

**DETERMINATION ON THE INTRODUCTION
OF AN EMPLOYEE-INITIATED SEVERANCE
PACKAGE FOR THE PUBLIC SERVICE
(REVISED)**



1 JANUARY 2006

**MADE BY THE MINISTER FOR THE PUBLIC SERVICE AND
ADMINISTRATION**

DETERMINATION ON THE INTRODUCTION OF AN EMPLOYEE-INITIATED SEVERANCE PACKAGE FOR THE PUBLIC SERVICE

1. SCOPE

- 1.1 This Determination is applicable to all employees appointed in terms of the *Public Service Act, 1994*, as amended.
- 1.2 For purposes of this Determination, the term "employees" means persons who are appointed permanently, but excludes persons who are appointed temporarily or on a fixed term contract.

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(3)(c) of the *Public Service Act, 1994*, as amended and is effective from 1 January 2006.

3. PURPOSE

To allow employees affected by transformation and restructuring who wish to exit the public service, to apply for an employee-initiated severance package.

4. APPLICATION

- 4.1 Only employees who are affected by transformation and restructuring may voluntarily apply to his/her executing authority (or delegate) to be discharged from the public service in terms of section 17(2)(c) of the *Public Service Act, 1994*, as amended on the basis of the employee-initiated severance package set out in paragraph 6 or 7 of this Determination, as the case may be.
- 4.2 The application is subject to the approval of the relevant executing authority (or delegate).
- 4.3 The application must be made on the application form attached as Annexure A. An electronic copy of the application form is available on the DPSA website (<http://www.dpsa.gov.za>).

5. PROCEDURE FOR CONSIDERING THE APPLICATION

- 5.1 When an application is received by the executing authority (or delegate), he/she must decide whether or not to support the application.
- 5.2 In considering the application, the following must, as a minimum, be taken into account:
 - (a) The impact of the employee's exit from the department on its service delivery capabilities.
 - (b) The employee's competence and suitability for continued employment.

- (c) The manner in which the employee's exit will support the transformation and restructuring of the department.
 - (d) The specific reasons for the employee's request.
 - (e) The ability of the department to finance the costs related to the payment of the severance package (e.g. refunding the Pension Fund, severance pay, leave pay, etc.).
 - (f) The impact of the granting of the severance package on the morale of other employees.
 - (g) Whether the employee occupies a post on the department's establishment or whether the employee is held additional to the establishment.
- 5.3 If misconduct or incapacity (due to poor performance) proceedings are underway against an employee, the decision regarding his/her application must be postponed until such proceedings have been finalised.
- 5.4 If the executing authority (or delegate) **does not support** the application, the employee must, in writing, be informed that the application is not approved. The employee must also be provided with adequate reasons for the decision and be informed of any right of review.
- 5.5 If the executing authority (or delegate) **supports** the application, the application form, with section B completed, must be submitted to the Minister for the Public Service and Administration (MPSA) for comment.
- 5.6 The MPSA's comments will be provided (in section C of the application form) to the relevant executing authority (or delegate) for a final decision.
- 5.7 Taking into account the MPSA's comments, the relevant executing authority (or delegate) must finally decide whether or not to approve the application.
- 5.8 If the application **is approved**, the employee must be notified in writing of the decision and his/her exit from the public service, must take effect not later than two months after the date of such notice.
- 5.9 If the application **is not approved**, the employee must be notified in writing of the decision, must be provided with reasons for the decisions and informed of any right of review.
- 5.10 Due care must be taken to ensure compliance with the provisions of the *Promotion of Administrative Justice Act, 2000*, with regard to decisions not to approve applications made in terms of Determination.

6. SEVERANCE PACKAGE PAYABLE: EMPLOYEES ON SALARY LEVELS 1-10

If the executing authority or delegate approves the employee-initiated severance package application, the following measures shall apply:

Service that may be recognised for severance pay purposes include the following service periods:

- (a) Service in statutory bodies provided the affected employees were transferred to the Public Service in terms of section 15 of the *Public Service Act, 1994* or a similar legislative provision.
- (b) Service in former Development Boards provided the affected employees were transferred to the Public Service in terms of the *Abolition of Development Bodies Act, 1986*, or similar legislation.
- (c) Service under a former provincial ordinance provided that the affected employees were transferred to the Public Service in terms of the *Provincial Government Act, 1986*, as amended.
- (d) By virtue of section 2(5)(b) of the *Public Service Act, 1994*, as amended, service in institutions referred to in section 236(1) of the Interim Constitution must be recognised for severance pay purposes.

In determining the qualifying period of service, the provisions of section 84 of the *Basic Conditions of Employment Act, 1997*, apply. For this purpose, previous employment with the State as employer must be taken into account if the break between the periods of employment is less than one year **and occurred after 1 December 1998**, i.e. the date of implementation of section 41 (severance pay) of the *Basic Conditions of Employment Act, 1997*, in respect of the public service.

Example:

Mr A was in service from 1 January 1997 until 31 December 1999 (a full three years) when he resigned. He was re-appointed on 1 July 2000 (a break in service of 6 months) and will leave the service with a severance package on 30 September 2005. Since the break in service was less than 12 months, the three year period until 31 December 1999 must be added to the period of service that commenced on 1 July 2000 to calculate his severance pay. Note that only full years may be used and the severance pay due to Mr A will be calculated on eight years.

6.3 Leave pay

All unused days accumulated until 30 June 2000 (capped leave) as well as all unused days in respect of leave due to employees under the leave dispensation that became effective on 1 July 2000 must be paid according to the formulas contained in paragraphs 7.4 and 8.4 of the Directive on Leave of Absence in the Public Service issued by the Minister for the Public Service and Administration.

Leave must be audited before any leave payments may be made to an employee. In respect of capped leave, the Head of Department shall determine whether there are periods that cannot be audited due to a lack of records. In

such instances, an affected employee's leave payout shall be on the basis of 6 working days per completed year of service up to a maximum of 100 days in respect of unaudited periods.

6.4 **Compensation for medical and housing benefits**

(a) Employees aged 55 and older on the date of service termination who have been members of registered medical schemes for the year ending with service termination, will qualify for post retirement medical assistance as follows:

- (i) Employees with less than 10 years of actual service: An amount equal to 12 times the employer's monthly contribution as at the date of service termination will be paid to the employee directly by Pensions Administration.
- (ii) Employees with at least 10 but less than 15 years of actual service: An amount equal to 36 times the employer's monthly contribution as at the date of service termination will be paid to the employee directly by Pensions Administration.
- (iii) Employees with at least 15 years of actual service: Employees who continue to be members of registered medical schemes will qualify for a continued employer contribution. The employer contribution will be two-thirds of membership fees limited to a maximum employer contribution of R1 014 per month. The employer contribution will be paid directly to the medical scheme by Pensions Administration.

(b) All other employees, namely-

- all employees who are younger than 55 at the date of service termination; and
- employees who are 55 and older who do not qualify for the above post retirement medical assistance benefits, e.g. they are not members of registered medical schemes,

must be paid a once-off all-inclusive amount of R9 000 by departments directly. This amount is in lieu of medical and housing benefits regardless of an employee's participation in the benefits before service termination. These employees do not qualify for post retirement medical assistance in future.

6.5 **Service bonus**

A pro rata service bonus calculated according to the formula in paragraph 1.2 of the Financial Manual for Purposes of the Calculation and Application of Remunerative Allowances and Benefits will be paid.

6.6 **Contractual obligations**

Employees are to be released from contractual obligations that require from them to remain in service.

Payments to third parties under the State Guarantee Scheme as well as other departmental debt will be recovered from pension benefits in terms of section 21(3) of the *Government Employees Pension Law, 1996*, if employees do not make suitable arrangements to settle their debt.

6.7 **Official housing**

Employees must be given one month's notification to vacate official housing, unless a different period is specified in an individual contract of employment.

6.8 **Notice of termination of service**

The employee's termination of service by the department must take effect within two months after the date of the notice of the approval of his/her application.

6.9 **Subsidised car scheme**

Subsidised motor vehicles must be dealt with in terms of the policy of the Department of Transport on subsidised motor vehicles.

6.10 **Resettlement benefits**

Employees who are 55 years and older on the date of service termination must be compensated according to provisions as set out in PSCBC Resolution 3 of 1999 and existing departmental policies.

7. SEVERANCE PACKAGE: EMPLOYEES IN THE MIDDLE MANAGEMENT SERVICE (LEVELS 11–12) AND SENIOR MANAGEMENT SERVICE (LEVEL 13 -16)

If a department grants a severance package on application to an employee remunerated according to the provisions for the Senior Management Service or Middle Management Service, the following measures shall apply:

7.1 **Pension benefits** (in accordance with rules 14.8 and 20 of the Rules made in terms of the *Government Employees Pension Law, 1996* (as amended) and Part B of the Annexure to the said Rules, as amended, with effect from 1 July 2005)

The following pension benefits are payable to employees who are members of the Government Employees Pension Fund:

- (a) Members who have attained the age of 55 years and who have completed at least 10 years' pensionable service, on written choice of the member:

(i) A gratuity equal to his or her actuarial interest payable to the member in own right or into an approved retirement fund of the member's choice; OR

(ii) A gratuity and annuity determined in terms of the formula that applies to the member;

without scaling down of pension benefits in terms of Rule 14.3.3(b) and without an addition to pensionable service in terms of Rule 14.2.4(b).

(b) Members of the Government Employees Pension Fund who have not yet attained the age of 55 years, as well as those who have attained age 55 but have less than 10 years pensionable service:

A gratuity equal to his or her actuarial interest payable to the member in own right or into an approved retirement fund of the member's choice.

without scaling down of pension benefits in terms of Rule 14.3.3(b) and without an addition of pensionable service in terms of Rule 14.2.4(b).

7.2 Severance pay

The salary to be used for purposes of calculating severance pay is 100% of the inclusive remuneration package. Two week's salary for every full year of the qualifying period of service will be paid according to the following formula:

Inclusive package x qualifying period of
service

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Service that may be recognised for severance pay purposes include the following service periods:

- (a) Service in statutory bodies provided the affected employees were transferred to the Public Service in terms of section 15 of the *Public Service Act, 1994* or a similar legislative provision.
- (b) Service in former Development Boards provided the affected employees were transferred to the Public Service in terms of the *Abolition of Development Bodies Act, 1986*, or similar legislation.
- (c) Service under a former provincial ordinance provided that the affected employees were transferred to the Public Service in terms of the *Provincial Government Act, 1986*, as amended.
- (d) By virtue of section 2(5)(b) of the *Public Service Act, 1994*, as amended, service in institutions referred to in section 236(1) of the Interim Constitution must be recognised for severance pay purposes.

In determining the qualifying period of service, the provisions of section 84 of the *Basic Conditions of Employment Act, 1997*, apply. For this purpose, previous employment with the State as employer must be taken into account if the break between the periods of employment is less than one year **and occurred after 1 December 1998**, i.e. the date of implementation of section 41 (severance pay) of the *Basic Conditions of Employment Act, 1997*, in respect of the public service. (Note the example in paragraph 6.2).

7.3 Leave pay

All unused days accumulated until 30 June 2000 (capped leave) as well as all unused days in respect of leave due to employees under the leave dispensation that became effective on 1 July 2000 must be paid according to the formulas contained in paragraphs 4(d) and 5(d) of Chapter 3 of the SMS Handbook (SMS) and paragraph 7.4 and 8.4 of the Directive on Leave of Absence (MMS) as issued by the Minister for the Public Service and Administration.

Leave must be audited before any leave payments may be made to an employee. In respect of capped leave, the Head of Department shall determine whether there are periods that cannot be audited due to a lack of records. In such instances, an affected employee's leave payout shall be on the basis of 6 working days per completed year of service up to a maximum of 100 days in respect of unaudited periods.

7.4 Compensation for medical benefits

Employees aged 55 and older on the date of service termination who have been members of registered medical schemes for the year ending with service termination, will qualify for post retirement medical assistance as follows:

- (a) Employees with less than 10 years of actual service: An amount equal to 12 times the employer's monthly contribution as at the date of service termination will be paid to the employee directly by Pensions Administration.
- (b) Employees with at least 10 but less than 15 years of actual service: An amount equal to 36 times the employer's monthly contribution as at the date of service termination will be paid to the employee directly by Pensions Administration.
- (c) Employees with at least 15 years of actual service: Employees who continue to be members of registered medical schemes will qualify for a continued employer contribution. The employer's monthly contribution will be two-thirds of membership fees limited to a maximum employer contribution of R 1 014 per month. The employer contribution will be paid directly to the relevant medical scheme by Pensions Administration.

7.5 **Service bonus**

- (a) Employees who have structured a service bonus: A pro rata service bonus calculated according to the formula in paragraph 1.2 of the Financial Manual for Purposes of the Calculation and Application of Remunerative Allowances and Benefits will be paid.
- (b) Employees who have not structured a service bonus: No payment will be made.

7.6 **Contractual obligations**

Employees are to be released from contractual obligations that require from them to remain in service.

Payments to third parties under the State Guarantee Scheme as well as other departmental debt will be recovered from pension benefits in terms of section 21(3) of the *Government Employees Pension Law, 1996*, if employees do not make suitable arrangements to settle their debt.

7.7 **Official housing**

Employees must be given one month's notification to vacate official housing, unless a different period is specified in an individual contract of employment.

7.8 **Notice of termination of service**

The employee's termination of service by the department must take effect within two months after the date of the notice of the approval of his/her application.

7.9 **Resettlement benefits**

Employees who are 55 years and older on the date of service termination must be compensated according to the provisions as set out in PSCBC Resolution 3 of 1999 and existing departmental policies.

**PROCESS FORM: APPLICATION FOR
EMPLOYEE-INITIATED SEVERANCE PACKAGE**

SECTION A (TO BE COMPLETED BY THE EMPLOYEE)

I, _____ (full first names and surname), herewith apply to be discharged (in terms of section 17(2)(c) of the Public Service Act,1994) from the public service on the basis of the employee-initiated severance package as determined by the Minister for the Public Service and Administration, in a dpsa circular 1/16/21 dated 16 January 2006. I declare that this request is made voluntarily and that I accept the conditions and severance benefits set out in the aforementioned determination by the Minister. I acknowledge that my application is subject to approval by the executing authority (or delegate).

The reasons for my request are the following (Please make use of a separate sheet if the allocated space is inadequate):

SIGNATURE

DATE:

.....

SECTION B (TO BE COMPLETED BY THE RELEVANT DEPARTMENT)

Department: _____

Rank of Employee: _____

Occupational classification code _____

Salary notch: R _____

Salary scale: R _____

Age: _____

Race: _____

Prescribed retirement age: _____

Amount of severance package (excluding pension benefits): _____

Reasons for supporting/not supporting the application (Please use a separate sheet if the allocated space is inadequate):

EXECUTING AUTHORITY (OR DELEGATE)

DATE:

(NOTE: *If the application is **supported**, submit the process form to the Minister for the Public Service and Administration for comment.*

*If the application is **not supported (and therefore not approved)**, **do not** submit to the Minister for the Public Service and Administration, but inform the employee in writing of the decision, provide him/her with adequate reasons for the decision and inform him/her of any right of review.)*

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SECTION C (TO BE COMPLETED BY THE MINISTER FOR THE PUBLIC SERVICE AND ADMINISTRATION OR DELEGATE)

Comment:

MINISTER FOR THE PUBLIC SERVICE AND ADMINISTRATION (OR DELEGATE)

DATE:

SECTION D (TO BE COMPLETED BY EXECUTING AUTHORITY OR DELEGATE)

The application is approved/not approved

EXECUTING AUTHORITY (OR DELEGATE)

DATE:

(NOTE: *If the application is approved, the employee must submit a completed pension withdrawal form (Z102).*

If the application is not approved, the employee must be informed in writing of the decision, be provided with adequate reasons for the decision and be informed of any right of review.)