



**Department of Public Service and Administration**

**DETERMINATION ON REASONABLE ACCOMMODATION  
AND ASSISTIVE DEVICES FOR EMPLOYEES WITH DISABILITIES IN THE PUBLIC  
SERVICE**

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

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## 1. INTRODUCTION

- 1.1 The Constitution of the Republic of South Africa guarantees every citizen the right to equality. It further identifies people with disabilities as one of the groups that were previously most disadvantaged across all spheres of life and therefore key to redress in the transformation of the country. People with disabilities are therefore prime beneficiaries of affirmative action measures including their appointment in the public service. This Determination is intended to facilitate this process, and ensures that issues of disability are approached from a Human Rights perspective. Ultimately, the Public Service as a workplace needs to be conducive to people with disabilities.
- 1.2 One of the objectives of disability management in the Public Service, in addition to ensuring inclusion in the workplace, is to ensure equal access to employment, training and skills development opportunities, as well as career pathing of people with disabilities. The Public Service seeks to achieve this through the following measures:
  - 1.2.1 Acceleration of the employment of people with disabilities in the Public Service in order to transform the public service sufficiently and to meet Cabinet approved disability equity targets;
  - 1.2.2 Ensuring the mainstreaming of disability issues across the Public Service policies and programmes;
  - 1.2.3 Establishing norms and standards for the provision of reasonable accommodation measures and assistive devices in support of transformation and equity in the Public Service.
  - 1.2.4 Working in collaboration with the Department of Public Works to ensure that both public sector owned as well as leased buildings are accessible to all in order to create a working environment that is free of discrimination especially to people with disabilities;
  - 1.2.5 Establishment of the Reasonable Accommodation committees to be chaired by Human Resource Managers; and
  - 1.2.6 Conduct exit interviews and come up with interventions where reasonable accommodation was a reason for an employee to leave the department.
- 1.3 Access to assistive devices and other relevant reasonable accommodation measures will supplement the initiatives as espoused in the JobACCESS Strategic Framework on the Recruitment, Employment and Retention of Persons with Disabilities in the Public Service and the Policy on Reasonable Accommodation and Assistive Devices.

## **2. AUTHORISATION AND SCOPE OF APPLICATION**

- 2.1 This Determination is made in terms of section 3(2) of the Public Service Act, 1994 (Proclamation 103 of 1994), herein referred to as ("the PSA).
- 2.2 The Determination applies to all employees appointed in terms of the PSA, departments and government components, both nationally and provincially.

## **3. PURPOSE**

- 3.1 The purpose of this Determination is to give effect to section 3(1)(i) of the PSA by way of the promotion of uniformity in the provision of reasonable accommodation and assistive devices for employees with disabilities in the Public Service. This determination should be read together with the Policy on Reasonable Accommodation and Assistive Devices.

## **4. COMMENCEMENT**

- 4.1 This determination shall take effect on 01 April 2016.

## **5. OBJECTIVE**

The objective of the determination is to:

- 5.1 facilitate the implementation of a programme for the provision of reasonable accommodation measures which include the provision of amenities and assistive devices to employees with disabilities which will in turn enable such employees to fully participate in the activities of departments;
- 5.2 provide guidelines on the acquisition and disposal of assistive devices when once an employee with a disability leaves a department for another, or exits the Public Service;
- 5.3 provide guidelines on the provision of transportation by departments to and from work for employees with disabilities who cannot otherwise utilize the current public transportation system in line with Part X of PSCBC Resolution 3 of 1999;
- 5.4 provide guidelines on the use of Personal Assistants and Caregivers by, and for employees with disabilities, and

5.5 provide sign language interpretation services, where there is a need.

## **6. BUDGETING AND RESOURCE ALLOCATION**

6.1 Departments are required to budget for reasonable accommodation and other measures for applicants and / or employees with disabilities, inclusive of the recruitment, appointment and retention processes. Departments need to allocate adequate resources in their MTEF for provision of an enabling environment for persons with disabilities.

6.2 Accounting officers are therefore required to make some provisioning on their annual budgets, linked to, among others:

6.2.1 The number of existing employees with disabilities and their reasonable accommodation requirements; and

6.2.2 Interventions detailed in the Department's Equity Plan submitted annually to the Department of Labour.

6.3 The Strategic Human Resources Plan of every Department should elaborate on reasonable accommodation measures.

## **7. PROVISION OF REASONABLE ACCOMMODATION MEASURES AND ASSISTIVE DEVICES FOR PERSONS WITH DISABILITIES IN THE WORKPLACE**

7.1 The obligation to make reasonable accommodation may arise when an applicant or employee voluntarily discloses a disability related accommodation need or when such a need is reasonably self-evident to the employer;

7.2 Reasonable accommodation shall be linked to the inherent requirements of a particular job that the person with a disability has been appointed to perform. It should add value to the performance of the functions attached to the job of the employee with a disability. Furthermore, reasonable accommodation should not be limited to requirements for job performance, employee wellness and/or occupational health and safety measures. Instead, accommodations must provide for full and equal participation of the employee in all activities in the workplace with intention to level the playing field through equitable participation;

7.3 The employee with a disability shall at all times be consulted and allowed to provide inputs with regards to the most suitable reasonable accommodation measures.

- 7.4 In terms of the Code of Good Practice on the Employment of People with Disabilities, if reasonable accommodation for a qualifying applicant or an employee with a disability would impose unjustifiable hardship on the performance of the department, then the department need not accommodate such a person;
- 7.5 Whenever a request for reasonable accommodation or assistive device is declined, such a refusal to provide reasonable accommodation or assistive device by the employer shall be in writing, stating the reasons why the request has been declined and such records should be kept safe. A copy of any refusal should be submitted to the Department of Public Service and Administration; and
- 7.6 An employee with a disability whose request for reasonable accommodation or assistive devices has been declined must be afforded an opportunity to make representations to the Executive Authority against the decision not to provide reasonable accommodation measure or assistive device and the Executive Authority is the final arbitrator.

## **8. PROCUREMENT AND TRANSFER/DISPOSAL OF ASSISTIVE DEVICES**

- 8.1 The procurement and disposal of Assistive Devices shall be executed in line with Section 38(1) (a)(iii) of the Public Finance Management Act, which maintains the implementation of appropriate procurement and provisioning system that is fair, equitable, transparent, competitive and cost effective.
- 8.2 The transfer of Assistive Devices from one department to another shall be handled in terms of Section 42 of the Public Finance Management Act and Treasury Regulations. They shall be accounted for, similarly with any other departmental asset.

## **9. UTILISATION, REPAIRS AND MAINTENANCE OF ASSISTIVE DEVICES**

- 9.1 Employees with disabilities shall be personally liable for the repairs and maintenance of their personal Assistive Devices;
- 9.2 Departments shall be responsible for the routine maintenance and repairs of employment related Assistive Devices; and

9.3 In case of the utilisation, repairs and maintenance of assistive devices:

9.3.1 Where an employee has to undergo training related to the use of an assistive device such as a blind employee who has to go for training with his/her guide dog, this employee would be treated like any employee attending training governed by the Human Resource Development Policy; and

9.3.2 Where an employee has to undergo training to utilize equipment to access the workplace and to perform the job, the same should be treated as official training while on duty.

## **10. ACCESSIBILITY**

10.1 Departments shall ensure that its built-environment where the employee works is accessible, taking into account the nature or type of a disability that the person has; and

10.2 Departments shall ensure that where necessary all communication, including information, is available in formats that are accessible to persons with different types of disabilities.

## **11. TRANSPORTATION FOR EMPLOYEES WITH DISABILITIES TO AND FROM THE PUBLIC SERVICE WORKPLACE**

The operation of reasonable accommodation measures for people with disabilities commences when an employee with a disability enters the workplace up until when he or she leaves the workplace.

11.1 With due consideration to the provisions contained in Part X of PSCBC Resolution 3 of 1999:

11.1.1 The employee with disability is responsible for his/her transportation and transportation costs to and from work;

11.1.2 The Head of Department must explore options, including amendments to the departmental policy (as required in terms of clause 2 of Part X of the PSCBC Resolution 3 of 1999) to provide transportation to its employees with disabilities who, as a result of the gravity of their disability, may not otherwise be able to utilize public transport, and who may not be able to drive nor qualify for any government subsidized transport;

11.1.3 Part X of the PSCBC Resolution 3 of 1999 gives discretionary powers to the Executing Authority to provide transportation to officials, with due regard to the specified tariffs; and

11.1.4 When a department decides to provide the said transportation for people with disabilities to and from the place of work, the terms and conditions as agreed upon must be in writing linked to a departmental policy that has been well consulted with disabled employees in order to ensure consistency.

11.2 Noting the obligation that Part X of the PSCBC Resolution 3 of 1999 places on Departments to meet the reasonable costs of travel for official purposes and on an Executive Authority to have a written policy on among other acceptable means and class of transport, the Executive Authority shall ensure that:

11.2.1 One or some of the departmental vehicles are specially adapted for use by people with disabilities;

11.2.2 For purposes of the economic and efficient usage of departmental vehicles, all members of staff (with or with no disabilities) who are, in terms of existing travel policies in the department, permitted to use the departmental vehicles must be allowed to use the said vehicles;

11.2.3 The employee with disabilities shall be provided with appropriate transport or transported to and from an airport if the employee has to fly to other local and international destinations for official duties; and

11.2.4 The employee with disabilities shall be permitted to utilize an airline and class of travel that can accommodate his/her disability.

## 12. PERSONAL ASSISTANTS AND CAREGIVERS

12.1 Some employees with certain types of disabilities may require the services of personal assistance due to the nature of their disabilities. Assistance, in addition to any assistive device that has been provided to an employee with a disability could be in the form of a person who assists the employee with a disability.

12.2 Such persons who assist employees with disabilities could be categorized into two:

12.2.1 **Personal Assistant:** in the context of disability management within the workplace, this would be a person who provides work-related services to an employee who needs such a service; and

12.2.2 **Caregiver:** This is a person who provides services of a personal nature to an employee with a disability. A care-giver at home can be utilized to assist even at the working environment. This would include, amongst others, feeding; taking an employee to the bathroom, clothing, etc.



- 12.3 An employee with a disability who, as a result of the nature and / or seriousness of a disability, needs the services of a personal assistant must be provided with same by the employer to enable him or her to discharge his or her duties;
- 12.4 Specialist services may be utilized to establish whether a need does exist for the provision of such a personal assistant; and
- 12.5 An employee with a disability who needs the services of a caregiver must be responsible for such a caregiver as services provided are of a personal nature (not work-related).

### **13. GENERAL ISSUES**

- 13.1 The provision of reasonable accommodation measures commences with recruitment, and terminates upon exit from the public service;
- 13.2 Departments have an obligation to enquire about the reasonable accommodation needs of a candidate with a disability during the interview process;
- 13.3 On appointment, an employee with a disability can only commence with duties when reasonable accommodation needs have been met, or the necessary assistive device has been acquired and provided to him or her; and
- 13.4 All disciplinary proceedings involving people with disabilities must take into account all reasonable accommodation needs of the employee with a disability that may include the following: sign language interpreter, charges being in an accessible format for a person with a visual disability, e.g. Braille or some other format which is accessible for people with visual impairment; or accessible venue or facilities for employees with a physical disabilities.

### **14. COMPLIANCE MONITORING AND REPORTING**

- 14.1 Compliance monitoring and reporting with this determination shall be conducted in line with section 16A of the PSA and section 38 of the Public Finance Management Act, 1999. In line with the aforementioned legislative prescripts MPSA, EAs and HOD/DG have the necessary authority to oversee compliance with the application of all legislative prescripts governing the development of norms and standards and may apply corrective and compliance measures in response to non-compliance and contravention to such prescripts.

- 14.2 After considering reasons for non-compliance, appropriate disciplinary steps may be taken against individuals who have contravened the provisions of the Act, Regulations and the Determination through normal disciplinary processes, as the consequences may also have a detrimental impact on the department's level of service delivery.
- 14.3 In addressing non-compliance to the Act, Section 16A of the PSA states that (1) "an executive authority shall-
- (a) immediately take appropriate disciplinary steps against a head of department who does not comply with a provision of this Act or a regulation, determination or directive made hereunder;
  - (b) immediately report to the Minister the particulars of such non-compliance; and
  - (c) as soon as possible report to the Minister the particulars of the disciplinary steps taken".
- 14.4 Section 16A of the PSA further states that (2) A head of a department shall- immediately take appropriate disciplinary steps against an employee of the department who does not comply with a provision of this Act or a regulation, determination or directive.
- 14.5 If non-compliance is detected, the department must develop a response to address such non-compliance in writing and must develop a plan on how incidents of non-compliance will be corrected and how similar incidents will be prevented in future.
- 14.6 Departments shall report progress in line with the JobACCESS Strategic Framework on the Recruitment, Employment and Retention of Persons with Disabilities in the Public Service on a six monthly basis; and
- 14.7 Department of Public Service and Administration will monitor the implementation of this Determination through annual reporting process;

**APPROVAL BY THE EXECUTIVE AUTHORITY**

**Determination Approved:**



MR. NATHI MTHETHWA, MP  
ACTING MINISTER FOR PUBLIC SERVICE AND ADMINISTRATION  
DATE: 26-07-2015