

**DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT
DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING**

No. R. 769

4 August 2006

**DETERMINATION OF SALARIES UNDER SECTIONS 18(1) AND 19C(1) OF
NATIONAL PROSECUTING AUTHORITY ACT, 1998 (ACT NO. 32 OF 1998), OF
MEMBERS OF MIDDLE MANAGEMENT SERVICE ON LEVELS D2 AND D3
EMPLOYED IN NATIONAL PROSECUTING AUTHORITY**

I, **Brigitte Sylvia Mabandla**, Minister for Justice and Constitutional Development, acting under sections 18(1) and 19C(1) of the National Prosecuting Authority Act, 1998 (Act No. 32 of 1998), and in consultation with the National Director of Public Prosecutions and the Minister for the Public Service and Administration and with the concurrence of the Minister of Finance, hereby determine an Inclusive Flexible Remuneration Package System, as set out in Schedules 1 and 2 hereto, for members of the middle management service who are on remuneration levels D2 and D3 and employed in terms of the provisions of the National Prosecuting Authority Act, 1998, with effect from 1 July 2005.

Ms BS Mabandla

Minister for Justice and Constitutional Development

SCHEDULE 1

TRANSLATION KEY: FULL-TIME PERSONNEL APPOINTED IN
TERMS OF NATIONAL PROSECUTING AUTHORITY ACT, 1998

Level	Salary notch on 1 July 2005	Inclusive flexible remuneration package with effect from 1 July 2005
MMS Level D2	236,223	312,018
	238,227	314,490
	240,525	317,325
	242,826	320,163
	245,118	322,989
	247,416	325,824
	249,714	328,659
	252,006	331,485
	254,304	334,320
	256,602	337,152
	258,900	339,987
	261,195	342,819
	263,493	345,651
	265,788	348,483
	268,086	351,318
270,378	354,144	
MMS Level D3	294,846	384,321
	296,907	386,862
	299,196	389,685
	301,491	392,517
	303,783	395,343
	306,075	398,169
	308,370	401,001
	310,665	403,830
	312,957	406,659
	315,249	409,485
	317,544	412,314
	319,839	415,146
	322,128	417,969
	324,423	420,798
	326,712	423,621
329,007	426,453	

SCHEDULE 2

**INCLUSIVE FLEXIBLE REMUNERATION PACKAGE
SYSTEM (DISPENSATION) FOR MEMBERS OF THE
MIDDLE MANAGEMENT SERVICE (MMS) ON LEVELS D2
AND D3: MEMBERS EMPLOYED IN TERMS OF THE
NATIONAL PROSECUTING AUTHORITY ACT, 1998**

EFFECTIVE FROM 1 JULY 2005



A determination by:

The Minister for Justice and Constitutional Development

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1. REMUNERATION SCALES

1.1 The dispensation consists of the following two remuneration (package) scales/grades for MMS members on Levels D2 and D3:

(a) MMS Level D2

- Remuneration level D2

(b) MMS Level D3

- Remuneration level D3

1.2 Only remuneration packages contained in the remuneration scale may be utilised.

1.3 The remuneration scale (grade) for all new appointees with effect from date of implementation of the dispensation must be determined subject to the job weight. It is therefore imperative that any new position (post), or any existing position (post) that is filled by means of a new appointee or transfer of existing personnel, must be evaluated before such position (post) is filled. Such MMS members should be appointed/transferred, on the minimum package of the relevant remuneration scale, unless dictated by factors such as recruitment/retention of members with peculiar and specific skills, in which case the reasons must be recorded and filed in the individual member's file (PSR Chapter 1, Part V/C.3).

1.4 The NPA may utilise appropriate and descriptive post designations for MMS members. In correspondence with the DPSA the grade and remuneration scale must be quoted. Data captured on PERSAL should also be according to the grade, remuneration scale and appropriate code.

2. COMPOSITION OF THE INCLUSIVE FLEXIBLE REMUNERATION PACKAGE

PART A: MEMBERS WHO ARE APPOINTED PERMANENTLY OR ON A FIXED-TERM CONTRACT AND WHO, IN BOTH CASES, ARE ADMITTED TO THE GEPF

2.1 The inclusive remuneration package consists of the **basic salary**, the **Employer's contribution to the GEPF** and a **flexible portion**.

Basic salary

2.2 The **basic salary** is determined as follows:

The following two sets of basic salary apply:

(a) **Set 1**

□ **MMS Level 11**

76.5% of the MMS member's total package

□ **MMS Level 12**

77.5% of the MMS members total package

(b) **Set2**

MMS Levels 11 and 12

70% of the MMS member's total package

2.3 **Set 1** allows the MMS member to set his or her basic salary, on which the employer's and your contributions to the GEPF are calculated, at least on the level that prevailed before implementation of this dispensation (1 July 2005) – **therefore the MMS membs's pensionable income is not reduced on translation**. However, this limits the flexible portion of the package which is to be utilised for structuring certain remunerative allowances/benefits such as a contribution to a registered medical aid scheme, motor vehicle allowance etc. within the current provisions of the Income Tax Act, 1962.

2.4 **Set 2** allows the MMS member to set his or her basic salary, on which the employer's and your contributions to the GEPF are calculated, at a level lower that prevailed before implementation of this dispensation

(1 July 2005) – **therefore a reduction in the MMS member's pensionable income on translation.** However, this increases the flexible portion which is to be utilised for structuring certain remunerative allowances/benefits such as a contribution to a registered medical aid scheme, motor vehicle allowance etc. within the current provisions of the Income Tax Act, 1962.

2.5 If an MMS member fails to exercise his or her choice on translation to the dispensation or on appointment within the time period specified by the NPA, Set 1 will be awarded as default.

2.6 The choice between Set 1 and Set 2 referred to in sub-paragraph 2.2 above means that-

- (a) MMS members who are translated to this dispensation on the date of implementation; or
- (b) new appointees (including promotions to these levels); or
- (c) personnel on level D1 and lower who are awarded a higher package in terms of PSR (2001) (Chapter I, Part V/C3),

must exercise their choice to either be awarded Set 1 or Set 2. **MMS members may exercise this choice only once.** This choice may not be changed in any way or at any time while the MMS member is being remunerated in terms of this dispensation (not even with promotion from Level D2 to Level D3) or with the awarding of a higher package within a remuneration band.

2.7 As a transitional provision for a period of 6 months, commencing on 1 February 2006, a grace period apply during which members who have exercised the choice to set their basic salary at 70% (Set 2) of the total package on implementation of the dispensation, may revert to Set 1 (therefore "undoing" their original choice). Exercising this choice in terms of the transitional provision is subject to the following:

- (a) The transitional provision only applies to members who were in service on Levels D2 and D3 on 31 January 2006.
- (b) Reverting from Set 2 to Set 1 will be effective from 1 July 2005 (therefore with retrospective effect).
- (c) The MMS member is obliged to fund the GEPF the difference in the Employer's contribution to the GEPF (provided for in the

package) and the member's contribution that accumulated since 1 July 2005.

- (d) Applications to revert from Set 2 to Set 1 that are received by HR components in departments after the expiry of the transitional provision (~~31~~ August 2006) will not be entertained.

2.8 The transitional provision referred to in paragraph 2.6 does not apply to MMS members who wish to revert from Set 1 to Set 2 after they have exercised the choice to set their basic salaries at Set 1 on translation to the dispensation.

2.9 The implications of the setting of the basic salary in the package **must** be conveyed in writing to each MMS members before he or she is translated/appointed to the dispensation.

Employer's contribution to the GEPF

2.10 The employer's contribution to the GEPF is calculated on the basic salary.

Flexible portion

2.11 The remaining part of the remuneration package is the flexible portion and the MMS member may structure it in terms of the provisions for the structuring of the flexible portion, as set out in paragraph 3 below.

PART B: MEMBERS WHO ARE APPOINTED ON A FIXED-CONTRACT AND WHO ARE NOT ADMITTED TO THE GEPF

2.12 The inclusive flexible remuneration package does not consist of components – the total package constitutes the flexible portion.

2.13 The MMS member may structure the total inclusive flexible remuneration package in terms of the provisions for structuring of the flexible portion, as set out in paragraph 3 below.

3. FLEXIBLE PORTION

3.1 MMS members may structure the flexible portion into the following items:

(a) Motor vehicle allowance

A maximum amount of 25% of the total package per annum.

(b) 13th Cheque

(i) CMS members who are appointed permanently or on a fixed-term contract and who, in both cases, are admitted to the GEPF

A 13th Cheque equal to one-twelfth of the basic salary, to be structured as an annual non-pensionable payment, payable in the anniversary month of birth.

(ii) MMS members who are appointed on contract and who are not admitted to the GEPF

A member may not structure for a 13th Cheque.

(c) Medical Assistance

Employer's contribution to a medical aid scheme.

(d) Housing Allowance

An amount as decided by the MMS member.

(e) Non-pensionable cash allowance

Any remaining amount of the flexible portion.

3.2 MMS members are not obliged to structure for all these allowances/benefits, but the total amount of the **flexible** portion must be structured.

4 MEASURES: STRUCTURING OF THE FLEXIBLE PORTION

4.1 Motor vehicle allowance

- (a) If an MMS member structures for a motor vehicle allowance, he or she is obliged to maintain a reliable (private) vehicle to be utilised for official journeys. No time frames exist when a vehicle should be replaced. (If an MMS member so wishes, he or she may purchase/lease a new or reliable pre-owned vehicle.) However, the MMS member must at all times have his or her vehicle (or a substitute) available for official journeys.
- (b) If an MMS member does not structure for a motor vehicle allowance, there is no obligation on him or her to utilise his or her own (private) vehicle for official purposes.
- (c) MMS members may continue to participate in the Subsidised Motor Transport Scheme (SMTS) (A- and B-Schemes), as maintained by the National Department of Transport, provided that they comply with the criteria set by the said Department. MMS members-
 - ▣ currently participating in the A-Scheme or who enter the Scheme are not allowed to structure for a motor vehicle allowance as of the date of admittance to the Scheme; and
 - ▣ participating in the B-Scheme are allowed to structure for a motor vehicle allowance.
- (d) Heads of Department (or his or her delegate) must decide whether an MMS member, who has structured for a motor vehicle allowance, must utilise his or her own vehicle or make use of the provisions for official journeys when transport is used for official purposes, taking into account practical implications, cost effectiveness, road conditions etc.
- (e) An MMS member who structures a motor vehicle allowance must secure his or her own financing or loans, unless he or she qualifies for the financing arrangements provided for in the SMTS (B-Scheme).

- (g) An MMS member must obtain and maintain comprehensive insurance on the vehicle, and is fully responsible for all running and maintenance costs and registration and licensing.
- (g) The MMS member is responsible for parking fees (if it is levied) at the place of work. There is no obligation on the employer to provide parking at the MMS member's usual place of work if he or she structures for a motor vehicle allowance.
- (h) Any journey between an MMS member's home and usual place of work constitutes a private journey.
- (i) As far as practically possible, an MMS member is obliged to provide free transport to official passengers to the same destination on an official journey.
- (j) If an MMS member, who structures a motor vehicle allowance, utilises her/his private vehicle to carry out official duties, the Executing Authority shall compensate the member for kilometres travelled according to the tariffs payable for privately owned vehicles, as prescribed by the Department of Transport and shall reimburse toll fees.

4.2 13th Cheque

- (a) The 13th Cheque is an annual payment in the anniversary month of birth.
- (b) The 13th Cheque is payable on the day the MMS member is normally paid his or her salary and allowances.
- (c) If an MMS member is appointed (from outside the Public Service) on or after 1 July 2005 and structures a 13th Cheque, he or she will receive a pro rata 13th Cheque for the period from date of appointment until the end of the month preceding the anniversary month of birth.
- (d) If an MMS member, who was in service on 30 June 2005, **structures** a 13th Cheque with effect from 1 July 2005 (date of implementation of the dispensation) the following apply:

- P The full 13th Cheque will be payable in the next anniversary month of birth. The 13th Cheque is calculated from the month in which the last service bonus was paid to the last day of the month preceding the anniversary month of birth.
 - In the event of the MMS member's services being terminated before the next anniversary month of birth, a pro rata 13th Cheque will be payable. The pro rata 13th Cheque is calculated from the month in which the last service bonus was paid to the last day of service.
- (e) If an MMS member, who was in service on 30 June 2005, **does not structure** a 13th Cheque with effect from 1 July 2005 (date of implementation of this dispensation) the following apply:
- A pro rata service bonus will be paid in terms of the provisions of PSCBC Resolution 3 of 1999, calculated from the month that the last service bonus was paid until 30 June 2005. This pro rata service bonus will be payable in the next anniversary month of birth and based on the MMS member's salary notch as at 30 June 2005.
 - In the event of the MMS member's services being terminated before the next anniversary month of birth referred to above, **except in the case of resignation or discharge owing to misconduct**, a pro rata service bonus is paid to the member in terms of the provisions of PSCBC Resolution 3 of 1999. The pro rata service bonus is calculated from the month that the last service bonus was paid until 30 June 2005. This pro rata service bonus will be payable at the last day of service and based on the MMS member's salary notch as at 30 June 2005.
- (9) If an MMS member **restructure** his/her package **from a position where a 13th Cheque has been structured to a position where a 13th Cheque is not being structured**, effective from a date after 1 July 2005, the following apply:
- A pro rata 13th Cheque will be paid, calculated from the month that the MMS member's last 13th Cheque has been paid until the month prior to the effective date of the revised restructuring. This pro rata 13th Cheque will be payable in the

next anniversary month of birth, based on the basic salary in the month prior to the effective date of the revised restructuring.

- In the event of an MMS member's services being terminated before his/her next anniversary month of birth referred to above, a pro rata 13th Cheque is payable on the last day of service. This pro rata 13th Cheque is calculated from the last month in which the MMS member received his/her last 13th Cheque until the month prior to the effective date of the revised restructuring, based on the basic salary in the month prior to the effective date of the revised restructuring.
- (g) If an MMS member **restructures** his/her package **from a position where a 13th Cheque has not been structured to a position where the MMS member structures a 13th Cheque**, effective from a date after 1 July 2005, the following apply:
- A pro rata 13* Cheque will be payable in the MMS member's next anniversary month of birth, calculated from the effective date of the revised restructuring to the last day of the month preceding the anniversary month of birth.
 - In the event of a MMS member's services being terminated before or in his/her next anniversary month of birth, a pro rata 13th Cheque is payable on the last day of service. The pro rata 13th Cheque is calculated from the effective date of the revised restructuring to the last day of service.
 - In the event of a MMS member's services being terminated after his/her next anniversary month of birth, a pro rata 13th Cheque is payable on the last day of service. The **pro** rata 13th Cheque is calculated from the month in which the member received his/her last 13th Cheque to the last day of service.

4.3 Medical assistance

The Executing Authority shall pay the total subscription only directly to a registered medical scheme. The total subscription shall be composed as follows:

- (a) An amount up to and including a maximum of two-thirds ($2/3^{\text{rd}}$) of the total subscription, from the flexible portion as the employer's contribution.
- (b) The remaining amount (not less than one-third ($1/3^{\text{rd}}$) of the total subscription) is a normal deduction from the MMS member's salary.

5 AMENDMENTS TO THE STRUCTURING OF THE FLEXIBLE PORTION

5.1 The structuring of the flexible portion of the package may only be amended in the following circumstances:

- (a) One year after the date of implementation of the dispensation.
- (b) Adjustment of the remuneration scale (i.e. annual cost-of-living adjustment).
- (c) On transfer to another post.
- (d) Substantial changes to ~~tax~~ legislation – members will be informed accordingly.
- (e) Any changes to the total contribution to a registered medical aid scheme.

5.2 An MMS member is not allowed to restructure the package (flexible portion) with the awarding of pay progression, unless the structuring can be done simultaneously with the restructuring of the package due to an annual cost-of-living adjustment. The awarding of pay progression at a later stage, but with retrospective effect to 1 July, will be dealt with as follows:

(a) MMS members admitted to the GEPF

PERSAL will increase the components basic salary and the employer's contribution to the GEPF of the member's package accordingly and add the increase in the flexible portion to the non-pensionable cash allowance as default.

(b) **MMS members not admitted to the GEPF**

As a member's package does not consist of any components, PERSAL will add the increase in the package to the non-pensionable cash allowance as default.

6 ALLOWANCES

- 6.1 Certain allowances are still payable in addition to the dispensation, provided MMS members meet the qualifying (payment) criteria. (Such allowances are based on the provisions of relevant collective agreements and prescripts such as the Danger and Special Danger allowances, allowances payable to employees working in the offices of Executing Authorities, acting allowance, employees working night shifts etc).
- 6.2 Those allowances that were calculated as a percentage of the MMS member's actual salary notch or a notch on a particular salary level in terms of the pre-revised dispensation, are calculated as a percentage, based on SET 1 of the component basic salary of the appropriate package, irrespective whether the member's basic salary is set at Set 1 or 2. (This means that all members on the same package who meet the qualifying criteria for a particular allowance will be remunerated/compensated equally).
- 6.3 The acting allowance payable to-
- 6.3.1 members on Level D2 who act in a higher (vacant and funded) Level D3 position; or
- 6.3.2 MMS members (Levels D2 and ~~D3~~) who act in a higher (vacant and funded) SMS position,
- is calculated as the difference in the acting MMS member's total package and the minimum package attached to the relevant MMS/SMS post.
- 6.4 The acting allowance payable to employees on Levels C3 to D1 who act in a higher (vacant and funded) MMS Level D2 or D3 position, is calculated as the difference between the employee's salary notch and the basic salary in terms of SET 1 of the minimum package attached to the relevant higher MMS post.

7 PART-TIME MMS MEMBERS AND EMPLOYEES ON SALARY LEVELS C3 to D1 WHO ARE AWARDED A PACKAGE WITHIN THE SCALES OF MMS LEVELS D2 and D3

7.1 An MMS member employed in a part-time capacity (5/8th or 6/8th basis) or an employee on salary level D1 or lower who is awarded a package that fall within the scales of MMS Levels D2 and D3, may structure his or her package – the normal provisions contained in the dispensation apply.

8 INCENTIVE POLICY FRAMEWORK LINKED TO DEPARTMENTAL PERFORMANCE MANAGEMENT SYSTEMS

8.1 MMS members qualify for pay progression in terms of the NPA Incentive Policy Framework.

8.2 Performance awards/bonuses (merit awards) payable in terms of the performance scheme are limited to 14% of MMS members' total package. (The NPA should align its scheme accordingly.)

9 MMS MEMBERS APPOINTED ON FIXED-TERM CONTRACTS

9.1 The remuneration of an MMS member employed on a fixed-term contract will be equal to the remuneration package of an equivalent permanent worker, which is derived from-

- (a) evaluation of the job in terms of the prescribed job evaluation system; or
- (b) the remuneration package of a similar existing position.

9.2 Clause 36 of PSCBC Resolution 3 of 1999, which provides that the employer may pay an employee with a fixed-term contract for more than three months and who earns the same salary as an equivalent permanent worker, (an allowances of) 30% of his or her basic salary in lieu of benefits, is **not applicable to MMS members.** As contained in paragraph 9.1 above, the remuneration of a fixed-term MMS member is derived from the total package of a similar existing position.

9.3 The remuneration of MMS members remunerated on an hourly, weekly or monthly basis (casual basis) is set proportional to the total package of an equally graded full-time member.

10. STATE GUARANTEE SCHEME FOR HOUSING

10.1 The State Guarantee Scheme for housing, as maintained by the national Department of Public Works, apply to MMS members.

