

**Tenth Edition
of the PSMC (Public Service Management Code)
correct as on 23rd October 2009**

*(To facilitate the updating, instructions are in bold-italic print, whereas actual text is in normal font.)
Replace the introduction with the introduction reproduced below:-*

**Introduction
Public Service Management Code**

As stipulated in the Public Administration Act (PAA), the Public Administration of Malta shall be governed by the values listed hereunder, and public employees shall:

- a) exercise any powers vested in them by law, and deliver services to the public, courteously, expeditiously and impartially;
- b) provide objective and knowledgeable advice on matters within their competence;
- c) efficiently and effectively implement the policies of the government of the day;
- d) contribute towards the co-ordination of Government policy in conjunction with departments, agencies, government entities and local councils; and
- e) contribute through their own conduct to making their workplace one which recognises talent, develops skills and abilities, rewards performance, avoids discrimination and offers safety.

These values should be invariably upheld and promoted. The Principal Permanent Secretary may issue directives and guidelines aimed at upholding and better realising the public service values.

In order to take forward the PAA, which will necessitate radical changes to the method of promulgation of HR policies, the PSMC is being restructured. Moreover, the PSMC is being streamlined, and made more customer friendly. The tenth edition now launches the first phase of this restructuring.

The tenth edition also facilitates access to the six manuals that have been uploaded on the MPO web page. The six manuals are:

- The family-friendly measures manual
- Manual of Allowances payable to public officers
- Manual on Social Security Contributions, Benefits and Pensions
- Treasury Pensions Manual
- Handbook on Opportunities to work outside the Public Service
- Glossary of Organisational and Management Terms

These manuals can be accessed online at <http://www.mpo.gov.mt/info_downloads.html>.

It should be noted that Chapter 5 of the PSMC has been removed. Information on Social Security is now available in the *Manual on Social Security Contributions, Benefits and Pensions*. In the new Chapter 5 you will find grouped together all the family-friendly measures. These policies have been deleted from Chapters 3 and 4 and moved to Chapter 5. Also note that Chapter 1 regarding Resourcing has been completely restructured. A new addition to the PSMC is Chapter 11 that guides HR managers on the procedure that should be followed when handling cases of sexual harassment.

Furthermore, please note the real time online updates between one edition and another. New policies are immediately notified through reference to the applicable circulars.

It is clarified that all public officers, i.e. those officers who are engaged through the Public Service Commission, whether these public officers are engaged on a fixed term or indefinite contract, and whether they are working on a part-time or full-time basis, are covered by all the conditions of service in the PSMC, if they are working in the public service. In the case of public officers on a fixed term contract, those benefits, which if availed of, would run beyond the term of the contract, will only be applicable up to the term of the contract. In the case of part-timers, the benefits are on a pro-rata basis.

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October 2009

Update Table of Contents

Chapter 1 – RESOURCING POLICIES AND PROCEDURES

Replace sections 1.1. to 1.3. of current Chapter 1- Appointments, Promotions and Progressions - **with the new** Chapter 1- Resourcing Policies and Procedures, **reproduced below:**

1. RESOURCING POLICIES AND PROCEDURES

1.1. RECRUITMENT AND APPOINTMENT IN THE PUBLIC SERVICE

1.1.1. The Capacity Building Framework

1.1.1.1. As a general rule, Government Departments are to keep authorised staff complements under constant review and fill no vacancies unnecessarily. When additional staff needs to be provided for new functions or for a substantial enlargement of existing functions, Heads of Department are to consider the filling of such vacancies by transfers of suitable public officers from other sections of their department or through a redistribution of duties or, on the specific instructions of the Permanent Secretary of the particular Ministry, from among other suitable public officers who are known to be superfluous to the needs of other departments.

1.1.1.2. The Capacity Building Committee, which is composed of representatives of the Office of the Prime Minister, the Ministry responsible for Finance and the respective line Ministry, is the central mechanism through which all Ministerial recruitment requests are to be submitted for approval.

1.1.1.3. The Capacity Building Exercise aims towards strategic HR planning and alignment of the process with the wider financial planning scenario.

1.1.1.4. Permanent Secretaries are to submit the HR recruitment requirements and respective costings for the period in question in respect of the Ministry under their responsibility to the Capacity Building Committee. Prior to submission, requests are to be adequately evaluated and prioritised, with a view to consolidating the HR Strategy through the proper rationalisation of human resources and containment within budgetary allocations.

1.1.1.5. Submissions, which are to take into consideration any **progression and/or promotion exercises** within the framework of the relative classification agreements, are to invariably include the categorisation of **HR requests in terms of posts** (General Service, Departmental, and Messengerial) and **positions** and whether the requested post/position is being filled through **external recruitment or internal promotion**. Requests for **replacements** (i.e. following termination of an incumbent); the filling of **consequential vacancies** (i.e. arising as a result of internal promotion processes) and requests for the **extension of contracts** are also to be included.

1.1.1.6. In the case of requests for positions - which should be kept to the barest minimum - specific justifications must supplement the choice of a position over

a post. All requests for the filling of vacancies, including requests for replacements, consequential vacancies and extension of contracts are to be supplemented with cogent justifications. Each requested post/position is to be covered by a brief job description and is to be supplemented with the current HR complement in the post/position.

1.1.1.7. HR requests submitted outside the Capacity Building Framework will be treated on a case-by-case basis, on a very exceptional basis and for very cogent reasons. Exceptional cases include unpredicted consequential vacancies (e.g. due to resignations) and unpredicted situations characterised by urgencies which cannot wait for the next Capacity Building Exercise to be addressed. Such requests are to be made by the respective Permanent Secretary to the Resourcing Directorate within MPO, copying the Budget Office within the Finance Ministry, and are to include cogent reasons for the urgency; why the request cannot wait until the next Capacity Building Exercise and why it was not included in the last Exercise; justifications for each vacancy and for the proposed remuneration package. Moreover, if a position is being requested, its creation has to be justified in the light of existing substantive grades.

1.1.2. Filling of Vacancies in the Public Service by transfer from other Government Departments

1.1.2.1 Every public officer may be transferred from one Department to another according to the exigencies of the service or at the request of departments or of the officer concerned. Such movements should be carried out and authorised if they are in the interest of the Public Service or of the career development of the employee concerned.

1.1.2.2. Movements of staff between the Departments of a Ministry should be authorised by the Permanent Secretary or by a senior official to whom such an authority has been delegated by the Permanent Secretary, (e.g. Director of Corporate Services). Such movements should be immediately notified to the Resourcing Department of the Management and Personnel Office, which will formalise the transfer by issuing the relative transfer list.

1.1.2.3. Movements of staff between Ministries or between Departments of different Ministries should only be carried out with the prior approval of the Management and Personnel Office. Requests for such movements, which should invariably be passed through the Director of Corporate Services (or equivalent), should be made in writing and should provide a justification for the proposed transfer.

1.1.2.4. The Management and Personnel Office retains the right to carry out staff movements, in particular those with regard to General Service employees, at its discretion, although it would normally consult with the interested Departments before doing so.

1.1.2.5. The transfer of staff from Malta to Gozo is managed as follows:

- (i) Public Officers who are ordinarily resident in Gozo but performing duties in Malta are transferred to Gozo strictly on the basis of a seniority list, which list is purposely drawn up and maintained to determine whose turn it is for transfer. The order of seniority on this list is determined by the date of entry into the Public Service of the respective Gozo resident Public Officer or, in the case of Public Officers who change their permanent residence from

Malta to Gozo, by the date when such Public Officers formally indicate their wish to be transferred there (documentary evidence of change of address must be provided).

- (ii) The Management and Personnel Office controls the transfer of General Service employees and of officers appointed to positions filled across the Public Service, who are ordinarily resident in Gozo but posted for duty in Malta. For this purpose, the Resourcing Department within MPO maintains two seniority lists in respect of General Service officers – one for Clerks/Executive Officers and the other for Principals/Senior Principals – and other seniority lists of incumbents to positions in the Public Service, as applicable.
- (iii) Likewise, departments are required to maintain the seniority list of staff in departmental grades ordinarily resident in Gozo but performing duties in Malta and who wish to be transferred to Gozo in accordance with these guidelines; only that such transfers to the Ministry for Gozo will still be authorised by the Management and Personnel Office.
- (iv) As a general rule, an officer serving in Gozo after having served his/her term in Malta, who is promoted to a higher grade/position, is allowed to remain in Gozo provided a vacancy is available, even if he/she is junior to either other Gozo resident officers serving in Malta in the higher grade/position or to newly-appointed Gozo resident officers in the same selection process. In the case that a vacancy is not available in Gozo, the officer concerned would be transferred back to Malta upon promotion to the higher grade/position and placed at the top of the respective seniority list.
- (v) In the case of the General Service Grades, if a Gozo resident Clerk/EO who is still serving his/her term in Malta is promoted to the grade of Principal, then he/she is removed from the Clerk/EO seniority list and placed on the Principal seniority list. His/her placing on the Principal seniority list will be determined according to the criteria at (i) above.
- (vi) Transfers on the basis of an intra-departmental arrangement whereby an officer is transferred to the Gozo Branch of the same Department are not permitted under any circumstances.
- (vii) Pregnant Gozitan officers performing duties in Malta may be temporarily transferred to Gozo until confinement, subject to a medical certificate which must be confirmed by a Medical Board convened by the Health Division (cases regarding General Service officers are processed centrally by the Management and Personnel Office whilst those of departmental grade officers are processed by the respective department).
- (viii) Public Officers who are ordinarily resident in Gozo and who occupy an Assistant Director position in Malta, may apply laterally for the filling of an Assistant Director position in Gozo whenever such a vacancy arises, with the requirement of having to serve for an initial period upon appointment as Assistant Director being waived (further details are available at Sections 1.3.5.6 and 1.3.6.7 regarding the appointment of Assistant Directors).

1.1.3. Recruitment Procedures during holding of General Elections

1.1.3.1. It is the prevailing policy that no recruitment, appointments or promotions, or other changes affecting the conditions of service of staff in Public Service departments and Public Sector entities, should take place following the announcement of the holding of general elections at a time when Parliament stands dissolved till a new Cabinet is formed, pending the issue of OPM instructions.

1.1.3.2. However, there may be such exceptions as in the case of initiating new processes for the filling of essential posts or positions, and where special exigencies would warrant that an appointment be issued in the best interest of the Service. In any such cases, the final authority of the Principal Permanent Secretary must always be obtained.

1.1.4. Power to Make Appointments and Promotions in the Public Service

1.1.4.1. The Attorney General is appointed by the President acting in accordance with the advice of the Prime Minister. Permanent Secretaries are appointed by the President acting in accordance with the advice of the Prime Minister, given after the Prime Minister has consulted with the Public Service Commission. Appointments to Headship positions in Grade 3 and Grade 4 are made by the Prime Minister from amongst senior public officers acting after consultation with the Public Service Commission.

1.1.4.2. Power to make other appointments to public office, including appointments on promotion, is vested in the Prime Minister acting on the recommendation of the Public Service Commission unless an *ad hoc* Instrument of Delegation is issued in terms of Section 110 of the Constitution.

1.1.4.3. Appointments covered by an Instrument of Delegation in terms of Section 110 of the Constitution include:

- (i) Appointments to posts filled as a result of public examinations conducted by the Board of Local Public Examinations (these appointments are approved by the Principal Permanent Secretary on the basis of the result of the public examination);
- (ii) Appointments to Group I in Scale 20 within the Industrial Grades (these appointments are made by the Principal Permanent Secretary);
- (iii) Engagements and renewals in terms of the Casual Substitute Scheme (these are made by the Permanent Secretary of the Ministry concerned);
- (iv) Appointments of police officers below the rank of Inspector (power to make these appointments is exercisable by the Commissioner of Police acting in his discretion).

1.1.4.4. The making of appointments, including appointments on promotion, in the Public Service is regulated by the Public Service Commission Regulations, 1960.

1.1.4.5. Departments are responsible for initiating arrangements to fill vacancies in authorised staff complements of departmental classes by new appointment or by promotion, as the case may be. The Resourcing Department at

the Management and Personnel Office is similarly responsible for the General Service Grades.

1.1.5. Recruitment through the ETC

1.1.5.1. All employees recruited from outside the Service are, with the exception of those mentioned below, to be recruited through the Employment and Training Corporation.

1.1.5.2. Where a department proposes to employ persons falling within the categories to be recruited through the Employment and Training Corporation, a request is to be made to the Principal Permanent Secretary by the Head of Department on General Form GP 56. The Resourcing Department at the Management and Personnel Office will first make use of suitable redundant employees and, if necessary, the Principal Permanent Secretary will refer the request to the Employment and Training Corporation for the engagement of persons from outside the service.

1.1.5.3. If the Employment and Training Corporation is unable to submit suitable applicants, the Principal Permanent Secretary may, unless the National Employment Board authorises other arrangements in respect of any one case or class of cases, recruit any employees required by a competition advertised in the Malta Government Gazette.

1.1.5.4. If the Principal Permanent Secretary rejects an applicant submitted by the Employment and Training Corporation, he must specify in writing the reasons for rejection. Where, after due investigation, the National Employment Board is satisfied that an applicant had been rejected without just cause, it may order the Principal Permanent Secretary to employ the applicant in question in the occupation for which he/she was originally submitted by the Employment and Training Corporation.

1.1.5.5. The requirement at the first sub-paragraph of this section does not apply to posts/positions for which academic or professional qualifications are necessary, or to persons selected after a public competition advertised in the Malta Government Gazette or engaged from outside Malta.

1.1.6. Recruitment and Appointment Following a Call for Applications

1.1.6.1. The filling of vacancies may also be carried out following either (i) a public call for applications published in the Government Gazette, or (ii) a service-wide call for applications issued by means of an MPO Circular, or (iii) a departmental call for applications issued by means of a departmental circular or a sector-wide call for applications issued by means of a Sector-wide Circular. When vacancies are to be filled by means of a call for applications, the following procedure is to be followed.

1.1.6.2. Recommendations for the issue of a call for applications are made by Heads of Department in accordance with the approvals of the Capacity Building Committee (vide Section 1.1.1.) and addressed concurrently to Secretary, Public Service Commission and to the Principal Permanent Secretary in terms of Regulation 17 of the PSC Regulations, 1960. The recommendation is to be signed by the Head of Department making the recommendation and initialled by the Permanent Secretary concerned. The recommendation is to include the following information:

- The number of vacancies to be filled.
- The draft call for applications in the English and Maltese versions (for details on the drafting of calls for applications see Section 1.2).

1.1.6.3. Concurrently with their recommendation, Heads of Department are to submit to the Public Service Commission*:

- Nominations on the composition of the Selection Board, together with the grade, qualifications and experience of the nominees. If considered appropriate, a substitute Chairperson and Member are also to be nominated in case any of the board members become ineligible when the list of applicants is known. Heads of Department may also propose that they themselves sit on Selection Boards.
- Proposals on the criteria to be used during the selection process. Marks allotted for selection criteria such as qualifications, personality, command of subject, experience, etc. are to be established and a pass mark indicated. Proper weightings are to be given to various areas in which applicants are to be assessed.

1.1.6.4. The Principal Permanent Secretary is required to verify recommendations. When making such verifications in the name of the Principal Permanent Secretary, the Resourcing Department at the Management and Personnel Office will also appoint or nominate to the Public Service Commission, as the case may be, the Panel Member to sit on the Selection Board. Panel Members for posts/positions in a salary scale not above scale 6 are appointed by the Resourcing Department from a pool of officers selected service-wide and approved by the Public Service Commission for this purpose. Panel Members for posts/positions in salary scale 5 or higher are appointed by the Public Service Commission following nomination by the Management and Personnel Office.

1.1.6.5. The Public Service Commission will consider the submissions of the Head of Department and of the Director (Resourcing) on the composition of the Selection Board and will decide whether to approve the chairperson and members of the selection board or to appoint a selection board of its choice. The Commission may also consult other persons and may also appoint the respective Head of Department on the Selection Board.

1.1.6.6. The Public Service Commission will also decide on the proposed criteria and weightings to be used during the selection exercise. Selection Boards may recommend to the Public Service Commission different criteria which they propose to follow in assessing applicants. The criteria as recommended by Selection Boards are to be submitted to the Commission for its approval and for any comments the Commission may wish to make. Once approved by the Commission the criteria are to be scrupulously observed by the Selection Board.

1.1.6.7. On its part, the Selection Board should set the sub-criteria for each criterion approved by the Commission. These sub-criteria should be very specific to the area covered by the particular call for applications; should reflect the type of expertise, particular experience and specific qualities required in the post/position for which candidates are interviewed; and are to be implemented uniformly amongst all eligible candidates. The marks allotted for each sub-criterion should also be indicated in the report of the Selection Board.

* OPM Circular No. 21/2000 dated 18 May 2000

1.1.6.8. Immediately after the closing date for the receipt of applications, the Head of Department refers to the Secretary of the Public Service Commission the response of the advertisement.

1.1.7. Outline of the Selection Procedure

1.1.7.1. The rules set out in the sub-paragraphs below apply to the selection procedure approved by the Public Service Commission. In addition to these paragraphs, members of Selection Boards should also be guided by the manual entitled “Appointments in the Public Service - Guidelines for Panel Members Appointed on Selection Boards” accessible at <http://mpo.gov.mt/downloads/html>.

1.1.7.2. The Head of Department will supply the selection board with the completed application forms as well as accompanying documentation, together with a certified list of all candidates who have applied for the vacancy, and that list is to form part of the board’s report. Such list, to be drawn up in the order in which applications were received, should include the following details:

- (i) full name, address and date of birth;
- (ii) where applicable, grade, trade and department of each applicant; and
- (iii) I.D. No.

1.1.7.3. A Selection Board is part of the machinery of the Public Service Commission and its members are therefore subject to the restriction on disclosure of information laid down in the Public Service Commission Regulations. This means that no member of the board may divulge the report or proceedings of the board to any other person, whether a public officer or not.

1.1.7.4. Persons appointed to a Selection Board are required to sign Form PSC No 6 accessible at <http://mpo.gov.mt/downloads.html> before the selection process commences.

1.1.7.5. To avoid any potential conflicts of interest amongst officers appointed on Selection Boards, it is not permissible for public officers to make written references in favour of other public officers applying for posts/positions in the Public Service. In the course of a selection process, Chairpersons and Members should ignore any such written references*.

1.1.7.6. The Chairperson of a Selection Board is responsible to ensure that the Board conducts proceedings in accordance with the procedures established by and subject to the general direction of the Public Service Commission.

1.1.7.7. The Selection Board is responsible for establishing the eligibility of candidates and in the case of candidates who are already public officers, their existing grade is strictly determined from the relative Personal Record Sheet (GP 47) issued by the parent department prior to the closing date established in the call for applications.

1.1.7.8. The Selection Board should adhere to the following guidelines during the interviews to avoid discrimination on the grounds of gender and/or family responsibilities and to promote equality of opportunity and employment:-

* OPM Circular No 32/2004 dated 24 August 2004

- Applications from women and men should be processed in exactly the same way.
- Records of interviews should be kept, when practicable showing why applicants were not selected.
- Persons should be assessed according to their personal capability to carry out a given job. It is therefore discriminatory to assess persons on the grounds of gender and/or family responsibilities.
- Questions asked during interviews should relate to the requirements of the job. Questions about family responsibilities or intentions should not be asked as they could be construed as showing gender bias.
- It should not be assumed that men only or women only will be able to perform certain types of work.
- In the case of promotion, when general ability and personal qualities are the main requirements for promotion to a post, care should be taken to consider favourably the non formal qualifications arising from general experience and differing career patterns of candidates of either gender.

1.1.7.9. In the course of conducting the selection process, Selection Boards are to note that*:-

- Ties (that is the award of the same mark in the result sheet to more than one candidate) are only to be allowed in exceptional circumstances especially in cases where the number of candidates is large.
- In calls for applications in which the number of applicants is large, the Selection Board may seek the Commission's approval to increase the marking range.
- The award of fractions (of a mark) in the final result is not allowed.
- Cases such as those resulting in ties, or where the difference in ranking order is that of one/two marks or borderline failures, require specific scrutiny. Selection Boards are asked to exercise this scrutiny prior to coming to a final decision about marks and before forwarding their report to the Commission.

1.1.7.10. Following the assessment of candidates, the Selection Board should submit to the Public Service Commission and to the Head of Department concurrently:-

- i) a detailed report;
- ii) a Statement setting out the sub-criteria, and weightings thereon, as determined by the Selection Board for every criterion approved by the Commission;
- iii) an assessment sheet indicating the marks allotted to each candidate under each criterion approved by the Commission and under each sub-criterion set by the Board for each approved criterion;
- iv) three copies of the result sheet for publication purposes which are to be fully endorsed on each page by every member of the Selection Board.

- Note:**
- a) Specimens of the documents listed at (i), (iii) and (iv) may be downloaded from the website of the Resourcing Department at MPO at the address <http://mpo.gov.mt/downloads.html>.
 - b) Form PSC No 6 referred to above should also be sent to PSC.

* MPO Circular No 8/2005 dated 19 April 2005

1.1.7.11. The report of a Selection Board is to be signed by all members of the Board if agreed to unanimously. In case a member dissents and opts not to sign the majority report, he/she is required to submit a minority report giving his/her reasons why he/she refrained from signing the majority report. Selection Board reports are to be submitted to the Public Service Commission and copied concurrently to the relative Head of Department under confidential cover.

1.1.7.12. Every application received should be accounted for in the report of the Selection Board. When an applicant is ineligible, the Selection Board should state briefly the reason for the applicant's ineligibility in its report to the Commission so as to ensure that no applicant can claim that an application invited by the Commission has not in fact reached the Commission. Ineligible applicants are to be informed individually by the Selection Board of the Selection Board's findings.

1.1.7.13. The result sheet that is meant for publication purposes should include in clear form:

- the maximum mark and the pass mark set;
- the name and identity card number of each eligible applicant in the final order of merit;
- the final mark obtained by each applicant.

Note: In those cases when candidates fail, or absent themselves, from the interview/ examination or withdraw their application, the ID No., and not the name of the candidates concerned should be shown on the Result Sheet.

1.1.7.14. If the selection process includes a Trade or Practical Test, the Result Sheets must show separately the marks obtained by each candidate in respect of the Trade/Practical Test and the Interview as well as the overall total. The condition set that *“candidates must obtain at least 50% of the marks allocated for the Trade/Practical Test in order to qualify for the interview”* is to appear on the Result Sheets. Applicants are also to be informed verbally that only those successful in the Trade/Practical Test qualify for the Interview.

1.1.7.15. On receipt of the Selection Board report, Heads of Department are to express their views to the Public Service Commission as to whether they agree with the conclusions of the Selection Board report and make their own recommendations, or otherwise, for the appointment of the successful candidate/s. Heads of Department recommending public officers for appointment have the responsibility to ascertain that the persons recommended do not have any pending serious disciplinary cases or minor cases with serious implications (e.g. fourth case of discipline), in which case Heads of Department are required to submit their comments.

1.1.7.16. Once the Selection Board report and the result sheets have been approved by the Commission, a copy of the result sheet duly signed by the Secretary of the Public Service Commission will be forwarded to the Head of Department for publication in the normal way. Such results are to be displayed on the official notice board of the Office of the Public Service Commission as well as that of the department concerned. In the case of the General Service Grades the relative results are published at the Management and Personnel Office. The official result sheets are to be displayed for a period of one week.

1.1.7.17. A notification of the issue of the result will be duly published in the Government Gazette and will also appear on the website of the Public Service

Commission where it may be accessed at <http://www.psc.gov.mt>. A press notice will also be issued to all local media organisations.

1.1.7.18. The date of certification fixed by the Secretary will determine the validity period of the results. A Selection Board's report is to remain valid for a period of one year from the date of its publication by the Secretary of the Public Service Commission, unless a different period is specified in the call for applications. The report will thus serve to fill vacancies occurring during the said validity period.

1.1.7.19 If, within the validity period, a fresh call for applications is issued for the same post/position, any remaining candidates on the initial pass list not yet appointed will, during the validity period of the first call, take precedence over successful candidates from the second call.

1.1.7.20. The procedure and rules outlined above are to be followed in all selection processes even those not carried out under the Public Service Commission.

1.1.8. Letters of Appointment: Applicable to Substantive Grades

1.1.8.1 Formal letters of appointment are issued in the Maltese language to all full-time government employees above the substantive grade of Clerk and analogous grades (the term "analogous grades" means all those grades in Government Service which are on a salary scale having the same salary maximum as the scale of the post to which they are being compared).

1.1.8.2. Letters of Appointment of General Service Grades and of Departmental grades within the Office of the Prime Minister are signed by the Principal Permanent Secretary and those of other Department Grades are signed by the Minister responsible for the respective Department.

1.1.8.3 In the case of Departmental Grades, letters of appointment should be issued as early as possible and not later than a month after departments are informed by the Management and Personnel Office that the Prime Minister's approval has been given.

1.1.8.4. The letter of appointment should include the following details:

- the approving authority;
- the grade, salary scale, effective date and Department pertaining to the new post;
- the length of the probationary period and liability to transfer according to the exigencies of the Public Service;
- in the case of non-Maltese citizens, the following sentence is to be inserted: *“Din il-ħatra tintemm awtomatikament jekk ma tibqax tgawdi d-dritt li taħdem hawn Malta skond l-Att dwar l-Immigrazzjoni u liġijiet sussidjarji.”*
- in the case of pensionable Public Officers, the following sentence is to be inserted *“Il-ħatra hija pensjonabbli skond il-provvedimenti ta’ l-Ordinanza dwar il-pensjonijiet - Kap. 93.”*

- in the case of appointees already holding a substantive grade in the Public Service, the following sentence is to be inserted: *“Matul iż-żmien ta’ prova inti tkun meqjus bħala ttrasferit mill-post ta’ _____.”*

1.1.8.5. Where the appointee may be required to proceed abroad for training, the following paragraph is to be inserted:

“Inti tista’ tintbagħat barra minn Malta minn żmien għal żmien, biex tagħmel korsijiet approvati ta’ taħrig taħt il-kundizzjonijiet mnizzlin fil-Gazzetta tal-Gvern Nru. maħruġa il-..... Kull ksur ta’ dawn il-kundizzjonijiet jista’ jwassal għat-tmiem ta’ din il-ħatra.”

1.1.8.6. In the case of professional officers debarred from the private practice of their profession, the following condition is to be inserted in the letter of appointment:

“Inti tkun fid-dmir li tiddedika l-ħin kollu tiegħek lill-Gvern u ma tkun intitolat għall-ebda ħlas għal xogħol ieħor li inti tista’ tkun mitlub tagħmel, direttament jew indirettament, għall-Gvern fil-kariga professjonali tiegħek. Inti lanqas ma tista’ teżercita l-professjoni tiegħek privatament.”

1.1.8.7. In the case of professional officers allowed the private practice of their profession the following condition is to be inserted in the letter of appointment:

“Din il-ħatra hija fuq bażi “full-time” u ma tkunx intitolat għall-ebda ħlas għal xi xogħol ieħor li inti tista’ tiġi mitlub tagħmel, direttament jew indirettament għall-Gvern fil-kariga professjonali tiegħek. Inti titħalla teżercita l-professjoni tiegħek privatament sakemm dan ma jkunx ta’ tfixkil fil-qadi ta’ dmirijietek.”

1.1.8.8. Where, for special reasons, it is desired to depart from the above or to include some special condition, departments are to submit such letters for vetting by the Resourcing Department at the Management and Personnel Office before issue. In other cases, letters of appointment are to be issued by departments without the need of the prior vetting of the Management and Personnel Office. A specimen letter of appointment, subject to the possible variations mentioned above, is available for download at the website of the Resourcing Department at the address <http://mpo.gov.mt/downloads.html>.

1.1.8.9. A copy of each letter of appointment issued is to be forwarded to the Resourcing Department at the Management and Personnel Office together with a Service and Leave Record Sheet (General Form GP 47). One copy each is to be forwarded to the Treasury and to the Office of the Auditor General. All copies are to include the following details:

- (i) Identity Card Number;
- (ii) National Insurance Number;
- (iii) PAYE No;
- (iv) Date of Birth;
- (v) Previous appointment;
- (vi) An indication whether the appointment was made “in the normal course” or “not in the normal course”.

1.1.8.10 Once the Prime Minister has approved a recommendation by the Public Service Commission and signed the relative approval under Article 110 of the Constitution, the appointment of the Public Officer concerned is perfected and cannot

be withdrawn even if the relative letter of appointment has still not been given or handed to the person concerned. However, the Public Service Commission may consider the withdrawal of a perfected appointment for very serious reasons in terms of the same Constitutional provision. Final approval for the withdrawal of an appointment is given by the Prime Minister acting on the recommendation of the Commission.

1.1.8.11. Officers whose appointment to a higher grade is approved by the Prime Minister, but who, prior to receiving their letter of appointment are suspended from work (interdicted), will have the issue of their letter of appointment also suspended. Issue of the letter of appointment is kept in abeyance until a decision is reached by the Public Service Commission for the lifting or otherwise of the interdiction imposed. Suspension of the issue of the letter of appointment is approved by the Prime Minister acting on the recommendation of the Commission.

1.1.9. Agreements: Applicable to Fixed-Term Positions

1.1.9.1. In the case of appointment to a position of a fixed-term nature, no letter of appointment need be issued. In such cases, only a letter of notification of appointment to a position is to be issued to the position holder, together with the applicable Agreement. A copy of the signed Agreement is to be forwarded to the Resourcing Department at the Management and Personnel Office, to the Treasury and to the Office of the Auditor General.

1.1.9.2. If a person engaged in a position of a fixed-term nature is so engaged from outside the Public Service, the person is given a fixed-term contract of employment. If the person engaged in the position holds a substantive grade/indefinite status in the Public Service, the person is considered to be engaged on an assignment basis since he/she already has an employment contract with Government (the person's substantive grade/indefinite status). For this reason, when drawing up an Agreement in the case of appointment in a position on a fixed-term basis, one must keep in mind whether the person is engaged from outside the Service, i.e. an external recruit; or whether the person holds an indefinite contract of employment in the Public Service and temporarily 'suspends' the duties of his/her indefinite grade/status to take up duties, usually of a higher level, for a fixed term period (assignment).

1.1.9.3 Specimen Agreements applicable in the case of:-

- (i) selected candidates who do not hold a substantive grade/indefinite status in the Public Service, and who are entitled to indefinite status after the legal limit stipulated in LN 51/2007, as amended by LN 239/2008;
- (ii) selected candidates who do not hold a substantive grade/indefinite status in the Public Service, and who are NOT entitled to indefinite status after the legal limit stipulated in LN 51/2007, as amended by LN 239/2008, by virtue of objective reason/s in terms of said Legal Notices;
- (iii) public officers who have a substantive grade/indefinite status in the Public Service, and who are engaged on an assignment where there is no objective reason against the incumbent's position becoming indefinite after the legal limit stipulated in LN 51/2007, as amended by LN 239/2008; and

- (iv) public officers who have a substantive grade/indefinite status in the Public Service, and who are engaged on an assignment where there is an objective reason against the incumbent's position becoming indefinite even after the legal limit stipulated in LN 51/2007, as amended by LN 239/2008,

are available for download at the website of the Resourcing Department at the address <http://mpo.gov.mt/downloads.html>.

1.1.9.4. In cases where the agreement is to be renewed under the same terms and conditions, following a recommendation by the Public Service Commission which is approved by the Prime Minister, a letter of notification to this effect is to be issued to the incumbent by the Permanent Secretary concerned.

1.1.9.5. In the majority of cases, in the case of Departmental grades, calls for applications to fill positions on contract or an assignment basis are aimed at filling vacancies originating from the needs of a particular sector/Ministry. Consequently, the selected person is bound to serve within the particular Ministry in which the vacancy is advertised, with the relevant Permanent Secretary being signatory to the contract/assignment.

1.1.9.6. In those cases where a call for applications, whether external or internal, advertises vacancies to be filled "in the Malta Public Service", the agreement entered into with the individual binds him/her to serve anywhere within the Public Service, and he/she is assigned to a particular Ministry/Department according to exigencies at the time. In such cases the Permanent Secretary is signatory to the agreement not in his/her own right but on behalf of the Principal Permanent Secretary as Head of the Public Service. Hence, the incumbent's posting may be changed as required.

1.1.9.7. There are instances when officers who hold a substantive grade and are assigned to a fixed-term position are, during the term of the assignment, appointed to a grade higher than their substantive grade. In such cases, if the new substantive grade of the officer concerned is in a salary scale which is lower than that of the position, the officer is allowed to continue in his/her assignment and will revert to the new substantive grade if the assignment is terminated or is not renewed.

1.1.9.8. There are also instances where a person who does not have a substantive appointment but is engaged on contract, applies and is selected for a post within a substantive grade in the Public Service. In such cases, the incumbent is likewise allowed to retain his/her contractual engagement with the substantive appointment being a notional appointment until such contract is terminated, provided the salary of the new substantive grade is lower than that of his/her contractual position.

1.1.9.9. When the (notional) salary point of the substantive grade exceeds, through progression/promotion, the salary point of the contract, then the substantive appointment and the contract can only be retained concurrently until expiry of contract, at which point the incumbent must relinquish one or the other.

1.1.9.10. Whatever the case, the appointee has to complete his/her probationary period in the new substantive grade and will be confirmed in the new substantive post after the lapse of the said probationary period.

1.1.9.11. Public Officers, including those holding a substantive grade in the Malta Public Service, may fill fixed-term positions which are on a part-time basis. In

the case that Public Officers holding a substantive grade/indefinite status are selected for assignment to such part-time position, their substantive grade/indefinite status is retained and reverted to upon expiry of the assignment. During the period of the assignment, they are remunerated on the basis of the part-time position as stipulated in the call for applications.

1.1.10. Dates of Appointment

1.1.10.1. When officers are formally appointed to a post within a substantive grade, the effective date of their appointment is normally to be the date when their appointment is approved by the Prime Minister.

1.1.10.2. In the case of appointments to contractual positions, the effective date of the contractual employment is the date when the contractee takes up the duties of the position. Cases of doubt are to be referred to the Resourcing Department at Management and Personnel Office.

1.1.11. Duties

1.1.11.1. Public officers are required to discharge the usual duties of the office to which they are appointed and any other duties which they may be called upon to perform. Departments are to ensure that the duties carried out by public officers are those appropriate to their grade/position. In general, officers are not to be allotted the duties of another grade except when it may be necessary to do so for short periods of time. Where a difficulty is encountered in deciding to which grade a particular block of work is to be allocated, the matter is to be taken up with the Resourcing Department at the Management and Personnel Office.

1.1.11.2. The duties of non-industrial grades are defined in departmental instructions as well as the Collective Agreements and, in the case of certain grades, in various legal enactments. The definition of duties of the General Service Grades and of the industrial staff falling within the Classification of Grades can be found in the relevant Reform Agreements or the Manual on Job Descriptions held at the HR Systems and Data Management Directorate at the Management and Personnel Office.

1.1.12. Probation, Confirmation of Appointment and Extension/Termination of Probationary Appointment

A. Probation

1.1.12.1. Officers who are appointed to a post within a substantive grade in the Public Service are invariably to be subject to a period of probation performing the duties pertaining to the substantive grade.

1.1.12.2. A period of probation is meant to provide an opportunity for establishing whether, on an assessment of work performance during such a period, an appointee is fit to be confirmed in his/her appointment. Senior officers must drive home the significance of probationary periods by pointing out that, if the ability and efficiency displayed in the performance of duties fall short of the required standard, probationary periods may be terminated. Consequently, extensions of the

probationary period may only be resorted to in exceptional / genuine cases, such as due to periods of prolonged sick leave and use of family-friendly measures.

1.1.12.3. When assessing an appointee's performance, Heads of Department are to bear in mind that, unless otherwise specified (normally in the relevant call for applications), a probationary period is to last twelve (12) months and is to be considered as having commenced on the Prime Minister's approval of the new appointment or the date upon which new duties were actually assumed by the appointee, whichever is the later.

B. Confirmation of Appointment*

1.1.12.4. Recommendations for the confirmation of appointments should be submitted for the approval of the relevant Head of Department. Once an appointment is confirmed, the Manager, Human Resources of the respective Ministry as well as the Auditor General and the Director General (Treasury) are to be informed accordingly (as per specimen form which is available for download at the website of the Resourcing Department at the address <http://mpo.gov.mt/downloads.html>).

C. Extension/Termination of Probationary Appointment†

1.1.12.5. Officers availing themselves of special unpaid leave and/or work on reduced hours during the probationary period would be required to:

- a) compensate for any **special unpaid leave** by working under probation the corresponding number of days utilised as unpaid leave – hence, when officers on probation are authorised by the Head of Department to avail themselves of special unpaid leave during the probationary period, the probationary period is automatically extended by the corresponding number of days utilised as unpaid leave;

and/or

- b) compensate for **work on reduced hours** by working under probation the corresponding number of days in proportion to their working schedule – hence, officers on probation will have their probationary period extended in the case they are allowed to work on reduced hours during the probationary period, provided that the probationary period is extended by the corresponding number of days to compensate, in proportion, for the officers' reduced working schedule.

1.1.12.6. In all other cases, officers will be confirmed in their post when they actually perform the duties pertaining to their substantive appointment for a period equivalent (in aggregate) to the duration of the probationary period.

1.1.12.7. When a Head of Department considers that, for reasons of unsatisfactory performance, the probationary appointment should be extended or terminated, the following procedure is to be followed:

- the Head of Department is to inform the officer concerned of the intention to extend/terminate the probationary period and the reasons therefor;

* MPO Circular No 18/1998 dated 7 May 1998

† OPM Circular No 8/2009 dated 2 July 2009

- the Head of Department is to also inform the officer concerned that he/she is entitled to make representations to the respective Permanent Secretary, within a period to be determined by the Head of Department, on the proposed action to be taken;
- in cases where no representations are made by the officer concerned within the stipulated time limit, the Head of Department is to extend/terminate the probationary period, as the case may be, without the need to refer the case to the Public Service Commission;
- in cases where such representations are made by the officer concerned within the stipulated time limit, the final decision regarding extension or termination of the probationary period due to unsatisfactory performance shall be taken by the respective Permanent Secretary, again without the need to refer the case to the Public Service Commission, after taking into consideration the officer's representations and a report on the officer concerned by the Head of Department;
- the officer concerned shall be entitled to appeal to the Public Service Commission from the decision taken by the respective Permanent Secretary to extend or terminate the probationary period for reasons of unsatisfactory performance.

1.1.12.8. The Public Service Commission and the Resourcing Department of the Management and Personnel Office within the Office of the Prime Minister are to be informed by the respective Head of Department, on a case-by-case basis and with the applicable details, of such instances where the probationary period is extended or terminated for the reasons mentioned in paragraphs 1.1.12.5 – 1.1.12.7. The Auditor General and the Director General (Treasury) are also to be informed accordingly.

1.1.12.9. The probationary period may only be exceptionally extended by a second term if there is sufficient reason to believe that the officer will upgrade his/her performance if given an extra probationary term.

1.1.13. Appointment of Public Officers on Maternity and Parental Leave*

1.1.13.1. Officers who qualify for appointment during Maternity and Parental Leave will be granted their due appointment even if they are unable to resume duties within the validity period of the appointment. Such postponement of appointment is granted subject that the officer resumes duties by not later than the expiry of the authorised leave. The conditions at (a) and (b) in the last paragraph of section 1.1.15 entitled "Requests for Postponement of an Appointment" below also apply.

1.1.13.2. These Officers will, of course, be liable to perform their period of probation service when they resume duties and will only be confirmed in their appointment on satisfactory completion of the period of probation.

1.1.13.3. Where it is absolutely necessary that the vacancy be filled, the post will be occupied by a temporary appointee (see section 1.1.14).

* MPO Circular No 47/2001 dated 6 June 2001

1.1.14. Temporary appointments on a back-to-back basis other than casual substitutes

1.1.14.1. Appointments on a back-to-back temporary basis within the Public Service are considered in cases of an officer's long absence for various reasons, e.g. detailing/secondment with a public entity or long leave. Another officer in the same grade is, out of necessity, appointed back-to-back with him/her for the period of absence.

1.1.14.2. A back-to-back temporary appointee will not be entitled to permanency in the relevant substantive grade and his/her temporary appointment will be *ipso facto* terminated upon the return of the officer with whom he/she is paired.

1.1.14.3. The method of selection can be either through a call for applications issued purposely to temporarily fill the vacancy or through the appointment of the next successful candidate from an existing and valid order of merit following a call for applications not necessarily issued to appoint in the relevant grade on a back-to-back basis.

1.1.14.4. Back-to-back appointments are not made by default and recommendations for such are only submitted and verified to the PSC by the Management and Personnel Office if the exigencies of the Service dictate that the void needs to be filled. A back-to-back appointment needs the Prime Minister's approval following the recommendation of the PSC.

1.1.14.5. Service in the grade while on a back-to-back appointment will be reckonable for the purpose of promotion/progression.

1.1.15. Requests for postponement of an appointment *

1.1.15.1. Requests for postponement of appointments are to be made in due time and certainly before the person commences duties.

1.1.15.2. If successful candidates qualify for appointment but for a valid reason (e.g. contractual obligation to give a period of notice to the current employer or completion of course of studies) request postponement of appointment to the post for which they were selected, they may be allowed a delay in appointment up to a maximum period of two (2) months.

1.1.15.3. In cases of postponement of up to a maximum of two months for a valid reason, the date of appointment will be the date of approval by the Prime Minister and the period of delay until the candidate takes up duties will be considered as leave without pay.

1.1.15.4. Postponement of appointment in excess of two (2) months, but within the validity period of the selection board result, for justifiable reasons may be considered and may be approved provided a positive recommendation by the Public Service Commission is made.

1.1.15.5. In cases of requests for a definite postponement of an appointment, the appointment shall be effective from the date approved by the Prime Minister, when the candidate takes up duties with due loss of seniority.

* OPM Circular No 70/1996 dated 10 September 1996

1.1.15.6. In cases of requests for an indefinite postponement of an appointment, candidates will, following the approval of the Prime Minister, be put at the end of the waiting list of successful candidates and their eligibility will remain valid up to the validity period of the examination or Selection Board's Results or until a new Pass List is published, whichever is the earlier. In this case, whenever candidates decide to take up the appointment within the validity period, the approval of the Prime Minister is necessary. The effective date of the appointment will be that when the Prime Minister approves a specific recommendation to this effect by the Public Service Commission.

1.1.15.7. Postponement of appointments beyond the validity period of a Selection Board result may be granted in the case of unpaid study leave or in cases of exceptional circumstances as determined by the Public Service Commission, provided that*:-

- (a) the appointment will not prejudice the chances for appointment of other contestants for the post and the studies are of a benefit to the Service; and
- (b) the effective date of appointment and resultant seniority will be the date when the candidate takes up the duties of the new appointment.

1.1.16. Candidates who Abandon Appointment and Reversion to Former Grade

1.1.16.1. Candidates who accept appointment but then change their mind shall be considered as having resigned and they may not be offered another appointment in terms of the same call for applications.

1.1.16.2. Candidates who resign the appointment during the probationary period and who previously held another substantive grade will revert to their former grade and be placed in their previous seniority order. The Head of Department is to take the necessary steps, in consultation with the Resourcing Department of the Management and Personnel Office, to revert the officer concerned to his/her former grade and for the officer to be assigned according to the exigencies of the Service.†

1.1.16.3. Reversion of Public Officers to their former substantive grade after expiry of the probationary period can be contemplated only for medical reasons and subject to the findings of a Medical Board appointed by the Health Authorities. The Public Officer concerned has to be certified unfit to carry out the duties of the new substantive grade, but deemed fit to perform the duties of the previous substantive grade, by an official medical board appointed by the Health Division. Such reversion for humanitarian reasons may also be considered. This policy is to be applied solely in exceptional instances and where both the individual and the Service are deemed to be negatively affected by the officer's medical condition.

1.1.16.4. In cases of reversion of Public Officers to their former substantive grade after expiry of the probationary period, the Permanent Secretary is to submit a request to the Public Service Commission, copying the Principal Permanent Secretary, for the reversion of the officer to his/her previous grade. If medical grounds are being claimed, the request should include a report by the Medical Board appointed by the Health Division certifying that the Public Officer in question is not fit

* OPM Circular No 20/1999 dated 14 April 1999

† MPO Circular No 88/2008 dated 22 October 2008

to perform the duties of his/her new grade but can perform the duties of the previous grade. If it concurs, the Public Service Commission submits a recommendation to the Prime Minister.

1.1.17. Petitions Relating to Appointments and Promotions

1.1.17.1. The following is the procedure which should be observed when dealing with petitions relating to appointments or promotions in the Public Service*. This procedure is applicable both to petitions submitted by serving public officers as well as petitions by applicants from outside the Service:-

- (a) Petitions objecting to the result in terms of this section are to be submitted to the Secretary, Public Service Commission, the Palace, Valletta, copying to the Head of the Department wherein the vacancy to be filled lies;
- (b) Immediately the Head of Department receives the copy of the petition, he/she is to forward it to the Chairman of the relative Selection Board;
- (c) The Head of Department is to instruct the Board to submit within the shortest time possible to the Public Service Commission and copying to the Head of Department its comments on the points raised in the petition;
- (d) The Head of Department is to ensure that the Selection Board deals expeditiously with the petition and with any follow-up correspondence there may be with the Public Service Commission, and is expected to intervene, also in writing, in cases of undue delay.

1.1.17.2. A serious view, including the possible imposition of disciplinary sanctions, will be taken in cases of undue delay by the Selection Board or by the Head of Department in complying with the above.

1.1.17.3. If a request for an interview with the Commission is made under 1.1.17.1. (a), the grounds for the request should be stated for the consideration of the Commission.

1.1.17.4. As a general rule, the Public Service Commission examines any petitions referred to it with the following in mind:

- (a) Whether the candidate has been overlooked or whether his/her claims have been inadequately considered because of some error or omission of fact.
- (b) Whether the recommendation of the Selection Board has been influenced by any consideration other than those laid down in the Public Service Commission Regulations, 1960, which had not previously come to the notice of the Commission or, (in cases of appointments by delegated authority,) of the delegated authority.
- (c) Whether there has been any other irregularity in procedure which vitiates the recommendation.

1.1.17.5. Petitions objecting to a selection board result in terms of this section should reach the Commission and the Head of Department within ten (10) working

* MPO Circular No 30/2009 dated 11 March 2009

days from the date of publication of the notice of the issue of the result in the Government Gazette or, in cases of posts/positions in scale 5 or above, from the date of result.*

1.1.18. Expressions of Interest

1.1.18.1. The practice of seeking expressions of interest from amongst public officers, to perform particular duties for a given duration, aims at facilitating job mobility and enhancing the learning experience of the individual whilst addressing the exigencies of the Public Service.

1.1.18.2. Expressions of interest are sought through the issue of service-wide circulars (a specimen is available for download at the website of the Resourcing Department at the address <http://mpo.gov.mt/downloads.html>).

1.1.18.3. Selected candidates normally continue to receive the salary of their substantive grade for the period during which they are assigned the particular duties, and resume the duties of their substantive grade once their deployment on such duties ceases.

1.1.18.4. For the period during which they are assigned such duties, selected candidates are accountable to the Head of Department, or his/her representative, where they are assigned.

1.1.18.5. The period of assignment is reckonable as 'service in the grade' for the purpose of computation of length of service, seniority, salary, progression and, where applicable, for treasury pension purposes. The performance of such duties is also acknowledged in the Record of Service (GP47).

1.1.18.6. Eligible applicants are assessed on their suitability for those duties in which they expressed an interest and selected candidates are then deployed according to both the outcome of such assessment and Public Service exigencies.

1.1.18.7. Selected Officers are required to sign an undertaking signifying their commitment to the assignment for which they are selected.

1.1.19. Retirement

1.1.19.1. Public Officers may retire from the public service on attaining the age of sixty (60) years. They are, however, given the option to retain their employment up to the age of sixty-one (61), which is the maximum retirement age of Public Officers.

1.1.19.2. Public Officers should inform their head of department at least three months prior to their reaching the age of sixty (60) whether they wish to retire at sixty (60) or whether they wish to retain their employment up to the age of sixty-one (61). In the case of General Service Staff, information as to the officer's option should be transmitted to the Resourcing Department at the Management and Personnel Office.

* MPO Circular No 26/2004 dated 15 March 2004
MPO Circular No 2/2005 dated 6 January 2005

1.1.19.3. Public Officers may have their service with Government extended beyond retirement age in those cases where this is absolutely required by the exigencies of the Service. Cases of extension of service are considered on an ad hoc basis following a request by the respective Permanent Secretary to the Principal Permanent Secretary and require Prime Ministerial approval.

1.1.19.4. Moreover, retired public officers / retired persons not having previously been public officers may be re-engaged / engaged with the Public Service in areas of acute shortage of staff as determined by the Principal Permanent Secretary. Re-engagement / engagement of retired public officers / persons in those areas determined by the Principal Permanent Secretary is carried out by the Permanent Secretary of the line Ministry after issuing the respective calls for applications. Such re-engagement / engagement is carried out in terms of the Instrument of Delegation issued in terms of article 110 of the Constitution approved by the Prime Minister on 4/4/2009.

1.2. ADVERTISEMENT OF VACANCIES IN THE PUBLIC SERVICE

1.2.1. The Call for Applications

1.2.1.1. A call for applications should specify the following basic details:-

- i) Where applicable, advertisements are to carry reference to gender-inclusiveness immediately after the title of the call, as follows:

“In accordance with clause 3.1 of the current Collective Agreement, nomenclatures denoting the male gender include also the female gender”;

- ii) under whose authority the call is being issued – normally under authority of the Public Service Commission or the Director (Examinations);
- iii) the salary, progression/promotion (if applicable) and any other benefits (if applicable) attached to the post (or, where applicable, position);
- iv) the probationary period and whether the appointment is on a full-time or part-time basis; in the case of a call for applications for the filling of a fixed-term contractual assignment, the length of the assignment and any applicable objective reason in terms of Regulation 7 of Legal Notice 51/2007 must be stated;
- v) the duties;
- vi) the eligibility requirements;
- vii) special arrangements for persons with a disability;
- viii) the method of selection (interview/practical test/written exam);
- ix) publication of result and time limit for petitioning against the result;
- x) documents required to support qualifications/experience;
- xi) health requirements, where applicable;

- xii) method of application;
- xiii) receiving authority and closing time and date for receipt of applications;
- xiv) acknowledgement of applications.

Further details are available below. Moreover, specimen calls for applications are available for download at the website of the Resourcing Department at the address <http://mpo.gov.mt/downloads.html>.

1.2.2. Basic eligibility requirements

1.2.2.1. Internal calls for applications (e.g. MPO Circulars, Ministry or Departmental Circulars) are open to all public officers irrespective of whether these are employed on an indefinite contract or a fixed-term contract, as long as applicants satisfy the eligibility criteria stipulated in the respective call for applications.

1.2.2.2. In the case of internal calls for applications for the filling of vacancies in a substantive grade, Public Officers who already hold an appointment in the substantive grade as that being advertised are not eligible to apply. However, in the case of recruitment to the substantive grades of Tradesman and Technician, Public Officers in these same grades may apply for lateral posts provided that the applications are for a grade or area of specialisation which is different to that of the applicants and provided also that the applicants satisfy the necessary eligibility parameters*.

1.2.2.3. Candidates for admission into the Malta Public Service must be[†]:

- (a) citizens of Malta; or
- (b) citizens of another European Union member state; or
- (c) citizens of other countries to which the EU provisions on free movement of persons apply (In case of difficulty the Ministry of Foreign Affairs is to be consulted regarding the countries to which EU provisions apply); or
- (d) the spouse and children, even if they are third country nationals, of any person mentioned at (a), (b) and (c) above, provided they are eligible to work in Malta under current legislation. This should be determined with the advice of the Director, Citizenship and Expatriate Affairs, Ministry of Foreign Affairs.

The appointment of candidates referred to at (b), (c) and (d) above would necessitate the issue of an employment licence in so far as this is required by the Immigration Act and subsidiary legislation.

1.2.2.4. Posts/positions which involve direct or indirect participation in the exercise of public authority and the responsibility for safeguarding the general interest of the State may only be filled by Maltese citizens. Permanent Secretaries must indicate, when they submit calls for applications for vetting, whether the call is to be limited or not to Maltese citizens for this reason.

* MPO Circular No 96/2000 dated 19 September 2000

† MPO Circular No 19/2005 dated 6 May 2005

MPO Circular No 68/2005 dated 30 August 2005

1.2.2.5. Calls for applications are to clearly indicate:

- what, if any, academic or other professional qualifications or experience are required;
- that applicants have to be conversant in both official languages, namely Maltese and English, unless exceptional circumstances warrant that either of the official languages is waived to the satisfaction of MPO; and
- any age, special skill or other specific requirement as the case may be.

1.2.2.6. In the case of calls for applications for the filling of vacancies in substantive grades, the eligibility requirements and Salary Scales for a particular post are determined by the applicable Classification Agreement.

1.2.2.7. Some Classification Agreements/Documents contemplate fixed-term contractual positions which generally stipulate the relevant eligibility requirements. However, the creation of ad hoc fixed-term contractual positions may occasionally be necessary. Ad hoc positions should only be resorted to in exceptional cases, and as a general rule the grades and positions created by the Classification Agreements should be utilised. In calls for applications for the filling of such ad hoc fixed-term contractual positions issued according to the exigencies of the Service, eligibility requirements are dependant upon the particular position as well as the remuneration Scale to which the particular position is pegged. Eligibility benchmarks adopted in the norm are available for download at the website of the Resourcing Department at the address <http://mpo.gov.mt/downloads.html> . These benchmarks are aimed at maintaining standards and consistency across the Public Service. Moreover, ad hoc eligibility requisites may be set for positions where skills shortages exist in the labour market or where the nature of the duties necessitates the possession of particular capabilities. Public calls for fixed-term contractual positions extending eligibility also to Public Officers on the basis of their experience (i.e. officers not below a certain Scale with a number of years of relevant work experience) are considered only in exceptional circumstances and on a case-by-case basis.

1.2.2.8. In specific cases where it is found impossible to recruit required personnel within the standard pay packages normally payable by Government for a particular position, and this due to the fact that the level of remuneration offered is considered too low in comparison to what is normally payable for comparable positions in the private sector, a 'market correctivity allowance' may be granted in addition to the basic remuneration. The payment of such an allowance requires the concurrence of the Principal Permanent Secretary and the Permanent Secretary of the Ministry responsible for Finance.

1.2.2.9. Moreover, contractual non category A positions pegged to Salary Scale 7 or above may attract a performance bonus of a maximum of 10% of the basic salary. The award of a performance bonus is only resorted to exceptionally and is granted only in cases where the output can be readily measured against pre-determined targets. These targets are usually pre-determined between the respective Permanent Secretary and the selected candidate. The award of a bonus tied to performance will need to be advertised in the call for applications and will form part of the contract of employment. The creation and award of a performance bonus is recommended by the respective Permanent Secretary and approved by the Principal Permanent Secretary prior to submission of relevant verification to the Public Service Commission for the issue of the call for applications.

1.2.2.10. Issues as to whether an applicant is in possession of the qualifications required should be determined by the respective Selection Board and matters

relating to professional or occupational qualifications or experience are to be addressed in terms of applicable legislation, including the Mutual Recognition of Qualifications Act, Chapter 451 including any Regulations promulgated thereunder.

1.2.3. Special Arrangements for Persons with Disability*

1.2.3.1. Registered persons with a disability who do not satisfy all the eligibility requirements in calls for applications but who are capable of carrying out in essence the duties attached to a particular post/position are allowed to ask for special consideration when applying for posts/positions in the Public Service.

1.2.3.2. The following procedure is to be followed:-

- The disabled person has to submit the application to the department concerned attaching proof that he/she is registered as a disabled person with the National Commission for Persons with Disability (KNPD) and giving reasons why he/she does not satisfy all the eligibility requirements and why he/she should be given reasonable consideration. The application, together with attachments, is to be copied to KNPD;
- KNPD will then make a report with its views and recommendations to the Department concerned within 5 working days from the closing date of the call for applications;
- The Head of Department will refer to the Public Service Commission, copying to the Management and Personnel Office, the KNPD report together with his/her comments and specific recommendations within 10 days from the closing date of the call for applications;
- MPO will forthwith inform PSC of its views on the particular request;
- The Commission will decide on the basis of the submissions made by the Department and by MPO and forward its decision to the Head of Department for onward transmission to the Selection Board copying to MPO.

1.2.3.3. Calls for applications are to stipulate these arrangements for such reasonable accommodation in terms of Section 7, Equal Opportunities (Persons with Disability) Act, 2000.

1.2.4. University Degree as an Eligibility Requirement

1.2.4.1. The possession of a degree as an eligibility requirement should read as follows:

English Version: be in possession of a recognised Degree in, *or have been approved by the University for the award of that Degree*

Maltese Version: ikollhom grad Universitarju rikonoxxut *jew li għandhom l-approvazzjoni ta' l-Universita' li kkwalfikaw għal dan il-grad.*

* MPO Circular No 6/2004 dated 29 January 2004

1.2.4.2. In the case of those candidates who have not yet been formally awarded a Degree, these would be expected to produce satisfactory evidence from the University concerned that they have, in fact, been approved by the University for the award of a Degree.

1.2.4.3. In the case of those calls for applications where, in addition to the possession of a degree, the possession of a warrant is also a requirement, the clauses in italics in the English and Maltese versions above would not apply.

1.2.4.4. Any Qualifications awarded by Maltese or foreign educational institutions (excluding qualifications awarded by the **University of Malta, Malta College of Arts, Science and Technology, Institute of Tourism Studies and Institute for Conservation and Management of Cultural Heritage**) and presented with applications for calls are to be accompanied with a recognition statement on comparability of the respective qualifications. Such recognition is issued by the Malta Qualifications Recognition Information Centre (MQRIC) within the Ministry for Education, Culture, Youth and Sport or the designated authority, as applicable.*

1.2.4.5. It is the responsibility of applicants to produce the required comparability statements from MQRIC as detailed above. The statement is to be attached to the application, whilst the original is to be presented at the interview.

1.2.4.6. Candidates who are not in possession of such statement by the closing time and date of the call for applications may still apply, provided that they submit a copy of the statement to the Ministry/Department receiving the applications as soon as available, and **in any case** by not later than one month from the closing date of the call for applications.

1.2.4.7. Applicants who fail to present the required statement within the one-month period for reasons beyond their control, may request an extension of this time-limit, up to a further one month, to the Head of the Department receiving the applications, indicating clearly the reasons for the delay. Extensions beyond this period are only considered by the Public Service Commission.

1.2.5. Training requirements

1.2.5.1. There may be instances where a selected candidate is required to follow specialised training abroad leading to a particular qualification prior to his/her being appointed or confirmed in his/her appointment as a result of the call for applications. In such cases, the call for applications is to specify such a condition as shown hereunder:

“The selected applicant must proceed abroad to follow a _____-year course of training leading to the _____. The selected applicant will only be appointed as _____ on his/her obtaining the _____ and on taking up the duties relevant to the post. ”

or

“The selected applicant must proceed abroad to follow a _____-year course of training leading to the _____. The selected applicant will only be

* MPO Circular No 35/2009 dated 24 March 2009

confirmed in his/her appointment as _____ on his/her obtaining the _____ and on completion of one (1) year satisfactory service in the grade of _____. Otherwise the appointment of _____ will be terminated.”

and

“Candidates proceeding abroad to follow courses will be bound by the relevant conditions applicable to the Malta Public Service.”

1.2.6. Conduct Requirements*

1.2.6.1. To be considered for appointment in the Public Service, applicants must be of good moral character. All persons applying for employment, or seeking to sit for public examinations, or submitted for employment by the Employment and Training Corporation, are required to produce with the application a Conduct Certificate issued by the Police or other competent authority not earlier than six months from the date of application even in those cases where employment is to be on part-time or contractual basis. In the case of serving public officers, however, a Conduct Certificate is not insisted upon.

1.2.6.2. The employment of persons convicted of an offence is to be decided on the basis of the following principles. Conviction of an offence is not an automatic disqualification for employment in Government service. A department may employ an applicant convicted of an offence, who is otherwise suitable, provided that it is reasonable to do so, taking into account the seriousness of the offence (particularly in relation to the job for which the person is an applicant), the person's age at the time of the offence, the time that has elapsed since the offence was committed and the person's record during that time. A department is not, however, to employ such a person in any job which affords any opportunity of repeating the offence until it is satisfied that the person is reliable.

1.2.7. Health requirements

1.2.7.1. Every person selected for recruitment, including recruitment to industrial posts, is required to present himself/herself for a medical examination to an approved medical practitioner with a view to being ascertained whether he/she is fit for the post /position applied for.

1.2.7.2. To be eligible for certain posts/positions, applicants may be required to satisfy particular physical criteria.

1.2.8. Age limits

1.2.8.1. There are normally no fixed minimum and maximum age limits for posts/positions in the Public Service.

* MPO Circular No 19/2005 dated 6 May 2005

1.2.9. The inclusion of private work or not

1.2.9.1. A condition of appointment to certain whole-time posts is that appointees are either not allowed or allowed to undertake private work in the profession of the post/position. Where applicable, therefore the condition that the private work is or is not allowed should be clearly stated in calls for application.

1.2.10. Standard Application Forms*

1.2.10.1. A Standard Application Form is available to standardise selection procedures in the Public Service. This form is applicable for all recruitment exercises, both for internal calls for applications and for public calls.

1.2.10.2. The form is accessible in electronic format and may be downloaded from the Department of Information website at the address http://www.doi.gov.mt/EN/employment_opp/default.asp and from the Management and Personnel Office website at the address <http://mpo.gov.mt/downloads.html>.

1.2.10.3. Heads of department should enjoin prospective applicants applying for posts/positions within the public service to utilise the Standard Application form. The sites from where the Application Form may be downloaded are to be invariably indicated in all issued calls for applications.

1.2.11. Recruitment Portal

1.2.11.1. A Malta Public Service Online Recruitment Portal is also available at the address <http://recruitment.gov.mt>. The portal offers prospective applicants the possibility of viewing the current vacancies, as well as creating and storing a personal profile and submitting on-line applications for posts/positions in the Public Service from the comfort of their home and even after office hours.

1.2.11.2. Unless otherwise stipulated in the relevant call for applications, application through the portal is optional as applicants can also apply through the other methods indicated in calls for applications (ie. by post or by hand). However, applying via the online recruitment portal **is mandatory** in the case of calls for applications for Headship and Assistant Director positions.

1.2.12. Notifications of calls for application†

1.2.12.1. Calls for applications must be displayed in a prominent place (e.g. departmental notice board) at the Head Office and in the Branches or District Offices, as appropriate and brought to the personal attention of all employees concerned as early as possible and in good time before the closing date for the submission of applications. Directors are to ensure that any reproduction or reprinting of such circulars be made on yellow paper. It is imperative that calls for applications be given adequate coverage and that they be brought to the notice of officers who are abroad when such officers are:

* MPO Circular No 54/2003 dated 23 April 2003

† OPM Circular No 36/2003 dated 1 August 2003

OPM Circular No 42/2003 dated 16 October 2003

- on Government sponsored scholarships;
- studying abroad with Government approval and are being paid their full salary;
- abroad on Government duty; and,
- on paid or unpaid leave.

1.2.12.2. Heads of department should be so bound in those cases where they would have been obliged to bring the call for applications to the notice of such officers had they been on duty in Malta, and provided that the officers abroad have left their forwarding address with the Head of Department.

1.2.13. Vacancies with the EU Institutions, Bodies and Agencies*

1.2.13.1. EU Institutions, Bodies and Agencies employ staff, both on definite and indefinite contracts. It is in Malta's interest to have as many Maltese citizens as possible working in EU Institutions, Bodies and Agencies in order to enhance Malta's role within the EU Institutions.

1.2.13.2. In order to ensure that as many Maltese citizens as possible are aware of such employment opportunities, all vacant posts are advertised through direct links to the relevant website addresses of these Institutions on the DOI website. Both the INTRA Portal (under the heading 'Job Opportunities') and MPO's website regarding recruitment of staff with the EU are directly connected to the DOI website. These advertisements are found under the heading 'Employment Opportunities' on the DOI front portal at <http://www.doi.gov.mt> .

1.3. PROMOTION AND PROGRESSION IN THE PUBLIC SERVICE

1.3.1. Definition

1.3.1.1. A promotion is defined as an appointment to an office of higher status or emoluments, present or maximum. Promotions are regulated in accordance with Classification Agreements and are given to qualified officers serving in the Public Service either after a number of years Service or through a selection process, and, in the latter case, account is taken of qualifications, experience and merit, before seniority in the service.

1.3.1.2. Progression involves the advancement of an officer from one salary scale to a higher scale within the same grade after a number of years of satisfactory service. Progressions are also regulated by the relevant Classification Agreements.

1.3.2. Performance Rating Reports

1.3.2.1. A system of performance rating reports in respect of public officers - excluding officers in the General Service Grades but including officers in the messengerial class – is maintained so that the attributes of officers who are considered for promotion may be systematically recorded, readily available, and

* MPO Circular No 22/2004 dated 3 March 2004
MPO Circular No 89/2005 dated 18 October 2005
MPO Circular No 150/2006 dated 23 October 2006

estimated in accordance with a common standard. Reports are submitted annually on General Form GP 57 as specified below.

1.3.2.2. Performance rating reports are drawn up by reporting officers, who must normally be at least two grades, but never less than one grade above the officer being reported on. The Head of Department or, where this is not possible, an officer not below Assistant Director or analogous grade, will endorse the report and state his/her remarks.

1.3.2.3. The preparation of reliable reports on staff is an important duty and the opinion expressed by reporting officers is to represent the result of careful consideration so that if called upon, they may readily justify their views. The remarks of the endorsing officers are not meant to be merely a formal endorsement of the certifying officers' assessment but are to represent a considered estimate based either on independent knowledge or substantial evidence.

1.3.2.4. Reports are to be rendered without reference to previous reports and reporting officers are not to pass to any officer the notes on, or copies of, reports which they may have made.

1.3.2.5. Reporting officers should invariably discuss the ratings with the officer concerned who will be entitled to state whether he/she agrees or disagrees with the ratings and, if he/she disagrees, to give supporting reasons. In cases where it is more convenient for the employee reported upon to enter his/her remarks before the report is endorsed by the endorsing officer, he/she should invariably be afforded the opportunity to see, and enter his/her remarks on any alterations made to the report by the endorsing officer.

1.3.2.6. Whenever an officer is rated below "Qualified" as regards fitness for promotion he/she will, in cases of disagreement, be allowed full facilities for redress in the form of a petition to a Reviewing Panel whose decision is final.

1.3.2.7. The Reviewing Panel referred to above will be composed of three persons representing respectively the Management and Personnel Office, the Union or Staff Association to which the officer belongs and the Department concerned. The officer representing the department should have had no connection with the drawing up of the report under review. The Reviewing Panel will be under the chairmanship of the officer representing the Management and Personnel Office.

1.3.2.8. In order to spread as evenly as possible the work connected with the preparation of the performance rating reports and with the notification of petitions, the following time-table should be adopted:

Grade	Date of submission of reports	Date of notification of petitions
Officers in the Messengerial Class	1 May	16 May
Grades in Salary Scales 16 and 15 excluding General Service and Industrial employees		
Grades in a Salary Scale below Scale 16, excluding General Service and Industrial employees in Groups I and II	1 August	16 August

Industrial employees in Groups I and II	1 November	16 November
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1.3.2.9. Performance rating reports should be retained in the various departments and they should be kept under lock and key by a responsible officer, normally the officer in charge of the personnel section.

1.3.2.10. A list of officers who have been rated below “Qualified” as regards fitness for promotion and who have requested that their case should be considered by the Reviewing Panel should be forwarded to the Resourcing Department at the Management and Personnel Office by the date indicated above.

1.3.2.11. Besides the name and grade of each officer, the list should give an indication of the Union/Staff Association to which officer belongs, the name and grade of the representative of the department and the name of the Union/Staff Association representative who will sit on the Reviewing Panel. Information regarding the credentials of this representative should be sought by the department concerned from the appropriate Union/Staff Association.

1.3.3. Performance Management Programmes

1.3.3.1. The Performance Management Programme (PMP) is a performance evaluation system in which the performance of employees is assessed against approved output and quality standards. It aims at better and closer working relationships between supervisors and their employees. It will help employees provide better public service through the organisation of work and delegation of responsibility using a system requiring the planning and assessing of work by supervisors and each respective subordinate.

1.3.3.2. Officers in the following grades shall invariably compile PMP reports:

- Public officers in the General Service Class who are not on a performance agreement.
- Public officers in Departmental Grades from Salary Scale 10 upwards.

1.3.3.3. The PMP process, the development and validation of work-plans, the development of training plans, the duties of employees and supervisors throughout the PMP process and the redress system are set out in the Performance Management Manual accessible through the MPO website (<http://mpo.gov.mt/pmpdownloads.html>).

1.3.3.4. A current PMP should always remain with an immediate supervisor until the cycle has ended. An employee may have a copy of a current PMP any time it is amended or updated. Once completed, PMP Forms are inserted in the employee’s official personal file at the Human Resources/Personnel Branch, which is the proper repository to store all completed PMP documents and personnel files.

1.3.3.5. PMP Forms are to be retained for a period of ten years. (Refer to retention policy on Intranet under Data Protection/Policy Guidelines/Retention Policy for HR Documents). Public officers in eligible grades on a Performance Contract are not required to compile PMP reports.

1.3.3.6 For Public officers serving within Public Entities/Authorities (deployed/detailed/attached/ assigned), if PMP forms are not available, an ad hoc performance report yearly from the Head of the Entity/Authority is required for PMP purposes.

1.3.3.7 Following the regular reviews set out in the PMP document at the completion of each annual cycle, the PMP Form is to be endorsed by the employee and the immediate supervisor. The PMP document is finally approved by the Next Level Supervisor's endorsement.

1.3.4. Appointment to Headship Positions

1.3.4.1. It is the responsibility of the Senior Appointments Advisory Committee, with assistance from individual Permanent Secretaries and the Centre for Policy Research and Training (CPRT), to identify suitable public officers who could be recommended to fill vacant Headship Positions in Grade 3 (Salary Scale 3) or in Grade 4 (Salary Scale 4). The appointments are made on the basis of a Performance Agreement for a period of three years. The Agreement will include a performance bonus that will be subject to a performance review procedure, as well as other perquisites pertaining to an appointment to a headship position.

1.3.4.2. On completion of six (6) years of creditable service in a headship position which is higher than his/her substantive grade, the officer shall be entitled to an appointment to a substantive grade in the same salary scale as the position. If, instead, the officer completes six (6) years of creditable service in headship positions of different levels all of which are higher than his/her substantive grade, the officer shall be entitled to an appointment to a substantive grade in the same salary scale as the lowest of those positions. However, when the first such appointment falls due, the officer shall be given the option of retaining his/her current grade if he/she is in a non-General Service career stream. If the officer opts to retain his/her grade, the other provisions of this sub-paragraph shall not apply.

1.3.4.3. An officer entitled to a pension under the Pensions Ordinance shall, subject to creditable performance, be entitled to a pension based on the higher of:

- (a) the salary attached to the position held under a Performance Agreement by that officer on retirement, provided that the officer has served for a period of one (1) year in that position immediately before retirement; or
- (b) the salary which, on the date of his/her retirement, is attached to any position higher than the substantive grade which the officer previously held for at least three years under a Performance Agreement.

In cases where (a) and (b) are inapplicable, pension will be based on the salary attached to the substantive grade of the officer on retirement.

1.3.4.4. In evaluating the suitability and merit of candidates for specific positions, due weight is given not only to the actual managerial competence and commitment of the officers concerned in attending to their current duties but also to their anticipated performance on higher responsibilities.

1.3.4.5. Whenever vacancies are available, interested public officers, including, where appropriate, current incumbents who consider themselves suitable

for any of these positions are invited to apply through the Recruitment Portal only (<https://recruitment.gov.mt>).

1.3.4.6. Applications are to include a *curriculum vitae* together with an updated Service and Leave Record Sheet. Officers who currently occupy a headship position should submit, instead of a *curriculum vitae*, a concise Achievements Report of not more than two pages about the changes they introduced during their tenure in the headship position to improve the performance and image of their department. The Achievements Report is to be endorsed by the applicant's direct supervisor, who must confirm whether the report is factual or not, and also include a written assessment.

1.3.4.7. Interested officers are expected to apply only for those positions in respect of which they consider themselves to have the necessary experience and expertise. Usually, unless otherwise specified, an officer should not apply for more than three positions. Officers shall be considered for positions for which they apply and due account is taken of the preferences shown. A copy of the Position Description in respect of each of the vacant positions is to be obtained from the Office of the respective Permanent Secretary.

1.3.5. Assistant Directors Appointed Prior to the 20th June 2008

1.3.5.1. Appointments of Assistant Directors in scale 5 are made on the basis of a five-year Performance Agreement. The Agreement includes a Performance Bonus and this entitlement will be subject to a performance review procedure.

1.3.5.2. Officers selected for appointment as Assistant Director and who hold a substantive appointment in the general service grades, are concurrently appointed to the substantive grade of Officer in Grade 5. Officers in the departmental or professional grades, upon appointment to an Assistant Director position, are offered the option to accept appointment as Officers in Grade 5 or retain their current substantive grade (and related substantive salary scale).

1.3.5.3. Officers appointed to a position of Assistant Director on a Performance Agreement may, subject to creditable performance, be reappointed to the same position or appointed to another position for successive periods. Unless so appointed, they will revert to their substantive grade of Officer in Grade 5, or substantive departmental or professional grade, and be assigned duties commensurate with their grade.

1.3.5.4. Officers appointed as Officer in Grade 5, on the basis of, and concurrent with, their appointment to the position of Assistant Director on a five-year contractual term, who unilaterally terminate their appointment in the initial five-year term, for reasons other than:-

- promotion; or
- family-friendly reasons as outlined in the Public Service Management Code; or
- on grounds of public policy such as when Assistant Directors are called upon to serve in Private Secretariats or are on paid or unpaid leave on grounds of public policy;

are considered as abandoning their Assistant Directorship Performance Agreement. Subject to the concurrence of the Public Service Commission, their Assistant Directorship position is terminated and, concurrently, their appointment to the grade of Officer in Grade 5 is rescinded, also subject to Public Service Commission concurrence, with the officer concerned having to revert to the previous substantive grade. Service rendered as Assistant Director is however reckonable for the purpose of progression from Scale 7 to Scale 6 in the case of officers reverting to the previous substantive grade of Senior Principal.^{*}

1.3.5.5. Furthermore, when Assistant Directors in their initial five-year term, apply and are eligible for special unpaid leave not on grounds of public policy to work with Institutions, Bodies and Agencies of the EU and International Organisations, they will be allowed to retain the grade of Officer in Grade 5 subject to resumption of duties with the Malta Public Service immediately on the expiration of one year special unpaid leave. The officer will be confirmed in the grade of Officer in Grade 5 upon completion of the required aggregate of five years performing creditably in the Assistant Director position and/or at Scale 5 level, but the period of special unpaid leave not on grounds of public policy is not reckonable for the purpose of the required five-year period. If the period of special unpaid leave is exceeded beyond a one-year period, steps will be taken with the Public Service Commission for the revocation of the appointment in the grade of Officer in Grade 5.[†]

1.3.5.6. Once appointed, Assistant Directors may apply to fill a vacancy in a lateral position only:

- i) after having served at least three years of the current contract unless:-
 - a) the officer concerned is an Assistant Director ordinarily resident in Gozo but serving in Malta and applying to fill a vacant Assistant Director position in Gozo;
 - or
 - b) a lateral move, or even a change of designation, occurs at the request of the Administration in the interest of the Service;
 - or
- ii) if the vacancy existed in the Ministry where he/she was serving prior to his/her appointment as Assistant Director, but was not advertised. This provision does not apply if the officer has been appointed Assistant Director within the Ministry where he/she was serving in his/her previous grade.

1.3.6. Assistant Directors Appointed after the 20th June 2008[‡]

1.3.6.1. Appointments in the position of Assistant Director are made on the basis of a three-year Performance Agreement. The Agreement will include a performance bonus and this entitlement will be subject to the same performance review procedure, criteria and other arrangements applicable to officers who are

^{*} MPO Circular No 85/2008 dated 7 October 2008 – Section A

[†] MPO Circular No 85/2008 dated 7 October 2008 – Section B

[‡] MPO Circular No 72/2008 dated 20 June 2008

appointed to a Headship position. However, the appointee will not be entitled to other perquisites pertaining to an appointment to a Headship position.

1.3.6.2. Officers are to retain the substantive grade held prior to their appointment as Assistant Director throughout the first two terms as Assistant Director. After having served creditably for two three-year tenures as Assistant Director, officers will be entitled for appointment to the substantive grade of Officer in Grade 5, or, in the case of departmental grade officers, may opt to be so appointed and forsake the grade held within the previous stream. The six years need not necessarily be continuous but in aggregate. The appointment as Officer in Grade 5 in this case would be effective on completion of six creditable years in the position of Assistant Director.

1.3.6.3. In cases of retirement or boarding out, subject to creditable performance, officers will be pensioned off on the officer's current salary point within Scale 5, even though such officers would not have served for two tenures, subject that the officers in question serve for at least one year of their second term, i.e. four years in all. If the officer retires/is boarded out before this four-year period, he/she will be pensioned off on the next higher scale to their substantive scale.

1.3.6.4. For the purpose of the 1937 Pensions Ordinance, the difference between the salary to which the officer is entitled by virtue of his/her substantive grade and the salary of the position of Assistant Director will be paid as a non-pensionable allowance.

1.3.6.5. Officers appointed Assistant Director on a Performance Agreement may, subject to creditable performance, be re-appointed to the same position or appointed to another Assistant Director position for successive *three*-year periods. Unless so appointed, they will revert to their substantive grade and be assigned duties commensurate with their grade.

1.3.6.6. Eligibility is restricted to public officers in any substantive grade not below salary scale 7. For avoidance of doubt it is being made clear that public officers who, by virtue of their having a contractual appointment to a position in Government Service are in Salary scale 7 or above, but whose **substantive appointment** is in a salary scale below Scale 7, are not eligible to apply for Assistant Director positions.

1.3.6.7. Once appointed, Assistant Directors may apply to fill a vacancy in a lateral position only:

- i) after two years of the second or subsequent term in the same position unless:-
 - a) the officer concerned is an Assistant Director ordinarily resident in Gozo but serving in Malta and applying to fill a vacant Assistant Director position in Gozo;
 - or
 - b) a lateral move, or even a change of designation, occurs at the request of the Administration in the interest of the Service;

or

- ii) if the vacancy existed in the Ministry where he/she was serving prior to his/her appointment as Assistant Director, but was not advertised. This provision does not apply if the officer has been appointed Assistant Director within the Ministry where he/she was serving in his/her previous grade.

1.3.6.8. Officers who utilise unpaid leave will have their Assistant Directorship terminated. However, the years of service as Assistant Director prior to unpaid leave will be reckonable for the eventual attainment of the substantive grade of *Officer in Grade 5* in the case that the officer is subsequently selected for another Assistant Director position.

1.3.6.9. Vacancies occurring in the Current Complement of Assistant Directors within a Ministry may be advertised directly by the Permanent Secretary of the Ministry where the vacancy occurs. New positions have to be approved by the Management and Personnel Office prior to being advertised in the same manner. Such adverts should be in the form of a call for applications which should be circulated service-wide on yellow paper by the respective Permanent Secretary and transmitted to Directors (Corporate Services) by electronic mail (e-mail). The model call for applications may not be changed unless with the previous approval of the Management and Personnel Office. The assessment criteria to be used during the selection of Assistant Directors should be strictly adhered to and may not be changed unless authorised by the Management and Personnel Office after consultation with the Public Service Commission.

1.3.6.10. Ten working days are allowed from date of issue of Circular to closing date of applications. The Ministry conducts the interviews, draws up the Selection Board's report and sends the Board's report to the Public Service Commission in the usual manner. When submitting a Selection Board's report to the Commission, Permanent Secretaries are to ensure that the substantive grade of each applicant is clearly shown against the name. The Commission considers the report and, in normal circumstances, makes its recommendation to the Prime Minister. The date of appointment to the position of Assistant Director will be the date when the Prime Minister approves the Public Service Commission's recommendation. The relevant procedures are processed through the Resourcing Department at the Management and Personnel Office.

1.3.6.11. A standard Selection Board approved by the Public Service Commission to assess applicants for these positions will be composed of :-

Permanent Secretary/Director General	Chairperson
Director, Corporate Services	Member
Director of Department advertising vacancy	Member

1.3.6.12. The Selection Board result for an Assistant Director position is to remain valid for a period of one year from date of issue. If an officer appointed to an Assistant Director position makes a lateral move, refuses, abandons, retires, is medically boarded out or has his performance contract terminated before the expiry of such validity period, the next-in-line successful candidate may be recommended for appointment to the position subject to availability of vacancy.

1.3.7. Tenure in a Higher Grade

1.3.7.1. Officers who are appointed to certain higher management positions in a salary scale which is higher than their substantive grade will be appointed to the higher substantive grade on completion of six (6) years satisfactory performance in the respective position, subject to Public Service Commission concurrence, as explained hereunder:-

- Public officers appointed on a performance agreement to the position of Assistant Director, Director, Director General or Permanent Secretary shall be tenured in the higher grade as Officer in Grade, after six (6) years on higher duties.
- Public officers in a substantive grade below Scale 4 who satisfactorily perform duties for six (6) years in the top executive position of an Authority or public entity, shall be offered tenure as Officer in Grade 4.
- Public officers holding the appointment of Ambassador, High Commissioner and Permanent Representative of Malta abroad shall be tenured as Officers in Grade 3.
- Public Officers serving as Heads of Ministers'/Parliamentary Secretaries' Private Secretariats shall be offered tenure as Officers in Grade 4 also after having served for a full six (6) years in the position.
- Likewise Public Officers serving as Private Secretaries in Ministers'/Parliamentary Secretaries' Private Secretariats shall be offered tenure as Officers in Grade 5 also after having served for a full six (6) years in the position.

1.3.7.2. Public Officers who are not in the General Service Grades might choose not to take up the tenure as Officer in the Grade and remain in their respective departmental grade and take their chances for promotion and for progression in their respective career stream

1.3.8. Acting Appointments to Headship Positions*

1.3.8.1. Whenever Heads of Department are absent from their place of work, the Permanent Secretary of the Ministry concerned is authorised to make acting appointments to headship positions without reference to the Public Service Commission, provided that:-

- (i) the public officer to be appointed is the most senior public officer in the department;
- (ii) the public officer to be appointed is in a grade not below Senior Principal if the officer is in the General Service Class, or in the highest grade of the respective career, if the officer is in a departmental grade not below Salary Scale 7;

* OPM Circular No 17/2003 dated 2 April 2003

- (iii) the position of head of department to which the acting appointment is being made is not vacant.

In all other cases where it is necessary to fill a headship position in an acting capacity, the advice of the Public Service Commission and the Prime Minister's approval is required.

1.3.8.2. In the absence of a Permanent Secretary, authority to make acting appointments to Headship positions in the respective Ministry will devolve on the Principal Permanent Secretary.

1.3.8.3. When a request for an acting appointment does not satisfy the above provisions, a recommendation, with an appropriate explanation, is to be submitted to the Principal Permanent Secretary, through the Director General, Management and Personnel Office in good time, and at least one week in advance of the commencement period of the acting appointment. Such recommendation should clearly indicate the commencement and termination date of the appointment.

1.3.8.4. Acting appointments to Headship positions are necessary when a post is required to be filled by law and in the case of Directors of Corporate Services.

1.3.8.5. Acting Appointments made, whether through delegated authority or otherwise, have invariably to be published through a proper announcement in the Government Gazette. Acting appointments approved by Permanent Secretaries should be referred to Director of Information for publication purposes. Where the date of resumption of duties is not known in advance, or the Head of Department resumes duties prior to the termination period of the acting appointment, an appropriate notice in the Government Gazette is also to be shown.

1.3.9. Seniority

1.3.9.1. Seniority amongst public officers is determined by the date of appointment/order of merit/precedence in:-

- (i) the current position/grade; and
- (ii) any previous positions/grades.

1.3.9.2. When a public officer holds an appointment in a substantive grade and a fixed-term contractual assignment, seniority is reckoned firstly on the basis of the current fixed-term contractual assignment. If the actual fixed-term contractual assignment does not form a determining factor, the current substantive grade and any previous positions/grades will be taken into account starting with the most recent appointments.

1.3.9.3. The above is applicable if different nomenclatures are pegged to the same salary point/scale/band.

1.3.9.4. Age is finally taken into account. Seniority is not limited to the department in which officers are serving but is carried with officers in any transfer.

1.3.9.5. In the case of transfer on promotion, seniority is determined by the effective date of the promotion, which is normally the date on which the Prime Minister approves the appointment.

1.3.9.6. In establishing seniority amongst public officers to determine the order of merit amongst candidates who obtain the same marks in a selection process*:

- (a) (i) if two candidates are appointed from outside the service, the elder candidate takes precedence (if they have the same date of birth, precedence is determined by ballot);
- (ii) if one of the two candidates is currently in the public service and the other is not, the serving officer takes precedence;
- (b) if two candidates are public officers:
 - (i) the candidate with the higher position/grade takes precedence;
 - (ii) if both candidates are in the same, or equivalent, position/grade, the candidate with the earlier date of appointment takes precedence;
 - (iii) if both candidates are in the same position/grade and have the same date of appointment, the senior of the two candidates in his/her present appointment will have precedence;
 - (iv) if both candidates are in an equivalent position/grade and have the same date of appointment, the candidate with the earlier date of appointment in the previous position/grade takes precedence, the same criteria being applied to establish such precedence.

1.3.9.7. In cases where a single call for applications advertises vacancies in more than one area of specialisation, and consequently there is more than one order of merit (i.e. an order of merit for each specialisation), seniority amongst candidates in the various orders of merit is established according to the absolute marks obtained amongst the first-placed candidates in the separate orders of merit, then adopting the same method amongst the second-placed candidates and so on vis-à-vis the subsequent rankings. This applies to cases where the particular selection process involves only one selection board, as well as cases where the selection process involves separate selection boards (i.e. a different selection board for each specialisation) in dealing with the applications received.

1.3.10. Progressions

1.3.10.1. Officers who are undisciplined or lack concern for standards in their work, or who are prone to late coming, malingering, leaving the office without authorisation or resorting to unjustified sick leave, should not be allowed to progress to a higher scale as a matter of principle.

1.3.10.2. Public officers merit progression to a higher scale if they demonstrate competence, commitment and efficiency in their work. Officers are expected to consistently fulfil their duties to the satisfaction of their superiors. They have to show that they are capable of taking on gradually wider responsibilities in line with their increasing experience. Heads must feel satisfied that the award of a pay increase is justified in each case and should be fully prepared to withhold progression in respect of those officers who do not make the grade.

* MPO Circular BI 1/1995 dated 11 January 1995
MPO Circular 53/2003 dated 3 April 2003

1.3.10.3. Any progression due during the period that an officer is interdicted shall be postponed. Postponement of progression is of one year from the date when the officer resumes duties. The period during which the officer is interdicted is not recognised as service in the grade.

(A) General Service Grades

1.3.10.4. In the case of the General Service Grades, the required action will be activated as follows:-

- the respective Director (Corporate Services) and the officers due for promotion/progression are prompted by the Resourcing Department three (3) clear months before the progression/promotion date, for submission of the relevant reports within a month from notification date;
- the quality of the PMPs/appraisal reports is verified by the Resourcing Department two (2) months prior to the promotion/progression date within a six-week period.

Authority to approve progressions is vested in the Principal Permanent Secretary.

1.3.10.5. Progression from one scale to a higher scale in the case of Clerks is subject to satisfactory performance. Satisfactory performance is assessed on the basis of the *Performance Management Programmes* for the last two years in which the supervising officer has to certify whether the officer is fit to progress to the next scale.

1.3.10.6. Progressions from one scale to a higher scale pertaining to Executive Officers, Assistant Principals, Principals and Senior Principals is subject to a rigorous process of appraisal to determine satisfactory performance. (With the exception of progression of Principals from Scale 10 to Scale 9 and Executive Officers from Scale 14 to Scale 13), satisfactory performance must be so certified by the Supervising Officer in respect of the last three annual appraisals in the Performance Management Programmes immediately preceding the progression. In the case of Executive Officers and Principals in scale 10, certification must be in respect of the last two Programmes. In addition, every recommendation for progression (with the exception of Clerks to Scale 15) or retardation of progression must be accompanied also by an Appraisal Report (a specimen Appraisal Report is available for download at the website of the Resourcing Department at the address <http://mpo.gov.mt/downloads.html>) drawn up by the next but one superior officer, and counter signed by the officer whose progression is being recommended or retarded.

1.3.10.7. In the case of progression of Principals from Scale 10 to Scale 9 satisfactory performance must be certified by the Supervising Officer in respect of the last two annual appraisals in the Performance Management Programme together with the submission of the Work and Training Plan for the current year.

1.3.10.8. It is the responsibility of Directors of Corporate Services, who in most cases are the designated depositories for the PMP Review Reports prepared by all the line Departments of the respective Ministry, to ensure that Review Reports are appropriately drawn up according to the time-frames and requirements stipulated in the PMP manual.

1.3.10.9. Letters of progression of General Service Officers are issued by the Directors, Corporate Services (or comparable). Necessary action for the approval, or otherwise, of progressions is taken by the Management and Personnel Office who will notify Directors, Corporate Services (or comparable) of the officers whose progression is approved, held in abeyance or withheld. The appropriate letters of progression (or withholding thereof) should be issued within two weeks from receipt of notification by the Management and Personnel Office.

1.3.10.10. Letters of progression, backdating of progression, or withholding of progression, as the case may be, should be drawn up on the lines of the specimens, whichever is applicable, attached to letter-circular dated 10th June, 2002 bearing reference MPO 361/95 (specimens are available for download at the website of the Resourcing Department at the address <http://mpo.gov.mt/downloads.html>). Signed copies of each letter should invariably also be sent to:

Director, Treasury
Auditor General
Human Resources Unit of the respective department
Management and Personnel Office.

1.3.10.11. In the case of officers who are not on a Performance Management Programme (e.g. General Service officers detailed for duty with Public Sector Organisations), the relevant Head through the Director, Corporate Services is to provide the Resourcing Department, with a recommendation based on a report on the performance of each officer who is due for progression. The report should provide a brief description of the officer's duties together with details and/or comments with regard to the following: performance/output, potential for promotion to the next higher grade (if applicable), respect for authority, punctuality, regularity of attendance, and any disciplinary action taken against the officer during the reporting period. An Appraisal Report is also to be included in these cases.

(B) Messengerial Grades

1.3.10.12. In the case of the Messengerial Grades, the arrangements applicable to the General Service Grades are to be followed, subject that performance is assessed on the basis of Performance Rating Reports for the last two years.

(C) Other Grades

1.3.10.13. In the case of the other Grades, progression exercises in the various Departments of each Ministry are to be co-ordinated by the Director of Corporate Services but final approval for the progression of an officer from one salary scale to another in the same grade is vested in the relevant Head of Department.

1.3.10.14. As in the case of General Service Grades, it is of paramount importance that approval of progressions is subject to and following a proper evaluation of satisfactory performance. It is the responsibility of Directors of Corporate Services to ensure that the same reporting requirements and standards indicated above for General Service Grades are adhered to in the case of these other Grades.

1.3.10.15. In carrying out these progression exercises, Heads of Department and Directors of Corporate Services should bear in mind the provisions relating to interpretation of the term 'service in the grade' as applied in the context of the Agreements on Classification, Grading and Assimilation.

1.3.10.16. In those cases where progression is not approved, the matter should be referred to the Public Service Commission for its consideration.

(D) Contractual Positions *

1.3.10.17. In cases where the remuneration package of contractual positions involves progression to a higher scale, the same reporting requirements and standards outlined above are to be adopted.

1.3.11. Duties on Promotion

1.3.11.1. Heads of Departments are to ensure that on promotion, officers under their responsibility are assigned the duties appropriate to their grade.

1.3.12. Interpretation of the term “Service in the Grade”[†]

1.3.12.1. Unless otherwise stated in any particular Reform Agreement, the term service in the grade means service performed in a particular grade in a substantive capacity.

1.3.12.2. *Re-instated Public Officers.* Public Officers who were boarded-out after a Medical Board and are re-instated in the service, will have the years of service prior to their being boarded-out reckonable for progression from one salary scale to a higher scale as long as this is within the same grade. Years of service prior to re-instatement will not however be considered to satisfy the number of years required for eligibility to promotion from one grade to a higher grade.

1.3.12.3. *Public Officers who rejoin the service.* Without prejudice to the provisions of the Re-Integration Policy, Public Officers who rejoin the service following a public call for applications after having previously resigned, or had their employment terminated, will not have their previous service reckonable for the purpose of fixing a salary point, for progression to higher salary scales or for eligibility for promotion to higher grades. These employees are considered as new appointees.

1.3.12.4. *Special Unpaid Leave.* Unpaid leave (including unpaid sick leave) availed of prior to 1st June 1996, or authorised prior to 1st June 1996 and running beyond 1st June 1996, is reckonable for the purpose both of progression from one salary scale to a higher scale and for eligibility for promotion.

1.3.12.5. As from 1st June, 1996 special unpaid leave for whatever reason granted (except unpaid leave on grounds of public policy), and unpaid sick leave, is not considered as ‘service in the grade’ for the purposes of the Reform Agreements if such leave exceeds 365 days (12 months) in any period of four (4) years immediately preceding the progression or promotion.

* MPO Circular No 140/2006 dated 2 August 2006

† MPO Circular No 18/1996 dated 26 February 1996

1.3.13. Experience for the purpose of Appointment, Promotion or Progression*

1.3.13.1. Several of the Classification Agreements for public officers stipulate that for the purposes of progression, promotion or appointment, officers should have a specified number of years experience in the particular field related to the respective career stream.

1.3.13.2. Experience, as distinct from service in the grade, must be directly related to the duties of the post. Experience is actual duties in the field specified in the Agreement. Any breaks in these duties are not reckonable, with the exception of the following:

- a) maternity leave;
- b) sick leave on full pay or half pay;
- c) other paid or unpaid leave whether on grounds of public policy or not.

The exceptions at a), b) and c) are allowed provided however that not more than one year is allowed as reckonable experience in respect of the absences at a), b) and c) taken together, and provided also that in total the absences at a), b) and c) do not exceed 10% of the period of experience required. All other periods of authorised leave or absences are not reckonable as experience but are considered as bridging the periods of experience.

1.3.14. Recognition of Experience

1.3.14.1. Previous accredited experience, whether gained within the Public Service, or with a local / foreign employer, is reckonable for the purpose of satisfying eligibility criteria when a person is applying through a public call for applications for a post or position in the Public Service and is also taken into consideration when awarding marks during the selection process.

1.3.14.2. However, unless otherwise stated in the respective Classification Agreement, in the case of an applicant for entry in the Public Service in response to a public call for applications, previous accredited experience, wherever gained, is not reckonable for the purpose of fixing a salary point, for progression to higher salary scales or for eligibility for promotion to higher grades.

1.4. EMPLOYMENT ON FIXED-TERM CONTRACT

1.4.1. Contracts *for* Service as distinct from Contracts *of* Service

1.4.1.1. Contracts *for* Service are distinct from Contracts *of* Service (Employment).

1.4.1.2. Contracts *for* Service enable Ministries to purchase/procure a service and are subject to Finance clearance. Ministries may, in exceptional circumstances, require a specialised service which cannot be made available by Public Officers. In this case, they may opt to purchase/procure the services instead of employing contractees on a definite contract of employment. As a general rule, the assignment

* OPM Circular No 2/2002 dated 26 February 2002

is to be performed within a timeframe; the person concerned is usually self-employed and pays VAT; and a fee for the whole assignment is paid irrespective of completion date.

1.4.1.3. On the other hand, contracts of employment entered into within the Public Service imply the engagement of personnel for a definite period, renewable, and invariably require the approval of the Office of the Prime Minister.

1.4.2. Employment on a Contract of Service

1.4.2.1. The notion of ‘contract’ refers to the type of employment relationship between employer and employee – an employment contract may be indefinite (as in the case of an officer holding a substantive grade) or definite (as in the case of an officer on a fixed-term contract) – see also Section 1.1.9. Employment on a fixed-term contract basis is regulated by LN 51/2007 entitled “Contracts of Service for a Fixed-Term Regulations, 2007”, which came into force on 15th June 2007, as amended by LN 239/2008 dated 26th September 2008.

1.4.2.2. LN 51/2007 as amended by LN 239/2008 provides that:

- (a) Employees on a fixed-term contract of employment are not to be treated less favourably than comparable permanent employees solely because they have a contract of employment for a fixed-term (Regulation 4 of LN 51/2007); and
- (b) Unless an objective reason exists in terms of Regulation 7(4) of LN 51/2007 as amended by Regulation 3(b)(4) of LN 239/2008, or on the basis of any other justifiable grounds not mentioned in said Legal Notice, an employee on a fixed-term contract of employment who falls within the provisions of these Regulations shall have such fixed-term contract turned into one of an indefinite nature after four years (Regulation 7 [1] of LN 51/2007) under the same contract or successive contracts involving tasks which are substantially the same (breaks of up to six- months in the case of employees whose fixed-term contract constitutes their sole employment are included in the calculation of the four-year period; in the case of employees who have an indefinite contract of employment and are assigned a position for a definite period, such breaks cannot exceed three months).

1.4.2.3. These provisions apply to (i) Public officers who hold a fixed-term position within the Public Service, irrespective of whether such position constitutes the individual’s sole contract of employment or whether they have a substantive grade/indefinite contract and are assigned to such a position for a definite duration; and (ii) Public sector employees who are employed with a public entity on a fixed-term contract. This insofar as the employees mentioned at (i) and (ii) fall under the provisions of the Legal Notice in question i.e. they do not fall within the categories mentioned in Regulation 3(2) of LN 51/2007 as amended by Regulation 2 of LN 239/2008.

1.4.3. Staff on Contract in Ministers’ Secretariats

1.4.3.1. The procedure to be followed for the engagement on contract of staff in Ministers’ / Parliamentary Secretaries’ Private Secretariats is available in the guidelines entitled “Engagement of Staff for Ministers’ Secretariats”. Specimen contracts for such staff are also available in these guidelines.

1.4.4. Household Staff at the Office of the President engaged on Contract Basis

1.4.4.1. The employment on definite contract of persons forming part of the domestic staff at San Anton Palace requires a positive recommendation by the Public Service Commission, even though such persons are considered as “persons of trust”. Such employment is subject to an established complement and contractees are entitled to qualify for permanent employment in an appropriate equivalent grade in the Public Service on completion of four years creditable service.

1.4.5. Engagement on Contract for two months or less *

1.4.5.1. In cases of engagements on contract of service of personnel to act in any public office for two months or less, the approval of the Prime Minister should be sought even though in terms of Section 110 (5) (b) of the Constitution the recommendation of Public Service Commission is not required. Therefore Heads of Departments are to seek the required approval in writing through the Principal Permanent Secretary. As a general rule staff engagement of this nature should not be encouraged and approval will only be granted in exceptional circumstances.

1.4.6. Expatriate Staff on Contract

1.4.6.1. Where no candidates meeting the basic eligibility requirements with regard to citizenship are found suitable to fill vacancies, requests to employ expatriate contract staff of other nationalities are to be referred to the Public Service Commission. Following approval, a request for the issue of an employment license in terms of the Immigration Act (Cap. 217) has to be made by the line department to the Employment and Training Corporation. The general conditions of employment normally applicable to such staff are appended as a schedule to the agreement to be entered into by each officer (a specimen agreement and general conditions of employment of expatriate staff are available for download at the website of the Resourcing Department at the address <http://mpo.gov.mt/downloads.html>). The Management and Personnel Office is to be consulted before any departure from the normal conditions is made.

1.4.6.2. Where it is intended to offer further employment to a contract expatriate officer, he/she is to be informed of this intention six months before the end of his/her resident service and asked to indicate whether he/she wishes to serve for a further specified period.

1.4.7. Engagement on Contract on a ‘Person of Trust’ basis

1.4.7.1. Ministries may, exceptionally, engage personnel on a ‘person of trust’ basis. Such personnel are engaged on a definite contract basis in such circumstances where special expertise is required or where the nature of work to be done is considered of a very sensitive nature. Normally such personnel would be either engaged to carry out duties directly with a Minister or a Parliamentary

* OPM Circular No 15/1996 dated 13 June 1996
OPM Circular No 20/2006 dated 8 June 2006

Secretary; Public Officers who reach retirement age and are contracted because of their high level of expertise in order to provide advice and support, thus ensuring a measure of continuity'; and personnel who are engaged by virtue of their specialised qualifications, and/or where engagement is not possible or has proven difficult even after the issue of calls for application.

1.4.7.2. The engagement on a person of trust basis, normally but not exclusively, in the designation of Adviser is subject to the following criteria:-

- the contractee should be in possession of expertise in a particular field;
- the engagement should be fully justified by being connected to a specific assignment and tied to a specific term, renewable. A list of objectives to be achieved and tasks to be carried out are to be outlined upon application;
- a contractee in the capacity of Adviser should limit to advising and should not be involved in the day-to-day running of the administration, nor exercise executive power and/or occupy posts pertaining to the Public Service; and
- the particular duties sought on contract basis cannot be provided by officials within the Public Service.

1.4.7.3. Requests for engagement (on a person of trust basis) or the renewal of existing ones, must be substantiated by a strong justification, together with a confirmation that funds are available to cover the period of engagement/renewal requested.

1.4.7.4. The salary of contractees in the capacity of Adviser is normally established on the basis of Salary Scales applicable in the Public Service; whenever possible, it is based on the Salary Scale of a 'comparable' grade or post. However, each case is considered on its own merits, taking into consideration the individual's qualifications and experience.

1.4.7.5. Such contracts require the approval of the Prime Minister following a recommendation by the Principal Permanent Secretary.

1.4.8. Expiry and Renewal of Contracts*

1.4.8.1. Contract employees, whether they hold a substantive grade or not, cease to be paid the remuneration attached to the contractual assignment if the contract/assignment is not renewed or extended by the date of the expiry of the contract/assignment. This unless they have attained the salary of the contractual assignment on an indefinite basis as explained in the section titled "Employment on a Contract of Service" above.

1.4.8.2. Contractees who have not attained indefinite status in the salary scale of the contractual position and who do not hold a substantive grade, will have their employment with Government terminated in the case that their contract is not renewed or is terminated.

1.4.8.3. Contractees who hold a substantive grade and are receiving additional remuneration in terms of a contractual assignment, will revert to their substantive grade and corresponding salary if they have not attained the salary of their

* OPM Circular No 18/2005 dated 2 May 2005

contractual assignment on an indefinite basis in the case that their contractual assignment is not renewed or is terminated.

1.4.8.4. The procedure regarding payment to contract employees on expiry of contract is to be regulated by the following parameters:

- a) in the case of renewals of definite contracts of staff in Private Secretariats or other engagements made through the Public Service Commission, Directors (Corporate Services) are to take early action for such renewal;
- b) in the case of Category 'A' positions, it is the prerogative of the Office of the Prime Minister whether such a contract is to be renewed or not unless it is intended to suppress the position;
- c) in the case of Advisers it is likewise the prerogative of the Office of the Prime Minister whether such a contract is to be renewed. When submitting their request for the extension of the contract to the Office of the Prime Minister, Permanent Secretaries are to copy their recommendation to the Treasury in order for the latter to be alerted of the intention to have the contract of the Adviser renewed; and
- d) a two-month grace period is given following expiry of the contract before action is taken to stop payments. However, the Treasury Department will still take action for the recovery of any overpayments.

1.4.9. Contractual engagement of Technical Attaches with the Permanent Representation of Malta to the European Union in Brussels

1.4.9.1. Technical Attaches are appointed on a contractual basis to be stationed in the Permanent Representation of Malta to the European Union in Brussels from amongst Public Officers and other candidates from outside the Public Service following the issue of a PSC call for applications in the Government Gazette.

1.4.9.2. Public Officers and other candidates from outside the Public Service who have an adequate level of expertise and are qualified to provide advice in the specialised areas advertised are eligible to apply.

1.4.9.3. Persons who are selected for the position of Technical Attaché are appointed to the position for a three-year term. A person's engagement as Technical Attaché cannot exceed two terms, i.e. 36 months plus 33 months in total, in view of Regulation 3(b)(4)(d) of LN 239/2008 which amends Regulation 7(4)(d) of LN 51/2007 entitled 'Contracts of Service for a Fixed Term Regulations, 2007'.

1.4.9.4. The Permanent Representation in Brussels submits a request to MPO for the issue of a public call for applications for engagement as Technical Attaches in certain specialised key posts that are essential for the running of the Permanent Representation. Subject to MPO, Finance and PSC approval, the call is advertised in the Government Gazette.

1.4.9.5. The appointment of Technical Attaches is approved by the Prime Minister upon the recommendation of the Public Service Commission.

1.4.10. Secondment of National Experts to Institutions of the European Union

1.4.10.1. Public Officers who are considered as experts in a specified field required by an EU Institution, Body or Agency, may be seconded on grounds of public policy as Seconded National Experts (SNEs) for a period of not less than six months, but not more than two years. Such secondment may be renewed once or more up to a total of four years.

1.4.10.2. Following calls for secondment as National Experts by the Directorate General Personnel and Administration of the European Commission (EC) or the Council of the European Union, the Permanent Secretary of the interested Ministry will decide whether to disseminate the call or not within his/her ministry, and then to forward any nominations for the final approval of the Principal Permanent Secretary.

1.4.10.3. If, following interviews, the Commission/Council accepts any nominations in terms of the Rules Applicable to National Experts on Secondment to the Commission or the Council, the nominee and the PREU are informed by the Commission/Council. After obtaining approval from his/her Permanent Secretary, the nominee proceeds abroad (usually Brussels or Luxembourg).

1.4.10.4. As a general rule, the salaries of seconded officers continue to be paid by their employing Ministry in Malta, and the EU Institution/Body/Agency pays living and travel allowances.

1.4.10.5. Renewals, approved by the Permanent Secretary concerned, are to be sent to the Resourcing Department at MPO for the approval of the Principal Permanent Secretary, which approval is communicated to the PREU for onward transmission to the Commission/Council.

1.4.11. Engagement of Casual Substitutes*

1.4.11.1. The engagement of Casual Substitutes on a definite contract is delegated to Permanent Secretaries.

1.4.11.2. The arrangement for engagement of Casual Substitutes is not meant to exclude other approved schemes of replacement that are already in operation but it is meant to be complementary to existing arrangements. It is at the discretion of the Permanent Secretary to decide whether an employee on long leave needs to be replaced or not and which replacement scheme best serves the particular need.

1.4.11.3. The engagement of Casual Substitutes on a definite contract is to be strictly guided by the following parameters:-

- (a) Casual Substitutes may only be engaged to replace serving Public Officers in a substantive grade on long paid or unpaid leave (other than Sick Leave or Pre-retirement Leave) and into an entry grade for which the relevant Classification Agreement provides for recruitment from outside the Public Service (e.g. Clerk, Executive Officer, Principal, Assistant Librarian,

* OPM Circular No 23/1999 dated 5 May 1999
OPM Circular No 40/1999 dated 13 October 1999
OPM Circular No 41/2000 dated 19 October 2000
MPO Circular No 124/2002 dated 9 October 2002

Information Officer, Engineer). Engagement is also subject to the possession of eligibility qualifications as provided for in the relevant Classification Agreements;

- (b) the 'eligibility qualifications' shall not be construed as to include a written public examination where a Classification Agreement stipulates a written competitive examination as an eligibility requirement. Such a requirement shall be waived and the selection process shall consist of an interview only, conducted by a Selection Board;
- (c) the selection process, whether after a public call for applications or through the services of the Employment and Training Corporation shall be conducted by a Selection Board appointed by the Permanent Secretary in accordance with the normal practice and norms followed by the Public Service Commission in the appointment of Selection Boards approved by it;
- (d) the selection and interviewing criteria adopted by the Selection Board shall be those established by the Public Service Commission or by the Board of Local Public Examinations, as applicable, in the last selection process held for that particular grade;
- (e) the engagements made by the Permanent Secretary shall be strictly in accordance with the order of merit established in the report of the Selection Board;
- (f) the Public Service Commission shall monitor the operation of the 'Casual Substitutes' scheme and shall conduct such audits of the scheme as it may consider necessary and for this purpose a Permanent Secretary shall submit to the Commission:
 - (i) a copy of every engagement contract, as soon as practicable after it is made, together with a copy of the report by the pertinent Selection Board and any representations received by the Permanent Secretary or by the Board relating to that selection process and/or engagement;
 - (ii) a copy of the document authorising a renewal of contract;
- (g) Casual Substitutes shall not, in any way, benefit from progressions or promotions stipulated in the relative Classification Agreements.

1.4.11.4. Power to terminate the engagement of Casual Substitutes for reasons of misconduct or terminate the engagement on behalf of Government by giving one month's notice is exercisable by the Prime Minister acting upon the recommendation of the Public Service Commission subject to the provisions of the following subparagraph.

1.4.11.5. The recommendation of the Public Service Commission and the Prime Minister's approval shall not be necessary in cases where the engagement of the Casual Substitute is terminated in any of the following three circumstances:-

- (i) the public officer being substituted returns to work;
- (ii) in the event that the post of the public officer to whom the Casual Substitute is twinned becomes vacant for any reason whatsoever;
- (iii) in cases where the contractual period of engagement expires.

1.4.11.6. The contract of a Casual Substitute has to be invariably terminated on the return to work of the officer with whom he/she is twinned. This arrangement is applicable also in the case of officers who are on study leave and who return to their duties during the summer recess. However, in such cases the contract of the Casual Substitute may be renewed when the officer with whom he/she was twinned returns to his/her studies without the need of a fresh selection exercise.

1.4.11.7. The Casual Substitute is entitled to terminate the engagement by giving one month's notice to the Permanent Secretary as stated in the Standard Contract.

1.4.11.8. The engagement must be made into a grade which is at the same or closest lower recruitment level and in the same career stream. This Scheme is not applicable in the case of employees in Groups I to IV of the Industrial Grades and employees listed under Other Industrial Grades.

1.4.11.9. Funds have to be available under Personal Emoluments and there must not be the need for either virement to Personal Emoluments by the end of the financial year, or a request for additional funds under Personal Emoluments in the Supplementary Estimates; the related substantive post which is temporarily vacant must be shown in the Appendices to the Estimates for that current financial year.

1.4.11.10. The engagement of Casual Substitutes may be made for a minimum of three months and a maximum of one year, renewable as and where necessary. The principle of "twinning" of Casual Substitutes, name to name, is to be scrupulously observed. It is not permissible for a Casual Substitute to replace, during or at the termination of the contract, another officer other than the officer in respect of whom the Casual Substitute was originally contracted to replace.

1.4.11.11. The salary payable shall be the minimum salary point of the applicable basic Salary Scale, as announced in the Financial Estimates from year to year, of the entry grade into which the Casual Substitute is engaged*. Casual Substitutes may be engaged on a full-time basis or on part-time basis for 20 or 30 hours per week and paid pro-rata.

1.4.11.12. The terms of engagement of Casual Substitutes shall be according to the standard contract, which is available for download at the website of the Resourcing Department at the address <http://mpo.gov.mt/downloads.html>. In the event of a renewal of a contract, no fresh contract need be drawn up but a renewal notice should be signed by both parties.

1.4.12. New Schemes of Recruitment

1.4.12.1. New Schemes of recruitment are to be discussed between the department concerned and the Resourcing Department at the Management and Personnel Office. The latter has responsibility to see that staff is consulted as and when necessary. The advice of the Public Service Commission has to be sought when recruitment is otherwise than by public examination or under a scheme previously approved by the Commission and/or the Government.

1.4.12.2. New Schemes of recruitment to General Service posts are the responsibility of the Resourcing Department at the Management and Personnel

* MPO Circular No 99/2009 dated 18 September 2009

Office and are worked out in accordance with such Government instructions as may be in force from time to time. Consultation with staff takes place as and when required.

1.5 PUBLIC SECTOR RESOURCING

1.5.1. Deployment of Public Officers for Duty with Public Entities

1.5.1.1. The Prime Minister may direct that a public officer is to be 'deployed' for duty with a public entity. The term 'deployment' is applied in the case of public entities that are not established by law.

1.5.1.2. Public officers may be required to do duty with public entities according to the exigencies of the Service. This could happen when Government decides to restructure the provision of a particular service by administratively setting up a specific entity or agency and hence public officers employed therein will need to be 'deployed' with the new entity or agency. Subsequently other public officers may need to be further deployed with the entity or agency to increase its performance or output as required.

1.5.1.3. Terms of Deployment are as listed hereunder:-

- 'Deployed' officers are released on special unpaid leave on grounds of public policy;
- They shall benefit from the pay structures and conditions of service of the entity to which they are deployed which, in all, may not be less favourable than those they used to enjoy with the Public Service;
- They shall be under the administrative authority and control of the entity but any disciplinary action against them will be taken in terms of the PSC Disciplinary Regulations;
- They will remain as public officers for all intents and purposes and may apply for calls for applications issued by the Public Service;
- They will have their service with the entity reckonable as service with Government for the purposes of promotion and progression.

1.5.2 Reversion to the Public Service of Public Officers Deployed with Public Entities

1.5.2.1. It may be necessary for public officers who have been deployed with public entities to be re-deployed within the Public Service. Such re-deployment may result:-

- following a request by the officer concerned,
- following a request by the Entity, or
- following the officer's promotion to a higher grade within the Public Service.

Moreover, the Administration may effect re-deployment within the Public Service according to the exigencies of the Service (demand driven).

1.5.2.2. When a public officer requests re-deployment with the Public Service, the following parameters apply:-

- the officer is to apply in writing to the Head of the respective entity;
- the entity concerned is to confirm to the Management & Personnel Office that there are no objections to the requested re-deployment;
- the entity must also bind itself not to recruit a replacement to the officer being re-deployed;
- there must be a demand within the Public Service for the type of skills, trade, competencies or expertise of the person requesting re-deployment.

1.5.2.3. Upon reverting back to the Public Service such Public Officers:

- will revert to their last Public Service substantive grade and will start receiving the corresponding salary;
- benefit from the prevailing conditions applicable in the Public Service;
- be posted in a Department where their professional skills and competencies are required;
- continue to be entitled to a Treasury pension, if they are of a pensionable status, as other public officers.

1.5.2.4. An entity may decide, because of particular reasons such as restructuring, to re-deploy back to the Public Service public officers who had been deployed with the entity. Such occurrences are relatively uncommon. Since the particular re-deployment is not requested by the individuals concerned, such re-deployment would normally be discussed with the Unions concerned and 'ad hoc' conditions regulating such re-deployment would apply as agreed between Government and the Unions.

1.5.2.5. Re-deployment is also resorted to when a deployed public officer is promoted within the Public Service, so that the officer concerned could take up the duties/responsibilities commensurate with the new grade. In such cases the consent of the Entity is not a binding condition for re-deployment

1.5.2.6. Approval for public officers deployed with Public Entities to revert to the Public Services rests with the Principal Permanent Secretary.

1.5.3. Detailing of Public Officers for Duty with Public Entities

1.5.3.1. The Prime Minister may likewise direct that a public officer is to be 'detailed' for duty with a public entity. The term 'detailing' is applied when the relative public entity has been set up by law. Normally the detailing of public officers is specifically provided for in the provisions of the legislation establishing that particular public entity

1.5.3.2. The reasons for detailing as well as the terms of detailing are similar to those applicable in the case of deployment as outlined at sections 1.5.1.2 and 1.5.1.3.

1.5.4. Revocation of Detailing

1.5.4.1. The parameters/procedures in respect of the reversion to the Public Service of Public Officers deployed with public entities, as outlined at sections 1.5.2.1 – 1.5.2.5, are also applicable in the case of revocation of detailing.

1.5.4.2. Approval for the revocation of detailing of Public Officers rests with the Prime Minister.

1.5.5. The Capacity Building Framework

1.5.5.1. Permanent Secretaries are to submit the HR recruitment requirements for the period in question in respect of the Public Sector Entities falling within their respective remits to the Capacity Building Committee (for further details on the Capacity Building Committee and the Capacity Building Exercise see Section 1.1.1).

1.5.5.2. In addition to the information to be submitted as per paragraphs 1.1.1.5 and 1.1.1.6, HR requests in the case of Public Sector Entities are to be supplemented with the Entity's organigram.

1.5.5.3. In virtue of Article 72 of the Financial Administration and Audit Act, Chapter 174 of the Laws of Malta, Public Sector Entities proposing revisions to currently approved remuneration packages (salaries, *ad hoc* allowances and other fringe benefits) relating to *posts/positions* (including managerial grades) not covered by a collective agreement, should invariably submit justifiable reasons and a declaration of fund availability to support such requests.

1.5.5.4. HR requests in the case of Public Sector Entities submitted outside the Capacity Building Framework will be treated on a case-by-case basis, on a very exceptional basis and for very cogent reasons. Such requests are to be made via the submission of the 'vacancy form' to the Recruitment and Redeployment Advisory Group, as explained in the following Section.

1.5.6. Recruitment & Redeployment Advisory Group (RRAG)*

1.5.6.1. Following Cabinet approval of the need for a review of the recruitment and redeployment framework, a Recruitment & Redeployment Advisory Group was set up within the Office of the Prime Minister with the responsibility to ensure the effective and productive utilisation of human resources in both Public Service and the wider Public Sector.

1.5.6.2. Following the establishment of the RRAG and the setting up of a new Unit within the MPO to cater for Public Sector recruitment Public Sector organisations are obliged to seek the approval of the RRAG to fill vacant positions.

1.5.6.3. Entities are to fill a vacancy form with all the details of the position to be filled. The form is to be signed by Chairman/CEO of the entity concerned and endorsed by the Permanent Secretary responsible for the entity, before being forwarded to the RRAG. The Ministry of Finance, through the Financial Management and Monitoring Unit (FMMU), is consulted by the Management and Personnel Office regarding availability of funds.

* OPM Circular No 14/2005 dated 24 April 2005

1.5.6.4. If a request is approved, a service-wide circular for redeployment may be issued by the Management and Personnel Office. In certain instances, due to the specialised nature of the position, approval is given to entities to commence recruitment procedures with the ETC. If an MPO circular proves futile, approval is granted to the entity concerned to recruit through the ETC services.

1.5.7. Re-deployment in terms of Article 15A of the Employment and Training Services (ETS) Act

1.5.7.1. Redeployment of staff declared as 'Surplus to Requirements' by a public entity may be effected by means of Article 15A of the ETS Act if their services are required in another public sector entity.

1.5.7.2. Existing vacancies in any public entity may be filled through the redeployment of staff declared redundant by other public entities. The Prime Minister may, by means of the application of Article 15A of the ETS Act, effect such redeployment. Such redeployment is always effected on the advice of the Permanent Secretary of the relative Ministry and the Principal Permanent Secretary. The employees concerned will be required to endorse a written guarantee, signalling their acceptance to terminate their employment with the original employer and to be redeployed with the other entity, whilst accepting the financial package being offered.

Current section 1.4. is to be re-numbered as section 1.6. and all sub-sections and paragraphs under this section are to be re-numbered accordingly.

In newly re-numbered paragraph 1.6.1.2. delete the words (Strategy and Operations) after Permanent Secretary, OPM.

In newly re-numbered paragraph 1.6.1.3. (b) delete the words enquire whether the applicant had and insert the words require documentary evidence that the applicant has. Further down delete the words if in the affirmative. At the end of the paragraph add the following sentence: Where a rehabilitation programme was not followed and the case took place several years ago, the officer will required to abide by a Sedqa programme of assessment and counselling.

In newly re-numbered paragraph 1.6.1.3. insert new sub-paragraph (c) as follows:

- c) If the RC recommends, and the Commission agrees that, in the public interest or on humanitarian grounds, re-integrated persons should be deployed in a different grade or position to the area held by those persons before dismissal, they will, before re-deployment, be submitted for skills profiling and/or retraining.

Re-number present sub-paragraphs c) and d) as d) and e) respectively.

In newly re-numbered 1.6.1.4.(a), delete the words (Strategy and Operations) after Permanent Secretary, OPM.

Insert new sub-paragraph 1.6.2.1. (iv) as follows:

- (iv) the Re-integration Committee may recommend that previous service be counted in deserving cases where the officer seeking re-employment can prove that the resignation was brought about by grave family-related problems. In these cases the provisions of paragraph 1.6.3.1.(ii) for re-instated officers will apply.

In newly re-numbered paragraph 1.6.3.1. (iii) replace the words the rate for fixed deposit accounts **with** the ECB fixed rate for financing.

In newly re-numbered paragraph 1.6.4.3. add new sub-paragraph iii. as follows:

- iii. in cases of misuse of drugs, probation will be for 48 months and officers concerned will not be placed in sensitive areas.

Replace previous sub-section 1.4.5. with the new 1.6.5., as follows:

1.6.5. Applicability for members of disciplined corps

1.6.5.1. Ex-members of disciplined forces shall also be eligible to apply for re-instatement or re-employment, and they may also be re-integrated so however, that if it is in the public interest, they may be placed in another grade. In such case, they shall not be placed in their former grade, but if it is in the public interest, they shall have the nomenclature of their former grade changed to an *officer in grade* which scale shall be equivalent to that of the scale of their previous grade. Their previous service shall be lost if they are re-employed. If they are re-instated on medical grounds, their previous service shall count as service with Government but not as service in a disciplined force. These officers shall be assigned duties comparable to their scale in another department.

Chapter 2 – PAY AND ALLOWANCES

In paragraph 2.2.5.1. delete the words if under 50 years of age **and delete the words** 6% per annum. **After the word** charged **insert the words** an annual sum calculated on the ECB rate for financing.

In paragraph 2.2.6.1. replace 3.1.6. **with** 5.4.2.

In paragraphs 2.4.5.3., 2.4.5.4. and 2.4.5.8. replace 1.3.9. **with** 1.3.6.

In paragraph 2.4.5.4. replace the words acting pay **with** a deputising allowance.

At the end of paragraph 2.4.5.6. insert the following sentence:

In cases of Nursing and Midwifery professionals, approval is obtained from PS, MHEC instead of MPO, and when they are requested to take over responsibility for the running of a ward, the requirement at (d) above is waived.

Insert new section 2.5. as follows:

2.5. Remuneration to Chairpersons and Members of Government Boards and Committees

2.5.1.1. Chairpersons and members of Government boards and committees are usually remunerated. This does not apply to members whose appointment is made *ex-ufficio*. The remuneration is primarily determined by the duties and responsibilities of the board or committee and the relative workload involved.

2.5.1.2. Boards and committees fall into one of three categories, namely:

- i) Judicial;
- ii) Advisory;
- iii) Administrative.

The category is determined by the functions that are carried out by the board or committee.

2.5.1.3. Each category of boards and committees carries corresponding remuneration, which is periodically reviewed. A sessional rate is paid when the duties of the board or committee entail work that can easily be carried out during regular meetings. When the functions required by a board or committee go beyond the work carried out during meetings, an annual remuneration is paid. Public officers who sit on government boards and committees during office hours, receive 75% of the rate of compensation, if the remuneration is on a sessional basis.

2.5.1.4. MPO and the Ministry of Finance jointly authorise the payment of remuneration to boards and committees.

2.5.1.5. This policy regulates remuneration to chairpersons and members of Government boards and committees that are set up to carry out a particular function in terms of relevant legislation. It does not apply to those boards entrusted with the management of public entities. The latter are regulated by different guidelines that are issued by the Cabinet Office.

Re-number current sections 2.5. and 2.6. as 2.6. and 2.7.

In newly re-numbered paragraph 2.7.5.4. replace 1.2.8.2. with 1.1.12.3.

In newly re-numbered paragraph 2.7.5.6. replace the word normal with full pay.

Chapter 3 – HOURS AND EXTRA DUTY

Delete sub-sections 3.1.6., 3.1.7. and 3.1.8. and Appendices 3.VIII to 3.XI. These sub-sections and related appendices have been moved to Chapter 5.

Insert new sub-section 3.1.6. as follows:

3.1.6. Attendance Verification Systems and devices

3.1.6.1. Attendance Verification Systems (AVS) are an effective means of capturing employee attendances by means of decentralised external and internal electronic reading devices. These devices eliminate manual data entry of absences from attendance sheets and muster rolls into HR systems, and simplify payroll calculations. As per Article 8.4. of the Collective Agreement for Employees in the Public Service effective 1st January 2005, Government is bound to introduce such devices in all its places of work by not later than December 2010.

3.1.6.2. The use of AVSs is explained in detail in a document *Attendance Verification Systems – Policy and Guidelines*. Data protection issues and implications, correct data protection practices and all relevant data protection issues on these devices are given in another document *Data Protection Requirements for Attendance Verification Systems*.

Insert new paragraph 3.2.2.5., as follows:

3.2.2.5. *Compensation for time-off-in-lieu to the heirs of public officers who die while still in service.* The heirs of public officers who die while still in service with *time-off-in-lieu* to their credit, will be granted an *ex gratia* payment equivalent to one half of the amount due in hours worked out at overtime rates.

In paragraph 3.2.3.1., replace the last sentence with the following:

Compensatory time-off, in lieu of overtime pay, is calculated at 1½ times the number of hours worked as overtime.

Insert new paragraph 3.2.6.5.

3.2.6.5. Sunday pay is only paid for work which is actually performed on a Sunday, unless otherwise stipulated in the collective agreement for the particular class of officers. If public officers do not attend work on Sunday even if this is due to illness or to injury on duty, they are not to be remunerated at Sunday Pay rates. If payment is due, it is to be paid at plain day rates.

Chapter 4 – LEAVE

Replace paragraph 4.2.1.2. with the following:

4.2.1.2. Vacation leave immediately following sick leave is not usually allowed, except in the following instances:

- a) the head of department deems that a case merits an exception and is satisfied that there is no backlog of work. A medical certificate of fitness to return to duty is to be furnished in these cases; and
- b) in cases of long sick leave, when vacation leave is utilized before making use of half-pay sick leave.

Vacation leave is not to be allowed when the sick leave is granted by a Medical Board. An employee must first be certified fit to resume duty by a Medical Board and the employee has to effectively resume duties, before being granted vacation leave.

Insert new paragraph 4.2.2.5. as follows:

4.2.2.5. Vacation leave may be donated for humanitarian reasons, in part to their colleagues and in full to family members up to the fourth degree, as described in paragraph 5.4.1.

Delete sub-section 4.2.7. Donation of vacation leave for humanitarian reasons. This sub-section has been moved to sub-section 5.4.1.

Replace paragraph 4.3.1.1. with the following:

4.3.1.1. Officers who are unable to attend to their duties owing to sickness are to notify their superior officer, or when this is not possible, the personnel section of their department, at the very start of working time. Supervisors are responsible to ensure that the necessary arrangements are in place for timely notification to be possible. In areas where it is essential that a replacement be immediately available, supervisors may also establish time-limits prior to starting time when such notification should be made. In such cases, supervisors must clearly communicate the procedures to be followed to all employees. Shift workers, those on night duty or working irregular hours are to observe the procedure established by their department.

Delete sub-sections 4.5.1., 4.5.3., 4.5.5., 4.5.6., 4.5.7. and 4.5.11. These sub-sections have been moved to Section 5.2.

Insert a new paragraph at the end of newly re-numbered paragraph 4.5.1.5., as follows:

Officers who are entitled to a fully-expensed vehicle may request to purchase the vehicle before commencing their pre-retirement leave, provided that the depreciated value is computed as at the date of commencement of pre-retirement leave, the car is paid by the officer before its takeover and that no other allowances are allowed.

Replace paragraph 4.6.1.7. with the following:

4.6.1.7. Officers who are on long unpaid leave or who have just finished a long period of unpaid leave should not be granted any type of paid leave, including sick leave before effectively resuming duties. Paid leave is granted for actual work periods and cannot be authorised if no service has been given.

Insert the following sentence at the end of the last paragraph of 4.7.3.3., as follows:

If the required notice period is not observed and requests for unpaid leave are received later than three months before the commencement of unpaid leave, the difference will be deducted from the maximum period of three years unpaid leave.

Insert new sub-section 4.7.4. as follows:

4.7.4. Unpaid leave to take up a post with an international organisation

4.7.4.1. *Eligibility.* Public officers who are selected to work with an international organisation may avail themselves of one year unpaid leave not on grounds of public policy. On the expiration of the first year unpaid leave, officers may request a renewal. An extension of unpaid leave will be granted depending on the exigencies of the service.

4.7.4.2. Unpaid leave to work with international organisations, such as World Health Organisation (WHO), United Nations (UN), Food Agriculture Organisation (FAO) and Commonwealth, is granted because the experience gained by these public officers is considered to be an asset to the public service when they resume duties.

4.7.4.3. To apply for this leave, public officers should first obtain clearance from their Head of Department. The letter of request, together with the clearance and relevant documentary evidence, should then be forwarded to the Employee Relations Department, within the MPO, for approval.

In paragraph 4.8.1.1. insert a full stop after the word documentation and delete the rest of the paragraph. Conditions regarding the grant of parental leave are now available in Chapter 5.

In paragraph 4.8.1.2. delete the word Director.

Delete sub-sections 4.8.4., 4.8.5., 4.8.9. and 4.8.10. These sub-sections have been moved to Section 5.3.

Rename paragraph 4.8.9. Leave to try alternative employment in the private sector.

At the end of the first sentence of paragraph 4.8.9.1. insert the words in the private sector.

In paragraph 4.8.9.2., change 1.2.11. with 1.4.11.

Insert new paragraph 4.9.2.4. as follows:

4.9.2.4. *Seminars abroad for trade union officials.* Public officers, who are trade union officials, are granted paid leave to attend EU funded trade union seminars abroad. This paid leave is approved by the Employee Relations Department within the MPO. Attendance to

* MFEI Circular No 8/2009

seminars/conferences abroad which are not EU funded should be covered by vacation or unpaid leave.

Replace paragraph 4.9.3.2. (a) with the following:

- (a) the closeness of the link between the project or activity to which the voluntary organisation proposes to assign the released officer and the priorities established by the government. Priority will be given to voluntary organisations providing a service that is complementary to a service provided by government.

At the end of paragraph 4.9.3.2. (c) add the following sentence:

Priority will be given to voluntary organisations that are not receiving any assistance, provided that the criteria at (a) and (b) above are satisfied.

In paragraph 4.9.3.3. replace the last sentence with the following sentence:

Government reserves the right not to assign any officer to a voluntary organisation even if it satisfies all the criteria, to allow government to spread out its assistance to different types of projects. Government may also put a limit on the amount of assistance granted.

Insert new paragraph 4.9.3.4. as follows:

4.9.3.4. The comments of the Permanent Secretary and a report by the Head of Department on the duties performed by the officer to be released will be required. The report should indicate the problems the release will cause and the type of solutions the Permanent Secretary and Head of Department will adopt if the release is approved.

Number the paragraph beginning with the words The release of public officers to voluntary organisations **as paragraph 4.9.3.5.**

In newly numbered paragraph 4.9.3.5. replace sub-paragraph ii. with the following:

- ii. Release under this scheme is approved by Management and Personnel Office (MPO), in consultation with relevant stakeholders including, where applicable, the Commissioner for Voluntary Organisations. It is to be noted by benefiting organisations that this office reserves the right to monitor the released officer to ensure conformity with the terms of release, including the ongoing progress of the presented project/activity. To this effect spot checks may be carried out and/or reports on the activities may be required by the employer or by someone delegated on the Government's behalf. The employer reserves the right to withdraw the released officer if agreed terms are not adhered to, by giving a five working day notice.

In newly numbered paragraph 4.9.3.5., insert new sub-paragraph iii. as follows:

- iii. Released officers will be expected to work a 40 hour week and will be entitled to 192 hours vacation leave yearly, irrespective of their substantive grade.

Re-number current sub-paragraphs iii. and iv. in newly numbered paragraph 4.9.3.5., as iv. and v.

Replace newly re-numbered sub-paragraph v. as follows:

- v. The voluntary organisation is required to submit to the line Permanent Secretary, a report outlining progress achieved in relation to the originally specified project deliverables. On the basis of this report, the line Permanent Secretary will take this report into account in making a recommendation to MPO as to whether the additional period of release should be approved.

Number the paragraph beginning with the words MPO may also at its discretion, as paragraph 4.9.3.6.

Insert new paragraph 4.9.3.7. as follows:

4.9.3.7. Voluntary organisations will not be permitted to put up adverts in local newspapers to select public officers to work with them. The officer nominated has to be familiar with the running of the organisation.

Re-number current paragraphs 4.9.3.4. and 4.9.3.5. as 4.9.3.8. and 4.9.3.9.

In newly re-numbered paragraph 4.9.3.8., replace sub-paragraph e. with the following:

- e. The name and details of the officer that the organisation is requesting to be released. Ideally, three names, in order of preference, should be submitted from whom the officer to be released will be selected. It is to be noted that release will be given for a maximum period of one year with the possibility of renewal. At the end of the release period, the officer will revert back to his/her employing department.

Delete current paragraph 4.9.3.6.

Insert new paragraph 4.9.3.10. to read as follows:

4.9.3.10. In exceptional and specially deserving cases, two or more officers may be assigned to a voluntary organisation where this is justified by the nature of the project or activity being undertaken by that organisation, so however that in such a case an ad hoc agreement is entered into between the OPM and the relative NGO. The provisions of paragraphs 4.9.3.2. to 4.9.3.7. and 4.9.3.9. shall apply unless otherwise specified in the agreement.

At the end of paragraph 4.9.6.1. insert cross-reference to paragraph 7.2.4.2.

In paragraph 4.9.6.2 replace 1.1.15. by 1.1.8.1.

In paragraphs 4.9.7.3. and 4.9.7.4. change 4.8.13. with 4.8.7.

In paragraph 4.11.4. change 4.5.1. with 5.2.4. and 4.5.1.7. with 5.2.4.7.

CHAPTER 5 – FAMILY-FRIENDLY MEASURES

Replace Chapter 5 – Social Security^{*} **with new** Chapter 5 – Family-friendly measures, reproduced below:

^{*} Information on Social Security is available in the Manual on Social Security Contributions, Benefits and Pensions that can be accessed on http://www.mpo.gov.mt/info_downloads.html.

5. FAMILY-FRIENDLY MEASURES

5.1. APPLICABILITY

5.1.1. Family-friendly measures are applicable to all public service and public sector employees, whether engaged on full-time, part-time, on a definite or indefinite contract basis.

5.1.2. Eligibility requirements for each particular measure are given in the relevant sections.

5.2. PAID LEAVE FOR FAMILY REASONS APPROVED BY THE HEAD OF DEPARTMENT

5.2.1. Adoption Leave* (see Family-Friendly Measures manual section 2.1.)

5.2.1.1. Five weeks adoption leave with pay may be availed of by the mother or the father, or shared by both parents if they are both public officers, provided that they do not exceed the prescribed limit and do not take the adoption leave concurrently. Adoption leave commences on the day that a child passes into their custody. If both parents intend to avail themselves of adoption leave, the leave of each parent should be taken in one period. Those employees who fail to resume duty at the expiration of this leave, or who, having resumed work, resign or abandon their employment without sufficient cause within three months from such resumption, shall be liable to pay government a sum equivalent to the salary they received during the adoption leave. If adoption leave is shared, the obligation of three months service is worked out pro-rata, with each parent being bound by his/her respective period of service.

5.2.1.2. Special consideration will be given for additional separate periods not exceeding 3 months in aggregate of unpaid leave in those cases of international adoptions which involve lengthy processing abroad.

5.2.1.3. Adoptive parents may utilise one year parental leave for each adopted child and a once only career break of five years for the same purpose, subject to the provisions outlined in sub-section 5.3.4. Employees who avail themselves of the five weeks paid adoption leave may work the three months commitment to government either before or after this unpaid leave.

5.2.1.4. Authorisation for all the above types of leave is to be granted by the Head of Department concerned who will however invariably consult the Department of Social and Family Welfare before any decision is taken.

Insert new paragraph 5.2.1.5.. as follows:

5.2.1.5. Officers who benefit from adoption leave are precluded from performing private work during this leave, even after official hours. However, work after official hours in government employment may be allowed subject to the recommendation of the Permanent Secretary concerned.

* Applicable to public sector employees

5.2.2. Bereavement leave* (see Family-Friendly Measures manual section 2.3.)

5.2.2.1. All full-time staff are entitled to 2 working days paid bereavement leave on the occasion of the death of near relatives namely wife or husband, mother or father (or the person who at the time was acting as mother or father), son or daughter, brother or sister.

5.2.2.2. In the event of the near relative dying abroad, additional paid leave may be granted on the authority of the Head of Department.

5.2.3. Marriage leave* (see Family-Friendly Measures manual section 2.7.)

5.2.3.1. Government employees, who opt to remain in employment after their marriage, are entitled to 3 working days paid leave.

5.2.3.2. The special paid leave referred to in sub-sections 5.2.2. and 5.2.3. can only be availed of at a stretch and should not start later than the first working day following the occasion to which it refers.

5.2.4. Maternity leave* (see Family-Friendly Measures manual section 2.8.)

5.2.4.1. *Statutory entitlement.* Female employees, including female employees engaged on contract, are entitled to paid maternity leave for absence from work because of pregnancy and confinement for a period of not more than 14 weeks as follows:

- (a) a period of 6 weeks immediately after the date of confinement;
- (b) the remaining 8 weeks may be availed of immediately before or after confinement; and
- (c) during pregnancy and during the 3 months starting from the date of confinement, female officers may be given alternative duties where there is an occupational risk to their Health and Safety.

5.2.4.2. For the purpose of the preceding sub-paragraph, a confinement will be taken to mean the birth of a living child or the birth of a child whether living or stillborn after 7 months of pregnancy.

5.2.4.3. *Applications for maternity leave.* In order to be eligible for maternity leave, a female employee should, at least 3 weeks before such leave is about to begin or, if that is not reasonably practicable, as soon as practicable, give notice in writing to her Head of Department that she will be absent from work because of pregnancy and confinement and, together with such notice, she should produce a signed medical certificate in which is indicated the expected date of confinement. After confinement she should produce the birth certificate of the baby. As regards alternative duties, female officers should also give reasonable notification in order that adequate arrangements may be made.

* Applicable to public sector employees

* Applicable to public sector employees

* Applicable to public sector employees

5.2.4.4. If the notice is not given as in the preceding sub-paragraph the employee will be entitled only to that part of the maternity leave which includes the date in which the confinement occurs and the period of 6 weeks which follow such date if the birth certificate of the baby is produced.

5.2.4.5. In cases where confinement does not occur within 8 weeks from the day on which the maternity leave commences, the period after the 8 weeks till the date of confinement should be covered by unpaid leave.

5.2.4.6. An employee who, having been granted maternity leave, is unable to resume duties at the expiration of the maternity leave owing to a pathological condition arising out of confinement will be entitled to a further period of absence of up to 5 weeks. Such further absence shall be deducted from the period of paid sick leave to which the employee may be entitled at the time of the absence, any period of absence in excess of the sick leave entitlement being reckoned as sick leave without pay. The rules regarding sick leave (set out in section 4.3) including the regulations concerning notification of sick absence, will apply.

5.2.4.7. *Refund of salary on termination of service.* An employee who has been granted paid maternity leave is required to work for an uninterrupted period of 6 months. An employee who fails to resume duty at the expiration of maternity leave or of the further period of absence referred to in the preceding paragraph or who having resumed work resigns or abandons her employment without sufficient cause within 6 months from the date of such resumption, shall be liable to pay Government a sum equivalent to the salary she received during the maternity leave. These 6 months must be actual service and may not be covered by vacation, sick or other leave and may be worked either before or after the utilisation of the parental leave on no pay. An employee on a fixed-term contract shall not be liable to refund the salary she received during maternity leave if her contract of employment is not extended, at the employer's discretion for up to a period of time which is sufficient for her to fulfil the 6 month obligation.

5.2.4.8. *Change in post.* If an officer changes post after availing herself of maternity leave for another post in the public service, she may render the 6 months service required after maternity leave in her new post, provided there is no break of service. This applies also if the new post is in a different career stream.

5.2.5. Paternity leave* (see Family-Friendly Measures manual section 2.10.)

5.2.5.1. Male employees are entitled to two working days paid leave on the birth of each of their children. This leave is to be availed of at a stretch, within 15 days following the birth.

5.3. UNPAID LEAVE FOR FAMILY REASONS APPROVED BY THE HEAD OF DEPARTMENT

5.3.1. General conditions* (see Family-Friendly Measures manual section 2.14.)

5.3.1.1. In computing special unpaid leave every day of absence is to be counted. Saturdays, Sundays and Public Holidays falling at the beginning or at the end of such leave are, however, to be excluded. This provision does not apply in respect of those categories of staff for whom Saturdays and Sundays are normal working days.

5.3.1.2. Employees who apply for unpaid leave in terms of sub-sections 5.3.2. to 5.3.5. must have completed at least 1 year's service and should apply for this leave at least 1 month in advance attaching the relevant documentation, with the exception of parental leave (sub-section 5.3.4.) for which applications must be submitted 3 months in advance in order to allow Heads of Department sufficient time to make adequate staff replacement arrangements.

5.3.1.3. Applications for renewal of unpaid leave are to be submitted in good time, not later than one month in advance of the commencement of the unpaid leave. When officers opt to follow one type of leave with another, they are required to apply at least three months in advance (the same as for parental leave) to allow management to plan for a substitute, if necessary.

Insert new paragraph 5.3.1.4. as follows:

5.3.1.4. Officers who benefit from unpaid leave for family-friendly reasons like Parental Leave, Responsibility Leave, Leave to Foster Children and Leave to Accompany Spouse Abroad are precluded from performing private work for the duration of this leave, even after official hours. However, work after official hours in government employment may be allowed, subject to the recommendation of the Permanent Secretary concerned.

5.3.1.5. Any of the unpaid leave entitlements in Sections 4.7. and 4.8. and the following sub-sections may be followed by one another, subject to an overall maximum of eight years unpaid leave, whether the unpaid leave is taken at a stretch or broken up by periods of resumption of duty. This provision also applies to paid or unpaid leave for development work abroad, as outlined in sub-section 4.9.7.

5.3.1.6. Before utilizing unpaid leave, staff must utilise their vacation leave which must be computed pro-rata to the period of service actually worked during the calendar year prior to commencement of the unpaid leave.

5.3.1.7. The leaves in this section are approved by the respective Heads of Department. Copies of the approvals should be sent to the DCS or DFA, as appropriate, for the keeping of necessary records.

5.3.1.8. Approvals of special leave without pay are also to be notified to the Management and Personnel Office and the Treasury for record purposes. All unpaid leave should be recorded in the officer's Personal Record Sheet (GP 51) and the Service and Leave Record Form (GP 47).

* Applicable to public sector employees

5.3.1.9. Officers in teaching grades who avail themselves of unpaid leave are allowed to resume duty by the end of February, or in September, at the end of the scholastic year, including the summer holidays. This is intended to minimise as much as possible the disruption of classes.

5.3.1.10. Officers on unpaid leave are not entitled to any paid benefits before they resume duty.

5.3.1.11. If officers resume duty after unpaid leave, on the summer time-table, they should be paid for the hours worked, unless they opt to compensate for the shortfall in hours by working longer hours on the winter time-table.

5.3.1.12. Heads of Department should note that when officers fail to resume duty at the expiration of unpaid leave, they should take the necessary action as stipulated in Chapter 10.

5.3.2. Leave to accompany spouse on Government-sponsored courses or assignments* (see Family-Friendly Measures manual section 2.5.)

5.3.2.1. A maximum of four (4) years unpaid leave, renewable on application yearly, may be granted to public officers to accompany husband or wife abroad on government sponsored courses or assignments, subject to the provisions of paragraph 5.3.1.4. These four (4) years may be utilised at a stretch or broken up by periods of resumption of duty.

5.3.3. Leave to foster children* (see Family-Friendly Measures manual section 2.6.)

5.3.3.1. Public officers may avail themselves of special unpaid leave for a period not exceeding one (1) year, in order to foster a child, subject to the provisions of paragraph 5.3.1.4. To be eligible for this leave, public officers must provide documentary evidence that they are fostering a child after having been certified able to act as foster father or mother by the Adoption and Fostering Panel of the Department for Family Welfare.

5.3.3.2. Should the occasion arise for a further foster placement, additional unpaid leave may be allowed provided that not more than a total of 1 year special unpaid leave is availed of in every period of 4 years. The fostering of more than 1 child at the same time is regarded as one placement. If the reason for allowing unpaid leave for fostering is no longer applicable, public officers will have their unpaid leave terminated and the officers will revert to Government employment.

5.3.4. Parental leave* (see Family-Friendly Measures manual section 2.9.)

5.3.4.1. Officers who have at least 1 year service are allowed to avail themselves of 1 year unpaid parental leave to take care of their own children who are under 6 years of age. They may choose to utilise 3, 6 or 9 months instead of 12 months; the parental leave chosen may only be taken in one period and may be shared by both parents. They must declare their option up front when they apply for parental leave. Any outstanding parental leave that is not utilised (from the 1 year entitlement) is lost and may not be availed of at a later date. This leave may be availed of in respect of each child.

* Applicable to public sector employees

5.3.4.2. In addition, parents are allowed a total of 5 years unpaid career break to be utilised for the care of a child/children under 6 years of age. The 5 years must be utilised as a whole period, and may be reduced by multiples of three months. If the 5 years are not availed of in one whole period, the outstanding period of leave may only be taken for the care of another child/children. Unpaid leave from the entitlement of 5 years may be shared once by both parents, for each child.

5.3.4.3. Three months from either the one year parental leave or from the five-year career break, may be reserved and utilized by employees until the child reaches eight years of age, always subject to paragraphs 4.6.1.2. and 5.3.1.5., that is, an overall maximum of eight years unpaid leave.

5.3.4.4. Three months unpaid leave of the total parental leave entitlement may be broken up in periods of one month at a time.

5.3.4.5. Parental leave may be availed of by the mother or the father, or shared by both if they are both public service and public sector employees, provided that together they do not exceed the prescribed limit and do not take the parental leave concurrently. If both parents intend to avail themselves of parental leave, the leave of each parent should, except for exceptional circumstances, be taken in one period. Female employees who avail themselves of the 14 weeks paid maternity leave still have the obligation to put in 6 months service. The 6 months which have to be worked by female officers who avail themselves of paid maternity leave must be worked in one period by the officer concerned immediately either before or after the 1 year parental leave or before or after the career break mentioned in the preceding paragraph.

5.3.4.6. Government employees in the teaching grades who avail themselves of parental leave are allowed to resume duty by the end of February, or in September, at the end of the scholastic year, including the summer holidays. The option has to be declared when the officers apply for parental leave. Any outstanding period of the 12 months parental leave not availed of, is lost. This is intended to minimize as much as possible the disruption of classes.

5.3.4.7. For proper management, it is required that officers give at least 3 months notice when they apply for the 1 year parental leave or for the additional period of 5 years career break. If the period of parental leave does not exceed three months, employees can give three weeks' notice, instead of the three months' notice that is otherwise required. The periods of unpaid leave to be taken must be declared on application for the leave, and any change may only be made by giving 3 months' notice, so that alternative working arrangements may be made. Officers who resume duties earlier than the stipulated dates, forfeit the balance of the entitlement.

5.3.4.8. Public officers are considered to be abusing of this leave when they engage in full-time employment or work part-time or exercise their profession whilst availing themselves of parental leave which is specifically meant to assist parents to take care of their children who are under 6 years of age. In cases where parental leave is abused of, Heads of Department may use their discretion to refuse or withdraw approval of parental leave.

5.3.5. Responsibility leave* (see Family-Friendly Measures manual section 2.12.)

* Applicable to public sector employees

5.3.5.1. Responsibility leave may be availed of by public officers to take care of dependent elderly parents, sons and daughters, or spouses. The elderly parent or spouse must have no other responsible person living with him during the day. The elderly parent, child or spouse must be certified by a medical specialist to require care. If both elderly parents are alive they must be certified as being dependent on care.

5.3.5.2. This leave may be availed of by public officers who have completed at least 1 year's service. It is without pay and is to be approved for a minimum of 12 months. However, if the reason for which the responsibility leave is approved is no longer applicable, the employee is required to resume duties provided an advance notice of 1 month is given. Officers who resume duties will not normally be allowed to avail themselves of Responsibility leave again for the same specific reason, before a lapse of 12 months; exceptions will be made in special circumstances.

5.3.5.3. Responsibility leave is approved by the Head of Department of the public officers, to whom the application must be submitted normally 1 month in advance of the date of commencement of the leave. Officers are required to submit together with their application a certificate by a medical specialist outlining the situation of the dependent elderly parent, or dependent disabled child or spouse. Officers who have had an application refused, may appeal, through the Head of Department, for consideration by the next higher authority within the Ministry, who will carry out an investigation of the case, and after consulting the parties concerned, come to a decision as to whether the application is to be accepted or not. The decision of the next higher authority will be final. While the appeal is being considered applicants are able to utilize their vacation leave or special unpaid leave as at paragraph 5.3.6.1 for the purpose in question.

5.3.5.4. The period/s of unpaid leave allowed as responsibility leave must be for periods of not less and not more than 1 year every time. Those officers who wish to renew the leave must apply 1 month in advance of date of renewal. In cases requiring care of children, this unpaid leave may be availed of by the father or the mother and may be shared in the same way as parental leave is shared, and provided that together they do not exceed the prescribed limit and that they do not take responsibility leave concurrently. If both parents intend to avail themselves of the responsibility leave, the leave of each parent should be taken in one period.

5.3.5.5. Responsibility leave should be availed of for the purpose for which it is authorized, and officers who abuse of this concession will immediately have their approval withdrawn and will be liable to disciplinary action.

5.3.6. Leave for thirty days* (see Family-Friendly Measures manual section 3.6.)

5.3.6.1. Officers with at least six months' service may avail themselves of a maximum of 30 days special leave without pay, for any special reason, in any period of twelve (12) months.

* Applicable to public sector employees

5.4. OTHER MEASURES FOR WORK-FAMILY BALANCE

5.4.1. Donation of vacation leave for humanitarian reasons* (see Family-Friendly Measures manual section 2.4.)

5.4.1.1. Public officers are allowed to donate part of their vacation leave to their colleagues for humanitarian reasons, subject to the parameters listed below:

- a) the forfeiture of vacation leave is at the complete discretion of the employees concerned;
- b) a maximum of 40 hours vacation leave may be donated by any officer;
- c) employees who are caring for sick relatives, may only utilise donated vacation leave after they have exhausted their own vacation leave; and
- d) employees who are suffering from personal illness may only utilise donated vacation leave after they have exhausted their own vacation leave and any accumulated full-pay and half-pay sick leave.

5.4.1.2. *Management of donated vacation leave.* Vacation leave donated by public officers will be pooled in a vacation leave fund. Additional vacation leave for humanitarian reasons will be distributed to eligible employees from this fund. The vacation leave fund will be created in and administered by each ministry, through the Department of Corporate Services, so as to be in a better position to control vacation leave and monitor the beneficiaries.

The vacation leave is donated during the first months of the calendar year, following a departmental circular that is to be issued and circulated by each Department of Corporate Services. If the vacation leave is not utilised during that calendar year, it may be carried forward to the following year. In this way, it may not be necessary to ask for donation of vacation leave every year.

The smaller ministries can ask the larger ministries for assistance, if their fund is exhausted during any calendar year.

5.4.1.3. *Eligibility.* This additional donated vacation leave will be used strictly in humanitarian cases. The donated leave will be used by public officers themselves who require the leave either personally or to assist members of their family, who may be up to the fourth degree, both by consanguinity and by affinity. Documentary evidence of the need for the leave must be produced, and the request must be recommended by the officer's Head of Department.

5.4.1.4. *Donation of vacation leave to family members.* Apart from (b) of 5.4.1.1. above, public officers may donate their full vacation leave entitlement or part thereof, to their own family members up to the fourth degree, who are also public officers and who are required to assist sick relatives or are themselves suffering from personal illness, in line with the conditions set out at paragraph 5.4.1.1. above. If the donor and the beneficiary work in different ministries, the Departments of Corporate Services of the employees concerned are to liaise together for the transfer of vacation leave from one employee to another.

* Applicable to public sector employees

5.4.2. Work on reduced hours* (see Family-Friendly Measures manual section 2.11.)

5.4.2.1. *Eligibility.* Public officers who have been serving for at least one year may be allowed to work on a reduced timetable except for:

- (a) officers who are engaged in a Top Management Position (e.g. Assistant Director, Director, Director General, Permanent Secretary); and
- (b) uniformed members of the Armed Forces of Malta.

Officers who are allowed to work on a reduced timetable are precluded from performing private work, even after official working hours. However, work after official hours in government employment may be allowed subject to the recommendation of the Permanent Secretary concerned.

5.4.2.2. *Approving authority.* Requests by eligible employees to work on a reduced time-table are submitted to the relevant Heads of Department for their approval which is normally given in cases of employees who:

- (a) are in the course of a period of unpaid parental leave or from employees who would, if they applied, have been entitled to parental leave. Reduced hours will be allowed until the child reaches the age of 12 years;
- (b) are in the course of a period of responsibility leave or would, had they applied, have been entitled to responsibility leave; and
- (c) produce a medical specialist's certificate that for medical or serious humanitarian and family reasons, they may not attend their duties on a full-time basis.

5.4.2.3. Employees on parental or responsibility leave are allowed to suspend the unpaid leave and return to work on reduced hours, provided that they apply at least 1 month in advance of suspending the unpaid leave.

5.4.2.4. *Reduced hours for further reasons.* In the case of other reasons, the approval of a request to work on reduced hours is at the discretion of the Head of Department, who, in evaluating such a request, should primarily consider the potential impact of the proposed partial absence on the operations of the Department. To ensure consistency of treatment of these requests for work on reduced hours, Heads of Department are to draw up a written policy they intend to follow in evaluating requests received from employees in their Department.

5.4.2.5. When drawing up the Departmental policy, which should be circulated to all the employees, Heads of Department are to stipulate:

- (a) staff ratios (e.g. if more than one fourth of staff in particular grades in any Department are on parental leave, responsibility leave, or reduced hours, reduced hours for further reasons will not be allowed as this will seriously hamper the running of the Department);

* Applicable also to public sector employees

- (b) the hours during which it is mandatory that staff must attend for duty especially if the division has to provide a public service (e.g. front line customer desks);
- (c) particular arrangements for employees working on a shift/roster basis; and
- (d) any particular requirements necessitated by the operational demands on the Department.

5.4.2.6. A Head of Department, for operational reasons may revoke a permit granted under paragraph 5.4.2.4 to an employee to work on a reduced time-table, provided that 2 months' notice in writing is given to the employee.

5.4.2.7. If an application for reduced hours is refused or revoked by the Head of Department, the officer may appeal, through the Head of Department, to the next higher authority within the Ministry who will consider the case, and after carrying out the necessary consultation with the parties involved, decide on the case. The decision of the next higher authority in the Ministry will be final.

5.4.2.8. *Duration of arrangement.* Employees who are granted permission to work on a reduced time-table will be expected to continue to work on the basis of the approved arrangement for a period of 12 months and will, during such period, not be entitled to the grant of unpaid leave or to revert to their normal work time-table, unless proof is given that the reason for which the reduced time-table was requested no longer applies. An advance notice of at least 1 month would have to be given to the Head of Department. Those who resume duty after a period of reduced hours will not be allowed to take reduced hours again for the same specific reason before the lapse of 12 months from the date when they resume duty. Exceptions may be made in special circumstances.

5.4.2.9. Arrangements for employees to work on a reduced time-table may be renewed, subject to the approval of the Head of Department, for successive periods of 12 months and the terms of the arrangements (e.g. number of hours to be worked) may be reviewed at the commencement of such renewal periods.

5.4.2.10. *Reduced time-table.* The number of hours worked per week by employees who are conditioned to a 40 hour working week may vary between 20 to 35 hours, to the nearest hour, per week and officers may work on a different time-table in Winter and in Summer. In the case of employees who are conditioned to an alternative timetable, the hours may vary between 50% and 87.5% of their usual working hours.

5.4.2.11. *Pay and other benefits.* While employees are working on a reduced time-table, they:

- (a) are entitled to the salary on a pro-rata basis depending on the chosen number of hours;
- (b) are entitled, on a pro-rata basis, to any allowances linked to their duties and to which they would have been entitled had they been working on a full-time table. An exception is made in the payment of qualification allowances, which are paid in full;
- (c) when public officers on reduced hours are required to work beyond their usual weekly hours, they are paid at the hourly rate

for the extra hours worked. Extra hours worked that exceed the weekly hours worked by a full-time counterpart, are paid at overtime rates;

- (d) retain all leave benefits but they are paid pro-rata. Vacation leave is to be calculated using the formula at paragraph [4.2.5.2](#). In the case of officers on reduced hours who opt to work a 4-day week while their full-time counterparts work a 5-day week, the following points should be adhered to:
 - (i) If sick leave is taken at a stretch for a whole week, it is computed as 5 days. If, however, sick leave is taken on separate days, it is to be counted on a one day basis; and
 - (ii) if a public holiday falls on the off-day of the employee working on reduced hours no extra compensation is called for.

In the case of officers whose full-time counterparts work a 6-day week but who opt to spread their hours over 5 days, the number 5 should be substituted by 6 in (i).

- (e) are entitled to 16 hours urgent family leave, to be taken in not more than 4 sessions, the same as for all employees, in terms of sub-section 5.4.5.
- (f) service on a reduced time-table counts in full for the purposes of salary increments;
- (g) in line with the provisions regarding unpaid leave, outlined in the PSMC, service on reduced hours counts in full for the first 12 months, but counts pro-rata for subsequent periods of reduced hours for the purposes of progression and promotion;
- (h) working on a reduced time-table does not prejudice the seniority of employees in the particular grade, or the opportunities of these employees for training, or for applying for calls for applications; and
- (i) employees on reduced hours should have the same access as other government employees to all government circulars and publications.

5.4.2.12. *Pensionable service.* For the purpose of the Treasury Pension, as service on reduced time-table will be not less than 50% of the normal time-table, it will count in full. The Social Security contributions are based on the income earned by the employee at the rate of 1/10 by the employee and 1/10 by the employer. If the income is less than the minimum weekly wage, then the basic Social Security contribution by the employee is applicable. The Social Security Pension is computed in accordance with the [Social Security Act \(Cap. 318\)](#) which currently bases the pensions on the income of the best 3 years in the last 10 years of service.

5.4.2.13. Applications to a Head of Department for a permit to work on a reduced time-table or for the renewal of such a permit will normally have to be made at least 1 month in advance.

5.4.2.14. Where it results to the Head of Department that employees will be or are using reduced hours for a purpose for which it was not intended, the officers may immediately be requested to resume duty on full hours.

5.4.2.15. All approvals for work on reduced hours should be notified to the respective DCS or DFA, as applicable, to monitor and note in the records.

5.4.3. Teleworking* (see Family-Friendly Measures manual section 2.13.)

5.4.3.1. *Eligibility.* Employees with one year's service may work on a teleworking arrangement, if their job performance, traits and skills as well as the nature of their job, are suitable for telework.

Officers who are allowed to benefit from a teleworking arrangement, are precluded from performing private work, even after official hours. However, work after official hours in government employment may be allowed subject to the recommendation of the Permanent Secretary concerned.

5.4.3.2. *Duration.* A teleworking contract is valid for a period of 12 months, and may be renewed annually. However, employees who find the teleworking arrangements unsatisfactory should be allowed to opt out of the agreement.

5.4.3.3. *Application.* Requests for teleworking should be submitted to respective Heads of Department, who must consider the needs of the applicant and also ensure that the output and timeliness of the organisation are maintained. For these objectives to be reached, the prospective teleworker and the job must be carefully evaluated.

Employees and their immediate supervisor are to fill in Section 1 of the application form (attached at Appendix 5.I). Section 2 of the application form is to be filled in by the Head of Department, who will then decide whether to approve or reject the application. Approved applications are sent to the Director Corporate Services for review and subsequently forwarded to the Permanent Secretary for endorsement.

Following approval, an assessment of the employee's requirements, including technical training, equipment and software, is to be carried out.

A Telework Agreement should finally be signed by the employer and the employee. A specimen Telework Agreement is attached at Appendix 5.II.

5.4.3.4. The teleworking arrangement is entirely voluntary and may not be imposed by the Head nor demanded as of right by the employee.

5.4.3.5. A detailed policy document is attached at Appendix 5.III and guidelines regarding the implementation of this policy is at Appendix 5.IV.

5.4.4. Flexibility in work schedules* (see Family-Friendly Measures manual section 3.3)

* Applicable also to public sector employees.

* Applicable also to public sector employees

5.4.4.1. Flexible work schedules are encouraged to strengthen the service offered to clients, while decreasing the need to adhere to rigid time tables. The organisation and the employees are to jointly establish a 'best fit' model in the best interest of all stakeholders.

5.4.4.2. To introduce flexibility, departments are encouraged to adopt alternative time tables during the summer months, so that their department offers an uninterrupted service in the months of July and September. Employees' participation in this project, is on a voluntary basis.

5.4.4.3. The alternative time tables proposed by each department for the summer months, are to be approved by the respective Permanent Secretary. Alternative time tables which are not limited to the summer months should be submitted for consideration to the MPO.

5.4.5. Urgent family leave** (see Family-Friendly Measures manual section 2.15.)

5.4.5.1. Urgent family leave may be utilised for urgent family reasons in cases of sickness or accident, which require the immediate presence of the employee.

5.4.5.2. Urgent family leave is granted in the under-mentioned circumstances, when the immediate family of the employee is involved:

- (i) accidents;
- (ii) sudden illness or sickness requiring assistance or presence of the employee; and
- (iii) presence during births and deaths.

Immediate family is taken to mean husband, wife, children, mother, father, brother and sister.

5.4.5.3. For the purpose of urgent family leave, employees may avail themselves of sixteen hours leave to be taken in not more than 4 sessions. Vacation leave used for the purpose of urgent family leave is deducted from the employees' annual vacation leave entitlement.

5.4.5.4. Except in cases where it is possible for the employee to give at least twenty four (24) hours notice, no advance notification need be given to utilise urgent family leave. However, before leaving their place of work, employees are bound to inform their superior officer. The Head of Department has the right to demand evidence that confirms the reason for utilising urgent family leave.

5.5. MEASURES SUSTAINING THE FAMILY-FRIENDLY CONCEPT

5.5.1. Appointment of Public Officers on Maternity and Parental Leave ^{* **}

5.5.1.1. Officers who qualify for appointment during Maternity and Parental Leave will be granted their due appointment even if they are unable to resume duties within the validity period of the appointment. Further information regarding this measure is available at section 1.1.13.

5.5.2. Equality of opportunity ^{}** (see Family-Friendly Measures manual section 3.1.)

5.5.2.1. To eliminate discrimination on the grounds of sex and marriage and to promote equality of opportunity in employment, selection boards should adhere to the guidelines stipulated in paragraph 1.1.7.8.

5.5.3. Experience for the purpose of Appointment, Promotion or Progression [†] (see Family-Friendly Measures manual section 3.2.)

5.5.3.1. To ensure a consistent interpretation and equity of treatment in computing experience for the purpose of appointment, promotion or progression, reference should be made to sub-section 1.3.11.

5.5.4. Increments to temporary and part-time employees ^{*} (see Family-Friendly Measures manual section 3.4.)

5.5.4.1. Certain categories of part-time and temporary staff are awarded increments in terms of sub-section 2.3.4.

5.5.5. Policy on handling cases of sexual harassment ^{*} (see Family-Friendly Measures manual section 3.5.)

5.5.5.1. The policy on the procedure that should be adopted in the handling of cases regarding sexual harassment is available in Chapter 11.

Insert Appendices 5.I. to 5.IV relating to teleworking.

CHAPTER 6 – TREASURY PENSION ARRANGEMENTS

In paragraph 6.2.4.1. replace cross-reference 1.4. with 1.6.

In the last sentence of paragraph 6.2.7.2. replace cross-reference 1.3.7.3. with 1.3.4.3.

* MPO Circular No 47/2001 dated 6 June 2001

** Applicable to public sector employees

† OPM Circular No 2/2002 dated 26 February 2002

* Applicable also to public sector employees

* Applicable also to public sector employees

Insert new paragraph 6.3.5.5. as follows:

6.3.5.5. Injury on duty is dealt with in detail in section 9.3.

Insert new paragraph 6.4.2.3. as follows:

6.4.2.3. Injury on duty is dealt with in detail in section 9.3.

CHAPTER 7 – CONDUCT

At the end of paragraph 7.1.4.2. replace cross-reference 1.1.10.1. with 1.1.17.1.

Replace paragraph 7.1.5.3. with the following:

7.1.5.3. Heads of Department are expected to provide reasonable facilities for trade union representatives to carry out their trade union functions promptly and efficiently in respect of the members represented by them.

Union representatives shall be allowed facilities to collect fees from members, to distribute union literature during working hours and to post trade union notices on the work premises in places agreed upon with the management to which workers have easy access. Union representatives shall also be granted access to all workplaces where such access is necessary to enable them to carry out their representation functions.

Trade union representatives must obtain permission from their superior, before taking time-off from work for the purpose of carrying out union activities. Permission should not be unreasonably withheld.

Trade union representatives are to enjoy effective protection against any act prejudicial to them, including dismissal, based on their status or activities as a workers' representative or on union membership or participation in union activities, so far as they act in conformity with existing laws or collective agreements or other jointly agreed agreements.

Insert new paragraph 7.1.6.3. as follows:

7.1.6.3. Consonant with professional ethics, it is the practice to avoid having in the same unit, members of the same family or persons with business ties where this relationship can impinge on their official duties and may cause a potential conflict of interest.

Insert new paragraph 7.1.10.5. as follows:

7.1.10.5. The policy on how to handle cases of sexual harassment is explained in Chapter 11.

At the end of paragraph 7.2.4.2. insert the following sentence: MEPs may identify a public officer to work as their personal assistant in terms of sub-section 4.9.6.

In the column "Retention Period" of Appendix 7.II, amend the content corresponding to Minor/Serious Disciplinary Cases by inserting the words and in the Service and Leave Record (GP 47) after the words Personal Record Sheet (GP 46).

CHAPTER 8 – TRAVEL AND SUBSISTENCE

Insert the following two sub-paragraphs to paragraph 8.2.9.2. (a):

1. except in case of front-to-rear collisions not involving personal injury, when Rule 141 of the Highway Code Part VII Front-to-Rear Collisions may be applied;
2. in case of incidents as described in the foregoing sub-section (a) 1, the procedure set in Appendix IV of Rules 1-6 of Highway Code under subheadings *At the Scene of the Accident* and *1-2 When you return home*, shall apply;

Insert new sub- paragraphs (h) and (i) to paragraph 8.2.9.2. as follows:

- h) in the absence of a Police report an Affidavit (see Appendix 8.III) has to be signed by the public service official and attached to documents relative to the incident in question when filling the claim; and
- i) without prejudice the foregoing sub-paragraphs (c) to (h) of paragraph 8.2.9.2. shall be observed in all incidents involving government-owned vehicles.

In paragraph 8.6.2.1. change 75% with 85%.

In the third paragraph of 8.6.2.2. delete all content after the first sentence.

Insert two new paragraphs in 8.6.2.2. as follows:

Early departure from Malta followed by a late arrival in Malta. In case of an early departure from Malta which is followed by a late arrival on return, an additional 20% of the per diem daily allowance is allocated, covering an additional meal and half of the allocation for sundry expenses.

An early departure, late arrival combination is determined as the difference between the time of departure from Malta and the time of departure from the country of destination being equal to 30 hours or more, irrespective of the number of days in between. In case of multiple flights on return, the time of departure on the last leg of the return trip is taken.

Replace last paragraph of 8.6.2.2. as follows:

Contingency money may be advanced to travelling officers largely to cover expenses related to airport/hotel transfers and local transportation to and from the airport. The contingency money advanced shall be calculated as 20% of the per diem allowance applicable to the visit. Such advance shall not, in any case, be less than €90 and shall not exceed €230. Expenses actually incurred must be justified and supported by receipts.

At the end of paragraph 8.7.1.1. add the following sentence: Depending on the reservation class used, different time limits apply.

In paragraph 8.7.1.3., add the following to the first sentence: , via Call Centre telephone number 22999888 (dedicated line for Government bookings).

Delete the last sentence of paragraph 8.7.1.3.

Delete paragraph 8.7.1.4.

Re-number current paragraphs 8.7.1.5. and 8.7.1.6. as 8.7.1.4. and 8.7.1.5.

Delete the last sentence of newly re-numbered paragraph 8.7.1.4.

Replace newly re-numbered paragraph 8.7.1.5. to read as follows:

8.7.1.5. E-tickets to Airmalta destinations can be purchased. The Letter of Authority covering flights for e-ticket destinations should be sent to Airmalta, via fax number 21251473. E-tickets and invoices will be sent to the respective departments via e-mail by Airmalta Call Centre once tickets are issued. Letters of Authority in respect of tickets not issued under the e-ticketing system should be presented at the Airmalta office at the time of collecting the ticket.

Airmalta is to be provided with an updated list of Government officials who are authorised to sign the travel authorisation forms. Any changes in this list are also to be notified.

Insert new paragraphs 8.7.1.6. and 8.7.1.7. as follows:

8.7.1.6. Airmalta offers Flexi fares which are available through the company's website portal www.airmalta.com.mt. When booking flights, the use of Flexi fares is to be made in the first instance, some conditions apply. In such instance payment has to be effected instantly through credit card.

When the use of Flexi fares is not possible, Zonal fares for different classes apply. Zonal fares are the maximum fares that Airmalta can charge Government. Where it transpires that excessive fares have been charged, departments are to apply for a refund. Economy class fares are available under 'T' and 'V' classes, while Club Class is available under 'D' class. The Zonal fares apply for all travelling officers, including diplomats and their family members.

8.7.1.7. When an itinerary involves other airlines besides Airmalta and the whole itinerary is covered by one ticket, Airmalta will seek to apply the lowest applicable through fare. KM maximum charge on such routes will default on the 'T' class fare when travel is in economy class and 'D' class fare when in club class. If the prorated fare on the KM sector is higher than these two classes the difference is to be reimbursed by KM to the government.

In paragraph 8.8.3.1. replace paragraph 8.12.2.1. **with** section 8.9.

In paragraph 8.9.1.1., after the words expenditure to be incurred **insert the following:** and the bank account in which funds are to be credited, clearly indicating the respective IBAN and BIC codes, which must invariably be shown on the Credit Transfer Form (Appendix 8.VII).

Please note that incorrect or incomplete data may result in bank charges and in a delay in processing the transaction. Accounting Officers are requested to validate the data as provided by the delegates and in order to facilitate the process further data can be checked against IBAN checker CDs, made available by the Treasury (as approved by CBM). These CDs may be collected from the Verifications Unit of the Government Accounts Directorate.

In paragraph 8.9.1.8. replace the word three **with** four. **Further down replace the words** Debit Advice **with** Credit Transfer Form.

Insert new paragraph 8.9.1.9. as follows:

8.9.1.9. In view of the changes introduced in paragraph 8.9.1.1., the attention of Accounting Officers and/or Officers in charge of travel is drawn to the following:

* The IBAN is available on the personal bank statement and the BIC is as follows:

APS Bank Ltd	-	APSBMTMT
Bank of Valletta plc	-	VALLMTMT
HSBC Bank Malta plc	-	MMEBMTMT
Lombard Bank Malta plc	-	LBMAMTMT
Volksbank Malta Ltd	-	VBMAMTM3
Banif Bank (Malta) plc	-	BNIFMTMT

- a) the usual DAS routine is to be followed;
- b) the charges box on the Credit Transfer Form must NOT be ticked;
- c) no CBM order form is to be prepared for cash requirements as there will be no cash handling;
- d) section C of the GA27/GA27A is to be endorsed by the delegate as proof of receipt of funds. CBM Advice issued in favour of the delegate is to be available with the GA27/27A for post-verification purposes. As per established procedures, the Credit Advices will be forwarded by Treasury upon receipt from CBM;
- e) attention is drawn to the fact that only one GA27 is to be raised per visit irrespective of the number of delegates;
- f) the Credit Transfer Form is to be used for any refunds to which the delegate may be entitled;
- g) departments must present travel documentation for Treasury's endorsement four (4) working days prior to the delegate's departure to allow ample time for the funds to be credited; and
- h) it must be clearly indicated to delegates that local withdrawals are presently not subject to bank charges; however overseas withdrawals will unavoidably attract a charge.

Re-number paragraphs 8.9.1.9., 8.9.1.10. and 8.9.1.11. **as** 8.9.1.10., 8.9.1.11. and 8.9.1.12.

In newly re-numbered 8.9.1.10. replace the words Debit Advice **with** Credit Transfer Form.

Insert new Appendices 8.III Affidavit and 8.VII Credit Transfer Form and re-number current Appendices 8.III to 8.V **as** 8.IV to 8.VI **and current Appendices** 8.VI. to 8.VIII **as** 8.VIII to 8.X.

CHAPTER 9 – STAFF WELFARE

In paragraph 9.1.1.3., after the words Directors, Corporate Services, **add the words** and Directors, People Management.

Insert new paragraph 9.1.1.4. as follows:

9.1.1.4. In order to ensure that all public service and public sector employees have equal access to information, especially in the case of circulars advertising vacancies, the following instructions should be followed:

- a) Permanent Secretaries and Directors Corporate Services/People Management (or their equivalent) are to ensure that all employees within their Ministry and who have e-mail access are invariably furnished with an electronic copy of all circulars issued.
- b) In the case of employees who do not have e-mail access, it is to be ensured that a hard copy is circulated and duly signed by the Officers concerned, thereby confirming that they have seen the circular. To this effect, HR units are to ascertain that they are sure of those employees who have access to an e-mail account and those who do not.
- c) Heads of public sector organisations are to ensure that circulars targeting public sector employees are brought to the attention of all their employees as per (a) and (b) above. In those cases where a circular addresses, specifically and only, public service officers serving in their organisation, the circular in question is to be circulated amongst such officers as per (a) and (b).

Officers who fail to comply with the above guidelines shall be held liable by law.

Replace paragraph 9.3.1.3. as follows:

9.3.1.3. As soon as practicable following the injury, the Head of Department is required to consider whether special or ordinary sick leave is to be granted, indicating the decision at Part III of Form NI30/GP75.

CHAPTER 11 – HANDLING CASES OF SEXUAL HARASSMENT

Insert new Chapter 11 as follows:

11. POLICY ON HANDLING CASES OF SEXUAL HARASSMENT

11.1. OVERVIEW

11.1.1. This chapter defines what is perceived as sexual harassment and stipulates the procedures that shall be adopted in cases of allegations of sexual harassment at work. Reference may also be made to the publication by the National Commission for the Promotion of Equality for Men and Women on the same subject.

11.1.2. *Legislative framework.* In terms of Article 9 of the Equality for Men and Women Act, (Chapter 456) it is a criminal offence for any person, whether a public officer or not, to sexually harass other persons. Sexual harassment is also prohibited in terms of Article 29 (3) of the Employment and Industrial Relations Act (Chapter 452).

11.1.3. *Applicability.* The provisions in this chapter apply to all Public Service employees, whether employed full-time or part-time, and also to all persons engaged on contract, whether through the Public Service Commission or not, as well as to any students and trainees attached to the Public Service, during the period of such contract, attachment or traineeship.

11.2. PRINCIPLES

- a) The Public Service is an equal opportunity employer and as such it will not tolerate any form of sexual harassment at the workplace. Heads of Department and all employees are in duty bound to safeguard and uphold the precepts articulated in this chapter. Non-compliance with these precepts will lead to disciplinary or criminal proceedings.
- b) The Public Service strives to promote a dignified working environment and a harmonious relationship among its employees irrespective of their sex, which would lead to mutual respect, understanding and appreciation in the work environment. The Public Service believes that preventing sexual harassment is part of good management. The victim of sexual harassment may experience emotional stress, physical stress, and/or a negative change in job performance. If sexual harassment is not addressed, the Public Service may be negatively affected in terms of low morale amongst employees, a higher rate of absenteeism, job turnover and low job performance.
- c) Government believes that sexual harassment is an intolerable violation of the dignity of workers and that it may have a negative impact on the general well-being of employees and/or clients, as well as on the work environment.

11.3. AIMS

11.3.1. This policy aims to:

- ensure that all employees and clients of the Public Service are treated with respect;
- secure the dignity and personal development of all employees;
- inform and educate employees on behaviour that is unacceptable since they must recognize that what is acceptable to one person may not be acceptable to another;
- provide information on means of redress to the victims of sexual harassment at the workplace. No employee or client of the Public Service must fear that they will be victimised for bringing a complaint of sexual harassment, whether the harassment comes from another employee or from a client of the Public Service. All sexual harassment claims will be treated very seriously and confidentially and all the necessary action will be taken to deal with the claim; and
- build a pro-active work environment that aims to prevent the occurrence of sexual harassment at the workplace.

11.4. DEFINITION OF TERMS

11.4.1. *Sexual harassment:* is unwelcome behaviour of a sexual nature or other sex-based conduct affecting the dignity of women and men at the workplace, or during official duty outside the place of work or natural extensions thereof, such as whilst giving or being given a lift to and from work. Sexual harassment takes many forms, from relatively mild sexual comments to actual physical violence. The following may be considered as falling under the term sexual harassment:

- *Physical conduct of a sexual nature:* commonly regarded as meaning unwanted physical conduct ranging from unnecessary touching, patting or pinching or intentional brushing against another employee's body, to assault, and to coercing sexual intercourse at the place of work. Recourse to such coercive conduct could lead to the institution of criminal charges.
- *Verbal conduct of a sexual nature:* this may include unwelcome sexual advances, propositions or pressure for sexual activity; continued suggestions for social activity outside the workplace after it has been made clear that such suggestions are unwelcome; offensive flirtations, suggestive remarks, insensitive jokes, innuendoes or lewd/obscene comments.
- *Non-verbal conduct of a sexual nature:* this includes the display whether by electronic or any other means, of pornographic or sexually suggestive pictures, objects or written materials, and making sexually suggestive gestures.

- *Sex-based conduct*: conduct that denigrates or ridicules or is intimidating or physically abusive of an employee's gender, such as derogatory or degrading abuse or insults that are gender related and offensive comments about appearance or dress. Such conduct can create an offensive working environment for the recipient.
- *Sexual blackmail (abuse of authority)*: conduct where an employee's refusal of, or submission to, unwanted sexual behaviour is used as a basis for a decision which affects that employee's access to employment, continued employment, training, promotion opportunities and other forms of compensation. This form of behaviour involves abuse of authority when somebody holding direct or indirect (that is capable of influencing) supervisory or managerial authority, threatens, influences, or actually takes an employment decision affecting the person harassed.

The above list is not an exhaustive list and should not be considered as such.

11.5. PROCEDURES

11.5.1.1. The procedures outlined in the following sections are intended to serve as guidelines for both Heads of Department and employees on how sexual harassment cases should be tackled in a fair, consistent and expeditious way while ensuring standards of good practice, natural justice and utmost confidentiality.

11.5.1.2. The procedures reflect the current standards of good practice and follow the basic precepts of natural justice, namely:

- the indicated harasser should be informed of the alleged breach of good conduct against him/her; and
- the alleged harasser should be given the opportunity to state his/her case prior to the commencement of any disciplinary action.

11.5.1.3. The primary purpose of the procedural framework set out in this chapter is to deal with cases of sexual harassment in a constructive manner by providing employees with the possibility of improving their conduct. These procedures aim to achieve this by also indicating how minor breaches of the code of conduct can be dealt with informally (where the complainant agrees).

11.6. APPLICABILITY

11.6.1. These procedures apply to sexual harassment cases experienced by public officers, whether employed full-time or part-time, and also to all persons engaged on contract, whether through the Public Service Commission or not, as well as any students and trainees attached to the Public Service, during the period of such contract, attachment or traineeship.

11.7. TRAINING

11.7.1.1. All employees are to be informed of these guidelines through formal and informal training programmes. It is intended that the Staff Development Organisation will provide and/or facilitate such training. These training programmes are meant to explain the guidelines on how to deal with cases of sexual harassment, the legal implications, and how assistance can be obtained even from outside the employees' department, if the victims feel better safeguarded that way. Employees will further be informed that they may also seek assistance from the relative trade union/employee representative when the employee decides to treat the matter in a formal way.

11.7.1.2. The training programmes are to stress that complaints related to sexual harassment are to be treated very seriously. All employees of the Public Service are entitled to adequate, regular, and ongoing training on the prevention of sexual harassment at work to ensure that these guidelines are adhered to at all times.

11.8. ADVICE AND ASSISTANCE

11.8.1.1. Employees who are victims of sexual harassment may refer their complaints to the National Commission for the Promotion of Equality for Men and Women (NCPE). Employees may also, if they wish, seek the advice of the Head of Department, or a person of trust, even if he/she is not a public officer*. The advice will indicate to the victim of harassment, possible courses of action, depending on the severity of the case, such as, for example, whether to lodge a formal or informal complaint. When the harasser is the Head of Department, advice should be sought from the next higher authority that is, if the Head is a Director, the harasser should seek advice from the Director General or Permanent Secretary.

11.8.1.2. It is the duty of Heads of Department to establish and maintain workplaces free of sexual harassment. Should any sexual harassment be taking place, any employee, not being the harassed person, is in duty bound to bring this to the attention of the Head of Department responsible for the alleged victim, in order that the Head may offer support to such victims. Before taking any action, the Head of Department shall ask the alleged victim of the harassment whether he/she wishes the matter to be treated in a formal or informal way. The Head of Department may, if the victim of the harassment wishes, also seek advice of NCPE.

11.9. DEALING WITH SEXUAL HARASSMENT INFORMALLY

11.9.1.1. Although sexual harassment is considered to be a serious offence, the victim may choose to deal with the matter informally. A victim of sexual harassment may take informal action by approaching the harasser and trying to resolve issues without resorting to the submission of a formal complaint to the Head of Department. This is done, primarily; by making it clear to the harasser that his/her behaviour is unacceptable and must stop. Such informal action is intended to avoid redress through formal procedures that may lead to disciplinary proceedings depending on the severity of the alleged offence. Whilst informal action may be appropriate in some instances, it remains within the rights of victim of sexual harassment to seek redress through the formal procedures outlined in these Guidelines.

* Counselling services may be obtained from the relevant entities including 'Agencija Apog'g'

11.9.1.2. Where the complainant feels too embarrassed to approach the harasser, the former may ask a colleague, a friend, or a family member to raise the issue informally with the harasser.

11.9.1.3. The employee implicated by the complainant as the harasser is also entitled to assistance by a colleague, a friend, or a family member.

11.9.1.4. When a complaint is dealt with informally, there is no time limit for resolving the issue. However, if a formal complaint is lodged, the time limits referred to in paragraph 11 hereof shall apply.

11.9.1.5. When a Head of Department receives a report by the supervisory officer in terms of Regulation 5 (1) of the Public Service Commission (Disciplinary Procedure) Regulations, 1999, hereinafter referred to as the PSC Disciplinary Regulations, he/she shall, in the first instance, ask the victim whether he/she wishes to proceed informally in terms of these guidelines or formally in terms of the PSC Disciplinary Regulations and the Head of Department shall proceed accordingly.

11.10. FORMAL COMPLAINTS

11.10.1.1. Clients and employees who are victims of sexual harassment may lodge a formal complaint, either without first resorting to the informal procedure mentioned at Section 11.9. above, or if the informal approach is resorted to but fails. In cases of serious harassment, employees are advised to lodge a formal complaint. When a formal complaint is lodged, both parties may seek assistance from any person of their choice.

11.10.1.2. The complaint should be made in writing and shall include:

- the name of the person making the complaint;
- the name of the alleged harasser;
- the nature of the alleged harassment;
- date/s and time/s when the alleged harassment occurred;
- name/s of witnesses to the alleged incident/s; and
- any action taken by the complainant to stop the alleged harassment.

11.10.1.3. The complaint must be signed by the complainant and should be sent under confidential cover, in terms of Regulation 5 (2) of the PSC Disciplinary Regulations, hereinafter referred to as the PSC Regulations, to the Head of Department responsible for the alleged harasser. In cases when the harasser is a Head of Department (or a Director), the complaint should be addressed to the next level supervisor.

11.10.1.4. If the complainant, and/or the alleged harasser are victimized by other colleagues because of their actual or alleged behaviour, the latter are liable to disciplinary action.

11.11. PRELIMINARY INVESTIGATIONS OF FORMAL COMPLAINTS

11.11.1.1. The Head of Department shall, as early as possible after the receipt of a formal complaint, initiate a preliminary investigation. The Head of Department shall keep a copy of the formal complaint in a confidential file.

11.11.1.2. Should the Head of Department decide to carry out a preliminary investigation, he or she may do so through an ‘ad hoc panel’ composed of at least two (2) persons, a male and a female or, if the alleged offence is one of a homosexual nature, by at least two persons of the same sex as that of the alleged harasser and victim. As provided for in Section 5 (2) of the PSC Disciplinary Regulations, the preliminary investigation shall be concluded not later than fifteen (15) working days from the receipt by the Head of Department of the formal complaint. On the conclusion of the preliminary investigation, the Head of Department shall send under confidential cover to the complainant and to the alleged harasser a copy of the report showing the outcome of the investigation and indicating any further action being contemplated, if any.

11.11.1.3. Both the complainant and the alleged harasser shall have the right to be accompanied at the preliminary investigation by a person of their choice.

11.11.1.4. A witness is at liberty to submit a written statement instead of appearing before the person/s conducting the preliminary investigation. Copies of statements made by the witnesses shall be made available to the alleged harasser and to the complainant. Witnesses are encouraged to appear at the preliminary investigation if requested by either party. The Public Service acknowledges that certain witnesses may be reluctant to do so. In these circumstances, the person/s conducting the preliminary investigation will, if necessary, adjourn the hearing to ask supplementary questions to the witnesses in private. Witnesses are to be assured that victimization due to giving evidence will not be permitted.

11.11.1.5. The harasser shall be given the opportunity to defend her/himself during the preliminary investigation:

11.11.1.6. If, from the preliminary investigation, there is reasonable suspicion that the harassment has actually taken place, disciplinary action shall be initiated within the time-frames laid down in the PSC Disciplinary Regulations;

11.11.1.7. If it results from the preliminary investigation that the case is not proven, all documents related to the case shall be destroyed, in accordance with the Public Service HR Retention Policy which was adopted in compliance with the Data Protection Act. All preliminary investigations shall be held without prejudice to any criminal action that the alleged victim may decide to initiate.

11.11.1.8. Employees, who unjustly accuse colleagues or raise malicious or frivolous complaints, will themselves be liable to disciplinary/criminal proceedings.

11.12. DISCIPLINARY HEARINGS/MEASURES IN SEXUAL HARASSMENT CASES

11.12.1.1. If the preliminary investigation reveals that there are sufficient grounds for disciplinary action, the formal procedures outlined in the PSC Disciplinary Regulations, shall be followed, when the harasser is a public officer. Where the harasser is not a public officer (that is engaged on contract but not through the Public Service Commission or a trainee or a student attached to the Public Service), the Head of Department shall appoint an “ad hoc panel” to consider the case which can lead to the person’s termination of engagement.

11.12.1.2. As sexual harassment can also constitute a criminal offence, Heads of Department are to consult the Attorney General, in the case of public officers, as

provided in the PSC Disciplinary Regulations, before deciding whether to institute criminal or disciplinary proceedings. In the case of persons on contract (not engaged through the Public Service Commission), or trainees or students attached to the Public Service, the advice of the Attorney General should also be obtained before appointing the “ad hoc panel” mentioned above.

11.12.1.3. Sexual harassment by an employee constitutes a serious offence and may lead to dismissal.

11.12.1.4. Heads of Department are to ensure that there is no victimisation or retaliation against a complainant and, if the complaint is upheld, Heads of Department should ensure that the harassment stops. If the disciplinary proceedings do not result in dismissal or termination of engagement, it may be desirable, if not necessary, to transfer the harasser elsewhere even within the same Department or section. If the harasser is on a performance agreement and is transferred, he/she may be required to relinquish his/her position and revert to his/her substantive grade. In that case, the necessary procedure, through the Public Service Commission, must be followed to terminate the performance agreement. In such cases, the complainant shall be given the choice, if he/she wishes, of whether to remain in the same post or be relocated elsewhere.

11.12.1.5. Appeals may be submitted in accordance with the provisions of the PSC Disciplinary Regulations. In the case of persons on contract (not engaged through the Public Service Commission) or trainees or students, appeals may be made to the next higher authority.

11.12.1.6. Where the alleged harasser is not a public officer, the procedures and time frames established by the PSC Disciplinary Regulations shall, as far as is practicable, apply.

11.13. ACCESSIBILITY

11.13.1. The guidelines given in this chapter aim to further the process of gender equality. It is evidence of the commitment of Government towards treating both male and female employees with equal dignity. No effort should be spared to circulating these guidelines to all employees, and to ensuring that these provisions are enforced.
