

**KWAZULU-NATAL PROVINCIAL ADMINISTRATION  
DEPARTMENT OF WORKS**



**DEPARTMENTAL POLICY FRAMEWORK ON TRANSFERS**

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## **1. INTRODUCTION**

Section 14 of the Public Service act, 1994 as amended, places the onus to the person with power to take authority on the transfer of an employee from the post or position to another post or position. hence the executing authority or his/her delegate is empowered to make a recommendation for the transfer of an employee between departments.

## **2. PURPOSE**

The purpose of this policy is to provide measures and guidelines for the orderly transfer of employees to and from this department.

## **3. DEFINITION OF TERMS**

For the purpose of this policy, unless the context indicates otherwise, the following definitions are set out for the terms indicated:-

- (a) Employee means any persons employed by the State
- (b) Employer means the state as employer.
- (c) Donor department means the releasing department.
- (d) Recipient entity means receiving department/ institution/ organization.
- (e) Audi-et alteram partem means hear the other side too.

## **4. SCOPE OF APPLICATION**

This policy applies to all employees employed in terms of the Public Service Act, 103 of 1994 as amended.

## **5. LEGISLATIVE MANDATE**

This policy is informed by the following legislations:

- Constitution of the Republic of South Africa Act, 1996 (Act 108 of 1996).
- Basic Conditions of Employment Act, 1997 (Act 75 of 1997).
- Public Service Amendment Act, 1994 (Act 103 of 1994)
- Public Service Regulations, 2001.
- Labour Relations Act, 1995 (Act 66 of 1995 with all it's amendments).
- White Paper on Human Resource Management in the Public Service (1997).
- Public Service Coordinating Bargaining Council (PSCBC) Resolution 3 of 1999.

## **6. POLICY PROVISION**

Any transfer, whether initiated by a department or at a request of an employee, should be conducted through the official channels of communication. Any final decision on or notice of transfer should be in writing.

## **6.1. INTERDEPARTMENTAL TRANSFER**

Employees who wish to negotiate with another department for a transfer should first obtain a letter of consent from their own departments to do so. The Head of department or person with delegated powers is empowered to grant the approval for the transfer of an employee between departments. In the case of transfers between different provincial administration and between a department on the national level, prior authority of the executing authority is a pre-requisite (Section 14(2) (b) of the Public Service Act, 1994 as amended).

Every employee may, when the public interest so requires be transferred from the post or position occupied by him/her to any other post or position in the same department or any other department irrespective of whether such post or position is in another division, or is of a level or higher grade.

## **6.2. TRANSFER AT OWN REQUEST**

Employee/s wishing to transfer to another Provincial or National Departments must apply through their heads of Institution who must then refer it to the relevant Authority. For the purpose of transferring an employee at his/her own request, acceptable reasons of a personal nature may be considered to be in the public interest. This does not, however, imply that it entitles such an employee to transfer benefits in terms PSCBC Resolution 3 of 1999.

## **6.3. TRANSFER INITIATED BY A DEPARTMENT**

Transfers initiated by a department should be well considered in the public interest and ought to be the result of careful human resource and/or career planning. Where at all possible the affected employee should be consulted before a final decision is taken into consideration. If, however, the transfer relates to inadequate work performance, alleged misconduct or complaints about his/her style of management, supervision or services rendered, the audi-et alterum partem rule must, without fail, be applied before any decision is taken.

## **6.4. TRANSFER DUE TO ADVERTISED POSTS**

In order to eliminate delays in the release of officers on their promotions to other departments, the release should be effected within a reasonable period of time. The employee concerned should at least serve a notice of fourteen (14) working days in order to allow a smooth handing over of his/her duties to the next person. If the release or otherwise of an employee would impede the efficient administration of the receiving department, the department should consult at a level which would ensure the expeditious and satisfactory solution of related problems.

## **6.5. TRANSFERS INTO HIGHER GRADED POST**

An employee who has been transferred to a post which is graded higher than his/her grade, or which is re-graded or converted to a post of a higher grade than his/her grade, shall not by reason only of that transfer be entitled to the higher scale of salary applicable to the post. If the employee has already been performing such duties, a submission/motivation shall be prepared for consideration by Head of Department and shall be effective from the first day of the following month after approval.

#### **6.6. RETENTION OF THE SERVICE OF AN EMPLOYEES EMANATING FROM APPLICATIONS FOR ADVERTISED POSTS.**

In order to assist the Department in its decision regarding such retention the following must be provided by the person wishing to retain the services of an employee:

- a) The circumstances that led to the request for the retention of the employee's services, as well as any aggravating circumstances for instance, previous unsuccessful endeavors to fill the vacancy.
- b) An employee must not be retained from the Department without his/her consent. A written offer of acceptance by an employee to this effect is considered to constitute such consent.

#### **6.7. TRANSFER OUT OF ADJUSTMENT**

An employee transferred to a post of a higher grade than his/her own (held out of adjustment) or whose post is upgraded, is not entitled to the higher scale of salary applicable to that post.

#### **6.8. TRANSFER ON SECONDMENT**

The Head of the Department may, with the consideration to the following conditions second an employee to the service of another department for the execution of a particular service and for a stated period:

- a) The decision to second a person should be in the interest of the department, should serve efficiency and should be reviewed periodically to confirm the necessity for continued secondment.
- b) An employee's secondment to another department or office occurs with retention of his/her conditions of service.
- c) The period of secondment is to be limited to three years at the most. For any further secondment the approval of the Head of department must be obtained.
- d) The donor department remains responsible for the personnel and salary administration of the seconded employee, but may claim the expenditure from the budget of the recipient department.
- e) The maintenance of the career interest of a seconded employee remains the prime responsibility of the donor department in the first instance and care should be taken that the person is not prejudiced. The recipient entity is, however, also required to apply fair labour practices to him/her during his/her term of secondment. Formal disciplinary measures resulting from actions during his/her secondment may only be instituted by the donor department.

#### **6.9. APPLICATION FOR CROSS-TRANSFER**

The Head of department or the person with delegated powers, may approve an application for a cross-transfer of an employee subject to measures regarding horizontal mobility between vocational classes with due consideration to the employee being able to demonstrate that he/she meets the requirements of the particular post involved and in as much as it will serve the interest of the state / department and takes place in an orderly manner.

**7. DISPUTE RESOLUTION MECHANISM**

Any dispute out of the provisions of this policy shall be dealt with in terms of grievance procedure applicable to all public service employees.

**8. MONITORING AND EVALUATION**

- a. The responsibility for monitoring and evaluating the compliance of this policy framework resides with the chief Directorate: Corporate Services.
- b. The progress on the implementation of this policy will be monitored and evaluated on an annual basis and corrective steps will take place, where necessary.

**9. DATE OF EFFECT**

The policy will be tabled before the Provincial PSCBC for noting purpose.  
This policy framework will come into effect upon approval by the Head: Public Works.

**APPROVED**

  
HEAD: PUBLIC WORKS *ACTING*

29 7-08  
**DATE**