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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 7802
Private Bag X9148, CAPE TOWN, 8000 Tel: (021) 467 5120, Fax:(021) 467 5484

Enquiries: Philani Mveli

Tel no: 012 336 1312

E-mail: Philani.Mveli@dpsa.gov.za

TO ALL HEADS OF NATIONAL AND PROVINCIAL DEPARTMENTS AND GOVERNMENT COMPONENTS

EMPLOYMENT MANAGEMENT CIRCULAR 52 OF 2023

GUIDANCE ON IMPLEMENTING REGULATION 57(2) OF THE PUBLIC SERVICE REGULATIONS, 2016

This circular guides the application of Regulation 57(2) within the Public Service Regulations, 2016, after this, referred to as PSR, from the effective date of 01 November 2023.

The amended Regulation 57(2) of the PSR stipulates that, unless the Act provides otherwise, an Executive Authority may, within the confines of the existing budget and by a salary level linked to a grade determined either through job evaluation or as prescribed in an Occupational Specific Dispensation (OSD), appoint additional personnel to the established workforce under the following circumstances:

- (a) the incumbent of the post is expected to be absent for such a period that other employees cannot perform their duties;
 - (b) there is a temporary increase in the volume of work for a period not exceeding 12 calendar months;
 - (c) an employee's post has been abolished, and they cannot be transferred to another post;
 - (d) an employee is part of a development programme as contemplated in Regulation 58;
 - (e) the nature of the work for which the employee is employed is of limited or definite duration;
- or
- (f) it is necessary for any other justifiable reason to temporarily increase the department staff for a period not exceeding 12 calendar months.

While Regulation 57(2) offers comprehensive direction, it is essential to expound on the specifics of clause 57(2)(e). This particular provision requires an additional appointment to be made for a limited or fixed term. It is incumbent upon departments to prepare and maintain precise project plans that reflect this temporality, with the duration of any additional appointments aligning strictly with these established timeframes. The projects must not promote a duplication of functions that are provided in the structure of the department.

In adherence to the full extent of Regulation 57(2), as clarified above, Executive Authorities are exempt from the requirement to secure a determination from the Minister for the Public Service and Administration (MPSA) for employment periods extending beyond twelve consecutive calendar months.

Also, the provisions requiring submission of deviation requests from Regulation 57(2) as previously mandated by Circulars 14 of 2019 and 18 of 2021, which necessitated communication with the Department of Public Service and Administration (DPSA) no less than three months before the lapse of the established term, are now rescinded.

The department is advised to manage perpetual contract renewal(s) and the potential risk of creating legitimate expectations in terms of Section 186(1)(b) of the Labour Relations Act for continued employment. Additionally, it is important to maintain records of the justifications for employment and the extensions of contracts.

For further information, feel free to liaise with Mr Bafana Malaza Tel: 012 336 1644, email: Bafana.Malaza@dpsa.gov.za and Ms Zandile Buthelezi Tel: 012 336 1262, email: Zandile.Buthelezi@dpsa.gov.za.

Yours sincerely,

Signed by: Yoliswa Makhasi
Signed at: 2023-11-17 07:08:04 +02:00
Reason: I approve this document



MS YOLISWA MAKHASI

DIRECTOR-GENERAL

DATE: 17/11/23