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TO ALL HEADS OF NATIONAL DEPARTMENTS, PROVINCIAL DEPARTMENTS AND GOVERNMENT COMPONENTS

IMPLEMENTATION OF THE PROBATION INSTRUMENT FOR ASSESSING PROBATIONARY APPOINTMENTS OF HEADS OF DEPARTMENT (HODs) AND PRACTICE NOTE FOR OTHER SENIOR MANAGEMENT SERVICE (SMS) POSTS (SALARY LEVELS 13-15)

1. The DPSA circulars 12 & 13 of 2018 as well as the Directive dated 27 June 2018 bear reference to this matter.
 2. Noting the contents of the abovementioned circulars together with the Directive prescribing the probation instrument for assessing probationary appointments of Heads of Department (HoDs), it is imperative to clarify the importance of all aspects related to probation. Such aspects include suitability, personal attribute as well as performance. Section 1.2 (b) of the said Directive places emphasis on the probationer receiving on a quarterly basis, written feedback on his or her performance and other requirements. As much as the probation form includes the aspect of performance, it is prudent that a performance report be attached to the probation form every quarter to effectively manage the expectations in terms of performance of the HoD as well as ensure that feedback regarding such performance and identified capacity development intervention is conducted. The intention is to provide the Executive Authority with a comprehensive assessment of the HoD in order to give consideration to confirm or not to confirm probation.
 3. As discussed in paragraph 2 *supra*, this is in line with the Labour Relations Act 65 of 1995, Schedule 8, Section 8; which deals with Probation. In this regard;
 - 8(1)(b) emphasises that the purpose of probation is to give the employer an opportunity to evaluate the employee's performance before confirming the appointment.
 - 8(1)(e) indicates that during probationary period, the employee's performance should be assessed. An employer should give an employee reasonable evaluation, instruction, training, guidance or counselling in order to allow the employee to render a satisfactory service.
 - 8(1)(j) highlights that any person making a decision about the fairness of a dismissal of an employee for poor work performance during or on expiry of the probationary period ought to accept reason for dismissal that may be less compelling than would be the case in dismissals effected after the completion of the probationary period.
- 8 (2) and (3) deal with the process of dismissal if probation is not confirmed due to unsatisfactory work performance.

4. Furthermore, the Employment Equity Act 55 of 1998, under the Code of Good Practice on integration of Employment Equity into Human Resource Policies and Practices; Part A, Section 9 indicates that, probation involves a trial period for the employee in order for the employer to determine the employee's ability and skills to function in the position in order to determine whether to offer the employee permanent employment. Furthermore, this section cautions employers against measures that may be discriminatory in determining not to confirm probation.
5. Section 13 (2) of the Public Service Act 1994, deals with confirming probation if the employee has:
 - (a) performed satisfactorily during the period, and
 - (b) complied with all other conditions to which the appointment was subject.
6. Noting the above legislation, performance is a key aspect regarding probation, however it should not be seen in isolation. Therefore, all other conditions related to suitability and personal attributes must be considered together with performance.
7. Regarding the other SMS members (i.e. on salary levels 13-15), departments are advised to ensure that due consideration is given to the performance of the SMS member over each quarterly assessment, and such reports must be attached to the probationary report quarterly. Confirmation or not of probation must therefore be considered based on the performance reviews, suitability and personal attributes of the SMS member. Departments are further advised to continue to utilise the relevant procedure aligned to the Public Service Act and Regulations as well as the Labour Relations Act to manage probation. Attached to this circular is a guiding template on probation which departments may customise, if necessary.
8. It is imperative to note that the only prescriptive instrument for probation is that for Heads of Department as per DPSA circulars 12 & 13 of 2018.
9. For further information kindly contact Ms Renel Singh Dastaghir on (012) 336 1241 or Renel.Singh-Dastaghir@dpsa.gov.za
10. Your cooperation is highly appreciated.



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DIRECTOR-GENERAL

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