

Resolution / of 2014

**AGREEMENT ON THE TRANSFER AND PLACEMENT OF STAFF IN THE RECONFIGURATION OF
DEPARTMENTS**

1. OBJECTIVES

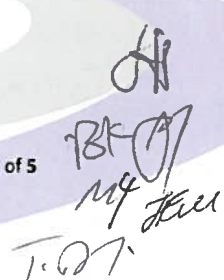
- 1.1. To implement the changes and configuration of the National Executive and Departments as announced by the State President on the 25th May 2014;
- 1.2. Ensure alignment between the announced Cabinet portfolios and the administrative structures in support of the Ministers responsible for such portfolios; and
- 1.3. To provide guiding principles on the transfer and placement of staff in a transparent, fair and inclusive process that allows for meaningful participation of all stakeholders.

2. SCOPE

- 2.1. This agreement binds the Employer and Employees who:
 - 2.1.1. are employed by the State; and
 - 2.1.2. fall within the registered scope of the Council.

3. NOTING THAT

- 3.1. In terms of Section 97 of the Constitution the President by proclamation may transfer to a member of Cabinet the administration of legislation entrusted to another member;
- 3.2. Section 7(5) of the Public Service Act 1994, as amended provides that the President may by proclamation in the Gazette on the advice of the Minister for Public Service and Administration amend schedule 1 so as to establish or abolish any national department; and



3.3. Section 3(4)(b) of the Public Service Act 1994, as amended allows the Minister for Public Service and Administration, after consultation with the relevant executive authority or executive authorities, as the case may be, to make determinations regarding:

3.3.1. the allocation of any function to national departments, or

3.3.2. the transfer of any function from one national department to another.

4. THE PARTIES TO COUNCIL THEREFORE AGREE TO THE FOLLOWING GUIDING PRINCIPLES THAT SHALL GOVERN THIS PROCESS

4.1. All employees to be identified for transfer as a result of the scoping report shall be transferred to the recipient department in terms of Section 14 of the Public Service Act, 1994, as amended;

4.2. The relevant provisions of section 84 and section 197 of the Labour Relations Act (LRA) shall be applied during this process of transfer;

4.3. The transfer of the functions will also take place in terms of Section 3 of the Public Service Act, 1994 and Part III H of the Public Service Regulations;

4.4. Employment security is a priority, in terms of which the parties agree that no employee shall lose his/her employment or be negatively affected as a result of the ring fencing and transfer process;

4.5. Both the relinquishing and recipient departments should equitably have access to skilled or competent human resources as a result of the transfer process;

4.6. No unfunded posts should be the subject of the ring-fencing process, except that they should be identified for abolition prior to ring-fencing;

4.7. Fairness and transparency in terms of the decision-making process as well as implementation should underpin the process; and

4.8. Therefore parties should strive to resolve differences through consensus;

4.9. Consultation will be conducted in the spirit of goodwill between the relinquishing and recipient departments, as well as affected staff and their representatives;

4.10. The principle that function follows structure and staff follows function based on validated job content shall be applicable;

4.11. Affected employees in acting positions shall have no automatic right to permanent transfer within those positions;

4.12. All affected employees will be transferred to the recipient departments on the same salary level as the current post they occupy;

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- 4.13. No automatic upgrades to higher level posts during the ring fencing and transfer process will apply – the normal post grading arrangements will remain in force; and
- 4.14. The process of macro organization is founded upon a non-retrenchment guarantee and the principle of reasonable accommodation.

5. CRITERIA FOR RING-FENCING AND TRANSFER OF STAFF

- 5.1. Separation of core functions must be guided by the department's mandate/s as reflected in its strategic plan;
- 5.2. Based on the functional separation, posts need to be identified and quantified;
- 5.3. Following this, the incumbents of the posts must be identified for transfer to the recipient department;
- 5.4. Where resources are partly devoted to more than one function, they should be ring-fenced on a proportionate basis, including managers and supervisory staff;
- 5.5. Support services is more complicated and requires a different approach. Support functions render services to the whole spectrum of functions in the affected department. Should these functions be ignored, it may mean that the recipient departments would not be able to take over the affected functions as "a going concern", with the result that the delivery of such functions in the recipient departments would be weaker than was the case when the function was executed in the relinquishing department;
- 5.6. To determine the pro rata portion of support posts, staff and other resources for transfer to the recipient departments, the following approach should apply:
- 5.6.1. The total establishment should be refined to reflect only line function posts (e.g. Water Affairs & Forestry) by deducting all support posts (HR, Finance, Provisioning Admin, Security, etc.) from the total establishment;
- 5.6.2. This would leave only the posts devoted to core functions. If 60 of these are devoted to Water Affairs functions, and 40 to Forestry, it would mean that a ratio of 60/40 should be applied to the support services posts to determine how many should be identified for transfer to the recipient department.

6. CONDUCT OF PARTIES IN THE PROCESS

All participants from individual parties agree to adhere to and conduct themselves within the provisions as provided for in the public service regulations and the conduct as outlined in the service charter (PSCBC Resolution 1 of 2013).

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7. STRUCTURES TO FACILITATE THE PROCESS

7.1. To oversee and facilitate the implementation of processes agreed to in this Resolution, parties note the establishment of the following structures;

7.1.1 National Macro Organization of the State (NMOS) Steering Committee

7.1.2 National Project Team

7.1.3 Departmental Project Team

7.2. Parties therefore agree that progress on the NMOS process shall be reported to the PSCBC on a monthly basis until the process is finalised.

7.3. The National Project Team shall be responsible for the overall management of the reconfiguration process at departmental level.

7.4. The Departmental Project Teams, relevant work streams and placement panel will be established in the affected departments. All relevant stakeholders, including labour should be represented in the Departmental Project Teams , work streams and placement panel

7.5. The Departmental Project Team shall be responsible for overall management of the departmental work streams

7.6. The Departmental Bargaining Chamber shall receive regular reports on the work of the Departmental Project Team as part of monitoring the correct implementation of this agreement

8. DISPUTE RESOLUTION

If there is a dispute about the interpretation or application of this agreement any party may refer the matter to the Council for resolution in terms of the dispute resolution procedure of the Council.

9. IMPLEMENTATION OF AGREEMENT

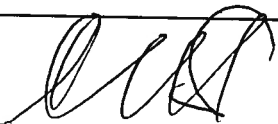
9.1. This agreement shall come into effect on the date it enjoys majority support and will remain in force unless terminated or amended by agreement.

9.2. The Council will monitor the implementation of this agreement.


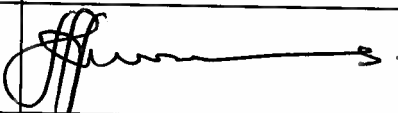
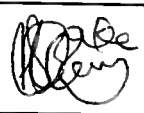
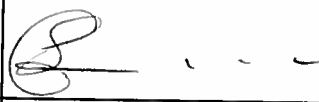
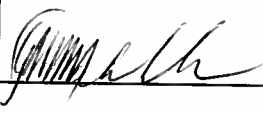
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THIS DONE AND SIGNED AT CENTRAL OF THIS 28TH DAY
 OF JULY 2014

ON BEHALF OF THE EMPLOYER

	Name	Signature
State as Employer	THEMBEKU M. SIKO	

ON BEHALF OF TRADE UNION PARTIES

Trade Union	Name	Signature
DENOSA	Thembeke Gwaga	
HOSPERSA/NUPSAW/NATU		
NAPTOSA	HENRY HENDRICKS	
NEHAWU	Bereng Sake	
POPCRU	nkennati Mabinida	
PSA		
SADTU	Mugwena Malukete	
SAPU		