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GENERAL NOTICE

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DEPARTMENT OF SAFETY AND SECURITY

REGULATIONS FOR THE SOUTH AFRICAN POLICE SERVICE

The Minister for Safety and Security has, under section 24(1) of the South African Police Service Act, 1995 (Act No. 68 of 1995), made the regulations in the Schedule.

S V TSHWETE

Minister for Safety and Security

SCHEDULE

SOUTH AFRICAN POLICE SERVICE EMPLOYMENT REGULATIONS

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CHAPTER I: INTRODUCTION

1. SHORT TITLE AND COMMENCEMENT

(1) These regulations shall be called the South African Police Service Employment Regulations, 1999 (hereinafter referred to as these Regulations) and subject to subregulation (2) come into operation on 1 July 1999.

(2) The regulations specified hereunder shall come into operation on the dates mentioned in respect thereof:

- a. Regulations 19(6) and 29(3) on 1 October 1999
- b. Regulations 14, 17(c) and 40 on 1 January 2000; and
- c. Regulations 13(2)(b), 17(b) and 19(1) on a date to be determined by the Minister in the *Gazette*.

2. DEFINITIONS

In these Regulations, unless the context otherwise indicates, -

competence means the blend of knowledge, skills, behaviour and aptitude that a person can apply in the work environment and which are indicative of that person's ability to meet the requirements of a specific post.

CORE means CODE of remuneration, as defined in regulation 19(4) and (5);

employee means a member;

grade means the relative value of a particular job as reflected by the job weight, which is linked to a salary range in a scale used in the Service.

inherent requirements of a job means those competencies which have been proved to be required by an employee to carry out a job;

job means those basic duties, tasks, functions, competency requirements and responsibilities according to which one or more posts of the same grade are established;

job weight means a numerical value assigned to reflect selected characteristics of a job as measured by a job evaluation instrument; level means salary range or grade;

Labour Relations Act means the Labour Relations Act, 1995 (Act No. 66 of 1995);

medium-term expenditure framework means the medium-term expenditure framework as published by the Minister of Finance;

persons historically disadvantaged means persons or categories of persons who have suffered unfair discrimination in the past;

representativeness means the extent to which the personnel in the Service broadly reflects the composition of the South African people, including its composition in terms of race, gender and disability;

salary range means a set of salaries that form part of a salary scale linked to a specific grade and, in a wider sense, a set of job weights;

salary scale means a range of salaries from a minimum to a maximum salary for the Service or an occupation in the Service, with specific amounts denoted as the beginning and end of salary ranges or as notches within salary ranges;

Safety and Security Sectoral Bargaining Council means the council established in accordance with Resolution No. 12 of 1998 by the Public Service Co-ordinating Bargaining Council; and

senior management means all employees who fill posts to which salary ranges 13 and higher have been linked and who have been designated by the National Commissioner as managers, or posts established for that purpose.

3. MATTERS OF MUTUAL INTEREST

The Labour Relations Act, 1995, and collective agreements shall regulate matters of mutual interest between employees and the Service as employer.

4. TRANSITIONAL ARRANGEMENTS

The Minister must issue directives on transitional arrangements for the implementation and application of these Regulations.

5. EXCEPTIONAL CASES

If circumstances develop which justify a deviation from the provisions and measures in these Regulations concerning the career incidents of employees, the Minister may make determinations, issue directives or approve that alternative provisions and measures be applied.

6. COMMUNICATION IN THE MEDIA

The National Commissioner must determine a policy on how employees shall communicate in the media.

CHAPTER II: DELEGATIONS, AUTHORISATIONS AND RESPONSIBILITIES

7. PRINCIPLES

To enable the National Commissioner to manage the Service efficiently and effectively, the Minister must provide her or him with appropriate powers and authority. The National Commissioner must similarly provide appropriate powers and authority to employees.

8. DELEGATIONS AND AUTHORISATIONS

(1) If these Regulations confer a power or impose a duty upon the Minister or National Commissioner, she or he may in writing -

- a. delegate the power to an employee or authorise an employee to perform the duty;
and
- b. set conditions for the exercise of the power or performance of the duty.

(2) The Minister must record a delegation and authorisation in writing and may incorporate a delegation and/or authorisation to the National Commissioner into the employment contract of the National Commissioner, as contemplated in regulation 35(2)(a).

(3) If the Minister or National Commissioner has delegated a power to an employee or authorised an employee to perform a duty in terms of subregulation (1), she or he may nonetheless exercise such power or perform such duty.

9. RESPONSIBILITIES

(1) The Minister must uphold the principles and measures set out in these Regulations.

(2) The Minister may not require or permit the National Commissioner or any other employee to engage in an activity or take a decision in breach of these Regulations.

(3) The National Commissioner must ensure that employees comply with these Regulations, collective agreements and statutory obligations and deal immediately and effectively with any breach thereof

(4) The Minister and National Commissioner must each exercise her or his powers, perform her or his duties and carry out her or his obligations under these Regulations in accordance with the relevant Labour legislation and any relevant collective agreement.

(5) The Minister or National Commissioner must ensure that prior Treasury authorisation exists for any decision that involves expenditure from revenue.

10. CONFLICT OF INTEREST IN EMPLOYMENT ACTS OR DECISIONS

(1) If the Minister, National Commissioner or an employee encounters a conflict of interest in performing an act or making a decision that relates to the employment relationship, she or he must -

- a. establish an independent panel consisting of at least two persons;
- b. act or decide in the matter only after considering the recommendation of the panel; and
- c. where she or he deviates from the recommendations of the panel, record the reasons for such deviation in writing.

(2) The Minister, National Commissioner or employee may not accept or seek material recompense of any kind from an employee or a prospective employee in return for performing an act or making a decision relating to the employment relationship.

11. HANDLING OF OFFICIAL INFORMATION AND DOCUMENTS

An employee may only release official information to the public if she or he has the requisite authority.

CHAPTER III: PLANNING, WORK ORGANISATION AND REPORTING

12. PRINCIPLES

The Minister and National Commissioner must, in order to provide services with the best value for money, set measurable objectives for the Service, optimally utilise the human and other resources of the Service and apply fair labour practices. Within available funds, each must, based on the service delivery objectives and mandates of the Service and the Government, plan to execute functions with an efficient and effective internal organisation and well developed human resources. To permit oversight by the public and legislatures, the Minister must publish an annual report giving key information on the Service.

13. STRATEGIC PLANNING

(1) As the strategic plan for the Service, the Minister must establish a medium-term programme that includes a description of -

- a. the core objectives of the Service, based on Constitutional, legislative and functional mandates and the service delivery improvement programme developed in accordance with regulation 14;
- b. the core and support activities necessary to achieve the core objectives, avoiding duplication of functions;
- c. the functions the Service will perform internally and those it will contract out;
- d. the goals or targets to be attained on the medium term;
- e. the programme for attaining those goals or targets; and
- f. information systems to enable her or him to monitor fulfilment of the core objectives of the Service.

(2) Based on the strategic plan of the Service, the National Commissioner must -

- a. determine the organisational structure of the Service in terms of its core and support functions;
- b. grade proposed new jobs according to the job evaluation system referred to in Chapter IV;
- c. define the posts necessary to perform the relevant functions, which shall constitute the fixed establishment of the Service, while remaining within the current budget and medium-term expenditure framework of the Service; and
- d. utilise the human resource plan contemplated in regulation 15 to meet the resulting human resource needs.

(2) To implement the strategic plan the National Commissioner must -

- a. promote the efficient, economic and effective use of resources and improve the functioning of the Service; and

- b. to that end, apply such working methods as the re-allocation, simplification and/or co-ordination of work and the elimination of unnecessary functions.

14. SERVICE DELIVERY IMPROVEMENT PROGRAMME

The Minister must establish and sustain a service delivery improvement programme for the Service that must contain an exposition of -

- a. the type of actual and potential customers of the Service and the main service provided to them;
- b. the existing and future consultation arrangements with the actual and potential customers of the Service;
- c. means of access by customers to the services of the Service, tie barriers to increased access and the mechanisms or strategies to be utilised progressively to remove the barriers so that access to services is increased;
- d. the existing and future service standards for the main services provided;
- e. the existing and future arrangements on how information about the services of the Service are provided; and
- f. the current and future complaints system or mechanisms.

15. HUMAN RESOURCE PLANNING

(1) The National Commissioner must -

- a. assess the human resources required to perform the functions of the Service, in terms of the required -
 - i. number of employees;
 - ii. competencies of employees; and
 - iii. employment capacities (whether permanent or temporary) to which employees shall be appointed;
- b. assess the existing human resources by race, gender and disability as well as by occupational category, organisational component and grade in terms of -
 - i. competencies;
 - ii. training needs; and
 - iii. employment capacities;
- c. plan within the available budgeted funds, including funds for the remaining period of the medium-term expenditure framework, to recruit, retain, deploy and develop human resources according to the requirements established under subregulation (1)(a), which plan must, as a minimum, include -
 - i. realistic goals and measurable targets for achieving representativeness, taking into account subregulation (2); and
 - ii. targets for the training of employees per occupational category and of specific employees, with specific plans to meet the training needs of persons historically disadvantaged; and
- d. address the position of employees affected by the abolition of unnecessary posts, with the retrenchment of employees only in accordance with the Labour Relations Act, 1995, and collective agreements, as the last resort.

(2) The Minister must develop and implement an affirmative action programme, which must contain, as a minimum

- a. a policy statement that sets out the commitment of the Service to affirmative action and how that policy will be implemented;
- b. numeric and time-bound targets for achieving representativeness;
- c. the statistics on the appointment, training and promotion of persons historically disadvantaged within each grade of each occupational category, that must be provided annually; and
- d. a plan to redress numeric under-representativeness and to support the advancement of persons historically disadvantaged.

(3) The Minister must make the outcome of planning referred to in subregulation (1) and the affirmative action programme referred to in subregulation (2) known within the Service.

16. INFORMATION RESOURCES PLANNING

The National Commissioner must establish

- a. an information plan for the Service that supports the planning process and objectives contemplated in regulation 13;
- b. an information technology plan that supports the information plan; and
- c. an operational plan that enables the implementation of the information technology plan and information management.

17. CREATION AND FILLING OF POSTS

Before creating a post for any newly defined job, or filling any vacancy, the National Commissioner must-

- a. satisfy herself or himself that she or he requires the post to meet the objectives of the Service;
- b. in the case of a newly defined job, evaluate the job in terms of the job evaluation system;
- c. in the case of a vacant post linked to salary range 9 and higher, evaluate the job unless the specific job has been evaluated previously; and
- d. ensure that sufficient budgeted funds, including funds for the remaining period of the medium-term expenditure framework, are available for filling the post.

18. ADDITIONAL EMPLOYMENT

The National Commissioner may, within the relevant budget, employ persons additional to the fixed establishment where -

- a. the incumbent of a post is expected to be absent for such a period that her or his duties cannot be performed by other employees;
- b. a temporary increase in work occurs; or
- c. it is necessary for any other reason to temporarily increase the staff of the Service.

19. JOB DESCRIPTIONS, POST TITLES AND CORES

(1) For each post or group of posts, the National Commissioner must establish a job description and post title that indicate, with appropriate emphasis on service delivery -

- a. the main objectives of the post or posts in question;
- b. the inherent requirements of the job; and
- c. the requirements for promotion or progression to the next salary range, in accordance with a relevant career path.

(2) At least every three years the National Commissioner must review job descriptions and post titles and, where necessary, redefine them to ensure that they remain appropriate and accurate.

(3) The National Commissioner must from time to time, in consultation with the Minister, determine occupational categories in the Service.

(4) The Minister must issue a code of remuneration (CORE) for every occupational category and an occupational classification system to assist the National Commissioner in designing job and career paths linked to the salary scales.

(5) For each salary range in a CORE, the Minister may provide advice on the -

- a. possible job content;
- b. necessary and desirable competencies;
- c. indicators of competencies; and
- d. desirable characteristics for employment and promotion within the occupational category.

(6) To assist in an analysis of public service employment, the National Commissioner must link all posts in the Service with a relevant CORE and an occupation from the occupational classification system.

CHAPTER IV: JOB EVALUATION

20. PRINCIPLES

To ensure that work of equal value is remunerated equally, the Service must increasingly use job evaluation -

- a. to assist in achieving cost-effective work organisation; and
- b. to determine appropriate remuneration.

21. RESPONSIBILITIES

(1) The Minister must determine -

- a. a job evaluation system or systems that must be utilized in the Service;
- b. a range of job weights derived from the system or systems for each salary range in a salary scale; and
- c. a job or category of jobs that the National Commissioner must evaluate.

(2) The Minister may -

- a. review the application of job evaluation in the Service;
- b. issue directives on the application of the job evaluation system or systems;
- c. evaluate any job; and
- d. direct the National Commissioner to take measures to enhance the quality of the "system, including the re-evaluation of jobs and the restructuring of the component responsible for job evaluation and/or further training of employees responsible for job evaluation in the Service.

(3) The National Commissioner may evaluate or re-evaluate any job in the Service.

CHAPTER V: COMPENSATION FOR EMPLOYEES

22. PRINCIPLES

(1) Remuneration in the Service must aim, within fiscal constraints, to support -

- a. efficient and effective service delivery and provide appropriate incentives for employees; and
- b. equal pay for work of equal value and other labour standards.

(2) In determining the salary of an employee, the National Commissioner must take into account -

- a. relevant collective agreements;
- b. available funds;
- c. the results of job evaluation, if available;
- d. the performance of the employee; and
- e. the need to recruit and retain personnel with appropriate competencies.

23. DETERMINATION OF SALARY SCALES AND ALLOWANCES

The Minister must determine a salary scale or scales and allowances for employees in the course of the relevant collective bargaining process.

24. GRADING AND REMUNERATION

(1) The National Commissioner must determine the grade of a post to correspond with its job weight and set the commencing salary of an employee on the minimum notch of the salary range attached to the relevant grade, unless the salary proves inadequate under

the criteria in subregulation (3).

(2) If a job has a weight that applies to more than one salary range, the National Commissioner must determine which of the relevant salary ranges to use.

(3) The National Commissioner may set the salary for a post or an employee above the minimum notch of the salary range indicated by the job weight -

- a. if she or he has evaluated the job, but cannot recruit or retain an employee with the necessary competencies at the salary indicated by the job weight; and
- b. she or he shall record the reasons why the salary indicated by the job weight was insufficient..

(4) If the job weight demonstrates that a filled post is overgraded or undergraded, the National Commissioner must either effect changes to the work organisation or regrade the post according to the job weight and the relevant collective agreements as provided for in subregulations (5), (6) and (7).

(5) The National Commissioner may increase the salary of a post to a higher salary range in order to accord with the job weight, if -

- a. the job weight as measured by the evaluation system indicates that the post was graded incorrectly; and
- b. the budget of the Service and the medium-term expenditure framework provide sufficient funds.

(6) If the National Commissioner raises the salary of a post as provided under subregulation (5), she or he may continue to employ the incumbent employee in the higher-graded post without advertising the post if the incumbent -

- a. already performs the duties of the post;
- b. has received a satisfactory rating in her or his most recent performance assessment; and
- c. starts employment at the minimum notch of the higher salary range.

(7) If the National Commissioner determines that the salary range of an occupied post exceeds the range indicated by a job weight, she or he must -

- a. if possible -
 - i. redesign the job to equate with the post grade; or
 - ii. transfer the incumbent to another post on the same salary range; and
- b. abide by relevant legislation and collective agreements.

(8) As far as possible, the National Commissioner must set the salary of a part-time, sessional or temporary employee proportional to the salary of an equally graded full-time employee.

25. SALARY RANGE PROGRESSION

(1) If the budget of the Service and the medium-term expenditure framework provide sufficient funds, the National Commissioner may establish opportunities for salary range progression in selected occupations.

(2) An employee shall be eligible for salary range progression only if -

- a. her or his job description defines a career path that spans more than one salary range in the salary scale;
- b. she or he has the competencies required to perform the additional duties;
- c. the weight of his or her job increases to equate to a higher salary range in the salary scale; and
- d. she or he has received consistently satisfactory performance assessment ratings.

(3) The National Commissioner may not provide an opportunity for salary range progression for an employee in the senior management.

26. OVERTIME

- (1) The Minister must determine rates of compensation for overtime through the collective bargaining process.
- (2) The National Commissioner may compensate an employee for overtime work if -
 - a. the employee does not belong to the senior management except in those cases mentioned in subregulation (3);
 - b. the Service has a written policy on overtime;
 - c. she or he has provided written authorisation in advance for the work; and
 - d. except in exceptional circumstances, the monthly compensation for overtime constitutes less than 30 per cent of the monthly salary of the employee.
- (3) The National Commissioner may, in exceptional cases, compensate a member of the senior management for overtime if -
 - a. the compensation for overtime constitutes one per cent or less of the salary bill on the relevant salary level; and
 - b. the Service has established clear and unambiguous procedures and criteria on overtime which have been consulted with the relevant personnel.
- (4) A member of the senior management may not authorise overtime for herself or himself.
- (5) After consultation with employee representatives, the National Commissioner must establish an overtime policy, which must determine -
 - a. categories of employees that are not entitled to receive compensation for overtime due to the nature of their work and responsibilities;
 - b. the circumstances under which a commander may authorise overtime work for an individual employee;
 - c. whether an employee shall receive payment or time off as compensation for authorised overtime;
 - d. how much overtime an employee may work in a given period;
 - e. how a commander should record authorisation for overtime; and
 - f. other control measures, if necessary.

27. SERVICE BENEFITS, COMPENSATORY PRACTICES AND WORK FACILITY PRACTICES

- (1) The Minister must determine service benefits, compensatory practices, work facility practices and allowances for employees through the collective bargaining process.
- (2) The Minister may make a determination regarding the application of a service benefit, compensatory practice, work facility practice or allowance.
- (3) Subject to the terms of a relevant collective agreement, the National Commissioner may provide the cash equivalent of benefits received by permanent employees to employees on fixed-term contracts.

28. LEAVE

The National Commissioner must -

- a. encourage an employee to fully utilise her or his vacation leave in the year earned;
- b. record all leave taken by an employee accurately and in full; and
- c. ensure that an employee does not abuse sick leave.

29. INFORMATION ON REMUNERATION

- (1) The Minister must, at least on annual basis, issue and publish in the Service the salary scale or scales used in the Service.
- (2) In dealing with personnel matters and the remuneration of an individual employee, the National Commissioner must respect the right to privacy of the employee.
- (3) In the week before the salary pay day of an employee, the National Commissioner

must provide her or him with the following information in writing :

- a. The name of the employee;
- b. The post title of the employee and the occupational category in terms of the CORE;
- c. The salary notch of the employee;
- d. Any other form of compensation that the Service pays directly to the employee on a monthly basis;
- e. The period for which payment is made;
- f. The amount and purpose of any deductions; and
- g. The actual amount paid to the employee.

CHAPTER VI: WORKING ENVIRONMENT

30. PRINCIPLES

Working hours of the Service and conditions must support efficient service delivery while; as far as reasonably possible, taking into the account the personal circumstance of employees including those of employees with disabilities.

31. WORKING HOURS

The National Commissioner must determine -

- a. the work week and daily hours of work for employees; and
- b. the opening and closing times of places of work under her or his control, taking into account -
 - i. the needs of the public and the service delivery improvement programme of the Service; and
 - ii. the needs and circumstances of employees, including family obligations and transport arrangements.

32. WORK OUTSIDE WORKING HOURS

The National Commissioner may, if she or he deems it in the interest of the Service, instruct any employee to perform the functions of the Service outside normal working hours, in order to -

- a. prevent, combat and investigate crime;
- b. maintain public order;
- c. protect and secure the inhabitants of the Republic and their property;
- d. uphold and enforce the law; and
- e. preserve life, health and property.

33. HEALTH AND SAFETY

The National Commissioner must establish and maintain a safe and healthy work environment for employees of the Service

CHAPTER VII: PROCEDURES FOR APPOINTMENT, PROMOTION AND TERMINATION OF SERVICE

34. PRINCIPLES

Employment practices must ensure employment equity, fairness, efficiency and the achievement of a representative Service. Affirmative action must be used to speed up the creation of a representative and equitable Service and to give practical support to those who have been historically disadvantaged by unfair discrimination to enable them to fulfil their maximum potential. Employment practices must maximize flexibility, minimize administrative burdens on both employer and employee, and generally prevent waste and inefficiency.. Having regard to section 6(1) of the Constitution and without derogating from the provisions of section 6(3)(a) of the Constitution, lack of fluency in an official language shall not be a consideration in making a recommendation on the suitability of ~ candidate for appointment or promotion, where such fluency is not an inherent requirement of the

job for which such candidate has applied.

35. CONDITIONS FOR APPOINTMENT

(1) General

The National Commissioner -

- a. may appoint employees on a permanent, fixed-term or temporary basis either full-time or part-time;
- b. may, where the employment is temporary, appoint an employee under a special contract, on a casual basis or on a sessional basis;
- c. may not appoint any person under the age of 16 years;
- d. must determine the health requirements of a post, only where it is an inherent requirement of the job;
- e. may appoint a casual employee for a period not exceeding twelve months;
- f. must require an employee to be subjected to a security clearance only where it is an inherent requirement of the job; and
- g. must ensure that each employee is provided with a written contract of employment, including the terms and conditions of her or his service.

(2) Employment contract for the National Commissioner

- a. The President must provide the National Commissioner with a written contract in the form as set out in Annexure II, which contract must include -
 - i. the matters contemplated in section 1 2(4)(a) to (c) of the Public Service Act, 1994, including the management of conduct and finances, the elimination of inefficiency, and the promotion of representativeness as minimum performance criteria; and
 - ii. the main delegations and authorisations necessary for the National Commissioner to manage the Service in terms of section 7(3)(b) of the Public Service Act, 1994, and a clause in terms of which delegations and authorisations may be added or removed from the contract.
- b. The Minister must provide the Minister of Public Service and Administration with a copy of the contract concluded under subregulation (2)(a) as soon as possible after entering into such contract.

(3) Reappointment of former employees

The National Commissioner may not reappoint a former employee where -

- a. the former employee left the Service earlier on the condition that she or he would not accept or seek reappointment;
- b. the original grounds for termination of service militate against reappointment; or
- c. the former employee left the Service due to ill health and cannot provide recent and conclusive proof of recovery.

(4) Acting in higher posts

- a. The National Commissioner may only compensate an employee for acting in a higher vacant post in terms of a determination of the Minister made through the collective bargaining process.
- b. The National Commissioner may also compensate an employee for acting in a post due to the actual incumbent of the post acting in a higher vacant post, provided that no more than two employees may simultaneously be compensated as a result of a single vacancy.
- c. An employee may not act in a higher vacant post for an uninterrupted period exceeding twelve months.
- d. For the purposes of subregulation (4)(c), any uninterrupted period that an employee has acted in a higher vacant post immediately before the coming into operation of these Regulations must be taken into account where the employee continues so acting on that date.

36. RECRUITMENT

(1) Determination of requirements for employment

- a. The National Commissioner must determine composite requirements for employment in any post on the basis of the inherent requirements of the job.
- b. The National Commissioner must -
 - i. record the inherent requirements of a job;
 - ii. ensure that the requirements for employment do not discriminate against persons historically disadvantaged; and
 - iii. comply with any statutory requirement for appointment of employees.

(2) Advertising

- a. The National Commissioner must ensure that advertisements of vacancies aim to reach, as efficiently and effectively as possible, the entire pool of potential applicants, especially persons historically disadvantaged.
- b. An advertisement for a post must include the requirements as determined in subregulation (1), the post title and core functions.
- c. The National Commissioner must advertise any vacant post in the senior management nationally simultaneously inside and outside the Service.
- d. The National Commissioner must advertise any vacant post other than those for the senior management, as a minimum, within the Service, but may also advertise such posts -
 - i. within the rest of the Public Service;
 - ii. outside the Public Service either nationally or locally; or
 - iii. by other acceptable means of recruitment.
- e. The National Commissioner may fill a vacant post without complying with the requirements of paragraphs (c) and (d) if -
 - i. the Service can utilise supernumerary staff of equal grading to fill the post, or other staff of equal grading if the latter is in the interest of the Service;
 - ii. the Service can absorb into the post an employee appointed or serving under an affirmative action or other similar acceleration programme, and if she or he meets the requirements of the post; or
 - iii. the Service plans to fill the post as part of a programme of laterally rotating or transferring employees to enhance organisational effectiveness and the skills of employees.
- f. The National Commissioner may utilise an appropriate agency to identify candidates for posts, as long as the advertising and selection procedures comply with this regulation and regulation 37.

37. SELECTION

(1) The National Commissioner must appoint a selection committee to make recommendations on appointments to posts. The selection committee must comprise of at least three persons consisting of employees of a grading which is equal to or higher than the grading of the post to be filled and may include persons from outside the Service: Provided that -

- a. the chairperson of the selection committee, who is an employee, must be of a grading higher than the post to be filled; and
- b. in the event that the manager of the component within which the vacant post is located, is graded lower than the vacant post, such manager may be a member of the selection committee.

(2) A selection committee must where possible, include adequate representation of persons historically disadvantaged.

(3) Employees of a grading which is lower than the grading of the post to be filled, may

provide a secretarial or advisory service during the selection process, but may not form part of the selection committee.

(4) The selection committee must make a recommendation on the suitability of a candidate after considering only -

- a. information based on valid methods, criteria or instruments for selection that are free from any bias or discrimination;
- b. the training, skills and competence based on the inherent requirements of the job;
- c. the needs of the Service for developing human resources;
- d. the representativeness of the component where the post is located; and
- e. the affirmative action programme of the Service.

(5) A selection committee must record the reasons for its decision in terms of the criteria set out in subregulation (4).

(6) When the National Commissioner does not approve a recommendation of a selection committee, she or he must record the reason for her or his decision in writing.

38. PROMOTION

(1) The National Commissioner may promote an employee to a vacant post in the fixed establishment of the Service if -

- a. such a vacancy is sufficiently funded, including funds for the remaining period of the medium-term expenditure framework; and
- b. the vacancy has been advertised and the candidate selected in accordance with regulations 36 and 37.

(2) A promotion may not come into effect before the first day of the month following the date on which the National Commissioner approved it.

(3) No employee has any right to a promotion until the promotion has been approved in writing by the National Commissioner.

39. AUTOMATIC RESIGNATION

An employee shall be deemed to have resigned from the Service with effect from the date on which her or his name appears on a list of representatives in any legislature published in a Gazette after an election in terms of a relevant Electoral Act, or is appointed as a permanent delegate to the National Council of Provinces.

40. EMPLOYEE RECORDS

The National Commissioner must keep a record of each employee with, as a minimum, the following particulars :

- a. Full names.
- b. Date of birth.
- c. Identity number.
- d. Citizenship.
- e. The status of the employee, as self-defined, for purposes of monitoring representativeness, according to race, gender and disability, with race defined as African, Coloured, Indian, White, or Other (specified).
- f. Home address and telephone number.
- g. Date of joining the Service.
- h. Nature of employment.
- i. Post title.
- j. Occupation as defined by a CORE.
- k. Current and previous ranks, with date of entry and authorisation for entering each rank.
- l. Accreditation for training and skills.
- m. Details of remuneration and performance awards.
- n. Details of pension, medical assistance and other benefits.
- o. Details of leave authorised for any purpose.

- p. All other particulars required for determining benefits and remuneration, including particulars on marital status and dependants.

CHAPTER VIII: PERFORMANCE MANAGEMENT AND DEVELOPMENT

41. PRINCIPLES

The Service must manage performance in a consultative, supportive and non-discriminatory manner in order to enhance organisational efficiency, effectiveness and accountability for the use of resources and the achievement of results. Performance management processes must link to broad and consistent plans for the development of personnel and align with the strategic goals of the Service. The primary orientation of performance management must be developmental but must allow for effective response to consistent inadequate performance and for recognising outstanding performance. Performance management procedures must minimise the administrative burden on commanders while maintaining transparency and administrative justice.

42. SYSTEMS FOR PERFORMANCE MANAGEMENT AND DEVELOPMENT

(1) The National Commissioner must, subject to Item 2 of Annexure I to these Regulations, determine a system for performance management and development for employees of the Service, other than employees in senior management, consistent with the principles in regulation 41 before 1 January 2001.

(2) For each employee other than an employee in senior management, the National Commissioner must determine -

- a. the period in respect of which performance is to be assessed, the "performance cycle";
- b. an annual date for written assessment of performance; and
- c. a commander responsible for monitoring, supervising and assessing the performance of the employee.

(3) The commander must -

- a. as far as possible, meet on a regular basis with the employee to discuss the basic objectives of her or his component and the role of the employee in the success or failure in achieving those objectives;
- b. before the performance cycle commences, or within one month after, appointment or promotion to a post, explain the performance assessment procedure to the employee; and
- c. inform the employee of the criteria used for her or his performance assessment.

(4) The commander must monitor the performance of the employee on a continuous basis and give the employee feedback on her or his performance -

- a. at least four times a year -
 - i. orally, if the performance of the employee is satisfactory; and
 - ii. in writing if the performance of the employee is unsatisfactory;
- b. at least twice in the six months preceding the annual formal assessment date of the employee; and
- c. in writing, on the annual performance assessment date, using the instrument referred to in regulation 43.

43. PERFORMANCE ASSESSMENT

(1) The National Commissioner -

- a. may establish separate performance assessment instruments for different occupational categories or levels of work; but
- b. must designate a single assessment instrument to assist in deciding on rewards, promotion and skills development of an employee.

(2) Assessment must be based only on the information contained in the designated performance assessment instrument, but where an appeal is lodged against an assessment, the information furnished in connection with the appeal, must also be considered.

(3) Before utilising a performance management and development system referred to in regulation 42(1), the National Commissioner must -

- a. pilot the system on a sufficient number of employees in every occupational category to enable reasonable validity; and
- b. consult with the employee organisations in the Service.

44. OUTCOME AND COMMUNICATION OF ASSESSMENT RESULTS

(1) The commander of the employee must in writing inform the employee of the outcome of the assessment and, if the assessment is unsatisfactory, of the reasons for that assessment.

(2) An employee who is not satisfied with the outcome of her or his assessment, may refuse to sign it.

(3) The commander of the employee must clearly identify the appeals route for an employee who is not satisfied with the outcome of her or his assessment.

(4) At any appeal against the outcome of her or his assessment, the employee may be assisted by a fellow employee or a representative of her or his trade union.

(5) The National Commissioner may communicate the performance assessment results of an employee to a person not employed in the Service only if the employee gives her or his written consent.

45. MANAGING UNSATISFACTORY PERFORMANCE

In the case of unsatisfactory performance, the National Commissioner must

- a. provide systematic remedial or developmental support to assist the employee to improve her or his performance; or
- b. if the performance is so unsatisfactory as to be poor and the desired improvement cannot be effected, consider steps to discharge the employee for unfitness or incapacity to carry out her or his duties.

46. INCENTIVES FOR GOOD PERFORMANCE

(1) If the budget of the Service and the medium-term expenditure framework provide adequate funds, the National Commissioner may establish a financial incentive scheme for employees of the Service or any category of those employees.

(2) To establish a financial incentive scheme for the Service the National Commissioner must -

- a. in writing determine the nature, rules and control measures of the scheme in advance;
- b. effectively communicate the nature and rules of the scheme to all employees; and
- c. ensure that employees who implement the quality and quantity control measures of the scheme are not entrusted with the implementation of that scheme in relation to themselves.

47. SUGGESTIONS, IMPROVEMENTS AND INNOVATIONS

If an employee makes a suggestion, improvement or invention of exceptional value to the Service or the public service as a whole -

- a. the State has the right of use of any such suggestion, improvement or invention; and
- b. the National Commissioner may reward the employee through -

- i. any non-monetary reward;
- ii. a non-pensionable cash award not exceeding 20 percent of the pensionable annual salary of the employee or, with the approval of the Minister, a non-pensionable cash award in excess of 20 percent of the pensionable annual salary of the employee; or
- iii. such a non-monetary reward as well as a cash reward.

CHAPTER IX: TRAINING AND EDUCATION

48. PRINCIPLES

Employees must have ongoing and equitable access to training geared towards achieving an efficient, non-partisan and representative Service. Training must support work performance and career development. It must become increasingly driven by needs and link strategically to broader human resource management practices and programmes aimed at enhancing employment equity and representativeness.

49. INSTITUTIONAL ARRANGEMENTS

(1) The National Commissioner must oversee or ensure the participation of the Service in any institution aimed at promoting training in the public service subject to the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995).

(2) Subject to the provisions of this Act, these Regulations and State Tender Board prescripts, training may be provided internally or externally.

(3) A commander must provide training opportunities for employees under her or his command in accordance with the training plan of the Service.

(4) The National Commissioner must ensure that funds are available for the training of employees at all levels.

(5) An employee in the senior management must avail herself or himself to train employees in the Service or to present training.

50. TRAINING DIRECTED BY THE NATIONAL COMMISSIONER

(1) The National Commissioner must, where appropriate, ensure that any institution responsible for training in the Service gains accreditation from the South African Qualifications Authority.

(2) The Service or training institution offering any training directed by the National Commissioner must issue certificates upon the successful completion thereof.

51. OCCUPATIONAL SPECIFIC COMPETENCIES AND TRAINING

The National Commissioner must determine and prescribe the required competencies and training for occupational categories or specific employees in the Service.

52. TRAINING ASSISTANCE

(1) If it will contribute to the performance of the work of the Service, the National Commissioner may grant any financial or other assistance for any study, training or research where -

- a. she or he has requested an employee to undertake such study, training or research; or
- b. the employee has requested such assistance.

(2) The National Commissioner may grant any financial or other assistance for part-time or full-time activities at either local or international institutions. She or he may also grant assistance for studies and training through training interventions, such as short courses, congresses, symposia, seminars, conferences, workshops, lectures and study tours.

(3) The National Commissioner may grant bursaries for higher education and training to both serving and prospective employees, but may allocate bursaries for general and

further education and training only to serving employees: Provided that she or he may not require contractual service in recompense for assistance received where an employee receives assistance for general or further education and training.

(4) The National Commissioner may defray any expenses associated with study, research or training, but need not cover the full expenses.

(5) A serving employee must retain her or his salary, which shall count as part of the financial assistance from the Service, during any study, research or training.

(6) Subject to Treasury Instructions, the National Commissioner may waive the whole or any part of study debts.

(7) Where the National Commissioner provides a bursary for higher education to an employee or prospective employee -

- a. the bursary holder must enter into a contract with the Service in terms of which she or he -
 - i. in the case of a bursary holder who undertakes full-time study, will redeem the bursary by serving the Service on the basis of one year for each year of study, or any part thereof; or
 - ii. in the case of a bursary holder who undertakes part-time study will redeem the bursary by serving the Service for at least one year after attaining the relevant qualification; and
- b. redemption of the contract period for the bursary holder who undertakes full-time study commences after she or he has met all the requirements for the attainment of the qualification concerned.

(8) An employee who fails to complete the relevant qualification, redeems any obligation in terms of the contract either through service or repayment of the bursary amount plus interest at a rate determined by the Treasury.

(9) The National Commissioner may require an employee who studies or trains for short periods to enter into a contract with the Service in terms of which she or he will serve the Service for a reasonable period of time as a precondition for providing assistance.

(10) For the purpose of this regulation -

"further education and training" means further education and training as defined in section 1 of the Further Education and Training Act, 1998 (Act No. 98 of 1998);

"general education" means the compulsory school attendance phase as referred to in section 3 of the South African Schools Act, 1996 (Act No.84 of 1996); and

"higher education" means higher education as defined in section 1 of the Higher Education Act, 1997 (Act No. 101 of 1997).

CHAPTER X: LABOUR RELATIONS

53. PRINCIPLES

The Minister must, in accordance with the Labour Relations Act, 1995, manage negotiations, conclude collective agreements and resolve labour disputes. She or he shall not sign an agreement with fiscal implications unless she or he has an unambiguous mandate.

54. IMPLEMENTATION OF COLLECTIVE AGREEMENTS

If a collective agreement signed by an authorised representative of the State as employer applies to the Service, the Minister must implement and enforce it.

54. MANDATING AND MANAGEMENT OF NEGOTIATIONS

(1) The Minister may enter into an agreement on a matter of mutual interest only if she or he -

- a. has responsibility for managing collective bargaining on behalf of the State as employer in that forum;
- b. has authority to deal with the matter concerned; and
- c. meets the fiscal requirements in regulation 56.

(2) On matters specific to the Service, the Minister must manage bargaining in the Safety and Security Sectoral Bargaining Council.

(3) The Minister must provide the Minister of Public Service and Administration with a copy of a collective agreement concluded in the Safety and Security Sectoral Bargaining Council.

56. MATTERS WITH FISCAL IMPLICATIONS

Subject to regulation 55 the Minister may enter into an agreement in the appropriate bargaining council on any matter that has fiscal implications only if -

- a. she or he has a realistic calculation of the costs involved in both the current and subsequent fiscal years;
- b. the agreement does not conflict with Treasury Instructions; and
- c. she or he can defray the cost -
 - i. from her or his departmental budget;
 - ii. on the basis of a written commitment from Treasury to provide additional funds; or
 - iii. from the budgets of other departments or agencies with their written agreement and Treasury approval.

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