the dpsa

Department:
Public Service and Administration
REPUBLIC OF SOUTH AFRICA

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TO: ALL HEADS OF NATIONAL AND PROVINCIAL DEPARTMENTS AND G[illegible]ERNMENT COMPONENTS

SUBJECT:

I) EARLY RETIREMENT WITHOUT PENALISATION OF [illegible]SION [illegible]EFITS IN TERMS OF SECTION 16(6) OF THE PUBLIC SERVICE ACT,19[illegible].

II) NORMAL RETIREMENT FOR EMPLOYEES ABO[illegible] THE AGE [illegible]0 BUT NO[illegible]ET 65 YEARS OLD

1. INTRODUCTION AND BACKGROUND

1.1 The Minister of Finance has reiterated the measu[illegible]t government needs to put in place to assist with the growing budget deficit, [illegible]h has accrued d[illegible] government expenditure on the 2018 Wage Settlement Agreement and su[illegible]age agreeme[illegible] The Minister for the Public Service and Administration has further reaffir[illegible] the [illegible] implemen[illegible]easures that will encourage recruitment of younger professiona[illegible]

1.2 Various options [illegible]n the existing le[illegible]amework for human resources and finance, were explored by officials fr[illegible]ational Trea[illegible]y and [illegible] Department of the Public Service and Administration (DPSA) to maintain [illegible]ility and t[illegible]ng about [illegible]re efficiency and productivity gains in all areas within the public service.

1.3 Based on ongoing req[illegible]s and queries from employees in the public service to exit without pension penalties, all prescripts w[illegible]espect to Early Retirement (ER), were considered. It must be noted that this initiative is in response t[illegible]need identified by employees, who wish to exit the public service before the official retirement age.

1.4 It must be noted, that the authority to grant ER without pension penalties, in terms of section 16(6) of the Public Service Act (PSA) or other sector legislation, vests with the relevant Executive Authority (EA).

1.4.1 The following items relevant to early retirement are to be funded by departments from within their baseline budgets. These are:

1.4.1.1 Pro-rata Service Bonus Pay;
1.4.1.2 Balance of the Capped leave,
1.4.1.3 Unused current annual/vacation leave; and
1.4.1.4 Resettlement Costs, where applicable, in line with the departmental policy.

1.4.2 Compensation in respect of post-retirement medical assistance for employees qualifying for continuation benefits; and once-off payments for employees not eligible for continuation benefits, would be paid by the National Treasury through Programme 7.

1.5 Both National Treasury and the DPSA will be providing mechanisms to assist departments and government components, both nationally and provincially, who wish to utilise section 16(6) of the PSA or applicable sector legislation. Departments and government components will not be expected to surrender any savings realised from the ER process back to the National Revenue Fund.

a) Since savings are expected to remain within the departmental baselines, any cost associated with ER without penalties will be borne by departments and government components, from their own baselines.

b) National Treasury will renegotiate for a staggered payment of the resultant liability of 'no scaling down of pension benefits' by the affected departments and government component over the 2024 MTEF period with the Government Employees Pension Fund. This will help in easing any spending pressures that may arise as a result of the process.

c) Where National Treasury is required to assist in settling the resultant liability, such funds would be recovered from the MTEF baselines of the affected departments and government components through the budget process.

2. LEGAL PROVISIONS

2.1 In terms of Section 16(6) of the Public Service Act, 1994 provision is made for employees to retire before the age of 60 years, subject to the approval of the EA.

2.2 While employees include persons contemplated in section 8 of the Public Service Act, in terms of section 2(2) of the Public Service Act, the provisions of the Public Service Act will only apply to members of the services, educators or members of the Intelligence Services in so far as they are not excluded from the provisions of the Public Service Act or the provisions of the Public Service Act are not contrary to the laws governing their employment. For purposes of section 2(2) of the Public Service Act–

2.2.1 Members of the services are –

(a) The Regular Force of the South African National Defence Force appointed, or deemed to have been appointed, in terms of the Defence Act, 2002 (Act 42 of 2002);
(b) The South African Police Service appointed, or deemed to have been appointed, in terms of the South African Police Service Act, 1995 (Act 68 of 1995);
(c) In the Department of Correctional Services appointed, or deemed to have been appointed, in terms of the Correctional Services Act, 1998 (Act 111 of 1998);

2.2.2 Educators means educators as defined in section 1 of the Employment of Educators Act, 1998 (Act 76 of 1998); and

2.2.3 Members of the Intelligence Services means a member of the State Security Agency appointed,or deemed to have been appointed, in terms of the Intelligence Services Act, 2002 (Act 65 of 2002).

2.3 Section 17(4) of the Government Employees Pension Law, 1996 (proclamation 21 of 1996) provides that-
"If any action taken by the employer or if any legislation adopted by Parliament places any additional financial obligation on the Fund, the employer or the Government or the employer and the Government, as the case may be, shall pay to the Fund an amount which is required to meet such obligation."

2.4 Section 17(4) of the Government Employees Pension Law must be read together with the Rules of the Government Employees Pension Fund (GEPF).

2.5 In terms of Chapter 3 (Part I), of the Public Service Regulations, 2016 on Planning, Organisational Arrangements and Service Delivery, Regulation 25 on Strategic Plan states as follows-

(1) An executive authority shall prepare a strategic plan for his or her department that –

(a) states the department's core objectives based on constitutional and other legislative or functional mandates;
(b) describe the core and support activities necessary to achieve the core objectives, avoiding duplication of functions;
(c) describe the targets to be attained in the medium term;
(d) sets out a programme of attaining those targets;
(e) specifies information systems that -

i. enable the executive authority to monitor the progress made towards achieving those targets and core objectives;
ii. support compliance with the reporting requirements in regulation 31 and the information requirements, referred to in regulation 70; and
iii. enable service delivery through the use of information and communication technology; and

(f) complies with the requirements in regulations 5.1 and 5.2 of the Treasury Regulations.

(2) Based on the strategic plan of the department, an executive authority shall –

(a) Determine the department's organisational structure in terms of its core mandate and support functions:-

i. in the case of a national department or national government component, after consultation with the Minister and National Treasury; and
in the case of a provincial department or provincial government component, after consultation with the relevant Premier, the Minister and the relevant provincial treasury;

(b) define and create the posts necessary to perform the relevant functions of the department while remaining within –

i. the current budget;
ii. the Medium- Term Expenditure Framework of the department; and
iii. the norms and standards determined by the Minister for post provisioning for occupants or categories of employees;
iv. the posts so defined and created shall constitute the department's approved establishment;

(c) grade proposed new jobs according to the job evaluation and job grading systems referred to in regulation 41(1), except where the grade of a job has been determined in terms of an OSD or directed by the Minister in terms of regulation 41(2)(d); and
(d) engage in human resource planning in accordance with regulation 26 to meet the resulting human resource needs.

(3) In implementing the strategic plan, a head of department shall –

(a) promote the efficient, economic and effective use of resources so as to improve the functioning of the department; and
(b) to that end, apply working methods such as the re-allocation, simplification and co-ordination of work, and eliminate unnecessary functions and systems.

2.6 In terms of Regulation 26 of the PSR dealing with a **Human Resources Plan** for a department.

(1) "an executive authority shall prepare and implement a human resource plan for his or her department.

(2) When preparing a human resource plan for his or her department an executive authority shall
   (a) assess the human resources necessary to perform his or her department's functions;
   (b) assess existing human resources by race, gender, disability, age and any other relevant criteria;
   (c) identify gaps between what is required under sub-regulation (2)(a) and what exists under sub- regulations (2)(b) and prioritise interventions to identify the gaps;
   (d) consider the employment equity plan as contemplated in regulation 27;
   (e) consider the available budgeted funds, including funds for the remaining period of the relevant MTEF, for the recruitment, retention, utilisation and development of human resources according to the department's requirements; and
   (f) take into account any other requirements as may be directed by the Minister for the Public Service and Administration.

3. SCOPE OF APPLICATION

3.1 Employees, from the age of 55 to 60 years, employed in terms of the PSA, educators, members of the services (Police, Defence and Correctional) or members of the Intelligence Services, shall, <u>subject to the other contextual conditions set by the Ministers responsible for educators, services, and the Intelligence Services</u>, be eligible to apply for ER.

3.2 Employees above the age of 60 but not yet 65, (which is the statutory retirement age in the Public Service) do not qualify for ER but are encouraged to apply for an “earlier exit.

4. PERIOD OF APPLICABILITY OF FINANCIAL SUPPORT FOR ER AND FOR THOSE ABOVE THE AGE OF 60 BUT NOT YET 65

The applications for the ER process without penalisation will open from **<u>30 September 2023</u>** until **31 March 2025**. However, where departments have available funding within their baseline budgets, they have the discretion on an ongoing basis to approve ER in terms of s16(6) provision in line with their HR Plans in terms of Regulation 26 of the PSR. Priority should be given to qualifying employees who are remunerated at the top-end salary notches or personal notches falling within the identified category.

5. PROCEDURE AND CONDITIONS

5.1 In terms of section 16(6) of the PSA, the relevant EA or his/her delegated authority, is empowered to, upon receipt of a request from such employees, approve ER applications without pension penalties, **<u>if sufficient reasons exist</u>** for the retirement based on criteria.

5.2 The approval of any ER application without pension penalties, in respect of employees from the age of 55 to 60 years, shall be subject to the pension laws, criteria and conditions determined by the employer and the availability of funding.

<u>Note</u>: The **Guideline on Managing Early Retirement in the Public Service** (***Annexure A***) provides criteria, which may be supplemented by the relevant EA, to be considered in cases where funding is required from NT.

5.3 Where accrued capped leave and pro rata service bonus payments are applicable, the costs thereof will be paid by the respective departments.

5.4 Employees from the age of 55 to 60 years, who wish to apply for ER without the pension penalties, within the period (30 September 2023 – 31 March 2025) specified by NT, are requested to submit their applications to their respective HR offices, which shall be considered based on the management plans and criteria set by relevant departments. The management plans may differ logistically between departments due to differing contextual factors.

5.5 The calculator is available on the GEPF website (www.gepf.co.za) and can also be used to assist employees in calculating their benefits. Employees are advised to approach their internal HR Sections for assistance if they are interested in exercising such option.

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Ms Yoliswa Makhasi
Director-General: Department of Public Service and Administration
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ANNEXURE A

GUIDELINE ON MANAGING EARLY RETIREMENT WITHOUT PENALISATION OF PENSION BENEFITS IN TERMS OF SECTION 16(6) OF THE PUBLIC SERVICE ACT, 1994

Note: This Guideline must be read together with the relevant provisions of the Public Service Act, 1994, the DPSA Circular on Early Retirement without Penalisation of Pension Benefitsin terms of s16(6) of the Public Service Act and the NT Guideline on the Criteria for Early Retirement Funding Provision to Departments Issued by the Department for the Public Service and Administration February 2019

Issued by the Department for Public Service and Administration

August 2023

1. INTRODUCTION AND PURPOSE

1.1 In terms of the Public Service Act, 1994 (PSA), the normal retirement age of employees is 60 years, and such employees will, on retirement, retire with no pension penalties. Although employees from the ages of 55 to 60 years may retire from the public service, such retirement may be subject to penalties to their pension. However, these Guidelines may be applied, to grant approval in terms of section 16(6) of the PSA **without pension penalties.**

1.2 In terms of section 16(6) of the PSA, ***"An executive authority may, at the request of an employee, allow him or her to retire from the public service before reaching the age of 60 years, notwith standing the absence of any reason for dismissal in terms of section 17(2), if sufficient reason exists for the retirement".***

1.3 This means that each executive authority (EA) has the discretion to approve early retirement (ER) requests for employees from the ages of 55 ot 60 years, without pension penalties, which are based on reasonable criteria set by that EA. Generally, applicable guidelines provided by both the Minister for the Public Service and Administration (MPSA), is provided to support the decision making process, so as to ensure continued service delivery to citizens and retention of critical skills where needed.

1.4 In such instances, where approval is granted for such ER request, the approving department has to bear the financial costs of any pension penalties if it is in the interest of fiscal savings and supporting Human Resource (HR) Planning within a department. Departments and government components will not be expected to surrender any savings realised from the ER process back to the National Revenue Fund. Savings are expected to remain within the departmental baselines, to help in defraying the associated costs. Moreover, government will negotiate with the Government Employees Pensions Fund for a staggered payment of the resultant liability by the affected departments and government component over the 2024 MTEF period. However, where National Treasury is required to assist in settling the resultant liability on behalf of the affected departments or government component, such funds would be recovered through a baseline reduction,

1.5 Employees from the ages of 55 to 60 years, employed in terms of the PSA, and members of the services, educators or members of the Intelligence Services, **<u>shall, subject to other contextual conditions set by the Ministers responsible for the services, educators and the Intelligence Services</u>**, be eligible to apply for ER. These ER provisions apply to members of the services, educators or members of the Intelligence Services in so far as they are not contrary to the laws governing their employment.

1.6 When an employee retires, his or her pension benefits are inter alia, determined by the number of years of pensionable service and other salary related factors. An employee with less than ten years of service, will only receive a once-off lump sum (gratuity), whereas an employee with more than ten years of service, will receive both a gratuity and monthly pension (annuity). An employee with less that fifteen years actual service, does not qualify for continued post-retirement medical assistance.

NB: This is important to note for employees contemplating any ER choices, as post-retirement social security is an important factor to consider when applying for ER.

2. APPLICATION PROCESS AND APPROVAL OF EARLY RETIREMENT (ER)

2.1 Approval of ER applications is **not automatic on application**, as each application must be considered on its own merits as well as contextual factors considered by each EA.

2.2 A qualifying employee, who wishes to take ER, must apply in writing to the relevant EA or delegated authority, within the time frames as may be determined by the relevant EA, using the generic template for the application forms and processes as determined by the respective department's management plan. Each application must be fully motivated in terms of the criteria in these Guidelines and the supplementary criteria set by the relevant EA. It must be noted that each department or provincial administration's management plans and processes may contextually differ due to differing reporting and HR approval arrangements.

2.3 Departments may customise their own processes, which should as a minimum require that-

2.3.1 all documentation be completed in full by the employee with the assistance of the respective HR Office, where necessary;
2.3.2 each employee provide the requisite written motivation in line with the criteria determined by each department.
2.3.3 all necessary documentation be attached, where applicable, to timely complete and process the applications at the relevant control points;
2.3.4 comments and/or reasons for supporting or not supporting an ER application be provided by relevant employees tasked with processing the ER application; and
2.3.5 comments and/or reasons for approving or not approving an ER application be provided by the relevant executive authority or delegated authority.

2.4 It is important that *HR Accounting and Budget Planning* is done by departments and provincial administrations. In order to accommodate as many qualifying ER applications as possible in terms of criteria and available funding, the maximum number of potential applications that may be considered, must be set out in each department's *HR Accounting and Budget Plan*.

2.5 Certain compulsory forms, which must be completed, are listed below.. Departments are encouraged to ensure that they have sufficient application forms available or ensure that employees can access such forms from the DPSA or GEPF websites. Compulsory forms include-

2.5.1 All prescribed forms by the South African Revenue Service (**SARS**). These forms, if incomplete, usually delay the processing of pension pay-outs.
2.5.2 The **Z102** and related forms, which must be completed by the employer for the withdrawal of an employee from the GEPF.
2.5.3 The **Z894**, which is a Foreign Banks form, must be completed by an employee who intends to leave South Africa.

2.6 Departments need to assist employees in contacting the Client Liaison Officers at the Government Pensions Administration Agency (GPAA) to clarify any information with regards to the processing of ER applications, the completion of relevant forms and/or any other administrative matters relating to ER.

3. CRITERIA TO BE CONSIDERED IN RESPECT OF APPLICATIONS FOR EARLY RETIREMENT IN TERMS OF SECTION 16(6) OF THE PUBLIC SERVICE ACT, 1994

3.1 In determining the criteria for ER applications within their respective departments, an EA must ensure that-

3.1.1 The applicant is aged from **55 to 60 years**;
3.1.2 there shall be no **negative impact on the delivery of services** by the department;
3.1.3 there shall be **no skills deficit created** within the department;
3.1.4 the **HR Planning needs** were considered;
3.1.5 consideration is given to functions, which are **not aligned to a department's mandate, structure and post provisioning norms**.

3.2 In determining the criteria for ER applications within the respective departments, an EA may also consider:-

3.2.1 The personal circumstances and future life career choices of an employee; and

3.2.2 The years of pensionable service of an employee, whereby priority should be given to employees with longer service records, who are closer to 60 years.

4. GENERIC MANAGEMENT PLAN: RECOMMENDED ROLES AND RESPONSIBILITIES

NB: IT IS SUGGESTED THAT EACH DEPARTMENT/PROVINCIAL ADMINISTRATION DESIGNS A MANAGEMENT PLAN BASED ON THESE GUIDELINES AND THE CIRCULAR ON EARLY RETIREMENT WITHOUT PENALISATION OF PENSION BENEFITS IN TERMS OF S16(6) OF THE PUBLIC SERVICE ACT.
THIS IS NOT COMPULSORY BUT MAKES THE WORK OF THE PEOPLE RESPONSIBLE FOR ER MUCH EASIER

5. RECOMMENDED GENERIC STEPS FLOWCHART

STEP 1: Each Department or Provincial Administration i[illegible]ncourage[illegible]op a Managem[illegible]Plan

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STEP 2: Employees must submit applications to thei[illegible]erviso[illegible] of institution within the timelines and procedures as specified i[illegible]Man[illegible]

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STEP 3: Supervisor/Head of Institutions [illegible]st pro[illegible]ments and/[illegible]easons for supporting or not supporting the applic[illegible]nand sub[illegible]specified HR Office

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STEP 4:[illegible]visor / [illegible]must conside[illegible]e application against the criteria and submit to HR Office

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STEP 5: Applications mus[illegible] forwarded to the respective EA / MEC or his / her delegate for approval

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STEP 6: Communicate the outcome of the application to the applicant.

6. Please note that should an application for ER without pension penalties be approved, the employee should only be allowed to withdraw her/his application if it is still within 30 calendar days from the date of approval.

7. Re-employment, after ER without pension penalties was approved, can only be approved by the relevant EA or her/his delegate, on the condition that such employee may only be re-appointed on contract in exceptional circumstances, only after the effluxion of the period wherein a penalty was paid by the state on behalf of employee (i.e. only after the normal 60 years retirement age has been reached by the employee), unless the employee agrees to pay back such accrued benefits to the fiscus. Employees will only be allowed to come back as consultants after the expiry of a five year period.

Contact Details:

For clarity on this DPSA Guideline, the following person can be contacted:
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Office of the Premier and Provincial Treasuries should develop their structure for submission of approvals for applications from Provincial Departments.