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CIVILIAN SECRETARIAT FOR THE POLICE SERVICE

NO. 663

06 JULY 2018

**SOUTH AFRICAN POLICE SERVICE EMPLOYMENT REGULATIONS, 2018**

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



**B H CELE**

Minister of Police

28/08/2018

SCHEDULE

**SOUTH AFRICAN POLICE SERVICE EMPLOYMENT REGULATIONS, 2018**

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**MEMBERS OF THE SENIOR MANAGEMENT SERVICE****CHAPTER 1****GENERAL PROVISIONS****1. DEFINITIONS**

In these Regulations any word or expression bears the meaning which was assigned to it in the Act or the Public Service Act and unless the context indicates otherwise, -

- (a) "competence" means the blend of knowledge, skills, behaviour and aptitude that a person can apply in the work environment, which indicates the ability of a person to meet the requirements of a specific post;
- (b) "CORE" means Code of Remuneration referred to in regulation 26(4);
- (c) "designated groups" means designated groups as defined in section 1 of the Employment Equity Act, 1998 (Act No 55 of 1998);
- (d) "employee" means a member of the Service as defined in section 1 of the Act;
- (e) "financial year" means a financial year as defined in section 1 of the Public Finance Management Act;
- (f) "grade" means the relative value of a particular job as reflected by the job weight, which is linked to a salary level in a salary scale used in the Service;
- (g) "inherent requirements of a job" means the competence and any other requirement that an employee needs in order to carry out a job;

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

(i) "job weight" means a numerical value assigned to reflect selected characteristics of a job as measured by a job evaluation instrument;

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

(k) "Minister" means the Minister of Police;

(l) "OSD" means occupation specific dispensation which is a dispensation for specific occupational categories and which includes a unique salary structure, a determined grading structure and job profiles, career pathing opportunities based on competencies, experience, performance and any other employment practice determined by the National Commissioner after consultation with the Minister;

(m) "Public Finance Management Act" means the Public Finance Management Act, 1999 (Act No 1 of 1999);

(n) "Public Service Act" means the Public Service Act, 1994 (promulgated under Proclamation No 103 of 1994);

(o) "SMS" means employees appointed to a post level graded on 13 or above;

(p) "the Act" means the South African Police Service Act, 1995 (Act No 68 of 1995);

(q) "these Regulations" means the South African Police Service Employment Regulations, 2018; and

(r) "the Treasury Regulations" means the Treasury Regulations published in the Government Gazette in the Government Notice No. R225 of 15 March 2005, as may be amended from time to time and made under section 76 of the Public Finance Management Act.

## 2. DEVIATIONS, DELEGATIONS AND AUTHORISATIONS

(1) The Minister may, if circumstances justify it, approve a deviation from any provision of these Regulations, and may authorise such deviation with retrospective effect for purposes of equality.

(2) The Minister or National Commissioner respectively may delegate in writing any power conferred upon him or her in terms of these Regulations to an employee or authorise an employee in writing to perform a duty imposed upon him or her in terms of these Regulations, and may set conditions for the exercise of the power or performance of the duty.

## 3. COMMUNICATION WITH THE MEDIA

(1) The National Commissioner must issue official directives on how employees must communicate in the printed or other public media.

(2) An employee must direct any enquiry on a matter that falls within the powers and duties of the Minister, to the National Commissioner.

(3) Without derogating from the provisions of the Protected Disclosures Act, 2000 (Act No 26 of 2000) an employee in his or her official capacity, may not irresponsibly criticize Government policy at a public gathering, in a publication or in the printed or other public media.

## 4. DECISION-MAKING IN CASE OF CONFLICT OF INTEREST

(1) If a possible conflict of interest arises in the performance of any act by any employee in terms of these Regulations, that employee may perform the act only after considering a recommendation of an independent panel consisting of at least two persons, appointed by the National Commissioner, or, if the employee is the National Commissioner, the Minister.

(2) If that employee deviates from the recommendations of the panel, he or she must record the reasons for the deviation in writing.

(3) An employee may not accept or seek compensation of any kind from an employee or a prospective employee in return for performing an act in terms of these Regulations.

#### 5. RECORD-KEEPING ON CORRECTION OF ACTS AND OMISSIONS

(1) The National Commissioner must keep copies of all documents relating to a power exercised in terms of section 5(7)(a) of the Public Service Act in the personnel file of the affected employee or employees.

(2) The Minister must submit a report in February of each year to the Minister for the Public Service and Administration, regarding instances in the preceding 12 months in which he or she exercised his or her power in terms of section 5(7)(a) of the Public Service Act. The report must at least contain the:

- (a) personal details of the affected employee or employees;
- (b) details of the act or omission that was corrected; and
- (c) the decision of the Minister.

### CHAPTER 2 CONDUCT, ETHICS AND ANTI-CORRUPTION

#### Part 1: Code of Conduct

#### 6. RELATIONSHIP WITH LEGISLATURE AND EXECUTIVE

An employee must -

- (a) be faithful to the Republic and honour the Constitution and abide thereby in the execution of his or her daily tasks;
- (b) put the public interest first in the execution of his or her duties;
- (c) loyally execute the policies of the Government of the day in the performance of his or her official duties as contained in all statutory and other prescripts;
- (d) strive to be familiar with and abide by all statutory and other instructions applicable to his or her conduct and duties; and

(e) co-operate with public institutions established under legislation and the Constitution in promoting the public interest.

## 7. RELATIONSHIP WITH PUBLIC

An employee must-

- (a) promote the unity and well-being of the South African nation in performing his or her official duties;
- (b) serve the public in an unbiased and impartial manner in order to enhance confidence in the Service and public service;
- (c) be polite, helpful and reasonably accessible in his or her dealings with the public, at all times treating members of the public as customers who are entitled to receive high standards of service;
- (d) have regard for the circumstances and concerns of the public in performing his or her official duties and in the making of decisions affecting them;
- (e) be committed through timely service to the development and upliftment of all South Africans;
- (f) not unfairly discriminate against any member of the public on account of race, gender, ethnic or social origin, colour, sexual orientation, age, disability, religion, political persuasion, conscience, belief, culture or language;
- (g) not abuse his or her position in the Service to promote or prejudice the interest of any political party or interest group;
- (h) respect and protect the dignity of every person and his or her rights as contained in the Constitution; and
- (i) recognise the right of access to information of the public, excluding information that is specifically protected by law.

## 8. RELATIONSHIPS AMONG EMPLOYEES

An employee must -

- (a) co-operate fully with other employees to advance the public interest;
- (b) execute all reasonable instructions by persons officially assigned to give them, provided these are not contrary to the provisions of the Constitution or any other law;

- (c) refrain from favouring relatives and friends in work-related activities and never abuse his or her authority or influence another employee, nor be influenced to abuse his or her authority;
- (d) use the appropriate channels to air his or her grievances or to direct representations;
- (e) be committed to the optimal development, motivation and utilisation of his or her staff and the promotion of sound labour and interpersonal relations;
- (f) deal fairly, professionally and equitably with other employees, irrespective of race, gender, ethnic or persuasion, conscience, belief, culture or language; and
- (g) subject to section 46 of the Act, refrain from party political activities in the workplace.

## 9. PERFORMANCE OF DUTIES

An employee must -

- (a) strive to achieve the objectives of the Service cost-effectively and in the public's interest;
- (b) be creative in thought and in the execution of his or her duties, seek innovative ways to solve problems and enhance effectiveness and efficiency within the context of the law;
- (c) be punctual in the execution of his or her duties;
- (d) execute his or her duties in a professional and competent manner;
- (e) refrain from engaging in any transaction or action that is in conflict with or infringes on the execution of his or her official duties;
- (f) not accept or seek compensation of any kind from an employee or a prospective employee in return for performing an act in terms of these Regulations;
- (g) recuse himself or herself from any official action or decision-making process which may result in improper personal gain, and properly declare this;
- (h) accept the responsibility to avail himself or herself of ongoing training and self-development throughout his or her career;
- (i) be honest and accountable in dealing with public funds and use the property and other resources of the Service effectively, efficiently and only for authorised purposes;
- (j) promote sound, efficient, effective, transparent and accountable administration;
- (k) in the course of his or her official duties, report to the appropriate authorities, fraud, corruption, nepotism, mal-administration and any other act which constitutes an offence, or which is prejudicial to the public interest;



(l) give honest and impartial advice, based on all available relevant information, to higher authority when asked for assistance of this kind;

(m) honour the confidentiality of matters, documents and discussions, classified or implied as being confidential or secret; and

(n) not release official information to the public unless he or she has the necessary authority.

## 10. PERSONAL CONDUCT AND PRIVATE INTERESTS

An employee must -

(a) during the execution of official duties, dress and behave in a manner that enhances the reputation of the Service;

(b) act responsibly as far as the use of alcoholic beverages or any other substance with an intoxicating effect is concerned;

(c) not use his or her official position to obtain private gifts or benefits for himself or herself during the performance of his or her official duties.

(d) not use or disclose any official information for personal gain or the gain of others; and

(e) not, without appropriate approval, undertake remunerative work outside his or her official duties, and where approval is obtained, may not use office equipment for such work.

## Part 2: Financial disclosure

## 11. DEFINITIONS

In this Part, unless the context indicates otherwise-

"designated employee" means –

(a) the National Commissioner or any other employee occupying a post on grade 13 or higher in the Service;

(b) any other person who in terms of section 36(3) of the Public Finance Management Act have been approved or instructed by the relevant treasury to be the accounting officer of the Service;

(c) any other employee or category of employees in the Service determined by the Minister;

"form" means a printed or electronic form contemplated in regulation 13;

"interests" means the financial interests listed in regulation 14;

"register" means the register of financial interests kept in terms of regulation 12; and

"remuneration" means any payment or benefit in cash or in kind.

## 12. REGISTER OF DESIGNATED EMPLOYEES' INTERESTS

(1) The National Commissioner must submit the interests of designated employees, who are members of the SMS to the Director-General: Office of the Public Service Commission.

(2) The National Commissioner shall keep a register of any other designated employees' interests not contemplated in subregulation (1).

## 13. DISCLOSURE OF DESIGNATED EMPLOYEE'S INTERESTS

(1) Every designated employee, except for the National Commissioner shall, not later than 30 April of each year, disclose to the National Commissioner, in a form prescribed for this purpose by the Public Service Commission, particulars of all his or her interests in respect of the period 1 April of the previous year to 31 March of the year in question.

(2) The National Commissioner shall, not later than 30 April of each year, disclose to the Minister, in the form prescribed for this purpose by the Public Service Commission, particulars of all his or her interests in respect of the period 1 April of the previous year to 31 March of the year in question.

(3) Any person who assumes duty as a designated employee on or after 1 April in a year shall make such disclosure within 30 days after assumption of duty in respect of the period from 1 April to date of disclosure.

(4) The National Commissioner shall ensure that the disclosure of interests by designated employees is submitted electronically to the Public Service Commission, unless otherwise determined by the Minister for the Public Service and Administration.

(5) The Minister shall submit to the Public Service Commission a copy of the form submitted to him or her in terms of-

(a) subregulation (2) not later than 31 May of the year in question; or

(b) subregulation (3), in so far as it relates to the National Commissioner not later than 30 days after it has been so submitted.

(6) The National Commissioner shall submit to the Public Service Commission a copy of the form submitted by a designated employee in terms of-

(a) subregulation (1) not later than 31 May of the year in question; or

(b) subregulation (3), in so far as it relates to a member of the SMS, excluding the National Commissioner, not later than 30 days after it has been so submitted.

#### 14. DETAILS OF INTERESTS TO BE DISCLOSED

The following details of interests shall be disclosed:

(a) Shares, loan accounts or any other form of equity in a registered private or public companies and other corporate entities recognised by law:

- (i) The number, nature and nominal value of shares of any type in any public or private company and its name; and
- (ii) other forms of equity, loan accounts, and any other financial interests owned by an individual or held in any other corporate entity and its name.

(b) Income-generating assets:

- (i) A description of the income-generating asset;
- (ii) the nature of the income; and
- (iii) the amount or value of income received.

(c) Trusts:

- (i) The name of the trust, trust reference or registration number as provided by the Master of the High Court, and the region where the trust is registered;
- (ii) the purpose of the trust, and your interest or role in the trust; and
- (iii) the benefits or remuneration received (these include fees charged for services rendered).

(d) Directorships and partnerships:

- (i) The name, type and nature of business activity of the corporate entity or partnership; and
- (ii) if applicable, the amount of any remuneration received for such directorship or partnership.

(e) Remunerated work outside the Service:

- (i) The type of work;
- (ii) the name, type and nature of business activity of the employer;
- (iii) the amount of the remuneration received for such work; and
- (iv) documentary proof of approval for remunerative work must be attached.

(f) Vacancies and retainerships:

- (i) The nature of the consultancy or retainership of any kind;
- (ii) the name, type and nature of business activity of the client concerned; and
- (iii) the value of any benefits received for such consultancy or retainership.

(g) Sponsorships:

- (i) The source and description of direct financial sponsorship or assistance;
- (ii) the relationship between the sponsor and the employee;
- (iii) the relationship between the sponsor and the Service; and
- (iv) the value of the sponsorship or assistance.

(h) Gifts and hospitality from a source, other than a family member:

- (i) A description, value and source of a gift;
- (ii) the relationship between the giver and the employee;
- (iii) the relationship between the giver and the Service; and
- (iv) a description and the value of any hospitality intended as a gift in kind.

(i) Ownership and other interests in immovable property:

- (i) A description and extent of the land or property;
- (ii) the area in which it is situated;
- (iii) the purchase price, date of purchase and the outstanding bond on the property; and
- (iv) the estimated market value of the property.

(j) Vehicles:

- (i) A description (make and model) of the vehicle;
- (ii) the registration number of the vehicle; and
- (iii) the purchase price, date of purchase and the outstanding amount owing on the vehicle.

## 15. CONFIDENTIALITY OF SUBMITTED FORMS AND REGISTER

(1) Subject to subregulation (3), only the following persons have access to a submitted form or the register:

- (a) The Minister for the Public Service and Administration;
- (b) The Minister

- (c) National Commissioner;
  - (d) Commissioners of the Public Service Commission;
  - (e) The Director-General: Office of the Public Service Commission;
  - (f) The Director-General: Public Service and Administration;
  - (g) The relevant designated ethics officer as contemplated in regulation 18; and
  - (h) such other persons designated by the Minister, the National Commissioner for purposes of record keeping and the effective implementation of this Part.
- (2) No person who has access to a submitted form or the register may, except when a court so orders, disclose any information in that form or register to anyone other than-
- (a) a designated employee in respect of his or her submitted form or an entry in the register in respect of that employee; or
  - (b) another person who is permitted access in terms of subregulation (1) or to whom access is granted in accordance with subregulation (3).
- (3) Any person, other than a person contemplated in subregulation (1), may only be given access to a submitted form or the register in terms of section 11 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

## 16. CONFLICT OF INTEREST

- (1) In so far as conflict of interest relates to members of the SMS:
- (a) The Public Service Commission shall verify the interests disclosed.
  - (b) If the Public Service Commission is of the opinion that an interest of a designated employee disclosed in terms of regulation 13 conflicts or is likely to conflict with the execution of any official duty of that employee, it shall verify the information regarding that interest and refer the matter back to the Minister.
  - (c) Upon the referral, the Minister shall consult with the employee concerned on appropriate steps to remove the conflict of interest.
  - (d) If the employee, after the consultation referred to in subregulation (1) (c), fails to take the appropriate steps to remove the conflict of interest, the Minister shall instruct the National Commissioner to take disciplinary action against the employee.
  - (e) The Minister shall, within 30 days after such referral, report to the Public Service Commission by-
    - (i) stating whether any steps were taken; and

(ii) if steps were taken, giving a description of those steps or providing reasons if no steps were taken.

(2) In so far as conflict of interest relates to designated employees who are not members of the SMS:

(a) The National Commissioner shall verify the interests disclosed.

(b) If the National Commissioner is of the opinion that an interest of such designated employee disclosed in terms of regulation 13 conflicts or is likely to conflict with the execution of any official duty of that employee, he or she shall consult the employee concerned and, where possible, take appropriate steps to remove the conflict of interest.

(c) If the employee, after the consultation referred to in subregulation (2)(b), fails to take the appropriate steps to remove the conflict of interest, the National Commissioner shall take disciplinary action against the employee.

(d) The National Commissioner shall no later than 31 August of each year report to the Minister on-

- (i) the number of cases identified in terms of subregulation (2) (b);
- (ii) whether steps were taken, a description of those steps; and
- (iii) reasons where no steps have been taken.

### Part 3: Anti-corruption

#### 17. ANTI-CORRUPTION FUNCTION

The National Commissioner must -

(a) analyse the risk of corruption as part of the risk assessment required in terms of the Public Finance Management Act;

(b) develop and implement an anti-corruption plan to -

- (i) address the identified corruption risk, either as part of the fraud plan required in terms of the Public Finance Management Act or as a separate plan; and
- (ii) establish appropriate anti-corruption measures;

(c) establish a system that encourages and allows employees and citizens to report corruption, and such system must provide for -

- (i) confidentiality of reporting; and

- (ii) the recording of all allegations of corruption received through the system;
- (d) investigate all allegations of corruption and take disciplinary steps against the employee involved;
- (e) establish an education and awareness programme that -
- (i) informs employees on an ongoing basis of what constitutes corruption;
  - (ii) promotes the values and principles of public administration and professional conduct; and
  - (iii) informs employees of their rights and obligations in terms of the Promotion of Access to Information Act, 2000 (Act No 2 of 2000), the Promotion of Administrative Justice Act, 2000 (Act No 3 of 2000) and the Protected Disclosures Act, 2000 (Act No 26 of 2000).

#### 18. DESIGNATION OF ETHICS OFFICER

The National Commissioner must designate or appoint an ethics officer for the Service to -

- (a) promote integrity and ethical behaviour in the Service;
- (b) advise employees on ethical matters; and
- (c) identify and report unethical behaviour and corrupt activities to him or her.

#### 19. REPORTING REQUIREMENTS

The National Commissioner must, at the end of each financial year, in the determined format, submit information on anti corruption to the Minister for the Public Service and Administration.

### CHAPTER 3 PLANNING AND SERVICE DELIVERY

#### 20. STRATEGIC PLANNING

- (1) The Minister must prepare a strategic plan for the Service -

- (a) stating the core objectives of the Service, based on Constitutional and other legislative mandates, functional mandates and the service delivery improvement programme mentioned in regulation 23;
- (b) describing the core and support activities necessary to achieve the core objectives, avoiding duplication of functions;
- (c) describing the targets to be attained in the medium term;
- (d) setting out a programme for attaining those targets;
- (e) specifying information systems that -
  - (i) enable him or her to monitor the progress made towards achieving those goals, targets and core objectives;
  - (ii) support compliance with the reporting requirements in regulation 25 and the National Minimum Information Requirements, referred to in regulation 50;
- (f) including a summary of the outcome of the processes referred to in subregulation (2) in the strategic plan of the Service; and
- (g) complying with the requirements in paragraphs 5.1 and 5.2 of the Treasury Regulations.

(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) define the posts necessary to perform the relevant functions while remaining within the current budget and medium-term expenditure framework of the Service, and the posts so defined, constitute the fixed establishment of the Service;
- (c) grade proposed new jobs or newly defined jobs according to the job evaluation system referred to in regulation 29 except where the grade of a job has been determined in terms of an OSD; and
- (d) engage in human resource planning in accordance with regulation 21 with a view to meeting the resulting human resource needs.

(3) In implementing the strategic plan, the National Commissioner must -

- (a) promote the efficient, economic and effective use of resources so as to improve the functioning of the Service; and



(b) to that end, apply working methods such as the re-allocation, simplification, purification and co-ordination of work, and eliminate unnecessary functions.

## 21. HUMAN RESOURCE PLANNING

(1) The National Commissioner must, in preparing a human resources plan for the Service, -

(a) assess the human resources necessary to perform the functions of the Service, with particular reference to -

- (i) the number of employees required;
- (ii) the competencies and proficiency levels that those employees must possess;
- (iii) the capacities (whether permanent or temporary) in which those employees must be appointed;
- (iv) the staffing patterns; and
- (v) the training and development interventions required.

(b) assess existing human resources by race, gender, disability, age and any other relevant criteria as well as by occupational category, organisational component and grade with reference to their -

- (i) competencies and proficiencies;
- (ii) training and development needs; and
- (iii) employment capacities.

(c) identify gaps between what is required under subregulation (1)(a) and (b), and prioritise interventions to address the identified gaps; and

(d) plan within the available budgeted funds, including funds for the remaining period of the relevant medium-term expenditure framework, for the recruitment, retention, deployment and development of human resources according to the requirements of the Service determined in terms of subregulation (1)(a), which plan must, as a minimum, include -

- (i) realistic goals and measurable targets for achieving representativeness, taking into account subregulation (3); and
- (ii) targets for the training and development of employees per occupational category and of specific employees, as well as specific plans to meet the training needs and development of designated groups.

(2) The National Commissioner must monitor and evaluate compliance with subregulation (1) and report to the Minister thereon.

(3) The Minister must report to the Minister for the Public Service and Administration on an annual basis regarding compliance with subregulation (1).

(4) The National Commissioner must develop and implement an affirmative action programme, which must contain, as a minimum, the following:

(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) annual statistics on the appointment and training within each grade of each occupational category of designated groups; and

(d) a plan for redressing numeric under-representativeness and supporting the advancement of designated groups.

(5) The National Commissioner must make the outcome of planning referred to in subregulation (1) and the affirmative action programme referred to in subregulation (4) known within the Service.

## 22. HUMAN RESOURCE DEVELOPMENT

(1) The National Commissioner must on an annual basis, submit a human resource development implementation plan for the Service to the Minister.

(2) The Minister must on an annual basis, submit a human resource development implementation plan for the Service to the Minister for the Public Service and Administration.

## 23. SERVICE DELIVERY IMPROVEMENT PROGRAMME

(1) The National Commissioner must establish and maintain a service delivery improvement programme for the Service -

(a) specifying the main services to be provided to the different types of actual and potential service recipients, as identified by the Service;

(b) containing consultation arrangements with the actual and potential service recipients of the Service;

(c) with due regard to the means of access of the service user to the services and the barriers to increased access thereof, specifying the mechanisms or strategies to be utilised progressively to remove the barriers to increased access to services;

(d) indicating standards for the main services to be provided;

(e) containing arrangements as to how information about the services of the Service are to be provided; and

(f) stipulating a system or mechanisms for complaints.

(2) The National Commissioner must submit a service delivery improvement plan to the Minister.

(3) The National Commissioner must publish an annual statement which sets out the service standards of the Service that members of the public can expect and which will serve to explain how the Service will meet each of the standards.

#### 24. INFORMATION PLANNING AND REPORTING

The National Commissioner must establish -

(a) an information plan for the Service that supports -

(i) the planning process and objectives contemplated in regulation 21; and

(ii) compliance with Chapter 6 of the Public Service Regulations, 2016.

(b) an information infrastructure plan that supports the information plan; and

(c) an operational plan that enables the implementation of the information infrastructure plan and information management.

#### 25. INFORMATION IN ANNUAL REPORT

(1) The National Commissioner must include in the annual report of the Service, referred to in section 40(1)(d) of the Public Finance Management Act, such information pertaining to any matter referred to in section 3(1) of the Public Service Act, including, but not limited to, the utilisation of consultants, as the Minister may direct, and in the format that the Minister may direct.

(2) The Minister must immediately after he or she has tabled the annual report in Parliament in terms of section 65(1) of the Public Finance Management Act, submit it to the National Treasury, make it available on the website of the Service and, on request, make it available free of charge to any member of the media or the public.

(3) In this regulation "consultant" means a natural or juristic person or a partnership that provides, in terms of a specific contract, on an ad hoc basis, any of the following professional services to the Service against remuneration received from any source:

- (a) the rendering of expert advice;
- (b) the drafting of proposals for the execution of specific tasks; and
- (c) the executing of a specific task which is of a technical or intellectual nature, but excludes an employee of the Public Service.

#### CHAPTER 4 EMPLOYMENT MATTERS

##### Part 1: Creation of posts, job descriptions and job evaluation

#### 26. JOB DESCRIPTIONS, JOB TITLES, CORE'S AND OSD'S

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

- (a) the main objectives of the post or posts in question; and
- (b) the inherent requirements of the job.

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

(3) The National Commissioner may, from time to time, after consultation with the Minister, establish an OSD for an occupation.

(4) The National Commissioner must, in designing job and career paths linked to the salary scales, from time to time, after consultation with the Minister, determine -

- (a) occupational categories (COREs) for which an OSD has not been determined; and
- (b) an occupational classification system.

(5) The National Commissioner may determine norms and standards on the objectives, contents and requirements of categories of jobs.

(6) The National Commissioner must link all posts in the Service to a relevant CORE and an occupation listed in the occupational classification system, except in the case of posts determined in terms of an OSD, in which case the classification indicated in the OSD, must be utilised.

## 27. CREATION AND FILLING OF POSTS

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

- (a) confirm that he or she requires the post to meet the objectives of the Service;
- (b) in the case of a new or newly defined job, evaluate the job in terms of the job evaluation system except in the case of jobs determined in terms of an OSD, in which case the classification indicated in the OSD must be utilised;
- (c) in the case of a vacant post, not determined in terms of an OSD, evaluate the job unless the specific job has been evaluated in the last 5 years;
- (d) ensure that sufficient budgeted funds, including funds for the remaining period of the medium-term expenditure framework, are available for filling the post; and
- (e) in the case of SMS members at the level of Major General and higher, submit a report to the Minister on matters referred to in sub-paragraphs (a) to (d) for the Minister's information and any directions that the Minister may issue.

## 28. PURPOSE OF JOB EVALUATION

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.

## 29. JOB EVALUATION SYSTEM

(1) The Minister must determine -

- (a) a job evaluation system or systems that must be utilised in the Service;
- (b) a range of job weights derived from the system or systems for each salary level in a salary scale;
- (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 job evaluation system or systems;
- (c) evaluate and grade any job; or
- (d) direct the National Commissioner to take measures to enhance the quality of the system, including the re-evaluation of jobs, the restructuring of the component responsible for job evaluation 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.

### 30. GRADING OF POSTS AND DETERMINATION OF SALARIES

(1) This regulation does not apply to a post determined in terms of an OSD, unless the OSD determines otherwise.

(2) The National Commissioner must determine the grade of a post to correspond with its job weight except in the case of a post in respect of which the National Commissioner, after consultation with the Minister, determined the grade in terms of regulation 29(2)(c), and set the commencing salary of an employee on the minimum notch of the salary level attached to the relevant grade, unless the salary proves inadequate under the criteria in subregulation (4).

(3) If the National Commissioner plans to evaluate posts or implement job evaluation results that will affect the grading of an occupation or salary level within an occupation that is utilised by more than one department, he or she must do so in consultation with the Minister who must consult the Minister for the Public Service and Administration.

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

(5) The National Commissioner may set the salary for a post or an employee above the salary level indicated by the job weight, if he or she -

(a) 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) recorded the reason why the salary indicated by the job weight, was insufficient.

(6) The setting of a higher salary notch, as contemplated in sub-regulation (5) to retain an employee (herein called the "counter offer") will only take place on the first day of the month following the date of approval, if —

- (a) the employee has received an employment offer (herein called the "external offer") from any other body or organ of state;
- (b) the Service has verified the validity and content of the external offer;
- (c) the counter offer made is limited to the salary notch closest to the external offer; and
- (d) the counter-offer will not exceed the salary level of the post.

(7) The setting of a higher salary notch, as contemplated in subregulation (5) to recruit an employee may only take place on the first day of the month following the date of approval if —

- (a) the National Commissioner has complied with the process contemplated in sub regulation 45 ;
- (b) the employee occupied an equally graded post immediately before the date of appointment;
- (c) the higher salary will not exceed that of the employee immediately prior to appointment; and
- (d) the higher salary will not exceed the salary level of the post, unless such employee has been awarded a higher salary attached to the grade of the post in terms of any other provision of the Act.

(8) If an employee is awarded a higher salary notch or a higher salary level in terms of sub-regulation (5) to (7), he or she may not be disqualified from progression to a higher notch or grade if he or she meets the requirements for such progression.

(9) 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.

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

- (a) the job weight as measured by the job 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.

(11) If the National Commissioner increases the salary of a post as provided under subregulation (10), he or she must transfer the incumbent employee to another post that accords with the salary level of the employee and advertise the vacant post at the higher salary level: Provided that the National

Commissioner may continue to employ the incumbent employee in the higher-graded post without advertising the post if -

- (a) the incumbent already performs the duties of the post;
- (b) the incumbent has received a satisfactory rating in his or her most recent annual moderated and approved performance assessment in the post and where the incumbent has not yet been assessed, his or her performance must first be assessed to determine whether the performance is satisfactory;
- (c) meets the inherent requirements of the post;
- (d) has been in the post for at least twelve calendar months; and
- (e) it will be in the interest of the Service.

(12) If the National Commissioner decides to continue to employ the incumbent employee in the higher-post -

- (a) the absorption of the incumbent employee in the higher-graded post as provided under subregulation (11), must take effect on the first day of the month following the month during which the National Commissioner approved that absorption; and
- (b) the salary of the employee must be adjusted to the minimum notch of the higher salary level with effect from the date referred to in subparagraph (a).

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

## Part 2: Remuneration and other service benefits

### 31. INFORMATION ON REMUNERATION

- (1) The Minister must, at least on an annual basis, issue and publish the salary scale or scales used in the Service.
- (2) The National Commissioner must respect the right to privacy of an employee in dealing with personnel matters and the remuneration of an individual employee.
- (3) The National Commissioner must provide an employee, in the week before his or her salary pay day, in writing with information mentioning-
  - (a) the fact that the employee is employed by the Service;



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

### 32. LEAVE

The National Commissioner must -

- (1) (a) encourage an employee to fully utilise his or her annual leave in the leave cycle earned;
  - (b) record all leave taken by an employee accurately and in full; and
  - (c) ensure that an employee does not abuse sick leave.
- (2) The National Commissioner must submit to the Minister, for information purposes, a quarterly report on the annual leave plan for the leave cycle of members at the level of Lieutenant General and higher.
- (3) The National Commissioner must ensure that, in considering any application for leave, the operations of the Service will not be negatively affected by the granting of leave to such member.
- (4) The Minister may request the National Commissioner to provide such information as may be necessary on the management of leave of the members referred to sub-regulation (2) to ensure that the operations of the Service are not negatively affected.

### 33. OVERTIME

- (1) The National Commissioner may compensate an employee for overtime work if -
- (a) the Service has a written policy on overtime;
  - (b) he or she has provided written authorisation in advance for the work; and

(c) the monthly compensation for overtime constitutes less than 30 percent, or the percentage determined by the National Commissioner, of the monthly salary of the employee, unless exceptional circumstances justifies a higher percentage.

(2) The National Commissioner must establish an overtime policy in accordance with collective agreements, which must determine -

- (a) categories of employees that may not 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) if an employee must 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 must record authorisation for overtime; and
- (f) other control measures, if necessary.

### Part 3: Working environment

#### 34. 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 his or her control, taking into account -
  - (i) the needs of the public in the context of the service delivery improvement programme of the Service; and
  - (ii) the needs and circumstances of employees, including family obligations and transport arrangements.

#### 35. WORK OUTSIDE WORKING HOURS

The National Commissioner may, if he or she deems it in the interest of the Service, instruct an 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; and
- (d) uphold and enforce the law.

### 36. HEALTH AND SAFETY

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

### 37. EMPLOYEE HEALTH AND WELLNESS

The National Commissioner must develop a policy or policies that promote the health and well-being of employees.

### 38. HIV AND AIDS AND OTHER DISEASES

(1) The National Commissioner must, as far as it is reasonable, ensure that the management of HIV and AIDS is mainstreamed for employees to access appropriate services in line with the objects of the Service and manage other diseases, injuries, and conditions of employees to ensure efficient, effective and sustainable delivery of services.

(2) In respect of occupational exposure, the National Commissioner must —

- (a) identify units or employees within the Service that, due to the nature of their work, are at high risk of contracting HIV or any other diseases and take reasonable steps to reduce the risk of occupational exposure to HIV or any other disease;
- (b) take all reasonable steps to —
  - (i) facilitate timely access to voluntary counselling and testing of an employee who has been exposed to HIV as a result of his or her employment;
  - (ii) prevent HIV or any other diseases in the workplace;
  - (iii) provide access to HIV treatment and sustained health and wellness for employees; and

- (iv) provide post-exposure prophylaxis in line with prevailing guidelines and protocols for employees who have been exposed as a result of an occupational incident.
- (c) If any testing taken in paragraph (b)(i) indicates that an employee has become HIV-positive as a result of the occupational incident, ensure that the employee is assisted to apply for compensation in terms of the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993).
- (3) In respect of non-discrimination, the National Commissioner must —
- (a) ensure that no employee or prospective employee is unfairly discriminated against on the basis of his or her HIV or health status, or perceived HIV or health status, in any employment policy or practice; and
- (b) take appropriate measures to actively promote non-discrimination and all forms of stigmatisation in the workplace and to protect employees living with HIV or other diseases from such discrimination and stigmatisation.
- (4) In respect of HIV testing and TB Screening, the National Commissioner must—
- (a) take reasonable steps to facilitate development and implementation of regular, free, voluntary, and confidential HIV counselling and testing for employees in the Service;
- (b) take all reasonable steps to facilitate TB screening as well as support to complete treatment for eligible employees; and
- (c) ensure that no employee or prospective employee of the Service is compelled to take a HIV test unless the Labour Court has declared such testing as justifiable in terms of the Employment Equity Act, 1998 (Act 55 of 1998).
- (5) In respect of confidentiality and disclosure, all employees must treat information on an employee's HIV status or any other medical disease or condition as confidential and may not disclose that information to any other person without the employee's written consent.
- (6) In respect of a health promotion programme, the National Commissioner must—
- (a) introduce appropriate education, awareness and prevention programmes on HIV and AIDS or any other diseases for the employees in the Service and, as far as possible, integrate those programmes with programmes that promote the health, productivity and well-being of employees;
- (b) create mechanisms within the workplace to encourage openness, acceptance, care and support for employees with HIV or any other diseases through a comprehensive employee health and wellness programme or health promotion programme for the Service;

- (c) allocate adequate human and financial resources to implement the provisions of this regulation, and, where appropriate, form partnerships with other departments, organisations and individuals who are able to assist with health promotion programmes;
- (d) establish a HIV and AIDS and employee health and wellness committee for the Service with adequate representation and support from all relevant stakeholders, including trade union representatives, to facilitate the effectiveness of the provisions of this regulation; and
- (e) ensure that the health promotion programme includes an effective internal communication strategy.

#### Part 4: Appointments and other employment matters

### 39. GENERAL CONDITIONS FOR APPOINTMENT

#### (1) The National Commissioner -

- (a) may not appoint any person under the age of 18 years;
- (b) must determine the health requirements for incumbency of a post, in any case where it is a requirement of the post;
- (c) must require an employee or a candidate for employment to be subjected to pre-employment checks for suitability or security clearance, as the case may be;
- (d) must ensure that each person, upon appointment, is provided with a letter of appointment, including the terms and conditions of his or her service; and
- (e) may not appoint a temporary employee into a permanent post in the Service without complying with regulations 46 and 47.

#### (2) The National Commissioner may, within the available budget and subject to the job being evaluated in terms of the job evaluation system, employ persons additional to the fixed establishment, where -

- (a) the incumbent of a post is expected to be absent for such a period that his or her duties cannot be performed by other personnel;
- (b) a temporary increase in work occurs;

- (c) it is necessary for any other reason to temporarily increase the staff of the Service ; or
- (d) an employee's post has been abolished and he or she cannot be transferred into another post.

(3) The National Commissioner may appoint a person to a vacant post in the fixed establishment of the Service if -

- (a) sufficient budgeted funds, including funds for the remaining period of the relevant medium-term expenditure framework are available for filling the vacancy; and
- (b) the vacancy has been advertised and the candidate selected in accordance with regulations 46 and 47.

(4) An appointment may only take effect after approval by the National Commissioner except where it is at level of Major General and higher, the appointment must be made in consultation with the Minister.

#### 40. UTILISATION OF UNPAID VOLUNTEERS

(1) The National Commissioner must determine the rules in accordance with which unpaid volunteers may be utilized by the Service.

(2) The rules determined by the National Commissioner must as a minimum determine -

- (a) the categories of volunteers that may be utilized by the Service and the purposes for which they may be utilized;
- (b) the expenses incurred by a volunteer which will be reimbursed by the Service and the conditions for such reimbursement;
- (c) that a volunteer must, at all times, perform work or duties in the Service under the supervision of an employee;
- (d) the terms and conditions for the utilization of the volunteer; and
- (e) the period of volunteerism per voluntary worker which may not exceed a period of twelve months.

**41. RE-APPOINTMENT OF FORMER EMPLOYEES**

(1) The National Commissioner may not re-appoint a former employee if -

(a) the former employee left the public service earlier on the condition that he or she would not accept or seek re-appointment; or

(b) the former employee left the public service due to ill health and cannot provide recent and conclusive evidence of recovery.

(2) Notwithstanding subregulation (1), the National Commissioner may appoint a former employee referred to in that regulation if -

(a) the appointment is in the public interest;

(b) the appointment is made in accordance with the recruitment and selection procedures in these Regulations and no other suitable candidate could be recruited;

(c) the appointment is made for a fixed term not exceeding three years, and that term may be extended only once for a further term not exceeding three years; and

(d) the employee has not previously been appointed in terms of this regulation.

(3) Notwithstanding subregulation (2), the National Commissioner may not, without consulting the Minister, re-appoint a former employee if the former employee who left the public service earlier on the conditions referred to in subregulation (1) was a member of the SMS at the level of Major-General and higher.

**42. PROHIBITION ON THE APPOINTMENT OF FORMER EMPLOYEES DISMISSED FOR MISCONDUCT**

(1) A former employee of the public service or the Service, dismissed from the public service or the Service for any form of misconduct, may only be appointed in the Service if the National Commissioner, after having considered the facts surrounding the dismissal, approves the appointment of such person.

(2) Notwithstanding subregulation (1), the National Commissioner may not, without the consultation with the Minister, appoint a former employee if the former employee who has been dismissed from the public service or the Service for any form of misconduct was a member of the SMS at the level of a Major-General and higher.

#### 43. SECONDMENTS

(1) A secondment in terms of section 39 of the Act may only take place if —

- (a) the employee or person being seconded has the necessary competency;
- (b) the period of secondment does not exceed 12 calendar months, unless the National Commissioner decides otherwise due to operational reasons; and
- (c) an agreement has been concluded between the receiving department, organ of state, other government or any other body and the Service.

(2) The recipient department, organ of state, other government or any other body must bear the inclusive costs of secondment, unless the Service agrees otherwise.

(3) If an employee is seconded upon his or her request, the National Commissioner may bind the employee to continued employment in the Service immediately after the secondment for a period not exceeding the period of the secondment.

#### 44. ACTING IN HIGHER POSTS

(1) The National Commissioner may appoint an employee to act in a higher vacant post: Provided that where the vacant post is that of a Divisional Commissioner or higher, with the exception of the post of the National Commissioner or a Provincial Commissioner, the acting appointment must be done in consultation with the Minister and subject to terms and conditions determined by the Minister.

(2) The National Commissioner may compensate an employee for acting in a higher vacant post in accordance with an agreement reached in the collective bargaining process.

(3) An employee may not act in a higher vacant post for an uninterrupted period exceeding twelve months.

#### 45. DETERMINATION OF REQUIREMENTS FOR EMPLOYMENT

(1) The National Commissioner must determine composite requirements for employment in any post on the basis of the main objectives and inherent requirements of the job.

(2) The National Commissioner must -

- (a) record the inherent requirements of a job;



- (b) ensure that the requirements for employment do not unfairly discriminate against any person; and
  - (c) comply with any statutory requirement for the appointment of employees.
- (3) The National Commissioner may not appoint a foreign national, unless he or she has permanent residence in the Republic of South Africa.

#### 46. ADVERTISING

- (1) The National Commissioner must ensure that vacant posts in the Service are advertised so as to reach, as efficiently and effectively as possible, the entire pool of potential applicants, especially designated groups.
- (2) An advertisement for a post must specify the inherent requirements of the job, the job title and core functions.
- (3) The National Commissioner must advertise any vacant post in the SMS nationally, as a minimum, inside the Service, but may also advertise such post simultaneously both inside and outside the Service.
- (4) The National Commissioner must advertise any other vacant post as a minimum within the Province or Division concerned, but may also advertise such post -
- (a) in the Service as a whole;
  - (b) elsewhere in the public service; or
  - (c) outside the public service either nationally or locally.
- (5) An advertisement contemplated in sub-regulation (4) may be utilised to create a pool of potential employees for a period of not more than 12 months from the date of advertisement to fill any other vacancy in the Service if—
- (a) the job title, core functions, inherent requirements of the job and the salary level of the other vacancy is the same as the post advertised; and
  - (b) the selection process contemplated in regulation 47 has been complied with.
- (6) A funded vacant post must be advertised within six months after becoming vacant and be filled within 12 months after becoming vacant.
- (7) If the Service does not comply with subregulation (6), the reasons for the noncompliance must be recorded in writing
- (8) The National Commissioner may fill a vacant post without complying with subregulations (3) and (4), if -

- (a) the Service can fill the post from the ranks of supernumerary staff of equal grading;
- (b) the Service can absorb into the post an employee who was appointed under an affirmative action programme referred to in regulation 21(4), if the employee meets the requirements of the post;
- (c) the Service plans to fill the post as part of a programme of laterally rotating or transferring employees to enhance organisational effectiveness and skills; or
- (d) the post is to be filled through a transfer in terms of section 12(3) or 14 of the Public Service Act.

(9) The National Commissioner may utilise an appropriate employment or recruitment agency to identify candidates for posts, as long as the advertising and selection procedures comply with this regulation and regulation 47.

(10) An advertisement for a post shall not unfairly discriminate against or prohibit any suitably qualified person or employee from applying.

#### 47. APPOINTMENT AND PROMOTION

For the purposes of this Regulation, the following definition is inserted—

“selected posts of the SMS” means posts in the Service from the level of Major-General to the level of Lieutenant-General (Deputy National Commissioner) and includes the posts of a Lieutenant-General (Divisional Commissioner, excluding a Provincial Commissioner) and Lieutenant-General (Deputy National Commissioner).

- (1) (a) The National Commissioner must, in consultation with the Minister, appoint a selection committee to make recommendations on appointments or promotions to selected posts of the senior management service. A selection committee must consist of persons of a grading equal to or higher than the grading of the post to be filled.
- (b) The selection panel for the post of Major General must consist of at least three members of the South African Police Service at the level of Major General or higher, as well as one delegate from a public service department who must be of a grading equal to or higher than the grading of the post to be filled.
- (c) The selection panel of the post of Lieutenant-General (Divisional Commissioner, but excluding a Provincial Commissioner), as well as Lieutenant-General (Deputy-National Commissioner) must consist of at least three members of the South African Police Service at the level of Lieutenant General or higher, as well as one delegate from a public service department who must be of grading equal to or higher than the grading of the post to be filled.

(d) The chairperson of the selection committee must be appointed by the National Commissioner in consultation with the Minister.

(e) In the event that the head of the component within which the vacant post is located, is graded lower than the vacant post, such a head may be delegated to be a member of the selection committee.

(f) A selection committee must, where reasonably possible, include adequate representation from designated groups.

(g) Employees of a grading which is lower than the grading of the post to be filled may provide secretarial or advisory services during the selection process, but may not form part of the selection committee, except where the selection is done in terms of subregulation (e).

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

- (i) information based on valid methods, criteria or instruments for selection that are free from any bias or discrimination;
- (ii) the training, skills, competence and knowledge necessary to meet the inherent requirements of the job;
- (iii) the needs of the Service for developing human resources;
- (iv) the representativeness of the component where the post is located; and
- (v) the affirmative action programme of the Service.

(i) A selection committee must record the reasons for its recommendation with reference to the criteria mentioned in subregulation (h).

(j) The selection committee must submit its report and recommendations to the National Commissioner, and simultaneously submit a copy thereof to the Minister.

(k) Before making a decision on an appointment or promotion, the National Commissioner must do so in consultation with the Minister and after -

- (i) satisfying himself or herself that the candidate qualifies in all respects for the post and that his or her claims in his or her application for the post have been verified;
- (ii) ensuring that the candidate has successfully undergone and passed security vetting; and
- (iii) recording all verifications in writing.

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

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

(i) such a vacancy is sufficiently funded; and

(ii) the vacancy has been advertised and the candidate selected in accordance with regulations 46, 47 and these subregulations.

(n) Notwithstanding the provisions of subregulation (m)(ii), the National Commissioner may, upon written motivation and in consultation with the Minister, promote an employee into a post without advertising the post, and without following the selection process, if -

(i) the National Commissioner is satisfied that -

(aa) the employee qualifies in all respects for the post;

(bb) there are exceptional circumstances that warrant the deviation from the said subregulation;

(cc) such deviation is in the interest of Service;

(ii) such promotion has been recommended by the Minister for outstanding performance; and

(iii) the National Commissioner has recorded the reasons for the deviation in writing.

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

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

(2)(a) The National Commissioner must appoint selection committees for posts other than selected members of the senior management service, to make recommendations on appointments or promotions to posts. A selection committee must consist of at least three members of the South African Police Service of a grading equal to or higher than the grading of the post to be filled or suitable persons from outside the Service: Provided that -

(i) the chairperson of the selection committee, who must be an employee, must be of a grading higher than the post to be filled; and

(ii) in the event that the head of the component within which the vacant post is located, is graded lower than the vacant post, such a head may be a member of the selection committee.

(b) A selection committee must, where reasonably possible, include adequate representation from designated groups.

(c) Employees of a grading which is lower than the grading of the post to be filled may provide secretarial or advisory services during the selection process, but may not form part of the selection committee, except where the selection is done in terms of subregulation (a)(ii).

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

- (i) information based on valid methods, criteria or instruments for selection that are free from any bias or discrimination;
- (ii) the training, skills, competence and knowledge necessary to meet the inherent requirements of the job;
- (iii) the needs of the Service for developing human resources;
- (iv) the representativeness of the component where the post is located; and
- (v) the affirmative action programme of the Service.

(e) A selection committee must record the reasons for its recommendation with reference to the criteria mentioned in subregulation (d).

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

(g) Before making a decision on an appointment or promotion, the National Commissioner must-

- (i) satisfy himself that the candidate qualifies in all respects for the post and that his or her claims in his or her application for the post have been verified; and
- (ii) record that verification in writing.

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

- (i) such a vacancy is sufficiently funded; and
- (ii) the vacancy has been advertised and the candidate selected in accordance with regulations 46, 47 and subregulations (a) to (g).

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

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

#### 48. PROBATIONARY PERIOD

(1) No probationary period may apply to an appointment in a post in or additional to the fixed establishment of the Service for a period less than one year.

(2) The National Commissioner may require an employee appointed to a new position in or additional to the fixed establishment of the Service for a period exceeding one year, to serve a probationary period of up to 24 months.

(3) An employee who is seconded for a stated period to a department, any other organ of state, another government or any other body must, if on probation at the time of the secondment, serve the remainder of his or her probation at that department, other organ of state, another government or other body.

(4) An employee who is transferred to another department, any other organ of state, another government or any other body must, if on probation at the time of the transfer, serve the remainder of his or her probation at that department, other organ of state, another government or other body.

(5) A commander of a probationer must ensure that -

(a) the probationer, at the commencement of the probationary period, knows 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;

(d) the probationer receives written confirmation of appointment at the end of the probationary period, if he or she has been found suitable for the relevant post; and

(e) when dismissal as a result of poor performance is considered, the probationer is afforded the opportunity to state his or her case, during which process the probationer may be assisted by a personal representative, including a colleague or a trade union representative.

#### 49. RESIGNATION

- (1) The National Commissioner must determine the manner in which an employee must submit his or her resignation.
- (2) The National Commissioner must conduct an exit interview with an employee who has resigned and record the reasons given by the employee for his or her resignation.
- (3) An employee who has submitted his or her resignation to the National Commissioner, may only withdraw his or her resignation with the written approval of the National Commissioner, which approval will be made no later than his or her last working day.
- (4) The National Commissioner may determine the period of written notice that must be given by an employee who resigns from the Service.
- (5) If notice of resignation is given in terms of sub-regulation (4), the National Commissioner may require the employee to return all official equipment and documents, vacate his or her office and leave the premises of the Service before the expiry of the notice period on a date as determined by the National Commissioner and not to perform any duties for the remaining notice period.
- (6) If the National Commissioner makes a determination in accordance with subregulation (5), the benefits of the employee will remain unaffected.

#### 50. EMPLOYEE RECORDS

The National Commissioner must keep a record of each employee and of each post in the fixed establishment of the Service in accordance with the National Minimum Information Requirements issued by the Minister for the Public Service and Administration.

#### Part 5: Performance management

#### 51. SYSTEMS FOR PERFORMANCE MANAGEMENT AND DEVELOPMENT

- (1) The National Commissioner must determine and implement a system for the performance management and development of employees in the Service.
- (2) Before utilising a performance management and development system referred to in subregulation (1), the National Commissioner must -

- (a) pilot the system on groups of employees in all occupational categories sufficient to enable reasonable validity; and
  - (b) consult with trade unions represented in the Safety and Security Sectoral Bargaining Council.
- (3) The period in respect of which performance is to be assessed (the "performance cycle") may not exceed one year and, for the purposes of planning, pay progression, performance incentives and non-financial awards, must be linked to the period of a financial year.
- (4) For each employee other than an employee in the SMS, the National Commissioner must determine -
- (a) an annual date for written assessment of performance; and
  - (b) a commander responsible for monitoring, supervising and assessing the performance of the employee.
- (5) The commander must -
- (a) as far as possible, meet on a regular basis with the employee to discuss the basic objectives of his or her component and the role of the employee in the success or failure in achieving those objectives;
  - (b) before the performance cycle commences, or within four months after appointment to a post, explain the performance assessment procedure to the employee; and
  - (c) inform the employee of the criteria used for his or her performance assessment.
- (6) The commander must monitor the performance of the employee on a continuous basis and give the employee feedback on his or her performance-
- (a) (i) verbally, 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 53(1)(b).

## 52. PERFORMANCE AGREEMENTS

- (1) An employee must enter into a performance agreement or an agreement of similar nature within two months of his or her date of appointment and thereafter within four months of the beginning of each financial year.
- (2) If, during the performance cycle, an employee is appointed to a new position at the same salary level, a new performance agreement or agreement of a similar nature must be entered into for the new position and the performance assessment must take both periods of work in the cycle into consideration.



- (3) A performance agreement or an agreement of similar nature must include the following -
- (a) a personal number, job title and post grade as well as a clear description of the employee's job, with emphasis on the main objectives, job purpose and the relevant outputs or key performance areas (generic assessment factors);
  - (b) a workplan containing the outputs, activities and resource requirements; and
  - (c) a personal development plan (PDP) that identifies the developmental needs of the employee in terms of the job requirements and how the needs will be addressed.
- (4) If both the employee and his or her commander cannot sign the performance agreement or an agreement of similar nature due to a dispute relating to the content of the agreement, the National Commissioner must appoint an employee within one month after the expiry of the period stipulated in subregulation (1), to consider the dispute.
- (5) The employee appointed in terms of subregulation (4) must within one month of his or her appointment consider the dispute and recommend to the National Commissioner a performance agreement or an agreement of similar nature to be signed.
- (6) The employee and his or her commander must sign the recommended performance agreement or an agreement of similar nature within two weeks of receipt thereof.
- (7) An employee will not be eligible for performance assessment or qualify for performance incentives and awards if he or she has not signed a performance agreement or an agreement of similar nature.

### 53. PERFORMANCE ASSESSMENT

- (1) The National Commissioner -
- (a) may establish separate performance assessment measures for different occupational categories or levels of work;
  - (b) must designate a single assessment instrument to assist in deciding on performance incentives, non-financial awards, pay progression and the performance development of an employee.
- (2) While conducting formal performance assessments, a rating scale must be utilized that has a mid-point, indicating that the performance of the employee meets the requirements of the job and the standards agreed upon.
- (3) The National Commissioner must institute performance moderation measures to ensure reasonability and consistency in the application of the performance management system.

- (4) 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.
- (5) The National Commissioner must ensure that performance assessments are finalised within six months after the end of a performance cycle.
- (6) The National Commissioner must ensure that accurate records of all performance assessments and the outcomes thereof are kept.
- (7) An employee acting in a higher position must be assessed at the level of his or her permanent position.
- (8) The incentive of an employee acting in a higher position must be calculated at the level of his or her permanent position, regardless of whether or not an acting allowance was paid.

#### 54. 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 his or her assessment, may refuse to sign it.
- (3) The commander of the employee must inform the employee of the appeal procedure to follow if the employee is not satisfied with the outcome of his or her assessment.
- (4) At any appeal against the outcome of his or her assessment, the employee may be assisted by a fellow employee or a representative of a trade union forming part of the Safety and Security Sectoral Bargaining Council.
- (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 his or her written consent.

#### 55. MANAGING UNSATISFACTORY PERFORMANCE

In the case of unsatisfactory performance, the commander must -

- (a) provide systematic remedial or developmental support to assist the employee to improve his or her performance; or
- (b) if the performance is so unsatisfactory as to be poor and the desired improvement cannot be effected, consider to initiate the process to have the employee discharged on account of his or her unfitness or incapacity to carry out his or her duties.

## 56. PERFORMANCE INCENTIVE AND AWARD SCHEME

(1) The National Commissioner must establish a performance incentive and award scheme for employees or any category of employees of the Service and from time to time determine a percentage of the remuneration budget of the Service that may not be exceeded for the purpose of granting performance incentives.

(2) To establish a performance incentive and award scheme for employees, the National Commissioner must -

- (a) in writing determine the nature, rules and control measures of the scheme;
- (b) communicate the nature and rules of the scheme to all employees;
- (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; and
- (d) include provisions for the introduction of non-financial incentives if deemed appropriate.

## 57. SUGGESTIONS, IMPROVEMENTS AND INNOVATIONS

(1) If an employee makes a suggestion, improvement or innovation of exceptional value to the Service or the public service as a whole, the State shall have the right to make use of any such suggestion, improvement or innovation without the employee being entitled to any compensation for such suggestion, improvement or innovation.

(2) If an employee makes a suggestion, improvement or innovation of exceptional value to the Service or the public service as a whole or has exceptional ability, a special qualification or has rendered meritorious service to the Service or the public service as a whole the National Commissioner may, reward the employee through -

- (a) a non-monetary reward;
- (b) a non-pensionable cash award to be determined by the National Commissioner; or
- (c) such a non-monetary reward and a cash award.

## Part 6: Training

## 58. INSTITUTIONAL ARRANGEMENTS REGARDING TRAINING, EDUCATION AND DEVELOPMENT

- (1) The National Commissioner must oversee and ensure the participation of the Service in any institution aimed at promoting training in the public service.
- (2) The National Commissioner must, where appropriate, ensure that any institution responsible for training in the Service gains accreditation from the South African Qualifications Authority in accordance with the South African Qualifications Authority Act, 1995 (Act No 58 of 1995).
- (3) The National Commissioner must ensure that funds are available for the training and development of employees.
- (4) A commander must provide training and development opportunities for employees under his or her command in accordance with the training plan of the Service.
- (5) A member of the SMS must avail himself or herself to train employees in the Service or to present training.
- (6) A training institution offering any training directed by the National Commissioner must issue certificates upon the successful completion thereof.

#### 59. OCCUPATIONAL SPECIFIC COMPETENCIES AND TRAINING

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

#### 60. 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) he or she 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. He or she 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 -
  - (a) grant bursaries for higher education and training to both serving and prospective employees, but may allocate bursaries for general education and further education and training only to serving employees; and

(b) not require contractual service in recompense for assistance received where an employee receives assistance for general education 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 his or her salary, which shall count as part of the financial assistance from the Service, during any study, research or training.

(6) Subject to the Treasury Regulations, 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 he or she -

(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) a bursary holder who undertakes full-time study, must commence serving the Service after he or she has met all the requirements for the attainment of the relevant qualification.

(8) An employee who fails to complete the relevant qualification must redeem any obligation in terms of the contract either through service or repayment of the bursary amount plus interest at a rate determined by the Minister of Finance in terms of section 80(1)(b) of the Public Finance Management Act.

(9) In the case of an employee who studies or undergoes training for short periods, the National Commissioner may, as a precondition for providing assistance, require the employee to enter into a contract with the Service in terms of which he or she will serve the Service for a commensurable period.

(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, 2006 (Act No 16 of 2006);

"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).

#### Part 7: Labour matters

## 61. MANDATING AND MANAGEMENT OF NEGOTIATIONS

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

- (a) is responsible 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 contained in regulation 62.

(2) Collective bargaining shall be regulated by the Labour Relations Act.

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

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

## 62. MATTERS WITH FISCAL IMPLICATIONS

Subject to regulation 61, the Minister may enter into a collective agreement in the Safety and Security Sectoral Bargaining Council on any matter that has financial implications only if -

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

## CHAPTER 5 SENIOR MANAGEMENT SERVICE (SMS)

### 63. ESTABLISHMENT OF SMS

(1) The National Commissioner must create an appropriate number of posts at senior management level, and if the posts to be created are at the level of Major-General and higher, the National Commissioner must consult with the Minister.

(2) The persons occupying SMS posts must be managed as a public service-wide pool of scarce resources to be utilised in the best interest of the Service.

(3) The conditions of service of the persons occupying SMS posts must accord with their positions as high-level managers or specialists, while employment practices must be fair and take into account the need to redress the imbalances of the past.

#### 64. COMPOSITION OF SMS AND GRADING OF POSTS

(1) The number of members of the SMS and their functions must be determined by the National Commissioner through the processes of planning and work organisation.

(2) The grading of SMS posts must be determined through the job evaluation system determined by the National Commissioner.

#### 65. FLEXIBLE EMPLOYMENT PRACTICES WITHIN A FRAMEWORK OF UNIFORM NORMS AND STANDARDS

(1) Subject to regulation 47, the National Commissioner must appoint members of the SMS.

(2) The National Commissioner must utilize members of the SMS within a framework of uniform norms and standards.

(3) The Act, these Regulations and the directives issued and determinations made by the Minister, constitute the framework of uniform norms and standards applicable to members of the SMS.

(4) These Regulations apply to members of the SMS, unless otherwise indicated. If any conflict arises between a provision of this Chapter and a provision of any other Chapter of these Regulations, the provisions of this Chapter shall prevail.

#### 66. HANDBOOK FOR SMS

The Minister may include any or all of the determinations, directives, guidelines and provisions applicable to the SMS in a Handbook for the SMS.

#### 67. ADVERTISING OF POSTS AND EMPLOYMENT EQUITY

The National Commissioner may issue directives on how SMS posts are to be advertised and the application forms to be utilised and targets to be achieved in promoting a SMS that is broadly representative of the South African people, including representation according to race, gender and disability.

#### 68. COMPETENCY-BASED SELECTION

The National Commissioner may in consultation with the Minister issue directives on the desired managerial and leadership competencies of members of the SMS and the selection processes for the filling of SMS posts.

#### 69. NURTURING OF TALENT TO SUSTAIN SMS

The National Commissioner may introduce programmes to identify and nurture talented individuals for possible appointment to SMS posts.

#### 70. EMPLOYMENT CONTRACTS

(1) A person newly appointed to the SMS, other than the National Commissioner, must, within two months of his or her date of appointment conclude a contract of employment, which must be based on the provisions of the contracts set out in Annexure 2 or 3.

(2) The National Commissioner, must, as soon as reasonably possible after his or her date of appointment, conclude a contract of employment which must be based on the provisions of the contract set out in Annexure 1.

#### 71. PERFORMANCE MANAGEMENT AND DEVELOPMENT

(1) Any person appointed to a post in the SMS must enter into a performance agreement within two months of his or her date of appointment and thereafter within four months of the beginning of each financial year.

(2) The National Commissioner must, as soon as reasonably possible after his or her date of appointment and at the beginning of each financial year, enter into a performance agreement.



(3) Such performance agreement must -

- (a) assist the member of the SMS to define his or her key responsibilities and priorities;
- (b) encourage improved communication between that member and the person he or she reports to; and
- (c) enable the person that member reports to, to assess his or her work and provide appropriate support.

## 72. DETERMINATION OF CONDITIONS OF SERVICE

(1) The Minister must annually make determinations regarding the conditions of service of members of the SMS.

(2) Any determination made by the Minister in regard to the conditions of service of members of the SMS, must take into account the advice of the panel established in terms of regulation 73.

## 73. PANEL FOR REVIEW OF CONDITIONS OF SERVICE OF MEMBERS OF SMS

(1) Establishment of Panel

(a) The Minister must once every three years appoint a panel to inquire into conditions of service of members of the SMS and to advise him or her accordingly.

(b) The Minister must announce the names of the members of the panel, their terms of reference and terms of office by a notice in the Gazette.

(2) Constitution of Panel

(a) The panel must consist of such number of persons as determined by the Minister.

(b) Persons must be appointed to the panel on the basis of their knowledge of, or a vested interest in, matters relating to the functions of the panel.

(c) A member of the panel must serve in a part-time capacity.

(d) The Minister must designate one member as chairperson and another as deputy chairperson of the panel.

(e) If the chairperson is absent or for any reason is unable to act as chairperson, the deputy chairperson must act as the chairperson of the panel.

(3) Remuneration of members

Members of the panel who are appointed on the basis of their knowledge of matters relating to the functions of the panel must be remunerated on the basis of and according to the scales approved by the National Treasury.

(4) Meetings of Panel

(a) The panel must meet at a time and place determined by the chairperson of the panel.

(b) The decision of a majority of members of the panel present at a meeting of the panel, constitutes a decision of the panel, and, in the event of an equality of votes on any matter, the person presiding at the meeting concerned has a casting vote in addition to that person's deliberative vote.

(5) Administration of Panel

The National Commissioner must designate such employees of the Service as may be necessary to perform the work incidental to the functions of the panel.

74. DEPLOYMENT OF MEMBERS OF SMS

(1) The Minister may, on his or her own initiative, facilitate

(a) the transfer of a member of the SMS from one post or position to another post or position;

(b) the transfer of a member of the SMS from one department to another department in accordance with section 14 of the Public Service Act; or

(c) the secondment of a member of the SMS in accordance with section 39 of the Act.

(2) A vacant post in the SMS that is to be filled through a transfer as contemplated in subparagraphs (1)(a) or (b), need not be advertised in terms of regulation 67.

(3) The personal circumstances of a member of the SMS must be taken into account before she or he is transferred or seconded in terms of paragraph (1).

## 75. TRAINING AND DEVELOPMENT PRINCIPLES

The National Commissioner must oversee the development of programmes to equip members of the SMS for their responsibilities. The programmes to be developed must be based on the competencies required of members of the SMS in terms of both their current and future responsibilities.

## 76. STANDARD TRAINING PROGRAMMES

The National Commissioner must -

- (a) identify the generic managerial and leadership training needs of members of the SMS;
- (b) arrange that standard courses and programmes be developed on the basis of those training needs; and
- (c) continuously evaluate those courses and programmes with due regard to their relevance and value for money.

## 77. ETHICS AND CONDUCT

(1) Members of the SMS must -

- (a) display the highest possible standards of ethical conduct;
- (b) set an example to their subordinates and maintain high levels of professionalism and integrity in their interaction with political office bearers and the public;
- (c) ensure that they minimise conflicts of interest and that they put the public interest first in the performance of their functions; and
- (d) avoid any conflict of interest that may arise in representing the interests of the Service and being a member of a trade union, as defined in section 213 of the Labour Relations Act.

(2) The Minister may, after consultation with the Public Service Commission, make determinations to promote ethical conduct amongst members of the SMS and to supplement the South African Police Service Code of Conduct Regulations and the Financial Disclosure Framework contained in Chapter 2.

(3) The Minister may provide such guidance and assistance to members of the SMS as he or she may deem necessary to minimize conflicts of interest and to promote professional conduct.

#### 78. EMPLOYER-EMPLOYEE RELATIONS

Employer-employee relations for the SMS must aim to protect the rights and interests of its members in a manner appropriate to their positions as high-level employees.

#### 79. MISCONDUCT AND INCAPACITY

The Minister may, subject to the Labour Relations Act, issue directives to establish misconduct and incapacity procedures for members of the SMS.

#### 80. EXIT MANAGEMENT

(1) The termination of service of members of the SMS must be done in a manner that is fair to the individuals concerned and takes into account the public interests.

(2) The Minister may issue directives and provide guidelines on the procedures to be followed and benefits to be paid when terminating the services of members of the SMS.

### CHAPTER 6

#### REPEAL AND TRANSITIONAL ARRANGEMENTS

#### 81. REPEAL OF REGULATIONS

(1) The South African Police Service Employment Regulations, 2017 (published in Government Notice No R1138 on 27 October 2017), are hereby repealed.

(2) Anything done under the South African Police Service Employment Regulations, 2017, which could be done under a provision of these Regulations, shall be deemed to have been done under these Regulations.

(3) Any process, provided for in the South African Police Service Employment Regulations, 2017 (published by Government Notice No R1138 on 27 October 2017), that was initiated prior to the coming into operation of these Regulations but was not yet completed at the time of the coming into operation of these Regulations, shall be processed and finalized in terms of these Regulations.

**82. TRANSITIONAL ARRANGEMENTS**

Notwithstanding the provisions of regulation 39, all vacancies advertised before the coming into operation of these Regulations in respect of posts to be filled on or after that date, shall be filled in accordance with the provisions, prescripts and requirements applicable and in force immediately before that date.

**83. SHORT TITLE AND COMMENCEMENT**

These Regulations shall be called the South African Police Service Employment Regulations, 2018, and shall come into operation on the date of publication thereof in the Gazette.

ANNEXURE 1

EMPLOYMENT CONTRACT FOR THE NATIONAL COMMISSIONER

EMPLOYMENT CONTRACT FOR THE NATIONAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE  
ENTERED INTO

by and between the

GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA

herein represented by

\_\_\_\_\_ (full name)

in his or her capacity as

PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

(hereinafter referred to as the Employer)

AND

\_\_\_\_\_ (full name)

(hereinafter referred to as the Employee)

WHEREAS the parties have agreed to enter into a Contract which will govern the terms and conditions of employment of the Employee by the Employer, NOW THEREFORE the parties agree as follows:

## 1. Appointment

1.1 In terms of section 207 of the Constitution, the Employer hereby appoints the Employee as National Commissioner of the South African Police Service and the Employee hereby accepts the appointment.

1.2 This Contract shall be in force for the period commencing on the \_\_\_\_\_ day of \_\_\_\_\_ and ending on the \_\_\_\_\_ day of \_\_\_\_\_ and is entered into in terms of section 7 of the South African Police Service Act, 1995 (Act No 68 of 1995), hereinafter referred to as "the Act".

1.3 During the period of this Contract, the Employee shall -

1.3.1 serve the Employer as National Commissioner of the South African Police Service at such place as may from time to time be directed by the Employer;

1.3.2 be responsible for the efficient management and administration of the South African Police Service (hereinafter referred to as the Service) as contemplated in section 207(2) of the Constitution, the Act, section 7(3)(b) read with section 7(4) of the Public Service Act, 1994 (Proclamation No 103 of 1994) and as set out in the performance agreement referred to in clause 6.1; and

1.3.3 be responsible for exercising the powers and performing the functions specifically entrusted to the office of the National Commissioner of the South African Police Service, in particular as set out in the Constitution, the Act or any other law.

1.4 The employment of the Employee is subject to -

(a) the submission by the Employee of certificates of his or her academic and professional qualifications and service certificates; and

(b) a security clearance of top secret being obtained.

## 2. Remuneration

2.1 The remuneration that the Employee shall receive as from the date of assuming duty as stated in clause 1, shall be as agreed from time to time in writing between the parties.

2.2 The salary and benefits will be payable in twelve (12) equal monthly instalments.

2.3 The general conditions of service and benefits of the Employee shall be as stipulated and provided for by the Act and these Regulations. The parties to this Contract accept that the general conditions of service

and benefits may be changed from time to time by means of collective agreements or by determinations and directives by the Minister of Police.

2.4 Subject to section 7(4)(b) of the Public Service Act, 1994, the Employee will also qualify for participation in other benefits and special privileges normally bestowed upon a Head of Department as set out in this Contract or other applicable prescripts.

2.5 When required from the Employee to perform official duties away from his or her headquarters, the Employee shall travel at the expense of the Employer and shall be paid a subsistence and travelling allowance as may from time to time be determined.

### 3. Termination of employment

3.1 The term of office of the Employee may be terminated as provided for in the Act.

3.2 Pension and other payable benefits are directly linked to the specific section of the Act which is utilised, as regulated by the Government Employees Pension Law, 1996 (Proclamation No 21 of 1996), the regulations promulgated thereunder as applicable to a Head of Department and these Regulations.

3.3 Subject to the provisions of the Act, either party may, after consultation and agreement with the other party, terminate this Contract before the expiry of its term or an extended term by giving to the other party three months' notice of termination, which notice shall be given in writing on or before the last day of a month and take effect on the first day of the succeeding month.

3.4 Should notice of termination be given as contemplated in clause 3.3, the Employer has the right to require the Employee to vacate the office occupied by him or her and to leave the premises of the Department on a day stipulated by the Employer before the expiry of the three months' notice period and not to present himself or herself for duty any time thereafter.

3.5 Should the Employer invoke the provisions of clause 3.4, the Employee will still be entitled to all such benefits as contained in the relevant prescripts.

### 4. Renewal and extension of term of office

4.1 The Employer shall, in writing, inform the Employee at least two calendar months prior to the expiry of the term contemplated in clause 1 (above) whether he or she proposes to retain such an Employee in service for any extended period not exceeding 5 years (60 calendar months). If the Employee is so



informed, he or she shall in writing inform the Employer, within one calendar month from the date of that communication, of his or her acceptance or not of such extended employment.

4.2 In the event that agreement is reached that the Employee shall enter into a further contract on termination or completion of this Contract, the continued service of the Employee will be recognised under the new contract so as to avoid any break of service and any accrued or pro rata entitlement will be carried forward into the new contract.

4.3 Should the Employer not renew the contract period beyond the initial period as stated in clause 1 (above), the Employee shall be entitled to the pension and other benefits directly linked to the specific section of the Act in terms of which his or her services are terminated.

## 5. Conduct

### 5.1 The Employee undertakes -

5.1.1 not to, without the applicable consent and during his or her employment or at any time thereafter, disclose any record, as defined in section 1 of the Promotion of Access to Information Act, 2000 (Act No 2 of 2000), that must or may be refused upon a request for access to a record of a public body in terms of that Act;

5.1.2 not to, during his or her employment or at any time thereafter, use any record so defined and obtained as a result of his or her employment, to the detriment of the State, except if it is used in the exercise or protection of any right, or legitimate expectation, conferred by law;

5.1.3 if so requested by the Employer during his or her employment or on the termination of his or her employment, to submit to the Employer any record so defined and in the Employee's possession as a result of his or her employment and not to retain any copies of or extracts from such record, except with consent of the Employer; and

5.1.4 to comply with the prescribed Code of Conduct.

### 5.2 The Employee -

5.2.1 acknowledges that he or she fully understands the implications of this clause;

5.2.2 agrees that this clause is, after taking all relevant circumstances into account, reasonable and necessary for the proper protection of the interests of the Employer and that if he or she should at any time dispute the reasonableness of this clause, the onus of proving such unreasonableness will be upon him or her; and

5.2.3 acknowledges that he or she enters into this Contract freely and voluntarily and that no circumstances exist for him or her to allege, either now or at any future time, that he or she was at a disadvantage in agreeing to the restraints set out in this clause or was other than in an equal bargaining position with the Employer in agreeing to such restraints.

## 6. Additional terms and conditions

The Employer and the Employee hereby agree to the following additional terms and conditions as contemplated in section 12(4) of the Public Service Act, 1994 (delete if not applicable):

6.1 The Employee shall enter into an annual performance agreement with the Minister, linked to a specific financial year, which shall include at least the following:

6.1.1 Salary increases will be based on the performance of the Employee. Performance will be assessed in accordance with his or her responsibilities and key performance areas contained in his or her performance agreement and the extent to which the Employee complied therewith. Salary increases for the Employee will be based on individual consultation. The Employee and the Employer must consult annually regarding his or her salary increase and cash bonus within the restrictions of the budget based on the performance of the Employee. In consulting on the salary increase and cash bonus of the Employee, the guidelines forwarded by the Minister for the Public Service and Administration should always be borne in mind.

6.1.2 An annual performance agreement provided for in terms of clause 6.1 linked to a specific financial year, stating clear performance areas/criteria/deliverables of the Department and the Employee must be entered into for the duration of this Contract. As performance agreements are linked to financial years, it should be entered into and presented to the Employer at the latest on 30 April every year for the duration of this Contract. The Employee should enter into his or her first performance agreement not later than three months after assumption of duty.

6.1.3 The performance agreement shall be revised if, at any time during its term, the work or environment of the Department or the Service is so altered (whether as a result of Government or management decision or otherwise) that the contents of it are no longer appropriate.

6.1.4 This Contract is directly linked to the performance agreement referred to in clause 6.1. In the event that the Employee does not achieve the objectives/milestones of the Department as set out in the performance agreement, the Employee acknowledges that the Employer may deal with him or her, in accordance with the relevant labour legislation and any other directives issued by the Minister.

## 7. General

### 7.1 Good faith

In the implementation of this Contract, the parties undertake to observe the utmost good faith and they warrant in their dealing with each other that they will neither do nor refrain from doing anything which might prejudice or detract from the rights, assets or interests of the other of them.

#### 7.2 Applicability of the Act and the Public Service Act

Any matters arising from this Contract, which are not specifically provided for herein, shall be dealt with in accordance with the provisions of the Act, the Public Service Act, 1994, regulations issued under these Act, and any other legal provisions applicable to the Employee.

#### 7.3 Interpretation of this Contract

The interpretation of this Contract shall be governed by the laws and legal principles applicable in the Republic of South Africa.

#### 7.4 Jurisdiction of courts

The Employee submits to the jurisdiction of the Courts of the Republic of South Africa in the event of any legal proceedings arising from the provisions of this Contract.

#### 7.5 Variation

7.5.1 This Contract constitutes the whole of the agreement between the parties to this Contract relating to the subject matter of this Contract, and save as otherwise provided, no amendment, alteration, addition or variation of any term of this Contract will be of any force or effect unless reduced to writing and signed by the parties to this Contract.

7.5.2 The parties agree that there are no other conditions, warranties or representations, whether oral or in writing and whether express or implied or otherwise, save those contained in this Contract, the Act, the Public Service Act, 1994, regulations issued under these Acts, collective agreements and other relevant legislation (e.g. Government Employees Pension Law, 1996).

## 7.6 Waiver

No waiver of any of the terms and conditions of this Contract will be binding for any purpose unless reduced to writing and signed by the parties to this Contract, and any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either party in exercising any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege by that party.

## 8. Notice and Domicilium

8.1 The parties choose as their respective domicilium citandi et executandi for the purpose of legal proceedings and for the purpose of giving or sending any notice provided for or necessary in terms of this Contract, the following addresses:

Employer Employee

Physical address Postal address Fax Number

Provided that a party report any change to his or her address to any other physical address or postal address by written notice to the other party to that effect. Such change of address will be effective seven days after receipt of notice of the change of address.

8.2 All notices to be given in terms of this Contract will -

8.2.1 be given in writing; or

8.2.2 be delivered or sent by prepaid registered post or by fax; and

8.2.3 if delivered, be presumed to have been received on the date of delivery; or

8.2.4 if sent by prepaid registered post, be presumed to have been received within three working days of posting unless the contrary is proved; or

8.2.5 if sent by fax, be presumed to have been received on the first working day following the date of sending of the fax unless the contrary is proved.

ANNEXURE 2

PERMANENT EMPLOYMENT CONTRACT FOR MEMBERS OF THE SENIOR MANAGEMENT SERVICE

PERMANENT EMPLOYMENT CONTRACT FOR THE SENIOR MANAGEMENT SERVICE OF THE SOUTH AFRICAN POLICE SERVICE

ENTERED INTO

by and between the

GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA

herein represented by

\_\_\_\_\_ (full name)

in his or her capacity as

(hereinafter referred to as the Employer)

AND

\_\_\_\_\_ (full name)

(hereinafter referred to as the Employee)

WHEREAS the parties have agreed to enter into a Contract which will govern the terms and conditions of employment of the Employee by the Employer,

NOW THEREFORE the parties agree as follows:

## 1. Appointment

1.1 The Employer hereby appoints the Employee on a permanent basis in accordance with regulation 70 of the South African Police Service Employment Regulations, 2018 (hereinafter referred to as the Regulations) as \_\_\_\_\_. The Employee agrees and accepts the appointment as a member of the SMS commencing on the \_\_\_\_\_ day of \_\_\_\_\_. The Employee's employment and conditions of service shall be governed by the South African Police Service Act, 1995 (Act No 68 of 1995) (hereinafter referred to as the Act), the Regulations, any relevant collective agreements or other legal provisions applicable to the Employee.

### 1.2 In terms of this Contract -

1.2.1 the Employee shall serve the Employer as \_\_\_\_\_ in the South African Police Service (hereinafter referred to the Service) at \_\_\_\_\_ or at such other place as may from time to time be determined by the Employer or any/or other person duly authorised thereto in this respect;

1.2.2 the Employee will hold the rank of \_\_\_\_\_ and will be responsible for the duties and functions set out in the Performance Agreement referred to in clause 5;

1.2.3 the employment of the Employee is subject to -

(a) the submission by the Employee of certificates of his or her academic and professional qualifications and service certificates; and

(b) a security clearance of (state confidential, secret or top secret) being obtained.

1.2.4 the Employee may be required to perform other duties or to work at other places that may reasonably be required by the Employer; and

1.2.5 any matter arising, which are not specifically provided for herein, shall be dealt with in accordance with the provisions of the Act, the Regulations, relevant collective agreements and any other legal provisions applicable to the Employee.

## 2. Remuneration

2.1 The remuneration that the Employee shall receive as from the date of assuming duty as stated in clause 1, shall be as agreed from time to time in writing between the parties.

2.2 The salary and benefits will be payable in 12 equal monthly instalments.

2.3 The general conditions of service and benefits of the Employee shall be as stipulated and provided for by the Act and the Regulations. The parties to this Contract accept that the general conditions of service and benefits may be changed from time to time by means of relevant collective agreements determinations and directives by the Minister of Police.

2.4 When required from the Employee to perform official duties away from his or her headquarters, the Employee shall travel at the Employer's expense and shall be paid a subsistence and travelling allowance as may from time to time be determined.

## 3. Termination of employment

3.1 This Contract may be terminated under the following circumstances;

3.1.1 on reaching the prescribed retirement age (section 45(1)(a) of the Act);

3.1.2 premature retirement upon own request by the Employee (section 45(2) of the Act);

3.1.3 discharge in terms of section 35 of the Act;

3.1.4 voluntary resignation; or

3.1.5 death.

3.2 Pension and other payable benefits are directly linked to the specific section of the Act which is utilised, as regulated by the Government Employees Pension Fund Law, 1996, the regulations promulgated thereunder, as applicable to members of the SMS, and these Regulations.

3.3 Should notice of termination be given in cases contemplated in clause 3.1.3, the Employer has the right to require the Employee to vacate the office occupied by him or her and to leave the premises of the Service before the expiry of the notice period on a day stipulated by the Employer and not to present himself or herself for duty any time thereafter.

3.4 Should the Employer invoke the provisions of clause 3.3, the Employee will still be entitled to all such benefits as contained in the relevant prescripts.



3.5 In the case of inefficiency and misconduct, the Employer may deal with the Employee in accordance with the relevant legislation.

#### 4. Conduct

##### 4.1 The Employee undertakes -

4.1.1 not to, without the applicable consent and during his or her employment or at any time thereafter, disclose any record, as defined in section 1 of the Promotion of Access to Information Act, 2000 (Act No 2 of 2000), that must or may be refused upon a request for access to a record of a public body in terms of that Act;

4.1.2 not to, during his or her employment or at any time thereafter, use any record so defined and obtained as a result of his or her employment, to the detriment of the State, except if it is used in the exercise or protection of any right, or legitimate expectation, conferred by law;

4.1.3 if so requested by the Employer during his or her employment or on the termination of his or her employment, to submit to the Employer any record so defined and in the Employee's possession as a result of his or her employment and not to retain any copies of or extracts from such record, except with consent of the Employer; and

4.1.4 to comply with the prescribed Code of Conduct.

##### 4.2 The Employee -

4.2.1 acknowledges that he or she fully understands the implications of this clause;

4.2.2 agrees that this clause is, after taking all relevant circumstances into account, reasonable and necessary for the proper protection of the interests of the Employer and that if he or she should at any time dispute the reasonableness of this clause, the onus of proving such unreasonableness will be upon him or her; and

4.2.3 acknowledges that he or she enters into this Contract freely and voluntarily and that no circumstances exist for him or her to allege, either now or at any future time, that he or she was at a disadvantage in agreeing to the restraints set out in this clause or was other than in an equal bargaining position with the Employer in agreeing to such restraints.

#### 5. Additional terms and conditions

5.1 The Employee shall enter into an annual performance agreement with the Employer, linked to a specific financial year, which shall include at least the following:

5.1.1 Salary increases will be based on the performance of the Employee. Performance will be assessed in accordance with his or her responsibilities and key performance areas contained in his or her performance agreement and the extent to which the Employee complied therewith, as well as any directives which the Minister of Police may issue. Salary increases for the Employee will be based on individual consultation. The Employee and the Employer must consult annually regarding his or her salary increase and cash bonus within the restrictions of the budget based on the performance of the Employee. The salary increase and cash bonus of the Employee, shall be based on determinations, directives and guidelines issued by the Minister of Police,

5.1.2 An annual performance agreement provided for in terms of clause 5.1 linked to a specific financial year, stating clear performance areas/criteria/deliverables of the Service and the Employee must be entered into. As performance agreements are linked to financial years, it should be entered into at the latest on 30 April every year. The Employee should enter into his or her first performance agreement not later than two months after assumption of duty.

5.1.3 The performance agreement shall be revised if, at any time during the period of its duration, the work or environment of the Service (unit, directorate, branch, component, etc.) is so altered (whether as a result of Government or management decision or otherwise) that the contents of it are no longer appropriate.

5.1.4 This Contract is directly linked to the performance agreement referred to in clause 5.1. In the event that the Employee does not perform satisfactorily in relation to the requirements of his or her performance agreement, the Employee acknowledges that the Employer may deal with him or her, in accordance with the procedure contained in the relevant legislation and any other directives issued by the Minister.

## 6. General

### 6.1 Good faith

In the implementation of this Contract, the parties undertake to observe the utmost good faith and they warrant in their dealing with each other that they will neither do anything nor refrain from doing anything that might prejudice or detract from the rights, assets or interests of each other.

## 6.2 Applicability of the Act

Any matters arising from this Contract, which are not specifically provided for herein, shall be dealt with in accordance with the provisions of the Act, the Regulations, relevant collective agreements and other relevant legislation.

## 6.3 Interpretation of this Contract

The interpretation of this Contract shall be governed by the laws and legal principles applicable in the Republic of South Africa.

## 6.4 Jurisdiction of courts

The Employee submits to the jurisdiction of the Courts of the Republic of South Africa in the event of any legal proceedings arising from the provisions of this Contract.

## 6.5 Variation

6.5.1 The Contract constitutes the whole of the agreement between the parties to this Contract relating to the subject matter of this Contract, and save as otherwise provided, no amendment, alteration, addition or variation of any right, term or condition of this Contract will be of any force or effect unless reduced to writing and signed by the parties to this Contract.

6.5.2 The parties agree that there are no other conditions, warranties or representations, whether oral or written and whether expressed or implied or otherwise, save those contained in this Contract, the Act, these Regulations, relevant collective agreements and other relevant legislation (e.g. Government Employees Pension Fund Law, 1996).

## 6.6 Waiver

No waiver of any of the terms and conditions of this Contract will be binding for any purpose unless reduced to writing and signed by the party giving the same, and any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either party in exercising any right, power or privilege precludes any other or further exercise thereof or the exercise of any other right, power or privilege.

## 7. Notice and Domicilium

7.1 The parties choose as their respective domicilium citandi et executandi for the purpose of legal proceedings and for the purpose of giving or sending any notice provided for or necessary in terms of this Contract, the following addresses:

Employer Employee

Physical address Postal address Fax Number

Provided that a party reports any change of his or her domicilium to any other physical address, postal address or fax number by written notice to the other party. Such change of address will be effective seven days after receipt of notice of the change of domicilium.

7.2 All notices to be given in terms of this Contract will -

7.2.1 be given in writing; or

7.2.2 be delivered or sent by prepaid registered post or by fax; and

7.2.3 if delivered, be presumed to have been received on the date of delivery; or

7.2.4 if sent by prepaid registered post, be presumed to have been received within three working days of posting unless the contrary is proved; or

7.2.5 if sent by fax, be presumed to have been received on the first working day following the date of sending of the fax unless the contrary is proved.

ANNEXURE 3

EMPLOYMENT CONTRACT FOR A FIXED TERM OR A SPECIFIC PROJECT FOR MEMBERS OF THE SENIOR  
MANAGEMENT SERVICE

FIXED TERM EMPLOYMENT CONTRACT

FOR THE

SENIOR MANAGEMENT SERVICE

OF THE

SOUTH AFRICAN POLICE SERVICE ENTERED INTO

by and between the

GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA

herein represented by

\_\_\_\_\_ (full name)

in his or her capacity as

\_\_\_\_\_

(hereinafter referred to as the Employer)

AND

\_\_\_\_\_ (full name)

(hereinafter referred to as the Employee)

WHEREAS the parties have agreed to enter into a Contract which will govern the terms and conditions of employment of the Employee by the Employer,

NOW THEREFORE the parties agree as follows: 1. Appointment

1.1 The Employer hereby appoints the Employee on a temporary basis in accordance with regulation 70 of the South African Police Service Employment Regulations, 2018. (hereinafter referred to as the Regulations) as \_\_\_\_\_. The Employee agrees and accepts the appointment as member of the SMS. The appointment is for the period commencing on the \_\_\_\_ day of \_\_\_\_ and ending on the \_\_\_\_ day of \_\_\_\_ The Employee's employment and conditions of service shall be governed by the South African Police Service Act, 1995 (Act No 68 of 1995) (hereinafter referred to as the Act), Regulations, relevant collective agreements and any other legal provisions applicable to the Employee.

1.2 In terms of this Contract -

1.2.1 the Employee shall serve the Employer as \_\_\_\_ in the South African Police Service, (hereinafter referred to as the Service) at \_\_\_\_\_ or at such place as may from time to time be determined by the Employer or any other person duly authorised thereto in this respect;

1.2.2 the Employee will hold the rank of \_\_\_\_\_ and will be responsible for the duties and functions set out in the Performance Agreement referred to in clause 5;

1.2.3 the employment of the Employee is subject to -

(a) the submission by the Employee of certificates of his or her academic and professional qualifications and service certificates; and

(b) a security clearance of (state confidential, secret or top secret) being obtained.

1.2.4 the Employee may be required to perform other duties or to work at other places that may reasonably be required by the Employer; and

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1.2.5 any matter arising, which are not specifically provided for herein, shall be dealt with in accordance with the provisions of the Act, the Regulations and any other legal provisions applicable to the Employee.

## 2. Remuneration

2.1 The remuneration that the Employee shall receive as from the date of assuming duty as stated in clause 1, shall be as agreed from time to time in writing between the parties.

2.2 The salary and benefits will be payable in twelve (12) equal monthly instalments.

2.3 The general conditions of service and benefits of the Employee shall be as stipulated and provided for by the Act and the Regulations. The parties to this Contract accept that the general conditions of service and benefits may be changed from time to time by means of relevant collective agreements and determinations and directives by the Minister of Police.

2.4 When required from the Employee to perform official duties away from his or her headquarters, the Employee shall travel at the Employer's expense and shall be paid a subsistence and travelling allowance as may from time to time be determined.

## 3. Termination of employment

3.1 The term of office of the Employee may be terminated in the following ways:

3.1.1 on completing a term or extended term of office;

3.1.2 discharge in terms of section 35 of the Act; or

3.1.3 death.

3.2 Pension and other payable benefits are directly linked to the specific section of the Act which is utilised, as regulated by the Government Employees Pension Fund Law, 1996, the regulations promulgated thereunder, as applicable to member of the SMS, and these Regulations.

3.3 Subject to the provisions of the Act and the Labour Relations Act, 1995, either party may, after consultation and agreement, terminate the Contract before the expiry of an original term of office or an extended term of office, by giving to the other party one month's notice of termination, which notice shall-

3.3.1 be given in writing; and

3.3.2 be given on or before the last day of a month and take effect on the first day of the succeeding month.

3.4 Should notice of termination be given as contemplated in clause 3.1.2 the Employer has the right to require the Employee to vacate the office occupied by him or her and to leave the premises of the Service before the expiry of the notice period on a day stipulated by the Employer and not to present himself or herself for duty any time thereafter.

3.5 Should the Employer invoke the provisions of clause 3.4, the Employee will still be entitled to all such benefits as contained in the relevant prescripts.

3.6 In the case of inefficiency and misconduct, the Employer may deal with the Employee, in accordance with the relevant legislation.

#### 4. Conduct

##### 4.1 The Employee undertakes -

4.1.1 not to, without the applicable consent and during his or her employment or at any time thereafter, disclose any record, as defined in section 1 of the Promotion of Access to Information Act, 2000 (Act No 2 of 2000), that must or may be refused upon a request for access to a record of a public body in terms of that Act;

4.1.2 not to, during his or her employment or at any time thereafter, use any record so defined and obtained as a result of his or her employment, to the detriment of the State, except if it is used in the exercise or protection of any right, or legitimate expectation, conferred by law;

4.1.3 if so requested by the Employer during his or her employment or on the termination of his or her employment, to submit to the Employer any record so defined and in the Employee's possession as a result of his or her employment and not to retain any copies of or extracts from such record, except with consent of the Employer; and

4.1.4 to comply with the prescribed Code of Conduct.

##### 4.2 The Employee -

4.2.1 acknowledges that he or she fully understands the implications of this clause;

4.2.2 agrees that this clause is, after taking all relevant circumstances into account, reasonable and necessary for the proper protection of the interests of the Employer and that if he or she



should at any time dispute the reasonableness of this clause, the onus of proving such unreasonableness will be upon him or her; and

4.2.3 acknowledges that he or she enters into this Contract freely and voluntarily and that no circumstances exist for him or her to allege, either now or at any future time, that he or she was at a disadvantage in agreeing to the restraints set out in this clause or was other than in an equal bargaining position with the Employer in agreeing to such restraints.

## 5. Additional terms and conditions

5.1 The Employee shall enter into an annual performance agreement with the Employer, linked to a specific financial year, which shall include at least the following:

5.1.1 Salary increases will be based on the performance of the Employee. Performance will be assessed in accordance with his or her responsibilities and key performance areas contained in his or her performance agreement and the extent to which the Employee complied therewith, as well as any directives which the Minister of Police may issue. Salary increases for the Employee will be based on individual consultation. The Employee and the Employer must consult annually regarding his or her salary increase within the restrictions of the budget based on the performance of the Employee. The salary increase of the Employee, shall be based on determinations, directives and guidelines issued by the Minister of Police.

5.1.2 An annual performance agreement provided for in terms of clause 5.1 linked to a specific financial year, stating clear performance areas/criteria/deliverables of the Service and the Employee must be entered into. As performance agreements are linked to financial years, it should be entered into at the latest on 30 April every year. The Employee should enter into his or her first performance agreement not later than two months after assumption of duty.

5.1.3 The performance agreement shall be revised if, at any time during the period of its duration, the work or environment of the Service (unit, directorate, branch, component etc.) is so altered (whether as a result of Government or management decision or otherwise) that the contents of it are no longer appropriate.

5.1.4 This Contract is directly linked to the performance agreement referred to in clause 5.1. In the event that the Employee does not perform satisfactorily in relation to the requirements of his or her performance agreement, the Employee acknowledges that the Employer may deal with him or her, in accordance with the procedure contained in the relevant legislation and any other directives issued by the Minister.

## 6. General

### 6.1 Good faith

In the implementation of this Contract, the parties undertake to observe the utmost good faith and they warrant in their dealing with each other that they will neither do anything nor refrain from doing anything that might prejudice or detract from the rights, assets or interests of each other.

### 6.2 Applicability of the Act

Any matters arising from this Contract, which are not specifically provided for herein, shall be dealt with in accordance with the provisions of the Act, the Regulations, relevant Collective agreements and other relevant legislation.

### 6.3 Interpretation of this Contract

The interpretation of this Contract shall be governed by the laws and legal principles applicable in the Republic of South Africa.

### 6.4 Jurisdiction of courts

The Employee submits to the jurisdiction of the Courts of the Republic of South Africa in the event of any legal proceedings arising from the provisions of this Contract.

### 6.5 Variation

6.5.1 The Contract constitutes the whole of the agreement between the parties to this Contract relating to the subject matter of this Contract, and save as otherwise provided, no amendment, alteration, addition or variation of any right, term or condition of this Contract will be of any force or effect unless reduced to writing and signed by the parties to this Contract.

6.5.2 The parties agree that there are no other conditions, warranties or representations, whether oral or written and whether expressed or implied or otherwise, save those contained in this Contract, the Act,

these Regulations, relevant collective agreement and other relevant legislation (e.g. Government Employees Pension Fund Law, 1996).

## 6.6 Waiver

No waiver of any of the terms and conditions of this Contract will be binding for any purpose unless reduced to in writing and signed by the party giving the same, and any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either party in exercising any right, power or privilege precludes any other or further exercise thereof or the exercise of any other right, power or privilege.

## 7. Notice and Domicilium

7.1 The parties choose as their respective domicilium citandi et executandi for the purpose of legal proceedings and for the purpose of giving or sending any notice provided for or necessary in terms of this Contract, the following addresses-Employer Employee

Physical address Postal address Fax Number

Provided that a party reports any change of his or her domicilium to any other physical address, postal address or fax number by written notice to the other party. Such change of address will be effective seven days after receipt of notice of the change of domicilium.

7.2 All notices to be given in terms of this Contract will -

7.2.1 be given in writing; or

7.2.2 be delivered or sent by prepaid registered post or by fax; and

7.2.3 if delivered, be presumed to have been received on the date of delivery; or

7.2.4 if sent by prepaid registered post, be presumed to have been received within three working days of posting unless the contrary is proved; or

7.2.5 if sent by fax, be presumed to have been received on the first working day following the date of sending of the fax unless the contrary is proved.