TO THE HEADS OF ALL DEPARTMENTS AND PROVINCIAL ADMINISTRATIONS

GUIDELINES ON THE APPLICATION OF THE COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES ACT NO 130 OF 1993 (COIDA) IN THE PUBLIC SERVICE

1. COIDA has been introduced to provide for compensation for disablement caused by occupational injuries or diseases sustained or contracted by employees in the course of their employment, or for death resulting from such injuries or diseases.

2. COIDA falls within the functional sphere of the Minister of Labour. The Minister of Labour in terms of COIDA appoints an officer, i.e. the Compensation Commissioner, to assist the Director-General of the Department of Labour in the execution of his/her functions entrenched in the said Act. The Compensation Commissioner may in terms of his/her delegated functions among other assess, adjudicate over the claims and determine compensation benefits.

3. COIDA applies to all employers carrying on business in the Republic. COIDA assigns certain responsibilities to an employer. It requires among others that all employers should register within a prescribed manner with the Compensation Commissioner. To this end it is important to note that COIDA defines-

3.1. an employer as any person, including the State, who employs an employee, and includes-
3.1.1. any person controlling the business of an employer;

3.1.2. if the services of an employee are lent or let or temporarily made available to some other person by his employer, such employer for such period as the employee works for that other person; and

3.1.3. a labour broker who against payment provides a person to a client for the rendering of a service or the performance of work, and for which service or work such person is paid by the labour broker.

4. An employer is required to register with the Compensation Commissioner within seven days from the date on which the first employee is employed. Furthermore the employer, among other, should furnish the Compensation Commissioner with returns of earnings and is subject to assessment for payment in favour of the Compensation fund. Employers contemplated in sec. 84 (1) of COIDA are, however, exempted from submitting returns of earnings and payment of assessment in favour of the compensation fund. The exempted employers include-

4.1. the National and Provincial spheres of government, including Parliament and Provincial Legislatures;

4.2. certain local authorities; and

4.3. mutual associations.

5. It came to the dpsa’s attention that a great deal of problems and difficulties are being experienced in the Public Service on the application of COIDA. An inter-departmental task team comprising of the dpsa and the Office of the Compensation Commissioner was consequently established. This task team identified and analysed the problem areas concerned. The main problems are the following:

5.1. A Provincial Administration registered with the Compensation Commissioner as the single employer for a Province comprising of a number of Provincial Departments. This creates an untenable situation for the Provincial Departments in that they cannot discharge effectively their functions and responsibilities as entrenched in the Public Service Act, the Public Finance Management Act and for that matter the COIDA.

5.2. The repealed Public Service Staff Code contained a chapter containing guidelines on the processes and procedures regarding the application of the Workmen’s Compensation Act, 1941. The said Public Service Staff Code also explained the roles and responsibilities regarding the budget process for this item. The said chapter was not adequately maintained in the past and is thus not keeping pace with changes in the Public Service environment. It was eventually repealed, leaving a complete void in the uniform application of COIDA in the Public Service.

6. In response to the above-mentioned problem areas,
the Minister for Public Service and Administration herewith issues a guide for the application of COIDA in the Public Service. The purpose of the guide is therefore to facilitate the correct application of COIDA in the Public Service. It does not replace any regulations/policy determinations on COIDA as issued by the Minister of Labour and/or the Compensation Commissioner from time to time. The guide therefore -

6.1.1. gives an overview of COIDA; clarifies the financial liabilities, general responsibilities and roles of the different role-players, i.e. employers in the National and Provincial Departments, the Department of Labour, the Compensation Commissioner as well as National Treasury (Pensions Administration);
clarifies the processes and procedures to be followed when there is an injury or diseases are contracted whilst on duty;

6.1.4. gives an overview of the benefits payable in respect of COIDA; and

6.1.5 provides other useful information such as the forms to be used and the relevant contact details; and

6.2 the Compensation Commissioner agreed, that all National Departments, Provincial Departments, Provincial Administrations and Organisational Components would be registered with effect from 1 April 2006 as individual employers in terms of COIDA. Individual Provincial Departments, which are currently not registered as individual employers, should therefore timeously ensure that they are correctly registered with the Compensation Commissioner. In this regard it is recommended that the regional representatives of the Compensation Commissioner be contacted. Contact details of the representatives are contained in Part 7 of the Guide.

7 A copy of the guide is attached. It is also available on the dpsa website at www.dpsa.gov.za. Departments are requested to distribute the guide as wide as possible.

8. It is important to note that the guide is NOT intended to replace any regulatory prescripts issued by the Office of the Compensation Commissioner. The Office of the Compensation Commissioner has the authority on COIDA and departments should always approach the Compensation Commissioner’s Office to assist with their questions and queries regarding compensation matters.