


DEPARTMENT OF PUBLIC SERVICE AND ADMINISTRATION

NO. 2719

4 November 2022

OFFICE OF STANDARDS AND COMPLIANCE REGULATIONS, 2022

The Acting Minister for the Public Service and Administration has, under section 18 of the Public Administration Management Act, 2014, made the Regulations set out in the Schedule.



MR TW NXESI, MP

ACTING MINISTER FOR THE PUBLIC SERVICE AND ADMINISTRATION

DATE: 07/10/2022

SCHEDULE

TABLE OF CONTENTS

- 1. Definitions**
- 2. Powers and Functions of head of Office**
- 3. Access to premises, vehicles, documents and employess**
- 4. Compliance**
- 5. Short Title and Commencement**

1. Definitions

- (1) In these Regulations, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act, has the same meaning, and–

“Act” means the Public Administration Management Act, 2014 (Act No. 11 of 2014);

“head of institution” means–

- (a) in the case of a national or provincial department or a national or provincial government component, the incumbent of a post mentioned in section 7(2) read with Column 2 of Schedule 1, 2 or 3 of the Public Service Act, 1994 (Proclamation No. 103 of 1994) and includes any employee acting in that post; or
- (b) in the case of a municipality, the municipal manager appointed in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and includes any employee acting in that post;

“head of Office” means the person referred to in section 17(3) of the Act;

“member” means an employee appointed in terms of the Public Service Act, 1994 (Proclamation No. 103 of 1994) and designated by the Minister to exercise the powers of members as prescribed under section 17(7) of the Act;

“minimum norms and standards” means the minimum norms and standards referred to section 16 of the Act;

“Office” means the Office of Standards and Compliance established by section 17(1) of the Act; and

“public administration norms and standards” means those public norms and standards determined in terms of legislation other than those prescribed in terms of the Act.

2. Powers and functions of head of Office

(1) The functions of the head of Office are-

(a) to advise the Minister on-

- (i) the determination of minimum norms and standards;
- (ii) the enforcing of compliance with minimum norms and standards;
and
- (iii) establishing frameworks, structures and processes for the setting of minimum norms and standards from regulatory norms;

(b) to assess the appropriateness of-

- (i) minimum norms and standards; and
- (ii) public administration norms and standards;

(c) to ensure that the Office promotes, monitors and takes the necessary steps to secure compliance with-

- (i) minimum norms and standards; and
- (ii) public administration norms and standards;

(d) in order to give effect to paragraph (f) to develop and implement-

- (i) an early warning system to detect public administration non-compliance and;
- (ii) a monitoring framework for data governance including a format for monitoring reports;

(e) to ensure that the Office performs its other functions in terms of section 17(4) and (6) of the Act; and

(f) to report in terms of section 17(4)(f) and (6)(d) of the Act-

- (i) on the performance of the Office's functions at least once a quarter;

- (ii) annually, together with a report referred to in subparagraph (i) on the effectiveness of the minimum norms and standards or any other matter related to the Office's functions ;and
 - (iii) as directed by the Minister, on the progress made in any investigation and finalisation of matters brought before the Office, or any other matter referred to subparagraph (ii).
- (2) For the purposes of a report referred to sub-regulation (1)(f)(ii) and (iii), the report must include details on the failure to-
 - (a) comply with compliance orders issued under regulation 4(4);
 - (b) mitigate non-compliance; and
 - (c) conduct self-diagnostic assessments on capacity and functionality audits.
- (3) In order to perform the functions and fulfil the objects of the Office, the head of Office may -
 - (a) do whatever is reasonably necessary to perform the functions of the Office; and
 - (b) delegate any of the head of Office's functions to a member.
- (4) Any member to whom a function has been delegated under this regulation must exercise that function subject to the conditions that the head of Office considers appropriate.
- (5) Any delegation of a function in terms of this regulation-
 - (a) must be in writing;
 - (b) does not prevent the head of Office from exercising that function or performing that power; and
 - (c) may at any time be withdrawn in writing by the head of Office.

3. Access to premises, vehicles, documents and employees

- (1) In the performance of its functions under the Act and these regulations, a head of institution must cooperate with the Office in terms of section 17(5) of the Act by-
 - (a) giving the Office full and unrestricted access at all reasonable times to—
 - (i) any document, book or written or electronic record or information of the institution relevant to the audit of the norm and standard being monitored; or
 - (ii) any employee of the institution that the Office seeks to interview for the purpose of monitoring or auditing the institution; and
 - (b) facilitating the Office's exercise of the powers under sub-regulation (2).
- (2) The Office may, in the performance of its functions under the Act and these Regulations—
 - (a) Subject to the approval of the relevant executive authority, enter any property, premises or vehicle of or under the control of the institution-
 - (i) where a document, book or written or electronic record or information referred to in sub-regulation (1)(a)(i) are kept; or
 - (ii) to interview an employee referred to in sub-regulation (1)(a)(ii);
 - (b) direct a person to produce, or to deliver, at a specified place and time and in a specified format, any such document, book or written or electronic record or information; or
 - (c) inspect, and question any person about, any such document, book or written or electronic record or information;
 - (d) copy, or make extracts from, any such document, book or written or electronic record or information, at the expense of the institution, or

remove such document, book, record or written or electronic information to make copies or extracts;

- (e) direct a person to disclose, either orally or in writing, any information that may be relevant for the conduct of the audit or the monitoring of the minimum norms and standards; or
- (f) direct—
 - (i) a person to disclose information or to give answers to questions in terms of this subsection in writing or under oath or affirmation; or
 - (ii) that any such information or answers be recorded.

4. Compliance

- (1) After having monitored compliance or conducted a capacity or functional audit in an institution, the Office must report to the Minister and the head of institution, which may include directions on the steps to be taken by the head of institution to comply or to build capacity.
- (2) The directions may include-
 - (a) time periods within which the corrective steps must be taken;
 - (b) time periods within which the head of institution must report on the steps taken and, if not, the reasons for not doing so;
- (3) If the directions are not implemented, the Office must investigate the reasons for the failure to implement its direction and submit a report to the executive authority and the head of institution, which report may include an enforcement response plan.
- (4) If the institution does not comply with an enforcement response plan referred to in sub-regulation (3), the Office may issue a compliance order.
- (5) If the institution fails to comply with the compliance order, the Office may submit a report to-
 - (a) the Minister;

- (b) the relevant executive authority;
- (c) the Minister responsible for local government and the relevant Member of Executive Council responsible for local government; or
- (d) the Public Service Commission in respect of the public service.

5. Short title and commencement

These Regulations are called the Office of Standards and Compliance Regulations, 2022, and commence on the date of publication thereof in the *Government Gazette*.

KITSISO YA PUSO
LEFAPHA LA BODIREDIPUSO LE TSAMAISO

NMR. R.

2022

MELAWANATAOLO YA KANTORO YA MAEMO LE KOBAMELO, 2022

Tona ya nama-o-sa-tshwere ya Bodiredipuso le Tsamaiso e dirile, ka fa tlase ga karolo 18 ya *Public Administration Management Act, 2014*, Melawanataolo e e tlhagisitsweng mo Šejuleng.

RRE TW NXESI, TP

TONA YA NAMA-O-SA-TSHWERE YA BODIREDIPUSO LE TSAMAISO
LETLHA:

ŠEJULE

LENANE LA DITENG

1. **Ditlhaloso**
2. **Dithata le Ditiro tsa Kantorokgolo**
3. **Phitlhelelo ya mafelo, dijanaga, dikwalo le badiri**
4. **Kobamelo**
5. **Setlhogo se se Khutshwane le Tshimololo**

1. Dithaloso

- (1) Mo Melawanataolong eno, ntle le fa bokao bo kaya ka mokgwa osele, lefoko kgotsa tlhagiso e e neilweng bokao mo Molaong, e na le bokao jo bo tshwanang, e bile–

“**Molao**” o kaya *Public Administration Management Act, 2014* (Molao 11 wa 2014);

“**tlhogo ya setheo**” e kaya-

- (a) mo lebakeng la lefapha la bosetšhaba kgotsa la porofense, motho yo o mo tirono e e umakilweng mo karolong 7(2) ka puisommogo le Kholomo 2 ya Šejule 1, 2 kgotsa 3 ya *Public Service Act, 1994*

(Kgoeletso 103 ya 1994) le go akaretsa modiri mongwe le mongwe yo o tshwereng nakwana mo phatlhatirong eo; kgotsa

- (b) mo lebakeng la mmasepala, molaodi wa mmasepala yo o thapilweng go ya ka *Local Government: Municipal Systems Act, 2000* (Molao 32 wa 2000) le go akaretsa modiri ofe yo o tshwereng nakwana mo phatlhatirong eo;

“**tlhogo ya Kantororo**” e kaya motho yo o umakilweng mo karolong 17(3) ya Molao;

“**tokololo**” e kaya modiri yo o thapilweng go ya ka *Public Service Act, 1994* (Kgoeletso 103 ya 1994) le go tlhongwa ke Tona diragatsa dithata tsa ditokololo jaaka di tlhagisitswe ka fa tlase ga karolo 17(7) ya Molao;

“**bonnye jwa ditlwaelo le maemo**” bo kaya bonnye jwa ditlwaelo le maemo jo bo umakilweng mo karolong 16 ya Molao;

“**Kantororo**” e kaya Kantororo ya Maemo le Kobamelo e e tlhomilweng ka karolo 17(1) ya Molao; le

“**ditlwaelo le maemo tsa tsamaiso ya tirelopuso**” di kaya ditlwaelo le maemo ao a tirelopuso a a tlhomamisitsweng go ya ka molao o mongwe o o beilweng go ya ka Molao.

2. Dithata le ditiro tsa tlhogo ya Kantoro

(1) Ditiro tsa tlhogo ya Kantoro ke-

(a) go gakolola Tona mabapi le-

- (i) tlhomamiso ya bonnye jwa ditlwaelo le maemo;
- (ii) go gatelelwa ga kobamelo ya bonnye jwa ditlwaelo le maemo; le
- (iii) go tlhongwa ga matlhomeso, dithulaganyo le ditsamaiso tsa go dirwa ga bonnye jwa ditlwaelo le maemo go tswa mo ditlwaelong tsa taolo;

(b) go sekaseka tshiamo ya-

- (i) bonnye jwa ditlwaelo le maemo; le
- (ii) ditlwaelo le maemo tsa tsamaiso ya tirelopuso;

(c) go netefatsa gore Kantoro e tswelletsa pele, e baya leitlho le go tsaya dikgato tse di maleba go sireletsa kobamelo ya-

- (i) bonnye jwa ditlwaelo le maemo; le
- (ii) ditlwaelo le maemo tsa tsamaiso ya tirelopuso;

(d) gore go tsenngwe mo tirisong temana (f) go tlangwa le go tsenngwa mo tirisong ga-

- (i) thulaganyotsibosogale go dupelela go sa obamelweng ga tsamaiso ya tirelopuso; le
- (ii) letlhomeso la peoleitlho mabapi le deitha ya puso go akaretsa le tsela ya go baya dipegelo leitlho;

(e) go netefatsa gore Kantoro e dira ditiro tse dingwe tsa yona go ya ka karolo 17(4) le (6) ya Molao; le

(f) go bega go ya ka karolo 17(4)(f) le (6)(d) ya Molao-

- (i) mabapi le tiragatso ya ditiro tsa Kantoro bonnye gangwe mo kotareng;
 - (ii) ka ngwaga, mmogo le pegelo e e umakilweng mo temanatlaleletsong (i) ka ga nonofo ya bonnye jwa ditlwaelo le maemo kgotsa ka ga morero mongwe le mongwe ofe o o amanang le ditiro tsa Kantoro; le
 - (iii) jaaka Tona a laetse, ka ga tswelelopele e e dirilweng mo dipatlisisong dife le go konotelwa ga merero e e lerilweng fa pele ga Kantoro, kgotsa morero mongwe le mongwe ofe o o umakilweng mo temanatlaleletsong (ii).
- (2) Mabapi le maitlomo a pegelo e e umakilweng mo molawanataolotlaleletsong (1)(f)(ii) le (iii), pegelo e tshwanetse go akaretsa dintlha tse di ka ga go retelwa mabapi le-
- (a) ditaello tsa kobamelo tse di rebotsweng ka fa tlase ga molawanataolo 4(4);
 - (b) phediso ya botlhokakobamelo; le
 - (c) go dirwa ga ditshekatsheko tsa boitekotupo mabapi le boruni jwa bokgoni le tiro.
- (3) Gore go dirwe ditiro le go fitlhelela maitlomo a Kantoro, tlhogo ya Kantoro o ka-
- (a) dira sengwe le sengwe se se tlhokegang go dira ditiro tsa Kantoro; le
 - (b) rolela efe ya ditiro tsa tlhogo ya Kantoro go tokololo efe.
- (4) Tokololo nngwe le nngwe e e roletsweng tiro ka fa tlase ga molawanataolo ono e tshwanetse go dira tiro eo go ya ka dipeelo tse tlhogo ya Kantoro a di bonang di le maleba.
- (5) Tholelo nngwe le nngwe ya tiro go ya ka molawanataolo eno-
- (a) e tshwanetse go kwalwa;

- (b) ga e thibele tlhogo ya Kantoro go dira tiro kgotsa thata eo; e bile
- (c) e ka gogelwa morago ke tlhogo ya Kantoro nako nngwe le nngwe ka go kwala.

3. Phitlhelelo ya mafelo, dijanaga, dikwalo le badiri

- (1) Mo go direng ditiro tsa yona ka fa tlase ga Molao le melawanataolo eno, tlhogo ya setheo o tshwanetse go dirisana mmogo le Kantoro go ya ka karolo 17(5) ya Molao ka-
 - (a) go letla Kantoro go fitlhelela ntle le kganelo epe ka dinako tse di maleba—
 - (i) lokwalo, buka kgotsa rekoto ya seileketeroniki kgotsa tshedimosetso ya setheo e e maleba mo boruning jwa ditlwaelo le maemo jo bo beilweng leitlho; kgotsa
 - (ii) modiri mongwe le mongwe wa setheo se Kantoro e batlang go se botsolotsa mabapi le maitlhommo a peoleitlho kgotsa boruni jwa setheo; le
 - (b) go nolofatsa tiragatso ya dithata ka fa tlase ga molawanataolotlaleletso (2).
- (2) Kantoro e ka, mo go direng ditiro tsa yona ka fa tlase ga Molao le Melawanataolo eno—
 - (a) Go latela thebolo ya bolaodikhuduthamaga jo bo maleba, tsena mo meagong, mafelong kgotsa mo sejanageng sa kgotsa se se ka fa tlase ga taolo ya setheo-
 - (i) se lokwalo, buka kgotsa rekoto e e kwetsweng kgotsa ya seileketeroniki kgotsa tshedimosetso e e umakilweng mo molawanataolotlaleletsong (1)(a)(i) e bewang teng; kgotsa
 - (ii) go botsolotsa modiri yo o umakilweng mo molawanataolotlaleletsong (1)(a)(ii);

- (b) laela motho go tlhagisa, kgotsa go isa, kwa lefelong le ka nako e e tsepamisitsweng le ka tsela e e tsepamisitsweng, mofuta ofe oo wa lokwalo, buka kgotsa rekoto e e kwetsweng kgotsa ya seileketeroniki kgotsa tshedimose tso; kgotsa
- (c) tlhatlhoba, le go botsolotsa motho ofe ka ga, mofuta ofe oo wa lokwalo, buka kgotsa rekoto e e kwetsweng kgotsa ya seileketeroniki kgotsa tshedimose tso;
- (d) gatisa, kgotsa go tlosa mo, mofuteng ofe oo wa lokwalo, buka kgotsa rekoto e e kwetsweng kgotsa ya seileketeroniki kgotsa tshedimose tso, ka ditshenyegelo tsa setheo, kgotsa go tlosa lokwalo leo, buka, rekoto kgotsa tshedimose tso e e kwetsweng kgotsa ya seileketeroniki go dira dikhopi kgotsa dimametlelelo;
- (e) laela motho go senola, ka molomo kgotsa ka go kwala, tshedimose tso efe e e ka tswang e le maleba mabapi le go dirwa ga boruni kgotsa go bewa leitlho ga bonnye jwa ditlwaelo le maemo; kgotsa
- (f) laela—
 - (i) motho go senola tshedimose tso kgotsa go araba dipotso go ya ka karotlaleletso eno ka go kwala kgotsa ka fa tlase ga maikano le netefatso; kgotsa
 - (ii) gore tshedimose tso eo ya mofuta oo kgotsa dikarabo di gatiswe.

4. Kobamelo

- (1) Morago ga peoleitlho ya kobamelo kgotsa go dirwa ga boruni jwa bokgoni kgotsa tiro kwa setheong, Kantoro e tshwanetse go naya Tona le tlhogo ya setheo pegelo, eo e ka akaretsang ditaelo mabapi le dikgato tse di tla tsewang ke tlhogo ya setheo go obamela kgotsa go maatlafatsa bokgoni.
- (2) Ditaelo di ka akaretsa-
 - (a) dipaka tsa nako tse ka tsona dikgato tsa paakanyo di tshwanetseng go tsewa;

- (b) dipaka tsa nako tse ka tsona tlhogo ya setheo e tshwanetseng go bega ka dikgato tse di tserweng le, fa di sa tsewa, mabaka a go se direng jalo;
- (3) Fa ditaelo di sa tsenngwa mo tirong, Kantoro e tshwanetse go batlisisa mabaka a go retelwa ke go tsenya ditaelo mo tirisong le go romelela bolaodikhuduthamaga le tlhogo ya setheo pegelo, eo e ka akaretsang leanotsibogelo la kgatelelo.
- (4) Fa setheo se sa obamele leanotsibogelo la kgatelelo le le umakilweng mo molawanataolotlaleletsong (3), Kantoro e ka rebola taelo ya kobamelo.
- (5) Fa setheo se retelwa ke go obamela taelo ya kobamelo, Kantoro e romela pegelo go-
 - (a) Tona;
 - (b) bolaodikhuduthamaga jo bo maleba;
 - (c) Tona e e rwalang maikarabelo a pusoselegae le Tokololo ya Khanselekhuduthamaga e e rwalang maikarabelo a pusoselegae; kgotsa
 - (d) Khomišene ya Bodiredipuso malebana le tirelo ya puso.

5. Setlhogo se sekhutshwane le tshimololo

Melawanataolo eno e bidiwa Melawanataolo ya Kantoro ya Maemo le Kobamelo, 2022, e bile e simolola go dira ka letlha la go phasalatswa ga yona mo Lokwalodikgannyeng la Puso.