

AGREEMENT ON THE 2019 RECONFIGURATION OF GOVERNMENT DEPARTMENTS

1. OBJECTIVES

- 1.1. To give effect to the changes and re-configuration of the National Executive, National Departments as announced by the State President for the 6th Administration, and as contained in the Terms of Reference dated 30 July 2019.
- 1.2. To give effect to the changes and re-configuration of the Provincial Executive and Provincial Departments as pronounced by the Premier.
- 1.3. Ensure alignment between the announced Cabinet portfolios and the administrative structures in support of Ministers responsible for such portfolios.
- 1.4. To provide guidelines on the identification, transfer and placement of staff in a transparent, fair and inclusive process that allows meaningful participation and consultation with all stakeholders.

2. SCOPE

- 2.1. This agreement binds the Employer and employees who:
 - 2.1.1. Are employed by the State; and
 - 2.1.2. Fall within the registered scope of the Council.

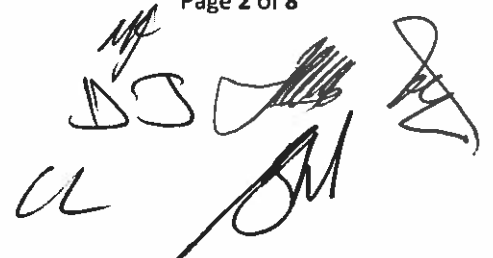
3. NOTING THAT

- 3.1. In terms of Section 97 of the Constitution, the President may by proclamation, transfer to a member of Cabinet, the administration of legislation entrusted to another member;
- 3.2. In terms of Section 137 of the Constitution, the Premier may by proclamation, transfer to a member of Executive Council, the administration of legislation entrusted to another member;

- 3.3. Section 7(5)(a) of the Public Service Act, 1994 provides that the President may by proclamation in the Gazette, on the advice of the Minister for the Public Service and Administration, amend Schedule 1 so as to establish or abolish any national department; and
- 3.4. Section 7(5)(b) of the Public Service Act provides that the President may, by proclamation in the Gazette and at the request of the Premier, amend Schedule 2 so as to establish or abolish any provincial department; and
- 3.5. Section 3(4)(b) of the Public Service Act allows the Minister for the Public Service and Administration, after consultation with the relevant executive authority or executive authorities, as the case may be, to make determinations regarding amongst others:
 - 3.5.1. the allocation of any function to or the abolition of any function of, any national department, or
 - 3.5.2. the transfer of any function from one national department to another.
- 3.6. Section 3A(b) of the Public Service Act allows the Premier, to make determinations regarding amongst others:
 - 3.6.1. the allocation of any function to, or the abolition of any function of, any department in the province, or
 - 3.6.2. the transfer of any function from one provincial department to another.

4. THE PARTIES TO COUNCIL THEREFORE AGREE TO THE FOLLOWING PRINCIPLES THAT SHALL GOVERN THIS PROCESS:

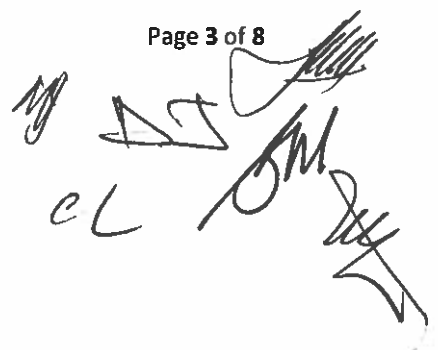
- 4.1. All employees to be identified for transfer as a result of the scoping report shall be transferred to the recipient department in terms of Section 14 of the Public Service Act, 1994;
- 4.2. The relevant provisions of the LRA shall be applied during this process of transfer and any other relevant legislation;
- 4.3. The transfer of the functions will also take place in terms of Section 3(4) and 3A of the Public Service Act and the Public Service Regulations, 2016 - regulation 32;
- 4.4. Employment security is a priority, in terms of which the parties agree that no employee shall lose his/her employment or be negatively affected as a result of the transfer;
- 4.5. Both the relinquishing and recipient departments should equitably have access to skilled or competent human resources as a result of the transfer process;
- 4.6. Only funded posts shall be subjected to the ring-fencing and transfer processes;
- 4.7. Fairness and transparency in terms of the decision-making process as well as implementation should underpin the process;
- 4.8. Parties should strive to reach consensus in decision making;

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- 4.9. Consultation should be in the spirit of goodwill between the relinquishing and recipient departments, as well as the affected staff and their representatives;
- 4.10. The principle that staff follows function based on validated job content shall be applicable;
- 4.11. Affected employees in acting positions shall have no right to permanent appointment within those positions;
- 4.12. All affected employees will be transferred to the recipient departments on the same salary level and condition of service as the post they currently occupy;
- 4.13. Employees appointed on contract in post on the fixed establishment will be placed against posts on the new organisational structure and post establishment until the expiry of their contracts;
- 4.14. Employees appointed on contract additional to the post establishment will be employed additional to the post establishment of the newly created department until the expiry of their contracts;
- 4.15. No automatic upgrades to higher level posts during the ring fencing and transfer process will apply – the normal post grading arrangements will remain in force;
- 4.16. Voluntary severance packages (VSPs) shall not be considered in light of the principle that the 2019 Reconfiguration of Government Departments process is founded upon a non-retrenchment guarantee and reasonable accommodation.

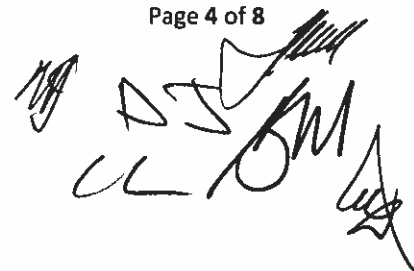
5. CRITERIA FOR RING-FENCING AND TRANSFER OF STAFF

- 5.1. Separation of core functions must be guided by the department's mandate/s as reflected in its strategic plan.
- 5.2. Based on the functional separation, posts need to be identified and quantified.
- 5.3. Following this, the incumbents of the posts must be identified for transfer to the recipient department.
- 5.4. Where resources are partly devoted to more than one function, they should be ring-fenced on a proportionate basis, including managers and supervisory staff.
- 5.5. Departments must determine the proportion of support posts, staff and concomitant resources compared with the line function for transfer to the recipient departments.

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6. MATCHING AND PLACING CRITERIA

- 6.1 Matching and placing criteria will be used to match all employees from the old structures to the new approved structures.
- 6.2 Matching and placing can only take place against a post of the same salary level as the current post an employee occupies.
- 6.3 Where the function has been moved, the post(s) will follow such function and the employee will follow the post.
- 6.4 The employer will utilise the job description to match the employee to a specific post on the new structure.
- 6.5 If there is no change to the job description of a specific post on the new structure, the employee (*incumbent of the corresponding post on the current structure*) who at present, performs those functions, must be absorbed to the new post.
- 6.6 Where an employee's job function relates to two or more posts within the new organisational structure, he or she will be afforded the opportunity to indicate his or her preference. The preference of all employees will be considered, but can only be given effect to as far as it is practically possible and feasible taking into account operational requirements.
- 6.7 Where more than one employee's profile matches a particular post in the new establishment, the seniority (*in terms of the number of years in the post*) principle will apply, that the employee who has been longer in the job within the Department will be considered first.
- 6.8 In deciding further which employees must be placed in defined posts that their profiles correspond with (having first exhausted the seniority principle above), the relevant principles of the Employment Equity Act, 1998, for designated groups must apply consistently with representivity targets and plans to redress under-representivity and advance persons in designated groups.
- 6.9 In instances where employees referred to in clause 6.7 and 6.8 are equally matched in all material respect, then the department should consider the years of service in the public service as a criteria.
- 6.10 All posts that remain vacant after the completion of the migration of the permanent employees, will be advertised and filled according to the departmental recruitment and selection processes.
- 6.11 In the event that there would still be employees who remain unmatched at the end of the matching and placing process outlined above, they would be regarded as being additional to the post establishment, whilst the process of their placement would unfold through the process outlined below.

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7. EMPLOYEES ADDITIONAL TO THE ESTABLISHMENT

7.1 The general rules applicable to redeployment are as follows:

- 7.1.1 All employees affected by the redeployment process must be treated fairly and in terms of the relevant legislation and collective agreements; and
- 7.1.2 Informed of the process to be followed in attempting to suitably accommodate them.
- 7.1.3 In case of the employees considered as additional to the establishment, Public Service regulation 65(9) will apply.
- 7.1.4 The employee may make representations on his or her own behalf or be assisted by a representative.
- 7.1.5 The employer must duly consider the representations made by the employee or his or her representative before making a final decision.
- 7.1.6 The employer must apply measures to facilitate and enhance redeployment, which includes training for employees additional to the establishment to meet the requirements of vacant posts.

7.2 Redeployment process will be as follows:

7.2.1. A list of employees additional to the establishment, citing their particulars will comprise of the following information:

- Name of the employees and other relevant personal details.
- Level & occupational classification.
- Educational qualifications and or experience.
- Short courses and/or capacity development exercises.
- Other relevant skills and competencies.
- Written preferences with regard redeployment.
- Education and training needs.

7.2.2. Only after completing the process in clause 7.2.1 and all employees are matched, including those initially identified as additional to the establishment, all funded vacancies which exist in the department will be advertised and filled according to the departmental recruitment and selection processes.

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8. STRUCTURES TO FACILITATE THE PROCESS

8.1 To oversee and facilitate the implementation of the processes agreed to in this Resolution, parties note the establishment of the following structures:

8.1.1 At National Level: The process shall be monitored by the National Implementation Task Team (NITT) comprising of the Employer and Organised Labour under the auspices of the PSCBC.

8.1.2 The NITT will brief the PSCBC on a two weekly basis.

8.2 The Education Labour Relations Council (ELRC), the General Public Service Sector Bargaining Council (GPSSBC) and the Public Health and Social Development Sectoral Council (PHSDSBC) must set up structures, within 14 days of this agreement enjoying a majority, through the departmental chambers of those affected departments to form departmental task teams that will oversee the implementation of this agreement in the department.

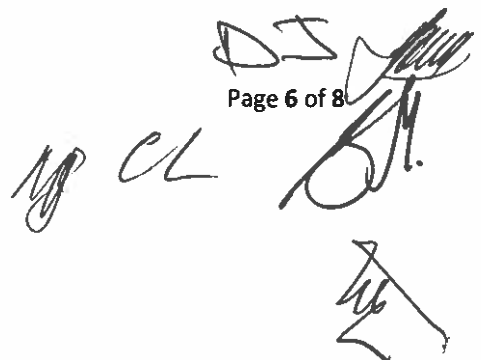
8.3 The sectors listed in clause 8.2 must provide detailed reports on a two weekly basis, to the PSCBC on the progress made with the implementation of this agreement, for consideration by the National Implementation Task Team (NITT).

8.4 The above process will not restrict the Public Service Coordinating Bargaining Council (PSCBC) in ensuring its own monitoring of the implementation of this agreement.

9 ANNEXURE OF LISTED DEPARTMENTS (See attached Annexure A)

10 CONDUCT OF PARTIES IN THE PROCESS

All participants from individual parties agree to adhere to and conduct themselves within the provisions as provided for in the Public Service Regulations and the conduct as outlined in the Service Charter (PSCBC Resolution 1 of 2013).

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11 DISPUTE RESOLUTION

If there is a dispute about the interpretation or application of this agreement, any party may refer the matter to the Council for resolution in terms of the dispute resolution procedure of the Council.

12 IMPLEMENTATION OF THE AGREEMENT


12.1 This agreement shall come into effect on the date it enjoys majority support and will remain in force unless terminated or amended by agreement.

12.2 In the implementation, interpretation and application of this agreement, words used in the agreement and defined within the constitution of Council will have the meaning as defined in the constitution.

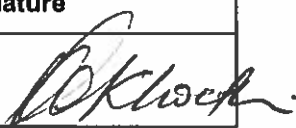
12.3 The Council will monitor the implementation of this agreement.

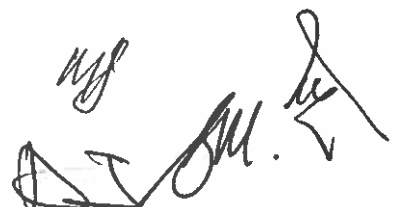
THIS DONE AND SIGNED AT CENTURION OF THIS 25TH DAY OF OCTOBER 2019.

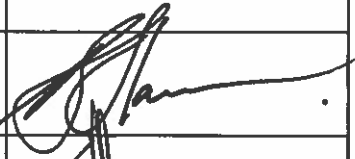



ON BEHALF OF THE EMPLOYER





	Name	Signature
STATE AS EMPLOYER	MODISE LETSATSI	

ON BEHALF OF TRADE UNION PARTIES

Trade Union	Name	Signature
DENOSA	CASSIM LEKHOATSI	



Trade Union	Name	Signature
HOSPERSA		
NAPTOSA	B.L. Manuel	
NEHAWU	D.J. Nkomo	
POPCRU	UNATHI KATHLEEN	
PSA		
SADTU	Mugweni Maluleke	
SAPU		

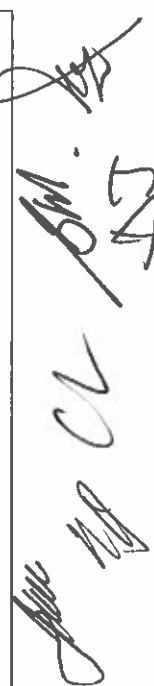




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ANNEXURE A



No	Portfolio / Executive Authority	Current Department	New Department	Comments on Affected Departments
1	Agriculture, Land Reform and Rural Development 2 DMs	1. Agriculture, Forestry and Fisheries 2. Rural Development and Land Reform	1. Agriculture, Land Reform and Rural Development (DALRRD)	1. Merger 2. Transfer of Forestry and Fisheries functions from the Department of Agriculture, Forestry and Fisheries to the Department of the Environment, Forestry and Fisheries
2	Basic Education DM	3. Basic Education	2. Basic Education (DBE)	Transfer early childhood function from the Department of Social Development to the Department of Basic Education (Announced President's SONA, 7 February 2019)
3	Communications DM	4. Communications 5. Telecommunications and Postal Services 6. Government Communication and Information System (GCIS)	3. Communications (DOC)	1. Merger 2. Transfer GCIS and the following entities to the Minister in the Presidency <ul style="list-style-type: none"> • Media Diversity Development Agency (MDDA) • Brand SA

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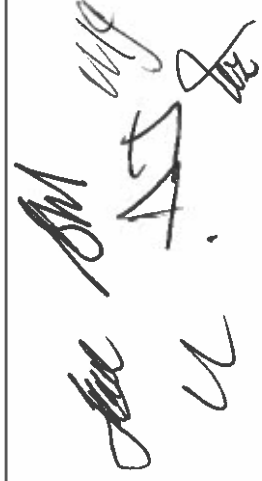
No.	Portfolio / Executive Authority	Current Department	New Department	Comments on Affected Departments
4	Environment, Forestry and Fisheries DM	11. Environmental Affairs	8. Environment, Forestry and Fisheries (DEFF)	<ol style="list-style-type: none"> 1. Name change 2. Transfer of forestry and fisheries functions from the Department of Agriculture, Forestry and Fisheries to the Department of Environment, Forestry and Fisheries
5	Employment and Labour DM	12. Labour	9. Employment and Labour (DEL)	Name change
6	Finance DM	13. National Treasury <ul style="list-style-type: none"> • GC - Government Pensions Administration Agency (GPAA) • GC - Government Technical Advisory Centre (GTAC) 	10. National Treasury (NT) <ul style="list-style-type: none"> • GC - GPAA • GC - GTAC 	Transfer the infrastructure development management system (IDMS) function to the Department of Public Works and Infrastructure
7	Higher Education, Science and Technology DM	15. Higher Education and Training 16. Science and Technology	12. Higher Education and Training (DHET) 13. Science and Technology (DST)	<ol style="list-style-type: none"> 1. Not affected 2. Remodel operating model of departments in the portfolio



No.	Portfolio / Executive Authority	Current Department	New Department	Comments on Affected Departments
8	Human Settlements, Water and Sanitation 2 DMs	18. Human Settlements 19. Water and Sanitation	15. Human Settlements (DHS) 16. Water and Sanitation (DWS)	<ol style="list-style-type: none"> 1. Not affected 2. Remodel operating model of departments in the portfolio
9	Mineral Resources and Energy DM	23. Mineral Resources 24. Energy	20. Mineral Resources and Energy (DMRE)	Merger
	President	28. The Presidency	24. The Presidency	<ol style="list-style-type: none"> 1. Transfer socio-economic impact assessment functions from the DPME to The Presidency 2. Create Policy and Research Services capacity in The Presidency

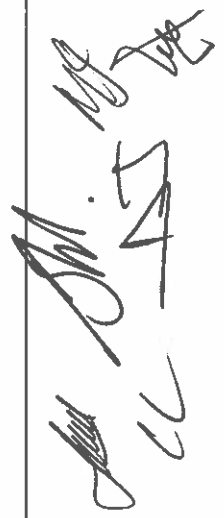



No.	Portfolio / Executive Authority	Current Department	New Department	Comments on Affected Departments
10	Presidency / DM	29. Planning, Monitoring and Evaluation 30. Statistics South Africa	25. Planning, Monitoring and Evaluation (DPME), including the National Planning Secretariat 26. Statistics South Africa (Stats SA) 27. Government Communication and Information System (GCIS) <ul style="list-style-type: none"> • Entity – Media Diversity Development Agency (MDDA) • Entity – Brand SA 	1. Transfer socio-economic impact assessment functions from the DPME to The Presidency 2. Transfer GCIS and the following entities from the Minister of Communications to the Minister in the Presidency <ul style="list-style-type: none"> • Entity – MDDA • Entity – Brand SA



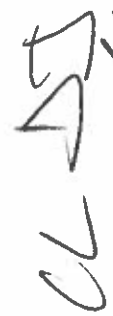



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No.	Portfolio / Executive Authority	Current Department	New Department	Comments on Affected Departments
11	Presidency: Women, Youth and Persons with Disabilities DM	31. Women	28. Women, Youth and Persons with Disabilities (DWYPD) <ul style="list-style-type: none"> • Entity - National Youth Development Agency (NYDA) 	1. Transfer youth development functions and NYDA from the DPME 2. Transfer persons with disabilities functions from the Department of Social Development


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No.	Portfolio / Executive Authority	Current Department	New Department	Comments on Affected Departments
12	Public Works and Infrastructure DM	35. Public Works	32. Public Works and Infrastructure (DPWI)	<ol style="list-style-type: none"> 1. Name change 2. Transfer the infrastructure development management system (IDMS) function from NT to the Department of Public Works and Infrastructure 3. Transfer the Presidential Infrastructure Coordinating Committee (PICC) from the Economic Development Department to the Department of Public Works and Infrastructure
13	Social Development DM	37. Social Development	34. Social Development (DSD)	<ol style="list-style-type: none"> 1. Transfer the persons with disability function to the Department of Women, Youth and Persons with Disabilities 2. Transfer early childhood function from the DSD to the Department of Basic Education (Announced President's SONA, 7 February 2019)
14	Sports, Arts and Culture DM	38. Sport and Recreation South Africa 39. Arts and Culture	35. Sports, Arts and Culture (DSAC)	Merge

No.	Portfolio / Executive Authority	Current Department	New Department	Comments on Affected Departments
15	Trade and Industry	42. Trade and Industry 43. Economic Development	38. Trade and Industry (DTI)	<p>Merger</p> <p>Transfer the Presidential Infrastructure Coordinating Committee (PICC) from the Economic Development Department to the Department of Public Works and Infrastructure</p> <p>Transfer economic development functions from the EDD to the DTI</p>

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No.	Portfolio / Executive Authority	Current Department	New Department
	Current Departments That Merge		New Merged Department
1	Agriculture	Rural Development and Land Reform	Agriculture, Land Reform and Rural Development
2	Communications	Telecommunications and Postal Services	Communications
3	Mineral Resources	Energy	Mineral Resources and Energy
4	Sport and Recreation South Africa	Arts and Culture	Sports, Arts and Culture
5	Trade and Industry	Economic Development	Trade and Industry

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