EXECUTIVE PROTOCOL:
PRINCIPLES AND PROCEDURES
FOR THE EMPLOYMENT OF HEADS OF DEPARTMENT (HODs)
AND DEPUTY DIRECTORS-GENERAL (DDGs) NATIONALLY

the dpsa
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PART 1: OVERVIEW

1. INTRODUCTION

1.1 The purpose of this Executive Protocol (the Protocol) is to encourage good practice in the recruitment of Heads of Department (HoDs) and Deputy Directors-General (DDGs) nationally, thereby assisting Executive Authorities (EAs) in appointing high quality candidates. This Protocol is advisory in nature and must be read in conjunction with “A Toolkit on Recruitment and Selection” issued by the Public Service Commission.

1.2 Compulsory elements relating to appointment processes are set out in the Public Service Act, 1994 (as amended), the Public Service Regulations, 2001 (PSR) and other laws of general application.

2. BASIC VALUES AND PRINCIPLES GOVERNING PUBLIC ADMINISTRATION

2.1 Section 195 (1) of the Constitution, 1996 stipulates that public administration must be governed by the democratic values and principles enshrined in the Constitution, including the following principles:

(1) A high standard of professional ethics should be promoted and maintained.
(2) Efficient, economic and effective use of resources should be promoted.
(3) Public administration should be development orientated.
(4) Services should be provided impartially, fairly, equitably and without bias.
(5) People’s needs should be responded to, and the public should be encouraged to participate in policy-making.
(6) Public administration should be accountable.
(7) Transparency should be fostered by providing the public with timely, accessible and accurate information.
(8) Good human resource management and career development practices, to maximize human potential, must be cultivated.
(9) Public administration must be broadly representative of the South African people, with employment and personnel management practices based on ability, objectivity, fairness and the need to redress the imbalances of the past to achieve broad representation.

2.2 Section 197 of the Constitution, 1996 further states that:

“(i) Within public administration there is a public service for the Republic, which must function, and be structured, in terms of national legislation, and which
must loyally execute the lawful policies of the government of the day.

(ii) The terms and conditions of employment in the public service must be regulated by national legislation.

(iii) No employee of the public service may be favoured or prejudiced only because that person supports a particular political party or cause.”

3. MANDATORY AND REGULATORY FRAMEWORK FOR APPOINTMENT


3.2 In a nutshell the Constitution (Chapter 10) requires that good human resource management practices be cultivated with employment and personnel management practices based on ability, objectivity, fairness and the need to redress the imbalances of the past to achieve broad representation.

3.3 The Public Service Act, 1994, in section 3 (7) entrusts an EA with all those powers and duties necessary for –

(1) the internal organisation of the department concerned, including its organisational structure and establishment, the transfer of functions within that department, human resources planning, the creation and abolition of posts and provision for the employment of persons additional to the fixed establishment; and

(2) the recruitment, appointment, performance management, transfer, dismissal and other career incidents of employees of that department, including any other matter which relates to such employees in their individual capacities.

3.4 In accordance with section 7 (7) of the Public Service Act, only the head of a national department and the Office of a Premier may bear the designation of ‘Director-General’.

3.5 Section 9 of the Act stipulates that an EA may appoint any person in his or her department in accordance with the Act and in such manner and on such conditions as may be prescribed.
3.6 Section 10 (1) of the Public Service Act further stipulates that no person should be appointed permanently, whether on probation or not, to any post on the establishment in a department unless he or she –

(1) is a South African citizen or permanent resident; and
(2) is a fit and proper person.

3.7 Section 11 (1) of the Public Service Act stipulates that, in the making of appointments and the filling of posts in the Public Service due regard shall be had to equality and the other democratic values and principles enshrined in the Constitution. Section 11(2) of the Act takes these principles one step further by requiring that “all persons who applied and qualify for the appointment concerned shall be considered”. Furthermore the evaluation of persons shall be based on “training, skills, competence, knowledge and the need to redress, in accordance with the Employment Equity Act, 1998, the imbalances of the past to achieve a public service broadly representative of the South African people, including representation according to race, gender and disability”.

3.8 Section 12 (1) of the Public Service Act entrusts the President with the power to undertake and manage the appointment and other career incidents of Heads of Department and Government Component at National level. Section 42A(3) of the Public Service Act further stipulates that the President may delegate to the Deputy President or a Minister any power conferred on the President by section 12. The President has subsequently, in accordance with section 42A(3) of the Public Service Act, delegated some of his powers to the Deputy President and Ministers. In this regard attention is drawn to the President’s letter to the Deputy President and Ministers dated 8 October 1999. It should be noted that the powers for deployment of HoDs in terms of section 12(3) of the Public Service Act has not been delegated. Section 12(2) of the Public Service Act stipulates that a person shall be appointed to the post of Head of Department in terms of section 9 for such term, not exceeding 5 years, as the relevant EA may approve. The person appointed as Head of Department shall conclude the prescribed contract within the prescribed period (Annexure 2 – Part 1 of the Public Service Regulations, 2001). The relevant EA may at the expiry of the term of office of a HoD or at the expiry of an extended term of office extend the term for a period of not more than five years at a time. Such extension should serve before Cabinet.

3.9 In terms of section 13 (1) of the Public Service Act, the appointment of a person as HoD or DDG shall be made on probation, unless the person having the power to approve such an appointment, directs otherwise. The period of probation shall not be less than 12 calendar months.

3.10 Public Service Regulation (PSR) 1/III/B.2 stipulates that an EA shall, based on the strategic plan of the department –

(1) determine, after consultation with the Minister (MPSA), the department’s organisational structure in terms of its core and support functions;
(2) define the posts necessary to perform the relevant functions while remaining within the current budget and medium-term expenditure framework of the department, and the posts so defined shall constitute the department’s approved establishment;

(3) grade proposed new jobs according to the job evaluation system referred to in PSR 1/IV; and

(4) engage in human resource planning in accordance with PSR1/III/D with a view to meeting the resulting human resource needs.

3.11 In accordance with PSR 1/III/F(b) an EA shall, before creating a post for any newly defined job, or filling any vacancy, evaluate the job in terms of the job evaluation system. PSR 1/V/C.1 further requires an EA to determine the grade of a post to correspond with its job weight and to set the commencing salary of an employee on the minimum notch of the salary range attached to the relevant grade, unless the salary proves inadequate under the criteria in PSR V/C.3. In accordance with the last-mentioned regulation an EA may set the salary for a post or an employee above the minimum notch of the salary range indicated by the job weight -

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

(2) she or he shall record the reason why the salary indicated by the job weight was insufficient.

3.12 PSR 4/II/B stipulates that persons newly appointed to the SMS shall be employed in a permanent or temporary capacity in posts on the fixed establishment. Where persons are appointed to the SMS in a temporary capacity, it shall be for a fixed term or for a specific project.

3.13 PSR 1/VII/C.2.3 stipulates that “Any vacant post in the SMS shall be advertised nationwide”. According to PSR 1/VII/C.2.5 an EA may only fill a vacant post in the SMS without complying with PSR 1/VII/C.2.3 (i.e. compulsory advertising of SMS posts) if the –

(1) department can fill the post from the ranks of supernumerary staff of equal grading;

(2) department can absorb into the post an employee who was appointed under an affirmative action programme, if she or he meets the requirements of the post;

(3) department plans to fill the post as part of a programme of laterally rotating or transferring employees to enhance organizational effectiveness and skills; or

(4) post is filled in terms of section 12(3) (transfer of a HoD) of the Public Service Act.
3.14 The PSR include a number of key principles on which recruitment and selection must be based. Some of these have general application while others focus on the SMS in particular. These include *inter alia* the principles of open competition and fair selection processes. Employment practices should further maximise flexibility, minimise administrative burdens on both employer and employee, and generally prevent waste and inefficiency.

3.15 The **Employment Equity Act (EEA)** stipulates that all designated employers shall submit employment equity plans, which shall include targets for employment of people from the designated groups. The Labour Relations Act outlaws discrimination in the work place and sets out measures for the protection and promotion of people who were previously disadvantaged.

3.16 The **Promotion of Access to Information Act (PAIA)** gives effect to the constitutional right of access to any information held by the State and any information that is held by another person and that is required for the exercise or protection of any rights.

3.17 The **Promotion of Administrative Justice Act (PAJA)** gives effect to the right to administrative action that is lawful, reasonable and procedurally fair and to the right to written reasons for administrative action as contemplated in section 33 of the Constitution.

3.18 EAs must therefore, when dealing with the appointment of HoDs or DDGs, always ensure compliance with the above requirements. In this regard, Part 2 of this Protocol provides an exposition of pertinent procedural issues to be adhered to in the making of an appointment.
PART 2: APPOINTMENT ENABLERS AND PROCEDURE

1. INTRODUCTION

1.1 Whilst the amended Public Service Act, 1994 and the Public Service Regulations, 2001 have freed EAs from the bureaucratic stranglehold of the previous regulatory framework, it remains a huge challenge to effectively communicate the basic requirements of the new framework.

1.2 The intention of this Part of the Protocol is to provide an overview of the procedural issues associated with effecting an appointment to a post at the level of a HoD or DDG.

1.3 This Part therefore addresses issues relating to the need for recruitment, requirements for employment, advertising of posts, selection principles and procedures, relevant Protocols as required by Cabinet and appointment.

1.4 Many EAs do not have time to study the Act and Regulations in detail. This Part serves to provide the relevant information in a concise format and in simple language.

2. DELEGATION OF POWERS

2.1 The Public Service Act, 1994 (section 12(1) entrusts –

(1) the President with the power to undertake and manage the appointment and other career incidents of a Head of a National Department or National Government Component; and

(2) Premiers with the power to deal with the appointment and other career incidents of a Head of the Office of a Premier, Provincial Department or Provincial Government Component.

2.2 The Act (section 42A (3)) further stipulates that the EA referred to in section 12 (1) of the Act may, in the case of-

(1) the President, delegate to the Deputy President or a Minister any power conferred on the President by section 12; or

(2) the Premier of a province, authorise a Member of the relevant Executive Council (MEC) to perform any duty imposed on the Premier by section 12.

2.3 The President has, in accordance with section 42A (3) of the Act, delegated to Ministers the authority to manage the career incidents of HoDs and DDGs within their respective departments (Annexure A).
Note: The position at Provincial level may differ from Province to Province.

The above-mentioned delegated powers may be used by Premiers to guide them in the delegation of their powers for managing the appointment and other career incidents of HoDs at Provincial level.

The power for deployment of HoDs in terms of section 12(3) of the Act has not been delegated. It is administratively managed by MPSA, but resides ultimately with the President.

3. ESTABLISHING THE NEED FOR RECRUITMENT

3.1 Recruitment and selection practices are closely related to an organisation’s human resource plan, which is derived from the strategic planning process. It follows thus that the recruitment and selection processes should continuously be informed by –

(1) an analysis of the workforce profile;
(2) organisational and environmental changes as well as job-designs;
(3) a comparison of available human resources and projected human resource needs;
(4) an approved structure in place for the organisation and the required post being part of this approved structure; and
(5) cost considerations.

3.2 Following the above it must be determined if a “real” need exists for a position to be filled before a process of recruitment is initiated. If such a need has been confirmed, consideration should then be given to the lateral rotation, transfer or absorption of existing members. Should it be impossible to fill the vacancy through one of the above processes, the recruitment process can be initiated.

3.3 The PSR states clearly that human resource planning should precede any recruitment action. This includes forecasting the department’s needs with respect to members.

3.4 The job must further be evaluated, unless it has been evaluated before and there are no significant changes to the functions.

3.5 It is also necessary to ensure that the position is budgeted for and that sufficient funds are thus available for filling the post.
4. **DETERMINING REQUIREMENTS FOR EMPLOYMENT**

4.1 The PSR requires an EA to determine composite requirements for employment in any post on the basis of the inherent requirements of the job.

4.2 A job must be properly analysed to ensure that recruitment attempts are non-discriminatory and take place in accordance with the inherent requirements of the job. There must be a clear understanding of the nature of the post to be filled.

4.3 The results of the job analyses must be captured in a job description, addressing the main objectives and inherent requirements of the post (i.e. post and person specifications). The job profile describes the job in terms of the task requirements of the position and the requirements of the person filling the position. Development of the job profile will always be informed by the results of job evaluation and job analysis.

4.4 The job profile (aligned with the requirements used in the job evaluation process) will include, *inter alia*, the following:

1. A description of the job in terms of the task requirements and responsibilities.
2. The competencies the person will need to demonstrate in the successful performance of the job.
3. Educational requirements.
4. Level of expertise required.
5. Reporting relationships.
6. Salary level.

4.5 The job analysis will determine which competencies are the most important for the particular job. It will also identify the proficiency level which the person will need to demonstrate in relation to the identified competencies.

5. **RECRUITMENT**

5.1 **Introduction**

1. Recruitment can be best described as the process of attracting suitable individuals on a timely basis, in sufficient numbers and encouraging them to apply for jobs in the organisation. As such it is aimed at providing a pool of potentially suitable candidates from which the organisation can cost effectively and efficiently select individuals that will satisfy its human resource needs.

2. Recruitment is an activity that generally takes place in response to an existing post becoming vacant or a new post being created. Recruitment is -
(a) one of the most important ways in which the Public Service meets its human resource capacity requirements;
(b) the primary instrument for achieving employment equity by opening up the Public Service to all sections of society;
(c) an important tool to be utilised by departments in order to ensure that the skills needed to meet their operational needs, are acquired; and
(d) an important tool on which other Human Resource processes is based.

5.2 Formulating a recruitment policy

(1) The recruitment policy should -

(a) set targets for achieving specified employment equity objectives for race, gender and disability representation as well as specify the skills necessary to meet the department's operational needs;
(b) spell out the objectives of the recruitment process;
(c) enable departments to attract those applicants who have the training, skills, competence and knowledge relevant to the requirements of the post; and
(d) include a clear specification of all the human resource needs of the department and be free from bias and any form of discrimination.

5.3 Principles governing the recruitment programme

(1) The HoD, who is responsible for the administration and management of her or his department, is responsible for the recruitment programmes of the department. There are, however, basic principles which have to be adhered to in developing and formulating such a programme. These are the following:

(a) Recruitment should be targeted for maximum accessibility and should be aimed at reaching, as far as practically and financially possible, the broadest possible pool of available human resources within a specific target group.
(b) The image of the Public Service in general and the department in particular must be promoted in order to foster applicants' interest in the Public Service as an employer.
(c) All recruitment actions should be undertaken with a view to seek from the relevant target group, the ideal applicant with the necessary training, skills, competence, and knowledge relevant to the requirements of the post concerned.
(d) Recruitment strategies must be underpinned by the principle of
Recruitment strategies must ensure the acquisition and retention of human resources with appropriate competencies.

5.4 Methods of recruitment

(1) A variety of methods can be utilised, depending on the need and situation of a particular department. The method of recruitment used should be in line with the department’s recruitment strategy and must not discriminate against prospective candidates. In accordance with the PSR any vacant post of senior manager (SMS Grades A to D) shall be advertised nationwide. Advertising will be discussed in paragraph 6 of this Part. Although not conclusive, the following recruitment methods can also be utilised in conjunction with advertising:

(a) Posting

(i) This method could be used to reach communities which can normally not be reached through the more conventional recruitment methods. A department could liaise at local level with both official and private entities for the display of posters at places that are accessible, known to and frequented by the community (e.g. the Thusong Service Centres). Posters should be compiled in the languages used in the relevant community.

(b) Radio advertising

(i) This is a form of recruitment which can typically be utilised to reach rural communities. If used in conjunction with posting, it can serve the purpose of announcing the places where advertisements are posted.

(c) Headhunting (skills search)

(i) Departments may, in order to enlarge the potential pool of candidates to be generated through the normal advertising of posts, request identified potential candidates to submit their candidature for an advertised post prior to the closing date of an advertisements. Applications received from such identified potential candidates must be considered together with all other applications and all the normal processes will apply. This skills search based method of recruitment can typically be used to seek and identify candidates for positions where it is usually difficult to recruit suitably qualified candidates as well as candidates from historically disadvantaged groups.

(ii) In the event where the subsequent selection process fails to recommend a suitable candidate for appointment, or in cases where a successful candidate is no longer available
for appointment and no other suitable candidate is available, this phase should be concluded where-after a process of headhunting may be embarked on. During such headhunting process departments must use the same criteria as originally advertised (e.g. educational qualifications and remuneration on offer). Candidates identified through such headhunting must, however, be assessed by the same selection committee and against the same selection criteria applied in respect of those candidates initially shortlisted and interviewed. Headhunting thus entails a next phase of the recruitment process, following the conclusion of the initial phase that was unsuccessful.

(iii) Against this background a selection committee needs to be abundantly clear on whether shortlisted candidates are found suitable or not. Only in the event where no candidate is found to be suitable, a process of targeted headhunting may be initiated, i.e. individuals who meet the requirements of the post are approached to submit their CVs to be considered for the vacant position. It speaks for itself that the candidature of persons interviewed prior to the headhunting process and who were found not suitable, cannot be considered for appointment together with possible headhunted candidates. Although comparison of a headhunted candidate with initial candidates will obviously take place, initial candidates who were found not suitable cannot be considered for appointment should headhunting also fail to render a suitable candidate.

(d) Referrals
   (i) Employees/members can be asked to communicate information about vacancies to acquaintances. This method should, as in the case of headhunting, only be applied in conjunction with advertising.

(e) Recruitment agencies
   (i) Recruitment agencies may be used to act as intermediaries between the employer and prospective members. An EA may utilise an appropriate agency to identify candidates for posts, as long as the advertising and selection procedures comply with Public Service selection principles.
6. ADVERTISING OF POSTS

6.1 General

(1) An EA has the discretion to advertise or re-advertise a vacancy. The advertising of vacant posts underpins human resource provisioning in the SMS. As already mentioned, departments must ensure that vacant posts are so advertised as to reach, as efficiently and effectively as possible, the entire pool of potential applicants, especially persons historically disadvantaged. When a department wants to advertise a vacancy, it is important to thoroughly consider the medium to be used. Any vacant post of DDG or HoD must be advertised nationwide. The following options can also be utilised in collaboration with the nationwide advertisement:

(a) Advertising within a defined area.
(b) Advertising of posts internally within the whole Public Service by means of the Public Service Vacancy Circular issued by the DPSA.
(c) Advertising of posts internally within the Public Service as a whole and/or in selected departments/provincial administrations and sectors by means of their own circulars, if they possess the means to undertake the advertising themselves.
(d) Advertising of posts by means of posting.

(2) An EA may fill a vacant post without advertising, if the post is filled in terms of section 12(3) of the Act (deployment by the President/a Premier).

(3) An EA may use an appropriate agency or selection consultant to assist in part or all of the advertising/selection process as long as she or he ensures that the advertising and selection procedures comply with the prescribed principles and procedures contained in PSR1/VII/C and D.

6.2 Guidelines for the compilation of advertisements

(1) An EA must, as a first step, determine the composite requirements for employment in the relevant post on the basis of the inherent requirements thereof. An advertisement should not favour or prejudice any prospective candidate who has the necessary training, skills, competence and/or knowledge relevant to the requirements of the post. Advertisements should therefore be supportive of and in compliance with the Constitution, the Labour Relations Act, the Public Service Act and the PSR. Qualifications should not be defined primarily or solely in terms of educational attainment, but should include skills, relevant experience and other criteria.

(2) Educational qualification requirements, including qualifications obtained through the Recognition of Prior Learning process and linked to the National Qualification Framework, should as per the post advertisement reflect the minimum qualification requirements determined during job evaluation. Such
qualification requirements should be specific to the post. An applicant with a lower qualification cannot be shortlisted for the post. If no suitable candidate is found with the advertised minimum qualification, the department may either re-advertise the post with the revised minimum qualification requirement (provided the revised minimum qualification is still within the specifications used to arrive at the level of the post) or embark on a headhunting process using the same criteria as originally advertised. The MPSA must be approached for a deviation for a relaxation of the minimum qualification requirement, prior to the re-advertisement of the post.

(3) An advertisement should be fully compatible with the valid post and job specifications and should specify the inherent competencies of the job, the job title and core functions. Do not put into an advertisement any requirements and/or skills that are not directly related to the applicant’s ability to perform that specific job.

(4) The methods of advertising must attract the widest possible number of people within the target groups in the most cost-effective manner.

(5) Departments should use the relevant job title and rank in advertisements in order to attract applicants with the ability to perform that specific job.

(6) Advertising should encourage competition between internal and external applicants to promote labour mobility and cross-fertilisation of energy and experience.

(7) Advertisements must in no way discriminate either directly (race, gender, etc) or indirectly (inordinate qualifications/experience requirements) against any potential candidate, or discourage her or him from presenting her or his candidature.

(8) The requirements for additional health and security checks must be clearly stated in the advertisements. Health requirements can only be stated in any case where it is a requirement of the post.

(9) Job requirements should not be formulated so as to unfairly exclude candidates who may possess the necessary ability or potential.

(10) Where the advertising of a post within and outside the Public Service is undertaken simultaneously, care must be taken that the contents of both advertisements in respect of the post description and skills stated therein, are the same. It must also be ensured that the date of placement and the closing date for applications are the same for inside and outside advertisements.

(11) Closing dates for applications for advertisements outside the Public Service should preferably not be less than four weeks after the date of placement so as to allow applicants from remote areas a fair opportunity to apply.
6.3 Contents of advertisement

(1) An advertisement for a post should specify the following:

(a) Job title.

(b) Place to be stationed.

(c) Formal educational requirements as well as specific competencies, experience and knowledge requirements (i.e. inherent requirements of the post).

(d) Core functions to be performed by the incumbent.

(e) All-inclusive package payable.

(f) Contact particulars of person to whom enquiries can be addressed.

(g) Closing date.

(h) Application for the post must be made using the Z83 form and that all information must be provided – failure to complete or disclose all required information will automatically disqualify the applicant.

(i) If the appointment is for a specific term, this should be clearly stated (e.g. in the case of a HoD or DDGs on contract).

(j) That the successful candidate will be required to enter into an employment contract and sign an annual performance agreement.

(k) That all shortlisted candidates will be subjected to personnel suitability checks and the successful candidate will have to undergo full security vetting.

(l) All applicants to declare any conflict or perceived conflict of interest.

(m) All applicants to disclose membership of Boards and directorships that they may be associated with.

(n) The successful candidate will have to annually disclose her or his financial interests.

(o) Identified candidates will be subjected to a government specific competency assessment.

6.4 Re-advertising vacancies

(1) The re-advertisement of a vacancy should be done for good reasons and in exceptional circumstances only. These include:

(a) No suitable candidate could be found. This is subject to a fair process of selection having been applied.

(b) The operational requirements (or job contents) for the vacancy have changed drastically since the vacancy was advertised.

(c) A long delay in finalising the selection process due to various
unforeseen departmental circumstances, resulting in candidates no longer being available.

(d) The exposure of the initial advertisement having been found to be too limited, not reaching all potential candidates.

Note: The department should invite candidates who responded to the initial advertisement to apply again should they still wish.

6.5 Methods of application

(1) The employer’s aim is to get as close a match as possible between the specified competencies and the ideal candidate. In order to identify a suitable candidate, sufficient information is needed to be able to make a judgement. It is thus important to obtain the information by way of a well constructed application form (i.e. form Z83) and Curriculum Vitae (CV).

(2) A standard application form holds certain advantages. All applicants are required to provide the same information, making comparisons much easier. Applicants also have to respond to the employer’s questions rather than setting their own agenda.

(3) It is compulsory for applicants to submit a completed Z83 form together with a CV in response to the advertisement and said documents must reach the relevant office before the closing date.

Note should be taken that form Z83 (application form) is available on the government website at www.gov.za

7. SELECTION

7.1 Introduction

(1) The selection process commences after the closing date of the advertisement and is concluded when a recommendation is made regarding the most suitable applicant.

(2) Selection should be undertaken in a justifiable, equitable and fair manner in compliance with the provisions of sections 10, 11 and 12 of the Act read with the PSR.

7.2 Selection principles

(1) Merit

(a) Selection on merit is fundamental to ensure that the Public Service recruits and promotes people of the highest calibre. It ensures that the person selected is the best suited on the basis of:
(i) Skills.
(ii) Experience.
(iii) Abilities.
(iv) Personal attributes.
(v) Competencies.
(vi) The need to achieve a representative and diverse workforce.

(2) Job related selection criteria
(a) The criteria should relate only to the inherent requirements of the job, taking account of:
   (i) Competencies acquired through past experience.
   (ii) Training received.
   (iii) Learning potential.
(b) Educational qualifications should not be the sole determinant of suitability.

(3) Fairness
(a) The process should not discriminate against any applicant on the grounds of:
   • Race.
   • Colour.
   • Belief.
   • Sexual orientation.
   • Disability.
   • Age.
   • Any other arbitrary criteria.

(4) Equity
(a) All candidates should be measured against the same objective criteria with due regard to the need for diversity and representativeness.
(b) Criteria should be in writing and be available to the selection committee prior to the selection process.
(c) All applicants for a particular post must be assessed by the same selection panel.
(d) All applicants should be assessed against the same selection criteria.

(5) Transparency
(a) To be able to demonstrate that the process was fair and transparent,
easily accessible written records of the following should be kept:

(i) Criteria used in selecting interviewees.
(ii) Criteria used in selecting the most suitable candidate.
(iii) Evaluation of individual candidates.

7.3 Screening

(1) After the closing date, the application documents should be screened to determine whether applicants comply with the basic criteria laid down in the advertisement. When in doubt, additional information should be requested. The thoroughness with which this phase is conducted determines the success of the selection activities to follow. During this phase candidates who do not comply with the minimum advertised requirements may be eliminated with noting of reasons, resulting in a preliminary selection pool.

(2) During this phase legends may be used to denote the advertised criteria such as:

A = Lack of specific knowledge, competencies or high level skills;
B = Lack of identified managerial skills;
C = Lack of proven high level communication skills;
D = Non-compliance with regard to educational qualifications or years of relevant experience;
E = Application received after the closing date;
F = No Z83 form submitted together with application or Z83 form is incomplete; and
G = Conflict of interest.

7.4 Preliminary selection pool and shortlisting

(1) The next step entails the shortlisting of candidates using the preliminary selection pool.

(2) The shortlist of candidates, who are to be put through a further selection process, is then compiled. A rating scale may be used to identify the most suitable candidates based on the advertised criteria.

(3) Elimination of candidates must be done in a justifiable manner and be documented so that the reasons for elimination are available when the filling of the post is finally considered. This can be done by careful consideration of the information provided by the applicant, in order to ascertain whether the candidate meets the job requirements.

(4) Shortlisting must only be concluded on the basis of information provided in the application form (Z83) and in the Curriculum Vitae. Any information from other sources should not be considered as it may unfairly benefit or disadvantage an applicant in relation to the others.
Only Public Servants who have been employed in the Public Service for at least 5 consecutive years at SMS level will be eligible for appointment as HoDs.

7.5 Selection Committee

(1) The role of a selection committee is to -
   (a) establish the suitability of a candidate to comply with the job requirements;
   (b) determine the relative suitability of the various candidates as objectively as possible;
   (c) render justifiable and valid advice to the final decision maker; and
   (d) formulate and record the reasons for specific recommendations.

(2) A selection committee should include persons who are well versed with the job content as well as persons who are competent in applying selection techniques. Members of selection committees should be known for their impartiality and objectivity.

(3) A selection committee may include a person of stature from outside the Public Service if this will add value to the selection process.

(4) The interviewing of candidates and deliberations of selection committees as well as their recommendations and documentation are confidential and should not be divulged other than in the execution of official duties or to authorised persons.

(5) An EA shall appoint a selection committee to make recommendations on appointments to posts at HoD and DDG levels.

(6) The EA’s office shall arrange a date and venue for interviews and notify both panel members and candidates.

(7) A selection committee constituted for the appointment of -
   (a) the head of a national department, shall be chaired by the Minister responsible for the portfolio in which the vacancy exists and include at least two other Ministers and a national head of department;
   (b) a Deputy Director-General of a national department, shall be chaired by the Minister responsible for the portfolio in which the vacancy exists and include at least two Deputy Ministers and the relevant head of department;
   (c) the head of the Office of the Premier, shall include at least three Members of the Executive Council of the relevant province and the head of any national department;
   (d) the head of a provincial department, shall include at least three Members of the Executive Council of the relevant province and the head of the Office of the Premier of the province; and
(e) a Deputy Director-General of -

(i) the Office of the Premier, shall include at least two members of the Executive Council of the relevant province and the head of the Office of the Premier of the province;

(ii) a provincial department, shall include at least two members of the Executive Council of the relevant province and the head of the relevant provincial department.

(8) 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/interview, but shall not form part of the selection committee.

(9) Special Advisers should not form part of the interviewing panel; however, they may be included as observers to the interview process.

7.6 Interviewing

(1) The next stage in the selection process is the interview. During the interview, the selection committee is granted an opportunity to probe into the applicant’s background, experience and interests. This is a step where face to face communication takes place, and where impressions are formed of the personality, values and attitudes of the applicant.

(2) Interviews should directly assess the competencies possessed by the applicant. The interview can take one of two forms:

(a) A structured interview: The selection committee utilises a predetermined questionnaire to obtain certain information. The questions can be asked in a specific order.

(b) A semi-structured interview: The most important guiding questions are determined in advance. This provides flexibility to add questions depending on the situation and to probe deeper depending on the answers provided.

(3) Additional guidelines on interviews:

(a) The interview must be conducted at a suitable venue that will ensure privacy.

(b) Plan the interview and formulate its objectives and the questions to be asked.

(c) Thoroughly study the relevant job descriptions before the interview.

(d) Study the information that appears on the candidate’s application form and CV.

(e) Ensure that the interview is objective and unbiased.

(f) Put the applicant at ease.

(g) Encourage the applicant to participate by asking pertinent questions and listening attentively.
7.7 Recommendation of most suitable candidate

(1) After the last interview, the selection committee must reach consensus on the most suitable candidate for the post. The final decision must be supported by as wide a range of evidence as possible.

(2) The selection committee must make a recommendation on the suitability of a candidate after considering only the following:
   
   (a) Information based on valid methods, criteria or instruments for selection that are free from any bias or discrimination.
   
   (b) The training, skills, competence and knowledge necessary to meet the inherent requirements of the post.
   
   (c) The needs of the department for developing human resources.
   
   (d) The representativeness of the department as a whole with regard to DDG appointments and HoDs as a group in the appointment of an HoD.

(3) A selection committee shall record the reasons for its decision with reference to the criteria mentioned in paragraph 7.7(2) above.

(4) Departments must conduct, for shortlisted candidates, personnel suitability checks which shall cover at least the following:
   
   (a) Criminal record checks;
   
   (b) Citizenship verification;
   
   (c) Financial/asset record checks;
   
   (d) Qualification/Study verification; and
   
   (e) Previous employment verification (Reference checks).

(5) The appointment of a HoD or Deputy Director-General at national level can only be effected after consultation with the MPSA and obtaining Cabinet’s concurrence/approval.

(6) According to a Cabinet decision of 5 May 2010, HoDs of National Departments/National Government Components must be appointed for a term of five years.

(7) A serving employee who is appointed to the post of HoD, will automatically lose her or his status as a permanent employee. Her or his accrued pension and other benefits will, however, only be payable on the date that her or his term expires.

(8) Amendments to section 12 of the Act changed the permanent employment status of serving Provincial Heads of Department with effect from 1 July 1999, to that of a five year term of office on contract.

(9) Certain appointments are made only by the President. The President as head of the national executive:
(a) is Commander in Chief of the Defence Force and must therefore appoint the Military Command of the Defence Force (section 202(1) of the Constitution);

(b) must appoint the National Commissioner of the Police Service (Section 207(1) of the Constitution); and

(c) must appoint the head of each Intelligence Service established in terms of the Constitution (section 209(2) of the Constitution).

7.8 Submission of Cabinet Memorandum and relevant information to the MPSA

(1) Regarding national HoDs and DDGs, the MPSA must be consulted by the relevant EA on the appointment of the successful person. The MPSA is further responsible for obtaining Cabinet’s concurrence on the appointment. To facilitate this process national EAs must provide the MPSA with a Cabinet Memorandum containing all relevant information as per the Protocol Document at Annexure B. For this purpose a pro forma letter (Annexure C) and a Cabinet Memorandum (Annexure D) containing all relevant information, should be forwarded to the MPSA at least four weeks before the next Cabinet meeting. For practical reasons, departments must only deal with one appointment per Cabinet Memorandum. The Cabinet Memorandum must be accompanied by the completed pro forma letter and supporting documents, including the relevant Curriculum Vitae and information, if any, on Board/s that the candidate may currently be serving on or directorship/s that she or he currently holds.

(2) The MPSA will not table a Memorandum for the appointment of a HoD or DDG if the Executive Authority in whose portfolio the post is, is not present in the specific Cabinet meeting.

(3) Following Cabinet’s concurrence, the relevant EA is responsible for issuing an appointment letter to the successful candidate which should include the following:

(a) Provisions of the Act in accordance with which the appointment is effected and the probationary period which will apply (i.e. Sections 12 and 13 of the Act).

(b) Term of contract and flexible all inclusive remuneration per annum (including also the 10% non-pensionable HoD allowance in the case of an HoD appointment).

(c) Indicate a need to sign an employment contract and enter into a Performance Agreement.

(d) Date of appointment/assumption of duty.

(e) Requirement to disclose financial interests within the prescribed period of 30 days after assumption of duty.

(f) Requirement to obtain a relevant security clearance within 12 months from date of appointment.
(4) The employment contract to be concluded by the EA and the HoD will be as set out in Annexure 2 – Part 1 of the Public Service Regulations. The relevant EA must provide the MPSA with a copy of the contract as soon as possible after the conclusion thereof.

(5) Should any candidate require reasons why she or he was not appointed, it will be the responsibility of the relevant EA to provide such reasons.

(6) The relevant EA must require the appointee to be subjected to security clearance in accordance with PSR 1/VII/B.1(f). In this respect the measures contained in the Minimum Information Security Standards, issued by the Domestic Branch of the State Security Agency must be complied with and the relevant security clearance must be obtained within 12 months from date of appointment.

(7) The date of appointment will be with effect from a date as agreed to by the relevant EA and the appointee (which date should be after the date of approval of the appointment).

(8) In accordance with PSR1/VII/B.3.1 and B.3.2 -

(a) an EA shall not re-appoint a former employee as HoD where -
   (i) the former employee left the Public Service earlier on the condition that she or he would not accept or seek re-appointment;
   (ii) the original grounds for termination of service militate against re-appointment; or
   (iii) the former employee left the Public Service due to ill health and cannot provide recent and conclusive evidence of recovery.

(b) notwithstanding PSR1/VII/B.3.1(a), an EA may appoint a former employee referred to in that regulation provided that -
   (i) the appointment is in the public interest;
   (ii) the appointment is made in accordance with the recruitment and selection procedures in the Regulations and no other suitable candidate could be recruited;
   (iii) 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
   (iv) the employee has not previously been appointed in terms of the relevant regulation.

7.9 Remuneration

(1) Agreement on the remuneration of the prospective appointee must be reached between the relevant EA and the prospective appointee before Cabinet is approached for approval of the appointment. The remuneration to be awarded to the relevant person should be included in the proposal to be presented to Cabinet.
(2) An EA may **not** request a deviation after Cabinet has taken a decision on the matter.

### 7.10 Employment contract

(1) A member of the SMS can either be appointed on a permanent basis or on contract, depending on the nature of the post. In both cases the individual must enter into an employment contract. Such an employment contract must be based on one of the contracts as set out in Annexure 2 (Part 1, 2 or 3 of the Public Service Regulations).

(2) According to Section 12 (2) of the Public Service Act, all HoDs are appointed on contract for a period up to five years. Once Cabinet has decided on the contract period of a HoD, any extensions thereafter can only be effected with Cabinet approval. To facilitate an extension of contract national EAs must provide the MPSA with a Cabinet Memorandum containing all relevant information as per Annexure B. For this purpose a *pro forma* letter (Annexure E) and a Cabinet Memorandum (Annexure F) containing all relevant information should be forwarded to the MPSA at least **four weeks** before the next Cabinet meeting.

(3) All DDG posts that are core to the mandate of the department and are part of the approved fixed establishment, should be permanent appointments.

(4) An EA shall ensure that each employee upon appointment, is provided with a written contract of employment, including the terms and conditions of her or his service.
PART 3: CAREER MANAGEMENT AND EXIT OF HODs

1. INTRODUCTION

1.1 In accordance with the new management framework Executive Authorities (EAs) have been granted extensive powers relating to the day to day management of their departments. These powers inter alia relate to appointment and other career incidents of Heads of Department (HoDs).

1.2 Since HoDs normally have no career progression or prolonged employment opportunities, they have unique conditions of service. These conditions of service are all explained in this Part. It also provides information and examples on the management of all career incidents of HoDs, from appointment right through to termination of service.

1.3 Statutory provisions referred to in this Part do not necessarily reflect the precise wording or meaning of that provision and are for easy reference only. In applying this Part, it is important that the original statutory provision(s) be consulted and read in conjunction with this document.

2. EMPLOYMENT CONTRACTS FOR HODs

2.1 The purpose of an employment contract is to:

(1) Regulate the appointment of HoDs.

(2) Confirm the employment provisions and conditions of service of HoDs as determined by the Act and Regulations.

2.2 The employment contract of a HoD shall comply with the requirements set out in PSR1/VII/B.2. In accordance with this regulation, the contract to be concluded between an EA and a HoD in terms of section 12(2) of the Act shall be as set out in Part 1 of Annexure 2 of the PSR.

2.3 The prescribed contract referred to above covers broadly the following areas:

(1) Appointment.

(2) Remuneration.

(3) Deployment during the contract period and re-appointment on expiry of the contract.

(4) Termination of employment.

(5) Renewal and extension of term office.

(6) Conduct.
(7) Additional terms and conditions.

(8) General aspects pertaining to good faith, applicability of the Act, interpretation of the agreement, jurisdiction of courts, variation and waiver.

(9) Notice and Domicillium.

2.4 Parties to an employment contract include the relevant-
(1) EA; and
(2) HoD.

2.5 An employment contract must include any term and condition agreed upon between the EA and the HoD on particular duties and specific performance criteria for evaluating the performance of the HoD.

3. PERFORMANCE AGREEMENTS (PA)

3.1 The employment contract in Part 1 of Annexure 2 of the PSR states that a HoD shall enter into an annual PA with the EA. This is linked to a specific financial year and shall include at least the minimum requirements prescribed in clause 7 of the prescribed contract. The HoD should enter into a PA not later than three months after assumption of duty/entering into a new post.

3.2 Please refer to Chapter 4 (SMS PMDS) of the SMS Handbook and Guidelines for HoD evaluation issued annually by the Public Service Commission (PSC)/Department of Performance Monitoring and Evaluation (DPME).

4. PROBATION

4.1 In accordance with section 13 of the Act, the appointment of a HoD is effected on a minimum probation period of 12 calendar months, unless the EA directs otherwise.

4.2 The purpose of a probationary period is to facilitate the process of evaluating a HoD in the post while freeing the EA from lengthy and cumbersome processes should it be necessary to -
(1) terminate the appointment; or
(2) transfer/deploy the HoD.

4.3 The process followed in evaluating a HoD during a probationary period and the actions to be taken are prescribed in section 13 of the Act and in PSR1/VII/E. The HoD should be supported by the EA and be given a fair opportunity to meet the conditions of her or his appointment. The relevant EA must quarterly evaluate the HoD’s work performance in terms of her or his PA (Refer to Chapter
4 – SMS PMDS of the SMS Handbook). The HoD must endorse each report as confirmation that she or he is aware of how her or his work performance is being regarded and which areas, if any, need to be improved on.

4.4 On expiry of the twelve months probationary period, the EA must:

1. confirm the appointment; or
2. extend the probation period; or
3. terminate the appointment.

Please refer to Chapter 4 (SMS PMDS) of the SMS Handbook pertaining to the assessment.

4.5 The probation period may be extended under the following circumstances:

1. The period of probation must be extended by the number of days leave taken by the HoD during the initial period or any extension thereof.
2. If a probationary period is extended, the process of evaluation and reporting on a quarterly basis must be continued until the probation is ended by terminating the appointment or confirming it.
3. Where a decision is taken to extend the HoD’s probationary period, it would be advisable to first apply the *audi alteram partem* rule, i.e. allow the HoD to state a case in response.

4.6 If a HoD who is on probation is transferred or deployed to another post, a lesser period of probation may be directed in the new post which, together with the period of probation served in the former post, shall total at least 12 calendar months.

4.7 HoDs who are employed for a period not exceeding one year do not serve a probationary period.

4.8 The EA of a HoD on probation shall ensure that the probationer:

1. Knows the performance and other requirements needed for confirmation of probation at the start of the probationary period.
2. Receives written feedback each quarter on her or his performance and compliance with other requirements.
3. Receives training, counselling or other assistance if needed.
4. Receives written confirmation of appointment at the end of the probationary period if she or he has been found suitable.
5. Is allowed to state her or his case if dismissal as a result of poor performance is considered. During this process the probationer may be assisted by a colleague or a trade union representative.
5. REMUNERATION AND SERVICE CONDITIONS

5.1 HoDs receive an all inclusive flexible remuneration package, based on the cost-to-company principle. The remuneration scale consists of distinct grades and remuneration bands (with commensurate job evaluation weights).

5.2 Provincial HoDs and Heads of Government Components (Schedule 2 and 3 of the Act) shall not by virtue only of their post be entitled to the rank, status or salary scale and benefits of the HoD mentioned in the second column of Schedule 1 of the Act. The all inclusive remuneration package that the HoD shall receive should be based on the grading of the post as determined through job evaluation and as specified in the prescribed employment contract. Only remuneration packages contained in the official remuneration scale may be utilised.

5.3 The remuneration packages of HoDs will be in accordance with determinations made in this regard by the MPSA. The EA may, however, in accordance with PSR1/V/C, set the remuneration package above the minimum notch of the salary range to enable the recruitment of suitable candidates. In such a case, Cabinet approval must be obtained prior to the appointment of the individual at the higher salary level.

5.4 The inclusive remuneration package consists of the basic salary, the state’s contribution to the GEPF and a flexible portion. The structure and rules of the inclusive and flexible remuneration package are spelled out in Chapter 3 of the SMS Handbook. General conditions of service are also spelled out in Chapter 3 of the SMS Handbook and benefits may be amended by determinations issued by the MPSA in terms of the Act. HoDs are also eligible for additional compensation in the form of a non pensionable HoD allowance equal to 10% of the relevant annual all inclusive remuneration package, payable in equal portions per month for the time that a member is designated as a HoD. Refer to Chapter 3 of the SMS Handbook for more details as well as the circumstances under which the allowance is not payable.

5.5 HoDs are eligible for an annual cost-of-living (remuneration package) adjustment, irrespective of the outcome of performance assessment. Such adjustment is effected by way of a determination made by the MPSA.

5.6 HoDs may furthermore be considered for performance related package progression and/or payment of a cash bonus (see Chapter 4 of the SMS Handbook in this regard).

5.7 All jobs of Provincial HoDs as listed in Schedule 2 of the Act, must be evaluated using the applicable job evaluation system before amendments to the grading of such jobs (e.g. upgrading) are considered.
6. **OVERTIME**

Compensation for overtime work is not applicable to HoDs.

7. **TRANSFER**

7.1 Section 12(3) of the Act stipulates as follows:

(a) “The President may transfer the head of a national department or national government component before or at the expiry of his or her term, or extended term, to perform functions in a similar or any other capacity in a national department or national government component in a post of equal, higher or lower grading, or additional to the establishment, as the President considers appropriate.

(b) The Premier of a province may transfer the head of the office of the Premier, a provincial department or a provincial government component before or at the expiry of his or her term, or extended term, to perform functions in a similar or any other capacity in the Office of the Premier, a provincial department or a provincial government component of the relevant province in a post of equal, higher or lower grading or additional to the establishment, as the Premier considers appropriate.

(c) The President may, in consultation with the Premier or Premiers concerned, transfer before or at the expiry of his or her term -

(i) the head of a national department to perform functions in a similar or any other capacity in the Office of a Premier, a provincial department or a provincial government component; or

(ii) the head of the Office of a Premier, a provincial department or a provincial government component, to perform functions in a similar or any other capacity in the Office of a Premier, a provincial department or provincial government component of another province or in a national department or national government component,

in a post of equal, higher or lower grading or additional to the establishment, as the President, in consultation with the Premier or Premiers, considers appropriate.

(d) A transfer in terms of this subsection may only occur if -

(i) the relevant head of department consents to the transfer; or

(ii) after due consideration of any representations by the head, the transfer is in the public interest.

(e) Any person appointed as head of department or government component who is transferred in terms of this subsection -
(i) during her or his term of office or extended term -

(aa) shall for the unexpired portion of that term not suffer any reduction in salary and change of other conditions of service, unless she or he consents thereto; and

(bb) to a higher post shall not by reason only of that transfer be entitled to the higher salary applicable to the higher post; and

(ii) at the expiry of her or his term of office, or extended term, shall receive the salary and conditions of service attached to the capacity in which she or he is so transferred.”

7.2 Transfer of national HoDs in terms of section 12(3) of the Act has not been delegated by the President in the standing delegation of powers to Ministers, and must be dealt with by the President, who will exercise the power together with other members of Cabinet. In the case of provincial HoDs, the power of transfer vests with the relevant Premiers.

8. SECONDMENT

8.1 Section 15(3) of the Act stipulates as follows:

“(a) An employee may with her or his consent and on such conditions, in addition to those prescribed by or under any law, as may be determined by the relevant executive authority after consultation with the Treasury, be placed at the disposal of another government, or of any council, institution or body established by or under any law, or of any other body or person, for a particular service or for a stated period.

(b) Such an employee remains subject to the laws applicable to employees in the public service while so placed at such disposal.”

8.2 PSR1/VII/B.4 further states as follows:

“B.4.3 If an employee is seconded in terms of section 15(3) or (4) of the Act, the recipient government, council, institution or body or person shall bear the inclusive costs of the secondment, unless the relevant department, after consultation with the Treasury, and the recipient entity agree otherwise.”

“B.4.4 If an employee is seconded in terms of section 15(3) or (4) of the Act, the relevant executive authority may, subject to the written consent of the employee, bind her or him to continued employment in the relevant department or another department in the public service immediately after the secondment, for a period not exceeding the period of the secondment.”
8.3 The power to second a HoD in terms of section 15(3) of the Act has been delegated by the President to National EAs. Such power should be executed only after consultation with the MPSA and Cabinet needs to be informed by the relevant Minister. In the case of Provincial HoDs, the power of secondment vests with the relevant Premiers.

8.4 Posts of HoD cannot be filled on the basis of secondment. The reason being that a seconded person does not hold the status of an employee as defined in the Public Service Act.

8.5 Please refer to Chapter 11 of the SMS Handbook, dealing with the Policy and Procedure on the Revolving Door Enablers, for details (Parts A and B) regarding Secondment of Members of the Senior Management Service to Academic and other Institutions.

8.6 In the application of section 15(3) of the Act, due cognisance must be taken of the “National Policy on the Secondment of South African Public Service Employees”, as approved by Cabinet and communicated to all National and Provincial Government Departments and Government Components under DPSA Circular 14/1/2/P dated 6 October 2009.

9. EXTENSION OF TERM OF OFFICE

9.1 Section 12(2)(c) of the Act provides for the extension of the term of office of a HoD. Extension occurs prior to the expiry of the term or extended term of office and is carried out in accordance with the terms and conditions of the contract. A further contract may be concluded between the relevant EA and the HoD for an extended period of not more than five years at a time. Cabinet approval must be sought before the term of office of an HoD can be extended. In accordance with the Protocol Document at Annexure B, Cabinet decided that a term may be renewed pending the performance and at the discretion of Cabinet. There is no limit to the number of times a term of office can be extended.

9.2 For purposes of dealing with an extension of a contract please refer to the pro forma letter and Cabinet Memorandum at Annexure E and F respectively.

9.3 Process to be followed when term of HoDs are due to expire (PSR, Annexure 2 – Part 1):
Executive Protocol

Stage | Description
--- | ---
**Three months prior to the expiry of the term of office**
1 | The EA should inform the MPSA of her or his intention to extend a contract or not (Situation will be different in a Province, depending on the delegation of power)
2 | The MPSA informs Cabinet prior to the expiry of the term of office of the intention to extend the term (Situation will be different in a Province, depending on the delegation of power).

**At least two calendar months prior to the expiry of the term of office**
3 | The EA communicates in writing with the HoD whether she or he intends to retain the HoD’s services for a further period not exceeding five years (60 calendar months), or not

**Within one calendar month of the date of communication to extend term of office**
4 | The HoD informs the EA in writing whether she or he accepts the offer of extended employment.

9.4 If it is agreed that the HoD will enter into a further contract at the end of the present contract, her or his continued service will be recognised under the new contract. This will avoid any break of service and any accrued or pro rata entitlement will be carried forward into the new contract.

9.5 Should the EA not renew the contract beyond the initial period(s), the HoD has the right to retire and shall be entitled to the pension and other benefits directly linked to section 16(3) of the Act.

**Note:** For more details refer to the part dealing with termination of employment contracts in the SMS Handbook.

10. **ASSIGNMENTS AND ACTING APPOINTMENT / ACTING ALLOWANCE**

10.1 Section 32(1) of the Act stipulates that an EA or HoD may direct an employee under her or his control to temporarily perform any functions other than those ordinarily assigned to the employee or appropriate to her or his grade or post.

10.2 An employee may further be directed in writing to act in a post. Such acting appointment shall, in terms of section 32(2) of the Act, in the case of the post of HoD, be made by the relevant EA. At a National level, the relevant EA shall thus appoint a SMS member/suitable employee to act in the HoD post. At a Provincial level, if a premier has not delegated powers to other EAs, she or he shall appoint
a SMS member/suitable employee to act as HoD.

10.3 A SMS member/suitable employee may be compensated for acting as HoD in terms of a determination by the MPSA. Refer to Chapter 3 (paragraph 10) of the SMS Handbook for more details pertaining to the acting allowance and the policy.

10.4 A SMS member/suitable employee acting as HoD may only do so for maximum uninterrupted period of 6 (six) months. The acting allowance may only be paid to an acting member for a maximum of 6 months. The person to be appointed in the acting capacity should be informed in writing and the letter should include the following:

1. An indication that she or he has been appointed to act in accordance with section 32 of the Act.
2. The period of acting.
3. An indication of the post requirements and responsibilities in accordance with section 7(3)(b) of the Act.
4. An indication that she or he acts as accounting officer in terms of section 37 of the Public Finance Management Act, 1999.

10.5 The member must accept the acting appointment in writing.

11. ETHICAL CONDUCT

11.1 A HoD shall –

1. display the highest possible standards of ethical conduct;
2. set an example to subordinates and maintain high levels of professionalism and integrity in their interaction with political office-bearers, fellow employees and the public; and
3. ensure that they minimize conflicts of interests and that they put the public interest first in the performance of their functions.

11.2 A HoD is expected to comply with the Code of Conduct provided for in Chapter 2 of the PSR. Specific measures have been introduced to regulate the involvement of HoDs in work outside the public service and to enforce the disclosure of their financial interests.

11.3 No HoD shall perform paid work outside the public service unless provided for in her or his conditions of employment and with written permission from the relevant EA (section 30 of the Act). A HoD may not claim any extra remuneration for any official duty or work which she or he performs voluntarily or is required by an EA to perform.

11.4 A policy on the disclosure of financial interests is contained in Chapter 3 of the
PSR as well as in Chapter 9 of the SMS Handbook. HoDs must disclose their financial interests to their EAs by 30 April of each year. New appointees must disclose their interests within 30 days after assumption of duty. The framework includes a standardised form that has to be completed and certified. The regulatory framework prescribes that if HoDs do not disclose their interests by the prescribed date they may be charged with misconduct.

11.5 The PSC keeps a centralised database of information on financial matters of HoDs and members of the SMS. The OPSC is responsible for the management of the information.

11.6 Chapter 6 of the SMS Handbook provides further guidance on this important matter.

12. SUSPENSION

12.1 The suspension of HoDs is covered in Chapter 7 of the SMS Handbook.

12.2 The EA may suspend a HoD on full pay if -

(1) she or he is alleged to have committed a serious offence; and

(2) the EA believes that the presence of the HoD at the workplace might jeopardise an investigation into the alleged misconduct, or endanger the well-being or safety of any person or state property.

12.3 A suspension of this kind is a precautionary measure that does not constitute a judgement and must therefore be on full pay.

12.4 When a HoD is suspended, a disciplinary hearing must be held within 60 days. The EA must appoint a Chairperson and an employer representative to deal with the disciplinary hearing. The chair of the hearing must then decide on any further postponement and or further suspension.

13. DISCIPLINARY PROCEDURE

13.1 Chapter 7 the SMS Handbook deals with the disciplining of HoDs.

13.2 Paragraph 2.5 of Chapter 7 provides for the process to be followed in cases of less serious misconduct that warrants only corrective counselling, verbal warnings, written warnings or final written warnings.

13.3 If the alleged misconduct justifies a more serious form of disciplinary action, the EA may initiate a disciplinary enquiry. The disciplinary enquiry may follow in cases where -
(1) the transgression is so serious that counselling or warnings by an EA will not suffice;
(2) the transgression constitutes a material breach of the employment relationship; and
(3) transgressions are repeated and/or occur during the validity period of a written or final written warning.

13.4 The criteria for assessment of the seriousness of the alleged misconduct must be based on:
(1) Actual or potential impact on the work of the public service, department, organisational component, colleagues and public.
(2) Nature of the HoD’s work and responsibility.
(3) Circumstances in which the alleged misconduct took place.

13.5 The following are the steps/actions as prescribed in Chapter 7 on the disciplinary hearing:
(1) The EA may suspend a HoD in accordance with paragraph 2.7(2) as a precautionary measure.
(2) The EA must appoint a representative to initiate the enquiry.
(3) The relevant EA must appoint a person as chairperson for the hearing.
(4) The HoD must be given written notice of at least 5 working days before the date of the hearing and must sign receipt of notice.
(5) The written notice of the disciplinary meeting may be given in the form of Annexure D to Chapter 7 of the SMS Handbook.

13.6 The following are the main issues pertaining to conducting of the disciplinary hearing (See Chapter 7 in this regard):
(1) The disciplinary hearing must be held within 10 working days after the notice is delivered to the HoD.
(2) The HoD may be represented by a fellow member/employee or a representative of a recognised trade union, but not by a legal practitioner.
(3) Both sides shall be allowed to present evidence and cross-examine.
(4) The decision/final outcome of the hearing must be communicated to the HoD within 5 working days after conclusion of the disciplinary hearing.
(5) If the chairperson finds that the HoD has committed misconduct, she or he must pronounce a sanction.
(6) The EA and the HoD may agree that the disciplinary hearing will be chaired by an arbitrator from the relevant sectoral council.
14. GRIEVANCES

14.1 A HoD has the right to lodge a grievance about an official act or omission which adversely affects her or him in her or his employment relationship. Chapter 10 of the SMS Handbook contains the procedures that must be followed in dealing with grievances of members of the SMS, including HoDs.

14.2 Section 35(3) of the Act determines that a HoD may lodge any such grievance with the relevant EA or directly with the Public Service Commission (PSC).

14.3 Paragraph 7 of Chapter 10 of the SMS Handbook indicates the procedural stages to address the grievance of a HoD, either with the relevant EA or with the PSC directly.

14.4 Annexures A and B of Chapter 10 contain the grievance forms for submitting a grievance to the relevant EA or directly with the PSC.

14.5 Grievances relating to the outcome of the evaluation of a HoD must be dealt with in terms of the dispute resolution mechanism provided for in her or his Performance Agreement, before it is referred to the PSC in terms of the Grievance Rules.

14.6 It should be noted that section 35(4)(b) of the Act, determines that a HoD may not lodge a dispute on the same matter that was referred to the PSC, with the PSCBC or the relevant sectoral council or the CCMA.

15. INCAPACITY CODE AND PROCEDURES IN RESPECT OF POOR WORK PERFORMANCE

15.1 If the EA considers that the HoD is unfit for her or his duties or incapable of carrying them out efficiently and is not performing in accordance with the job requirements, she or he should be managed in accordance with the appropriate collective agreement (Resolution 10/99). The Code of Good Practice contained in Schedule 8 of the Labour Relations Act, 1995, insofar as it relates to incapacity, constitutes part of this agreement.

15.2 The purpose of the incapacity code, *inter alia,* is to help the HoD to -

(1) overcome poor performance;

(2) correct inadequate performance; and

(3) prevent arbitrary or discriminatory actions being taken.

15.3 In applying this procedure, the EA must assess the incapacity by considering:-

(1) the extent to which the incapacity affects the work of the public service, the HoD’s department, colleagues, and the public;
(2) the extent to which the HoD fails to meet the required performance standards established by the EA;

(3) the extent to which the HoD lacks the necessary skills to perform in accordance with the HoD’s PA;

(4) the nature of the HoD’s work and responsibilities; and

(5) the circumstances of the HoD.

15.4 If the EA considers that a HoD is not performing in accordance with the PA or job that the HoD has been employed to do, then the EA must:

<table>
<thead>
<tr>
<th>Step</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Give written reasons why it is necessary to initiate this procedure.</td>
</tr>
<tr>
<td>2</td>
<td>Serve the written reasons referred to in Step 1 on the HoD.</td>
</tr>
<tr>
<td>3</td>
<td>Meet with the HoD and (if the HoD chooses) with the HoD’s representative and/or a fellow member/ employee.</td>
</tr>
</tbody>
</table>

Also refer to Chapter 4 on the Performance Management and Development System for SMS in this regard.

15.5 When meeting with the HoD, the EA must apply the following procedure:

<table>
<thead>
<tr>
<th>Step</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Explain the requirements, grade, skills and nature of the job.</td>
</tr>
<tr>
<td>2</td>
<td>Give feedback on the HoD’s performance in relation to the requirements of the job.</td>
</tr>
<tr>
<td>3</td>
<td>Indicate reasons for perceived poor performance.</td>
</tr>
<tr>
<td>4</td>
<td>Hear the HoD or her or his representative on whether-&lt;br&gt;• she or he has performed in accordance with the requirements of the job; and&lt;br&gt;• the HoD agrees that she or he has not performed in accordance with the requirements of the job.</td>
</tr>
</tbody>
</table>
15.6 After considering the HoD’s position, the EA must, if necessary -

<table>
<thead>
<tr>
<th>Step</th>
<th>Action</th>
</tr>
</thead>
</table>
| 1    | Develop and initiate a formal programme of counselling and instruction to enable the HoD to reach the required standard of performance. This must include -
  |   • Assessing with the HoD the time that it would take for her or him to overcome the poor work performance;  
  |   • establishing from the above assessment realistic time frames the EA will expect the HoD to have met the required performance standards; and  
  |   • if necessary, identifying and providing appropriate training for the HoD to reach the required standard of performance; and  |
| 2    | Establish ways to address any factors that affect the HoDs performance that lie beyond her or his control. |

15.7 If the poor performance of the HoD is not remedied within the time frames established by the programme referred to above, then the EA must -

<table>
<thead>
<tr>
<th>Step</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Give the HoD a written report on the outcome of the procedure; and</td>
</tr>
<tr>
<td>2</td>
<td>Consult again with the HoD to explain the outcome of the procedure, and on measures to address any problems indicated in the report.</td>
</tr>
</tbody>
</table>

15.8 After consulting with the HoD, the EA must consider whether to -

(1) Continue to give the HoD appropriate guidance, instruction and counselling and establish a further appropriate period for the HoD to meet the required performance standards;

(2) Mentor the HoD;

(3) Place the HoD in a more appropriate job; or

(4) Dismiss the HoD.

Important:

Before exercising the option of dismissal or placement in an alternative job, the EA must give the HoD a hearing to establish reasons for failure to meet required standards.
16. INCAPACITY CODE IN RESPECT OF ILL HEALTH

16.1 If the EA considers that as a result of poor health or injury, a HoD is not performing in accordance with the job that she or he has been employed to do, then the EA shall investigate the extent of the incapacity or injury, with due consideration to the provisions of Resolution 12/99 and the leave provisions contained in Chapter 3 of the SMS Handbook.

16.2 In conducting the investigation, the EA must:

<table>
<thead>
<tr>
<th>Step</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Give the HoD (and the HoD’s trade union representative) the opportunity of stating the HoD’s case and being heard on all the issues that the EA investigates and considers.</td>
</tr>
<tr>
<td>2</td>
<td>Consider relevant medical and other information.</td>
</tr>
<tr>
<td>3</td>
<td>Provide the HoD with a written report setting out the results of the investigation.</td>
</tr>
</tbody>
</table>

16.3 In the investigation the EA must consider whether the nature of the HoD’s ill health or injury is of a temporary nature and the period of time that she or he is likely to be absent from work. In this investigation the EA must consider the:

1. nature of the job;
2. likely period of absence;
3. seriousness of the illness or injury;
4. remuneration of the HoD during her or his period of absence; and
5. possibility of securing a temporary replacement for the ill or injured HoD.

16.4 If the EA established that the HoD’s ill health or injury is of a temporary nature, the period of absence must be covered by sick/incapacity leave whichever is applicable. Please refer to Chapter 3 of the SMS Handbook for more details.

16.5 If the HoD’s ill health or injury is of a permanent nature the EA must investigate the possibility of:

1. securing alternative employment for the HoD (transfer in accordance with section 12(3) of the Act);
2. adapting the duties or work circumstances of the HoD to accommodate her or his disability; and
3. offering boarding on the grounds of ill health or injury.
16.6 If the investigation conducted by the EA suggests that the HoD’s ill health is as a result of alcohol or drug abuse, the EA may:

(1) counsel the HoD;
(2) encourage the HoD to attend rehabilitation;
(3) establish a formal rehabilitation programme which the HoD will be expected to follow; or
(4) terminate the employment of the HoD after following fair procedures, if the behaviour is repetitive.

16.7 If the HoD fails to follow the formal programme or to attend rehabilitation or to address the problem of alcohol or drug abuse, then the EA must:

(1) give the HoD or her or his representative a written report; and
(2) consult again with the HoD.

16.8 The EA may, if applicable and after consulting the HoD, consider whether to terminate the employment of the HoD after the normal disciplinary process is concluded.

17. TERMINATION OF CONTRACT OF EMPLOYMENT

17.1 Overview

(1) The term of office of a HoD may be terminated in the following ways. Each of these reasons for termination of contract of employment is dealt with in greater detail below.

<table>
<thead>
<tr>
<th>No.</th>
<th>Reason</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>On reaching the prescribed (or earlier optional) retirement age.</td>
<td>Section 16(1); (2); 2(A) and (4) of the Act</td>
</tr>
<tr>
<td>2</td>
<td>On completing a term or extended term of office.</td>
<td>Section 16(3) of the Act</td>
</tr>
<tr>
<td>3</td>
<td>Premature retirement at own request.</td>
<td>Section 16(5) of the Act</td>
</tr>
<tr>
<td>4</td>
<td>Discharge in terms of any of the subsections of section 17 of the Act.</td>
<td>Section 17 of the Act</td>
</tr>
<tr>
<td>5</td>
<td>Re-determination of original or extended term of office.</td>
<td>Section 3(7) read with section 12(4) of the Act</td>
</tr>
<tr>
<td>6</td>
<td>Voluntary resignation.</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Death.</td>
<td></td>
</tr>
</tbody>
</table>
(2) The employment contract provides that either party may after consultation and agreement, terminate the contract before the expiry of an original term of office or an extended term of office, by giving to the other party three months notice of termination (PSR Annexure 2 – Part 1). This notice must be given in writing and be given on or before the last day of a month and take effect of the first day of the succeeding month.

(3) The payment of pension and other benefits are directly linked to the -
(a) specific section of the Act;
(b) Government *Employees Pension Fund Law*, 1996 and Rules of the Government Employees Pension Fund and regulations promulgated as applicable to a HoD;
(c) Public Service Regulations; and
(d) collective agreement(s) reached.

**Note:**

The following paragraphs illustrate the benefits that are payable in different circumstances. These are illustrations only and actual calculations must be done with reference to the above acts/ regulations/ agreements and with the help of experts.

### 17.2 Reaching retirement age

(1) The following severance benefits are payable when a term of office is terminated by reaching the prescribed (or earlier optional) retirement age (Section 16(1); (2); 2(A) and (4) of the Act).

(2) These are the pension benefits payable:

<table>
<thead>
<tr>
<th>Length of service</th>
<th>Pension benefit</th>
</tr>
</thead>
</table>
| Less than 10 years pensionable service. | • *Actuarial interest:*
| | HoDs who are younger than 55: Period of pensionable service x average salary over the last 24 months of service x actuarial factor. |
| | HoDs who are older than 55: [6.72% x average salary over last 24 months of service x years of pensionable service] + [(1/55 x average salary over last 24 months of service x period of pensionable service) x actuarial factor]. |
At least 10 years pensionable service.

- **Gratuity** at 6.72% x average salary over last 24 months of service x years of pensionable service.
- **Annuity** at 1/55 x average salary over last 24 months of service x years of pensionable service.

**Note:**

An HoD with at least 10 years of pensionable service may elect in writing to have either the gratuity or annuity reduced in favour of an increased spouse’s pension entitlement.

(3) A leave payout is made in respect of any unused leave credits of the previous and/or current leave cycle, and annual leave credits prior to 1 July 2000 (capped leave) on the basis provided for in Chapter 3 of the SMS Handbook.

(4) A pro rata 13th cheque is paid, if structured.

(5) Resettlement benefits are paid as per the policy contemplated in Chapter 3 of the SMS Handbook.

(6) The following post retirement medical assistance benefits are paid:

<table>
<thead>
<tr>
<th>Length of service</th>
<th>Medical assistance</th>
</tr>
</thead>
<tbody>
<tr>
<td>At least 15 years</td>
<td>Continued employer contribution from the age of 50 onwards as follows: Two-thirds of membership fees limited to the same maximum employer contribution applicable to serving employees.</td>
</tr>
<tr>
<td>At least 10 but less than 15 years</td>
<td>Cash benefit of 36 times the actual employer contribution as at the last day of service.</td>
</tr>
<tr>
<td>Less than 10 years</td>
<td>Cash benefit of 12 times the actual employer contribution as at the last day of service.</td>
</tr>
</tbody>
</table>

**Note:**

Medical benefits are only payable if the HoD is a member of a registered medical scheme for at least the 12 months before retirement.

17.3 **Completing term (section 16(3) of the Act)**

(1) On expiry of a HoD’s term of office or any extended term, section 16(3)(b) of the Act applies, which stipulates that the HoD shall be deemed to have been dismissed in terms of section 17(2)(b) of the Act.
(2) The following pension benefits are payable:

<table>
<thead>
<tr>
<th>Length of service</th>
<th>Pension benefits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 10 years pensionable service</td>
<td><strong>Gratuity</strong> calculated at 15.5% of average salary over the last 24 months of service x the period of pensionable service. (The amount of the gratuity payable shall be increased by one-third of the said amount).</td>
</tr>
</tbody>
</table>
| At least 10 years pensionable service | **Gratuity** calculated at 6.72% of average salary over the last 24 months x the period of pensionable service.  
**Annuity** calculated at 1/55 of average salary over the last 24 months x the period of pensionable service, and  
A **supplementary amount** of R360 per year. |

(3) For the purposes of the calculation of the gratuity and annuity of HoDs with at least 10 years of pensionable service, the period of pensionable service, (excluding all completed terms of office) shall be increased by:

(a) one third of the period of pensionable service (excluding term of office) but not exceeding five years or the number of years up to the 60th birthday (or 65 in the case of a person in office on 1 May 1997); and

(b) one half of the (completed) period during which she or he held office as HoD, provided that the total of a member’s pensionable service shall not exceed 55 years.

**Note:**

An HoD with at least 10 years of pensionable service may elect in writing to have either the gratuity or annuity reduced in favour of an increased spouse’s pension entitlement.

(4) A leave payout is made in respect of any unused annual leave credits of the previous and/or current leave cycle, and annual leave credits prior to 1 July 2000 (capped leave) on the basis provided for in Chapter 3 of the SMS Handbook.

(5) A **pro rata** 13th cheque is paid, if structured.
(6) Medical assistance is based on the following:

<table>
<thead>
<tr>
<th>Length of service</th>
<th>Medical assistance</th>
</tr>
</thead>
<tbody>
<tr>
<td>At least 15 years</td>
<td>Continued employer contribution from the age of 50 onwards as follows: Two-thirds of membership fees limited to the same maximum employer contribution applicable to serving employees. A person who does not immediately qualify for the continued employer contribution may be paid a cash amount equal to 6 times the maximum employer contribution.</td>
</tr>
<tr>
<td>At least 10 but less than 15 years</td>
<td>Cash benefit equal to 36 times the actual employer contribution as at the last day of service.</td>
</tr>
<tr>
<td>Less than 10 years</td>
<td>Cash benefit equal to 12 times the actual employer contribution as at the last day of service.</td>
</tr>
</tbody>
</table>

Note:

Medical benefits are only payable if the HoD is a member of a registered medical scheme for at least the 12 months before retirement.

(7) Resettlement benefits paid as per the policy contemplated in Chapter 3 of the SMS Handbook.

17.4 Premature retirement at own request

(1) Section 16(5) of the Act provides that the HoD may be allowed to retire from the Public Service before her or his term of office or any extended term of office expires.

(2) If the HoD is allowed to retire from the Public Service in terms of this section, she or he shall not be entitled to any added pension benefits unless she or he retires during an extended term of office. In such a situation service is increased as if the term of office had been completed (maximum 5 years +½ of the completed term of office).

(3) The following pension benefits will be payable:
Length of service | Pension benefit
--- | ---
Less than 10 years pensionable service | **Actuarial interest**
| • HoDs who are younger than 55: Period of pensionable service x average salary over the last 24 months of service x actuarial factor.
| • HoDs who are older than 55: [6.72% x average salary over last 24 months of service x years of pensionable service] + [(1/55 x average salary over last 24 months of service x period of pensionable service) x actuarial factor]

More than 10 years pensionable service | • **Gratuity** at 6.72% x average salary over the last 24 months of service x period of pensionable service*.
| • **Annuity** at 1/55 of average salary over the last 24 months of service x period of pensionable service*.
| • **Supplementary** amount of R 360 per year.

Note:

If the HoD with 10+ years’ service retires during an extended term of office, her or his pensionable service (excluding completed term of office) will be increased similar to the HoD who served a completed term, except that the uncompleted term is part of the pensionable service to be increased. An HoD with at least 10 years of pensionable service may elect in writing to have either the gratuity or annuity reduced in favour of an increased spouse’s pension entitlement.

(4) A leave payout is made in respect of any unused annual leave credits of the previous and/or current leave cycle, and annual leave credits prior to 1 July 2000 (capped leave) on the basis provided for in Chapter 3 of the SMS Handbook.

(5) A *pro rata* 13th cheque is paid if structured.

(6) Resettlement benefits paid as per the policy contemplated in Chapter 3 of the SMS Handbook.

(7) The following medical benefits apply:
<table>
<thead>
<tr>
<th>Length of service</th>
<th>Medical assistance</th>
</tr>
</thead>
<tbody>
<tr>
<td>At least 15 years</td>
<td>Continued employer contribution from age 50 as follows: Two-thirds of membership fees limited to the same maximum employer contribution applicable to serving employees.</td>
</tr>
<tr>
<td>At least 10 but less than 15 years</td>
<td>Cash benefit of 36 times the actual employer contribution as at the last day of service.</td>
</tr>
<tr>
<td>Less than 10 years</td>
<td>Cash benefit of 12 times the actual employer contribution as at the last day of service.</td>
</tr>
</tbody>
</table>

**Note:**
Medical benefits are only payable if the HoD is a member of a registered medical scheme for at least the 12 months before retirement.

### 17.5 Discharge (section 17 of the Act)

1. Payment of pension and other benefits are directly linked to the specific section of the Act, as regulated by the pension laws and other prescripts and collective agreements (section 17 of the Act).

2. The Act allows for the following circumstances under which the contract may be terminated:
   - Incapacity due to ill health or injury.
   - Operational requirements of the department as provided for in the Labour Relations Act.
   - Incapacity due to poor work performance.
   - Misconduct.

### 17.6 Re-determination of original or extended term of office

1. It might under certain circumstances be necessary to re-determine a HoD’s term of office to expire earlier than initially anticipated in terms of sections 12(1) and (2) of the Act, provided there is no breach of contract or due to incapacity (poor performance or ill health) or misconduct.

2. In practice the situation will be dealt with by the relevant EA reaching an agreement with the HoD to re-determine the HoD’s term of office to expire earlier. The relevant EA (at national level) will subsequently approach the MPSA for approval of such a re-determination and the payment of a special service benefit to the HoD in accordance with the stipulations of section 12(4) of the Act.

3. In order to assist EAs in calculating the above-mentioned special service benefit, attention is drawn to the MPSA’s “Determination on Special Benefits applicable when term of office of Head of Department is re-determined” – see Annexure G.
(4) The purpose of the Determination (Annexure G) is to provide for compensation when a HoD’s term of office is re-determined before the end of the term for a reason other than the HoD’s misconduct or incapacity due to poor performance or ill health. The compensation payable takes into account loss or potential loss of income, fairness, the negative effect attached to the premature termination, outstanding performance assessments and the expeditious finalisation of the exit in the best interest of the State with due regard to the entitlements of the HoD.

(5) The MPSA must be consulted on the fairness of the special service benefit. The payment is subject to Treasury approval and normal income tax directives apply when paying the special service benefits.

(6) The following pension benefits are paid:

<table>
<thead>
<tr>
<th>Length of pensionable service</th>
<th>Pension benefit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 10 years pensionable service</td>
<td><strong>Gratuity</strong> calculated at 15,5% of the average salary over the last 24 months of service x the period of pensionable service (+ the amount of the gratuity which is payable shall be increased by one-third of the said amount)</td>
</tr>
</tbody>
</table>
| At least 10 years pensionable service | • **Gratuity** calculated at 6,72% of average salary over the last 24 months of service x the period of pensionable service.  
• An **annuity** calculated at 1/55 of average salary over the last 24 months of service x the period of pensionable service.  
• A **supplementary** amount of R360 per year. |

**Note:**

For the purposes of the calculation of the gratuity and annuity in respect of HoDs with at least 10 years of pensionable service, the period of pensionable service (excluding all completed terms of office) shall be increased by a period equal to one third of the period of pensionable service, but not exceeding five years or the number of years up to the 60th birthday (or 65 in the case of a HoD in office on 1 May 1997), and one half of the (re-determined completed) period during which she or he held office as HoD (Provided that the total of a member’s pensionable service shall not exceed 55 years). An HoD with at least 10 years of pensionable service may elect in writing to have either the gratuity or annuity reduced in favour of an increased spouse’s pension entitlement.

(7) A leave payout is made in respect of any unused annual leave credits of the previous and/or current leave cycle, and annual leave credits prior to
1 July 2000 (capped leave), on the basis provided for in Chapter 3 of the SMS Handbook.

(8) A pro rata 13th cheque is paid if structured.

(9) Resettlement benefits paid as per the policy contemplated in Chapter 3 of the SMS Handbook.

(10) The following medical benefits apply:

<table>
<thead>
<tr>
<th>Length of service</th>
<th>Medical assistance</th>
</tr>
</thead>
<tbody>
<tr>
<td>At least 15 years</td>
<td>Continued employer contribution from age 50 as follows: Two-thirds of membership fees limited to the same maximum employer contribution applicable to serving employees. A person who does not immediately qualify for the continued employer contribution may be paid a cash amount equal to 6 times the maximum employer contribution.</td>
</tr>
<tr>
<td>At least 10 but less than 15 years</td>
<td>Cash benefit of 36 times the actual employer contribution as at the last day of service.</td>
</tr>
<tr>
<td>Less than 10 years</td>
<td>Cash benefit of 12 times the actual employer contribution as at the last day of service.</td>
</tr>
</tbody>
</table>

17.7 Voluntary resignation

(1) When a HoD resigns from the Public Service, she or he shall receive the following pension benefits:

A choice between:

(a) A cash resignation benefit of 7.5% x average salary x years + (plus) increased with 10% interest for each full year of service between 5 and 15 years e.g. 6 years: 10%, 7 years: 20%; 8 years: 30% up to 100%; or

(b) Transfer benefit equal to actuarial interest.

(2) A leave payout is made in respect of any unused annual leave credits for the previous and/or current leave cycle on the basis provided for in Chapter 3 of the SMS Handbook.

(3) A pro rata 13th cheque, if structured.

Note:

A resignation is to be distinguished from early retirement in accordance with section 16(5) of the Act.
18. **EXIT INTERVIEWS**

18.1 The MPSA has, in terms of Section 3(3)(e) of the Public Service Act, 1994 issued a Directive to elucidate and supplement PSR1/VII/G.2. The Directive to institutionalize the practice of exit interviews in the Public Service, is effective from 1 January 2008.

18.2 In accordance with the above-mentioned Directive, an exit interview must be conducted with a HoD whose employment is terminated on or after the date of commencement of the Directive on account of -

1. incapacity due to ill-health or injury;
2. retirement; or
3. resignation.

18.3 For the above purpose, the relevant EA must, in respect of the exit interview contemplated in paragraph 18.2 supra -

1. appoint a panel comprising of at least two HoDs to conduct the exit interview;
2. determine the manner in which the exit interview will be conducted; and
3. develop an exit interview template which must, as a minimum, require the HoD to indicate the following:
   a. the reasons for her or his exit;
   b. the circumstances, if any, under which the HoD would consider returning to the Department or Public Service; and
   c. any suggestions for improving the working environment and service delivery within the Department and Public Service.

19. **APPOINTMENT, MANAGEMENT AND EXIT OF DDGs**

The appointment, management and exit of DDGs is extensively covered in the SMS Handbook and the general provisions for members of the Senior Management Service apply.
DELEGATION OF POWERS

8 October 1999

Dear Colleague

DELEGATION OF POWERS ENTRUSTED TO THE PRESIDENT: HEADS OF NATIONAL DEPARTMENTS

As you are aware, a new regulatory framework to effectively manage human resources within the Public Service has come into operation with effect from 1 July 1999.

Section 3B of the Public Service Act, 1994 entrusts me as President with the power to undertake and manage the appointment and other career incidents of heads of national departments. These powers include, inter alia, the appointment, deployment, performance management, salary increases, secondments and extention and termination of employment contracts of heads of departments in the national sphere of government.

In view of the fact that Ministers and their Departmental heads actively and continuously work together to optimise departmental functioning and to contribute towards effective service delivery, I have delegated, in accordance with section 3B(4)(a) of the Public Service Act, 1994, the powers entrusted to me as described in the first column of the attached Annexure, to Ministers. Please note that the deployment of heads of departments in terms of section 3B(2)(a) of the Act, is not delegated. I will exercise this power together with you and other Executing Authorities in Cabinet, as envisaged in the said section, read with section 85(2) of the Constitution, 1996. The application of the delegated powers listed in the Annexure is, besides the conditions laid down therein, also subject to the relevant provisions of the Public Service Act, 1994, the new Regulations and other instructions.

The Minister for the Public Service and Administration will gladly render support and give advice to the application of the delegated powers, if required.

Kind regards.

T M MBEKI
Dr E G Pahad
Minister in the Office of the Presidency
Room 223B
Tuynhuys
CAPE TOWN
POWERS OF THE PRESIDENT IN TERMS OF SECTION 3 B(1) OF THE PUBLIC SERVICE ACT, 1994, WHICH ARE DELEGATED BY THE PRESIDENT TO MINISTERS FOR RECOMMENDATION OR APPROVAL

1. Purpose

1.1 To expedite as far as possible the taking of decisions regarding the appointment of Heads of Department (HoDs) as well as other career incidents of heads, within the new statutory framework.

2. Delegations

2.1 The President delegates the powers assigned to him in terms of Section 3 B(1) of the Public Service Act, 1994 (Proclamation 103 of 3 June 1994), to the extent indicated in the Annexure and subject to the conditions as set out thereunder, in terms of section 3B(4) of the Public Service Act, 1994 to Ministers as indicated.

3. Conditions

3.1 The delegations must be exercised with due regard to the Constitution of the Republic of South Africa, 1996, relevant statutory and financial requirements, the Public Service Regulations and applicable collective agreements.

3.2 The criteria prescribed/laid down in the Public Service Act, 1994, and the policy as contained in the new Regulations and other relevant documents, must be adhered to.

3.3 Even though the relevant powers have been delegated, the President may at any time decide to exercise/perform such powers personally.
POWERS OF THE PRESIDENT IN TERMS OF SECTION 3 B(1) OF THE PUBLIC SERVICE ACT, 1994, WHICH ARE DELEGATED BY THE PRESIDENT TO MINISTERS FOR RECOMMENDATION OR APPROVAL

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<th>DELEGATED POWER</th>
<th>CONDITIONS</th>
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<tr>
<td><strong>TOPIC</strong></td>
<td><strong>MINISTER TO WHOM DELEGATED, EXCEPT WHERE OTHERWISE INDICATED</strong></td>
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<tr>
<td><strong>1. The recruitment/appointment/employment/promotion/of any person or employee to the post of HoD.</strong></td>
<td>Minister who is the executing authority for the department/organisational component concerned or in the case of the Office of the Presidency, the President acting on his own.</td>
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<td>TOPIC</td>
<td>MINISTER TO WHOM DELEGATED, EXCEPT WHERE OTHERWISE INDICATED</td>
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<td>2. Determination of commencing salary.</td>
<td>As in No. 1</td>
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<td>3. Awards to HoD in recognition of suggestions, inventions, improvements, etc. and sustained above average job performance, for exceptional efficiency and/or for an exceptional achievement.</td>
<td>As in No.1</td>
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<td>4. Retirement when term expires</td>
<td>As in No.1</td>
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<td>5. Permission for the performance of remunerative work outside employment in the public service.</td>
<td>As in No. 1</td>
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<td>6. Suspension of HoD suspected of misconduct.</td>
<td>As in No.1</td>
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<td>TOPIC</td>
<td>MINISTER TO WHOM DELEGATED, EXCEPT WHERE OTHERWISE INDICATED</td>
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| 7. Extention of the term of office.        | As in No.1                                                  | Section 12(1) and (2) | 1. Three months prior to the expiry of term of office MPSA to be informed of intention to extend contract.  
2. Extention to be dealt with after consultation with MPSA.  
3. Extention must be effected with the signing of a new employment contract and a Performance Agreement.  
4. Extention can be granted for up to 5 years. | Cabinet to be informed prior to expiry of term of office by relevant Minister. |
| 8. Salary increases in accordance with the performance of the HoD. | As in No.1                                                  | Resolution 13 of 1998 of PSCBC. | To be determined in accordance with bases provided by the MPSA after consultation with MPSA. |                                                                          |
| 9. Secondment of HoD between departments; to the service of another government/board, institution, or body. | As in No.1                                                  | Section 15(3)        | After consultation with MPSA.                                            | Cabinet to be informed by relevant Minister.                              |
| 10. Retirement on reaching the prescribed (or earlier optional) retirement age. | As in No.1                                                  | Section 16(1), (2) (2A) and (4) | HoD to notify relevant Minister.                                         | MPSA to be informed.  
Cabinet to be informed by relevant Minister.                                |
| 11. Premature retirement at request of HoD. | As in No.1                                                  | Section 16(5)        | After consultation with the MPSA.                                        | Cabinet to be informed by the relevant Minister.                           |
## Executive Protocol

### DELEGATED POWER

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<th>TOPIC</th>
<th>MINISTER TO WHOM DELEGATED, EXCEPT WHERE OTHERWISE INDICATED</th>
<th>PRESCRIPT</th>
<th>EXECUTION</th>
<th>REPORTING</th>
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| 12. Redetermination of original term/extended term of office by Employer. | As in No.1 | Section 12(1) & (2) | 1. Recommendation by relevant Minister to MPSA to redetermine term of office of HoD.  
2. MPSA to advise President* on redeployment if possible and advisable, otherwise MPSA has to approve and determine the benefits. | Cabinet to be informed by relevant Minister. |
| 13. Resignation | As in No.1 | Relevant Minister to note resignation. | | MPSA to be informed.  
Cabinet to be informed by the relevant Minister. |
| 14. Discharge due to continued ill-health. | As in No.1 | Section 17(2) (a) | Approved by relevant Minister. | MPSA to be informed.  
Cabinet to be informed by the relevant Minister. |

### Notes:

* The President exercises the executive authority together with the other members of Cabinet (section 85 (2) of the Constitution, 1996).
* The President exercises the executive authority together with the other members of Cabinet (section 85 (2) of the Constitution, 1996).
* Other administrative and operational arrangements related to the employment of Heads of Departments such as information on remuneration, working hours, leave etc. must be dealt with within the national norms and standards determined in terms of legislative and other prescripts.
* Deployment of HoDs in terms of section 3 B(2)(a) of the Public Service Act, 1994, cannot be delegated and shall be dealt with by the President (who will exercise the power with other members of Cabinet).
PROTOCOL DOCUMENT ON THE PRINCIPLES AND PROCEDURES TO BE FOLLOWED FOR THE RECRUITMENT AND FILLING OF POSTS OF HEAD OF DEPARTMENT (HoD) AND DEPUTY DIRECTOR-GENERAL (DDG) AT NATIONAL LEVEL

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<tr>
<th>PRINCIPLES/PROCEDURES</th>
<th>REFERENCE</th>
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<tr>
<td>1. The purpose of this document is to confirm the principles/procedures that apply in appointing HoDs and DDGs at national level.</td>
<td>Cabinet adopted the Protocol Document on 28/6/2000</td>
</tr>
<tr>
<td>2. Although HoDs and DDGs are appointed by Executive Authorities (EAs), Cabinet also plays a role in their employment.</td>
<td>Cabinet decisions of 3/9/1997 and 12/4/2000</td>
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<td>3. The Minister for the Public Service and Administration (MPSA) has the responsibility to submit motivations for the filling of HoD and DDG posts to Cabinet. Only after Cabinet has concurred with the nomination, can the appointment of the candidate be formalised.</td>
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<tr>
<td>4. HoDs are appointed for a term of five years or such shorter period as determined by the relevant EA. Cabinet, however, decided in September 1999 that national HoDs should as a general rule be appointed for a period of three years. On 5 May 2010 Cabinet “approves that in keeping with the Public Service Act, 1994, that Heads of National Departments be appointed for a term of five years, which may be renewed pending on the performance and at the discretion of Cabinet”.</td>
<td>Section 12 of the Public Service Act, (PSA), 1994</td>
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<td></td>
<td>Cabinet decision dated 5/5/2010</td>
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<td>5. DDGs are generally appointed in the same way as any other career public servant.</td>
<td>Section 9 and 11 of the PSA, 1994</td>
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<td>6. Before a post of HoD or DDG is advertised/ filled, an EA must first determine the composite requirements for employment in the post based on the inherent requirements of the job. An EA shall -</td>
<td>Public Service Regulations (PSR) 1/VIIC.1.1 and 1/VIIIC.1.2</td>
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<td>(a) record the inherent requirements of the job;</td>
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<tr>
<td>(b) ensure that the requirements for employment do not discriminate against persons historically disadvantaged; and</td>
<td></td>
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<td>(c) comply with any statutory requirement for the appointment of employees.</td>
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<td>7. The job must also be evaluated, unless it has been evaluated before. Evidence must be submitted that the relevant job has been evaluated in terms of the job evaluation system.</td>
<td>PSR 1/III/F</td>
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<td>PRINCIPLES/PROCEDURES</td>
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<td>8. An EA must ensure that the vacant post of HoD or DDG is advertised to reach (as efficiently and effectively as possible) the entire pool of potential applicants. The filling of posts of HoD and DDG must be effected by means of advertising such vacancy nationally inside and outside the Public Service. An advertisement for a post must, as a minimum, specify the following –</td>
<td>PSR 1/ VII/C.2</td>
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<tr>
<td>- Job title.</td>
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<td>- Core functions to be performed by the incumbent.</td>
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<td>- Inherent requirements of the post.</td>
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<td>- All-inclusive package payable.</td>
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<td>- Contact person to whom enquiries can be addressed.</td>
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<td>- Closing date.</td>
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<td>- The contract period (in the case of an HoD).</td>
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<td>- That the successful candidate will be required to enter into an annual performance agreement and that she/he will have to disclose her/his financial interests.</td>
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<tr>
<td>- That all shortlisted candidates will be subjected to personnel suitability checks (PSCs).</td>
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<tr>
<td>9. An EA may only fill a vacant post of HoD and DDG without advertising in the circumstances outlined in the PSR.</td>
<td>PSR 1/VII/C.1B and 1/VII/C.2.5</td>
</tr>
<tr>
<td>10. An EA may utilise an appropriate agency or selection consultant to assist in some or all of the selection processes as long as the prescribed advertising and selection procedures are followed.</td>
<td>PSR 1/VII/C.2.6</td>
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<tr>
<td>11. After the closing date of the advertisement the department concerned must do shortlisting. All shortlisted candidates must be subjected to preliminary security vetting as regulated in the MISS. In this regard departments must conduct personnel suitability checks (PSCs) in respect of all shortlisted candidates. The prescribed verifications must be conducted prior to the appointment or the filling of a post of HoD or DDG. Therefore, no candidate or person may be appointed in or transferred to a post of HoD or DDG before the verification results have been duly considered. Such PSCs shall, with effect from 1 January 2008, cover at least the following:</td>
<td>Cabinet decision of 17/3/1999</td>
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<tr>
<td>(a) Criminal record checks;</td>
<td>“Dear Colleague” letter by MPSA dated 24/4/2002</td>
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<td>(b) Citizenship verification;</td>
<td>PSR 1/VII/D.8(a)</td>
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<td>(c) Financial/asset record checks;</td>
<td>National Vetting Strategy approved by Cabinet during December 2006.</td>
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<tr>
<td>(d) Qualification/Study verification; and</td>
<td>Directive by MPSA issued under cover of DPSA Circular 14/1/1/P of 23/11/2007</td>
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<tr>
<td>(e) Previous employment verification (Reference checks)</td>
<td>Directive by MPSA issued under cover of DPSA Circular HRP1 of 2010 dated 1 April 2010</td>
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<tr>
<td>As regards to 11(d) above, verification of qualifications must be undertaken by the South African Qualification Authority (SAQA) in line with a directive issued in this regard by the MPSA, effective 1 March 2010.</td>
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<tr>
<td>12. An EA must appoint a selection committee. Such a selection committee constituted for the appointment of a head of a national department, shall be chaired by the Minister responsible for the portfolio in which the vacancy exists and include at least two other Ministers and a national head of department. The selection committee constituted for the appointment of a Deputy Director-General of a national department, shall be chaired by the Minister responsible for the portfolio in which the vacancy exists and include at least two Deputy Ministers and the relevant head of department.</td>
<td>PSR 1/VII/D.2 as amended with effect from 01 March 2013</td>
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<tr>
<td>13. During the selection process all candidates for a particular post must be assessed against the same selection criteria by the same selection committee.</td>
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<td>14. In respect to the Directive on the implementation of competency based assessment of 1 April 2011, it should be noted that following the interview process, the two most suitable candidates must be invited for a competency assessment, to determine developmental gaps. With reference to the competency assessment, only mandated tools developed by the dpsa may be used.</td>
<td>Cabinet decision of 26 to 28 July 2006&lt;br&gt;DPSA circular of 4/3/2008&lt;br&gt;Chapter 5 of the SMS Handbook as amended, May 2011&lt;br&gt;Directive w.e.f. 1/4/2011 issued under cover of DPSA Circular dated 10/5/2011</td>
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<tr>
<td>15. The selection committee shall make a recommendation on the suitability of a candidate after considering only –&lt;br&gt;   (a) Information that is based on valid methods, criteria or instruments for selection that are free from any bias or discrimination;&lt;br&gt;   (b) the training, skills, competence and knowledge necessary to meet the inherent requirements of the post;&lt;br&gt;   (c) the needs of the department for developing human resources;&lt;br&gt;   (d) the representativeness of the component where the post is located; and&lt;br&gt;   (e) the department's affirmative action programme.</td>
<td>Section 11 of the PSA, 1994&lt;br&gt;PSR 1/VII/D</td>
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<td>16. The selection committee shall record the reasons for its recommendation. The appointment of the successful candidate should only be approved after consultation with the MPSA (who is responsible for obtaining Cabinet's concurrence) and once the President has exercised his prerogative on deployment.</td>
<td>Cabinet decision of 4/8/1999</td>
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### PRINCIPLES/PROCEDURES

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| 17. In order to allow the MPSA to add value and to facilitate the appointment of nominated candidates to posts of HoD and DDG in national departments, national EAs are required to forward information on these candidates to the MPSA. For this purpose a pro-forma letter (Annexure C) and a Cabinet Memorandum (Annexure D) containing all relevant information, should be forwarded to the MPSA at least four weeks before the Cabinet meeting. For practical reasons, departments must only deal with one appointment per Cabinet Memorandum.  
**Note:** The Cabinet Memorandum must be accompanied by an updated curriculum vitae. The appointing Department must provide information on the Boards that the nominee is currently serving on as well as business interests, if any.                                                                 | Cabinet decisions of 12/4/2000, 22/8/2001 and 24/3/2010                                                                                                                                                  |
| 18. Agreement on the remuneration of the prospective appointee must be reached between the relevant EA and the prospective appointee before Cabinet is approached for approval of the appointment. The remuneration to be awarded to the relevant person should be included in the proposal to be presented to Cabinet. An EA may not request a deviation after Cabinet has taken a decision on the matter.  
**Note:** With reference to the Cabinet Memorandum (Annexure D), departments are required to list and inform Cabinet about the extent of representivity of the institution concerned, and how this will be affected by the appointment.                                                                 | Cabinet decisions of 24/10/2012                                                                                                                                                                           |
| 19. After Cabinet’s concurrence has been obtained the relevant EA will issue an appointment letter to the successful candidate. Such a letter should include the following:  
- Indicate in accordance with which provision of the Act the appointment is effected.  
- Term of contract (if applicable) and all-inclusive package.  
- Attach the prescribed employment contract and refer to the requirement to enter into a performance agreement within the first three months of appointment.  
- Date of assumption of duty (The date of appointment will be with effect from a date as agreed to by the relevant EA and the appointee.).  
- Requirement to disclose financial interests within one month of appointment.  
- Requirement to complete form Z204, in order to allow the Domestic Branch of the State Security Agency to conduct the necessary vetting investigations, at the end of which a relevant security clearance will be considered.  
- Indicate that the appointment is made subject to a probationary period of 12 months (in the case of all permanent appointments and contract appointments of 12 months and more).                                                                 | PSR, Annexure 2, Parts 1,2 and 3                                                                                                                                                                          |
### PRINCIPLES/PROCEDURES

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<td>20. Should any candidate require reasons why she/he was not appointed, it will be the responsibility of the relevant EA to provide such reasons.</td>
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<td><strong>Note:</strong></td>
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<td>For purposes of dealing with an extension of a contract a <em>pro forma</em> letter and Cabinet Memorandum are attached at Annexures E and F.</td>
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<td>21. Once Cabinet has approved/concurred with an appointment, all aspects relating to such appointment decision by Cabinet must be complied with by the relevant EA, and failure to adhere to the Cabinet decision will be deemed as non compliance in terms of the provisions of the Public Service Act, 1994.</td>
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L N Sisulu, MP  
Minister for the Public Service and Administration  
Private Bag X 916 PRETORIA  
0001  

Dear Colleague

FILLING OF THE VACANT POST OF .................................................................................. : DEPARTMENT OF ..............................................................................................................................

The above-mentioned post was advertised nationally within and outside the Public Service during ................................ with a closing date of .................. . After assessment of all applications against the key performance areas and requirements of the post as advertised, candidates were shortlisted.

A Selection Committee conducted interviews with all the shortlisted candidates. Ms/Mr ......................, acted as scribe to assist the Committee.

After thorough consideration of the candidature of the shortlisted individuals against the particular requirements and circumstances of the post, Ms/Mr ...................... was found to be the most suitable candidate for the post.

The following documents regarding the filling of the post are attached:

(a) Copy of internal and external advertisement.
(b) List of the candidates who applied for the post.
(c) Cabinet Memorandum for submission to Cabinet.
(d) Copy of letter from the Domestic Branch of the State Security Agency regarding preliminary security vetting.
(e) Documentary proof of the outcome of personnel suitability checks.
(f) Exposition of representivity profile per SMS level, before and after the appointment.
(g) Copy of curriculum vitae/résumé.
(h) Copy of ID.
(i) Copy of competency assessment report.
(j) Copy of written verification of qualification(s) issued by SAQA.
(k) Copy of a duly completed, signed and dated application form (Z83).
(l) Copy of the Department’s organisational structure (complying with the MPSA’s Directive effective 1 July 2006).
(m) Evidence of Job Evaluation conducted.

In view of the aforementioned, it will be appreciated if you can obtain Cabinet's concurrence with the appointment of Ms/Mr ...................... for a term of ...................... years (in the case of a contract appointment), to the vacant post of Director-General/Deputy Director-General: ............................................., with an all-inclusive remuneration package of R ...................... per annum with effect from a date to be agreed between myself and the nominee.

Thank you for your co-operation and assistance.

Kind regards

MINISTER  

DATE:
MINISTRY FOR THE PUBLIC SERVICE AND ADMINISTRATION

CABINET MEMORANDUM NO : ........................................ OF 2013 ...............
DATE : ........................................................................ 2013 ...............
FILE NUMBER : ...........................................................................

1. SUBJECT
Filling of the post of Director-General/Deputy Director-General: ............................................
in the Department of ..............................................................................................................

2. PURPOSE
To obtain Cabinet’s concurrence for the intended appointment of Ms/Mr .........................
to the advertised post of ................................................................. at the Department of
.................................................................................................................................

3. SUMMARY
It is the intention of the Minister of ......................................................... to appoint
Ms/Mr ................................................. to the advertised post of Director-General/
Deputy Director-General: ................................................................. on the establishment
of the Department of .......................................................................................
4. STRATEGIC FOCUS OF THE MEMORANDUM

The filling of this post will contribute to the achievement of the strategic aims of the Department.

5. DISCUSSION

5.1 The post of ………………………………………was advertised in the media and in the Public Service Vacancy Circular on ……………….. with a closing date of ………………………

5.2 A total number of ………………………… applications were received for the advertised post.

5.3 The following key performance areas have been identified for this post:

5.3.1

5.3.2

5.3.3

5.3.4

5.3.5

5.4 A pre-selection was done by scrutinising each of the applications received, with due consideration to the core functions and requirements for the post as indicated in the advertisement. The following candidates were shortlisted and invited to the final interviews:

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<tr>
<th>NAME</th>
<th>EMPLOYER/DEPARTMENT</th>
<th>RANK/POSITION</th>
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(TO BE CLASSIFIED AS SECRET ONCE COMPLETED)
5.5 A Selection Committee was constituted consisting of:

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<th>NAME</th>
<th>PORTFOLIO</th>
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5.6 The Selection Committee conducted interviews with the shortlisted candidates. Following the interviews, the two most suitable candidates were subjected to the prescribed competency assessments, to determine developmental gaps. After thorough consideration of the candidature of these individuals, the Committee unanimously agreed to recommend the appointment of Ms/Mr .......................... on the basis of the strengths she/he displayed against the required competency profile and in comparison with the other candidates who were interviewed.

5.7 Ms/Mr .......................... is in possession of the following qualifications:

5.7.1

5.7.2

5.7.3

5.8 (Provide motivation together with an indication of overall assessment of the most suitable candidate, including possible areas in need of further development.)

(TO BE CLASSIFIED AS SECRET ONCE COMPLETED)
5.9 Personnel suitability checks, covering the following, were conducted in respect of all shortlisted candidates (documentary proof attached):

5.9.1 Criminal record checks;
5.9.2 Citizenship verification;
5.9.3 Financial/asset record checks;
5.9.4 Qualification/Study verification (SAQA written verification); and
5.9.5 Previous employment verification (reference checks).

(Note - Previous employment verification (reference checks) must include the reasons for exiting the previous or current job. The nominated candidate must submit in writing either confirmation that there is no pending disciplinary case/s against her or his name or provide details of pending disciplinary case/s against her or him. The Cabinet Memorandum must address the findings in this regard).

5.10 In view of the above, Ms/Mr ……………………………. is regarded as the most suitable candidate for the advertised post of ……………………………….

5.11 A copy of Ms/Mr …………………….........…………… Curriculum Vitae is attached for information. According to information available Ms/Mr is currently serving on the following Boards and/or has the following business interests:

……………………………………………………………………………………………………………..
……………………………………………………………………………………………………………..
……………………………………………………………………………………………………………..

(TO BE CLASSIFIED AS SECRET ONCE COMPLETED)
5.12 The other candidates for the position were found to be either less suitable than the nominee or not suitable at all.

6. IMPLEMENTATION PLAN

None

7. ORGANISATIONAL AND PERSONNEL IMPLICATIONS

7.1 The relevant post exists on the establishment of the Department of ......................... The appointee will fill the vacant post on the establishment. A copy of the Department’s approved organizational structure reflecting the relevant position is attached. The job was evaluated prior to being advertised i.t.o. the Job Evaluation system.

7.2 Should Ms/Mr ......................... appointment be approved, the representivity profile per level of the senior management service in the Department will be affected as follows:

Before appointment:

........................................................................................................................................
........................................................................................................................................
........................................................................................................................................

After appointment:

........................................................................................................................................
........................................................................................................................................
........................................................................................................................................
8. **FINANCIAL IMPLICATIONS**

An all-inclusive remuneration package of R …………. per annum (and the 10% non-pensionable allowance payable only to HoDs) have been budgeted for. Funds are therefore available to cover the expenses of the appointment.

9. **COMMUNICATION IMPLICATIONS**

The Department will inform the candidate of her/his appointment, if Cabinet concurs. The other candidates will be informed in writing that they have been unsuccessful.

10. **CONSTITUTIONAL IMPLICATIONS**

None

11. **IMPLICATIONS FOR VULNERABLE GROUPS**

None

12. **SECURITY IMPLICATIONS**

Preliminary security vetting was conducted in respect of all shortlisted candidates. Ms/ Mr ………………………… was granted a preliminary security clearance and will, once appointed, be vetted for a relevant security clearance.

13. **DEPARTMENTS AND PARTIES CONSULTED, RESPONSES AND COMMENTS**

This memorandum was drafted by the employing department in association with the Department of Public Service and Administration.

14. **RECOMMENDATIONS**

It is recommended that Cabinet concurs with the appointment of Ms/Mr ………………………… to the advertised post of ………………………… at the Department of …………………………………. with an all-inclusive remuneration package of R ………………………….. per annum (and the 10% non-pensionable allowance payable only to HoDs) - for a term of ……………………. years in the case of a contract employee - with effect from a date as agreed to by the relevant Executive Authority and the successful candidate.

(TO BE CLASSIFIED AS SECRET ONCE COMPLETED)
15. **OFFICIAL RESPONSIBLE FOR THE MEMORANDUM**

I declare that the memorandum adheres to the guidelines provided by the Cabinet for the drafting of memoranda.

Name: ...........................................................................................................

Designation: ..................................................................................................

**Contact Details**

Telephone: ...................................................................................................

Cellular: ........................................................................................................

16. **HEAD OF DEPARTMENT**

(Full Name and Surname)

(Designation)

(Department)

(Contact Telephone Number)

17. **AUTHORISATION FOR PROCESSING THE MEMORANDUM**

L N SISULU, MP

MINISTER FOR PUBLIC SERVICE AND ADMINISTRATION

DATE:

Is there a need for an electronic presentation to be done in addition to the memorandum? (Yes or No)

(TO BE CLASSIFIED AS SECRET ONCE COMPLETED)
Dear Colleague

**EXTENSION OF EMPLOYMENT CONTRACT OF** ……………………………………….,
**DIRECTOR-GENERAL: DEPARTMENT OF** ……………………………………….

The employment contract of the Director-General of the Department of ………………….,
Ms/Mr ………………………………...…, will expire on ……………………………………….
It is my intention to extend Ms/Mr ……………………… employment contract for a period of
……………………………. year(s).

The following documents are attached:
(a) Copy of Ms/Mr …………………........................………………. curriculum vitae/résumé.
(b) Cabinet Memorandum for submission to Cabinet.
(c) Outcome of most recent performance assessment(s).
(d) Security clearance confirmation.
(e) Copy of ID

In view of the aforementioned, it will be appreciated if you can obtain Cabinet's concurrence
with the extension of Ms/Mr ……………………………………… term of office as
Director-General for a period of …………………. year (s), commencing on………
……………………………………... and ending on ………………………………………

Thank you for your co-operation and assistance.

Kind regards

MINISTER
DATE:
MINISTRY FOR THE PUBLIC SERVICE AND ADMINISTRATION

CABINET MEMORANDUM NO : ……………………. OF 2013………..

DATE : ……………………………. 2013………..

FILE NUMBER : ……………………………………………………

1. SUBJECT

Extension of the employment contract of the Director-General at the Department of ……………………………………………………………………………………

2. PURPOSE

To obtain Cabinet’s concurrence for the intended extension of the contract of the Director-General at the Department of …………………………………………………

3. SUMMARY

It is the intention of the Minister of ……………………………………… to extend the employment contract of Ms/Mr …………………………………………… as Director-General at the Department of ……………………………………… for a period of ……………………… year(s), commencing on …………………………… and ending on ………………………

4. STRATEGIC FOCUS OF THE MEMORANDUM

The extension of the relevant contract of employment will contribute to the achievement of the strategic aims of the Department.

(TO BE CLASSIFIED AS SECRET ONCE COMPLETED)
5. DISCUSSION

5.1 Cabinet approved on ………………. the appointment of …………… (HoD’s name) for a period of ……………. year(s). This contract expires on …………….

5.2 It is intended to extend the relevant employment contract for a period of ……………. year(s), commencing on ……………………… and ending on …………………………….

5.3 Ms/Mr ………………………… (HoD’s name) has received a ………………… rating in her/his most recent performance assessment and has scored …………… (percentage) for the 20……/20…… performance cycle.

5.4 A copy of the HoD’s curriculum vitae/résumé is attached for information.

6. IMPLEMENTATION PLAN

None

7. ORGANISATIONAL AND PERSONNEL IMPLICATIONS

The relevant post exists on the establishment of the Department of ……………. Ms/ Mr ………………………………. will continue to fill the post of Director-General on the establishment of the Department.

8. FINANCIAL IMPLICATIONS

It is proposed that the employment contract of Ms/Mr …………………………….. be extended with an all-inclusive remuneration package of R ………. per annum plus the 10% non-pensionable HoD allowance. The post has been budgeted for and funds are available to cover the relevant expenses.

9. COMMUNICATION IMPLICATIONS

The Minister will inform the candidate of the extension of her/his appointment, if Cabinet concurs.

10. CONSTITUTIONAL IMPLICATIONS

None

11. IMPLICATIONS FOR VULNERABLE GROUPS

None

(TO BE CLASSIFIED AS SECRET ONCE COMPLETED)
12. **SECURITY IMPLICATIONS**

(Confirm continued compliance with security vetting requirements)

13. **DEPARTMENTS AND PARTIES CONSULTED, RESPONSES AND COMMENTS**

This memorandum was compiled by the employing department in association with the Department of Public Service and Administration.

14. **RECOMMENDATIONS**

It is recommended that Cabinet concurs with the extension of the contract of Ms/Mr ………………………… at the Department of ………………. with an all inclusive remuneration package of R ………….. per annum plus the 10% non-pensionable HoD allowance, for a term of …………………… year(s) with effect from …………………… (date).

15. **OFFICIAL RESPONSIBLE FOR THE MEMORANDUM**

I declare that the memorandum adheres to the guidelines provided by the Cabinet for the drafting of memoranda.

Name: ……………………………………………

Designation: …………………………………

**Contact Details**

Telephone: …………………………………

Cellular: …………………………………

16. **HEAD OF DEPARTMENT**

(Full Name and Surname)

(Designation)

(Department)

(Contact Telephone Number)

17. **AUTHORISATION FOR PROCESSING THE MEMORANDUM**

L N SISULU, MP

MINISTER FOR PUBLIC SERVICE AND ADMINISTRATION

DATE:

Is there a need for an electronic presentation to be done in addition to the memorandum?  
Yes/No

(TO BE CLASSIFIED AS SECRET ONCE COMPLETED)
Determinations on Special Benefits Applicable When Term of Office of Head of Department is Redetermined

1. **SCOPE**

This Determination is applicable to all Heads of Department (HoDs) appointed in terms of the Public Service Act, 1994, as amended.

2. **AUTHORISATION AND DATE OF EFFECT**

This Determination has been made by the Minister for the Public Service and Administration in terms of section 3(5), read with section 12(4), of the Public Service Act, 1994, as amended, and is effective from 15 May 2010.

3. **PURPOSE**

The purpose of this Determination is to provide for compensation when a HoD’s term of office is re-determined before the end of the term for a reason other than the HoD’s misconduct or incapacity due to poor performance or ill health. The compensation payable takes into account loss or potential loss of income, fairness, the negative effect attached to the premature termination, outstanding performance assessments and the expeditious finalisation of the exit in the best interest of the State with due regard to the entitlements of the HoD.

4. **SPECIAL BENEFIT AS COMPENSATION**

If the term of office of a HoD is re-determined with his or her consent, the following will apply:

4.1.1 A lump sum payment for the remainder of the original term of office calculated according to the following formula:

(a) first three months or part thereof: the gross monthly remuneration times the number of months or part thereof;

(b) nine months thereafter or part thereof: 80% of the gross monthly remuneration times the number of months or part thereof;

(c) twelve months thereafter or part thereof: 60% of the gross monthly remuneration times the number of months or part thereof;
(d) the remaining months thereafter or part thereof: 30% of the gross monthly remuneration times the number of months or part thereof.

4.1.2 For purposes of calculating the compensation, the gross monthly remuneration (including the HoD allowance) as at the last day of service according to the re-determined term shall be used.

4.1.3 The lump sum payment will be subject to the applicable income tax prescripts.

4.2 The executive authority of the department of the HoD may, with the approval of the Minister for the Public Service and Administration and the consent of the HoD, approve special measures to finalise any outstanding performance assessment on the last day of service of the HoD according to the re-determined term of office.