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Department:
Public Service and Administration
REPUBLIC OF SOUTH AFRICA

Private Bag X916, Pretoria, 0001. Tel: (012) 336 1000, Fax: (012) 326 7803
Private Bag X9148, Cape Town, 8000. Tel: (021) 467 5120. Fax: (021) 465 5484

Reference no: 14/1/2/P
Enquiries: Mr F Pelser
Telephone no: (012) 336 1312

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

DIRECTIVE AND DETERMINATION ON THE UTILISATION OF FOREIGN NATIONALS TO ADDRESS HUMAN RESOURCE AND SKILLS NEEDS IN THE PUBLIC SERVICE

1. The Minister for the Public Service and Administration-
 - 1.1 has in accordance with section 41(3) issued the attached "Policy on the utilisation of foreign nationals to address human resource and skills needs in the Public Service" as a directive to elucidate and supplement Regulations B.1, B.4, C and D in Chapter 1, Part VII of the Public Service Regulations, 2001; and
 - 1.2 has determined as follows in accordance with section 3(5)(a) of the Public Service Act, 1994:
 - (a) A special deployment allowance may be paid to foreign nationals who are utilised on a secondment or exchange basis to address human resource and skills needs in a department.
 - (b) The allowance-
 - (i) may not exceed 30% of the commencing salary notch or package attached to the job level at which the foreign national is utilised;

- (ii) may only be paid after consultation with the Department of Public Service and Administration;
 - (iii) is only payable if the foreign national is utilised in a critical occupation or a critical skill situation as defined in the attached Policy.
- (c) Special leave may be granted to a foreign national to vacate the workplace before her or his last day of employment.
2. The Policy introduces principles and processes relating to the appointment provisions in Regulation VII B.1, B.4, C and D. These are, in summary, the following:

PARAGRAPH IN THE POLICY	DESCRIPTION/REMARK
Appointment matters	
3.2.2 and 5.1.2	The appointment of foreign nationals is restricted to "critical" occupations
5.4	Criteria are provided to identify an occupation as "critical"
5.5.2(b), 5.5.2(c) and 5.5.6(b)	The role of the Department of International Relations and Cooperation concerning possible treaties, agreements and memoranda of understanding with foreign countries, is explained
5.5.4	Procedural arrangements as derived from the Immigration Act, 2002 are provided
5.5.6(c) and Annexure B	A baseline set of provisions is provided for inclusion in a foreign national's contract of employment, except if the foreign national is appointed in the SMS, in which case the SMS contract of employment applies
5.5.7	A department must report on its appointment of foreign nationals
Notice periods to terminate employment contracts	
Annexure B, clause 3.4	Provision is made that the foreign national may be granted special leave to leave the workplace before the last day of employment
Secondment and exchange matters	
3.2.2, 3.2.3 and 6.1.3	The utilisation of foreign nationals (on a secondment or exchange basis) is restricted to "critical" occupations and skills situations

PARAGRAPH IN THE POLICY	DESCRIPTION/REMARK
6.4	Criteria are provided to identify an occupation and a skill as "critical"
6.5.1	The role of the Department of International Relations and Cooperation concerning protocol matters is described
6.5.2	Procedural arrangements concerning secondment or exchange arrangements are provided
6.6	Provision is made for the payment of a special deployment allowance
6.8	A department must report on its utilisation of foreign nationals

3. The directive and determination take effect on 1 December 2009.
4. The above determination has been consulted with the National Treasury as prescribed in section 3(5)(b) of the Public Service Act, 1994. The latter has indicated that departments must defray the relevant expenditure from their existing budgetary allocations as no additional funding will be allocated for this purpose.

Mr Pretorius
DIRECTOR-GENERAL

DATE: 8/12/2009.