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## **GOVERNMENT NOTICE**

### **DEPARTMENT OF PUBLIC SERVICE AND ADMINISTRATION**

#### **PUBLIC SERVICE REGULATIONS, 1999**

The Minister for the Public Service and Administration, under section 41 of the Public Service Act, 1984 (promulgated under Proclamation No. 103 of 1994), has made the regulations set out in the Schedule.

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## **CHAPTER 1**

### **PART I. PRELIMINARY**

#### **A. SHORT TITLE AND COMMENCEMENT**

**A.1** These regulations shall be called the Public Service Regulations, 1999, and shall come into operation on 1 July 1999, except as provided in regulation I A.2

**A.2** The regulations specified hereunder shall come into operation as follows:

- a. Regulations III I.5 and V H.3, on 1 October 1999;
- b. regulations III C, III F.1(c) and VII H. on 1 January 2000;
- c. regulation III I.1, on 1 April 2000
- d. regulations III B.2(b) and III F.1(b), on a date to be determined by the Minister by notice in the Gazette.

#### **B. INTERPRETATION**

**B.1** These Regulations must always be read in conjunction with the Act.

**B.2** In these Regulations, unless the context indicates otherwise

- a. **"approved establishment"** means the posts that an executing authority has approved to carry out the core and support functions of the department;
- b. **"competence"** means the blend of knowledge, skills, behaviour and aptitude that a person can apply in the work environment, which indicates a person's ability to meet the requirements of a specific post;
- c. **"CORE"** means Code of Remuneration, as defined in regulation III I.3 to I.5;
- d. **"departmental bargaining council"** means a bargaining council for a department as contemplated in item 20(b)(i) of Schedule 7 to the Labour Relations Act, or otherwise established in terms of the Labour Relations Act;
- e. **"executing authority"** means the executing authority as defined in section 1(1) of the Act, except with regard to the appointment and other career incidents of a head of department, in which case it means the executing authority as contemplated in section 3B of the Act;
- f. **"spade"** means the relative value of a particular job as reflected by the job weight, which is linked to a salary range in a salary scale used in the public service;
- g. **"Inherent requirements of a pub"** means competencies that, according to evidence, an employee needs in order to carry out a job;
- h. **"Job"** means the basic duties, tasks, functions, competency requirements and responsibilities according to which one or more posts of the same grade are established;
- i. **"job weight"** means a numerical value assigned to reflect selected characteristics of a job as measured by a job evaluation instrument;
- j. **"level"** means salary range or grade.
- k. **"medium-term expenditure framework"** means the medium-term expenditure framework published by the Ministry of Finance;
- l. **"persons historically disadvantaged"** means persons or categories of persons who have suffered unfair discrimination in the past;
- m. **"provincial bargaining council"** means a bargaining council for a provincial administration as contemplated in item 20(b)(ii) of Schedule 7 to the Labour Relations Act;
- n. **"representativeness"** means the extent to which employment in an organisation broadly reflects the composition of the South African population, including composition according to race, gender and disability;
- o. **"salary range"** means a set of salaries that form a part of a salary scale linked to a specific grade and, by extension, a set of job weights;
- p. **"salary scale"** means a range of salaries from a minimum to a maximum for the public service, an occupation or a sector within the public service, with specific amounts denoted as the beginning and end of salary ranges or notches within salary ranges;
- q. **"sectoral bargaining council"** means a council established by the Public Service Co-ordinating Bargaining Council or the President, in terms of section 37 of the Labour Relations Act, or a council deemed a sectoral council in terms of item 16 and 18 of Schedule 7 to the Labour Relations Act;
- r. **"senior management"** means the group of employees occupying posts on grades 13 and higher, and designated as managers by the Minister;
- s. **"the Act"** means the Public Service Act, 1994 (promulgated under Proclamation 103 of 1994);
- t. **"the Labour Relations Act"** means the Labour Relations Act, 1995 (Act No. 66 of 1995); and

any other word shall have the meaning assigned thereto in the Act.

## C. STATUTORY AUTHORISATION

Section 41 of the Act authorises these Regulations.

## D. SCOPE OF APPLICATION

### D.1 These Regulations apply

- a. to all persons employed, and to institutions governed, in terms of the Act; and
- b. subject to the provisions of the Act, to persons employed in the Services, the Agency or state educational institutions, only so far as they are not contrary to the laws governing their employment.

## E. REPEAL OF REGULATIONS AND TRANSITIONAL ARRANGEMENTS

**E.1** Any regulation made and in force under the Act, is hereby repealed in so far as it is inconsistent with any provision of these Regulations or any collective agreement binding between the State as Employer and employees in the service of the State, subject to regulation I E.2.

**E.2** Despite the repeal of existing regulations by regulation I E.1, the transitional arrangements shall be as set out in Annexure 1.

## F. MATTERS OF MUTUAL INTEREST

The Labour Relations Act and collective agreements shall regulate matters of mutual interest between employees and the State as employer.

## **G. EXCEPTIONAL CASES**

If circumstances develop which justify deviation from the provisions and measures in a particular regulation in these Regulations concerning the career incidents of public servants, the Minister may under stated circumstances make determinations, issue directives or approve that alternative provisions and measures be applied.

## **H. COMMUNICATION WITH THE MINISTER AND THE MEDIA**

**H.1** If a head of department needs to communicate with the Minister on a matter that falls within the Minister's powers and duties, she or he shall-

- a. communicate through the Director-General: Public Service and Administration; and
- b. conduct correspondence in any official language in which these Regulations have been published.

**H.2** An employee shall direct any enquiry on a matter that falls within the Minister's powers and duties to her or his head of department.

**H.3** A head of department shall submit for prior consultation to the Director-General: Public Service and Administration any draft legislation or draft subordinate legislation or policy document that impacts on the powers or duties of the Minister.

**H.4** A head of department shall establish a policy on how employees in her or his department may communicate with the printed or other public media.

**H.5** An employee, in her or his official capacity, shall not irresponsibly criticise Government policy at a public gathering or in a publication, or in the printed or other public media.

## **PART II. DELEGATIONS, AUTHORISATIONS AND RESPONSIBILITIES**

### **A. PRINCIPLES**

To enable a head of department to manage her or his department effectively and efficiently, the executing authority shall provide the head of department with appropriate powers and authority. For the same purpose, a head of department shall empower employees in the department by means of appropriate delegations and authorisations, where necessary.

### **B. DELEGATIONS AND AUTHORISATIONS**

**B.1** If these Regulations confer a power or impose a duty upon an executing authority or a head of department, she or he may, subject to the Act

- a. delegate the power to an employee or authorise an employee to perform the duty; and
- b. set conditions for the exercise of the power or performance of the duty.

**B.2** An executing authority shall record a delegation or authorisation in writing and may incorporate it in an employment contract for a head of department, as provided in regulation VII B.2.1.

**B.3** The delegation of a power by an executing authority or head of department does not prevent her or him from exercising the power personally.

### **C. RESPONSIBILITIES**

**C.1** An executing authority shall uphold the principles and measures set out in these Regulations.

**C.2** An executing authority may not require or permit a head of department or any other employee to engage in an activity or take a decision in breach these Regulations.

**C.3** A head of department shall-

- a. ensure that the employees within her or his department comply with these Regulations, collective agreements and any other statutory obligations; and
- b. deal immediately and effectively with any breach thereof.

**C.4** An executing authority or head of department shall exercise her or his powers, perform her or his duties and carry out her

or his obligations under these Regulations subject to the Labour Relations Act and the relevant collective agreements.

**C.5** An executing authority and a head of department shall ensure that prior Treasury approval exists for any decision that involves expenditure from revenue.

#### **D. CONFLICT OF INTEREST IN EMPLOYMENT ACTS OR DECISIONS**

**D.1** Where a possible conflict of interest arises in the making of any decision relating to employment, the executing authority or an employee to whom any power or duty has been delegated or assigned, shall perform the act or make the decision only after considering a recommendation of an independent panel consisting of at least two persons.

**D.2** Where the executing authority or the employee to whom a power or duty has been delegated or assigned, deviates from the panel's recommendations, she or he shall record the reasons for the deviation in writing.

**D.3** An executing authority or employee shall not accept or seek material recompense of any kind from an employee or a prospective employee in return for performing an act or making a decision relating to employment.

#### **E. HANDLING OF OFFICIAL INFORMATION AND DOCUMENTS**

An employee shall not release official information to the public unless she or he has the necessary authority.

### **PART III. PLANNING, WORK ORGANISATION AND REPORTING**

#### **A. PRINCIPLES**

An executing authority shall, in order to provide services with the best value for money, set measurable objectives for her or his department, optimally utilise the department's human and other resources and apply fair labour practices. Within available funds, she or he shall, based on the department's and the Government's service delivery objectives and mandates, plan to execute functions with an efficient and effective internal organisation and well developed human resources. To permit oversight by the public and legislatures, the executing authority shall publish an annual report giving key information on her or his department.

#### **B. STRATEGIC PLANNING**

**B.1** An executing authority shall prepare a strategic plan for her or his department -

- a. stating the department's core objectives, based on Constitutional and other legislative mandates, functional mandates and the service delivery improvement programme mentioned in regulation III C,
- b. describing the core and support activities necessary to achieve the core objectives, avoiding duplication of functions;
- c. specifying the functions the department will perform internally and those it will contract out;
- d. describing the goals or targets to be attained on the medium term;
- e. setting out a programme for attaining those goals and targets; and
- f. specifying information systems to enable the executing authority to monitor the progress made towards achieving those goals, targets and core objectives.

**B.2** Based on the strategic plan of the department, an executing authority shall -

- a. determine the department's organisational structure in terms of its core and support functions;
- b. grade proposed new jobs according to the job evaluation system referred to in Part IV;
- c. define the posts necessary to perform the relevant functions while remaining within the current budget and medium-term expenditure framework of her or his department, and the posts so defined shall constitute the department's approved establishment; and
- d. engage in the human resource planning in accordance with regulation III D with a view to meeting the resulting human resource needs.

**B.3** In implementing the strategic plan, a head of department shall -

- a. promote the efficient, economic and effective use of resources as to improve the functioning of the department; and
- b. to that end, apply working methods such as the re-allocation, simplification and co-ordination of work, and eliminate unnecessary functions.

#### **SERVICE DELIVERY IMPROVEMENT PROGRAMME**

**C.1** An executing authority shall establish and sustain a service delivery improvement programme for her or his department -

- a. specifying the main services to be provided to the different types of actual and potential customers, as identified by the department;
- b. containing consultation arrangements with the department's actual and potent customers;
- c. with due regard to the customer's means of access to the services and the barriers to increased access thereof, specifying the mechanisms or strategies to be utilised progressively to remove the barriers so that access to services is increased;
- d. indicating standards for the main services to be provided;
- e. containing arrangements as to information about the department's services are to be provided; and
- f. stipulating a system or mechanisms for complaints.

**C.2** An executing authority shall publish an annual statement of public service commitment which will set out the department's service standards that citizens and customers can expect and which will serve to explain how the department will meet each of the standards.

## **D. HUMAN RESOURCE PLANNING**

**D.1** An executing authority shall -

- a. assess the human resources necessary to perform her or his department's functions with particular reference to -
  - i. the number of employees required;
  - ii. the competencies which those employees must possess; and
  - iii. the capacities (whether permanent or temporary) in which those employees shall be appointed;
- b. assess existing human resources by race, gender and disability as well as by occupational category, organisational component and grade with reference to their -
  - i. competencies;
  - ii. training needs; and
  - iii. employment capacities;
- c. plan within the available budgeted funds, including funds for the remaining period of the relevant medium-term expenditure framework, for the recruitment, retention deployment and development of human resources according to the department's requirements determined in terms of regulation III D.1(a), which plan must, as minimum, include
  - i. realistic goals and measurable targets for achieving representativeness. taking into account regulation III D.2; and
  - ii. targets for the training of employees per occupational category and of specific employees, with specific plans to meet the training needs of persons historically disadvantaged; and
- d. address the position of employees affected by the abolition of unnecessary posts, and shall retrench employees only in accordance the Labour Relations Act and collective agreements as the last resort.

**D.2** An executing authority shall develop and implement an affirmative action programme, which shall contain, as a minimum, the following:

- a. A policy statement that sets out the department's commitment to affirmative action, and how that policy will be implemented.
- b. Numeric and time-bound targets for achieving representativeness.
- c. Annual statistics on the appointment, training and promotion within each grade of each occupational category, of persons historically disadvantaged.
- d. A plan for redressing numeric under-representativeness and supporting the advancement of persons historically disadvantaged.

**D.3** An executing authority shall make the outcome of planning referred to in regulation III D.1 and of the affirmative action programme referred to in regulation III D.2 known within her or his department.

## **E. INFORMATION RESOURCES PLANNING**

**E.1** A head of department shall establish-

- a. an information plan for the department that supports the planning process and objectives contemplated in regulation III B.1 and the reporting requirements in regulation al J;
- b. an information technology plan that supports the information plan; and
- c. an operational plan that enables the implementation of the information technology plan and information management.

## **F. CREATION AND FILLING OF POSTS**

**F.1** Before creating a post for any newly defined job, or filling any vacancy, an executing authority shall -

- a. confirm that she or he requires the post to meet the department's objectives;
- b. in the case of a newly defined job, evaluate the job in terms of the job evaluation system;
- c. in the case of a vacant post on grade 9 or higher, evaluate the job unless the specific job has been evaluated previously; and
- d. ensure that sufficient budgeted funds, including funds for the remaining period of the medium-term expenditure framework, are available for filling the post.

## **G. ADDITIONAL EMPLOYMENT**

**G.1** An executing authority may, within the relevant budget, employ persons additional to the approved establishment where-

- a. the incumbent of a post is expected to be absent for such a period that her or his duties cannot be performed by other personnel; or
- b. a temporary increase in work occurs; or
- c. it is necessary for any other reason to temporarily increase the staff of the department.

## **H. TRANSFER OF FUNCTIONS BETWEEN DEPARTMENTS**

**H.1** If the Minister or a premier of a province makes a determination regarding the transfer of functions between departments-

- a. the relinquishing department shall transfer all concomitant resources, including personnel, to the receiving department; the recipient department shall co-ordinate the transfer;
- b. the recipient department shall accept accountability for the functions on the date of the transfer;
- c. the accounting officer of the relinquishing department shall retain accountability for matters originating prior to the date of transfer; and
- d. the transfer of personnel shall take place with due regard to the requirements of the Labour Relations Act.

## **I. JOB DESCRIPTIONS, JOB TITLES AND CORES**

**I.1** For each post or group of posts, an executing authority shall establish a job description and job title that indicate, with appropriate emphasis on service delivery-

- a. the main objectives of the post or posts in question;
- b. the inherent requirements of the job; and
- c. the requirements for promotion or progression to the next salary range, in accordance with a relevant career path.

**I.2** At least once every three years, an executing authority shall review job descriptions and titles and, where necessary, redefine them to ensure that they remain appropriate and accurate.

**I.3** To assist an executing authority in designing a job and/or career path linked to the salary scale, the Minister shall determine-

- a. a code of remuneration (CORE) for an occupational category; and
- b. an occupational classification system.

**I.4** For each salary range in a CORE, the Minister may provide advice on -

- a. the possible job content;
- b. the necessary and desirable competencies for the job;
- c. indicators of those competencies; and
- d. desirable characteristics for employment and promotion within the occupational category.

**I.5** To assist in the analysis of public service employment, an executing authority shall link all posts in her or his department to a relevant CORE and an occupation listed in the occupational classification system.

## **J. MANAGERIAL REVIEW AND OVERSIGHT**

**J.1** When a departmental budget is presented to the relevant legislature, the executing authority shall, in terms of section 92(3)(b) or 133(3)(b) of the Constitution, publish an annual report to the relevant legislature, the media and the public. She or he shall include the following information:



**J.2 Planning end service delivery**

- a. The core mandates, functions and objectives of the department.
- b. The service standards for core objectives and the results achieved in meeting standards.

**J.3 Organisation**

- a. The department's organisational structure and approved establishment.
- b. The number of employees and of vacancies, per component, grade and nature of employment.
- c. The employment number of persons additional to the approved establishment.

**J.4 Job evaluation**

- a. By CORE, occupation and grade, the number of posts evaluated, upgraded and downgraded.
- b. The number of employees promoted as a result of posts that were upgraded, according to race, gender and disability.
- c. The number of employees whose remuneration exceeds the grade determined by job evaluation and the reasons for each deviation, by CORE and occupation.

**J.5 Remuneration**

- a. The percentage of the budget excluding transfer payments, expenditure on land and buildings, as well as miscellaneous payments spent on
  - i. total personnel costs;
  - ii. administrative expenditure; and
  - iii. professional and special services.
- b. The personnel costs in intervals of R20 000, by race, gender, disability, CORE and occupation.
- c. The percentage of total personnel costs spent on the senior management service.
- d. The costs of overtime, allowances and benefits as a percentage of total personnel costs.

**J.6 Affirmative action, recruitment, promotions and termination of services**

- a. The progress made in implementing the affirmative action programme contemplated in regulation III D.2.
- b. The number of employees recruited per grade and occupation, indicated according to race, gender and disability.
- c. The number of employees promoted per grade and occupation, indicated according to race, gender and disability.
- d. The number of employees per grade and occupation, whose services were terminated, indicated according to race, gender and disability.
- e. The number, occupations and grades of foreign appointees.

**J.7 Performance management and skills development**

- a. Employees who received rewards for performance, indicated according to grade, CORE, occupation, race, gender and disability.
- b. The targets for training in the training plan, and the progress made in attaining those targets.
- c. The allocation for training in the departmental budget, and the actual amounts spent on each training target, indicated according to race, gender, disability and occupation in each grade in each CORE.
- d. The number, (i) externally and (ii) internally, and the type of training programme implemented.

**J.8** The number and nature of incidents of injury, illness and death occurring in the course of official duty or in the work environment.

**J.9** The number and subject matter of collective agreements entered into.

**J.10 Sick leave**

- a. The average number of days' sick leave taken by employees in the department indicated according to their grades and occupation.
- b. The total number of days' sick leave taken by employees in a department.
- c. The estimated cost to the department of the leave so taken.
- d. The number of employees who took more than 15 continuous days' sick leave in the year under review.

**J.11** The number of employees discharged due to ill-health.

**J.12** The first report in accordance with regulation III J must be presented to the relevant legislature during the financial year 2001/2002, together with the departmental budget for that financial year.

## **PART IV. JOB EVALUATION**

### **A. PRINCIPLES**

**A.1** To ensure that work of equal value is remunerated equally, the public service shall increasingly use job evaluation-

- a. to assist in achieving cost-effective work organisation; and
- b. to determine appropriate remuneration.

### **B. RESPONSIBILITIES**

**B.1** The Minister shall determine

- a. a job evaluation system or systems that shall be utilised in the public service;
- b. a range of job weights derived from the system or systems for each salary range in a salary scale; and
- c. a job or category of jobs that an executing authority must evaluate.

**B.2** The Minister may

- a. review the application of job evaluation in the public service;
- b. issue directives on the application of the job evaluation system or systems;
- c. evaluate any job; and/or
- d. direct a department to take measures to enhance the quality of the system, including the re-evaluation of jobs, the restructuring of the component responsible for job evaluation and/or further training of employees responsible for job evaluation in the department.

**B.3** An executing authority may evaluate or re-evaluate any job in her or his department.

## **PART V. COMPENSATION FOR EMPLOYEES**

### **A. PRINCIPLES**

**A.1** Remuneration in the public service shall aim, within fiscal constraints, to support

- a. efficient and effective service delivery and provide appropriate incentives for employees; and
- b. equal pay for work of equal value and other labour standards.

**A.2** In determining an employee's salary, an executing authority shall take into account

- a. relevant collective agreements;
- b. available funding;
- c. the results of job evaluation, if available;
- d. the employee's performance; and
- e. the need to recruit and retain personnel with appropriate competencies.

### **B. DETERMINATION OF SALARY SCALES AND ALLOWANCES**

**B.1** The Minister shall determine a salary scale or scales and allowances

- a. for employees who fall within the ambit of the Labour Relations Act, in the course of the relevant collective bargaining process; and
- b. for other employees, by a determination.

### **C. GRADING AND REMUNERATION**

**C.1** An executing authority shall determine the grade of a post to correspond with its job weight and set the commencing salary of an employee on the minimum notch of the salary range attached to the relevant grade, unless the salary proves inadequate under the criteria in regulation V C.3.

**C.2** If a job has a weight that applies to more than one salary range, the executing authority shall determine which of the relevant salary ranges to use.

**C.3** An executing authority may set the salary for a post or an employee above the minimum notch of the salary range

indicated by the job weight

- a. if she or he has evaluated the job, but cannot recruit or retain an employee with the necessary competencies at the salary indicated by the job weight; and
- b. she or he shall record the reason why the salary indicated by the job weight was insufficient.

**C.4** If the job weight demonstrates that a filled post is overgraded or undergraded, an executing authority shall either effect changes to the work organisation or regrade the post according to the job weight and the relevant collective agreements, as provided in regulation V C.5 to C.7

**C.5** An executing authority may increase the salary of a post to a higher salary range in order to accord with the job weight, if

- a. the job weight as measured by the job evaluation system indicates that the post was graded incorrectly; and
- b. the department's budget and the medium-term expenditure framework provide sufficient funds.

**C.6** If an executing authority raises the salary of a post as provided under regulation V C.5, she or he may continue to employ the incumbent employee in the higher-graded post without advertising the post if the incumbent-

- a. already performs the duties of the post;
- b. has received a satisfactory rating in her or his most recent performance assessment; and
- c. starts employment at the minimum notch of the higher salary range.

**C.7** If an executing authority determines that the salary range of an occupied post exceeds the range indicated by the job weight, she or he shall-

- a. if possible-
  - i. redesign the job to equate with the job grade; or
  - ii. transfer the incumbent to another job on the same salary range; and
- b. abide by relevant legislation and collective agreements.

**C.8** As far as possible, an executing authority shall set the salary of a part-time, seasonal or temporary employee proportional to the salary of an equally graded full-time employee.

## **D. SALARY RANGE PROGRESSION**

**D.1** If the departmental budget and the medium-term expenditure framework provide sufficient funds, an executing authority may establish opportunities for salary range progression in selected occupations.

**D.2** An employee shall be eligible for salary range progression only if-

- a. her or his job description defines a career path that spans more than one salary range in the salary scale;
- b. she or he has the competencies required to perform the additional duties;
- c. the weight of her or his job increases to equate to a higher salary range in the salary scale; and
- d. she or he has received consistently satisfactory performance assessment ratings.

**D.3** An executing authority may not provide an opportunity for salary range progression for an employee in the senior management service.

## **E. OVERTIME**

**E.1** The Minister shall determine rates of compensation for overtime through the collective bargaining process.

**E.2** An executing authority may compensate an employee for overtime work if-

- a. the employee does not belong to the senior management service, except in those cases mentioned in regulation V E.3;
- b. the department has a written policy on overtime;
- c. the executing authority has provided written authorisation in advance for the work; and
- d. except in exceptional circumstances, the monthly compensation for overtime constitutes less than 30 per cent of the employee's monthly salary.

**E.3** An executing authority may, in exceptional cases, compensate a member of the senior management service for overtime if-

- a. the compensation for overtime constitutes one per cent or less of the salary bill on the relevant salary level; and
- b. the department has established clear and unambiguous procedures and criteria on overtime which have been consulted with the relevant personnel.

**E.4** A member of the senior management shall not authorise overtime for her or himself.

**E.5** An executing authority shall establish an overtime policy in accordance with collective agreements, which shall determine-

- a. categories of employees that may not receive compensation for overtime due to the nature of their work and responsibilities;
- b. the circumstances under which a supervisor may authorise overtime work for an individual employee;
- c. if an employee shall receive payment or time off as compensation for authorised overtime;
- d. how much overtime an employee may work in a given period;
- e. how a supervisor should record authorisation for overtime; and
- f. other control measures, if necessary.

## **F. SERVICE BENEFITS, COMPENSATORY PRACTICES AND WORK FACILITY PRACTICES**

**F.1** The Minister shall determine service benefits, compensatory practices, work facility practices and allowances for employees through the collective bargaining process or, for employees who fall outside the Labour Relations Act, directly.

**F.2** The Minister may make a determination regarding-

- a. special daily allowances for visits abroad by employees; and
- b. the application of a service benefit, compensatory practice, work facility practice or allowance.

**F.3** Subject to the terms of a relevant collective agreement, an executing authority may provide the cash equivalent of benefits received by permanent employees to employees on fixed-term contracts, other than heads of department.

## **G. LEAVE**

**G.1** A head of department shall

- a. encourage an employee to fully utilise her or his vacation leave in the year earned;
- b. record all leave taken by an employee accurately and in full; and
- c. ensure that an employee does not abuse sick leave.

## **H. INFORMATION ON REMUNERATION**

**H.1** At least on an annual basis, the Minister shall publish and issue to departments the salary scale or scales used in the public service.

**H.2** In dealing with personnel matters and the remuneration of an individual employee, a head of department shall respect the employee's right to privacy.

**H.3** In the week before an employee's salary pay day, a head of department shall provide her or him with the following information in writing:

- a. The department's name and address.
- b. The employee's name.
- c. The employee's job title and occupational category in terms of the CORE.
- d. The employee's salary notch.
- e. Any other form of compensation that the department pays directly to the employee on a monthly basis.
- f. The period for which payment is made.
- g. The amount and purpose of any deductions.
- h. The actual amount paid to the employee.

## **PART VI. WORKING ENVIRONMENT**

### **A. PRINCIPLES**

Departmental working hours and conditions should support effective and efficient service delivery while, as far as possible, taking employees' personal circumstances, including disability, into account.

## **B. WORKING HOURS**

**B.1** A head of department shall determine-

- a. the work week and daily hours of work for employees; and
- b. the opening and closing times of places of work under her or his control, taking into account-
  - i. the needs of the public in the context of the department's service delivery improvement programme; and
  - ii. the needs and circumstances of employees, including family obligations and transport arrangements.

## **C. EMERGENCY WORK**

A head of department may require an employee to perform work outside normal working hours if the work must be performed without delay owing to circumstances which are beyond the control of the head of department and for which she or he could not reasonably have been expected to make provision.

## **D. HEALTH AND SAFETY**

A head of department shall establish and maintain a safe and healthy work environment for employees of the department.

# **PART VII. PROCEDURES FOR APPOINTMENT, PROMOTIONS AND TERMINATION OF SERVICE**

## **A. PRINCIPLES**

Employment practices shall ensure employment equity, fairness, efficiency and the achievement of a representative public service. Affirmative action shall be used to speed up the creation of a representative and equitable public service and to give practical support to those who have been previously disadvantaged by unfair discrimination to enable them to fulfil their maximum potential. Employment practices should maximise flexibility, minimise administrative burdens on both employer and employee, and generally prevent waste and inefficiency..

## **B. CONDITIONS FOR APPOINTMENT**

### **B.1 General**

An executing authority-

- a. may appoint employees on a permanent or temporary basis, either full-time or part-time;
- b. may, where the employment is temporary, appoint an employee under a special contract, on a casual basis or on a sessional basis;
- c. may not appoint any person under the age of 16 years;
- d. shall determine the health requirements for incumbency of a post, in any case where it is in the requirements of the post;
- e. may appoint a casual employee for a period not exceeding 12 months;
- f. shall require an employee to be subjected to security clearance only where the duties attached to the post are such as to make security clearance necessary; and
- g. shall ensure that each employee upon appointment, is provided with a written contract of employment, including the terms and conditions of her or his service.

### **B.2 Employment contracts for heads of department**

**B.2.1** The contract to be concluded between an executing authority and a head of department in terms of section 12(2) of the Act shall be as set out in Annexure 2 of these Regulations. In addition to the matters contemplated in section 12(4)(a) to (c) of the Act, the contract may specify the main delegations or authorisations to the head of department in terms of regulation II B.1 necessary in order to manage her or his department in terms of section 7(3)(b) of the Act, and a provision stating that delegation or authorisation be added to or removed from the contract.

**B.2.2** An executing authority shall provide the Minister with a copy of the contract as soon as possible after the conclusion thereof.

### **B.3 Re-appointment of former employees**

**B.3.1** An executing authority may not re-appoint a former employee where-

- a. the former employee left the public service earlier on the condition that she or he would not accept or seek re-appointment;

- b. the original grounds for termination of service militate against re-appointment; or
- c. the former employee left the public service due to ill health and cannot provide recent and conclusive evidence of recovery.

#### **B.4 Secondments**

**B.4.1** An executing authority may, with the agreement of the employee concerned, second the employee to another department in the public service for a particular service or for a period of time.

**B.4.2** The recipient department shall bear the inclusive costs of secondment, unless both departments agree otherwise, or, the Treasury approves another arrangement.

**B.4.3** The provision in regulation B.4.2 also applies to secondments made in terms of section 15 of the Act to other governments and international organisations.

#### **B.5 Acting In higher post**

**B.5.1** A head of department may only compensate an employee for acting in a higher vacant post in terms of a determination of the Minister made through the collective bargaining process.

**B.5.2** A head of department may also compensate an employee for acting in a post due to the actual incumbent of the post acting in a higher vacant post, provided that no more than two employees may simultaneously be compensated as a result of a single vacancy.

**B.5.3** An employee shall not act in a higher vacant post for an uninterrupted period exceeding 12 months.

**B.5.4** For the purposes of regulation VII B.5.3, any uninterrupted period acted in a higher vacant post immediately before 1 July 1999, shall be taken into account where the employee continues so acting on that date.

### **C. RECRUITMENT**

#### **C.1 Determination of requirements for employment**

**C.1.1** An executing authority shall determine composite requirements for employment in any post on the basis of the inherent requirements of the job.

**C.1.2** An executing authority shall-

- a. record the inherent requirements of a job;
- b. ensure that the requirements for employment do not discriminate against persons historically disadvantaged; and
- c. comply with any statutory requirement for the appointment of employees.

#### **C.2 Advertising**

**C.2.1** An executing authority shall ensure that vacant posts in the department are so advertised as to reach, as efficiently and effectively as possible, the entire pool of potential applicants, especially persons historically disadvantaged.

**C.2.2** An advertisement for a post shall specify the inherent requirements of the job, the job title and core functions.

**C.2.3** Any vacant post on grade 13 or higher shall be advertised nation-wide.

**C.2.4** An executing authority shall advertise any other vacant post within the department as a minimum, but may also advertise such post-

- a. elsewhere in the public service; or
- b. outside the public service either nation-wide or locally.

**C.2.5** An executing authority may fill a vacant post without complying with regulations VII C.2.3 and C.2.4 if

- a. the department can fill the post from the ranks of supernumerary staff of equal grading;
- b. the department can absorb into the post an employee who was appointed under an affirmative action programme, if she or he meets the requirements of the post;
- c. the department plans to fill the post as part of a programme of laterally rotating or transferring employees to enhance organisational effectiveness and skills; or
- d. the post is filled in terms of section 3B of the Act.

**C.2.6** An executing authority may utilise an appropriate agency to identify candidates for posts, as long as the advertising

and selection procedures comply with regulations VII C and D.

**C.2.7** The Minister may issue directives regarding the manner in which vacancies must be advertised within the public service.

## **D. SELECTION**

**D.1** An executing authority shall appoint a selection committee to make recommendations on appointments to posts. The selection committee shall consist of at least three members who are employees of a grading equal to or higher than the grading of the post to be filled or suitable persons from outside the public service or in which both such an employee or employees and such a person or persons are represented. However

- a. the chairperson of the selection committee, who shall be an employee, shall be of a grading higher than the post to be filled; and
- b. in the event that the manager of the component within which the vacant post is located, is graded lower than the vacant post, such a manager may be a member of the selection committee.

**D.2** A selection committee constituted for the appointment of a head of department shall include, in the case of -

- a. a head of a national department, at least three Ministers; and
- b. a head of a provincial administration or provincial department, at least three members of the Executive Council of the relevant province.

**D.3** A selection committee shall, where possible, include adequate representation of historically disadvantaged persons.

**D.4** Employees of a grading which is lower than the grading of the post to be filled may provide secretarial or advisory services during the selection process, but shall not form part of the selection committee.

**D.5** The selection committee shall make a recommendation on the suitability of a candidate after considering only

- a. information based on valid methods, criteria or instruments for selection that are free from any bias or discrimination;
- b. the training, skills, competence and knowledge necessary to meet the inherent requirements of the post;
- c. the needs of the department for developing human resources;
- d. the representativeness of the component where the post is located; and
- e. the department's affirmative action programme.

**D.6** A selection committee shall record the reasons for its decision with reference to the criteria mentioned in regulation VII D.5.

**D.7** When an executing authority does not approve a recommendation of a selection committee, she or he shall record the reasons for her or his decision in writing.

## **E.1 PROBATION**

**E.1** Employees who are employed for a period not exceeding one year, do not serve a probationary period.

**E.2** A supervisor of a probationer shall ensure that-

- a. the probationer, at the commencement of the probationary period, knows the I performance and other requirements for obtaining confirmation of probation;
- b. the probationer, on a quarterly basis, receives written feedback on her or his performance and compliance with other requirements;
- c. if necessary, the probationer receives training, counselling or other assistance to meet the requirements for confirmation;
- d. the probationer receives written confirmation of appointment at the end of the probationary period if she or he has been found suitable for the relevant post; and
- e. when dismissal as a result of poor performance is considered, the probationer is afforded the opportunity to state her or his, during which process the probationer may be assisted by a personal representative, including a colleague or a trade union representative.

## **F. PROMOTION**

**F.1** An executing authority may promote an employee to a vacant post on the approved establishment of the department if-

- a. (a) sufficiently budgeted funds, including funds for the remaining period of the relevant medium-term expenditure framework are available for filling the vacancy; and

- b. (b) the vacancy has been advertised and the candidate selected in accordance with regulations VII C and D.

**F.2** A promotion may not take effect before the first day of the month first following the month during which the executing authority approved it.

**F.3** No employee has any right to promotion to a vacant post until the promotion has been approved in writing by the executing authority.

## **G. TERMINATION OF SERVICE**

### **G.1 Retirement age**

An employee shall retire at the age and in the circumstances specified in section 16 of the Act.

### **G.2 Resignation**

**G.2.1** An executing authority shall prescribe the manner in which an employee shall submit her or his resignation.

**G.2.2** An executing authority shall record the reasons given by the employee for her or his resignation.

**G.2.3** An employee may resign from the public service, and for that purpose, unless otherwise agreed with the executing authority, shall -

- a. in the case of any employee paid monthly, give at least one month's written notice of resignation;
- b. in the case of any casual employee who has been employed for less than four weeks; give at least one week's notice of resignation or
- c. in the case of any casual employee who has been employed for more than four weeks, give at least two weeks' notice.

**G.2.4** An employee who is to become a candidate in an election of the members of the National Assembly or of any provincial legislature, or who is to be nominated as a permanent delegate to the National Council of Provinces, must resign from the public service beforehand.

### **G.3 Ill-health**

**G.3.1** An executing authority may on the basis of medical evidence, consider the discharge of an employee in terms of section 17(2)(a) of the Act on account of ill-health. To this end, an executing authority may require an employee to undergo a medical examination by a registered physician.

**G.3.2** A discharge on account of ill-health shall occur with due regard to item 10 of Schedule 8 to the Labour Relations Act.

### **G.4 Operational requirement**

**G.4.1** An executing authority may discharge employees for operational reasons if the discharge complies with

- a. sections 17(2)(b) and (c) of the Act and sections 189 and 190 of the Labour Relations Act; and
- b. any applicable collective agreement that determines benefits for employees to be so discharged.

**G.4.2** If an executing authority transfers personnel to an entity outside the public service, she or he shall comply with section 197 of the Labour Relations Act.

### **G.5 Termination of probation**

When the services of an employee on probation are terminated in terms of section 13 of the Act, due regard must be had to item 8 of Schedule 8 to the Labour Relations Act.

## **H. EMPLOYEE RECORDS**

**H.1** A head of department shall keep a record of each employee reflecting, as a minimum, the following particulars with regard to the employee:

- a. Full names.
- b. Date of birth.
- c. Identity number.
- d. Citizenship.
- e. The employee's status, as self-defined, for purposes of monitoring representativeness, according to race, gender and disability, with race defined as African, Coloured, Indian, White, or Other (specified).
- f. Home address and telephone number.



- g. Date of joining the public service.
- h. Nature of employment.
- i. Job title attached to the post.
- j. Occupation as defined by the CORE.
- k. Current and previous ranks, with date of entry and authorisation for entering each rank.
  - l. Accreditation received for training and skills.
- m. Details of remuneration and performance awards.
- n. Details of pension, medical assistance and other benefits.
- o. Details of leave authorised for any purpose.
- p. All other particulars required for determining benefits and remuneration, including particulars as to marital status and dependants.

## **PART VIII. PERFORMANCE MANAGEMENT AND DEVELOPMENT**

### **A. PRINCIPLES**

Departments shall manage performance in a consultative, supportive and non-discriminatory manner in order to enhance organisational efficiency and effectiveness, accountability for the use of resources and the achievement of results. Performance management processes shall link to broad and consistent plans for staff development and align with the departments strategic goals. The primary orientation of performance management shall be developmental but shall allow for effective response to consistent inadequate performance and for recognising outstanding performance. Performance management procedures should minimise the administrative burden on supervisors while mainlining transparency and administrative justice.

### **B. SYSTEMS FOR PERFORMANCE MANAGEMENT AND DEVELOPMENT**

**B.1** An executing authority shall determine a system for performance management and development for employees in her or his department other than employees who are members of senior management, consistent with the principles in regulation VIII A. This system shall be fully implemented by all departments with effect from 1 January 2001 taking into account the provisions of paragraph 3 in Annexure 1

**B.2** For each employee other than an employee who is a member of senior management, an executing authority shall designate in writing

- a. the period in respect of which performance is to be assessed, the Performance cycle
- b. an annual date for assessment of performance; and
- c. the supervisor responsible for monitoring, supervising and assessing the employee's performance.

**B.3** The supervisor shall-

- a. as far as possible, meet on a regular basis with the employee to discuss the basic objectives of her or his component and the employee's role in the success or failure in achieving those objectives;
- b. before the assessment cycle commences or within one month after appointment or promotion to a post; explain the performance assessment procedure to the employee and
- c. inform the employee of the criteria used for her or his performance assessment.

**B.4** The employee's supervisor shall monitor the employee's performance on a continuous basis and give the employee feedback on her or his performance-

- a. at least four times a year
  - i. orally, if the employee's performance is satisfactory; and
  - ii. in writing, if the employee's performance is unsatisfactory;
- b. at least twice during the six months preceding the employee's annual formal performance assessment date; and
- c. in writing, on the annual formal performance assessment date.

### **C. PERFORMANCE ASSESSMENT**

**C.1** An executing authority may establish separate performance assessment instruments for different occupational categories or levels of work; but when assessing an individual employee, a single assessment instrument shall be used in order to assist in deciding on probation, rewards, promotion and skills development of the employee.

**C.2** Assessment shall be based only on the information contained in the designated performance assessment instrument.

However, where an appeal is lodged against an assessment, the information furnished in connection with the appeal, must also be considered.

**C.3** Before utilising a performance management and development system referred to in regulation VIII B.1, an executing authority shall

- a. pilot the system on groups of employees in all occupational categories sufficient to enable reasonable validity; and
- b. consult with employee organisations in her or his department.

## **D. OUTCOME AND COMMUNICATION OF ASSESSMENT RESULTS**

**D.1** The employee's supervisor shall inform the employee in writing of the outcome of the assessment and if the employee's performance is unsatisfactory, of the reasons for that assessment.

**D.2** An employee who is not satisfied with the outcome of her or his assessment, may refuse to sign it.

**D.3** The employee's supervisor must clearly identify the appeals route for an employee who is not satisfied with the outcome of her or his assessment.

**D.4** At any appeal against the outcome of her or his assessment, the employee may be assisted by a fellow employee or a representative of her or his trade union.

**D.5** An executing authority shall not communicate the outcome of an employee's performance assessment to a person not employed in her or his department unless if the employee gives has consented thereto in writing.

## **E. MANAGING UNSATISFACTORY PERFORMANCE**

**E.1** In the case of unsatisfactory performance, an executing authority shall-

- a. provide systematic remedial or developmental support to assist the employee to improve her or his performance;
- b. if the performance is so unsatisfactory as to be poor and the desired improvement cannot be effected, consider steps to discharge the individual for unfitness or incapacity to carry out her or his duties.

## **F. INCENTIVES FOR GOOD PERFORMANCE**

**F.1** If the departmental budget and the medium-term expenditure framework provide adequate funds, a head of department may establish a financial incentive scheme for employees or any category of those employees.

**F.2** To establish a departmental financial incentive scheme, a head of department shall-

- a. in writing determine the nature, rules and control measures of the scheme in advance;
- b. communicate the nature and rules of the scheme equitably to all employees; and
- c. ensure that employees who implement the quality and quantity control measures of the scheme are not entrusted with the implementation of that scheme in relation to themselves.

## **H. SUGGESTIONS, IMPROVEMENTS AND INNOVATIONS**

**H.1** If an employee makes a suggestion, improvement or invention of exceptional value to the department or the public service as a whole

- a. the State shall have the right of use of any such suggestion, improvement or invention; and
- b. the executing authority may reward the employee through-
  - i. any non-monetary reward;
  - ii. a non-pensionable cash award not exceeding 20 per cent of the employee's pensionable annual salary or, with the Minister's approval, a non-pensionable cash award in excess of 20 per cent of the employee's annual salary; or
  - iii. such a non-monetary reward as well as such a cash award.

# **PART IX. TRAINING AND EDUCATION**

## **A. PRINCIPLES**

Employees should have ongoing and equitable access to training geared towards achieving an efficient, non-partisan and representative public service. Training should support work performance and career development. It should become

increasingly driven by needs, and link strategically to broader human resource management practices and programmes aimed at enhancing employment equity and representativeness.

## **B. INSTITUTIONAL ARRANGEMENTS**

**B.1** The Minister may oversee or ensure the participation of the public service in any institution aimed at promoting training in the public service, subject to the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995).

**B.2** Subject to the provisions of the Act and these Regulations and State or Provincial Tender Board prescripts, training may be provided internally or externally.

**B.3** A supervisor shall provide training opportunities for employees under her or his supervision and control in accordance with the departmental training plan.

**B.4** A head of department shall ensure that sufficient funds are available for the training of employees at all grades.

## **B.5 TRAINING DIRECTED BY THE MINISTER**

**C.** A member of senior management shall avail herself or himself to train employees in the public service or to present training.

**C.1** The Minister may issue directives regarding the training of employees or categories of employees in the public service.

**C.2** The Minister shall, where appropriate, ensure that every institution responsible for training in the public service and the training offered in the public service gains accreditation from the South African Qualifications Authority.

**C.3** The department or training institution offering any training directed by the Minister shall issue certificates in respect of such training when completed successfully. All departments shall recognise those certificates.

## **D. OCCUPATIONAL SPECIFIC COMPETENCIES AND TRAINING**

An executing authority shall determine the required competencies of and prescribe training for, various occupational categories or specific employees in her or his department.

## **E. TRAINING ASSISTANCE**

**E.1** If it will make a contribution to the performance of the work of her or his department, a head of department may grant any financial or other assistance for any study, training or research where-

- a. she or he has asked an employee to undertake the study, training or research; or
- b. the employee has requested any such assistance.

**E.2** A head of department may grant any financial or other assistance for part-time or full-time activities at either local or international institutions. She or he may also grant assistance for studies and training through training interventions such as short courses, congresses, symposia, seminars, conferences, workshops, lectures and study tours.

**E.3** A head of department may-

- a. grant bursaries for higher education to both serving and prospective employees, but may allocate bursaries for general education and further education and training only to serving employees; and
- b. not require contractual service in recompense for assistance received in respect of general education or further education and training.

**E.4** A head of department may defray any genuine expenses associated with study, research or training, but need not cover the full expenses.

**E.5** A serving employee shall retain her or his salary, which shall count as part of the financial assistance from her or his department during any study, research or training.

**E.6** Subject to the Treasury Instructions, a head of department may waive the whole or any part of any study debts.

**E.7** Where a head of department provides a bursary for higher education to an employee or prospective employee-

- a. the bursary holder must enter into a contract with the department in terms of which she or he
  - i. in the case of a bursary holder who undertakes full-time study, will redeem the bursary by serving the department on the basis of one year for each year of study or any part thereof; or

ii. in the case of a bursary holder who undertakes part-time study, will redeem the bursary by serving the department for at least one year after attaining the relevant qualification; and

b. a bursary holder who undertakes full-time study, shall commence serving the department after she or he has met all the requirements for the attainment of the relevant qualification

**E.8** An employee who fails to complete the relevant qualification shall redeem any obligation in terms of the contract either through service, or repayment of the bursary amount, plus interest at a rate determined by the Treasury.

**E.9** In the case of an employee who studies or undergoes training for short periods, a head of department may, as a precondition for providing assistance, require the employee to enter into a contract with the department in terms of which she or he will serve the department for a commensurable Period.

**E.10** For the purpose of regulation IX E -

- a. "**Further education and training**" means further education and training as defined in section 1 of the Further Education and Training Act, 1998 (Act No. 98 of 1998);
- b. "**general education**" means the compulsory school attendance phase as referred to in section 3 of the South African Schools Act, 1996 (Act No. 84 of 1996); and
- c. "**higher education**" means higher education as defined in section 1 of the Higher Education Act, 1997 (Act No. 101 of 1997)

## **PART X. LABOUR RELATIONS**

### **A. PRINCIPLES**

If an executing authority has the authority to act on behalf of the State as employer, she or he shall manage negotiations, conclude collective agreements and resolve labour disputes in accordance with the Labour Relations Act. She or he shall not sign an agreement with fiscal implications unless she or he has an unambiguous mandate.

### **B. IMPLEMENTATION OF COLLECTIVE AGREEMENTS**

If a collective agreement signed by an authorised representative of the State as employer applies to a department, the department's executing authority shall implement and enforce it.

### **C. MANDATING AND MANAGEMENT OF NEGOTIATIONS**

**C.1** An executing authority may enter into an agreement on a matter of mutual interest only if-

- a. she or he has responsibility for managing collective bargaining on behalf of the State as employer in that forum;
- b. she or he has authority to deal with the matter concerned; and
- c. she or he meets the fiscal requirements contained in regulation X D.

**C.2** Collective bargaining shall be regulated by the Labour Relations Act.

**C.3** In the Public Service Co-ordinating Bargaining Council, which deals only with matters transverse to the public service, the Minister shall manage negotiations on behalf of the State as employer.

**C.4** In a sectoral bargaining council, which deals with matters transverse to a sector in the public service-

- a. if one executing authority manages the sector, she or he has responsibility for managing collective bargaining; or
- b. if more than one executing authority manages the sector, Cabinet shall nominate one of the executing authorities to manage collective bargaining.

**C.5** An executing authority shall provide the Minister with a copy of any collective agreement

concluded in the bargaining council of her or his department or sector.

### **D. MATTERS WITH FISCAL IMPLICATIONS**

**D.1** Subject to regulation X C, an executing authority shall enter into an agreement in the appropriate bargaining council on any matter that has financial implications only if-

- a. she or he has a realistic calculation of the costs involved in both the current and the subsequent fiscal year;
- b. the agreement does not conflict with the Treasury Instructions; and

c. she or he can cover the cost-

- i. from her or his departmental budget;
- ii. on the basis of a written commitment from Treasury to provide additional funds; or
- iii. from the budgets of other departments or agencies with their written agreement and Treasury approval.

## **CHAPTER 2**

### **CODE OF CONDUCT FOR THE PUBLIC SERVICE**

#### **A. PURPOSE**

**A.1** In order to give practical effect to the relevant constitutional provisions relating to the public service, all employees are expected to comply with the Code of Conduct provided for in this Chapter.

**A.2** The Code should act as a guideline to employees as to what is expected of them from an ethical point of view, both in their individual conduct and in their relationship with others. Compliance with the Code can be expected to enhance professionalism and help to ensure confidence in the public service.

#### **B. INTRODUCTION**

**B.1** The need exists to provide direction to employees with regard to their relationship with the legislature, political and executive office-bearers, other employees and the public and to indicate the spirit in which employees should perform their duties, what should be done to avoid conflicts of interests and what is expected of them in terms of their personal conduct in public and private life.

**B.2** Although the Code of was drafted to be as comprehensive as possible, it is not an exhaustive set of rules regulating standards of conduct. However, heads of department, by virtue of their responsibility in terms of section 7(3)(b) of the Act for the efficient management and administration of their departments and the maintenance of discipline, are, *inter alia*, under a duty to ensure that the conduct of their employees conform to the basic values and principles governing public administration and the norms and standards prescribed by the Act. Heads of department should also ensure that their staff are acquainted with these measures, and that they accept and abide by them.

**B.3** The primary purpose of the Code is a positive one, viz. to promote exemplary conduct. Notwithstanding this, an employee shall be guilty of misconduct, and may be dealt with in accordance with the relevant collective agreement if she or he contravenes any provision of the Code of Conduct or fails to comply with any provision thereof.

#### **C. CODE OF CONDUCT**

##### **C.1 RELATIONSHIP WITH THE LEGISLATURE AND THE EXECUTIVE**

An employee

**C.1.1** is faithful to the Republic and honours the Constitution and abides thereby in the execution of her or his daily tasks;

**C. 1.2** puts the public interest first in the execution of her or his duties:

**C.1.3** loyally executes the policies of the Government of the day in the performance of her or his official duties as contained in all statutory and other prescripts;

**C.1.4** strives to be familiar with and abides by all statutory and other instructions applicable to her or his conduct and duties; and

**C.1.5** co-operates with public institutions established under legislation and the Constitution in promoting the public interest.

##### **C.2 RELATIONSHIP WITH THE PUBLIC**

An employee

**C.2.1** promotes the unity and well-being of the South African nation in performing her or his official duties;

**C.2.2** will serve the public in an unbiased and impartial manner in order to create confidence in the public service;

**C.2.3** is polite, helpful and reasonably accessible in her or his dealings with the public, at all times treating members of the public as customers who are entitled to receive high standards of service;

**C.2.4** has regard for the circumstances and concerns of the public in performing her or his official duties and in the making of decisions affecting them;

**C.2.5** is committed through timely service to the development and upliftment of all South Africans;

**C.2.6** does not unfairly discriminate against any member of the public on account of race, gender; ethnic or social origin, colour, sexual orientation, age, disability, religion, political persuasion, conscience, belief, culture or language;

**C.2.7** does not abuse her or his position in the public service to promote or prejudice the interest of any political party or interest group;

**C.2.8** respects and protects every person's dignity and her or his rights as contained In the Constitution; and

**C.2.9** recognises the public's right of access to information, excluding information that is specifically protected by law.

### **C.3 RELATIONSHIPS AMONG EMPLOYEES**

An employee

**C.3.1** co-operates fully with other employees to advance the public interest;

**C.3.2** executes all reasonable instructions by persons officially assigned to give them, provided these are not contrary to the provisions of the Constitution and/or any other law;

**C.3.3** refrains from favouring relatives and friends in work-related activities and never abuses her or his authority or influences another employee, nor is influenced to abuse her or his authority;

**C.3.4** uses the appropriate channels to air her or his grievances or to direct representations;

**C.3.5** is committed to the optimal development, motivation and utilisation of her or his staff and the promotion of sound labour and interpersonal relations;

**C.3.6** deals fairly, professionally and equitably with other employees, irrespective of race, gender, ethnic or social origin, colour, sexual orientation, age, disability, religion, political persuasion, conscience, belief, culture or language; and

**C.3.7** refrains from party political activities in the workplace.

### **C.4 PERFORMANCE OF DUTIES**

An employee

**C.4.1** strives to achieve the objectives of her or his institution cost-effectively and in the public's interest;

**C.4.2** is creative in thought and in the execution of her or his duties, seeks innovative ways to solve problems and enhances effectiveness and efficiency within the context of the law

**C.4.3** is punctual in the execution of her or his duties;

**C.4.4** executes her or his duties in a professional and competent manner;

**C.4.5** does not engage in any transaction or action that is in conflict with or infringes on the execution of her or his official duties;

**C.4.6** will recuse herself or himself from any official action or decision-making process which may result in improper personal gain, and this should be properly declared by the employee;

**C.4.7** accepts the responsibility to avail herself or himself of ongoing training and self development throughout her or his career;

**C.4.8** is honest and accountable in dealing with public funds and uses the public service's property and other resources

effectively, efficiently, and only for authorised official purposes;

**C.4.9** promotes sound, efficient, effective, transparent and accountable administration:

**C.4.10** in the course of her or his official duties, shall report to the appropriate authorities, fraud, corruption, nepotism, maladministration and any other act which constitutes an offence, or which is prejudicial to the public interest;

**C.4.11** gives honest and impartial advice, based on all available relevant information, to higher authority when asked for assistance of this kind; and

**C.4.12** honours the confidentiality of matters, documents and discussions, classified or implied as being confidential or secret.

## **C.5 PERSONAL CONDUCT AND PRIVATE INTERESTS**

An employee

**C.5.1** during official duties, dresses and behaves in a manner that enhances the reputation of the public service;

**C.5.2** acts responsibly as far as the use of alcoholic beverages or any other substance with an intoxicating effect is concerned;

**C.5.3** does not use her or his official position to obtain private gifts or benefits for herself or himself during the performance of her or his official duties nor does she or he accept any gifts or benefits when offered as these may be construed as bribes.

**C.5.4** does not use or disclose any official for personal gain or the gain of others; and

**C.5.5** does not, without approval, undertake remunerative work outside her or his official duties or use office equipment for such work.

## **ANNEXURE 1**

### **TRANSITIONAL ARRANGEMENTS**

#### **1. Despite regulation VII.C-**

- a. all vacancies advertised before 1 July 1999 in respect of posts to be filled on or after that date, shall be filled in accordance with the provisions, prescripts and requirements applicable and in force immediately before that date; and
- b. vacancies shall be advertised in accordance with Circular No. 2/3/1/3/P issued by the Director-General: Public Service and Administration on 24 March 1999, until the Minister has issued directives under regulation VII C.2.7

#### **2. Despite regulation VII E, departments shall continue until 31 March 2001 to use form Z187 for the purpose of providing written feedback to probationers on a quarterly basis.**

#### **3. Despite Part VIII of the Regulations and subject to any collective agreement, the system for personnel evaluation, merit assessment and personal profiles, including any merit awards and the award of higher salary notches, shall continue to apply until 31 December 2000, unless a department is ready for implementation at an earlier date, in which case the performance management system can be implemented at any date between 1 July 1999 and 31 December 2000.**

#### **4. Subject to any collective agreement, the official forms in use immediately before 1 July 1999 in relation to public service matters and identified by the prefix "Z" shall continue in use in relation to those matters -**

- a. in so far as their use is not inconsistent with the provisions of these Regulations or any collective agreement; and
- b. until a date to be determined by the Minister by notice in the Gazette. Such a determination may be made from time to time in respect of any one or more of those forms.

## **ANNEXURE 2**

### **EMPLOYMENT CONTRACT PROMULGATED UNDER SECTION 12 OF THE PUBLIC SERVICE ACT, 1994 (PROMULGATION NO 103 OF 1994) FOR HEADS OF DEPARTMENT**

ENTERED INTO BY AND BETWEEN

The Government of the Republic of South Africa herein represented by \_\_\_\_\_ (full name of political office-bearer) in the capacity of Executing Authority of \_\_\_\_\_ (indicate portfolio) (hereinafter referred to as the Employer)

and

\_\_\_\_\_ (full name) as head of department (herein after called the Employee.)

## **WHEREBY IT IS AGREED AS FOLLOWS:**

### **1. Appointment**

**1.1** The Employer hereby appoints the Employee, who agrees and accepts appointment as Head of Department \_\_\_\_\_ (name of Office, Department, Organisational Component or Provincial Department) in terms of section 12 of the Public Service Act, 1994 for a period of \_\_\_\_\_ years (\_\_\_\_ calendar months) commencing on the \_\_\_\_ day of \_\_\_\_\_ and terminating on the \_\_\_\_ day of \_\_\_\_\_.

#### **1.2** In terms of this Contract -

**1.2.1** the Employee shall serve the Employer as Head of the \_\_\_\_\_ (name of Office, Department, Organisational Component or Provincial Department) at such place as may from time to time be directed by the Employer;

**1.2.2** the Employee will be responsible for the efficient management and administration of \_\_\_\_\_ (name of Office, Department, Organisational Component or Provincial Department) as contemplated in section 7(3)(b) read with section 7(4) of the Act;

**1.2.3** the Employee is also responsible for the exercise of the powers and the performance of the functions entrusted to a head of department in general or to the incumbent of Head of Department of \_\_\_\_\_ (name of Office, Department, Organisational Component or Provincial Department) in particular, by or in terms of the Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996), the Act or any other law.

### **2. Remuneration**

**2.1** The remuneration that the Employee shall receive as from the date of assuming duty as stated in clause 1 above, is that specified in Appendix A.

**2.2** The salary and benefits will be payable in twelve (12) equal monthly instalments on the fifteenth day of each month and should the fifteenth fall on a Saturday, Sunday or public holiday, on the preceding working day.

**2.3** The general conditions of service and benefits specified in Appendix A, except for item 2.1 of Appendix A, will be as stipulated and provided for in terms of the Act, Regulations and applicable collective agreements reached in the Public Service Co-ordinating Bargaining Council (PSCBC). The parties to this Contract accept that the general conditions of service and benefits in Appendix A (excluding item 2.1) may be changed from time to time by means of collective agreements in the PSCBC and/or in terms of determinations by the Minister for the Public Service and Administration in terms of section 3(1)(b) or 12(2)(a) of the Act.

**2.4** Subject to section 7(4)(b) of the Act, the Employee will also qualify for participation in other benefits and special privileges normally bestowed on a Head of Department as far as this is arranged accordingly in this Contract or other applicable prescripts.

**2.5** When required to perform official duties away from her/his headquarters, the Employee shall travel at the Employer's expense and shall be paid a subsistence allowance in accordance with the provisions prescribed in the Act.

### **3. Deployment during the contract period and re-appointment on expiry of the Contract.**

The Employee acknowledges that she/he familiarised herself/himself with the provisions of section 3B and 12 of the Act.

### **4. Termination of employment**

**4.1** The term of office of the Employee may be terminated in the following ways:

**4.1.1** On reaching the prescribed (or earlier optional) retirement age [section 16(1), (2), 2(A) and (4)] of the Act.

**4.1.2** On completing a term or extended term of office [section 16(3) of the Act].

**4.1.3** Premature retirement at own request of Employee [section 16(5) of the Act].



**4.1.4** Discharge in terms of any of the subsections of section 17 of the Act.

**4.1.5** Re-determination of original term or extended term of office by the Employer [section 12(1) or (2) of the Act].

**4.1.6** Voluntary resignation.

**4.1.7** Death.

**4.2** Pension and other payable benefits are directly linked to the specific section of the Act which is utilised, as regulated by the Government Employees Pension Fund Law, 1996, the regulations promulgated thereunder as applicable to a Head of Department, the Public Service Regulations and the collective agreement(s) reached.

**4.3** Subject to the provisions of sections 16(5) and 12(1) or (2) of the Act, and the *Labour Relations Act*, 1995, either party may, after consultation and agreement, terminate the Contract before the expiry of an original term of office or an extended term of office, by giving to the other party three months' notice of termination, which notice shall -

**4.3.1** be given in writing; and

**4.3.2** be given on or before the last day of a month and take effect on the first day of the succeeding month.

**4.4** Should notice of termination be given as contemplated in clause 4.3, the Employer has the right to require the Employee to vacate the office occupied by her/him and to leave the premises of the Department before the expiry of the three months notice period on a day stipulated by the Employer and not to present herself/himself for duty any time thereafter.

**4.5** Should the Employer invoke the provisions of clause 4.4, the Employee will still be entitled to all such benefits as contained in the relevant prescripts and collective agreement.

**4.6** In the case of inefficiency and misconduct, the Employer may deal with her/him, in accordance with the procedure contained in the applicable collective agreement reached in the PSCBC and the relevant labour legislation.

## **5. Renewal and extension of term of office**

**5.1** The Employer shall in writing confer with the Employee at least two calendar months prior to the expiry of the term contemplated in clause 1 (*supra*) whether she/he proposes to retain the Employee in service for any extended period not exceeding five years (60 calendar months), or not. If the Employee is so informed of such intention to retain her/him in service for an extended term, she/he shall in writing inform the Employer, within one calendar month from the date of that communication, of her/his acceptance or not of such extended employment.

**5.2** In the event that agreement is reached that the Employee shall enter into a further Contract on termination or completion of her/his Contract, the continued service of the Employee will be recognised under the new Contract so as to avoid any break of service and any accrued or *pro rata* entitlement will be carried forward into the new Contract.

**5.3** Should the Employer not renew the Contract period beyond the initial period as stated in Clause 1 above, the Employee shall be entitled to the pension and other benefits directly linked to the specific section of the Act which is utilised:

## **6. Conduct**

**6.1** In the interest of the protection and maintenance of the trade secrets, technical business know-how, confidential information, business connections, customer connections and all other confidential information ("trade secrets") of the Department, the Employee undertakes to the Employer that -

**6.1.1** she/he will not during her/his employment or at any time thereafter, either herself/himself utilise or cause to be utilised and/or directly or indirectly divulge and/or disclose to any third party (except as required by the terms and nature of the Employee's employment with the Employer) of any of the Employer's trade or other Government secrets;

**6.1.2** she/he will treat as confidential all confidential information which a third party has in terms of any agreement made available to the Employer and which has become known to the Employee in the course of her/his duties and not divulge to any other third party any information regarding such confidential information contrary to the terms of such agreement;

**6.1.3** any documents or records (including written instructions, notes or memoranda) relating to the trade secrets of the Employer which are made by the Employee or which come into the Employee's possession during the period of her/his employment with the Employer, are deemed to be the property of the Employer and will be surrendered to the Employer on demand, and in the event of the termination of the Employee's employment by the Employer, the Employee will not retain any copies thereof or extracts therefrom; and

**6.1.4** she/he shall comply with the prescribed Code of Conduct.

**6.2** The restraints imposed upon the Employee in terms of this clause -

**6.2.1** are deemed to be, in respect of each part thereof entire, separate, severable and separately enforceable in the widest sense from the other parts thereof and the invalidity or enforceability of any clause or any part thereof will in no way effect the invalidity or enforceability of another part of the clause or the Contract; and

**6.2.2** are deemed to have been imposed separately in respect of each of the provinces of the Republic of South Africa and the fact that they may not be valid or enforceable in respect of any one of the provinces, will not effect their invalidity or enforceability in so far as the other provinces are concerned.

**6.3** The Employee -

**6.3.1** acknowledges that she/he has carefully considered the provisions of the clause;

**6.3.2** agrees that this clause is, after taking all relevant circumstances into account, reasonable and necessary for the proper protection of the interests of the Employer and the Government of the Republic of South Africa and that if she/he should at any time dispute the reasonableness of this clause, then the onus of proving such unreasonableness will be upon her/him; and

**6.3.3** acknowledges that she/he entered into this Contract freely and voluntarily and that no circumstances exist and/or existed for her/him alleging either now or at any future time that she/he was at a disadvantage in agreeing to the restraints set out in this clause or was other than in an equal bargaining position with the Employer in agreeing to such restraints.

**7. Additional teens and conditions**

The Employer and the Employee hereby agree to the following additional terms and conditions as contemplated in section 12(4) of the Act (delete if not applicable):

**7.1** The Employee shall enter into an annual performance agreement with the Employer, linked to a specific financial year, which shall include at a minimum the following:

**7.1.1** Salary increases will be based on the performance of the Employee. Performance will be assessed in accordance with her/his responsibilities and key performance areas contained in her/his performance agreement and the extent to which the Employee complied therewith. In terms of an agreement reached in the P S C B C, salary increases for the Employee will be based on individual consultation. The Employee along with the Employer have the responsibility to consult annually regarding her/his salary increase and cash bonus within the restrictions of the budget based on the performance of the Employee. In consulting on the salary increase and cash bonus of the Employee, the guidelines forwarded by the Minister for the Public Service and Administration should always be borne in mind.

**7.1.2** An annual performance agreement provided for in terms of paragraph 7.1 above linked to a specific financial stating clear performance areas/criteria/deliverables of the Department and the Employee must be entered into for the duration of this Contract. As performance agreements are linked to financial years, it should be entered into and presented to the Employer at the latest on 30 June every year for the duration of this Contract. The Employee should enter into her/his first performance agreement not later than three months after assumption of duty. In terms of the Public Service Regulations VII B.2, the Employer shall record delegations and/or authorisation in the performance agreement.

**7.1.3** The performance agreement shall be revised if, at any time during its term, the work or environment of the Department is so altered (whether as a result of Government or management decision or otherwise) that the contents of it are no longer appropriate.

**7.1.4** This Contract is directly linked to the performance agreement referred to in 7.1 supra. In the event that the Employee does not achieve the prescribed objectives/milestones of the Department, the Employee acknowledges that the Employer may deal with her/him, in accordance with the procedure contained in the applicable collective agreement reached in the PSCBC and the relevant labour legislation.

**7.1.5**

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**7.2** Any other particular duties of the head of department:

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**7.3** The grounds upon, and the procedures according to which, the services of the head of department may be terminated before the expiry of his or her term of office or extended term of office, as the case may be:

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## **8. General**

### **8.1 Good faith**

In the implementation of this Contract, the parties undertake to observe the utmost good faith and they warrant in their dealing with each other that they will neither do anything nor refrain from doing anything that might prejudice or detract from the rights, assets or interests of each other.

### **8.2 Applicability of the Act**

Any matters arising from this Contract, which are not specifically provided for herein, shall be dealt with in accordance with the provisions of the Public Service Act, 1994, as amended, the aforesaid Public Service Regulations, applicable collective agreements and other relevant legislation.

### **8.3 Interpretation of Agreement**

The interpretation of this Contract shall be governed by the laws and legal principles applicable in the Republic of South Africa.

### **8.4 Jurisdiction of courts**

**8.4.1** The Employee submits to the jurisdiction of the Courts of the Republic of South Africa in the event of any legal proceedings arising from the provisions of this Contract.

**8.4.2** It shall not be a breach of the Contract if a party to this Contract is prevented from or hindered in the performance or observance of its obligations hereunder by any Act of Parliament or other action of the State or by any cause or event outside the control of that party.

### **8.5 Variation**

**8.5.1** The Contract constitutes the whole of the agreement between the parties to this Contract relating to the subject matter of this Contract, and save as otherwise provided, no amendment, alteration, addition or variation of any right, term or condition of this Contract will be of any force or effect unless reduced to writing and signed by the parties to this Contract.

**8.5.2** The parties agree that there are no other conditions, warranties or representations, whether oral or written and whether expressed or implied or otherwise, save those contained in this Contract, the Public Service Act, 1994, the Public Service Regulations, collective agreements and other relevant legislation (e.g. Government Employees Pension Fund Law).

### **8.6 Waiver**

No waiver of any of the terms and conditions of this Contract will be binding for any purpose unless expressed in writing and signed by the party giving the same, and any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either party in exercising any right, power or privilege precludes any other or further exercise thereof or the exercise of any other right, power or privilege.

## **9. Notice and Domicilium**

**9.1** The parties choose as their respective *domicilium citandi et executandi* for the purpose of legal proceedings and for the purpose of giving or sending any notice provided for or necessary in terms of this Contract, the following addresses

	Employer	Employee
Physical address	_____	_____
Postal address	_____	_____
Telefax Number	_____	_____

provided that a party reports any change of her or his *domicilium* to any other physical address, postal address or telefax number by written notice to the other party. Such change of address will be effective seven days after receipt of notice of the change of *domicilium*.

**9.2** All notices to be given in terms of this Contract will -

**9.2.1** be given in writing; and

**9.2.2** be delivered or sent by prepaid registered post or by telefax; and

**9.2.3** if delivered, be presumed to have been received on the date of delivery; or

**9.2.4** if sent by prepaid registered post, be presumed to have been received within three business days of posting unless the contrary is proved; or

**9.2.5** if sent by telefax, be presumed to have been received on the first business day following the date of sending of the telefax unless the contrary is proved.

**SIGNED** by the Employer at \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_

AS WITNESSES:

1. \_\_\_\_\_

2. \_\_\_\_\_

\_\_\_\_\_  
**EMPLOYER (EXECUTING AUTHORITY  
ON BEHALF OF THE GOVERNMENT)**

**SIGNED** by the Employee at \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_

AS WITNESSES:

1. \_\_\_\_\_

2. \_\_\_\_\_

\_\_\_\_\_  
**EMPLOYEE (HEAD OF DEPARTMENT)**

## APPENDIX A

### TERMS AND CONDITIONS OF EMPLOYMENT

#### 1. POSITION

Head of Department of \_\_\_\_\_

#### 2. REMUNERATION

##### 2.1 Salary Notch

R\_\_\_\_\_ per annum (payable in twelve (12) equal monthly instalments).

## **2.2 Service Bonus**

Thirteenth salary cheque with a 7% deduction for the Government Employees Pension Fund.\*

## **3. SERVICE BENEFITS**

**3.1** Membership of Government Employees Pension Fund - member's contribution is 7,5% of basic salary.\*

**3.2** Membership of Medical Aid Scheme (optional) - employer's contribution is 66% of the membership fee of a registered Medical Aid Scheme, currently limited to a maximum employer contribution amount of R\_\_\_\_\_ per month.\*

### **3.3 Leave**

Vacation leave is 30 days per annum which accrues at 2? days per month for the first 10 years and thereafter 36 days per annum which accrues at 3 days per month.\*

### **3.4 Sick Leave**

120 days in a fixed cycle of three years.\*

### **3.5 Housing Allowance**

A home owners' allowance.\*

### **3.6 Motor Car Financing Scheme**

A monthly basic loan redemption allowance and supplementary allowance to compensate for running costs are payable at the rates determined by the Minister for the Public Service and Administration.

## **4. OTHER**