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GOVERNMENT NOTICE

DEPARTMENT OF SAFETY AND SECURITY

No. R. 973 **12 September 2008**

REGULATIONS FOR THE SOUTH AFRICAN POLICE SERVICE

The Minister for Safety and Security has, under section 24(1) of the South African Police Service Act, 1995 (Act No. 68 of 1995), made the regulations in the Schedule.

C NQAKULA
Minister for Safety and Security

SCHEDULE

SOUTH AFRICAN POLICE SERVICE EMPLOYMENT REGULATIONS, 2008

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CHAPTER 1

GENERAL PROVISIONS

1. DEFINITIONS

In *these Regulations* any word or expression bears the meaning which was assigned to it in *the Act* or the *Public Service Act* and unless the context indicates otherwise, —

(a) ***"competence"*** means the blend of knowledge, skills, behaviour and aptitude that a person can apply in the work environment, which indicates the ability of a person to meet the requirements of a specific post;

(b) ***"CORE"*** means Code of Remuneration referred to in regulation 26(4);

(c) ***"designated groups"*** means designated groups as defined in section 1 of the Employment Equity Act, 1998 (Act No. 55 of 1998);

(d) ***"employee"*** means a member of the Service as defined in section 1 of *the Act*;

(e) ***"financial year"*** means a financial year as defined in section 1 of the *Public Finance Management Act*;

(f) ***"grade"*** means the relative value of a particular *job* as reflected by the *job weight*, which is linked to a salary level in a salary scale used in the Service;

(g) ***"inherent requirements of a job"*** means the *competence* and any other requirement that an *employee* needs in order to carry out a *job*;

(h) ***"job"*** means those basic duties, tasks, functions 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) ***"Labour Relations Act"*** means the Labour Relations Act, 1995 (Act No. 66 of 1995);

(k) ***"Minister"*** means the Minister of Safety and Security;

(l) ***"OSD"*** means occupation specific dispensation which is a dispensation for specific occupational categories and which includes a unique salary structure, a determined grading structure and *job* profiles, career pathing opportunities based on competencies, experience, performance and any other employment practice determined by the National Commissioner after consultation with the *Minister*;

(m) ***"Public Finance Management Act"*** means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

(n) ***"Public Service Act"*** means the Public Service Act, 1994 (promulgated under Proclamation No. 103 of 1994);

(o) ***"SMS"*** means *employees* appointed to a post level *graded* on 13 or above;

(p) ***"the Act"*** means the South African Police Service Act, 1995 (Act No. 68 of 1995);

(q) ***"these Regulations"*** means the South African Police Service Employment Regulations, 2008; and

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(r) ***"the Treasury Regulations"*** means the Treasury Regulations published in Government Notice No. R. 225 of 15 March 2005, as amended, and made under section 76 of the *Public Finance Management Act*.

2. DEVIATIONS, DELEGATIONS AND AUTHORISATIONS

(1) The *Minister* may, if circumstances justify it, approve a deviation from any provision of *these Regulations*, and may authorise such deviation with retrospective effect for purposes of equality.

(2) The *Minister* or National Commissioner respectively may delegate in writing any power conferred upon him or her in terms of *these Regulations* to an *employee* or authorise an *employee* in writing to perform a duty imposed upon him or her in terms of *these Regulations*, and may set conditions for the exercise of the power or performance of the duty.

3. COMMUNICATION WITH THE MEDIA

(1) The National Commissioner must issue official directives on how *employees* must communicate in the printed or other public media.

(2) An *employee* must direct any enquiry on a matter that falls within the powers and duties of the *Minister*, to the National Commissioner.

(3) Without derogating from the provisions of the Protected Disclosures Act, 2000 (Act No. 26 of 2000) an *employee*, in his or her official capacity, may not irresponsibly criticize Government policy at a public gathering, in a publication or in the printed or other public media.

4. DECISION-MAKING IN CASE OF CONFLICT OF INTEREST

(1) If a possible conflict of interest arises in the performance of any act by any *employee* in terms of *these Regulations*, that *employee* may perform the act only after considering a recommendation of an independent panel consisting of at least two persons, appointed by the National Commissioner, or, if the *employee* is the National Commissioner, the *Minister*.

(2) If that *employee* deviates from the recommendations of the panel, he or she must record the reasons for the deviation in writing.

(3) An *employee* may not accept or seek compensation of any kind from an *employee* or a prospective *employee* in return for performing an act in terms of *these Regulations*.

5. RECORD-KEEPING ON CORRECTION OF ACTS AND OMISSIONS

(1) The National Commissioner must keep copies of all documents relating to a power exercised in terms of section 5(7)(a) of the *Public Service Act* in the personnel file of the affected *employee* or *employees*.

(2) The *Minister* must submit a report in February of each year to the Minister of Public Service and Administration, regarding instances in the preceding 12

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months in which he or she exercised his or her power in terms of section 5(7)(a) of the *Public Service Act*. The report must at least contain the:

(a) personal details of the affected *employee* or *employees*;
(b) details of the act or omission that was corrected; and
(c) the decision of the *Minister*.

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CHAPTER 2

CONDUCT, ETHICS AND ANTI-CORRUPTION

Part 1: Code of Conduct

6. RELATIONSHIP WITH LEGISLATURE AND EXECUTIVE

An *employee* must —

(a) be faithful to the Republic and honour the Constitution and abide thereby in the execution of his or her daily tasks;
(b) put the public interest first in the execution of his or her duties;
(c) loyally execute the policies of the Government of the day in the performance of his or her official duties as contained in all statutory and other prescripts;
(d) strive to be familiar with and abide by all statutory and other instructions applicable to his or her conduct and duties; and
(e) co-operate with public institutions established under legislation and the Constitution in promoting the public interest.

7. RELATIONSHIP WITH PUBLIC

An *employee* must —

(a) promote the unity and well-being of the South African nation in performing his or her official duties;
(b) serve the public in an unbiased and impartial manner in order to enhance confidence in the Service and public service;
(c) be polite, helpful and reasonably accessible in his or her dealings with the public, at all times treating members of the public as customers who are entitled to receive high standards of service;
(d) have regard for the circumstances and concerns of the public in performing his or her official duties and in the making of decisions affecting them;
(e) be committed through timely service to the development and upliftment of all South Africans;
(f) 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;
(g) not abuse his or her position in the Service to promote or prejudice the interest of any political party or interest group;
(h) respect and protect the dignity of every person and his or her rights as contained in the Constitution; and
(i) recognise the right of access to information of the public, excluding information that is specifically protected by law.

8. RELATIONSHIPS AMONG EMPLOYEES

An *employee* must —

(a) co-operate fully with other *employees* to advance the public interest;

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(b) execute all reasonable instructions by persons officially assigned to give them, provided these are not contrary to the provisions of the Constitution or any other law;
(c) refrain from favouring relatives and friends in work-related activities and never abuse his or her authority or influence another *employee*, nor be influenced to abuse his or her authority;
(d) use the appropriate channels to air his or her grievances or to direct representations;
(e) be committed to the optimal development, motivation and utilisation of his or her staff and the promotion of sound labour and interpersonal relations;
(f) deal 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
(g) subject to section 46 of *the Act*, refrain from party political activities in the workplace.

9. PERFORMANCE OF DUTIES

An *employee* must —

(a) strive to achieve the objectives of the Service cost-effectively and in the public's interest;
(b) be creative in thought and in the execution of his or her duties, seek innovative ways to solve problems and enhance effectiveness and efficiency within the context of the law;
(c) be punctual in the execution of his or her duties;
(d) execute his or her duties in a professional and competent manner;
(e) refrain from engaging in any transaction or action that is in conflict with or infringes on the execution of his or her official duties;
(f) not accept or seek compensation of any kind from an *employee* or a prospective *employee* in return for performing an act in terms of *these Regulations*;
(g) recuse himself or herself from any official action or decision-making process which may result in improper personal gain, and properly declare this;
(h) accept the responsibility to avail himself or herself of ongoing training and self development throughout his or her career;
(i) be honest and accountable in dealing with public funds and use the property and other resources of the Service effectively, efficiently and only for authorised purposes;
(j) promote sound, efficient, effective, transparent and accountable administration;
(k) in the course of his or her official duties, report to the appropriate authorities, fraud, corruption, nepotism, mal-administration and any other act which constitutes an offence, or which is prejudicial to the public interest;
(l) give honest and impartial advice, based on all available relevant information, to higher authority when asked for assistance of this kind;

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(m) honour the confidentiality of matters, documents and discussions, classified or implied as being confidential or secret; and

(n) not release official information to the public unless he or she has the necessary authority.

10. PERSONAL CONDUCT AND PRIVATE INTERESTS

An *employee* must —

(a) during the execution of official duties, dress and behave in a manner that enhances the reputation of the Service;

(b) act responsibly as far as the use of alcoholic beverages or any other substance with an intoxicating effect is concerned;

(c) not use his or her official position to obtain private gifts or benefits for himself or herself during the performance of his or her official duties.

(d) not use or disclose any official information for personal gain or the gain of others; and

(e) not, without appropriate approval, undertake remunerative work outside his or her official duties, and where approval is obtained, may not use office equipment for such work.

Part 2: Financial disclosure

11. DEFINITIONS

In this Part, unless the context indicates otherwise, —

"designated employee" means the National Commissioner or any other *employee* occupying a post on *grade* 13 or higher in the Service;

"Register" means the Register of Designated Employees' Interests kept by the Director-General: Office of the Public Service Commission;

"registrable interests" means the financial interests listed in regulation 13;

"remuneration" means any payment or benefit in cash or in kind; and

"submitted form" means a form submitted by a *designated employee* to the *Minister* in terms of regulation 12 or any copy thereof.

12. DISCLOSURE OF INTERESTS OF DESIGNATED EMPLOYEE

(1) Every *designated employee* must, not later than 30 April of each year, disclose to the *Minister*, on the form determined for this purpose by the Public Service Commission, particulars of all his or her *registrable interests* in respect of the period 1 April of the previous year to 31 March of the year in question.

(2) Any person who assumes duty as a *designated employee* on or after 1 April in a year must make such disclosure within 30 days after assumption of duty in respect of the period of 12 months preceding his or her assumption of duty.

(3) The *Minister* must submit to the Public Service Commission a copy of the form submitted to him or her in terms of —

(a) regulation 17(1) not later than 31 May of the year in question; or

(b) regulation 17(2) not later than 30 days after it has been so submitted.

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13. KINDS OF INTERESTS TO BE DISCLOSED

The following kinds of financial interests are *registrable interests*:

(a) shares and other financial interests in private or public companies and other corporate entities recognised by law;
(b) directorships and partnerships;
(c) remunerative work outside the Service;
(d) consultancies and retainerships;
(e) sponsorships;
(f) gifts and hospitality from a source other than a family member; and
(g) ownership and other interests in land and property, whether inside or outside the Republic.

14. DETAILS OF REGISTRABLE INTERESTS TO BE DISCLOSED

The following details of *registrable interests* must be disclosed:

(a) Shares and other financial interests in private or public companies and other corporate entities recognised by law:
  (i) The number, nature and nominal value of shares of any type in any public or private company and its name; and
  (ii) the nature and value of any other financial interests held in a private or public company or any other corporate entity and its name.
(b) Directorships and partnerships:
  (i) The name, and type of business activity, of the corporate entity or partnership; and
  (ii) if applicable, the amount of any *remuneration* received for such directorship or partnership.
(c) Remunerated work outside the Service:
  (i) The type of work;
  (ii) the name, and type of business activity, of the employer; and
  (iii) the amount of the *remuneration* received for such work.
(d) Consultancies and retainerships:
  (i) The nature of the consultancy or retainership of any kind;
  (ii) the name, and type of business activity, of the client concerned; and
  (iii) the value of any benefits received for such consultancy or retainership.
(e) Sponsorships:
  (i) The source and description of direct financial sponsorship or assistance; and
  (ii) the value of the sponsorship or assistance.
(f) Gifts and hospitality from a source other than a family member:
  (i) A description of the value and source of a gift with a value in excess of R 700; and
  (ii) a description of the value of gifts from a single source which cumulatively exceed the value of R 700 in the 12 month period contemplated in regulation 12.

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(g) Ownership and other interests in land and property, whether inside or outside the Republic:
  (i) A description and extent of the land or property;
  (ii) the area in which it is situated; and
  (iii) the value of the interest.

15. CONFIDENTIALITY OF SUBMITTED FORMS AND REGISTER

(1) Subject to subregulation (3), only the following persons have access to a *submitted form* or the *Register*:
  (a) the *Minister* and the *employees* designated by him or her for purposes of record-keeping of the original form and submission of a copy of the form to the Public Service Commission;
  (b) Commissioners of the Public Service Commission;
  (c) the Director-General: Office of the Public Service Commission; and
  (d) such other persons designated by the *Minister* or the chairperson of the Public Service Commission for purposes of the effective implementation of this Chapter.

(2) No person who has access to a *submitted form* or the *Register* may, except when a court so orders, disclose any information in that form or *Register* to anyone other than —
  (a) a *designated employee* in respect of his or her *submitted form* or an entry in the *Register* in respect of that *employee*; or
  (b) another person who is permitted access in terms of subregulation (1) or to whom access is granted in accordance with subregulation (3).

(3) Any person, other than a person contemplated in subregulation (1), may only be given access to a *submitted form* or the *Register* in terms of section 11 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

16. CONFLICT OF INTEREST

(1) If the Public Service Commission is of the opinion that a registrable interest of a *designated employee* disclosed in terms of regulation 12 conflicts or is likely to conflict with the execution of any official duty of that *employee*, and has referred the matter to the *Minister*, the *Minister* must consult with the *employee* concerned and take the appropriate steps, including, but not limited to —
  (a) the institution of disciplinary steps; or
  (b) the granting of a waiver to the *employee* in respect of a future conflict of interest.

(2) The *Minister* must, within 30 days after such referral, report to the Public Service Commission by —
  (a) stating whether any steps were taken; and
  (b) if steps were taken, giving a description of those steps or, if no steps were taken, giving the reasons therefor.

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Part 3: Anti-corruption

17. ANTI-CORRUPTION FUNCTIONS

The National Commissioner must —

(a) analyse the risk of corruption as part of the risk assessment required in terms of the *Public Finance Management Act*;

(b) develop and implement an anti-corruption plan to —

(i) address the identified corruption risk, either as part of the fraud plan required in terms of the *Public Finance Management Act* or as a separate plan; and

(ii) establish appropriate anti-corruption measures;

(c) establish a system that encourages and allows *employees* and citizens to report corruption, and such system must provide for —

(i) confidentiality of reporting; and

(ii) the recording of all allegations of corruption received through the system;

(d) investigate all allegations of corruption and take disciplinary steps against the *employee* involved;

(e) establish an education and awareness programme that —

(i) informs *employees* on an ongoing basis of what constitutes corruption;

(ii) promotes the values and principles of public administration and professional conduct; and

(iii) informs *employees* of their rights and obligations in terms of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000) and the Protected Disclosures Act, 2000 (Act No. 26 of 2000).

18. DESIGNATION OF ETHICS OFFICER

The National Commissioner must designate or appoint an ethics officer for the Service to —

(a) promote integrity and ethical behaviour in the Service;

(b) advise *employees* on ethical matters; and

(c) identify and report unethical behaviour and corrupt activities to him or her.

19. REPORTING REQUIREMENTS

The National Commissioner must, at the end of each *financial year*, in the determined format, submit information on anti-corruption to the Minister of the Public Service and Administration.

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CHAPTER 3

PLANNING AND SERVICE DELIVERY

20. STRATEGIC PLANNING

(1) The *Minister* must prepare a strategic plan for the Service —
- (a) stating the core objectives of the Service, based on Constitutional and other legislative mandates, functional mandates and the service delivery improvement programme mentioned in regulation 23;
- (b) describing the core and support activities necessary to achieve the core objectives, avoiding duplication of functions;
- (c) describing the targets to be attained in the medium term;
- (d) setting out a programme for attaining those targets;
- (e) specifying information systems that —
  - (i) enable him or her to monitor the progress made towards achieving those goals, targets and core objectives;
  - (ii) support compliance with the reporting requirements in regulation 25 and the National Minimum Information Requirements, referred to in regulation 48;
- (f) including a summary of the outcome of the processes referred to in subregulation (2) in the strategic plan of the Service; and
- (g) complying with the requirements in paragraphs 5.1 and 5.2 of *the Treasury Regulations*.

(2) Based on the strategic plan of the Service, the National Commissioner must —
- (a) determine the organisational structure of the Service in terms of its core and support functions;
- (b) define the posts necessary to perform the relevant functions while remaining within the current budget and medium-term expenditure framework of the Service, and the posts so defined, constitute the fixed establishment of the Service;
- (c) *grade* proposed new *jobs* or newly defined *jobs* according to the *job* evaluation system referred to in regulation 29 except where the *grade* of a *job* has been determined in terms of an *OSD*; and
- (d) engage in human resource planning in accordance with regulation 21 with a view to meeting the resulting human resource needs.

(3) In implementing the strategic plan, the National Commissioner must —
- (a) promote the efficient, economic and effective use of resources so as to improve the functioning of the Service; and
- (b) to that end, apply working methods such as the re-allocation, simplification, purification and co-ordination of work, and eliminate unnecessary functions.

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21. HUMAN RESOURCE PLANNING

(1) The National Commissioner must, in preparing a human resources plan for the Service, —

(a) assess the human resources necessary to perform the functions of the Service, with particular reference to —

(i) the number of *employees* required;

(ii) the competencies and proficiency levels that those *employees* must possess;

(iii) the capacities (whether permanent or temporary) in which those *employees* must be appointed;

(iv) the staffing patterns; and

(v) the training and development interventions required;

(b) assess existing human resources by race, gender, disability, age and any other relevant criteria as well as by occupational category, organisational component and *grade* with reference to their —

(i) competencies and proficiencies;

(ii) training and development needs; and

(iii) employment capacities;

(c) identify gaps between what is required under subregulation (1)(a) and (b), and prioritise interventions to address the identified gaps; and

(d) 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 requirements of the Service determined in terms of subregulation (1)(a), which plan must, as a minimum, include —

(i) realistic goals and measurable targets for achieving representativeness, taking into account subregulation (3); and

(ii) targets for the training and development of *employees* per occupational category and of specific *employees*, as well as specific plans to meet the training needs and development of *designated groups*.

(2) The National Commissioner must monitor and evaluate compliance with subregulation (1) and report to the *Minister* thereon.

(3) The *Minister* must report to the Minister of Public Service and Administration on an annual basis regarding compliance with subregulation (1).

(4) The National Commissioner must develop and implement an affirmative action programme, which must contain, as a minimum, the following:

(a) a policy statement that sets out the commitment of the Service 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 and training within each *grade* of each occupational category of *designated groups*; and

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(d) a plan for redressing numeric under-representativeness and supporting the advancement of *designated groups*.

(5) The National Commissioner must make the outcome of planning referred to in subregulation (1) and the affirmative action programme referred to in subregulation (4) known within the Service.

22. HUMAN RESOURCE DEVELOPMENT

(1) The National Commissioner must on an annual basis, submit a human resource development implementation plan for the Service to the *Minister*.

(2) The *Minister* must on an annual basis, submit a human resource development implementation plan for the Service to the Minister of Public Service and Administration.

23. SERVICE DELIVERY IMPROVEMENT PROGRAMME

(1) The National Commissioner must establish and maintain a service delivery improvement programme for the Service —

(a) specifying the main services to be provided to the different types of actual and potential service recipients, as identified by the Service;

(b) containing consultation arrangements with the actual and potential service recipients of the Service;

(c) with due regard to the means of access of the service user to the services and the barriers to increased access thereof, specifying the mechanisms or strategies to be utilised progressively to remove the barriers to increased access to services;

(d) indicating standards for the main services to be provided;

(e) containing arrangements as to how information about the services of the Service are to be provided; and

(f) stipulating a system or mechanisms for complaints.

(2) The National Commissioner must submit a service delivery improvement plan to the *Minister*.

(3) The National Commissioner must publish an annual statement which sets out the service standards of the Service that members of the public can expect and which will serve to explain how the Service will meet each of the standards.

24. INFORMATION PLANNING AND REPORTING

The National Commissioner must establish —

(a) an information plan for the Service that supports —

(i) the planning process and objectives contemplated in regulation 20; and

(ii) compliance with Chapter 6 of the Public Service Regulations, 2008;

(b) an information infrastructure plan that supports the information plan; and

(c) an operational plan that enables the implementation of the information infrastructure plan and information management.

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25. INFORMATION IN ANNUAL REPORT

(1) The National Commissioner must include in the annual report of the Service, referred to in section 40(1)(d) of the *Public Finance Management Act*, such information pertaining to any matter referred to in section 3(1) of the *Public Service Act*, including, but not limited to, the utilisation of consultants, as the *Minister* may direct, and in the format that the *Minister* may direct.

(2) The *Minister* must immediately after he or she has tabled the annual report in Parliament in terms of section 65(1) of the *Public Finance Management Act*, submit it to the National Treasury, make it available on the website of the Service and, on request, make it available free of charge to any member of the media or the public.

(3) In this regulation "consultant" means a natural or juristic person or a partnership that provides, in terms of a specific contract, on an ad hoc basis, any of the following professional services to the Service against remuneration received from any source:

(a) the rendering of expert advice;
(b) the drafting of proposals for the execution of specific tasks; and
(c) the executing of a specific task which is of a technical or intellectual nature,

but excludes an employee of the Public Service.

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CHAPTER 4

EMPLOYMENT MATTERS

Part 1: Creation of posts, job descriptions and job evaluation

26. JOB DESCRIPTIONS, JOB TITLES, CORE'S AND OSD'S

(1) The National Commissioner must establish a *job* description and *job* title for each post or group of posts, that indicate, with appropriate emphasis on service delivery, —
   (a) the main objectives of the post or posts in question; and
   (b) the *inherent requirements of the job*.

(2) At least once every five years, the National Commissioner must review *job* descriptions and titles and, where necessary, redefine them to ensure that they remain appropriate and accurate.

(3) The National Commissioner may, from time to time, after consultation with the *Minister*, establish an *OSD* for an occupation.

(4) The National Commissioner must, in designing *job* and career paths linked to the salary scales, from time to time, after consultation with the *Minister*, determine —
   (a) occupational categories (*CORE*'s) for which an *OSD* has not been determined; and
   (b) an occupational classification system.

(5) The National Commissioner may determine norms and standards on the objectives, contents and requirements of categories of *jobs*.

(6) The National Commissioner must link all posts in the Service to a relevant *CORE* and an occupation listed in the occupational classification system, except in the case of posts determined in terms of an *OSD*, in which case the classification indicated in the *OSD*, must be utilised.

27. CREATION AND FILLING OF POSTS

Before creating a post for any newly defined *job*, or filling any vacancy, the National Commissioner must —
   (a) confirm that he or she requires the post to meet the objectives of the Service;
   (b) in the case of a new or newly defined *job*, evaluate the *job* in terms of the *job* evaluation system except in the case of *jobs* determined in terms of an *OSD*, in which case the classification indicated in the *OSD* must be utilised;
   (c) in the case of a vacant post, not determined in terms of an *OSD*, evaluate the *job* unless the specific *job* has been evaluated in the last 5 years; 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.

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28. PURPOSE OF JOB EVALUATION

To ensure that work of equal value is remunerated equally, the Service must increasingly use *job* evaluation —

(a) to assist in achieving cost-effective work organisation; and

(b) to determine appropriate remuneration.

29. JOB EVALUATION SYSTEM

(1) The *Minister* must determine —

(a) a *job* evaluation system or systems that must be utilised in the Service;

(b) a range of *job weights* derived from the system or systems for each salary level in a salary scale;

(c) a *job* or category of *jobs* that the National Commissioner must evaluate.

(2) The *Minister* may —

(a) review the application of *job* evaluation in the Service;

(b) issue directives on the application of *job* evaluation system or systems;

(c) evaluate and grade any *job*; or

(d) direct the National Commissioner 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 or further training of *employees* responsible for *job* evaluation in the Service.

(3) The National Commissioner may evaluate or re-evaluate any *job* in the Service.

30. GRADING OF POSTS AND DETERMINATION OF SALARIES

(1) This regulation does not apply to a post determined in terms of an *OSD*, unless the *OSD* determines otherwise.

(2) The National Commissioner must determine the *grade* of a post to correspond with its *job weight* except in the case of a post in respect of which the National Commissioner, after consultation with the *Minister,* determined the *grade* in terms of regulation 29(2)(c), and set the commencing salary of an *employee* on the minimum notch of the salary level attached to the relevant *grade*, unless the salary proves inadequate under the criteria in subregulation (4).

(3) If the National Commissioner plans to evaluate posts or implement *job* evaluation results that will affect the grading of an occupation or salary level within an occupation that is utilised by more than one department, he or she must do so in consultation with the *Minister* who must consult the Minister of Public Service and Administration.

(4) If a *job* has a weight that applies to more than one salary level, the National Commissioner must determine which of the relevant salary levels to use.

(5) The National Commissioner may set the salary for a post or an *employee* above the salary level indicated by the *job weight*, if he or she —

(a) has evaluated the *job*, but cannot recruit or retain an *employee* with the necessary competencies at the salary indicated by the *job weight*; and

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(b) recorded the reason why the salary indicated by the *job weight*, was insufficient.

(6) If the *job weight* demonstrates that a filled post is overgraded or undergraded, the National Commissioner must either effect changes to the work organisation or regrade the post according to the *job weight* and the relevant collective agreements.

(7) The National Commissioner may increase the salary of a post to a higher salary level 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 budget of the Service and the medium-term expenditure framework provide sufficient funds.

(8) If the National Commissioner increases the salary of a post as provided under subregulation (7), he or she must transfer the incumbent *employee* to another post that accords with the salary level of the *employee* and advertise the vacant post at the higher salary level: Provided that the National Commissioner may continue to employ the incumbent *employee* in the higher-graded post without advertising the post if —
(a) the incumbent already performs the duties of the post;
(b) the incumbent has received a satisfactory rating in his or her most recent performance assessment; and
(c) it will be in the interest of the Service.

(9) If the National Commissioner decides to continue to employ the incumbent *employee* in the higher-graded post without advertising the post, —
(a) the absorption of the incumbent *employee* in the higher-graded post as provided under subregulation (8), must take effect on the first day of the month following the month during which the National Commissioner approved that absorption; and
(b) the salary of the *employee* must be adjusted to the minimum notch of the higher salary level with effect from the date referred to in subparagraph (a).

(10) As far as possible, the National Commissioner must set the salary of a permanent or a temporary *employee* employed in a part-time capacity proportional to the salary of an equally graded full-time *employee*.

Part 2: Remuneration and other service benefits

31. INFORMATION ON REMUNERATION

(1) The *Minister* must, at least on an annual basis, issue and publish the salary scale or scales used in the Service.

(2) The National Commissioner must respect the right to privacy of an *employee* in dealing with personnel matters and the remuneration of an individual *employee*.

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(3) The National Commissioner must provide an *employee*, in the week before his or her salary pay day, in writing with information mentioning —
(a) the fact that the *employee* is employed by the Service;
(b) the name of the *employee*;
(c) the *job* title of the *employee* and the occupational category in terms of the *CORE*;
(d) the salary notch of the *employee*;
(e) any other form of compensation that the Service 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; and
(h) the actual amount paid to the *employee*.

32. LEAVE

The National Commissioner must —
(a) encourage an *employee* to fully utilise his or her annual leave in the leave cycle earned;
(b) record all leave taken by an *employee* accurately and in full; and
(c) ensure that an *employee* does not abuse sick leave.

33. OVERTIME

(1) The National Commissioner may compensate an *employee* for overtime work if —
(a) the Service has a written policy on overtime;
(b) he or she has provided written authorisation in advance for the work; and
(c) the monthly compensation for overtime constitutes less than 30 percent, or the percentage determined by the National Commissioner, of the monthly salary of the *employee*, unless exceptional circumstances justifies a higher percentage.

(2) The National Commissioner must establish an overtime policy in accordance with collective agreements, which must 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 commander may authorise overtime work for an individual *employee*;
(c) if an *employee* must 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 commander must record authorisation for overtime; and
(f) other control measures, if necessary.

Part 3: Working environment

34. WORKING HOURS

The National Commissioner must determine —
(a) the work week and daily hours of work for *employees*; and

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(b) the opening and closing times of places of work under his or her control, taking into account —
  (i) the needs of the public in the context of the service delivery improvement programme of the Service; and
  (ii) the needs and circumstances of *employees*, including family obligations and transport arrangements.

35. WORK OUTSIDE WORKING HOURS

The National Commissioner may, if he or she deems it in the interest of the Service, instruct an *employee* to perform the functions of the Service outside normal working hours, in order to —
(a) prevent, combat and investigate crime;
(b) maintain public order;
(c) protect and secure the inhabitants of the Republic and their property; and
(d) uphold and enforce the law.

36. HEALTH AND SAFETY

The National Commissioner must establish and maintain a safe and healthy work environment for *employees* of the Service.

37. EMPLOYEE HEALTH AND WELLNESS

The National Commissioner must develop a policy or policies that promote the health and well-being of *employees*.

Part 4: Appointments and other employment matters

38. GENERAL CONDITIONS FOR APPOINTMENT

(1) The National Commissioner —
  (a) may not appoint any person under the age of 16 years;
  (b) must determine the health requirements for incumbency of a post, in any case where it is a requirement of the post;
  (c) must require an *employee* or a candidate for employment to be subjected to pre-employment checks for suitability or security clearance, as the case may be;
  (d) must ensure that each person, upon appointment, is provided with a letter of appointment, including the terms and conditions of his or her service; and
  (e) may not appoint a temporary *employee* into a permanent post in the Service without complying with regulations 44 and 45.

(2) The National Commissioner may, within the available budget and subject to the *job* being evaluated in terms of the *job* evaluation system, employ persons additional to the fixed establishment, where —
  (a) the incumbent of a post is expected to be absent for such a period that his or her duties cannot be performed by other personnel;
  (b) a temporary increase in work occurs; or
  (c) it is necessary for any other reason to temporarily increase the staff of the Service.

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(3) The National Commissioner may appoint a person to a vacant post in the fixed establishment of the Service if —

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

(b) the vacancy has been advertised and the candidate selected in accordance with regulations 44 and 45.

(4) An appointment may only take effect after approval by the National Commissioner.

39. UTILISATION OF UNPAID VOLUNTEERS

(1) The National Commissioner must determine the rules in accordance with which unpaid volunteers may be utilized by the Service.

(2) The rules determined by the National Commissioner must as a minimum determine —

(a) the categories of volunteers that may be utilized by the Service and the purposes for which they may be utilized;

(b) the expenses incurred by a volunteer which will be reimbursed by the Service and the conditions for such reimbursement; and

(c) that a volunteer must, at all times, perform work or duties in the Service under the supervision of an *employee*.

40. RE-APPOINTMENT OF FORMER EMPLOYEES

(1) The National Commissioner may not re-appoint a former *employee* if —

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

(b) the former *employee* left the public service due to ill health and cannot provide recent and conclusive evidence of recovery.

(2) Notwithstanding subregulation (1), the National Commissioner may appoint a former *employee* referred to in that regulation if —

(a) the appointment is in the public interest;

(b) the appointment is made in accordance with the recruitment and selection procedures in *these Regulations* and no other suitable candidate could be recruited;

(c) the appointment is made for a fixed term not exceeding three years, and that term may be extended only once for a further term not exceeding three years; and

(d) the *employee* has not previously been appointed in terms of this regulation.

41. PROHIBITION ON THE APPOINTMENT OF FORMER EMPLOYEES DISMISSED FOR MISCONDUCT

A former employee of the public service or the Service, dismissed from the public service or the Service for any form of misconduct, may only be appointed

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in the Service if the National Commissioner, after having considered the facts surrounding the dismissal, approves the appointment of such person.

42. ACTING IN HIGHER POSTS

(1) The National Commissioner may compensate an *employee* for acting in a higher vacant post in accordance with an agreement reached in the collective bargaining process.

(2) An *employee* may not act in a higher vacant post for an uninterrupted period exceeding twelve months.

43. DETERMINATION OF REQUIREMENTS FOR EMPLOYMENT

(1) The National Commissioner must determine composite requirements for employment in any post on the basis of the main objectives and *inherent requirements of the job*.

(2) The National Commissioner must —
- (a) record the *inherent requirements of a job*;
- (b) ensure that the requirements for employment do not unfairly discriminate against any person; and
- (c) comply with any statutory requirement for the appointment of *employees*.

(3) The National Commissioner may not appoint a foreign national unless he or she has permanent residence in the Republic of South Africa.

44. ADVERTISING

(1) The National Commissioner must ensure that vacant posts in the Service are advertised so as to reach, as efficiently and effectively as possible, the entire pool of potential applicants, especially *designated groups*.

(2) An advertisement for a post must specify the *inherent requirements of the job*, the *job* title and core functions.

(3) Any vacant post in the *SMS* must be advertised nationally, simultaneously inside and outside the Service.

(4) The National Commissioner must advertise any other vacant post as a minimum within the Province or Division concerned, but may also advertise such post —
- (a) in the Service as a whole;
- (b) elsewhere in the public service; or
- (c) outside the public service either nationally or locally.

(5) A funded vacant post must be advertised within six months after becoming vacant and be filled within 12 months after becoming vacant.

(6) If the Service does not comply with subregulation (5), the reasons for the non-compliance must be recorded in writing.

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(7) The National Commissioner may fill a vacant post without complying with subregulations (3) and (4), if —
(a) the Service can fill the post from the ranks of supernumerary staff of equal grading;
(b) the Service can absorb into the post an *employee* who was appointed under an affirmative action programme referred to in regulation 21(4), if the *employee* meets the requirements of the post;
(c) the Service 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 to be filled through a transfer in terms of section 12(3) or 14 of the *Public Service Act*.

(8) The National Commissioner may utilise an appropriate employment or recruitment agency to identify candidates for posts, as long as the advertising and selection procedures comply with this regulation and regulation 45.

45. APPOINTMENT AND PROMOTION

(1) The National Commissioner must appoint selection committees to make recommendations on appointments or promotions to posts. A selection committee must 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 Service: Provided that —
(a) the chairperson of the selection committee, who must be an *employee*, must be of a grading higher than the post to be filled; and
(b) in the event that the head of the component within which the vacant post is located, is graded lower than the vacant post, such a head may be a member of the selection committee.

(2) A selection committee must, where reasonably possible, include adequate representation from *designated groups*.

(3) *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 may not form part of the selection committee, except where the selection is done in terms of subregulation (1)(b).

(4) The selection committee must 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 job*;
(c) the needs of the Service for developing human resources;
(d) the representativeness of the component where the post is located; and
(e) the affirmative action programme of the Service.

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(5) A selection committee must record the reasons for its recommendation with reference to the criteria mentioned in subregulation (4).

(6) When the National Commissioner does not approve a recommendation of a selection committee, he or she must record the reasons for his or her decision in writing.

(7) Before making a decision on an appointment or promotion, the National Commissioner must —
(a) satisfy himself that the candidate qualifies in all respects for the post and that his or her claims in his or her application for the post have been verified; and
(b) record that verification in writing.

(8) The National Commissioner may promote an *employee* to a vacant post in the fixed establishment of the Service if —
(a) such a vacancy is sufficiently funded; and
(b) the vacancy has been advertised and the candidate selected in accordance with regulations 43, 44 and subregulations (1) to (7).

(9) Notwithstanding the provisions of subregulation (8)(b), the National Commissioner may promote an *employee* into a post without advertising the post, and without following the selection process, if —
(a) the National Commissioner is satisfied that —
(i) the *employee* qualifies in all respects for the post;
(ii) there are exceptional circumstances that warrant the deviation from the said subregulation; and
(iii) such deviation is in the interest of Service; and
(b) the National Commissioner has recorded the reasons for the deviation in writing.

(10) A promotion may not come into effect before the first day of the month following the date on which the National Commissioner approved it.

(11) No *employee* has any right to a promotion until the promotion has been approved in writing by the National Commissioner.

46. PROBATIONARY PERIOD

(1) No probationary period may apply to an appointment in a post in or additional to the fixed establishment of the Service for a period less than one year.

(2) The National Commissioner may require an *employee* appointed to a new position in or additional to the fixed establishment of the Service for a period exceeding one year, to serve a probationary period of up to 24 months.

(3) An *employee* who is seconded for a stated period to a department, any other organ of state, another government or any other body must, if on probation at

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the time of the secondment, serve the remainder of his or her probation at that department, other organ of state, another government or other body.

(4) An *employee* who is transferred to another department, any other organ of state, another government or any other body must, if on probation at the time of the transfer, serve the remainder of his or her probation at that department, other organ of state, another government or other body.

(5) A commander of a probationer must ensure that —

(a) the probationer, at the commencement of the probationary period, knows the performance and other requirements for obtaining confirmation of probation;

(b) the probationer, on a quarterly basis, receives written feedback on his or her 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 he or she 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 his or her case, during which process the probationer may be assisted by a personal representative, including a colleague or a trade union representative.

47. RESIGNATION

(1) The National Commissioner must determine the manner in which an *employee* must submit his or her resignation.

(2) The National Commissioner must conduct an exit interview with an *employee* who has resigned and record the reasons given by the *employee* for his or her resignation.

(3) An *employee* who has submitted his or her resignation to the National Commissioner, may not withdraw his or her resignation, unless the National Commissioner consents thereto in writing.

(4) The National Commissioner may determine the period of written notice that must be given by an *employee* who resigns from the Service.

48. EMPLOYEE RECORDS

The National Commissioner must keep a record of each *employee* and of each post in the fixed establishment of the Service in accordance with the National Minimum Information Requirements issued by the Minister of Public Service and Administration.

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Part 5: Performance management

49. SYSTEMS FOR PERFORMANCE MANAGEMENT AND DEVELOPMENT

(1) The National Commissioner must determine and implement a system for the performance management and development of *employees* in the Service, excluding *employees* who are members of the SMS.

(2) Before utilising a performance management and development system referred to in subregulation (1), the National Commissioner must —
- (a) pilot the system on groups of *employees* in all occupational categories sufficient to enable reasonable validity; and
- (b) consult with trade unions represented in the Safety and Security Sectoral Bargaining Council.

(3) The period in respect of which performance is to be assessed (the "performance cycle") may not exceed one year and, for the purposes of planning, pay progression, performance incentives and non-financial awards, must be linked to the period of a *financial year*.

(4) For each *employee* other than an *employee* in the SMS, the National Commissioner must determine —
- (a) an annual date for written assessment of performance; and
- (b) a commander responsible for monitoring, supervising and assessing the performance of the *employee*.

(5) The commander must —
- (a) as far as possible, meet on a regular basis with the *employee* to discuss the basic objectives of his or her component and the role of the *employee* in the success or failure in achieving those objectives;
- (b) before the performance cycle commences, or within four months after appointment to a post, explain the performance assessment procedure to the *employee*; and
- (c) inform the *employee* of the criteria used for his or her performance assessment.

(6) The commander must monitor the performance of the *employee* on a continuous basis and give the *employee* feedback on his or her performance —
- (a) (i) verbally, if the performance of the *employee* is satisfactory; and
  (ii) in writing if the performance of the *employee* is unsatisfactory;
- (b) at least twice in the six months preceding the annual formal assessment date of the *employee*; and
- (c) in writing, on the annual performance assessment date, using the instrument referred to in regulation 51(1)(b).

50. PERFORMANCE AGREEMENTS

(1) An *employee* must enter into a performance agreement or an agreement of similar nature within two months of his or her date of appointment and thereafter within four months of the beginning of each *financial year*.

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(2) If, during the performance cycle, an *employee* is appointed to a new position at the same salary level, a new performance agreement or agreement of a similar nature must be entered into for the new position and the performance assessment must take both periods of work in the cycle into consideration.

(3) A performance agreement or an agreement of similar nature must include the following —

(a) a persal number, *job* title and post *grade* as well as a clear description of the *employee's job*, with emphasis on the main objectives, *job* purpose and the relevant outputs or key performance areas (generic assessment factors);

(b) a workplan containing the outputs, activities and resource requirements; and

(c) a personal development plan (PDP) that identifies the developmental needs of the *employee* in terms of the *job* requirements and how the needs will be addressed.

(4) If both the *employee* and his or her commander cannot sign the performance agreement or an agreement of similar nature due to a dispute relating to the content of the agreement, the National Commissioner must appoint an *employee* within one month after the expiry of the period stipulated in subregulation (1), to consider the dispute.

(5) The *employee* appointed in terms of subregulation (4) must within one month of his or her appointment consider the dispute and recommend to the National Commissioner a performance agreement or an agreement of similar nature to be signed.

(6) The *employee* and his or her commander must sign the recommended performance agreement or an agreement of similar nature within two weeks of receipt thereof.

(7) An *employee* will not be eligible for performance assessment or qualify for performance incentives and awards if he or she has not signed a performance agreement or an agreement of similar nature.

51. PERFORMANCE ASSESSMENT

(1) The National Commissioner —

(a) may establish separate performance assessment measures for different occupational categories or levels of work; but

(b) must designate a single assessment instrument to assist in deciding on performance incentives, non-financial awards, pay progression and the performance development of an *employee*.

(2) While conducting formal performance assessments, a rating scale must be utilized that has a mid-point, indicating that the performance of the *employee* meets the requirements of the *job* and the standards agreed upon.

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(3) The National Commissioner must institute performance moderation measures to ensure reasonability and consistency in the application of the performance management system.

(4) Assessment must be based only on the information contained in the designated performance assessment instrument, but where an appeal is lodged against an assessment, the information furnished in connection with the appeal, must also be considered.

(5) The National Commissioner must ensure that performance assessments are finalised within six months after the end of a performance cycle.

(6) The National Commissioner must ensure that accurate records of all performance assessments and the outcomes thereof are kept.

(7) An *employee* acting in a higher position must be assessed at the level of his or her permanent position.

(8) The incentive of an *employee* acting in a higher position must be calculated at the level of his or her permanent position, regardless of whether or not an acting allowance was paid.

52. OUTCOME AND COMMUNICATION OF ASSESSMENT RESULTS

(1) The commander of the *employee* must in writing inform the *employee* of the outcome of the assessment and, if the assessment is unsatisfactory, of the reasons for that assessment.

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

(3) The commander of the *employee* must inform the *employee* of the appeal procedure to follow if the *employee* is not satisfied with the outcome of his or her assessment.

(4) At any appeal against the outcome of his or her assessment, the *employee* may be assisted by a fellow *employee* or a representative of a trade union forming part of the Safety and Security Sectoral Bargaining Council.

(5) The National Commissioner may communicate the performance assessment results of an *employee* to a person not employed in the Service only if the *employee* gives his or her written consent.

53. MANAGING UNSATISFACTORY PERFORMANCE

In the case of unsatisfactory performance, the commander must —

(a) provide systematic remedial or developmental support to assist the *employee* to improve his or her performance; or

(b) if the performance is so unsatisfactory as to be poor and the desired improvement cannot be effected, consider to initiate the process to have

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the *employee* discharged on account of his or her unfitness or incapacity to carry out his or her duties.

54. PERFORMANCE INCENTIVE AND AWARD SCHEME

(1) The National Commissioner must establish a performance incentive and award scheme for *employees* or any category of *employees* of the Service and from time to time determine a percentage of the remuneration budget of the Service that may not be exceeded for the purpose of granting performance incentives.

(2) To establish a performance incentive and award scheme for *employees*, the National Commissioner must —

(a) in writing determine the nature, rules and control measures of the scheme;

(b) communicate the nature and rules of the scheme to all *employees*;

(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; and

(d) include provisions for the introduction of non-financial incentives if deemed appropriate.

55. SUGGESTIONS, IMPROVEMENTS AND INNOVATIONS

(1) If an *employee* makes a suggestion, improvement or innovation of exceptional value to the Service or the public service as a whole, the State shall have the right to make use of any such suggestion, improvement or innovation without the *employee* being entitled to any compensation for such suggestion, improvement or innovation.

(2) If an *employee* makes a suggestion, improvement or innovation of exceptional value to the Service or the public service as a whole or has exceptional ability, a special qualification or has rendered meritorious service to the Service or the public service as a whole the National Commissioner may, reward the *employee* through —

(a) a non-monetary reward;

(b) a non-pensionable cash award to be determined by the National Commissioner; or

(c) such a non-monetary reward and a cash award.

Part 6: Training

56. INSTITUTIONAL ARRANGEMENTS REGARDING TRAINING, EDUCATION AND DEVELOPMENT

(1) The National Commissioner must oversee and ensure the participation of the Service in any institution aimed at promoting training in the public service.

(2) The National Commissioner must, where appropriate, ensure that any institution responsible for training in the Service gains accreditation from the South African Qualifications Authority in accordance with the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995).

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(3) The National Commissioner must ensure that funds are available for the training and development of *employees*.

(4) A commander must provide training and development opportunities for *employees* under his or her command in accordance with the training plan of the Service.

(5) A member of the *SMS* must avail himself or herself to train *employees* in the Service or to present training.

(6) A training institution offering any training directed by the National Commissioner must issue certificates upon the successful completion thereof.

57. OCCUPATIONAL SPECIFIC COMPETENCIES AND TRAINING

The National Commissioner must determine the required competencies and training for various occupational categories or specific *employees* in the Service.

58. TRAINING ASSISTANCE

(1) If it will contribute to the performance of the work of the Service, the National Commissioner may grant any financial or other assistance for any study, training or research where —

(a) he or she has requested an *employee* to undertake such study, training or research; or

(b) the *employee* has requested such assistance.

(2) The National Commissioner may grant any financial or other assistance for part-time or full-time activities at either local or international institutions. He or she may also grant assistance for studies and training through training interventions, such as short courses, congresses, symposia, seminars, conferences, workshops, lectures and study tours.

(3) The National Commissioner may —

(a) grant bursaries for *higher education* and training 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 where an *employee* receives assistance for *general education* or *further education and training*.

(4) The National Commissioner may defray any expenses associated with study, research or training, but need not cover the full expenses.

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

(6) Subject to *the Treasury Regulations*, the National Commissioner may waive the whole or any part of study debts.

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(7) Where the National Commissioner provides a bursary for *higher education* to an *employee* or prospective *employee* —

(a) the bursary holder must enter into a contract with the Service in terms of which he or she —

(i) in the case of a bursary holder who undertakes full-time study, will redeem the bursary by serving the Service 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 Service for at least one year after attaining the relevant qualification; and

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

(8) An *employee* who fails to complete the relevant qualification must 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 Minister of Finance in terms of section 80(1)(b) of the *Public Finance Management Act*.

(9) In the case of an *employee* who studies or undergoes training for short periods, the National Commissioner may, as a precondition for providing assistance, require the *employee* to enter into a contract with the Service in terms of which he or she will serve the Service for a commensurable period.

(10) For the purpose of this regulation —

"***further education and training***" means further education and training as defined in section 1 of the Further Education and Training Act, 2006 (Act No. 16 of 2006);

"***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

"***higher education***" means higher education as defined in section 1 of the Higher Education Act, 1997 (Act No. 101 of 1997).

Part 7: Labour matters

59. MANDATING AND MANAGEMENT OF NEGOTIATIONS

(1) The *Minister* may enter into an agreement on a matter of mutual interest only if he or she —

(a) is responsible for managing collective bargaining on behalf of the State as employer in that forum;

(b) has authority to deal with the matter concerned; and

(c) meets the fiscal requirements contained in regulation 60.

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

(3) On matters specific to the Service, the *Minister* must manage bargaining in the Safety and Security Sectoral Bargaining Council.

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(4) The *Minister* must provide the Minister of Public Service and Administration with a copy of any collective agreement concluded in the Safety and Security Sectoral Bargaining Council.

60. MATTERS WITH FISCAL IMPLICATIONS

Subject to regulation 59, the *Minister* may enter into a collective agreement in the Safety and Security Sectoral Bargaining Council on any matter that has financial implications only if —

(a) he or she 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 Regulations*; and

(c) he or she can cover the cost —

(i) from his or her departmental budget;

(ii) on the basis of a written commitment from the Treasury to provide additional funds; or

(iii) from the budgets of other departments or agencies with their written agreement and Treasury approval.

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CHAPTER 5

SENIOR MANAGEMENT SERVICE (SMS)

61. ESTABLISHMENT OF SMS

(1) The National Commissioner must create an appropriate number of posts at senior management level.

(2) The persons occupying *SMS* posts must be managed as a public service-wide pool of scarce resources to be utilised in the best interest of the Service.

(3) The conditions of service of the persons occupying *SMS* posts must accord with their positions as high-level managers or specialists, while employment practices must be fair and take into account the need to redress the imbalances of the past.

62. COMPOSITION OF SMS AND GRADING OF POSTS

(1) The number of members of the *SMS* and their functions must be determined by the National Commissioner through the processes of planning and work organisation.

(2) The grading of *SMS* posts must be determined through the *job* evaluation system determined by the National Commissioner.

63. FLEXIBLE EMPLOYMENT PRACTICES WITHIN A FRAMEWORK OF UNIFORM NORMS AND STANDARDS

(1) The National Commissioner must appoint and utilise members of the *SMS* within a framework of uniform norms and standards.

(2) *The Act*, *these Regulations* and the directives issued and determinations made by the *Minister*, constitute the framework of uniform norms and standards applicable to members of the SMS.

(3) *These Regulations* apply to members of the SMS, unless otherwise indicated. If any conflict arises between a provision of this Chapter and a provision of any other Chapter of *these Regulations*, the provisions of this Chapter shall prevail.

64. HANDBOOK FOR SMS

The *Minister* may include any or all of the determinations, directives, guidelines and provisions applicable to the *SMS* in a Handbook for the *SMS*.

65. ADVERTISING OF POSTS AND EMPLOYMENT EQUITY

The National Commissioner may issue directives on how *SMS* posts are to be advertised and the application forms to be utilised and targets to be achieved in promoting a *SMS* that is broadly representative of the South African people, including representation according to race, gender and disability.

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66. COMPETENCY-BASED SELECTION

The National Comrnissioner may issue directives on the desired managerial and leadership competencies of members of the *SMS* and the selection processes for the filling of *SMS* posts.

67. NURTURING OF TALENT TO SUSTAIN SMS

The National Commissioner may introduce programmes to identify and nurture talented individuals for possible appointment to *SMS* posts.

68. EMPLOYMENT CONTRACTS

(1) A person newly appointed to the SMS, other than the National Commissioner, must , within two months of his or her date of appointment conclude a contract of employment, which must be based on the provisions of the contacts set out in Annexure 2 or 3.

(2) The National Commissioner, must, as soon as reasonably possible after his or her date of appointment, conclude a contract of employment, which must be based on the provisions of the contract set out in Annexure 1.

69. PERFORMANCE MANAGEMENT AND DEVELOPMENT

(1) Any person appointed to a post in the *SMS* must enter into a performance agreement within two months of his or her date of appointment and thereafter within four months of the beginning of each *financial year.*

(2) The National Commissioner must , as soon as reasonably possible after his or her date of appointment and the beginning of each *financial year*, enter into a performance agreement.

(3) Such performance agreement must —

(a) assist the member of the *SMS* to define his or her key responsibilities and priorities;

(b) encourage improved communication between that member and the person he or she reports to; and

(c) enable the person that member reports to, to assess his or her work and provide appropriate support.

70. DETERMINATION OF CONDITIONS OF SERVICE

(1) The *Minister* must annually make determinations regarding the conditions of service of members of the SMS.

(2) Any determination made by the *Minister* in regard to the conditions of service of members of the SMS, must take into account the advice of the panel established in terms of regulation 71.

71. PANEL FOR REVIEW OF CONDITIONS OF SERVICE OF MEMBERS OF SMS

(1) Establishment of Panel

(a) The *Minister* must once every three years appoint a panel to inquire into conditions of service of members of the *SMS* and to advise him or her accordingly.

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(b) The *Minister* must announce the names of the members of the panel, their terms of reference and terms of office by a notice in the *Gazette*.

(2) Constitution of Panel

(a) The panel must consist of such number of persons as determined by the *Minister*.

(b) Persons must be appointed to the panel on the basis of their knowledge of, or a vested interest in, matters relating to the functions of the panel.

(c) A member of the panel must serve in a part-time capacity.

(d) The *Minister* must designate one member as chairperson and another as deputy chairperson of the panel.

(e) If the chairperson is absent or for any reason is unable to act as chairperson, the deputy chairperson must act as the chairperson of the panel.

(3) Remuneration of members

Members of the panel who are appointed on the basis of their knowledge of matters relating to the functions of the panel must be remunerated on the basis of and according to the scales approved by the National Treasury.

(4) Meetings of Panel

(a) The panel must meet at a time and place determined by the chairperson of the panel.

(b) The decision of a majority of members of the panel present at a meeting of the panel, constitutes a decision of the panel, and, in the event of an equality of votes on any matter, the person presiding at the meeting concerned has a casting vote in addition to that person's deliberative vote.

(5) Administration of Panel

The National Commissioner must designate such *employees* of the Service as may be necessary to perform the work incidental to the functions of the panel.

72. DEPLOYMENT OF MEMBERS OF SMS

(1) The *Minister* may, on his or her own initiative, facilitate —

(a) the transfer of a member of the *SMS* from one post or position to another post or position;

(b) the transfer of a member of the *SMS* from one department to another department in accordance with section 14 of the *Public Service Act*; or

(c) the secondment of a member of the *SMS* in accordance with section 39 of *the Act*.

(2) A vacant post in the *SMS* that is to be filled through a transfer as contemplated in subparagraphs (1)(a) or (b), need not be advertised in terms of regulation 65.

(3) The personal circumstances of a member of the *SMS* must be taken into account before she or he is transferred or seconded in terms of paragraph (1).

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73. TRAINING AND DEVELOPMENT PRINCIPLES

The National Commissioner must oversee the development of programmes to equip members of the *SMS* for their responsibilities. The programmes to be developed must be based on the competencies required of members of the *SMS* in terms of both their current and future responsibilities.

74. STANDARD TRAINING PROGRAMMES

The National Commissioner must —

(a) identify the generic managerial and leadership training needs of members of the SMS;

(b) arrange that standard courses and programmes be developed on the basis of those training needs; and

(c) continuously evaluate those courses and programmes with due regard to their relevance and value for money.

75. ETHICS AND CONDUCT

(1) Members of the *SMS* must —

(a) display the highest possible standards of ethical conduct;

(b) set an example to their subordinates and maintain high levels of professionalism and integrity in their interaction with political office-bearers and the public;

(c) ensure that they minimise conflicts of interest and that they put the public interest first in the performance of their functions; and

(d) avoid any conflict of interest that may arise in representing the interests of the Service and being a member of a trade union, as defined in section 213 of the *Labour Relations Act*.

(2) The *Minister* may, after consultation with the Public Service Commission, make determinations to promote ethical conduct amongst members of the *SMS* and to supplement the South African Police Service Code of Conduct Regulations and the Financial Disclosure Framework contained in Chapter 2.

(3) The *Minister* may provide such guidance and assistance to members of the *SMS* as he or she may deem necessary to minimize conflicts of interest and to promote professional conduct.

76. EMPLOYER-EMPLOYEE RELATIONS

Employer-*employee* relations for the *SMS* must aim to protect the rights and interests of its members in a manner appropriate to their positions as high-level *employees*.

77. MISCONDUCT AND INCAPACITY

The *Minister* may, subject to the *Labour Relations Act*, issue directives to establish misconduct and incapacity procedures for members of the SMS.

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78. EXIT MANAGEMENT

(1) The termination of service of members of the *SMS* must be done in a manner that is fair to the individuals concerned and takes into account the public interests.

(2) The *Minister* may issue directives and provide guidelines on the procedures to be followed and benefits to be paid when terminating the services of members of the SMS.

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CHAPTER 6

REPEAL, SAVING AND TRANSITIONAL ARRANGEMENTS

79. REPEAL OF REGULATIONS AND SAVING

(1) The South African Police Service Employment Regulations, 1999 (published in Government Notice No. R. 1 of 5 January 2001), are hereby repealed.

(2) Anything done under the South African Police Service Employment Regulations, 1999, which could be done under a provision of *these Regulations*, shall be deemed to have been done under that provision.

(3) Any process, provided for in the South African Police Service Employment Regulations, 1999 (published by Government Notice No. R. 1 of 5 January 2001), that was initiated prior to the coming into operation of *these Regulations* but was not yet completed at the time of the coming into operation of *these Regulations*, may be proceeded with and be finalized in terms of the South African Police Service Employment Regulations, 1999 as if *these Regulations* had not come into operation.

80. TRANSITIONAL ARRANGEMENTS

Not withstanding the provisions of regulation 38, all vacancies advertised before the coming into operation of *these Regulations* 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.

81. SHORT TITLE AND COMMENCEMENT

These Regulations shall be called the South African Police Service Employment Regulations, 2008, and shall come into operation on the date of publication thereof in the Gazette.

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ANNEXURE 1

EMPLOYMENT CONTRACT FOR THE NATIONAL COMMISSIONER

EMPLOYMENT CONTRACT
FOR THE
NATIONAL COMMISSIONER
OF THE
SOUTH AFRICAN POLICE SERVICE

ENTERED INTO
by and between the

GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA
herein represented by

_____ (full name)

in his or her capacity as

PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA
(hereinafter referred to as the Employer)

AND

_____ (full name)

(hereinafter referred to as the Employee)

WHEREAS the parties have agreed to enter into a Contract which will govern the terms and conditions of employment of the Employee by the Employer,

NOW THEREFORE the parties agree as follows:

1. Appointment

1.1 In terms of section 207 of the Constitution, the Employer hereby appoints the Employee as National Commissioner of the South African Police Service and the Employee hereby accepts the appointment.

1.2 This Contract shall be in force for the period commencing on the _____ day of _____ and ending on the _____ day of

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_____ and is entered into in terms of section 7 of the South African Police Service Act, 1995 (Act No. 68 of 1995), hereinafter referred to as "the Act".

1.3 During the period of this Contract, the Employee shall —

1.3.1 serve the Employer as National Commissioner of the South African Police Service and Head of the Department of Safety and Security at such place as may from time to time be directed by the Employer;

1.3.2 be responsible for the efficient management and administration of the South African Police Service (hereinafter referred to as the Service) as contemplated in section 207(2) of the Constitution, the Act, section 7(3)(b) read with section 7(4) of the Public Service Act, 1994 (Proclamation No. 103 of 1994) and as set out in the performance agreement referred to in clause 6.1; and

1.3.3 be responsible for exercising the powers and performing the functions specifically entrusted to the office of the National Commissioner of the South African Police Service and the Head of the Department of Safety and Security, in particular as set out in the Constitution, the Act or any other law.

1.4 The employment of the Employee is subject to —

(a) the submission by the Employee of certificates of his or her academic and professional qualifications and service certificates; and

(b) a security clearance of top secret being obtained.

2. Remuneration

2.1 The remuneration that the Employee shall receive as from the date of assuming duty as stated in clause 1, shall be as agreed from time to time in writing between the parties.

2.2 The salary and benefits will be payable in twelve (12) equal monthly instalments.

2.3 The general conditions of service and benefits of the Employee shall be as stipulated and provided for by the Act and these Regulations. The parties to this Contract accept that the general conditions of service and benefits may be changed from time to time by means of collective agreements or by determinations and directives by the Minister for Safety and Security.

2.4 Subject to section 7(4)(b) of the Public Service Act, 1994, the Employee will also qualify for participation in other benefits and special privileges normally bestowed upon a Head of Department as set out in this Contract or other applicable prescripts.

2.5 When required from the Employee to perform official duties away from his or her headquarters, the Employee shall travel at the expense of the Employer and shall be paid a subsistence and travelling allowance as may from time to time be determined.

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3. Termination of employment

3.1 The term of office of the Employee may be terminated as provided for in the Act.

3.2 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 Law, 1996 (Proclamation No. 21 of 1996), the regulations promulgated thereunder as applicable to a Head of Department and these Regulations.

3.3 Subject to the provisions of the Act, either party may, after consultation and agreement with the other party, terminate this Contract before the expiry of its term or an extended term by giving to the other party three months' notice of termination, which notice shall be given in writing on or before the last day of a month and take effect on the first day of the succeeding month.

3.4 Should notice of termination be given as contemplated in clause 3.3, the Employer has the right to require the Employee to vacate the office occupied by him or her and to leave the premises of the Department on a day stipulated by the Employer before the expiry of the three months' notice period and not to present himself or herself for duty any time thereafter.

3.5 Should the Employer invoke the provisions of clause 3.4, the Employee will still be entitled to all such benefits as contained in the relevant prescripts.

4. Renewal and extension of term of office

4.1 The Employer shall, in writing, inform the Employee at least two calendar months prior to the expiry of the term contemplated in clause 1 (above) whether he or she proposes to retain such an Employee in service for any extended period not exceeding 5 years (60 calendar months). If the Employee is so informed, he or she shall in writing inform the Employer, within one calendar month from the date of that communication, of his or her acceptance or not of such extended employment.

4.2 In the event that agreement is reached that the Employee shall enter into a further contract on termination or completion of this 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.

4.3 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 in terms of which his or her services are terminated.

5. Conduct

5.1 The Employee undertakes —

5.1.1 not to, without the applicable consent and during his or her employment or at any time thereafter, disclose any record, as defined in section 1 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), that must or may be

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refused upon a request for access to a record of a public body in terms of that Act;

5.1.2 not to, during his or her employment or at any time thereafter, use any record so defined and obtained as a result of his or her employment, to the detriment of the State, except if it is used in the exercise or protection of any right, or legitimate expectation, conferred by law;

5.1.3 if so requested by the Employer during his or her employment or on the termination of his or her employment, to submit to the Employer any record so defined and in the Employee's possession as a result of his or her employment and not to retain any copies of or extracts from such record, except with consent of the Employer; and

5.1.4 to comply with the prescribed Code of Conduct.

5.2 The Employee —

5.2.1 acknowledges that he or she fully understands the implications of this clause;

5.2.2 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 that if he or she should at any time dispute the reasonableness of this clause, the onus of proving such unreasonableness will be upon him or her; and

5.2.3 acknowledges that he or she enters into this Contract freely and voluntarily and that no circumstances exist for him or her to allege, either now or at any future time, that he or she 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.

6. Additional terms and conditions

The Employer and the Employee hereby agree to the following additional terms and conditions as contemplated in section 12(4) of the Public Service Act, 1994 (delete if not applicable):

6.1 The Employee shall enter into an annual performance agreement with the Minister, linked to a specific financial year, which shall include at least the following:

6.1.1 Salary increases will be based on the performance of the Employee. Performance will be assessed in accordance with his or her responsibilities and key performance areas contained in his or her performance agreement and the extent to which the Employee complied therewith. Salary increases for the Employee will be based on individual consultation. The Employee and the Employer must consult annually regarding his or her 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

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Employee, the guidelines forwarded by the Minister for Public Service and Administration should always be borne in mind.

6.1.2 An annual performance agreement provided for in terms of clause 6.1 linked to a specific financial year, 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 April every year for the duration of this Contract. The Employee should enter into his or her first performance agreement not later than three months after assumption of duty.

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

6.1.4 This Contract is directly linked to the performance agreement referred to in clause 6.1. In the event that the Employee does not achieve the objectives/milestones of the Department as set out in the performance agreement, the Employee acknowledges that the Employer may deal with him or her, in accordance with the relevant labour legislation and any other directives issued by the Minister.

7. General

7.1 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 nor refrain from doing anything which might prejudice or detract from the rights, assets or interests of the other of them.

7.2 Applicability of the Act and the Public Service 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 Act, the Public Service Act, 1994, regulations issued under these Act, and any other legal provisions applicable to the Employee.

7.3 Interpretation of this Contract

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

7.4 Jurisdiction of courts

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.

7.5 Variation

7.5.1 This 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

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provided, no amendment, alteration, addition or variation of any term of this Contract will be of any force or effect unless reduced to writing and signed by the parties to this Contract.

7.5.2 The parties agree that there are no other conditions, warranties or representations, whether oral or in writing and whether express or implied or otherwise, save those contained in this Contract, the Act, the Public Service Act, 1994, regulations issued under these Acts, collective agreements and other relevant legislation (e.g. Government Employees Pension Law, 1996).

7.6 Waiver

No waiver of any of the terms and conditions of this Contract will be binding for any purpose unless reduced to writing and signed by the parties to this Contract, 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 preclude any other or further exercise thereof or the exercise of any other right, power or privilege by that party.

8. Notice and Domicilium

8.1 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	
Fax Number	

Provided that a party report any change to his or her address to any other physical address or postal address by written notice to the other party to that effect. Such change of address will be effective seven days after receipt of notice of the change of address.

8.2 All notices to be given in terms of this Contract will —

8.2.1 be given in writing; or

8.2.2 be delivered or sent by prepaid registered post or by fax; and

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

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

8.2.5 if sent by fax, be presumed to have been received on the first working day following the date of sending of the fax unless the contrary is proved.

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SIGNED by the Employer at _____ on the _____ of _____

AS WITNESSES:

_____ _____

EMPLOYER

_____

SIGNED by the Employee at _____ on the _____ of _____

AS WITNESSES:

_____ _____

EMPLOYEE

_____

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ANNEXURE 2

PERMANENT EMPLOYMENT CONTRACT FOR MEMBERS OF THE SENIOR MANAGEMENT SERVICE

PERMANENT EMPLOYMENT CONTRACT

FOR THE

SENIOR MANAGEMENT SERVICE

OF THE

SOUTH AFRICAN POLICE SERVICE

ENTERED INTO
by and between the

GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA

herein represented by

_____ (full name)

in his or her capacity as

_____

(hereinafter referred to as the Employer)

AND

_____ (full name)

(hereinafter referred to as the Employee)

WHEREAS the parties have agreed to enter into a Contract which will govern the terms and conditions of employment of the Employee by the Employer,

NOW THEREFORE the parties agree as follows:

1. Appointment

1.1 The Employer hereby appoints the Employee on a permanent basis in accordance with regulation 68 of the South African Police Service Employment Regulations, 2008 (hereinafter referred to as the Regulations) as _____. The Employee agrees and accepts the appointment as a member of the SMS commencing on the _____ day of _____. The Employee's employment and conditions of service shall be governed by the South African Police Service Act, 1995 (Act No. 68 of 1995)

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(hereinafter referred to as the Act), the Regulations, any relevant collective agreements or other legal provisions applicable to the Employee.

1.2 In terms of this Contract —

1.2.1 the Employee shall serve the Employer as _____ in the South African Police Service (hereinafter referred to the Service) at _____ or at such other place as may from time to time be determined by the Employer or any/or other person duly authorised thereto in this respect;

1.2.2 the Employee will hold the rank of _____ and will be responsible for the duties and functions set out in the Performance Agreement referred to in clause 5;

1.2.3 the employment of the Employee is subject to —
(a) the submission by the Employee of certificates of his or her academic and professional qualifications and service certificates; and
(b) a security clearance of (state confidential, secret or top secret) being obtained.

1.2.4 the Employee may be required to perform other duties or to work at other places that may reasonably be required by the Employer; and

1.2.5 any matter arising, which are not specifically provided for herein, shall be dealt with in accordance with the provisions of the Act, the Regulations, relevant collective agreements and any other legal provisions applicable to the Employee.

2. **Remuneration**

2.1 The remuneration that the Employee shall receive as from the date of assuming duty as stated in clause 1, shall be as agreed from time to time in writing between the parties.

2.2 The salary and benefits will be payable in 12 equal monthly instalments.

2.3 The general conditions of service and benefits of the Employee shall be as stipulated and provided for by the Act and the Regulations. The parties to this Contract accept that the general conditions of service and benefits may be changed from time to time by means of relevant collective agreements determinations and directives by the Minister for Safety and Security.

2.4 When required from the Employee to perform official duties away from his or her headquarters, the Employee shall travel at the Employer's expense and shall be paid a subsistence and travelling allowance as may from time to time be determined.

3. **Termination of employment**

3.1 This Contract may be terminated under the following circumstances:

3.1.1 on reaching the prescribed retirement age (section 45(1)(a) of the Act);

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3.1.2 premature retirement upon own request by the Employee (section 45(2) of the Act);

3.1.3 discharge in terms of section 35 of the Act;

3.1.4 voluntary resignation; or

3.1.5 death.

3.2 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 members of the SMS, and these Regulations.

3.3 Should notice of termination be given in cases contemplated in clause 3.1.3, the Employer has the right to require the Employee to vacate the office occupied by him or her and to leave the premises of the Service before the expiry of the notice period on a day stipulated by the Employer and not to present himself or herself for duty any time thereafter.

3.4 Should the Employer invoke the provisions of clause 3.3, the Employee will still be entitled to all such benefits as contained in the relevant prescripts.

3.5 In the case of inefficiency and misconduct, the Employer may deal with the Employee in accordance with the relevant legislation.

4. **Conduct**

4.1 The Employee undertakes —

4.1.1 not to, without the applicable consent and during his or her employment or at any time thereafter, disclose any record, as defined in section 1 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), that must or may be refused upon a request for access to a record of a public body in terms of that Act;

4.1.2 not to, during his or her employment or at any time thereafter, use any record so defined and obtained as a result of his or her employment, to the detriment of the State, except if it is used in the exercise or protection of any right, or legitimate expectation, conferred by law;

4.1.3 if so requested by the Employer during his or her employment or on the termination of his or her employment, to submit to the Employer any record so defined and in the Employee's possession as a result of his or her employment and not to retain any copies of or extracts from such record, except with consent of the Employer; and

4.1.4 to comply with the prescribed Code of Conduct.

4.2 The Employee —

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4.2.1 acknowledges that he or she fully understands the implications of this clause;

4.2.2 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 that if he or she should at any time dispute the reasonableness of this clause, the onus of proving such unreasonableness will be upon him or her; and

4.2.3 acknowledges that he or she enters into this Contract freely and voluntarily and that no circumstances exist for him or her to allege, either now or at any future time, that he or she 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.

5. Additional terms and conditions

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

5.1.1 Salary increases will be based on the performance of the Employee. Performance will be assessed in accordance with his or her responsibilities and key performance areas contained in his or her performance agreement and the extent to which the Employee complied therewith, as well as any directives which the Minister for Safety and Security may issue. Salary increases for the Employee will be based on individual consultation. The Employee and the Employer must consult annually regarding his or her salary increase and cash bonus within the restrictions of the budget based on the performance of the Employee. The salary increase and cash bonus of the Employee, shall be based on determinations, directives and guidelines issued by the Minister for Safety and Security.

5.1.2 An annual performance agreement provided for in terms of clause 5.1, linked to a specific financial year, stating clear performance areas/criteria/deliverables of the Service and the Employee must be entered into. As performance agreements are linked to financial years, it should be entered into at the latest on 30 April every year. The Employee should enter into his or her first performance agreement not later than two months after assumption of duty.

5.1.3 The performance agreement shall be revised if, at any time during the period of its duration, the work or environment of the Service (unit, directorate, branch, component, etc.) is so altered (whether as a result of Government or management decision or otherwise) that the contents of it are no longer appropriate.

5.1.4 This Contract is directly linked to the performance agreement referred to in clause 5.1. In the event that the Employee does not perform satisfactorily in relation to the requirements of his or her performance agreement, the Employee acknowledges that the Employer may deal with him or her, in accordance with

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the procedure contained in the relevant legislation and any other directives issued by the Minister.

6. General

6.1 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.

6.2 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 Act, the Regulations, relevant collective agreements and other relevant legislation.

6.3 Interpretation of this Contract

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

6.4 Jurisdiction of courts

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.

6.5 Variation

6.5.1 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.

6.5.2 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 Act, these Regulations, relevant collective agreements and other relevant legislation (e.g. Government Employees Pension Fund Law, 1996).

6.6. Waiver

No waiver of any of the terms and conditions of this Contract will be binding for any purpose unless reduced to 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.

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7. Notice and Domicilium

7.1 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	
Fax Number	

Provided that a party reports any change of his or her domicilium to any other physical address, postal address or fax 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.

7.2 All notices to be given in terms of this Contract will —

7.2.1 be given in writing; or

7.2.2 be delivered or sent by prepaid registered post or by fax; and

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

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

7.2.5 if sent by fax, be presumed to have been received on the first working day following the date of sending of the fax unless the contrary is proved.

SIGNED by the Employer at _____ on the _____ of _____

AS WITNESSES:

_____ _____

EMPLOYER

_____

SIGNED by the Employee at _____ on the _____ of _____

AS WITNESSES:

_____ _____

EMPLOYEE

_____

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ANNEXURE 3

EMPLOYMENT CONTRACT FOR A FIXED TERM OR A SPECIFIC PROJECT FOR MEMBERS OF THE SENIOR MANAGEMENT SERVICE

FIXED TERM EMPLOYMENT CONTRACT
FOR THE
SENIOR MANAGEMENT SERVICE
OF THE
SOUTH AFRICAN POLICE SERVICE

ENTERED INTO
by and between the

GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA
herein represented by

_____ (full name)

in his or her capacity as

_____

(hereinafter referred to as the Employer)
AND

_____ (full name)

(hereinafter referred to as the Employee)

WHEREAS the parties have agreed to enter into a Contract which will govern the terms and conditions of employment of the Employee by the Employer,

NOW THEREFORE the parties agree as follows:

1. Appointment

1.1 The Employer hereby appoints the Employee on a temporary basis in accordance with regulation 68 of the South African Police Service Employment Regulations, 2008. (hereinafter referred to as the Regulations) as _____. The Employee agrees and accepts the appointment as member of the SMS. The appointment is for the period commencing on the _____ day of _____ and ending on the _____ day of _____. The Employee's employment and conditions of service shall be governed by the South African Police Service Act, 1995 (Act No. 68 of 1995)

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(hereinafter referred to as the Act), Regulations, relevant collective agreements and any other legal provisions applicable to the Employee.

1.2 In terms of this Contract —

1.2.1 the Employee shall serve the Employer as _____ in the South African Police Service, (hereinafter referred to as the Service) at _____ or at such place as may from time to time be determined by the Employer or any other person duly authorised thereto in this respect;

1.2.2 the Employee will hold the rank of _____ and will be responsible for the duties and functions set out in the Performance Agreement referred to in clause 5;

1.2.3 the employment of the Employee is subject to —
(a) the submission by the Employee of certificates of his or her academic and professional qualifications and service certificates; and
(b) a security clearance of (state confidential, secret or top secret) being obtained.

1.2.4 the Employee may be required to perform other duties or to work at other places that may reasonably be required by the Employer; and

1.2.5 any matter arising, which are not specifically provided for herein, shall be dealt with in accordance with the provisions of the Act, the Regulations and any other legal provisions applicable to the Employee.

2. Remuneration

2.1 The remuneration that the Employee shall receive as from the date of assuming duty as stated in clause 1, shall be as agreed from time to time in writing between the parties.

2.2 The salary and benefits will be payable in twelve (12) equal monthly instalments.

2.3 The general conditions of service and benefits of the Employee shall be as stipulated and provided for by the Act and the Regulations. The parties to this Contract accept that the general conditions of service and benefits may be changed from time to time by means of relevant collective agreements and determinations and directives by the Minister for Safety and Security.

2.4 When required from the Employee to perform official duties away from his or her headquarters, the Employee shall travel at the Employer's expense and shall be paid a subsistence and travelling allowance as may from time to time be determined.

3. Termination of employment

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

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3.1.1 on completing a term or extended term of office;

3.1.2 discharge in terms of section 35 of the Act; or

3.1.3 death.

3.2 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 member of the SMS, and these Regulations.

3.3 Subject to the provisions 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 one month's notice of termination, which notice shall —

3.3.1 be given in writing; and

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

3.4 Should notice of termination be given as contemplated in clause 3.1.2, the Employer has the right to require the Employee to vacate the office occupied by him or her and to leave the premises of the Service before the expiry of the notice period on a day stipulated by the Employer and not to present himself or herself for duty any time thereafter.

3.5 Should the Employer invoke the provisions of clause 3.4, the Employee will still be entitled to all such benefits as contained in the relevant prescripts.

3.6 In the case of inefficiency and misconduct, the Employer may deal with the Employee, in accordance with the relevant legislation.

4. Conduct

4.1 The Employee undertakes —

4.1.1 not to, without the applicable consent and during his or her employment or at any time thereafter, disclose any record, as defined in section 1 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), that must or may be refused upon a request for access to a record of a public body in terms of that Act;

4.1.2 not to, during his or her employment or at any time thereafter, use any record so defined and obtained as a result of his or her employment, to the detriment of the State, except if it is used in the exercise or protection of any right, or legitimate expectation, conferred by law;

4.1.3 if so requested by the Employer during his or her employment or on the termination of his or her employment, to submit to the Employer any record so

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defined and in the Employee's possession as a result of his or her employment and not to retain any copies of or extracts from such record, except with consent of the Employer; and

4.1.4 to comply with the prescribed Code of Conduct.

4.2 The Employee —

4.2.1 acknowledges that he or she fully understands the implications of this clause;

4.2.2 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 that if he or she should at any time dispute the reasonableness of this clause, the onus of proving such unreasonableness will be upon him or her; and

4.2.3 acknowledges that he or she enters into this Contract freely and voluntarily and that no circumstances exist for him or her to allege, either now or at any future time, that he or she 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.

5. Additional terms and conditions

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

5.1.1 Salary increases will be based on the performance of the Employee. Performance will be assessed in accordance with his or her responsibilities and key performance areas contained in his or her performance agreement and the extent to which the Employee complied therewith, as well as any directives which the Minister for Safety and Security may issue. Salary increases for the Employee will be based on individual consultation. The Employee and the Employer must consult annually regarding his or her salary increase within the restrictions of the budget based on the performance of the Employee. The salary increase of the Employee, shall be based on determinations, directives and guidelines issued by the Minister for Safety and Security.

5.1.2 An annual performance agreement provided for in terms of clause 5.1 linked to a specific financial year, stating clear performance areas/criteria/deliverables of the Service and the Employee must be entered into. As performance agreements are linked to financial years, it should be entered into at the latest on 30 April every year. The Employee should enter into his or her first performance agreement not later than two months after assumption of duty.

5.1.3 The performance agreement shall be revised if, at any time during the period of its duration, the work or environment of the Service (unit, directorate, branch, component etc.) is so altered (whether as a result of Government or

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management decision or otherwise) that the contents of it are no longer appropriate.

5.1.4 This Contract is directly linked to the performance agreement referred to in clause 5.1. In the event that the Employee does not perform satisfactorily in relation to the requirements of his or her performance agreement, the Employee acknowledges that the Employer may deal with him or her, in accordance with the procedure contained in the relevant legislation and any other directives issued by the Minister.

6. General

6.1 **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.

6.2 **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 Act, the Regulations, relevant Collective agreements and other relevant legislation.

6.3 **Interpretation of this Contract**

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

6.4 **Jurisdiction of courts**

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.

6.5 **Variation**

6.5.1 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.

6.5.2 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 Act, these Regulations, relevant collective agreement and other relevant legislation (e.g. Government Employees Pension Fund Law, 1996).

6.6 **Waiver**

No waiver of any of the terms and conditions of this Contract will be binding for any purpose unless reduced to 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

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any right, power or privilege precludes any other or further exercise thereof or the exercise of any other right, power or privilege.

7. Notice and Domicilium

7.1 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	
Fax Number	

Provided that a party reports any change of his or her domicilium to any other physical address, postal address or fax 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.

7.2 All notices to be given in terms of this Contract will —

7.2.1 be given in writing; or

7.2.2 be delivered or sent by prepaid registered post or by fax; and

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

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

7.2.5 if sent by fax, be presumed to have been received on the first working day following the date of sending of the fax unless the contrary is proved.

SIGNED by the Employer at _____ on the _____ of _____

AS WITNESSES:

_____ _____

EMPLOYER

_____

SIGNED by the Employee at _____ on the _____ of _____

AS WITNESSES:

_____ _____

EMPLOYEE

_____

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