



KWAZULU-NATAL PROVINCIAL ADMINISTRATION

PROVINCIAL POLICY FRAMEWORK ON ACTING IN HIGHER POSTS

This Provincial Policy Framework was approved by the Director-General of the Province of KwaZulu-Natal on 16. 01. 12.

Signed:



Mr. N V E Ngidi
Director-General

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1. INTRODUCTION

- 1.1 The Office of the Premier: KwaZulu-Natal and Provincial Departments are committed to filling vacancies on a permanent basis. However, there are circumstances where it is in the interest of the Office of the Premier and Provincial Departments to consider more flexible workforce arrangements to meet operational needs and to ensure continuity. In this regard, acting appointments provide employees with a range of potential professional development opportunities whilst supporting and enhancing operational efficiency and the achievement of a department's strategic goals, mission and vision. These arrangements often have benefits for the career progression of employees. Therefore, the KwaZulu-Natal Provincial Administration is encouraged to balance operational considerations with employee development needs and employment equity practices. This policy framework purports to provide direction regarding the performance of acting in higher vacant and funded posts.
- 1.2 The Office of the Premier: KwaZulu-Natal and Provincial Departments may adopt the policy in its current form. If there are, however, unique circumstances within a provincial department that necessitate the modification of the policy, then that provincial department may customize the policy to suit those prevailing circumstances but must ensure that it remains within the minimum and maximum provisions of this provincial policy framework. Such deviations must be submitted to the Public Service Coordinating Bargaining Council (PSCBC) through the Office of the Premier.

2. OBJECTIVES

The objectives of this policy framework are to ensure:

- 2.1 continuity and operational stability so that there is no vacuum in the organisation that may compromise efficiency and effectiveness thereby resulting in poor service delivery;
- 2.2 that the practice of acting in higher posts and the payment of an acting allowance is managed in an equitable, fair and transparent manner to enhance organisational performance and also redress the imbalances of the past, specifically in development; and
- 2.3 that where two (2) or more employees within the same section/directorate are suitable candidates to act in the higher position, the acting position is rotated amongst the suitable employees, where possible.

3. APPLICABILITY

The provisions of this policy framework apply to all employees appointed in terms of the Public Service Act, 1994 as amended.

4. DEFINITIONS

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

“acting appointment” means a temporary appointment to a higher vacant and funded post on the approved staff establishment where there is an understanding that the employee/member returns to his/her substantive position as soon as the vacant post is filled.

“Executive Authority” means in the case of the Office of the Premier, the Premier, and in the case of Provincial Departments, a Member of the Executive Council.

“HoD” means the Head of Department.

“KwaZulu-Natal Provincial Administration” means the Office of the Premier: KwaZulu-Natal and Provincial Departments.

“Member” means an employee who is part of the Senior Management Service.

“MMS” means the Middle Management Service.

“permanent incumbent” means an employee who has been appointed in an approved post on the staff establishment, and who usually performs the duties of such post.

“SMS” means the Senior Management Service.

5. AUTHORISATION

Public Service Act, Proclamation 103 of 1994 as amended;

Public Service Regulations, 2001, as amended;

Employment Equity Act 55 of 1998;

Skills Development Act 97 of 1998;

GPSSBC Resolution 1 of 2002;

Inclusive Flexible Remuneration Package System (Dispensation) for Members of the Middle Management Service, 2005;

Public Health and Welfare Sector Bargaining Council (PHWSBC) Resolution 1 of 2002;

Policy on an Acting Allowance for Senior Management Service (DPSA letter 1/7/1/4/1 w.e.f. 1 April 2003); and

Policy on an Acting Allowance for Personnel on Salary Levels 1 to 12 in the Public Service (DPSA letter 1/7/1/4/1 w.e.f. 1 April 2002).

6. POLICY PROVISIONS

6.1 CONDITIONS FOR APPOINTMENT IN AN ACTING CAPACITY

- (a) An employee appointed in writing to act in a higher post, by a person who is duly authorized, must be paid an acting allowance, provided that the:
 - (i) higher post in which he/she is acting is vacant and funded; and
 - (ii) period of appointment is uninterrupted for a period of six (6) weeks or longer.
- (b) The HoD must compensate an employee for acting in a post due to the permanent incumbent of the post acting in a higher vacant post, provided that no more than two (2) employees may simultaneously be compensated as a result of a single vacancy.
- (c) A maximum of two (2) employees may receive the acting allowance proportionally if they are appointed to act in a single higher vacant post, provided that the:
 - (i) responsibilities attached to the higher vacant post are divided between the two employees acting in such post and expressed in the form of a ratio (e.g. 30/70%) before they are appointed to both act in such higher vacant post;
 - (ii) maximum (combined) acting allowance to be paid to the two (2) employees is the difference between the inclusive flexible remuneration package (SMS & MMS) or the salary notch (salary level 1 to 10) of the lowest graded employee and the commencing salary notch of the higher graded vacant post; and
 - (iii) employees' individual acting allowances are to be determined proportional to the above- determined ratio. (This means that if the split in responsibilities between the employees is 30/70% the one employee qualifies for 30% and the other employee 70% of the maximum (combined) acting allowance.)
- (d) Line Managers/Managers must exercise caution when appointing employees to act in higher positions especially those employees who have misconduct cases

pending against them taking into account the nature of misconduct against the duties of the acting post.

- (e) An employee must accept the acting appointment in writing before the acting allowance is payable.
- (f) The acting allowance is non-pensionable and taxable and any overpayment or underpayment must be recovered or refunded respectively.
- (g) An employee (salary level 1 to 12) may only act in a higher post for a maximum uninterrupted period of twelve (12) months.
- (h) The employer must pay the acting allowance on a monthly basis, provided that the first payment takes place in the month following the completion of the six (6)-week period referred to in paragraph 6(a) above, backdated to the date that the member officially began acting in the post.
- (i) A Member may only act in a higher post for an uninterrupted period of six (6) months, which may only be extended for one further period of six (6) months with the prior approval of the relevant Executive Authority.
- (j) The acting allowance may only be paid to an acting Member for a maximum of six (6) months, after which only permanent appointment is considered for the relevant vacant and funded higher post unless prior approval is obtained from the relevant Executive Authority for re-appointment of the acting member or appointment of a new member in the said post in an acting capacity.
- (k) The appointment of an employee/Member in an acting capacity does not create a right or a legitimate expectation to be appointed when the vacant post is advertised.
- (l) An employee may be suitably qualified to act in a higher capacity as a result of any one of or any combination of the following:
 - (i) Prior learning;
 - (ii) Relevant experience;
 - (iii) Knowledge, skills and attributes;
 - (iv) Competencies;
 - (v) Personal developmental needs;
 - (vi) Professional Registration, where required; or

- (vii) Formal qualification, where required.

6.2 CONDITIONS FOR TERMINATIONS IN AN ACTING CAPACITY

- (a) An employer reserves the right to terminate in writing with immediate effect the acting appointment of an employee should the employer not be satisfied with the performance of the employee concerned. In turn, an employee may also terminate the acting appointment in writing with immediate effect should he/she not be satisfied, subject to valid reasons being provided.
- (b) At the expiry of the acting appointment the employer must provide the employee with a written notice of at least one (1) calendar month prior to the termination.
- (c) In cases of absences from duty, the payment of an acting allowance must be terminated with immediate effect from the date of commencement of absence, provided that the period of absence is going to be longer than one (1) calendar month.

7. PAYMENT OF THE HEAD OF DEPARTMENT ALLOWANCE TO MEMBERS ACTING IN THE DESIGNATED HEAD OF DEPARTMENT POSITIONS

- 7.1 For acting in a vacant and funded designated HoD post, the HoD allowance is payable in addition to the acting allowance referred to in paragraph 6.1 above, calculated at 10% of the member's current inclusive flexible remuneration package. The HoD allowance is payable with effect from the date the member is appointed, in writing, to act in the vacant designated HoD position.
- 7.2 In cases of suspension of the designated HoD, the payment of the HoD allowance must be terminated with effect from the date of suspension. The HoD allowance is payable with effect from this date to the Member who is appointed, in writing, to act in the designated HoD position.
- 7.3 In cases of any other absences of the designated HoD, excluding maternity leave, the payment of the HoD allowance must be terminated with effect from the date of commencement of absence, provided that the period of absence is going to be longer than one (1) calendar month. The HoD allowance is payable to a member who is appointed, in writing, to act in the designated HoD position with effect from the date of termination, provided that the period of acting in the designated HoD position is going to be longer than one (1) calendar month.
- 7.4 In cases of maternity leave, the payment of the HoD allowance must not be terminated for the incumbent of the position. However, the HoD allowance is similarly payable to a member who is appointed in writing to act in the designated HoD position with effect from the date of commencement of maternity leave,

provided that the period of acting in the designated HoD position is going to be longer than one (1) calendar month.

- 7.5 In the circumstances referred to in paragraph 7.2, 7.3 and 7.4 above, the acting allowance referred to in paragraph 6.1 is not payable because the post is not vacant.
- 7.6 HoD's employment contracts must stipulate that the payment of the HoD allowance must be terminated in the cases referred to in paragraphs 7.2 and 7.3 above.

8. CALCULATION BASIS

- 8.1 The acting allowance referred to in paragraph 6.1 is calculated on the basis of the difference between the current remuneration package of the Member (SMS & MMS) or salary notch of the employee (salary level 1 to 10) and the commencing remuneration package or salary notch of the higher post.
- 8.2 The acting allowance payable to an MMS member (MMS Levels 11 and 12) who acts in a higher (vacant and funded) SMS position is calculated as the difference in the acting MMS member's total package and the minimum package attached to the relevant SMS post.
- 8.3 The acting allowance payable to employees on salary levels 1 to 10 who act in a higher (vacant and funded) MMS Level 11 or 12 position, is calculated as the difference between the employee's salary notch and the basic salary in terms of SET 1 of the minimum package attached to the relevant higher MMS post.
- 8.4 (a) A Member (SMS) on an inclusive flexible remuneration package, which includes a personal package, which is higher than the commencing inclusive flexible remuneration package of the higher graded vacant post must receive the difference between his/her current package and the next higher remuneration package applicable to the vacant higher post, provided there is a difference.
- (b) An employee who is appointed to act in a higher vacant post on salary level 1 to 12 or SMS, and who is on a salary notch, which includes a personal notch, which is higher than the commencing salary notch of the higher vacant post must receive the difference between his/her current salary notch and the next higher salary notch applicable to the higher vacant post or 60% of the inclusive flexible remuneration package applicable to the vacant SMS post, provided there is a difference.
- 8.5 If the payment of the acting allowance referred to in paragraph 6.1 and the payment of the HoD allowance to a member who acts in a designated HoD position referred to in paragraph 7.1 commences after the 1st day or terminates before the last day of the month, the daily tariff is calculated by dividing the annual amount by twelve (12) (number of months per year) and then by the number of days for the specific month.

9. FINANCIAL IMPLICATIONS

The HoD must ensure that funds are available to implement this policy.

10. IMPLEMENTATION DATE

This policy framework will come into effect on 01 APR 2012.

11. MONITORING, EVALUATION AND REVIEW

The Human Resource Management component of the Office of the Premier is responsible for overseeing the effective implementation, monitoring and evaluation of this policy framework.

This policy framework will be reviewed as and when necessary.