a lack of pharmacists in many areas, such as black townships.²²² [²²² *The Citizen* 2 August 1996, *Business Day* 19 August 1996]

The National Convention of Dispensing Doctors, which represented some 7200 of the 8000 dispensing doctors in the country, also opposed the proposals, saying that they would increase the cost of health care for the poorest sector of society. Most of the dispensing doctors' patients lived in disadvantaged areas where there were no pharmacies or where facilities closed after office hours. By not allowing doctors to dispense, the department 'removed [the doctors'] tools' to treat patients.²²³ [²²³ *Mail and Guardian* 23 August 1996]

Many doctors expressed concern that the system to monitor medicines from the manufacturer to the end-user would be very costly, costing as much as R500m to implement, and that the cost would be added to the prices of drugs. In addition, doctors felt that productivity and efficiency would be hampered as permission would have to be obtained from a centralised database for every sale. It was 'doubtful' whether the Medicines Control Council (MCC) had a computer system capable of handling the volume of transactions daily. It was estimated that the MCC would have to handle on average 600 transactions every second.²²⁴ [224 *Post* 18 September 1996]

The Department of Health responded to the criticisms by saying that more than 1000 inspections by the MCC had revealed serious problems with the present system of dispensing drugs. More than 50% of the practices inspected allowed dispensing by untrained people. In 39% of cases medicines were stored incorrectly, thereby losing their effectiveness or even becoming dangerous to patients. Some 16% of practices did not have suitable refrigerators in which to keep certain medicines. The MCC also found that 27% of practices had no suitable labels and patients were given inadequate information on how to take the medicines and on expiry dates.²²⁵ [225 *City Press* 11 August 1996, *The Star* 12 August 1996] The department denied that it was advocating a total ban on dispensing doctors but said that doctors had to be properly trained in order to dispense.²²⁶ [226 *Mail and Guardian* 23 August 1996]

According to the chief director for registration, regulation and procurement in the department, Dr Bada Pharasi, research had shown that dispensing doctors prescribed on average 2,4 items per patient, compared with an average of 1,7 items prescribed by nondispensing doctors. The overprescribing often stemmed from financial incentives given by the pharmaceutical companies to dispensing doctors.²²⁷ [227 *The Sunday Independent* 22 September 1996]

In November 1996 the parliamentary portfolio committee on health called for a working group to be established to study the question of dispensing doctors, following oral representation by some 50 groups and individuals on the proposed regulations. The working group was to investigate which bodies should regulate dispensing, whether the authority to dispense was a necessary part of medical practice in South Africa, whether supplementary training for dispensing was necessary and, if so, how long such training should be and who should provide it. The working group would include representatives from the public and private health sectors, pharmacists and consumer groups.²²⁸ [228 *Cape Times* 20 November 1996, *The Sunday Independent* 22 September 1996]

The chief executive of the Pharmaceutical Manufacturers' Association, Mrs Mirryèna Deeb, said drug manufacturers were opposed to mandatory prescription of generic drugs to the exclusion of brand names, as it 'impinged on their intellectual property rights'. Mrs Deeb also said that the proposals for the introduction of a digital marking system to control the theft of drugs was unworkable and unaffordable. While manufacturers would be compelled to implement the marking system at production level at a cost of R500m, the government would not be required to implement the system in its warehouses, which was where 80% of theft occurred, according to Mrs Deeb.²²⁹ [229 *Business Day* 30 September 1996]

The *South African Medical Journal* reported in October 1996 that the pharmaceutical companies viewed the proposal that prescribers should be compelled to state the INN and not the brand name of a drug as 'inherently flawed'. It was not regarded as an 'appropriate system to be used for prescribing medicines if the required degree of accuracy and specificity was to be achieved'. Some of the objections were based on the fact that not all scheduled substances had been assigned INN names, and that the INN system was devised for single compounds and not for combination medicines. The choice as to which commercially available product containing the prescribed active ingredients to select would become the responsibility of the pharmacist and not the medical practitioner. In addition, medical practitioners were concerned that pharmacists could prescribe products which caused adverse reactions in certain patients owing to the particular medical history of the patient, with which the pharmacist was unfamiliar.²³⁰ [²³⁰ *South African Medical Journal*, October 1996]

In September 1996 SmithKline Beecham, a pharmaceutical company, said that it was taking legal action to overturn the government's moves to make prescribing generic drugs mandatory.²³¹ [²³¹ *The Sunday Independent* 29 September 1996] SmithKline Beecham said that limiting the use of branded drugs would deny doctors choice and could compel them to change established patient regimes. Authorising only licensed persons to distribute medicine, could rule out many currently dispensing medical practitioners such as dentists, according to SmithKline Beecham.²³² [²³² *Business Day* 18, 21 October 1996]

In October 1996 the Department of Health withdrew the draft regulations, saying that an 'overwhelming response' from industry and the public had forced the withdrawal. New draft regulations would be prepared to take into account some of the comments received. The decision to review the draft regulations was welcomed by the Medical Association of South Africa. (See also chapter on *Business*.)²³³ [²³³ *Ibid*]

Draft National Health Bill

In November 1996 a provisional ninth draft of the National Health Bill was published for comment by the Department of Health. The draft bill provided for the creation of a national health system, consisting of a national and nine provincial health departments. Municipalities should be incorporated into the national health system to provide municipal health services. A national health authority, consisting of the minister of health, the nine provincial MECs for health and three persons from organised local government would be established to determine health policy. The bill also provided for the creation of provincial health authorities, a national health advisory council, a national health consultative forum and a national centre for occupational health.

The draft bill stipulated that the whole of South Africa should be demarcated into health districts. Each district would fall under a district health authority which would ensure the delivery of services. The minister of health, together with the national health authority, would be responsible for determining the various categories of public and private health establishments (such as hospitals, clinics and other medical institutions) and define the level of service to be offered at each establishment. The minister

could also decide whether the national or a provincial health department would be responsible for managing a particular public health establishment. The minister would establish academic health complexes and ‘relevant educational institutions’. A national council for academic health service complexes would be established to investigate matters relating to their functioning and make recommendations to the minister. The minister could set norms and standards relating to the training of health care providers and, by regulation, ensure compliance by training and educating institutions with these norms and standards. Each district health authority and provincial health department should provide child, maternal, women, family health and nutrition services.

The bill gave the minister wide powers to issue regulations on various health issues, including the following:²³⁴ [234 Department of Health, National Health Bill: Provisional Draft 9, 6 November 1996]

- the payment of fees at public health establishments;
- the issuing of a code of conduct for health service providers and employees in the health sector;
- the development of an essential drugs list, including the standard treatment guidelines and use of items on the list;
- determination of the prices associated with the dispensing, administration, retail sale or supply of drugs or medical and other devices;
- the integration of private care providers and private health establishments into the national health system;
- norms and standards applicable to the national health system;
- evaluation of health services provided at institutions other than the health establishment, ie children’s homes, retirement villages, frail care units and private homes; and
- the purchase of and access to ‘prescribed technologically advanced medical equipment.

The draft bill did not make any mention of medical aid schemes or the financing of the national health system.

According to the secretary of the National Progressive Primary Health Care Network, Dr Ivan Toms, the bill offered a ‘comprehensive framework for transformation of the health services, particularly the development of the district health system’. The bill would decentralise authority to the local level and thereby make ‘real community’ involvement far more possible. However, certain aspects of the bill needed to be refined, such as ‘creating a balance between a document that would stand for the next 20

years and flexibility', according to Dr Toms.²³⁵ [²³⁵ *Business Day* 8 January 1997]

Provincial Level

Free State

In September 1996 the Free State Provincial Hospitals Bill was gazetted. It provided for the establishment, maintenance and management of hospitals in the province. The bill also provided for the levying of fees at hospitals and the registration of private hospitals, as well as the treatment of patients of private medical practitioners in public hospitals.²³⁶ [²³⁶ *Provincial Gazette* no 57, 6 September 1996]

Gauteng

In October 1996 the Gauteng Department of Health announced a five-year plan to restructure provincial health services which aimed to cut costs, reallocate resources to deprived areas and build up primary health care (PHC). In terms of the plan resources would be moved to smaller hospitals such as the South Rand and Edenvale hospitals to give township residents better access to hospital care. The Andrew McColm, Kempton Park and Westfort hospitals would be closed from 1997. (The latter was a psychiatric hospital which had been criticised for its conditions.) The Hillbrow, Lenasia, Nigel and Willem Cruywagen hospitals would be converted into 24-hour health centres with maternity facilities and the Hendrik van der Bijl, Laudium and Ontdekkers hospitals would be converted into day-time health centres.²³⁷ [²³⁷ Gauteng Department of Health, *Rationalisation and Restructuring of Hospitals and Primary Care Facilities in Gauteng*, 1996]

PHC centres would gain a total of some 2000 posts, including posts for nurses, doctors and medical specialists. More than 2500 staff would lose their jobs (over and above the 1500 who had been given severance packages by October 1996). The majority would be support staff, while 6000 people would be transferred between hospitals, particularly to ones in disadvantaged areas.²³⁸ [²³⁸ *The Star* 25 October 1996]

However, staff would be given the opportunity to transfer to provinces which were in need of medical personnel, before being retrenched. Academic hospitals would 'bear the brunt' of the job cuts by losing some 5000 personnel, but fewer than 1500 of the posts lost would be in medical and allied positions. The plan also included provision for retrenchment packages. According to the MEC for health in Gauteng, Mr Amos Masondo, the province would call for the moratorium on public service retrenchments to be lifted.²³⁹ [²³⁹ *Mail and Guardian* 25 October 1996]

The department estimated that 300 PHC clinics were required in Gauteng. In 1996, 26 clinics were built and, in terms of the plan, another 14 clinics would be completed in 1997/98.²⁴⁰ [²⁴⁰ Gauteng Department of Health, *Rationalisation and Restructuring of Hospitals and Primary Care Facilities in Gauteng*, 1996]

It was anticipated that the plan would reduce overspending in Gauteng on health to R242m in 1997/98, R209m in 1998/99 and R73m in 1999/2000. Mr Masondo said that the province expected to break even by 2000 or 2001. Reducing overspending on health would take several years as the cuts required for the department to break even in one year would cripple hospital services and ‘bury plans to establish community-based primary health care’, Mr Masondo said.²⁴¹ [²⁴¹ *The Star* 25 October 1996] According to the provincial Department of Health, all matters relating to severance pay, retrenchment and staff transfers had to be negotiated fully with health sector unions and with the central government before implementation.²⁴² [²⁴² Gauteng Department of Health, *Rationalisation and Restructuring of Hospitals and Primary Care Facilities in Gauteng*, 1996]

However, according to the superintendent general of the department, Dr Ralph Mgiijima, the restructuring plan depended on obtaining payment of R300m from Mpumalanga, the North West and the Northern Province for treatment of referred patients. The Northern Province said that it would pay some of the money owed but the other two provinces had refused to do so as they had not ‘budgeted for this interprovincial patient flow’ and therefore did not have the necessary funds.²⁴³ [²⁴³ *Business Day* 28 October 1996] Mr Masondo said in November 1996 that the province was discussing with the minister of finance, Mr Trevor Manuel, the redirecting of a portion of the three provinces’ budgets to Gauteng to compensate the province for nonresident patients treated in its hospitals.²⁴⁴ [²⁴⁴ *Ibid* 20 November 1996]

Earlier, in October 1996, deans of medical faculties at the universities of Pretoria and the Witwatersrand, and the Medical University of Southern Africa called for ‘dialogue’ before any ‘rash, drastic decision’ was taken on the restructuring of Gauteng hospitals. The deans said that they supported the broad policies of the department in terms of promoting PHC, equity of access and control over spending but that they were disappointed with the process followed. The deans said that there had been no consultation with the faculties and no adequate assessment of the impact of these policies on their service or teaching functions.²⁴⁵ [²⁴⁵ *The Citizen* 26 October 1996]

The Democratic Party (DP) spokesman on health in Gauteng, Mr Jack Bloom, said in the same month that the DP was concerned that there had been insufficient consultation regarding the restructuring plan and that alternative options had not been fully explored—such as allowing provincial hospitals to raise revenue by attracting private medical aid patients. Mr Bloom also said that there was a lack of clarity regarding the future of hospitals downgraded to community health centres, particularly Hillbrow Hospital where staff had been ‘devastated’ by the decision.²⁴⁶ [²⁴⁶ *Business Day* 29 October 1996]

Following protests by various interest groups, including staff at Hillbrow Hospital, the deputy director general of health in Gauteng, Dr Eric Buch, announced in October 1996 that a task force would be established to re-examine options for restructuring the hospital. The provincial department said that it noted concerns voiced by the medical faculty at the University of the Witwatersrand with regard to the accuracy of data underpinning the decisions, the fact that Gauteng was bearing the medical training costs of other provinces and the option of hospitals generating revenue by attracting paying patients.²⁴⁷ [²⁴⁷ *The*

Citizen, The Star 31 October 1996]

In November 1996 some 3000 members of the National Education, Health and Allied Workers' Union (Nehawu) marched to the provincial Department of Health offices in Johannesburg to demand the suspension of plans to restructure and rationalise services. Nehawu said that it was concerned that the plan had been developed in 'secrecy' and that it would result in the retrenchment of 2500 workers and the transfer of 6000 workers. The plan 'flies in the face of the country's constitution on transparency and accountability and does not even pretend to address the human resource problem in hospitals', the union said.²⁴⁸ [²⁴⁸ *The Star* 15 November 1996] The department said in response that the plan, which was scheduled to be implemented from January 1997, would be delayed until June 1997 to consult further with interested parties.²⁴⁹ [²⁴⁹ *Mail and Guardian* 15 November 1996]

POLICY REVIEW

The provisional ninth draft of the National Health Bill, published in November 1996, gave wide ranging powers to the minister of health to issue regulations on various health issues. These regulations referred to, among other things, the payment of fees at public health establishments; the issuing of a code of conduct for health service providers; and the development of an essential drugs list. The minister could further regulate the determination of the prices of drugs as well as the norms and standards applicable to the national health system. The secretary of the National Progressive Primary Health Care Network, Dr Ivan Toms, said that certain aspects of the bill needed to be refined, in order to create a balance between a flexible and a sustainable document.

Proposals by the Department of Health on the restructuring of the medical aid industry, issued in 1996, were widely criticised by the industry. Mr Adrian Gore, managing director of Momentum Health, said that the proposals were 'fundamentally flawed' and could result in employees paying more for medical cover. He warned that the proposals, if implemented, would lead to young and healthy people withdrawing from medical aid schemes. According to the managing director of Duff and Phelps Credit Rating (formerly Republic Ratings), the proposals failed to address the fundamental problem of escalating costs.

Plans to reduce the number of health personnel working in hospitals in Gauteng and the Western Cape were announced in 1996 in order to meet provincial health budgets. However, interested parties in both provinces questioned the plans as there had been no adequate assessment of their impact on health services such as the loss of medical experts.

During the year under review there were concerns that standards at public clinics and hospitals were dropping. The MEC for health and social services in the Western Cape, Mr Ebrahim Rasool, said that radical cuts in the budgets of the province's three academic hospitals had threatened key services and resulted in staff cuts, increased workloads, and poor and failing equipment. According to the *South African Health Review*, many clinics around the country lacked basic facilities such as water, electricity and telephones.

In April 1996 free primary health care (PHC) was introduced at clinics, community health care centres and day hospitals. However, the Hospital Personnel Trade Union of South Africa said that there was 'considerable dissatisfaction' with the PHC plan as neither staffing structures nor conditions of employment had been sufficiently altered to compensate personnel for the increased workload. Many clinics lacked basic equipment and medicines and health budgets did not provide for free PHC.

A national tuberculosis (TB) programme, called 'Dots' (directly observed treatment shortcourse) announced by the Department of Health in 1996, was implemented in 1997 to combat the disease. In 1995 an estimated 140000 people had TB, although the disease was preventable.

The lack of implementation of a national AIDS plan was criticised by various interested groups during 1996. Following the unauthorised expenditure on the production Sarafina II, the parliamentary portfolio committee on health said that it had wasted substantial resources and that 'far greater attention' would have to be paid to the implementation of a national AIDS strategy. The AIDS and sexually transmitted diseases (STD) directorate admitted that the implementation of plans to combat AIDS had been delayed by the restructuring of national and provincial health departments.

Newspapers reported in 1996 that there were 'growing fears' that Cuban doctors were not appropriate for South Africa's health care needs. Many of these doctors were specialists but the country was in need of more general practitioners. However, the Department of Health said that a medical review committee had found that there were no 'substantial' complaints about the quality of care rendered by Cuban doctors.

The proposal to introduce compulsory two-year additional postgraduate training for medical students was strongly opposed by the Junior Doctors' Association of South Africa. The association accused the Interim Medical and Dental Council of South Africa of introducing two years' additional training as a 'cover-up for earlier proposals by the national department to perform compulsory community service'. At the time of writing the issue had been referred back by the parliamentary portfolio committee on health for further investigation and a report was expected by April 1997.

In 1996 the minister of health, Dr Nkosazana Zuma, withdrew regulations which aimed to compel doctors to use only the generic prescription so as to enable pharmacists to dispense a cheaper alternative where one existed and to enforce a licensing system for medical practitioners dispensing drugs. She did so after protest by various organisations. The National Convention of Dispensing Doctors, which was formed to fight the provisions, said that the department was 'taking away the doctor's tools' to treat patients and that many patients in disadvantaged areas relied on doctors for their medicine. At the time of writing the department was preparing new draft regulations which would take into account the comments received and which would be published in 1997.

The national drug policy proposed that the wholesale and retail percentage mark-up pricing system be replaced with a new 'transparent' system based on a fixed professional fee. Several interest groups

expressed concern about a 'potentially discriminatory and unworkable' remuneration system for wholesale and retail sellers of drugs. The issue would be further debated in 1997.

Legislation was passed in 1996 to legalise abortions until up to 20 weeks of pregnancy. Concerns were raised about the ability of hospitals to cope with the additional workload and the willingness of staff to perform abortions. The National Party, which opposed the legislation, said that it was considering taking the legislation to the Constitutional Court.

KEY PROJECTIONS

- According to the Institute for Futures Research at the University of Stellenbosch, infant mortality rates for the total population would decline by about 20% over the ten-year period from 1996 to 2006. The Asian infant mortality rate would drop by 29%, while those of coloured people, whites and Africans would drop by 27%, 22% and 20% respectively.
- A study conducted by the Economic Research Unit at the University of Natal estimated that by 2000 there would be up to 250000 AIDS orphans in KwaZulu-Natal.
- Dr James McIntyre, a specialist gynaecologist at the University of the Witwatersrand, said in 1996 that if present AIDS trends continued expenditure on HIV/AIDS could take up at least a third and possibly as much as 75% of the health budget within the next decade.
- The Cancer Association of South Africa estimated that by 2000, 70000 South Africans would die annually because of cancer.
- According to the director general of health, Dr Olive Shisana, the number of tuberculosis cases reported annually would double by 2006 to over 200000 a year.
- An estimated 70% of about 4m principal members of medical aid schemes in South Africa would subscribe to managed health care by 2000, according to the medical director of Sanlam Health, Dr Herc Hoffman.
- According to the minister of health, Dr Nkosazana Zuma, her department aimed to eradicate poliomyelitis from South Africa completely by 1998, to reduce measles to fewer than 4000 cases a year over five consecutive years and to increase immunisation coverage to 90% for all the vaccines in the primary childhood series.
- The final report on *Restructuring the National Health System for Universal Primary Health Care*, published in March 1996, estimated that the real cost of the provision of primary health care (PHC) would increase by 38% by 2000/01. (The estimates were based on an average of 1,8 visits per person to PHC centres in 1995/96 and increasing to 2,8 visits by 2000/01.)

- A study by the South African Medical Research Council (MRC) in 1996 revealed that between 26000 and 175000 abortions could be performed annually at state institutions, after the introduction of abortion on demand, at a cost of between R8,4m and R42m. However, the MRC viewed 60000 abortions as the most realistic number to be performed annually, at a cost of R14m.

GOVERNMENT AND CONSTITUTION

BIRD'S EYE VIEW

A new national constitution was adopted by a multiparty Constitutional Assembly in the year under review and, following its certification by the Constitutional Court, was signed into law by President Nelson Mandela on international Human Rights Day—10th December 1996. It entered into force, in general, on 4th February 1997. No election is to be held at national or provincial level until 30th April 1999, and the provisions of the new constitution regarding the composition of the executive remain in abeyance until then.

The National Party (NP) withdrew from the government of national unity (at both national and provincial level) on 30th June 1996. This was because, it said, the principle of coalition government had been rejected in the 1996 constitution, and the NP could serve the country better by withdrawing from powersharing and establishing itself as an effective opposition prior to the election due in April 1999.

Mr Bantu Holomisa, the former military ruler of the erstwhile 'independent' homeland of the Transkei, was dismissed from his post as deputy minister of environmental affairs and tourism and subsequently expelled from the African National Congress (ANC), for allegedly bringing the ANC into disrepute by accusing another of its senior leaders of corruption.

Attempts were made in KwaZulu-Natal and the Western Cape during the year to adopt their own provincial constitutions. A text was unanimously adopted in KwaZulu-Natal in mid-March 1996, but was subsequently rejected by the Constitutional Court for exceeding the proper ambit of provincial powers. In the Western Cape, a draft was published for public comment in December 1996 but it left a number of key issues unresolved.

A number of leadership changes were effected within provincial governments. Most notable of these was the 'redeployment' by the ANC of Mr Patrick (Terror) Lekota from his position as premier of the Free State to the chairmanship of the National Council of Provinces (which replaced the Senate under the terms of the 1996 constitution). The premier of the Eastern Cape, Mr Raymond Mhlaba, resigned amid reports of administrative problems and rampant corruption in the province. He was replaced by the ANC's national treasurer, the Rev Arnold Stofile. A number of changes were also made to provincial boundaries, while various boundary disputes remained unresolved at the time of writing.

Local government elections were held in parts of the Western Cape and in KwaZulu-Natal during the

year, and were won by the NP and the Inkatha Freedom Party respectively. Local governments faced continued financial difficulties, largely because of the failure of the Masakhane campaign. In June 1996 it was estimated that revenues owed to local governments amounted to some R26bn.

KEY POINTS

- Eight provisions in the new constitution were identified by the Constitutional Court in early September 1996 as requiring reformulation. The court found among others that provincial powers had been impermissibly diminished; the right of individual employers to engage in collective bargaining had not been adequately protected; the bill of rights had not been adequately entrenched against amendment; and the independence and impartiality of the public protector and the auditor general had not been sufficiently safeguarded. Necessary amendments to these provisions were adopted by the Constitutional Assembly (CA) on 11th October 1996. The amended text was certified by the Constitutional Court on 4th December 1996. The new constitution was signed into law by the president, Mr Nelson Mandela, on 10th December 1996 and came into effect, in general, on 4th February 1997.
- The Inkatha Freedom Party (IFP) remained outside the process of constitutional negotiations, having withdrawn from the CA in April 1995 in response to the alleged failure of the African National Congress (ANC) to honour its promise of international mediation.
- The new constitution adopted differs from the transitional constitution of 1993 (which entered into force on 27th April 1994) in a number of key respects. In particular, the new text:
 - makes the bill of rights ‘horizontal’ in its application in certain circumstances—so that, in these instances, it binds private persons as well as the state;
 - extends the socio-economic rights to incorporate rights of ‘access’ to housing, health care, food, water and social security;
 - replaces the Senate with a new National Council of Provinces, in which decisions generally require the support of five out of nine provinces;
 - introduces the concept of ‘co-operative governance’, in terms of which each sphere of government must endeavour to co-ordinate its activities with others;
 - institutes complex new mechanisms for resolving disputes between the National Assembly and the National Council of Provinces, which generally give the final say to the National Assembly by either simple or two-thirds majority;
 - accords provinces ‘exclusive’ jurisdiction in listed and limited spheres such as abattoirs, libraries, museums and provincial planning, but allows provincial legislation in both exclusive and concurrent spheres to be overridden by national legislation in broad-ranging circumstances; and

- continues to recognise traditional authorities and customary law, subject both to the constitution itself and to any countervailing legislation.
- In the new constitution judicial authority is vested in the courts. The highest court in all constitutional matters is the Constitutional Court and may decide only such matters. The Supreme Court of Appeal (which replaces the Appellate Division of the Supreme Court) is the highest court of appeal except in constitutional matters.
- In KwaZulu-Natal, the IFP sought to secure a provincial constitution providing for increased provincial autonomy. In March 1996, a provincial text adopted with the support of all parties was rejected by the Constitutional Court as being inconsistent with the transitional constitution of 1993.
- In the Western Cape, in which the National Party (NP) holds a majority, multiparty negotiations on a provincial constitution were initiated, but no text had been adopted by the time of writing.
- The public protector, Mr Selby Baqwa, reported in November 1996 that his office was receiving more than 300 complaints a month and was unable to cope. He initiated the establishment of offices in the provinces as well to help deal with the growing backlog.
- The Constitution of the Republic of South Africa Amendment Act, gazetted in March 1996, gave local government councils discretion to decide whether to elect an executive committee. (The Constitution of the Republic of South Africa Act of 1993 compelled every council to elect such a committee.)
- The minister for public enterprises, Ms Stella Sicgau, told Parliament in June 1996 that as at 31st December 1995 local authorities owed Eskom a total of R1 175m (including interest). Gauteng owed R888m, Mpumalanga R79m, the Northern Province R60m, the Free State R54m, the Eastern Cape R51m, the North West R35m, and the Western Cape R8m. KwaZulu-Natal and the Northern Cape did not owe any money.
- According to the 1997 *Budget Review*, municipalities had a total debt of about R26bn at the end of June 1996.
- The minister for provincial affairs and constitutional development, Mr Mohammed Valli Moosa, said in March 1997 that R6bn was owed to local authorities in outstanding rent and service charges up to the end of October 1996.
- The IFP was the majority party in the 1996 KwaZulu-Natal local government elections with the highest number of proportional votes (44,4%) as well as 39,4% of the 1 884 local government seats. The ANC followed with 33,1% of proportional votes and 30% of seats.
- In the local government elections in the Western Cape in November 1995 and in May 1996 the NP was

the majority party, winning the highest number of proportional votes (48,8%) as well as 43% of the 1446 local government seats. The ANC followed with 37,5% of proportional votes and 34,2% of seats.

CONSTITUTIONAL NEGOTIATIONS

Adoption of a New Text

During the year under review, the Constitutional Assembly (CA)—comprising 490 members (400 from the National Assembly and 90 from the Senate)—continued to draft a new constitution for the country. In terms of the requirements set out in the transitional constitution of 1993 (which had come into force on 27th April 1994), the constitution had to be adopted within two years—and the deadline for its adoption by the CA was set at 8th May 1996. (For further details of the requirements stipulated by the 1993 constitution, see 1995/96 Survey, pp423–433.)

As this deadline approached, the CA proved unable to agree on a number of key provisions—and the African National Congress (ANC) warned that the deadlock-breaking mechanisms contained in the 1993 constitution would be invoked if necessary. The main points of contention within the CA were between the ANC and the National Party and concerned key provisions in the bill of rights, particularly:¹ [¹ *The Citizen* 4 May 1996]

- the right of employers to lock out striking workers;
- a caveat in the property clause stating that the right would not preclude land reform by the state; and
- the entitlement of state schools to use a single medium of instruction.

Agreement was reached on these issues on 7th May 1996, and the text was adopted by the CA on 8th May. Its adoption was supported by a significantly greater majority than the two thirds required, for 421 representatives voted in favour of the text, two (from the African Christian Democratic Party) voted against it, and ten (from the Freedom Front) abstained. The Inkatha Freedom Party (IFP) was not present for the vote following its withdrawal from the CA in April 1995, in response to the ANC's alleged failure to honour its commitment regarding international mediation (see 1995/96 Survey, pp429–431 and *International mediation* below). The ANC hailed the text as the 'birth certificate' of a new nation committed to equality and freedom,² [² *Ibid* 9 May 1996] while Chief Mangosuthu Buthelezi, president of the IFP, had earlier stated that it was 'an Orwellian document that would lead to a one party state'.³ [³ *Ibid* 6 May 1996] (The terms of the new constitution, as finally adopted, are described below.)

Certification of the New Text

In terms of the 1993 constitution, the text adopted on 8th May 1996 could not be promulgated until it

had been certified by the Constitutional Court as complying with 34 constitutional principles appended to the transitional constitution, and intended to provide broad parameters for the drafting of the new text. The court, in terms of section 71 of the 1993 constitution, could certify the text only if satisfied that all its provisions ‘complied with’ the constitutional principles.⁴ [4 Section 71, Constitution of the Republic of South Africa of 1993, act no 200 of 1993, Schedule 4] Various political parties and other organisations objected to certification of the new text on the grounds, among other things, that it:

- reduced provincial autonomy, contrary to a constitutional principle requiring that provincial powers should not be ‘substantially less’ than those reflected in the 1993 constitution;
- gave trade unions the right to strike, but did not accord employers the right to lock out, contrary to a constitutional principle requiring that both sides be empowered to engage in collective bargaining;
- introduced a right to ‘make decisions regarding reproduction’, which would sanction abortion on demand and erode a constitutional principle indicating that only civil liberties that were ‘universally accepted’ should be incorporated in the bill of rights;
- gave the bill of rights direct horizontal application, so as to make it binding not only on the state but also on private persons (both natural and juristic), thereby eroding the justiciability of rights as well as the separation between the legislative and judicial branches of government, contrary to two of the constitutional principles; and
- extended the socio-economic rights guaranteed by the bill of rights to include rights to ‘have access’ to housing, health care, water, food and social security, thereby giving the courts significant powers of decision on these policy issues and thus contravening (among other things) a constitutional principle requiring a separation of the powers between the judiciary and the other branches of government.

The Democratic Party (DP), Inkatha Freedom Party (IFP) and National Party (NP) were among the organisations objecting to the diminution of provincial powers in the new text, while the DP and the NP also objected to the exclusion of a ‘lockout’ clause, as did Business South Africa.⁵ [5 *Business Day* 24 May 1996, 3 June 1996; *The Star* 31 May 1996, *Business Day* 3 June 1996] Objections to the horizontal application of the bill of rights—as well as the extension of the socio-economic rights guaranteed—were lodged by the South African Institute of Race Relations, among others. Citing an earlier judgment of the Constitutional Court—warning against the dangers of direct horizontal application and finding that the 1993 bill of rights was generally binding on the state alone—the Institute contended that the Constitutional Court could not uphold direct horizontal application because it:

- was not ‘universally accepted’, as envisaged by constitutional principle II;
- would make private persons subject to a number of new obligations, whereas constitutional principle II

required that everyone be given the *benefit* of universally accepted civil liberties;

- would cast existing common law and customary law rules into confusion, and
- would give the judiciary a law-making function which would blur the separation of powers required by constitutional principle VI and prevent Parliament from effecting ‘the piecemeal reform’ of common law which is its proper function. (For further details, see Bill of Rights Report.)⁶ [⁶ Anthea Jeffery and Martin Schönreich, *Bill of Rights Report*, South African Institute of Race Relations, Johannesburg, 1997]

The Constitutional Court gave judgement on 6th September 1996. Having applauded the text as a ‘monumental achievement’, it nevertheless found itself unable to certify all its provisions. This was because among other things:⁷ [⁷ Constitutional Court of South Africa, *Certification of the Constitution of the Republic of South Africa, 1996*, case no CCT23/96, 6 September 1996]

- provincial powers had been impermissibly diminished;
- the right of individual employers to engage in collective bargaining had not been adequately protected;
- certain ordinary statutes had been shielded from constitutional scrutiny, contrary to the constitutional principle requiring the constitution to be the supreme law of the land;
- the bill of rights had not been adequately entrenched against amendment, for the ‘special majority’ envisaged by the constitutional principles in this regard had not been incorporated;
- the independence and impartiality of the public protector and the auditor general had not been sufficiently safeguarded in that both were subject to dismissal by a simple majority in the lower house of the legislature; and
- the structures, powers and functions of local government had not adequately been specified.

The Institute’s objections were among those dismissed.

Adoption of an Amended Text

Eight provisions were identified by the Constitutional Court as requiring reformulation, and the Constitutional Assembly (CA) reconvened to effect the necessary redrafting. The CA resolved to confine any amendments to the eight provisions identified by the court as requiring reformulation, and set a new deadline of 11th October 1996 for the adoption of a modified text.⁸ [⁸ *Business Day* 18 September 1996] On 11th October 1996 an amended text was adopted by the CA with the support of all parties

except the African Christian Democratic Party, which voted against the text; the Freedom Front, which abstained; and the Inkatha Freedom Party (IFP), which was absent from the CA (see *International mediation* below).

The amended text was again referred to the Constitutional Court for certification. Objections to certification were lodged by the Democratic Party, the IFP and the National Party on the grounds, among other things, that the amended text:

- failed to protect provisions in a provincial constitution governing the role and status of a traditional monarch;
- continued to make provincial powers ‘substantially less’ than those in the 1993 constitution; and
- impermissibly shielded the Local Government Transition Act of 1993⁹ [⁹Local Government Transition Act no 209 of 1993] from constitutional review.

The Constitutional Court gave judgement on 4th December 1996. It dismissed these objections and certified the amended text as complying in full with the constitutional principles.¹⁰ [¹⁰In the Constitutional Court of South Africa, *Certification of the Amended Text of the Constitution of the Republic of South Africa, 1996*, case no CCT37/96, judgement delivered on 4 December 1996] The Constitution of the Republic of South Africa Act of 1996 was signed by the president, Mr Nelson Mandela, on international Human Rights Day, 10th December 1996, at a ceremony in Sharpeville (south of Johannesburg). The new constitution came into effect, in general, on 4th February 1996. No election may be held under its provisions, however, until 30th April 1999—unless Parliament earlier passes a vote of no confidence in the executive—and the executive is formally required, until 30th April 1999, to be structured in the same way as under the 1993 constitution. (The latter means that minority parties which attained 5% of the vote in the April 1994 general election remain entitled to cabinet representation, on a proportional basis, until 30th April 1999.)

International Mediation

In January 1996, at a rally celebrating the 84th birthday of the African National Congress (ANC), President Nelson Mandela urged the Inkatha Freedom Party (IFP) to return to the Constitutional Assembly (CA). The president of the IFP, Chief Mangosuthu Buthelezi, responded that the call was not genuine, as the ANC had said on a number of occasions that it planned to finalise the constitution by May 1996 whether the IFP returned or not. In early February the national council of the IFP confirmed that the party would not return to the CA until international mediation had taken place.¹¹ [¹¹*The Star* 5 February 1996] Later in the month Professor Washington Jalang’o Okumu, who had brokered the agreement of 19th April 1994 (which had brought the IFP into the April 1994 election and had provided for international mediation ‘as soon as possible’ thereafter) stated that Chief Buthelezi and the IFP ‘had a point in feeling betrayed’.¹² [¹²*The Citizen* 19 February 1996]

Towards the end of April the ANC said that it had made concessions to the IFP by agreeing that provinces should have ‘exclusive’ powers, and that the IFP could have no valid reason for maintaining its boycott of the CA. The IFP responded that the powers envisaged for the provinces were ‘normal for local authorities’ and would not prevent ‘massive intervention by the state’ in provincial affairs. In addition, provincial powers remained ‘substantially inferior’ to those accorded the provinces by the 1993 constitution.¹³ [¹³ Ibid 2 May 1996] The IFP was absent from the CA on 8th May, when the new text was adopted by 421 votes to two, with ten abstentions.

The IFP was also absent from the CA when it adopted an amended text on 11th October 1996. The party had considered rejoining the CA the previous month—even though international mediation had not yet taken place—but ultimately decided against this.

THE TERMS OF THE NEW CONSTITUTION

The new constitution is a lengthy and complex document, which is difficult to summarise or interpret. Many of its provisions are vague and remain, in a number of instances, to be supplemented by legislation not yet enacted. Its most important provisions are outlined below.

Founding Provisions

The constitution is the supreme law of South Africa and law or conduct inconsistent with it is invalid, while the obligations it imposes must be fulfilled.¹⁴ [¹⁴ Section 2, Constitution of the Republic of South Africa, 1996, act no 108 of 1996] It is founded on the values of:¹⁵ [¹⁵ Section 1, *ibid*]

- human dignity, the achievement of equality and the advancement of human rights and freedoms;
- nonracialism and nonsexism;
- the supremacy of the constitution and of the rule of law; and
- universal adult suffrage, a national common voters’ roll, regular elections and a multiparty system of democratic government, to ensure accountability, responsiveness and openness.

Eleven languages—Afrikaans, English, Ndebele, Pedi, Sotho, Swazi, Tsonga, Tswana, Venda, Xhosa and Zulu—are recognised as official languages, and the state is enjoined to advance the use and status of the country’s indigenous languages. All languages are entitled to ‘parity of esteem’ and equitable treatment, and a Pan South African Language Board (see Bill of Rights Report) must promote the use of all official languages as well as other languages commonly used in the country (including German, Greek, Hindi and Portuguese).¹⁶ [¹⁶ Section 6, *ibid*]

The Bill of Rights

The bill of rights applies to all law, and binds the legislature, the executive and the judiciary as well as all organs of state. In addition, each of its provisions is binding on private persons (both natural and juristic) 'if, and to the extent that, it is applicable, taking into account the nature of the right and of any duty imposed by the right'. Juristic persons are entitled to the guarantees entrenched in the bill of rights 'to the extent required by the nature of the right' and the nature of the juristic entity concerned.

The rights guaranteed by the bill are substantially the same as those contained in the interim constitution of 1993, except that:¹⁷ [17 Sections 8 (2), 16, 37, 23, 36, 26 and 27, *ibid*]

- freedom of speech no longer extends to 'hate speech';
- emergency rule can be introduced in more broadly defined circumstances and parliamentary endorsement for its declaration can be more easily obtained;
- the right to strike is no longer accompanied by a right to lock out;
- the limitation of rights need only be 'reasonable and justifiable', rather than 'necessary' as well in specified instances; and
- socio-economic rights have been significantly extended by the inclusion of rights to 'have access' to housing, health care, food, water and social security.

The content of the 1996 bill of rights is more fully described in *Bill of Rights Report*.

Principles of Co-Operative Governance

Principles of co-operative governance, contained in chapter three of the constitution, are binding on all three tiers of government. They oblige 'all spheres of government' to 'preserve the national unity of the Republic' and to avoid encroaching on the 'integrity of government in another sphere'. They also enjoin all spheres of government to 'co-operate with one another in mutual trust and good faith' by, among other things, 'co-ordinating their actions and legislation with one another' and 'avoiding legal proceedings against one another'.

Legislation is to be enacted to establish institutions which will 'promote' intergovernmental relations, and 'provide for appropriate mechanisms to facilitate settlement of intergovernmental disputes'. Any organ of state involved in an intergovernmental dispute must make 'every reasonable effort' to settle the dispute through the mechanisms so established, and 'must exhaust all other remedies before it approaches a court to resolve the dispute'. If the courts are not satisfied that these alternative

mechanisms have been pursued in full, they may refer a dispute back to the organs of state concerned.¹⁸
[¹⁸ Section 41, *ibid*]

The National Legislature

The seat of Parliament remains in Cape Town but the constitution permits Parliament to change this. Parliament comprises two houses: the National Assembly and the National Council of Provinces (which replaces the Senate). The National Assembly ‘represents the people’ and ‘provides a national forum for public consideration of issues’. It also makes laws, elects the president and is responsible for ‘overseeing executive action’. It may also, in circumstances which have not been specified, summon any person to provide it with evidence or produce documents. The National Council of Provinces ‘represents the provinces to ensure that the interests of the provinces are taken into account in the national sphere of government’.¹⁹ [¹⁹ Sections 42 (6), 42 (1), 42 (3), 42 (3), 56 (a), and 42(4), *ibid*]

The Structure and Powers of the National Assembly

The 1996 constitution provides for a National Assembly comprising between 350 and 400 people, and states that its size will be determined by national legislation to be enacted in due course.²⁰ [²⁰ Section 46, *ibid*] (At present, the assembly continues to comprise 400 representatives, who hold office according to the results of the April 1994 general election (see 1994/95 Survey, p339) and are entitled to retain their seats until 30th April 1999 (see *Schedules to the 1996 constitution* below).)

Should a member of the assembly resign or otherwise cease to hold office, the vacancy may be filled by the party which nominated the vacating member, from the list of candidates submitted by the party concerned at the time of the April 1994 election. The vacancy must be filled by the ‘next qualified and available person’ on the list.

In terms of the 1996 constitution, representatives to the assembly must be elected on the basis of universal adult suffrage on a common voters’ roll, and according to an electoral system that results ‘in general, in proportional representation’. The assembly is elected for a five-year term, but must be dissolved by the president before then if it adopts a resolution in favour of this by a simple majority of its members (and provided that three years have passed since its election). The assembly must also be dissolved before the expiry of its normal term if the presidential office becomes vacant and is not filled within 30 days.²¹ [²¹ Sections 49 and 50, *ibid*]

In general, ‘all questions before the assembly are decided by a majority of the votes cast’. For the adoption of legislation, a majority of the members of the assembly must be present before a vote can be taken, while in other instances the necessary quorum is one third of the assembly’s members. The assembly may itself initiate or prepare legislation (except money bills), and is responsible for ensuring that all executive organs of state at national level remain accountable to it. It is also empowered to ‘maintain oversight’ over the implementation of legislation, and over ‘any organ of state’ (whether at

provincial or local level).²² [22 Sections 53 and 55 *ibid*]

The assembly may make its own internal rules and orders, which must provide for the establishment and powers of its committees, the participation of minority parties in its work ‘in a manner consistent with democracy’, and the provision of financial and administrative assistance, on a proportional basis, to each political party represented within it. The leader of the largest opposition party in the assembly must also be recognised as the leader of the opposition.²³ [23 Section 57, *ibid*]

The assembly is obliged to facilitate ‘public involvement in the legislative process’, and to hold its sittings in public. However, ‘reasonable measures’ may be taken to ‘regulate public access, including access of the media’, and to refuse entry to any person. The assembly may not bar the public from the proceedings of any of its committees unless ‘it is reasonable and justifiable to do so in an open and democratic society’.²⁴ [24 Section 59, *ibid*]

The Structure and Powers of the National Council of Provinces

The National Council of Provinces (NCOP) is made up of nine delegations—one from each of the nine provinces—and each delegation consists of ten members. (Of these, six are permanent delegates and four are special delegates, the latter comprising the provincial premier and three others). Parties represented in a provincial legislature are entitled to representation within a delegation to the NCOP on a proportional basis, and are formally appointed by a provincial legislature in accordance with party nominations. Permanent delegates may be removed from office if they have lost the confidence of the provincial legislature, or if they ‘cease to be a member of the party that nominated’ them.²⁵ [25 Sections 60 to 62, *ibid*]

In decision making by the NCOP, each province generally has one vote—which is cast on behalf of the province by the head of its delegation—and ‘all questions before the NCOP are agreed when at least five provinces vote in favour of the question’. Cabinet ministers and deputy ministers have powers to attend and address meetings of the NCOP, but may not vote. A maximum of ten part-time representatives of ‘organised local government’ may also participate in the proceedings of the NCOP, but may not vote.²⁶ [26 Sections 65, 66 and 67, *ibid*]

Enactment of Legislation

The role of the National Assembly and of the National Council of Provinces (NCOP) in enacting legislation varies according to the nature of the legislation in issue. A distinction is drawn between legislation:

- amending the constitution;
- falling within concurrent provincial jurisdiction;

- dealing with specific issues where the general ‘concurrent’ procedures also apply;
- dealing with specific issues where concurrent procedures apply but the relevant bill can be introduced only in the National Assembly;
- not affecting provinces at all; and
- dealing with money matters.

Legislation Amending the Constitution

In general, any constitutional amendment requires a two-thirds majority in the National Assembly. It may also require the support of six provinces in the NCOP, if it affects either the council itself, or ‘provincial boundaries, powers, functions or institutions’, or a ‘provision that deals specifically with a provincial matter’.²⁷ [27 Section 74, *ibid*]

The first of the founding provisions of the constitution (described above) is specially entrenched, as are the requirements for constitutional amendments. Bills amending these provisions in the constitution require a 75% majority in the National Assembly, as well as the supporting vote of at least six provinces in the NCOP. The bill of rights (contained in chapter two), also enjoys a special status and may be amended only by a two-thirds majority in the National Assembly, coupled with the support of six provinces in the NCOP.²⁸ [28 Section 74, *ibid*]

Constitutional amendment bills may not deal with other issues as well, and must be published in the *Government Gazette* at least 30 days before their introduction. Particulars of proposed amendments must be given to the National Assembly and to the NCOP in the manner required by their own rules and orders, to be adopted in due course. If a bill concerns a particular province only, it may not be passed by the NCOP unless it has earlier been approved by the province in question.²⁹ [29 Section 74, *ibid*]

Legislation Falling Within Concurrent Provincial Jurisdiction

Policy areas in which both provincial and national legislatures have concurrent competence are listed in schedule four and include agriculture, airports, casinos, consumer protection, cultural matters, education at all levels (except tertiary), the environment, health services, nature conservation, population development, public transport, regional planning and development, trade, urban and rural development, and welfare services. Provinces also have limited concurrent competence as regards indigenous and customary law, language policy, police, media services, provincial public enterprises, public works and traditional leadership.³⁰ [30 Schedule 4, *ibid*]

An ordinary bill falling within these spheres may be introduced in either the National Assembly or in the NCOP. If such a bill is introduced in and passed by the National Assembly, it must be referred to the

NCOP, which may pass, amend or reject it. If the NCOP amends or rejects the bill and the National Assembly is unwilling to accept this, the bill must be referred to a mediation committee for a resolution of the dispute.

If the committee is unable to agree on the terms of the bill within 30 days, the bill lapses unless the National Assembly passes it again by a two-thirds majority of its members. If the committee agrees on terms for the bill which the NCOP is unwilling to accept, the bill also lapses—unless it is again passed by the National Assembly by two-thirds majority. If the committee agrees on a version of the bill which is endorsed by the NCOP but rejected by the National Assembly, the bill lapses—but the National Assembly may instead adopt the bill in its original version, provided it has the support of a two-thirds majority in so doing.³¹ [31 Section 76, *ibid*]

A similar procedure applies to ordinary concurrent bills introduced in the NCOP. Such bills, once passed by the NCOP, must be referred to the National Assembly which may pass, amend, or reject them. If the National Assembly amends or rejects such a bill and the NCOP is unwilling to accept this, the bill must be referred to a mediation committee for a resolution of the dispute. If the committee is unable to agree on the terms of the bill within 30 days, it lapses altogether. If the committee agrees on terms for the bill which are endorsed by the NCOP but not by the National Assembly, the bill also lapses. Decisions of the NCOP in this regard require the assent of five of the nine provinces represented within it.

Legislation on Specific Issues Where the ‘concurrent’ Procedures Apply

The procedures which apply in the enactment of ordinary legislation falling within concurrent jurisdiction (as outlined above), must also be followed in enacting legislation regarding:³² [32 Sections 76 (3), 65 (2), 163, 182, 195 (3) and (5), 196 and 197, *ibid*]

- the authority given by provinces to their NCOP delegations to vote on issues before the council;
- consultation by Parliament with local government;
- the powers of the public protector in investigating misconduct and maladministration in state affairs;
- the promotion of a professional, efficient and representative public service;
- the regulation of the Public Service Commission; and
- the setting of terms and conditions of employment in the public sector.

Concurrent Legislation Which May Be Introduced Only in the National Assembly

The concurrent procedures must also be followed in relation to legislation falling within three further

spheres—but with the proviso that bills falling within these areas must be initiated in the National Assembly. This means, in essence, that disputes between the National Assembly and the NCOP must be referred to a mediation committee, and that the National Assembly will ultimately be able to have its way if it can command a two-thirds majority for the measure it wishes to enact. Decisions of the NCOP in this regard require the consent of five of its nine members. This procedure applies to legislation:³³ [³³ Sections 220 (3), 42 (6), 53 (1) and 76 (1), *ibid*]

- providing for the functions of the Financial and Fiscal Commission and requiring it to take into account a range of factors, listed in the constitution, in allocating revenue between different provinces and different tiers of government;
- falling within the ambit of chapter 13 of the constitution—dealing with general financial matters—and affecting the financial interests of the provinces; or
- resolving to move the seat of Parliament from Cape Town to somewhere else.

(In this third sphere, the initial decision of the National Assembly must be taken by a majority of its members, rather than by a majority of the votes cast.)³⁴ [³⁴ Section 42 (6), read with section 53 (1) and section 76 (1), *ibid*]

Ordinary Bills Not Affecting the Provinces

In the case of legislation that does not affect the provinces—in that it does not fall within the concurrent sphere of jurisdiction identified in schedule four, or within the ambit of the other provisions to which the ‘concurrent procedure’ must apply—the National Assembly has greater powers and can prevail more easily over the NCOP. A bill falling within this category must be passed by the National Assembly and then referred to the NCOP, which may pass, amend or reject it. If the NCOP rejects the bill or amends it in a way unacceptable to the National Assembly, the latter must reconsider the bill and may pass it again—with or without the amendments made by the NCOP—or decide not to proceed with it. The decision of the National Assembly in this regard is taken by a simple majority of the votes cast.³⁵ [³⁵ Section 75 (1), *ibid*]

The decision of the NCOP must be taken in a special way, in terms of which each delegate in a provincial delegation has one vote, and the question is decided ‘by a majority of the votes cast’, with ‘the delegate presiding’ having a casting vote if necessary. One third of the delegates to the NCOP must be present to constitute a quorum.³⁶ [³⁶ Section 75 (2), *ibid*]

Money Bills

Money bills are defined as those that appropriate revenue or impose taxes, levies or other duties. Money bills may be initiated in the National Assembly and must thereafter be referred to the NCOP for

acceptance, rejection or amendment. The National Assembly is free, however, to pass a money bill by a simple majority of votes cast—irrespective of any dissent from the NCOP. An act of Parliament must provide for ‘a procedure to amend money bills before Parliament’.³⁷ [³⁷ Section 77, *ibid*]

Mediation Committee

The mediation committee is to comprise nine members of the National Assembly, elected by it on the basis of proportional representation, and one delegate from each provincial delegation in the NCOP. Decisions of the 18-member mediation committee require the support of five representatives of the National Assembly and five representatives of the NCOP.³⁸ [³⁸ Section 78, *ibid*]

Referral of Legislation to the Constitutional Court

If a bill has been passed by the two houses but the president has reservations as to its constitutionality, he may refer it back to the National Assembly for further consideration, and the NCOP must be allowed a role in this process. If the president, thereafter, is still concerned about its constitutionality, he may refer it to the Constitutional Court for a ruling on its constitutionality before assenting to it.

The National Assembly may also apply to the Constitutional Assembly for an order declaring that all or part of a statute is unconstitutional. The application must be supported by at least one third of the members of the assembly, and must be made within 30 days of the act in question being assented to and signed by the president. Unlike the 1993 constitution, the 1996 text makes no provision for a challenge to the constitutionality of legislation prior to its enactment.³⁹ [³⁹ Section 80, *ibid*, and see, by way of contrast, section 98 (2) (d), Constitution of the Republic of South Africa of 1993, act no 200 of 1993]

Legislation on Matters of Exclusive Provincial Jurisdiction

Matters which fall within exclusive provincial jurisdiction are listed in schedule five and include abattoirs, ambulance services, archives, libraries, and veterinary services as well as provincial museums, planning, recreation, sport and roads. Provincial legislatures are competent to pass legislation within these spheres by a simple majority of votes cast.⁴⁰ [⁴⁰ Section 104, read with section 112, Constitution of the Republic of South Africa, 1996, act no 108 of 1996] A provincial premier may refer proposed provincial legislation to the Constitutional Court for a ruling on its constitutionality.⁴¹ [⁴¹ Section 121, *ibid*] In addition, for 30 days after provincial legislation has been assented to and signed by the premier, its constitutionality may be challenged by application to the Constitutional Court provided this application is supported by at least 20% of the members of the legislature.⁴² [⁴² Section 122, *ibid*]

Intervention by Parliament in the Exclusive Sphere

Parliament is given the power to intervene in matters within the exclusive sphere of provincial jurisdiction by passing legislation which is necessary to:⁴³ [⁴³ Section 44 (2), *ibid*]

- maintain national security, economic unity or essential national standards;
- establish minimum standards necessary for service provision; and
- prevent unreasonable action being taken by a province which is prejudicial to the interests of another province or to the country as a whole.

In these circumstances, the necessary legislation must be introduced in the National Assembly. Any dispute which arises with the NCOP must be referred to the mediation committee, and the National Assembly is entitled to prevail provided it can secure the support of two thirds of its members. National legislation passed in this manner prevails over conflicting provincial law.⁴⁴ [44 Section 44 (2) read with Sections 76 (1), and 147 (2), *ibid*]

Conflicts Between National and Provincial Legislation

Conflicts between national and provincial legislation within the concurrent spheres of competence identified in schedule four must be resolved in accordance with section 146 of the constitution. This makes it clear that ‘national legislation that applies uniformly with regard to the country as a whole prevails over provincial legislation’ if any of three broad-ranging conditions are met. Thus, national legislation prevails if it:⁴⁵ [45 Section 146, *ibid*]

- deals with a matter that cannot be regulated effectively by the provinces acting individually;
- relates to a matter that requires uniformity across the nation, through national norms and standards, frameworks or policies; and
- is necessary for the maintenance of national security, economic unity, the protection of the common market, the promotion of economic activities across provincial boundaries, the promotion of equal opportunity or the protection of the environment.

National legislation also prevails over provincial legislation if the former is aimed at preventing unreasonable action by a province that would be prejudicial to ‘the economic, health or security interests of another province or the country as a whole’, or would ‘impede the implementation of national economic policy’.

In other circumstances, provincial legislation prevails over national legislation, but only if it has been approved by the NCOP by five supporting votes out of nine. (NCOP approval is also necessary for national legislation to prevail over a conflicting provincial law.) If the NCOP does not reach a decision on a law referred to it for its approval within 30 days, the law is deemed to have been approved by the

council.⁴⁶ [⁴⁶ Sections 146 (5) (6) and (7) *ibid*]

Any dispute regarding conflicting national and provincial legislation that ‘cannot be resolved by a court’—presumably, because the legal position is unclear—must be settled on the basis that the national legislation prevails. National legislation may also prevail over the terms of provincial constitutions in certain circumstances.⁴⁷ [⁴⁷ Sections 147 and 148, *ibid*]

National Executive

National executive authority is vested in the president, who is also the head of state. The president has wide-ranging powers and functions, including assenting to legislation, appointing commissions of inquiry, calling national referendums, pardoning offenders and conferring honours. He is responsible for ‘developing and implementing national policy’, and for ‘co-ordinating the functions of state departments and administrations’. He is elected by the National Assembly from among its members, and holds office for an unspecified term, which ends ‘when a vacancy occurs or when the person next elected president assumes office’. He may also be removed from office by the National Assembly, by a two-thirds majority of its members, but only for serious misconduct, violation of law, or inability to perform his functions. No person may hold office as president for more than two terms.⁴⁸ [⁴⁸ Sections 83, 84, 85, 86, 88, and 89, *ibid*]

The president is responsible for the appointment and dismissal of the deputy president, ministers and deputy ministers. He has complete discretion in determining the size and composition of the cabinet, except that no more than two may be chosen from outside the National Assembly. Thus, the 1996 constitution—unlike the transitional one—makes no provision for enforced coalition government or power-sharing. (Until 30th April 1999, however, the constitution of the cabinet is to be determined in the same way as under the 1993 constitution (see *Schedules to the 1996 constitution* below).) The president remains accountable to the National Assembly in that he and the cabinet must resign from office should the National Assembly pass, by a simple majority, a vote of no confidence in his administration.⁴⁹ [⁴⁹ Sections 91 and 102, *ibid*]

The decisions of the president must be in writing if they are taken in terms of legislation or ‘have legal consequences’. Any presidential decision which concerns a particular government department must be countersigned by the cabinet minister responsible for it. Proclamations, regulations and other subordinate legislation must be accessible to the public, and national legislation must provide for this.⁵⁰ [⁵⁰ Section 101, *ibid*]

Cabinet ministers and deputy ministers (who are not members of the cabinet) must adhere to a ‘code of ethics’ to be prescribed by national legislation, and may not become involved in any situation that involves a ‘risk of a conflict between their official responsibilities and their private interests’. The cabinet may also intervene in the affairs of a province, if the latter ‘cannot or does not fulfil an executive obligation in terms of legislation or the constitution’. The cabinet may do so either by issuing a directive to the provincial executive, or by ‘assuming responsibility’ for the relevant obligation in that province to

the extent necessary to maintain economic unity, national security, essential or minimum national standards, or to prevent the province from taking unreasonable action prejudicial to other provinces or to the country as a whole.⁵¹ [⁵¹ Section 100, *ibid*]

If the cabinet does intervene in this way in provincial affairs, it must table a notice of its intention to do so before the National Council of Provinces (NCOP), and the intervention must end unless it is approved by the council within 30 days. This decision of the NCOP, like most others, requires the supporting votes of five out of nine provinces.⁵² [⁵² Section 100 (2), *ibid*]

Provinces

The nine provinces remain the same as under the 1993 transitional constitution, and their boundaries are defined as ‘those that existed when the constitution took effect’ on 4th February 1997. Provincial legislatures may enact provincial constitutions and legislate on matters within their concurrent and exclusive competence. They are to consist of between 30 and 80 members—to be determined by a formula laid down by national legislation—and must be elected on the basis of universal adult suffrage, a common voters’ roll and proportional representation. They hold office for five years in general, but may be dissolved earlier by a majority vote of their members (provided three years has elapsed since their election) or if the office of provincial premier falls vacant and is not filled within 30 days.⁵³ [⁵³ Sections 103, 105 and 109, *ibid*]

In general, the decisions of provincial legislatures are taken by a ‘majority of the votes cast’. In voting on legislation, a majority of members is required for a quorum, while in relation to other issues a third of members suffices. Permanent delegates to the National Council of Provinces (NCOP) have speaking, but not voting, rights in the provincial legislature which they represent. The proceedings of provincial legislatures must generally be open to the public.⁵⁴ [⁵⁴ Sections 112, 113 and 118, *ibid*]

Executive authority within each province is vested in a premier, who must implement provincial legislation, develop and implement provincial policy, and co-ordinate the different branches within the provincial government. The premier must be elected by the members of a provincial legislature at its first sitting after election, and holds office until a vacancy occurs or ‘the person next elected premier assumes office’. A premier may be removed from office, by a two-thirds majority of the provincial legislature, for serious misconduct or violation of law, or for inability to perform his functions. No person may hold office as premier for more than two terms.⁵⁵ [⁵⁵ Sections 125, 128 and 130, *ibid*]

Each province has an executive council, consisting of the premier as its head and between five and ten further members appointed by the premier from among the members of the provincial legislature. Again, the premier has full discretion in selecting the members of the executive council and the 1996 text, unlike its transitional counterpart, does not mandate coalition government or power-sharing. (Existing provincial councils must, however, continue to be constituted in the same way as provided for in the transitional constitution until 30th April 1999 (see *Schedules to the 1996 constitution* below).) A provincial premier and his executive council must resign if the legislature in the province passes a

motion of no confidence in the premier by a majority of its members.⁵⁶ [56 Section 141, *ibid*]

A provincial premier, together with his executive, may assume responsibility for implementing national legislation which falls within exclusive and concurrent spheres, except where the constitution or national legislation otherwise provides.⁵⁷ [57 Section 125 (1), *ibid*] The constitution allows provincial executives to assume this responsibility, however, ‘only to the extent that the province has the administrative capacity to assume effective responsibility’. Any dispute concerning the administrative capacity of a province must be referred to the NCOP, for resolution within 30 days. The NCOP’s decision in this regard must be taken by five supporting votes out of nine.⁵⁸ [58 Section 125 (4) read with section 65 (1), *ibid*]

Local Government

Local government is vested in municipalities, which have the right to govern the local affairs of their communities—subject to the constitution and to national and provincial law. The objects of local government are to provide ‘democratic and accountable’ local administration, ensure sustainable service provision, promote social and economic development, and encourage community participation in local affairs. Municipalities must give priority to ‘the basic needs of the community’, and to ‘promoting the social and economic development of the community’.⁵⁹ [59 Sections 151, 152 and 153, *ibid*]

The constitution makes provision for three categories of municipalities. Those in category A have exclusive municipal executive and legislative authority in their own areas. Those in category B share municipal executive and legislative authority with the category C municipality into which they fall. Category C municipalities have executive and legislative authority in an area that includes more than one municipality. National legislation must be enacted to establish criteria for determining what category of municipality a given area should have, as well as for making ‘an appropriate division of powers and functions’ between category B and category C municipalities. This division may vary from area to area. Provincial governments must monitor and support the municipalities within their boundaries and must develop the capacity of local authorities to fulfil their functions.⁶⁰ [60 Section 155, *ibid*]

Municipalities have executive authority as regards the local government matters specifically listed in schedules four and five (providing, respectively for spheres of concurrent and exclusive provincial jurisdiction). These matters include air pollution, firefighting services, local tourism, municipal planning, health services, public transport and sanitation services, as well as cemeteries, parks, municipal roads and pounds. Municipalities may also make bylaws in relation to these matters in order to promote ‘effective administration’ within these spheres. Any bylaw that conflicts with national or provincial legislation is invalid, however.⁶¹ [61 Section 156 read with Part B of Schedule 4 and Schedule 5, *ibid*]

Municipal councils, in which legislative and executive authority vests, must be elected in accordance with national legislation and on the basis of proportional representation. Members of such councils hold office for four years. Decisions regarding the passing of bylaws, approval of budgets, imposition of rates and taxes, and raising of loans require a ‘supporting vote of a majority of the members’ of a council. All

other questions may be decided by a majority of votes cast. In all instances, a majority of council members must be present to constitute a quorum. Council proceedings must generally be open to the public.⁶² [62 Section 160 (2), (3) and (7), *ibid*] (See also *Metropolitan and Local Government* below.)

Courts and the Administration of Justice

The judicial authority of the Republic is vested in the courts, which are enjoined to be independent and to apply the law impartially and ‘without fear, favour or prejudice’. The courts include the Constitutional Court, the Supreme Court of Appeal (which replaces the Appellate Division of the Supreme Court), the high courts (which replace the present provincial divisions of the Supreme Court) and the magistrate’s courts. Provision is made for the establishment of further courts, including a high court of appeal to hear appeals from the high courts, and other courts of a status similar either to the high courts or the magistrate’s courts.⁶³ [63 Section 166, *ibid*]

The Constitutional Court comprises a president, deputy president and nine other judges. It is the highest court in all constitutional matters and may decide only such matters. It has sole jurisdiction to decide certain questions, including:⁶⁴ [64 Section 167 (3) and (4), *ibid*]

- disputes between organs of state in the national or provincial spheres regarding their status, powers or functions;
- the constitutionality of national and provincial legislation, and of any amendment to the constitution itself;
- whether the president or Parliament have failed to fulfil constitutional obligations; and
- whether a provincial constitution qualifies for certification.

The Supreme Court of Appeal consists of a chief justice, a deputy chief justice and a number of judges of appeal, as determined by statute. It is the highest court of appeal except in constitutional matters, and may decide only appeals and issues connected with appeals.⁶⁵ [65 Section 168, *ibid*] The high courts also have constitutional jurisdiction and both they and the Supreme Court of Appeal may decide that an act of Parliament is unconstitutional. However, such a determination must be confirmed by the Constitutional Court before it can take effect.⁶⁶ [66 Section 167(5) read with section 172(2), *ibid*] Magistrate’s courts have only such constitutional jurisdiction as they may be accorded by act of Parliament, but may not rule on the constitutionality of legislation or any conduct of the president.⁶⁷ [67 Section 170, *ibid*]

In deciding a constitutional matter which falls within its jurisdiction, a court must declare law or conduct that is inconsistent with the constitution to be invalid. In these circumstances, it may make any order it considers just and equitable, including an order ‘limiting the retrospective effect of the declaration of

invalidity’, or suspending the declaration of invalidity to allow the defect to be corrected. A declaration of invalidity by a high court may be accompanied by a temporary interdict or an order to adjourn proceedings pending a decision of the Constitutional Court on the issue.⁶⁸ [68 Section 172, *ibid*]

Direct access lies to the Constitutional Court in relation to any constitutional question—either from the start of a dispute or on appeal from the decision of another court—provided this is in the interests of justice, and the Constitutional Court gives the necessary leave. The Constitutional Court, Supreme Court of Appeal and high courts are all given an ‘inherent power’ to ‘develop the common law, taking into account the interests of justice’.⁶⁹ [69 Sections 167(6) and 173, *ibid*]

Any ‘appropriately qualified’ person may be appointed to the bench, though those appointed to the Constitutional Court must also be South African citizens. The need for the judiciary to ‘reflect broadly the racial and gender composition of South Africa must be considered’ in appointing judicial officers. The president and deputy president of the Constitutional Court are appointed by the president, ‘after consulting the Judicial Service Commission (JSC) and the leaders of the parties represented in the National Assembly’. The chief justice and deputy chief justice are appointed by the president after consulting the JSC.⁷⁰ [70 Section 174(3), *ibid*]

Other judges of the Constitutional Court are appointed by the president—from a list of 12 nominees prepared by the JSC—after consulting the president of the court and the leaders of parties represented in the National Assembly. Four members of the Constitutional Court must be judges at the time of their appointment, but the remaining members need not be. ⁷¹ [71 Section 174, *ibid*]

The judges of the other courts are appointed by the president ‘on the advice of the Judicial Service Commission’, while other judicial officers must be appointed in terms of legislation enacted to ensure that this takes place ‘without favour or prejudice’.⁷² [72 Section 174(6) and (7), *ibid*]

Constitutional Court judges hold office for a nonrenewable term of 12 years, and other judges until they are discharged from active service. Judicial salaries and benefits may not be reduced—while a judge may be removed from office only in the event of incapacity, gross incompetence or gross misconduct (as confirmed by the JSC), and if the National Assembly endorses removal by at least a two-thirds majority of its members.⁷³ [73 Sections 176 and 177, *ibid*]

The constitution also makes provision for the establishment of a single national prosecuting authority, comprising a national director of public prosecutions and nine provincial directors of public prosecutions. The national director, to be appointed by the president, is responsible for formulating ‘prosecution policy’ and can also ‘issue policy directives which must be observed in the prosecution process’. He may ‘intervene in the prosecution process when policy directives are not complied with’, and may ‘review a decision to prosecute or not to prosecute’ by a provincial director. He is responsible to the minister of justice, who has ‘final responsibility for the prosecuting authority’.⁷⁴ [74 Section 179, *ibid*]

The constitution adds that any matter concerning the administration of justice, including ‘complaints about judicial officers’ and ‘the participation of people other than judicial officers in court decisions’ may be regulated by national legislation.⁷⁵ [75 Sections 180 and 181, *ibid*]

State Institutions ‘to Strengthen Constitutional Democracy’

Certain institutions are created by the constitution in order to ‘strengthen constitutional democracy’. These are:⁷⁶ [76 Sections 182, 184, 185, 187, 188, 190 and 192, *ibid*]

- a public protector, who is empowered to investigate any alleged ‘impropriety or prejudice’ in the conduct of state affairs and to take ‘appropriate remedial action’;
- a Human Rights Commission, which is given a mandate to investigate and report on the observance of human rights and to take steps to secure ‘appropriate redress’ where human rights have been violated;
- a commission for the promotion and protection of the rights of cultural, religious and linguistic communities, which will have ‘the power to monitor, investigate, research, educate, lobby, advise and report on issues concerning the rights of cultural, religious and linguistic communities’;
- a Commission for Gender Equality, which will be responsible for promoting gender equality and investigating abuses when it considers this necessary;
- an auditor general, who must audit and report on the financial management of all national and provincial state departments and municipalities, as well as all institutions ‘authorised to receive money for any public purpose’;
- an electoral commission, which is responsible for managing and declaring the results of elections as well as ensuring that they are ‘free and fair’; and
- an independent authority to regulate broadcasting, which must ensure ‘fairness and a diversity of views broadly representing South African society’.

The commissioners, the public protector and the auditor general are appointed by the president on the recommendation of the National Assembly, which—as regards the last two office-bearers—must approve their appointment by a 60% majority.⁷⁷ [77 Section 193, *ibid*] In making appointments to the various commissions, the need for these ‘broadly to reflect the race and gender composition of South Africa’ must be considered. In appointing the auditor general, in addition, ‘due regard’ must be given to ‘specialised knowledge or experience of auditing state finances and public administration’.⁷⁸ [78 Section 193 (2) and (3), *ibid*]

Once appointed, these office-bearers may be removed only on the grounds of misconduct, incapacity or incompetence, and on the basis of a finding to that effect by the National Assembly coupled by the assembly's adoption of a resolution calling for their removal from office. Such a resolution requires a simple majority in the case of the commissioners, and a two-thirds majority in the case of the public protector or the auditor general.⁷⁹ [⁷⁹ Section 194, *ibid*]

(Legislation has been enacted to supplement and further elucidate the powers of some of these bodies, in the form (for example) of the Human Rights Commission Act of 1994, the Public Protector Act of 1994 and the Commission on Gender Equality Act of 1995.) (For further details, see 1995/96 Survey, pp459–462 and Bill of Rights Report.)

Public Administration

The constitution lists the 'basic values and principles' which must govern public administration and identifies these as requiring, among other things, a high standard of professional ethics; efficient, economic and effective use of resources; impartial, equitable and unbiased service provision; and the maintenance of transparency and accountability. In addition, the public administration must be 'broadly representative of the South African people, and reflect 'the need to redress the imbalances of the past' in order to achieve this. National legislation is to be adopted to promote these values and principles, which are expected to govern the administration of every sphere of government, organ of state, and public enterprise—but which may do so on a differentiated basis.⁸⁰ [⁸⁰ Section 195, *ibid*]

The constitution also makes provision for the establishment of a Public Service Commission, which is to exercise its powers 'without fear, favour or prejudice' in order to maintain an 'effective and efficient public administration'. The powers accorded the commission include investigating and monitoring the public service, giving directions aimed at making it more broadly representative, and proposing measures to ensure effective and efficient performance. The commission may also investigate any complaint received by it, as well as the grievances of employees. It is accountable to the National Assembly and must report to it on its activities annually. The commission has 14 members, appointed by the president, of whom nine must be from the different provinces. Commissioners hold office for a five-year term, unless earlier removed for misconduct, incapacity or incompetence—and in response to a resolution by the assembly calling, by a simple majority, for their removal.⁸¹ [⁸¹ Section 196, *ibid*]

The constitution further provides that the public service must be structured in terms of national legislation and must 'loyally execute the lawful policies of the government'. It adds that no employee within the public service may be 'favoured or prejudiced' for supporting 'a particular political party or cause'. Provincial governments are given responsibility for the appointment, promotion and dismissal of members of their own public services, 'within a framework of uniform norms and standards' applying to the service as a whole.⁸² [⁸² Section 197, *ibid*]

Security Services

The constitution describes the principles governing national security in the country as including a resolve ‘to live in peace and harmony’, and a concomitant prohibition on any South African citizen participating in armed conflict, either national or international, except as sanctioned by law.⁸³ [⁸³ Section 198, *ibid*]

The constitution identifies the security services as comprising a ‘single defence force, a single police service and any intelligence services established’, and states that other ‘armed organisations’ may be established only in terms of national legislation. No member of any security service may obey ‘a manifestly illegal order’, nor show bias in any way toward any political party.

The primary object of the defence force is to ‘defend and protect’ the republic, and only the president may authorise its employment in co-operation with the police service, in defending the country, or in fulfilling its international obligations. Any employment of the defence force for these purposes must be reported to Parliament. The president is commander in chief of the defence force, and must appoint its military command. The president may also, in unspecified circumstances, declare ‘a state of national defence’ in which the army is employed. Parliament must be informed of this within a maximum of seven days, and the declaration lapses unless approved by Parliament within this period.⁸⁴ [⁸⁴ Section 203, *ibid*]

The national police service must be structured to function in the national, provincial and, where appropriate, local spheres of government. The objects of the police service are to prevent, combat, and investigate crime and to maintain public order while also protecting and securing the population. A cabinet minister is responsible for policing and for determining national policing policy—but must first consult provincial governments and take account of provincial policing needs. Each province is entitled to monitor police conduct, oversee the effectiveness and efficiency of the police service, and to liaise with the minister regarding policing needs in the particular province. A province may appoint a commission of inquiry into ‘any complaints of police inefficiency or a breakdown in relations between the police and any community’ and can make recommendations to the minister. If a provincial executive complains of police conduct, this must be investigated by an ‘independent police complaints body’ established by national legislation. A provincial executive may also require a provincial police commissioner to appear before it to answer questions.⁸⁵ [⁸⁵ Sections 205 and 206, *ibid*]

The president appoints a national commissioner to control and manage the police service as a whole. The national commissioner is responsible for appointing provincial commissioners, and the minister must mediate in the event of a dispute arising between the national commissioner and a provincial executive in this regard. Provincial commissioners are responsible for policing in their respective provinces, but exercise their functions subject to national legislation and the power of the national commissioner to control the police service overall.⁸⁶ [⁸⁶ Section 207, *ibid*]

The constitution specifies that a ‘civilian secretariat’ must be established for the police service, and must function under the direction of the minister.⁸⁷ [⁸⁷ Section 208, *ibid*]

The constitution also provides for the establishment and control of intelligence services. It stipulates that an intelligence service—other than a division of the army or police—may be established only by the president and in terms of national legislation. Such legislation must ‘regulate the objects, powers and functions of intelligence services’—including those established by the police and army. It must also provide for the co-ordination of all intelligence services, as well as for ‘civilian monitoring’ of the activities of such services by an inspector appointed by the president and approved by the National Assembly by a two-thirds majority of its members.⁸⁸ [⁸⁸ Section 210, *ibid*]

Traditional Leaders

The ‘institution, status and role of traditional leadership’ is recognised, subject to the constitution and to relevant legislation. The courts must apply customary law where appropriate, again subject to the constitution and to relevant legislation. The constitution adds that national legislation may provide a role for traditional leadership at local level, and that houses of traditional leaders may be established at provincial and national levels under the terms of legislation adopted for this purpose.⁸⁹ [⁸⁹ Sections 211 and 212, *ibid*]

Finance

A national revenue fund is established, into which all monies received by the national government must be paid. There must be an ‘equitable division’ of revenue raised nationally among the national, provincial and local spheres of government, as determined by act of Parliament. Such legislation may be enacted, however, only after consultation with provincial governments, organised local government and the Financial and Fiscal Commission. It must take into account both ‘the needs and interests of the national government’, as determined by ‘objective criteria’, and the importance of ensuring that provinces and municipalities are able to perform the functions accorded them. Other factors to be taken into account include ‘the fiscal capacity and efficiency of the provinces and municipalities’, their developmental needs, and the extent of the ‘economic disparities’ between the provinces.⁹⁰ [⁹⁰ Section 214, *ibid*]

A national treasury must be established to ensure both transparency and expenditure control in all spheres of government—and must do so by introducing generally recognised accounting practices, uniform expenditure classifications, and ‘uniform treasury norms and standards’. The national treasury may halt the transfer of funds to an organ of state (such as a provincial government) but only ‘for serious or persistent material breach’ of these measures. The transfer of funds may not be halted for more than 120 days, and will lapse retrospectively unless endorsed by Parliament within 30 days. Decisions by Parliament to stop the transfer of funds may be renewed for successive 120-day periods. However, before Parliament can either approve or renew a decision to stop funding a province, the auditor general must report to Parliament and the province in question must be given an opportunity to answer the allegations against it and to state its own case before a parliamentary committee.⁹¹ [⁹¹ Section 216, *ibid*]

Whenever an organ of state—whether at national, provincial or local level—seeks to procure goods or services, it must do so according to a system that is ‘fair, transparent, competitive and cost-effective’. This does not prevent organs of state from implementing a procurement policy which establishes ‘categories of preference in the allocation of contracts’ and provides for ‘the protection or advancement of persons disadvantaged by unfair discrimination’. National legislation must prescribe a framework within which such a policy may be implemented.⁹² [⁹² Section 217, *ibid*]

Financial and Fiscal Commission

The constitution establishes a Financial and Fiscal Commission to make recommendations in an independent and impartial manner regarding, among other things, the division of revenue between different spheres of government. The commission is to have 22 members, all of whom are appointed by the president. Of these, however, nine members must be nominated by each of the nine provinces, and two by organised local government. Commissioners hold office for a term to be fixed in national legislation, and may be removed from office by the president on the grounds of misconduct, incapacity or incompetence.⁹³ [⁹³ Section 231, *ibid*]

Central Bank

The South African Reserve Bank is the central bank of the republic, and its primary object is to ‘protect the value of the currency in the interest of balanced and sustainable economic growth’. It must perform its functions independently, and without ‘fear, favour or prejudice’, but must consult regularly with the minister of finance. Its powers and functions are those ‘customarily exercised and performed by central banks’, and are to be determined by act of Parliament.⁹⁴ [⁹⁴ Sections 223 to 225, *ibid*]

Provincial and Local Financial Matters

Local government and each province are entitled to an equitable share of revenue raised nationally. A provincial legislature may impose its own taxes other than income tax, value added tax, sales tax, property rates or customs duties. It may also impose a flat-rate surcharge on national taxes other than corporate income tax, value added tax, property rates and customs duties. However, this power may not be exercised in a way that ‘materially and unreasonably prejudices’ national economic policy or the national mobility of goods, services, capital and labour.⁹⁵ [⁹⁵ Section 228, *ibid*]

Municipalities may impose property rates and service fees as well as other taxes and duties appropriate to local government—but, like provinces, may not do so in a way prejudicial to national economic policy or the mobility of goods and services, or capital and labour.⁹⁶ [⁹⁶ Section 229, *ibid*] Both provinces and municipalities may raise loans for capital or current expenditure ‘in accordance with reasonable conditions determined by national legislation’, but loans for current expenditure may be raised only for bridging purposes and must be repaid within 12 months.⁹⁷ [⁹⁷ Section 230, *ibid*]

General Provisions

International Law

International agreements are concluded by the national executive, but generally become binding only after approval by Parliament—and enter into law only when incorporated into national legislation. Customary international law is part of South African law, unless it is inconsistent with the constitution or legislation.⁹⁸ [⁹⁸ Section 231, *ibid*]

Self-Determination

The constitution does not preclude ‘recognition of the notion of the right to selfdetermination of any community sharing a common cultural and language heritage, within a territorial entity in the Republic or in any other way, determined by national legislation’.⁹⁹ [⁹⁹ Section 235, *ibid*]

Funding for Political Parties

In order to enhance multiparty democracy, national legislation must provide for the funding of political parties participating in national and provincial legislatures ‘on an equitable and proportional basis’.¹⁰⁰ [¹⁰⁰ Section 236, *ibid*]

Schedules to the 1996 Constitution

Six schedules to the constitution provide for the national flag; the oaths and affirmations to be taken by the president, cabinet ministers, judges and others; election procedures for different office-bearers; the concurrent and exclusive areas of legislative competence; and a number of transitional provisions. The latter make clear, among other things, that:¹⁰¹ [¹⁰¹ Sections 4, 5, 7, 8, 9, 11, 12, 16, 17, and Schedule 6 read together with annexures A and B, *ibid*]

- the 400 members of the National Assembly under the 1993 constitution automatically become members of the new National Assembly under the 1996 constitution, and their term continues until 30th April 1999;
- no election of the National Assembly may take place until 30th April 1999, unless the assembly is earlier dissolved following a motion of no confidence in the president;
- until the next provincial elections are held, each political party represented in the former Senate is entitled to the same proportion of representatives on the National Council of Provinces, and parties must nominate as their permanent delegates to the council those who were its senators at the time the 1996 constitution took effect. A former senator who is not appointed a permanent delegate to the council is entitled to become a full voting member of his or her provincial legislature;

- those who formerly held office as president, executive deputy president, minister or deputy minister continue to hold office under the new constitution and, until 30th April 1999, provisions relating to the composition and powers of the executive must be read as if they were substantially the same as those contained in the 1993 constitution;
- members of provincial legislatures, elected under the 1993 constitution, are deemed to hold office under the 1996 text until 30th April 1999, as are provincial premiers and executive councils;
- courts established under the 1993 constitution continue to function under the new text, and judicial officers previously appointed continue to hold office. Cases pending before the courts when the new constitution takes effect must be disposed of as if it had not been enacted, ‘unless the interests of justice require otherwise’; and
- the conduct of the April 1999 election must be regulated under amended provisions of the 1993 constitution, which provide for proportional representation on the basis of party lists (not linked to constituencies) and which prohibit parliamentarians from ‘crossing the floor’ to join another political party on pain of losing their seats. These provisions also make possible—but do not require—the enactment (within a ‘reasonable’ time after the coming into operation of the 1996 text) of legislation enabling representatives to cross the floor without forfeiting their seats.

AMENDMENTS TO THE 1993 TRANSITIONAL CONSTITUTION

The 1993 constitution was amended twice during the period under review. The first amendment concerned the powers of local governments (see *Metropolitan and Local Government* below), while the second extended the period during which a new constitutional text could be adopted by the Constitutional Assembly. The latter amendment stated that if the Constitutional Court failed to certify a new text, the assembly should be given three months to approve an amended text.¹⁰² [¹⁰² Constitution of the Republic of South Africa Amendment Act, no 7 of 1996]

CENTRAL GOVERNMENT

Government of National Unity

Withdrawal of National Party

On 8th May 1996 the new constitutional text was put to the Constitutional Assembly for its endorsement and the National Party (NP) voted in favour of the text (see *Adoption of a new text* above). Following its adoption, however, the leader of the NP and executive deputy president from the largest minority party, Mr F W de Klerk, said the NP was now compelled to consider a possible withdrawal from the government of national unity (GNU). ‘This is a logical question,’ he said, ‘against the background of the fact that the new constitution makes no provision in any manner for continued joint decision-making in

the executive branch of government.’ It might be appropriate for the NP, at the beginning of the new phase, to begin to play the role of a ‘dynamic but responsible opposition’.¹⁰³ [¹⁰³ *The Citizen* 9 May 1996] Mr de Klerk added that the NP had decided not to vote against the new text—despite its exclusion of power sharing—because this ‘would carry such a serious risk that much of that which was positive would be put in jeopardy’. In addition, a lengthy period of uncertainty and a confrontational referendum in order to break the constitutional deadlock would have damaged South Africa’s interests irreparably.¹⁰⁴ [¹⁰⁴ *The Star* 9 May 1996] (The circumstances in which a referendum would be required to resolve a constitutional deadlock are described more fully in the 1995/96 *Survey*, pp425–426.)

The following day Mr de Klerk announced that the NP had decided to withdraw from the GNU on 30th June 1996. Its reasons included the ‘growing maturity and normalisation’ of the country’s democratic system, its belief that ‘the development of a strong and vigilant opposition was essential for the maintenance and promotion of a genuine multiparty democracy’, and the fact that ‘continued participation in the GNU would complicate and impede its ability to work towards the realisation of its new vision’. In addition, the African National Congress (ANC) had frequently been told that the omission of power-sharing provisions would lead to the NP’s withdrawal from the GNU, but it had nevertheless opted for ‘a simple form of majority rule’. It would be ‘unnatural to continue in the GNU when everybody knew that the principles on which it rested had already been discarded in the new constitution’. Moreover, although the NP had reached broad agreement with the ANC on the terms of the new text, important differences remained regarding ‘the role of the trade unions, abortion and the death penalty, and the [need for] the unqualified protection of private property’. The NP’s dual role as partner in the GNU and as the main opposition party had also been difficult to sustain, but the NP had persisted in this in the interests of the country. ‘We feel,’ continued Mr de Klerk, ‘that the stage has now been reached where we will be able to serve the national interest more effectively by concentrating fully on a responsible opposition role untrammelled by co-responsibility within the GNU.’¹⁰⁵ [¹⁰⁵ *Eastern Province Herald* 10 May 1996]

Mr Mandela said in response that it would have been preferable if the NP had remained in the GNU, as it would have helped to unite the country. The NP’s withdrawal, however, could not destroy the foundation that had already been laid. He added that a vigorous opposition was necessary for South Africa’s democracy, and that the ANC respected the NP’s judgement on the issue. ‘We hope, however,’ he continued, ‘that their decision to play a more active role as an opposition party does not mean obstructing the process of transformation or defending apartheid privilege.’¹⁰⁶ [¹⁰⁶ *Sowetan* 10 May 1996] He later added that the NP would find it difficult to play the role of opposition as it was ‘outstripped’ by the Democratic Party and its ‘sharp-tongued’ leader, Mr Tony Leon.¹⁰⁷ [¹⁰⁷ *The Citizen* 17 May 1996]

Mr Leon said, in response to the NP’s announcement that the decision was ‘politically expedient and petulant’, and that ‘the NP had played its last card from a very weak hand’. The Freedom Front expressed concern, saying that ‘the Nats were like rats abandoning ship’. The party was putting its own interests above those of the nation, for the GNU had been valuable as a transitional measure.¹⁰⁸ [¹⁰⁸

Sowetan 10 May 1996] Chief Mangosuthu Buthelezi, minister of home affairs and president of the Inkatha Freedom Party (IFP), described the NP as a sinking ship, which was ‘holed below the waterline and going down fast’. He added that many people would always be grateful to Mr de Klerk for the role he had played in dismantling apartheid, but that the NP ‘no longer had the strength, or the policies, to resist the ANC’.¹⁰⁹ [¹⁰⁹ *Business Day* 13 May 1996] The IFP also said that it would reserve its position regarding its own continued participation in the GNU, and would not be guided by the NP’s view. It indicated that there were still ‘political advantages to being in government’ and confirmed in early July that it would remain in the GNU.¹¹⁰ [¹¹⁰ *The Citizen* 5 July 1996]

Later in May 1996 the NP announced that it would withdraw on 30th June not only from the GNU at national level, but also from all provincial executive councils except in the Western Cape (where it held the majority). It would thus become the official opposition in Parliament as well as in most ANC-controlled provinces.¹¹¹ [¹¹¹ *The Star* 15 May 1996]

Dismissal by the African National Congress of Mr Bantu Holomisa

In July 1996 Mr Mandela relieved the deputy minister of environmental affairs and tourism, Mr Bantu Holomisa, of his post and replaced him with the chairman of the National Assembly’s portfolio committee on environmental affairs and tourism, Mr Peter Mokaba.¹¹² [¹¹² *The Citizen* 27 July 1996] Mr Mandela gave no reasons for the dismissal but the move followed the announcement of an impending hearing by the national disciplinary committee of the ANC into charges that Mr Holomisa had brought the organisation into disrepute.¹¹³ [¹¹³ *Sowetan* 10 June 1996] The announcement of the hearing was preceded by statements to the Truth and Reconciliation Commission by Mr Holomisa in which he renewed allegations of corruption against the minister for public enterprises, Ms Stella Sigcau, when she was a cabinet minister in the former Transkei.¹¹⁴ [¹¹⁴ *The Citizen* 14 June 1997]

He also claimed that the former managing director of Sun International, Mr Sol Kerzner, had contributed R2m to the ANC in 1994. He said that subsequent to the donation Mr Mandela had asked him on several occasions ‘how the Kerzner issue could be solved’.¹¹⁵ [¹¹⁵ *Ibid* 3 August 1996] (During the period under review Mr Kerzner was being investigated on criminal charges relating to his alleged bribery of former Transkei officials, including Ms Sigcau. The investigation had been launched by Mr Holomisa in his capacity as head of the former Transkei Military Council.)¹¹⁶ [¹¹⁶ *The Star* 28 January 1997] Mr Mandela’s spokesman, Mr Parks Mankahlana, denied ‘any inference that Mr Mandela had or would interfere in the criminal investigation against Mr Kerzner’.¹¹⁷ [¹¹⁷ *The Citizen* 3 August 1996]

In October 1996 Mr Kerzner confirmed that he had given R500 000 (not R2m) to the ANC in 1994 but said that he had also given R50 000 to the National Party (NP).¹¹⁸ [¹¹⁸ *The Natal Witness* 13 August 1996] Mr Mandela confirmed that the ANC had received the donation but denied that it had been given subject to any conditions. He said that he was the only person aware of the donation.¹¹⁹ [¹¹⁹ *The Star*, *The Citizen* 13

August 1996] The NP denied receiving a donation from Mr Kerzner.¹²⁰ [¹²⁰ *The Natal Witness* 10 October 1996]

In addition, Mr Holomisa alleged that the minister of sport, Mr Steve Tshwete, had received free accommodation at a hotel owned by Sun International in 1995, and that Mr Kerzner had paid for the 50th birthday party of the deputy president, Mr Thabo Mbeki. The ANC described the claims as ‘scurrilous’ and ‘repugnant’ while Mr Kerzner said that the allegations were ‘outrageously false’ and ‘not worthy of a comment’.¹²¹ [¹²¹ *Business Day, The Citizen* 2 August 1996] Mr Holomisa claimed that Mr Mandela had asked him to apologise to those he had ‘implicated’, saying that this would ‘neutralise’ his opponents. Mr Holomisa said that he had found this option ‘ethically impossible’.¹²² [¹²² *Mail and Guardian* 2 August 1996]

Reacting to his dismissal, Mr Holomisa said that it had been politically motivated rather than the consequence of incompetence on his part. He blamed his dismissal on a ‘campaign’ against him by an anti-Holomisa faction within the ANC.¹²³ [¹²³ *The Citizen* 27 July 1996]

Mr Holomisa was subsequently expelled from the ANC at the disciplinary hearing which was held in August 1996. He was conditionally reinstated, pending a decision by the national executive committee (NEC) of the ANC, after he appealed to the NEC.¹²⁴ [¹²⁴ *Ibid* 31 August 1996, 3 September 1996] In September 1996 the NEC upheld the verdict of the disciplinary committee and Mr Holomisa consequently lost his seat in Parliament as he was no longer a member of the party on whose list he had won the seat.¹²⁵ [¹²⁵ *The Star* 30 September 1996] He subsequently announced that he would act as co-ordinator and facilitator for the formation of a new party.¹²⁶ [¹²⁶ *The Citizen* 10 December 1996]

Statutory Institutions Created by the 1993 Constitution

Financial and Fiscal Commission

In May 1996 the Financial and Fiscal Commission established in terms of the 1993 constitution submitted to Parliament its recommendations on a formula for the allocation of revenue to provincial governments from the national revenue fund (a fund into which money received by the national government must be paid) (see also chapter on *The Economy*). It also recommended that provinces be allowed to raise a part of their own revenue (up to 7%) through the imposition of surcharges on personal income tax. This would not necessarily mean an increase in the rate of personal income tax but rather a reduction, over a period of five years, of the national government’s personal income tax rates (see also chapter on *The Economy*).¹²⁷ [¹²⁷ *Sowetan* 16 May 1996, *Mail and Guardian* 15 November 1996] The recommendations were awaiting approval by Parliament at the time of writing.

In November 1996 the commission announced that it had begun a major programme to develop similar recommendations for local government.¹²⁸ [¹²⁸ *Mail and Guardian* 15 November 1996]

Council of Traditional Leaders

The Council of Traditional Leaders Bill of 1996, which provided for the establishment of a national council of traditional leaders, was tabled in Parliament in March 1996 but had not been passed at the time of writing.¹²⁹ [129 *Business Day* 5 March 1996] A memorandum to the bill said that it would have to be submitted to the National Council of Provinces for approval after its passage in the National Assembly.¹³⁰ [130 Council of Traditional Leaders Bill, B25D-96]

The bill made provision for the repeal of the Council of Traditional Leaders Act of 1994,¹³¹ [131 Council of Traditional Leaders Act no 31 of 1994] which provided for the members of the council to be elected by an electoral college drawn from all the provincial houses of traditional leaders. This electoral college could not be formed because two of the necessary provincial houses (in the Eastern Cape and the Northern Province) had not been established as a result of infighting among traditional leaders.¹³² [132 *Business Day* 5 March 1996] In order to circumvent the problem, the bill provided for each existing House of Traditional Leaders to nominate three members to the council. The bill also stipulated that nominees should not be members of Parliament or of a provincial legislature.¹³³ [133 Council of Traditional Leaders Bill, B25D-96] The Zulu monarch, King Goodwill Zwelithini, had earlier called on the president, Mr Nelson Mandela, to impose a constitutional ban on traditional leaders becoming involved in politics.¹³⁴ [134 *Sunday Tribune* 21 January 1996]

The objects of the council were to:¹³⁵ [135 Council of Traditional Leaders Bill, B25D-96]

- promote the role of traditional leadership within a democratic constitutional dispensation;
- enhance unity and understanding among traditional communities; and
- enhance co-operation between itself and Parliament.

In order to achieve its objectives the council was empowered to advise the government and make recommendations on:¹³⁶ [136 *Ibid*]

- matters relating to traditional leadership, including the role of traditional leaders; and
- customary law, including the customs of communities observing a system of customary law.

In addition, the council could conduct investigations into traditional leadership, traditional authorities, and customary law and customs.¹³⁷ [137 *Ibid*]

Mr Walter Felgate MP (Inkatha Freedom Party) said that his party opposed the bill because the prohibition on council members serving also as members of national or provincial legislatures would, for example, exclude the leader of the Inkatha Freedom Party (IFP), Chief Mangosuthu Buthelezi, from participation in the council.¹³⁸ [¹³⁸ *Business Day* 5 March 1996]

The Congress of Traditional Leaders of South Africa (Contralesa) rejected the bill, saying that it was ‘divisive’ and aimed at weakening the institution of traditional leadership.¹³⁹ [¹³⁹ *The Star* 30 January 1996] The KwaZulu-Natal House of Traditional Leaders also rejected the bill on the grounds that it had not been consulted on substantive issues such as the appointment procedures—including the prohibition on members of national and provincial legislatures becoming members of the council.¹⁴⁰ [¹⁴⁰ *Business Day* 14 August 1996]

Truth and Reconciliation Commission

The Truth and Reconciliation Commission (TRC) conducted a number of hearings during the year under review, and received a number of submissions from individuals regarding gross abuses of human rights (particularly at the hands of the former security forces) as well as from political parties and organisations. Amnesty was granted to a number of individuals, including Mr Brian Mitchell (who had been convicted in 1992 on 11 charges of murder arising from the Trust Feed massacre in the KwaZulu-Natal Midlands in 1988 (see 1988/89 *Survey*, pp630–631). (For further details regarding the TRC, see chapter on *Politics*.)

Volkstaat Council

The final constitution provided for the Volkstaat Council to continue to function in terms of the Volkstaat Council Act of 1995, until amendment or repeal of that act.¹⁴¹ [¹⁴¹ Section 20 (5) (a), Schedule 6, Constitution of the Republic of South Africa, 1996, act no 108 of 1996]

In February 1996 the Volkstaat Council presented its report on the feasibility of Afrikaner self-determination to the Constitutional Assembly (CA). The council proposed that a tenth province with exclusive judicial and legislative powers be created for Afrikaners but did not specify where the province would be situated.¹⁴² [¹⁴² *The Star* 28 February 1996] The chairman of the council, Mr Johann Wingard, did, however, tell journalists that the proposed province would probably have Pretoria as its core and would include parts of the Free State, the Northern Province and Mpumalanga.¹⁴³ [¹⁴³ *Beeld* 28 February 1996] (Earlier, in July 1995, the council had presented an interim report to the CA detailing the areas to be included in the proposed volkstaat (see 1995/96 *Survey*, p434).) In its submission, the Volkstaat Council said that while Afrikaners were divided on the form of a Volkstaat, they wished to be protected against being outvoted by majority decisions. The proposed Afrikaner province should have concurrent powers with Parliament.¹⁴⁴ [¹⁴⁴ *The Citizen* 28 February 1997]

A member of the council, Professor Hercules Booyesen, told the CA that the proposed province would have exclusive powers in respect of agriculture, education, health, local government, a provincial police force, provincial courts, taxation, welfare and the power to conclude treaties with other states in respect of all the aforementioned matters.¹⁴⁵ [¹⁴⁵ *The Star* 28 February 1996]

In addition, the Volkstaat Council said that self-determination should be recognised in the final constitution as a right to which communities and minorities were entitled. Consideration should be given to allowing minorities to participate in central government, possibly at cabinet level.¹⁴⁶ [¹⁴⁶ *The Citizen* 28 February 1997]

The African National Congress (ANC) and the National Party (NP) in the CA rejected the proposals. The ANC said it would never agree to a separate Afrikaner constitutional entity, while the NP stated that it favoured instead a commission on cultural affairs with the power to establish cultural councils at the request of communities.¹⁴⁷ [¹⁴⁷ *Business Day* 28 February 1996] The Afrikaner Weerstandsbeweging said that the ANC's rejection of an Afrikaner volkstaat confirmed that 'there was nothing to gain' through participation in government structures, while the Afrikaner Volksfront said that the ANC had 'closed all doors to the Afrikaner's pursuit of his own sovereign state'.¹⁴⁸ [¹⁴⁸ *Beeld*, *The Citizen* 29 February 1996] The leader of the Freedom Front, General Constand Viljoen, said that talks on a white Afrikaner homeland would continue in spite of the ANC's rejection of the council's proposals.¹⁴⁹ [¹⁴⁹ *Eastern Province Herald* 1 March 1996]

The council's recommendations were not accepted by the CA and were omitted from the 1996 constitution. The new constitution does, however, indicate that it does not preclude 'the notion of the right of self-determination of any community sharing a common cultural and language heritage, within a territorial entity in the Republic or in any other way'.¹⁵⁰ [¹⁵⁰ Section 235, Constitution of the Republic of South Africa 1996, act no 108 of 1996] At the time of writing the council was working on proposals for a cultural commission to protect the rights of Afrikaners (see *Terms of the new constitution* above).¹⁵¹ [¹⁵¹ *The Star* 3 July 1996]

Public Protector

The 1993 constitution provides for the appointment of a public protector, whose functions—to be exercised in an independent and impartial manner—are to investigate alleged maladministration, abuse of power, corruption, and bureaucratic rudeness, unfairness and undue tardiness in decision making. The public protector is given wide powers of investigation, and may direct any person to appear before him to give evidence or produce any document with a bearing on an investigation. He may also enter any building or premises for purposes of investigation, and seize any document or article with a bearing on any investigation.¹⁵² [¹⁵² Sections 110 and 112, Constitution of the Republic of South Africa of 1993, act no 200 of 1993] Mr Selby Baqwa was appointed public protector in June 1995 (see 1995/96 Survey, p436).

In March 1996 Mr Baqwa opened an investigation into an AIDS awareness play, *Sarafina II*, to which

the Department of Health had allocated R14,2m (see also chapter on *Health*). The minister of health, Dr Nkosazana Zuma, claimed that the money which was used for the production had come from the European Union (EU). The EU denied that it knew of the production. A sum of R1m could also not be accounted for by the department.¹⁵³ [¹⁵³ *Business Day* 6 March 1996] Mr Baqwa tabled his report to Parliament in June, and concluded that:¹⁵⁴ [¹⁵⁴ *The Star* 4 June 1996]

- the money budgeted for Sarafina II by the Department of Health was unauthorised expenditure;
- the tendering for the play had been fraudulent;
- Dr Zuma's claim to the public and Parliament that the EU was aware that it had funded the musical was untrue. While the department had used EU funding, this money had been meant for other projects and had been used without the consent or knowledge of the EU; and
- the musical itself was ineffective in conveying an adequate warning against AIDS.

Speaking in Parliament, Mr Ken Andrew MP (Democratic Party), said the public protector's report on the Sarafina II issue was an 'important step towards checking the autocratic tendencies of an increasingly single party state'.¹⁵⁵ [¹⁵⁵ *The Citizen* 11 June 1996] (Opposition parties, in particular the DP and the National Party, called for the dismissal of Dr Zuma. President Nelson Mandela, however, supported her saying that there was no scandal in the manner in which she had acted.)¹⁵⁶ [¹⁵⁶ *The Star* 2 September 1996, *Business Day* 11 September 1996]

In July 1996 Mr Baqwa stated that his office was receiving about 200 complaints a month, and that these were being handled by two investigators who could each dispose of only about 20 cases a month. 'Many complaints related to government inefficiency and overly bureaucratic procedures', Mr Baqwa said. By November the number of complaints received had risen to 337 a month. To deal with the backlog Mr Baqwa appointed a further six investigators to his office, and initiated the establishment of public protector offices in the provinces as well.¹⁵⁷ [¹⁵⁷ *Business Day* 22 November 1996]

In October 1996 a parliamentary committee decided to give the public protector an increase in pay of R73 650 a year. This gave the public protector a taxable annual salary of R367 650, and brought his remuneration into line with that of judges of the Supreme Court of Appeal. (By law the public protector's salary must be at least that of a High Court judge.) The parliamentary committee also acceded to a request by Mr Baqwa for a personal entertainment allowance of R2 250 a month. In addition to his salary, the protector receives a nontaxable allowance of R3 500 a year. He is also allowed a state vehicle no more expensive than a Mercedes-Benz S320A for private and official use, and a 'settlement allowance' of R3 500 a month. The committee also approved 36 calendar days' annual leave for the protector, in addition to an existing leave benefit of three-and-a-half months for every four years

of service, granted at the discretion of the speaker of Parliament.¹⁵⁸ [¹⁵⁸ *The Star* 9 October 1996]

Human Rights Commission

The role of the Human Rights Commission is further described in the Institute's Bill of Rights Report.

PROVINCIAL GOVERNMENT

Drafting of Provincial Constitutions

In December 1994, at a policy conference convened by the African National Congress (ANC), the seven ANC-controlled provinces had decided that they would not proceed with the drafting of provincial constitutions.¹⁵⁹ [¹⁵⁹ *Business Day* 18 January 1995] Only KwaZulu-Natal and the Western Cape, accordingly, took steps in the period under review to draft provincial constitutions.

Kwazulu-Natal

Negotiations continued between the various political parties represented in the KwaZulu-Natal legislature on the terms of a constitution for the province (see 1995/96 Survey, pp437–438). In January 1996 the Inkatha Freedom Party (IFP) said it would push for a vote to be taken on a 'base' document providing for an elected council of state, a constitutional monarch, significant powers for traditional authorities, and the establishment of a provincial constitutional court to interpret and enforce a provincial bill of rights. The ANC countered that contentious points should be left out of the base document, and left to negotiating committees and the Constitutional Court to resolve. The four smaller parties in the province—the African Christian Democratic Party (ACDP), the Democratic Party (DP), the Minority Front (MF) and the National Party (NP)—refused to support the IFP's document unless further changes were made.¹⁶⁰ [¹⁶⁰ *Ibid* 17 January 1996]

Further negotiations between the ANC and the IFP finally yielded an agreement that the province would have an undefined 'service' to protect people and property, rather than a militia—and that the Zulu king would be monarch of the whole province but would be barred from playing a political role. A draft constitution along these lines was put to the provincial legislature in early February 1996 and was accepted by a simple majority—on the basis that further negotiations would be conducted before the text was put to a final vote, in which a two-thirds majority would be needed.¹⁶¹ [¹⁶¹ *The Citizen* 2 February 1996]

At the end of the same month further controversy arose when legal advisers to the province's constitutional committee reported that 'large portions' of the draft might be found unconstitutional. They cast doubt on the validity of clauses providing, among other things, for a provincial constitutional court, a council of state, the role and functions of traditional authorities, a race relations board, and the inclusion of 'sunrise' clauses listing the powers the IFP wished the national constitution to accord the province. The ANC reiterated that disputed sections should be left out, leaving time for further

deliberation on these in the future.¹⁶² [¹⁶² *Business Day* 29 February 1996]

Elaborating on this proposal in bilateral negotiations with the IFP on 11th March 1996, the ANC said the constitution should be split in two. One part should deal with agreed provisions, while a second—in the form of two schedules—should deal with contentious issues. These would be resolved either through a new provincial constitutional commission, or by reference to the powers accorded the provinces in the new national constitution adopted by the Constitutional Assembly (see *Adoption of a new text* above). A senior ANC negotiator, Mr Pravin Gordhan, said the proposal was ‘eminently reasonable’ and would pave the way for the adoption of a provincial text on 14th March, while allowing remaining differences to be resolved on a structured basis. An IFP spokesman countered that the effect of the ANC proposal would be to ‘disembowel’ KwaZulu-Natal’s constitution.¹⁶³ [¹⁶³ *Ibid* 12 March 1996]

The IFP rejected the proposal, and sought once again to obtain endorsement for its own proposals from the other political parties—which would give it the two-thirds majority in the provincial legislature that it required. The ANC boycotted a meeting of the constitutional committee called to resolve the impasse, and said the province ‘might be in for hard times’ without its support for the proposed constitution. Mr Jacob Zuma, the ANC’s leader in the province, said his party would ‘poke holes in it continuously to show how feudalistic it was’. The minority parties, he added, would have to choose whether they supported feudalism or democracy.¹⁶⁴ [¹⁶⁴ *The Citizen* 14 March 1996]

The IFP said its proposed draft had many positive features distinguishing it from the national draft. It entrenched property rights while allowing for the resolution of land disputes. It recognised the right to economic initiative and enterprise, and promoted privatisation. It provided for the annual balancing of the budget, and included socio-economic rights which were ‘honestly framed and qualified’. It gave traditional authorities 50% of representation, on an ex officio basis, in local administrations—and thus made it possible for the role of chiefs to be decided by traditional communities themselves. It accorded the central government exclusive authority over 30 specified functions, and provided for national framework legislation to lay down guiding principles for provincial legislation on matters needing national co-ordination. It would cater, said the IFP, for ‘an asymmetric but united South Africa’ and lay the foundation for a ‘social state rather than a socialist state’.¹⁶⁵ [¹⁶⁵ *Business Day* 13 March 1996]

The minority parties—particularly the Minority Front of Mr Amichand Rajbansi—again indicated that they would not vote in favour of a constitution without ANC support. Negotiations continued between the ANC and the IFP, and on 15th March 1996 finally yielded an agreement. In terms of this, contentious issues remained within the body of the draft but could not be brought into operation unless sanctioned either by the new national constitution—with which the KwaZulu-Natal text would have to comply—or approved by special majorities in the legislature ranging from 40% to two thirds.¹⁶⁶ [¹⁶⁶ *The Citizen* 18 March 1996]

Of the draft constitution’s 14 chapters, nine could not be implemented until these further steps had been taken. These included chapters on fundamental federal principles, a provincial bill of rights, the powers

and functions of the province, the establishment of a provincial constitutional court, the role of the monarch and traditional authorities, and provincial powers over security and police. Five chapters, which would become operational on the certification of the constitution by the Constitutional Court, provided for the structure of the legislature and executive, and for a limited number of provincial powers and functions.¹⁶⁷ [167 *Business Day* 18 March 1996]

The Constitutional Court held a three-day hearing on the KwaZulu-Natal constitution in late June 1996, and gave judgement on it in September. The court ruled that the provincial text was ‘fatally flawed’, for it reflected a misunderstanding of the status of the province in relation to central government. The text made repeated attempts to increase provincial powers, but cited no valid basis on which this could be done. ‘A province cannot by means of the bootstraps of its own constitution confer on its legislature greater powers than those granted it by the interim constitution,’ the court stated.¹⁶⁸ [168 *Sunday Times* 8 September 1996] At the time of writing, a provincial constitution for KwaZulu-Natal had not yet been redrafted or adopted.

Western Cape

In November 1995 the NP had announced in the provincial legislature that the province would have its own constitution by mid-March 1996 (see 1995/96 Survey, p438.) It was not until September 1996, however, that the provincial standing committee on constitutional affairs was able to announce that political parties in the legislature had reached agreement on the process for the writing of the constitution. The process agreed involved the holding of public hearings in various centres throughout the province, calling for submissions from the public and interest groups, and negotiations in the province’s all party standing committee on constitutional affairs thereafter.¹⁶⁹ [169 *Sowetan* 3 September 1996] This committee was also advised by a technical committee comprising Mr Dirk Brand (Western Cape provincial administration), Professor Gerhard Erasmus (Stellenbosch University), Professor Nico Steytler (University of the Western Cape), Mr Steve Swart (state attorney’s office) and Mr Andrew Breytenbach (constitutional lawyer). In December 1996 the Western Cape legislature published a draft of the proposed constitution for public comment.¹⁷⁰ [170 *Cape Argus* 7 December 1996, 23 November 1996]

The chairman of the provincial standing committee on constitutional affairs, Mr Hennie Bester MPL (DP), said that the draft had been agreed to by all parties in the legislature and had been the product of ‘compromise and consensus’. The committee had received numerous written submissions from citizens, interest groups and political parties, he added. Unresolved issues were included as options for comment by the public and interest groups.¹⁷¹ [171 *Cape Argus* 7 December 1996] The ACDP said that it was ‘happy’ with the draft constitution as it reflected the aspirations of the people ‘on the ground’, while the ANC said that the draft was ‘the fruit of three months of hard labour during which all parties had compromised’. The DP agreed that the draft reflected ‘compromise and consensus’, while the NP hailed its publication as ‘a historic day for the NP and the province’. The Freedom Front said it still hoped that cultural councils would be included in the final provincial constitution (see also *Terms of the new constitution* above).¹⁷² [172 *Ibid*]

The draft constitution provided, among other things, for Afrikaans, English and Xhosa to be the official languages of the province but agreement could not be reached on whether measures aimed at ‘equalising’ these languages should be ‘reasonable’, as proposed by the NP—or unlimited, as proposed by the ANC. Both options were accordingly included in the draft.¹⁷³ [¹⁷³ Draft constitution for the province of the Western Cape 1996, *Province of the Western Cape Provincial Gazette* no 5096, 6 December 1996; *Business Day* 2 December 1997]

The draft made provision (on the basis of proposals by the DP) for a legislature comprising 42 members, of whom 80% would be elected on a constituency system and the remaining 20% on a list-based system of proportional representation. Each constituency would be represented by three members. (In the final round of negotiations the NP withdrew its proposal that ten representatives of interest groups—such as business, organised labour and local government—should be included as members without voting rights).

Agreement could not be reached on whether membership of the legislature should be restricted to voters on the Western Cape’s segment of the national voters’ roll, or whether all voters on the national roll would qualify. Both options were included in the draft.¹⁷⁴ [¹⁷⁴ Ibid] In addition, controversy continued on whether a member who crossed the floor to join a party, other than the one that had nominated him or her, would lose his or her seat (as proposed by the ANC and opposed by all the other parties).

Provision was made for the provincial government to impose taxes, levies and duties—other than income taxes, value added tax, general sales tax, rates on property and customs duties. The province would also be empowered to impose flat-rate surcharges on the tax bases of any tax, levy or duty imposed by national legislation—other than the tax bases of corporate income tax, value added tax, rates on property and customs duties. Two options were provided as to the manner in which the provincial power to levy taxes might be exercised. The first said that such power ‘may not be exercised in a way that unreasonably prejudices national economic policies, economic activities across provincial boundaries, and the national mobility of goods, services, capital or labour’. The second option—favoured by the ANC—also contained the aforementioned stipulations and added a provision to the effect that the imposition of any surcharge would have to be based on ‘progressive taxation policies’ and should take into account the ‘needs and capacities of the poor in the province’.¹⁷⁵ [¹⁷⁵ Draft constitution for the province of the Western Cape 1996, *Province of the Western Cape Provincial Gazette* no 5096, 6 December 1996]

Provisions for the policing functions of the province were substantially the same as those granted to all provinces in terms of the final constitution (see *Terms of the new constitution* above and chapter on *Security*).

Although one chapter of the draft constitution was devoted to ‘directive principles of provincial policy’, another option recommended the exclusion of such provisions. The draft principles incorporated an obligation on the provincial government to adopt and implement policies to ‘promote and maintain the welfare of the people of the province’.¹⁷⁶ [¹⁷⁶ Ibid]

In addition, the principles committed the provincial government to protecting the environment. The draft constitution said that the directive principles would not be 'legally enforceable', but would guide the provincial government in making and applying legislation.¹⁷⁷ [¹⁷⁷ Ibid]

The draft further provided that proposed amendments to its terms would have to be published for public comment in the *Provincial Gazette* and at least three newspapers circulating in the province, at least 30 days before their tabling in the legislature. The comments on the draft of municipal councils in the province would also have to be solicited. When the draft was tabled in the provincial legislature as a bill, it would have to be accompanied by all recommendations received from the public and the municipal councils. It would then have to be passed by at least a two-thirds majority of the legislature.¹⁷⁸ [¹⁷⁸ Ibid]

Mr Bester said that the public would 'now have a second chance' to make an input on the contents of the provincial constitution. After receiving the public's comments, the standing committee would prepare a bill for submission to the provincial legislature, which would debate the bill from 18th February 1997. If passed by the legislature, the bill would be sent to the Constitutional Court for certification.¹⁷⁹ [¹⁷⁹ *Cape Argus* 7 December 1996] The bill had not yet been passed by the provincial legislature at the time of writing.

Provincial Governments

Eastern Cape

Leadership Changes

In December 1996 the premier of the Eastern Cape, Mr Raymond Mhlaba, announced that he would resign both as premier and as provincial leader of the African National Congress (ANC) in the Eastern Cape as soon as the party had designated his successor. He denied reports that he had been pressurised into resigning and said that he had been considering the move for a long time because of his age (76).¹⁸⁰ [¹⁸⁰ *Business Day* 6 December 1996] His resignation followed the dispatch of a team by the minister for the public service and administration, Dr Zola Skweyiya, to the province to deal with administrative problems and rampant corruption. The ANC said that the problems were inherited from the former homelands (the Ciskei and the Transkei) that now formed part of the Eastern Cape.¹⁸¹ [¹⁸¹ *The Star* 20 November 1997]

Later in the same month the national treasurer of the ANC, the Rev Arnold Stofile MP, was elected unopposed as provincial leader of the ANC in the province.¹⁸² [¹⁸² Ibid 9 December 1996] In February 1997 he was sworn in as premier of the Eastern Cape after having been unanimously nominated a week earlier for the position by all 13 regions of the ANC in the province.¹⁸³ [¹⁸³ *The Citizen* 27 January 1997, *Business Day* 5 February 1997] In his acceptance speech, Mr Stofile promised to address corruption and fraud in the province and said that there would be a 'focused' organisational review and restructuring of the

provincial government.¹⁸⁴ [¹⁸⁴ *Business Day* 5 February 1997]

Boundary Disputes

In May 1996 a commission of inquiry into boundary disputes between the Eastern Cape and KwaZulu-Natal (the Trengrove commission) (see 1995/96 Survey, p439) recommended to the executive deputy president from the majority party, Mr Thabo Mbeki, that the Mount Currie district, including Kokstad, and the Matatiele area—both in KwaZulu-Natal—be incorporated into the Eastern Cape, while the Umzimkulu district (Eastern Cape) should be incorporated into KwaZulu-Natal.¹⁸⁵ [¹⁸⁵ *The Citizen* 14 March 1996] The then minister for provincial affairs and constitutional development, Mr Chris Fisser (National Party), said that the report did not constitute a decision and was merely a document that would assist the two provinces in their search for solutions and agreements.¹⁸⁶ [¹⁸⁶ *Sowetan* 2 May 1996] Both the ANC and the Inkatha Freedom Party (IFP) in the KwaZulu-Natal legislature rejected the commission's recommendations and Mr Dumisani Makhaye (ANC) said that his party would support a referendum in the affected areas if necessary.¹⁸⁷ [¹⁸⁷ *The Mercury* 2 May 1996] The MEC for local government and housing in KwaZulu-Natal, Mr Peter Miller (IFP), said that the report was 'fatally flawed' and that a politically motivated decision seemed to have been reached.¹⁸⁸ [¹⁸⁸ *Business Day* 31 May 1997]

The recommendations in the report led to a number of protest marches in the affected areas. In May 1996 residents of Kokstad burnt a copy of the commission's report on the town hall steps. They demanded to be allowed to decide which province they wanted to be a part of. The deputy mayor of Kokstad, Mr Lucas Mthiyane, said that the majority of the residents rejected incorporation into the Eastern Cape.¹⁸⁹ [¹⁸⁹ *Sunday Tribune* 19 May 1996]

In November 1996 the Umzimkulu Progressive Committee, a group set up to 'free Umzimkulu from the Eastern Cape' held a protest meeting at which they demanded incorporation into KwaZulu-Natal. An ANC member of the KwaZulu-Natal provincial legislature present at the meeting, Mr Sifiso Nkabinde, said that Umzimkulu belonged to KwaZulu-Natal because the people of the area satisfied their basic needs, ranging from jobs to hospitalisation, from KwaZulu-Natal. He said that attempts were under way to get members of the Eastern Cape legislature to 'thrash out' the issue with members of the KwaZulu-Natal legislature.¹⁹⁰ [¹⁹⁰ *New Nation* 8 November 1996]

In the same month Mr Miller said that his government would never let the people of Mount Currie down as long as the majority of them wanted the area to remain part of KwaZulu-Natal. He was responding to pressure, including a consumer boycott, by people in the area favouring incorporation into the Eastern Cape.¹⁹¹ [¹⁹¹ *The Natal Witness* 14 November 1996] The matter had not been resolved at the time of writing.

House of Traditional Leaders

The 20-member Eastern Cape House of Traditional Leaders was inaugurated in October 1996. The

house elected as its chairman the chairman of the Congress of Traditional Leaders of South Africa in the province, Chief Mwelo Nkoyana. In his inaugural speech Chief Nkoyana said that the establishment of the house would not be complete without the inclusion of the kings of the province and an increase in the representation of women. It was the task of the house, he stated, to help the provincial government deliver on the reconstruction and development programme.¹⁹² [¹⁹² *Daily Dispatch* 19 October 1997]

Free State

Leadership Changes

In December 1996 the former chairwoman of the South African Broadcasting Corporation, Dr Ivy Matsepe-Casaburri, was sworn in as premier of the Free State, replacing Mr Patrick (Terror) Lekota, who, together with his entire executive council, had resigned earlier in the month after a directive to this effect by the ANC's national executive committee (NEC). The NEC's decision was endorsed by the party's Free State caucus.¹⁹³ [¹⁹³ *The Citizen* 6 November 1996, 19 December 1996]

Mr Lekota's resignation followed months of political infighting between himself and members of his executive council. This had intensified in May 1996, when he had reshuffled the council following the NP's resignation from the government of provincial unity. Among others, the MEC for economic affairs and deputy chairman of the ANC in the Free State, Mr Ace Magashule, was shifted from his portfolio to that of public transport and traffic regulation.¹⁹⁴ [¹⁹⁴ *Business Day* 24 May 1996] The executive committee of the ANC in the province, however, objected to the reshuffle and demanded that Mr Lekota first consult it on the matter.¹⁹⁵ [¹⁹⁵ *The Star* 13 June 1996] Mr Lekota subsequently announced that Mr Magashule had resigned from the executive council because he 'would not work under the premier's authority'. Mr Magashule denied resigning and said that he had been dismissed by Mr Lekota.¹⁹⁶ [¹⁹⁶ *The Citizen* 27 July 1996] In an attempt to resolve the problems arising from the formation of pro-Lekota and pro-Magashule factions within the ANC in the province, a delegation from the ANC's NEC was sent to the Free State as mediators. After meeting with the delegation Mr Lekota undertook to ensure greater consultation between his government and the ANC in the province. As part of a compromise he again reshuffled his executive council to include Mr Magashule as MEC for public transport and roads.¹⁹⁷ [¹⁹⁷ *Business Day* 3 July 1997]

In October 1996 the ANC in the Free State said that it would charge Mr Lekota for bringing the party into disrepute after he accused several high-ranking party officials, including Mr Magashule, of corruption during a radio talk show.¹⁹⁸ [¹⁹⁸ *Mail and Guardian* 25 October 1996] In November 1996 the national working committee of the ANC resolved the situation by recommending to the NEC that Mr Lekota and his entire executive committee resign.¹⁹⁹ [¹⁹⁹ *Business Day* 5 November 1996] Mr Lekota was to be 'redeployed' to the Senate, soon to become the National Council of Provinces (see *Terms of the new constitution* above). (He was elected as the first chairman of the National Council of Provinces in February 1997.)²⁰⁰ [²⁰⁰ *Beeld* 7 February 1997]

Dr Matsepe-Casaburri's election as premier was also dogged by controversy. In December 1996, after the ANC had endorsed her as its only candidate for the premiership, the southern Free State branch of the South African National Civic Organisation (Sanco) expressed its disapproval at the manner in which she had been nominated. Sanco claimed that the ANC national leadership was trying to impose a new premier on the Free State without consulting all ANC structures in the province.²⁰¹ [201 *Business Day* 2 December 1997] At about the same time the Orange Free State Provincial Division of the Supreme Court in Bloemfontein granted an urgent interim interdict to an ANC member, Mr Edmund Qhali, who asked for the review and setting aside of the ANC's decisions on the resignation and redeployment of Mr Lekota and his executive council, and on the nomination of Dr Matsepe-Casaburri.²⁰² [202 *The Citizen* 14 December 1997] A week later, in further proceedings regarding the earlier order, the interdict was lifted by the court on the grounds of a 'lack of urgency'. The court did not, however, deal with the merits of the application itself (only the urgency of the interdict) and the case had not been heard at the time of writing.²⁰³ [203 *Ibid* 19 December 1997]

Gauteng

Constitutional Developments

In November 1996 the MEC for economic affairs and finance in Gauteng, Mr Jabu Moleketi, introduced the Consumer Affairs Court for Gauteng.²⁰⁴ [204 *Business Day* 22 November 1996] (Legislation providing for the establishment of the court was earlier passed in September 1996 (see chapter on *Business*.) In February 1997 the leader of the Democratic Party (DP) in Gauteng, Mr Peter Leon, asserted that the court was unconstitutional as the provinces did not have the constitutional authority to establish courts of any description. He said that the final constitution vested the country's judicial authority in the Constitutional Court, the Supreme Court of Appeal, the high courts, the magistrate's courts and any other court established or recognised by an act of Parliament. The consumer court was illegal as it was not recognised or established by an act of Parliament, he said.²⁰⁵ [205 *The Star* 12 February 1997]

In his reply Mr Moleketi said that the court was not a court of law but rather an administrative tribunal along the lines of the Industrial Court.²⁰⁶ [206 *Business Day* 25 February 1997] Mr Leon, however, dismissed Mr Moleketi's explanation, saying that the court had many features of a conventional court of law, including the fact that process in the court was initiated by a summons while its proceedings were 'prosecuted' by the Office for the Investigation of Unfair Business Practices. Moreover, the court had the power to award 'apparently unlimited costs' and could impose a fine of up to R2 000 or a term of imprisonment not exceeding five years, or both, on any person who contravened its orders.²⁰⁷ [207 *Ibid* 12 March 1997] The court had not begun operating at the time of writing.²⁰⁸ [208 *The Star* 15 April 1997]

Kwazulu-Natal

Leadership and Other Changes

In mid-August Dr Ben Ngubane, IFP minister of arts, culture, science and technology, stated that he would resign at the end of the month, and that his place would be taken by an IFP MP, Mr Lionel Mtshali.²⁰⁹ [²⁰⁹ Ibid 22 August 1996] Dr Ngubane was thereafter appointed MEC for both finance and agriculture in KwaZulu-Natal.²¹⁰ [²¹⁰ *The Citizen* 29 August 1996] In January 1997 Dr Frank Mdlalose announced his intention to resign as premier of KwaZulu-Natal on the grounds of ill health.²¹¹ [²¹¹ *Sunday Times* 26 January 1997, *Business Day* 31 January 1997] Dr Ngubane was sworn in as acting premier at the end of February, and was formally instated as premier towards the end of March at a full sitting of the provincial legislature in Ulundi (the former capital of the erstwhile KwaZulu homeland).²¹² [²¹² *Sowetan* 3 March 1997]

In December 1996 the NP said it would assume the role of official opposition in the provincial legislature in KwaZulu-Natal, and would exercise its functions in a ‘constructive and loyal way’ in order to bring peace, stability and prosperity to the province.²¹³ [²¹³ *The Citizen* 13 December 1996] The party said it merited this role under the terms of the 1996 constitution, which provided that the leader of the largest opposition party in a provincial legislature was entitled to recognition as the leader of the opposition.²¹⁴ [²¹⁴ Section 116, Constitution of the Republic of South Africa 1996, act no 108 of 1996] The NP added that the ANC could not claim the role of official opposition, as it was not an opposition party in KwaZulu-Natal but part of the government of provincial unity. The ANC disputed the NP’s interpretation, and said the Constitutional Court would be asked to rule on the issue.²¹⁵ [²¹⁵ *Business Day* 6 February 1997]

The Siting of the Capital

Controversy continued as to whether Pietermaritzburg or Ulundi should be designated as the capital of the province. In January 1996 protesting civil servants and residents of Ulundi demanded that Dr Mdlalose immediately declare their town the capital.²¹⁶ [²¹⁶ *The Citizen* 1 February 1996] Soon thereafter, Dr Mdlalose stated that Ulundi would indeed be declared the capital, provided the provincial legislature succeeded in finalising a constitution for the province (see *Drafting of provincial constitutions* above).²¹⁷ [²¹⁷ Ibid 7 February 1996] The ANC criticised his statement, saying it was unfortunate that the premier had ignored the recommendations of a commission of inquiry (chaired by a former Natal administrator, Mr Radclyffe Cadman) which had been appointed by the provincial executive council in 1994 to investigate the siting of the capital. The commission had proposed that both Pietermaritzburg and Ulundi should serve as alternate seats of government until a referendum had been held on the issue.²¹⁸ [²¹⁸ *Business Day* 8 February 1996] The NP also criticised the premier’s statement,²¹⁹ [²¹⁹ *Sunday Tribune* 11 February 1996] while Dr Mdlalose subsequently acknowledged that he did not have the authority himself to declare Ulundi the capital—and that a referendum might indeed have to be called on the question.²²⁰ [²²⁰ *Business Day* 28 February 1996]

Controversy arose again in January 1997 when Dr Ngubane—then premier designate—stated that he would promote Ulundi as the provincial capital, both because this would accelerate much-needed development in the surrounding region and because of the area’s historical significance. The ANC criticised his support for Ulundi, saying that the town had been the capital of the KwaZulu bantustan for some 20 years. As a symbol, it reflected both the apartheid era and also the ultimate subjugation of the Zulu nation to colonists.²²¹ [221 *The Star* 31 January 1997] The issue remained unresolved at the time of writing.

Boundary Disputes

A boundary dispute continued between KwaZulu-Natal and the Eastern Cape over the Mount Currie and Matatiele areas, among others, and remained unresolved at the time of writing (see *Eastern Cape* above).

House of Traditional Leaders

In December 1996 the KwaZulu-Natal House of Traditional Leaders, chaired by Chief Buthelezi, resolved to press for the name of the province to be changed to the Kingdom of KwaZulu-Natal, and for this change to be effected before February 1997 when the 1996 constitution would come into effect. The deputy chairman of the ANC in the province, Mr Sibusiso Ndebele, said the resolution reflected an attempt to ‘manufacture conflict’ in the province. Some people, he continued, ‘felt threatened by peace’, and did not want the ANC and the IFP to have to compete on the issue of delivery in a peaceful climate (see chapter on *Politics*). He added that the ANC was opposed to the proposed name, because it reflected an ‘ideological trap’ and would prevent the ‘democratisation of rural areas’. The house, he concluded, could not dictate to the provincial legislature and executive council—and the issue of the province’s name should be discussed by all parties once the provincial constitution-making process resumed. Mr Walter Felgate, a senior IFP leader, said the matter would be referred to the legislature as soon as possible.²²² [222 *Business Day* 6 December 1996]

No name change had been effected at the time of writing, and the issue remained unresolved.

Mpumalanga

Boundary Disputes

In November 1996 two Mpumalanga towns, Groblersdal and Marble Hall, were officially incorporated into the Northern Province as the result of an agreement between the two provinces (see also *Northern Province* below).²²³ [223 *The Citizen* 5 November 1996]

House of Traditional Leaders

The House of Traditional Leaders in Mpumalanga was established on 12th April 1995 (see 1995/96 Survey, p442).

North West

Provincial Capital

In November 1996 the name of the North West province's capital, Mmabatho, was officially changed to Mafikeng. The premier of North West, Mr Popo Molefe, said that he was satisfied that the views of the public had been taken into account on the issue.²²⁴ [²²⁴ *Sowetan* 28 November 1996]

Northern Cape

Following a request by the governments of the Northern Cape and the North West in October 1995, the president, Mr Nelson Mandela, set up a commission to investigate whether the townships of Kuruman and Taung should remain in the North West or be incorporated into the Northern Cape (see Survey, p443).²²⁵ [²²⁵ *The Mail* 7 February 1997] The commission, headed by Mr Khehla Shubane, was told at a hearing in Upington in February 1997 that the executive of the ANC in both provinces had agreed that the townships be incorporated into the Northern Cape.²²⁶ [²²⁶ *Business Day* 19 February 1997] The leader of the NP in the Northern Cape, Dr Kraai van Niekerk, said that his party was opposed to the incorporation of the two areas into the Northern Cape because the move was an endeavour by the ANC to retain power in the Northern Cape in the 'face of a massive loss of support'. He contended that the NP had a chance of winning the province in the 1999 general election as it had been only narrowly defeated by the ANC in the 1994 general election. He said, however, that the incorporation of the two areas would add about 800 000 people to the Northern Cape population of 750 000 and ensure the ANC of re-election in the 1999 general election.²²⁷ [²²⁷ *Ibid*] The premier of the North West, Mr Popo Molefe, denied Mr van Niekerk's claims that the move to incorporate the townships into the Northern Cape was an attempt by the ANC to increase its votes in the Northern Cape.²²⁸ [²²⁸ *The Mail* 7 February 1997]

The matter had not been resolved at the time of writing and the commission was still hearing submissions from various interest groups in the two provinces.²²⁹ [²²⁹ *Ibid*]

Northern Province

Boundary Disputes

In November 1996 two Mpumalanga towns, Groblersdal and Marble Hall, were officially incorporated into the Northern Province as the result of an agreement between the two provinces (see also *Mpumalanga* above).²³⁰ [²³⁰ *The Citizen* 5 November 1996] The Northern Province government immediately dissolved the Groblersdal Town Council and appointed two administrators to run the town. (The council

had remained a 'whites-only' institution, as local government elections had not previously been held owing to uncertainty as to which province it would become a part of.) The incorporation met with resistance from many of the town's inhabitants, both black and white, who held protest gatherings.²³¹ [²³¹ *The Sunday Independent* 17 November 1996] The council was reinstated by the Transvaal Provincial Division of the Supreme Court in Pretoria which ruled that the Northern Province government had not allowed the council a hearing before dissolving it.²³² [²³² *Ibid* 24 November 1996] In the following month the Northern Province government appealed against the court's ruling, and the administrators were reinstated pending the outcome of the appeal. In February 1997, however, the court dismissed the appeal and refused the government leave to appeal further. The council was again reinstated—and the matter remained unresolved at the time of writing.²³³ [²³³ *Sowetan* 27 February 1997]

House of Traditional Leaders

The Northern Province had still not established its House of Traditional Leaders at the time of writing due to infighting among chiefs belonging to different ethnic groupings.²³⁴ [²³⁴ *The Star* 21 August 1996] In March 1997 it was reported that the house would be established the following month. This decision was reached at a two-day bosberaad of representatives of traditional leaders, held some 60km from Potgietersrus, and attended by representatives from the former homelands of Gazankulu, Lebowa and Venda.²³⁵ [²³⁵ *The Citizen* 3 March 1997]

METROPOLITAN AND LOCAL GOVERNMENT

Policy

Central Government's Policy

In January 1996 the deputy minister for provincial affairs and constitutional development, Mr Mohammed Valli Moosa, said that the financial capacity of local government was the central government's biggest challenge in 1996. This was because of uncertainty over the revenue income of local authorities and the extent to which they would be dependent on intergovernmental grants. He added that most local governments could not sustain themselves and central and provincial governments would thus be responsible for them.²³⁶ [²³⁶ *Business Day* 29 January 1996]

Mr Moosa said that his ministry had set up a task team on local government finances consisting of representatives of all the provinces and officials from the Department of State Expenditure to formulate a financial strategy for local government and collect precise data on their financial needs and resources.²³⁷ [²³⁷ *Ibid*]

In June 1996 Mr Moosa told Parliament that a first draft of a white paper dealing with all aspects of local government would be introduced at the end of August 1996. It would deal with the structuring of

local government, the relationship between district councils and local councils, the relationship between metropolitan councils and metropolitan substructures, and the relationship between all of these and provincial government. It would also give detailed attention to local government finance, sources of revenue, taxation, service tariffs, financial systems, and remuneration for councillors and personnel. (Although the department subsequently said that the white paper would be published in early 1997 only a discussion document had been published at the time of writing.)²³⁸ [²³⁸ *Hansard* (NA) 9, cols 2560–2562, 10 June 1996]

Mr Moosa added that the central goal of local government was to improve the quality of life of all South Africans through the delivery of effective and affordable municipal services. This meant that all South Africans would have to be given access to basic services such as clean water, sanitation, electricity, roads and refuse removal.²³⁹ [²³⁹ *Ibid*] (See also *Legislation* below.)

In November 1996 Mr Moosa announced that he had appointed a multiparty committee, chaired by Mr Pravin Gordhan MP (ANC), to help draft the white paper. Mr Gordhan said that there was broad consensus across party political lines on the need to rationalise the number of local government structures. There was no reason to wait for the next local government elections to do this as local authorities adjoining one another could already begin to make plans to be merged. There could be the same number of councillors but the administrations could be rationalised and the resources shared, he said.²⁴⁰ [²⁴⁰ *Business Day* 25 November 1996]

In August 1996 Mr Moosa told Parliament that there were 811 local authorities in South Africa.²⁴¹ [²⁴¹ *This Week in Parliament* 20 August 1996]

Political Parties

African National Congress

In a 1996 manifesto for the local government elections in KwaZulu-Natal the African National Congress (ANC) said that it stood for ‘community involvement through elected and effective councils’ to bring about progress in housing programmes and the provision of services at local government level. The ANC added that it would ensure there was democratic local government in rural areas but that this would be implemented ‘with sensitivity for local traditions and structures’. Rural communities would participate fully in determining their ‘own destiny’ and rural women would gain their ‘rightful place’ as local government representatives.²⁴² [²⁴² ANC local government election manifesto 1996, *A better life: Let’s make it happen where we live*, 1996]

In a submission to the Constitutional Assembly dated June 1995, the ANC said that it favoured framework legislation for local government being set at national level rather than through separate legislation in the different provinces. Provinces would then be responsible for the implementation of the local government framework and the provincial management of local government. Provinces should

have the power to make laws for local government not inconsistent with the national framework legislation in order for them to take provincial diversity into account. The framework legislation should also protect local government by specifying its powers of 'self-administration', the party said.

The ANC also suggested that traditional leaders participate in local government subject to the 'principle of democratic and accountable government'. The provinces would decide what form this participation would take. The ANC said that the role of traditional leaders would not be threatened by democratic local government if they retained an advisory and cultural function in local government within their traditional areas.²⁴⁴ [²⁴⁴ Ibid]

Conservative Party

See 1995/96 Survey, p451.

Democratic Party

In its 1996 election manifesto the Democratic Party (DP) said that it would privatise and contract out as many services as possible and create urban enterprise zones, free of certain levies, taxes and labour regulations, in high unemployment areas. It would also give rates discounts to small businesses investing in new enterprises, promote informal markets and trading areas, and develop programmes to assist emerging contractors.²⁴⁵ [²⁴⁵ Democratic Party local government manifesto, *Agenda For a Better Community*, 1996]

The DP said that it believed everyone should pay their fair share for municipal services. Existing standards should be maintained for those who did pay and services should be brought up to standard in previously neglected areas. The party said it believed that rebates should be given to pensioners and people living on disability grants and that 'lifeline tariffs' should be available to people who genuinely could not afford basic services such as water and sewerage.²⁴⁶ [²⁴⁶ Ibid]

Property values should be protected and extended through proper town planning and urban management, the DP said, but provision should also be made for informal settlements, to stop uncontrolled land invasion.²⁴⁷ [²⁴⁷ Ibid]

Freedom Front

In its 1995 election manifesto the Freedom Front (FF) said that general services such as water supply, electricity, sewerage and roads should be controlled by a co-ordinating body such as the present transitional councils. Membership of this body should be voluntary and it should not interfere with the powers of individual local authorities. A uniform tax and service tariff system for the same category of users should be used in the area of authority of a local council.²⁴⁸ [²⁴⁸ Freedom Front, Local Government Elections Manifesto—1995]

The party also said that all community affairs (such as education, culture and health) should be controlled by community councils elected by residents of the relevant area. Such councils would give communities more say over their own affairs. These councils would also be responsible for matters such as art, care for the aged and libraries. If necessary, unaffordable municipal services should be privatised, the party said. Tax incentives should be granted to ventures that created jobs.²⁴⁹ [²⁴⁹ Ibid]

The FF said that it was committed to the maintenance and expansion of existing standards and norms in all areas of local government. It also committed itself to ensuring that appointments at local government level were not based on race. The FF said that it would work for safer and more orderly communities through community policing, emergency services, information programmes and consultation with the community.²⁵⁰ [²⁵⁰ Ibid]

Inkatha Freedom Party

The Inkatha Freedom Party (IFP) said that it believed it was imperative to maintain the autonomy of local government while fostering working relationships with other levels of government. The party added that traditional and cultural values would remain integral to the development of South Africa.²⁵¹ [²⁵¹ IFP election manifesto, *Real Community Government*, May 1996]

In elucidating its underlying principles for local government the party said that cultures of self-reliance and self-employment should be fostered and that medium to long-term planning should be prioritised. Local authorities should provide support and opportunities to the aged and disabled while also providing the environment, education, training and opportunities for the youth to realise its potential. The IFP said that the free market economy would be the primary tool of wealth creation. It committed itself to minimising local taxation and bureaucracy.²⁵² [²⁵² Ibid] In order to stimulate local growth and employment, the IFP would promote the interests of small and medium-sized businesses. Sites would be secured for emerging business at low or deferred charges to give them the 'leg-up' required to flourish.²⁵³ [²⁵³ *Business Day* 14 June 1996]

In March 1996 the president of the IFP, Chief Mangosuthu Buthelezi, said that the violence in KwaZulu-Natal would continue for as long as the police force was controlled by the central government. He said that city and town based police forces would prove to be more effective than the present system in which the police were controlled by the central government and there were no city or town police forces.²⁵⁴ [²⁵⁴ *The Natal Witness* 25 March 1996]

In June 1996 an IFP member of the Senate, Mr Philip Powell, writing about the IFP's election manifesto, said that the party planned to:²⁵⁵ [²⁵⁵ Ibid 20 June 1996]

- establish a crime commission in every IFP-controlled local authority in order to develop community-driven anti-crime programmes;

- give control of the force to provincial and local government level; and
- give local government policing agencies full crime-prevention powers.

Talks aimed at finding a solution to IFP demands for the institution of traditional leaders at local government level in rural areas were held between the ANC and the IFP in October 1996. Mr Walter Felgate MP (IFP) said that the purpose of the talks was to identify a way to democratise local government and to give tribal councils and traditional leaders a meaningful role in the process. He said that agreement on the issue would make the new constitution acceptable to millions of rural South Africans, particularly in KwaZulu-Natal.²⁵⁶ [²⁵⁶ *Business Day* 7 October 1996]

National Party

In a 1996 policy document on local government the National Party (NP) said that it believed that sound local government was the cornerstone of a healthy and viable democratic system. The party said that local government should be subject to national and provincial legislation, but ‘this did not mean that local government should be completely subservient to higher tiers of government’. Any legislative or other action by a higher tier with regard to local government would have to be made in terms of, and subject to, the framework for local government entrenched in the constitution.²⁵⁷ [²⁵⁷ National Party Submission to the Constitutional Assembly, 1996]

On the powers of local governments, the NP favoured allowing them to exercise all powers and perform all functions that their communities agreed to and were willing to pay for, except if they were specifically prohibited from doing so by national or provincial legislation. The party, however, recommended the inclusion in the constitution of a minimum list of powers for local authorities. This would have the effect of entrusting a local government with the responsibility to provide a minimum number of basic services without denying it the opportunity to perform any other function not prohibited by law.²⁵⁸ [²⁵⁸ *Ibid*]

The NP said that there should be no restriction on either national or provincial government to delegate or devolve powers and functions to a local government. However, the principle that ‘finance follows function’ (ie that local governments should only be given those functions that they had the finance to support) should be a prerequisite in such cases.²⁵⁹ [²⁵⁹ *Ibid*]

The party also suggested the creation of a local government commission consisting of a chairperson and members appointed by the president, provided that at least 60% of the members were appointed from the nominations made by organised local government. The commission would be the guardian of local government and would facilitate the establishment, development, maintenance and recognition of local government. It would, among other things, have the power to:²⁶⁰ [²⁶⁰ *Ibid*]

- advise Parliament on legislation affecting local government;
- advise the national government on policies regarding local government systems, processes, institutions, powers and functions;
- initiate any law or policy regarding the matters referred to in the two powers mentioned above; and
- initiate and conduct research into such matters.

In addition, no legislation affecting the status, powers and functions of local government should be tabled in Parliament unless the commission had a reasonable opportunity to consider such draft legislation and had made its final report and findings, the party said.²⁶¹ [²⁶¹ Ibid]

In its 1995 local government plan the NP said it would ensure that local governments in which it had a majority would establish institutions where labour, business, the local government and civil society would plan the future of local government together. A community forum, which would be an advisory body to the local authority's executive committee, would be founded to help with the establishment of such a social agreement. The NP would then initiate development forums to head development in these areas. They would consist of the members of the council, the town clerk (who would also chair the forum), heads of council departments, and community representatives from the community forum.²⁶² [²⁶² *National Party Local Government Plan*, 1995]

The party added that it would promote the establishment of ward councils, which would be given powers with regard to cultural activities, schools, welfare and similar institutions situated within the ward.²⁶³ [²⁶³ Ibid]

Pan-Africanist Congress

The most recent local government policies of the Pan-Africanist Congress were discussed in the 1995/96 *Survey* (see 1995/96 *Survey*, p453).

Legislation

Constitution of the Republic of South Africa Amendment Act of 1996

The Constitution of the Republic of South Africa Amendment Act, gazetted in March 1996, gives local government councils discretion to decide whether to elect an executive committee. (The Constitution of the Republic of South Africa Act of 1993—the transitional constitution, which the amendment act altered—compelled every council to elect such a committee.) It further provides that a local government cannot be disestablished and that no changes can be made to the powers, area of jurisdiction, wards or number

of seats of such councils until a period of not less than three years has elapsed from the date on which that council was elected in terms of the Local Government Transition Act of 1993. This provision can, however, be overridden by an act of Parliament or by way of a proclamation by the premier of a province acting in consultation with the minister for provincial affairs and constitutional development.²⁶⁴ [264 Constitution of the Republic of South Africa Amendment Act of 1996, *Government Gazette* no 17068, 29 March 1996]

Local Government Transition Act Amendment Act of 1996

The Local Government Transition Act Amendment Act of 1996, passed in March 1996, amended the principal act so as to empower the minister for provincial affairs and constitutional development to take up all the powers vested in the relevant member of a provincial legislature in respect of a local authority that had not held an election before 31st August 1996 (compared with the earlier date of 31st March 1996). The amendment also changed the date on which councils that had not held an election would dissolve, from 31st March to 31st August 1996. However, it gave the minister the discretion as to whether to dissolve them or not.²⁶⁵ [265 Local Government Transition Act Amendment Act of 1996, *Government Gazette* no 17071, 29 May 1996]

According to the amendment, councils can choose whether to have executive committees or not. Those which choose to have such committees, however, will have to elect them by way of proportional representation. The act also amends the principal act so as to provide that candidates for election will be disqualified if they are more than three months in arrears with municipal rates or levies even if they are not in debt directly to the council to be elected.²⁶⁶ [266 Ibid]

Furthermore, the amendment confirms that rural councils will have to be elected bodies, removing any impression that some of their members can be nominated.²⁶⁷ [267 Ibid]

Constitution of the Republic of South Africa Act of 1996

In September 1996 the Constitution of the Republic of South Africa Bill was sent back by the Constitutional Court to the Constitutional Assembly for amendment. The court cited, among other things, shortcomings in the proposed legislation's chapter on local government.²⁶⁸ [268 *Business Day* 9 September 1996] The court found that the bill did not comply with the constitutional principle which required that a framework for local government functions, powers and structures be set out in the new constitution. It also failed to comply with the constitutional principle which required the new constitution to make provision for 'appropriate fiscal powers and functions for the different categories of local government'. The court said that the only type of local government referred to in the bill was the 'municipality' and concluded that this was insufficient to comply with the requirements of the principles mentioned above. It added that a framework for local government should convey an overall design for local government within which local government structures would function and provinces would be entitled to exercise their powers to establish them. The court said that the proposed legislation should

indicate how local government executives were to be appointed and local governments were to take decisions, and the formal legislative procedures that had to be followed.²⁶⁹ [²⁶⁹ In the Constitutional Court of South Africa, Certification of the Constitution of the Republic of South Africa, 1996, *case CCT 23/96*, 6 September 1996]

The deputy director general for provincial affairs and constitutional development, Mr Andrew Boraine, said that he was worried about the effect that the judgement would have on the process of writing a white paper for local government. He said that his department had first wanted to look at the role of local authorities and then decide on the most appropriate structures. It was now being forced to finalise the structures before studying what these structures should be doing. He said that municipalities in other countries were involved in health care and education. That remained an option which his department wanted to consider before committing itself to specific local government structures in the constitution. He added that the chapter on local government in the bill had been kept deliberately short, simple and vague to give it the necessary flexibility to allow for local government to develop and adapt itself to the conditions of the country over the next ten years.²⁷⁰ [²⁷⁰ *Mail and Guardian* 13 September 1996]

The Urban Factor Network, comprising nine nongovernmental organisations (NGOs) and the National Land Committee, itself comprising ten NGOs, said that the court's decision was 'highly problematic' as it implied that the Constitutional Assembly should 'jump the gun' and pre-empt the government's white paper on local government. The organisations added that South Africa would run the risk of arresting the development of local government structures 'which were still in an embryonic state' if rigid categories of local government were included in the constitution.²⁷¹ [²⁷¹ *Business Day* 19 September 1996]

The Constitutional Court approved the act in December 1996 after it was suitably amended by the Constitutional Assembly to cater for the court's concerns on local government and other matters.

The Constitution of the Republic of South Africa Act of 1996 (the final constitution) provides for the establishment of municipalities in the whole of South Africa. The act provides further for the administrative and legislative capacity of municipalities to be vested in municipal councils and for a municipality to govern, on its own initiative, the local government affairs of its community, subject to national and provincial legislation, as provided in the constitution.²⁷² [²⁷² Constitution of the Republic of South Africa, act no 108 of 1996] (See also *The terms of the new constitution* above.)

The constitution provides for the following categories of municipalities:²⁷³ [²⁷³ *Ibid*]

- Category A—a municipality with exclusive municipal executive and legislative authority in its area;
- Category B—a municipality that shares municipal executive and legislative authority in its area with a category C municipality within whose area it falls; and
- Category C—a municipality that has municipal executive and legislative authority in an area that includes more than one municipality.

The constitution adds that national legislation should define the various categories of municipality to be established and provide criteria for determining what category of local authority an area should have. Such legislation should also provide for an appropriate division of power where there is more than one category of municipality operating in an area.²⁷⁴ [²⁷⁴ Ibid]

According to the constitution, provincial governments are responsible for establishing municipalities, providing for the monitoring of municipalities, and promoting the development of capacity in municipalities to perform their functions and manage their own affairs.²⁷⁵ [²⁷⁵ Ibid]

The constitution also empowers municipalities to make and administer bylaws on those matters which they have the right to administer. However, a bylaw which conflicts with national or provincial legislation will be invalid. Where there is conflict between a bylaw and national or provincial legislation that is inoperative, the bylaw will be regarded as valid for as long as the legislation is inoperative. The constitution obligates national or provincial governments to assign or delegate to a municipality, by agreement and subject to conditions, powers relating to the functions of local government (but which fall under national or provincial governments), provided such functions can be administered locally and the municipality has the necessary administrative capacity. A municipality also has all powers reasonably necessary for or incidental to the effective performance of its functions.

Municipalities also have executive power in respect of, and the right to administer, air pollution; building regulations; childcare facilities; electricity and gas reticulation; fire-fighting services; local tourism; municipal airports, planning, health services, public transport and public works (but limited to those functions specifically assigned to local government); pontoons, ferries, jetties and harbours (but excluding international and national shipping and related matters); stormwater management; trading regulations; and water and sanitation services limited to potable water systems, domestic water and sewerage disposal.

In addition, local authorities have executive authority over, and the right to administer, the following areas of competence: cemeteries, funeral parlours and crematoria; cleansing; control of public nuisance; control of undertakings that sell liquor; facilities for the accommodation, care and burial of animals; fencing and fences; licensing of dogs; licensing and control of undertakings selling food; local amenities; local sports facilities; markets; municipal abattoirs; municipal parks and recreation; municipal roads; noise pollution; pounds; public places; refuse removal; street trading; street lighting; and traffic and parking.²⁷⁶ [²⁷⁶ Ibid]

The constitution further provides that a traditional leader of a community observing a system of indigenous law and residing within the area of a transitional local council, transitional rural council or transitional representative council, will be entitled to be a member of such a council until 30th April 1999 or until an act of Parliament provides otherwise.²⁷⁷ [²⁷⁷ Ibid]

The constitution also provides for the composition and election of local governments through a system of proportional representation with party lists. It caters for a ward system of local government but does not compel local authorities to institute such a system. Municipal councils have a maximum four-year term.²⁷⁸ [278 Ibid]

Draft Legislation

In May 1996 a draft bill which proposed giving the minister for provincial affairs and constitutional development the power to regulate local government by proclamation during the transition phase was handed to the minister for provincial affairs and constitutional development, Mr Chris Fisser. Such proclamations would be binding on all local authorities but would be arrived at only after consultation with the relevant provincial premiers and the parliamentary portfolio committee on constitutional affairs.²⁷⁹ [279 *Business Day* 16 May 1996]

Mr Boraine said that he envisaged the minister having the power to regulate local government by proclamation until permanent legislation was promulgated for local government. He said that the legislation was necessary as it was impossible to finalise bridging legislation in 1996 because of the complexity of issues and the lack of consensus among the parties involved.²⁸⁰ [280 Ibid]

In July 1996, however, a draft of the Further Regulation of Local Government Bill was completed and handed to the cabinet for approval. In terms of the draft legislation responsibility for the financial affairs of local authorities would rest with the auditor general rather than the metropolitan councils. Money that was made available by national or provincial government for an area would be divided by the metropolitan council according to a national formula that took the needs and capabilities of individual local governments into account.²⁸¹ [281 *Beeld* 18 July 1996] A later amendment to the draft bill, however, made provision for metropolitan councils to allocate grants, impose levies and claim payments from local governments.²⁸² [282 *Business Day* 23 July 1996]

At a meeting in September 1996 between the minister for provincial affairs and constitutional development, Mr Mohammed Valli Moosa, and the MECs responsible for local government in each province it was decided that further amendments would be made to the draft bill. The MEC for local government and development planning in the Western Cape, Mr Peter Marais, said the meeting had agreed that the MECs would be empowered to monitor the finances of local authorities and sanction those that disregarded regulations governing local government. Sanctions would include withholding intergovernmental grants and other measures. He added that MECs would also be given the competence to issue proclamations on the division of powers between metropolitan and local councils (including existing proclamations). MECs would, however, have to consult central government on any changes to existing proclamations.²⁸³ [283 Ibid 23 September 1996]

Finance

The 1996 constitution provides that local authorities in each province are entitled to an equitable division of revenue raised nationally to enable them to provide basic services and perform the functions allocated to them. Local authorities can also be given ‘other allocations’ from central government revenue—either ‘conditionally or unconditionally’. Additional revenue raised by municipalities (or provinces) cannot be deducted from their share of revenue raised nationally.

Similarly, the constitution provides that there be no compulsion upon the central government to compensate municipalities that do not raise revenue commensurate with their fiscal capacity and tax base.²⁸⁴ [²⁸⁴ Constitution of the Republic of South Africa Act, 1996, act no 108 of 1996]

The final constitution also makes provision for municipalities to impose rates on property and surcharges on fees for services provided by, or on behalf of, a local authority. If authorised by national legislation other taxes, levies or duties (undefined) can also be raised. The constitution, however, specifies that municipalities cannot impose any income tax, value added tax, general sales tax, surcharge or customs duty.²⁸⁵ [²⁸⁵ Ibid]

The constitution empowers municipalities to raise loans for capital or current expenditure in accordance with ‘reasonable conditions’ determined by national legislation. However, loans for current expenditure can only be raised for bridging purposes during a fiscal year and have to be repaid within 12 months.²⁸⁶ [²⁸⁶ Ibid]

In June 1996 the deputy minister for provincial affairs and constitutional development, Mr Mohammed Valli Moosa, told the National Assembly that annual expenditure on local government matters amounted to some R40bn, equivalent to about 26% of the total national budget. Mr Moosa said that the unsatisfactory financial position of many municipalities could be ascribed to various factors, including the persistent non-payment for services, which had resulted in the accumulation of debts of local authorities. Other factors which influenced non-payment were poverty and unemployment. The Masakhane campaign, which was launched on 20th January 1995, was part of the drive to normalise governance, provide services at local level and persuade people to participate in the process by paying for services and housing (see also *Effects of boycotts* below, chapter on *Living Conditions* and 1995/96 Survey, pp340–341).²⁸⁷ [²⁸⁷ *Hansard* (NA) 9 cols 2560–2561, 10 June 1996] (According to the 1997 *Budget Review*, only 69% of municipal residents were regular payers.)²⁸⁸ [²⁸⁸ Department of Finance, *Budget Review*, 1997]

Municipal budgets for the 1996/97 financial year exceeded R47bn, or about 7,5% of GDP, according to the 1997 *Budget Review*. Municipalities had budgeted for total deficits of about R800m in the 1995/96 financial year and R300m in the 1996/97 financial year, even though they were not legally permitted to budget for deficits.²⁸⁹ [²⁸⁹ Ibid]

Local authorities had a substantial tax base and own revenue accounted for more than 90% of their budgets, according to the 1997 *Budget Review*. The major sources of budgeted local government income

for 1996/97 were:²⁹⁰ [Ibid]

- R17,8bn from electricity, water and sewerage charges;
- R6,5bn from property rates;
- R2,1bn from regional service levies; and
- R14,3bn from intergovernmental grants (grants from central government), and other revenue.

In addition, municipalities budgeted for loans amounting to about R6,33bn in 1996/97.²⁹¹ [Ibid]

According to the *Budget Review*, municipalities had a total debt of about R26bn at the end of June 1996. The composition of the debt is shown in the table below:²⁹² [Ibid]

Outstanding debt of local authorities: June 1996

Type of debt

Rbn

Stock issues

7,07

Government loans (housing and other)

12,78

Loans from the Development Bank of Southern Africa

0,71

Loans from the Local Authorities' Loans Fund Board^a

0,96

Other annuity loans

0,20

Overdrafts and loans from commercial banks

2,71

Bills issued by local authorities and held by banks

0,61

Leases and instalment credit from banks

0,07

Loans from insurers and pension funds

0,14

Other loans

0,70

Total

25 ,95

a

The Local Authorities' Loans Fund Board provides loans to municipalities for the financing of capital

Effects of Boycotts

Electricity

The minister for public enterprises, Ms Stella Sigau, told Parliament in June 1996 that as at 31st December 1995 local authorities owed Eskom a total of R788m (excluding interest). Gauteng owed R565m, Mpumalanga R62m, the Northern Province R58m, the Eastern Cape R47m, the Free State R26m, the North West R23m, and the Western Cape R7m. Local authorities in KwaZuluNatal and the Northern Cape did not owe any money to Eskom.²⁹³ [²⁹³ *Hansard* (NA:Q) 7 cols 1129–1130, 10 June 1996] By the end of June 1996 municipalities owed R938m (excluding interest) to Eskom.²⁹⁴ [²⁹⁴ *The Star* 1 October 1996]

The chairman of the National Electricity Regulator, Dr Ian McRae, estimated that 150 local authorities

of the 420 that distributed electricity faced financial difficulties which could affect their payments to Eskom. The manager of the National Electricity Regulator's customer service division, Mr Johan du Plessis, said that non-payment of electricity had a significant effect on government plans for 450000 new electricity connections by the year 2000. A comprehensive strategy was needed to address non-payments, he added.²⁹⁵ [²⁹⁵ *Business Day* 5 June 1996] (See also chapter on *Living Conditions*.) The deputy director for provincial affairs and constitutional development, Mr Andrew Boraine, said in September 1996 that 48 local authorities did not have enough money to pay their Eskom electricity accounts.²⁹⁶ [²⁹⁶ *Ibid* 1 October 1996] In the same month Mr du Plessis said that the National Electricity Regulator had recommended to the government that the distribution functions of Eskom and the municipalities be hived off and merged into a number of regional distributors. A single national distributor would also be considered. Income lost through hiving these functions off could be substituted by a local authority tax which the government would have the right to cap, he added.²⁹⁷ [²⁹⁷ *Ibid* 6 September 1996]

The following month Mr du Plessis said that the institution of a performance framework was part of the regulator's recommendations. In terms of the framework, licences could be withdrawn or reallocated if municipalities did not measure up to one or more of the criteria in the framework. Criteria included payment of bulk electricity accounts, the viability of the licence holder's business in terms of income and expenditure, cash flow and a prescribed return on assets.

In November 1996 Dr McRae said that the regulator could take action against licence defaulters if the government failed to make a decision on the restructuring of the electricity industry before the end of 1996.²⁹⁹ [²⁹⁹ *Ibid* 28 November 1996]

Rent and Service Charges

In March 1997 Mr Moosa said that R6bn was owed to local authorities in outstanding rates and service charges (including electricity) up to the end of October 1996. He said that the outstanding debt represented an 'unacceptable' 25% of the total income from rates and service charges.³⁰⁰ [³⁰⁰ *Ibid* 19 March 1997] Up to June 1996 Gauteng owed R2,9bn, the Western Cape R723m, KwaZulu-Natal R827m, the Eastern Cape R402m, the Free State R250m, Mpumalanga R180m, the North West R169m, the Northern Cape R99m and the Northern Province R35m.³⁰¹ [³⁰¹ *This Week in Parliament* 23 October 1996]

Financial Capacity

About 47% of all municipalities had no effective credit controls while 26% did not have the ability to send out accounts, Mr Boraine said in October 1996.³⁰² [³⁰² *Business Day* 1 October 1996] In March 1997 Mr Moosa said that his department's latest reports indicated that about one third of local authorities in South Africa did not have any managerial capacity or discretionary funds to deliver services at an 'acceptable level'. About 121 local authorities had financial problems and about 80 of these would need to be placed on a financial support programme while 'several others' might need direct financial help, he said. About 92 local authorities had insufficient cash resources to cover one month's salary bills and 20 had

insufficient funds to pay for one month's electricity, Mr Moosa added.³⁰³ [³⁰³ Ibid 19 March 1997] He, however, rejected calls from the private sector to hand over information on the financial state of individual local authorities on the grounds that this would undermine attempts by the government to monitor and improve their financial status.³⁰⁴ [³⁰⁴ Ibid] The minister of finance, Mr Trevor Manuel, said that the government's attempts to monitor local authority finances would succeed only if information on specific local authorities was kept confidential.³⁰⁵ [³⁰⁵ Ibid]

Mr Moosa said that the government's plans to overhaul the finances of municipalities included:³⁰⁶ [³⁰⁶ *The Star* 19 March 1997]

- the continuation of a national monitoring programme through Project Liquidity—a survey of all municipalities every two months;
- the appointment of provincial task teams to conduct management audits in those municipalities which had been identified as possibly running into financial difficulties;
- the implementation of a management support programme in municipalities which management audits established were on the verge of collapse; and
- ongoing institutional arrangements to improve financial management through mentoring, training and capacity-building programmes.

Allocations to Municipal Infrastructure

Mr Moosa said in June 1996 that the government aimed to invest in municipal infrastructure through its municipal infrastructure programme (MIP), which consisted of one-off grants for addressing the immediate and short-term needs of communities. The MIP received R751m which was to be utilised over three years from October 1994 to March 1997. Mr Moosa said that a total of 552 projects valued at R669,7m had been approved by his department. More than R173,9m had been disbursed to the provinces for the implementation of these projects.³⁰⁷ [³⁰⁷ *Hansard* (NA) 9 cols 2560–2561, 10 June 1996]

According to Mr Moosa, the MIP proposals received from the provinces far exceeded the allocated R751m and an additional amount of R700m was made available through the extension of municipal infrastructure project (EMIP) during 1996. The EMIP's emphasis would be on bulk services and connector services, with the aim of enhancing the delivery of new houses.³⁰⁸ [³⁰⁸ Ibid]

Mr Moosa said that his department had also developed a municipal infrastructure investment framework (MIIF). This framework amounted to the government's pledge to address municipal infrastructure backlogs over the next ten years. The estimated cost of the MIIF was between R60bn and R80bn. The government would not be able to bear those costs alone and was already involving the private sector in

meeting the objectives of the framework.³⁰⁹ [³⁰⁹ *Hansard* (NA) 9 cols 2561–2563, 10 June 1996] (See also chapter on *Living Conditions*.)

Local Government Elections

In July 1996 a report commissioned by the Department of Provincial Affairs and Constitutional Development recommended that future local government polls should not take place on the same day throughout the country and that they be held separately from the general election. The report said that if local elections were to take place only every four to five years there would be a substantial time gap during which election management experience would be lost. However, if elections were staggered throughout the four or five-year period—national elections one year, provincial elections another, and local elections the next—the level of loss would be smaller. Ongoing elections would help to build ongoing capacity. The minister for provincial affairs and constitutional development, Mr Mohammed Valli Moosa, said that these recommendations would be taken into account by a special task team that would rewrite election regulations.³¹⁰ [³¹⁰ *The Citizen* 2 July 1996]

Kwazulu-Natal

Election Date

In November 1995 the then minister for provincial affairs and constitutional development, Mr Roelf Meyer, announced that local government elections in KwaZulu-Natal and the Western Cape would be held on 29th May 1996.³¹¹ [³¹¹ *Business Day* 8 December 1995] The elections had been postponed from 1st November 1995 (see 1995/96 Survey, pp453–454).

In April 1996 the African National Congress (ANC) demanded another delay, saying that a fair poll was not possible because violence had increased in the province as the election date drew closer.³¹² [³¹² *The Citizen* 15 May 1996] The Inkatha Freedom Party (IFP), however, argued against an extension of the date, saying that there had been higher levels of violence prior to the 1994 general election. The party claimed that the ANC wanted a postponement because it was not ready for the elections. The Democratic Party (DP) and the National Party (NP) opposed the ANC's demand.³¹³ [³¹³ *Financial Mail* 10 May 1996]

In May 1996 a multiparty task team was appointed by the president, Mr Nelson Mandela, to investigate the viability of proceeding with elections on 29th May 1996. The task team, however, was divided on whether to postpone the elections. The ANC, the Minority Front, the Pan-Africanist Congress, and the team's co-chairman, Mr Mohammed Valli Moosa, favoured delaying the election 'for a reasonable time'. The African Christian Democratic Party, the DP, the Freedom Front, the IFP and the NP, together with the chairman of the task team, Mr Chris Fisser, were in favour of the elections proceeding on 29th May 1996.³¹⁴ [³¹⁴ *The Citizen* 1 May 1996]

Mr Mandela said that although he was entitled to make a decision on the matter alone, he would be guided by the cabinet and other role players.³¹⁵ [³¹⁵ Ibid] After a special cabinet meeting on 6th May 1996 the new minister for provincial affairs and constitutional development, Mr Chris Fisser, announced that the elections in KwaZulu-Natal would be held on 26th June 1996.³¹⁶ [³¹⁶ *Business Day* 15 May 1996]

The president of the IFP, Chief Mangosuthu Buthelezi, said that he wanted the poll to go ahead as planned on 29th May 1996 but had accepted the decision to postpone it when it became clear that it carried majority support in the cabinet. The leader of the DP in the province, Mr Roger Burrows, said that his party was ready to fight the elections on 29th May and that the postponement was ‘an unjustified political charade’.³¹⁷ [³¹⁷ *The Citizen* 15 May 1996]

Voter Registration

In May 1996 the cabinet also decided to extend voter registration in the province for a four-day period from 24th to 27th May 1996.³¹⁸ [³¹⁸ *Financial Mail* 10 May 1996] Some 162600 new names were added to the voters’ rolls in the province.³¹⁹ [³¹⁹ *The Natal Witness* 7 June 1996]

About 84 400 of the 162 600 new registrations were removed from the voters’ rolls in June 1996 because of irregularities. The MEC for housing and local government in KwaZulu-Natal, Mr Peter Miller, said that large numbers of duplicate registrations had forced him to extend the deadline for the inspection of voters’ rolls to 11th June 1996—just 15 days before the elections.³²⁰ [³²⁰ *Business Day* 7 June 1996]

A document drafted by electoral officials in the Durban metropolitan area showed that the number of duplicates for the metropolitan area alone amounted to 26 587.³²¹ [³²¹ Ibid] Commenting on the situation, Mr John Aulsebrook MPL (IFP), said that it was becoming clear that the decision to postpone elections in KwaZulu-Natal by a month was an ‘absolute disaster’ and that the province would face a ‘close call’ in its bid to hold elections on 26th June. Mr Miller, however, expected that the extension of the inspection date would not jeopardise the elections.³²² [³²² Ibid]

Mr Aulsebrook said that the IFP believed that the ANC had realised it would face ‘massive’ defeat in the rural councils and had urged its rural supporters to register in urban areas during the four-day registration period in May 1996. An ANC spokesman, Mr Dumisani Makhaye, denied that the ANC had been responsible for the irregularities.³²³ [³²³ Ibid]

A total of 3,57m (88,7%) of the estimated 4,03m voters in KwaZulu-Natal registered to vote in the elections. Some 45,5% or 1,63m of registered voters actually turned up to vote.³²⁴ [³²⁴ Local Government Task Group Report, *Local Government Elections Report: National and Provincial Summaries*, 9 October 1996]

Registration of Political Parties

The regulations for the registration of political parties and candidates were the same as those for the November 1995 local government elections. A political party or organisation which registered as such for purposes of the elections was required to submit a list of candidates, a distinguishing mark used by the party, the address of the party in the local authority concerned, the constitution of the party and a deposit (see 1995/96 Survey, pp454–455).

Areas in Which Local Government Elections Were Further Delayed

On 27th June 1996 Mr Miller announced that the Natal Provincial Division of the Supreme Court in Pietermaritzburg would be asked to sanction new elections ‘as soon as possible’ in four areas where ‘free and fair’ elections did not take place because of voter intimidation or ‘incompetence’ of electoral staff. The affected areas were District 14 near Vryheid, Umzumbe (south coast), Table Mountain (Pietermaritzburg) and KwaDukuza/Stanger (Stanger). At District 14 incorrect ballot papers were issued to voters, while the polling stations failed to open at Umzumbe.

Results

The percentage poll in the 1996 KwaZulu-Natal local government elections was 45,5% of the 3573619 registered voters. Spoilt ballots amounted to 1,4% of the 1 626 851 votes cast.³²⁷ [³²⁷ Local Government Task Group Report, *Local Government Elections Report: National and Provincial Summaries*, 9 October 1996]

A dual system of voting—for a party and a ward-based candidate—operated during the elections. Votes were cast on the basis of proportional representation for political parties or organisations registered as political parties for purposes of the elections. Votes were cast for individual candidates (most of them representing political parties or organisations) on a ward basis.

The IFP emerged as the majority party in the province after winning the highest number of proportional votes (44,4%) as well as 39,4% of the 1 884 local government seats. The ANC was the IFP’s closest rival, obtaining 33,1% of the proportional votes and 30% of the seats.³²⁸ [³²⁸ Ibid]

The following table shows the number and proportion of votes cast for each party in the proportional representation (PR) elections and the number and proportion of seats (PR, ward-based and district council) won by each party in the 1996 KwaZulu-Natal local government elections:³²⁹ [³²⁹ Ibid]

KwaZulu-Natal local government elections results: 1996

Votes won by parties in the PR elections^a

Seats won by parties^b

Parties

Number of PR votes won^c

Proportion of PR votes won

Number of seats won

Proportion of seats won^d

ACDP

9 788

0,6%

1

0,1%

ANC

530 809

33,1%

573

30,4%

CP

1 229

0,1%

4

0,2%

DP

52 785

3,3%

55

2,9%

FF

4 420

0,3%

1

0,1%

IFP

712 268

44,4%

742

39,4%

NP

204 253

12,7%

200

10,6%

PAC

2 572

0,2%

0

0,0%

MF

38 277

2,3%

28

1,5%

Independent^e

—

—

133

7,1%

Ratepayers

12 447

0,8%

88

4,7%

Others

35 721

2,2%

48

2,6%

Vacant

—

—

11

0,6%

Total

1 604 569

100,0%

1 884

100,0%^f

a

Excluding votes for ward-based candidates.

b

All seats — PR, ward-based and district council seats (which are nominated).

c

As a proportion of all valid votes cast (excluding rejected ballot papers).

d

As a proportion of all seats (including vacant seats).

e

PR votes are cast for parties or organisations such as ratepayers' organisations only.

f

Figures may not add up

The leader of the ANC in the province, Mr Jacob Zuma, said that his party had achieved a 'resounding' victory, especially in the 'economic heartland' of the province. The party won the most seats in the Durban Metropolitan Council, which had an annual budget of about R4bn. Mr Zuma added that the ANC would work with all political formations in the process of governing at local level.³³⁰ [³³⁰ *Sunday Tribune* 7 July 1996]

The leader of the DP in the province, Mr Roger Burrows, said that 'the successful results for the DP' had once again demonstrated that a party committed to liberal democratic principles and values had a place in South African politics. He said that the party was pleased with the 50% growth in its support in the province over its 1994 election results.³³¹ [³³¹ *Ibid*]

The IFP declared that the elections had proved that it was the majority party in KwaZulu-Natal. The secretary general of the IFP, Mr Ziba Jiyane, said that the elections would once and for all put to bed allegations that the IFP had gained control of the province in 1994 through irregular means.³³² [³³² *The Mercury* 3 July 1996]

The leader of the NP in KwaZulu-Natal, Mr Danie Schutte, said that the elections acted as a 'trailblazer for a realignment of parties' ahead of the scheduled 1999 general election.³³³ [³³³ *Sunday Tribune* 7 July 1996]

The ANC won most of the councils in the major urban areas (including the Durban Metropolitan Council and its six substructures and the Pietermaritzburg Metropolitan Council and its substructures) while the IFP won the seven regional councils, covering most rural areas and including areas observing a system of traditional leadership.³³⁴ [³³⁴ *Business Day* 3 July 1996]

The ANC garnered 48,7% of the vote in the Durban Metropolitan Council and its substructures followed by the NP (22,8%), the IFP (14,5%), the DP (5,6%), the Minority Front (4,4%), the African Christian Democratic Party, (1%), the Pan-Africanist Congress (0,3%), the Freedom Front (FF) (0,2%) and the Conservative Party (0,2%). In the regional councils the IFP obtained 77,7% of the vote against the

ANC's 17,2%, the NP's 1,6%, the DP's 0,7% and the FF's 0,2%.³³⁵ [³³⁵ Ibid]

Western Cape

Election Date

In November 1995 Mr Meyer announced that local government elections would be held on 29th May 1996 in those areas of the Western Cape that did not vote in November 1995. (Elections were held in numerous parts of the Western Cape in November 1995, except in those areas—such as the Cape Town metropole—where boundary disputes had delayed elections—see 1995/96 Survey, pp455–457.)³³⁶ [³³⁶ *Business Day* 8 December 1995]

The elections were, however, almost derailed in February 1996 when the ANC disputed a model for rural local government in the province proposed by the MEC for local government and development planning in the Western Cape, Mr Peter Marais. The ANC claimed that the model disenfranchised farmworkers, while Mr Marais said that the model had already been proclaimed in December 1995 and the ANC's protests were, therefore, too late. The ANC said that the proposal—that transitional rural councils have 60% of their councillors nominated, with half these positions going to farmer organisations and the other half to farmworker organisations—was unfair as farmers were by far in the minority numerically in relation to farmworkers. The ANC also objected to the definition of a farmworker, which excluded anyone working for fewer than six months of the year on a farm. The party threatened to take the matter to court.³³⁷ [³³⁷ *Mail and Guardian* 23 February 1996]

Mr Marais subsequently revised his model to allow for farmers and farmworkers to each elect 30% of the representatives on rural councils, while the remaining 40% would be elected from a proportional list. The ANC still refused to accept the revised model, saying that it would not only exclude many rural workers but would also be technically difficult to implement as it would require separate voters' rolls for farmers and farmworkers.³³⁸ [³³⁸ *Business Day* 19 March 1996] In March 1996 Mr Marais gave written warning to the ANC that unless a decision was made on one of his models by 26th March 1996 he would have to postpone the elections.³³⁹ [³³⁹ Ibid 25 March 1996]

Mr Marais' model was again modified, so that 80% of a rural council would be elected by proportional representation on a list system while 10% would go to farmers' nominees and the remaining 10% to farmworkers' nominees.³⁴⁰ [³⁴⁰ *Cape Times* 19 April 1996] In April the ANC dropped its objections to the model so that the elections could go ahead on the planned date but said that it might challenge the model in the Constitutional Court after the elections.³⁴¹ [³⁴¹ Ibid] At the time of writing, however, it had not done so.

Voter Registration

About 1 969 159 or 88,2% of the estimated 2 232 152 eligible voters registered to vote in the elections.³⁴² [342 Local Government Task Group Report, Local Government Elections Report: National and Provincial Summaries, 30 September 1996]

Registration of Political Parties

The regulations for the registration of political parties and candidates were the same as those for the November 1995 local government elections. A political party or organisation which registered as such for purposes of the elections was required to submit a list of candidates, a distinguishing mark used by the party, the address of the party in the local authority concerned, the constitution of the party and a deposit (see 1995/96 Survey, pp454–455).

Results

The poll in the local government elections in the Western Cape was 59,8% of the 1,97m registered voters. Spoilt ballots amounted to 1,1% of the 1,18m votes cast.³⁴³ [343 Ibid]

A dual system of voting—for both a party and a ward-based candidate—operated during the elections. Votes were cast for political parties or organisations registered as political parties for purposes of the elections, on the basis of proportional representation. Votes were cast for individual candidates (most of them representing political parties or organisations) on a ward basis.

The NP emerged as the majority party in the province after winning the highest number of proportional votes (48,8%) as well as 43% of all the local government seats (proportional, ward-based and district council). The ANC was the NP's closest rival, gaining 37,5% of the proportional votes and 34,2% of the 1 446 seats.³⁴⁴ [344 Ibid]

The following table shows the proportion of votes cast for each party, the number of seats (proportional, ward-based and district council) and the proportion of seats won by each party in the 1996 Western Cape local government elections :³⁴⁵ [345 Ibid]

Western Cape local government election results: 1996

Votes won by parties in the PR elections^a

Seats won by parties^b

Parties

Number of PR votes won

Proportion of PR votes won^c

Number of seats won

Proportion of seats won^d

ACDP

20 011

1,7%

5

0,4%

ANC

436 372

37,5%

495

34,2%

CP

1 370

0,1%

0

0,0%

DP

58 787

5,1%

22

1,5%

FF

18 686

1,6%

3

0,2%

NP

567 907

48,8%

621

43,0%

PAC

11 366

1,0%

4

0,3%

Independent^e

—

—

164

11,3%

Ratepayers

23 387

2,0%

87

6,0%

Others

26 652

2,3%

44

3,0%

Vacant

—

—

1

0,1%

Total

1 164 538

100,0%^f

1 446

100,0%^f

a

Excluding votes for ward-based candidates.

b

All seats — PR, ward-based and district council seats (which are nominated).

c

As a proportion of all valid votes cast (excluding rejected ballot papers).

d

As a proportion of all seats (including vacant seats).

e

PR votes are cast for parties or organisations such as ratepayers' organisations only.

f

Figures may not add up owing to rounding.

The leader of the NP, Mr F W de Klerk, said that his party's election victory in the Western Cape local government elections was 'wonderful' despite the ANC's 'impressive organisational, political and propagandistic onslaught'. He said that the ANC had 'tried every trick in the book' to win the elections but had failed. Mr de Klerk said that the NP's victory in the Western Cape was the 'first fruits' of its decision to quit the government of national unity (see also above and chapter

The leader of the ANC in the Western Cape, Mr Chris Nissen, said that the coloured people who had voted for the NP would realise their mistake when the NP-controlled substructures increased rates and taxes. He said that the result of the NP's expectation that everybody should pay equal rates would be that residents from the suburb of Atlantis (predominantly populated by coloured people) would be expected to pay the same rates and taxes as residents from the more affluent Milnerton or Tableview wards. An ANC spokesman, Mr Carl Niehaus MP, said that it was significant that the ANC had increased its support in the Western Cape's metropolitan areas from 36% to about 38% since the 1994 general

election. The NP's support had, on the other hand, dropped from 54% in these areas to about 48%, he said.³⁴⁷ [³⁴⁷ Ibid]

Disputes

In June 1996, after an objection by the ANC, an audit of the votes captured by returning officers in Tygerberg revealed that there had been a duplication of 4073 Khayelitsha votes allocated to the ANC. As a result the ANC lost one of the 35 seats allocated to it on the Tygerberg substructure (part of the Cape Town Metropolitan Council). The ANC said it would consider taking further action after studying the auditor's report.³⁴⁸ [³⁴⁸ *Business Day* 6 June 1996] In addition, 2 692 ANC votes had been erroneously allocated to the African Christian Democratic Party (ACDP).³⁴⁹ [³⁴⁹ *Saturday Star* 8 June 1996]

The Cape of Good Hope Provincial Division of the Supreme Court in Cape Town subsequently ordered a recount of all votes cast in the Tygerberg election after the ANC applied to the court for an urgent order to reopen the ballot boxes. Mr Justice S Desai said that the recount was necessary because of the historic importance of the local elections, which had been given an 'unfortunate tint' by the events in Tygerberg.³⁵⁰ [³⁵⁰ Ibid]

On 26th June 1996 the recount was concluded and the court declared that it confirmed the original results disputed by the ANC. This gave the NP 35 seats in the Tygerberg substructure to the ANC's 34, while the ACDP and the DP had one each.³⁵¹ [³⁵¹ *The Star* 27 June 1996]

Elections in Other Provinces

Local government elections were held in the Eastern Cape, Free State, Gauteng, Mpumalanga, North West, the Northern Cape and the Northern Province in November 1995 (see 1995/96 Survey, pp453–458).

POLICY REVIEW

A number of policy issues proved contentious in the drafting of the 1996 constitution, and may remain so in the future. These are identified and analysed under the following heads:

The Content of the Bill of Rights

In negotiations prior to the adoption of a new constitutional text on 8th May 1996, the issues on which dispute was reported principally were the rights to property and to schooling in a single medium of instruction, as well as the right employers to lock out striking workers. Compromise provisions were adopted in these spheres but it remains uncertain how these will operate in practice.

Particularly important also—though the subject of far less debate—are the extension of the socio-economic rights guaranteed by the bill, and the inclusion of direct horizontal application for the bill of rights. The policy implications of these issues are less obvious than those of the property and other rights earlier mentioned—but are likely to prove more profound.

The 1993 bill of rights—like almost every other bill of rights in the world—was vertical in its operation. It applied on the vertical plane, to shield the citizen from abuse of power by the state. The 1996 bill of rights, by contrast, has direct horizontal application. This means it can be enforced, on a horizontal basis, by one private person against another. It also means, in an inversion of the usual function of a bill of rights, that it can be enforced by state officials against the private person. The implications of this are difficult to foresee, but are likely to be wide-ranging.

Also potentially problematic is the vague test incorporated in the bill for determining when a guaranteed right should operate horizontally. The wording could be used to confine direct horizontal application within relatively narrow limits. It could also be used to make the socio-economic rights of access to housing, health care, social security, food, and water binding on private persons as well as on the state.

One important right which has expressly been given direct horizontal application is the right to equality. Not only the state but also all private persons, both natural and juristic, are prohibited from unfairly discriminating against anyone, either on any of 17 listed grounds or on any similar basis. In addition, the equality clause contains a further provision reversing the normal onus of proof, and stating that discrimination on any of the 17 listed grounds ‘is unfair unless it is established that the discrimination is fair’. This reversal of onus will now apply against private persons as well as against the state. This could have profound implications in all contractual relationships, as well as in other branches of law.

Another important aspect of the equality clause is the authorisation it contains for affirmative action. The relevant provision states that ‘to promote the achievement of equality, legislative and other measures to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken’. The implementation of affirmative action has proved controversial.

The 1996 bill of rights substantially extends the limited socio-economic rights included in the transitional constitution of 1993 and accords to everyone a right to ‘have access’ to ‘adequate housing’, to ‘health care services (including reproductive health care)’, to ‘sufficient food and water’, and to social security. The state is obliged to take ‘reasonable’ measures, within its ‘available resources’ to ‘achieve the progressive realisation of these rights’.

Limited debate has occurred regarding the likely practical impact of including such provisions in a bill of rights which is supposed to be justiciable in all of its provisions. Proponents of their inclusion have generally argued that the limited nature of these rights will prevent problems of justiciability arising, while reflecting a necessary commitment on the part of the state to meet the pressing socio-economic needs of the majority. Opponents of their inclusion contend that problems of justiciability will not easily be surmounted, and that there is no need for provisions of this nature to compel a democratic

government to meet the needs of its constituents.

The Ambit of Provincial Powers

A key unresolved issue is whether provincial governments will be able to make an impact on policy decisions in important concurrent spheres of jurisdiction such as housing, education, health and welfare—or whether they will instead become mainly administrative outposts for the implementation of centrally determined policy in all significant areas.

Another important question concerns the powers and functions of the National Council of Provinces (NCOP), which replaces the Senate. It seems self-evident that the two provinces in which the Inkatha Freedom Party and the National Party currently hold the majority—KwaZulu-Natal and the Western Cape—will have little capacity to influence the decisions of the NCOP. Hence, any move towards a greater devolution of power from within the NCOP will have to be motivated by provinces in which the ruling African National Congress holds the majority.

The Judicial Branch of Government

Also the focus of dispute are provisions of the 1996 constitution allowing for the appointment of a national director of public prosecutions answerable to the minister of justice. The national director need not hold any legal qualification. The new constitution allows him not only to set prosecution policy in general, but also to overrule the decisions of his provincial counterparts in specific instances.

In the certification proceedings for the text adopted on 8th May 1996, objection was also lodged to the introduction of this ‘super’ attorney general. Reliance was placed on a Namibian decision, which had emphasised ‘the importance of the prosecuting authority in a constitutional state being independent and had pointed to the potential danger of empowering political appointees to decide whether or not prosecutions should be instituted’. The Constitutional Court dismissed this objection on the basis that no constitutional principle had been infringed, and that the court had no power to set aside the Constitutional Assembly’s decision in this regard.

State Institutions Supporting Constitutional Democracy

Two of the state institutions supporting democracy—the Human Rights Commission and the Commission for Gender Equality (CGE)—have been given extensive powers, including wide powers of subpoena, search and seizure—and may invoke these powers in investigating any alleged infringement of the bill of rights by either the state or private persons. The CGE, moreover, can exercise its powers of subpoena, search and seizure not for any alleged infringement of the law but as regards any ‘gender-related issue’.

Traditional Leaders and Customary Rule

The significance of traditional leaders and customary law is recognised in the 1996 constitution, but in a more limited way than under the 1993 text. A key difference is that the right to equality in the 1996 constitution has expressly been given direct horizontal application. This has major implications for customary law rules, many of which are likely to be found inconsistent with such an equality clause. At the same time, however—as the Constitutional Court has emphasised—customary law continues to hold deepseated significance for millions of South Africans.

POLITICS

BIRD'S EYE VIEW

Most political parties participated in the drafting of a new constitution for the country, and voted in favour of the text prepared by the Constitutional Assembly.

The National Party (NP) withdrew from the government of national unity to pursue its 'vision and mission' of facilitating the emergence of a more cohesive grouping in opposition to the African National Congress (ANC).

Divisions were reported within all political parties, especially the ANC, the Inkatha Freedom Party (IFP) and the Pan-Africanist Congress, while right-wing parties differed on proposals for a 'volkstaat' for Afrikaners.

Political violence and conflict declined in the country as a whole, as well as in KwaZulu-Natal where peace initiatives were reported, at one time, to have turned 'warlords' from both the ANC and the IFP into 'peacelords'. Violence nevertheless persisted in the province amid speculation in early 1997 that a special amnesty would be made available to the protagonists to help bring conflict to an end.

Taxi violence increased, and the incidence of fatalities grew substantially from those recorded in 1995. Various initiatives were instituted to end conflict by bringing the industry under greater control.

The Truth and Reconciliation Commission began its work in December 1995, and was due to conclude it by 15th December 1997—having been accorded a six-months' extension for this purpose.

The commission's Committee on Human Rights Violations conducted more than 40 hearings into human rights abuses suffered by individuals during a 33-year period from 1st March 1960 to 5th December 1993. The committee also obtained statements regarding human rights abuses from some 9 000 individuals. Most of the hearings centred around abuses allegedly committed by the former security forces.

Political parties and organisations testified to the commission in August and September 1996, while the NP lodged a further submission with the commission in early 1997. Other parties were due to testify

further in May 1997.

The TRC's Committee on Amnesty obtained more than 5 000 applications for amnesty, mostly from convicted prisoners. It was agreed that the cut-off date for the granting of amnesty should be extended from 5th December 1993 to 10th December 1994. Applicants for amnesty acknowledged, among other things, culpability for the torture, assault and murder of numerous anti-apartheid activists.

The commission's reparations committee proposed in March 1997 that all victims of human rights abuses be awarded compensation—and that at least R3bn should be set aside for this purpose.

KEY POINTS

- During the period under review, divisions were reported in a number of political parties. Changes in the economic policy of the African National Congress (ANC)—particularly its adoption of a new macro-economic strategy designed to promote employment and economic growth—generated tensions between itself and its political partners, especially the South African Communist Party (SACP) and the Congress of South African Trade Unions (Cosatu).
- The IFP expelled from its ranks one of its most controversial leaders in KwaZulu-Natal, Mr Thombas Shabalala of the Lindelani informal settlement near Durban. The Pan-Africanist Congress (PAC) was divided on a number of issues, including the election in December 1996 as the new president of the party of the Rev Dr Stanley Mogoba, presiding bishop of the Methodist Church of Southern Africa.
- Conservative parties complained increasingly of unfair treatment by the ANC-controlled government of whites in general and Afrikaners in particular, and sought increased protection for language and cultural rights.
- Political conflict declined in the country as a whole, as well as in KwaZulu-Natal, where peace initiatives resulted in a diminution in fatalities. Assassinations of leaders and supporters of both the ANC and the IFP persisted, however, while the two parties continued to differ on the origins and nature of the conflict in the province. A security clampdown begun in 1995 was continued, while special investigation units were deployed in various parts of KwaZulu-Natal, including the south coast (where the Shobashobane massacre of 19 ANC supporters had occurred in December 1995).
- Controversy continued to surround both the self-defence units (SDUs) of the ANC and the self-protection units (SPUs) of the IFP. It was alleged that paramilitary training was being provided to both and that, in the case of the SDUs, this was being done by former cadres of the ANC's erstwhile armed wing, Umkhonto we Sizwe, who had been incorporated into the South African National Defence Force.
- The South African Law Commission published proposals for the establishment of community courts, while the reported incidence of 'kangaroo courts' was limited.

- Considerable controversy surrounded the Truth and Reconciliation Commission, it being alleged (among other things) that the composition of the commission was biased in favour of the ANC. Further controversy arose when the ANC sought to distinguish the ‘just war’ it had fought against apartheid from the abuses perpetrated by the former security forces in order to defend and sustain it.

POLITICAL PARTIES

African National Congress

In 1996 the African National Congress (ANC) and its allies in the South African Communist Party and the Congress of South African Trade Unions (Cosatu) played an important role in influencing the outcome of negotiations on a new constitution for the country (see also chapter on *Government and Constitution*).

On substantive issues the ANC consistently rejected the inclusion of provisions for enforced coalition government along the lines of the government of national unity (GNU) established by the transitional constitution of 1993.¹ [¹ *The Citizen* 23 January 1996] The ANC endorsed most of the ‘non-negotiable’ demands put forward by Cosatu for a worker’s charter, worker access to company information, and the right to picket and conclude ‘union security arrangements’—while at the same time limiting, or excluding from the constitution, the rights to property and free economic activity and the right of employers to lock out striking workers.² [² *Business Day* 22 February 1996]

In January 1996 the ANC rejected a call by the Inkatha Freedom Party (IFP) for international mediation (see chapter on *Government and Constitution*), and said that the Constitutional Assembly was the only ‘democratically elected body mandated by the people to draft and adopt a new constitution’.³ [³ *Business Day*, *The Citizen*, *The Star* 8 May 1996]

In May 1996 the national executive committee (NEC) of the ANC announced that the party’s secretary general and chief constitutional negotiator, Mr Cyril Ramaphosa, would resign from active politics after the certification of the constitution in order to take up a position with New Africa Investments (Nail), a consortium of black business interests.⁴ [⁴ *The Citizen* 13 March 1996] After the amended constitutional text had been certified by the court on 6th December, Mr Ramaphosa assumed a permanent position in Nail.⁵ [⁵ *Mail and Guardian* 22 November 1996, *Sowetan* 1 May 1997]

Mr Nelson Mandela announced in November 1996 that he would resign as president of the ANC at the end of 1997, and that his successor would be elected at a conference to be held by the ANC in December of that year.⁶ [⁶ *The Citizen* 12 November 1996, *The Star* 21 November 1996]

In late July 1996, the deputy minister for environmental affairs and a senior ANC member, Mr Bantu Holomisa, was relieved of his position as deputy minister and subsequently expelled from the ANC (see

chapter on *Government and Constitution*). In December 1996, Mr Holomisa announced that he would organise a ‘national consultative conference’ to investigate the formation of a new party.⁷ [⁷ *The Citizen* 10 December 1996]

It was reported in June 1996 that a rift had developed between the premier of the Free State, Mr Patrick Lekota, and the provincial leadership of the ANC.⁸ [⁸ *City Press* 30 June 1996] The NEC of the ANC subsequently called on Mr Lekota and his executive council to resign,⁹ [⁹ *Cape Argus* 11 November 1996] and thereafter decided to ‘redeploy’ Mr Lekota to the Senate—soon to become the National Council of Provinces under the terms of the 1996 constitution (see chapter on *Government and Constitution*).¹⁰ [¹⁰ *Business Day* 15 November 1996, *Argus* 29 November 1996] In early December the ANC nominated Dr Ivy Matsepe-Casaburri, chairwoman of the board of the South African Broadcasting Corporation, to replace Mr Lekota (see chapter on *Government and Constitution*).

Afrikaner Weerstandsbeweging

During the period under review several Afrikaner Weerstandsbeweging (AWB) members were involved in court cases, mostly relating to bomb attacks prior to the April 1994 general election (see 1994/95 Survey, pp438–439). Nine members of the movement were found guilty of murder arising out of these attacks.¹¹ [¹¹ *The Citizen* 30 June 1996] Testifying in mitigation of sentence, Mr Fred Rundle, a media spokesman for the organisation, claimed that it had never issued orders to its members to plant bombs or to disrupt the election.¹² [¹² *Ibid* 2 April 1996] The leader of the

Azanian People’s Organisation

In April 1996 the Azanian People’s Organisation (Azapo) launched its electoral campaign for 1999 saying that changes in South Africa’s political dynamics had created conditions favourable to its entry into Parliament.¹⁵ [¹⁵ *Sowetan* 30 April 1996, *Saturday Star* 29 June 1996]

Azapo attempted to have the amnesty powers of the Truth and Reconciliation Commission (TRC) declared unconstitutional, but was unsuccessful in this regard (see *Truth and Reconciliation Commission* below).¹⁶ [¹⁶ *Sowetan* 16 May 1996] Azapo thereafter refused to testify before the TRC.¹⁷ [¹⁷ *Eastern Province Herald* 1 July 1996]

Conservative Party

The Conservative Party (CP), having refused to participate in the 1994 general election and subsequent constitutional deliberations, continued to press for the creation of an independent Afrikaner state.¹⁸ [¹⁸ *Patriot* 2 February 1996]

The CP described the Truth and Reconciliation Commission as a ‘witch hunt against the Afrikaner’ and refused to make submissions to it.¹⁹ [¹⁹ *The Citizen* 10 July 1996] The party also condemned the new constitutional text adopted by the Constitutional Assembly on 8th May 1996 (see chapter on *Government and Constitution*), for ignoring God in its preamble and for failing to advance the cause of self-determination.²⁰ [²⁰ *Patriot* 2, 10 May 1996]

The CP supported proposals by the Freedom Front for a ‘volkstaat’ in the Northern Cape, but cautioned that the cost of developing this area into a state would exceed South Africa’s current gross domestic product.²¹ [²¹ *Ibid* 6 September 1996]

The leader of the CP in the Cape, Mr Jan Hoon, stated in September 1996 that effective resistance to the African National Congress (ANC) might require the CP’s participation in the 1999 general election. A confederal grouping of political parties, he added, could defeat the ANC in 1999.²² [²² *Beeld* 23 September 1996]

Democratic Party

In January 1996 the Democratic Party (DP) expressed reservations regarding a number of provisions in the working draft of the new constitutional text, including the powers to be accorded the provinces and aspects of the bill of rights.²³ [²³ *Die Burger*, *Weekend Argus* 20 January 1996; *The Star* 22 January 1996] The DP also argued that a lockout clause was essential for investor confidence, while its omission would give trade unions a constitutionally privileged position.²⁴ [²⁴ *Weekend Argus* 20 February 1996]

The DP voted in favour of the new text on 8th May 1996, and expressed satisfaction with various provisions, including the protection accorded local government, the right to freedom of information, and provisions relating to financial management.²⁵ [²⁵ *The Star* 10 May 1996] However, it subsequently objected to the certification of the new constitutional text by the Constitutional Court (see chapter on *Government and Constitution*) on the basis, among other things, that provincial powers were ‘substantially less’ than those provided for in the transitional constitution. The Constitutional Court subsequently refused to certify the new text on the grounds, among other things, that provincial powers had been impermissibly reduced and the text was thereafter amended to meet the court’s concerns. Many of the other objections raised by the DP were not, however, addressed (see chapter on *Government and Constitution*).

In early 1997 the ANC was reported to have offered the DP participation in the government of national unity, but the offer was rejected by the DP in March 1997 on the basis that acceptance would compromise its independence and capacity to act as a watchdog in relation to the state.²⁶ [²⁶ *The Argus* 3 March 1996]

Freedom Front

In September 1996 the Freedom Front (FF) published its proposals for a volkstaat located between the Orange River and the Cape west coast. It also recommended that provision be made for regional and cultural autonomy for Afrikaner communities outside this area, and for a system of ‘Afrikaner councils’ to promote Afrikaner interests.²⁷ [²⁷ *Beeld* 2 September 1996]

The FF expressed satisfaction at the inclusion in the 1996 constitution of provisions guaranteeing the rights of cultural, language and religious communities, and said that they reflected ‘an extremely important first step in the process of implementing Afrikaner self-determination’.²⁸ [²⁸ *The Citizen* 20 April 1996] It also stressed the need for culturally based education to be protected.

The FF also called for an extension of the period in relation to which amnesty could be granted by the Truth and Reconciliation Commission (TRC) so as to allow the granting of amnesty to supporters responsible for bomb attacks in the run-up to the general election held in April 1994 (see 1994/95 Survey, pp438–439). Such extension would also make people who, together with the leader of the FF, Gen Constand Viljoen, had plotted to establish a volkstaat by force prior to the 1994 election, eligible for amnesty. (Gen Viljoen admitted both the proposals for the coup and his own role within it, and said the plan had been called off because of the loss of life it would have entailed and the difficulty of sustaining a volkstaat in the face of opposition from a new ANC government.)²⁹ [²⁹ *Business Day* 29 November 1996]

Inkatha Freedom Party

The Inkatha Freedom Party (IFP), a participant in the government of national unity, continued with its boycott of the Constitutional Assembly during the period under review (see chapter on *Government and Constitution*). The IFP stated in February 1996 that it would nonetheless ‘abide by the new constitution whatever it is’.³⁰ [³⁰ *Cape Times* 20 February 1996] In May 1996 the IFP stated, however, that the new constitutional text adopted by the assembly would ‘lay the foundation for autocracy and tyranny’.³¹ [³¹ *Sowetan* 8 May 1996] This was because, in particular, it limited provincial power and concentrated all authority at central level. The IFP added that provincial powers had been reduced by the terms of the new text, and that any role the provinces had previously been able to play would be ‘marginalised’ through the operation of the National Council of Provinces (see chapter on *Government and Constitution*).³² [³² *Beeld* 8 May 1996] It said that the new constitution would undermine investor confidence, for it did not guarantee free markets or the right of employers to lock out striking workers—and provided no effective checks on governmental power.³³ [³³ *Business Day* 24 July 1996]

The IFP objected to the certification of the new text by the Constitutional Court, which subsequently found that provincial powers had indeed been impermissibly reduced (see chapter on *Government and Constitution*).³⁴ [³⁴ *Ibid* 14 October 1996]

In January 1997 Dr Frank Mdlalose, the premier of KwaZulu-Natal, announced that he would be

resigning his office due to ill health.³⁵ [³⁵ *Sunday Times* 26 January 1997, *Business Day* 31 January 1997] Dr Ben Ngubane assumed the premiership at the end of March 1997.³⁶ [³⁶ *Sowetan* 3 March 1997] In late January 1997 Mr Ziba Jiyane, the secretary general of the IFP, had announced that he would not be standing for re-election as secretary general, and the leader of the party in Gauteng, Mr Musa Myeni, had indicated that he would be leaving politics to pursue a career in business.³⁷ [³⁷ *Sunday Times*, *City Press* 2 February 1997] The leader of the IFP, Chief Mangosuthu Buthelezi, denied media speculation that the resignations reflected discord within the party.

In early July 1996 a meeting was held between senior members of the ANC and IFP in KwaZulu-Natal, including Mr Jiyane and Mr S'bu Ndebele, to discuss what was reported as the possible formation of an alliance between the two parties.³⁸ [³⁸ *Sunday Times* 7 July 1996] Dr Blade Nzimande, an ANC MP said, however, that the idea was 'far-fetched' and would harm the cause of democracy,³⁹ [³⁹ *New Nation* 26 July 1996] while Chief Buthelezi described it as 'absolutely laughable'.⁴⁰ [⁴⁰ *The Natal Witness* 24 July 1996]

The IFP condemned the Truth and Reconciliation Commission (TRC), saying that the TRC had 'little interest in exposing ANC atrocities'.⁴¹ [⁴¹ *The Star* 23 May 1996] It stated that IFP members were free to testify to the TRC in their individual capacities but the party itself would not make a submission.⁴² [⁴² *Echo* 15 August 1996] In June 1996, however, Chief Buthelezi met TRC commissioners⁴³ [⁴³ *The Star* 5 June 1996] and was urged to make a submission to the TRC which would provide an IFP perspective on the past. The IFP agreed to this, and made its submission in September 1996 (see *Truth and Reconciliation Commission* below).⁴⁴ [⁴⁴ *Sunday Tribune* 18 August 1996]

National Party

In January 1996 a confidential policy document leaked to the Afrikaans newspaper *Rapport* indicated that senior members of the National Party (NP) had approved a name-change for the party and its possible disbandment and re-emergence as a new political movement. The leader of the NP, Mr F W de Klerk, responded that neither a name-change nor disbandment were imminent. The NP intended to play a leading role in stimulating reorganisation of the political stage, but the merging of political parties in the near future was not under consideration, he added.

In February 1996, Mr de Klerk announced that Mr Roelf Meyer, minister of constitutional development and provincial affairs, would resign from that post on 1st March to become the NP's secretary general. He would manage the implementation of the party's vision and mission.⁴⁵ [⁴⁵ *The Argus* 2 February 1996] Mr de Klerk called for a national debate on a political realignment, and warned that 'the price of effective one-party rule under the ANC with an unassailable majority could be social and economic decay'.⁴⁶ [⁴⁶ *The Citizen* 26 February 1996]

In February 1997 Mr Meyer relinquished his post as secretary general of the NP and was appointed the

leader of a special task group mandated to implement the NP's vision and mission of forging a broader political movement in opposition to the ANC.⁴⁷ [⁴⁷ Ibid 20 February 1997] In May 1997, following speculation of divisions within the NP regarding the party's future—and indications from Mr Meyer that the NP might have to disband by the end of 1997 to facilitate the emergence of a new political movement—Mr de Klerk disbanded the task group and assumed personal control of the NP's mission in this regard.⁴⁸ [⁴⁸ *Business Day* 8 May 1997] The NP caucus endorsed Mr de Klerk's decision, and said the party remained committed to its goal of forging a credible and effective alternative to the ANC. NP members were reported to be divided on the merits of disbanding the task group. Mr Meyer subsequently resigned from the NP, as did the party's youth leader in Gauteng, Mr Paulo Andrade.⁴⁹ [⁴⁹ *The Citizen* 20 May 1997]

The NP's Mr Abe Williams, minister of welfare and population development, resigned from his ministerial post in February 1996 following an investigation by the Office for Serious Economic Offences (OSEO) in connection with an investigation into the award of a R149m contract to distribute social pensions. Mr Williams denied any misconduct on his part. The OSEO said that the investigation would continue for some time before any decision on prosecution could be made.⁵⁰ [⁵⁰ Ibid 22, 23 February 1996] (See also chapter on *Welfare*.)

In negotiations leading up to the adoption of the 1996 constitution on 8th May, the NP sought to secure strong provincial powers, power-sharing after 1999, and the protection of minority rights. The NP rejected the ANC's proposal for a national council of provinces, saying it would impede the power of individual provinces to adopt legislation suited to their particular needs. The NP stressed the importance of 'absolute certainty over property rights', limitation of the right to life so that it would not invalidate the death penalty, and protection of minority rights regarding language, culture and religion.⁵¹ [⁵¹ *Die Burger* 22 January 1996] In February 1996, however, the NP agreed that the Constitutional Assembly should delete a clause in the draft text which would entrench power-sharing after 1999.⁵² [⁵² *Mail and Guardian* 16 February 1996]

In March the NP proposed that provision be made for a commission on cultural affairs and the establishment of cultural councils. This, it said, would promote mutual respect for cultural diversity and provide appropriate protection for all cultures. It advocated that the commission's powers extend to mother-tongue education at every level, as well as language policy in general, the creative arts, museums and monuments, and social services.⁵³ [⁵³ *Eastern Province Herald* 9 March 1996]

At the end of May 1996 the NP lodged an objection against the certification of the new constitutional text by the Constitutional Court. It objected to the diminution of provincial powers, the omission of a right to lock out, and a ban on members of Parliament crossing the floor.⁵⁴ [⁵⁴ *Business Day* 29 May 1996] The court ruled that the right of individual employers had not been adequately protected and that provincial powers had been impermissibly reduced but accepted that the ban on crossing the floor complied with the relevant constitutional principles.⁵⁵ [⁵⁵ *In re: Certification of the Constitution of the Republic of South Africa, 1996*, 1996 (10) BCLR 1253] (See chapter on *Government and Constitution*.)

The NP decided to withdraw from the government of national unity with effect from 30th June 1996 at both national and provincial levels (see chapter on *Government and Constitution*).

Pan-Africanist Congress

Although the PAC voted on 8th May 1996 in favour of the adoption by the Constitutional Assembly (CA) of the draft constitutional text (see *Government and Constitution*), it criticised the draft for according provinces too much power.⁵⁶ [⁵⁶ *The Citizen* 8 May 1996] In its submissions to the CA the PAC had earlier contended that the state should use power in a ‘social engineering mode’, and that only the restructuring of ‘colonial property relations’, especially land, would bring about democracy and human rights.⁵⁷ [⁵⁷ *Business Day* 30 April 1996]

The PAC held its annual national congress from 14th to 16th December 1996,⁵⁸ [⁵⁸ *Cape Times* 17 December 1996] during which Mr Clarence Makwetu stepped down from the presidency of the PAC and accepted instead the ceremonial position of national chairman. The Rev Dr Stanley Mogoba, presiding bishop of the Methodist Church of Southern Africa (and a former president of the South African Institute of Race Relations), was chosen as president in his stead. The election of Dr Mogoba was opposed, however, by regional branches of the PAC in the Eastern Cape and the Western Cape. They claimed that the election for the presidency had been irregular, in that delegates had been registered in a ‘haphazard’ manner and that 31 branches had been unable to nominate candidates because of other difficulties. Mr Makwetu, they stated, was still the legitimate leader of the PAC.⁵⁹ [⁵⁹ *The Citizen*, *Business Day* 18 December 1992]

Dissent continued between the PAC leadership and the faction which supported Mr Makwetu.⁶⁰ [⁶⁰ *New Nation* 11 April 1997] Following his refusal to relinquish his parliamentary seat, and his appearance at an ‘unofficial’ rally to commemorate the Sharpeville and Langa shootings of March 1960,⁶¹ [⁶¹ *The Citizen* 27 March 1997] Mr Makwetu was suspended from PAC activities in early April 1997⁶² [⁶² *Business Day* 7 April 1997] and subsequently expelled after a disciplinary hearing in May.⁶³ [⁶³ *The Star* 12 May 1997]

South African Communist Party

From early during the period under review, the South African Communist Party (SACP) and the Congress of South African Trade Unions (Cosatu) expressed disquiet about the direction the policies of the African National Congress (ANC) were taking. In February 1996 Mr Brian Bunting, an ANC MP and senior member of the SACP, said that there were ‘deep fears in the labour movement that proposed restructuring of state assets would prove [to be] merely a euphemism for privatisation’.⁶⁴ [⁶⁴ *Eastern Province Herald* 15 February 1996] A Cosatu spokesman said in March 1996 that the union federation remained opposed to privatisation ‘in principle’.⁶⁵ [⁶⁵ *Rapport* 25 May 1996]

In April 1996 the deputy secretary general of the SACP, Mr Jeremy Cronin, said that the SACP still viewed its mission as that of ‘empowering the ANC so as to speed up the struggle for a socialist society’. He said the SACP would consider leaving the alliance if the ANC ever adopted an anti-socialist stance. There was a need to restructure state enterprises, he continued, but this did not mean that they should be privatised.⁶⁶ [⁶⁶ *City Press* 28 April 1996]

Following Cosatu’s nationwide strike on 30th April 1996, which was held to demand the exclusion of a lockout clause from the new constitution, the alliance denied that it was on the brink of a rupture. The deputy chairman of the SACP, Dr Blade Nzimande, said: ‘The strike was not a test of the alliance in any negative sense, in the sense that anything is now tearing at it. We have come out much, much stronger and united in terms of our vision.’⁶⁷ [⁶⁷ *The Citizen* 2 May 1996] Cosatu and the SACP added that they wanted economic policy to reflect a shift from privatisation towards nationalisation.⁶⁸ [⁶⁸ *Ibid* 3 December 1996]

POLITICAL CONFLICT AND TENSION

According to figures compiled by the South African Institute of Race Relations (including the ten former homelands), 683 people were killed in political violence in the course of 1996. This was a significant decline (34,6%) from the number of fatalities in 1995, when 1 044 people were killed in political violence. This figure also represented the lowest number of people killed in political violence since 1987. The following table shows the monthly figure of political fatalities from September 1984 to December 1996:

Political fatalities in South Africa: 1984–96

(September–December 1984: 149)

1985

1986

1987

1988

1989

1990

1991

1992

1993

1994

1995

1996

January

4

105

40

211

126

210

187

139

135

239

131

39

February

35

112

22

107

95

283

129

238

148

259

87

47

March

76

179

40

62

89

458

351

348

143

537

79

59

April

46

145

40

48

99

283

270

300

212

436

138

67

May

66

221

33

58

89

208

318

230

339

207

100

45

June

45

212

36

76

38

150

150

324

309

119

82

53

July

96

122

39

94

96

247

164

278

547

136

92

64

August

163

76

35

112

104

698

184

361

451

106

61

63

September

69

40

73

108

135

417

282

339

425

109

69

81

October

86

16

93

90

116

162

218

332

398

106

49

57

November

101

37

89

85

129

316

283

299

370

94

54

47

December

92

33

121

98

287

267

170

159

317

128

102

61

Total

879

1 298

661

1 149

1 403

3 699

2 706

3 347

3 794

2 476

1 044

683

The graph below plots the monthly political fatality figures fr

The table below indicates the number of people killed in political violence in KwaZulu-Natal between 1993 and 1996:

Political fatalities in KwaZulu/Natal: 1993–96

1993

1994

1995

1996

January

81

105

100

17

February

95

160

44

24

March

80

253

51

47

April

97

305

87

56

May

118

125

63

31

June

151

77

59

35

July

172

83

48

35

August

104

73

40

16

September

136

70

43

18

October

137

67

30

23

November

183

48

41

21

December

135

98

78

24

Total

1 489

Conflict Between the African National Congress and the Inkatha Freedom Party Inkwazulu-Natal

In various incidents of violence during the period under review, a number of leaders and supporters of both the African National Congress (ANC) and the Inkatha Freedom Party (IFP) were attacked and killed:

- Chief Nyanga Ngubane, MEC for traditional affairs and an IFP member, was ambushed at Stoffelton near Impendle (Midlands) in January 1996, and an IFP supporter, Mr Mzamo Shandu, was killed in the attack;⁶⁹ [⁶⁹ *The Natal Witness* 13 January 1996]
- Chief Shezi Memela, an IFP leader, was dragged from his home in the Midlands and shot dead in February 1996, and his body was mutilated;⁷⁰ [⁷⁰ *The Citizen* 17 February 1996]
- Mr Damasius Khumalo, an IFP local government candidate in Impendle in the Midlands, was abducted and shot dead towards the end of March 1996, while an attempt was also allegedly made to assassinate Mr Simon Ntshangase, an IFP candidate in the Pongola area;⁷¹ [⁷¹ *The Natal Witness* 4 April 1996, *Business Day* 9 April 1996]
- Mr Daniel Danisa, an ANC candidate for the local government elections (see chapter on *Government and Constitution*), was gunned down in Umlazi in late March 1996, as he drove away from a meeting held with leaders of the IFP over plans to upgrade railway stations in the township;⁷² [⁷² *Business Day* 29 March 1996]
- Mr Mandlezizwe Mbanjwa, also an ANC candidate in the local polls, was shot dead in the Donnybrook area towards the end of May 1996;⁷³ [⁷³ *The Star* 30 May 1996]
- Mr Skoteni Hlela, chairman of the ANC in a township on the outskirts of Bulwer (Midlands), was gunned down on the main street by a man armed with an AK-47 rifle in late June 1996;⁷⁴ [⁷⁴ *Ibid* 24 June 1996]
- Mr Dababa Mbonambi, chairman of an IFP branch at Mandini on the north coast, was killed on the eve of the local government elections in June 1996 by three men claiming to be policemen;⁷⁵ [⁷⁵ *The Citizen* 26 June 1996]
- the home of the IFP's regional chairman in the Impendle area, Mr Steven Zondi, was attacked by gunmen in mid-July 1996, and Mr Zondi's 17-year-old son and another man were killed; and

- in January 1997 a well-known IFP leader in the Bulwer area, Mr Popo Derrick Kathi, was shot dead in an ambush, while a headman, Mr Christian Dlamini, and his 22-year-old son were wounded.⁷⁶ [⁷⁶ Ibid 17 July 1996, 9 January 1997]

In December 1995 three massacres had taken place in the south coast area of KwaZulu-Natal. In the first, nine adults and a baby were shot dead in separate attacks near Paddock, and the IFP claimed that the dead were its supporters and that the attackers had worn army uniforms.⁷⁷ [⁷⁷ *City Press* 17 December 1995; *Business Day*, *The Citizen* 18 December 1995] In the second set of incidents, eight women and children were killed in two separate attacks on the same night in the Mvutshini area, and the ANC stated that the bodies (most of which had been burnt beyond recognition) were those of its supporters.⁷⁸ [⁷⁸ *Sowetan* 21 December 1995]

In the third attack, 19 people were killed and many more injured in an attack launched on Christmas Day by at least 600 men on the ANC-supporting enclave of Shobashobane in the Izingolweni area.⁷⁹ [⁷⁹ *The Citizen* 27 December 1995] A spokesman for the ANC in the province, Mr Dumisani Makhaye, said the attack was 'part of the programme of Inkatha to wipe the ANC from the province'.⁸⁰ [⁸⁰ Ibid] The main target of the attack was alleged to have been Mr Kipha Nyawose, an influential ANC leader who was also the leader of the self-defence unit (SDU) in the area, and who had reportedly been a 'champion of peace' despite the fact that 14 members of his family had previously been killed in political conflict.⁸¹ [⁸¹ *The Sunday Independent* 31 December 1995] The ANC alleged that police in the area had colluded with the IFP in launching the attack, and had also failed to come to the assistance of its victims.⁸² [⁸² *Sunday Times* 31 December 1995, *Mail and Guardian* 5 January 1996]

In March 1997, 18 IFP members were charged with murder for their part in the Shobashobane massacre in the Durban and Coast Local Division of the High Court in Durban, before Mr Justice Hilary Squires.⁸³ [⁸³ *The Citizen* 25 March 1997] Thirteen of the accused were found guilty, while five were acquitted for insufficient evidence. Judge Squires said that, although five of the 13 found guilty had not been seen attacking any of the victims, by joining the estimated 2 000-strong impi they had shown a common objective with those who were armed and shooting at their fleeing victims.⁸⁴ [⁸⁴ *The Star* 26 March 1997] The court also stated that the massacre had clearly been a politically motivated attack by the IFP on the ANC.⁸⁵ [⁸⁵ *Business Day* 25 March 1997] The ANC welcomed the judgement and said it would restore confidence in the judicial system, while an IFP spokesman, Mr Ed Tillet, said the IFP accepted the verdict, and that the massacre had been carried out by 'misguided individuals'. It was regrettable, he added, that Judge Squires had not drawn a distinction between their 'excessive actions' and the IFP.⁸⁶ [⁸⁶ Ibid 26 March 1997]

After the Shobashobane killings, no further massacres occurred in the province until late March 1996, when 11 people, including a two-month-old infant and a four-year-old child, were killed near

Donnybrook in the Midlands region. An armed gang was alleged to have gone on the rampage in Junction Village, 'opening fire as they went from door to door and killing women and children'. The ANC claimed that the victims were its supporters, and that a witness had seen 'a police vehicle driving down the road after the attack', indicating that police had been involved. The police station commander at Donnybrook denied this, while the IFP claimed the victims as its supporters and blamed the ANC for the attack.⁸⁷ [⁸⁷ *The Sunday Independent* 7 April 1996]

In early December 1996 gunmen shot or clubbed to death five people, including a 90-year-old woman, in an attack on a home in the rural village of Lamont on the south coast. The five were killed in their sleep, while eight children who were also sleeping in the house at the time of the attack escaped unscathed. The five were believed to be supporters of the IFP.⁸⁸ [⁸⁸ *The Citizen* 10 December 1996]

Another massacre occurred at the end of the same month, when gunmen killed six people in Inchanga, about 25km west of Durban.⁸⁹ [⁸⁹ *Ibid* 30 December 1996] The ANC claimed the victims as its supporters, and said the attackers had masqueraded as ANC members in order to enter the area and perpetrate the attack.⁹⁰ [⁹⁰ *Business Day, The Citizen* 30 December 1996] The IFP said 'trouble had been raging in the area for about a year', and that the conflict had initially stemmed from land reform and ownership issues within the Tintown area.⁹¹ [⁹¹ *Business Day* 30 December 1996] Chief Mangosuthu Buthelezi, president of the IFP, added that those killed had been IFP supporters, and that the killings showed that the war the ANC had initiated against its rival was still 'in full swing'.⁹² [⁹² *The Star* 9 January 1997]

During the year under review, ANC spokesmen commented at various times on the reasons for the continuing conflict in the province:

- at the funeral of victims of the Shobashobane massacre in January 1996, Mr Thabo Mbeki, the executive deputy president from the majority party, blamed the 'third force' for the killings, while Mr Jacob Zuma, the ANC's national chairman and its provincial leader in KwaZulu-Natal, said the IFP 'appeared to have embarked on a tactic of flushing out all opposition from so-called IFP areas';⁹³ [⁹³ *The Citizen* 8, 9 January 1996]
- in March 1996 Mr Sydney Mufamadi, the minister for safety and security, blamed ongoing violence on a 'culture of impunity' which had arisen since 1985 in response to poor and biased policing in the province;⁹⁴ [⁹⁴ *Ibid* 15 March 1996, 21 May 1996]
- Mr Makhaye, an ANC spokesman in KwaZulu-Natal, said in response to the killing of Mr Danisa in Umlazi at the end of March 1996 that the ANC 'had no doubt this was the beginning of a campaign to eliminate ANC leaders';
- Mr Bheki Cele, the ANC's spokesman on safety and security in the province, said at the funeral of victims of the Donnybrook massacre in March 1996 that the IFP 'sustained themselves on violence',

while Mr Steve Tshwete, the minister of sport and recreation and a leading member of the ANC, blamed conflict on the frustrated ambitions of Chief Buthelezi, and accused the IFP of being a 'bandits' organisation' which was responsible for 'terrorising people by day and night';⁹⁶ [⁹⁶ *The Citizen*, *The Star* 1 April 1996] and

- in April 1996, the president, Mr Nelson Mandela, blamed the third force for continued violence and said the only way to prevent its machinations was for IFP and ANC supporters to make peace with one another.

Spokesmen for the IFP also gave various reasons for the continuation of the conflict in the year under review:

- Senator Philip Powell (IFP) said in December 1995 that the Shobashobane massacre reflected the reaction of a community 'pushed beyond its level of endurance' by ongoing attacks on IFP settlements, launched by the ANC's SDU in the enclave;⁹⁷ [⁹⁷ *The Citizen* 27 December 1995]

- Mr Powell said in response to attacks on IFP leaders in the Midlands region in January 1996 that the ANC was utilising 'exactly the same strategy it had employed in black townships in the 1980s, when councillors were systematically eliminated and their families driven away, with ANC leaders then moving in to fill the vacuum';⁹⁸ [⁹⁸ *Sowetan*, *The Citizen* 9 January 1996]

- Mr Tillet, commenting in January 1996 on the deaths of some 20 IFP members in the Impendle area in a period of about four months, said that the ANC was engaged in a 'strategy of destabilisation' in at least four Midlands towns, and was using force and intimidation to 'seize ground' in these localities;⁹⁹ [⁹⁹ *The Natal Witness* 16 January 1996] and

- in the IFP's submission to the Truth and Reconciliation Commission in September 1996, Dr Frank Mdlalose, the premier of KwaZulu-Natal and national chairman of the IFP, said his organisation had been the target of

During the period under review various measures were taken to curb violence in KwaZulu-Natal. At the end of August 1995 security measures had been stepped up in terms of Operation Jambu III (see 1995/96 Survey, p73). In addition, an investigation task unit (ITU) reporting to a civilian board chaired by Mr Howard Varney of the Legal Resources Centre in Durban had been established by Mr Mufamadi in August 1994 to investigate 'hit-squad' activity within the KwaZulu Police.¹⁰² [¹⁰² *The Citizen* 31 August 1995] In the aftermath of the Shobashobane massacre, Mr Mbeki said the ITU would be strengthened, and a special investigation unit was thereafter deployed in the south coast area under Director Harold Godfrey (Bushie) Engelbrecht. This unit subsequently made a number of arrests, particularly in relation to the Shobashobane and earlier Mvutshini massacres. A number of prominent IFP leaders in the area,

including Mr Siphon Ngcobo,¹⁰³ [103 Ibid 20 April 1996] Mr Sgcoloza Xolo,¹⁰⁴ [104 Ibid 25 March 1996] and Mr James Zulu,¹⁰⁵ [105 *The Star* 22 February 1996] were among those arrested. Four policemen were also arrested in relation to the Shobashobane massacre.¹⁰⁶ [106 *The Citizen* 15 May 1996]

At the end of March 1996, permanent special investigative units were established in four areas of the province—in Durban, under the supervision of Senior Superintendent Frank Dutton (who had been the investigating officer in the Trust Feed killings, see 1992/93 *Survey*, pp27, 131–132); in the Midlands, under Superintendent Philip Scholtz; in northern KwaZulu-Natal, under Captain Mandlenkosi Vilakazi; and on the south coast, under Director Engelbrecht.¹⁰⁷ [107 *Business Day*, *The Star* 18 April 1996] (The original ITU was disbanded in February 1997 and its 48 members were presented with certificates by Mr Mufamadi for outstanding service for their success in reducing the level of violence in the province.)¹⁰⁸ [108 *The Star* 18 February 1997]

The IFP accused the police of partisanship in its approach and alleged at the end of March 1996 that of 27 people arrested on the south coast, 23 were its supporters.¹⁰⁹ [109 *Business Day* 25 March 1996] Mr Powell added that the investigation units deployed in the province had had ‘only a 2% success rate in bringing prosecutions against the murderers of some 430 IFP officials’.¹¹⁰ [110 *The Star* 1 April 1996] The divisional commissioner of police in KwaZulu-Natal, Commissioner Chris Serfontein, had said earlier that IFP accusations of bias were unfounded.¹¹¹ [111 *Business Day* 7 February 1996]

Further controversy regarding the role of the police in the province arose in April and May 1996, when two IFP supporters died in police custody. A state pathologist found that the first, Mr Mdikilwa Nyawose (arrested in connection with the Shobashobane massacre) had died in Durban-Westville Prison (Durban) of bronchial asthma.¹¹² [112 *The Star* 3, 7 May 1996] The second, Mr Ngiyane Mhlongo, died in hospital in Eshowe (northern KwaZulu-Natal) of a broken neck. Various explanations were given by the authorities as to how he had sustained his injuries. According to one account, he suffered from fits; according to a second, his injuries had been caused in a motor accident; while a third report attributed his death to a ‘fall from a prison bunk’. An independent pathologist, Mr G R Perumal, confirmed that Mr Mhlongo had died from a broken neck, and said the fracture pointed to ‘a significant application of force’ and seemed inconsistent with a fall from a bunk. Having later conducted an onsite inspection, however, Mr Perumal said it was possible that his neck injury had been caused in such a fall.¹¹³ [113 *Financial Mail* 17 May 1996; telephonic interview with Mr Ed Tillet, IFP Information Centre, Durban, 15 October 1996] (See also Bill of Rights Report and chapter on *Security*.)¹¹⁴ [114 Anthea Jeffery and Martin Schönteich, *Bill of Rights Report*, South African Institute of Race Relations, Johannesburg, 1997]

In late March 1996, a ban was introduced in 74 magisterial districts on the display and possession of dangerous weapons at public meetings. The ban extended to 17 districts in KwaZulu-Natal. ‘Dangerous weapons’ were defined as including spears, assegais, knobkerries, pangas, swords, sabres and battle axes. They did not include firearms, which were already regulated under other legislation. The ANC said

the ban would ‘go a long way in building the confidence of all South Africans in the commitment of the democratic government to bring violence and crime to an end’. Only those who ‘sought to ride to power on the corpses’ of the people would feel aggrieved by the ban, it said.¹¹⁵ [¹¹⁵ *The Citizen* 23 March 1996]

Chief Buthelezi said in response that it would be impossible for the security forces to disarm Zulus of their cultural accoutrements. He added that the ban was misconceived, as most acts of political violence involved the use of firearms—not traditional weapons. This view was echoed by Dr Mdlalose, who said ‘the murders which have been committed in this province have always been caused by bullets’. Thousands of IFP supporters, armed with knobkerries, spears and axes, defied the ban when they attended a rally addressed by Chief Buthelezi on the day after its promulgation.¹¹⁶ [¹¹⁶ *Sowetan* 25 March 1996, *The Citizen* 26 March 1996]

In August 1996, after a gun battle between ANC and IFP supporters had broken out outside the Natal Provincial Division of the Supreme Court in Pietermaritzburg—where seven IFP members were on trial for the murder in Impendle (Midlands) of four policemen and an informer the previous year—Mr Mufamadi said he was considering imposing a countrywide ban on the public display of firearms.¹¹⁷ [¹¹⁷ *Business Day*, *The Citizen*, *The Star* 22 August 1996] In early September the possession of firearms at any public gathering was prohibited by the government.¹¹⁸ [¹¹⁸ *The Citizen* 3 September 1996]

In March 1997 a report by the South African National Defence Force implicated senior politicians in the province from both the ANC and the IFP in violence, and named those involved as including Mr Sifiso Nkabinde of the ANC, as well as Mr David Ntombela, Mr Philip Powell and Chief Nyanga Ngubane, all of the IFP. The confidential report accused Mr Nkabinde and SDU members under his command of planning assassination attempts on IFP leaders believed responsible for the deaths of ANC members, buying and distributing illegal arms from Umtata in the former Transkei, recruiting former Umkhonto cadres to form a ‘private army’, and setting up a ‘hit-squad’ network in different parts of Richmond (Midlands) to ‘harass and terrorise’ political opponents of Mr Nkabinde. A number of SDU members were also named as being involved in military training and gun-running. The report also implicated Mr Powell, among other things, in selling ammunition to IFP members in the area, running SPU camps to the north of Richmond with assistance from the Afrikaner Weerstandsbeweging, and recruiting 50 IFP members from surrounding areas for military training in 1996.¹¹⁹ [¹¹⁹ *The Sunday Independent* 9 March 1997]

In early April 1997 all political parties in the province agreed to the formation of a commission of inquiry to ensure proper investigation of these allegations. It was agreed that a list of unsolved crimes in the Richmond area would be given to Commissioner Serfontein and that the commission would monitor police investigations into these. It was also agreed that the commission would investigate whether Richmond had become a ‘no-go area’ for the police, and whether members of the service had broken the law by agreeing with the ANC that they would enter the area only if accompanied by SDU members.¹²⁰ [¹²⁰ *Business Day* 7 April 1997]

The ANC subsequently expelled Mr Nkabinde from the organisation after claiming that he was a police

informer who was still involved in fomenting violence in the province. It stated that on the instructions of his police handlers Mr Nkabinde had infiltrated Umkhonto structures and promoted 'black-onblack' violence. His exposure, it added, provided 'confirmation that the third force was still at work, especially in KwaZulu-Natal'.¹²¹ [¹²¹ *The Citizen* 8 April 1997] Mr Nkabinde denied the allegations, and attributed them to a power struggle within the ANC.¹²² [¹²² *Sowetan* 9 April 1997]

Peace Initiatives in Kwazulu-Natal

In early January 1996 consultations began between the African National Congress (ANC) and the Inkatha Freedom Party (IFP) to pave the way for an imbizo (meeting) to be called by the Zulu monarch, King Goodwill Zwelithini. The objective of the imbizo, proposed by the ANC, would be to promote peace and national reconciliation, and allow the king an opportunity to plead for an end to violence in KwaZulu-Natal. Both the Zulu monarch and the president of the IFP, Chief Mangosuthu Buthelezi, agreed to the holding of an imbizo. Chief Buthelezi added that traditional customs would have to be observed in arranging it—and a preliminary meeting of the chiefs would first have to be held. This meeting took place in mid-March 1996 and was attended by the Zulu monarch; the president, Mr Nelson Mandela; Chief Buthelezi; the ANC's national chairman and provincial leader in KwaZulu-Natal, Mr Jacob Zuma; and a number of traditional leaders in the province. Little progress was made, however, and no date was set for the planned imbizo, as had been hoped.¹²³ [¹²³ *The Citizen* 16, 18 March 1996]

In mid-May 1996 church leaders in the province initiated a peace plan, Project Ukuthula (ukuthula means 'peace' in Zulu), following discussions with Mr Mandela.¹²⁴ [¹²⁴ *Ibid* 15 May 1996]

Provincial ANC and IFP leaders also held a series of talks in the province in an effort to resolve the differences between them. Dr Frank Mdlalose, the premier of KwaZulu-Natal and the national chairman of the IFP, said that both sides had admitted that their supporters had made 'tragic mistakes'. The ANC also acknowledged at a meeting on 27th May 1996 that Inkatha had been part of the liberation movement against apartheid, while both sides agreed that, with the ending of armed struggle and economic sanctions, major differences between the two had been eliminated.¹²⁵ [¹²⁵ Ngidi N, 'The Road to Peace', in *KwaZulu-Natal Briefing*, no 6, March 1997]

The two organisations also agreed that a code of conduct should be drawn up for the local government polls, and kept in place thereafter. A permanent structure would also be needed to monitor and investigate wrongdoing on both sides. Church leaders responsible for initiating Project Ukuthula said a peace conference would be held on 13th June, to be attended by Mr Mandela, Chief Buthelezi, and King Goodwill Zwelithini. In a further development, 'warlords' from both the ANC and the IFP agreed that they would visit each other's strongholds together to canvass voters in the local polls.¹²⁶ [¹²⁶ *Business Day* 30, 31 May 1996]

Mr Mandela and Chief Buthelezi welcomed the peace initiative and urged provincial leaders to work out a detailed programme for peace.¹²⁷ [¹²⁷ *Ibid* 31 May 1996] A series of committees were formed to deal with

various issues,¹²⁸ [¹²⁸ Ibid 13 June 1996] while Chief Buthelezi proposed that he and Mr Mandela promote the peace process by holding joint rallies in troubled areas. The IFP president expressed his regret that plans made in March 1990 for a joint rally at Taylor's Halt, to be addressed by himself and Mr Mandela, had not been carried through (see 1989/90 *Survey*, p348). 'It was a serious mistake,' he said, 'for the history of the country would have been quite different.'¹²⁹ [¹²⁹ Ibid 11 June 1996]

The planned peace conference took place in Durban on 13th June 1996, and was attended by a number of political and church leaders. Mr Zuma said the two parties must take the lead in ending the violence in the province,¹³⁰ [¹³⁰ *Sowetan* 14 June 1996] while King Goodwill Zwelithini called for peace and said he did not want to hear of a single further death in political conflict.¹³¹ [¹³¹ Ibid] Dr Mdlalose said the province had always been keen to end violence and that many methods had been tried before to bring about peace, but without success. He welcomed the recent peace initiatives for the part they played in reinforcing calls for peace.¹³² [¹³² *The Citizen* 14 June 1996]

Following attacks on IFP leaders and supporters in late June and mid-July 1996 (see *Conflict between the African National Congress and the Inkatha Freedom Party in KwaZulu-Natal* above), the party said that continued attacks on its supporters were jeopardising the peace initiative and raised questions as to the ANC's sincerity in seeking peace.¹³³ [¹³³ Ibid 18 July 1996] At the IFP's national conference at the end of July 1996 delegates welcomed the peace initiative, while Chief Buthelezi warned that it would remain 'an empty shell' unless the ANC showed a greater commitment to achieving peace.¹³⁴ [¹³⁴ Ibid 29 July 1996]

In late September 1996 the Zulu monarch addressed a Heritage Day celebration at the King's Park Stadium in Durban, and said it was high time supporters of both the ANC and the IFP took their cue from party leaders who were seeking to bring about peace. King Goodwill Zwelithini added that the celebration was historic, for it had brought together, for the first time, the members of both parties. The king urged an end to hatred and revenge, saying these factors were the source of violence in the province.¹³⁶ [¹³⁶ *The Citizen* 25 September 1996]

In mid-October 1996 talks were held between Chief Buthelezi, King Goodwill Zwelithini, the IFP and the ANC, as well as a number of traditional leaders. The meeting was held at Nongoma (northern KwaZulu-Natal) in order for Chief Buthelezi and chiefs in the province to address the king on issues they regarded as undermining the relationship between the monarch and traditional leaders. Chief Buthelezi said afterwards that, although he had never quarrelled with the king, the meeting had played an important part in improving relations between himself and the monarch.¹³⁷ [¹³⁷ *Sowetan*, *The Star* 16 October 1996]

A further issue critical to the success of the peace process was the return of refugees to their homes, and the peace committee established in the province announced in November 1996 that progress had been made in this regard. The chairman of the committee, the Rev Daniel Ngubane, said all stakeholders had endorsed a plan aimed at enabling between 500 000 and 1m people displaced through violence to return

to their homes and areas of origin.¹³⁸ [¹³⁸ *The Citizen* 19 November 1996]

The ANC held a two-day provincial congress in Durban at the end of the same month, and resolved to ‘seek out and expel those few elements within its ranks who might be involved in crime or political violence’.¹³⁹ [¹³⁹ *Ibid* 2 December 1996] Soon thereafter it was reported that Mr Zuma was developing proposals for a ‘special amnesty deal’ for KwaZulu-Natal, which would extend the cut-off date for the granting of amnesty beyond 10th May 1994—the date of Mr Mandela’s inauguration as president and the agreed deadline for the granting of amnesty by the Truth and Reconciliation Commission (see below).

Early in January 1997 it was reported that Mr Mandela had given his tentative support to the proposal, which would involve an extension of the cutoff date for amnesty ‘to cover acts of political violence that took place in the province after South Africa’s first democratic elections’. Mr Zuma said that the proposal had not yet been formally discussed with the IFP, but that the IFP was aware of what the ANC was thinking.¹⁴² [¹⁴² *Sunday Times* 5 January 1997]

Soon thereafter Chief Buthelezi said the IFP would not welcome ‘a type of amnesty which obfuscated the issues of personal culpability and political responsibility for the targeted assassination of about 430 IFP leaders and office-bearers and the killing of approximately 14 000 people who had died in the low-intensity civil war waged in KwaZulu-Natal by the ANC and the then United Democratic Front’. He added that ‘misrepresentations and propaganda’ had distorted the reality regarding the conflict in KwaZulu-Natal, and that ‘it would be unconscionable for the IFP to pursue discussions on a type of amnesty which would sweep the truth under the carpet of silence and lies’. Ms Cheryl Carolus, the deputy secretary general of the ANC, responded that Chief Buthelezi’s remarks were ‘unfortunate’ but that the ANC remained willing to ‘go the extra mile in an effort to find peace’, and would continue to discuss the amnesty proposal within its structures.¹⁴³ [¹⁴³ *The Star* 9 January 1997]

PARAMILITARY GROUPS

Self-Defence Units

In June 1996 the Inkatha Freedom Party (IFP) spokesman on defence, Mr Philip Powell, said that his party knew of at least seven camps in KwaZulu-Natal (mainly in the Midlands region) where African National Congress (ANC) members were undergoing military training. This information had been given to the police, he added.¹⁴⁴ [¹⁴⁴ *Business Day* 11 June 1996]

The Network of Independent Monitors—a group which monitored violence in the province—said in the same month that it had also received reports of ANC training in the province. The ANC’s spokesman on safety and security in the province, Mr Bheki Cele, denied any knowledge of the camps but conceded that training might have taken place,¹⁴⁵ [¹⁴⁵ *Ibid*] while three alleged SDU members said in July 1996 that

they had received military training from former cadres of the ANC's erstwhile armed wing, Umkhonto we Sizwe (Umkhonto) who were now members of the South African National Defence Force (SANDF).¹⁴⁶ [¹⁴⁶ *The Citizen*, *Business Day*, *The Mercury* 2 August 1996] An SANDF spokeswoman, Captain Kim van Niekerk, said that 'strict action' would be taken by the SANDF against any personnel involved in such training. Mr Cele said that communities might have organised for their own defence. He added that the ANC was no longer engaged in an armed struggle and 'it would pose serious problems' if former Umkhonto cadres had been involved in training paramilitary forces.¹⁴⁷ [¹⁴⁷ *The Citizen*, *Business Day*, *The Mercury* 2 August 1996]

Self-Protection Units

In January 1996 a report by the office of the auditor general, presented to the provincial accounts committee in KwaZulu-Natal, indicated that the former KwaZulu administration had spent some R10,8m of taxpayers' money on the training of some 5000 members of the IFP's self-protection units (SPUs).¹⁴⁸ [¹⁴⁸ *The Citizen* 19 January 1996] The report contradicted earlier statements in September 1995, by the premier of the province and the national chairman of the IFP, Dr Frank Mdlalose, that the former KwaZulu administration had not used state money to finance the SPUs.¹⁴⁹ [¹⁴⁹ *Ibid*] The ANC called for the premier's resignation for having misled the legislature.¹⁵⁰ [¹⁵⁰ *The Natal Witness* 22 January 1996]

Mr Velaphi Ndlovu MPL (IFP) told the KwaZulu-Natal legislature that the former KwaZulu administration had created the SPUs to defend the Zulu nation against Umkhonto we Sizwe and the ANC's self-defence units and that the SPUs had nothing to do with the IFP as a party.¹⁵¹ [¹⁵¹ *The Natal Witness* 22 January 1996] Mr John Aulsebrook MPL (IFP) said that the training of SPU members had been co-ordinated by officials from the former Department of the Chief Minister of KwaZulu, and had taken place under the auspices of the former KwaZulu Police (KZP).¹⁵² [¹⁵² *Ibid* 24 January 1996] Some 1400 SPU members had since successfully been incorporated into the KZP, he added.¹⁵³ [¹⁵³ *Ibid*]

In February 1996 the general officer commanding Natal Command, Major General Chris le Roux, announced that some R85m would be spent on integrating 2 200 SPU members into the SANDF. No money would, however, be spent on voluntary demobilisation packages for SPU members (see also chapter on *Security*).¹⁵⁴ [¹⁵⁴ *Ibid* 8 February 1996] On 5th June 1996 the minister of defence, Mr Joe Modise, reported that the first SPU members had been integrated into the SANDF.¹⁵⁵ [¹⁵⁵ *Hansard* (NA) 8 col 1096, 14 May 1996]

In June 1996 the Network of Independent Monitors claimed that IFP members were receiving paramilitary training at 18 camps in KwaZulu-Natal. The claim was made shortly before the local government elections due to be held in the province on 26th June 1996.¹⁵⁶ [¹⁵⁶ *Sunday Times* 9 June 1996] The president of the IFP, Chief Mangosuthu Buthelezi, denied any knowledge of the camps and said that he took 'strong exception' to the reports.¹⁵⁷ [¹⁵⁷ *The Citizen* 11 June 1996] The police subsequently stated that,

despite intensive investigation, they had been unable to locate any of the camps (see also *Conflict between the African National Congress and the Inkatha Freedom Party in KwaZulu-Natal* above).¹⁵⁸ [¹⁵⁸ Ibid 13 June 1996]

Umkhonto We Sizwe

In April 1996 the minister of defence, Mr Joe Modise, urged members of Umkhonto we Sizwe (Umkhonto), the former armed wing of the African National Congress (ANC), and of the Azanian People's Liberation Army (Apla), the former armed wing of the Pan-Africanist Congress, to enlist in the South African National Defence Force (SANDF) before its final intake date on 10th June 1996. At this time, some 60% of personnel from the former liberation armies (12903 men and 1968 women) had re-enlisted, while 3437 former Umkhonto members had opted for voluntary demobilisation packages. By June 1996 almost 21000 former liberation army personnel had been integrated into the SANDF, leaving some 13000 still to be integrated (see also chapter on *Security*).¹⁵⁹ [¹⁵⁹ *Cape Times* 30 January 1996, *The Star* 12, 18 April 1996]

After the Constitutional Court had refused in September 1996 to certify the new constitutional text (see chapter on *Government and Constitution*), the government extended the deadline for the revision of the Certified Personnel Register (CPR), the official list of names of individuals from the former nonstatutory armies who would be eligible for integration into the SANDF, from 8th May 1996 to 11th October 1996.¹⁶⁰ [¹⁶⁰ *The Citizen* 15 October 1996] The National Party (NP) accused the ANC of 'feathering its own nest' at taxpayers' expense, and said that the extension would result in an additional 6178 Umkhonto and Apla members becoming eligible for demobilisation packages. The NP said that the ANC should indicate what the cost of demobilising the additional people would be, and how these costs would be met. It called on the ANC to reveal in addition the names of parliamentary representatives who had been added to the CPR in terms of the extended deadline.¹⁶¹ [¹⁶¹ Ibid]

Unofficial Police and Army Units

During the year under review, evidence regarding the activities of former unofficial police and army units was provided in a number of different trials. These included the trials of a former minister of defence, General Magnus Malan, who was acquitted for lack of satisfactory evidence; Colonel Eugene de Kock, a former commander of the C-10 unit based at Vlakplaas (near Pretoria), who was convicted on some 80 charges of murder, culpable homicide and fraud; and Col Gideon Niewoudt, who was sentenced to 20 years' imprisonment for his part in a car bomb attack in Motherwell, near Port Elizabeth (Eastern Cape), in December 1989 in which three security policemen and a police informer had been killed (see chapter on *Security*). A number of allegations regarding the role of the former security forces in 'third-force' violence and gross abuses of human rights were also made to the Truth and Reconciliation Commission, particularly in the course of amnesty applications to its Committee on Amnesty (see *Truth and Reconciliation Commission* below).

CONFLICT AND VIOLENCE IN OTHER SPHERES

People's Courts

A spokesman for the Department of Justice, Mr Pieter du Rand, said that the South African Law Commission had in 1996 launched an investigation into the concept of 'community courts', which would allow assessors from the broader community to work in co-operation with the formal justice system, especially with regard to petty offences. The investigation was aimed at broadening the involvement of communities in the administration of justice. (The concept had been endorsed in 1995 by the minister of justice, Mr Dullah Omar (see 1995/96 Survey, pp60–61).) At the time of writing, Mr du Rand said that proposals in this regard were likely to be contained in a forthcoming white paper on the future of the justice system in South Africa.¹⁶² [¹⁶² Notes of telephonic interview with Mr Pieter du Rand, Department of Justice, Pretoria, 13 March 1997]

'Kangaroo courts' which operated outside the formal justice system and often meted out harsh and illegal sentences also operated during the period under review:

- on 1st January 1996 a man in Ivory Park (Gauteng) was beaten and burnt to death by residents who suspected him of having shot another resident. The acting area commissioner of the South African Police Service for the North Rand, Director Helgaard Muller, said in response that the 'kangaroo court' system generated only 'intimidation, assault of the worst kind and a flagrant denial of human rights';¹⁶³ [¹⁶³ *The Citizen* 4 January 1996]

- in September 1996 a woman was sentenced by a 'kangaroo court' in Ikageng (Potchefstroom, North West) to 45 lashes for allegedly having had an affair with a married man. The 'judge' of the 'court', Ms Maria Bogatsu, was subsequently sentenced in the Potchefstroom magistrate's court to 1500 hours of periodic imprisonment for assault with intent to do grievous bodily harm for her part in the matter;¹⁶⁴ [¹⁶⁴ *City Press* 8 September 1996] and

- in the same month four people were killed after having been found guilty of housebreaking by a 'kangaroo court' in Qulushe, near Bulwer in KwaZuluNatal.¹⁶⁵ [¹⁶⁵ *The Natal Witness* 10 September 1996]

No statistics on 'kangaroo courts' were available at the time of writing.

During the period under discussion a number of vigilante groups, including groups such as People Against Gangsterism and Drugs (Pagad), also took the law into their own hands and meted out sentences to people whom they accused of being drug dealers (see also chapter on *Security*).

Necklacing

Statistics on 'necklace' killings—in which a tyre is hung around the neck of the victim, doused in petrol

and set alight (see 1986 *Survey* Part 2, p516)—were unavailable during the period under review as the South African Police Service did not maintain separate records which differentiated between different methods of murder.¹⁶⁶ [¹⁶⁶ Notes of telephonic interview with Constable M Oosthuizen, SAPS Crime Information Centre, 20 March 1996] The following incidents of ‘necklacing’ were reported in the press during the period under review:

- in November 1996 residents of Eersterus village near Hammanskraal (Gauteng) necklaced a man who was believed to have been a suspect in an attack on a resident who had refused to store stolen goods;¹⁶⁷ [¹⁶⁷ *Sowetan* 21 November 1996]
- in December 1996 Mr Nkosana George Ngwenya, a community leader in Ivory Park near Midrand (Gauteng), was necklaced after being sentenced to death by a ‘people’s court’. He was accused of having harassed residents and of ‘unlawfully’ selling a site in the settlement;¹⁶⁸ [¹⁶⁸ *Sunday Tribune Metro* 8 December 1996] and
- in late February 1997 two men were necklaced in Soweto by residents after having been accused of attacking members of the community.¹⁶⁹ [¹⁶⁹ *The Star* 25 February 1996]

Killing of Witches

Towards the end of April 1996 the MEC for safety and security in the Northern Province, Mr Seth Nthai, said that 117 people had been killed in witchcraft-related incidents in the province during the first quarter of 1996 while 26 people had been arrested in connection with these deaths.¹⁷⁰ [¹⁷⁰ *Business Day* 24 April 1996]

In 1995 the Northern Province government had appointed a commission of inquiry, known as the Ralushai commission, to investigate violence related to the ‘witchcraft phenomenon’, including witchcraft-related killings. The commission was also enjoined to make recommendations on steps to combat violence of this kind (see 1995/96 *Survey*, p60). In April 1996 the commission published its final report, which said that belief in witchcraft and related practices formed a part of the basic cultural, traditional and customary principles of Africans in South Africa and Africa as a whole. Its recommendations—none of which had been implemented at the time of writing in March 1997—

included:

- compelling traditional healers to join professional associations and abide by professional ethics;
- punishing people who ‘sniffed out’ and engaged in violence against witches; and
- punishing people for practising ‘black magic’ that inflicted harm on others.

In September 1996 some 50 suspects appeared in the Pietersburg magistrate's court (Northern Province) in a series of murder cases related to witchcraft and ritual killings. One suspect, Mr Solly Makola, said that all the accused believed that they had acted appropriately as they were behaving in accordance with their cultural beliefs. He suggested that further refugee villages, to which people suspected of practising witchcraft could be relocated, should be established. One such village existed at the Helena Trust farm, near Pietersburg.¹⁷² [¹⁷² *Daily Dispatch* 20 September 1996, *Mail and Guardian* 27 September 1996]

Several homes belonging to alleged witches were burnt over the weekend of 10th October 1996 by a crowd of about 200 people at Dzumberi in the Northern Province. Residents had reportedly each paid a witchdoctor R5 to 'sniff out' witches responsible for the earlier suicide of a man. Ninety-four people, including a number of pupils, were charged with arson and attempted murder as a result. Following the incident, the African National Congress Youth League urged youth to stop the 'brutalisation of so-called witches'.¹⁷³ [¹⁷³ *The Star* 22 October 1996, *The Citizen* 2 December 1996]

In October 1996 a member of the Ralushai commission, Professor Koos van den Heever, said many cases of witchcraft-related killings were not reported, and fewer than 5% of witchdoctors were prosecuted for their involvement in such killings. Police did not always execute their duties adequately, often because they feared the powers of witches. The killings tended to escalate, he added, in the rainy months when a greater incidence of natural calamities (such as people being struck by lightning) created suspicions about witchcraft. Western notions of justice were often difficult to relate to African problems, he stated.¹⁷⁴ [¹⁷⁴ *Business Day* 10 October 1996]

During the period under review several commentators indicated that the killing of people accused of practising witchcraft could be traced to social and political factors. Dr Johan Kriel, a member of the Department of Anthropology at the University of Pretoria, said that these killings were often related to jealousy and that a large proportion of witchcraft accusations occurred among the wives of polygamous marriages.

Conflict in the Taxi Industry

Policy

In May 1996 a conference aimed at bringing peace to the taxi industry was held under the auspices of the national taxi transitional committee (NTTC) at the World Trade Centre near Kempton Park (Johannesburg). Two rival taxi organisations, the Letlhabile Taxi Organisation (LTO) and the Southern African Long Distance Taxi Association (Saldta), questioned the legitimacy of the conference, saying that they had not been 'adequately consulted' regarding its agenda.¹⁷⁹ [¹⁷⁹ *The Star* 22 May 1996] The meeting established a statutory body, the national taxi management committee (NTMC), which was to focus on ending violence in the taxi industry and working towards procuring government subsidies for taxis. Saldta, however, was not a part of the NTMC as it disagreed with the way the leadership of the

organisation was to be established.¹⁸⁰ [¹⁸⁰ *Sowetan*, *The Citizen* 23 May 1996]

In an address to representatives of the taxi industry in December 1996 the president, Mr Nelson Mandela, said that the government would not tolerate taxi violence and would close taxi ranks, if necessary, in order to ensure that it came to an end.¹⁸¹ [¹⁸¹ *Beeld*, *The Citizen* 5 December 1996] Representatives at the conference had earlier committed themselves to peace and pledged to co-operate with the National Taxi Task Team, a body established by the government in March 1995 to investigate the economic ramifications and feasibility of the taxi industry (see also chapters on *Business* and *Security*).¹⁸² [¹⁸² *Business Day* 5 December 1996]

In December 1996 the national commissioner of the South African Police Service (SAPS), Commissioner George Fivaz, called on police personnel with interests in the taxi industry to cease their involvement immediately. He said that 'unauthorised involvement' in the industry would result in the 'severest possible disciplinary steps'.¹⁸³ [¹⁸³ *Daily Dispatch* 11 December 1996] This came in the context of allegations from taxi operators that policemen were involved in taxi violence. During the previous month it had been reported that 'at least 33 police officials were under investigation' for alleged involvement in taxi violence.¹⁸⁴ [¹⁸⁴ *The Citizen* 25 November 1996]

According to the chairman of the transport committee of the Greater Johannesburg Transitional Metropolitan Council, Mr Peter Horwitz, a process of registration of taxis and taxi associations was under way at the time of writing. Failure on the part of taxi owners and drivers to comply with this would result in their being taken off the road.¹⁸⁵ [¹⁸⁵ Notes of telephonic interview with Mr Peter Horwitz, Johannesburg, 14 April 1997] (See also chapter on *Living Conditions*.)

Incidents of Taxi Violence

During the period under review incidents of violence related to the taxi industry occurred chiefly in the Eastern Cape, Gauteng, KwaZulu-Natal, North West and the Western Cape.

According to the Crime Information Management Centre of the SAPS, some 340 people were killed and 710 injured in violence related to the taxi industry in 1996.¹⁸⁶ [¹⁸⁶ Telefax communication from the Crime Information Management Centre, SAPS, March 1997] This reflected an increase of 77% on the number of deaths (191) and of 153% on the number of injuries (281) recorded in 1995 (see 1995/96 Survey, p400). The Eastern Cape recorded the highest number of casualties. The Northern Cape was the only province in which no deaths were reported.¹⁸⁷ [¹⁸⁷ *Ibid*]

The table below shows the number of people killed and injured in taxirelated violence as well as the number of incidents reported in 1996:

Taxi-related violence: 1996

Province

Persons killed

Persons injured

Incidents reported

Proportion of total incidents^a

Eastern Cape

104

243

353

39,9%

Free State

5

2

20

2,2%

Gauteng

74

104

120

13,5%

KwaZulu-Natal

43

60

61

6,9%

Mpumalanga

8

16

37

4,1%

North West

22

63

38

4,3%

Northern Cape

0

4

3

0,3%

Northern Province

6

56

26

2,9%

Western Cape

76

164

225

25,4%

South Africa

338

712

883

100,0%

a

Proportions may not add up owing to rounding.

In the **Eastern Cape** taxi-related violence was concentrated mainly in the King William's Town, Port Elizabeth and Umtata areas.¹⁸⁸ [¹⁸⁸ *Daily Dispatch* 14 November 1996]

In October 1996 the assistant director of the Department for Safety and Security in the Eastern Cape, Mr Lumphumzo Kebeni, said that a secret police crackdown on taxi violence had revealed the identities of several people involved in trafficking in firearms. It had also, he stated, uncovered camps in the Eastern Cape where 'taxi hit squads' had been undergoing training.¹⁸⁹ [¹⁸⁹ *Ibid* 30 October 1996]

South Africa's first taxi office—aimed at facilitating communication between the taxi industry, commuters, business and the government—was opened in **Gauteng** in January 1996. The manager of the centre, Mr Knox Matjila, said that the establishment of the office would facilitate conflict resolution in the industry. Despite this, taxi violence continued in

Following the killing of a member of a Durban taxi association in **KwaZulu-Natal** in February 1996, the MEC for transport, Mr S'bu Ndebele, said that the provincial government would clamp down on taxi violence. He said that his department had intervened in conflicts in Cato Crest, Matatiele, Newcastle, and Vryheid in the preceding three weeks, after seven people had been killed in these areas in taxi-related violence.¹⁹¹ [¹⁹¹ *The Mercury* 8 February 1996]

In the **Western Cape** several incidents of taxi-related violence were sparked by disagreements about taxi ranks and taxi routes (see also chapter on *Business*).

TRUTH AND RECONCILIATION COMMISSION

Appointment, Functions and Powers

The Truth and Reconciliation Commission (TRC) was established under the Promotion of National Unity and Reconciliation Act of 1995, which came into operation on 1st December 1995. The 17 members of the commission were appointed by the president, Mr Nelson Mandela, at the end of November 1995, while Archbishop Desmond Tutu was appointed chairman of the commission and Dr Alex Boraine deputy chairman.¹⁹² [¹⁹² *Business Day* 30 November 1995] At its first meeting in the same month, the commission chose Cape Town as its headquarters and established its three committees—the Committee on Human Rights Violations, the Committee on Amnesty, and the Committee on Reparation and Rehabilitation.¹⁹³ [¹⁹³ *The Sunday Independent* 17 December 1995; sections 12, 16 and 23, Promotion of National Unity and Reconciliation Act, 1995]

The functions of the commission as a whole are to investigate gross violations of human rights, as well as their 'nature, causes and extent', together with the 'circumstances, factors and perspectives' which led to them. Its further functions are to identify those responsible for such violations; to ascertain whether abuses were the 'result of deliberate planning' on the part of the state or any political organisation; to promote the granting of amnesty for acts 'associated with a political objective'; and to make recommendations to the president regarding reparation to victims, as well as the creation of institutional and other measures to prevent further violations in the future. The commission is also to prepare a 'comprehensive report' of its activities and findings, which must be based on 'factual and objective information and evidence'.¹⁹⁴ [¹⁹⁴ Section 4, *ibid*]

Within this context, the specific functions of the Committee on Human Rights Violations are to investigate and report on gross violations of human rights through submissions from both individuals

and organisations, to make available information obtained by it to the investigating unit (see below), to refer victims of violations to the Committee on Reparation and Rehabilitation, and to report comprehensively to the commission on its activities.¹⁹⁵ [195 Section 14, *ibid*]

The functions of the Committee on Amnesty, chaired by a judge, are to consider and rule upon applications for amnesty, giving priority to applications from those already in custody. The committee must hold any inquiry it considers necessary, but need not hold a hearing before granting amnesty. It must, however, be satisfied that the act or offence for which amnesty is sought was ‘associated with a political objective’, that it was ‘committed in the course of the conflicts of the past’ during the period from 1st March 1960 to 5th December 1993,¹⁹⁶ [196 *Business Day* 20 March 1996] and that ‘the applicant has made a full disclosure of all relevant facts’.¹⁹⁷ [197 Section 20, Promotion of National Unity and Reconciliation Act, 1995] (This 33-year period—though later extended—was initially selected because the earlier date was seen as the start of the armed struggle against apartheid, while the latter was the date on which the National Party handed over power to a multiparty Transitional Executive Council.)¹⁹⁸ [198 *The Star* 11 April 1996]

The functions of the Committee on Reparation and Rehabilitation are to make recommendations ‘on appropriate measures of reparation to victims’, which may include ‘urgent interim measures’. Its recommendations must reflect ‘an endeavour to restore the human and civil dignity’ of victims of gross human rights violations.¹⁹⁹ [199 Sections 25, 26, Promotion of National Unity and Reconciliation Act, 1995]

The commission is empowered to establish an investigating unit to probe any matter falling within the scope of the commission’s activities.²⁰⁰ [200 Section 28, *ibid*] Mr Dumisa Ntsebeza was subsequently appointed commissioner of a 60-member investigating unit, while detectives from Denmark, Ireland, the Netherlands, Norway and Sweden were seconded to it to aid in its investigations.²⁰¹ [201 *The Citizen* 9 March 1996, *Business Day* 22 March 1996] Mr Ntsebeza said that the unit—which would be divided into four regional teams and a fifth national team—would be unable to investigate all reports made to the commission, but would ‘look for themes in the history of abuses in South Africa such as the incidence of torture, train attacks and cross-border raids’.²⁰² [202 *Business Day* 22 March 1996]

The commission has wide-ranging powers of investigation, including the power to call for the production of any document or other article, to subpoena witnesses to appear before it, and to search premises and seize any article found. Such search and seizure requires, in general, the prior issue by a judge or magistrate of an appropriate warrant. No warrant is needed however, if consent is given to the search and seizure, or if the delay in obtaining a warrant would defeat the object of the search. Witnesses subpoenaed by the commission may be compelled to answer all questions put to them, even though the answers may be self-incriminating, but evidence obtained in this way is not admissible in subsequent criminal proceedings.²⁰³ [203 Sections 29, 31, and 32, Promotion of National Unity and Reconciliation Act, 1995; *Financial Mail* 8 March 1996]

In March 1996 Dr Biki Minyuku, the registrar of the University of the North and a former ANC officebearer, was appointed chief executive officer of the commission, while Professor Charles Villa-Vicencio, who holds the chair in religion and society at the University of Cape Town, was appointed its chief research director with responsibility for producing the commission's final report.²⁰⁴ [²⁰⁴ *The Citizen* 5 March 1996] Professor Villa-Vicencio said his aim was to develop as complete a picture as possible of the 33-year period under review, to place specific incidents in an overall context, and to reflect the 'most probable' version of events, rather than requiring proof beyond a reasonable doubt 'as a court would do'.²⁰⁵ [²⁰⁵ *Beeld* 19 April 1996]

The commission was accorded a budget of R75m a year for each of its two years of operation,²⁰⁶ [²⁰⁶ *The Star* 21 March 1996] while the governments of Ireland, Norway and Sweden donated amounts totalling some R4m to establish a data base, fund reparations and contribute in general to the work of the commission.²⁰⁷ [²⁰⁷ *The Citizen* 9 March 1996] The commission was given 18 months from its establishment in November 1995 to complete its task and a further three months to write its final report. These deadlines could be extended by six months by Parliament,²⁰⁸ [²⁰⁸ *The Star* 11 April 1996] and in December 1996 the government agreed that it would give the commission until 15th December 1997 to complete its task.²⁰⁹ [²⁰⁹ *The Citizen* 13 December 1996] As the commission began its work, Archbishop Tutu said that 'even-handedness will be its watchword', for the legislation establishing the TRC did not allow its members to say, 'this kind of violence is different from that kind of violence'.²¹⁰ [²¹⁰ *Business Day* 6 February 1996]

The Committee on Human Rights Violations began hearing individual allegations regarding human rights abuses in April 1996, and conducted hearings at a number of different venues in various provinces. In August 1996 one of the commissioners, Dr Fazel Randera, said the TRC would in future place more emphasis on obtaining statements from witnesses than on holding hearings—and that evidence in the form of these statements would have equal relevance in compiling the commission's final report. The TRC, he added, was developing a more 'accessible and streamlined form' for recording human rights abuses, which would be circulated through newspapers and organisations for victims to complete themselves. This would ease the burden on the statement-takers trained by the commission, who numbered some 100 in the Johannesburg region (the largest of the TRC's four regional offices).²¹¹ [²¹¹ *Sowetan* 5 August 1996] According to Professor Villa-Vicencio, the commission envisaged obtaining some 50 000 statements overall, and this undertaking would represent the 'largest field research exercise' ever mounted in the country.²¹² [²¹² *Business Day* 18 September 1996]

First Interim Report

In August 1996 the TRC's research department issued an interim report in which it said that 'only the wilfully blind would refuse to acknowledge the evenhandedness and independence of the commission, as revealed in the hearings of its Committee on Human Rights Violations'. It said it could not yet make

definitive evaluations of the evidence placed before the TRC, but that patterns were beginning to emerge. Particularly noteworthy was 'a pattern of callousness among police personnel', as well as 'a form of collusion between some elements in the judicial system, some members of the medical profession and the security police', which had 'managed to subvert what little justice there might have been'.²¹³ [213 Research Department, Truth and Reconciliation Commission, *Interim Report*, Cape Town, August 1996, p2]

The interim report described the data base being prepared by the commission from sources including the International Defence and Aid Fund, court transcripts, police records, and the evidence placed before the Commission of Inquiry Regarding the Prevention of Public Violence and Intimidation (the Goldstone commission) in its three-year period of operation from 1991 to 1994. It also analysed the nature of the allegations revealed thus far in hearings, and summarised these in the following table:²¹⁴ [214 Ibid, pp20, 67]

Allegations made to the TRC

Deaths by security forces

82

Deaths by other/unknown

42

Torture/severe ill treatment by security forces

39

Torture/severe ill treatment by other

14

Disappearances

14

The interim report further noted that the first public hearing of the Committee on Amnesty had taken place in Phokeng, near Rustenburg (North West province) in May 1996 (see *Committee on Amnesty* below). Three further types of hearings would be held in future, including 'submission hearings' which would provide an opportunity for political parties and organisations to give evidence to the commission.²¹⁵ [215 Ibid, pp67, 69]

At the end of its first year of operation, the Committee on Human Rights Violations had held 46 public hearings since its first one in East London in mid-April 1996, and was reported to have reached the entire country 'from volatile townships like Sebokeng and former homeland capitals like Thohoyandou to small Karoo towns like Colesberg'. Some 6 000 victims of gross human rights violations had made statements to the TRC, and some 1 200 of these had given testimony at public hearings. Mr Justice Andrew Wilson, a member of the TRC's amnesty committee, said he was amazed at the revelations which had emerged through the work of the TRC, while a commissioner, Mrs Mary Burton, said the commission 'had done well in telling the truth' and had made it difficult for any person to deny what had happened in the past. Another commissioner, Mr Bongani Finca, expressed concern that the white community had 'refused to participate in the TRC process in a meaningful way', and said this contrasted sharply with the level of involvement in townships, where a 'great number of people had come to tell their stories and many more to listen', for they had 'refused to allow history to be silenced'. Concern was also expressed at the volume of investigations to be completed, as well as the slow start to amnesty applications

Committee on Human Rights Violations

The Committee on Human Rights Violations began its work with a hearing in East London (Eastern Cape) on 15th April 1996. Thereafter, it conducted hearings in a number of other localities and heard submissions from various individuals, as well as from political parties and other organisations.

Individual Submissions

During the course of the committee's hearings, a number of individuals described atrocities and other human rights abuses allegedly perpetrated by members of the former South African Defence Force (SADF) and South African Police (SAP). The committee was told repeatedly by different witnesses of murder, torture, rape, beatings and assaults committed by members of the SADF and SAP against anti-apartheid activists, as well as of the detention of activists and their frequent disappearance thereafter.²¹⁷ [²¹⁷ *The Star* 9 July 1996; *The Citizen* 27 July 1996, 10 October 1996; *Sowetan* 30 January 1997] Other witnesses testified regarding abuses perpetrated by the African National Congress (ANC) alliance and its supporters in, for example, killing alleged informers, as well as those who contravened consumer boycotts.²¹⁸ [²¹⁸ *The Star* 9 July 1996; *The Citizen* 27 July 1996; 10 October 1996; *Sowetan* 30 January 1997]

In July 1996 Archbishop Tutu said that commissioners were 'amazed at the depth of evil that human beings could descend to on all sides of the struggle'. He was also amazed, he said, at the willingness of victims to forgive. He appealed to perpetrators to come forward to confess and ask for forgiveness.²¹⁹ [²¹⁹ *Business Day* 9 July 1996]

Submissions by Political Parties and Other Groups

A number of submissions were also made to the committee by political parties and other organisations.

In July 1996 the **Foundation for Equality Before the Law** submitted a document compiled by a former senior police officer, General Herman Stadler, stating that the ANC had committed some 1 400 acts of violence during the armed struggle, of which the great majority had been against civilians. This was despite the fact that the ANC had in 1980 signed an international agreement (a protocol to one of the Geneva conventions on the rules of war) in which it had committed itself to directing its armed actions at military targets. ANC car bombs, alleged the foundation, had killed 30 civilians and injured another 535, while 406 people had been killed by the ‘necklace’ method and another 395 had been burnt to death. The foundation took note of the ANC’s assertion that it had not devised the necklace, but accused the organisation of having failed to condemn it. Instead, the document stated, senior ANC leaders had created the impression that the necklace was ‘the people’s way of dealing with collaborators’.²²⁰ [²²⁰ *The Citizen* 11 July 1996]

The **Freedom Front**, in a document submitted in August 1996, said that Afrikaners believed that the spiral of violence in the country had begun with the decision of liberation movements to initiate an armed struggle against the government. Afrikaners had also believed international communism to be behind the revolutionary war or ‘total onslaught’ which had been launched. They had been horrified, moreover, by the violence directed against the black community, and had considered it justified to resort to violence in turn to preserve stability and maintain law and order. The unconventional methods the security forces had then adopted had been in response to the unconventional attack they faced, but had also cost Afrikaners the moral high ground.²²¹ [²²¹ *Beeld* 20 August 1996]

In its submission, the **Pan-Africanist Congress (PAC)** said its leaders accepted responsibility for attacks on white civilian targets perpetrated by its armed wing, the Azanian People’s Liberation Army (Apla). These attacks, however, had been a departure from the organisation’s usual practice of targeting ‘security structures of the regime’ and had arisen in the ‘militarised environment in the country in the 1990s and in the face of third-force violence against the people’. Moreover, since armed operations by the banned organisation had been conducted from Dar es Salaam (Tanzania), local commanders had had to take decisions on the ground and this meant that errors—like attacks on civilian targets—had been made. The PAC also criticised the TRC for forcing it to share a platform with the perpetrators of apartheid—‘a crime against humanity which had forced African people into war’.²²² [²²² *Business Day* 21 August 1996]

The **Democratic Party (DP)** also made a submission in which it offered the commission access to the detailed records of human rights abuses compiled by DP monitors during the 1980s. The party suggested that the commission investigate the national security management system established by the government during the 1980s as part of its ‘total strategy’ against the ‘total onslaught’ allegedly being mounted against it. The DP said that the system was a possible source of ‘third-force’ violence, and had almost certainly been involved in ‘sanctioning the organisation and arming of vigilante groups’.²²³ [²²³ *Ibid*]

The **National Party (NP)** acknowledged in its submission that elements in the security forces had tried to ‘derail the transformation process’ through unauthorised actions undertaken in the early 1990s. Abuses had also resulted from security force members ‘trying to give operational direction to broadly

framed decisions'. A distinction should be drawn, it added, between acts 'where members thought that they were acting correctly and with authority, others where bona fide actions had been clouded by bad judgement and overzealousness, and cases which involved evil intent' and which were directed as much against transformation as they were against revolutionary movements. The NP would accept responsibility for actions falling within the first two categories—but not the third.²²⁴ [²²⁴ Ibid 22 August 1996]

Addressing the commission on the NP's submission, the party's leader, Mr F W de Klerk, also admitted that apartheid had caused 'immeasurable pain and suffering to many' and apologised for this. He further acknowledged that the cabinet had authorised 'unconventional strategies' to combat the 'total onslaught' mounted against the country in the 1980s and orchestrated by the South African Communist Party. He denied, however, that these methods had included gross violations of human rights such as murder, torture, rape or assault.²²⁵ [²²⁵ *The Star* 22 August 1996] They had been limited, he said, to 'setting up front companies, disinformation tactics and assistance to outside organisations opposed to the revolutionary forces'. He denied having ever authorised or instructed the commission of gross human rights violations, and added that the cross-border raids he had ordered had been aimed at 'legitimate military targets' on the basis of information which had been cross-checked with various sources, including military intelligence agencies. Civilians had from time to time been caught in the crossfire during such raids, and this had been 'extremely unfortunate'.²²⁶ [²²⁶ *Sowetan* 22 August 1996]

Mr de Klerk added that it was a 'gross injustice' to put all the blame for the conflicts of the past on the NP, and that the 'killing, torture and intimidation of many black South Africans by the revolutionary movements could not be justified by the struggle against apartheid'. Abuses committed by the security forces had been widely publicised and were being intensely investigated, but insufficient attention was being given to the 541 necklace incidents which had occurred between September 1984 and March 1993, in which 505 people had been killed and 36 injured. The commission should also investigate, he said, 57 landmine attacks which had taken place between November 1985 and February 1991 and numerous attacks on the SAP between 1973 and 1993 in which some 1 030 policemen had been killed.²²⁷ [²²⁷ *The Citizen* 22 August 1996]

In its submission, the **African National Congress (ANC)** acknowledged that it had executed at least 34 cadres for mutiny, murder and rape in Angola between 1980 and 1989. A serious mutiny in Pango (Angola) in 1984, in which mutineers had used machine guns and other heavy weapons to kill camp commanders and other soldiers, had had to be mercilessly suppressed.²²⁸ [²²⁸ Ibid 23 August 1996] The organisation had also had to act against suspected apartheid spies, especially after the Soweto revolt in 1976 brought to it a flood of new recruits. The difficult conditions in which the ANC operated had led to 'a drift in accountability and control away from established norms' and had resulted in some members of the organisation's security department 'starting to behave as a law unto themselves'.²²⁹ [²²⁹ Ibid] Addressing the commission on behalf of the ANC, Mr Thabo Mbeki, the deputy president, added that 'no pattern of systematic abuse' had been revealed in past investigations into abuses in ANC camps in exile, and that corrective measures had been taken when any abuse had come to the attention of the

leadership.²³⁰ [²³⁰ *Business Day* 23 August 1996]

The ANC also stated that it had never been its policy to target civilians, and that all Umkhonto we Sizwe cadres had been instructed to avoid unnecessary loss of life. This was reflected, for example, in the car bombing in Pretoria in May 1983 in which 19 people had been killed and some 217 injured (*see 1983 Survey*, pp569–570). This bomb had been detonated outside the headquarters of the South African Air Force (SAAF) and had primarily targeted those who worked there. Thus, 11 of the dead had been SAAF officers and more than 70 of those injured were members or employees of the armed forces. Likewise, the bombing of Magoo's Bar in Durban in June 1986, in which three people had been killed and 69 injured (*see 1986 Survey Part 2*, p531), had been an attack on a military target because it was frequented by off-duty servicemen.²³¹ [²³¹ *Ibid*] Other incidents of violence, stated the ANC, such as the bombings of Wimpy Bars in the 1980s (*see, for example, 1988/89 Survey*, pp610, 613), the operations of maverick self-defence units (SDUs), and necklace executions, had been the work of state agents in 'false flag operations' designed to discredit the ANC.²³² [²³² *Business Day, The Citizen* 23 August 1996]

The ANC added that the decision to form self-defence units had been forced upon it by the slaughter of civilians and resultant pressure from the people. 'By April 1991,' it said, '2 400 civilians had died and the ANC had announced that unless the government stopped the bloodshed it would withdraw from negotiations.' The NP government had then deliberately subverted the units and used criminals and illegal means to discredit them. 'The deliberate subversion of the units,' the ANC said, was intended to ensure that 'the people could not mount sustained resistance to state-sponsored violence, and to discredit the ANC in the eyes of the international community.'²³³ [²³³ *Business Day* 23 August 1996]

The ANC also acknowledged that breaches in its policy had occurred, and said that it 'deeply regretted civilian casualties'. It stated that it would be 'morally and legally wrong' to equate apartheid with the resistance mounted against it, and added that it would not make any representations to the commission about those activities which it 'deemed to constitute legitimate actions carried out during a just and irregular war for national liberation'. The ANC's leadership would take collective responsibility for any human rights abuses by the movement, while individual ANC members would approach the commission for amnesty.²³⁴ [²³⁴ *The Citizen* 23 August 1996]

A member of the commission and the head of its investigating unit, Mr Dumisa Ntsebeza, praised the ANC's 'candid' presentation, and said the organisation had been 'upfront' in detailing its involvement in human rights violations. He criticised the Freedom Front for 'holding back' on possible human rights abuses, and questioned whether there had been full disclosure in the NP's submission to the commission.²³⁵ [²³⁵ *Ibid*] The deputy chairman of the TRC, Dr Alex Boraine, commended the unprecedented willingness of political parties to account for their actions in public, but said the commission intended to call them back in the future for a second and 'much more probing' round of hearings.²³⁶ [²³⁶ *The Star* 23 August 1996]

In September 1996 the president of the **Inkatha Freedom Party (IFP)**, Chief Mangosuthu Buthelezi,

presented the IFP's submission to the commission and said his organisation had decided to testify before it because 'no effort was being made by the TRC to question who had killed 420 of the IFP's leaders and murdered thousands of its supporters'. The submission gave details of the IFP leaders and officebearers killed, and included hundreds of quotes from ANC publications and Radio Freedom criticising Chief Buthelezi and calling for his destruction. It described an alleged ANC plot to assassinate Chief Buthelezi in the 1980s, and said the conflict between the ANC and the IFP had been sparked by differing strategies on how to overcome apartheid, which had come to a head at a meeting in London in 1979 between the two parties. Because the IFP had not been prepared to accept the armed struggle and the destruction of the South African economy, it had become a target for annihilation by the ANC.²³⁷ [²³⁷ *Business Day* 6 September 1996] Chief Buthelezi apologised to Mr Mandela and other ANC leaders for the fact that his supporters had been drawn into violence and acknowledged that, as leader of the IFP, 'the buck stopped' with himself. He also denied any personal role in the conflict between the ANC and the IFP, and said that neither he nor any other IFP leader had ever authorised acts of violence for political purposes. He added that the 'serial killing' of the IFP's leaders amounted to a 'crime against humanity' and required urgent investigation by the commission.²³⁸ [²³⁸ *The Star* 6 September 1996]

In October 1996 the **South African National Defence Force (SANDF)** submitted a document which went into considerable detail regarding acts of violence allegedly committed by the ANC, the PAC and the white right wing, but gave little information as to the operations undertaken by the former SADF itself or the people killed in these. The submission, compiled by a former chief of logistics, Major General Deon Mortimer, described the build-up of antiapartheid forces, the adoption of a strategy to fight the 'total onslaught' being mounted by 'communist' forces, and the structure and functioning of the different arms of the SADF. It itemised various cross-border raids conducted by the SADF, as well as the army's support for non-Marxist movements in Angola, Lesotho and Mozambique, and in the former 'independent' homelands of the Ciskei and the Transkei. It referred briefly to a request for paramilitary support from the South African government made by Chief Buthelezi, which had resulted in the establishment of Operation Marion (see chapter on *Security*), but denied that a third force had been involved in black-on-black violence. In a separate submission, General Georg Meiring, the chief of the SANDF, said the new military establishment regretted 'the loss of life, personal grief and suffering of those affected on all sides'.²³⁹ [²³⁹ *Business Day* 22 October 1996]

Dr Boraine criticised the submission regarding the role of the SADF, saying he found it 'almost unbelievable that in the document's 80 pages there was no acknowledgement that the SADF could have perpetrated crimes in implementing apartheid policy'. He added that the commission's investigative and research departments would scrutinise the submission, and request further information either from Gen Meiring or the minister of defence, Mr Joe Modise.²⁴⁰ [²⁴⁰ *Ibid*]

In March 1997, in a second submission to the commission, the **NP** responded to allegations made on a number of occasions by the ANC (see *Committee on Amnesty* below) to the effect that apartheid had been 'a crime against humanity' against which the liberation movement had fought a just war. Mr de Klerk stated that apartheid policies—despite the 'humiliation, hardship and disruption' they had caused—could not in any way be compared with the Nazi holocaust, the rule of the Soviet dictator Joseph

Stalin, China's 'Great Leap Forward', or recent genocide in Rwanda. Moreover, the international convention that had purported to declare apartheid a 'crime against humanity' had been 'little more than a mobilisation exercise by the ANC and its totalitarian and Third World supporters in the United Nations (UN) General Assembly'. It had never been approved by the UN Security Council, nor supported by the world's few genuine democracies, while its signatories had included the Soviet Union and its satellites, as well as the People's Republic of China, which were themselves guilty of 'the most horrendous crimes against humanity'. The document added that 'victims of crimes against humanity did not generally achieve sustained population growths of more than 3% nor did their social and socio-economic statistics improve across the board, as was the case under NP rule'.²⁴¹ [²⁴¹ *The Citizen* 24 March 1997]

Mr de Klerk continued that the NP had considered establishing a 'third force' in 1985 and 1986, but 'never in the covert sense that the ANC and the media had attached to the term'. The government had considered establishing a third paramilitary force, which would have been separate from both the SADF and the SAP, and whose function would specifically have been to deal with unrest and counter-insurgency. Similar forces, he stated, existed in several democratic countries, including France. The proposal was ultimately rejected by the government, though it did instead establish an internal stability unit within the SAP.²⁴² [²⁴² *Business Day* 24 March 1997]

The **ANC and other organisations** were expected to make further submissions to the commission in May 1997.

Committee on Amnesty

When the Promotion of National Unity and Reconciliation Act came into effect in December 1995, it repealed all previous indemnity laws and extended for a further year the temporary immunity granted to a number of leaders of the African National Congress (ANC) in 1990. A spokesman for the Department of Justice said that ANC leaders could be prosecuted thereafter for any crimes they had committed unless they applied for and obtained amnesty from the Truth and Reconciliation Commission (TRC). The national chairman of the ANC, Mr Jacob Zuma, said in January 1996 that it was 'absurd' that Mr Thabo Mbeki, for example—then executive deputy president from the majority party—should have to apply for amnesty, for this would 'equate those who were forced to fight the injustice of apartheid with the agents of apartheid, who had exceeded even their own laws'.²⁴³ [²⁴³ *Ibid* 15 January 1996]

In March 1996 the ANC renounced the temporary immunity from prosecution enjoyed by many of its senior members, and declared its commitment to 'coming clean' before the TRC on the details of its actions against apartheid. Announcing the decision—regarded by some observers as largely symbolic since the temporary immunity was due to expire in mid-May—the deputy secretary general of the ANC, Ms Cheryl Carolus, challenged all other parties to be equally frank. She added that while the ANC would never condone human rights violations by its freedom fighters it firmly believed the commission would be able to 'distinguish between the anti-apartheid struggle and those who fought to support a crime against humanity'.²⁴⁴ [²⁴⁴ *Ibid* 15 March 1996]

In May 1996 the ANC's legal adviser and premier of Mpumalanga, Mr Mathews Phosa, stated that ANC leaders who had given instructions for violent acts would not apply for amnesty to the commission. The ANC would make a submission to the TRC to place the 34-year struggle against apartheid in broad perspective, but would not refer to specific incidents. The ANC had fought a system identified by the UN as a crime against humanity—and the allies in the Second World War, he continued, would never have been expected to apply for amnesty for the war they had fought against Hitler.²⁴⁵ [²⁴⁵ *Rapport* 19 May 1996]

In October 1996 Mr Phosa reiterated that ANC cadres who had been involved in 'acts of war' would not apply for amnesty even if their actions had resulted in civilian casualties. The organisation would accept responsibility for all legitimate operations by its cadres, but there would be no apologies for such acts as the ANC 'rejected attempts to equate apartheid with resistance to apartheid'. Mr Phosa drew an analogy between the civilian casualties occasioned by the ANC's Pretoria car bomb in 1983 and those inflicted through the bombing of Dresden in the Second World War, for which amnesty had never been considered necessary. He drew a distinction between the Pretoria car bomb and the bombing by an ANC cadre of a shopping centre in Amanzimtoti in 1985, in which five people were killed and another 50 injured (see 1985 *Survey*, pp544–545)—saying that the latter fell outside the parameters the ANC had established for its armed operations, and that its perpetrator, Mr Andrew Zondo, would have been encouraged to apply for amnesty if he had still been alive.²⁴⁶ [²⁴⁶ *Business Day* 24 October 1996] (Mr Zondo was convicted and hanged in 1986.)

Mr Phosa added that 'Moses would not have been asked to apply for amnesty for liberating the children of Israel', and that there had been no question of Winston Churchill, Franklin Roosevelt and Joseph Stalin, who had headed the Allied effort against Nazi Germany, being prosecuted for war crimes at Nuremburg after the Second World War. South Africa's freedom fighters could likewise not be expected to apply for amnesty for legitimate acts against apartheid. Mr Phosa's comments were supported by the minister of justice, Mr Dullah Omar, who said he agreed with the premier's 'general approach'.²⁴⁷ [²⁴⁷ 'Will ANC seek amnesty or claim a just war?', *Southern Africa Report*, 1 November 1996, p3]

Archbishop Tutu subsequently challenged the ANC to repudiate Mr Phosa's statements, saying that parties could not grant themselves amnesty and any purported attempt to do so would undermine the work of the commission. It would mean, he added, that the country 'might as well have granted a general amnesty' to everyone rather than establishing 'the charade of a commission' to probe specific incidents. Archbishop Tutu threatened to resign as chairman of the commission, but was subsequently reassured by Mr Mandela that Mr Phosa's comments had been quoted out of context and did not reflect the position of the ANC's leadership as a whole.²⁴⁸ [²⁴⁸ *Business Day* 28 October 1996, 4 November 1996] Mr Ronnie Kasrils, the deputy minister of defence, appealed to Archbishop Tutu to reconsider his threat to resign, while an ANC spokesman, Mr Ronnie Mamoepa, said the ANC's door 'had always been open to the commission to discuss matters of mutual concern'. Another ANC spokesman said that Umkhonto we Sizwe and the ANC's Intelligence and Security Department would soon make a submission to the commission, in which they would list all operations conducted by the ANC's army, including those

which had fallen outside ANC policy and had involved the intentional killing of civilians.²⁴⁹ [249 *Business Day* 5 November 1996]

Following a meeting between ANC and TRC representatives, Archbishop Tutu said he was glad that the ANC continued to regard the commission as an independent body, and that perceptions that the ANC was granting itself amnesty had been laid to rest. Ms Carolus stated that the ANC had no intention of undermining the commission, and that the organisation had been explaining to its members and to the public why they had to come forward to the TRC. Individual ANC members wishing to apply for amnesty would be assisted, but apartheid remained a crime against humanity against which the ANC had conducted a 'just and heroic struggle'.²⁵⁰ [250 *Ibid* 11 November 1996]

Earlier, in May 1996, the Committee on Amnesty had conducted its first hearing in Phokeng (near Rustenburg in North West province). Two members of the Bafokeng tribe, who had strangled and hacked to death the tribe's council chairman in 1990, said the tribal leader had been killed to ensure that the president of Bophuthatswana, Chief Lucas Mangope, would know that his opponents were serious in opposing his rule and seeking the reincorporation of the homeland. One of the two applicants (who were serving 12 and 15-year sentences for the killing) said the ANC had 'approved of the murder', for it 'had a policy on the removal of collaborators from society'.

In October 1996 two former Vlakplaas operatives, Brigadier Jack Cronje and Captain Jacques Hechter, appeared in court in connection with 27 murder charges and were released on bail of R1 000 each. Dr Boraine said that the two men, together with three other former security policemen, Colonel Roelf Venter, Warrant Officer Paul van Vuuren, and Captain Wouter Mentz, had applied for amnesty for more than 40 murders, and that it would be preferable if their amnesty applications were decided before they went on trial. Dr Boraine said that processing of their amnesty applications would prevent the 'enormous waste of state money' which would result if the accused were tried and convicted, and later qualified for amnesty. He added that a former commissioner of the South African Police (SAP), General Johan van der Merwe, had been subpoenaed to appear at the amnesty hearing for the five former policemen.²⁵³ [253 *The Citizen* 19 October 1996]

In the course of the amnesty applications by these five former policemen, the commission was told, among other things, that:

- people who took part in consumer and school boycotts and other protest action had been regarded as a threat to the state and had been targeted for 'elimination' by the security police;²⁵⁴ [254 *Ibid* 23 October 1996]
- information regarding activists had been obtained in a number of illegal ways, including interrogation, telephone tapping and mail interception;²⁵⁵ [255 *Ibid*]
- a secret 'counter-revolutionary information target centre', known by its Afrikaans acronym, Trewits ('Teen-rewolusionêre Inligtings Teiken Sentrum') and commanded by General Jac Buchner, had been

established to identify and prioritise anti-apartheid activists for intimidation or elimination;²⁵⁶ [256 *Business Day, The Star* 23 October 1996]

- the State Security Council, which included the state president, Mr P W Botha, and various cabinet members, had been informed of the work of Trewits and particularly of its cross-border operations and the elimination of activists considered especially ‘troublesome’;²⁵⁷ [257 *Ibid*]
- murders of high-profile activists had been designed to ‘pre-empt military actions’ by Umkhonto we Sizwe, while attacks on activists’ houses, including bombings, had been part of a disinformation strategy aimed at suggesting ‘black-on-black violence’ and power struggles within the liberation movements;²⁵⁸ [258 *Business Day* 23 October 1996]
- ten young activists from Mamelodi (Pretoria) had been led to their deaths in 1986 by members of a combined security police and military hit squad who had promised to help them get to Botswana for military training but had instead blown them up on a remote road near the border;²⁵⁹ [259 *The Star* 1 November 1996]
- Dr Fabian Ribeiro and his wife had been gunned down at their home in Mamelodi West in 1986 because he was treating activists free of charge and assisting ‘terrorists’. The killings had been carried out on the instruction of the minister of law and order or the State Security Council;²⁶⁰ [260 *Sowetan* 28 February 1997]
- Mr P W Botha had authorised the 1988 bombing by the security forces of Khotso House, the headquarters of the South African Council of Churches (see 1988/89 *Survey*, p605), and had also approved plans by the minister of law and order, Mr Adriaan Vlok, to supply booby-trapped hand grenades to activists in Duduza (east Rand) who were intent on attacking black policemen in the township;²⁶¹ [261 *The Citizen* 22 October 1996] and
- it had not been government policy to assassinate opponents of the state inside the borders of South Africa, but ‘public utterances by cabinet ministers as well as government approval of certain acts could have given officers this impression’ and this meant that ‘the government had given permission silently’.²⁶² [262 *The Citizen, The Star* 28 February 1997]

The testimony implicating Mr Botha in the bombing of Khotso House and the supply of the booby-trapped hand grenades was provided by Gen van der Merwe, and Dr Boraine described this as particularly significant. ‘While his statements remain allegations,’ said Dr Boraine, ‘it is highly improbable that a former commissioner of police would make such far-reaching allegations involving not only a former minister but also a former state president unless there was cause to do so.’ Dr Boraine said it was encouraging that Gen van der Merwe and Mr Vlok had applied for amnesty, and that the allegations against Mr Botha would be further pursued. ‘If there is no positive response,’ he continued,

‘we have the powers of subpoena and will use them.’²⁶³ [²⁶³ *The Citizen* 23 October 1993]

By April 1996 it was reported that some 2 000 people, almost all of whom were in custody, had applied for amnesty.

In December 1991, in its most controversial decision to date, the committee granted amnesty to Mr Brian Mitchell, who had been sentenced to death in 1992 on 11 counts of murder arising from a 1988 massacre at Trust Feed near New Hanover (KwaZulu-Natal) (see 1992/93 *Survey*, p131) (His death sentence had, after the abolition of capital punishment (see 1995/96 *Survey*, pp465–466) been commuted to life imprisonment.) Explaining its decision, the amnesty committee said that Mr Mitchell’s offences had formed ‘part of the counter-revolutionary onslaught against the ANC and the UDF [United Democratic Front]’ and that he had ‘acted within the scope and course of his employment as an officer in the SAP’. Mr Mitchell had had close links with the joint management committee which had been established in the area under the auspices of the national security management system, and had considered it his duty to counter the ANC/UDF in his region.²⁶⁷ [²⁶⁷ *The Citizen* 11 December 1996]

The ANC responded that it accepted the committee’s decision to grant amnesty to Mr Mitchell, while a spokesman for the organisation in KwaZulu-Natal, Mr Dumisani Makhaye, said Mr Mitchell’s submission to the committee, in which he had ‘implicated the entire security network as mainly responsible for the carnage in KwaZulu-Natal and throughout South Africa’, had ‘fully vindicated the ANC’s long-held view that there was nothing like “black-on-black” violence’ in the country. ‘His submission to the amnesty committee clearly demonstrates that the IFP’s original aims were successfully subverted by the apartheid regime until the IFP became an extension of the apartheid security forces.’²⁶⁸ [²⁶⁸ *Ibid*]

Controversy, however, continued to surround an application for amnesty by Messrs Clive Derby-Lewis and Janus Walusz, who had been convicted of the assassination in 1993 of a prominent leader of the ANC and the South African Communist Party, Mr Chris Hani (see 1993/94 *Survey*, p643). The ANC said in March 1997 that pardoning the killers of Mr Hani would undermine the nationbuilding task of the commission, and that it would support the Hani family if it decided to oppose the applications.²⁶⁹ [²⁶⁹ *Business Day* 5 March 1997]

The decision to grant amnesty to Mr Mitchell was announced four days before the expiry in December 1996 of the deadline for submission to the TRC of applications for amnesty—and was reported to have been intended to encourage perpetrators of human rights violations to apply to the amnesty committee.²⁷⁰ [²⁷⁰ *The Star* 12 December 1996] As the deadline approached, various senior former security officers and political leaders stated that they had no intention of applying to the TRC for amnesty. These included:

- a former minister of defence, General Magnus Malan, who had been acquitted in October 1996 on charges of murder and conspiracy to murder arising from the 1987 KwaMakhutha massacre (see chapter

on *Security*). Gen Malan said his experience showed that guilt or innocence was best ascertained through the cross-examination of witnesses before a court;²⁷¹ [²⁷¹ *Business Day* 28 October 1996, *Rapport* 8 December 1996]

- General Constand Viljoen, the leader of the Freedom Front and a former head of the SADF, who said amnesty was not necessary for attacks on military targets and that it ‘had been the task of the defence force to fight terrorism and communism’;²⁷² [²⁷² *Rapport* 17 November 1996, *Business Day* 29 November 1996] and

- Mr P W Botha, who told Archbishop Tutu at a meeting in November 1996 that he (Mr Botha) was not guilty of ordering human rights abuses and could not be expected to react to ‘unsubstantiated and untested allegations’ put before the commission. He added that he ‘accepted full political responsibility for the policies followed during his term of office, including the sweeping reforms then introduced’, that he could not be expected to take responsibility for the actions of individuals who had exceeded the limits of their authority, and that he stood behind ‘all the thousands of members of the security forces who in the lawful execution of their duties bravely fought against the revolutionary onslaught of Soviet imperialism’.²⁷³ [²⁷³ *The Star* 29 November 1996]

It was subsequently agreed that the period in relation to which applications for amnesty could be considered by the amnesty committee should be extended to 10th May 1994, the date on which Mr Mandela had been inaugurated as president (see 1994/95 Survey, pp345–347), and that the deadline for submitting applications to the committee should be postponed to 10th May 1997.²⁷⁴ [²⁷⁴ *The Sunday Independent* 20 April 1997] (At the time of writing, this extension had been ‘approved by President Mandela, but still needed to be ratified by Parliament’).²⁷⁵ [²⁷⁵ *The Citizen* 10 April 1997]

In February 1997 Gen Viljoen said he would apply for amnesty for having masterminded a plot—which was never implemented in the end—to create a ‘volkstaat’ by violent means in the run-up to the April 1994 general election. This application, he stated, would be in addition to a further submission by the Freedom Front regarding the strategic background to a resistance campaign planned by his followers in early 1994. This would continue from where the party’s first presentation to the commission had ended—December 1993, the earlier cut-off date for the granting of amnesty. He confirmed, however, that he would not seek amnesty for violent acts committed while he was chief of the SADF.²⁷⁶ [²⁷⁶ *Eastern Province Herald* 4 February 1997]

In April 1997 Gen Malan offered to testify to the commission at a public hearing on the role of the SADF. At a meeting with Archbishop Tutu, Gen Malan said he was prepared to make such a submission to explain how the military had operated during the apartheid years. He stated that the submission was necessary as it was clear that members of the commission had a ‘total lack of military expertise’. His submission would thus enable the TRC to obtain a clear picture of the role and functions of the SADF during his term of office. Gen Malan added that he also wished to counter ‘blatantly’ untrue and unfair accusations being made against former SADF members.²⁷⁷ [²⁷⁷ *The Citizen* 24 April 1997]

Gen Malan gave evidence at a special hearing of the TRC in Cape Town in early May 1997. He admitted the establishment of the Civil Co-operation Bureau in the mid-1980s as a covert unit intended to ‘infiltrate the enemy, gather information and disrupt the enemy’. He denied having authorised the assassination of anti-apartheid activists, as well as allegations that the NP government had established a ‘sinister and shadowy third force’ to target its opponents. The State Security Council had in 1986 considered the possibility of establishing a counter-insurgency and unrest police unit as a ‘third force’ in addition to the police and army, but had instead decided to expand the counter-insurgency capacities of the police. Gen Malan added that the SADF had never considered itself above the law, and had court-martialled those who transgressed its rules. He acknowledged that he had, as defence minister, authorised a number of cross-border raids against enemy targets in southern Africa, and said he regretted the resultant bloodshed—which reflected ‘the reality of war’. He also admitted having authorised the establishment of a chemical and biological warfare programme in 1981, and said this had been intended to counter the use of chemicals by Cuban and Soviet forces in Angola, while the use of such weaponry by South African forces had never been authorised.²⁷⁸ [²⁷⁸ Ibid 8 May 1997]

At the end of January 1997 the deputy chairman of the TRC, Dr Alex Boraine, said the commission had made a ‘major breakthrough’ in ascertaining the truth regarding the deaths of various activists in the eastern Cape in the 1980s. Amnesty applications by a number of former policemen, he said, had provided details regarding the killing of Mr Steve Biko in 1977; the murder of Mr Mathew Goniwe and three other activists, commonly termed ‘the Cradock four’, in 1985; and the abduction and killing, also in 1985, of three members of the Port Elizabeth Boycott Committee, often referred to as the ‘Pebco Three’. Dr Boraine added that investigations aimed at verifying the information supplied by the applicants were not yet complete, and that full details could not be disclosed until this had been done.²⁷⁹ [²⁷⁹ *Business Day* 29 January 1997]

In mid-March 1997 it was reported that the Promotion of National Unity and Reconciliation Act of 1995 was to be further amended to allow the committee on amnesty to deal with more than 5 200 applications already received by it. Hundreds more applications were expected to be filed before the cut-off date of 10th May 1997. The legislation would make possible the appointment of one or more additional amnesty committees, so that hearings could be conducted simultaneously in different parts of the country while other applications were processed in chambers.²⁸⁰ [²⁸⁰ Ibid 17 March 1997]

Almost 8 000 applications for amnesty had been received by the TRC by the deadline of 10th May 1997. Applications submitted shortly before the cut-off date included 50 from former members of ANC self-defence units, as well as 40 from ANC leaders and some 300 from members of the PAC. Amnesty applications were also submitted shortly before the deadline by Colonel Eugene de Kock, who had been convicted in 1996 on some 90 criminal charges (see chapter on *Security*), and from another former NP cabinet minister, Dr Piet Koornhof, who sought amnesty (among other things) for his role in implementing pass laws and forced removals under the NP government.²⁸¹ [²⁸¹ Ibid 12 May 1997]

The Work of the Investigating Unit

In May 1996 the deputy chairman of the Truth and Reconciliation Commission (TRC), Dr Alex Boraine, said the commission might subpoena a number of alleged perpetrators of human rights abuses, as it 'could not wait forever for criminal justice to take its course'.²⁸² [²⁸² Ibid 3 May 1996] In early August 1996 Archbishop Tutu echoed this view, saying the commission would 'use its power' to force policemen and soldiers to respond to the allegations of human rights abuses emerging from TRC hearings being conducted around the country.²⁸³ [²⁸³ Ibid 6 August 1996] Soon thereafter Dr Boraine reiterated that alleged perpetrators would be invited to appear before the commission, failing which they would be subpoenaed.²⁸⁴ [²⁸⁴ Ibid 15 August 1996]

Later in August 1996, the commission said that subpoenas were to be served on seven former police generals, including the former commissioner of police General Johan van der Merwe, as well as Generals Conrad Albertus (Krappies) Engelbrecht, Johan le Roux and Sebastian Johannes Jacobus (Basie) Smit (all of whom had been implicated in a report by the Commission of Inquiry Regarding the Prevention of Public Violence and Intimidation (the Goldstone commission) in March 1994 in, among other things, the arming of the Inkatha Freedom Party (IFP)) (see 1994/95 Survey, pp119–121). The seven would testify in camera, but would have the right to legal representation. Their testimony would not be made public, but would form part of the probe being conducted by the investigating unit. However, 'people named or implicated in the generals' evidence would be the next group of witnesses subpoenaed by the commission'.²⁸⁵ [²⁸⁵ Ibid 28 August 1996] The commission said it also intended to subpoena a number of lower-ranking former policemen, as well as various erstwhile Vlakplaas operatives with information regarding their former commanders, and that all these special hearings would be held in camera. 'By summoning those whose names have been mentioned repeatedly by victims, who have already been identified in court evidence, or who have turned state witness and admitted their culpability to attorneys general, we hope to obtain extremely valuable information about the chain of command,' said Dr Boraine.²⁸⁶ [²⁸⁶ *Sunday Times* 25 August 1996, *Business Day* 28 August 1996]

Following an intervention by the deputy president, Mr Thabo Mbeki, and the minister for safety and security, Mr Sydney Mufamadi, the former police generals were instead allowed to put forward a voluntary submission—on the basis that they were ready to co-operate with the TRC and the use of subpoenas in these circumstances would be counterproductive. Mr Ntsebeza expressed disappointment, however, at the content of the voluntary submission then made by the generals, describing it as a 'philosophical treatise' which omitted detailed information on specific human rights abuses and instead placed its emphasis on 'contextualising' the actions taken by the former SAP.²⁸⁷ [²⁸⁷ *Mail and Guardian* 20 September 1996]

In October 1996 the commission was reported to have adopted a 'tough stance' in relation to the former generals, warning that it would subpoena them unless they provided detailed written representations regarding some 60 incidents. Archbishop Tutu said the TRC was entering a stage where the 'fist of steel' inside its velvet glove would be used when necessary. All alleged perpetrators whose names the commission knew would henceforth be subpoenaed and questioned. The submission by the police generals had been 'totally unsatisfactory' and information on specific events was now required.

Archbishop Tutu added that the TRC's regional offices (in Cape Town, Durban, East London and Johannesburg) were getting ready to start issuing subpoenas, and that this would help to streamline the process and 'give the national investigative unit a nationwide programme of section 29 hearings, at which subpoenaed people appeared'.²⁸⁸ [²⁸⁸ *Business Day* 2 October 1996]

Also in October 1996, the investigating unit obtained warrants to search military bases in Cape Town, while Senior Superintendent Frank Dutton, the investigating officer in the Trust Feed massacre (see above), arrived back in South Africa from Holland (where he was serving as investigator of war crimes in the former Yugoslavia) to follow up evidence provided by Mr Brian Mitchell in the course of his amnesty application regarding the role of military intelligence in the 1988 massacre.²⁸⁹ [²⁸⁹ *The Sunday Independent* 27 October 1996] At the same time, it was reported that the TRC in KwaZulu-Natal was ready to start serving some 40 subpoenas, mostly on security force members who had been named in testimony to the Committee on Human Rights Violations. Dr Boraine said that five men had already been summonsed to answer questions regarding the murder in 1978 of a Durban academic, Mr Richard Turner (see 1978 *Survey*, p124).²⁹⁰ [²⁹⁰ *Sunday Tribune* 27 October 1996]

In the same month, Generals Engelbrecht and Smit appeared before a special hearing of the TRC in Cape Town to answer questions in camera regarding their involvement in past conflict.²⁹¹ [²⁹¹ *The Star* 25 October 1996] It was also reported that Gen Buchner was to be subpoenaed regarding his involvement in alleged 'hit-squad' activities in KwaZulu-Natal. (Gen Buchner had reportedly been appointed head of the 'Trewits' unit in 1987 and had been sent in the same year to KwaZulu Natal, where violence had increased in the Pietermaritzburg area. He had thereafter, until his retirement in 1993, served as commissioner of the KwaZulu Police (KZP)).²⁹² [²⁹² Jeffery, *The Natal Story: Sixteen Years of Conflict*, South African Institute of Race Relations, Johannesburg, 1997] A TRC commissioner, Mr Richard Lyster, said Gen Buchner 'headed a list of former KZP members who were to be subpoenaed'.²⁹³ [²⁹³ *Sunday Tribune* 27 October 1996]

In late January 1997 the commission's investigating team in Johannesburg disclosed that a number of former policemen had been subpoenaed to give evidence behind closed doors. Evidence had been obtained in this way regarding:

- the disappearance of Mr Stanza Bopape, the general secretary of the Mamelodi Civic Association, in 1988;²⁹⁴ [²⁹⁴ *The Star* 22 January 1997]
- the Sebokeng 'massacre' in 1990, when 'more than 30 people died when police opened fire on demonstrators';²⁹⁵ [²⁹⁵ Ibid; Anthea Jeffery, *Riot Policing in Perspective*, South African Institute of Race Relations, Johannesburg, 1991]
- the activities of the Mbokodo vigilante group in KwaNdebele (see 1986 *Survey* Part 2, pp 546–549,

655–658);²⁹⁶ [²⁹⁶ *The Star* 22 January 1997] and

- the fate of the ‘Pebco Three’,²⁹⁷ [²⁹⁷ *Ibid*]

Ten policemen, including Gen van der Merwe, subsequently applied for amnesty in connection with the death of Mr Bopape, saying that the activist had been given electric shocks during interrogation at John Voster Square in Johannesburg and had died from a heart attack. The head of the TRC’s investigating unit, Mr Dumisa Ntsebeza, accused the policemen, however, of ‘watering down their role in his murder’ and said that the applicants would not qualify for amnesty unless the commission was satisfied that they had made a full disclosure of the facts. The commission had information, it was reported, that a fellow activist arrested at the same time, Mr Bheki Nkosi, had heard shots on the night of Mr Bopape’s death.²⁹⁸ [²⁹⁸ *Sunday Times* 23 March 1997]

Other evidence presented to the commission in early 1997 indicated that:

- the former president, Mr F W de Klerk, had misled Parliament in 1994 in implying that he had received only an oral report from the chief of staff of the South African Defence Force (SADF), General Pierre Steyn, on the basis of which he had, in December 1992, dismissed some 23 senior SADF officers (see 1992/93 *Survey*, pp31);²⁹⁹ [²⁹⁹ *Business Day* 17 January 1997]
- the written report which Gen Steyn had in fact provided had implicated in crimes the current chief of the South African National Defence Force, Gen Georg Meiring, as well as Generals Andreas Jacobus (Kat) Liebenberg and Joffel van der Westhuizen, and yet Mr de Klerk had requested these three to investigate and provide him with a list of those who should be dismissed or retired;³⁰⁰ [³⁰⁰ *Ibid*]
- the Steyn report had included allegations of involvement by senior security officers in crimes embracing assassination, cross-border raids, drug and ivory smuggling, the use of poisons, train violence, and widespread fraud;³⁰¹ [³⁰¹ *Ibid*]
- the report had also alleged that Dr Wouter Basson had, together with the Seventh Medical Battalion which he commanded, ‘supplied poisons to assassins from army hit squads’ and been involved in a chemical bomb attack on Frelimo troops in Mozambique in the late 1980s;³⁰² [³⁰² *The Citizen* 3 February 1997] and
- the cabinet had in May 1986 discussed the ‘need that had arisen for the creation of a third force to effectively combat terrorism and unrest’, while cabinet minutes for the period from November 1985 to September 1986 revealed that ‘final approval had been given by the cabinet for the setting up of an operations centre from which the third force would be controlled’.³⁰³ [³⁰³ *Sunday Times* 19 January 1997]

In January 1997 Dr Boraine convened a media conference to reveal the contents of the Steyn report, and suggested that the document provided ‘conclusive proof’ both of Mr de Klerk’s complicity in a cover-up and of the serious criminal conduct it described. Gen Steyn subsequently denied some of the statements the commission had attributed to him, while Mr de Klerk responded, among other things, that the allegations against the 23 officers had been referred to the Transvaal attorney general who had declined to prosecute because the evidence of criminal conduct had been too insubstantial. ‘The debacle,’ said Professor Willie Esterhuysen of the postgraduate school of business at the University of Stellenbosch, ‘begs the question whether the TRC is entitled to incriminate people in public at [such an] early stage of its investigations.’³⁰⁴ [³⁰⁴ *F & T Weekly* 24 January 1997]

The commission also submitted an extensive list of questions to Gen Meiring regarding SADF involvement in, among other things, chemical warfare, the national security management system and its counter-revolutionary activities, coups d’état in former homelands, and activities designed to discredit the African National Congress (ANC).³⁰⁵ [³⁰⁵ *Rapport* 2 February 1997] An extensive list of questions was also sent to Mr P W Botha, who had told Archbishop Tutu (at their meeting in November 1996) that he would not respond to issues on an ad hoc basis, but would be prepared to comment on a comprehensive list of questions.³⁰⁶ [³⁰⁶ *Cape Argus* 4 February 1997, *Rapport* 9 February 1997] A list of questions was also sent to the ANC, the IFP, and the National Party (NP),³⁰⁷ [³⁰⁷ *Beeld* 28 February 1997, *The Citizen* 8 March 1997] while at the instance of the TRC Mr Mufamadi began a probe into the destruction of police files and documents which ‘could have a bearing on atrocities or unsolved apartheid era events’.³⁰⁸ [³⁰⁸ *Cape Argus* 4 February 1997]

By early March 1997 the investigating unit was reported to have issued 11 subpoenas, mostly to compel testimony by former security force members. The first six subpoenas, said Archbishop Tutu, had been served only in November 1996, a full six months after the TRC had begun conducting its hearings. This ‘dilatatory’ approach, he said, belied allegations that the TRC constituted a witch hunt against the former security forces. He added that the investigating unit had been asked to ensure that the subpoenas it issued were ‘broadly representative’.³⁰⁹ [³⁰⁹ *Business Day* 5 March 1997] At the end of the month Mr Ntsebeza said the commission planned to subpoena a number of ANC activists and guerrillas involved in gross human rights violations, including bombings, torture and murder. Those who would be called to testify behind closed doors would include, it was reported, both Mrs Winnie Madikizela-Mandela (the former wife of the president, Mr Nelson Mandela), who had been convicted in 1989 of kidnapping a 14-year-old youth, Stompie Seipei (see 1989 *Survey*, pp240–241), and Mr Robert McBride, who had been responsible, with others, for the bombing of Magoo’s Bar on the Durban beachfront in June 1986 (see 1986 *Survey* Part 2, p531).³¹⁰ [³¹⁰ *Ibid* 26 March 1997, *The Sunday Independent* 20 April 1997]

In mid-April 1997 Mr McBride was subpoenaed to appear before the commission and give evidence on the command structure of Umkhonto we Sizwe and who had directed him to plant the Magoo’s Bar bomb. The ANC sought unsuccessfully to have the subpoena stayed, contending that the information the commission sought would be supplied by the organisation in a new submission due to be presented to

the commission in May.³¹¹ [³¹¹ *The Citizen* 17 April 1997] The investigative inquiry proceeded, however, and Mr McBride was reported to have identified his field commander as Mr Aboobaker Ismael, now policy and planning director in the Department of Defence. One of the commissioners, Mr Richard Lyster, refused to confirm or deny this, while Mr Ismael himself declined to comment. It was unclear at the time of writing whether Mr Ismael would in turn be subpoenaed by the commission.³¹² [³¹² *Business Day* 23 April 1997]

In March 1997, six former security policemen from KwaZulu-Natal led members of the investigating unit to five sites in the province where they had allegedly murdered and buried at least ten political activists. Four bodies were exhumed, including those of two ANC cadres who had been involved in Operation Vula. (This had been a clandestine operation intended to establish underground ANC structures in the country in case negotiations failed, which was uncovered by the police in mid-1990.) The two, Messrs Charles Ndaba and Mbuso Tshabalala, had disappeared in June 1990 and police had denied at the time that they had been detained. The amnesty applicants told members of the investigating unit that two other activists had been shot and their bodies weighted down with rocks and thrown into the Tugela River, while the bodies of four more had been obliterated with explosives.³¹³ [³¹³ *Cape Times* 13 March 1997, *Sunday Times* 16 March 1996] The deputy minister of defence, Mr Ronnie Kasrils, subsequently called for the resignation of Mr de Klerk from politics, saying that the latter had been state president at the time and must have known about the actions of these ‘state-sponsored death squads’. Mr de Klerk denied any such knowledge, and said he had taken steps to stop those illegal actions which had subsequently come to his attention, and had also established the Goldstone commission to investigate hit-squad activities.³¹⁴ [³¹⁴ *Business Day* 18 March 1997]

Committee on Reparation and Rehabilitation

The Committee on Reparation and Rehabilitation recommended in early April 1997 that the reparation awarded to victims of human rights abuses be ‘significant and substantial’, and sufficient to make ‘a meaningful and substantial impact on their lives’. It proposed that compensation be given to every person who qualified for it after making a statement to the Committee on Human Rights Violations, and that every victim be given the same package—to be paid over a period of three to five years. The committee said it hoped the making of payments would begin within four to six weeks.³¹⁵ [³¹⁵ *The Star* 4 April 1997]

The committee added that it had not yet calculated the total costs involved, but that at least R3bn would be required. The monies would come, the committee proposed, from a ‘president’s fund’ which was yet to be established and would be financed primarily by the government, as well as international and local donors. Local individuals and corporations would be encouraged to make contributions to it.³¹⁶ [³¹⁶ *Ibid*]

At the time these proposals were formulated, more than 9 000 people had made statements to the commission alleging that they were victims of human rights violation.³¹⁷ [³¹⁷ *Ibid*] Also in April,

Archbishop Tutu announced plans for a campaign to increase the number of statement-takers available to record the statements of victims. Some R3,2m from Belgian donor funding would be used, he stated, to provide for about 300 designated statement-takers from nongovernmental organisations to assist the TRC's own statement-taking team. While the present team would be able to take an estimated further 250 statements before the beginning of July 1997, the additional statement-takers would be able to add significantly to this. Individuals would also be able to fill in statement forms on their own. Archbishop Tutu confirmed that every person who made a statement to the TRC—whether or not he or she testified to the commission—could qualify as a victim and would then be eligible for compensation from the state.³¹⁸ [³¹⁸ Ibid]

Controversy Surrounding the Commission

Controversy surrounded the TRC from its inception. When the names of the 17 commissioners appointed by the president, Mr Nelson Mandela, were announced in November 1995, a number of political parties and other organisations questioned the omission of the Rev Dr Stanley Mogoba, the presiding bishop of the Methodist Church of Southern Africa. Bishop Mogoba, a one-time political prisoner and former vice chairman of the National Peace Committee established under the *National Peace Accord* of 1991 (see 1991/92 *Survey*, p467) was believed to have been regarded as a 'certainty' for selection because of his stature in South African society. Commenting on his omission from those appointed, Mr Tony Leon, the leader of the Democratic Party, said: 'Bishop Mogoba stands head and shoulders above some of the other commissioners, and as a representative from KwaZulu-Natal, he was an obvious choice.' Bishop Mogoba had been a consistent critic of apartheid but had also criticised the African National Congress (ANC) in a number of respects. In particular, he had questioned both the ANC's sanctions policy and the morality of its armed struggle. He was thus likely to have views differing from those of the ANC regarding the conflicts of the past. His omission from the TRC accordingly fuelled speculation that the function of the commission was less to uncover the reality about these conflicts than to 'sanctify the ANC's own version' of recent history.³¹⁹ [³¹⁹ *Frontiers of Freedom*, No 7, First Quarter, pp15–16]

The appointment of a number of ANC members or sympathisers to other senior positions within the commission was also queried, among others, by the Inkatha Freedom Party (IFP), which said that loyalty to the ANC appeared to be a prerequisite for these posts.³²⁰ [³²⁰ *The Citizen* 3 April 1996] The president of the IFP, Chief Mangosuthu Buthelezi, said his party had decided that 'it was impossible for us to receive impartial treatment by the commission'. The appointments made to the TRC, he added, indicated that its purpose was less to bring out the truth and effect reconciliation than to entrench an 'approved' version of recent history.³²¹ [³²¹ Ibid 16 April 1996]

Concern was expressed at various times during the period under review that the TRC would not be even-handed in its operation but would turn into a 'witch hunt' against the former security forces while largely ignoring the role in human rights abuses of the ANC and other liberation movements. These concerns arose on a number of occasions, including the following:

- in March 1996, when the minister of justice, Mr Dullah Omar, appealed to the TRC to make a ‘moral distinction’ between the misdeeds of the apartheid state and those of its opponents;³²² [³²² *Business Day* 5 March 1996]
- in May 1996, when Mr Dumisa Ntsebeza, the head of the TRC’s investigating unit, spoke of the ‘unleashing of the apartheid killing machine’, and some commissioners were accused of leading witnesses in their testimony against the security forces;³²³ [³²³ *Ibid* 2 May 1996; *Financial Mail* 5 July 1996]
- in June 1996, when a witness wishing to testify about ANC abuses in its camps in exile was repeatedly told to confine his evidence to his own particular experiences and, when he continued to describe a mutiny sparked by instructions to cadres to fight against Unita troops in Angola, had his microphone turned off;³²⁴ [³²⁴ *The Star* 19 June 1996]
- in July 1996, when the Foundation for Equality before the Law alleged that sworn statements by a number of white victims of ‘terrorism’ which had been handed to the TRC had disappeared;³²⁵ [³²⁵ *Rapport* 14 July 1996]
- in November 1996, when Mr Ntsebeza said that ‘nine out of ten’ cases of violence had been perpetrated by the former state, while violence emanating (in the remaining 10% of instances) from the liberation movements had been committed in the course of the struggle;³²⁶ [³²⁶ *Die Burger* 5 November 1996]
- also in November, at a TRC hearing into the massacre at Bisho in September 1992, in which Ciskeian soldiers had killed almost 30 ANC supporters and injured another 200 (see 1992/93 *Survey*, p440), when commissioners were dismissive of testimony submitted by the National Party, a former Ciskei police commissioner, General Johan Victor, and the former military ruler of the homeland, Brigadier Joshua ‘Oupa’ Gqozo, and adopted an ‘aggressive and sarcastic tone’ towards Brig Gqozo in particular;³²⁷ [³²⁷ *The Citizen* 21 November 1996, *The Star* 26 November 1996]
- in the same month, in the aftermath of the Bisho hearing, when Archbishop Tutu rebuked members of the commission, and ordered them to stop saying things during public hearings which could undermine the commission’s effort to appear even-handed;³²⁸ [³²⁸ *The Star* 26 November 1996] and
- in February 1997, when Mr de Klerk held a meeting with Archbishop Tutu to discuss various grievances, including a perception that the TRC was biased in its activities and that this was undermining its key purpose of promoting reconciliation.³²⁹ [³²⁹ *Beeld* 28 February 1997]

Controversy also surrounded the TRC’s perceived non-compliance with principles of natural justice and, in particular, the *audi alteram partem* rule, requiring both sides to be heard. When the Committee on Human Rights Violations began its hearings in mid-April 1996 in the Eastern Cape, two senior ex-police officers brought an urgent application before Mr Justice E L King for an order postponing the hearing of

evidence which would implicate them in the poisoning and disappearance of an activist, Mr Siphiwo Mtimkulu, in 1982. The two contended that they had a right to know of what they stood accused well in advance of the hearing, so that they could timeously respond to the allegations against them.³³⁰ [³³⁰ *Cape Times* 25 April 1996] An order to that effect was granted by Judge King,³³¹ [³³¹ *Saturday Star* 22 June 1996] but was thereafter overturned on appeal to a full bench of the Cape Provincial Division of the Supreme Court. Subsequently, on further appeal to the Appellate Division of the Supreme Court, it was restored by the chief justice, Mr Justice Michael Corbett, who ruled that the commission must give alleged perpetrators 'timeous and reasonable notice' that they were to be named at a hearing, as well as details about the allegations. (The commission is not obliged to disclose the identity of any witness, however, nor does the ruling apply in instances where a witness names an alleged perpetrator for the first time in oral evidence after the start of a hearing.)³³² [³³² *The Star* 9 February 1997]

A further legal challenge to the operation of the TRC had earlier arisen in April 1996, when the Azanian People's Organisation (Azapo) and the families of three activists killed in the 1980s had sought to have the amnesty provisions of the Promotion of National Unity and Reconciliation Act of 1995 declared unconstitutional.³³³ [³³³ *Cape Times* 25 April 1996] Azapo and the other applicants argued before the Constitutional Court that sections of the act empowering the TRC to grant amnesty from both civil and criminal liability in specified circumstances (see *Appointment, functions and powers* above) were contrary, among other things, to the right of access to court guaranteed by the transitional constitution of 1993. The court dismissed the application on the basis that this limitation on the right of access was justified by other provisions of the constitution, particularly its postamble which specifically envisaged a broad-ranging grant of amnesty to promote reconciliation and help heal the wounds of the past.³³⁴ [³³⁴ *Azanian Peoples Organisation (Azapo) v President of the Republic of South Africa and others*, 1986 (8) BCLR 1015 (CC)]

Questions were also raised at different times regarding the veracity of unsubstantiated statements presented to the commission as the truth and not subjected to testing through cross-examination. Thus:

- in April 1996 a witness told the TRC that she had counted 175 graves after police had shot at protesters in Langa (Cape Town) in March 1960, while an official investigation into the shootings had concluded that two people had been killed and some 40 injured;³³⁵ [³³⁵ *Evening Post* 23 April 1996; Jeffery, *Riot Policing in Perspective*, South African Institute of Race Relations, Johannesburg, 1991; 1960 *Survey*, p60]
- in May 1996, a Port Elizabeth man, Mr Nzuzo Godfrey Matiwane, was convicted of fraud and sentenced to one year's imprisonment for having lied to the TRC about 'third-force' activities in the Eastern Cape;³³⁶ [³³⁶ *Business Day* 2 April 1996]
- in June 1996 the attorney general of the Northern Cape, Mr Charl du Plessis, said that a commissioner, Mr Denzil Potgieter, had knowingly allowed a witness and former cadre of Umkhonto we Sizwe (Umkhonto), Mr Walter Smiles, to give false evidence to the TRC that he (Mr Smiles), and not two men subsequently convicted, had been responsible for a grenade blast at the Bophuthatswana consulate in

Kimberley in 1993 in which one person had been killed and 40 wounded. Mr du Plessis said that Mr Smiles's 'confession' had first been made before the trial of the two men, but had been investigated and found to be untrue. Mr Potgieter had been defence counsel for the two accused at their trial and had thus known the truth regarding Mr Smiles's evidence. It was highly improper, continued Mr du Plessis, for Mr Potgieter to have heard evidence on the same matter when it was clear that the 'obvious intention was to prove that the original conviction had been wrong';³³⁷ [³³⁷ *The Star* 21 June 1996]

- in August 1996, witnesses before the TRC contradicted the findings of the commission of inquiry chaired by Mr Justice Donald Kannemeyer which had been appointed to investigate police shootings at Langa (near Uitenhage) on 21st March 1985 (see 1985 *Survey*, pp489–492).³³⁸ [³³⁸ Jeffery, *Riot Policing in Perspective*, South African Institute of Race Relations, Johannesburg, 1991] Whereas the commission had found that 20 people had been killed and at least 27 wounded in the shootings, but that there had been no deliberate delay in allowing medical aid to reach the wounded, that no deaths had been concealed, and that no baby had been killed, the TRC was told the opposite in these respects, including the fact that residents had reported 34 deaths.³³⁹ [³³⁹ *The Star* 28 August 1996] Judge Kannemeyer said the TRC was hearing evidence from people who could say what they wanted, and would then have this regarded as the truth. 'I regard this,' he said, as 'a fatal weakness';³⁴⁰ [³⁴⁰ *Die Burger* 5 September 1996] and

- in December 1996 evidence to the TRC by two witnesses regarding the shooting by police of the 'Guguletu Seven' in March 1986 (see 1986 *Survey* Part 2, p550) contradicted what they had earlier told the court during inquest proceedings. One witness told the TRC that police had shot twice at a victim, whereas the witness—who was thereafter found to have lied—had earlier told the inquest court that the victim had been shot three times. A second witness told the TRC that another victim had been shot in the head as he lay unconscious on the ground, whereas the inquest court had earlier rejected this statement for inconsistency with medical evidence. In both instances, however, the commission appeared to accept the statements made by the two without testing them in any way.³⁴¹ [³⁴¹ *Ibid* 19 March 1997]

Controversy also surrounded indications that the TRC was casting doubt on the administration of justice or might intervene in the judicial process. In July 1996 the deputy chairman of the TRC, Dr Alex Boraine, hinted that Mr Justice Louis Harms, who had conducted a commission of inquiry into alleged police 'hit squads' and reported in November 1990 that he had found little evidence of these (see 1991/92 *Survey*, pp492–494), might be subpoenaed to provide the commission with further information regarding 'third-force' activities in the country.³⁴² [³⁴² *Business Day* 18 July 1996] An editorial in *The Citizen* commented that Judge Harms had not been involved in a cover-up regarding hit squads, and queried why he should be called upon to prove this. The newspaper added that judges should 'certainly not be called upon to answer to a body like the TRC, which has its own set of rules, does not grant people who stand accused by others the right to question the witnesses, and seems to be a law unto itself'.³⁴³ [³⁴³ *The Citizen* 19 July 1996]

In August 1996 Archbishop Tutu appealed to judges to 'come and say what their part was in

perpetuating an unjust system'. This was after the Committee on Human Rights Violations had heard evidence from one of the 'Sharpeville Six', who stated that he had been wrongly convicted for the killing in 1984 of a councillor in Sharpeville (south of Johannesburg).³⁴⁴ [³⁴⁴ Ibid 6 August 1996] One of the six, Mr Duma Khumalo, told the commission he had not even been present in the crowd when the murder took place, and alleged that the trial court had failed to hear the testimony of a key witness. Commenting on his allegations, Archbishop Tutu said many judges deserved praise, but there were some who had 'colluded in so many ways when they should have been the last bastion against inroads into those few rights people still had'. He added, 'We are aware that there are people, even on the bench, who ought to come and tell their story. It won't be held against them, but just to clear the air.'³⁴⁵ [³⁴⁵ *Business Day, The Citizen* 6 August 1996]

In October 1996, following the acquittal of General Magnus Malan and 19 others accused of murder and conspiracy to murder arising from the KwaMakhutha massacre in 1987, the TRC said it could subpoena all 20 of the accused to appear before it and answer its questions regarding the massacre. While the trial judge, Mr Justice Jan Hugo, had strongly criticised the state's case, particularly the 'misleading' evidence placed before the court by the investigation task unit (see chapter on *Security*), one of the commissioners, Mr Richard Lyster, said there would be 'a strong sense of frustration' if the accused escaped scot-free.³⁴⁶ [³⁴⁶ *The Star* 11 October 1996]

In a joint statement, Archbishop Tutu and Dr Boraine said the state had failed to secure a guilty verdict despite spending an estimated R7m on a lengthy trial and that the outcome of the trial 'demonstrates our conviction that...the commission offers a better prospect of establishing the truth about our past than criminal trials'. Both added, however, that they 'would not quarrel' with the court's decision, made by it after weighing all the evidence.³⁴⁷ [³⁴⁷ *The Citizen* 12 October 1996] Archbishop Tutu subsequently commented, however, that 'acquittal in a criminal court says very little about moral guilt or innocence'. A trial, he continued, 'does not guarantee the truth and a conviction', and the outcome of the Malan trial showed that 'Nuremberg-type court cases were not the answer'.³⁴⁸ [³⁴⁸ *Sunday Times* 13 October 1996] The IFP responded that Archbishop Tutu's intimation that the TRC would now have to discover 'the real truth' about the KwaMakhutha massacre undermined 'the integrity and independence of the courts'.³⁴⁹ [³⁴⁹ *The Citizen* 15 October 1996]

POLICY REVIEW

Internal rifts were evident within both the African National Congress (ANC) itself, and between the ANC and its allies in the Congress of South African Trade Unions and the South African Communist Party. Opposition parties appeared divided both among and between themselves, and there seemed little prospect of a more cohesive grouping emerging to offer an effective challenge to the ANC in the 1999 general election. Concerns were thus expressed by a number of commentators during the period under review that South Africa was becoming a 'one-party dominant state' in which the ruling party saw little reason to compromise on its preferred policy options.

An important policy issue raised by the continuing conflict in KwaZuluNatal was the best means of policing the province. The central government controlled by the ANC stopped short of acceding to requests from ANC provincial structures for the declaration of emergency rule in the province but did implement a number of stringent security measures. The Inkatha Freedom Party (IFP) alleged on a number of occasions that the efficacy of these would be improved if the provincial government were instead given responsibility in this regard. The 1996 constitution, which came into effect on 4th February 1997, gives provincial governments only limited powers in relation to policing, however. It remains thus open to question whether a greater devolution of power in this regard would increase the efficiency of policing in KwaZuluNatal—as well as the capacity of the security forces to deal with all aspects of conflict in the province.

Also controversial was the role of former cadres of the ANC's erstwhile armed wing, Umkhonto we Sizwe (Umkhonto), now incorporated into the police and army. The IFP alleged on a number of occasions that these former cadres were both biased towards the ANC and responsible for assaulting, torturing and even killing IFP supporters. These allegations raised the policy question of whether former Umkhonto operatives should indeed be deployed in the province to help keep the peace. It might be preferable in the future if the policemen and troops deployed in KwaZulu-Natal to combat violence had no discernible links with either of the protagonists in the province.

Increasing taxi violence illustrated the particular difficulty of devising effective means of countering this form of conflict. Policy decisions were made to enhance control over the taxi industry by requiring the licensing of taxi operators and allocating ranks and routes to specified and authorised operators. These policies, however, proved extremely difficult to implement in practice—and there seemed little doubt that this problem would persist in future. Further policy development—coupled with effective implementation—was thus clearly needed to address the continuing conflict in the industry.

Eradicating necklace executions, the operation of 'kangaroo courts' and the incidence of witchcraft killings also proved difficult in the period under review. Though all were less prevalent than in previous years, the persistence of the first two, in particular, indicated a growing and disturbing impatience with the failure of the state to bring the perpetrators of crimes to book. Policy changes to improve the efficacy of policing and the administration of the criminal justice system were clearly required to remove an impetus towards 'self-help'.

Serious allegations of various kinds were made against the Truth and Reconciliation Commission (TRC) in the period under review, raising doubts as to whether it would achieve either of its stated purposes of ascertaining the truth about the past and effecting reconciliation in the future. These concerns merited an urgent review of both the policy underpinning the establishment of the TRC, and the manner of its implementation.

A particularly important policy issue emerging from the TRC's first year of operation was whether the commission would endeavour to establish itself as a form of 'high court'—able to re-examine judicial findings made in the past and substitute for these its own conclusions. Statements by commissioners as

well as by the chairman of the TRC, Archbishop Desmond Tutu, indicated a reluctance on the part of the commission to accept the validity of judicial findings—even though these had been reached on the basis of established legal principle and a careful examination and testing of all relevant evidence. Instead, lay commissioners seemed to prefer to place their reliance on the allegations of witnesses not subjected to cross-examination on their testimony, nor expected to substantiate their evidence in any way. Should this trend persist, the implications for the administration of justice could be severe.

THE ECONOMY

BIRD'S EYE VIEW

The period under review saw the publication of the government's macro-economic strategy *Growth, Employment and Redistribution (GEAR)*. It set out an 'integrated approach' the aim of which was to attain an economic growth rate of 6% by 2000 and job creation of 400 000 a year. The framework set certain annual macro-economic and fiscal targets which would have to be met in order to realise these goals. Not all the targets set for 1996 were met, however.

Economic growth continued for the fourth consecutive year, but was half a percentage point lower than had been anticipated by *GEAR*. The year 1996 was the third in succession in which real national income per head grew. Growth in formal employment in 1996 was 'disappointing', however, according to the Department of Finance. Jobs were lost in mining, construction and manufacturing during the first nine months of 1996. Between June 1995 and September 1996 some 128 000 jobs were lost in the private sector, although 4 700 were created in the public sector.

The rand began sliding from mid-February 1996 to drop by some 21% during the year, but it began strengthening in the first quarter of 1997. Some exchange controls were eased during 1996 and more relaxations were announced in March 1997. Both the minister of finance and the governor of the reserve bank favoured the gradual abolition of exchange controls.

During 1996 interest rates remained high. The real prime overdraft rate was about 10%. Money supply continued to grow well above the guidelines set by the reserve bank.

There was growth in domestic fixed investment for the third consecutive year in 1996. However, the ratio of gross domestic saving to gross domestic product (GDP) declined between 1995 and 1996. The saving ratio was still too low to adequately finance domestic investment demands. (In fact, gross domestic saving as a proportion of GDP has been declining steadily since 1981.) Net capital inflow continued during 1996 but dropped significantly (by some 80%) compared with the net inflow in 1995.

The government began to tighten fiscal policy, with its budget deficit for 1996/97 not exceeding 5,4% of GDP and its projected deficit for 1997/98 not exceeding 4%. However, the cost of servicing the government debt continued to consume a substantial proportion of revenue collected—some 24%.

Central government allocations to the provinces increased by as much as 40% in some cases between 1994/95 and 1997/98. The reconstruction and development programme was incorporated into the various line departments in 1996. It was anticipated that during 1997 project delivery would accelerate.

KEY POINTS

- Real gross domestic product (GDP) grew by 3,1% in 1996 (the fourth consecutive year of real economic growth), compared with 3,3% in 1995.
- According to the South African Reserve Bank, the ratio of gross domestic savings to GDP dropped from 16,8% in 1995 to 16,5% in 1996.
- South Africans were some 23% richer per head in 1996 than in 1960, but 16% poorer than in 1981, the reserve bank said.
- The bank said that between 1980 and 1990 real personal disposable income per head dropped by 7,1%. Between 1990 and 1996 it dropped a further 2,6%. Real personal disposable income per head in 1996 (R4 239) was below the 1971 figure of R4 240.
- In terms of real national income per head, the 'average South African' was 4,5% better off in 1996 than in 1993, according to the reserve bank.
- In the first nine months of 1996 employment in the non-agricultural formal sector dropped by some 1,5% to 5,24m, according to the 1997 *Budget Review*. However, the minister of labour, Mr Tito Mboweni, said that some 290 000 new job opportunities had been created since March 1994. Total job opportunities increased from 4,95m in 1994 to 5,4m in September 1996, he said. According to the 1997 *Budget Review*, over the year to September 1996 employment in the non-agricultural formal sector fell by about 1,5% to 5,24m.
- During 1996, there was a further decline in the level of gold production, which, at some 495 tonnes, was at its lowest level in 40 years. The drop in gold production cost the country some R1,5bn in lost revenue and foreign exchange earnings.
- Gold sales in 1996 comprised 4,4% of GDP. This was in marked contrast to 1980, when, as a proportion of GDP, they comprised 18,4%.
- According to the reserve bank, the rand declined by 22,1% against the US dollar, and by 28,9% against the British pound in 1996.
- Consumer price inflation in 1996 was 7,4%, the lowest since 1972, and lower than the GEAR document's projection for 1996 of 8%.

- Producer price inflation (PPI) dropped from 9,6% in 1995 to 6,9% in 1996. However, in December 1996 year-on-year the PPI had reached 8,8%.
- In 1996 the real prime lending rate in South Africa was 9,98%, down from the 1995 figure of 10,89%.
- Real gross domestic fixed investment in 1996 was R59,1bn, compared with R55,36bn in 1995—an increase of 6,8%.
- Whereas in 1976 personal and company tax each amounted to some 5% of GDP, by 1997 personal tax had increased to just over 10% of GDP, while company tax had dropped to 3,5%.

MACRO-ECONOMIC PICTURE

The Growth Rate

According to the government's Growth, Employment and Redistribution document (GEAR), published in June 1996, annual growth in gross domestic product (GDP) of 6,1% was envisaged by 2000. In 1996 growth should have averaged 3,5%.¹ [¹ Department of Finance, *Growth, Employment and Redistribution*, June 1996] However, real GDP at market prices grew by only 3,1% in 1996, (although this was the fourth consecutive year of real economic growth).² [² **Fast Facts** No 4 1997; 1995/96 *Survey*, p529]

In 1995 real growth at market prices was 3,3%, and in 1994, 2,7%, compared with 1,3% in 1993 and declines of 2,2% in 1992 and 1% in 1991.³ [³ *Ibid*] GEAR anticipated 2,9% for 1997.

In 1996 the mining sector contracted by 1,5%, but the agricultural, secondary and tertiary sectors grew. Agriculture, which comprised 6,1% of GDP, grew by 26%; the secondary sector, comprising 32,1% of GDP, grew by 1%; and the tertiary sector (53,3%) grew by 3%. Manufacturing, which comprised some 76% of the secondary sector, grew by 0,5%.⁴ [⁴ **Fast Facts** No 4 1997] The fall in mining output was mainly the result of a further decline in South Africa's gold production, which, at about 495 tonnes, was at its lowest level in 40 years.⁵ [⁵ Department of Finance, *Budget Review*, March 1997, p2.1]

In his budget speech in March 1997, the minister of finance, Mr Trevor Manuel, said that he expected the South African economy to grow by 2,5% in 1997.⁶ [⁶ Minister of finance, Mr Trevor Manuel, budget speech, 12 March 1997] The governor of the South African Reserve Bank, Dr Chris Stals, expected growth to average 3%–3,5% in 1997.⁷ [⁷ **Fast Facts** No 4 1997] In April 1997 the International Monetary Fund (IMF) predicted that South Africa's economy would grow by 2,1% in 1997. The IMF said that although the government's commitment to fiscal responsibility and structural reform was 'gaining increasing credibility' among investors, 'efforts to stabilise the economy and remaining uncertainties [were] likely to constrain the pace of growth in the near term'.⁸ [⁸ *Business Day* 24 April 1997] First National Bank

expected growth of 2% in 1997, the Standard Bank 2,3% and the Bureau for Economic Research at the University of Stellenbosch 3,1%.⁹ [⁹ **Fast Facts** No 5 1997]

The table below shows total GDP and GDP per head in the period 1960 to 1996 in real terms as well as the annual change:¹⁰ [¹⁰ South African Reserve Bank (SARB), *South Africa's National Accounts 1946–1993, Supplement to the SARB, Quarterly Bulletin*, June 1994; SARB, *Quarterly Bulletin*, September 1996]

Economic growth and GDP per head: 1960–96^a

Year

Total GDP

Rbn

Increase

(decrease)

GDP per head

R

Increase

(decrease)

1960

86,03

–

5 717

–

1961

89,34

3,9%

5 780

1,1%

1962

94,77

6,1%

5 974

3,4%

1963

101,55

7,1%

6 245

4,5%

1964

109,39

7,7%

6 559

5,0%

1965

116,15

6,2%

6 770

3,2%

1966

121,37

4,5%

6 876

1,6%

1967

128,98

6,3%

7 171

4,3%

1968

135,66

5,2%

7 270

1,4%

1969

143,73

5,9%

7 408

1,9%

1970

151,61

5,5%

7 587

2,4%

1971

158,89

4,8%

7 704

1,5%

1972

162,71

2,4%

7 625

(1,0%)

1973

169,95

4,5%

7 765

1,8%

1974

179,81

5,8%

8 033

3,5%

1975

184,67

2,7%

7 969

(0,8%)

1976

189,55

2,6%

7 946

(0,3%)

1977

188,47

(0,6%)

7 733

(2,7%)

1978

193,85

2,9%

7 755

0,3%

1979

201,28

3,8%

7 848

1,2%

1980

214,73

6,7%

8 163

4,0%

1981

226,20

5,3%

8 380

2,7%

1982

224,74

(0,6%)

8 138

(2,9%)

1983

220,40

(1,9%)

7 790

(4,3%)

1984

232,07

5,3%

7 987

2,5%

1985

229,94

(0,9%)

7 700

(3,6%)

1986

229,79

(0,1%)

7 517

(2,4%)

1987

234,00

1,8%

7 495

(0,3%)

1988

243,23

3,9%

7 631

1,8%

1989

249,19

2,5%

7 633

0,0%^b

1990

247,32

(0,8%)

7 434

(2,6%)

1991

244,55

(1,1%)

7 192

(3,3%)

1992

238,71

(2,4%)

6 879

(4,4%)

1993

242,49

1,6%

6 816

(0,9%)

1994

248,58

2,8%

6 854

0,6%

1995

255,77

2,9%

6 938

1,2%

1996

263,32

3,0%

7 007

1,0%

a

At constant 1990 pri

The line graph below shows total GDP in real terms in the period 1960 to 1996:

South Africans were some 23% richer per head in 1996 than they were in 1960, but 16% poorer than in 1981 (the best year since 1960). After four successive years of negative growth in GDP per head in the period 1990–93, there were rises of 0,6% in 1994, 1,2% in 1995 and 1% in 1996. GDP per head of R7007 in 1996 was, however, still below the 1967 figure of R7 171, and well below GDP per head in 1981, when it had reached R8 380. Since 1993, when it dropped to R6816—the lowest level since 1966—GDP per head has been rising slowly. The line graph below shows GDP per head from 1960 to 1996:

The graph below shows real annual economic growth from 1947 to 1996:

The table below shows the proportional contribution of economic sectors to GDP from 1946 to 1996:¹¹
[¹¹ SARB, *South Africa's National Accounts 1946–1993*, June 1994; SARB, *Quarterly Bulletin*, March 1997]

Proportional contribution of economic sectors to GDP: 1946–96 a

Primary sector

Secondary sector

Tertiary sector

1946

28,6%

17,8%

53,6%

1947

28,6%

19,7%

51,8%

1948

28,2%

20,9%

50,9%

1949

27,3%

21,7%

51,0%

1950

27,8%

22,2%

50,0%

1951

27,7%

22,9%

49,4%

1952

27,4%

23,8%

48,8%

1953

27,2%

23,8%

49,0%

1954

27,7%

24,6%

48,3%

1955

28,1%

24,2%

47,7%

1956

29,0%

23,9%

47,0%

1957

28,6%

24,2%

47,1%

1958

28,2%

24,4%

47,4%

1959

29,6%

24,0%

46,4%

1960

29,7%

24,3%

46,0%

1961

30,0%

24,2%

45,8%

1962

30,4%

24,3%

45,4%

1963

29,6%

25,6%

44,7%

1964

28,3%

27,7%

44,0%

1965

27,4%

28,6%

44,0%

1966

27,4%

29,0%

43,7%

1967

26,8%

29,4%

43,8%

1968

25,5%

29,6%

44,9%

1969

24,6%

30,8%

44,6%

1970

23,6%

31,5%

44,9%

1971

22,7%

32,3%

44,9%

1972

21,3%

33,2%

45,5%

1973

19,7%

34,2%

46,1%

1974

18,7%

34,7%

46,6%

1975

17,1%

35,0%

47,9%

1976

17,4%

34,7%

47,9%

1977

18,3%

33,9%

47,8%

1978

18,1%

34,5%

47,4%

1979

17,7%

35,6%

46,7%

1980

16,8%

36,5%

46,7%

1981

16,1%

37,1%

46,8%

1982

15,8%

36,5%

47,7%

1983

15,1%

35,0%

49,9%

1984

15,1%

34,6%

50,3%

1985

16,1%

33,4%

50,5%

1986

16,0%

33,2%

50,7%

1987

15,4%

33,1%

51,5%

1988

15,1%

33,7%

51,2%

1989

15,4%

33,7%

50,9%

1990

15,0%

33,3%

51,7%

1991

15,2%

32,5%

52,3%

1992

14,2%

32,2%

53,6%

1993

15,2%

31,8%

53,1%

1994

15,1%

31,8%

53,0%

1995

13,6%

32,9%

53,5%

1996

14,3%

32,3%

The graph below shows the proportional contribution of economic sectors to GDP in various years from 1946 to 1996:

The proportional contribution of the tertiary sector to GDP dropped from about 54% in 1946 to 44% in the mid-1960s, only to increase to roughly its 1946 level 50 years later in 1996. The shift in proportional contributions to GDP in the period 1946–96 occurred in the primary and secondary sectors. In 1946 the primary sector comprised some 29% of GDP, compared with the secondary sector's 18%. By 1996 the primary sector's contribution had dropped to just over 14% of GDP, while the secondary sector's had risen to 32%.

Consumption

Private consumption expenditure grew by 4% in real terms in 1996, just less than the 4,5% recorded in 1995. According to the 1997 Budget Review, the marginal slowdown could be attributed in part to high real interest rates which, with high outstanding debts, resulted in a significant debt-servicing burden for households.

Real consumption expenditure by general government grew by about 5% in 1996, after 0,5% in 1995. As a share of GDP, government consumption expenditure rose from 23% in 1995 to 23,5% in 1996.

Private consumption expenditure grew by 498% between 1946 and 1996, while government consumption expenditure grew by 679%. In 1946 government consumption comprised 16,8% of GDP. By 1996 it had risen to 23,5%. Private consumption as a proportion of GDP rose from 62,3% in 1946 to 66,8% in 1996.¹² [12 SARB, *South Africa's National Accounts 1946–1993*, June 1994; SARB, *Quarterly Bulletin*, March 1997]

Savings and Investment

The ratio of gross domestic saving to GDP declined from 16,8% in 1995 to 16,5% in 1996. The deterioration in the domestic saving ratio and the further rise in domestic investment meant that some 8,5% of total gross domestic investment had to be financed either through the running down of the country's gold and foreign reserves or through a net inward movement of capital into the economy, according to the South African Reserve Bank.¹³ [¹³ SARB, *Quarterly Bulletin*, March 1997, p8] (The fast-growing economies of Asia boast saving rates of between 30% and 40% of GDP.)¹⁴ [¹⁴ *F & T Weekly* 28 February 1997]

Net dissaving by general government relative to GDP contracted from 4% in 1995 to 3,5% in 1996. Net saving by households as a proportion of GDP receded from 1,5% in 1995 to 1% in 1996. According to the reserve bank, the low household saving ratio was 'not only inadequate relative to the economy's investment and growth requirements, but also revealed the short-time horizon over which consumers make their spending and saving decisions'.¹⁵ [¹⁵ SARB, *Quarterly Bulletin*, March 1997, p8] The bulk of private sector saving was concentrated in the corporate sector in 1996. The country's overall saving ratio in 1996 was 'still too low to adequately finance domestic investment demands'.¹⁶ [¹⁶ *Ibid*]

According to the 1997 *Budget Review*, faster growth on a sustainable basis would require a rise in gross domestic savings and higher levels of fixed capital formation. The long-term decline in the saving ratio was the result of rising levels of dissaving by the general government without a compensating increase in saving by the private sector, capital flight and a decline in the availability of foreign savings. However, government dissaving had been gradually reduced from over 6% of GDP in 1993 to less than 4% in 1996.¹⁷ [¹⁷ Department of Finance, *Budget Review*, March 1997, pp3.2–3.3] Domestic savings needed to be augmented by foreign capital inflows, which amounted to nearly 4% of GDP in 1995 but fell back to 0,7% in 1996, the *Budget Review* said.¹⁸ [¹⁸ *Ibid*]

The government's *GEAR* document envisaged gross private saving in 1996 to be equivalent to 20,5% of GDP, rising to 21% in 1997. By 2000 gross private saving should have reached 21,9%. Government dissaving as a proportion of GDP was expected to be 3,1% in 1996 and 2,3% in 1997. The aim was to reduce it to 0,6% by 2000.¹⁹ [¹⁹ Department of Finance, *Growth, Employment and Redistribution*, June 1996, p7]

The table and graph below show gross domestic saving as a proportion of GDP from 1981 to 1996:²⁰ [²⁰ SARB, *Quarterly Bulletin*, December 1996, pS-139; *Quarterly Bulletin*, March 1997, pS-139]

Gross domestic saving to GDP: 1981–96

1981

27,2%

1982

20,8%

1983

25,3%

1984

22,5%

1985

24,5%

1986

23,5%

1987

22,5%

1988

22,7%

1989

22,6%

1990

19,5%

1991

18,9%

1992

17,1%

1993

17,2%

1994

17,1%

1995

16,8

Provincial Growth

According to figures published by the Central Statistical Service, the contributions of each province to gross geographic product (GGP) in the period 1991–94 (the latest year for which figures were available) had not changed significantly. Some 37,7% of the country's GDP in 1994 was generated in Gauteng, while the Northern Cape generated only 2,1%. Between 1993 and 1994 the highest growth in real terms was experienced in the North West (2,9%). Real growth in other provinces ranged from none (Northern Province) to 2,5% in the Western Cape. Gauteng's economy grew by 1,6%.

The table below shows the actual value of GGP by province, the proportional contribution of each province to the total in 1993 and 1994, and average annual change:²¹ [²¹ Central Statistical Service (CSS), *Gross Geographic Product 1994*, statistical release PO401, 16 November 1995]

Gross geographic product: 1993 and 1994

1993

Rm

Proportion of total

1994

Rm

Proportion of total

Average annual increase 1991–93

Average annual increase 1993–94

Eastern Cape

26 227

7,6%

29 049

7,6%

11,7%

10,8%

Free State

21 398

6,2%

23 688

6,2%

10,3%

10,7%

Gauteng

130 386

37,8%

144 359

37,7%

12,0%

10,7%

KwaZulu-Natal

51 430

14,9%

57 007

14,9%

11,4%

10,8%

Mpumalanga

27 955

8,1%

31 175

8,1%

9,4%

11,5%

North West

18 961

5,5%

21 252

5,6%

10,6%

12,1%

Northern Cape

7 304

2,1%

8 000

2,1%

11,1%

9,5%

Northern Province

12 995

3,8%

14 158

3,7%

11,1%

9,0%

Western Cape

48 262

14,0%

53 874

14,1%

11,9%

11,6%

Total

344 917

100,0%

382 562

100,0%

11,

Income Per Head

The year 1996 was the third in succession in which real national income per head increased. According to the South African Reserve Bank, the 'average South African' was 4,5% better off in 1996 than in 1993.²² [²² SARB, *Quarterly Bulletin*, March 1997, p1]

The table below shows personal disposable income per head at constant 1990 prices, from 1960 to 1996 (real personal disposable income is defined as total personal income minus income tax and compulsory employee contributions, ie the amount of available income households can spend on consumer goods and services):²³ [²³ Ibid]

Real personal disposable income per head: 1960–96

Year

Personal disposable income per head

R

Increase
(decrease)

1960

3 108

—

1961

3 287

5,8%

1962

3 373

2,6%

1963

3 394

0,6%

1964

3 419

0,7%

1965

3 443

0,7%

1966

3 588

4,2%

1967

3 650

1,7%

1968

3 867

6,0%

1969

3 870

0,1%

1970

3 966

2,5%

1971

4 240

6,9%

1972

4 353

2,7%

1973

4 332

(0,5%)

1974

4 455

2,8%

1975

4 596

3,2%

1976

4 346

(5,4%)

1977

4 474

2,9%

1978

4 251

(5,0%)

1979

4 424

4,1%

1980

4 686

5,9%

1981

4 447

(5,1%)

1982

4 413

(0,8%)

1983

4 434

0,5%

1984

4 637

4,6%

1985

4 472

(3,6%)

1986

4 228

(5,5%)

1987

4 354

3,0%

1988

4 443

2,0%

1989

4 435

(0,2%)

1990

4 353

(1,8%)

1991

4 273

(1,8%)

1992

4 214

(1,4%)

1993

4 186

(0,7%)

1994

4 175

(0,3%)

1995

4 194

0,5%

1996

4 239

1,1%

Change: 1960–70

–

27,6%

Change: 1970–80

–

18,2%

Change: 1980–90

–

(7,1%)

Change:

The fastest growth in personal disposable income per head occurred between 1960 and 1970 when it grew by 27,6%. Between 1970 and 1980 personal disposable income grew by 18,2%. After that it started to decline. Between 1980 and 1990 personal disposable income per head dropped by 7,1% and between 1990 and 1996 by a further 2,6%. Personal disposable income per head in 1996 (R4 239) was still below

the 1971 figure of R4 240. The Bureau of Market Research at the University of South Africa forecast real personal disposable income to grow by 1,4% in 1997.²⁴ [²⁴ **Fast Facts** No 5 1997]

The graph below shows real personal disposable income per head for 1960–96:

Personal saving as a proportion of personal disposable income in 1995 was 2,2%, slightly higher than 1981, when it was 2,1%. Since 1993, when it reached 5,2%, however, it has been dropping.²⁵ [²⁵ SARB, *Quarterly Bulletin*, March 1997, pS–139]

For figures on GDP per head between 1960 and 1996, see under *The growth rate* above.

Unemployment

According to the government's *Growth, Employment and Redistribution* document (*GEAR*) published in June 1996, present trends in the economy were seeing employment growth of 100 000 to 130 000 a year, with unemployment rising to 37% by 2000. Poorly rewarded employment in survival activities grew twice as fast as job opportunities in the formal sector. This implied that inequality in income distribution was likely to worsen.²⁶ [²⁶ Department of Finance, *Growth, Employment and Redistribution*, June 1996, p17]

According to the 1997 *Budget Review*, the trend in measured formal employment was 'disappointing', notwithstanding sustained economic growth since 1993. Over the year to September 1996 employment in the non-agricultural formal sector fell by about 1,5% to 5,24m. Jobs were lost in mining, construction and manufacturing. The accumulated loss of private sector jobs since the second quarter of 1995 stood at 128 000 in the third quarter of 1996, according to the South African Reserve Bank. On the other hand, employment in the public sector grew by about 4 700 from mid-1995 to September 1996.²⁷ [²⁷ Department of Finance, *Budget Review*, March 1997, p2.3; SARB, *Quarterly Bulletin*, March 1997, p9] However, in February 1997 the minister of labour, Mr Tito Mboweni, said that some 290 000 new job opportunities had been created since March 1994. Total job opportunities increased from 4,95m in 1994 to 5,4m in September 1996.²⁸ [²⁸ *F & T Weekly* 21 February 1997]

The reserve bank said in March 1997 that the growth in public sector employment was 'at variance' with *GEAR*, which had targeted a reduction of 100 000 public sector jobs by June 1997. As a proportion of total formal sector non-agricultural employment, public sector employment grew from 30,3% in the first quarter of 1990 to 34,8% in the third quarter of 1996. The reserve bank added that it was 'disquieting' that the number of jobs created during an economic recovery was getting smaller with each successive recovery.²⁹ [²⁹ SARB, *Quarterly Bulletin*, March 1997, p9] The labour absorption capacity of the economy would have to be increased, given the fact that the labour force was growing at an annual rate of 2,5%.³⁰ [³⁰ Department of Finance, *Budget Review*, March 1997] A collective bargaining survey by Gavin Brown and Associates, published in April 1997 said that economic growth was accomplished by rising

unemployment, providing the third successive year of jobless growth.³¹ [³¹ *The Star Business Report* 15 April 1997] (See also chapter on *Employment and Industrial Relations*.)

Skill Shortages

In November 1996 manufacturing capacity was underutilised by 17,4%. The shortage of skilled labour accounted for 3,4% of underutilisation, and the shortage of semi and unskilled labour for another 0,6%.³² [³² **Fast Facts** No 4 1997] (See chapters on *Education* and *Employment and Industrial Relations*.)

Productivity Constraints

According to the South African Reserve Bank, real output per worker increased by 2,7% in both 1993 and 1994 and by a further 3,3% in 1995—the strongest productivity growth experienced in a calendar year since 1970. Productivity growth remained ‘firm’ in 1996, the reserve bank said. During the second half of 1995 real wage growth began to accelerate and rose at relatively high rates in the first three quarters of 1996. The reserve bank said that the inflationary impact of the rise in labour costs was partly countered by the strength of labour productivity, but the increase in real remuneration per worker in an environment of rising unemployment ‘was not in keeping with what could reasonably be expected under such circumstances’.³³ [³³ SARB, *Quarterly Bulletin*, March 1997, pp110–11] (See also chapter on *Employment and Industrial Relations*.)

Poverty

A report on poverty in South Africa was published by the office of the reconstruction and development programme in October 1995. The study indicated that 53% of the population lived in the poorest 40% of households and spent less than R385 per adult per month. The poorest 20% of households spent less than R225 per adult per month.³⁴ [³⁴ Department of Finance, *Budget Review*, March 1997, p1.6]

According to the *Budget Review*, growth and employment creation were critical determinants of progress in redistributing income and reducing poverty. Several studies had shown the importance of work opportunities in reducing the vulnerability of the poor. The *Budget Review* said that in the longer term, progress in the quality and availability of educational opportunities would underpin growth and redistribution.

The government’s *Growth, Employment and Redistribution* document, published in June 1996, said that though many households had been lifted above the poverty line the trend was shifting in favour of higher income classes, where education, training and experience contributed to sustained improvements in productivity.

The slow pace of regulated formal employment growth had resulted in limited benefits of growth

reaching the poor. In many of the poorest households the main breadwinner could not find a job. Whereas the average household received R1 360 per month from wages in 1993, the poorest fifth received R47 per month from regular employment, mainly because so few of their workseekers had jobs.³⁵ [³⁵ Department of Finance, *Growth, Employment and Redistribution, (Appendices)*, June 1996, p5] (See also chapter on *Employment and Industrial Relations*.)

The Balance of Payments

In 1996 the current account deficit came to R8,5bn, compared with R10,2bn in 1995. Forecasts by the Bureau for Economic Research at the University of Stellenbosch showed that the deficit would drop to R6,2bn in 1997, while Nedcor's estimate was R3,5bn.³⁶ [³⁶ **Fast Facts** No 5 1997] As a ratio of gross domestic product (GDP) the deficit declined from 2,1% in 1995 to 1,6% in 1996. In April 1997 the International Monetary Fund projected that South Africa's current account deficit would drop to 1,1% of GDP in 1997.³⁷ [³⁷ *Business Day* 24 April 1997]

The improvement in the current account in 1996 was brought about by a substantial increase in the physical quantity of exported goods and in the value of South Africa's net exports of gold. The total value of merchandise exports increased by 21,5% in 1996. The weakness of international commodity prices and relatively modest domestic price rises restricted the increase in the average rand price of goods exported to only 8,5% in 1996, notwithstanding the depreciation in the rand. The value of net gold exports increased by 16,7%. The value of merchandise imports increased by 18,5% in 1996, compared with 28,5% in 1995. The prices of imported goods rose by 7% in 1996, although by the fourth quarter the annualised rate of increase in import prices had risen to 17,5%. This was a delayed response to the weakening of the rand.³⁸ [³⁸ SARB, *Quarterly Bulletin*, March 1997, pp13–14]

The surplus on the capital account of the balance of payments contracted 'drastically' from 1995 to 1996. The net inflow of capital (not related to reserves) shrank from R19,2bn in 1995 to R3,9bn in 1996. The South African Reserve Bank commented that it was 'quite remarkable' that a net inflow of capital occurred because of the frequent speculative attacks on the rand during 1996.³⁹ [³⁹ *Ibid*, p14] The year was the third in succession to have a surplus on the capital account after deficits every year from 1985 to 1993.

The net capital inflow in 1996 was not sufficient to finance the deficit on the current account. As a result, net gold and other foreign reserves declined by R4,6bn over the year. They rose by R3,2bn between September and December 1996.⁴⁰ [⁴⁰ *Ibid*, p16] The level of the country's gross reserves at the end of 1996 was equivalent to the value of 5,5 weeks' imports of goods and services.⁴¹ [⁴¹ Department of Finance, *Budget Review*, March 1997, p2.6]

The table below shows the balance of payments from 1946 to 1996 (brackets denote a deficit on the current account or a net capital outflow):⁴² [⁴² SARB, *South Africa's Balance of Payments 1946–1992*, Supplement to

the SARB *Quarterly Bulletin*, June 1993; SARB, *Quarterly Bulletin*, March 1997]

Balance of payments: 1946–96

Current account

Rbn

Total capital movements not related to reserves

Rbn

1946

(0,18)

0,10

1947

(0,38)

0,37

1948

(0,34)

0,17

1949

(0,25)

0,12

1950

(0,05)

0,19

1951

(0,28)

0,21

1952

(0,19)

0,17

1953

(0,18)

0,13

1954

(0,13)

0,22

1955

(0,13)

0,09

1956

(0,05)

0,07

1957

(0,05)

(0,02)

1958

(0,18)

0,15

1959

0,14

(0,00)^a

1960

0,03

(0,19)

1961

0,20

(0,10)

1962

0,31

(0,08)

1963

0,15

(0,07)

1964

(0,10)

0,00a

1965

(0,37)

0,29

1966

(0,10)

0,23

1967

(0,27)

0,26

1968

(0,01)

0,52

1969

(0,34)

0,29

1970

(0,92)

0,61

1971

(1,06)

0,71

1972

(0,14)

0,53

1973

(0,17)

0,09

1974

(0,98)

0,75

1975

(1,77)

1,40

1976

(1,65)

0,48

1977

0,21

(0,35)

1978

0,95

(0,41)

1979

2,50

(2,09)

1980

2,55

(1,96)

1981

(4,18)

0,74

1982

(3,56)

4,61

1983

(0,43)

0,14

1984

(2,52)

1,15

1985

5,21

(8,44)

1986

6,33

(5,29)

1987

6,71

(3,56)

1988

3,38

(6,86)

1989

3,47

(3,44)

1990

5,32

(1,77)

1991

6,19

(2,15)

1992

4,98

(4,71)

1993

6,05

(15, 24)

1994

(1,03)

4,33

1995

(10,16)

19,2

There were net capital outflows during periods of political unrest, for example in the early 1960s, the late 1970s and from 1985 to 1993. From 1985 to 1993 there were net capital outflows owing to annual repayments of foreign debt, and surpluses on the current account.

The Gold Price

The average London gold price in 1996 was \$387,71, compared with \$384,17 in 1995—an increase of 0,9%, according to the South African Reserve Bank. In nominal South African rands the gold price increased by 19,4%. The higher rand gold price in 1996 because of the depreciation of the rand helped to ‘salvage’ the industry, according to a consultant at Edey, Rogers, Mr Edward Osborn.⁴³ [⁴³ *The Star Business Report* 5 February 1997] The strengthening of the rand in early 1997, however, was threatening marginal mines, according to the Chamber of Mines of South Africa.⁴⁴ [⁴⁴ *Ibid* 11 February 1997]

During 1996 there was a further decline in gold production which, at about 495 tonnes, was at its lowest level in 40 years.⁴⁵ [⁴⁵ Department of Finance, *Budget Review*, March 1997, p2.1] The drop in gold production cost

the country some R1,5bn in lost revenue and foreign exchange earnings.⁴⁶ [⁴⁶ *The Star Business Report* 11 February 1997] South Africa's gold output last fell to below 500 tonnes in 1956. As late as 1993 the country was still producing in excess of 600 tonnes a year. According to a senior economist at the Chamber of Mines of South Africa, Mr Roger Baxter, the decline in production could be attributed to mines' opting for quality mining at the expense of tonnage; an increase in the number of public holidays from four to 12; rigid and antiquated mining legislation; and declining productivity of the labour force.⁴⁷ [⁴⁷ *Ibid* 26 November 1996] Mr Baxter expected that gold output would rise to 500 tonnes in 1997.⁴⁸ [⁴⁸ *Sowetan* 27 November 1996]

In February 1997 Mr Baxter said that the gold industry was in the process of implementing policy focusing on reducing costs and increasing productivity. There had been investment in human capital, restructuring of work practices, rationalisation of mining operations to improve economies, and increasing use of appropriate technology, Mr Baxter said.⁴⁹ [⁴⁹ *The Star Business Report* 11 February 1997]

In a report by the London-based Economist Intelligence Unit in August 1996 it was said that the gold price would have to reach \$500 an ounce to make it worthwhile to mine the bulk of South Africa's remaining gold because of the rising cost of deep mining and labour.⁵⁰ [⁵⁰ *Ibid* 5 September 1996]

The table below shows the average London gold price from 1946 to 1996:⁵¹ [⁵¹ Fax communication from the SARB, 18 April 1997]

Average London gold price: 1946–96

Price in American dollars

Price in South African Rands^a

Rand increase (decrease)^a

1946

34,71

410,24

N/A

1947

34,71

391,59

(4,5%)

1948

34,71

374,57

(4,3%)

1949

31,70

364,79

(2,6%)

1950

34,72

496,00

36,0%

1951

34,72

467,92

(5,7%)

1952

34,60

426,03

(9,0%)

1953

34,84

414,83

(2,6%)

1954

35,04

410,33

(1,1%)

1955

35,03

397,30

(3,2%)

1956

34,99

390,47

(1,7%)

1957

34,95

378,18

(3,2%)

1958

35,10

368,68

(2,5%)

1959

35,09

363,19

(1,5%)

1960

35,17

358,86

(1,2%)

1961

35,14

353,52

(1,5%)

1962

35,20

344,38

(2,6%)

1963

35,08

338,65

(1,7%)

1964

35,08

334,13

(1,3%)

1965

35,13

321,67

(3,7%)

1966

35,17

310,12

(3,6%)

1967

35,19

302,77

(2,4%)

1968

38,40

325,18

7,4%

1969

41,10

337,47

3,8%

1970

35,94

279,02

17,3%

1971

40,79

298,67

7,0%

1972

58,14

433,37

45,1%

1973

97,24

588,07

35,7%

1974

159,19

852,83

45,0%

1975

161,06

819,86

(3,9%)

1976

124,83

678,44

(17,2%)

1977

147,71

721,57

6,4%

1978

193,26

848,73

17,6%

1979

306,99

1 150,49

35,6%

1980

613,07

1 869,80

62,5%

1981

459,68

1 361,36

(27,2%)

1982

375,79

1 213,38

(10,9%)

1983

424,31

1 247,78

2,8%

1984

360,45

1 248,25

0,0%^c

1985

317,29

1 447,31

15,9%

1986

367,59

1 443,95

(0,2%)

1987

446,60

1 344,39

(6,9%)

1988

437,09

1 301,29

(3,2%)

1989

381,54

1 142,89

(12,2%)

1990

383,58

991,88

(13,2%)

1991

362,19

866,90

(12,6%)

1992

343,72

746,37

(13,9%)

1993

359,70

816,61

9,4%

1994

384,05

748,73

(8,3%)

1995

384,17

816,81

9,1%

1996

387,71

908,31

11,2%

a

The rand price of gold is expressed in real terms with 1990 as the base year.

b

Change in the rand price.

c

I

The graph below shows the average London gold price in American dollars for 1946 to 1996:

The graph below shows the average London gold price in South African rands for 1946–96:

In 1945 total gold sales were equivalent to about 14,2% of gross domestic product (GDP). By 1996 gold sales as a proportion of GDP had dropped to 4,4%. Gold sales to GDP had been declining since 1980, when they comprised 18,4%.⁵² [⁵² Calculated from figures provided by the CSS, *SA Statistics*, 1994; *Bulletin of statistics*, vol 30 no 4, 1996; *Mining: production and sales December 1996*, statistical release P2041, 10 March 1997] (See also *The growth rate* above.)

The Exchange Rate

According to the South African Reserve Bank, the average value of the rand in 1996 was 23 American cents (a drop of 17,9% on 1995). The overall decline in the nominal exchange value of the rand against a basket of currencies (United States (US) dollar, British pound, Deutsche mark and Japanese yen) between the end of 1995 and the end of 1996 was about 21,9%. Against the US dollar the rand declined by 22,1% and against the British pound by 28,9%. The real effective exchange rate of the rand declined by about 16% between December 1995 and December 1996. According to the reserve bank, this strengthened the ability of South African producers to be competitive in export markets. The sustainability of these gains would ultimately be determined by the extent to which domestic cost pressures would be contained.⁵³ [⁵³ SARB, *Quarterly Bulletin*, March 1997, pp17, S-98] (The rand had started dropping in February 1996 following rumours about the health of the president, Mr Nelson Mandela, speculation about the abolition of exchange controls, and a report by the Union Bank of Switzerland that the rand was overvalued by between 7% and 10%.) (See also 1995/96 Survey, p543.)⁵⁴ [⁵⁴ *Business Day* 19 February 1997]

Towards the end of 1996 the rand started appreciating. Over the two months November and December 1996, the effective nominal exchange rate of the rand appreciated by 1% and during the first six weeks of 1997 by a further 9,2%.⁵⁵ [⁵⁵ SARB, *Quarterly Bulletin*, March 1997] In January 1997 a report by the Union Bank of Switzerland said that the rand was undervalued and should fall no further than to R4,85 to the US dollar by the end of 1997.⁵⁶ [⁵⁶ *The Star Business Report* 28 January 1997] Following the rally of the rand in early 1997 the governor of the reserve bank, Dr Chris Stals, warned that the currency's new strength was 'a little of an overadjustment'.⁵⁷ [⁵⁷ *The Citizen* 12 February 1997]

The strengthening of the rand was the result of an improvement in the foreign trade balance and a slowdown in money and credit growth in the fourth quarter of 1996.

According to the scenario projections of the government's *Growth, Employment and Redistribution (GEAR)* document, published in June 1996, the real effective exchange rate was expected to drop by 8,5% in 1996 and 0,3% in 1997. It was projected that the exchange rate would then stabilise from 1998 to 2000.⁵⁸ [⁵⁸ Department of Finance, *Growth, Employment and Redistribution*, June 1996, p7]

The following table shows the value of the rand in American cents from 1970 to 1996, as calculated by the Bureau for Economic Research (BER) at the University of Stellenbosch:⁵⁹ [⁵⁹ Bureau for Economic Research (BER), University of Stellenbosch, *Trends*, vol 11 no 4, December 1988; BER, *Trends*, vol 19 no 4, December 1996]

Exchange rate: 1970–96
(value in American cents)

Year

Commercial rand

Increase
(decrease)

1970

140

—

1971

140

0,0%

1972

129

(7,9%)

1973

144

11,6%

1974

147

2,1%

1975

135

(8,2%)

1976

115

(14,8%)

1977

115

0,0%

1978

115

0,0%

1979

119

3,5%

1980

128

7,6%

1981

114

(10,9%)

1982

92

(19,3%)

1983

90

(2,2%)

1984

68

(24,4%)

1985

45

(33,8%)

1986

44

(2,2%)

1987

49

11,4%

1988

44

(10,2%)

1989

38

(13,6%)

1990

39

2,6%

1991

36

7,7%

1992

35

(2,8%)

1993

31

(11,4%)

1994

28

(9,7%)

1995

28

0,0%

1996^a

23

(17,9%)

a

Figure supplied by the S

In April 1997 an economist at ING Barings, Ms Hania Farhan, said that the rand's effective net depreciation in real terms of about 6%–8% in the previous 15 months would not be enough to prevent the current account deficit from deteriorating during 1997. She said that the rand was due for a 'downward correction' if South Africa's exports were to remain competitive. A senior currency economist at the Union Bank of Switzerland, Mr Peter von Maydell, said that the rand was still relatively cheap on a real trade-weighted basis.⁶⁰ [⁶⁰ *Business Day* 9 April 1997] The chief economist of BOE NatWest, Mr Nick Barnardt, said in March 1997 that if the economy was to achieve growth of 3% to 4% in 1998, the rand would have to weaken by some 10% before the end of 1997 from its level of about R4,43. This would give export growth a further boost in 1998.⁶¹ [⁶¹ *The Citizen* 22 March 1997] The average value of the rand against the dollar in 1997 was expected to be 21,5 American cents, according to the BER. Nedcor anticipated an exchange rate of 21,9 American cents and Standard Bank 22,2.⁶² [⁶² **Fast Facts** No 5 1997]

Exchange Controls

During 1996 there was much speculation about when and how soon exchange controls would be abolished. In February 1997 Dr Stals said that he would advise the government to move cautiously on their abolition. The government should avoid any one-off or 'big-bang' abolition, he said.⁶³ [⁶³ *The Citizen*

12 February 1997] An economist at the BER, Mr Pieter Laubscher, said in February 1997 that waiting too long to abolish exchange controls might have a negative impact on the economy as the market would expect a sharp depreciation in the currency in the event of controls being abolished, and consequently engineer it.⁶⁴ [⁶⁴ *Mail and Guardian* 7 February 1997]

The March 1997 Budget Review said that in South Africa's changed circumstances exchange controls were difficult to administer and represented a perceived disincentive to potential investors. The government's Growth, Employment and Redistribution document, published in June 1996, announced steps in exchange control liberalisation including the following:⁶⁵ [⁶⁵ Department of Finance, *Budget Review*, March 1997, p3.5]

- a relaxation of restrictions on the access of foreign investors to domestic credit;
- increased limits on the asset swap mechanism available to institutional investors;
- provision for institutional investors to transfer a proportion of their net inflow of funds in the previous year;
- provision for corporate entities to offset the cost of imports against export proceeds within a specified time limit; and
- various adjustments to exchange transaction limits and measures to expedite exchange control administration.

In his budget speech in 1997 the minister of finance, Mr Trevor Manuel, announced a further relaxation of exchange controls. Some of the important features of the package announced by the minister included the following:⁶⁶ [⁶⁶ Manuel, budget speech]

- most remaining controls on current account transactions would be abolished, with the exception of discretionary expenditure such as maintenance payments;
- travel allowances would be increased to an annual allowance of R80 000 per adult and R25 000 per child;
- individuals would be allowed to remit an amount of capital abroad, with extended limits for the acquisition of fixed property in member countries of the Southern African Development Community (SADC), maintain foreign currency denominated deposit accounts subject to a prescribed ceiling with South African banks, and retain foreign income earnings in foreign currency accounts;
- corporations wishing to establish new ventures would be permitted to transfer up to R30m as a

proportion of their investment, or R50m in the case of SADC investments;

- South African corporations would be allowed to raise foreign funding on the strength of their South African balance sheets. ‘When circumstances permitted’ they would also be free to invest abroad a proportion of their assets for portfolio investments;
- institutional investors would in 1997 be allowed to invest offshore up to 3% of the net inflow of funds during the 1996 calendar year; and
- the nonresident ownership level at which foreign-controlled resident entities became subject to limits on local borrowing would be raised from 25% to 50%.

To ease the administrative burden of exchange controls the requirement that forms A and E had to be completed for all foreign exchange transactions of R2000 and more would be raised to R40 000 per transaction.⁶⁷ [⁶⁷ Statement on exchange control issued jointly by Mr Manuel and the governor of the reserve bank, Dr Chris Stals, 12 March 1997]

Inflation

The Consumer Price Index

The average consumer price inflation for 1996 was 7,4%, the lowest since 1972. (It was lower than the Growth, Employment and Redistribution document projection for 1996 of 8%.) Consumer price inflation has been declining since 1992, when it dropped to 13,9% after reaching a high of 15,3% the previous year. After 19 years of double-digit inflation (1974–92) 1993 was the first year to see the inflation rate drop to below 10%. In his budget speech in March 1997 the minister of finance, Mr Trevor Manuel, said that he expected consumer price inflation to be somewhat higher in 1997 because of the strong growth in the money supply and credit extension to the domestic private sector, the depreciation of the rand, and the increase in nominal unit labour costs during 1996. The upward inflationary trend was expected to slow down during 1997 as public sector borrowing declined and credit growth and money supply contracted.⁶⁸ [⁶⁸ Manuel, budget speech, p5]

Projections for the inflation rate in 1997 ranged from 9,2% (Nedcor) to 8,7% (Bureau of Market Research).⁶⁹ [⁶⁹ **Fast Facts** No 5 1997] Inflation forecasts for some countries in the European Union, which were among South Africa’s top ten trading partners, were: Italy (2,9%), United Kingdom (2,4%), Belgium (2,1%) and Germany (1,7%).⁷⁰ [⁷⁰ *Financial Mail* 29 November 1996] The United States’ consumer price index was expected to increase by 3,1% in 1997, while that of Japan by 1,1%.⁷¹ [⁷¹ BOE, *Investment Outlook*, March 1997]

Factors contributing to the decline in inflation in 1996, according to the Budget Review, were the slower

growth in nominal labour costs per unit of production, reductions in tariffs on imported goods, consistent application of a counter inflationary monetary policy, and month-to-month declines in food prices.⁷² [72 Department of Finance, *Budget Review*, March 1997, p2.4]

According to the governor of the South African Reserve Bank, Dr Chris Stals, however, there was a danger of escalating inflation that ‘cannot be swept under the carpet at this juncture’. In the 12 months to April 1996 the inflation rate had reached 5,5%. In December 1996 the year-on-year rate of increase in the consumer price index (CPI) escalated to 9,4%. It was of the ‘utmost importance’ that a restrictive monetary policy be retained to ensure that the rate of inflation declined again. Dr Stals added that in order to keep inflation below 10% the money supply should not increase by more than about 10% during 1997.⁷³ [73 Address by Dr Chris Stals, governor of the SARB, twentieth annual investment conference of Société Generale Frankel Pollak, Johannesburg, 18 February 1997 in SARB, *Quarterly Bulletin*, March 1997] At the time of writing the year-on-year rate of increase in the money supply (M3) was 15,8%. This was 58% above the upper limit.⁷⁴ [74 **Fast Facts** No 5 1997]

The following table shows the changes in the inflation rate, as measured by the CPI, from 1946 to 1996:⁷⁵ [75 1995/96 *Survey*, p546; SARB, *Quarterly Bulletin*, March 1997; BER, *Trends*, vol 8 no 2, June 1985]

Inflation rate (consumer price index): 1946–96

1946

1,4%

1947

3,8%

1948

5,9%

1949

3,8%

1950

3,9%

1951

7,3%

1952

8,7%

1953

3,5%

1954

1,9%

1955

3,1%

1956

2,1%

1957

2,9%

1958

3,5%

1959

1,3%

1960

1,3%

1961

1,8%

1962

1,6%

1963

1,2%

1964

2,5%

1965

3,6%

1966

3,5%

1967

3,4%

1968

1,7%

1969

2,9%

1970

5,3%

1971

6,1%

1972

6,5%

1973

9,4%

1974

11,7%

1975

13,5%

1976

11,2%

1977

11,2%

1978

10,2%

1979

13,1%

1980

13,8%

1981

15,2%

1982

14,7%

1983

12,3%

1984

11,6%

1985

16,2%

1986

18,6%

1987

16,1%

1988

12,8%

1989

14,7%

1990

14,3%

1991

15,3%

1992

1

In February 1997 the Central Statistical Service (CSS) published a core inflation index for the first time. According to the CSS, the primary aim of calculating core inflation was to ‘capture the underlying inflationary pressures in the economy, ie the trend in the general price level which reflects the balance between aggregate demand and supply in the economy over the medium term’. Core inflation was derived by excluding certain items from the CPI basket on the basis that changes in their prices were highly volatile, subjected to temporary influences or affected by government intervention and policy.

Items excluded from the CPI basket to obtain the core basket were the following:⁷⁶ [⁷⁶ CSS, *Consumer Price Index February 1997*, statistical release PO141.1, 27 March 1997]

- fresh and frozen meat and fish, as their prices were highly volatile following periods of drought;
- fresh and frozen vegetables and fresh fruit and nuts, owing to their sensitivity to climatic conditions;
- interest rates on mortgage bonds and overdrafts/personal loans. A tightening in monetary policy to counter inflation pressures would cause interest rates to rise and be reflected in the interest cost component of measured inflation. This, in turn, could provoke a further tightening of monetary policy resulting in excessive movements in the inflation rate;
- value added tax, as it was predominantly determined by the government’s fiscal policy; and
- property taxes, as these were predominantly determined by local government.

Food Prices

The table below provides a breakdown of the rate of increase or decrease in the prices of various foodstuffs from 1971 to 1996 (brackets denote a decrease):⁷⁷ [⁷⁷ BER, *Trends*, vol 19 no 4, December 1996; BER, *Trends*, vol 15 no 4, December 1992; BER, *Trends* vol 20 no 1, April 1997; 1995/96 *Survey*, p548]

Food price inflation: 1971–96

Fruit and nuts

Grain products

Meat

Milk, eggs and cheese

Vegetables

Average food price inflation

1971

(1,0%)

7,7%

6,6%

8,0%

(3,6%)

4,9%

1972

4,9%

2,4%

10,8%

3,2%

23,5%

7,0%

1973

19,4%

14,0%

25,0%

9,3%

19,0%

15,3%

1974

8,5%

17,3%

24,4%

14,2%

3,4%

15,1%

1975

15,0%

14,8%

8,9%

22,3%

23,6%

14,9%

1976

12,4%

6,1%

4,9%

8,1%

2,6%

7,4%

1977

14,9%

13,6%

3,1%

6,3%

2,6%

10,3%

1978

6,7%

17,6%

8,3%

12,4%

11,3%

12,9%

1979

16,2%

9,6%

17,5%

15,7%

28,1%

15,6%

1980

6,6%

15,6%

32,1%

11,3%

16,7%

19,0%

1981

14,5%

17,7%

36,0%

14,2%

15,0%

22,1%

1982

16,2%

20,8%

5,0%

19,6%

12,7%

11,2%

1983

15,0%

16,0%

4,4%

13,1%

27,8%

11,7%

1984

15,4%

14,1%

10,9%

10,0%

(0,9%)

10,9%

1985

9,7%

18,4%

10,6%

10,0%

0,5%

12,0%

1986

14,4%

14,4%

26,6%

16,1%

13,9%

20,3%

1987

13,3%

12,3%

31,7%

20,0%

28,4%

22,8%

1988

0,0%

12,1%

23,2%

13,3%

13,7%

15,6%

1989

15,3%

12,9%

9,5%

14,5%

3,4%

11,0%

1990

25,5%

16,6%

9,5%

20,5%

32,5%

16,1%

1991

41,9%

18,1%

19,1%

18,5%

15,4%

19,6%

1992

25,3%

17,7%

21,3%

21,7%

61,0%

25,3%

1993

2,6%

11,5%

8,4%

7,0%

(8,0%)

6,8%

1994

1,0%

8,5%

23,2%

5,7%

18,4%

13,8%

1995

17,3%

6,4%

10,0%

6,0%

4,5%

8,7%

1996

3,7%

12,1%

2,1%

7,9%

9,3%

6,1%

In the 26-year period from 1971 to 1996 the highest ever average food price inflation was in 1992—25,3%. Since then food price inflation has been growing at a slower annual rate: in 1993 it dropped to 6,8%, increasing to 13,8% in 1994 but dropping again to 8,7% in 1995 and 6,1% in 1996. In 1996 the highest rate of increase in prices occurred in the grain products category (12,1%), while the price of

Producer Price Inflation

In 1996 average producer price inflation dropped to 6,9%, compared with 9,6% in 1995. However, towards the end of the year it began rising again, reaching 8,8% in December year-on-year.⁷⁸ [78 Department of Finance, *Budget Review*, March 1997, p2.4]

The following table shows the rate of increase or decrease in the producer price index (PPI) between 1946 and 1996 (brackets denote a decrease):⁷⁹ [79 1995/96 *Survey*, p546; SARB, *Quarterly Bulletin*, March 1997; BER, *Trends*, vol 8 no 2, June 1985]

Changes in the producer price index: 1946–96

Year

Increase
(decrease)

1946

2,0%

1947

4,8%

1948

6,9%

1949

5,7%

1950

7,1%

1951

14,2%

1952

14,6%

1953

1,0%

1954

0,7%

1955

3,1%

1956

1,4%

1957

1,6%

1958

0,2%

1959

(0,2%)

1960

1,3%

1961

1,8%

1962

0,6%

1963

1,3%

1964

2,3%

1965

3,1%

1966

3,8%

1967

2,5%

1968

1,1%

1969

2,2%

1970

3,1%

1971

4,8%

1972

8,1%

1973

13,1%

1974

18,0%

1975

17,2%

1976

15,8%

1977

13,1%

1978

10,0%

1979

15,1%

1980

16,2%

1981

13,6%

1982

14,0%

1983

10,6%

1984

8,3%

1985

17,0%

1986

19,5%

1987

14,0%

1988

13,1%

1989

15,2%

1990

12,0%

1991

11,4%

1992

For most of the 1970s and 1980s the increase in the PPI fluctuated between 10% and 19,5% (in 1986). It dropped below double digits only once between 1973 and 1991. In 1992 producer price inflation was 8,3%, the same it had been in 1984.

The graph below shows the rate of increase or decrease in the CPI and the PPI between 1946 and 1996:

Interest Rates

In April 1996 the South African Reserve Bank announced that bank rate would increase from 15% to 16% from 29th April. According to the governor of the bank, Dr Chris Stals, the increase was made necessary by the depreciation of the rand by 17% between February and April 1996. He added that he hoped the increase in bank rate would stabilise the exchange rate.⁸⁰ [⁸⁰ *The Citizen* 27 April 1996] Prime overdraft rate was increased by the banks to 19,5%. In May, however, the Standard Bank, First National Bank, Absa and Nedcor (which together catered for about 80% of the market) raised prime by a further one percentage point although there had not been a prior increase in bank rate. The reason given by the banks for this increase was that banks' profit margins had been hurt by escalating rates on the wholesale market. Outflows of foreign capital since the rand's decline in February 1996 (see also 1995/96 Survey, p543) had caused shortages in the money market and forced banks to borrow at higher rates.⁸¹ [⁸¹ *The Star Business Report* 20 May 1996] Dr Stals said that the banks had acted to restore their margins to the levels prevailing before the rand had begun to drop. The minister of finance, Mr Trevor Manuel, appealed to banks, following the rise in prime, to keep him informed in future of their interest rate decisions. According to a spokesman for the minister, he was concerned about the effects on the man in the street, but the increase in prime was 'obviously' something the banks had been entitled to do.⁸² [⁸² *Business Day* 20 May 1996]

The Congress of South African Trade Unions called the increase in prime and home loans a 'crime'. It would also make it 'impossible for workers and the poor to afford housing' (see also chapter on *Living Conditions*).⁸³ [⁸³ *The Citizen*, *The Star* 28 May 1996]

The Competition Board began an investigation in May 1996 into whether the four major banks had colluded in increasing prime and home loan interest rates.⁸⁴ [⁸⁴ *The Citizen* 22 May 1996] In June 1996 the

Competition Board said that it had found no evidence of collusion among the banks. Dr Pierre Brooks, chairman of the Competition Board, said that the Standard Bank had led the rate increase partly because its liquidity had been squeezed and that banks had approached the reserve bank for a rate increase before acting unilaterally. The other banks had followed Standard because they feared increased revenue on loans would allow Standard to provide benefits to depositors which would lose them customers. Dr Brooks added that he had not called for a commission of inquiry into the banks' alleged collusion, because some might have believed that he had 'strayed' outside the board's legal jurisdiction. The parliamentary standing committee on trade and industry said that it would explore legislative and other means to reverse the unilateral increase in prime. A three-person committee was established to investigate the Banks Act of 1990 and to make submissions on competition legislation. The committee would also look into the possibility of 'controlling any increase in the future'.⁸⁵ [⁸⁵ *Business Day*, *The Star Business Report* 19 June 1996; *Business Day* 4 June 1996]

In August 1996 the committee said that there was insufficient evidence to conclude that the major banks were guilty of collusion. The committee recommended that Parliament agree to the subcommittee's continuing to maintain an 'oversight over the issues under examination until the Competition Board is fully empowered and appropriate competition policy is in place'.⁸⁶ [⁸⁶ *Business Day*, *The Citizen* 22 August 1996]

Towards the end of June the major banks announced a reduction in prime lending rate to 19,5%, while home loan rates were reduced to 19,25%.⁸⁷ [⁸⁷ *The Citizen*, *Sowetan* 27 June 1996; *The Star Business Report* 26 June 1996] On 1st October 1996 banks decided to reduce prime by a further 0,25 percentage points to 19,25%.⁸⁸ [⁸⁸ *Financial Mail* 4 October 1996] In November 1996 bank rate went up by one percentage point to 17% and prime overdraft rate went up to 20,25%.⁸⁹ [⁸⁹ *The Citizen* 21 November 1996]

Interest rates in South Africa between 1984 and 1996 are given below (figures in brackets denote negative real interest rates).⁹¹ [⁹¹ Fax communication from the SARB, 13 October 1995]

Interest rates: 1984–96

Year end

Bank rate^a

Prime overdraft rate^b

Real prime lending rate^c

1984

20,80%

24,00%

9,51%

1985

13,00%

16,50%

(1,67%)

1986

9,50%

12,00%

(5,14%)

1987

9,50%

12,50%

(1,94%)

1988

14,50%

18,00%

4,85%

1989

18,00%

21,00%

4,90%

1990

18,00%

21,00%

5,56%

1991

17,00%

20,25%

3,48%

1992

14,00%

17,25%

6,97%

1993

12,00%

15,25%

5,25%

1994

13,00%

16,25%

5,79%

1995

15,00%

18,50%

10,89%

1996

17,00%

20,25%

9,98%

a

Rate at which the reserve bank lends to banks.

b

Lowest overdraft rate charged by banks.

c

Actual prime overdraft rate adjusted for inflation.

The graph below shows the real p

In the period 1984–96 the real prime lending rate was negative only three times, in 1985, 1986 and 1987. In 1988 real prime rate in South Africa was 4,85%. By 1996 it was close on 10%, although it had dropped from a peak of 10,9% in 1995.

The government's Growth, Employment and Redistribution document presented in Parliament in June 1996, forecast a drop in real bank rate (the difference between bank rate and the inflation rate) from 7% in 1996 to 3% in 2000. Mr Manuel said that higher real interest rates jeopardised the objectives of

providing housing for all and affected the government's ability to deliver social services.⁹⁰ [⁹⁰ *Saturday Star* 15 June 1996]

Investment

Since 1994 gross domestic fixed investment (GDFI) has grown after negative growth between 1990 and 1993. In 1996 growth in GDFI was 6,8%, compared with 10,3% in 1995. According to the Budget Review, an acceleration in spending on reconstruction and development programme initiatives and other capital outlays by government departments was reflected in the growth of real fixed investment spending by public authorities of 4,5% in 1996, compared with a decline of 7,5% in 1995. Real fixed capital expenditure by public corporations increased by 10% in 1996, compared with 15,5% in 1995. Private sector real gross fixed capital formation rose at a rate of 6,5% in 1996 after increasing by 13% in 1995.⁹² [⁹² Department of Finance, *Budget Review*, March 1997, p2.2]

GDFI by private business enterprises increased by 705% in real terms between 1946 and 1996. GDFI by private business enterprises comprised some 63% of total GDFI in 1946. By 1996 this had grown to 74%.

In 1946 GDFI by public authorities amounted to 35,4% of total GDFI. This had dropped to 11,9% by 1996. The proportional contribution of public corporations to GDFI increased from 2,3% in 1946 to 13,7% in 1996.

Net domestic investment (GDFI less provision for depreciation) made up almost 27% of GDFI in 1996, compared with 5,5% in 1992 and 9,6% in 1993. It was, however, slightly less than the proportion in 1995 (28,2%).⁹³ [⁹³ *F & T Weekly* 28 March 1997]

According to the government's Growth, Employment and Redistribution document, published in June 1996, in 1996 real government investment growth should average 3,4%, dropping slightly to 2,7% in 1997. By 2000 it should be 16,7%. Real parastatal investment should grow by 3% and 5% in 1996 and 1997, respectively, reaching 10% in 2000. Growth in real private investment was forecast to be 9,3% and 9,1% in 1996 and 1997 respectively, growing to 17% in 2000.⁹⁴ [⁹⁴ Department of Finance, *Growth, Employment and Redistribution*, June 1996, p7] Nedcor estimated that GDFI would grow by 4,5% in 1997.⁹⁵ [⁹⁵ **Fast Facts** No 5 1997]

The table below shows GDFI according to organisation, at constant 1990 prices from 1946 to 1996:⁹⁶ [⁹⁶ SARB, *South Africa's National Accounts 1946-1993*, Supplement to the SARB, *Quarterly Bulletin*, June 1994; SARB, *Quarterly Bulletin*, March 1997; proportions calculated by South African Institute of Race Relations, from figures supplied by SARB]

Gross domestic fixed investment according to organisation: 1946-96^a

Public authorities

Year

Private business enterprises

Rm

General government

Rm

Business enterprises^b

Rm

Public corporations^c

Rm

Total^d

Rm

Increase

(decrease)

GDFI as a proportion of GDP

1946

5 462

942

2 114

196

8 632

—

18,3%

1947

6 927

971

2 581

317

10 696

23,9%

22,3%

1948

8 446

1 080

2 954

1 205

13 619

27,3%

26,5%

1949

8 827

1 224

3 288

790

14 027

3,0%

26,4%

1950

8 514

1 177

2 626

823

13 056

(6,9%)

23,3%

1951

8 844

1 169

2 176

713

12 819

(1,8%)

22,0%

1952

10 124

1 362

2 442

929

14 771

15,2%

24,4%

1953

10 298

1 531

3 233

1 599

16 599

12,4%

26,3%

1954

11 041

1 568

3 186

1 333

17 043

2,7%

25,4%

1955

10 462

1 750

3 504

849

16 449

(3,5%)

23,3%

1956

9 675

1 935

3 766

882

16 149

(1,8%)

21,7%

1957

10 042

2 123

4 077

888

17 012

5,3%

21,9%

1958

9 983

2 253

5 646

1 158

18 905

11,1%

23,7%

1959

9 936

2 490

4 179

1 315

17 833

(5,7%)

21,3%

1960

10 702

2 671

3 832

1 003

18 103

1,5%

21,0%

1961

10 532

3 174

3 510

995

18 120

0,1%

20,3%

1962

10 063

3 283

3 284

1 140

17 699

(2,3%)

18,7%

1963

11 877

3 425

3 962

1 666

20 859

17,9%

20,5%

1964

14 889

3 786

4 650

1 744

24 961

19,7%

22,8%

1965

16 600

4 782

5 914

2 140

29 316

17,4%

25,2%

1966

15 960

5 023

5 505

2 569

28 983

(1,1%)

23,9%

1967

16 349

4 843

5 518

3 069

29 731

2,6%

23,1%

1968

16 932

5 223

5 771

3 198

31 076

4,5%

22,9%

1969

19 570

6 484

5 654

3 316

34 971

12,5%

24,3%

1970

22 855

7 036

6 174

3 949

39 962

14,3%

26,4%

1971

24 476

8 141

7 781

3 976

44 282

10,8%

27,9%

1972

24 347

8 691

9 573

4 358

46 870

5,8%

28,8%

1973

26 248

7 601

8 928

6 522

49 317

5,2%

29,0%

1974

28 165

8 438

8 623

7 251

52 537

6,5%

29,2%

1975

29 125

9 073

10 176

9 147

57 664

9,8%

31,2%

1976

27 652

8 498

11 758

8 942

56 951

(1,2%)

30,0%

1977

26 357

7 834

9 301

9 843

53 556

(6,0%)

28,4%

1978

25 688

6 931

7 990

11 132

52 071

(2,8%)

26,9%

1979

26 498

7 073

7 888

12 379

54 241

4,2%

26,9%

1980

32 793

6 937

8 128

15 140

63 504

17,1%

29,6%

1981

39 331

7 069

9 825

12 718

69 191

9,0%

30,6%

1982

39 204

6 371

10 805

11 199

67 704

(2,1%)

30,1%

1983

38 621

6 154

9 347

11 033

65 306

(3,5%)

29,6%

1984

38 809

6 111

7 892

11 323

64 333

(1,5%)

27,7%

1985

33 934

6 033

7 939

11 640

59 813

(7,0%)

26,0%

1986

28 293

5 967

6 336

8 325

48 703

(18,6%)

21,2%

1987

29 392

6 002

5 277

6 887

46 211

(5,1%)

19,7%

1988

34 602

5 985

4 992

6 447

52 026

12,6%

21,4%

1989

35 338

6 425

4 973

8 674

55 410

6,5%

22,2%

1990

35 475

6 268

3 438

8 932

54 113

(2,3%)

21,9%

1991

33 512

5 364

3 232

8 007

50 115

(7,4%)

20,5%

1992

32 716

5 714

1 555

7 494

47 479

(5,3%)

19,9%

1993

32 208

5 801

1 658

6 492

46 159

(2,8%)

19,0%

1994

36 495

5 768

1 554

6 358

50 175

8,7%

20,2%

1995

41 246

5 295

1 461

7 357

55 359

10,3%

21,6%

1996

43 992

5 549

1 501

8 076

59 118

6,8%

22,5%

a

At constant 1990 prices.

b

Includes parastatals.

c

Includes Transnet, Telkom and the South African Post Office.

d

Figures

The graph below shows the increase/decrease in GDFI from 1946 to 1996:

For most of the years since the Second World War GDFI as a proportion of gross domestic product (GDP) fluctuated between 18% and 29%. The only years in which GDFI was 30% or more as a proportion of GDP were 1975, 1976, 1981 and 1982. The graph below shows GDFI as a proportion of GDP from 1946 to 1996:

Trade

Total imports in 1996 amounted to R115,52bn in nominal terms, while exports amounted to R126,10bn.⁹⁷ [⁹⁷ Fax communication from the South African Foreign Trade Organisation (Safto), 22 April 1997] Export volumes for 1996 were up 12% on 1995. According to Mr Mike Schüssler, an economist at the stockbroking firm E W Balderson, exports in January 1997 were up 52% on January 1996 in value terms. This was the type of export growth that only East Asian countries saw, Mr Schüssler said. Growth in exports was being driven by a number of factors apart from the declining value of the rand, including huge increases in capital equipment imports, which were providing unprecedented productivity and quality improvements for South African industry.⁹⁸ [⁹⁸ *Mail and Guardian* 27 March 1997]

Exports and imports grew strongly from 1994 as the economy became reintegrated internationally after the normalisation of diplomatic and trade ties. Real non-gold exports increased by nearly 11% in 1996, after growing an estimated 14,3% in 1995.

Strong growth in export earnings was a crucial source of additional income in the government's macro-economic strategy (see *Growth, Employment and Redistribution* below). To achieve a real average annual increase in non-gold exports of more than 8% and in manufactured exports of over 10% up to 2000, a structural orientation of the economy was required, according to the Budget Review.⁹⁹ [⁹⁹ Department of Finance, *Budget Review*, March 1997, p3.1; Department of Finance, *Growth, Employment and Redistribution*, June 1996]

Between 1985 and 1996 exports increased by 42% while imports grew by 95%. The table below shows the real value of total exports and imports and the annual change from 1985 to 1996:¹⁰⁰ [¹⁰⁰ Department of Finance, *Budget Review*, March 1997]

Exports and imports: 1986–96

Exports
Rm

Increase

(decrease)

Imports
Rm

Increase
(decrease)

1985

63 608

—

46 487

—

1986

61 197

3,8%

45 347

(2,5%)

1987

60 075

(1,8%)

46 932

3,5%

1988

65 969

9,8%

57 214

21,9%

1989

69 517

5,4%

57 396

0,3%

1990

70 714

1,7%

54 046

(5,8%)

1991

70 674

(0,1%)

55 204

2,1%

1992

72 464

2,5%

58 156

5,3%

1993

75 955

4,8%

62 237

7,0%

1994

76 731

1,0%

72 257

16,1%

1995

83 854

9,3%

84 217

16,6%

1996

90 414

7,8%

90 563

7,5%

Change 1985–96

–

42,1%

–

94,8%

The following tables show South African trade with the world by region from 1993 to 1995, and the increase or decrease in imports and exports each year (brackets denote a

Imports to South Africa by region: 1993–95

1993

1994

1995

Region

Rm

Rm

Annual change

Rm

Annual change

Africa

1 629,5

2 354,0

44,5%

2 855,2

21,3%

Asia

14 861,1

17 582,5

18,3%

22 225,0

26,4%

Central/South America

999,1

1 812,9

81,5%

2 466,8

36,1%

Europe

26 350,8

37 474,2

42,2%

46 947,3

25,3%

Middle East

743,8

915,2

23,0%

7 063,2

671,8%

North America

8 255,1

9 649,8

16,9%

12 527,1

29,8%

Oceania

1 540,6

2 351,2

52,6%

3 565,8

51,7%

Total

54 380,0

72 139,8

32,7%

97 650,

South African exports by region: 1993–95

1993

1994

1995

Region

Rm

Rm

Annual change

Rm

Annual change

Africa

6 827,4

8 632,0

26,4%

13 916,0

61,2%

Asia

11 571,9

13 023,1

12,5%

16 983,6

30,4%

Central/South America

1 266,6

2 143,8

69,3%

2 186,4

2,0%

Europe

26 000,5

26 594,3

2,3%

31 295,7

17,7%

Middle East

2 961,4

2 232,2

(24,6%)

2 748,8

23,1%

North America

5 849,7

4 856,9

17,0%

5 424,2

11,7%

Oceania

1 178,5

1 567,7

33,0%

2 363,8

(33,7%)

Total

55 656,0

59 050,0

6,1%

74 918,5

26,9%

In 1996 Europe and Asia (including the Middle East) accounted for 77% of imports to South Africa compared with 78% in 1995. Imports from Africa accounted for 3% of the total (the same as in 1995).

Exports to Europe and Asia comprised 51% of the total in 1996 (the category ‘unclassified’ was the next largest—24%). Exports to Africa increased by 25% between 1995 and 1996.¹⁰² [¹⁰² Information provided by Safto, 22 April 1997] (See also chapter on *Business*.)

The table below shows South Africa’s top ten trading partners in 1994 and

South Africa’s top ten trading partners: 1994 and 1995

Position

Imports from

Exports to

Total trade

Country

1994

1995

Rm

Rm

Rm

Germany

2

1

16 029,9

4 553,7

20 583,6

United Kingdom

3

2

10 755,4

8 286,9

19 042,3

United States

1

3

11 511,5

4 825,5

16 337,0

Japan

4

4

9 880,1

5 110,4

14 990,5

China/Hong Kong

6

5

3 472,5

3 006,3

6 478,8

Italy

7

6

4 005,9

2 409,7

6 415,6

Switzerland

5

7

2 382,1

3 658,8

6 040,9

Taiwan

8

8

3 220,2

2 545,8

5 774,0

Zimbabwe

–

9

964,1

4 542,9

5 507,0

Belgium

9

10

2 129,0

3 236,4

5 365,4

About 61,7% of South Africa's total trade in 1995 was conducted with its top ten trading partners. Trade with Zimbabwe increased significantly during 1995, making it South Africa's ninth biggest trading partner. However, the relationship was skewed, most trade (82%) being made up of exports from South Africa. Germany was South Africa's top trading partner in 1995, but 78% of the total value trade between the two countries were imports

An initiative conducted by IBM Consulting Group in association with the Unisa Graduate School of Business Leadership and London Business School found that South African manufacturing companies were losing ground to their counterparts in Europe in the race to remain competitive in the global market. (The initiative was designed for local companies to measure themselves against an international model of 'best practice' standards and identify what they needed to succeed in the global economy.)¹⁰⁴
[¹⁰⁴ *Business Day* 29 January 1997]

FISCAL POLICY

According to the 1997 *Budget Review*, the government's fiscal policy would take account of the requirements for improved domestic savings, the need to support an export-oriented trade and industry strategy, and the continued role of fiscal policy in countering inflationary pressures. The fiscus would have to play its part in the necessary containment of growth in total consumption expenditure if both investment and net exports were to increase their share of gross domestic product (GDP) expenditure.

The government's macro-economic document, *Growth, Employment and Redistribution (GEAR)*, published in June 1996, had set a budget deficit target of 3% of GDP by 2000. Furthermore, the government aimed to:¹⁰⁵ [¹⁰⁵ Department of Finance, *Growth, Employment and Redistribution*, June 1996]

- eliminate general government dissaving, ensuring that current expenditure was covered by current revenues;
- reduce steadily the level of general government consumption relative to GDP;
- contain the tax burden as a proportion of national income at its present level;
- contain overall remuneration increases within 'fiscally responsible limits'; and
- strengthen public sector investment spending, including both social and economic infrastructure.

Implementation of this policy framework was expected to end a ten-year period during which interest on debt increased each year relative to GDP—from 3,6% in 1987/88 to an estimated 6,5% in 1996/97, according to the Budget Review. Financing the debt would be about 6,4% of GDP in 1997/98, or just over 21% of national budget expenditure.

There had been some progress in the government's fiscal policy, according to the 1997 Budget Review. Annualised dissaving by general government had dropped from a peak of 6,4% of GDP in the first quarter of 1993 to a preliminary estimate of 3,7% in 1996. Dissaving would be brought down to about 3% in 1997 and to below 2% in 1998. The 1997/98 budget also provided for no increase in general government consumption expenditure in real terms (it had grown by some 5% in real terms in 1996 after

a growth of only 0,5% in 1995). Taxes collected by the central and provincial governments had increased from 23,8% of GDP in 1992/93 to just below an estimated 26% in 1995/96 and 1996/97.¹⁰⁶ [106 Department of Finance, *Budget Review*, March 1997, p3.7]

In March 1997 the South African Reserve Bank said that the government should increase the pace of implementation of fiscal discipline and economic reform.¹⁰⁷ [107 *The Star Business Report* 13 March 1997]

Fiscal Management

According to the *Budget Review*, the cabinet had agreed to a medium-term expenditure framework (MTEF) which would be incorporated into the planning of the 1998/99 budget. This framework would be part of a multiyear approach to fiscal planning. The MTEF's aims included:

- assessing the future financial implications of departmental policies and spending programmes;
- providing an instrument for evaluating policy alternatives;
- enabling spending agencies to plan ahead with greater certainty;
- assisting the cabinet in evaluating policy options and setting expenditure priorities; and
- contributing to fiscal and financial planning and policy formation.

Guidelines for the preparation of draft three-year forward estimates for the 1998/99 to 2000/01 fiscal years had been submitted to national spending agencies. The provincial governments would have to adopt a corresponding medium-term plan.¹⁰⁸ [108 Department of Finance, *Budget Review*, March 1997, p4.2]

Regarding 1997/98, spending agencies would be encouraged to shift a proportion of their budget (about 10%) towards financing capital expenditure. It was envisaged that medium-term financing would facilitate sound programming. Departments would be encouraged to identify savings which could be used in financing the budget of the following year.¹⁰⁹ [109 Eastern Cape, *Budget Review*, March 1997]

The director general of finance, Ms Maria Ramos, said in February 1997 that the shift to multiyear budgeting would lead to a 'substantial improvement' in budgeting. It was virtually impossible, Ms Ramos said, particularly on capital expenditure, to budget in year one and spend everything in that year. Most capital projects took two to five years to develop and be completed. A move to multiyear budgeting would allow the government a closer correlation between policy and expenditure.¹¹⁰ [110 *Mail and Guardian* 14 February 1997]

Consolidated National and Provincial Budget

The consolidated budgets of the national and provincial governments provided for total expenditure of R190,2bn in 1997/98. This included a net amount of R1,3bn which was as yet unallocated. Excluding the unallocated amount, total expenditure for 1997/98 was budgeted to be 6,7% higher than the comparable level in 1996/97 and was equivalent to 30,4% of gross domestic product (GDP)¹¹¹ [¹¹¹

Department of Finance, *Budget Review*, March 1997, p9.1]

The minister of finance, Mr Trevor Manuel, said in his budget speech in March 1997 that in line with the goals of the reconstruction and development programme and the *Growth, Employment and Redistribution (GEAR)* strategy, the 1997/98 budget showed a clear shift in priorities towards poverty relief, social development and crime prevention. The budget's theme was a 'better life for all'. Some R300m was being set aside during the 1997/98 financial year for community-based poverty relief programmes. There would also be an increase of R1bn in provision for social security. Some R75m would be set aside to begin phasing in a flat-rate child support benefit.

According to the functional classification, a total of R89bn would go to social services in 1997/98 (compared with R81bn in 1996/97), R30bn to protection services and R19bn on building the economy and supply-side measures. This amount included supply-side programmes for industrial promotion, support for agriculture, water projects and road construction.¹¹² [¹¹² Manuel, budget speech]

Transfers to provinces in 1997/98 would total some R84bn or 45% of the total estimated national budget. Most provincial expenditure would go on education, health and welfare services.

Expenditure on education would amount to some 21,3% of total government expenditure and 6,5% of GDP. (This compared favourably with 5,4% of GDP in industrialised and 3,9% in developing countries.) Health expenditure would amount to 3,3% of GDP and 10,7% of total budgeted expenditure. (Average public health expenditure in industrialised countries was about 5,4% of GDP but in developing countries it was only 0,9%.)

The housing allocation increased by 152%. According to Mr Manuel, housing delivery was accelerating and it was expected that more than 190 000 houses would be built in the subsidy band during 1997/98.

Spending on defence dropped from 4,5% of GDP in 1989/90 to 1,6% of GDP in 1997/98. Expenditure on police, justice and correctional services would increase by about 15% in 1997/98 compared with the previous year once improvements in conditions of service were taken into account. Spending on protection services (defence, police, prisons and courts of law) dropped from 19,4% of the budget in 1985/86 to 18,1% in 1994/95 to 15,7% in the 1997/98 budget.¹¹³ [¹¹³ **Fast Facts** No 4 1997]

For every R1 spent on physical security, some R3 would be spent on social security in 1997/98. This was less a new development than a result of a long-term trend. In 1971/72 social services (which include

education, health, welfare and housing) consumed 21% of the budget. By 1991/92 that proportion had almost doubled. The first budget under African National Congress rule in 1994 saw it rise to 45%. In 1997/98 social spending would consume 46,9% of the budget.

The table below shows the consolidated national and provincial budgets, functionally classified for 1996/97 and 1997/98:¹¹⁴ [114 Department of Finance, *Budget Review*, March 1997]

Functional classification of the budget: 1996/97 and 1997/98

1996/97

Rbn

1997/98

Rbn

Increase/
(decrease)

Social Services

Education

39,17

40,27

2,8%

Health

18,46

20,22

9,5%

Social security and welfare

16,43

18,43

12,2%

Housing

1,65

4,16

152,4%

Other^a

5,66

5,51

(2,7%)

Subtotal

81,37

88,60

8,9%

Protection services

Defence

11,83

10,72

(9,4%)

Police

11,42

13,06

14,4%

Prisons

3,13

3,87

23,5%

Courts of law

1,75

1,98

13,3%

Subtotal

28,12

29,62

5,3%

Economic services

Transport and communication

7,66

7,32

(4,4%)

Agriculture

4,37

4,52

3,5%

Water and related services

2,18

1,86

(14,7%)

Export trade promotion

1,95

1,43

(26,7%)

Other^b

3,35

3,75

12,1%

Subtotal

19,51

18,89

(3,2%)

General government services^c

13,46

13,22

(1,8%)

Interest

34,63

38,55

11,3%

Government enterprises

0,01

0,05

366,3%

Total

177,11

188,92

6,7%

Expenditure not yet classified

0,45

1,30

188,8%

Total estimated expenditure

177,56

190,22

7,1%

a

Including recreation and culture, sewerage, sanitation and community development.

b

Including manufacturing, regional development, tourism, labour services and other multipurpose projects.

c

Including foreign affairs, general research and other government services.

The table below provides a breakdown of each budget from 1994/95 to 1997/98 according to functional classification as a proportion of the

*Functional classification of consolidated national and provincial budgets as a proportion of total budget:
1994/95–1997/98*

1994/95

1995/96

1996/97

1997/98

General government services and unallocable expenditure

Foreign affairs

0,8%

0,8%

0,8%

0,8%

General research

0,3%

0,3%

0,3%

0,3%

Other^a

6,5%

5,8%

6,5%

5,9%

Subtotal

7,6%

6,9%

7,6%

7,0%

Protection services

Defence

8,7%

7,4%

6,7%

5,7%

Police

6,7%

5,9%

6,4%

6,9%

Prisons

1,7%

1,7%

1,8%

2,0%

Courts of law

1,0%

1,0%

1,0%

1,0%

Subtotal

18,1%

16,0%

15,9%

15,7%

Social services

Education

22,0%

22,1%

22,1%

21,3%

Health

10,2%

10,3%

10,4%

10,7%

Social security and welfare

9,3%

9,7%

9,3%

9,8%

Housing

1,3%

1,9%

0,9%

2,2%

Recreation and culture

0,5%

0,5%

0,6%

0,7%

Other^b

1,8%

2,8%

2,6%

2,2%

Subtotal

45,0%

47,1%

45,9%

46,9%

Economic services

Water schemes and related services

0,7%

0,9%

1,2%

1,0%

Fuel and energy

0,3%

0,1%

0,1%

0,1%

Agriculture, forestry and fishing

2,4%

2,2%

2,5%

2,4%

Mining

0,2%

0,1%

0,2%

0,2%

Manufacturing

0,5%

0,5%

0,5%

0,6%

Regional development

0,5%

0,6%

0,4%

0,5%

Transport and communications

4,7%

4,6%

4,3%

3,9%

Other economic services^c

2,5%

2,1%

1,8%

1,5%

Subtotal

11,7%

11,1%

11,0%

10,0%

Interest

17,5%

18,8%

19,6%

20,4%

Government enterprises

0,0%

0,0%

0,0%

0,0%

Total

100,0%

100,0%

100,0%

100,0%

a

Mainly general administration cost of raising loans and unallocable capital expenditure.

b

Sewerage, sanitation, community development and other community services.

c

Export trade promotion, Development Bank of Southern Africa, tourism, labour and multipurpose projects.

The chart below shows the 1994/95 functional classification of the consolidated national and provincial

The chart below shows the 1997/98 functional classification of the consolidated national and provincial budgets as a proportion of the total:

The table below provides a breakdown of the consolidated national and provincial budgets according to functional classifications as a proportion of GDP:

Functional classification of consolidated national and provincial budgets as a proportion of GDP: 1994/95–1997/98

1994/95

1995/96

1996/97

1997/98

General government services and unallocable expenditure

Foreign affairs

0,3%

0,3%

0,2%

0,2%

General research

0,1%

0,1%

0,1%

0,1%

Othera

2,0%

1,8%

2,1%

1,8%

Subtotal

2,4%

2,2%

2,4%

2,1%

Protection services

Defence

2,7%

2,3%

2,1%

1,7%

Police

2,1%

1,9%

2,0%

2,1%

Prisons

0,5%

0,5%

0,6%

0,6%

Courts of law

0,3%

0,3%

0,3%

0,3%

Subtotal

5,7%

5,0%

5,0%

4,8%

Social services

Education

6,9%

6,9%

7,0%

6,5%

Health

3,2%

3,2%

3,3%

3,3%

Social security and welfare services

2,9%

3,0%

2,9%

3,0%

Housing

0,4%

0,6%

0,3%

0,7%

Recreation and culture

0,1%

0,1%

0,2%

0,2%

Otherb

0,6%

0,9%

0,8%

0,7%

Subtotal

14,1%

14,8%

14,5%

14,2%

Economic services

Water schemes and related services

0,2%

0,3%

0,4%

0,3%

Fuel and energy

0,1%

0,0%

0,0%

0,0%

Agriculture, forestry and fishing

0,7%

0,7%

0,8%

0,7%

Mining

0,0%

0,0%

0,1%

0,0%

Manufacturing

0,2%

0,2%

0,2%

0,2%

Regional development

0,2%

0,2%

0,1%

0,1%

Transport and communications

1,5%

1,5%

1,4%

1,2%

Other economic servicesc

0,8%

0,7%

0,6%

0,4%

Subtotal

3,7%

3,5%

3,5%

3,0%

Interest

5,5%

5,9%

6,2%

6,2%

Government enterprises

0,0%

0,0%

0,0%

0,0%

Total

31,4%

31,5%

31,6%

30,4%

a

Mainly general administration cost of raising loans and unallocable capital expenditure.

b

Sewerage, sanitation, community development and other community services.

c

Export trade promotion, Development Bank of Southern Africa, tourism, labour and multipurpose projects.

The table below shows the macro-economic assumptions within which the 1997/98 budget was framed, together with the revised forecast for 1996/97 and the actual figures for 1995/96 (projected percentage changes are rounded to th

Key macro-economic variables for revenue estimates ^a

1995/96
actual

1996/97
revised forecast

1997/98
forecast

GDP (Rbn)

498,1

560,0

622,0

Real GDP growth

3,3%

3,0%

2,5%

GDP inflation

8,0%

9,0%

8,5%

CPI inflation

7,8%

8,0%

8,5%

Real private consumption expenditure growth

4,6%

3,5%

2%

Nominal merchandise import growth

20,3%

24,5%

7%

Average wage rate increase

11,0%

12,5%

11%

Non-agricultural employment growth

0,3%

(1,5%)

0,5%

a

No policy change assum

Deficit

According to the 1997 Budget Review, the budget deficit for the 1997/98 financial year would be 4% of GDP compared to an estimated 5,4% in 1996/97 (before taking into account proceeds from asset sales). The net borrowing requirement for the year would be about R24,77bn.¹¹⁷ [¹¹⁷ Ibid, pp6.1, 6.7] The budget deficit would be in line with the government's commitment in *GEAR* to reduce it to 4% in 1997/98 (see also *Growth, Employment and Redistribution* below). Mr Manuel said in his budget speech in March 1997 that, unlike previous years, only ordinary revenue was considered in calculating the budget deficit and not extraordinary revenue.¹¹⁸ [¹¹⁸ Manuel, budget speech] (The projected budget deficits of some of South Africa's main trading partners in 1997 were expected to be 2,7% (Belgium), 2,9% (United Kingdom), 3% (Germany), and 3,2% (Italy).)¹¹⁹ [¹¹⁹ *Associated Press*, 23 April 1997]

Mr Manuel said that in 1997/98 the cost of servicing government debt would be R39,6bn, which included debt service costs in respect of the ten former homelands. Debt service costs would be 21% of total estimated expenditure and 6,4% of GDP, compared with the revised estimate for 1996/97 of 6,5% of GDP. For every rand of tax collected about 24 cents was spent on interest on government debt.¹²⁰ [¹²⁰ Manuel, budget speech]

The following table and graph show the proportion of GDP that the budget deficit represented between 1988/89 and 1997/98:¹²¹ [¹²¹ 1995/96 *Survey*, p559; Department of Finance, *Budget Review*, March 1997]

The budget deficit: 1988/89–1997/98

Year

Proportion of GDP

1988/89

3,6%

1989/90

0,6%

1990/91

4,1%

1991/92

4,9%

1992/93

9,0%

1993/94

10,2%

1994/95

6,4%

1995/96

6,0%

1996/97^a

5,1%

1997/98^b

4,0%

a

Provisional

b

In April 1997 the Department of Finance said that the actual budget deficit for 1996/97 was 5,6% of GDP and not the 5,4% estimated at the time of the budget. If the proceeds from sales of oil stockpiles were brought into consideration, the deficit was 5,3% against a budgeted 5,1% of GDP. The total amount overspent in 1996/97 was R3,8bn.¹²² [¹²² *Business Day* 18 April 1997]

Public Debt

In 1997/98 the cost of servicing the state debt would amount to some R39,64bn or 6,4% of estimated GDP, slightly lower than the revised estimate of 6,5% in 1996/97. In February 1997 Mr Manuel said that he expected government debt to come down from 58% of gross national product in the second half of 1995 to below 55% in 1997—a fall in this ratio for the first time in six years. The national debt of some of South Africa's main trading partners in 1997 was expected to range from the United Kingdom's 57% to Belgium's 127%.¹²³ [¹²³ *Sowetan* 19 February 1997; *Financial Mail* 29 November 1996]

The following table shows total government debt in each year from 1970 to 1997 as well as a proportion of GDP:¹²⁴ [¹²⁴ Department of Finance, *Budget Review*, March 1997, ppB.67–B.70]

Total debt of the government: 1970–97^a

Total debt

Rbn

Total debt as a proportion of GDP

1970

5,21

44,6%

1971

5,45

42,8%

1972

6,21

43,7%

1973

7,15

44,3%

1974

7,76

38,1%

1975

8,47

34,6%

1976

10,26

37,5%

1977

12,09

39,3%

1978

14,25

41,8%

1979

16,30

40,5%

1980

18,15

36,8%

1981

19,85

31,6%

1982

22,11

30,3%

1983

26,42

31,7%

1984

30,17

31,8%

1985

37,07

33,4%

1986

41,43

32,8%

1987

50,31

33,7%

1988

60,06

34,5%

1989

79,90

38,1%

1990

96,04

38,6%

1991

105,66

37,2%

1992

126,62

39,5%

1993

154,67

44,5%

1994

192,16

48,6%

1995

244,62

54,8%

1996

278,93

56,0%

1997^b

309,51

55,3%

a

Central government debt excluding extra-budgetary institutions (such as universities, technikons, museums, parks boards, libraries, research councils, the National Road Fund, and Legal Aid Board) and social security funds (such as the Unemployment Insurance Fund). Figures prior to 1994/95 exclude the converted debt of the former homelands and are therefore not comparable with the ones thereafter.

b

As projected

The actual budget deficit for 1996/97 was 5,6% of GDP. If the proceeds from sales of oil stockpiles were brought into consideration, the deficit was 5,3% against a budgeted 5,1% of GDP.

The graph below shows total debt as a proportion of GDP in the period 1970–97:

The Budget and the Poor

The 1997/98 budget would make a 'substantial allocation to poverty relief,' Mr Manuel said in his budget speech in March 1997. Some 60% of the R2,8bn given by the government in tax relief in 1997/98 would go to the low and lower-middle income earners. The South African Institute of Race Relations commented that those too poor to pay income tax would benefit from the budget to the extent that it generated confidence and hence levels and types of investment that resulted in the hiring of more workers. Following GEAR, the Budget Review recognised growth and job creation as critical to reducing poverty.¹²⁵ [¹²⁵ **Fast Facts** No 4 1997]

The government policies 'most strongly focused on poverty alleviation' were social security grants, the national housing strategy, land reform, the water and sanitation programme, and public works. Some of the details of poverty alleviation programmes, according to the Budget Review, were the following:¹²⁶ [¹²⁶ Department of Finance, *Budget Review*, March 1997]

- social transfers, including grants to the elderly and the disabled, and family and child care grants went to some 2,7m people;
- unemployment insurance payouts (financed largely by contributions, not taxpayers) went to some 800 000 people;
- between March 1994 and November 1996, 123 139 houses were built or under construction and 192 765 subsidised houses would be produced in 1997;
- R400m was disbursed annually through the National Nutrition and Social Development Programme, while R500m was given to 3,2m children in 1996/97 through the primary school nutrition programme;
- by the end of 1996, some 700 water and sanitation projects, which would benefit 6,4m people and provide sanitation to 100 000, had been committed at a capital cost of R1,6bn. Another 2,1m people would benefit from a further allocation of R650m;
- the clinic building programme had delivered 297 new clinics, 47 residential units attached to clinics, 173 mobile units and 44 vehicles to be turned into mobile units, in addition to the planned upgrading of 2 358 clinics (of which 326 would be upgraded in 1997), with another 270 clinics under construction or planned for 1997;
- R300m had been set aside for poverty relief, particularly in rural areas and among women; and
- there would be an increase of about R1bn in provision for social security, enabling the grant for old people without other means to go up from R430 to R470 a month (9,3%).

Current spending by the government would consume R174,1bn (92,1% of the budget). Of that, some R73,8bn would go on salaries. The amount to go on transfers to households, mainly as social grants, was

R17,3bn. Thus, the Institute said, for every R1 the government would spend on social transfers, it would spend R4,27 on salaries.¹²⁷ [¹²⁷ **Fast Facts** No 4 1997]

The Reconstruction and Development Programme

The reconstruction and development programme (RDP) office was closed in mid-1996. The RDP fund was therefore no longer used as a channel for allocating budgeted amounts to RDP projects. Those RDP projects would be provided for through the normal budgetary process. The fund would be used to channel international financial assistance to earmarked projects and programmes.¹²⁸ [¹²⁸ Department of Finance, *Budget Review*, March 1997, pp4.3, 8.9]

Carry-through costs of RDP projects in the 1997/98 budget amounted to R4,368bn. About 40% of the total amount for RDP projects was included in the transfers to provinces. According to the Budget Review, the department expected that project delivery would be accelerated during 1997.

Some of the major RDP projects included the following:

- the primary school nutrition programme, being implemented in 12 300 schools across the country;
- the clinic building programme which had delivered 297 new clinics, 47 residential units attached to existing clinics, 173 mobile units and 44 vehicles to be turned into mobile units. About 2 358 clinics were also to be upgraded;
- the culture of learning programme which catered for the physical improvement of schools as well as improvement in school governance—more than 1 500 schools had been renovated;
- the school building programme, which had resulted in business plans of R1,14bn approved for funding;
- the urban renewal programme, which was aimed at visible improvements in municipal infrastructure. It had been allocated R2,03bn over five years; and
- a cross-cutting support programme for improvements in policing and the criminal justice system.

Taxation

Total revenue from ordinary taxes was estimated to be R161,98bn in 1997/98, or equal to 26% of gross domestic product (GDP). The minister of finance, Mr Trevor Manuel, said in his budget speech that the budget had gone some way towards ensuring that the tax system was 'fair and equitable'. In 1997/98 the following changes were introduced:

- the primary rebate was increased from R2 660 to R3 215;

- the effects of inflation were reduced for all taxpayers and eliminated for those with taxable incomes lower than R30 000;
- one tax bracket was created for those on taxable incomes up to R30 000;
- the marginal tax rate applicable to taxpayers with taxable income falling in the range from R40 000 to R45 000 was reduced from 41% to 32%; and
- the number of income brackets was reduced from eight to seven.

A person under the age of 65 earning R20 000 would pay R255 less tax per year. Similarly a person earning R60 000 would pay R805 less tax per year. This would cost the government R2,8bn in lost taxes.

The government's longer-term strategy would be to reduce the gradation of the marginal rate schedule; reduce the number of marginal rate brackets; raise the tax threshold; and adjust it for inflation.¹²⁹ [129 Manuel, budget speech, p14]

Whereas in 1976 personal and company tax each amounted to some 5% of GDP, by 1997 personal tax had increased to just over 10% of GDP, while company tax had dropped to 3,5%.

The table and graph below show company and individual tax as a proportion of GDP:¹³¹ [131 *Business Day* 10 May, 11 November 1996; Financial and Fiscal Commission, *The Financial and Fiscal Commission's Recommendations for the Allocation of Financial Resources to the National and Provincial Governments for the 1997/98 Financial Year*, May 1996]

Tax as a proportion of GDP: 1976–98

Company tax as a proportion of GDP

Personal tax as a proportion of GDP

1976

5,3%

5,1%

1977

5,1%

5,7%

1978

4,9%

5,7%

1979

3,9%

5,2%

1980

3,7%

4,2%

1981

3,8%

3,5%

1982

4,3%

4,6%

1983

4,4%

5,5%

1984

3,5%

6,1%

1985

3,4%

7,1%

1986

3,8%

7,2%

1987

3,4%

7,0%

1988

3,4%

7,3%

1989

3,9%

7,1%

1990

4,4%

8,0%

1991

4,2%

8,5%

1992

3,9%

9,4%

1993

3,5%

9,7%

1994

2,8%

9,6%

1995

3,0%

10,1%

1996

3,1%

10,3%

1997^a

3,5%

10,3%

1998^b

3,6%

10,5%

a

Provisional fig

Proposals on Provincial Surcharge

In May 1996 the Financial and Fiscal Commission recommended in a report, entitled the Financial and Fiscal Commission's Recommendations for the Allocation of Financial Resources to the National and Provincial Governments for the 1997/98 Financial Year, that provinces be allowed to raise their own revenue. Provinces would be allowed to impose a surcharge of up to 12 percentage points on personal income tax—while national tax rates on individuals would be lowered by up to seven percentage points. The additional five percentage points tax would not be compensated for by the national government. The commission said that the reallocation should be phased in by 2002/03.¹³¹ [¹³¹ *Business Day* 10 May, 11 November 1996; Financial and Fiscal Commission, *The Financial and Fiscal Commission's Recommendations for the Allocation of Financial Resources to the National and Provincial Governments for the 1997/98 Financial Year*, May 1996] At the time of writing the Department of Finance was investigating the economic impact of the proposed surcharge.¹³² [¹³² *Business Day* 23 February 1997] (See also chapter on *Government and Constitution*.)

Provincial Budgets

In 1997/98 the central exchequer was due to provide 95% of provincial income, the rest coming from 'own source' revenues such as licence and hospital fees.

Provincial spending was heavily concentrated in three areas: health, education and welfare, which accounted for more than three quarters of spending by the provinces. About half of provincial budgets went to cover personnel costs. The largest single item in provincial budgets was education, which accounted for between 35% and 40% of spending. Most provincial education funds went to pay teachers, more than 80% of funds being devoted to personnel costs. Provincial health budgets varied depending on whether a province supported academic health services. Provinces without such facilities allocated some 15% to 20% of their budgets to health, while others, such as Gauteng, which had academic health facilities, spent as much as a third. More than half of all provincial health spending went to cover the costs of personnel such as doctors, nurses and other health-related employees. Most of the welfare allocation was transfer payments to individuals, mainly old-age pensioners and the disabled, salaries of

welfare personnel consuming a much smaller portion. Child and family grants received about a fifth of the amount pensions were allocated.¹³³ [¹³³ **Fast Facts** No 6 1997]

According to the 1997 Budget Review, the national budget allocated a global amount to each province. Each province would then have the responsibility to develop its own budget, within the constraints of national fiscal policy. This was the first step in devolving planning and budgeting tasks to the provinces. Earlier, in February 1997 the minister of finance, Mr Trevor Manuel, said that funds allocated to provinces but which had been used would not be returned to the exchequer but kept in the provincial revenue funds.¹³⁴ [¹³⁴ *Cape Argus* 14 February 1997]

Altogether 43,3% of total spending went via the provinces in 1997/98, central government handling 35,5% of spending itself. The rest—21,2%—would go to paying off government debt in 1997/98.¹³⁵ [¹³⁵ **Fast Facts** No 4 April 1997]

Between 1994/95 and 1997/98 central government transfers to the provinces increased by some 40% in nominal terms. Allocations to most provinces increased by between 27% and 41%. However, transfers to Mpumalanga more than doubled. The North West's allocation in 1997/98 was three quarters more than in 1994/95.

The table below lists the allocations from central government to the various provinces in 1997/98 and compares them with 1994/95, the first budget which provided for the nine new provinces:¹³⁶ [¹³⁶ *Ibid*; 1995/96 *Survey*, p566]

Central government's transfers to the provinces: 1994/95 and 1997/98

1994/95 budget

Rbn

1997/98 budget

Rbn

Increase

(decrease)

1994/95–1997/98

Transfers per head^a 1997/98

R

Proportion of national transfer average

Eastern Cape

10,03

13,77

37,3%

1 979

102,8%

Free State

4,06

5,55

36,8%

1 936

100,6%

Gauteng

9,75

12,91

32,4%

1 830

95,1%

KwaZulu-Natal

11,60

15,49

33,5%

1 747

90,8%

Mpumalanga

2,26

4,80

112,9%

1 594

82,8%

North West

3,86

6,78

75,1%

1 929

100,2%

Northern Cape

1,40

1,97

40,7%

2 559

132,9%

Northern Province

7,91

10,37

31,1%

1 971

102,4%

Western Cape

6,92

8,76

26,5%

2 393

124,3%

Supplementary^b

—

0,40

—

—

—

Total/average^c

57,81

80,81

39,8%

1 925

—

a

Calculation by the South African Institute of Race Relations based on estimates of the size of the population in 1996 by the Institute for Futures Research at the University of Stellenbosch.

b

Supplementary amounts of R227m for the Durban academic hospital and R175m for additional increases in social grants.

c

Figures may not add up owing

The Financial and Fiscal Commission (FFC) submitted a detailed proposal on the allocation of financial resources to the central and provincial governments for the 1997/98 financial year in May 1996. It proposed a provincial revenue sharing formula which included the following:¹³⁷ [¹³⁷ Department of Finance, *Budget Review*, March 1997]

- a national minimum standards grant to give provinces resources to meet 'nationally established service standards' in primary and secondary education and district health care;
- a spillover grant, which would target those provinces facing the additional costs associated with maintaining academic hospitals and other unique health services;
- a fiscal capacity equalisation grant to compensate those provinces that had a smaller tax base;
- an institutional grant, which would be an equal amount per province to help defray the cost of basic legislative and administrative costs; and
- a basic grant allocated to the provinces based on their population with additional weight being given to

people living in rural areas.

The FFC also proposed that in addition to internally raised revenue, a province could receive a share of personal income tax determined as a proportion of the personal income tax base in that province. The commission proposed that the formula be phased in over six years. The Budget Council (comprising the minister of finance, the deputy minister, the nine provincial MECs, and officials from the departments of finance and state expenditure and the provincial departments) did not accept the recommendation of the FFC in full. Although the FFC formula formed the basis of deliberations in the Budget Council, at the time of writing the government had not responded fully to the proposals of the commission. (See also *Proposals on provincial surcharge* above.)

Eastern Cape

Total budget 1997/98: R14,08bn, down 0,9% on 1996/97 budget

Although some R10,9bn was allocated to social expenditure in 1997/98, this expenditure was mainly of a current nature and was therefore not available for the acquisition of capital assets to address infrastructural backlogs. Some 77% of the 1997/98 budget would go to community and social services, compared with nearly 76% in 1996/97.

The table below provides a functional breakdown of allocations in 1996/97 and 1997/98, each function's proportion of the budget and the change over that period:¹³⁸ [¹³⁸ Eastern Cape, *Budget Review*, 1997]

Functional classification of Eastern Cape budget: 1996/97 and 1997/98 a

1996/97

Rm

Proportion of total

1997/98

Rm

Proportion of total

Increase

(decrease)

General government services

General public services

1 265

8,9%

1 839

13,1%

45,3%

Security services

35

0,2%

58

0,4%

67,3%

Subtotal

1 300

9,2%

1 897

13,5%

45,9%

Community and social services

Education

5 019

35,3%

4 844

34,4%

(3,5%)

Health

2 495

17,6%

2 642

18,8%

5,9%

Social security and welfare

2 641

18,6%

2 843

20,2%

7,7%

Housing and community services

458

3,2%

458

3,3%

0,0%b

Recreational and cultural

132

0,9%

91

0,6%

(31,0%)

Subtotal

10 744

75,6%

10 877

77,3%

1,2%

Economic services

Agriculture and forestry

373

2,6%

478

3,4%

28,3%

Mining/mineral resource, manufacturing and construction affairs and services

80

0,6%

63

0,4%

(21,1%)

Transport and communications

709

5,0%

643

4,6%

(9,3%)

Other economic services

52

0,4%

119

0,8%

126,9%

Subtotal

1 214

8,5%

1 303

9,3%

7,4%

Unallocable

951

6,7%

—

—

—

Total

14 209

100,0%

14 078

100,0%

(0,9%)

^a Figures may not add up owing to rounding.

^b Increase t

Free State

Total budget 1997/98: R6,02bn, up 5,5% on 1996/97 budget

The MEC for finance in the Free State, Mr Zingile Dingane, said in April 1997 that if inflation of 9,5% was taken into account, expenditure in 1997/98 was lower in real terms by about 4%. Most of the budget (75,8% or R4,56bn) was allocated to education, health and social welfare. Education received the single biggest slice (35,6% or R2,14bn). Health received 23,3% of the budget or R1,4bn. Social welfare amounted to 17% of total expenditure or R1,02bn.¹³⁹ [¹³⁹ *Business Day* 18 April 1997]

The table below compares the Free State's 1996/97 and 1997/98 budgets:¹⁴⁰ [¹⁴⁰ Ibid; Province of the Free State, *Estimate of Revenue and Estimate of Expenditure for the Financial Year Ending 31 March 1997*]

Free State budget: 1996/97 and 1997/98

1996/97
Rm

Proportion of total

1997/98^a
Rm

Proportion of total^a

Increase
(decrease)

Premier

14,5

0,3%

N/A

N/A

N/A

Legislature

15,7

0,3%

N/A

N/A

N/A

Economic affairs

43,0

0,8%

—

—

—

Finance and expenditure

86,8

1,5%

78,3^b

1,3%

(9,8%)

Health

1 301,9

22,8%

1 400,0

23,3%

7,5%

Education

2 050,2

35,9%

2 140,0

35,6%

4,4%

Welfare

887,8

15,5%

1 020,0

17,0%

14,9%

Local government and housing

245,3

4,3%

159,6

2,7%

(34,9%)

Transport, roads and works

702,6

12,3%

765,1

12,7%

8,9%

Public safety and security

4,7

0,0%^c

11,1

1,8%

136,2%

Agriculture and environ- mental affairs

154,7

2,7%

114,9^d

1,9%

(25,7%)

Sport, recreation, arts and culture

23,7

0,4%

N/A

N/A

N/A

Provincial Service Commission

7,3

0,1%

N/A

N/A

N/A

Improvement of conditions of service

0,0

0,0%

N/A

N/A

N/A

Auxiliary services

67,2

1,2%

N/A

N/A

N/A

Promotion of the RDP^e

105,6

1,8%

162,1

2,7%

53,5%

Total

5 711,1

100,0%

6 016,0

100,0%

5,3%

a

Figures do not add up as some expenditure items were not available at the time of writing.

b

Includes economic affairs.

c

Proportion too small to record.

d

Excludes environmental affairs.

e

Reconstruction and development programme.

N/A

Gauteng

Total budget 1997/98: R13,72bn, up 14,5% on 1996/97 budget

According to the Gauteng *Budget Review*, real spending limitations had been imposed on departments in 1997/98. 'Hard choices' would have to be made on spending priorities. The review added that personnel costs were the 'key cost drivers' for many activities. With the moratorium on employer-initiated retrenchments it would be difficult to scale down activities.

The table below shows the allocations to the four main functional areas of expenditure in 1996/97 and 1997/98 (1996/97 figures are projected actual expenditure and not the original 1996/97 budget):¹⁴¹ [¹⁴¹ Gauteng, *Budget Review*, March 1997]

Gauteng budget: 1996/97 and 1997/98

1996/97^a

Rm

Proportion of budget

1997/98

Rm

Proportion of budget

Increase (decrease)

Education

5 558

40,5%

5 031

36,7%

(9,5%)

Health

4 563

33,2%

4 700

34,3%

3%

Welfare

2 003

14,6%

2 344

17,1%

17%

Transport, roads and works

788

5,7%

709

5,2%

(10,0%)

Other

820

6,0%

934

6,8%

13,9%

Total^b

13 733

100,0%

13 718

100,0%

(0,1%)

a

Projected actual expenditure.

b

Figures may not add up owing to rounding.

Spending on health, education and welfare would make up 88% of total expenditure in 1997/98. According to the *Gauteng Budget Review*, both health and education had increased their actual expenditure in real terms in 1995/96 and 1996/97. Welfare, however, had shown a decrease in real terms. In 1997/98 health showed a small nominal increase of only 3% and education a decrease of 9,5%. Welfare showed an increase of 17% (more than 85% of the welfare budget goes towards payment of grants). In real terms the Gauteng budget reflected a real decrease of 8% in 199

Kwazulu-Natal

Total budget 1997/98: R16,60bn, up 8,3% on 1996/97 budget

The allocation to education and culture in 1997/98 increased by 4,1% compared with 1996/97. This was mainly accounted for by carry-through costs of improvements in conditions of service. The increase of 14,6% in the health budget was also ascribed to costs relating to the improvement in conditions of service. Although the allocation to local government and housing dropped by 3,2% in 1997/98 relative to 1996/97 the MEC for local government and housing in KwaZulu-Natal, Mr Peter Miller, said that he was confident that actual housing delivery would not suffer, because the province was involved in partnerships with the private sector.

In its budget review, the KwaZulu-Natal finance department highlighted the fact that funds were sometimes transferred from the national treasury late in the financial year—some as late as February 1997 for the 1996/97 financial year. (Any unused funds by the end of the financial year had to be returned to the central government.) There was also a ‘paucity’ of funds to provide proper health, welfare and education facilities.

In April 1997 Mr Miller said that the cut in the local government and housing provincial budget allocation in 1997/98 would severely hamper efficiency. In particular it would hinder the development of capital projects.

The table below shows a functional breakdown of allocations in 1996/97 and 1997/98, each function’s proportion of the budget and the change over the period:¹⁴⁴ [¹⁴⁴ KwaZulu-Natal, budget speech, March 1997]

KwaZulu-Natal budget: 1996/97 and 1997/98

1996/97

Rm

Proportion of total

1997/98

Rm

Proportion of total

Increase
(decrease)

Premier

86,6

0,6%

246,1

1,5%

184,2%

Provincial parliament

44,1

0,3%

45,1

0,3%

2,3%

Agriculture

309,9

2,0%

344,3

2,1%

11,1%

Economic affairs and tourism

108,2

0,7%

113,2

0,7%

4,6%

Education and culture

5 871,3

38,3%

6 124,7

36,9%

4,3%

Finance and auxiliary services

178,9

1,2%

168,6

1,0%

(5,8%)

Health

3 239,5

21,1%

3 713,3

22,4%

14,6%

Local government and housing

1 028,1

6,7%

996,3

6,0%

3,1%

South African Police Service

3,2

0,0% a

3,2

0,0% a

0,0%

Provincial Service Commission

12,2

0,1%

8,8

0,0% a

(27,9%)

Traditional and environ- mental affairs

179,9

1,2%

190,8

1,1%

6,1%

Transport

612,7

4,0%

598,2

3,6%

2,4%

Social welfare

3 091,8

20,2%

3 354,0

20,2%

8,5%

Works

549,7

3,6%

595,3

3,6%

8,3%

Reconstruction and development programme

14,0

0,1%

100,0

0,6%

614,3%

Provincial public protector

0,5

0,0% a

0,5

0,0% a

0,0%

Total^b

15 330,8

100,0%

16 602,2

100,0%

8,3%

a

Proportion too small to record.

b

Figures may not add up o

Mpumalanga

Total budget 1997/98: R5bn, up 4,9% on 1996/97 budget

At the time of writing there was no breakdown available of the 1997/98 Mpumalanga budget. However, in his budget speech the Mpumalanga MEC for finance, Mr B J Modipane, said that the expenditure requirements in the budget now reflected the province's priorities, although the absolute allocation of resources was still below the minimum amounts required to bring services in line with national norms. About 92% of expenditure in 1997/98 would be recurrent (including personnel remuneration, social pension transfers, subsidy transfers, and the acquisition of goods and services).

Capital expenditure in 1997/98 was reduced by more than 36%, compared with 1996/97.

North West

Total budget for 1997/98: R7,11bn, up 2,9% on 1996/97 budget

The table below shows the 1996/97 and 1997/98 budgets of the North West as well as the proportional allocations to each vote:¹⁴⁵ [¹⁴⁵ North West, budget speech, March 1997]

North West budget: 1996/97 and 1997/98

1996/97

Rm

Proportion of total

1997/98

Rm

Proportion of total

Increase
(decrease)

Premier

73,1

1,1%

58,0

0,8%

(20,7%)

Legislature

24,7

0,4%

28,6

0,4%

15,8%

Health

1 180,7

17,1%

1 186,0

16,7%

0,4%

Developmental social welfare

1 026,3

14,9%

1 096,0

15,4%

6,8%

Public Service Commission

36,8

0,5%

43,4

0,6%

17,9%

Safety and security

5,9

0,1%

6,7

0,1%

13,6%

Tourism and environ- mental affairs

109,2

1,6%

86,4

1,2%

(20,9%)

Finance and economic affairs

393,0

5,7%

158,8

2,2%

(59,5%)

Education

2 330,1

33,7%

2 746,0

38,6%

17,8%

Local government and housing

456,5

6,6%

452,3

6,4%

(0,9%)

Transport and civil aviation

323,6

4,7%

357,7

5,0%

10,5%

Public works

672,9

9,7%

627,9

8,8%

(6,7%)

Agriculture

274,3

4,0%

258,0

3,6%

(5,9%)

Total^a

6 907,0

100,0%

7 105,8

100,0%

2,9%

a

Figures may not add up owing to rounding.

Allocations to health care, education and social welfare increased by 10,8% from R4,54bn in 1996/97 to R5

Northern Cape

Total budget for 1997/98: R2,044bn, up 11,4% on 1996/97

The table below shows the 1996/97 and 1997/98 budgets of the Northern Cape and the proportional allocations to each vote:¹⁴⁶ [¹⁴⁶ Northern Cape, budget speech, March 1997]

Northern Cape budget: 1996/97 and 1997/98^a

1996/97

Rm

Proportion of total

1997/98

Rm

Proportion of total

Increase
(decrease)

Education

650,1

35,4%

705,5

34,5%

8,5%

Welfare

418,2

22,8%

551,1

27,0%

31,8%

Health

298,5

16,3%

324,6

15,9%

8,7%

Transport

163,5

8,9%

140,9

6,9%

(13,8%)

Housing and local government

76,3

4,2%

77,2

3,8%

1,2%

Agriculture

53,9

2,9%

57,9

2,7%

7,4%

Economic affairs, trade and industry

11,9

0,6%

14,8

0,7%

24,4%

Other

161,9

8,8%

172,0

8,4%

6,2%

Total

1 834,3

100,0%

2 044,3

100,0%

11,4%

a

Figures may not add up owing to r

Education, welfare and health would receive R1,581bn or 77,3% of the 1997/98 budget. In 1996/97 allocations to these three functions comprised 75,3%. Education's allocation increased by 8,5% over 1996/97 while welfare's increased by 31,8%. The increase in the health allocation amounted to 7,7%. The allocation to the Department of Housing and Local Government increased by only 1,2%, compared with 1996/97.

Some 5% was provided in 1997/98 for capital expenditure (R101m). With the inclusion of capital financing sources generated from outside the budget including from national departments, the allocation would increase to some R347,8m.

Northern Province

Total budget for 1997/98: R10,87bn, up 8,2% on 1996/97 budget

An amount of R940,2m was budgeted for capital expenditure (8,7% of the budget). About R7,25bn or 66,7% of the total 1997/98 budget would go to education, health and welfare. Infrastructural

development and the employment creation sector were allocated R1,01bn or 9,3% of the total budget.¹⁴⁷
 [147 Northern Province, budget speech, March 1997]

The table below shows the allocations made to each of the votes in 1996/97 and 1997/98 and their proportion of the total provincial budget:¹⁴⁸ [148 Northern Province, Estimate of Revenue and Estimate of Expenditure for the Financial Year Ending 31 March 1998]

Northern Province budget: 1996/97 and 1997/98

1996/97

Rm

Proportion of total

1997/98

Rm

Proportion of total

Increase
 (decrease)

Office of the premier

243,7

2,4%

135,9

1,3%

(44,2%)

Trade, industry and tourism

97,8

1,0%

135,7

1,2%

38,8%

Education, arts, culture and sports

4 156,7

41,4%

4 000,4

36,8%

3,8%

Agriculture, land and environment

418,7

4,2%

487,1

4,5%

16,3%

Housing and water affairs

—

—

25,4

0,2%

—

Local government and traditional authorities

—

—

268,6

2,5%

—

Health

1 553,9

15,5%

1 684,9

15,5%

8,4%

Public transport

202,1

2,0%

202,4

1,9%

0,1%

Public works

824,3

8,2%

715,4

6,6%

(13,2%)

Safety and security

1,7

0,0%^a

4,4

0,0%^a

236,6%

Finance and expenditure

323,6

3,2%

219,3

2,0%

32,2%

Welfare

1 487,1

14,8%

1 565,8

14,4%

5,3%

Provincial legislature

21,7

0,2%

22,8

0,2%

5,1%

Improvement of conditions of service

358,0

3,6%

1 399,6

12,9%

290,0%

Environmental affairs and tourism

102,9

1,0%

—

—

—

Land, housing and local government

260,6

2,6%

—

—

—

Total^b

10 040,6

100,0%

10 867,5

100,0%

8,2%

a

Proportion too small to record.

b

Figures may not add up owing to rounding.

– Titles of votes have changed, therefore no compa

Western Cape

Total budget for 1997/98: R9,53bn, up 7,2% on 1996/97 budget

The following table compares the 1996/97 and 1997/98 budgets of the Western Cape:¹⁴⁹ [149 Province of the Western Cape, *Estimate of Revenue and Estimate of Expenditure for the Financial Year Ending 31 March 1998*]

Western Cape budget: 1996/97 and 1997/98

1996/97

Rm

Proportion of total

1997/98

Rm

Proportion of total

Increase
(decrease)

Premier

4,3

0,0%^a

17,7

0,2%

31,6%

Legislature

15,8

0,2%

16,8

0,2%

6,3%

Housing, local government and planning

282,3

3,2%

279,1

2,9%

(1,1%)

Economic affairs

10,5

0,1%

19,9

0,2%

9,0%

Finance

31,7

0,3%

102,9

1,1%

224,6%

Health

2 364,5

26,6%

2 474,1

26,0%

4,6%

Corporate services

61,2

0,7%

41,7

0,4%

(31,9%)

Agriculture

87,2

1,0%

68,1

0,7%

(21,9%)

Social services

2 055,3

23,1%

2 267,2

23,8%

10,3%

Environmental and cultural affairs

98,6

0,1%

115,4

1,2%

17,0%

Education

3 173,4

35,7%

3 303,4

34,7%

4,0%

Provincial Service Commission

6,4

0,1%

5,9

0,0% a

(7,8%)

Provincial police service

2,6

0,0% a

6,3

0,0% a

142,3%

Sport and recreation

7,5

0,1%

20,9

0,2%

178,7%

Transport and public works

670,9

7,6%

750,9

7,9%

11,9%

Promoting the reconstruction and development programme

10,0

0,1%

—

—

—

Provincial discretionary development

—

—

10,0

0,1%

—

Improvement of conditions of service

0,0

—

25,0

0,3%

—

Total^b

8 882,2

100,0%

9 525,2

100,0%

7,2%

a

Proportion too small to record.

b

Figures may not add up owing to rounding.

– No allocations were

In his budget speech in April 1997, the MEC for finance in the Western Cape, Mr Kobus Meiring, said that only two provinces, Gauteng and the Western Cape, contributed substantially more to the central exchequer in the form of personal tax, company tax, mining tax, value added tax and customs and excise, than they received from the central government in the form of block grants. Mr Meiring said that the Western Cape's contribution was about 16,7%, while that of Gauteng was 49,3%. The Western Cape's share of the total budget amounted to about 5,6% and that of Gauteng to about 8,3%.¹⁵⁰ [¹⁵⁰ Speech by Mr Kobus Meiring, MEC for finance, Western Cape, 2 April 1997] According to Mr Meiring, the Western Cape would receive some 10% less in real terms from the central government in 1997/98 than in 1996/97. If the amount received from central government was insufficient, especially in a situation where provinces were not allowed to enhance their own income, the provinces could not be blamed if there was not enough money to address the needs of the people, Mr Meiring said. As a result of the reduction in its grant from the central government, the Western Cape cut expenditure in certain services. The two biggest cuts were effected in education (R347m) and health (R255m).

The Western Cape budgeted for a deficit of R247m in 1997/98. (Provinces were not permitted to table budget deficits.) In April 1997 Mr Meiring said that the province was investigating ways of addressing the deficit. One possibility was to raise loans for bridging finance if enabling legislation permitting this was passed before the end of the financial year. However, the African National Congress demanded an upfront management plan indicating how the deficit would be managed before it could vote for the budget.¹⁵¹ [¹⁵¹ *Business Day* 18 April 1997]

NATIONAL ECONOMIC POLICY

The year 1996 saw economic proposals being presented by the government, business and labour. The proposals of business and labour preceded the government's *Growth, Employment and Redistribution*, which was published in June 1996. This had been preceded by the publication of the outline envisaged by the government in March 1996.

Growth, Employment and Redistribution

Growth, Employment and Redistribution (*GEAR*) was published in June 1996 by the Department of Finance as a strategy for rebuilding and restructuring the economy in 'keeping with the goals set in the reconstruction and development programme' (see 1994/95 Survey, pp408–410). The document acknowledged that job creation, which should be the primary source of income redistribution, remained

inadequate. The country's economic performance since 1994 suggested that growth, although slow, would continue in exports and investment. The fiscal deficit would also be gradually reduced. An average annual economic growth rate of 3% was not sufficient to reverse the 'unemployment crisis'; could not provide adequate resources for increased public spending on social services; and was not enough to make progress towards an equitable distribution of income and wealth.¹⁵² [¹⁵² Department of Finance, *Growth, Employment and Redistribution*, June 1996] The lack of sustained long-term capital inflows made the balance of payments and the economy too reliant on short-term reversible flows and higher interest rates. The balance of payments was also a structural barrier to accelerated growth. The document ruled out the possibility of an expansionary fiscal strategy, as this would give only a short-term boost to growth. Growth above 3% would be 'choked off' by a rising current account deficit, upward pressures on real wages and curtailment of investment plans. Higher fiscal deficits would result in higher inflation and higher interest rates, while fiscal expansion would precipitate a balance of payments crisis.¹⁵³ [¹⁵³ Ibid, p3]

Below are the results of a simulation of economic projections from 1996 to 2000 if the economy were to continue along the present path, which would maintain growth of about 3% per year:¹⁵⁴ [¹⁵⁴ Ibid, pp3-4]

Base scenario projections: 1996-2000

Model characteristics

1996

1997

1998

1999

2000

Average

Fiscal deficit (% GDP)

5,1%

4,5%

4,0%

3,5%

3,0%

4,0%

Real government consumption (% GDP)

19,8%

19,5%

19,1%

18,6%

18,1%

19,0%

Average tariff (% imports)

10,0%

9,0%

9,0%

8,0%

8,0%

8,8%

Average real wage growth, private sector

0,8%

1,5%

1,7%

1,3%

1,4%

1,4%

Average real wage growth, government sector

4,8%

0,4%

0,4%

0,3%

0,0%

1,2%

Real effective exchange rate

(9,6%)

0,7%

0,1%

0,1%

0,0%

(1,8%)

Real bank rate

7,0%

6,0%

5,0%

4,5%

3,7%

5,2%

Real government invest- ment growth

2,6%

2,4%

2,2%

2,2%

2,4%

2,4%

Real parastatal investment growth

3,0%

2,5%

2,5%

2,5%

3,0%

2,7%

Real private investment growth

6,3%

4,2%

4,4%

5,8%

7,1%

5,6%

Real non-gold export growth

9,6%

7,5%

6,4%

5,5%

5,3%

6,9%

Results

GDP growth

3,3%

2,0%

2,5%

2,9%

3,3%

2,8%

Inflation (CPI)

8,4%

10,9%

9,6%

9,3%

9,1%

9,5%

Employment growth^a

0,9%

1,0%

0,8%

0,9%

1,3%

1,0%

New jobs per year (000)

97

101

84

103

134

104

Current account deficit (% GDP)

1,8%

1,3%

1,1%

1,1%

1,6%

1,4%

Real export growth (manufacturing)

12,5%

10,4%

7,5%

6,6%

5,4%

8,5%

Gross private savings (% GDP)

20,5%

20,7%

20,8%

20,8%

20,6%

20,7%

Government dissavings (% of GDP)

3,1%

2,6%

2,0%

1,4%

0,9%

2,0%

a

Non-agricultural formal employment.

In order to achieve sustained economic growth the government proposed an integrated medium-term strategy. This str

Integrated scenario projections: 1996–2000

Model characteristics

1996

1997

1998

1999

2000

Average

Fiscal deficit (% GDP)

5,1%

4,0%

3,5%

3,0%

3,0%

3,7%

Real government consumption (% GDP)

19,9%

19,5%

19,0%

18,5%

18,1%

19,0%

Average tariff (% imports)

10,0%

8,0%

7,0%

7,0%

6,0%

7,6%

Average real wage growth private sector

(0,5%)

1,0%

1,0%

1,0%

1,0%

0,8%

Average real wage growth government sector

4,4%

0,7%

0,4%

0,8%

0,4%

1,3%

Real effective exchange rate (% change)

(8,5%)

(0,3%)

0,0%

0,0%

0,0%

(1,8%)

Real bank rate

7,0%

5,0%

4,0%

3,0%

3,0%

4,4%

Real government investment growth

3,4%

2,7%

5,4%

7,5%

16,7%

7,1%

Real parastatal investment growth

3,0%

5,0%

10,0%

10,0%

10,0%

7,6%

Real private investment growth

9,3%

9,1%

9,3%

13,9%

17,0%

11,7%

Real non-gold export growth

9,1%

8,0%

7,0%

7,8%

10,2%

8,4%

Additional foreign direct investment (US\$m)

155

365

504

716

804

509

Results

GDP growth

3,5%

2,9%

3,8%

4,9%

6,1%

4,2%

Inflation (CPI)

8,0%

9,7%

8,1%

7,7%

7,6%

8,2%

Employment growtha

1,3%

3,0%

2,7%

3,5%

4,3%

2,9%

New jobs per year (000)

126

252

246

320

409

270

Current account deficit (% GDP)

2,2%

2,0%

2,2%

2,5%

3,1%

2,4%

Real export growth (manufacturing)

10,3%

12,2%

8,3%

10,5%

12,8%

10,8%

Gross private savings (% GDP)

20,5%

21,0%

21,2%

21,5%

21,9%

21,2%

Government dissavings (% GDP)

3,1%

2,3%

1,7%

0,7%

0,6%

1,9%

a

Non-agricultural formal employment.

The goal of the strategy was annual economic growth of 6% and job creation of 400 000 per year by 2000. This was expected to provide a broad bridge between the present constrained economic environment and an improved growth and employment performance in the period up to 2000. At the same time it would strengthen the competitive capacity of the economy in the long term. This would necessitate the following:

- accelerated growth of non-gold exports;
- expansion in private s
- acceleration in public sector investment;
- improvement in the employment intensity of investment and output growth; and
- an increase in infrastructural development and service delivery, making intensive use of labour-based techniques.

The core elements of the strategy were the following:

- budget reform towards greater redistribution of expenditure;
- a faster reduction in the fiscal deficit;
- an exchange rate policy to keep the real effective rate of the rand stable at a competitive level;
- a monetary policy aimed at preventing a resurgence of inflation;
- the gradual relaxation of exchange controls;
- tariff reduction to contain input prices and facilitate industrial restructuring;
- tax incentives to stimulate new investment in competitive and labourabsorbing projects;
- a speedier restructuring of state assets to optimise investment resources; and
- an expansion of trade and investment flows in southern Africa.¹⁵⁵ [¹⁵⁵ Ibid, p2]

The government's proposals included a reduction in the fiscal deficit from 5,1% of GDP in 1996 to 3% in 2000; additional foreign direct investment of US\$365m in 1997—total additional direct foreign

investments amounting to \$2,5bn from 1996 to 2000.

Accelerated Growth

GDP growth to reach 6% by 2000

According to the document, the lower rand was a 'crucial window of opportunity' for producers of traded goods for both export and domestic markets. For this to be utilised to its fullest government consumption expenditure should be cut back, private and public sector wage increases kept in check, tariff reform accelerated to compensate for the depreciation, and domestic savings improved.

Non-gold export growth should reach 10% a year by 2000. Private sector investment would average some 12% growth between 1995 and 2000. Public sector investment growth would reach up to 10% per year by 1998 and would complement the demand stimulus of stronger non-gold exports and private investment performance. All these developments were expected to provide sufficient impetus for GDP growth to reach 6% by 2000.

To contain inflationary pressures there would have to be accelerated tariff liberalisation, sharper deficit reduction, a tight monetary policy and productivity-linked wage increases. These measures were expected to keep the inflation rate below 10%.

Gross domestic saving was expected to rise from 18% to 22% of GDP. This would form an important basis for the long-term sustainability of economic growth. Gross domestic investment was expected to increase from 20% to nearly 26% of GDP in 2000. A favourable investment climate would be important to attract foreign investment.¹⁵⁶ [¹⁵⁶ Ibid, p6]

Fiscal Policy

Fiscal deficit to drop to 3% by 2000

A tighter fiscal policy was necessary to increase domestic saving and benefit from stronger investment and exports. The lowering of the fiscal deficit between 1996 and 2000 to reach 3% of GDP and the envisaged strengthening of government investment spending would eliminate government dissaving, according to the document.

Central to the government's fiscal strategy would be careful management of the overall government wage bill. It was envisaged that the wage bill would increase by 2% per year in real terms from 1996 to 2000. Containment of spending would allow an increase in discretionary RDP-related spending on projects of a capital nature of about 3% a year.

According to the document, the improvement in economic growth, together with improved tax

administration, should lead to a strong increase in tax revenue relative to GDP. This would create scope to effect further reductions in the rates of personal and corporate taxation, while maintaining a ratio of tax to GDP of about 25%.¹⁵⁷ [¹⁵⁷ Ibid, pp8–9]

Monetary and Exchange Rate Policy

Real bank rate to drop to 3% by 2000

Positive real interest rates were necessary to maintain financial stability and reduce the inflation rate. They would also encourage savings and investment. Nevertheless, interest rates would have to be lower than the current high levels as higher interest rates hampered the development of small business, which was dependent on bank credit. They also put home ownership out of the reach of more people. The aim of the strategy was to create the conditions which would allow for lower but positive interest rates.¹⁵⁸ [¹⁵⁸ Ibid, p10]

The government's strategy would be to keep the real effective exchange rate of the rand at a competitive level. Exchange rate stability would be needed for a concerted expansion of export industries. above).

Trade and Industry

Real export growth in manufacturing to rise by 12,8% by 2000

Trade and industrial policies, according to the strategy, would seek to increase the competitive capacity and employment absorption of manufacturing. Promotion of tourism as an export sector would also be encouraged. The rand's depreciation should permit a significant acceleration of tariff reductions to which South Africa was committed in terms of World Trade Organisation agreements (see also chapter on *Business*). The strategy set out a number of industrial support measures to stimulate competitive and labour-absorbing industrial development. The Regional Industrial Development Programme would be replaced by a tax holiday granted to completely new pre-approved projects started between the last quarter of 1996 and 1999 (see also chapter on *Business*).¹⁵⁹ [¹⁵⁹ Ibid, p13] Efforts to improve access to foreign markets would concentrate on gaining special arrangements with major trading blocks. The gradual integration of the economies of southern Africa through the trade and investment protocols of the Southern African Development Community would also be a key element of the strategy.

Employment

Job creation to reach 1,4m jobs by 2000

The strategy envisaged that by 2000 some 1,4m jobs would have been created—in 2000 alone 409 000 jobs. This would mean 833 000 more jobs than would have otherwise been possible had not a higher growth strategy been implemented. In order to achieve the targets set out the strategy would focus on

two areas:¹⁶⁰ [¹⁶⁰ Ibid, pp17–18]

- regulated flexibility in the labour market; and
- promotion of continued improvement in labour productivity. Wage and salary increases should not exceed average productivity growth, so as to avoid a wage-price spiral or a tightening of monetary policy, which would lead to higher interest rates and economic contraction. (See also chapter on *Employment and Industrial Relations*.)

According to the document, about one third of the envisaged jobs would be created by economic growth, some of which would be in the informal sector. About a quarter would come from government programmes. Some 30% of the increased employment and more than half of new formal private sector opportunities would have to arise from institutional reforms in the labour market, shifts in policy to enhance employment, and private sector wage moderation. These would all be necessary to create a labour-absorbing growth path.¹⁶¹ [¹⁶¹ Ibid, p18]

Economic Proposals of Business

In February 1996 the South Africa Foundation published its economic proposals entitled *Growth for All, An Economic Strategy for South Africa*. The economic strategy proposed would focus on growth and job creation. Focused programmes for the poorest members of society would form part of the economic environment needed.

Central to the strategy was the view that the South African economy had performed badly for a long time. The foundation stated that despite the relatively good performance during 1995–96, the underlying causes of the poor performance during the preceding period were still evident. Its document therefore maintained that under these circumstances, an optimistic projection would suggest an average annual growth in gross domestic product (GDP) of about 3%; an increase in the unemployment rate from 32,7% in 1994 to 40,4% in 2004; and an average annual increase in real government spending per person of less than 1%.¹⁶² [¹⁶² South Africa Foundation, *Growth for All*, pii]

The implications of this would be a general decline in living standards, and possibly financial crisis and capital flight. South Africa thus required a strategy which, between 1996–2015, could deliver:

- rapid and sustained growth averaging 5%–6% a year; and
- sufficient job creation (3,5%–4% a year) to reduce unemployment significantly.

Such an outcome would more than double per capita incomes.

According to the document, the long-term prospects for growth would depend on the country's ability to shift the economy from its heavy reliance on natural resources to a greater reliance on human resources and more sophisticated technology. South Africa would need fixed investment of about 30% of GDP to support about 6% output growth per year. (At present the ratio was 20%.)

The government's role should be to create a favourable environment for investment. This would involve:¹⁶³ [163 Ibid]

- a sound macro-economic policy, aimed at regulating monetary expansion, maintaining a low level of inflation, and a low deficit;
- limiting government spending, through lower taxes and more efficiently used taxes, in order to encourage growth and thereby alleviate poverty;
- market freedoms, involving less state interference in the economy and increased use of market forces to allocate resources, along with deregulation and privatisation; and
- an outward orientation of the economy, such as an emphasis on export markets, lower trade barriers, a 'competitive' currency and more freedom with regard to capital mobility.

The strategy focused on five 'pillars' regarded as necessary for marketfriendly growth. These were: the legal framework; macro-policy; efficient government; competitive markets; and outward orientation. Some of the reforms already under way (or achieved) were:

- the legal system was regarded as fairly good. Property rights were protected in law, and legal and accounting standards were 'fairly high'. However, the high crime rate was having a negative impact on the economy and harming society at large;
- macro-economic stability had been quite well maintained. The increased freedom of the reserve bank since the late 1980s had had a positive impact in this regard;
- the financial sector had been substantially deregulated. It was also much stronger than in most developing countries. However, South Africa's exchange controls remained tight, despite some easing;
- the economy had also been considerably deregulated;
- foreign investment had been, generally speaking, freely permitted for decades. However, there was a need to encourage more; and
- South Africa had liberalised trade since the 1980s and this process would continue.

Areas in which reforms were required are discussed below.

Crime and Violence

The increase in the level of crime had engendered the belief that ‘the authority of the state is fraying’. There were both direct and indirect costs to the economy as a result. As regards the former, the costs were visible in high insurance premiums and expenditure on protection services. As regards the latter, crime affected tourism revenues negatively, contributed to emigration and a consequent loss of skills, and generally raised the risk and cost of doing business. The government should act firmly against crime; deal firmly with rent and service-charge boycotts; improve the staffing, training, and management of the police service, and support them through a more efficient justice and penal system; and encourage community participation in the fight against crime.

Government Spending and Revenues

The budget deficit should be reduced significantly, to 0%–2% of GDP. The target for deficit reduction should be at least 1,5% a year, at least for as long as the current economic upturn lasted. Taxes should be reduced, tax collection should be made more efficient, and tax incentives should be created to encourage investment. Government spending should be cut by about 2% a year for at least two years. This could be achieved by rationalising the civil service, through the payment of competitive salaries, but with the shedding of some 150 000 jobs over the next five years; cutting or eliminating several government subsidies (export and regional subsidies, child benefit allowances); keeping spending on education, health and housing constant in real terms, but not raising it; reducing welfare spending, except to the very poor; aiming to recover costs of government services; privatising state assets to ease fiscal pressures; and evaluating government spending in terms of the economic benefits it would produce.

The document also recommended a ‘low-cost social safety net’ should be introduced to assist the poor before the benefits of job creation became apparent.

Privatisation

The government should embark on a ‘brisk’ privatisation programme. However, the government should ensure that privatisation did not hurt the poor or result in private monopolies. Privatisation should be linked to incentive schemes to ensure that services were provided to the poor. However, the ability of new owners to restructure their newly acquired companies should not be impeded. The programme should be conducted in three phases.

- phase one would target enterprises whose privatisation would be unlikely to generate much controversy in terms of its impact on service delivery. This would include the Industrial Development Corporation (IDC) holdings in Iscor, Sasol and Alusaf. It was estimated that this would provide some R20bn in state revenue;

- phase two would deal with more complex enterprises such as Telkom and Transnet, which could be sold off either as a whole or as part. This would also generate some R20bn;
- phase three would involve the privatisation of Eskom because of its high value and attractiveness to potential investors;

In total this programme could net some R60bn. Furthermore, the foundation proposed considering the privatisation of pension funds for civil servants.

The Labour Market

South Africa's labour market was described by the foundation as 'one of the most rigid in the world'. The document expressed concern about the divide between unionised and non-unionised workers. The former earned relatively high wages—in relation to their productivity—while the latter were effectively shut out of the economy because of the lack of unskilled, low-wage jobs. The large-scale creation of low-wage jobs was the only solution to rising unemployment, according to *Growth for All*. The strategy proposed establishing a 'two-tier' labour market, one part of which would be high-wage and capitalintensive, the other, low-wage and flexible. To achieve this, *Growth for All* proposed:

- eliminating extensions of industrial council agreements to non-parties;
- maintaining an absolute minimum of regulations and labour standards (eg safety);
- not implementing minimum wage regulations; and
- making the second tier of the labour market more flexible, through legislation aimed at encouraging new jobs.

The net effect would be to maintain the privileges of existing workers, while providing some employment for those without jobs.¹⁶⁴ [¹⁶⁴ Ibid]

Export Drive

The document emphasised that growth would be greatly assisted by exports, particularly of manufactured goods. This would be achieved by:

- lowering tariffs, to make domestic industry more competitive and to facilitate the purchase of necessary foreign products at world prices;

- privatisation, to attract new technology and create markets in foreign countries;
- lowering taxes to levels in harmony with international norms; and
- making the labour market more flexible.

Furthermore, *Growth for All* proposed eliminating exchange controls and export subsidies, as these served to keep the rand strong. Their elimination would help to ensure South Africa's export competitiveness. This should be complemented by strict fiscal and monetary policies to control inflation, policies to ensure labour market flexibility, and measures to control upward pressure on the rand.¹⁶⁵ [¹⁶⁵ Ibid]

Implementation

To demonstrate its commitment to economic reform, *Growth for All* recommended that the government take 'decisive and immediate action'. Certain measures should be implemented immediately to demonstrate commitment.

As regards the short term, initiatives required would include:¹⁶⁶ [¹⁶⁶ Ibid]

- an unequivocal commitment to be 'tough' on crime and 'firm' on punishment;
- plans to reduce the budget deficit by some 1,5% of GDP in each of the following two years. Complementary measures would include: commitment to wage restraint in the public sector; major reforms of the inland revenue and customs departments; making the Department of Education more efficient and encouraging private education; and introducing a social safety net for the very poor;
- a commitment to privatisation, including a timetable for the privatisation of IDC holdings within eighteen months;
- plans to ease non-essential minimum labour standards that inhibited job creation; and
- allowing a certain proportion of financial sector assets to be relocated abroad within six to twelve months.

Medium-term commitments should include the following:¹⁶⁷ [¹⁶⁷ Ibid]

- *crime*: A real increase in the police budget, reorganising the force, improving its training and updating its technology, as well as improving the efficiency and operation of the justice and penal systems. A

national crimemonitoring system should be introduced and strong action taken against criminals, particularly white-collar criminals, possessors of illegal weapons, and those not paying rent or for services;

- *government revenues and spending*: A commitment to reduce public spending as a share of the GDP. The deficit should be reduced to some 2% of the GDP. This should be done according to a clear timetable. The document proposed reducing taxes over a period of time and announcing a commitment not to raise income tax rates except in particular circumstances. It also suggested that government employment be reduced by some 100 000 positions over three years and by 150 000 over five years;
- *privatisation*: A timetable should be drawn up, taking into account the degree of complexity involved in each sale and the controversy it would be likely to generate. Services such as the Government Printer and pension funds should be subcontracted to the private sector;
- *the labour market*: Legislation should be amended to create a more flexible labour market which would allow subsidised entry by young workers into low-wage jobs. Such workers should, however, receive training and acquire experience. The extension of industrial council agreements to non-parties should be eliminated; and
- *export drive*: This would involve eliminating export subsidies within two years, and in certain instances replacing them with 'supply-side measures' to increase productivity; eliminating measures that hindered the flow of capital and encouraged state intervention in the economy; and commitments from the government that the exchange rate would be maintained at a rate favourable for local non-mining exporters.

Economic Proposals of Labour

See chapter on *Employment and Industrial Relations*.

POLICY REVIEW

The debate on economic policy during 1996 focused on the implementation of the government's macro-economic policy *Growth, Employment and Redistribution (GEAR)*. It aimed to address among others the problems of low economic growth, low domestic savings and gross domestic fixed investment, and high government dissaving and unemployment. *GEAR* set certain annual targets which would have to be achieved if the economy was to reach a growth rate of 6% by 2000. However, not all macro-economic fiscal targets for 1996 were met.

The document recognised that the government's role was to create an environment in which the private sector, especially foreigners, could make profitable investments of which more jobs would be the spin-off. The has also recognised that trade liberalisation will force down unskilled wages and that if this is not accommodated by the labour market unemployment will rise. This shift has created a rift between

the ANC and its allies—the Congress of South African Trade Unions and the South African Communist Party—which feel betrayed at the party's policy reversal.

The government's official position on the labour market is that there should be regulated flexibility. In this too, Cosatu is in disagreement with the government. Cosatu is seeking to expand regulation of the labour market, but indications are that the government will not agree to this. The proposal of the South Africa Foundation to create a two-tier labour market is one means of introducing greater flexibility which will allow unskilled workers entry into low-wage jobs.

The government has also begun partial privatisation notwithstanding the opposition of labour, and its own opposition to it previously.

Although the dramatic decline of the rand against most currencies in 1996 was regarded as indicative of foreign investor uncertainty about South Africa's economic policies, it helped to make exports more competitive. Keeping the rand competitive to increase exports is one of *GEAR*'s stated targets.

Some exchange controls were eased during 1996 and early 1997. The government was committed to removing them totally but favoured a more gradual approach, although they hampered inward foreign investment. Some people have argued that the government should adopt a 'big-bang' approach and remove remaining exchange controls immediately.

The present high interest rates have been criticised by labour as making home ownership very costly. Suggestions have been made that some form of regulation be introduced to prevent unilateral increases in interest rates by banks. The growth in money supply beyond the guidelines set by the reserve bank and the need to keep inflation in check will make it difficult to lower interest rates. *GEAR* favours a reduction in interest rates although it says that real positive interest rates should be maintained to encourage savings and investment.

KEY PROJECTIONS

- The minister of finance, Mr Trevor Manuel, said that the South African economy was expected to grow by 2,5% in 1997. The governor of the South African Reserve Bank, Dr Chris Stals, forecast a growth rate of 3%–3,5%.
- The International Monetary Fund predicted growth of 2,1%. First National Bank (FNB) expected 2%, the Standard Bank 2,3%, and the Bureau for Economic Research (BER) at the University of Stellenbosch 3,1%.
- According to the government's *Growth, Employment and Redistribution (GEAR)* document, growth in gross domestic product (GDP) would reach 6,1% in 2000.
- *GEAR* expected that by 2000 gross private savings would be equivalent to 21,9% of GDP. Government

dissavings as a proportion of GDP would be reduced to 0,6%.

- According to FNB, private consumption expenditure would increase by 2,5% in 1997. The BMR expected it to increase by 1,7%.
- Gross domestic expenditure would increase by 1%, according to Nedcor.
- According to *GEAR*, real bank rate would drop to 3% in 2000. (In 1996 it averaged just under 10%.)
- The IMF projected that South Africa's current account deficit would drop to 1,1% of GDP in 1997.
- Forecasts by the BER showed that the current account deficit would drop to R6,2bn in 1997, while Nedcor's projection was R3,5bn.
- Inflation would reach 10,1% in 1997, according to the IMF. Nedcor forecast an inflation rate of 9,2% in 1997, while the Bureau of Market Research (BMR) at the University of South Africa forecast 8,7%.
- Producer price inflation during 1997 would reach an average of 9,6%, according to Equisec, while Nedcor projected 9,3% and Syfrets 9%.
- The BMR forecast that real personal disposable income would grow by 1,4% in 1997.
- The average value of the rand against the dollar in 1997 was expected to be 21,5 American cents, according to the BER. Nedcor anticipated an exchange rate of 21,9 American cents and Standard Bank 22,2.
- According to Nedcor, exports would grow by 7,5% in 1997 and imports by 3,5%.

LIVING CONDITIONS

BIRD'S EYE VIEW

The rate of delivery increased during the period under review, especially in housing and access to water. The government embarked on a number of public–private investment partnerships to increase its role in largescale housing delivery.

Various changes to the national housing subsidy policy made it possible for double subsidies to be granted across tiers of government. While at national level a beneficiary was still eligible to receive only one subsidy, it became permissible for the relevant provincial or local authority to grant additional funds.

In May 1996 the Association of Mortgage Lenders revised their guidelines for the granting of credit to the low-income housing sector. The new guidelines made it possible for some 30% of the population to acquire finance. Although this was well below the number of people who required finance, it was significantly higher than the number who previously had access. At the same time the private sector expressed concern that bond boycotts were not coming to an end and that non-payment was spreading to new lending.

Disparities between levels of urban and rural household electrification remained, although the proportion of houses with electricity in rural areas increased from 15% in 1994 to 21% in 1995. While Eskom exceeded its annual electrification target of 300 000 in both 1995 and 1996, the number of connections made by local authorities fell short of the 150 000 they were expected to make annually.

A number of policy documents were published in 1996. The *Green Paper on South African Land Policy* proposed that the constitution allow for expropriation of land at less than market value. Commercial farmers said that they would oppose the green paper. They objected to the expropriation proposal and to the proposed change of the cut-off date for land restitution claims from 1913 to the 17th century.

The *White Paper on National Transport Policy* proposed that the state reduce its direct involvement in transport operations and in the provision of infrastructure and services, to allow for a more competitive environment. Public transport should become cheaper so as to reduce the use of private vehicles.

Legislation providing for labour tenants and their families to acquire land and security of tenure in their place of residence was promulgated in 1996, although this did not apply to farmworkers.

The Telecommunications Act of 1996 established the South African Telecommunications Regulatory Authority, empowered with the control, planning, administration, management and licensing of the radio frequency spectrum, as well as the licensing of telecommunications services. Last-minute changes to the legislation replaced Telkom's proposed six-year restructuring plan with less rigid and less competitive targets. These were considered to entrench Telkom's competitive advantage in the industry.

KEY POINTS

- According to the Institute for Strategic Studies at the University of Pretoria, in 1996 an estimated 4m South Africans had access only to untreated and non-reticulated water. Some 8m people had access only to minimal sanitation, and about 17m did not have access to electricity. Around 8m people did not have formal road access to their residence or any stormwater drainage.
- According to the Central Statistical Service (CSS), in 1995 about 5,7m out of the estimated 8,8m dwellings in South Africa used publicly sourced energy for lighting. This suggested that some 3,1m dwellings were not electrified. However, figures provided by the National Electricity Regular showed that an estimated 4,7m dwellings were not electrified.

- In 1995 about 77% of urban houses had electricity compared with only 21% in rural areas.
- The number of new electricity connections increased from 82000 in 1991 to 479000 in 1995.
- In 1996 there were about 2,5m formal home owners and 5,3m informal home owners in South Africa, according to the BMI Building Strategy Consultancy Unit.
- The 1997/98 housing budget of R4,16bn was 152% higher than in 1996/97, when it was R1,65bn.
- According to the executive director of the Building Industries Federation South Africa, Mr Ian Robinson, in 1995, 40000 low-income houses were built by the industry, increasing to an estimated 75000 houses in 1996.
- A total of 1m address boxes at transportable mail collection points were installed in 1995/96. This brought the total number of addresses at which mail was delivered to more than 6m.
- During 1995/96 Telkom installed about 144000 new lines, bringing the total number of telephone services to almost 4m.
- In non-urban areas in 1995 some 26% of phoneless households had to travel 10km or more to the nearest phone, according to the CSS.
- In 1995/96, 10500 pay telephones were operationalised, raising the number of pay telephones from 1,6 to 1,8 per 1000 people.
- Some 45000 motor vehicle accidents occur annually in South Africa and cost about R10bn.
- In 1996 there were 70000 legal and 60000 illegal taxis operating on the country's roads.
- Minibus taxis provided transport to some 2,2m South Africans, more than half of the country's transport users.

INFRASTRUCTURE

This section covers infrastructure in broad terms. Specific policy and implementation regarding domestic energy, roads, transport, and water and sanitation are discussed under those particular headings.

Policy

During the period under review the municipal infrastructure programme (MIP) was implemented and

proposals were drafted for a final, consolidated infrastructure programme which was to come into operation in 1997. The Department of Provincial Affairs and Constitutional Development took on the infrastructure investment portfolio in June 1996. This made it possible for the development of infrastructure policy to take place in one department.¹ [¹ *Business Day* 7 June 1996]

According to the Institute for Strategic Studies at the University of Pretoria, it was estimated that in 1996 about 4m South Africans had access only to untreated and non-reticulated water; about 8m people had access only to minimal sanitation; about 17m people did not have access to electricity; and around 8m people did not have formal road access to their residence or any stormwater drainage. To combat the backlogs, the MIP was expected to provide 8,5m people with municipal services (including reticulated water, electricity, sanitation, roads and stormwater drainage) by about September 1997.² [² *Ibid* 24 October 1996]

Municipal Infrastructure Investment Framework

The municipal infrastructure investment framework—a funding

The framework was based on the principle that capital expenditure should be financed by borrowing or grants, and current expenditure by current income (ie service payments). Redistributive mechanisms were emphasised whereby local authorities with existing, good infrastructural and capital resources were eligible for a smaller grant than those with poor resources.⁴ [⁴ *Ibid*]

The framework defined a ten-year programme in which backlogs would be eliminated and the capacity to keep up with demand consolidated. The central commitment by the government was to subsidise the capital costs of infrastructure for a basic level of service for all low-income households, primarily through the housing subsidy and the bulk and connector infrastructure grants (see *Housing* below).

Although not scheduled for implementation until 1997, discussion around the framework influenced the development of infrastructure policy generally. Infrastructure policy was defined through the various government funding routes available in 1996.

Funding

Public Funding

There were five public sources of infrastructure funding in 1996.⁵ [⁵ *Proposal for the Establishment of a Consolidated Municipal Infrastructure Programme, Gauteng Province*, 5 September 1996] These were:

- housing subsidies: At least 40% of each housing subsidy was being used for expenditure on infrastructure at site and project level. While bulk and connector infrastructure external to a housing project's boundaries was the responsibility of the local authority, internal infrastructure, such as

standpipes, electricity and roads, was provided by the developer, paid for by the housing subsidy;

- the extension to municipal infrastructure programme: This was funded by the reconstruction and development programme (RDP) fund and located in the Department of Provincial Affairs and Constitutional Development. Provincial departments (usually those associated with local government and housing) were responsible for allocations and disbursements to municipalities which applied for funding;
- the bulk and connector infrastructure grant programme: This was initiated by the RDP office in 1995, and was located in the Department of Housing (see *Housing* below). The funds were divided between the provinces on the basis of the same formula as was used to determine provincial housing subsidy allocations. At provincial level, provincial housing boards determined allocations to municipalities which applied for funding;
- the Department of Water Affairs and Forestry: The department implemented both peri-urban and rural infrastructure programmes, using RDP funds. Provincial planning forums identified and prioritised projects which were implemented by a variety of structures, including municipalities, water boards and community structures; and
- other line departments: In addition to the specific programmes listed above, some funds were available from specific line departments for urban infrastructure investment.

The bulk of R751m set aside for projects under the municipal infrastructure programme (MIP) in 1994/95 was carried over to the 1996/97 fiscal year. In addition to capital investment, the projects would focus on the capacity of municipalities to maintain the services of existing infrastructure investments.⁶ [⁶ *Business Day* 15 October 1996] An additional R600m was made available for the extension programme in the 1995/96 fiscal year, while R500m was set aside for the consolidated municipal infrastructure programme.⁷ [⁷ Fax communication from Mr Richard Kruger, 14 March 1997] Another R500m was allocated for the implementation of a consolidated municipal infrastructure programme in the 1997/98 financial year.⁸ [⁸ *Ibid*]

Private Funding

Private sector funding for infrastructure was also available. A number of developments took place in 1996 opening the way for increased infrastructure investment from the private sector.

In July 1996 Standard Corporate and Merchant Bank launched a R500m private equity fund for South African infrastructure developments that was expected to facilitate projects valued at up to R10bn over the next five years. A primary project was the Maputo development corridor stretching between Mpumalanga and Mozambique.⁹ [⁹ *Business Day* 3 July 1996] In October 1996 the Infrastructure Finance Corporation (Inca) was formed by various South African financial institutions, including First National

Bank, Southern Life, Msele Financial Holdings, Old Mutual, Women Investment Portfolio, and the United Kingdom-based Commonwealth Development Corporation. Its aim was to help address South Africa's huge infrastructure backlog. Inca planned to raise R12bn over the next seven years. It would be a low-margin, high-volume intermediary for infrastructure finance and would also pursue co-funding of infrastructure projects.¹⁰ [¹⁰ *Business Day, The Star* 29 October 1996]

Implementation

Out of a total of R1 351,7m which was made available for the delivery of services through the municipal infrastructure programme (MIP) and the extension to municipal infrastructure programme from 1994 to January 1997, R1265,5m (94%) had been committed to actual projects and all the funds were expected to be spent by the end of 1997. These funds would support 1 089 projects, of which 115 had been completed and 369 were on site in January 1997. The following table reflects the committed funds per project category in the period 1994 to January 1997:¹¹ [¹¹ Fax communication from Mr Richard Kruger, 14 March 1997]

Funds committed by project category: 1994–January 1997

Project category

Funds Rm

Proportion of total

Water

721,87

57,0%

Sanitation

374,45

29,6%

Roads

134,52

10,6%

Electricity

12,58

1,0%

Community and health care facilities

12,58

1,0%

Refuse

9,23

0,7%

Total

1 265,2

1

The projects in implementation phase at the beginning of 1997 were providing employment to 78 997 people and training 30 718.¹² [¹² Ibid]

DOMESTIC ENERGY

During 1995 the energy sector of the economy contributed 15% to gross domestic product and provided approximately 250 000 jobs.¹³ [¹³ Institute for Futures Research, University of Stellenbosch, *Energy Scan*, vol 3, no 1 1996] According to the minister for public enterprises, Ms Stella Sigcau, 3,3 m rural and 1,1 m urban households were without electricity. The average capital cost per electricity connection in rural houses was R3 600 and in urban houses R2 200.¹⁴ [¹⁴ *Hansard* (NA:Q) 8 col 1425, 12 August 1996] Electricity in South Africa is distributed by Eskom (which the state owns) and some 400 municipalities.

Policy

A draft energy white paper was published by the Department of Mineral and Energy Affairs during

1996. (A green paper on energy had been published in 1995—see 1995/96 Survey, p324.) The draft white paper called for a levy on electricity bills to finance a national electrification fund intended to manage electrification in areas that had previously been neglected.¹⁵ [¹⁵ *Business Day* 9 February 1996] It was anticipated that the energy white paper would be available in April 1997.

The chief director of mineral and energy affairs, Mr Johan Basson, said in February 1997 that the government expected to introduce competition in the provision of electricity sector ‘irrespective of public or private sector ownership’ after 2000.¹⁶ [¹⁶ *Ibid* 4 February 1997]

Legislation

A draft Regulation of Electricity Supply Industry Bill was prepared during 1996 but was expected to be presented to the cabinet only in mid-1997.¹⁷ [¹⁷ *Ibid* 23 January 1997] The bill would establish a national electricity regulatory authority (previously called the National Electricity Regulator) as the custodian and enforcer of a regulatory framework for the electricity supply industry.¹⁸ [¹⁸ Draft Regulation of Electricity Supply Industry Bill]

Licensing Electricity Supply

The National Electricity Regulator (NER) issued licences for electricity generation to 20 Eskom power stations, nine municipalities and four private generators in 1995/96. It also issued one transmission licence to Eskom.¹⁹ [¹⁹ National Electricity Regulator (NER), annual report 1995/96]

Some 400 applications for electricity distribution were received from a wide range of distributors including Eskom, local governments, regional services councils, the central government and private suppliers. NER officials noted in 1997 that up to 100 local authorities were failing to meet the temporary licence requirements and were in danger of losing their licences.²⁰ [²⁰ *Business Day* 4 February 1997]

Sources of Energy

In its 1995 *October Household Survey* the Central Statistical Service (CSS) assembled detailed information by race on the types of energy used for cooking, heating and lighting in both urban and non-urban areas (including the former homelands).

The CSS survey showed that publicly sourced electricity was the main energy source among all races for cooking, heating and lighting in both urban and nonurban areas. For Africans in urban areas the proportion of publicly sourced energy had risen from 57,7% in 1994 to 71,3% in 1995 (see 1995/96 Survey, p327). In rural areas only 15,8% of African households were using publicly sourced energy for cooking, but almost 25% were using this source for lighting, against 16% in 1994 (see 1995/96 Survey, p329). The CSS survey indicated that of the total estimated 8,8m dwellings in South Africa, about 5,7m

used publicly sourced energy for lighting—suggesting that some 3,1m dwellings did not have access to electricity.²¹ [21 Central Statistical Service (CSS), *October Household Survey 1995*, statistical release, PO317, 27 November 1996] The NER estimated that 4,7m dwellings, or about 50% out of an estimated total 9m dwellings, were not electrified in 1995. The NER estimated that 76% of urban houses had *electricity*,²² [22 NER, *Lighting up South Africa, Progress Report on Electrification*, 1995] while the CSS survey found that 88,6% of urban dwellings used publicly sourced electricity as a main source of energy for *lighting*.²³ [23 CSS, *October Household Survey 1995*, statistical release, PO317, 27 November 1996]

Candles were used for lighting in non-urban areas by 48,2% of African and 29,8% of coloured households.²⁴ [24 Ibid] Wood was still used widely by non-urban African and coloured households.

Users of Electricity

The deputy minister of mineral and energy affairs, Ms Susan Shabangu, expected that about 5m South Africans would be using solar energy to heat water and warm homes by 2005.²⁵ [25 *The Star* 19 September 1996] Most of the 4,5m electricity customers in South Africa are domestic customers.

A discussion document entitled *Report of the Large Customer Task Team of the National Electricity Regulator* was published by the National Electricity Regulator in October 1996. The report made recommendations regarding the ‘large or special electricity customers’ which generated 60%–70% of the revenue of the electricity supply industry. There were approximately 150 such key industrial customers, with a typical energy consumption of more than 100 gigawatt-hours (GWh) a year on a single site and electricity bills in excess of R1m a month. The major concerns of the key industrial customers were potential loss of competitiveness owing to taxation of electricity, crosssubsidisation between categories of customer and geographic areas, supply by a distributor dominated by the concerns and needs of domestic consumers, lack of choice of supplier, lack of representation in industry governance and changes to the terms of supply contracts on which major investment decisions were based.²⁶ [26 NER, *Report of the Larger Customer Task Team of the National Electricity Regulator*, October 1996]

The following table shows Eskom’s sale of electricity to categories of customer during 1994 and 1995:²⁷ [27 Eskom, annual report 1995]

Electricity usage by sector: 1994 and 1995

Number of customers

Change

GWH sold^d

Change

Category^a

1994

1995

1994-95

1994

1995

1994-95

Re-distributors

704

704

0,0%

64 584

66 421

2,8%

Domestic and street lighting^b

1 053 725

1 407 117

33,5%

3 660

3 906

6,7%

Commercial

20 112

23 098

14,8%

478

579

21,1%

Industrial

5 707

6 326

10,8%

40 394

42 244

4,6%

Mining

631

661

4,8%

31 619

31 293

(1,0%)

Rural/farming

125 864

129 590

3,0%

3 255

3 383

3,9%

Traction

38

38

0,0%

3 494

3 522

0,8%

International^c

4

4

0,0%

1 583

1 832

15,7%

Own usage

268

255

(4,9%)

376

367

(2,4%)

Total

1 207 053

1 567 793

29,9%

149 443

153 547

2,7%

a

The categories used by Eskom have altered, making direct comparisons with 1993 data difficult.

b

Includes prepaid sales.

c

Comprises four main categories in Botswana, Mozambique, Namibia and Zimbabwe.

d

Gigawatt-hours.

The increase of 33,5% in the number of domestic electricity customers between 1994 and 1995 compared with a 14,7% increase in this sector betwe

Electrification

Targets

While the reconstruction and development programme (RDP) hoped to electrify 2,5m households by the year 2000, Eskom's target figure was pegged at 1,75m.²⁸ [²⁸ *The Citizen* 4 April 1996] The balance of new connections anticipated by the RDP would be undertaken by local authorities (see 1995/96 Survey, p331). Eskom's target was to be achieved by means of an annual average of 300 000 household connections until 1999. Such a programme would ensure 72% of South African households would have access to electricity by the end of that decade, approximately twice the present level.²⁹ [²⁹ *Development Southern Africa*, vol 12 no 5, October 1995]

Connections

The following table provides a breakdown of the proportion of houses in both urban and rural areas which had electrical connections in 1994 and 1995:³⁰ [³⁰ 1995/96 *Survey*, p325; NER, *Lighting up South Africa: Progress Report on Electrification*, 1995]

Proportion of houses with electricity by province: 1994 and 1995

Urban

Rural

1994

1995

1994

1995

Eastern Cape

59,7%

67,2%

3,1%

5,8%

Free State

65,0%

67,6%

27,1%

32,5%

Gauteng

75,4%

77,7%

54,5%

54,4%

KwaZulu-Natal

73,7%

78,7%

11,0%

14,0%

Mpumalanga

56,2%

59,4%

27,7%

37,2%

North West

67,4%

69,9%

12,0%

20,5%

Northern Cape

71,9%

76,1%

36,7%

46,8%

Northern Province

69,7%

71,2%

16,4%

23,7%

Western Cape

88,8%

88,1%

48,1%

47,0%

Total

73,4%

76,5%

15,2%

20,6%

The bar chart compares the proportion of urban houses with electricity in 1

In 1995 about 77% of urban houses had electricity compared with only about 21% in rural areas. The rural areas of the Eastern Cape had the lowest proportion of electrified houses (6%), while Gauteng's rural areas had the highest (54%). At 59%, Mpumalanga had the lowest proportion of urban electrified houses, while the Western Cape had the highest (88%).

The proportion of electrified houses in rural areas increased from 15% in 1994 to 21% in 1995. In the rural parts of the Eastern Cape the proportion increased from 3% to 6%. The bar chart below compares the proportion of rural houses with electricity in 1994 and 1995:

Two sets of statistics were available for electrification in the period under review, namely from **Eskom** and the **National Electricity Regulator** (NER). Eskom provided the following figures on the number of electrical connections made during 1994 and 1995 by authority:³¹ [³¹ Eskom, annual report 1995]

Eskom: Household connections made in 1994 and 1995

Electrical connections

1994

Increase on previous year

1995

Increase
(decrease)

Since 1991 to date

Eskom

254 383

21,8%

313 179

23,1%

952 473

Farmworker houses^a

16 838

4,8%

15 134

(10,1%)

60 744

Municipalities

106 950

53,3%
59 046
(44,8%)
258 374
Total
378 171
28,4%
387 359
2,43%
1 271 591

a

Farmworker housing was electrified by various authorities.

The table below shows the number of electricity connections by authority made in 1994 and 1995, according to the N

NER: Household connections made in 1994 and 1995

1994

1995

Increase
(decrease)

Eskom

254 383

313 179

23,1%

Local government

129 951

118 173

(9,1%)

Farmworkers^a

16 838

15 134

(10,1%)

Other

34 584

32 281

(6,7%)

Total

435 756

478 767

9,9%

a

Farmworker housing was electrified by various authorit

Overall the electricity supply industry made considerable progress: from 82000 new connections in 1991 to 435 756 in 1994 and 478 767 in 1995. The number of new electricity connections in 1994 and 1995 exceeded the overall annual reconstruction and development programme (RDP) targets of 350 000 for 1994 and 450 000 for 1995. (These RDP targets were not set by the government but by the respective distributors in consultation with local communities.)³³ [³³ Ibid]

Eskom's chief executive, Mr Allen Morgan, said in April 1996 that 313 000 homes had been provided with electricity in 1995.³⁴ [³⁴ *Business Day* 4 April 1996]

Dr John Maree, the chairman of Eskom, announced in March 1997 that Eskom had also connected electricity to 307 000 houses in 1996.³⁵ [³⁵ Ibid 12 March 1997] However, while Eskom exceeded its electrification target of 300 000 in both 1995 and 1996, the number of connections made by local authorities dropped from 129951 in 1994 to 118 173 in 1995 and fell short of the 150 000 connections they were expected to make annually in order to meet RDP targets. Mr Kevin Morgan, a general manager of the NER, indicated that the reasons for this decrease were the lack of finance and of managerial resources in many local authorities, as well as inertia caused by delays in government decision making over the future structuring of the electricity supply industry. The losses as a result of low levels of consumption for new connections could also not be sustained by local authorities.

The NER planned to allocate funds to selective local authorities to boost their capacity to meet their 1997 electrification targets.³⁶ [³⁶ Ibid 4 February 1997]

The NER noted that low consumption by newly connected dwellings posed the biggest threat to the electrification programme. A consumption of 400 kilowatt-hours (kWh) a month per household was needed for suppliers to break even, but actual consumption only amounted to the following averages for the first five years after connection:³⁷ [³⁷ NER, *Lighting up South Africa: Progress Report on Electrification*, 1995]

1st year

—

83kWh a month per household

2nd year

—

95kWh a month per household

3rd year

—
106kWh a month per household

4th year

—
121kWh a month per household

5th year

—
138kWh a month per household

The NER indicated that there was a need for strategies to make electrical appliances and their use more affordable to low-income customers, as well as a need to educate consumers on the safe and economic use of electricity

The following statistics represent the number of houses in African townships which had been electrified by the end of 1995 by province:³⁹ [³⁹ *Hansard* (NA:Q) 7 col 1091, 10 June 1996]

Number of houses with electricity in African townships: 1995

Province

Number of households

Number of houses

Proportion electrified

Proportion not electrified

Eastern Cape

1 392 251

384 927

27,6%

72,4%

Free State

599 118

320 165

53,4%

46,6%

Gauteng

1 750 848

1 344 597

76,8%

23,2%

KwaZulu-Natal

1 795 740

774 671

43,1%

56,9%

Mpumalanga

588 916

262 695

44,6%

55,4%

North West

710 039

258 756

36,4%

63,6%

Northern Cape

183 053

120 523

65,8%

34,1%

Northern Province

1 055 397

306 527

29,0%

71,0%

Western Cape

933 313

766 361

82,1%

17,9%

Total^a

9 008 675

4 539 222

50,4%

49,6%

a

Totals as calculated by the South African Institute of Race Relations.

According to Eskom's annual report, Eskom was facilitating the electrification of 19 000 rural schools and clinics by means of remote area power supplies in support of the RDP. During 1995 Eskom electrified 893 schools and 37 clinics.⁴⁰ [⁴⁰ Eskom, annual report 1995] In 1995 the solar power for schools programme, co-ordinated by Eskom, completed 1000 projects with a R56m budget from the RD

HOUSING

In June 1996 the BMI Building Research Strategy Consultancy Unit reported that there were about 2,5m formal home owners and 5,3m informal home owners in South Africa. Total home ownership (implying secure tenure with either formal or informal housing) was expected to grow by 71%, to 13,3m households by 2010.⁴² [⁴² Ibid 5 June 1996]

National Policy

In the year under review the reconstruction and development programme (RDP), published in April 1994, and a housing white paper, published in December 1994 (see 1994/95 Survey, pp559–560), continued to define the broad policy and legislative framework for housing delivery.

In April 1996 the National Housing Finance Corporation (NHFC) was established, and the next month, the People's Housing Process, a government programme focused on supporting self-help housing, was launched. While the NHFC focused on the mobilisation of alternative forms of finance for low-income earners, the People's Housing Process targeted the poorest of the poor.

National Subsidy Policy

Various important changes to the national subsidy policy were implemented in the year under review. The policy was changed to allow for double subsidies across tiers of government. Previously, if a beneficiary received a subsidy from one tier of government, it was counted as income in respect of eligibility for a subsidy from another tier of government. Consequently, while at the national level a beneficiary was still eligible to receive only one subsidy, to a maximum value (depending on income) of R15 000, it became permissible for the relevant provincial or local authority to make an additional contribution to the development in which that beneficiary was participating.

People's Housing Process

The People's Housing Process focused on people who could not afford traditional mortgage finance, by promoting local initiative through the establishment of housing support centres throughout South Africa to give the poor access to subsidies, serviced land, skills training, advice, building materials, and technical assistance. The Department of Housing allocated money to the provinces to establish these housing support centres. Generally, houses built through methods encouraged by the People's Housing Process were between 45m² and 60m² larger than those built by developers.⁴³ [⁴³ *Housing the Nation: Doing justice to delivery*, A report prepared by the Ministry of Housing, January 1997]

Special Ministerial Task Team on Short-Term Delivery

A special ministerial task team on short-term delivery (MTT) was established in August 1995 to identify short-term blockages and policy impediments to short-term housing delivery, and to propose interventions to overcome these. In early 1996 the MTT's first report identified ten factors impeding housing delivery, among them high levels of risk, both real and perceived in the low-income housing market.⁴⁴ [⁴⁴ Report of the Special Ministerial Task Team on Short Term Delivery, December 1995]

In January 1997 the Department of Housing announced that provincial task teams (PTTs) had succeeded in streamlining housing delivery processes in each of the provincial housing departments. Where it had usually taken 203 individual actions or decisions to be implemented from the time a subsidy had been approved until the contractor was on site, PTT intervention had reduced this to 183 individual actions.⁴⁵ [⁴⁵ *Housing the Nation: Doing justice to delivery*, January 1997]

A second MTT report was published in November 1996. Inter alia it said that 'security of tenure needs to be emphasised as the policy objective, rather than any one given form of tenure.' This meant that housing policy was shifting focus from individual ownership to providing a range of secure tenure options, such as collective ownership, rental or leasehold.

The report proposed interventions which included the standardisation of the institutional subsidy at R15 000 for households earning less than R3 500 a month, and the establishment of a fund to invest in public-

private partnerships for low-income housing delivery. The report reflected a fundamental shift in thinking about the role of the government, from delivery facilitation to actual delivery intervention.⁴⁶ [⁴⁶ *Measures to Enhance Scale Delivery of Affordable Housing*, second report of the special ministerial task team on short term delivery, October 1996] The report was endorsed by the government in December 1996.⁴⁷ [⁴⁷ *Business Day* 17 December 1996] The interventions were scheduled for implementation in early 1997.

Alternative Proposals to the White Paper

The parliamentary portfolio committee on housing called for a three-year, 5% levy on industry's pretax profits and a 5% prescribed investment requirement for pension and provident funds, life assurers and the assets of public investment corporations, to fund housing and speed up delivery. The committee also called for tax and rate incentives to boost private sector participation in housing, and legislation to monitor banks' lending patterns after they failed to meet their 50000 loans target by 1st June 1996 (see 1995/96 Survey, p338). Other recommendations of the committee included the writing off of loans previously made to local governments for serviced sites.⁴⁸ [⁴⁸ *Ibid* 10 July 1996] (Many of the committee's proposals were based on proposals made by the National Union of Mineworkers and the Congress of South African Trade Unions.)

Responding to the report, the minister of housing, Ms Sankie MthembuMahanyele, stated that the call for a return to prescribed assets and the writing off of a portion of local authority debt was impractical, especially given South Africa's high public debt.⁴⁹ [⁴⁹ *Ibid* 12 July 1996]

Other Policy Matters

Public-private Partnerships

Public-private partnerships were recommended by the second ministerial task team report, published in November 1996, to increase the role of government in the delivery of housing (see *Special ministerial task team on short-term delivery* above).⁵⁰ [⁵⁰ *Housing Fax*, Quarterly Report, September 1996]

In June 1996 the minister of housing, Ms Sankie Mthembu-Mahanyele, announced that R525m from the reconstruction and development programme fund (see *National Housing Finance Corporation* below) would be used for 'scale delivery of housing in public-private partnerships with the private sector'. Ms Mthembu-Mahanyele said that her announcement implied 'a cash injection of R6,5bn of public and private sector investment into housing over the next three years, over and above existing programmes.'⁵¹ [⁵¹ *Ibid*] In December 1996 the minister announced a R100m public-private sector joint venture fund to promote large-scale housing delivery.⁵² [⁵² *The Star* 18 December 1996]

Rental Housing

In response to numerous claims in the low-income housing sector that the national housing programme limited tenure options by focusing on individual ownership, the Department of Housing appointed a team in March 1996 to investigate the feasibility of providing rental stock.⁵³ [⁵³ *Village Talk* April 1996] The conclusions of the

Devolution of Delivery Responsibility

The first report of the special ministerial task team on short-term delivery identified local level delivery capacity as critical to the success of the housing programme. Subsequently, the draft housing bill also included measures which allowed for the devolution of housing powers from national to provincial and local level. While 1996 did not see these measures being implemented to the extent proposed, the government hoped that by 1997 and 1998, local authorities across South Africa would have greater resources for housing purposes, and would independently begin to initiate housing programmes for their local constituencies.⁵⁵ [⁵⁵ *Ibid*]

In December 1996 Ms Mthembi-Mahanyele said that municipalities would participate in the development of national and provincial housing programmes. Municipalities could initiate, plan and execute any appropriate housing development and could also co-ordinate and facilitate housing development in their area, she said. Municipalities could also establish separate business entities to execute housing projects.⁵⁶ [⁵⁶ *Business Day* 9 December 1996]

Rural Housing

For several reasons, rural housing has consistently been overlooked by housing policy. As a housing type that traditionally fell between three departments (housing, land and agriculture), and for which tenure issues were extremely complex, the particularities of rural housing were not addressed in the government's housing policy. The subsidy policy did not apply in most rural areas (where individual tenure was not possible). Also, housing finance was largely unavailable to rural households.

In March 1996 the minister of housing, Ms Sankie Mthembi-Mahanyele, said that substantial research on the rural housing question had been conducted by the standing committee on integrated and co-ordinated development of the National Housing Board (NHB). She suggested that the institutional subsidy mechanism was the most appropriate for application in rural areas, as the approach of this mechanism made it possible for households without access to individual freehold to still benefit from the subsidy.⁵⁷ [⁵⁷ *Hansard* (S:Q) 2 col 57, 7 March 1996] Notwithstanding this flexibility, however, the mechanism still required that individual households be assured of security of tenure. This central issue of access to secure tenure (a requirement for receiving all of the available subsidies) remained a stumbling block as traditional leaders and provincial officials sought to reach a compromise.

Housing finance for rural areas was first addressed by the Commission of Inquiry into the Provision of

Rural Financial Services, known as the 'Strauss Commission', after its chairman, Dr Conrad Strauss (of the Standard Bank). It was established in January 1995 (see also *Land* below).

In June 1996 the cabinet approved the transfer of funds for farmworker housing from the Department of Agriculture to the Department of Housing. This resulted in R80m being made available for subsidies targeted at farmworkers. The director general of housing, Mr Billy Cobbett, said it might be necessary to 'review the housing subsidy procedures to cater more effectively for the circumstances of farmworkers.' An interdepartmental committee was set up in June 1996 by the departments of agriculture and land affairs, to develop and implement a programme of pilot projects.⁶³ [⁶³ *Business Day* 18, 21 June 1996]

In January 1997 the Department of Housing announced that legal obstacles inhibiting the distribution of subsidies in rural areas were being addressed, and that announcements in this regard would be made soon.⁶⁴ [⁶⁴ *Housing the Nation: Doing justice to delivery*, January 1997]

Delivery Gap (R18 000–r45 000)

Since the establishment of the housing subsidy scheme in March 1994, the Department of Housing has monitored the pace and nature of subsidy delivery across the country. In 1996 it became clear that most of the housing products delivered to beneficiaries were in the price ranges of less than R18 000 or more than R45 000. This indicated that developers were catering to the lowest and highest incomes in the subsidy eligibility range, and excluding the middle group. Housing products costing between R15 000 and R18 000 were being delivered to households earning less than R800 a month who were eligible to receive a R15000 subsidy and who could possibly supplement this with savings of up to R3 000. Housing products costing R45 000 or more were being delivered to households earning more than R2 500 a month, who were eligible to receive a R5000 subsidy and who could afford the mortgage finance for a R40 000 bond. Households earning between R801 and R2 500 a month were not being catered for.⁶⁵ [⁶⁵ Discussion with Mr Matthew Nell, housing policy development consultant, Matthew Nell & Associates, November 1996]

A response to this problem was proposed in the second ministerial task team report, the first draft of which was published in October 1996. The proposal emphasised that the institutional subsidy was a useful mechanism for providing products (which could include land, services and part of a house) between R18000 and R45 000.⁶⁶ [⁶⁶ *Measures to Enhance Scale Delivery of Affordable Housing*, October 1996]

Bridging Finance

The issue of bridging finance has been a problem for developers in the low-income housing sector since the subsidy scheme was implemented in March 1994. Because the subsidy was designed to be paid to the developer when the housing product was transferred into the name of the beneficiary, developers without sufficient reserves to pay for the development process prior to receiving the subsidy, were unable to participate. This became a particular problem for emerging contractors and developers who did

not have the financial capacity to enter the low-income housing market on this basis. One of the reasons for establishing the National Urban Reconstruction and Housing Agency (see *National Urban Reconstruction and Housing Agency* below) was to address this problem.

In June 1996 the Department of Housing issued a tender for an investigation into, and the development of proposals for, addressing the bridging finance issue. This was awarded in October 1996. It was expected that results from this investigation would be addressed in 1997. At the time of writing, no recommendations had been made.

Legislation

Throughout 1996 housing arrangements were governed by three acts: the Housing Arrangements Act of 1993, the Housing Amendment Act of 1994 and the Housing Second Amendment Act of 1994.

The Housing Arrangements Act of 1993 allowed for the establishment of a national housing board and four regional housing boards, providing a mechanism for the evaluation of subsidy applications and for subsidy allocation. The Housing Amendment Act of 1994 adjusted the housing arrangements to correspond with the establishment of nine new provinces and allowed for the formation of nine provincial housing boards to replace the regional housing boards. The Housing Second Amendment Act of 1994 made further provisions for assistance to people for housing purposes. .)

Housing Amendment Act of 1996

The Housing Amendment Act of 1996 had two features. First, it made it possible for national housing functions to be devolved to local authorities. Second, it made the provincial housing boards directly accountable to the MECs for housing in the provinces, rather than to the national director general of housing. MECs were made accountable to the national minister of housing for the performance of provincial housing boards.⁶⁸ [⁶⁸ *National Housing Board Minutes*, 27 February 1996]

Housing Bill

A draft Housing Bill sought to give effect to the housing white paper (see also 1994/95 Survey, pp559–560). It provided for the formulation of a national housing code which would contain a national policy for development, as well as minimum housing standards. The bill proposed replacing the National Housing Board with a ten-member South African Housing Board. Assets of the dissolved board would be transferred to local governments (by December 1998), after vesting initially in provincial housing boards.⁶⁹ [⁶⁹ *Business Day*, *The Star* 12 July 1996; Draft Housing Bill, 1996]

Commenting on the draft Housing Bill, private sector stakeholders in the housing sector warned that it could undermine their involvement. Of primary concern was the bill's intention to scrap the NHB, and to permit local authorities to act as developers. Organisations in the private sector argued that both these

actions could jeopardise private sector interests and undermine private sector participation in the low-income housing market. The bill had not been tabled in Parliament at the time of writing.⁷⁰ [⁷⁰ *Business Day* 30 July 1996]

Implementation

National Housing Finance Corporation

The National Housing Finance Corporation (NHFC) was launched in April 1996. Mr Eric Molobi was appointed chairman of the board and Mr Johan de Ridder was appointed chief executive officer. The NHFC aimed to mobilise R10bn for the housing sector between 1996 and 2001. About 100 000 households a year stood to benefit. The NHFC would develop programmes to increase sustained conventional banking involvement in low-income housing, and would promote and support the growth of institutions in the alternative lending sector (such as Cashbank, the rural finance facility and other nontraditional lenders) by providing credit in new markets. (A nontraditional lender is a financial institution which does not operate under normal banking principles, but rather has as its primary aim the provision of affordable finance to low-income earners who otherwise would not qualify for credit.)

The Department of Housing provided an initial R390m towards the NHFC in 1996/97. An additional R220m a year was expected until 2001. A further R100m in debt finance would be raised from the contractual savings industry. Ten-year convertible debentures, offered at 50 basic points above RSA ten-year stock, made available until 29th April 1996, were heavily oversubscribed soon after their release, indicating strong private sector support of the NHFC.⁷¹ [⁷¹ *Ibid* 17, 30 April 1996] The NHFC also managed R525m from the reconstruction and development programme fund.⁷² [⁷² *Housing the Nation: Doing justice to delivery*, January 1997]

South African Housing Trust

In September 1996 it was announced that the South African Housing Trust would split into three entities as part of a strategy to boost low-income housing delivery, deal with home loan defaults, and broaden the trust's lending base. Khayaletu Home Loans would operate as a separate, independent company, to address specifically nonperforming loans. A new company would buy out all Khayaletu Home Loan's performing loans as an initial asset base, and would obtain funding from the National Housing Finance Corporation (see above) to expand its retail lending in the low-income sector. The trust's development division would also become an independent company, and would expand its township and housing developments primarily through the use of emerging contractors. Until the three companies were fully operational, the trust would operate as a holding company, and stock issued would be guaranteed by the government.⁷³ [⁷³ *Business Day* 6 September 1996]

Finance

In presenting the 1996/97 housing budget in June 1996, the minister of housing, Ms Sankie Mthembi-Mahanyele, reported that R2,57bn was rolled over from the 1995/96 housing budget. With the 1996/97 budget allocation from the reconstruction and development programme fund and income from the South African Housing Fund, the total amount available for the 1996/97 financial year was R5,1bn.⁷⁴ [74 Department of Housing, *Report on Funds Allocation and Progressive Expenditure 1996/97*]

In June 1996 the department unveiled a R6,5bn plan to speed up housing delivery and announced it would intervene directly in the low-cost housing market.⁷⁵ [75 *Business Day* 21 June 1996] The 1997/98 housing budget of R4,16bn was 152% higher than in 1996/97, when it was R1,65bn.⁷⁶ [76 Department of Finance, *Budget Review*, March 1997]

Central Government Allocations to the Provinces

The proportion of the 1996/97 housing budget allocated to the provinces was divided as follows:⁷⁷ [77 Department of Housing, *Report on Funds Allocation and Progressive Expenditure 1996/97*, 31 October 1996]

Central government allocations to the provinces: 1996/97

Province

Proportion of total provincial allocation

Eastern Cape

15,2%

Free State

6,9%

Gauteng

24,3%

KwaZulu-Natal

19,5%

Mpumalanga

5,3%

North West

7,0%

Northern Cape

1,8%

Northern Province

8,6%

Western Cape

11,4%

Tota

Expenditure

Government expenditure on housing increased throughout the year under review. After beginning with a considerable amount rolled over as a result of under-expenditure in 1995/96, the national and provincial departments increased their expenditure considerably. The following table outlines the allocation of funds to the provinces in 1995/96 and 1996/97, and the proportion of 1996/97 funds spent, as at 31st January 1997:⁷⁸ [78 *NHF NEWS* no 12, July 1995; Department of Housing, *Report on Funds Allocation and Progressive Expenditure 1996/97*, 31 January 1996]

Allocations (including rollovers) and amounts spent: 1995/96 and 1996/97

Province

1995/96 allocation plus amount rolled over from 1994/95
R

Proportion spent

1996/97 allocation plus amount rolled over from 1995/96
R

Proportion spend as at 31st January spent 1997

Eastern Cape

515 200 000

13%

450 909 041

24%

Free State

185 900 000

27%

136 563 558

136%

Gauteng

721 900 000

48%

374 989 856

126%

KwaZulu-Natal

604 200 000

23%

463 587 837

53%

Mpumalanga

201 100 000

39%

123 454 697

111%

North West

245 200 000

12%

215 047 077

45%

Northern Cape

79 900 000

60%

31 681 845

154%

Northern Province

347 500 000

5%

330 258 517

29%

Western Cape

256 900 000

61%

100 137 257

204%

Total

3 157 800 000^a

30%

2 226 629 685

72%

a

Total as calculated by the South African Institute of Relations.

Spending in the year under review was higher than in previous years, 72% of the provincial budgets having been spent by 31st January 1997. The Western Cape spent double its 1996/97 allocation—though a significant proportion of this was in terms of commitments made under the previous dispensation. The Eastern Cape and Northern Province, however, continued to show capacity constraints, demonstrated by their ability to spend only 24% and 29% respectively of their provincial allocations by 31st

The table below shows allocations to various national programmes, and expenditure as at 31st January 1997:⁷⁹ [79 Department of Housing, Housing Budget: Allocations and Progressive Expenditure 1996/97]

Allocation and expenditure to various national programmes: 1st April 1996–31st January 1997

Programme

Amount available

Rm

Expenditure (31st January 1997)

Rm

Balance Available

Rm

Proportion spent

National facilitation pro- grammes (including NHFC^a, MIF^b, Nurcha^c, Servcon^d)

1 497,8

476,6

1 021,2

31,8%

Phasing out state-assisted subsidy and finance programmes

178,0

78,2

99,8

43,9%

RDP: bulk and connector infrastructure grant

600,0

19,9

580,1

3,3%

RDP: special presidential projects

1 478,9

427,7

1 051,2

28,9%

a

National Housing Finance Corporation.

b

Mortgage Indemnity Fund.

c

National Urban Reconstruction and Housing Agency.

d

Servcon Housing Solu

Delivery

Subsidies

In March 1996 Ms Mthembi-Mahanyele reported to the National Assembly that the Department of Housing had set a target of providing 1m housing subsidies over a period of five years. She noted that the rate of delivery had been planned to increase from 50 000 subsidies in the 1994/95 fiscal year, to 150 000 subsidies in 1995/96, 200 000 subsidies in 1996/97, 275 000 subsidies in 1997/98, peaking at 325 000 subsidies in 1998/99. However, in 1994/95 only 6 800 subsidies were delivered, and in 1995/96, she estimated that only 30 000 subsidies would be delivered.⁸⁰ [⁸⁰ *Hansard* (NA:Q) 1 cols 177–178, 1 March 1996] ('Delivery' refers to subsidies being paid out in the name of beneficiaries, as opposed to subsidies being reserved prior to a housing unit being completed.)

Between 15th March 1994, when the subsidy scheme started, and 31st December 1996, 129 919 individual and project-linked housing subsidies were paid out in the name of beneficiaries.⁸¹ [⁸¹

Department of Housing, *Statistics in Relation to Housing Delivery and the Discount Benefit Scheme for the period 15 March 1994 until 30 September 1996*]

The table below shows the number of subsidies paid out for each subsidy mechanism, from March 1994 to December 1996:⁸² [82 Ibid]

Progressive subsidy statistics: March 1994 – December 1996

Type of subsidy
Monthly average
Progressive total
Project linked (reserved) ^a
10 432
352 130
Project linked (delivered) ^b
2 554
90 498
Individual ^c
1 978
39 386
Credit linked ^d
2
35
Consolidation (reserved) ^e
1 553

29 513

Consolidation (delivered)

235

5 155

Institutional (reserved) ^f

80

1 042

Institutional (delivered)

1

13

a

Refers to project-linked subsidies which have been approved, but for which the housing unit has not yet been completed. The subsidy is reserved, but not recorded as 'delivered'.

b

Refers to project-linked subsidies which have been paid out in the name of beneficiaries, and for which actual housing units have been delivered.

c

Individual subsidies are only recorded once they have been paid out in the name of a beneficiary, in respect of a housing unit which has been delivered.

d

Refers to individual or project-linked subsidies which the beneficiaries have chosen to link to housing finance. On successful completion of the savings scheme which the beneficiary enters into with the financial institution, the subsidy is delivered in the name of the beneficiary.

e

The consolidation subsidy is for households who have previously benefited from another subsidy scheme (such as the Independent Development Trust's R7 500 capital subsidy scheme). These households are now eligible for a 'top-up' subsidy which can be used to improve their housing. Like the project-linked subsidies, this subsidy is recorded as either 'reserved' or 'delivered'.

f

The institutional subsidy is awarded to institutions which provide subsidised housing on a rent-to-own, rental, or other social housing arrangement, to households who qualify for individual ownership subsidies. Like the project-linked and consolidation subsidies, it is recorded as either 'reserved' or 'delivered'.

Notwithstanding considerable concern regarding the slow pace of delivery, 1996 saw the rate of delivery increase substantially. Between March 1994, when the housing subsidy scheme was implemented, and 31st August 1995, the average monthly delivery was 536 subsidies. This increased by 1 297% between 1st September 1995 and 30th September 1996, when the monthly delivery averaged 6 952 subsidies. In September 1996 alone, 15 620 subsidies were delivered, one third more than in the previous months in 1996.⁸³ [83 Ibid]

The following table provides a breakdown of actual monthly housing delivery for project-linked and individual subsidies for the period September 1995 to De

*Act*Month

Number of subsidies delivered

1995

September

2 908

October

3 282

November

5 065

December

3 092

1996

January

5 667

February

6 260

March

7 046

April

5 026

May

8 181

June

9 585

July

9 297

August

10 386

September

16 277

October

14 665

November

7 557

December

6 745

Total

121 039

The line graph below shows the monthly delivery of housing subsidies in 1996:

Houses

Some 13 200 plans were passed for small houses with a floor area of less than 81m² during the first six months of 1996 (5 154, or 64% more plans than passed in the same period in 1995), indicating an increase in low-cost housing developments.⁸⁵ [⁸⁵ *Business Day*, *The Star* 16 August 1996]

The executive director of the Building Industries Federation South Africa (Bifsa), Mr Ian Robinson, said in August 1996 that after 40 000 low-income housing units had been built by the industry in 1995, and an estimated 75 000 units in 1996, as many as 250 000 low-income housing units would be built in 1997. He estimated that over 150 000 housing opportunities could be created in 1997 for those earning less than R800 a month. Mr Robinson estimated that another 75 000 houses in the R30000–R65000 category would be built in 1997. The R525m joint venture scheme initiated by the Department of Housing in June 1996 (see *Public–private partnerships* above) would make it possible for 40 000 high-density housing units to be built outside the main centres in 1997, Mr Robinson said.⁸⁶ [⁸⁶ *The Star* 2 August 1996]

Building Industry

A study by Pretoria Portland Cement showed that 45% of the cement sold in South Africa passed through retailers, pointing to a shift in the balance from bulk users to small-scale building.⁸⁷ [⁸⁷ *Ibid*]

In October 1996 Building Material Suppliers of South Africa published a survey of building materials used in the low-income housing market, which showed that prices rose by an annualised 5,2% in 1996, well below the average 6,9% inflation rate for the first eight months. The survey also showed that the average building material cost of a 42,25m² low-income house varied from R17206 to R20 516.⁸⁸ [⁸⁸ *Business Day* 3 October 1996]

Bifsa's 1996 annual report noted little growth in the building industry over the past few years. Some 232 construction firms went into liquidation in 1995, compared with 228 in 1994. The building industry workforce dropped by 5,8%, from 210 394 in 1994, to 198 231 workers in 1995. Bifsa expected 5% growth in the industry for 1996.⁸⁹ [⁸⁹ *Ibid* 10 September 1996]

According to the BMI Building Research Strategy Consultancy Unit, the building industry would grow 8% to 9% in 1997. BMI expected that 30 000 housing units in the R30 000–R65 000 range would be built in 1997.⁹⁰ [⁹⁰ *Ibid* 29 November 1996]

End-User Finance

Generally, the public sector and the end user are the dominant sources of funding for low-income housing. For several reasons, including lack of private sector experience in the low-income sector, as well as the high-risk profile of that sector, traditional financial institutions have been reluctant to service the low-income housing market. Recent amendments to government policy (such as those made to the subsidy mechanism—see *National policy* above), the establishment of a range of risk interventions, and the introduction of legislation such as the Communal Property Association Act of 1996 (see *Land* below and 1995/96 *Survey*, pp373–374), are aimed at addressing such problems.

In May 1996 the Association of Mortgage Lenders (AML) revised their guidelines for the granting of credit to the low-income housing sector. The new guidelines made it possible for approximately 30% of the population to acquire finance—well below the number who required finance, but significantly higher than those who had previously had access. The guidelines enabled the banks to lend up to 100% of the property value (previous guidelines limited lending to 95% of the value). With the new guidelines, the banks would take 80% of the risk—the remaining 20% would be covered by the subsidy, capital guarantees from applicants' employers or their pension funds, cash or acceptable security from other sources. The conventional 5% cash deposit over and above the capital subsidy would no longer be required, and on written request, the repayment term could be longer than 20 years. The affordability of monthly instalments would continue to be calculated at 25% of joint income.⁹¹ [⁹¹ Press release, Association of Mortgage Lenders (AML), 19 April 1996]

In a speech made at the National Housing Finance Corporation/Khula conference towards the end of 1996, the minister of housing, Ms Sankie Mthembi-Mahanyele, gave the following statistics: R70m a month was being granted to people for loans secured by provident funds; and more than R40m a month was being granted in unsecured loans paid through payroll deduction to approximately 20 000

households a month, of which it was estimated 50% to 80% went into housing.⁹² [⁹² *Housing Southern Africa*, November/December 1996]

Interest Rates

The increase in interest rates throughout 1996 had an effect on affordability. Early in the year, a one percentage point rise in the mortgage rate (caused by an increase in bank rate from 15% to 16%), implied a R50 increase on the monthly repayment of a R50 000 loan. This affected the low-income housing sector directly.

On 17th May 1996, without a corresponding increase in the South African Reserve Bank's rate, Absa Bank, First National Bank, Nedcor and Standard Bank, each increased their prime lending rates by one percentage point, to 20,25%, provoking allegations that they had colluded (see also chapter on *The Economy*).⁹³ [⁹³ *Business Day* 29 May 1996] The Congress of South African Trade Unions (Cosatu) and the South African National Civic Organisation (Sanco) called for mass action against the alleged 'collusion'.

Towards the end of the month Absa Bank announced a cut of one percentage point in its prime lending rate, to 19,25% effective from 1st July 1996. The three other major banks followed suit.⁹⁶ [⁹⁶ *Ibid* 26, 27 June 1996]

Non-Payment and Properties in Possession

Associated with the issue of interest rates, was a concern among the private sector that bond boycotts were not coming to an end, and that non-payment was spreading to new lending. In August 1996, the managing director of the Mortgage Indemnity Fund (MIF), Mr Nkululeko Sowazi, said that only 10% of the total estimated R9bn in home loans in former black areas were 'problematic'. He also said that no claims had yet been received from banks for defaults in MIF-approved areas.⁹⁷ [⁹⁷ *Business Day* 22 August 1996, *Sunday Times* 22 September 1996]

Banks were concerned that they were still unable to act on their option to foreclose, as reflected in a *Business Day* report that a crackdown on 5 700 defaulting home owners had led to only 81 scheduled evictions by the middle of 1996. Defaulters continued to resist eviction, making it almost impossible for banks to repossess their property.⁹⁸ [⁹⁸ *Business Day* 30, 31 May 1996]

The director general of housing, Mr Billy Cobbett, criticised Sanco's renewed calls for bond boycotts and mass action against banks in June 1996, and reiterated the government's support for the 1994 *Record of Understanding* which sought to normalise the lending environment by clarifying the various roles and responsibilities of those involved in housing finance (see 1995/96 Survey, pp338, 341). He said that while the agreement had weaknesses, more than 90% of low-income households were paying on time. Legal action was being taken against the minority who defaulted.⁹⁹ [⁹⁹ *Ibid* 12 June 1996]

In September 1996 the South African Housing Trust (SAHT) and Sanco signed an agreement to end bond boycotts by 14 000 defaulters, who owed about R500m. The president of Sanco, Mr Mlungisi Hlongwane, said, however, that boycotts against other lenders would continue until willingness to renegotiate the *Record of Understanding* reached in September 1994 was demonstrated by both the government and the AML. According to the agreement between Sanco and the SAHT, defaulters would resume payment from 1st November 1996, paying 80% of their original instalments for the first six months. Thereafter, payments would be adjusted to match the re-evaluation of their homes. Sanco also agreed that it would not protect defaulters who refused to co-operate. Pensioners and people with disabilities, however, would be allowed to stay in their homes without paying.¹⁰⁰ [¹⁰⁰ Ibid 25 October 1996]

In October 1996 it was reported that about 7 100 (50,7%) of the 14 000 defaulting families living in properties in possession had signed on to the Servcon Housing Solutions programme (see *Servcon Housing Solutions* below). About 3 300 of these had entered into sales agreements and another 3800 had agreed to ‘rightsizing’ deals. The remaining households, however, were not easily accessible to Servcon because of either violent conditions or actions by civic and resident associations. It was estimated that about 60% of the occupants of repossessed properties were unable to afford them.¹⁰¹ [¹⁰¹ Ibid 25 October 1996]

Record of Understanding

In September 1994 AML and the Department of Housing reached a *Record of Understanding* which was designed to facilitate bank lending in the lower end of the market (see 1994/95 Survey, pp517–518, 563–564). Sanco was not included in the agreement, and had consistently claimed that without its involvement, the agreement was bound to fail. Central to the agreement was that the government would ensure the end of bond boycotts and a normalisation of the lending environment. In July 1996 Sanco representatives and the Department of Housing agreed on greater co-operation, including the convening of a joint technical task team to look into the *Record of Understanding*.¹⁰² [¹⁰² Ibid 3 July 1996]

One of the features of the *Record of Understanding* was that financial institutions would issue 50 000 loans to the low-income housing market between June 1995 and June 1996. Financial institutions made a further 50 000 loans available for the period 1st June 1996 to 31st May 1997. According to the general manager of housing at AML, Mr Lance Edmunds, some 80% of the accumulative target had been reached by March 1997.¹⁰³ [¹⁰³ Ibid 5 July 1996; telephonic interview with Mr Lance Edmunds, general manager, housing, AML, 4 June 1997]

Risk-Targeted Initiatives

An important area of intervention addressed in the housing white paper was in the development of initiatives to reduce risk in housing investment. Mr Matthew Nell, a housing policy development consultant, suggested that the low-income housing sector was too ‘risky’, and offered too low a level of return. High levels of risk manifested themselves in land invasions, payment boycotts, high levels of

building material losses and time delays. Mr Nell said that risk also arose from unrealistic expectations among both political leadership and consumers as to what housing products could be viably provided for the low-income sector. At the same time, returns were also limited. These factors combined to make the low-income housing sector unattractive to investors and developers.¹⁰⁴ [104 Discussion with Mr Matthew Nell, 3 November 1996]

To overcome these problems, the Department of Housing implemented a number of risk-targeted initiatives between 1994 and 1996. Initiatives such as the Mortgage Indemnity Scheme and the National Urban Reconstruction and Housing Agency were established to provide guarantees for housing investment. Servcon Housing Solutions was set up to deal with properties in possession, while the National Home Builders Registration Council was established to provide building warranties and ensure sound building practices.

National Urban Reconstruction and Housing Agency

The National Urban Reconstruction and Housing Agency (Nurcha) was established in October 1995 to provide guarantees to financial institutions for low-income housing provision. By December 1996 the agency had guaranteed 13 low-cost housing projects valued at R118m for the construction of 7 500 houses. A further R70m worth of guarantees was made available for release in 1997, to facilitate the financing of 12 500 houses.¹⁰⁵ [105 *Business Day* 18 July 1996; *South African Housing Trust, SA Housing Scenario* August 1996; *Housing the Nation: Doing justice to delivery*, January 1997]

Another of the agency's initiatives was to provide guarantees to financial institutions in order to increase the availability of bridging finance to small and medium-sized developers. In September 1996 the agency received R25m from the reconstruction and development programme fund for this purpose.¹⁰⁶ [106 *Business Day* 5 September 1996]

Mortgage Indemnity Scheme

The Mortgage Indemnity Scheme was established in 1995 as a short-term government initiative (initially for three years) to facilitate lending by financial institutions in residential areas that were previously considered high risk (see 1995/96 Survey, p341). It aimed to indemnify financial institutions against losses sustained as a result of the breakdown in the legal process which prevented repossession and resale of mortgaged properties.

In October 1996 the managing director of the Mortgage Indemnity Fund (MIF), Mr Nkululeko Sowazi, reported that the MIF had not yet received any claims from banks. The first claims (which could be made only as a last resort, once all other traditional approaches had been undertaken) were expected in early 1997.¹⁰⁷ [107 *Sunday Times* 22 September 1996] Servcon reported in the same month, however, that negotiations with about half of the 14 000 families living in properties in possession were not yet successful. If these were not resolved—through eviction, repurchase agreements or some other agreed

mechanism—banks could lodge claims with the MIF.¹⁰⁸ [¹⁰⁸ Ibid]

According to the MIF's 1996 annual review, in its first 15 months of operation from June 1995 until August 1996, 567 areas were assessed of which 437 were granted MIF cover. Of the 437, 151 were new development areas where 181 117 units were planned. By August 1996 the total value of existing loans in areas covered by the MIF was R4,04bn, of which R1,74bn (43%) was for new loans granted in the government-subsidised market. This represented a total of 51 914 loans, of which 39 742 (71%) were new loans in the governmentsubsidised market.¹⁰⁹ [¹⁰⁹ Mortgage Indemnity Fund, annual review 1996]

The table below shows the number of new loans granted to households in the government-subsidised market in areas covered by the MIF, from June 1995 to August 1996:¹¹⁰ [¹¹⁰ Ibid]

New Province

New loans granted

Eastern Cape

3 422

Free State

1 960

Gauteng

14 900

KwaZulu-Natal

5 611

Mpumalanga

1 818

North West

1 064

Northern Cape

1 559

Northern Province

1 515

Western Cape

7 228

Total^a

39 077

a

Total as calculated by the South African Institute of Race Relations.

The average loan size in the subsidised (ie low-income) market was R43782. The annual review also reported that dispute resolution had commenced in 14 areas with the MIF's 'risk intervention department' playing the role of mediator. The MIF's total operating costs between June 1995 and August 1996 were R7,8m.¹¹¹ [¹¹¹ Ibid]

Servcon Housing Solutions

Servcon Housing Solutions was a private company set up by the government and financial institutions in June 1995, to deal with the estimated 49 000 repossessed properties and nonperforming loans held by banks as a result of bond boycotts. Servcon assisted households who had defaulted on their loans to resume payment, in a way that was mutually satisfactory to the household and the financial institution (see also 1995/96 Survey, p342). Servcon's 'rightsizing' approach assisted families who could not afford the bond repayments in the houses in which they lived, to find alternative, affordable accommodation.

Between its establishment in June 1995 and November 1996, 53% of Servcon's clients had signed agreements for rightsizing (3 997 clients) or property buy-back (3 528 clients). In January 1997, 3 000 properties were still considered 'inaccessible' owing to community action. It was estimated that 60% of these properties were inhabited by people who could not afford to pay for them. In 1997, 10 500 additional nonperforming loans were to be taken over from the banks and absorbed into the Servcon programme. To assist in the acquisition of rightsizing stock, the government made a further R50m available to Servcon in 1996.

National Home Builders Registration Council

The aim of the National Home Builders Registration Council was to protect consumers from bad practice (see also 1995/96 Survey, pp343–344). From its establishment, the council received many consumer complaints, mostly from the low-cost housing category and those falling outside the estimated 49 000 repossessed properties and nonperforming loans held by banks as a result of the bond boycotts. The major areas of consumer abuse were lost deposits, defective workmanship and incomplete construction.¹¹³ [¹¹³ *Business Day* 3 July 1996]

To support its product defect warranty (see 1995/96 Survey, p343), the council was registering home builders. By July 1996 more than 2 000 applications for registration had been received by builders, of which 1 569 had been approved. Sixty five percent of those approved were emerging contractors.¹¹⁴ [¹¹⁴ *Ibid*] The council found that most houses built by registered builders met technical standards, and consequently mortgage loans for new home builders were becoming easier to secure. Inspectors from the council made regular visits to building sites to monitor construction standards, and had issued only a few notices of non-compliance on units that had not met required conditions. About 500 houses, built by council registered builders, were registered by the council weekly, so that the Defects Warranty Scheme could apply should the need arise. The council also compiled a list of more than 1 500 certified builders from whom prospective home owners could choose.¹¹⁵ [¹¹⁵ *Ibid* 29 August 1996]

Shortages and Demand

In August 1996 Ms Mthembu-Mahanyele reported that the urban housing shortage in South Africa was estimated to be 1,6m units. She noted that the figure did not include an estimate of the rural housing backlog as such information was unavailable.¹¹⁶ [¹¹⁶ *Hansard* (NA:Q) 8 cols 1466–1469, 12 August 1996]

In October 1996 Ms Mthembu-Mahanyele issued a statement saying that the housing backlog would increase at a rate of 178 000 units a year if there were no ‘dramatic’ increases in urban housing delivery. She announced that a white paper on urbanisation would be published. The minister said that the urbanisation process would be managed by local government. This matter was not further addressed in 1996.

Ms Mthembu-Mahanyele said that South Africa’s cities were growing at an estimated rate of 300 000 households a year, with an average of five people per household. In December 1996 the government revised estimates of South Africa’s housing backlog to more than 2,5m units, significantly larger than the official estimate of 1,5m units, which was based on the 1992 report by the Task Group on National Housing Policy and Strategy of the South African Housing Advisory Council (De Loor commission), entitled *Housing in South Africa: Proposals on a Policy and Strategy*.¹¹⁷ [¹¹⁷ *Business Day* 30 December 1996; South African Housing Trust, *SA Housing Scenario*, October 1996] (See 1992/93 Survey, pp206, 212.)

Provincial Developments

Provincial Shortages

According to Ms Mthembi-Mahanyele, the provincial housing shortage was as follows in August 1996:

Housing shortage by province: August 1996

Province

Shortage (units)

Proportion of total

Eastern Cape

159 429

10,2%

Free State

83 134

5,3%

Gauteng

620 434

39,6%

KwaZulu-Natal

319 374

20,4%

Mpumalanga

25 864

1,7%

North West

92 545

5,9%

Northern Cape

24 456

1,6%

Northern Province

57 279

3,7%

Western Cape

182 377

11,7%

Total^a

1 564 892

100,0%

a

Figures may not add up owing to

Budget and Expenditure

Provincial expenditure in respect of the housing subsidy scheme and subsidies paid out on the basis of

policy and approvals given under the previous government, varied among the nine provinces. While the Western Cape and Northern Cape had exceeded their budgetary allocations by October 1996, the Northern Province and the Eastern Cape reflected less positive expenditure statistics. The table below shows provincial expenditure in respect of housing delivery:¹¹⁸ [¹¹⁸ Department of Housing, *Report on Funds Allocation and Progressive Expenditure 1996/97*, 31 October 1996]

Housing expenditure by province: April–October 1996

Province

Total amount available 1996/97

Rm

Total expenditure to 31st October 1996

Rm

Expenditure on programmes from previous government

Rm

Expenditure on new subsidy scheme

Rm

Proportion expenditure on new subsidy scheme

Balance available

Rm

Eastern Cape

450,91

73,8

17,16

56,68

77%

377,07

Free State

136,56

137,5

6,87

130,63

95%

(0,93)

Gauteng

374,99

329,6

74,09

255,50

77%

45,41

KwaZulu-Natal

463,59

162,6

85,79

76,80

48%

301,00

Mpumalanga

123,45

99,1

3,70

95,38

96%

24,37

North West

215,05

78,9

3,97

74,96

95%

136,11

Northern Cape

31,68

33,9

3,05

30,87

91%

(2,25)

Northern Province

330,26

61,4

3,05

58,38

95%

268,83

Western Cape

100,14

122,2

57,65

64,52

52%

(22, 03)

Total^a

2 226,63

1 099,1

255,34

843,71

77%

1 127,57

a

Figures may not add up owing to rounding.

From the table above, the type of delivery occurring in each of the provinces is evident. For instance, although the Western Cape spent 122% of its budgetary allocation, only about 52% of this was on the new subsidy scheme. The Northern Cape, on the other hand, which spent 107% of its budgetary allocation, spent most of this (91%) on housing delivery in terms of the current subsidy scheme. Fifty-two percent of the expenditure in KwaZulu-Natal was in respect of programmes under the previous government. (Expenditure on programmes under the previous government was due to existing commitments when the new subsidy scheme came into effect (March 1994). As these commitments are progressively met, expenditure on old programmes will decrease while expenditure on the new subsidy scheme will increase.)

Monthly expenditure increased steadily in the provinces during 1996 compared with 1995/96. While between April and August 1995 the total monthly expenditure for all the provinces had averaged at about R50m a month, by 1st April 1996 monthly expenditure had increased to an average of R100m–150m a month. Expenditure peaked in September 1996, at about R250m for all provinces combined. Expenditure from April to October 1996 for all provinces was R1,1bn.¹¹⁹ [¹¹⁹ Ibid]

In addition to money allocated for housing subsidies, R6,5bn—or some R800 000 each—was allocated to the provinces for the establishment of housing support centres (see *People's Housing Process* above) and for the bulk and connector infrastructure grant (see *Infrastructure*

About R700m was allocated to the nine provinces for local provision of bulk and connector infrastructure for housing purposes. Of this, R600m was made available in the 1996/97 financial year. The balance of R100m would be made available in the 1997/98 financial year.¹²¹ [¹²¹ Ibid] However, by October 1996 only the Northern Province had spent funds allocated to it for the bulk and connector infrastructure grant.

Delivery Statistics

Between the implementation of the subsidy scheme on 15th March 1994 and 31st December 1996, 135 087 subsidies were paid out in the name of beneficiaries. In the same period, 352 130 project-linked subsidies were approved and in the delivery pipeline. The following table provides a breakdown of the various housing subsidies approved, and those paid out by province between 15th March 1994 and 31st December 1996:¹²² [¹²² Department of Housing, *Statistics in Relation to Housing Delivery and the Discount Benefit Scheme*

(R7 500), 31 December 1996]

Housing subsidies approved and paid out by province: March 1994–December 1996

Province

Project linked
(approved)

Project linked
(paid out)

Individual
(paid out)

Credit linked
(savings route)

Consoli-
dation
(approved)

Consoli-dation
(paid out)

Institu-
tional
(approved)

Institu-
tional
(paid out)

Eastern Cape

32 118

3 336

2 799

0

3 231

0

0

0

Free State

24 539

8 077

3 495

0

8 258

1 139

0

0

Gauteng

78 156

23 242

11 094

9

2 000

1 631

779

0

KwaZulu-Natal^a

64 468

9 768

2 683

3

8 370

725

60

0

Mpumalanga

31 857

10 786

4 320

0

0

0

0

0

North West

30 798

6 092

2 444

0

0

0

0

0

Northern Cape

5 603

1 742

3 324

3

205

0

0

0

Northern Province

37 430

17 254

6 570

1

3 352

1 511

0

0

Western Cape

47 161

10 201

2 657

19

4 097

149

203

13

Total

352 130

90 498

39 386

35

29 513

5 155

1 042

13

a

August 1996 not included.

According to the Department of Housing, at least half a million subsidies would have been reserved by provincial housing boards by June 1997. Only 16% of the 123 129 houses built or under construction between March 1994 and November 1996 had credit-linked fi

The discount benefit scheme was a subsidy mechanism implemented on 27th November 1992, allowing provinces to transfer state-owned rental stock to residents at a discounted price, based on the value of the housing subsidy at the time (R7 500). Between its implementation and 30th September 1996, approximately 96 257 households had taken advantage of the scheme and had their homes transferred into their names. The following table shows the provincial breakdown, as at 30th September 1996:¹²⁴ [124
Department of Housing, *Statistics in Relation to Housing Delivery and the Discount Benefit Scheme (R7 500)*, 31 December 1996]

*Tra*Province

Number of units transferred

Eastern Cape

23 188

Free State

20 963

Gauteng

1 193

KwaZulu-Natala

994

Mpumalanga

5 468

North West

0

Northern Cape

1 633

Northern Province

717

Western Cape

42 101

Total

96 257

a

August 1996 not included.

Eastern Cape

Urban housing shortage: 159 429

Total project-linked subsidies in delivery pipeline by December 1996: 32 118

Total subsidies delivered in the name of beneficiaries (March 1994–December 1996): 6 135

In Port Elizabeth, a housing policy recommendation was made to the city council's housing committee,

proposing to provide a 'decent permanent shelter for every Port Elizabethan by the year 2010'. The total demand for low-income houses in the city was estimated at 94 019 units.¹²⁵ [¹²⁵ *Eastern Province Herald* 9 October 1996]

Free State

Urban housing shortage: 83 134

Total project-linked subsidies in delivery pipeline by December 1996: 24539

Total subsidies delivered in the name of beneficiaries (March 1994–December 1996): 11 572

Gauteng

Urban housing shortage: 620 434

Total project-linked subsidies in delivery pipeline by December 1996: 78156

Total subsidies delivered in the name of beneficiaries (March 1994–December 1996): 34 336

The province developed proposals to amend section 50 of the Local Government Ordinance of 1939, so that tenants of state-owned houses who had incurred service charge arrears which prohibited them from taking transfer of the houses, would be able to do so, once all service charges incurred after 31st January 1994 were paid. This would permit the transfer of about 60 000 units to long-term tenants. Another 140 000 units and 80 000 less formal housing units would be transferred to tenants once the amendment to the ordinance had been enacted. All service charges arrears from before 31st January 1994 (about R3bn) were to be written off. The act making these amendments was published in November 1996.¹²⁶ [¹²⁶ *Business Day*, *The Star* 10 September 1996; correspondence with Nigel Mandy, urban affairs consultant, October 1996; *Provincial Gazette Extraordinary*, 4 November 1996]

In May 1996 the MEC for housing and local government in Gauteng, Mr Dan Mofokeng, announced that to address both the provincial backlog and the average annual addition of 40 000 new households entering the provincial housing market, Gauteng would need to deliver about 90 000 homes a year over a ten-year period.¹²⁷ [¹²⁷ *Sowetan* 17 May 1996]

In November 1996 Mr Mofokeng reported that the provincial government was delivering houses at a rate of 1 000 a month.¹²⁸ [¹²⁸ South African Press Association, 19 November 1996]

About R645,1m of reconstruction and development programme (RDP) funds was committed to the Katorus special presidential project for a five-year period commencing in 1994/95 (see 1995/96 Survey,

p350). Another R2,4bn was committed from other state funds. By 31st October 1996 business plans worth R427,4m were approved, R42,4m of which were targeted at housing issues. Total expenditure on all Katorus projects by 31st October 1996 was R160m. Of this, R35,7m had been spent on housing issues.¹²⁹ [¹²⁹ *Katorus Fax* no 9, 31 October 1996]

Kwazulu-Natal

Urban housing shortage: 319 374

Total project-linked subsidies in delivery pipeline by December 1996: 64468

Total subsidies delivered in the name of beneficiaries (March 1994–December 1996): 12 451

In June 1996 the KwaZulu-Natal Provincial Housing Board announced that 292 housing projects (worth R833,5m) had been approved in 1995/96, creating 73245 housing opportunities. The KwaZulu-Natal Department of Housing over-committed its budget by 50% in the 1996/97 financial year, so as to reach a spending target of R40m a month which was needed to address the provincial backlog.¹³⁰ [¹³⁰ *Housing Southern Africa*, KwaZulu-Natal Edition, June 1996]

The MEC for housing in KwaZulu-Natal, Mr Peter Miller, announced in June 1996 that his department would assume the role of developer to provide homes to households earning less than R800 a month. The KwaZulu-Natal government was expected to spend about R480m on housing during the 1996/97 financial year.¹³¹ [¹³¹ *Business Day* 5 June 1996]

The KwaZulu-Natal Provincial Housing Board allocated R41m to a hostels upgrade programme. A report commissioned by the provincial housing board in 1995 found that hostels in the province would cost R407m to upgrade over five years. Approximately 115 000 residents occupied 6 700 available beds (informal settlers also occupied hostels), according to the report. Rentals of between R3,00 and R4,50 a month were not covering the costs of basic services and the under-recovery of running costs was approximately R30m a year for the 23 hostels in the province.¹³² [¹³² *Housing Southern Africa*, July 1996]

In September 1996 the executive council of KwaZulu-Natal approved the transfer of all rental housing units and serviced stands from the province to local authorities. Approximately 75 000 housing units, as well as residential, industrial and commercial stands would be transferred.¹³³ [¹³³ *Business Day* 10 September 1996]

Mpumalanga

Urban housing shortage: 25 864

Total project-linked subsidies in delivery pipeline by December 1996: 31857

Total subsidies delivered in the name of beneficiaries (March 1994–December 1996): 15 106

North West

Urban housing shortage: 95 545

Total project-linked subsidies in delivery pipeline by December 1996: 30798

Total subsidies delivered in the name of beneficiaries (March 1994–December 1996): 8 536

The North West government set aside R20m for housing development in rural areas, and R8m for hostel redevelopment in early 1996.¹³⁴ [¹³⁴ *The Star* 6 June 1996, *Sowetan* 20 August 1996]

Northern Cape

Urban housing shortage: 24 456

Total project-linked subsidies in delivery pipeline by December 1996: 5 603

Total subsidies delivered in the name of beneficiaries (March 1994–December 1996): 5 066

Northern Province

Urban housing shortage: 57 279

Total project-linked subsidies in delivery pipeline by December 1996: 37430

Total subsidies delivered in the name of beneficiaries (March 1994–December 1996): 23 824

The Northern Province set a target of 100 000 houses before the end of 1999. By November 1996 the province had approved R300m for housing subsidies.¹³⁵ [¹³⁵ *The Star* 16 November 1996]

Western Cape

Urban housing shortage: 182 377

Total project-linked subsidies in delivery pipeline by December 1996: 47161

Total subsidies delivered in the name of beneficiaries (March 1994–December 1996): 12 858

The then MEC for housing, Mr Cecil Herandien, said in April 1996 that he expected the housing backlog in the province to grow from 191 000 to 200 000 in the five years from 1996 to 2001.¹³⁶ [136 South African Press Association, 24 September 1996] The Western Cape’s metropolitan population was expected to double within the next 30 years.¹³⁷ [137 *The Star* 13 June 1996]

MUNICIPAL SERVICES

Refuse Disposal

The table below provides a breakdown by race of the methods of refuse disposal in 1995 in urban and non-urban areas, according to the 1995 *October Household Survey* of the Central Statistical Service (CSS):¹³⁸ [138 CSS, *October Household Survey 1995*, PO317, 27 November 1996]

Refuse disposal by race — urban and non-urban: October 1995^a

African	
Coloured	
Indian	
White	
Total	
Removed by local authority	
Urban	
	85,0%
	97,2%
	96,7%
	97,6%
	90,9%

Non-urban

6,1%

14,9%

19,4%

31,3%

7,7%

Communal refuse dump

Urban

2,1%

1,0%

0,6%

0,4%

1,4%

Non-urban

6,0%

27,4%

5,4%

7,6%

7,0%

Own refuse dump

Urban

9,7%

1,3%

2,7%

1,8%

5,9%

Non-urban

55,9%

52,4%

73,5%

55,9%

55,8%

None

Urban

3,3%

0,5%

—

0,1%

1,8%

Non-urban

32,0%

5,3%

1,7%

5,3%

29,4%

a

Figures should add up vertically but may not owing to rounding.

The table below shows the frequency of waste removal by local authorities in areas which had a refuse removal service, by race, according t

Regularity of local authorities' refuse removal: October 1995 ^a

African

Coloured

Indian

White

Total

Once a week

Urban

91,4%

96,3%

99,1%

98,9%

94,9%

Non-urban

87,5%

84,7%

97,2%

82,5%

86,3%

Once a fortnight

Urban

2,0%

1,9%

0,6%

0,9%

1,5%

Non-urban

5,3%

13,8%

2,8%

15,8%

8,1%

Once a month

Urban

0,6%

0,1%

0,2%

0,0%

0,3%

Non-urban

1,7%

1,4%

—

1,5%

1,7%

Irregularly

Urban

6,0%

1,7%

0,1%

0,3%

3,3%

Non-urban

5,4%

—

—

0,1%

3,9%

a

Figures should add up vertically but may not owing to rounding.

In 1995 some 91% of African households in urban areas which enjoyed a municipal refuse removal service reported that their refuse was removed once a week, compared with 96% of coloured households, 99% of white households and 99% of Indian households. Some 6% of urban Africans who enjoyed this service said that their refuse was removed irregularly, compared with 2% of coloured people, 0,1% of Indians and

LAND

Policy

Green Paper on Land Reform

A Green Paper on South African Land Policy

- land restitution;
- land redistribution; and
- tenure reform.

Included in the green paper was a proposal for the constitution to allow for expropriation of land at less than market value. The Constitution of the Republic of South Africa was certified by the Constitutional Court in October 1996. It reflected that compensation for the expropriation of property must 'be just and equitable reflecting an equitable balance between the public interest and the interests of those affected' and must take into account:¹⁴¹ [¹⁴¹ Constitution of the Republic of South Africa Act , no 108 of 1996, section 25(3)]

- the current use of the property;
- the history of the acquisition and use of the property;
- the market value of the property;
- the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and
- the purpose of the expropriation.

The green paper included an outline of the financial grants available under the land reform programme. Three types of subsidy were included:¹⁴² [¹⁴² Department of Land Affairs, *Green Paper on South African Land Policy*, 1 February 1996]

- a settlement/land acquisition grant: similar to the national housing subsidy (see *Housing* above), this grant was set at a maximum of R15 000 per household;
- a settlement planning grant: this grant was designed to pay for the services of planners or other professionals; and
- a district planning grant: this was provided to provincially supported district planning exercises.

Commercial farmers said they would oppose the green paper because of the proposed below-market value expropriation of land and because of the proposed change of the cut-off date for land restitution claims from 1913 back to the 17th century.¹⁴³ [¹⁴³ *Daily Dispatch* 5 February 1996]

The green paper accepted the recommendation of the Commission of Inquiry into Certain Aspects of the Tax Structure of South Africa (Katz commission), approved by the parliamentary joint committee on finance in February 1996, that a national land tax should not be implemented and that rural land tax should be a local government concern.¹⁴⁴ [¹⁴⁴ *Ibid*] However, in October 1996 the Katz commission published recommendations in the *Government Gazette* that an annual land tax not exceeding 2% should be applied to rural land, based on a tax base defined by the market value and improvements made on the land.¹⁴⁵ [¹⁴⁵ *The Star* 25 October 1996]

Land Restitution

The purpose of the land restitution programme was to restore land and provide other compensation to

people who had been dispossessed by 'racially discriminatory legislation and practice'. The Restitution of Land Rights Act of 1994 (see 1995/96 Survey, p371) provided for land restitution for people who had been dispossessed after 19th June 1913. However, the green paper noted that many people had been dispossessed of their land prior to that date. It stated that cases of unfair dispossession of land not addressed by the act would be prioritised by the land reform programme.¹⁴⁶ [¹⁴⁶ Department of Land Affairs, *Green Paper on South African Land Policy*, 1 February 1996]

The land restitution programme was to be long term, spanning ten years. All claims were to be lodged within three years of its launch, and the Land Claims Commission and Land Claims Court had five years to finalise all claims. A ten-year period was given for the implementation of all court orders.¹⁴⁷ [¹⁴⁷ Ibid]

The following four aspects were addressed in the green paper:¹⁴⁸ [¹⁴⁸ Ibid]

- criteria for qualifying for land restitution: a claim would be accepted in terms of the Restitution of Land Rights Act and the constitution, where the claimant was dispossessed of a right in land after 19th June 1913 either on the basis of racially discriminatory law or on the basis of the Expropriation Act of 1975 without just and equitable compensation;
- forms of restitution: restitution could involve restoration of the specific piece of land, provision of alternative land, payment of compensation, a combination of these options, or priority access to housing and land developed by state-assisted programmes;
- compensation for both claimants and landowners: 'just and equitable' compensation would be afforded to claimants who had been dispossessed with inadequate or no compensation. While the same principle of 'just and equitable' compensation applied to landowners from whom land was to be expropriated for restitution purposes, the green paper said there might be instances in which such compensation could be below market value; and
- urban claims: claimants would be encouraged to submit their claims in groups for each affected area. Restitution would be available in the forms outlined above, and development assistance within the framework of the housing programme would be offered where applicable.

Land Redistribution

The land redistribution programme aimed to provide the poor with access to land for residential and productive purposes. It targeted labour tenants, farmworkers, women and emergent farmers. The government would assist in the purchase of the land by providing a settlement/land acquisition grant, to a maximum value of R15 000 per household for the purchase of land directly from willing sellers (including the state). This grant was pegged at the same level as the national housing subsidy scheme (see *Housing* above). Other grants and services were also provided for land reform (see *Green paper on land reform* above).¹⁴⁹ [¹⁴⁹ Ibid]

The Land and Agricultural Policy Centre (LAPC) assessed land demand among people in tribal authority areas, townships and informal settlements and on farms. It said that 65% of the sample wanted more land for farming and 47% wanted more land for their homestead. However, 33% said they did not need land. Of the total sample, 90% had one hectare of land, or less, for residential purposes and two thirds had one hectare or less for farming. Most of those who wanted land said they wanted only 1,2 hectares, or less. Of those surveyed 19% had lost land under apartheid, while 10% had been forcibly removed from land they occupied. The remaining 71% had not lost land. Among those who wanted land for farming, 79% said they would use it mainly for cultivation, 69% for gardening and 48% for grazing.¹⁵⁰ [¹⁵⁰ *Land Update* January/February 1996]

The green paper promised that by 2006, rights in land would be secured for a large proportion of eligible South Africans, assisted by government grants and services. The green paper stated, however, that the proposed redistribution was not yet quantifiable.¹⁵¹ [¹⁵¹ Department of Land Affairs, *Green Paper on South African Land Policy*, 1 February 1996]

Priority would be given to the ‘marginalised’ and the needs of women.

The programme would seek to ensure that land redistribution projects successfully addressed:¹⁵² [¹⁵² *Ibid*]

- the economic and social viability of intended land use;
- fiscal sustainability by the local authority;
- environmental sustainability;
- proximity and access to markets and employment; and
- availability of water and bulk infrastructure.

The green paper also said that the rate and scale of influx of homeless and landless people into urban areas had overtaken the rate at which housing could be provided.¹⁵³ [¹⁵³ *Ibid*]

Land Tenure Reform

According to the green paper, the goal of the government’s land tenure reform programme was ‘to extend security of tenure to all South Africans under diverse forms of tenure’. The approach was based on three principles:¹⁵⁴ [¹⁵⁴ *Ibid*]

- pro-rights and anti-permits: all tenure rights must be legally enforceable within a unitary, nonracial

system upholding rights to land without the use of permits;

- pro-choice and anti-imposition: within the unitary system of land rights, the government would commit itself to the provision of a variety of tenure options from which individuals could choose; and
- consistency with constitutional principles: all tenure options and systems must be consistent with the national constitution.

To meet these principles, the Department of Land Affairs adopted a ‘rightsbased approach’ to tenure reform. This focused on confirming in law whatever rights and interests in respect of land tenure people already had on the ground, including farmworkers, labour tenants and women (see *Farm dwellers* below). It involved finding ways of transforming de facto relationships to land into formal legal rights to land. Also, a process for adjudicating the content of different rights to land, and who the bearers of such rights should be, was proposed. The inquiry would also address the relationship between group rights and individual rights to land and ensure that each was legally protected.

Farm Dwellers

The minister for agriculture and land affairs, Mr Derek Hanekom, said in June 1996 that he had no solutions to the problem of tenure security for farm dwellers (farmworkers and their families), but that he realised it was a ‘real problem’. The director general of land affairs, Mr Geoff Budlender, said his department, the Department of Housing and organised agriculture were discussing ways of strengthening farmworker tenure rights through access to the national housing subsidy scheme.¹⁵⁵ [¹⁵⁵ *Daily Dispatch* 14 June 1996]

In July 1996 it was reported that as a ‘last resort’, the ministry for agriculture and land affairs would consider expropriating land from farmowners who persisted with large-scale evictions of workers ahead of a negotiated solution to land security.¹⁵⁶ [¹⁵⁶ *Business Day* 29 July 1996]

In January 1997 a spokesman for the National Land Committee, Mr Brendan Pearce, said that pending the promulgation of draft legislation to secure farmworkers’ land tenure rights, eviction of farmworkers should be made illegal. He said the eviction of farmworkers, especially in Gauteng, was ‘skyrocketing’. It was hoped that the final legislation, which was expected to provide clearer criteria for granting eviction orders, would be placed before the cabinet in the first half of 1997. The legislation had not been tabled at the time of writing.¹⁵⁷ [¹⁵⁷ *Ibid* 29 January 1997; telephonic interview with Mr Robert Khala, resource centre officer, National Land Committee, 4 June 1997]

Commission of Inquiry into the Provision of Rural Financial Services (Strauss Commission)

The Commission of Inquiry into the Provision of Rural Financial Services (Strauss commission), chaired

by Dr Conrad Strauss, was set up in January 1995. The brief of the commission was to investigate a viable approach to the delivery of financial services to the rural poor, especially in support of the land reform programme and the reconstruction and development programme.¹⁵⁸ [¹⁵⁸ *Land Info* April 1996] The commission's final report was published in June 1996. It identified the following eight groups as requiring a special policy focus in respect of rural finance access: female farmworkers, male farmworkers, landless, unemployed rural poor, pensioners, smallholders, rural businesswomen, rural businessmen, and largescale rural employers. These groups generally required savings, transmission, and loan facilities, emergency credit and access to government grants. The report found that the Land and Agricultural Bank of South Africa (Land Bank), which was acting as both a retailer and a wholesaler to the farming sector, was unfairly biased in favour of the large-scale commercial farming sector.

The report argued that a rural development strategy required an integrated approach, in which the range of institutions operating at rural level would work together rather than in isolation. Recommendations regarding the transformation of the South African Post Office as a vehicle to provide financial services, as well as the Land Bank, were provided.¹⁵⁹ [¹⁵⁹ Commission of Inquiry into Rural Financial Services (Strauss commission), task team report, 26 June 1996] (See also *Rural housing* above.)

Constitutional Protection of Property Rights

Debate around the property clause in the final constitution (see chapter on *Government and Constitution*) was widespread. The green paper on land reform emphasised that the role of the constitution was first to make effective land reform possible. It stated that where possible, the government would be committed to a land reform process in which the principle of 'willing buyer/willing seller' would operate, but that where this was not possible, 'the state must be able to expropriate land required for the public good'.¹⁶⁰ [¹⁶⁰ Department of Land Affairs, *Green Paper on South African Land Policy*, 1 February 1996] A group of 23 nongovernmental organisations called for the removal of the property clause from the final constitution and proposed that property rights be protected through normal legislation.¹⁶¹ [¹⁶¹ *The Star* 16 February 1996]

The private sector representatives argued that the failure to entrench property rights would undermine investor confidence and a market-driven land reform process.¹⁶² [¹⁶² *Land Info* June/July 1996] The Democratic Party suggested that the clause had one weakness in that it failed to prohibit arbitrary alienation of property.¹⁶³ [¹⁶³ *Business Day* 27 May 1996]

All parties, with the exception of the Pan-Africanist Congress, agreed that property rights should be enshrined in the constitution.¹⁶⁴ [¹⁶⁴ *Ibid* 27 February 1996]

The final constitution, which came into effect on 6th February 1997, stated that property may only be expropriated for public purposes or in the public interest, and must be subject to compensation as can be agreed, or as determined by a court. People with insecure tenure or who were dispossessed of land after

1913 for discriminatory reasons had the right to redress. In addition, the constitution gave everyone the right to adequate housing and noted that the state must take steps to assure that people can realise their right. In terms of the final constitution, no one may be evicted from their home or have their home demolished without an order of court which must consider all the relevant circumstances.¹⁶⁵ [165 Constitution of the Republic of South Africa Act, no 108 of 1996] (See also chapter on *Government and Constitution*.)

Legislation

The minister for agriculture and land affairs, Mr Derek Hanekom, announced in August 1996 that the government planned to amend squatter and trespass laws as part of a legislative package aimed at providing security of tenure for all in South Africa. Mr Hanekom said that the new laws would influence the way local authorities regulated the eviction of squatters from public land.¹⁶⁶ [166 *Business Day* 28 August 1996]

During the period under review, the Department of Land Affairs was particularly active in developing legislation. The sections below examine the various acts and bills which were promulgated or tabled during 1996.

Land Reform (Labour Tenants) Act of 1996

The Land Reform (Labour Tenants) Act of 1996 was promulgated in March 1996 (see also 1995/96 Survey, pp372–373). It provided for labour tenants and their families to acquire land and security of tenure in their places of residence. The act made a distinction between labour tenants and farmworkers. (Labour tenants are ‘share croppers’, bound by the contract which they have with their employer, which defines payment in terms of land and housing use. Farmworkers may indeed receive land and housing as part of their employment package, but they are also paid a salary.) The act was based on the principle that the existing system of labour tenancy in South Africa was the result of racially discriminatory laws and practices which had led to the denial of access to land.¹⁶⁷ [167 Land Reform (Labour Tenants) Act, no 3 of 1996]

The act specifically defined labour tenants as ‘persons who were on or who had the right to reside on a particular portion of land on 2nd June 1995, and who have or have had the right to use that portion of land in terms of a labour tenant agreement and whose parent or grandparent resided on that land or other land under similar conditions’.

Farmworkers were thus specifically excluded from the act.

Interim Protection of Informal Land Rights Act of 1996

In June 1996 the Interim Protection of Informal Land Rights Act of 1996 was promulgated (see also

1995/96 Survey, p373). The act provided for the temporary protection of rights to, and interest in, land not otherwise adequately protected by law, while the process of drafting new land reform legislation was still under way. The act introduced the term ‘beneficial occupation’ which referred to the occupation of land by someone, as if they were the owner, and classified informal land rights as a form of secure tenure. Unless extended by the minister for agriculture and land affairs, the act was to lapse on 31st December 1997.¹⁶⁸ [¹⁶⁸ Interim Protection of Informal Land Rights Act, *Government Gazette* no 157, 26 March 1996]

Communal Property Association Act of 1996

The Communal Property Association Act of 1996 (see also 1995/96 Survey, p373) was promulgated in May 1996, providing for a new form of communal tenure to be granted to a legal body, known as ‘a statutory association’. The act allowed for voluntary associations to be registered and to acquire property collectively. ‘Communal property associations’ would acquire, hold or control property on behalf of and for the benefit of disadvantaged communities, providing a relatively simple and accessible mechanism through which group ownership systems could be recognised.¹⁶⁹ [¹⁶⁹ *Minutes of the national workshop on sustainable, group-based housing approaches in South Africa: problems and prospects*, Co-operative Housing Foundation Johannesburg, 26 June 1996]

There were three situations in which the act could apply:

- when a community was, by order of the Land Claims Court, entitled to restitution under the Restitution of Land Rights Act of 1994;
- when an institution or person wished to donate, sell or otherwise dispose of a property to a community; or
- when a community wished itself to form a communal property association.

While the act was originally intended to apply in rural areas, it also allowed for alternative forms of tenure in urban areas, such as the collective ownership of a block of flats by a group of tenants.

The Inkatha Freedom Party opposed the act in its bill form through Parliament’s land affairs committee, out of fear that the legislation would undermine the authority of traditional leaders.¹⁷⁰ [¹⁷⁰ *The Citizen* 24 January 1996]

At a national workshop on social and co-operative housing sponsored by the Co-operative Housing Foundation in June 1996, the act was cited by land and housing practitioners as one of the most significant interventions into facilitating collective tenure and related housing approaches, as it stood to increase the range of housing and land development approaches undertaken.¹⁷¹ [¹⁷¹ *Minutes of the national workshop on sustainable, group-based housing approaches in South Africa: problems and prospects*, held by the Co-operative

Housing Foundation Johannesburg, 26 June 1996,]

Upgrading of Land Tenure Rights Amendment Act of 1996

In July 1996 the Upgrading of Land Tenure Rights Amendment Act of 1996 was promulgated, amending the Upgrading of Land Tenure Rights Act of 1991 (see 1991/92 *Survey*, pp348–349, 359). The amendment act inserted the definition of ‘putative holder’ as a person who occupied a piece of land as if he or she had formal land rights, but for whom no formal rights were recorded. Once a person was so recognised, it became legally possible to address means by which formal land rights could be given to that person. The act also boosted requirements for democratic process by requiring that a ‘tribal resolution’ be a democratically arrived at agreement by the tribe, and that a ‘community resolution’ be arrived at only after all relevant parties had been given the opportunity to participate. The act also gave the minister for agriculture and land affairs certain powers to protect the land rights of putative holders, or people with informal tenure.¹⁷² [¹⁷² Upgrading of Land Tenure Rights Amendment Act, *Government Gazette* no 1099, 3 July 1996]

Land Administration Amendment Bill

In September 1996 the Land Administration Amendment Bill (which brought the Land and Administration Act of 1995 in line with a Constitutional Court ruling that Parliament did not have the right to delegate its law-making functions to the executive), was supported by all parties in Parliament.¹⁷³ [¹⁷³ *The Citizen* 12 September 1996] The bill had not been passed at the time of writing.

Land Restitution and Reform Laws Amendment Bill

The Land Restitution and Reform Laws Amendment Bill sought to amend the Restitution of Land Rights Act of 1994 (see 1994/95 *Survey*, pp87, 550), to expedite land restitution. The bill was passed by the National Assembly in September 1996, but at the time of writing had not yet been promulgated into law. The bill also provided that no person should be entitled to enforce the restitution of a right in a particular piece of land of which someone was dispossessed, if just and equitable compensation had already been paid.¹⁷⁴ [¹⁷⁴ *Land Info* October/November 1996]

Implementation

Statistics

The green paper on land reform noted that more than 130 000 families, involving 73 000 properties, were dispossessed under the Group Areas Act of 1966, The land claims and redistribution processes were designed to address these circumstances.

Land Restitution

The table below shows the provincial breakdown for land restitution claims from January 1995 to November 1996. The number of claims lodged in respect of land restitution is defined by the land being claimed and not the number of families involved in those claims. Each claim may involve a number of families, anywhere from one to hundreds.¹⁷⁶ [176 Commission on the Restitution of Land Rights, 22 November 1996]

Land restitution claims: January 1995–November 1996

Province

Urban claims

Rural claims

Total claims lodged

Eastern Cape

459

443

902

Free State

0

60

60

Gauteng

2 641

304

2 945

KwaZulu-Natal

2 916

819

3 735

Mpumalanga

12

269

281

North West

77

170

247

Northern Cape

34

110

144

Northern Province

88

359

447

Western Cape

2 710

60

2 770

Total

8 937

2 594

11 531

By late June 1996 the Commission on Restitution of Land Rights had submitted its first three land claims cases to the Land Claims Court.¹⁷⁷ [¹⁷⁷ *The Citizen* 21 June 1996] In August 1996 the Department of Land Affairs announced it was considering appointing an additional land claims commission to speed up the land claims p

Land Redistribution

In September 1996 the Department of Land Affairs redistributed 6 531 hectares of state-owned land, the largest redistribution in 1996. The redistribution involved farmland in north east Namaqualand (Northern Cape) worth R250 000. Forty-five families who had lived and worked there since 1940 had claimed the land in terms of the Provision of Certain Land for Settlement Act of 1993.¹⁷⁹ [¹⁷⁹ *Ibid* 4 September 1996] By November 1996 almost 2m hectares of land, including state-owned land, had been redistributed.

Land Claims and Redistribution

During the period under review, the Land Claims Commission focused on balancing the rights of land claimants with what was in the ‘public interest’. Specifically, section 34 of the Restitution of Land Rights Act of 1994, which allowed for the government to reserve a particular piece of land for public use, became the centre of a number of controversial claims.¹⁸⁰ [¹⁸⁰ *Land Info* August/September 1996]

One of the controversies was around a claim by the Ndabeni community in the Western Cape, for a piece of land which was designated as a possible site for the Olympic Games stadium, as part of Cape Town’s bid for the games in 2004. While the Ndabeni were forcibly removed from a different piece of land, they chose the Olympic stadium site as the closest to the land from which they were removed. The committee responsible for Cape Town’s Olympic bid argued that the land was to be used in the public

interest, and that consequently this overrode the Ndabeni's claim to the land.¹⁸¹ [¹⁸¹ Ibid]

Another claim involved the Makuleke tribe who once lived on a 20 000 hectare tract of land inside the Kruger National Park's Pafuri region (Northern Province). The tribe was confident that the land would be returned. Confidence in the restitution claim being successful was such that a German aid agency had sponsored seven young people from the tribe to go on a conservation course at Technikon SA, and a business consortium has offered to develop the land for ecotourism, on a 50-50 basis with the tribe. However, section 34 of the Restitution of Land Rights Act could have been used to enforce the 'public interest' that the land be kept part of the Kruger Park. At the time of writing the claim had not been finalised.¹⁸² [¹⁸² *The Sunday Independent* 8 September 1996; telephonic interview with Mrs Dirkje Gilfillan, commissioner, Land Claims Commission, 6 June 1997]

With respect to the possible expropriation of farmland, the Land Claims Commission said it would first look at the actual amount the farmer had paid for his land and adjust this by adding the actual appreciation in value over the appropriate period of time. The improvements to the land accruing from special benefits received by the owner from the state, would be deducted.¹⁸³ [¹⁸³ *F & T Weekly* 2 August 1996]

There were also a number of factors which complicated the resolution of claims for restitution in the urban areas. It was feared that the large number of investigations required to deal with individual claims could bankrupt the restitution programme before any remedial compensation was granted. Another problem was that many claims were submitted in duplicate, meaning that communities and individuals were often laying claim to the same land and property rights.¹⁸⁴ [¹⁸⁴ Ibid 24 May 1996] Multiple overlapping claims on individual properties involving original owners, long-term tenants and even subtenants, also created problems.

Land Reform Pilot Programme

The land reform pilot programme was undertaken in December 1994. The programme involved the selection of individual projects within pilot districts in every province, so that the Department of Land Affairs could develop and test land reform approaches which were efficient, equitable and widely replicable.

The total financial commitment for the land reform pilot programme in the nine provinces until the end of 1996/97 was R315,81m, or R35,09m for each province. The programme was designed to run to the end of the 1996/97 financial year. It was, however, anticipated that implementation would continue beyond fiscal year 1996/97.¹⁸⁵ [¹⁸⁵ *Hansard* (NA:Q) 5 col 902, 22 May 1996]

According to the Department of Land Affairs, measurable progress had been made by October 1996, though institutional problems were impeding delivery. By October 1996 all steering committees, district forums and offices necessary for the programme were fully operational. Plans for the pilot districts were complete and 206 projects had been identified, varying in size from single households to large

communities. It was expected that settlement and land acquisition grants worth approximately R436m would be disbursed to 38 542 households. Of the 206 projects, 76 were in the project identification phase, 70 were in the feasibility phase, 52 at the designation stage and eight in the detailed design stage. By the end of August 1996, R10,46m (3,2% of the total budget) had been spent primarily on office and planning costs.¹⁸⁶ [¹⁸⁶ *Land Info* October/November 1996]

Finance

In May 1996 the minister of land affairs, Mr Derek Hanekom, reported that land reform could comprise 2% of the national budget, or R3bn a year when it reached its peak. Within the 1996/97 fiscal year, R400m was budgeted for land restitution and redistribution programmes. Mr Hanekom noted that the 122m hectares of agricultural land, worth between R50bn and R60bn, were a fixed resource available for redistribution. Each year only 4% of this changed hands under normal conditions, through voluntary transactions.¹⁸⁷ [¹⁸⁷ *Business Day* 31 May 1996]

POSTAL SERVICES

Policy

In January 1996 the managing director of the South African Post Office, Mr Frank Touwen, outlined a number of priority policies which the post office hoped to follow. These comprised:¹⁸⁸ [¹⁸⁸ *Mail and Guardian* 11 January 1996]

- raising the efficiency of the mail service to ‘professional standards’;
- running internal affirmative action and diversity programmes;
- providing postal addresses for people in the most disadvantaged areas of the country; and
- making the post office ‘profitable’.

The postal systems of the former ‘independent’ homelands were incorporated into the South African Post Office in April 1996.

Legislation

(See *Telecommunications* below.)

Statistics

The South African Post Office handled 8m mail items a day and served customers at 1 426 post offices, 106 part-time post offices, 56 post points and 783 postal agencies in 1996.¹⁸⁹ [¹⁸⁹ *Inside The Post Office*, supplement to *F & T Weekly*, 26 July 1996] Mail was delivered to more than 6m addresses in 1996, including some 3m street addresses, 1m private post boxes, more than 1m boxes at mail collection points inside permanent structures and 1m address boxes at transportable mail collection points. A total of 380 retail postal agencies had also been set up in suitable host businesses, in the year ending March 1996. The aim of these retail postal agencies was to provide one-stop shopping where people normally did business.¹⁹⁰ [¹⁹⁰ *The Star* 23 April 1996]

Targets

In order to meet its target of providing 5m new address post boxes by 2000, the post office aimed to provide 500 000 addresses each year, according to the senior manager of the reconstruction and development programme division of the South African Post Office, Mr Bruce Tasche.¹⁹¹ [¹⁹¹ *Inside the Post Office*, supplement to *F & T Weekly*, 26 July 1996]

The minister for posts, telecommunications and broadcasting, Dr Pallo Jordan, said in May 1996 that national delivery times had been set by the post office. According to Dr Jordan, the delivery standard was set at 90% in each of the following categories:¹⁹² [¹⁹² *Hansard* (NA:Q) 5 col 896, 22 May 1996]

- within a metropolitan region: three days;
- within a province as well as between the major centres within the country: four days; and
- between remote rural towns in the various provinces: five days.

Implementation

A total of 1m address boxes at transportable mail collection points were installed in the 1995/96 financial year, bringing the total number of addresses at which mail was delivered to more than 6m (see *Statistics* above).¹⁹³ [¹⁹³ *The Star* 23 April 1996]

An independent audit published in May 1996 indicated the following achievement of mail delivery targets:¹⁹⁴ [¹⁹⁴ *Hansard* (NA:Q) 5 col 896, 22 May 1996]

- Witwatersrand: 77%;
- Western Cape: 95%;

- Eastern Cape: 98%;
- KwaZulu-Natal: 84%;
- central provinces (Free State, Northern Cape, North West): 84%; and
- Northern Province and Mpumalanga: 87%.

A South African Post Office audit of mail delivery indicated in February 1997 that 84% of mail in all categories arrived on time.¹⁹⁵ [¹⁹⁵ *The Star* 5 March 1997]

Finance

The government subsidy to the South African Post Office decreased from R550m in 1992 to an estimated R325m in the 1995/96 financial year, according to the managing director of the post office, Mr Frank Touwen.¹⁹⁶ [¹⁹⁶ *Inside the Post Office*, supplement to the *F & T Weekly*, 26 July 1996] The organisation incurred losses of R379m in the 1994/95 financial year, R364,2m in 1995/96 and R571m in 1996/97, according to Mr Jay Naidoo, the minister for posts, telecommunications and broadcasting.¹⁹⁷ [¹⁹⁷ *Cape Times* 19 February 1997] The regional head of the post office in the Witwatersrand, Mr Manie MacDonald, said that fraud, theft and armed robberies had contributed to the post office's R571m loss in 1996.¹⁹⁸ [¹⁹⁸ *The Star* 5 March 1997]

In terms of a five-year business plan the post office was expected to make a R10m profit in 1996/97. Mr Naidoo said that a rescue plan for the post office would include a new tariff structure, including significant increases in postal tariffs, and exploration of new business opportunities for the post office.¹⁹⁹ [¹⁹⁹ *Cape Times* 19 February 1997]

At the end of March 1996 Mr Touwen announced a parcel rates increase of 15,5%; a cash-on-delivery rate increase of 35%; and an increase on some international rates of 350%.²⁰⁰ [²⁰⁰ *Business Day* 2 April 1996] Mr Touwen said that in March 1996 it cost the post office about R1,30 to deliver a letter from a street post box to a street address, for which the user paid only 60c. In July 1996 the post office announced a 16% increase on all domestic mail service tariffs. In March 1997 postal tariffs increased by an average of 30%, while the tariff for standard mail increased by 42% (from 70c to R1).²⁰¹ [²⁰¹ *F & T Weekly* 29 March 1996; *The Citizen* 11 June 1996; *Business Day* 6 March 1997]

TELECOMMUNICATIONS

Policy

The Department of Posts, Telecommunications and Broadcasting published *The White Paper on Telecommunications Policy* in May 1996. The draft white paper paved the way for privatisation of parts of the telecommunications sector by proposing an opening up of the telecommunications market to foreign multinationals, and offering consumers a wider choice of services.²⁰² [²⁰² *Financial Mail* 21 June 1996] The white paper largely formed the basis of the Telecommunications Act of 1996 which was promulgated in November 1996 (see *Legislation* below). A major area of controversy was the omission from the bill of the white paper's provision for a six-year period of exclusivity for Telkom, a period during which the parastatal would restructure for competition.²⁰³ [²⁰³ *The Star Business Report* 6 November 1996] The white paper also provided for a universal service agency and an associated fund to be established to focus on the delivery of telecommunications services to previously disadvantaged communities. An independent authority to regulate telecommunications in the public interest was also mooted.²⁰⁴ [²⁰⁴ Department of Posts, Telecommunications and Broadcasting, *The White Paper on Telecommunications Policy*, March 1996]

Privatisation and Competition

Telkom's Vision 2000 project planned to provide 4m new lines by the end of the decade at a cost of R16bn.²⁰⁵ [²⁰⁵ *Sunday Times* 4 September 1996] The minister for posts, telecommunications and broadcasting, Mr Jay Naidoo, announced in October 1996 that between 20% and 30% of Telkom was to be sold to a consortium of international telecommunication operators by April 1997. Apart from the strategic equity stake, 10% of Telkom was to be made available for the economic empowerment of previously disadvantaged communities and workers—a decision negotiated with trade unions and other partners.²⁰⁶ [²⁰⁶ *The Citizen* 11 October 1996]

The chief executive officer and managing director of Telkom, Dr Brian Clark, said that without a partner, Vision 2000—a programme to rehabilitate 1m lines and add a further 3m new lines to the network by 2000—would be impossible to implement as planned.²⁰⁷ [²⁰⁷ *Business Day* 14 October 1996] There were seven bidders for the 20%–30% stake in Telkom. (See also chapter on *Business*.)²⁰⁸ [²⁰⁸ *The Sunday Independent* 13 October 1996] The sale of a portion of Telkom was expected to earn R5,59bn for the state, plus additional investment in technology and training.²⁰⁹ [²⁰⁹ *The Citizen* 2 November 1996, 27 March 1997] In March 1997 a 30% stake in Telkom was sold to Telekom Malaysia and United States-based SBC International.

The deal represented the single largest direct foreign investment in South Africa to date and the start of the implementation of the government's restructuring programme for state-owned enterprises, according to Mr Naidoo. The consortium committed itself to install 2,7m new telephone lines and 120000 payphones, as well as to replace all 1,25m analogue lines with digital lines within five years.²¹⁰ [²¹⁰ *The Citizen* 27 March 1997]

Legislation

Telecommunications Act of 1996

The Telecommunications Act was promulgated in November 1996.²¹¹ [²¹¹ *Business Day* 1 November 1996] It established the South African Telecommunications Regulatory Authority, the Universal Service Agency and the Universal Service Fund, as contemplated in the white paper. The regulatory authority was vested with the control, planning and administration, management and licensing of the radio frequency spectrum, as well as the licensing of telecommunications services.²¹² [²¹² *Government Gazette* no 17581, November 1996]

The act was the product of a consultative process with groups represented in the National Telecommunications Forum. Private sector members of a national telecommunications co-ordination group threatened to withdraw from this forum following last minute changes made to the bill. The changes in question replaced Telkom's proposed six-year liberalisation plan with less rigid and less competitive targets. These were considered to compromise competition and entrench Telkom's competitive advantage in the industry.

Statistics

State of Play

Overall in South Africa there were 9,5 telephone lines per 100 people. The distribution, however, was very skewed. It was estimated that there was one line per 100 people in African areas and 60 lines per 100 people in white areas. The situation was worst in parts of the Eastern Cape where the ratio was around one telephone per 1 000 people. ²¹⁶ [²¹⁶ *Sowetan* 25 March 1997]

The table below provides a breakdown by race of the extent of access to a telephone in 1995 in urban and non-urban areas, according to the 1995 *October Household Survey* of the Central Statistical Service:²¹⁷ [²¹⁷ CSS, *October Household Survey 1995*, PO317, 27 November 1996]

Access to telephone by race — urban and non-urban: 1995^a

Proportion

African

Coloured

Indian

White

Total

Cellular phone only

Urban

0,3%

0,3%

0,4%

1,4%

0,6%

Non-urban

0,1%

—

—

0,5%

0,1%

Cellular phone and telephone in dwelling

Urban

0,3%

0,5%

3,5%

7,1%

2,6%

Non-urban

0,0%

0,3%

0,7%

6,0%

0,3%

Telephone in dwelling only

Urban

24,8%

43,7%

70,8%

76,1%

45,2%

Non-urban

2,8%

8,6%

62,0%

80,9%

7,1%

Access to telephone at neighbour

Urban

7,3%

15,1%

9,1%

2,6%

6,8%

Non-urban

8,8%

25,9%

11,9%

2,4%

9,2%

Communal telephone

Urban

29,4%

12,7%

3,3%

2,4%

17,8%

Non-urban

14,8%

17,3%

5,8%

2,3%

14,2%

Access to telephone at shop

Urban

13,1%

3,3%

2,0%

1,6%

7,9%

Non-urban

18,8%

7,9%

7,0%

1,6%

17,5%

None

Urban

24,9%

24,4%

10,8%

8,8%

19,1%

Non-urban

54,6%

40,0%

12,5%

6,3%

51,5%

a

Figures should add up vertically but may no

The bar charts below shows urban and non-urban access to telephone by race in 1995:

The following table shows how far people who had no telephone at home had to travel to the nearest telephone in 1995:²¹⁸ [²¹⁸ Ibid]

Distances between phoneless homes and the nearest telephone: 1995^a

Proportion

African

Coloured

Indian

White

Total

Less than 100m

Urban

33,4%

53,7%

54,5%

41,8%

37,1%

Non-urban

9,9%

38,8%

14,1%

31,5%

11,4%

100m to less than 200m

Urban

22,6%

19,4%

15,9%

20,9%

21,9%

Non-urban

11,9%

24,1%

28,8%

21,4%

12,5%

200m to less than 1km

Urban

22,1%

16,7%

15,4%

19,9%

21,1%

Non-urban

15,4%

19,6%

42,0%

24,0%

15,7%

1km to less than 5km

Urban

15,6%

8,4%

11,2%

14,2%

14,5%

Non-urban

18,2%

9,8%

10,5%

12,2%

17,8%

5km to less than 10km

Urban

3,5%

0,7%

1,3%

1,2%

2,9%

Non-urban

17,5%

4,0%

4,6%

4,7%

16,8%

10km or more

Urban

2,8%

1,0%

1,7%

2,0%

2,5%

Non-urban

27,0%

3,8%

—

6,1%

25,8%

Figures should add up vertically but may not owing to rounding.

In the non-urban areas some 26% of phoneless homes were 10km or more from the nearest phone. Among Africans this figure was 27%. About 59% of phoneless homes in urban areas were within 200m

Targets

In order to meet the reconstruction and development programme target, Telkom would have to install 550 000 telephone lines a year for the next five years; build 3,2 telephone exchanges a month; and lay 4 272km of cable a month.²¹⁹ [²¹⁹ *The Star* 6 February 1996] In order to reverse the skewed distribution of telephone lines—20:100 among whites and 60:1 000 among Africans, the country would have to double its network from 4m to 8m lines.²²⁰ [²²⁰ *Ibid* 30 May 1996]

Dr Brian Clark, the managing director and chief executive officer of Telkom, committed the parastatal to delivering 250 000 telephones by the end of March 1997, which would include 30 000 pay telephones.²²¹ [²²¹ *Business Day* 21 January 1997]

Telkom's network expansion plan, Vision 2000, was intended to result in a fully digital network by the year 2000. Vision 2000 was a 4m line programme intended to add 3m new lines to the network—a 75% increase on the 1996 total of 3 919 084 lines, and a further 1m lines replacing obsolete equipment. Two million of the new lines were earmarked for underserviced areas.²²² [²²² Telkom, annual report 1996]

Implementation

During 1995/96 Telkom installed 143 729 new lines, bringing the total number of telephone services to 3 919 084.²²³ [²²³ *Ibid*] The annual installation of new lines had declined from a peak of 235 000 lines in 1986 to an average of just over 115 000 a year over the three-year period 1994–96. The pace of installation improved in the first three months of 1997 to an excess of 10 000 new lines a week and it was estimated that the target of 250 000 new lines by 31st March 1997 would be exceeded, according to Dr Clarke.²²⁴ [²²⁴ Dr Brian Clarke, managing director of Telkom, keynote address at Tel. Com. 97 conference, March 1997]

In the 1995/96 financial year 10 500 pay telephones were operationalised, raising the number from 1,6 to 1,8 per 1 000 people. An emphasis was placed on installing pay telephones in rural areas. Telkom's aim to provide telephones to all institutions was hampered by a lack of information. Telkom's own survey indicated that 47% of schools and 77% of clinics had pay telephones in the 1995/96 financial year—as opposed to 40% and 70% respectively in the previous year.²²⁵ [²²⁵ Telkom, annual report 1996]

Rural Access

Since 1994 the Mobile Telephone Networks (MTN) cellular telephone network had provided many isolated towns and villages with cellular telephones, giving access to 70% of South Africa's population.²²⁶ [²²⁶ *Sowetan* 22 April 1996]

Cellular Telephones

Vodacom's subscriber base in May 1996 was 360 000, while MTN's was estimated at 230000.²²⁸ [²²⁸ *Business Day* 30 May 1996] South Africa's and Germany's cellular telephone markets were the two fastest growing in the world. Market penetration in South Africa was 1,5% (compared with Sweden, which had the biggest market penetration at 23,9%).²²⁹ [²²⁹ *Financial Mail* 22 March 1996]

New Affordable Telephone Service

A virtual telephone system—Voicelink—was introduced by Telkom for people who could not afford their own telephones. Voicelink was a centralised message system which enabled customers to send or retrieve messages at public pay telephones, cellular telephones and private telephones. Customers were allocated a personalised mailbox, or telephone number, and identity card. The system was priced for low-income users.²³⁰ [²³⁰ Telkom, annual report 1996]

Finance

Telkom's net profit increased by 34% to R1,2bn in the financial year ending 31st March 1996. The gross interest bearing debt for the Telkom group in 1996 was R11,61bn compared with R10,85bn in 1995.²³¹ [²³¹ *Ibid*]

Telkom outlined a R4bn investment programme for the 1996/97 financial year to install almost 300 000 new telephone lines.²³² [²³² *Sunday Times Business Times* 30 June 1996]

The ministry of posts, telecommunications and broadcasting announced in June 1996 that cable thieves in search of copper wire had stolen 194 498km of overhead telephone lines in South Africa in the space of a year. Telkom estimated that direct losses resulting from the service disruption were R29m.²³³ [²³³ *The Star* 24 October 1996]

ROADS AND TRANSPORT

Some commuters travelled more than 300km a day and spent more than half of their disposable income on transport, despite subsidies. Mr Mac Maharaj, the minister of transport, wanted to reduce this to a maximum of 40km and 10% of disposable income. In 1996 Mr Maharaj talked of a 25-year plan to reform transport. The Department of Transport did not envisage providing more transport to cities by the

year 2020, but aimed rather at improving existing services and managing urbanisation.²³⁴ [234 *The Citizen* 29 February 1996]

Policy

Mr Maharaj said in February 1997 that his department's policies focused on three key areas. The first was economic activity, where government involvement in operations was to be reduced; public-private sector partnerships were to be forged; and the goals of economic growth, employment creation, socioeconomic redistribution and stimulation of small, medium and micro-enterprises were to be pursued. The second was the establishment of a 'user pays' principle so that the government did not subsidise services which were not basic social services. Thirdly, the department was rationalising its staff complement, which was considered oversized with excess bureaucratic and administrative staff.²³⁵ [235 *Business Day* 13 February 1997]

A *White Paper on National Transport Policy* was approved by the cabinet in September 1996, and the department published a *Land Transport Policy Framework* in December. The policy framework refined the principles set out in the white paper.²³⁶ [236 Department of Transport, *White Paper on National Transport Policy*, September 1996; Department of Transport, *Land Transport Policy Framework*, December 1996] Both documents proposed major changes in almost all transport sectors, affecting public and private investment in both institutions and infrastructure.²³⁷ [237 Institute for Futures Research, *Business Futures Bulletin*, vol 3 no 2, 1996]

The key issues facing the transport industry included:

- inefficient land use patterns, which increased the need for and cost of transport;
- fragmented legislation, with separate legislation at various levels of government for different transport modes and infrastructure;
- fragmentation of responsibility for transport planning, implementation, funding and subsidisation, which led to inefficiency in decision making;
- lack of comprehensive planning;
- deficiencies in the regulation of public transport, including the issuing and control of permits;
- inefficient and inadequate funding for land transport;
- inefficient subsidy policies, including failure to support small informal public transport businesses;
- inadequate safety, security and insurance for commuters who were the victims of crime, violence and

accidents associated with public transport; and

- lawlessness in land transport, including taxi-related crime and violence.

The white paper proposed that the state reduce its direct involvement in operations and in the provision of infrastructure and services, to allow for a more competitive environment.²³⁸ [²³⁸ Department of Transport, *White Paper on National Transport Policy*, September 1996] An overarching land transport act was also mooted to clarify the relationships between different tiers of government: financial and executive powers would be given to the lower-tier transport authorities while provincial governments would be responsible for co-ordination and for the provision of rural services outside municipal transport areas.²³⁹ [²³⁹ Department of Transport, *Land Transport Policy Framework*, December 1996] Overall, for public transport the plan was to promote a ratio of 80:20 between public transport and private use of vehicles. The white paper stated that public transport should become more affordable, costing commuters less than 10% of their disposable income.²⁴⁰ [²⁴⁰ Department of Transport, *White Paper on National Transport Policy*, September 1996] (The policy provisions for bus, minibus taxi, rail and roads are outlined in their respective sections below.) The white paper concluded that consideration should be given to creating a climate that would encourage private participation in the ownership, planning, financing, construction, maintenance and management of transport infrastructure.²⁴¹ [²⁴¹ *Sunday Times* 31 March 1996]

The policy of increasing the involvement of the private sector was motivated by the size of the subsidy that the government had to contribute annually for commuter services. According to the 1996/97 budget, this amounted to over R1bn (see *Subsidies* below).²⁴² [²⁴² *F & T Weekly* 9 August 1996] Mr Maharaj said that it would be impossible for the government to withdraw entirely from subsidisation in the foreseeable future, and government subsidies would not disappear for the next ten to 15 years.²⁴³ [²⁴³ *Business Day* 19 September 1996]

The white paper noted the government's intention that all road-based public transport operators would 'operate as separate legal entities from any level of government, have no direct access to finances other than on a commercial basis, operate on business principles and be liable for tax.'²⁴⁴ [²⁴⁴ *Ibid*; 19 February 1996]

On the civil aviation industry, the white paper said the state should reduce its direct involvement in airlines in order to offer equal treatment for all participants in the market. It suggested that new entrants to the aviation market be monitored to ensure financial reliability. The paper recommended that South African Airways enter into alliances to involve strategic investors in contributing capital and technology.²⁴⁵ [²⁴⁵ *Ibid*]

In rural areas the focus would be on developing economically viable communities to reduce the need to travel long distances, according to Mr Maharaj. The planning, management of, and payment for, public

transport would be devolved to the 'lowest possible level of government'. Metropolitan authorities would be assisted through training programmes while provincial authorities, in co-ordination with the district and local authorities, would be responsible for areas outside major centres. The central government would supply the policy framework—the cornerstone of which would be regulated competition.²⁴⁶ [²⁴⁶ *The Citizen* 29 February 1996]

Other key policy components included reducing the cost of freight, creating single customs and immigration posts at the borders, and boosting the economy by developing the Maputo corridor.

The introduction of unleaded petrol in 1996 would enable South African vehicle manufacturers to introduce the same unleaded vehicle technologies as those used in Europe, the United States and Japan. Industry officials said this would reduce vehicle production costs as engine technologies would be brought on par with the rest of the world. Import and export opportunities would also be enhanced.²⁴⁷ [²⁴⁷ *Financial Mail* 19 January 1996]

Legislation

Schedule 4 of the Constitution of the Republic of South Africa Act of 1996 lists functional areas of concurrent national and provincial legislative competence. Those relating to land transport included public transport, road traffic regulation, vehicle licensing and certain local government matters including municipal public transport. The constitution devolved the functional areas of public transport, road traffic legislation and roads to provincial legislatures.²⁴⁸ [²⁴⁸ Department of Transport, *Land Transport Policy Framework*, December 1996; Constitution of the Republic of South Africa Act, no 108 of 1996]

The *White Paper on National Transport Policy* stated that no comprehensive enabling legislation existed for land passenger transport and that a land transport act would be compiled at national level. The act would clarify relationships between levels of government, and further define concurrent and exclusive powers.²⁴⁹ [²⁴⁹ Department of Transport, *White Paper on National Transport Policy*, December 1996]

Road Accident Fund Act of 1996

The Road Accident Fund Bill was enacted in September 1996. The act provided for the establishment of a road accident fund to pay compensation for loss or damage as a result of bodily injury or death caused by the wrongful driving of motor vehicles. The fund was to be financed through fuel levies and loan finance.²⁵⁰ [²⁵⁰ *Government Gazette* no 17532, 1 November 1996]

National Roads Amendment Act of 1996

The National Roads Act of 1971 was amended by the promulgation of the National Roads Amendment Act in March 1996. The amendment act allowed the South African Roads Board to conclude agreements

with private persons for the planning, design, construction and operation of national roads, for which such persons would be entitled to charge a toll. This amendment was the result of insufficient public funds being available for capital expenditure and the maintenance of national roads. The amendment act repealed the board's obligation to provide alternative routes to toll roads, as this policy was considered to be unaffordable. The National Roads Amendment Act, which allowed the private sector to develop and maintain certain portions of national roads in conjunction with the government, would help to address the backlog in road building and maintenance. The government would allot concessions through the tender process for the development and maintenance of suitable sections of national roads, which would then become toll roads.²⁵¹ [²⁵¹ *Government Gazette* no 17140, 19 April 1996; *The Citizen* 23 March 1996]

Proposed Legislation

The National Land Transportation Bill, approved by the cabinet in May 1997, among other things clarified powers of and relationships between levels of government with respect to land transport.²⁵² [²⁵² National Land Transport Bill Working Document, 1996; Provincial Land Transport Bill Working Document, 1996; telephonic interview with Ms Didi Moyle, liaison officer, Department of Transport, 30 May 1997]

The bill further provided for:

- the establishment of a national transport commission to replace the current commission, in order to hear appeals from provincial permit boards;
- the establishment of transport authorities by provincial MECs;
- the preparation, by transport authorities, of transport plans for the co-ordination and upgrading of transport in their areas;
- the establishment of a national transport fund as well as a provincial land transport fund for each province and a transport authority fund for each transport authority;
- the establishment of provincial permit boards;
- the contracting out of public transport services;
- the registration of taxi associations;
- the concessioning, or contracting out, of rail services in terms of transport plans; and
- the support of small, medium and micro-enterprises.

Statistics

The Department of Transport's *Transport Statistics 1995* recorded the mode of transport used by workers to travel to work, as well as the length of time travel to work, by province, in 1994. These statistics were the latest available.

The following table provides a breakdown of workers' modes of transport in urban and non-urban areas in each province.²⁵³ [²⁵³ Department of Transport, *Transport Statistics*, 1995]

Mode of travel to work by province — urban and non-urban: 1994^a

Proportion

EC

FS

Gau

KN

Mpu

NW

NC

NP

WC

RSA

Bus

Urban

11,2%

10,5%

9,4%

16,7%

18,9%

11,1%

9,0%

10,4%

6,5%

10,7%

Non-urban

9,6%

13,5%

4,2%

15,6%

22,5%

20,2%

3,1%

17,7%

1,0%

14,6%

Total^b

10,0%

11,5%

9,2%

16,2%

21,0%

16,1%

6,9%

16,3%

5,7%

12,0%

Taxi

Urban

33,4%

25,5%

26,0%

23,9%

23,5%

23,6%

15,1%

23,6%

18,9%

24,4%

Non-urban

22,2%

14,1%

8,6%

23,2%

15,1%

19,7%

3,0%

17,0%

2,6%

17,7%

Total^b

28,4%

20,5%

25,3%

23,5%

18,5%

21,4%

10,7%

18,2%

16,3%

22,1%

Train

Urban

1,7%

0,4%

6,9%

2,4%

0,3%

0,3%

0,4%

0,5%

15,5%

6,2%

Non-urban

1,9%

0,2%

0,1%

4,2%

0,5%

0,5%

0,2%

1,0%

0,7%

1,8%

Total^b

1,8%

0,3%

6,6%

3,2%

0,4%

0,4%

0,3%

0,9%

13,2%

4,7%

Bicycle

Urban

0,4%

1,4%

1,0%

0,5%

1,0%

2,7%

5,1%

1,1%

1,8%

1,2%

Non-urban

0,6%

0,2%

2,3%

0,3%

1,4%

1,3%

1,4%

0,5%

0,7%

0,7%

Total^b

0,5%

0,9%

1,0%

0,4%

1,2%

1,9%

3,8%

0,6%

1,7%

1,0%

Car, motorcycle

Urban

35,7%

35,4%

40,5%

37,3%

41,8%

38,0%

38,8%

47,9%

38,7%

49,0%

Non-urban

13,1%

10,5%

26,1%

10,6%

18,2%

9,0%

20,4%

14,9%

20,1%

13,5%

Total^b

25,8%

24,5%

40,0%

24,8%

27,8%

22,0%

32,0%

21,0%

35,6%

30,4%

Walking

Urban

14,0%

23,5%

12,9%

15,7%

11,7%

21,3%

29,2%

11,6%

16,0%

15,3%

Non-urban

48,7%

59,7%

56,9%

42,3%

38,8%

47,2%

69,3%

41,6%

67,9%

47,7%

Total^b

29,3%

39,4%

14,7%

28,2%

27,8%

35,7%

43,8%

36,2%

24,2%

26,3%

Other

Urban

3,6%

3,8%

3,3%

3,5%

2,8%

3,0%

2,4%

4,9%

2,6%

3,2%

Non-urban

3,9%

1,8%

1,8%

3,8%

3,5%

2,1%

2,6%

7,3%

7,0%

4,0%

Total^b

3,7%

2,9%

3,2%

3,7%

3,3%

2,5%

2,5%

6,8%

3,3%

3,5%

a

Figures add up vertically for each category: urban, non-urban and total.

b

Total represents the proportion of people in each province who made use of a

The following table shows the length of time taken in each province by urban and non-urban workers to travel to work:²⁵⁴ [²⁵⁴ Ibid]

Length of time taken to travel to work by province — urban and non-urban: 1994^a

Time

EC

FS

Gau

KN

Mpu

NW

NC

NP

WC

RSA

0-1 hours

Urban

92,8%

91,4%

83,3%

85,8%

89,2%

90,8%

95,5%

92,5%

81,1%

85,7%

Non-urban

80,4%

92,4%

93,7%

80,5%

78,9%

83,4%

94,2%

87,0%

97,7%

84,9%

Total

87,6%

91,8%

83,7%

83,4%

83,1%

86,7%

95,0%

88,2%

84,2%

85,4%

1-2 hours

Urban

6,4%

8,1%

15,6%

13,1%

8,0%

7,8%

4,1%

6,1%

16,0%

12,9%

Non-urban

16,1%

7,4%

5,8%

16,8%

11,5%

13,1%

4,2%

10,5%

1,8%

12,0%

Total

10,5%

7,8%

15,2%

14,8%

10,1%

10,7%

4,1%

9,6%

13,4%

12,6%

2-3 hours

Urban

0,5%

0,0%

0,8%

0,9%

2,4%

1,3%

0,4%

1,0%

2,5%

1,1%

Non-urban

2,9%

0,1%

0,4%

1,9%

5,8%

3,0%

0,6%

1,9%

0,4%

2,2%

Total

1,5%

0,1%

0,8%

1,3%

4,4%

2,0%

0,5%

1,7%

2,1%

1,5%

3-4 hours

Urban

0,2%

0,3%

0,2%

0,1%

0,3%

0,1%

0,0%

0,4%

0,3%

0,2%

Non-urban

0,5%

0,1%

0,1%

0,5%

1,9%

0,4%

0,6%

0,3%

0,0%

0,5%

Total

0,3%

0,2%

0,2%

0,3%

1,2%

0,3%

0,2%

0,3%

0,2%

0,3%

4+ hours

Urban

0,1%

0,2%

0,1%

0,2%

0,1%

0,0%

0,0%

0,0%

0,1%

0,1%

Non-urban

0,1%

0,0%

0,0%

0,0%

1,9%

0,1%

0,4%

0,3%

0,1%

0,4%

Total

0,1%

0,1%

0,1%

0,1%

1,2%

0,1%

0,2%

0,2%

0,1%

0,2%

a

Figures should add up vertically for each category (urban, non-urban, total) but may not, owing to rounding.

Some 85% of all workers took less than one hour to travel to work, while 13% took between one and two hours.

The table below shows the number of motor vehicles in South Africa from 1985 to 1992 (the latest stat

Number of motor vehicles in South Africa: 1985–92

30th June

Cars

Minibuses

Commercial vehicles

Buses

Total

1985

2 971 451

125 125

1 122 812

28 168

4 247 556

1986

3 101 860

135 321

1 164 400

28 209

4 429 790

1987

3 142 906

143 867

1 186 549

29 910

4 503 232

1988

3 170 552

151 845

1 190 525

29 095

4 542 017

1989

3 316 706

181 466

1 252 104

28 000

4 778 276

1990

3 403 605

196 243

1 273 247

28 107

4 901 202

1991

3 489 947

208 256

1 303 995

28 545

5 030 743

1992

3 522 129

217 037

1 338 737

28 354

5 106 257

Increase

1985-92

18,5%

73,5%

19,2%

0,7%

20,2%

The World Bank said in 1995 that South Africa had 63%, or 5m of the continent's 8m vehicles. There were some 1 000 vehicles for every 40km of road, compared with an average of 1 000 per 191km in the rest of

Finance

According to the *Budget Review* of the Department of Finance, the 1997/98 budget made provision for expenditure of R3,334bn by the Department of Transport, a 0,3 % decrease over the 1996/97 budgeted amount. The budget included R531,6m for the roads programme and R2,375bn for the land transport programme.²⁵⁷ [²⁵⁷ Department of Finance, *Budget Review*, 1997]

The following amounts were budgeted for civil aviation, roads, shipping, urban transport and road transport during 1996/97 and 1997/98, according to the *Budget Review*:²⁵⁸ [²⁵⁸ Ibid]

Department of Transport budget: 1996/97 and 1997/98 a

1996/97

Rm

1997/98

Rm

Increase

(decrease)

Administration

30,0

29,5

(1,7%)

Civil aviation authority

28,8

27,9

(3,1%)

Shipping

57,5

57,7

0,3%

Roads

517,4

531,6

2,7%

Land transport

2 318,2

2 375,2

2,5%

Road traffic

107,0

92,2

(13,8%)

Research and development

18,1

18,1

0,0%

Auxiliary/associated services

267,2

202,0

(24,4%)

Total^b

3 344,1

3 334,2

(0,3%)

a

The categories represented in the 1997 Budget Review differ from those in earlier budgets owing to new definitions of transport categories.

b

Figures may not add up owing to

Roads

Construction and Maintenance

According to Mr Dave Orton, chairman of the South African Bitumen and Tar Association (Sabita), road maintenance and construction as indicated by volume of bitumen used nationally, had reached a 20-year low in 1996. He expressed serious concern over the delivery of road funding. 'With R8bn of public funds unspent and with the civil engineering industry as a whole at a low point, it is vital that the delivery mechanisms be cranked up in order not to jeopardise the growth of the economy,' he said. ²⁵⁹ [259 *Sowetan* 19 April 1996]

In early 1996 the government looked to the private sector to participate in a R2bn-a-year maintenance programme for South Africa's road network, a national asset worth R30bn. The backlog in road building was officially estimated at R65bn.²⁶⁰ [²⁶⁰ *Business Day* 18 January 1996, *The Citizen* 23 March 1996] According to

the director general of transport, Mr Ketso Gordhan, the minister of transport, Mr Mac Maharaj, submitted a memorandum to the cabinet on the establishment of a national roads agency funded by a dedicated fuel levy of 6c a litre. The department estimated that at least R782m a year was required to ensure that the current condition of the nontoll national road network and the current level of service were maintained. An ideal figure of R1bn a year over the next ten years would also address current backlogs and new needs. The dedicated fuel levy would initially be 4c a litre, rising by one cent a year over two years, so that by the time the agency started operating in April 1998 it would be 6c. The levy was introduced in April 1997.²⁶¹ [²⁶¹ *Business Day* 5 September 1996; Department of Finance, *Budget Review*, March 1997] More than 1 000km of national roads were being handed over to the private sector to set up toll roads in an attempt to relieve the Department of Transport of construction and maintenance costs.

According to figures provided by the ministry of transport in April 1997, some R15,2bn a year was needed for ten years to overcome the rural roads backlog, prevent the deterioration of South Africa's road network and meet new demand. The technical director of Sabita, Mr Rob Vos, said that South Africa's roads, which should be regarded as one of the country's greatest assets, were inadequate to serve the disadvantaged communities.²⁶² [²⁶² *Business Day* 11, 15 April 1997]

Tariffs

South African toll road tariffs increased by 10% from 30th February 1996.²⁶³ [²⁶³ *Ibid* 29 February 1996] Mr Henri Kluever, the auditor general, said he was in favour of a dedicated fund and a levy to finance the fund because it was a perfect example of 'user pays'.²⁶⁴ [²⁶⁴ *The Star Business Report* 5 September 1996]

Policy

The *White Paper on National Transport Policy* of the Department of Transport, published in September 1996, stated that a professionally managed roads agency would be established to facilitate efficiency in the provision, maintenance and operation of road infrastructure. The primary road network would preferably be financed from a dedicated fuel levy and toll charges. Maintenance of lower order roads in urban and rural areas would receive increased attention.²⁶⁵ [²⁶⁵ Department of Transport, *White Paper on National Transport Policy*, September 1996]

Statistics

According to Mr Maharaj, the total length of national roads was 6 133km, provincial roads 354 000km, and municipal roads 100 000km. The department's chief director of roads, Mr Nazir Ali, said that several provincial roads might be taken over by the central government for upgrading and maintenance in the following three years.²⁶⁶ [²⁶⁶ *The Citizen* 23 March 1996]

According to Mr Piet Liebenberg, executive director of the Sabita, there were about 200 000km of roads

in South Africa which were unmapped and were not reflected in the inventories of any management body.²⁶⁷ [²⁶⁷ Ibid]

In February 1997 Mr Maharaj noted that 700km of national roads were toll roads.²⁶⁸ [²⁶⁸ *Business Day* 13 February 1997]

Safety

According to the founder of the Road Safety Trust (launched in October 1996), Mr Charles Allan, 450 000 motor vehicle accidents occurred annually in South Africa and cost about R10bn.²⁶⁹ [²⁶⁹ *Sowetan* 7 October 1996] In addition, one person died in road accidents every 56 minutes. The Department of Transport's principal traffic safety officer, Ms Christa van der Walt, said this amounted to almost 10 000 deaths on the roads each year. Sabita said in April 1997 that bad roads accounted for at least 3% of all accidents.²⁷⁰ [²⁷⁰ *The Star* 18 October 1996, *Business Day* 15 April 1997]

An estimated 11 045 people died in motor accidents in South Africa during 1995, which was 1 064 more than in 1994, according to Mr Maharaj. Some 46038 collisions were recorded in 1995.²⁷¹ [²⁷¹ *Daily Dispatch* 6 March 1996] According to the Central Statistical Service, the number of collisions involving minibus taxis increased from 57024 in 1990 to 63 181 in 1994.²⁷² [²⁷² *The Citizen* 7 March 1996]

The fatality rates for accidents involving minibus taxis were much higher than those for other categories of vehicles and showed a sharp increase from 1989 to 1995, while the fatality rates for all other categories of vehicle generally showed a downward trend.²⁷³ [²⁷³ *Hansard* (S:Q) 3 cols 143–144, 20 March 1996] According to the National Taxi Task Team (NTTT), minibus taxis recorded the highest accident and fatality rate of all road vehicle categories in 1992, the latest year for which detailed statistics were available.

The Department of Transport published the following figures for motor vehicle accidents which occurred in each province from January to November 1995:²⁷⁴ [²⁷⁴ Ibid]

Motor vehicle collisions: 1995

(January to November) ^a

Province

Collisions

Deaths

Minibus collisions

Eastern Cape

28 655

643

4 297

Free State

23 711

882

3 465

Gauteng

184 948

2 036

24 738

KwaZulu-Natal

84 498

1 887

11 512

Mpumalanga

20 253

1 073

1 872

North West

12 064

547

1 292

Northern Cape

6 548

292

642

Northern Province

14 202

616

1 312

Western Cape

78 697

1 167

8 720

Total

453 576

9 143

57 850

a

These are preliminary figures.

The Department of Transport lowered the legal blood-alcohol limit for drivers from 0,08g/100ml to 0,05g/100ml, with effect from Janu

Fuel

In May 1996 it was estimated that the demand for petrol, which formed half of all petroleum product sales, was about 10,3bn litres a year compared to the country's refining capacity of close to 12bn litres. This meant the country would experience a shortage by about 1998. It would be possible to compensate for this shortage with imports but this would adversely affect the country's balance of payments. The total daily capacity of South Africa's six refineries was about 650000 barrels. Mr Colin McClelland, director of the South African Fuel Industry Association, said the solution was to attract foreign investment to expand the industry's local capacity. It would cost between R2bn and R3bn to expand existing refineries to produce an additional 100 000 barrels a day. In May 1996 consumption was estimated to be between 400 000 and 500 000 barrels a day.²⁷⁶ [²⁷⁶ *F & T Weekly* 24 May 1996]

At the current level of consumption, a shortage of diesel was only expected after 2000. The main reasons for this were that major consumers such as the mines had switched over to electricity, buses had been replaced by taxis and diesel cars had largely been phased out.

Bus Transport

Policy

The *1996 Land Transport Policy Framework* outlined principles aimed at improving efficiency in the R4bn bus transport industry by scrapping the system where a few bus companies were given lifelong permits to operate certain routes and replacing it with a new one in which companies tendered for contracts to provide public transport for a specified period.²⁷⁷ [²⁷⁷ Department of Transport, *Land Transport Policy Framework*, December 1996]

Subsidies

In the financial year ending 31st March 1996, an amount of R693m subsidised 815000 passenger trips a day in all provinces by 35 bus companies and 8 000 buses.²⁷⁸ [²⁷⁸ Department of Transport, annual report 1995/96] The allocation for subsidies was 6,6% less than in 1994/95.

Buses often operated on uneconomical routes such as those in the former KwaNdebele and Moutse areas

(Free State) where the state was paying R109m a year to subsidise the fares of 23 000 commuters.²⁷⁹ [²⁷⁹ *The Star* 13 March 1996] However, reduced subsidies would make transport unaffordable to the commuters in these areas, most of whom earned less than the R5000 government spent on each commuter annually.²⁸⁰ [²⁸⁰ *African Business* May 1996]

Taxi Industry

Policy

The National Taxi Task Team (NTTT), established by the ministry of transport in March 1995 to investigate problems and development issues facing the minibus taxi industry, submitted a report in November 1995 (see also 1995/96 Survey, p175). The report's proposals included:²⁸¹ [²⁸¹ *Hansard* (S:Q) 3 cols 205–207, 28 March 1996]

- the establishment of provincial registers of minibus taxi associations and their members;
- the revision of the system of issuing taxi permits, to encourage routespecific permits;
- the development and provision of targeted funding and training for minibus taxi co-operatives;
- the establishment of provincial taxi offices to set up databases and to co-ordinate and implement training programmes in technical and business skills;
- the examination of employment practices within the industry; and
- the improvement of safety standards, inter alia through driver training, upgrading of taxi ranks and stopping bays, and strict enforcement of the new regulatory framework of the industry.

A special adviser to the NTTT, Ms Ashima Singh, said the informal nature of the industry made it difficult for drivers to benefit from labour legislation. Ms Singh said the investigations would help the government to monitor employment practices in the industry as there were no accurate records regarding employers and employees.²⁸² [²⁸² *The Star* 20 February 1996] Minibus taxi drivers were usually employed on a casual, temporary or ad hoc basis. The employment relationship between a minibus taxi owner and his driver came into being through a contract of service (usually oral) entered into between the driver and the owner whereby the driver placed his labour at the disposal of and under the control of the owner in return for remuneration (sometimes in the form of a weekly wage). Exploitation of the minibus taxi driver was aggravated by the fact that minibus taxi owners and their associations did not abide by protective labour legislation (such as the Basic Conditions of Employment Act of 1983, the Unemployment Insurance Act of 1966, the Workmen's Compensation Act of 1993 and the Labour Relations Act of 1956).

The government would make R80m available over the next two years for a capital guarantee fund to assist the minibus taxi industry, according to the director general of transport, Mr Ketso Gordhan. The capital guarantee fund would channel assistance to taxi operators in two ways. It would attempt to reduce interest rates being paid by taxi operators on capital goods from prime rate plus 8% to prime. The rest would go towards setting up taxi co-operatives and assisting them to establish petrol stations, spares and maintenance shops.²⁸³ [²⁸³ Ibid]

The government also committed a R14,5m a year package to help resolve the problems in the taxi industry. The package formed part of the government's response to recommendations made by the NTTT. The package included a R10m a year training programme to increase the industry's capacity. There would also be economic assistance for taxi co-operatives. Nine provincial offices would be established to help organise the taxi industry. The government's response to the control and regulation of the taxi industry included:²⁸⁴ [²⁸⁴ Ibid]

- changing from an area-based to a route-based permit system;
- legalising taxi operators through a registration system;
- instituting a process to issue new permits through local taxi or transport forums; and
- involving local authorities in planning routes for passengers.

According to Mr Mac Maharaj, the minister of transport, these recommendations, together with better safety and security measures, would reduce taxi-related violence. Mr Maharaj said no new area or temporary permits would be issued. The government wanted to encourage a move to larger 22 to 28-seater vehicles. Research showed they were more economical as well as safer.²⁸⁵ [²⁸⁵ *Business Day* 19 February 1996]

Statistics

The South African minibus taxi industry was estimated to be a R9bn a year industry.²⁸⁶ [²⁸⁶ Ibid 7 August 1996] According to Mr Maharaj, the number of legal minibus taxis in South Africa in 1995 was 73323. The number of illegal minibus taxis was estimated to be 50 000. (These figures exclude the number of minibus taxis of the former 'independent' homelands.)²⁸⁷ [²⁸⁷ *Hansard* (NA:Q) 8 col 1536, 14 August 1996] Mr Gordhan said in 1996 that there were 70 000 legal and 60 000 illegal taxis operating on the country's roads, indicating the demand for road transport.²⁸⁸ [²⁸⁸ *The Star* 8 March 1996]

Minibus taxi businesses provided transport to some 2,2m South Africans, more than half of the country's public transport users.

Finance

The taxi industry insisted on being granted direct subsidies or the phasing out of current bus and rail subsidies. Any increase in bus subsidies was seen to be an ‘insult’ to the taxi industry, according to a spokesman for the Southern African Long Distance Taxi Association, Mr Boeti Letsoela. But according to Mr Maharaj, direct subsidies were not a viable solution to the industry’s problems. He emphasised that only when there were formal taxi structures could the government provide assistance.

According to the outgoing public transport and roads MEC in Gauteng, Mr Olaus van Zyl, the central government would be foolish to ignore demands for subsidies. Direct subsidies should be seen as a ‘last resort’. While the government continued to subsidise other types of public transport, taxis carried about 50% of passengers without subsidisation. ‘This playing field is not level,’ Mr van Zyl said in June 1996. Gauteng would start cracking down on an estimated 20 000 unregistered taxis—40% of all Gauteng’s taxis. The province would also crack down on heavy vehicle overloading. Of 26 000 vehicles weighed in Gauteng in 1995, 61% were overloaded.²⁸⁹ [²⁸⁹ *Business Day* 19 June 1996]

Violence

A total of 883 incidents related to taxi violence were reported to the special investigation unit taxi task team of the South African Police Service (SAPS) during 1996. The number of such incidents increased significantly in 1996 compared with the 586 reported during 1995 and the 512 reported in 1994 (increases of 51% and 72% respectively). Dr Chris de Kock, head of crime research at the police’s Crime Information Management Centre, indicated that although this increase could be partially attributed to the inclusion in the 1996 figures of the former homelands, it remained cause for concern. The table below shows the number of deaths and injuries in taxi violence in 1994–96:²⁹⁰ [²⁹⁰ Fax communication from Dr Chris de Kock, head of crime research, Crime Information Management Centre, South African Police Service (SAPS), 19 March 1997]

Deaths and injuries caused in taxi violence: 1994–96

Deaths

Increase

Injuries

Increase

1994

199

N/A

346

N/A

1995

236

18,6%

408

17,9%

1996

338

43,2%

712

74,5%

N/A — Not available.

The following table shows the number of incidents, deaths and injuries which occurred because of taxi violence between January and December 1996 in each province

Deaths, incidents and injuries owing to minibus taxi violence: 1996

Province

Deaths

Injuries

Incidents reported

Proportion of total incidents

Eastern Cape

104

243

353

40,0%

Free State

5

2

20

2,3%

Gauteng

74

104

120

13,6%

KwaZulu-Natal

43

60

61

6,9%

Mpumalanga

8

16

37

4,2%

North West

22

63

38

4,3%

Northern Cape

0

4

3

0,3%

Northern Province

6

56

26

2,9%

Western Cape

76

164

225

25,5%

South Africa

338

712

883

100,0%

According to the Crime Information Management Centre of the SAPS, 430 arrests were made in connection with taxi violence in 1996. The centre indicated that there had been a notably sharp increase in the number of incidents related to taxi violence in the Eastern Cape (353), compared with the 114 reported during 1995, although this increase may in part be attributed to the inclusion of the former 'independent' homelands in the 1996 figures. With 225 incidents, the Western Cape experienced a marked increase in taxi violence compared with only 14 incidents reported in 1995. In both provinces taxi violence was marked by power struggles between and within various taxi organisations. Armed units consisting of 'hitmen' played an increasingly important role in perpetuating taxi violence in the Western Cape and in Gauteng. The relative decrease in incidents in Gauteng (120) from the 264 incidents reported in 1995 could possibly be attributed to the stricter measures enforced by the SAPS and the MEC for safety and security in a bid to combat taxi violence.²⁹² [²⁹² Ibid]

Taxi violence remained prominent in the North West, the Northern Province and Mpumalanga, especially on long distance routes and associated taxi ranks. Taxi-related violence in these provinces was characterised by shooting incidents, the burning of taxis, revenge attacks and random shooting at taxi ranks. Taxi violence in KwaZulu-Natal was characterised by sporadic clashes between taxi operators and bus services, and conflict within the executive structures of taxi organisations. (See also chapters on *Business* and *Poli*

According to a report by the Human Sciences Research Council covering the period 1990 to July 1995,

rising levels of conflict in the taxi industry claimed the lives of 637 people during that time. The causes of taxi-related violence were economic competition, revenge and retaliatory attacks, the use of drive-by shootings, ambushes and gunmen in assassination attacks. According to the report, Gauteng police claimed that 'hitmen' were paid R1 000 for the death of a passenger, R2 000 for a taxi driver, R4 000 for a taxi owner and up to R10 000 if the victim was employed by an opposing taxi organisation.²⁹⁴ [²⁹⁴ *Business Day* 16 January 1996]

Dr Meshak Khosa, a Durban academic, said that apart from the purely criminal elements involved in taxi violence, conflict arose from several identifiable causes including:²⁹⁵ [²⁹⁵ *The Star* 25 February 1996]

- territorial rivalry over access to taxi ranks and routes;
- tensions between established operators and newcomers as well as legal operators and pirates; and
- white penetration of the industry.

Policy Implementation

A national taxi violence strategy and national taxi crime unit with 66 specialist detectives was established in November 1995 by the national commissioner of police, Commissioner George Fivaz, to combat taxi violence. According to the detectives, taxi violence had dropped by 75% since the unit was set up. Through proactive policing and information gathering the unit had managed to prevent 584 incidents from taking place, according to Captain Pierre Serfontein, the unit's statistics expert. Unit members were investigating 297 cases and had arrested 213 people for violent crimes. They had recovered 51 guns and 18 stolen taxis. Seven cases were successfully taken to court, but most were still pending.²⁹⁶ [²⁹⁶ *Sowetan* 1 September 1996]

Commissioner Fivaz said that perpetrators of taxi violence had been increasingly using mafia-style 'hit-squad' tactics. Of the 363 suspects arrested for taxi violence, 57 were alleged taxi 'hit-squad' members. The police requested that the Department of Justice consider setting up a witness protection programme.²⁹⁷ [²⁹⁷ *The Star* 1 November 1996]

Taxi associations in all provinces began registering taxis on 2nd September 1996 in an attempt to regulate and stabilise the industry.²⁹⁸ [²⁹⁸ *The Natal Witness* 3 September 1996] Once the process had been completed, the Department of Transport would set up a taxi cooperative which would become the formal business centre of taxi associations.²⁹⁹ [²⁹⁹ *Ibid* 4 September 1996] According to Mr Maharaj, minibus taxi operators could form legally registered businesses, or become a registered association; these in turn could obtain permission from a provincial permit board to operate on a route or network with the number of permits dependent on the estimated need in terms of a passenger transport plan.³⁰⁰ [³⁰⁰ *The Argus* 8 March 1996]

Mr Dipak Patel, chairman of the NTTT, said in March 1997 that the following progress had been made in implementing the strategies proposed by NTTT and in the *White Paper on National Transport Policy*:³⁰¹ [³⁰¹ Telephonic interview with Mr Dipak Patel, chairman of the National Taxi Task Team, 18 March 1997]

- regulation and control: a clear set of criteria had been developed by which the status of illegal taxis would be determined, including those which had no permits and those operating outside of the conditions of their permits. Special permits would be allocated to bona fide illegal operators and they would be brought in line with the formalisation of the rest of the industry. Mr Patel indicated that up to 50% of the estimated 150 000 taxis in the country were operating illegally;
- restructuring, formalisation and training: a provincial programme of registration of taxi associations was launched in September 1996 in each of the nine provinces. By March 1997 at least 90% of all known taxi associations in each province had applied for registration. The Department of Transport had also developed guideline constitutions for taxi associations, emphasising democratic practice, financial accountability and codes of conduct. The process of registration would provide data to be integrated with other transport information systems used by the Department of Transport; and
- economic assistance: various theoretical models for taxi co-operatives had been developed and one pilot project was to be implemented in each province in mid-1997 to test the different co-operative models.

Rail Transport

Policy

Transnet is a holding company controlling various forms of transport and associated industries. Spoornet, a division of Transnet, focuses on the transport of freight, containers and long distance passengers by rail. Metrorail is a rail commuter service and acts as an agent for the South African Rail Commuter Corporation (SARCC). (See *Finance* below.)³⁰² [³⁰² Telephonic interview with Mr Tom Bosch, senior manager, administrative, Ministry for Public Enterprises, 30 May 1997]

Substantial changes in rail transport were recommended in the *White Paper on National Transport Policy*. Transnet was said to be ‘both a monopoly and oligopoly’. Transnet’s pension fund liability had adversely affected the development of balanced policy decision making. According to the white paper, Spoornet ought to focus on its core business and concentrate on its competitive areas. The paper suggested that Spoornet should cease operating in those areas of the freight business which it had to cross-subsidise, and take urgent steps to cut operating costs. ‘The aims for Spoornet should be full commercialisation.’ The white paper proposed that the rail network be developed into centrally controlled intercity corridors. The transfer of the ownership of certain lines to local authorities, communities or private enterprises was recommended. In the short term Metrorail would be separated from Spoornet and become a separate division of Transnet. In the medium term ownership of the

commuter rail infrastructure, rolling stock and land associated with rail reserves might be transferred to provincial or metropolitan transport authorities and concessions might be awarded on the basis of competitive tendering.³⁰³ [³⁰³ Department of Transport, *White Paper on National Transport Policy*, September 1996]

Statistics

The table below shows the total number of commuter journeys in each year from 1980/81 to 1994/95 (the latest year for which figures are available) and the annual increase or decrease:³⁰⁴ [³⁰⁴ Department of Transport, *Transport Statistics*, 1995]

Commuter journeys: Metrorail services: 1980/81–1994/95

Financial year ending 31st March

Total commuter journeys

Increase/
(decrease)

1980/81

681 068 921

N/A

1981/82

707 536 460

3,9%

1982/83

682 253 533

(3,6%)

1983/84

682 794 272

0,1%

1984/85

662 159 855

(3,0%)

1985/86

683 267 184

3,2%

1986/87

598 604 624

(12,4%)

1987/88

569 787 364

(4,8%)

1988/89

574 075 717

0,8%

1989/90

547 593 104

(4,6%)

1990/91

524 217 535

(4,3%)

1991/92

468 325 618

(10,7%)

1992/93

398 419 443

(14,9%)

1993/94

403 529 816

1,3%

1994/95

413 514 679

2,5%

The following line graph shows the number of commuter journeys from 19

The statistics differ from those used in the 1995/96 *Survey*, where the Department of Transport's earlier figures were related to the number of passengers rather than the number of passenger journeys, ie one passenger going to and from work is calculated as one passenger journey (see 1995/96 *Survey*, p390).

The steady increase in commuter use of trains from 1993 was related to safety. According to the marketing and communications manager of Metrorail, Ms Bintu Petsane, violence on trains, which had been 'killing fields' in the early 1990s, had dwindled, and rail was returning to its status as an acceptable, affordable means of transport.³⁰⁵ [³⁰⁵ *The Star* 20 February 1997] She said in February 1997 that about 2m commuters were ferried to and from the major centres each day.³⁰⁶ [³⁰⁶ *Ibid*]

Finance

To attract commuters lost to other modes of passenger transport, Metrorail announced it would be spending about R2,8bn in the next 15 years to clean and upgrade stations, and clean, paint and 'modernise' more than 4 000 coaches. About R25m was set aside for refurbishment of 32 coaches in 1996.³⁰⁷ [³⁰⁷ Ibid 18 April 1996]

The minister of transport, Mr Mac Maharaj, said that he hoped that more funds could be allocated to infrastructure in passenger services. Commuter services had currently been allocated R1,4bn. This was used to pay Metrorail subsidies, and to service the interest and reduce the capital on a R1,8bn loan that had been taken out in the first two years of the South African Rail Commuter Corporation (SARCC) to pay operating subsidies. (The SARCC falls under the Department of Transport and is responsible for rail commuter services, including Metrorail.)

Fare evasion cost Metrorail about R118m in the 1995/96 financial year, according to Ms Petsane.³⁰⁸ [³⁰⁸ Ibid 13 March 1996, 20 February 1997] Approximately 250 000 to 300 000 nonpaying passengers travelled on the country's rail services daily.³⁰⁹ [³⁰⁹ Department of Transport, annual report 1995/96] The managing director of the SARCC, Mr Wynand Burger, told Parliament that fare evasion and lack of control over the hiring of consultants and contractors contributed to its R835m loss in 1995.³¹⁰ [³¹⁰ *Cape Argus* 12 September 1996]

The SARCC received only 30% of its total revenue from fares and other revenue sources; the remaining 70% came from the state revenue fund through subsidisation. The 1995/96 annual report of the Department of Transport noted that rail fares and rail fare increases were resulting in increasing disparities between bus and rail fares. The report noted that rail fares had increased by 7,5% from September 1995, with a potential revenue loss of R80m annually.

About R1,37bn was spent on subsidising approximately 1,2m rail passenger trips a day in six metropolitan areas in 1995/96.³¹¹ [³¹¹ Department of Transport, annual report 1995/96] The government's intention was to scrap rail subsidies within three years and also reduce the SARCC loan obligation over the short term.³¹² [³¹² *The Star* 13 March 1996]

Mr Tiego Moseneke, chairman of a commission into the stampede at the Tembisa (east Rand) railway station in 1996 in which 16 people were killed, recommended that contracts be awarded to private companies to manage parts of the commuter rail system, including fare collection, and lease-and-operate contracts for stations. This would reduce the huge state subsidies required and might even make them profitable. (The stampede occurred in July 1996 when security guards employed by Metrorail used high-voltage electric batons to control commuters who had formed a bottleneck at the entrance gates to the platform.)³¹³ [³¹³ *Business Day* 20 August 1996]

Mr Maharaj said that the main cause of the Tembisa incident was the poor state of infrastructure for

commuter rail services, which had been neglected since the 1980s.³¹⁴ [³¹⁴ *The Citizen* 17 August 1997, *Sowetan* 7 January 1997]

Restructuring

In early October 1996 Transnet, a R40bn parastatal, announced a broad restructuring of two divisions, Spoornet and Metrorail.³¹⁵ [³¹⁵ *Sunday Times* 6 October 1996] Transnet's transformation strategy included giving at least half the value of its contracts with other companies to black enterprises wherever possible. According to the managing director of Transnet, Mr Saki Macozoma, the organisation had one of South Africa's most aggressive affirmative action programmes.³¹⁶ [³¹⁶ *Mail and Guardian* 19 July 1996]

Government proposals to restructure Transnet included finding a strategic equity partner for the parastatal, and its full privatisation. Restructuring had been slowed by labour opposition, government agreeing in 1996 that reshaping would be negotiated with the unions. Transnet's annual report showed it had 115 600 employees in May 1995, 26% fewer than in 1992. There had been further rationalisation in 1995. Transnet, which owned Spoornet and South African Airways, had reduced its staff from 282 000 to 115 000 over the previous 15 years (59%), in preparation for being 'commercialised'.³¹⁷ [³¹⁷ *Business Day* 14 May 1996; telephonic interview with Mr Carel Mulder, senior public relations officer, Transnet, 10 June 1997]

WATER AND SANITATION

According to the white paper on *Water Supply and Sanitation Policy* published in November 1994, 12m South Africans did not have access to potable water and nearly 21m lacked basic sanitation (see 1994/95 Survey, pp577–578).³¹⁸ [³¹⁸ Department of Water Affairs and Forestry, *Water Supply and Sanitation Policy*, November 1994; *The Natal Witness* 5 June 1996] In other words, one third of the population had no access to adequate water supplies and half had no access to adequate sanitation.³¹⁹ [³¹⁹ Department of Water Affairs and Forestry, annual report 1994/95] A study published by the Department of Water Affairs and Forestry in November 1996 concluded that as many as 18m people might lack basic water and sanitation.³²⁰ [³²⁰ Department of Water Affairs and Forestry, *Community Water Supply and Sanitation Strategic Study (Planning)*, November 1996]

Policy

The final constitution identified water services as functions for which the provincial and central governments would have concurrent responsibilities.³²¹ [³²¹ *Ibid*]

Water

In its white paper, the Department of Water Affairs and Forestry outlined the government's intention to provide basic water and sanitation to all South Africans within seven years (see 1994/95 Survey, pp576–

578). Part of the planned policy focused on attempts to attract foreign investors to reduce the burden of servicing the capital costs of big projects such as the Lesotho Highlands project. The minister of water affairs and forestry, Professor Kader Asmal, said in August 1996 that the government would soon announce a framework for private sector involvement in water service provision.³²² [³²² *Business Day* 6 August 1996] The department also reported that pricing policy in the water sector would soon begin to reflect that water was a scarce national resource.³²³ [³²³ *Ibid* 6 March 1996; *The Citizen* 21 August 1996]

A discussion document entitled *Water Law Principles* was published by the Department of Water Affairs and Forestry in April 1996. A set of 28 principles was approved by the cabinet on 20th November. The significant ones which deviated from the past included enhancing the government's ability to control the abuse of ground water, and the amendment of a person's automatic entitlement to priority use of water flowing past his land because of his ownership of that land.

Water resource management priorities included the reservation of a minimum amount of water to meet basic domestic needs, and the co-operative management of international water resources. The proposed water resource management approach focused on the need for the price of water to reflect that water was a scarce national resource, and for water resources to be developed, apportioned and managed in a manner which would enable all users to gain equitable access to water.³²⁴ [³²⁴ Department of Water Affairs and Forestry, *Water Law Principles, Discussion Document*, April 1996] The document was a precursor to a new water bill, which was due to be tabled in 1997.

Guidelines for the involvement of the private sector in water provision and for the regulation of partnerships between the public and private sectors were published by the department in February 1997.³²⁵ [³²⁵ *Business Day* 5 February 1997]

In May 1997 the Department of Water Affairs and Forestry published a white paper entitled *A National Water Policy for South Africa*. The document said that water users should be charged the full cost of water for the first time. The white paper proposed abolishing the riparian system of allocation, whereby the right to use was tied to the right of ownership along rivers. Provision would be made for certain water charges to be waived for specific groups, particularly the poor and previously disadvantaged.³²⁶ [³²⁶ *Ibid* 13 May 1997]

Sanitation

The *National Sanitation Policy White Paper*, published in June 1996 by the Department of Water Affairs and Forestry, outlined policy principles including the following:³²⁷ [³²⁷ *Cape Times* 5 June 1996]

- development should be 'demand-driven and community-based';
- basic services should be a human right;

- resource allocation should assist those unable to attain a basic level of service on their own;
- resources would be allocated according to population and level of development;
- water had an economic value;
- the user should pay; and
- sanitation should be a community responsibility.

Among the white paper's proposals were the following:³²⁸ [³²⁸ Department of Water Affairs and Forestry, *National Sanitation Policy White Paper*, June 1996]

- programmes to raise awareness of disease caused by unhealthy practices, promote health education, and promote willingness to pay for appropriate sanitation facilities;
- the involvement of communities and specifically women in decision making, the involvement of schools as a focal point for sanitation promotion, and the use of local business in sanitation improvements; and
- government grants for local authorities to provide basic sanitation.

Legislation

No legislation had been tabled at the time of writing.

Statistics

The Department of Water Affairs and Forestry published a *Community Water Supply and Sanitation Strategic Study (Planning)* in November 1996. The target population to be provided with basic water was that living in rural areas, outside municipal boundaries, and which would not be provided for through the municipal bulk infrastructure programme. It was estimated to amount to 12m people.³²⁹ [³²⁹ Department of Water Affairs and Forestry, *Community Water Supply and Sanitation Strategic Study (Planning)*, November 1996] Basic water provision as defined in the white paper on *Water Supply and Sanitation Policy* (see 1994/95 Survey, pp576–578) was 25 litres per person per day within 200m of their home, and sanitation provision equivalent to one ventilated improved pit latrine per six to eight people. The study concluded that the needy could amount to as many as 18m people, who would increase to 20m in five years and 25m in 25 years.

Water

In its 1995 *October Household Survey*, the Central Statistical Service (CSS) compiled figures which highlighted the differences in access to water among the four race groups and between urban and non-urban locations.³³⁰ [³³⁰ CSS, *October Household Survey 1995*, PO317, 27 November 1996]

Water sources by race — urban and non-urban: 1995^a

African

Coloured

Indian

White

Total

Running tap water in dwelling

Urban

56,1%

79,7%

97,5%

98,8%

74,1%

Non-urban

12,0%

43,6%

80,6%

77,9%

16,8%

Running tap water on site

Urban

33,9%

16,7%

1,0%

0,2%

19,8%

Non-urban

21,4%

32,4%

5,5%

0,9%

20,9%

Water carrier/tanker

Urban

0,8%

0,3%

—

—

0,5%

Non-urban

2,6%

3,5%

—

—

2,5%

Piped to public tap/kiosk (free)

Urban

7,1%

2,8%

0,1%

—

4,0%

Non-urban

15,4%

1,9%

—

0,2%

14,0%

Borehole with handpump on site

Urban

0,2%

0,1%

1,1%

0,0%^b

0,2%

Non-urban

4,0%

0,8%

0,5%

1,6%

3,8%

Borehole with handpump: communal

Urban

0,3%

0,1%

0,1%

0,0%^b

0,2%

Non-urban

7,7%

1,0%

—

0,6%

7,1%

Borehole with engine on site

Urban

0,1%

0,0%b

—

0,4%

0,2%

Non-urban

1,2%

1,3%

—

12,5%

1,7%

Borehole with engine: communal

Urban

0,1%

0,0%b

—

0,1%

0,1%

Non-urban

3,2%

1,0%

—

1,6%

3,0%

Rainwater tank

Urban

0,2%

0,0%b

0,1%

0,2%

0,2%

Non-urban

4,2%

5,4%

12,4%

1,8%

4,2%

Flowing water/stream

Urban

0,2%

0,2%

—

0,1%

0,2%

Non-urban

16,7%

4,2%

0,9%

1,1%

15,3%

Dam/pool/stagnant water

Urban

0,0%^b

—

—

0,0%b

0,0%b

Non-urban

3,5%

2,5%

—

0,5%

3,3%

Well (non-borehole: on site)

Urban

0,0%b

—

—

—

0,0%b

Non-urban

0,2%

—

—

0,1%

0,2%

Well (non-borehole: communal)

Urban

0,2%

—

—

—

0,1%

Non-urban

1,1%

0,1%

—

—

1,0%

Protected spring

Urban

0,1%

0,0% b

—

0,0%b

0,1%

Non-urban

1,4%

0,7%

—

0,8%

1,4%

Unprotected spring

Urban

0,1%

—

—

—

0,0%b

Non-urban

4,6%

1,0%

—

0,1%

4,2%

Other

Urban

0,6%

0,1%

—

—

0,3%

Non-urban

0,7%

0,7%

—

0,2%

0,7%

a

Figures should add up vertically but may not owing to rounding.

b

Proportion t

Some 56% of urban African households, compared with almost 80% of coloured and over 97% of both Indian and white households, had running tap water inside the dwelling for drinking purposes in 1995. In urban areas, while 56% of African households had a tap inside the dwelling and a further 34% a tap on site, in non-urban areas only 12% of African households had a tap inside the dwelling, while a further 21% had a tap on site. A total of 28% of African households in non-urban areas obtained water from a

river, stream, spring, dam, or well while 16% obtained water from a borehole.

The table below shows the number of households with no running tap water in the dwelling in urban and non-urban areas in 1995, according to the CSS:³³¹ [³³¹ Ibid]

Number of households with no running tap water in dwelling— urban and non-urban: 1995

African

Coloured

Indian

White

Total

Proportion of total households

Urban

1 230 517

120 582

5 900

20 244

1 377 621

25,9%

Non-urban

2 771 120

86 856

1 940

37 791

2 897 856

83,2%

Total

4 001 637

207 438

7 840

58 035

4 275 477

48,6

The proportion of households with no running tap water in their dwellings decreased from 52,4% in 1994 to 48,6% in 1995 (see 1995/96 Survey, p406). The table below shows how far people who had no running tap water in their home had to travel in 1995 to fetch water, according to the CSS. The racial and urban/non-urban spread of those dwellings which required improvements in terms of the government's aims appear below the line. (The Department of Water Affairs and Forestry had stated in its white paper on water in November 1994 that it aimed to provide a minimum of 25 litres of potable water per person per day within 200m of each home before the end of 2001):³³² [³³² Ibid]

Distances travelled to fetch water by households without water indoors— urban and non-urban: 1995

African

Coloured

Indian

White

Total

Less than 100m

Urban

81,3%

89,4%

84,7%

85,9%

82,1%

Non-urban

34,1%

82,3%

76,2%

76,2%

36,1%

100m-less than 200m

Urban

9,7%

7,3%

10,5%

5,6%

9,4%

Non-urban

18,5%

9,8%

8,9%

13,3%

18,1%

200m-less than 500m

Urban

4,5%

1,7%

4,9%

2,1%

4,2%

Non-urban

13,0%

2,6%

14,9%

3,7%

12,6%

500m-less than 1km

Urban

2,7%

1,0%

—

3,4%

2,6%

Non-urban

17,7%

2,8%

—

2,5%

17,1%

1km or more

Urban

1,8%

0,5%

—

3,0%

1,7%

Non-urban

16,6%

2,5%

—

4,3%

16,0%

The graph below shows the proportion of African households in urban and non-urban areas with no water indoors and the distance they had to travel

Among African households in non-urban areas who had to fetch water from a source which was not on site, as many as 17% travelled at least 1km to reach the source.³³³ [³³³ Ibid]

The *Community Water Supply and Sanitation Strategic Study (Planning)*, commissioned by the Department of Water Affairs and Forestry, assessed some 37m people in 1996. The table below shows the number of people surveyed, the number and proportion with inadequate water and the estimated supply costs (basic water provision was defined as 25 litres of water per person per day within 200 metres of their home):³³⁴ [³³⁴ Department of Water Affairs and Forestry, *Community Water Supply and Sanitation Strategic Study (Planning)*, November 1996]

Estimated population without adequate water by province: 1996

Province

Number of people assessed in province

Number without adequate water

Proportion without adequate water

Estimated supply costs
(Rm)

Eastern Cape

10 397 033

5 000 000

48%

1 500

Free State

2 964 390

500 000

17%

150

Gauteng

727 872

700 000

96%

350

KwaZulu-Natal

5 682 518

4 500 000

79%

3 300

Mpumalanga

4 103 014

1 600 000

39%

820

North West

2 964 662

1 800 000

61%

1 200

Northern Cape

945 991

100 000

11%

100

Northern Province

5 221 224

3 600 000

69%

2 050

Western Cape

4 424 384

200 000

5%

60

Total

37 431 088

18 000 000

4

Sanitation

The table below shows the proportion of households using different types of sanitation facilities in urban and non-urban areas by race in 1995, according to the CSS:³³⁵ [³³⁵ CSS, *October Household Survey 1995*, PO317, 27 November 1996]

Sanitation facilities by race — urban and non-urban areas: 1995^a

African

Coloured

Indian

White

Total

Flush lavatory in dwelling

Urban

42,1%

70,2%

96,6%

98,5%

65,5%

Non-urban

4,7%

38,2%

72,0%

97,6%

10,9%

Sanitation on site

Flush lavatory

Urban

33,2%

16,6%

1,4%

1,4%

19,8%

Non-urban

4,6%

8,0%

10,4%

0,7%

4,6%

Chemical lavatory

Urban

0,9%

0,1%

—

0,0%^b

0,5%

Non-urban

1,4%

2,2%

—

0,1%

1,3%

Ventilated improved pit latrine

Urban

2,6%

0,4%

1,5%

0,0%^b

1,5%

Non-urban

16,3%

8,8%

10,7%

—

15,2%

Other pit latrine

Urban

5,8%

0,7%

0,0%^b

—

3,1%

Non-urban

42,2%

18,0%

5,8%

0,6%

39,0%

Bucket lavatory

Urban

9,9%

10,5%

0,0%^b

0,0%^b

6,4%

Non-urban

1,3%

4,2%

—

0,0%^b

1,4%

Other

Urban

0,0%^b

—

—

—

0,0%^b

Non-urban

0,0%^b

—

—

—

0,0%^b

Sanitation off site

Flush lavatory

Urban

1,9%

0,3%

0,4%

0,1%

1,1%

Non-urban

0,6%

1,2%

—

—

0,6%

Chemical lavatory

Urban

0,5%

—

—

—

0,3%

Non-urban

0,3%

0,4%

—

—

0,3%

Ventilated improved pit latrine

Urban

0,2%

0,1%

—

—

0,1%

Non-urban

2,3%

2,2%

—

—

2,1%

Other pit latrine

Urban

0,7%

0,2%

—

—

0,4%

Non-urban

5,9%

2,1%

—

0,3%

5,5%

Bucket lavatory

Urban

1,1%

0,6%

—

—

0,7%

Non-urban

0,2%

0,9%

—

—

0,2%

Other

Urban

0,0%^b

—

—

—

0,0%^b

Non-urban

0,3%

—

1,1%

—

0,3%

No sanitation facility

Urban

1,0%

0,4%

0,0%^b

—

0,6%

Non-urban

19,8%

13,8%

—

0,6%

18,5%

a

Figures should add up vertically but may not owing to rounding.

b

Proportion too sma

The table below shows the number of people surveyed in each province, the number and proportion with

inadequate sanitation and the estimated supply cost (adequate sanitation was defined as one ventilated pit latrine per six to eight people):³³⁶ [³³⁶ Department of Water Affairs and Forestry, November 1996]

Population without adequate sanitation: 1996

Number of people assessed in province

Number without adequate sanitation

Proportion without adequate sanitation

Cost of supply
(Rm)^a

Eastern Cape

10 397 033

9 000 000

87%

1 305

Free State

2 964 390

1 750 000

59%

254

Gauteng

727 872

700 000

96%

102

KwaZulu-Natal

5 682 518

5 000 000

88%

725

Mpumalanga

4 103 014

2 720 000

66%

394

North West

2 964 662

2 600 000

88%

377

Northern Cape

945 991

280 000

30%

41

Northern Province

5 221 224

4 600 000

88%

667

Western Cape

4 424 384

350 000

8%

51

Total

37 431 088

27 000 000

72%

3 915

a

Figures may not add up owing to rounding.

About 72% of the 37m people assessed in 1996 did not have adequat

Progress

Targets

In the short term, the reconstruction and development programme (RDP) aimed to provide all households with a clean, safe water supply of 20–30 litres per person per day and an adequate (ventilated improved pit latrine) sanitation facility per site. The minister for provincial affairs and constitutional development, Mr Mohammed Valli Moosa, said in June 1996 that about 30% of the R1,3bn set aside for the provision of basic municipal infrastructure services would be spent on sanitation projects, and 50% on water projects within the 12 months from June 1996.³³⁷ [³³⁷ *The Natal Witness* 5 June 1996]

In February 1997 the Department of Water Affairs and Forestry committed R1bn to a series of projects aimed at providing at least 1,7m people with running water by the end of 1997.³³⁸ [³³⁸ *The Sunday Independent* 2 February 1997]

Altogether 750 000 additional people had received water, and projects to serve 7,8m more were set up, according to Mr Mike Muller, deputy director general of water affairs and forestry.³³⁹ [³³⁹ *Business Day* 5 February 1997]

Finance

The budget of the Department of Water Affairs and Forestry for 1997/98 amounted to R2,14bn,³⁴⁰ [³⁴⁰ Department of Finance, *Budget Review*, March 1997] which was 8,9% less than the 1996/97 amount of R2,35bn. The 1996/97 figure represented an 11,7% increase over the comparable estimate for 1995/96.³⁴¹ [³⁴¹ *Ibid*]

Regional Co-Operation

During the period under review, the key international project of the Department of Water Affairs and Forestry was the Lesotho Highlands Water Project being constructed in terms of a treaty between the governments of Lesotho and South Africa, to provide additional water to the Vaal River system in South Africa and for the generation of hydroelectric power in Lesotho.

POLICY REVIEW

Various policy initiatives were undertaken during the period under review.

Housing policy began shifting from individual ownership to providing a range of secure tenure options, such as collective ownership, rental, and leasehold. A ministerial task team report on short-term delivery, which was approved by the government, reflected a fundamental shift in thinking about the role of the government from delivery facilitation to delivery intervention. Proposals made in the report were due for implementation in 1997. The report also emphasised that security of tenure, rather than any

one given form of tenure, should be the policy objective.

Notwithstanding progress made on housing delivery in 1996, a number of issues were not adequately addressed:

- *rural housing*: subsidies for rural housing were being hampered by the requirement of access to secure tenure—in most rural areas this was not possible. In January 1997 the Department of Housing announced that legal obstacles inhibiting the distribution of subsidies in rural areas were being addressed;
- *the delivery gap*: since the establishment of the housing subsidy scheme in 1994, developers have catered for the lowest and highest incomes in the subsidy-eligible range, while excluding the middle group—ie households earning between R801 and R2500 a month. The ministerial task team report proposed that the problem be addressed by way of the government's institutional subsidy, which provided for housing products (which could include land, services, and part of a house) between R18000 and R45000; and
- *bridging finance*: because the subsidy is to be paid to the developer only once the housing product has been transferred into the name of the beneficiary, it has created a problem for emerging contractors and developers who do not have financial capacity. An investigation was launched into the issue and the results thereof were expected in 1997.

Provisions in the final constitution which gave everyone the right to adequate housing also noted that the state should take steps to ensure that people could realise that right. In its submission to the Constitutional Court in May 1996, the South African Institute of Race Relations argued that 'rights of access' to housing and other benefits are neither universally accepted nor justiciable. The Institute said that 'in reviewing the positive obligation cast upon the state, the judges must decide issues such as the extent of the state's available resources, which are not justiciable questions and which lie outside judicial competence. Alternatively, if these rights are found to be justiciable, it is clear that they require the courts to exercise executive and legislative powers'. Experience elsewhere had shown that no effective enforcement of such rights was possible.³⁴² [³⁴² South African Institute of Race Relations, *Further Written Argument by the South African Institute of Race Relations, in terms of the Further Directions of the President of the Constitutional Court*, 8 May 1996]

Proposals on land reform during 1996 could give rise to problems in the future. The green paper on land reform proposed that the new constitution provide for the expropriation of land at less than market value. The new constitution said that compensation for the expropriation of property should be 'just and equitable, reflecting an equitable balance between the public interests and the interests of those affected' and should take into account the current use of the property, the history of the acquisition of the property, its market value, the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property, and the purpose of expropriation. Commercial farmers

indicated that they would oppose the green paper because of the proposed below-market value expropriation and the proposed change in the cut-off date for land restitution claims from 1913 back to the 17th century.

During 1996 the government began looking at privatising various parastatals. In March 1997, 30% of Telkom was sold to an American and Malaysian consortium. The government also announced plans to restructure Transnet. This included a proposal to find a strategic equity partner. However, restructuring was impeded by labour opposition, after the government had agreed to discuss reshaping with the unions. Further developments were expected to take place in 1997. According to the chief director of mineral and energy affairs, Mr Johan Basson, the government expected to introduce competition in the provision of electricity sector, irrespective of public or private sector ownership after 2000.

The white paper on national water policy contained proposals to charge water users the full cost of water for the first time. It also proposed abolishing riparian rights (in terms of which the right to use water is tied to the right of property ownership along rivers). The white paper was rejected by the South African Agricultural Union, which said that it 'centralised power in affairs and forestry ministry'. Existing water rights would be expropriated without compensation and replaced with a system of registration whereby user rights would be allocated for a specific period. The union, on the other hand, supported a system of decentralised catchment area management in which all users had a say. It said that water rights were linked to property rights and therefore enjoyed constitutional protection. A second white paper dealing with irrigation was expected in 1997.

KEY PROJECTIONS

- Some 5m South Africans were expected to use solar energy to heat water and warm houses by 2005, according to the deputy minister of mineral and energy affairs, Ms Susan Shabangu.
- Total home ownership (implying secure tenure with either formal or informal housing) was expected to grow by 71%, to 13,3m households by 2010.
- An estimated 250000 low-income housing units would be built in 1997, according to the executive director of the Building Industries Federation South Africa, Mr Ian Robinson.
- The housing backlog would increase at a rate of 178000 units annually if there were no 'dramatic increases' in the urban housing delivery, according to the minister of housing, Ms Sankie Mthembu-Mahanye.
- The number of people without adequate water and sanitation would increase to 20m by the turn of the century and to 25m by 2020, according to a study by the Department of Water Affairs and Forestry published in November 1996.

Sidiropoulos, E., et al., South Africa Survey 1996-1997, (Johannesburg: South African Institute of Race Relations) 1997.