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TO: ALL HEADS OF DEPARTMENTS, PROVINCIAL ADMINISTRATIONS AND GOVERNMENT COMPONENTS

STATE OF DISASTER COVID-19: IMPLEMENTATION MEASURES FOR STEP DOWN TO LEVEL 1

1. INTRODUCTION AND BACKGROUND

- 1.1 To mitigate the ongoing spread of COVID-19, government declared a National State of Disaster in March 2020, and subsequent thereto, declared phased national stepdown levels to the lockdown, which are announced by the President on a periodic basis, informed by the national Risk-Adjusted Strategy.
- 1.2 Government opted for a decongestion approach to easing the Return To Work (RTW), of employees until 100% return to normal operations at the end of the disaster period.
- 1.3 For the duration of each lockdown period, each Head of Department must, guided by the relevant regulations, directions and directives, balance service delivery obligations with regulated occupational health and safety physical and social distancing protocols within the workplace.
- 1.4 The background provided in Circular 18 of 2020 was to prepare the public service workplaces for a phased-in approach, for Return to Work ('RTW') arrangements as of 1 June, and must be read in conjunction with the provisions of Circular 7 of 2020 and other related circulars, with respect to the management of related employment practices during the lockdown period.

- 1.5 As such, the provisions of this circular, support business continuity and service operations towards a full return to normal operations whilst managing the prescribed employment contractual obligations, between the employer and employees in each workplace within the public service, as pragmatically as possible.
- 1.6 Therefore, this Circular takes into consideration the service delivery obligations of departments and the needs of service recipients, whilst balancing the occupational health and safety requirements of employees and citizens during this unprecedented period. Hence, the primary consideration is within the context of a pandemic that presents life and livelihood risks due to an infectious and communicable disease which impacts directly on occupational health and safety of all persons within the Public Service environment.

2. LEGISLATIVE FRAMEWORK

- 2.1 In terms of the section 3(1) of the Public Service Act, 1994,'.... The Minister is responsible for establishing norms and standards relating to:-
- (e) health and wellness of employees;
 - (f) information management in the public service;
 - (g) electronic government;
 - (i) transformation, reform, innovation and any other matter to improve the effectiveness and efficiency of the public service and its service delivery to the public.
- 2.2 In terms of section 3(2) of the PSA, 1994, the Minister shall give effect to subsection (1) by making regulations, determinations and directives, and by performing any other acts provided for in the Public Service Act.
- 2.3 In terms of section 32(1) of the PSA, 1994, Direction to perform other functions:'....subject to such conditions as may be prescribed, an executive authority or head of department may direct an employee under his or her control temporarily to perform any functions other than those ordinarily assigned to the employee or appropriate to his or her grade or post.

- 2.4 In terms of s 41(3) of the PSA, '.....The Minister may issue directives which are not inconsistent with this Act to elucidate or supplement any regulation'.
- 2.5 The Disaster Management Regulations, as amended on 18 September 2020 and published in Government Notice No 999 published in the Government Gazette of 18 September 2020, issued in terms of the Disaster Management Act, 2002.
- 2.6 The Directions issued by the Minister of Employment and Labour in terms of the Disaster Management Regulations relating to Occupational Health and Safety Measures in Workplaces.

3. KEY PRINCIPLES

- 3.1 Departments are required to ensure that 100% of its services are operational during Alert Level 1.
- 3.2 All employees should report for duty at their workplace with immediate effect except those employees who are on official leave or who have been identified with uncontrolled risks and vulnerabilities.
- 3.3 All employees are expected to attend to critical tasks as productively as possible, especially process and systems related deliverables which support service delivery. Departments experiencing challenges with accommodating all employees in the workplace due to social distancing requirements may consider a hybrid dual mode of Remote Working arrangements with some employees physically attending their workstations and others working remotely. HoDs should ensure that at least 75% of employees are at the workplace on any particular workday.
- 3.4 **COMORBIDITIES MANAGEMENT:** It is acknowledged that not all employees within the public service will be returning to work during Alert Level 1 due to identified uncontrolled risks and vulnerabilities, notwithstanding all government services must be provided during this period. Employees who are 60 years and older, with one or more stated comorbidities (as published by National Department of Health) which are not well managed or controlled as medically determined may be permitted to work remotely where possible.

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- 3.5 A medical report from a medical practitioner, which confirms that the employee suffers from any one of the comorbidities as published by National Department of Health should be provided to corroborate and support the conditions as stated in the standard medical certificate. The standard medical certificate will be insufficient for this purpose and will not be accepted, without the attached short medical report stating the following details/information:
- 3.5.1 Medical Practitioner's Practice details;
 - 3.5.2 Duration that they have been treating the patient for the stated condition;
 - 3.5.3 Confirmation that the employee does have a stated comorbidity, which is categorised in the broad group as determined by the National Department of Health. If the employee as a patient agrees to provide granular details of the actual stated sub-group condition, then such information can be provided.
Example: Comorbidity: Metabolic Syndrome (which includes poorly controlled Diabetes Mellitus as the details, amongst other conditions)
 - 3.5.4 Confirmation that the stated comorbidity does present a medical risk and such risk/s must be clearly stated in relation to that comorbidity.
 - 3.5.5 Confirmation of the recommended duration that the employee remains at risk and is recommended for a managed return to the workplace.
- 3.6 The onus of proof is upon employee to produce all relevant requested medical support report/s as required by the employer to assess the risks of the comorbidities and other vulnerabilities.
- 3.7 All Heads of Department, in dealing with risk assessments and the categorizing of employee comorbidities and vulnerabilities with respect to return to work, should use their discretion in dealing with matters which may not be specifically covered in this circular but which may be workplace, occupational or sector specific and in line with the delegated authority.
- 3.8 **LEAVE MANAGEMENT:** The application of the leave policy was previously covered in Circular 7 of 2020, and Circular 11 of 2020, read with the provisions in the Determination and Directive of Leave remain applicable for all categories of employees.

- 3.9 However, for pragmatic reasons, all Heads of Departments must ensure that employees are scheduled to take their annual vacation leave. Supervisors and employees must plan and manage when vacation leave days should be taken, especially where employees may not be required to be at their workstations, as annual leave, must be utilized during this period.
- 3.10 **CONFIDENTIALITY:** The Employer must at all times, in accordance with the constitutional rights to privacy, the Code of Conduct in the Public Service Regulations, treat any information regarding the medical condition of an employee with the necessary respect and confidentiality. Such information may therefore not be disclosed to any other person(s) not authorised to receive such information. If an employee discloses such confidential information of an employee to any other unauthorized person, it must be viewed in a serious light and disciplinary steps against the transgressing employee should be taken.
4. Taking into account the dynamic and fluid contextual circumstances arising from the declared National Disaster, Departments who are unable to implement the above provisions must provide reasons for such failure to the Minister for the Public Service and Administration within two weeks of such matter arising.
5. Heads of Department have an obligation to ensure that the necessary administrative control measures and tools are availed and put in place in each department, using all existing legal instruments to hold government officials accountable for service delivery and lawful administrative practices.



YOLISWA MAKHASI
DIRECTOR GENERAL

DATE: 23/09/2020