

**TRANSFER FRAMEWORK (TF) TO FACILITATE
TRANSFERS (MOBILITY) OF PERSONNEL
BETWEEN THE SPHERES OF GOVERNMENT**



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1. INTRODUCTION

- 1.1 Government made a commitment to ensure improvements in the lives of all South Africans. Vehicles for realizing this commitment are the three spheres of government, that is, national, provincial and local government. Each of these has its specific role and these are stipulated in the Constitution of the Republic of South Africa.
- 1.2 Besides a common goal, the three spheres of government share a variety of common challenges that range from scarce financial resources to the availability of the right quality and number of skilled human resources needed for public service delivery.
- 1.3 The deployment of competent human resources to areas where their skills are most needed is a sensitive and demanding process which should be handled with the utmost care. Due consideration should be given to various aspects such as relevant legislation, balancing the needs and expectations of employees and employers, employee entitlements and financial constraints.
- 1.4 Given the complexity of the employee transfer process, a clear need has been identified for a policy framework to be used by all three spheres of government. The aim of this document not to deal with transfers within the public service sector as this is suitably covered in the Public Service Act, 1994 and the Labour Relations Act, 1995 (LRA). The framework presented in this document will enable Public Service departments and local government institutions to deal with personnel transfers in a fair, consistent and systematic manner.
- 1.5 In order of sequence, this policy framework captures the status quo and existing relevant legislation, transfer and secondment provisions, collective bargaining arrangements, guiding principles on remuneration, conditions of service and financial implications in respect of personnel transfers. The Annexures to the framework provide guidance on the dismissal of personnel due to operational reasons (Annexure A), the secondment of Public Service Act-employees to local government institutions (Annexure B) as well as existing remuneration and conditions and service applicable to Public Service Act employees (Annexure C).

2. PURPOSE

- 2.1 The purpose of this policy framework is to provide the parameters within which personnel mobility between the Public Service and local government institutions will be dealt with.

3. SCOPE OF APPLICABILITY, STATUTORY AUTHORISATION AND DEVIATIONS

- 3.1 This policy framework applies to national and provincial departments involved with the transfer of employees to and from local authorities, and may be adopted by the local government sector or individual municipalities involved with the transfer of employees to and from national or provincial departments as a guideline.
- 3.2 This framework was issued as a directive by the Minister for the Public Service and Administration in terms of section 3(3)(e) of the Public Service Act, 1994, to elucidate and supplement regulations G.4.2 and G.4.3 of Part VII of Chapter 1 of the Public Service Regulations, 2001, as amended.
- 3.3 The Minister for the Public Service and Administration may, on request of an executing authority (as defined in section 1 of the Public Service Act), approve a deviation from one or more provisions of this Framework if an agreement with the transferring or receiving entity in accordance with the TF cannot be reached after all reasonable efforts have been made to do so or if for any other reason compliance with this Framework is not practical or possible.

4. THE STATUS QUO AND EXISTING RELEVANT LEGISLATION

4.1 Public Service Act, 1994 and Public Service Regulations, 2001

- 4.1.1 Section 3(3)(b) of the Public Service Act, 1994 vests the power in the Minister for Public Service and Administration to make determinations, after consultation with the relevant Executing Authority regarding the allocation of any function to, or the abolition of any function of any Department or the transfer of any function from one department to another or from a department to any other body. For this purpose, a comprehensive proposal and/or business case that clearly identifies the functions to be transferred as well as a personnel/migration plan that depicts how the affected human resources will be dealt with, need to be submitted to the Minister. As regards the management of the affected staff, it should be borne in mind that the Public Service Regulations 2001 prescribes in Chapter 1, Part VII G4.2 that the provisions contained in section 197 of the Labour Relations Act, 1995 must be complied with.
- 4.1.2 The provisions of the Public Service Act, 1994 and the Public Service Regulations, 2001 cannot be used to facilitate the transfer of Local Government employees as the Act and Regulations are only applicable to the national / provincial sphere of

Government. The secondment of municipal employees to national and provincial departments in the Public Service is permissible in terms of section 15(2) of the Public Service Act, 1994 provided that the provisions that regulate the employment of the relevant Local Government employees permit such a secondment.

4.2 Transfer of Staff to Municipalities Act, No. 17 of 1998

4.2.1 The Transfer of Staff to Municipalities Act, No. 17 of 1998 (the Municipalities Act) provides for the transfer of certain employees from a provincial administration to a designated municipality. The Municipalities Act contains fairly detailed stipulations in respect of pensions and accumulated annual leave and also includes a general provision in respect of the overall value of conditions of service. The status of this Act is that it has not been formally repealed, however the provisions of the Act are not applied.

4.2.2 The provisions contained therein are not strictly in line with Section 197 of the LRA. Of specific importance in this regard is the provision contained in the Municipalities Act that no employee may be transferred without the concurrence of the municipality and the employee concerned, therefore autonomy is vested with the municipality or an affected employee to accept or reject transfers. In addition to this, the Act does not make provision for the transfer of employees from national to local government and also not for the transfer of employees from a municipality to a national or provincial department.

4.2.3 Notwithstanding the current regulatory framework [section 3(3) (b)] of the Public Service Act, 1994 the provision in the Public Service Regulations, 2001 and the Municipalities Act) it is difficult for the three spheres of government to share the use of the available human resources. This situation forces the three spheres to “*compete*” for this critical resource, which is undesirable considering the need for interdependency and co-operative governance.

4.2.4 Furthermore, the national sphere of government has a responsibility to provide an enabling environment within which provincial and local spheres of government can operate. The current competition mode between the three spheres of government, therefore, has a high probability of defeating the purpose of section 41(1)(h) of the Constitution.

4.2.5 There is, therefore, a need to provide a framework that will facilitate the exchange or mobility of staff between sectors, that is, between the three spheres of government (the public sector), between the public and the private sector and between the sectors in the economy and international organisations.

5. TRANSFERS OF EMPLOYEES BETWEEN PUBLIC SERVICE AND LOCAL GOVERNMENT INSTITUTIONS

5.1 It should be noted that in respect of the transfer of staff between the public service and an entity outside the public service, Regulations 1/VII/G.4.2 and G.4.3 of the Public Service Regulations, 2001, prescribes that the relevant executing authority must comply with section 197 of the LRA. More importantly, even in the absence of any other law requiring compliance with section 197 of the LRA, the section will apply to a transfer of any business (which includes a service) as a going concern, unless that other law expressly overrides the provisions of section 197 (see s197(1) and s210 of the LRA).

5.2 In view of the inadequacies mentioned above in respect of both the Public Service Act, 1994 and the Municipalities Act as highlighted in paragraphs 4.1 and 4.2 above, or until such time as the existing legislative mechanisms are amended or new legislation enacted, the provisions of the Labour Relations Act, 1995, need to be applied.

5.3 Section 197 of the LRA - Transfer of Contract of Employment

5.3.1 To ensure consistency in the treatment of personnel on transfer from the public service sector to the local government sector or vice versa, the five principles defined in paragraph 5.4 below must be complied with. However it should further be noted that the broader concept of a single public service should ensure the seamless delivery of services, therefore a smooth transition/transfer of functions and resources from one sector to another is important.

5.3.2 Before dealing with the five principles, consideration is hereby given to the contents of Section 197 of the LRA.

- a) Section 197 of the LRA provides for the transfer of a contract of employment.
- b) Certain key stipulations of the said section are as follows:
 - (i) Unless otherwise agreed between either the old employer, the new employer, or the old and new employers acting jointly, on the one hand, and the appropriate person or body referred to in section 189(1) of the LRA, on the other;

- (ii) the new employer is automatically substituted in the place of the old employer in respect of all contracts of employment in existence immediately before the date of transfer;
- (iii) all the rights and obligations between the old employer and an employee at the time of the transfer continue in force as if they had been rights and obligations between the new employer and the employee;
- (iv) anything done before the transfer by or in relation to the old employer, including the dismissal of an employee or the commission of an unfair labour practice or act of unfair discrimination, is considered to have been done by or in relation to the new employer;
- (v) the transfer does not interrupt an employee's continuity of employment, and an employee's contract of employment continues with the new employer as if with the old employer; and
- (vi) the new employer is regarded to comply with the above stipulations if that employer employs transferred employees on terms and conditions that are on the whole not less favourable to the employees than those on which they were employed by the old employer. The Act then states that this however does not apply to employees if any of their conditions of employment are determined by a collective agreement. (These are agreements and awards that bind the old employer in respect of the employees to be transferred, immediately before the date of transfer and include multi-term agreements)

Note:

This stipulation is interpreted to mean that the new employer may maintain the conditions of service (as determined by the collective agreements signed while in the employ of the old employer) even if such conditions are less favourable than the prevailing conditions of service of the new employer.

5.3.3 Transfers to and from the Government Employees Pension Fund must be in line with requirements stipulated in the Government Pension Law, 1996 and the Rules of the GEPF (specifically Rule 21 and Rule 12), as well as other relevant receiving and transferring pension funds .

5.3.4 If necessary, new agreements have to be concluded between either the old employer and the new employer, or the old and new employers acting jointly, on the one hand, and the appropriate person or labour union representing the affected employees. **This**

will be particularly relevant in cases where there is a difference in the affected employees' current conditions of service and the conditions applicable to employees at the new employer.

5.3.5 An important feature of a “pure” application of section 197 is that employees have no choice or say in the transfer of the function to another employer. This implies that no agreement needs to be reached with organised labour as regards the affected employees' transfer to the new employer.

5.4 Principles : Transfers

5.4.1 Principle 1: Transfer of employees to local authorities on assignment of a function must be dealt with in terms of section 197 of the LRA with the conclusion of new agreements in respect of the remuneration and conditions of service to become applicable to transferred employees and the allocation of liability between employers in respect of accrued employee benefits.

5.4.2 Principle 2: Resources (i.e. personnel) will follow the transfer of a function/responsibility to another entity.

5.4.3 Principle 3: All employees whose duties are pre – dominantly attached to the function on the date on the transfer of the function will be transferred to the local level.

5.4.4 Principle 4: Notwithstanding the provisions of section 197(4) of the LRA transfers to and from the Government Employees Pension Fund must satisfy the requirements laid down in the Government Employees Pension Law, 1996 and the Rules of the GEPF, as well as other relevant current and future pension funds.

5.4.5 Principle 5: Where practically possible, employees who are transferred should be guaranteed continued employment for a period of 12 months after the date of transfer.

Note:

Should it transpire that the receiving institution needs fewer employees to perform the transferred function, the onus rests with the receiving institution as new employer to initiate any steps to reduce the number of employees. (It should be noted that in terms of Section 197 (8) of the LRA the old employer is jointly and severally liable with the new employer for a period of 12 months after date of transfer of any employee who becomes entitled to receive a payment as a result of the employee's dismissal for a reason relating to the (new) employer's operational requirements.)

5.5 Guidelines for the Identification and Transfer of Employees

5.5.1 A process of identifying employees to be transferred should be undertaken and employees may be classified as follows-

- i. Line Functionaries - all employees who are predominantly involved in the transferred functions should be transferred to the receiving institution as a going concern (for purposes of this document, such employees will be referred to as line functionaries).
- ii. Staff functionaries - In transferring the line functionaries, employees who render financial, human resource, logistical and information technology support services to the relevant line functionaries may also be transferred.
- iii. Policy formulation functionaries may also be transferred or may remain in the originating sector.

6. SECONDMENT OF EMPLOYEES BETWEEN THE PUBLIC SERVICE AND LOCAL GOVERNMENT INSTITUTIONS

6.1 The Public Service Act, 1994 provides in section 15(3) for the secondment of an employee to any Government, institution, any other body or person or any council. In section 15(2) provision is made that employees from employing entities outside the Public Service, may be seconded to a Public Service department.

6.2 Both these provisions can thus be applied to facilitate the continuity in service delivery during the transfer of a function between the sectors. It should however be borne in mind that the secondment of an employee in terms of section 15(3) can only be done with the relevant employee's consent. The secondment of a local government employee in terms of section 15(2) to a Public Service department will also be subject thereto that such a secondment is permitted by the provisions that regulate the employee's employment at local government level.

Guidelines to second employees from the Public Service to local government institutions are attached as Annexure B.

7. LABOUR RELATIONS REQUIREMENTS

7.1 When a decision is made by the relevant authorities that a function is to be transferred from one sphere of government to another, it is incumbent upon the old employer to inform all the employees to be affected by such a transfer. Where the employees

belong to trade unions, it is important to also engage the unions on an information sharing/consultative basis. Information in respect of *inter alia* the function to be transferred, the employees to be affected, the contemplated date of transfer, what the position in respect of the employees' conditions of service will be, etc should be conveyed to the unions.

- 7.2 If the transfer of the function requires changes to be made to the conditions of service of the affected employees (to bring it in line with the conditions of service applicable at the new employer, without being on the whole less favourable than what applied at the old employer), section 197(6) of the LRA must be adhered to. It is proposed that in such instances, unless circumstances dictate otherwise, the old and new employer should act jointly in the negotiation process. The employers concerned must take cognisance of which body or appropriate person referred to in section 189(1) of the LRA should be engaged in the negotiation process.
- 7.3 If parties fail to reach agreement in the negotiation process, all possible deadlock-breaking mechanisms (e.g. fact finding, facilitation, mediation, etc) should be explored in an attempt to resolve the impasse. Voluntary, private arbitration could be considered as a last resort.
- 7.4 If parties fail to reach agreement, the employer(s) will have no choice but to revert to the application of section 197(2) and (3)(b) of the LRA (i.e. to substitute the old employer with the new employer, retaining all the rights and obligations between the old employer and the employee). Once the transfer has been affected, the new employer could take the necessary steps (be it through collective bargaining or otherwise) to bring the transferred employees' conditions of service in line with its prevailing conditions of service."

8. CONDITIONS OF SERVICE

8.1 Principles for Managing the Conditions of Service of Affected Staff

- 8.1.1 Employee entitlements as embodied in their conditions of service are protected.
- 8.1.2 The conditions of service of transferred employees may on the whole not be less favourable than those received from the old employer.
- 8.1.3 Rights and obligations may only be varied through the collective bargaining process and amendments must take the form of a written agreement.

8.2 Liability for Accrued Employee Benefits

8.2.1 The transferring employer is required to agree to a valuation of accrued benefits and payments as at the date of transfer in respect of transferring employees. In respect of transferring personnel, a valuation of the old employer's liability in respect of the following benefits and payments is required:

- i. Accrued leave.
- ii. Service Bonus.
- iii. Long Service Awards.
- iv. Severance Pay.
- v. Pension benefits: Funding shortfall in the respective retirement fund.
- vi. Outstanding payments, e.g. merit awards, overtime.
- vii. Post Retirement Medical Assistance liability if the new employer maintains this employee benefit.

8.2.2 The old and new employers are to agree in writing which employer will be liable for the payment of these amounts if and when any employee becomes entitled to receive such payment. The two employers may apportion the liability.

8.2.3 The contents of the above agreement must be disclosed by the old employer to the transferred employees.

8.2.4 The old employer must take "any other measure" reasonable in the circumstances, e.g. budget provisions to ensure that adequate provision is made for obligations that may arise.

9. REMUNERATION

9.1 Principles on Pensionable and Non-pensionable Remuneration

9.1.1 The pensionable and non-pensionable salaries of transferred employees must be aligned with that applicable at the new employer, taking into account the provisions of Section 197.

9.1.2 If necessary, new agreements have to be concluded between either the old employer and the new employer, or the old and new employers acting jointly, on the one hand, and the appropriate person or labour union representing affected employees, on

dealing with the pensionable and non-pensionable salaries of affected employees on transfer.

9.1.3 Such agreements should stipulate how parties will deal with the differences in the pensionable and non-pensionable salaries and allowances, issues regarding work facility arrangements as well protection of issues that are governed by a multi-term collective agreement for the duration thereof.

10. FUNDING ARRANGEMENTS

10.1 Guiding Principles

- (a) It is incumbent on both the old and the new employer to ensure that adequate provision is made for all financial obligations arising from the transfer of personnel.
- (b) The transfer agreement entered into between the old and the new employer must clearly indicate the respective employers' liabilities on transfer, including future liabilities, the respective employer's responsibilities to fund the liabilities and funding mechanisms.
- (c) It is therefore essential that a thorough cost analysis is done to determine the respective employer's liabilities on transfers, including future liabilities.
- (d) A thorough analysis of the current and medium term budgets of the old and the new employer must be done to ensure that funds are available to cover current and future obligations.
- (e) In the event where the analysis indicates a current or future shortfall, the necessary funding and funding mechanisms, properly approved by the appropriate structures, should be finalised before entering into any agreement with either other employers or organised labour.

11 SECTION 189 - DISMISSALS BASED ON OPERATIONAL REQUIREMENTS

11.1 As an alternative to a 'pure' application of section 197 the relinquishing employer could consider the restructuring of the relevant function, following which excess staff need to be redeployed and/or reskilled. In the instances where the affected staff can not be redeployed or reskilled, dismissals in terms of section 189 can be considered. Under this framework a change of employer package could be provided in addition to a severance package. Employees declared in excess through this process will be paid a

severance package while those employees who transfer to the new employer will be paid the change of employer package. On taking up positions with the new employer, affected employees will be subject to the remuneration systems and conditions of service of the new employer. The old employer will have no further liability in this regard. (Guidelines on the application of section 189 appear at Annexure A)

11.2 The advantage of applying section 189 of the LRA in the way described above, is the fact that the old employer will have no further liability in respect of the funding of accrued employee benefits once the employees have left its service. This approach, however, is due to the following reasons not favoured as the approach to transfer employees between the sectors:

- i. It will not be in line with the principle of resources following function and should not be used to circumvent section 197 of the LRA. A specific danger in this regard is that skilled and experienced employees may use this opportunity to leave the system altogether instead of moving to the new employer. This could seriously impact on service delivery, and should be avoided at all costs.
- ii. There is a possibility that employees (including current employees in the public service sector or local government sector) may opt for a severance package and then take up employment in the receiving sector (or even in another government department) soon after retrenchment. This will be a costly exercise for the Government.
- iii. Employee movement between the relevant employers will not be seamless.
- iv. Retrenchments will become an inherent feature of transfer of the functions, meaning that it will always be viewed in a very negative light. Linked to this is the destabilising effect on employee morale and motivation.
- v. The employer(s) run the risk of being challenged for committing unfair dismissals. In this regard section 187 of the LRA stipulates as follows: “A dismissal is automatically unfair if ... or, if the reason for the dismissal is ... (g) a transfer, or a reason related to a transfer, contemplated in section 197 or 197A...”.

PROCEDURE : DISMISSALS BASED ON OPERATIONAL REQUIREMENTS SECTION 189 OF THE LRA

ANNEXURE A

	Activity	Responsibility	Guidelines and elucidation
1.	Obtain approval for the business case/alternative service delivery model that will require a reduction in staff.	Hr-component and departmental management	<p>The business case/alternative service delivery model must be well – documented and clear in regard to –</p> <ol style="list-style-type: none"> 1. the need and reasons for change; 2. the expected impact in terms of improved efficiency and client needs 3. a cost/benefit analysis; 4. the alternatives considered in deciding on the relevant initiative. <p>This aforementioned detail is necessary as the document will guide all further steps in the process.</p>
2.	<p>Prepare in draft a focussed hr - plan that contains/describes the following:</p> <ol style="list-style-type: none"> 1. The specific functions, organisational components, posts and number of staff that will be affected. 2. Interventions that could avoid or minimise dismissals, eg bumping, redeployment. 3. Suggested means to mitigate the adverse effects of any dismissals and the type of assistance that will be offered those that may be dismissed. 4. Suggested methods and criteria to select employees for dismissal. 5. The procedure to deal with disputes. 6. An indication of the severance benefits that will befall those to be dismissed. 7. A schedule with proposed benchmark dates according to which the dismissal process could be managed. 8. A communication plan aimed at complying with the provisions in sections 189 and 189A of the Labour Relations Act. 1995. 	Hr-component and departmental management	<p>The hr – plan can at the most only be regarded as an internal document for eventual consultation with organised labour. It may however be used as a tool to obtain a mandate from departmental management to undertake the next step.</p>

PROCEDURE : DISMISSALS BASED ON OPERATIONAL REQUIREMENTS SECTION 189 OF THE LRA

ANNEXURE A

	Activity	Responsibility	Guidelines and elucidation
3.	Consult the matters contained in the draft hr – plan with organised labour.	Hr-component and organised labour	<ol style="list-style-type: none"> 1. The consultation should be conducted with due regard to section 189(2) of the Labour Relations Act, 1995 in that it should be consensus seeking, section 189(5) in that organised labour be allowed to make representations; and section 189(6) in that reasons be given by the department if it disagrees with any representation. 2. Written invitations must be extended to organised labour and all relevant information as depicted in section 189(3) must be provided. 3. The possibility of appointing a facilitator to assist in the consultations vide section 189A(3) must be borne in mind. 4. The consultation should conform to the definition provided in item 5 of the “Code of Good Practice on Dismissal based on Operational Requirements” as promulgated by the Department of Labour on 16 July 1999. This means that sufficient opportunity be given to organised labour to – <ol style="list-style-type: none"> 4.1 meet and report back to their members; 4.2 meet and consult with the department; and 4.3 request and consider information. 5. The selection criteria to be used (section 189(7)) must be agreed with organised labour; or if no criteria have been agreed, it should be fair and objective. The following approaches and practices are noteworthy: <ol style="list-style-type: none"> 5.1 Criteria that infringe a fundamental right protected by the Labour Relations Act, 1995 are not permissible. These include for instance selection based on union membership or pregnancy. Criteria that are at face value neutral should be carefully selected as they could at implementation have a discriminatory effect. For example, to select only part – time workers might discriminate against women, if women are predominantly employed in part – time capacities in the organisation.

PROCEDURE : DISMISSALS BASED ON OPERATIONAL REQUIREMENTS SECTION 189 OF THE LRA

ANNEXURE A

	Activity	Responsibility	Guidelines and elucidation
			<p>5.2 Selection criteria may include:</p> <ul style="list-style-type: none"> • Length of service • Retraining ability • Transferability • Scarcity of individual skills <p>Selection criteria that are generally accepted as fair are length of service (in particular the LIFO principle, except if it will jeopardize equity programs), skills and qualifications.</p>
4.	Implement the plan.	Hr-component and line management	<p>The actual implementation should include prior official communication to organised labour.</p> <p>If an employee unreasonably refuse to accept an offer of alternative employment, the employee's right to severance pay could be forfeited. The reasonableness of the job offer and the reasonableness of the employee's refusal should determine reasonableness in this instance. In the first case, factors such as remuneration, job level and job security are relevant and in the latter case, the employee's personal circumstances (social and communal association, position of spouse in the household, financial implications in the case of relocation, etc) play a role.</p>

**PROCEDURE : SECONDMENT OF AN EMPLOYEE IN TERMS OF SECTION 15(3) OF THE *PUBLIC SERVICE ACT*,
1994**

ANNEXURE B

	Activity	Responsible entity	Guidelines and elucidation
1.	Establish, through inter action with the local authority concerned, whether a secondment is required.	Hr-components of relinquishing department and relevant local authority	The need for secondment should be defined on terms of – 1. the prevailing operational circumstances as dictated by – (a) the duties to be undertaken; (b) the importance of such duties i.t.o. service delivery, efficiency, etc; and (c) the inappropriateness of addressing the hr-need through other means than secondment; 2. the competencies required; and 3. the desired period of the secondment
2.	Determine, in consultation with the relevant local authority, the conditions and arrangements regarding the secondment.	Hr-components of relinquishing department and relevant local authority	1. A provisional framework should be developed that defines the following: 1.1 The duties and responsibilities to be undertaken by the secondee. 1.2 The placement of the secondee in terms of the location of the workplace, supervision, hours of work, etc. 1.3 The term of the secondment. 1.4 The arrangements and conditions that govern the secondment: (a) The employee's secondment occurs with retention of his/her conditions of service. (b) The relinquishing department remains responsible for all the personnel and salary administration issues relating to the seconded employee. (c) The employee who is seconded remains under the authority of the relinquishing department in respect of all his/her career incidents, i.e. performance assessment,

PROCEDURE : SECONDMENT OF AN EMPLOYEE IN TERMS OF SECTION 15(3) OF THE *PUBLIC SERVICE ACT*, 1994

ANNEXURE B

	Activity	Responsible entity	Guidelines and elucidation
			<p>leave, disciplinary measures, etc. As regards these career incidents, specific arrangements should be included such as –</p> <ul style="list-style-type: none"> (i) supervision and reporting on performance; (ii) consultation between the relinquishing department and the local authority on leave taken by the secondee; and (iii) the approval of overtime-remuneration. <p>(d) The employee who is seconded remains (vide section 15(b) of the <i>Public Service Act</i>, 1994) subject to the laws applicable to him/her in the Public Service for the period of secondment.</p> <p>(e) The recipient local authority to whom the employee is seconded shall, unless otherwise agreed, bear the inclusive cost of the secondment by accepting responsibility for the payment –</p> <ul style="list-style-type: none"> (i) of the employee's full salary plus allowances and the <i>pro rata</i> part of the service bonus payable to him/her during the period of secondment; (ii) of the cash value of any vacation leave which the employee is entitled to during the period of his/her secondment, but had not taken at the time of expiry of the period; (iii) of the Government's contribution to the appropriate pension fund in respect of the employee; (iv) of the Government's contribution to a medical aid scheme of which the employee is a member; (v) of any subsidy in respect of a housing

**PROCEDURE : SECONDMENT OF AN EMPLOYEE IN TERMS OF SECTION 15(3) OF THE *PUBLIC SERVICE ACT*,
1994**

ANNEXURE B

	Activity	Responsible entity	Guidelines and elucidation
			<p>loan which may be payable to the employee;</p> <p>(vi) of any other monetary concession which may be made to the Public Service in general during the period of the employee's secondment and for which the employee may also be considered;</p> <p>(viii) if the employee receives an injury or contracts an illness which originated out of and in the course of his/her duties during the period of secondment, and his/her services –</p> <ul style="list-style-type: none"> • are <u>not</u> terminated as a result of such injury or illness, of all moneys payable by the State to or on behalf of the employee, in accordance with the <i>Compensation Act</i>, as amended; or • are terminated as a result of such injury or illness or if he/she should die, either during or after the period of secondment, of all moneys payable by the State to or on behalf of the employee or his/her dependents, in accordance with – <ul style="list-style-type: none"> (aa) the <i>Compensation Act</i>, as amended; and (bb) the regulations made in terms of the Government Employees Pension Law <p>1.5 Arrangements with regard to the substitution of the secondee and/or the pre-mature termination of the secondment</p>

**PROCEDURE : SECONDMENT OF AN EMPLOYEE IN TERMS OF SECTION 15(3) OF THE *PUBLIC SERVICE ACT*,
1994**

ANNEXURE B

	Activity	Responsible entity	Guidelines and elucidation
3.	Consult the conditions and arrangements with the relevant Treasury	Hr-component of relinquishing department	<ol style="list-style-type: none"> 1. Consultation should take place on the basis of the framework developed in conjunction with the relevant local authority. 2. The views expressed by the relevant Treasury should be seriously considered.
4.	Engage employees to be seconded.	Hr-component and line management of relinquishing department	<ol style="list-style-type: none"> 1. Depending on the competency required, employees may either be engaged individually or recruited through a process of advertising. 2. Engagement of employees must recognise that secondment is subject to the employee's consent. 3. Engagement should be transparent in terms of the nature of the duties, period of secondment, arrangements with regard to service benefits and conditions such as supervision, performance assessment, leave, travelling and accommodation as captured in the framework consulted with both the relevant local authority and the relevant Treasury.
5.	Implement the secondment	Hr-component of the relinquishing department	<ol style="list-style-type: none"> 1. Determine the date of secondment in consultation with relevant local authority. 2. Issue a secondment letter to the relevant employee indicating – <ol style="list-style-type: none"> 2.1 the effective date of the secondment; and 2.2 all the arrangements and conditions concerning the secondment. 3. Confirm the secondment in writing with the relevant local authority.

SCHEDULE: EXISTING REMUNERATION AND CONDITIONS OF SERVICE APPLICABLE IN THE PUBLIC SERVICE

ANNEXURE C

EXISTING REMUNERATION AND CONDITIONS OF SERVICE – APPLICABLE TO THE EMPLOYER AND EMPLOYEES WHO ARE EMPLOYED BY THE STATE AND WHO FALL WITHIN THE REGISTERED SCOPE OF THE PUBLIC SERVICE CO-ORDINATING BARGAINING COUNCIL

Existing Conditions of Service and Remuneration	
1. Service Bonus)	Employees receive a service bonus equal to 100% of an equivalent of basic salary if she or he has a permanent contract or a fixed-term contract..
2. Leave	Leave arrangements are in terms of PSCBC Resolution 7 of 2000 read with the Directive on Leave of Absence for the Public Service, as amended. These documents can be found on: www.dpsa.gov.za
3. Medical Assistance	Medical assistance is as provided for in Clause III of PSCBC Resolution 3/1999.
4. Government Employees Pension Arrangements)	Pension arrangements are in terms of Government Employees Pension Law, 1996 read with PSCBC Resolution 12 of 2002..
5. Home Owner Allowance	Assistance is provided in terms of Clause IV of PSCBC Resolution 3 of 1999 and the Financial Manual. The Financial Manual is also found on the DPSA website.
6. Overtime	The employer may pay overtime for work in excess of an employee's normal working hours according to the rates contained in Clause VII of PSCBC Resolution 3 of 1999..
7. Standby Allowance	If the employer requires an employee to be available for the performance of duty outside of her or his normal working hours, the employer shall pay a standby allowance in terms of Clause VIII of the PSCBC Resolution 3 of 1999..
8. Danger Allowance	The employer shall compensate an employee who risks her or his life in the course of carrying out specified duties or training and in terms if Clause IX of PSCBC Resolution 3 of 1999.
9. Transport Between Residence and Place of Work	If exceptional transport problems arise and no other solution appears viable, an executing authority may at her or his discretion authorise an employee to use government transport between her or his residence and place of work in terms of Clause X PSCBC Resolution 3 of 1999.
10. Official Journeys	The employer may meet reasonable actual costs of travel for official purposes in terms of Clause XI PSCBC Resolution 3 of 1999.

SCHEDULE: EXISTING REMUNERATION AND CONDITIONS OF SERVICE APPLICABLE IN THE PUBLIC SERVICE

ANNEXURE C

Existing Conditions of Service and Remuneration	
11. Accommodation and subsistence on Official Journeys outside the Republic	The reasonable actual accommodation expenditure plus a special daily allowance) is payable to an employee who undertakes an official journey abroad as determined from time to time by the MPSA in terms of Public Service Regulation Chapter 1/Part V/E.2 read with the Financial Manual..
12. Accommodation while on Official Journeys locally.	If an employee must take an official journey lasting under 24 hours, the employer shall meet reasonable actual accommodation costs, if any in terms of Clause XII PSCBC Resolution 3 of 1999 read with the Financial Manual.
13. Camping Allowance	When camping staff performs duties away from their regular place of work, the employer may pay them a daily allowance as determined by the MPSA in terms of Clause XIII PSCBC Resolution 3 of 1999 read with the Financial Manual.
14. Separation Allowance	The employer shall pay an eligible employee a separation allowance of if the employee must travel on official duties away from her or his normal place of work for an uninterrupted period of over 15 days in terms of Clause XIV PSCBC Resolution 3 of 1999.
15. Resettlement	If the employer requires an employee to transfer to a new place of work, the employer may assist the employee with the reasonable associated costs in terms of Clause XV of PSCBC Resolution 3 of 1999:
16. State and other Housing	The employer may require an employee to occupy specific housing in terms of Clause XVI PSCBC Resolution 3 of 1999:
17. Recognition of Long Service	Employees with long service may be recognised as provided for in Clause XXVIII of PSCBC Resolution 3 of 1999 and as determined by the MPSA.
18. Clothing for Work	If an employee's work requires that she or he wear a uniform or particular clothing the employer shall determine the relevant policy in terms of Clause XVII of PSCBC Resolution 3 of 1999.
19. Assistance with Boarding School and Lodging Fees	If for specific work-related reasons, an employee's children must attend school away from home, the employer may help with some of the costs as determined by the MPSA in terms of Clause XVIII of PSCBC Resolution 3 of 1999.
20. Allowance for Secretaries to a Head of Department	The employer pays in terms of Clause XXII of PSCBC Resolution 3 of 1999 a monthly allowance to a full-time secretary of – <ul style="list-style-type: none"> • a employee graded at or above the level of Director-General, or

SCHEDULE: EXISTING REMUNERATION AND CONDITIONS OF SERVICE APPLICABLE IN THE PUBLIC SERVICE

ANNEXURE C

Existing Conditions of Service and Remuneration	
	<ul style="list-style-type: none"> • a Head of Department, as defined by Schedule 1 of the Public Service Act.
21. Acting Allowance	The employer may compensate an employee for acting in a higher vacant position in terms of PSCBC Resolution 1 of 2002
22. First-Aid Box Allowance –	(a) The employer compensates an employee for acquiring and maintaining the skills needed to assume responsibility for a first-aid box in terms of Clause XXVI of PSCBC Resolution 3 of 1999.,
23. Personal Shift Allowance	If an employee received a personal shift allowance prior to July 1, 1996 and continues to work in shifts the employer shall pay her or him a shift allowance except when the employee takes leave..
24. Night Shift Allowance	The employer compensates an employee for the inconvenience of working a night shift in terms of Clause XXXI of PSCBC Resolution 3 of 1999
25. Compensation to Heads of Departments	A non-pensionable HoD allowance equal to 10% of the member's annual all-inclusive remuneration package and payable in equal portions per month for the time that a member is designated as a HoD
26. Grading and Remuneration	<p>Job grades are informed by job evaluation process in terms of the EQUATE.</p> <p>Currently there are 16 salary/pay levels, 1 – 12 for non-manegerial positions and 13 – 16 for Senior Management posts.</p> <p>The public service remuneration system consists of the following parts:</p> <ul style="list-style-type: none"> (a) Performance –based Pay progression, linked to departmental performance management systems (b) Performance incentive schemes and (c) Grade progression (career pathing)
27. Remuneration dispensation for senior management service	Members of the SMS are remunerated on a package or total cost to the employer system. This provides for a basic salary (60% of the package) and the flexible portion that can be structured depending on individual needs. The flexible portion can be structured for a 13 th cheque, car allowance, medical aid and housing.