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Department:
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Circular Number: HRP 8 of 2018

TO: ALL HEADS OF NATIONAL DEPARTMENTS AND PROVINCIAL DEPARTMENTS

**FILLING OF POSTS IN OFFICES OF EXECUTIVE AUTHORITIES AND DEPUTY MINISTERS AND THE
MANAGEMENT OF STAFF DUE TO CHANGES IN POLITICAL OFFICE BEARERS**

1. The purpose of this Circular is to clarify the interpretation of the prescripts on the provisioning and filling of posts in the Offices of Executive Authorities and Deputy Ministers. It is necessary to ensure that departments are not faced with operational challenges and severe financial burdens when the relevant office bearer vacates office.
2. Regulation 66 of the Public Service Regulations, 2016 provides that an executive authority may only fill vacancies in the Office of an executive authority or a Deputy Minister by means of:
 - (a) an appointment in terms of section 9 of the Act for-
 - (i) the term of office of the incumbent executive authority or Deputy Minister which will terminate (efflux), at the end of the first month after the month in which the term of that executive authority or Deputy Minister terminates for any reason; or
 - (ii) a period not exceeding 3 years; and
 - (b) a transfer in terms of section 14 of the Act, provided that the employment status of the transferred employees as permanent or temporary, as the case may be, shall remain unaffected by the transfer.
3. Regulation 66(2) of the Public Service Regulations provides that appointments in posts in the Office of an Executive Authority may be made without following normal advertisement processes. Notwithstanding this, the suitability of such candidates must still be assessed on the basis of the appointment criteria prescribed in regulation 67(5)(b) to (d) of the Public Service Regulations and such appointments must be made on contract for the period as referred to in paragraph 2 above.
4. Notwithstanding regulation 66 of the Public Service Regulations, the Ministerial Handbook provides clear guidance on the staff establishment of an office of an executive authority and a Deputy Minister and these guidelines should be complied with. Incoming executive authorities and Deputy Ministers should not be

burdened with an office establishment being occupied by permanent incumbents or staff with contracts, which either unreasonably exceed the term of office of the outgoing office bearer, or are employed additional to the establishment of the Department that exceed the number of posts allocated in terms of the Ministerial Handbook.

5. To regularise employment practices throughout the public service, appointments inconsistent with the provisions of the Public Service Regulations, need to be evaluated on a case by case basis by the Office of the Public Service Commission in terms of the Human Resources Regulatory framework. The Public Service Commission should be approached directly to make a recommendation on the approach to follow with such appointments. This will assist departments to manage the cases that have become an operational and financial burden. Comprehensive supporting documents, including the reasons for such appointments must be submitted in writing to the Public Service Commission.
6. Considering the upcoming national elections in mid-2019, departments are cautioned against filling of posts in the offices of the Executive Authority or Deputy Minister for a period exceeding the period running up to the elections. Executive Authorities are advised to link the contract period to the remaining term of office of the Executive Authority or the Deputy Minister. This will ensure that departments will not experience operational challenges and financial difficulties resulting from an executive authority or Deputy Minister vacating his or her office after the elections.
7. In addition to appointing or transferring permanent employees to the office of an executive authority or Deputy Minister, it is advisable that the Departments consider temporarily reassigning employees in terms of Section 32 of the Public Service Act to perform the relevant functions.
8. It must be ensured that any permanently appointed staff who are transferred or seconded to the office of an Executive Authority or Deputy Minister, meet the inherent requirements of concomitant positions in the receiving Department. This will assist departments to reassign such staff, with appropriate competencies, back to relevant posts in the Department where the term of the Executive Authority or Deputy Minister ends and the services of such employees are no longer required by the incoming Executive Authority or Deputy Minister.
9. The staff establishment (both approved and actual structure) indicating the number of filled/vacant posts, appointments additional to the establishment and the grading of the posts in the Office of the Executive Authority and Deputy Minister as at 1 April 2018 must be submitted to the DPSA by no later than 30 April 2018.
10. Any enquiries related to the organisational structure should be directed to Mr S. Msimang at tel. 012 336 1403, e-mail: Siyabonga@dpsa.gov.za and job grading to Mr V Sakala at tel 012 336 1336 and e-mail: VictorS@dpsa.gov.za.

Kind regards



Act-Director General

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