

**DISPENSATION FOR THE APPOINTMENT AND
REMUNERATION OF PERSONS (SPECIAL
ADVISERS) APPOINTED TO EXECUTIVE
AUTHORITIES ON GROUND OF POLICY
CONSIDERATIONS IN TERMS OF SECTION 12A
OF THE PUBLIC SERVICE ACT, 1994:
1 JANUARY 2011**

Amended with effect from 1 March 2011



INTRODUCTION

1. In order to ensure an acceptable degree of uniformity, Cabinet has determined the compensation for Special Advisers. The compensation provides for four different compensation levels in order to accommodate different levels of expertise.

SCOPE OF APPOINTMENT

2. The provision to appoint Special Advisers in terms of section 12A of the Public Service Act, 1994, as amended, is limited to two full-time equivalent positions for each Minister and Premier, unless **Cabinet** or the relevant **Provincial Executive Council** approves a higher number up to two additional full-time equivalents for each Minister and Premier because of work requirements. The President and Deputy President may appoint as many Special Advisers as they may see fit. Cabinet may also reduce the number of Special Advisers that Ministers and Premiers may employ.
3. **Members of Executive Councils (MEC's)** and the Chairperson of the Public Service Commission are in terms of a decision of Cabinet excluded from the provision to appoint Special Advisers in terms of section 12A of the Public Service Act, 1994.
4. Special Advisers appointed to Ministers and Premiers may be utilised by Deputy Ministers and MEC's for specific tasks by arrangement with the Minister or Premier concerned.
5. Only South African citizens should be appointed as Special Advisers. All candidates for appointment as Special Advisers should be subjected to a security clearance before appointment. If an Executive Authority wishes to deviate from this requirement, the matter must be submitted to the President.

ROLE OF SPECIAL ADVISERS

6. The Public Service Act (section 12A (1)) provides that Special Advisers may be appointed-
 - to advise the Executive Authority on the exercise or performance of the Executive Authority's powers and duties;
 - to advise the Executive Authority on the development of policy that will promote the relevant department's objectives; or
 - to perform such other tasks as may be appropriate in respect of the exercise or performance of the Executive Authority's powers and duties.
7. Since a Special Adviser would act in an advisory capacity to advise an Executive Authority on, or perform other tasks in respect of, the exercise or performance of the Executive Authority's powers and duties, or to advise the Executive Authority on the development of policy that will promote the objectives of the relevant department, there shall be no relationship of authority between the Special Adviser and the Head of Department concerned. The Special Adviser shall direct his/her inputs to the Executive

Authority and refrain from interfering in the administration and management of the department, which in law is the function and responsibility of the Director-General.

8. The serving of Special Advisers on statutory boards or councils (or similar bodies) for which the Executive Authority is individually or collectively accountable, would be inappropriate since it could give rise to a direct or indirect conflict of interest or advice which could be biased or perceived to be biased. Therefore, if a person who is to be appointed as a Special Adviser serves on a statutory board or council (or similar body) for which the relevant Executive Authority is individually or collectively accountable, his/her appointment to such boards or councils must be terminated with effect from date of appointment as Special Adviser to the relevant Executive Authority.
9. Executive Authorities must submit a request for a deviation, which is fully motivated, from the requirement referred to in paragraph 8 above to the Minister for the Public Service and Administration. In consultation with the relevant Executive Authority, it will be considered whether to approach Cabinet at the national sphere of Government with a recommendation to approve a deviation for a particular instance or kind of statutory body.

GENERAL

10. The standard contract attached as Annexure X, as approved by Cabinet is entered into between the Special Adviser and the Executive Authority concerned. The duration of the contract shall be agreed upon and be limited to the term of the political principal.
11. Executive Authorities must submit proposals/recommendations for the appointment of individual Special Advisers to the Minister for the Public Service and Administration for approval of the individual's compensation level before the appointment/upgrade is effected.
12. Each Special Adviser must sign a performance agreement that determines-
 - (a) major outputs for the period of employment or for the coming year, whichever is relevant;
 - (b) well-defined measures for performance in terms of each major output;
 - (c) quarterly review dates that will make it possible to modify outputs as necessary as well as ensuring open discussion of progress; and
 - (d) for employment over a year, salary increments dependent on the level of appointment.
13. Special Advisers are not admitted to the Government Employees Pension Fund (GEPF).
14. Executive Authorities must ensure that the Special Adviser obtains the necessary security clearance before he/she is appointed.

INCLUSIVE FLEXIBLE REMUNERATION PACKAGE SYSTEM

15. The compensation levels, with ranges of inclusive flexible remuneration packages, for full-time Special adviser, are determined by the Minister for the Public Service and Administration. The inclusive compensation for **Special Advisers who work less than 40 hour per week** (therefore Special Advisers who are not full-time), are calculated as follows and the actual hours should be recorded and claims submitted accordingly:-

<u>Annual inclusive flexible remuneration package</u>	X	<u>Actual hours worked</u>
2080		1

rounded off to the nearest Rand amount

Composition of the inclusive flexible remuneration package for full-time Special Advisers

16. The total inclusive flexible remuneration packages may be structured by the Special Adviser in terms of the provisions and rules as set out below.
17. Provisions for the structuring of the inclusive flexible remuneration package
- (a) Full-time Special Advisers may structure the inclusive flexible remuneration packages into the following items:-
- (1) **Motor car allowance**
To a maximum amount of 25% of the total package per annum.
 - (2) **Medical Assistance**
State's contribution to a registered medical aid scheme.
 - (3) **Housing Allowance**
An amount as decided by the member.
 - (4) **Non-pensionable cash allowance**
Any remaining amount of the flexible portion.
- (b) Special Advisers are not obliged to utilise all the items when structuring the flexible portion of their packages.
18. Rules governing the structuring of the inclusive flexible remuneration packages
- (a) **Motor car allowance**
- (1) Special Advisers are obliged to maintain a reliable vehicle to be utilised for official journeys (when necessary).

- (2) Special Advisers may purchase/lease a new or reliable pre-owned vehicle.
- (3) No time frames exist when a vehicle should be replaced.
- (4) The Special Adviser must at all times have his or her vehicle (or a substitute) available for official journeys.
- (5) The Executive Authority must decide whether a Special Adviser must utilise his or her own vehicle or make use of the provisions for official journeys when transport is used for official purposes, taking into account practical implications, cost effectiveness, road conditions etc.
- (6) A Special Adviser must secure his or her own financing or loans.
- (7) A Special Adviser must obtain and maintain comprehensive insurance on the vehicle, and is fully responsible for all running and maintenance costs and the cost of registration and licensing of the vehicle.
- (8) If a Special Adviser utilises his or her vehicle to travel for official purposes away from his or her usual place of work, the Executive Authority shall reimburse toll fees as well as parking fees in excess of R10 per month. The Special Adviser is responsible for parking fees (if they are levied) at the place of work.
- (9) Any journey between a Special Adviser's home and usual place of work constitutes a private journey.
- (10) If a Special Adviser utilises his or her private vehicle to carry out official duties, the Executive Authority will compensate the Special Adviser for **all** official kilometres, as per Department of Transport's determinations on tariffs for the use of private motor transport, provided they comply with all the prescribed qualifying criteria (i.e **approved** official journey). (Amended with effect from 1 September 2008)

(b) **Medical assistance** (amended with effect from 1 March 2012)

The Executive Authority shall pay the total medical aid scheme subscription fee only directly to a registered medical scheme. The said subscription fee shall be composed as follows:-

- **State's contribution**

- Full-time Special Advisers who are members of a registered medical aid scheme may structure any amount, to a maximum of the annual medical aid subscription fee, in the form of an employer contribution.

 - **Special Adviser's contribution**
 - The difference between the total registered medical aid scheme fee and the amount structured as employer contribution.
 - The Special Adviser's own contribution is a normal monthly deduction from his/her salary
- (c) Paragraphs (c), (d) and (e) deleted with effect from 1 January 2003.

AMENDMENTS TO THE COMPOSITION OF THE FLEXIBLE PORTION OF THE PACKAGE

19. The flexible portion of the package may only be changed in the following circumstances:-
- (a) One year after the date of implementation of the inclusive flexible remuneration package system.
 - (b) If the Special Adviser is awarded a higher compensation level or a higher package within his/her existing compensation level.
 - (c) General adjustment of the packages in the compensation levels.
 - (d) Substantial changes to tax legislation.
 - (e) Any changes to the total contribution to a registered medical aid scheme and where funds to be obtained from or directed to in terms of the Special Adviser's inclusive flexible remuneration packages.
 - (f) On decision by the Minister for the Public Service and Administration.

PROGRESSION TO A HIGHER PACKAGE WITHIN A COMPENSATION LEVEL

20. Special Advisers are normally awarded the minimum inclusive flexible remuneration package of the compensation level approved by the Minister for the Public Service and Administration for the Specific Special Adviser.

21. Executive Authorities may however award high packages within the approved compensation levels to serving Special Advisers or Special Advisers on appointment based on the recruitment and retention of suitable persons. **Such decisions shall be recorded and reported (with reasons for the decision) to the Minister for the Public Service and Administration.**

BENEFITS

22. The leave dispensation implemented with effect from 1 July 2000 for the public Service, as contained in the Department for Public Service and Administration's letter E1/2/2/P dated 30 November 2000, applies.

CRITERIA FOR THE AWARDING OF A COMPENSATION LEVEL

23. For the purposes of determining which compensation level should apply, Executive Authorities should take cognisance of the particular individual's level of expertise and the stature in the particular field before submitting a request for approval to the Minister for the Public Service and Administration.
24. The following broad guidelines in this regard should be applied:

(a) Compensation level I

- (i) Enjoys noticeable national recognition as a competent expert.
- (ii) Complexity advice to be rendered comparable to that given by a Director (Senior Management Service Grade A) in the Public Service.

(b) Compensation Level II

- (i) Enjoys recognition as a competent expert at national level.
- (ii) Complexity of advice to be rendered comparable to that given by a Chief Director (Senior Management Service Grade B) in the Public Service.

(c) Compensation level III

- (i) Enjoys recognition as a competent expert at national and to some degree international level.

- (ii) Complexity of advice to be given comparable to that given by a Deputy Director-General (Senior Management Service Grade C) in the Public Service.

(d) **Compensation level IV**

- (i) Enjoys recognition as a competent expert at national and international level
- (ii) To appoint and retain persons with very high level skills and/or scarce skills.
- (iii) Complexity of advice to be rendered is comparable to that given by a Director-General (Senior Management Service Grade D) in the Public Service.

25. Requests addressed to the Minister for the Public Service and Administration must be fully motivated and must include the following:

- (a) Updated CV of the person.
- (b) The person's remuneration at her/his current employer.

26. Cabinet has approved that in exceptional cases where an Adviser needs to be paid at a different level, the Minister for the Public Service and Administration, **in consultation** with the **President** may approve remuneration to no higher than the level of a Minister.