



MINISTRY
PUBLIC SERVICE AND ADMINISTRATION
REPUBLIC OF SOUTH AFRICA

Private Bag X916, PRETORIA, 0001 • Tel: (012) 336 1000, Fax: (012) 336 1809
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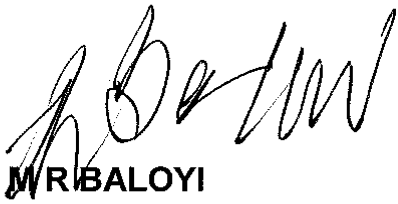
**TO ALL EXECUTIVE AUTHORITIES OF NATIONAL AND PROVINCIAL
DEPARTMENTS AND GOVERNMENT COMPONENTS**

**CIRCULAR: PARTICIPATION OF PUBLIC SERVICE EMPLOYEES AS
CANDIDATES IN ELECTIONS (Ref 10/8)**

1. I hereby wish to inform you of changes to the Public Service Act, 1994 (the "Act") and Public Service Regulations, 2001 (the "Regulations"), allowing public service employees appointed in terms of the Act and certain other employment laws to remain in employment after they have been issued with certificates as candidates. In previous elections employees were required to resign from the public service when they were issued with certificates as candidates by the Independent Electoral Commission.
2. The amended section 36 of the Act, effective 20 March 2009 (Proclamation No. R. 18 of 20 March 2009), provides that –
 - (a) employees are permitted to be candidates for elections subject to the Public Service Code of Conduct and the limits prescribed by regulation by the Minister for the Public Service and Administration;
 - (b) if an employee is elected and assumes office, the employee is deemed as having resigned from the public service with effect from the date immediately before the date he/she assumes office as a member of the National Assembly or a provincial legislature or as a full-time municipal councillor (s36(2));
 - (c) an employee elected as a part-time municipal councillor (s36(4)) may continue as employee, but must seek approval in terms of section 30 of the Act from his/her executive authority (Minister/MEC) to receive remuneration; and
 - (d) if an employee is appointed as a permanent delegate of the National Council of Provinces, he/she is deemed as having resigned from the

public service with effect the date immediately before the date he/she assumes office as delegate (s36(3)).

3. Regulation G.2.4 in part VII of Chapter 1 of the Public Service Regulations (the "Regulations"), requiring resignation when issued with a certificate, has been deleted and a new regulation D of Chapter 2 has been inserted, both effective 20 March 2009, which provides that –
 - (a) an employee must not later than the next working day after he/she is issued with a certificate in terms of section 31(3) of the Electoral Act, 1998, inform his/her department in writing that he/she is a candidate for election;
 - (b) the employee must furnish a copy of the certificate to the department; and
 - (c) the employee will be deemed to be on annual leave (and unpaid annual leave, if insufficient annual leave) from the date the certificates are issued until the election results are finalized (see Government Notice No. R. 332 of 20 March 2009).
4. Attention is drawn to the Public Service Code of Conduct which stipulates in regulations C.2.7 and C.3.7 of Chapter 2 of the Regulations that an employee (including those who are candidates) –
 - (a) may not abuse his/her position in public service to promote or prejudice the interest of any political party; and
 - (b) must refrain from party political activities in the workplace.
5. Departments are requested to timeously inform employees of these provisions that regulate their participation in the 2009 elections.
6. It should be noted that these provisions apply to employees appointed in terms of the Public Service Act, 1994, the Employment of Educators Act, 1998 and the Correctional Services Act, 1998. I have been informed that these provisions do not apply to employees appointed in terms of the South African Police Service Act, 1995, Defence Act, 2002 and the Intelligence Services Act, 2002 (see s2(2) of the Public Service Act).
7. Copies of Proclamation No. R. 18 and Government Notice No. R. 332 of 20 March 2009 and the amended Public Service Regulations are accessible on the DPSA website at www.dpsa.gov.za. Enquiries in this regard can be directed to Adv E van Schoor at telephone number 012-3361010/1218, fax 086 615 4845 or e-mail Empie@dpsa.gov.za.



MR M RIBALOYI

MINISTER FOR THE PUBLIC SERVICE AND ADMINISTRATION

DATE:

2009/03/23



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PROCLAMATION
by the
President of the Republic of South Africa

No. R 18, 2009

**COMMENCEMENT OF SECTION 32 OF THE PUBLIC SERVICE
AMENDMENT ACT, 2007 (ACT NO. 30 OF 2007)**


In terms of section 43 of the Public Service Amendment Act, 2007 (Act No. 30 of 2007), read with section 13(3) of the Interpretation Act, 1957 (Act No. 33 of 1957), I hereby determine the date of publication of this Proclamation in the *Gazette* as the date on which section 32 of the Public Service Amendment Act, 2007, takes effect.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria,
this Thirteenth day of March, Two Thousand and Nine.



President

By order of the President-in-Cabinet:

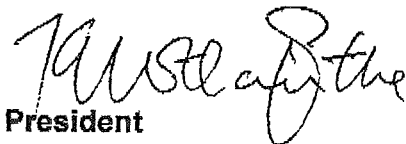


Minister of the Cabinet

PROKLAMASIE*van die****President van die Republiek van Suid-Afrika*****No. R 18, 2009****INWERKINGTREDING VAN ARTIKEL 32 VAN DIE STAATSDIENS-
WYSIGINGSWET, 2007 (WET NO. 30 VAN 2007)**

Ingevolge artikel 43 van die Staatsdienswysigingswet, 2007 (Wet No. 30 van 2007), saamgelees met artikel 13(3) van die Interpretasiewet, 1957 (Wet No. 33 van 1957), bepaal ek hierby die datum waarop hierdie Proklamasie in die Staatskoerant gepubliseer word as die datum waarop artikel 32 van die Staatsdienswysigingswet, 2007, in werking tree.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria, op hede die Dertiende dag van Maart, Tweeuisend en Nege.


President

Op las van die President-in-Kabinet:


Minister van die Kabinet

GOVERNMENT NOTICE

DEPARTMENT OF PUBLIC SERVICE AND ADMINISTRATION

No. R. 332

20 March 2009

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 (promulgated under Government Notice No. R. 1 of 5 January 2001), as amended, with effect from the date of publication of this notice in the *Gazette* by-

- (a) the deletion of regulation G.2.4 in Part VII of Chapter 1; and
- (b) the insertion of the following regulation after regulation C.5.5 of Chapter 2:

“D. EMPLOYEES AS CANDIDATES FOR ELECTION AS MEMBER OF NATIONAL ASSEMBLY, PROVINCIAL LEGISLATURE OR MUNICIPAL COUNCIL

- D.1 An employee who is issued with a certificate in terms of section 31(3) of the Electoral Act, 1998 (Act No. 73 of 1998), stating that she or he is a candidate in an election, shall, not later than the next working day, inform her or his department in writing thereof and submit a copy of the certificate.
 - D.2 The employee shall be deemed to be on annual leave from the date following the date the certificate is so issued until, if she or he-
 - (a) is elected and accepts election, the date immediately before the date she or he assumes office;
 - (b) is elected, but declines election, the date that she or he declines election; or
 - (c) is not elected, the date of the designation of representatives in terms of item 16 to Schedule 1A to the Electoral Act, 1998.
 - D.3 If the employee has insufficient annual leave, she or he shall be deemed to be on unpaid leave for the period in question.”.
-

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