

GOVERNMENT NOTICE

DEPARTMENT OF PUBLIC SERVICE AND ADMINISTRATION

NO. R.

2019

OFFICE OF STANDARDS AND COMPLIANCE REGULATIONS, 2019

The Minister for the Public Service and Administration has, under section 18 of the Public Administration Management Act, 2014, and with effect from 2019, made the regulations set out in the Schedule.

SCHEDULE

**OFFICE OF STANDARDS AND COMPLIANCE REGULATIONS,
2019**

1 Short Title and Commencement

These Regulations are called the Office of Standards and Compliance Regulations, 2019, and come into operation on ... 2019.

2 Interpretation

- (1) In these Regulations, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act, has the same meaning, and—

“Act” means the Public Administration Management Act, 2014 (Act No. 11 of 2014);

“staff person” means an employee appointed in terms of the Public Service Act, 1994 (Proclamation No. 103 of 1994) other than a member, as part of the Office's personnel;

“head of institution” means—

- (a) in the case of a national or provincial department or a national or provincial government component, the incumbent of a post mentioned in section 7(2) read with Column 2 of Schedule 1, 2 or 3 of the Public Service Act, 1994 (Proclamation No. 103 of 1994) and includes any employee acting in that post; or

- (b) in the case of a municipality, the municipal manager appointed in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and includes any employee acting in that post;

“head of Office” means the person referred to in section 17(3) of the Act;

“member” means an employee appointed in terms of the Public Service Act and designated by the Minister to exercise the powers of members as prescribed under section 17(7) of the Act;

“minimum norms and standards” means the minimum norms and standards contemplated in section 16 of the Act;

“Office” means the Office of Standards and Compliance established by section 17(1) of the Act; and

“public administration norms and standards” means those public norms and standards determined in terms of legislation other than those prescribed in terms of the Act.

3 Duties, powers and functions of head of office

(1) The duties of the head of Office are to-

(a) advise the Minister on-

- (i) the determination of minimum norms and standards;
- (ii) the enforcing of compliance with minimum norms and standards;
- (iii) establish frameworks, structures and processes for the setting of standards from regulatory norms;

(b) assess the appropriateness of-

- (i) minimum norms and standards; and
- (ii) public administration norms and standards;

(c) ensure that the Office promotes, monitors and takes the necessary steps to secure compliance with-

- (i) minimum norms and standards; and
- (ii) public administration norms and standards;

(d) in order to give effect to paragraph (f) develop and implement-

- (i) an early warning system to detect public administration non-compliance;
- (ii) a monitoring framework for data governance including a format for monitoring reports;

(e) ensure that the Office performs its other functions in terms of section 17(4) and (6) of the Act; and

- (f) report in terms of section 17(4)(f) and (6)(d) of the Act-
 - (i) on the performance of the Office's functions at least once a quarter;
 - (ii) annually, together with a report contemplated in subparagraph (i) on the effectiveness of the minimum norms and standards or any other matter related to the Office's functions;
 - (iii) as directed by the Minister, on the progress made in any investigation and finalisation of matters brought before the Office, or any other matter contemplated in subparagraph (ii).
- (2) For the purposes of a report contemplated in sub-regulation (1)(g)(ii) and (iii), the report must include details on the failure to-
 - (a) comply with compliance orders;
 - (b) mitigate non-compliance;
 - (c) conduct schedule self-diagnostic assessments on capacity and functionality audits.
- (3) In order to perform the duties and fulfil the objects of the Office, the Head of Office has the power -
 - (a) to delegate any of the Head's duties under sub-regulation (1) to a member or staff person;
 - (b) to authorise a member to perform a duty under section 17 (4) of the Act or a duty to fulfil the objects in section 17(6), other than a power contemplated in subparagraph (c); and
 - (c) to do whatever is necessary to perform the duties in terms of sub-regulation (1).
- (4) A member may, with the approval of the Head of Office-
 - (a) delegate to a staff person any of the member's duties delegated to the member by the Head of Office;

(b) authorise a staff person to perform any duty delegated to the member by the Head of Office

(5) Any member or staff person to whom a power has been delegated or who has been authorised to perform a duty under this regulation must exercise that power or perform that duty subject to the conditions that the person who made the delegation or granted the authorization considers appropriate.

(6) Any delegation of a power or authorisation to perform a duty in terms of this regulation-

(a) must be in writing;

(b) does not prevent the person who made the delegation or granted the authorization from exercising that power or performing that power themselves;

(c) may at any time be withdrawn in writing by that person.

4 Access to premises, vehicles, documents and employees

(1) In the performance of its functions under the Act and these regulations, a head of institution must cooperate with the Office in terms of section 17(5) of the Act by-

(a) giving the Office full and unrestricted access at all reasonable times to—

(i) any document, book or written or electronic record or information of the institution relevant to the audit or the norm and standard being monitored;

(ii) any employee of the institution that the Office seeks to interview for the purpose of monitoring or auditing the institution.

(b) facilitating the Office's exercise of the powers under sub-regulation (2).

(2) The Office may, in the performance of its functions under the Act and these regulations—

- (a) enter any property, premises or vehicle of or under the control of the institution where-
 - (i) a document, book or written or electronic record or information, or any assets, referred to in sub-regulation (1) are kept; or
 - (ii) an employee referred to in sub-regulation (1)(b);
- (b) direct a person to produce, or to deliver at a specified place and time and in a specified format any such document, book or written or electronic record or information;
- (c) inspect, and question any person about, any such document, book or written or electronic record or information, or any such asset;
- (d) copy, or make extracts from, any such document, book or written or electronic record or information, at the expense of the institution, or remove such document, book, record or written or electronic information to make copies or extracts;
- (e) direct a person to disclose, either orally or in writing, any information that may be relevant for the conduct of the audit or the monitoring of the norms and standards; or
- (f) direct—
 - (i) a person to disclose information or to give answers to questions in terms of this subsection in writing or under oath or affirmation; or
 - (ii) that any such information or answers be recorded.

5 Reports, directions, enforcement response plans and compliance orders

- (1) After having monitored compliance or conducted a capacity or functional audit in an institution, the Office must report to the Minister and the head of the institution, which may include directions on the steps to be taken by the head of institution to comply or to build capacity.
- (2) The directions may include-

- (a) time periods within which the corrective steps must be taken
 - (b) time periods that the head of institution must report on the steps taken and, if not, the reasons for not doing so.
- (3) The Office may issue guidance notes for institutions on compliance with norms and standards.
 - (4) The Office may issue an enforcement response plan before issuing a compliance order.
 - (5) The Office may issue a request to the relevant body or authority to investigate an institution that does not comply with a compliance order in order to impose the necessary corrective sanctions on the head of an institution who does not comply with a minimum norm and standard.