



the dpsa

Department:
Public Service and Administration
REPUBLIC OF SOUTH AFRICA

Public Service Regulations, 2016

JULY 2016

INTRODUCTION

- ❖ In 2008, shortly after the enactment of the Public Service Amendment Act, 2007 which introduced substantial changes, the development of revised Public Service Regulations commenced.
- ❖ This review process was suspended as a result of the process to enact the Public Administration Management Act, 2014 which initially sought to repeal the Public Service Act, 1994 (PSA) in its entirety. However during the legislative process, the Public Administration Management Act, 2014 (enacted in December 2014) repealed only three sections of the PSA thereby necessitating the resurrection of the process to review the Public Service Regulations.
- ❖ In August 2015 the draft Public Service Regulations were published for public comment and the period for comment was extended at the request of various institutions. The DPSA received extensive comments and suggestions from external stakeholders, including labour organisations and civil society.
- ❖ All comments were considered and the revised Public Service Regulations (PSR) were ultimately approved by the Minister for the Public Service and Administration (MPSA) on 30 March 2016 and will come in to effect on the date of publication in the *Government Gazette*.
- ❖ The Minister is permitted in terms of section 41(3) to elucidate or supplement any regulation by way of directive.

FOCUS AREAS OF AMENDMENT

- ❖ The PSR, 2016 is aligned with the Public Service Act, 1994 as amended by the Public Service Amendment Act, 2007, to provide for -
 - ✓ Consistent definitions and terminology to the PSA;
 - ✓ The re-numbering of provisions to facilitate easier reference to its provisions;
 - ✓ Periods to be determined for the prohibition on the re-employment of employees dismissed for misconduct;
 - ✓ prescribed periods of probation;
 - ✓ the summoning of witnesses to a disciplinary hearing and the costs thereof;
 - ✓ the appointment and functions of unpaid voluntary workers;
 - ✓ the grading of posts and the position of employees not absorbed into upgraded posts; and
 - ✓ the creation of government components, specialized service delivery units and the establishment of the Advisory Bodies.
- ❖ Further amendments in the PSR, 2016 seek to:
 - ✓ Regulate the period for binding employees to continued employment after secondment;
 - ✓ Limit the awarding of higher salaries to employees to remove disparities;
 - ✓ Amend the provisions relating to the Financial Disclosures and the Code of Conduct;
 - ✓ Introduce anti-corruption mechanisms;
 - ✓ Align with provisions of the amended LRA and EE Act; and
 - ✓ Revise the provisions relating to performance management.

CHAPTER 1- GENERAL PROVISIONS

- Short title and commencement (regulation 1)
 - Reference to the PSR shall refer to the 2016 version as the Public Service Regulations, 2001 will be repealed.
- Definitions (regulation 2)
 - ✓ Definitions contained in the PSA shall be applicable to the PSR and reference thereto in the PSR have been removed i.e approved establishment; executing authority; level; salary range and salary scale; the LRA and the PFMA.
 - ✓ Definitions obsolete and therefore deleted include departmental bargaining council; MTEF; representativeness.
 - ✓ Amended definitions-
 - The definition of “inherent requirements” now also includes qualifications and experience;
 - “job” and “job weight” refined and “persons historically disadvantaged” replaced by “designated groups”;
 - “sectoral bargaining council” has been correctly defined as the ELRC and the SSSBC have been deemed as sectoral councils already;
 - The definition of “SMS” has been retained to include persons appointed to posts graded on salary level 13 and above but amended to provide “unless specifically excluded by a determination or deemed determination and excludes persons additional to the establishment”.
 - ✓ New definitions include CDWP; “Employment Equity Act”; “family member”; financial year”; OSD” and “Public Service Charter”

CHAPTER 1- GENERAL PROVISIONS

❖ Repeal and savings (regulation 3)

- ✓ This clause specifically repeals the Public Service Regulations, 2001 but preserves the actions i.e directives and determinations that can still be done in terms of Public Service Regulations, 2016;
- ✓ This prevents a carry through of legal instruments that are not in accordance with Public Service Regulations, 2016 while preserving those actions that were made previously and which may still be made under the current legislative framework.

❖ Deviations (regulation 4)

Requests for deviations remain the competence of the MPSA.

❖ Draft Legislation affecting the Public Service Act and Regulations (regulation 5)

This regulation ensures MPSA is aware of legislative proposals that affect or amend the Public Service Act or the Public Service Regulations.

❖ Communication with Minister and media (regulation 6)

The status quo on how departments should communicate with the DPSA has been retained. The rationale is to ensure that employees do not approach the DPSA directly.

CHAPTER 1- GENERAL PROVISIONS

- ❖ Decision making in cases of conflict (regulation 7)
 - ✓ The status quo of PSR 2001 in this regard has been retained except Public Service Regulations, 2106 clarifies who appoints the independent panel to advise on conflicts.

- ❖ Record-keeping of delegations and correction of acts and omissions (regulation 8)
 - ✓ Public Service Regulations, 2016 empowers the Minister to determine a format of the register of delegations for utilisation in the public service for the proper implementation of Section 42A of the PSA which requires any delegation of power in terms of the PSA to be in writing ensuring a consistent approach to the keeping of delegations.
 - ✓ Section 5(7) of the Public Service Act provides that a functionary may correct any act or omission made by that functionary in terms of the Public Service Act if that act or omission was based on an error of fact or law or fraud and the Minister is required to prescribe the manner in which the relevant executive authority must keep such records. In doing so the regulations require executive authorities to keep copies of all documents relating to same.

CHAPTER 1- GENERAL PROVISIONS

- ❖ **Reporting, monitoring, evaluation and compliance (regulation 9)**
 - ✓ This clause gives effect to section 41(1)(c) which requires the Minister to make regulations regarding the reporting on and assessment of compliance with the Act, including for the purposes of reviewing the appropriateness and effectiveness of regulations, determinations and directives.
 - ✓ The Minister is empowered to request information and data in such a format and on such a date as he or she may deem appropriate.
 - ✓ A head of department is required to introduce mechanisms to monitor and evaluate any provision of the Act (including regulations, determinations and directives).
 - ✓ An executive authority or a head of department may not issue instructions that are contrary to provisions of the Act.

- ❖ **Prescribed forms for human resource management and related practices (regulation 10)**

The current legislative framework retained the prescribed “z” forms from the pre-1994 dispensation. This clause seeks to allow continuity thereof with the further proviso that the Minister may repeal, amend and issue new forms. The power to issue new forms is hereby introduced. Executive authorities may also tailor the “z” form to meet departmental specific requirements subject to the approval of the Minister.

CHAPTER 2- CONDUCT, ETHICS AND ANTI-CORRUPTION

- ❖ **PART 1: The Code of Conduct (regulations 11 to 15)**
 - ✓ The Code of Conduct is issued in terms of section 41(1)(v) of the PSA.
 - ✓ Regulation 13(c) of the Public Service Regulations, 2016 introduces a prohibition on employees conducting business with an organ of state or being a director of a public or private company conducting business with an organ of state. This provision was aligned with section 8 of the Public Administration Management Act, 2014.
 - ✓ A transitional measure is introduced to deal with an employee who is conducting business with, or who is or a director of a company conducting business with, the organ of state to require such employees to withdraw from such practice or resign. Failure to do so will result in non-compliance with the Act and be dealt with in terms of section 16B of the PSA.

- ❖ **PART 2: Financial Disclosures (regulations 16 to 21)**
 - ✓ Financial disclosure forms may be submitted electronically or in a printed form; and
 - ✓ The disclosure of vehicles has been included

CHAPTER 2- CONDUCT, ETHICS AND ANTI-CORRUPTION CONT...

- ❖ PART 3: Anti-corruption and ethics management (regulations 22 to 24)
 - ✓ Places obligations on a HOD to assess risk in the area of ethics and corruption and to develop and implement strategies to mitigate such risk and where necessary, report such corruption to law enforcement authorities as well as to take disciplinary steps.
 - ✓ As part of the strategy to deal with corruption, an obligation is placed on executive authorities to designate such suitably qualified ethics officers to promote and advise on ethical behaviour as well as to monitor unethical and corrupt activities in the department. Existing employees must be utilised to provide this support hence there is no requirement to create additional structures or posts.
 - ✓ Provision is also made to allow the Minister to determine the process of such applications and the form to be completed by employees for the performance of outside remunerative work contemplated in section 30 of the PSA. This will ensure consistency throughout the public service.
 - ✓ A transitional provision has also been inserted for all approvals and deemed approvals to terminate within six months of the coming into operation of the determination by the Minister contemplated in regulation 24 of the Public Service Regulations, 2016.

CHAPTER 3- PLANNING, ORGANISATIONAL ARRANGEMENTS AND SERVICE DELIVERY

❖ Part 1: Planning and reporting (regulations 25 to 31)

- This part of chapter 3 provides for the various plans that a department must have i.e a strategic plan, human resource plan, employment equity plan and an information and communication technology plan.
- Generally the status quo of the Public Service Regulations, 2001 has been retained with little change. The Public Service Regulations, 2016-
 - ✓ aligns the provisions with regard to the grading of posts to the regulations relating to grading which is fully explained below;
 - ✓ allows the Minister to issue directives on other requirements that must be factored into a human resource plan;
 - ✓ on the employment equity plan and the human resource development plan, these have been put in separate regulations from the human resource plan regulation to emphasise the separate requirement;
 - ✓ on information management planning, have been expanded to information and communication technology planning;
 - ✓ the regulation relating to the annual report has been amended to remove the list of areas which the Minister may direct on for inclusion in the Annual Plan. The MPSA will issue the relevant directive on the areas to be reported upon, other than those that are prescribed by the Public Finance Management Act, 1999

CHAPTER 3- PLANNING, ORGANISATIONAL ARRANGEMENTS AND SERVICE DELIVERY CONT...

❖ Part 2: Organisational and functional arrangements

✓ Transfer of functions (regulation 32)

Regulates the issues that emerged from difficulties and challenges experienced during the recent macro organisations of the State and provides for the transfer of concomitant resources (employees, posts, assets and tools of trade). Sub regulation (3) has been inserted to provide that all employees affected by a transfer of function must be transferred with due regard to section 14 of the PSA.

✓ Feasibility study for the establishment of government components and specialised service delivery units (regulations 33 and 34)

The PSA Amendment Act, 2007 introduced two organisational forms i.e. government components and service delivery units. The PSR 2016 refine the regulations with the following provisions-

- In the case of a specialised service delivery unit the relevant executive authority of the province may designate a representative to be part of the assessment committee; the provision requires at least 50% of the members to be present at a meeting to form a quorum.

CHAPTER 3- PLANNING, ORGANISATIONAL ARRANGEMENTS AND SERVICE DELIVERY CONT...

- ✓ **Organisational functionality assessment (regulation 35)**
 - As part of monitoring and evaluation, regulation 35 of the Public Service Regulations, 2016 requires an executive authority to conduct an organisational functionality assessment to assess the effectiveness of a department's **internal systems and processes** and report same to the Minister.
 - The regulation further permits the Minister to develop a tool and prescribe same for use in the public service as well as to determine the way the reports are managed and submitted to the DPSA.

CHAPTER 3- PLANNING, ORGANISATIONAL ARRANGEMENTS AND SERVICE DELIVERY CONT...

- ❖ **Part 3: Service delivery (regulations 36 to 38)**
- ✓ The regulations institutionalise the operations management framework, the service delivery charter and the service delivery improvement plan within departments.
- ✓ The provisions in respect of the operations management framework to improve the effectiveness and efficiency of service delivery in departments through implementation of specified tools as detailed in the proposed regulation 36 (i.e. business processes, operating procedures, service standards);
- ✓ Regulation 37 places an obligation on an executive authority to publicise the requirements of a service delivery charter in terms of the services offered by the institution and the expected service standards applicable and other institutional information such as contact details, opening and closing times; and
- ✓ Regulation 38 follows the sequence of the above two processes and provides that institutions must establish and maintain a SDI plan informed by the strategic plan and other key factors to enhance service delivery.

CHAPTER 4- EMPLOYMENT MATTERS

Part 1: Creation of posts , job descriptions, job evaluation and job grading (regulations 39 to 46

- The occupational specific dispensations (OSDs) emanated from the various collective agreements that were entered into. The principle in the OSDs is that these jobs are centrally determined and therefore not subjected to job evaluation by departments. The Public Service Regulations, 2016 has been aligned to the OSD collective agreements.
- Reference to the Code of Remuneration (CORE) has been deleted to allow the Minister to determine a system of remuneration, which may be the CORE or a system which is different to the CORE. This allows flexibility on the system to be used in the public service.
- Regulation 40 of the Public Service Regulations, 2016 creates an additional requirement that executive authorities must take into account post provisioning norms and standards determined by the Minister before creating a post. These post provisioning norms and standards will take into account the size of the department, the responsibilities of units, the number of supervisors versus subordinates etc.

CHAPTER 4- EMPLOYMENT MATTERS CONT...

- The details of how OSDs for specific categories of jobs are determined and what the elements thereof should be, have been regulated and remain subject to collective bargaining processes, as is currently the practice.
- The regulations further provide that if executive authorities intend grading transversal jobs, then such job evaluation must be done with the concurrence of the Minister. The intention is to remove disparities that exist in salaries of similar jobs.
- Similarly, jobs that have been graded centrally by the Minister cannot be regraded by an executive authority.
- **Setting of higher salary (regulation 44)**
 - ✓ The commencing salary should be the minimum notch of the salary level of the post however Public Service Regulations, 2001 allows an executive authority to offer a higher salary to an employee for purposes of recruitment and retention.
 - ✓ Public Service Regulations, 2016 imposes limitations hereto to avoid a bloating of the wage bill and to ensure compliance with the EE Act-
 - Offers for retention are limited to closest notch to the salary offered however the salary level of the post **may not** be exceeded.

CHAPTER 4- EMPLOYMENT MATTERS CONT...

- Offers for recruitment are similarly limited to the requirements that recruitment processes have been complied with, the employee occupied an equally graded posts before the appointment, the employee is not offered a higher salary than that he/she was earning prior to appointment and that the higher salary is within the salary level of the post.
- ✓ The setting of a higher salary does not prevent pay progression.
- **Undergraded posts (Regulation 45)**
 - ✓ The majority decision in the Constitutional Court case of *South African Police Service v Public Servant's Association (CCT68/05/2006)* found that an executive authority should not have a discretion on whether or not to absorb an employee if the post is upgraded. The PSA was amended accordingly, i.e. the MPSA may in terms of section 41(1)(b)(vii) make regulations regarding the position of employees not absorbed into a post upon its regrading.
 - ✓ The PSR has been revised therefore to oblige executive authorities to absorb employees to posts that are graded higher should they meet the minimum requirements as regulated.

CHAPTER 4- EMPLOYMENT MATTERS CONT...

- ✓ Persons not absorbed into a post graded to a higher salary as a result of not meeting the minimum requirements shall have to be transferred to another suitable post of equal grading to the employee prior to the regrading **or** the post will have to be redesigned to bring the salary level down to what it was before the regrading.
- ✓ Employees may no longer be allowed to be placed additional to the establishment. This practice has previously raised concern that such employees have no functions to perform despite retaining their salaries and may possibly be discharged through operational requirements in terms of section 17 of the Public Service Act.
- **Overgraded posts (regulation 46)**
 - ✓ This provision takes cognisance of section 34 of the Public Service Act which provides that salaries of employees may not be reduced without an employee's consent except in terms of section 38 (wrongly granted remuneration may be corrected), an Act of Parliament or a collective agreement.
 - ✓ The status quo remains in respect of posts that have been downgraded-
 - The executive authority must redesign the post to enhance it or,
 - if the post is not re-designed then such employee must be transferred to a post with a grade that accords with the employee's salary before the regrading.

CHAPTER 4- EMPLOYMENT MATTERS CONT...

- ❖ Part 2 : Remuneration and other benefits (regulations 47 to 50)
- Contains information that must be provided to employees regarding their salaries taking into account the provisions of section 33 of the Basic Conditions of Employment Act, 1997.
- The provisions on leave and overtime have been retained as is with no further amendment;
- The provisions on the cap on the monthly compensation for overtime of 30% has been retained to avoid departments incurring exorbitant expenditure in relation to overtime as opposed to creating and filling posts.
- Section 37(2)(c) of the PSA provides that an executive authority may, only if allowed by regulation and to the extent prescribed therein, grant an employee of the relevant department special advancement in salary within the salary level of the salary scale applicable to him/her or grant him or her a salary in accordance with a higher salary level or any other reward, if he or she has exceptional ability or special qualifications or has rendered meritorious service in the public interest. Reg 50 allows the Minister to issue directives to reward such employees.

CHAPTER 4- EMPLOYMENT MATTERS CONT...

- ❖ Part 3: Working environment (regulations 51 to 56)
 - ✓ Deals with the working hours of departments in line with prevailing legislation, circumstances under which emergency work may be required to be performed, health and safety and health and wellness. While refinements have been made to clarify the provisions the content thereof remains fundamentally unaltered.
- ❖ Part 4: General conditions of employment
 - ✓ The appointment age for persons to employed in the public service has been amended to align with the BCEA;
 - ✓ The automatic appointment of temporary staff permanently or vice versa has been expressly prohibited;
 - ✓ The appointment of persons additional to the establishment is limited to 12 consecutive months, unless the MPSA approves otherwise;
 - ✓ The salary paid to persons appointed additional to the establishment must be commensurate to functions; and
 - ✓ Regulation 58 has been inserted to allow the appointment of persons who are part of developmental programmes on such terms and conditions as may be directed by the MPSA.

CHAPTER 4- EMPLOYMENT MATTERS (CONT...)

- Unpaid voluntary workers (regulation 59)
 - ✓ The concept of unpaid voluntary workers introduced in the Public Service Amendment Act, 2007 requires MPSA to make regulations for such workers (section 41(1)(b)(iii)). Regulation 59 of the Public Service Regulations, 2016 sets parameters under which such workers are utilised and compensated.
 - ✓ Unpaid voluntary workers are not regarded as employees and therefore the necessary safe guards are put in place to ensure that while these persons are not expected to be out of pocket, they are also supervised at all times and that the use of volunteers does not circumvent the filling of posts;
 - ✓ The Minister is also empowered to issue directives should the need arise.

- Re-appointment of former employees (regulation 60)
 - ✓ The provisions in this regard have remained unchanged except that former employees employed additional to the establishment are subject to the limitation of 12 months at a time.

CHAPTER 4- EMPLOYMENT MATTERS (CONT...)

➤ Prohibition on re-employment of former employees dismissed for misconduct (regulation 61)

Section 17(4) of the Public Service Act requires MPSA to prescribe periods after which employees dismissed for misconduct, may be re-appointed in the public service. Regulation 61 was introduced in the PSR. The most serious misconduct creates a maximum prohibition period of five years while the least serious is a minimum of one year.

➤ Secondments (regulation 62)

✓ PSR retains provisions of PSR, 2001 with redundant provisions removed avoiding repeating provisions PSA.

✓ The period of secondment is limited to 12 calendar months with the latitude for the MPSA to determine longer period based on operational reasons. The limitation on secondments introduced is to avoid employees being absent from the appointed posts for excessive periods compromising the work they were appointed to do and recognising that such absenteeism places an additional burden on other employees to perform the duties of seconded person.

CHAPTER 4- EMPLOYMENT MATTERS (CONT...)

➤ Direction to perform other functions or act in another post (regulation 63)

Section 32 of the PSA requires the MPSA to prescribe conditions under which an employee may be directed to perform other functions or appointed to act in another post. Recognising that MPSA issued a determination for SMS members and for non-SMS regarding the acting allowance payable. Provisions already regulated by the determinations deleted The PSR provides that an employee appointed to act must have the necessary competencies (as per the definitions in regulation 2) to perform such additional duties.

➤ Determination of requirements for employment (regulation 64)

Provisions in relation to appointment of foreign nationals have been clarified to conform to the PSA, wherein only foreign nationals with a permanent residency certificate may be appointed permanently in the public service while all other foreign nationals may be appointed temporarily provided that they have obtained a work permit.

CHAPTER 4- EMPLOYMENT MATTERS (CONT...)

➤ Advertising (regulation 65)

Regulations, 2016 introduces the following -

- ✓ a requirement that all vacant posts advertised outside the department must also be advertised in the vacancy circular of the Department of Public Service and Administration;
- ✓ a prohibition on adverts unfairly discriminating against or precluding suitable candidates from applying;
- ✓ a pool may be created for a period of 6 months from a single advertisement process whereby similar posts need not be re-advertised; and
- ✓ the advertisement requirements may be disregarded in certain prescribed instances.

➤ Filling of posts in the Office of an executive authority and Deputy Minister (regulation 66)

Posts in the office of an executive authority and a Deputy Minister may be filled without following an open advertisement process (except those pursuant to section 14 and 15) on condition that they are not permanent.

CHAPTER 4- EMPLOYMENT MATTERS (CONT...)

➤ Selection (regulation 67)

- ✓ Provisions amended to prescribe minimum norms in relation to selection panels as provided for in section 3(1) of the PSA. Chairperson of the selection panel for the appointment of the head of department and DDG of the Commission shall be the Chairperson of the Commission and not the MPSA as is currently provided for in the Public Service Regulations, 2001.
- ✓ Provisions regarding a head hunting process regulated. **Important:** head hunting is only permissible in instances where the normal recruitment process is completed and no suitable candidate was identified. An executive authority must approve head hunting.

CHAPTER 4- EMPLOYMENT MATTERS (CONT...)

➤ Probation (regulation 68)

Section 13 of the PSA requires MPSA to prescribe periods of probation for different categories of employees. Regulation 68 prescribes the following periods-

- ✓ persons entering the public service, a probationary period of 12 months **must** be served;
- ✓ employees appointed to higher posts, a probationary period of 12 months **must** be served;
- ✓ employees appointed to a lateral post, the executive authority has a **discretion** on probation up to a maximum of 12 months;
- ✓ employees absorbed into higher graded posts, no probation is required unless the employee was on probation at the time of absorption then in that event, such probation shall continue;
- ✓ persons seconded to an institution, he or she shall **continue** on probation if he or she was on probation at the time of secondment;
- ✓ employees transferred to lateral posts in terms of section 14 of the Public Service Act , probation is only applicable if the employee was on probation at the time of transfer; and
- ✓ employees transferred to higher posts in terms of section 14 of the Public Service Act, such employee **must** serve a probation of 12 months.

CHAPTER 4- EMPLOYMENT MATTERS (CONT...)

➤ Resignation (regulation 69)

Section 16B(6) of PSA requires the MPSA to prescribe periods for notice of resignation;

- ✓ The period of resignation aligned to the provisions of the Basic Conditions of Employment Act, 1997;
- ✓ The PSR allows for an executive authority, with the consent of the employee, to approve a shorter period, provided that where disciplinary action has commenced no shorter period may be approved;
- ✓ Exit interviews are required to be conducted when employees resign;
- ✓ An employee may withdraw his or her resignation **with the approval of the executive authority** provided that the approval is obtained before the last working day of the employee;
- ✓ An executive authority may require an employee who has resigned to return all official work tools and not perform any duties during his or her notice period provided that the employee's benefits remain unaffected.

➤ Employee Records (regulation 70)

This provision requires a head of department to keep a record of each employee and the posts on the establishment.

CHAPTER 4- EMPLOYMENT MATTERS (CONT...)

❖ Part 5: Performance Management (regulations 71 to 73)

Following the undertakings by the employer during the collective bargaining process, amendments were effected to the performance management system, which system is applicable to employees who are not members of the SMS.

➤ System for performance management and development (regulation 71)

- ✓ More detail and guidance is provided to executive authorities in the development of the system such as when to approve a PMDS, to allow for different PMDS to be determined for different occupational categories, to link PMDS to a financial year, the content of a PMDS, record keeping.
- ✓ The Minister is empowered to issue directives to elucidate these requirements further.

CHAPTER 4- EMPLOYMENT MATTERS (CONT...)

➤ Performance agreements and assessments (regulation 72)

- ✓ The period for the signing of performance agreements and the content of performance agreements have been prescribed to ensure consistency.
- ✓ The process to deal with disagreements in the concluding of the performance agreement has also been set out.
- ✓ A consequence of non-compliance, in addition to disciplinary processes, is that performance rewards and pay progression may be withheld.
- ✓ In instances where an employee is appointed to act for periods longer than 3 months, the performance agreement must be amended to reflect the additional responsibilities which shall be considered during the assessment of the employee.
- ✓ The outcomes of assessments are required to be implemented by no later than 31 December of the year following the assessment.

➤ Rewarding performance (regulation 73)

An executive authority is required to develop a written performance incentive scheme to reward good performance. However such scheme is subject to the limitation set by the Minister (currently 1,5% of the department's annual remuneration budget) and the applicable limitations to certain employees or categories of employees.

CHAPTER 4- EMPLOYMENT MATTERS (CONT...)

❖ Part 6: Training (regulations 74 to 77)

- ✓ The PSR clarifies and expands upon the existing PSR, 2001. The MPSA may direct on the training of employees in the public service, the registration of such training and the utilisation of training budgets for such training.
- ✓ In addition departments are authorised to provide financial assistance to employees and prospective employees within the parameters contained in regulation 77.

❖ Part 7: Labour matters (regulations 78 to 80)

- ✓ The provisions relating to the mandating and management of negotiations and matters with fiscal implications remain unaffected.
- ✓ Section 16B(3) of the PSA requires the MPSA to make regulations regarding the summoning of witnesses by chairpersons of disciplinary hearings. Regulation 80 therefore provides for the summoning of witnesses by the chairperson under prescribed instances. The content of the summons to appear and the service thereof is also regulated. The witness fees are payable by the party who requests the witness to testify and includes travel, subsistence and any other reasonable costs as determined by the MPSA. Should the witness be summoned at the instance of the Chairperson, such costs will be borne by the relevant department. No employee will be entitled to witness fees.

CHAPTER 5- SENIOR MANAGEMENT SERVICE

❖ CHAPTER 5: SENIOR MANAGEMENT SERVICES (SMS) (regulations 81 to 92)

- ✓ The provisions of this chapter shall prevail over the provisions contained elsewhere in the Public Service Regulations.
- ✓ The content of this chapter has been amended to the extent that the MPSA may issue determinations on annual cost of living adjustments for SMS while conditions of service will be determined for general application in the public service through collective bargaining processes as collective agreements are now deemed determinations.

CHAPTER 6- INFORMATION MANAGEMENT AND ELECTRONIC GOVERNMENT

❖ Chapter 6: Information management and electronic government (regulations 93 to 97)

- ✓ This chapter retained the status quo except that reference to the Minimum Information Security Standards (MISS) has been removed as the MISS is administered by the Minister of State Security and not the Minister for Public Service and Administration. Reference to the MISS has been replaced by providing that the Minister may, after consultation with relevant ministers, issue information security standards for the public service that are not inconsistent with any other laws.

CHAPTER 7 – ADVISORY BODIES TO THE MINISTER FOR THE PUBLIC SERVICE AND ADMINISTRATION

- ❖ **Chapter 7: Advisory bodies to the Minister for Public Service and Administration** (regulations 98 to 106)
- ✓ Section 3(3) of the PSA provides that the MPSA may establish by regulation one or more bodies to advise the MPSA on any matter contained in section 3(1) of the PPSA.
- ✓ Currently the PSR,2001 allows for the establishment of two advisory bodies and an *ad hoc* body to advise in respect of conditions of service for members of the SMS.
- ✓ During the revision of the PSR it was deemed prudent that the advisory body to advise of matters relating to section 3(1) be limited to one given the reduced budget of the DPSA and the cost containment measures introduced. The *ad hoc* committee to assist the MPSA in respect of the SMS conditions of service is also provided for in addition hereto, should the need arise.
- ✓ A transitional provisions has been inserted to provide for members affected by the amendment.

CHAPTER 8 – COMMUNITY DEVELOPMENT WORKERS PROGRAMME (CDWP)

❖ CHAPTER 8: COMMUNITY DEVELOPMENT WORKERS PROGRAMME (CDWP)

- ✓ The community development workers (CDW) programme was conceptualised in the President's State of the Nation address in 2003. Community development workers have since been employed in the public service with its key priority being service delivery. In the circumstances it has become necessary to regulate the CDW programme through the PSR.
- ✓ Chapter 8 allows the MPSA, after consulting with the Minister of Cooperative Governance and Traditional Affairs, to determine a framework for the CDW programme. The purpose and the objectives of the CDW programme are articulated in PSR.
- ✓ The CDWP is envisaged to improve the effectiveness and efficiency of the public service and its service delivery to the public as envisaged in section 3(1) (i) of the PSA.

TRANSITIONAL ARRANGEMENTS

❖ Outside remunerative work

- ✓ Section 30 of the PSA requires employees to seek the prior permission of an executive authority to perform outside remunerative work. Section 30 further provides that should the executive authority not consider the request within 30 days, the approval is deemed to be granted.
- ✓ Regulation 24 provides that the MPSA may determine the process and form for the request.
- ✓ The transitional measure seeks to terminate all approvals within 6 months of such determination contemplated in regulation 24 of the PSA where after further approval will be required to be sought in terms of section 30 and dealt with in terms of the determination by the MPSA.

TRANSITIONAL ARRANGEMENTS

❖ Doing business with an organ of state

- ✓ The Code of Conduct contained in Chapter 2 prohibits employees from doing business with an organ of state and being a director of a company that does business with an organ of state.
- ✓ The transitional provision is to deal with employees who are doing such business with an organ of state at the time of effecting the revised Code of Conduct. The transitional measure is to require the employee to cease to do business with the organ of state and provide proof thereof to the employer, failing which they must resign.

❖ Advisory body members

- ✓ The Public Service Regulations, 2001 provides that persons appointed to the advisory body are currently appointed on a full time basis. The Public Service Regulations, 2016 proposes that such person be appointed on a part-time basis. It is therefore necessary to provide a mechanism to deal with the persons appointed on a full time basis at the time of coming into effect of these regulations. The transitional provision allows for such person to be continued to be employed on a full time basis until termination of their contracts.

CONTRACTS OF EMPLOYMENT

- ✓ The contract for heads of department are prescribed at *Annexure 2* in terms of section 12 of the Public Service Act.
- ✓ The contract for members of the Senior Management Services who are employed permanently is guided by *Annexure 3*.
- ✓ The contract for members of the Senior Management Services who are employed temporarily is guided by *Annexure 4*.

DIRECTIVES

- ✓ The Minister may issue directives in terms of –
 - Section 3(2) to give effect to norms and standards contemplated in section 3(1);
 - Section 41(3) to elucidate or supplement any regulation;
 - Regulations specifically authorising same.
- ✓ Directives must ensure that financial implications are noted and must not override the provisions of any other legislation.



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Thank you