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TO: ALL HEADS OF NATIONAL / PROVINCIAL DEPARTMENTS AND PROVINCIAL ADMINISTRATIONS

AMENDMENT OF THE PUBLIC SERVICE REGULATIONS, 2001 BY THE INSERTION IN CHAPTER 1 OF REGULATION VII B.3. 2 - THE RE-APPOINTMENT OF FORMER EMPLOYEES

Kindly take note that Chapter 1 Part VII B.3 of the Public Service Regulations, 2001(PSR) was amended with effect from 15 December 2006 by the insertion of regulation B.3.2. A copy of the amendment is attached for your information.

As you are aware, Chapter 1 Part VII B.3.1(a) of the PSR prohibits an executing authority from re-appointing a former employee who left the public service earlier on the condition that she or he would not accept or seek re-appointment. Numerous ad hoc requests have been received from departments requesting the Minister for Public Service and Administration to approve deviations from these provisions of the PSR for certain occupational categories or individual employees with scarce skills. These requests have thus far been dealt with on a case by case basis.

Having recognised the importance of developing, recruiting and retaining scarce skills in the public service, the PSR was amended to grant the relevant executing authority the discretion to re-employ a former employee contemplated in regulation VII B.3.1(a) of the PSR provided that:

- (a) the appointment is in the public interest;
- (b) the appointment is made in accordance with the recruitment and selection procedures in the Regulations and no other suitable candidate could be recruited;
- (c) 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
- (d) the employee has not previously been appointed in terms of this regulation.

In addition to the normal requirements for appointment in the public service, the conditions mentioned above must be satisfied before an executing authority may make an appointment under regulation VII B.3.2 of the PSR. Where the former employee's appointment or extended appointment is made in terms of regulation VII B.3.2, even for a term less than the maximum term prescribed, such an employee may not be appointed under this regulation again regardless of whether it is by the same or any other executing authority.

Further, please be advised that any approval for the appointment of a former employee granted prior to the commencement of these amended regulations, i.e. prior to 15 December 2006, pursuant to a deviation approved by the Minister for Public Service and Administration, will not affect an executing authority's powers under regulation VII B.3.2 of the PSR.

Executing Authorities will be required to report on re-appointments under regulation VII B.3.2 of the PSR in terms of the National Minimum Information Requirements referred to in regulation III J.3 and J.4 of the PSR. The Minister for Public Service and Administration will in due course determine the format in which the information, *inter alia* on the number and profile of employees so re-appointed, is to be included in the annual report.

An electronic copy of the amended Public Service Regulations, 2001 is available on the DPSA website at <http://www.dpsa.gov.za/acts&policies.asp> for easy download.



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DIRECTOR-GENERAL

Date: 26/02/07

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DEPARTMENT OF PUBLIC SERVICE AND ADMINISTRATION

No. R. 1268

15 December 2006

AMENDMENT OF PUBLIC SERVICE REGULATIONS, 2001

The Minister for the Public Service and Administration has, under section 41 of the Public Service Act, 1994 (promulgated under Proclamation No. 103 of 1994), amended the Public Service Regulations, 2001 (published under *Government Notice* No. R. 1 of 5 January 2004), as amended, by the insertion after regulation B.3.1 of Part VII of Chapter 1 thereof, of the following regulation:

"B.3.2 Notwithstanding regulation VII B.3.1 (a), an executing authority may appoint a former employee referred to in that regulation provided that—

- (a) the appointment is in the public interest;
 - (b) the appointment is made in accordance with the recruitment and selection procedures in these Regulations and no other suitable candidate could be recruited;
 - (c) 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
 - (d) the employee has not previously been appointed in terms of this regulation."
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