



**MINISTRY  
PUBLIC SERVICE AND ADMINISTRATION  
REPUBLIC OF SOUTH AFRICA**

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**HRP & EMPLOYMENT MANAGEMENT CIRCULAR 43 OF 2020**

**TO ALL EXECUTIVE AUTHORITIES OF NATIONAL DEPARTMENTS AND NATIONAL GOVERNMENT COMPONENTS**

**APPLICATION OF THE PUBLIC SERVICE REGULATIONS, 2016 WITH RESPECT TO THE FILLING OF HEAD OF DEPARTMENT AND DEPUTY DIRECTOR-GENERAL POSTS**

Noting the President's powers in terms of Section 12 (1) of the Public Service Act, 1994, as amended, regarding the appointment of Heads of Department, the Minister for the Public Service and Administration (MPSA) has an oversight role with respect to the filling of posts of Heads of Department and Deputy Directors-General at national level. The performance of the oversight function is very intensive and requires meticulous application of the regulatory framework which encompasses the Public Service Act, 1994, the Public Service Regulations, 2016 and other subordinate legislation in the form of Directives and Determinations as issued by the Minister for the Public Service and Administration.

The Department of Public Service and Administration (DPSA) receives a high volume of Cabinet Memoranda regarding the filling of posts at the specified levels. Whilst performing its oversight function the MPSA has noted a number of consistent non-compliance aspects which has given rise to this circular.

Some of the aspects of non-compliance in terms of the regulatory framework, as identified include, but are not limited, to the following:

**Appointments:**

**Advertising and minimum requirements:**

- Regulation 65(5) of the Public Service Regulations, 2016, states, "*When advertising outside the department, the department shall also advertise in the public service vacancy circular issued by the Department of Public Service and Administration*". The purpose of advertising in the public service vacancy circular is to not only curb costs associated to advertising of posts but to also improve accessibility to job advertisements in the Public Service. Advertising in the public service vacancy circular is a regulatory requirement which is often not adhered to. This regulatory requirement was included in the Public Service Regulations in order to provide an alternative means of advertising which remains a cheaper alternative than media adverts.
- Advertising is critical and remains the mechanism that a department uses to reach potential applicants. Advertisements are often not aligned well to the outcome of the job evaluation and with due consideration of the Directive on compulsory capacity development, mandatory training days and minimum entry requirements for the Senior Management Service. It is acknowledged that departments often experience difficulty in attracting the right quality of candidates and this is

usually attributed to how a post is advertised. It is therefore imperative that the department understand the scarcity of skill, as well as the available pool of potential applicants prior to compiling an advertisement. The specified Directive serves as the minimum entry requirement for entry into posts at the mentioned levels and therefore must take precedence. Government has a priority of creating and maintaining a professional public service, in that spirit deviations that impact on the inherent requirements of the post will not be considered.

- The recommended candidate meets the requirements of the post in all respects and suitability in terms of qualifications and years of experiences is expressed in the narrative of the Cabinet Memorandum.

#### **Job evaluation:**

- Regarding job evaluation, regulation 40 (c) of the Public Service Regulations, 2016, states that when filling a vacancy, in the case of a vacant post not determined in terms of an OSD or graded by the Minister in terms of regulation 41 (2)(d), the Executive Authority shall evaluate the job unless the specific job has been evaluated in the last 60 calendar months. The reason for evaluating posts every 60 months is to confirm that the post in terms of the functional expectations have not changed and are indeed aligned with the functional requirements of a department. Departments need to ensure that posts are evaluated if such posts have not been in the last 60 months prior to advertising such posts. Departments are urged to apply the content of DPSA circular 31 of 2020.

#### **Head Hunting versus skills search:**

- Regulation 67(7) of the Public Service Regulations, 2016, states *"If the selection committee is unable to recommend a suitable person for appointment from those who applied in terms of subregulation (5), the executive authority may, after that selection process has been completed, approve the head-hunting of one or more persons with the requisite competencies and subject such person or persons to the same selection process as those who applied."* It is clear from the regulation that head-hunting can only be applied if the selection committee has agreed that no suitable candidate may be recommended for appointment from those who applied for the post. The Executive Authority will thereafter approve head-hunting as a mechanism to source candidates or decide to re-advertise the job. There are instances where departments have either concurrently applied head-hunting or conducted head-hunting in order to supplement the pool of applicants who had applied by responding to the advertisement.
- There is a fundamental difference between skills search versus head-hunting. As regards skills search, departments may in order to enlarge the potential pool of candidates to be generated through the normal advertising of posts, request identified candidates to submit their candidature for an advertised post prior to the closing date of an advertisement.

#### **Z83:**

- All applications for an advertised post must be submitted on a fully completed and signed Z83 application for employment form being the prescribed form. Applications not complying with this requirement shall be disqualified. Any form of misrepresentation that may transpire during the recruitment process may lead to such an application being disqualified.

### **Personnel Suitability Checks:**

- As required all shortlisted candidates must be subjected to personnel suitability checks including the verification of qualifications by the South African Qualification Authority (SAQA) in order for the MPSA to confirm that the claimed qualifications have been verified and to cross check same against the **advertised requirements**.
- All shortlisted candidates must also be subjected to criminal record checks, credit checks and verification of citizenship. The department is responsible to ensure that these checks are conducted and the documentary proof is attached to the Cabinet Memorandum.
- Proof is required with regard to previous employment verification, board membership and pending disciplinary cases regarding the recommended candidate. Written declaration from the candidate is required for this purpose.

### **Representivity tables:**

- As regards representivity tables required by the template Cabinet Memorandum under organisational and personnel implications, the representivity profile per level of the Senior Management Service must be reflected. When considering the filling of posts at the mentioned levels, departments must exercise due diligence in recognising Employment Equity requirements **pertaining to race, gender and disability**. The department must provide a narrative in the Cabinet Memorandum **as to the impact** regarding the appointment to the representivity.

### **Remuneration:**

- Remuneration must be set at the first notch of the salary level and advertised same.

### **Selection Committees:**

- The Selection committee must be constituted in line with Regulation 67 of the Public Service Regulations, 2016.

### **Delegation of authority for filling Director-General posts nationally:**

- In acknowledging the President's powers in terms of Section 12 (1), and in the absence of delegations to respective Executive Authorities, it remains prudent for Executive Authorities to approach the President when considering the filling of posts of Head of Department nationally in order for consideration to be given for the delegation of authority to fill the Head of Department post.
- Ministers who have received the delegation of authority to fill the Head of Department post are kindly requested to finalise the filling of the post as a matter of urgency.
- Ministers who have a vacant Head of Department post are urgently advised to request the said delegation of authority to start the process to fill the Head of Department post.

### **General:**

- The latest available Cabinet Memorandum template issued by Cabinet Secretariat must be utilized.
- The turn-around time for the processing of Cabinet Memoranda is strictly four (4) weeks from date of receipt. In acknowledging the security classification of Cabinet Memoranda documents must be

hand delivered in hard copy to the Ministry for Public Service and Administration. Emailing such documents presents a security risk.

- Appointment letters for posts will only be issued following receipt of the Cabinet Minutes.

**Extension of contract of a Director-General:**

For purposes of an extension of contract of a DG section 12 (1)(a) of the Public Service Act, 1994, indicates that appointment and other career incidents of heads of department shall be dealt with by the President. Section 12 (2)(c) of the Act further states that the relevant executive authority (i.e. the President) may, at the expiry of the term of office of a head of department or the expiry of an extended term of office, extend the term for a period of not more than five years at a time.

In monitoring the employment contract and in accordance with item 5.1 of Annexure 2 of the Public Service Regulations, 2016 (i.e. the employment contract as prescribed in terms of section 12 of the Public Service Act, 1994, for heads of department); the Employer must in writing confer with the Employee at least four calendar months before the expiry of the term whether he or she proposes to retain the Employee in service for any extended period not exceeding five years or not.

In the event that the Head of Department's contract is getting closer to expiry, and in order to ensure compliance in the above regard, as the relevant Minister you are required to alert the President (as the executive authority for Heads of Department), to the impending expiry of contract with a view to determine whether the President intends to extend the relevant contract or not. If the President, after consultation with yourself and the relevant Head of Department, wishes to extend the contract, it would be appreciated if the MPSA be provided with a Cabinet Memorandum in this regard. Should Cabinet concur with the extension of contract, a President's minute will be forwarded for the President's attention.

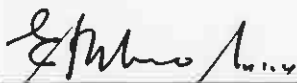
The documents required for an extension are as follows:

- (a) Copy of curriculum vitae/résumé.
- (b) Cabinet Memorandum for submission to Cabinet.
- (c) Outcome of most recent performance assessment(s). This must be fully effective.
- (d) Security clearance confirmation.
- (e) Copy of ID and driver's license.
- (f) Proof of current salary notch.
- (g) Confirmation of no disciplinary action or pending disciplinary action.

Attached to this circular is a mandatory checklist that must be submitted together with the Cabinet Memorandum and accompanying documents for purposes of appointments of DDG and DG.

It is trusted that the above will further assist in complying with the requirements of the regulatory framework. Non adherence to the requirements will result in the Cabinet Memorandum being referred back. Your compliance in the above regard will be appreciated.

Kind regards



**Mr. Senzo Mchuru (MP)**  
**Minister for the Public Service and Administration**

Date: 17/11/2020

CHECKLIST TO BE USED BY DEPARTMENTS WHEN COMPILING AND SUBMITTING DOCUMENTATION TO THE DPSA FOR THE PROCESSING OF APPOINTMENTS (AS PER THE EXECUTIVE PROTOCOL)			
NAME OF DEPARTMENT:			
POST TITLE:			
POST LEVEL:			
<p>1. Please note that the full list of required documents, correct narrative in the Cab Memo including compliance to recruitment processes will ensure processing of the request within the 4 week time frame from date of receipt of the full submission.</p> <p>2. All incomplete and non-compliant submissions will be returned to the department for resubmission.</p> <p>3. The resubmission of outstanding information or corrections will result in a new 4 week time frame commencing from the date of receipt of the resubmission</p>			
DEPARTMENT SUBMISSION INCLUDES ALL THE REQUIRED DOCUMENTATION	SUBMITTED	TAG	COMMENT
Signed Check List		A	
Signed Letter from Executive Authority requesting processing of Appointment		B	
Approved and consulted Organisational Structure		C	
Job Evaluation Report for the Post		D	
Advertisements for the Post both PSVC and Media		E	
Full list of all candidates who applied for the post		F	
Cerified Copies of ID/Drivers License		G	
Cerified copies of qualifications		H	
Personnel Suitability Check letter and documentary proof		I	
Pending Disciplinary matters: Written declaration by candidate included		J	
Business interests, Board membership and Directorships: Written declaration by candidate included		K	
CV or resume		L	
Reference Checks		M	
Competency assessment Report		N	
Report on Verification of Qualifications (SAQA letter)		O	
Copies of completed, signed and dated Z83 of recommended candidate		P	
Certified Copies of Qualifications		Q	
Draft Cabinet memorandum in compliance with Cabinet template		R	
Nyukela Pre-entry certificate for SMS		S	
For a Director-General post Delegation of Authority must be availed		T	
I HEREBY DECLARE THAT THE SUBMISSION HAS BEEN CHECKED AND THAT ALL THE REQUIRED DOCUMENTATION/EVIDENCE HAS BEEN INCLUDED.			
NAME AND SURNAME		DATE	
SIGNATURE			