TO HEADS OF NATIONAL DEPARTMENTS AND NATIONAL GOVERNMENT COMPONENTS

DPSA CIRCULAR 12 OF 2018

DIRECTIVE PRESCRIBING THE PROBATION INSTRUMENT FOR ASSESSING PROBATIONARY APPOINTMENTS OF HEADS OF DEPARTMENT (HODS) AND DEVIATION ON PERFORMANCE MANAGEMENT AND DEVELOPMENT

1. Section 12 of the Public Service Act, 1994 states that the appointment and other career incidents for Heads of Department (HoDs) for a national department and national government component shall be dealt with by the President as the relevant Executive Authority (EA). In this regard, the Minister for the Public Service and Administration issued a “Dear Colleague” Circular dated 6 April 2018 in which it was clarified that the President is the relevant EA for HoDs to national departments and national government components until such time that delegations by the President are finalised and communicated to EAs.

2. This has also created a need to clarify and assist EAs and HoDs of national departments and national governments with respect to probation and performance management of HoDs until such time the delegations by the President with respect to career incidents has been approved.

Probation of Heads of Department

3. In terms of section 13(1) of the Public Service Act, 1994 (as amended) an Executive Authority (EA) shall appoint an employee on probation for such a period as may be prescribed for the relevant category of employees. Section 13(2) further stipulates that after the completion of a prescribed probationary period an EA shall confirm the probationary appointment if the employee has (a) performed at least satisfactorily during the period and (b) complied with all the conditions to which his or her appointment was subject. Section 13(3) further states that if the probationary appointment is not confirmed, the EA may extend the period of probation or dismiss the employee in accordance with the Labour Relations Act.

4. Regulation 68(1) of the Public Service Regulations, 2016 states that persons or employees who are appointed to the Public Service for a period exceeding one year shall serve a probationary period of 12 calendar months, excluding the number of days for which leave has been taken by him or her during the period of probation or any extension thereof. In accordance with Regulation 68(6) “A supervisor of a probationer shall ensure that -

(a) the probationer, at the commencement of the probationary period, is made aware of the performance and other requirements for obtaining confirmation of probation;
(b) the probationer, on a quarterly basis, receives written feedback on his or her performance and compliance with other requirements;

(c) if necessary, the probationer receives training, counselling or other assistance to meet the requirements for confirmation of probation; and

(d) the probationer receives written confirmation of appointment or transfer at the end of the probationary period if he or she has met the requirements for confirmation of probation*.

5. The Public Service Regulations (PSR), 2001 required that a single instrument be used for performance management and probation. In the PSR, 2016 this provision has been amended to allow EAs the flexibility to use either the performance management and development system or an alternate instrument. The revised PMDS for HoDs, however, does not provide for the dual purpose of assessing probation and performance. Consequently a need was identified to issue a directive in terms of Section 41(3) of the Public Service Act, 1994 to elucidate Regulation 68 of PSR, 2016 and prescribe an instrument for assessing probation of HoDs of national departments and national government components.

6. The attached Directive was subsequently approved to provide a probation instrument that accommodates criteria for the assessment of performance and suitability/fit-for-purpose of HoDs. The instrument encompass three (3) areas, namely Performance, Suitability and Personal Qualities as well a confirmation that all other criteria for appointment have been met. The instrument provides for the assessment of probation on a quarterly basis and at the end of 12 months a decision on either confirmation, extension and/or non-confirmation of probation. The Directive takes effect from the date of signature thereof.

7. It is important to note that the President will have to sign the probation instrument in his capacity as the Executive Authority of an HoD until such time the delegations by the President with respect to career incidents has been approved.

Performance Management of Heads of Department Contracting on Performance Agreements

8. EAs and HoDs of national departments and national government components had challenges in complying with signing and lodging of a PA by the due date of 30 April 2018 as stipulated in the Directive on PMDS for HODs. This has created the following anomalies:

(a) The PAs of HoDs of national departments and national government components which were signed with the EAs of their relevant department are therefore non-compliant since the relevant EA for these HoDs is the President.

(b) PAs that were not concluded where HoDs of national departments and national government components were informed that the EA of the relevant department could not sign as the relevant EA for them is the President.

9. Consequently some HoDs did not submit their PAs to DPME as it was not signed by the President as the relevant EA, while others submitted non-compliant PAs. In order to address this a two phased approach is proposed:
(a) Firstly, all PAs of HoDs of national departments and national government components must be signed by the HoDs and the relevant EA of the department as the supervisor and be submitted to the DPME by 31 July 2018.

(b) Secondly, following the receipt of the duly signed PAs, the DPME will be required to submit these to the President within 14 working days.

10. The MPSA approved a deviation from the prescripts contained in paragraph 10.1.1 of the directive on the PMDS for HoDs, to regularise the signing and lodging of the PAs for the 2018/2019 performance cycle or until such time that the delegations by the President have been approved. Instances where the PAs of HoDs have been previously signed and submitted to the DPME prior to 30 April 2018 and subsequent to the approval of the proposed deviation from the directive, the PAs must be re-signed by the HoD and EA of the department and resubmitted to the DPME.

11. This deviation provides for two approaches to deal with the above:

(a) In the event that the delegations by the President are not issued by 31 July 2018, all duly signed and lodged PAs will be regarded as compliant once signed by the President.

(b) In the event that the delegations by the President have been issued prior to the signing of the PA by both the HoD and the relevant EA of the department, that PA will be compliant provided it has been lodged before 31 July 2018.

Mid-Year and Annual Performance Assessments

12. A similar process will be followed for the conclusion of mid-year reviews and annual assessments for HoDs of national departments and national government components. The mid-year reviews and annual performance assessments of HoDs of national departments and national government components should be conducted by the relevant EA of the department and submitted to the President for approval until such time that the delegations by the President have been approved. This will also be applicable to all outstanding mid-year reviews and annual assessments of HoDs up to and including the 2017/2018 performance cycle.

Kind regards

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