

DEPARTMENT OF DEFENCE

NO. 703

21 JULY 2017

OFFICE OF THE MILITARY OMBUD

PROCLAMATION

REMUNERATION AND OTHER TERMS AND CONDITIONS OF SERVICE FOR THE STAFF OF THE MILITARY OMBUD

With the concurrence of the Minister of the Defence and Military Veterans and the Minister of Finance, I hereby determine the remuneration and other terms and conditions of service for the staff of the Military Ombud in this Schedule in terms of section 9 (2) of the Military Ombud Act, 2012 (Act No. 4 of 2012).



Military Ombud

Schedule

PART 1: INTRODUCTION AND SCOPE OF APPLICATION

1. This determination contains the terms and conditions of employment for the staff of the Military Ombud in accordance with section 9 (2) of the Military Ombud Act, Act No. 4 of 2012.
2. This determination is based on the following statutory provisions:
 - a) The Constitution of the Republic of South Africa, 1996;
 - b) The Public Finance Management Act, No 1 of 1999;
 - c) The Labour Relations Act, No 66 of 1995;
 - d) The Basic Conditions of Employment Act, No 75 of 1997;
 - e) The Public Service Act, No 103 of 1994;
 - f) The Public Service Regulations;
 - g) The Military Ombud Act, No 4 of 2012;
 - h) The Employment Equity Act, No 55 of 1998;

- i) Unemployment Insurance Fund Act, No 32 of 2003;
- j) Skills Development Act, No 97 of 1998.

3. The provisions of this determination shall apply to all staff employed by the Military Ombud. The Ombud may, after consultation or negotiation (as may be appropriate) with the body/bodies representing employees and the individual employees not represented by a body, amend these determinations (conditions of service) or any provisions relating to the employer/employee relationship, lay down additional conditions of service or rescind or substitute any existing conditions of service.

4. The determinations on terms and conditions of service as contained herein shall come into effect on the date of promulgation and shall henceforth apply to all employees.

5. Members of staff of the Office of the Military Ombud shall be appointed in terms of section 9 of the Military Ombud Act and their appointment shall be subject to an appropriate grade of security clearance issued by the Defence Intelligence.

PART 2: DEFINITIONS

6. In this Determination any word or expression to which a meaning has been assigned in the Military Ombud Act has the meaning so assigned and unless the context indicates otherwise-

- a. **Act means:** The Military Ombud Act, Act No. 4 of 2012.
- b. **Basic salary means:** The annual salary notch attached to the all inclusive remunerative package.
- c. **Contract Employee means:** A person employed for a fixed term but excluding a casual worker or an employee to whom a retirement age (ie 65 years of age) applies.
- d. **Employer means:** The Office of the Military Ombud that was established in terms of the Military Ombud Act 2012.
- e. **Employee means:** A person who is appointed at the Office in terms of the Military Ombud Act, 2012 (Act No4 of 2012)
- f. **Flexible portion means:** The part of the all inclusive remuneration package that can be structured according to employees' requirements.
- g. **Job means:** The functions and responsibilities related to a post.
- h. **Leave cycle means:** The period 1 January to 31 December of each year.
- i. **Minister means:** The Minister of Defence and Military Veterans.

- j. **Monthly Salary means:** The total flexible remuneration package divided by twelve (12) which consists of a basic salary and flexible portion.
- k. **Part-time employee means:** A person employed on a day-to-day basis who is paid a daily wage and who does not work for more than 24 hours a month.
- l. **Retirement age means:** The age determined by the Public Service Act that is currently 65 years of age.
- m. **Temporary Employee means:** Any person who render services, perform work and who are remunerated on a temporary basis.
- n. **Total Cost to Employer means:** An all inclusive remuneration package that is a combination of a basic salary plus a flexible portion.

PART 3: REMUNERATION

- 7. In determining the salaries of employees the Military Ombud shall utilise the Equate system and the senior management service salary grading system utilised for the Public Service. Salary grading will thus be levels 1 to 10 as normal packages with add-on benefits depending on whether or not an employee meets the requirements of qualifying criteria, levels 11 to 12 with all-inclusive guaranteed remuneration packages and the senior managers on levels 13 to 16 with all-inclusive guaranteed remuneration packages.
- 8. The Ombud shall as far as possible set the salary of all employees on the same standard as or equal to, but never less than that determined for the public service
- 9. The Ombud shall provide all employees with an annual cost of living adjustment which will be equal to but not more than the annual cost of living adjustment determined annually for the Public Service.
- 10. The Ombud shall, as far as possible, set the salary of a part-time, contract or temporary employee proportional to the salary of an equally graded full-time employee.
- 11. Remuneration by the Ombud shall aim, within financial constraints, to support:
 - a. The provision of appropriate incentives for employees.
 - b. Equal pay for equivalent or work of equal value.
 - c. Other relevant labour standards, including benchmarking.

Employees on Cost to Employer All-inclusive remunerations packages

- 12. Benefits, if any, as determined by the employee, are part of the employee's total package, and may include:
 - a. Medical Aid Contribution;

- b. Pension Fund contributions;
 - c. 13th Cheque;
 - d. Motor Vehicle Allowance.
13. Determination of Monthly Salary:
- a. The monthly salary shall be the Total Cost to Employer divided by 12.
 - b. Where an employee has elected to make provision for annual bonus (13th cheque), payable in his /her month of choice, the annual salary notch will be divided by 12. A pro rata bonus will be paid to employees who did not complete a full 12 months before their month of choice.
 - c. Employees must factor in all tax implications, including provisional tax, in their structuring of their packages.

Employees on Cost to Employer Potential Packages with Add-on Benefits

14. Employees who are on normal annual notch salary packages receive an annual birthday bonus in the month of their birthday. Benefits such as Pension Fund is compulsory and Medical Scheme Contributions is a matter between the employee and the service provider, although a contribution as a subsidy in line with similar and equal organisations as well as with market trends, may be payable by the employer. A pro rata bonus will be paid to employees who did not complete a full 12 months before their birthday month.

15. A pro rata bonus is payable to employees on termination of service before their birthday, as well as in all cases of termination of service resulting from death, retirement or ill health. This bonus is calculated on the salary of the employee at the date of termination of service.

Annual Performance Bonus

16. The amount of the performance bonus, if any, payable to staff members shall be based on performance in terms of the performance management and development system and policy as approved by the Ombud.

Annual Pay Progression

17. Employees may qualify for an annual pay progression based on satisfactory performance and the performance management and development system utilised by the Office.

Overpayment/Recovery

18. The employer, subject to the Basic Conditions of Employment Act 75 of 1997 chapter 4, section 34, reserves the right to recover any overpayment and/or any amounts owed to the employer by the employee from the employee's salary and/or any other cash benefits that may accrue to the employer.

Authorised Deductions

19. **Mandatory Deductions:** PAYE (Pay as You Earn) as governed by the South African Revenue Service (SARS) will be deducted monthly from the Total Cost to Company according to applicable tax legislation, rules and regulations.

20. The employer will, depending on the circumstances, make deductions from an employee's salary in conformity with legal requirements and provisions of prescribed funds, as well as other approved deductions. The employer reserves the right to refuse to make deductions.

21. **Remunerative Allowances:** These are standard allowances payable to employees over-and-above their salaries within the prescripts of the relevant policy.

Overtime Compensation

22. According to the Basic Conditions of Employment Act (BCEA) No. 75 of 1997, employees may not work overtime except in accordance with an agreement between the employer and employee.

23. An agreement to work overtime may be reached with any employee where the circumstances so require.

24. Compensation for overtime work will be in the form of time-off as prescribed in the Basic Conditions of Employment Act.

25. In exceptional circumstances overtime will be paid as approved by the Ombud and within the allocated budget. Senior Management is excluded from any overtime compensation.

Allocation of Cell Phones and Cell Phone Allowance

26. Employees appointed in specific executive positions are entitled to receive an official cellular phone due to the nature of the inherent job requirements.

27. Any other employee appointed in a post in the permanent establishment where the nature of the inherent job requirement determines so should apply in writing. This application should be recommended by the section head for necessity and the finance manager must confirm availability of funds prior to approval by the Ombud or delegated official.

28. The amount for a cellular phone allowance will be determined by the Ombud annually taking into account current trends within the public service.

Housing Allowance

29. Any employee appointed on the permanent establishment may participate in the Office's housing allowance scheme, subject to compliance with the qualifying conditions at the date of application for participation and during the full period of such participation. Employees on cost to company packages are excluded from this allowance as it forms part of the total cost to company. Temporary employees in voluntary internship programmes are excluded from receiving housing allowance.

30. The amount payable will be determined by the Ombud annually taking into account current trends within the Public Service.

Acting Allowance

31. Employees may act in a funded higher-grade post, and must perform only the duties of that post. The employee may only act in the post for 3 (three) consecutive months with rotation. In exceptional circumstances, an employee may act for a period longer than 3 consecutive months, on approval by the Ombud.

32. Whenever the Ombud is absent from work or unable to perform the duties of office, section 6 (13) of the Act will be applicable. In the absence of the Deputy Ombud, a Chief Director designated by the Ombud for that purpose, will act in her/his stead.

33. Although an employee may act in a funded vacant post every effort should be made to advertise and fill the post within a period not exceeding 6 (six) months from date the post was vacated.

34. Acting allowance will be paid as the difference between the cost to company package of the post (being the bottom notch package) and that of the employee (also on a cost to company package) appointed in writing with a formal job description/performance agreement signed by the appointee and the Ombud. Where the employee identified to be acting is on an annual notch and the post is on cost to company the allowance will be calculated on the difference of the minimum notch (basic salary) of the post and the notch of the acting employee.

PART 4: EMPLOYMENT WORKING HOURS

35. Employees shall work a forty (40) hour week from Monday to Friday of each week, with an eight hour day plus a thirty (30) minute meal break from 13:00 to 13:30. Internal arrangements by managers to vary lunch breaks can be accommodated to ensure full functionality of specific departments.

36. Office hours shall be from 07:45 until 16:15 daily.

37. An agreement on flexible working hours can be reached between an employee and relevant director/manager provided an eight (8) hour day is completed.

38. The Executive and all Senior Managers are required to work such additional hours as are reasonable and necessary for the proper discharge of their duties.

PART 5: LEAVE BENEFITS

39. Vacation Leave: Employees are granted twenty two (22) days of vacation leave for each leave cycle when having less than ten (10) years of service with the Office. Employees with ten (10) years and more service are granted thirty (30) days vacation leave in a leave cycle.

40. The Office will recognise previous service with organs of state on appointment of an employee who was in full-time employment on the day immediately preceding the date of appointment at the Office. This previous service shall then count for leave purposes.

41. A leave cycle starts on 01 January of a year and ends on 31 December of the same year, although extension is given up to 30 June of the next year to utilise all leave credits for that leave cycle. Any leave days not utilised will be forfeited.

42. There will be no accumulation of leave days.

43. Pro-rata leave days will be granted for employees who were appointed after the start of the leave cycle.

44. Leave pay outs will take place in accordance with the policy on termination of service.

45. Sick Leave: Employees are granted thirty six (36) days sick leave in a three (3) year cycle. The next cycle will start on 01 January 2016. Unused normal sick leave will lapse on completion of the leave cycle.

46. Sick leave is divided into three (3) major categories namely, normal sick leave, Temporary Incapacity Leave (TIL) and Permanent Incapacity Leave (PIL).

- a. Normal Sick Leave: Employees are entitled to sick leave within the prescripts of the policy and should submit a medical certificate for sick leave of more than two (2) consecutive days or where a tendency occurs of sick leave just before or after a weekend or public holiday.
- b. Temporary Incapacity Leave: Incapacity leave is not automatically given, nor is it unlimited additional sick leave simply validated by the mere submission of a medical certificate, even though from a medical specialist. Incapacity leave is additional sick leave granted conditionally at the discretion of the Ombud. Sufficient proof should be submitted to confirm that he/she is too ill/injured to perform his/her work satisfactorily. All compulsory documents according to the policy should be submitted along with the application for incapacity leave. Incapacity leave is limited to thirty (30) days which can be extended with another thirty (30) days depending on the outcome of the investigation or the extent of the employees' illness/injury.

- c. **Permanent Incapacity Leave:** An employee shall not directly access or apply for permanent incapacity leave. The Office may grant an employee up to a maximum of thirty (30) days permanent incapacity leave once the assessment and investigation determined that the employee's condition is of a permanent nature.
47. **General Sick Leave:** The supervisor/manager may grant employees time off in terms of the sick leave provisions in the event where an employee has to consult a doctor, therapist, etc. for reasons related to the employees' health/wellness, or for fitment, adjustment or maintenance of equipment of disabled employees to perform his/her job. The supervisor/manager may require the necessary proof of such events/occurrences to properly monitor the utilisation of sick leave.
48. **Leave for Occupational Injuries and Diseases:** If an employee is occupationally injured or contracts an occupational disease, the Office shall grant occupational injury and disease leave with full pay for the duration of the period that the employee cannot work.
49. **Maternity Leave:** Employees are entitled to four (4) consecutive calendar months maternity leave. Maternity leave may be extended by the supervisor/manager, upon application by granting sick leave as a result of a medical complication, or up to hundred and eighty four (184) calendar days unpaid leave, or annual leave. Miscarriages/stillbirth/termination of pregnancy on medical grounds are handled according to the prescripts of the policy.
50. **Adoption Leave:** An employee who adopts a child who is younger than two years shall qualify for adoption leave to a maximum of forty-five (45) working days.
51. **Family Responsibility Leave:** An employee shall be granted five (5) days leave per annual leave cycle for utilisation if the employee's spouse or life partner gives birth to a child or the employee's child, the employee's spouse or life partner is ill, or the employee's child, spouse, life partner or immediate family member dies. Proof of illness, birth or death will be required in these circumstances.
52. **Leave for Office Bearers or Shop Stewards of Recognised Employee Organisations:** An employee of the Office who is an office bearer or shop steward of a recognised employee organisation shall receive ten (10) working days paid leave per annum for activities related to his/her union position.
53. **Special Leave:** Special leave with full pay may be granted to an employee under the following circumstances:
- a. **Leave for Examination Purposes:** to prepare him-/herself for any examination on the day prior to the examination(s) and on the day on which the employee sits for examination(s);
 - b. **Leave for Study Purposes:** Special leave with full pay equal to the number of days on which the employee sits for an examination may be granted to enable the employee to prepare him-/herself for the examination. Study leave on the basis of one day special leave with full pay for each day annual leave with full

pay, and thereafter, if necessary, annual leave without pay may be granted to the employee in connection with his/her studies, (known as 50-50 basis);

- c. Leave for Sport Purposes: Special leave with full pay and absence from the workplace may be granted to an employee for the purpose of representing South Africa, a province or a level between provincial and national as player or as team management, within policy prescripts;
- d. Resettlement Leave: A maximum of two (2) working days special leave with full pay may be granted to an employee who was appointed with the Office and who has to relocate, to supervise the packing/loading and unloading/unpacking of personal effects;
- e. Leave for Rehabilitation Purposes: If an employee has completed a reasonable period of satisfactory service and abuses alcohol or another substance, the employee may be granted special leave with pay once-off according to the prescripts of the policy.
- f. Special Leave Miscellaneous: A number of cases as stipulated in the policy can be used by the supervisor/manager to grant special leave with full pay to an employee at his/her discretion.

PART 6: BENEFITS

Employee Pension Fund

54. Currently all employees contribute to the Government Employees Pension Fund, according to the pension fund rules and regulations. Pension pay outs for the different options of termination of service take place according to the pension fund rules.

Medical Aid Schemes

55. Employees have a choice to select a medical fund that meets their requirements and financial status. A subsidised amount, depending on the medical fund and the amount of dependants of the employee covered, is payable to employees on salary levels 1 to 10 with a maximum as determined.

Travel Allowance (Subsistence and Travel Allowance)

56. Employees of the Office will be compensated when it is required from them to be away from their normal place of work for official duties for more than twenty-four (24) hours. This allowance is limited to meals (lunch and supper) and daily allowance, as travel arrangements are done by a service provider for flight, vehicle hire and accommodation (bed and breakfast).

PART 7: EMPLOYER PROCESSES

57. Employment: Issues referred to below only have a financial implication where so indicated and are as follows:

- a. Advertisement of Vacant Posts: All vacancies are advertised within the Office and if no suitable candidate is identified it will be advertised on the Military Ombud website with an advertisement in the newspapers to direct interested applicants there.
- b. Recruitment and Selection: Recruitment is done on an open competition basis where all qualifying applicants apply after which the shortlisted candidates are invited to a selection board.
- c. Induction Program: All newly appointed employees will undergo an induction program to familiarise themselves with their new working environment and orientate themselves with the business processes.
- d. Resettlement: When an employee is appointed at the Office and as a result needs to relocate, the Office will assist the employee by paying an amount equal to one (1) months gross salary (for those on cost to employer packages the pensionable part) as compensation for expenses such as but not limited to, car licencing, school clothes, bond registration, curtains, etc.
- e. Employment Equity: The Office complies with the Employment Equity Act, 1998 (Act No 55 of 1998) in applying national demographic representivity figures when appointing new employees.
- f. Job Evaluation: All posts on the current establishment table of the Office have been evaluated. When structural changes are required in future new or upgraded/down graded posts will be re-evaluated to determine the functional level for compensation.
- g. Performance Management and Development System (PMDS): A PMDS for the Office is applicable to the management of the performance of all employees and will also be used to evaluate employees during their probation period.
- h. Dress Code: All employees must comply with the dress code policy of the Office that ensures employees' are professionally attired during working hours.
- i. Smoking Policy: All employees must comply with the smoking policy of the Office that declares it a smoke free environment. Designated smoking areas have been identified therein.
- j. Grievance Procedure: All employees must comply with the grievance procedure for the Office that is aligned with the Basic Conditions of Employment Act, 1997 (Act No 75 of 1997) and Labour Relations Act, 1995 (Act No 66 of 1995).
- k. Disciplinary Procedure: The Office will have a Disciplinary Procedure that is aligned with the Basic Conditions of Employment Act, 1997 (Act No 75 of 1997) and Labour Relations Act, 1995 (Act No 66 of 1995).

58. Employment Development Programs: Employee Development Programs will be instituted to ensure that growing of own timber is well controlled at the Office during the following:

- a. Mentoring and Coaching – Support will be afforded to employees for personal development from the date of employment at the Office to ensure the efficient and effective functioning in their respective work environments. This will especially be utilised during succession planning to ensure the transition period for handing and taking over is maximised to the fullest.
- b. Studies at State Expense – Although every effort is made to employ people who already have a qualification, support will be afforded to employees who want to improve their qualifications in areas relevant to the workings of the Office and the immediate working environment of the employee. All such study support will require the signing of a contract to ensure a return on investment for the Office.
- c. Skills Development Courses – Employees will be afforded the opportunity to attend skills development courses in relevant areas of their working environment. Even though a certificate or diploma will not necessarily be obtained, the employee should submit a comprehensive report on the course curriculum. Attendance thereof will be in line with the leave policy and within policy prescripts.
- d. Cost of Attendance of Classes – The Office may within policy pay for cost of attendance of classes by an employee during his/her period of study where such classes are compulsory and are part of the course to prepare a student towards an examination or practical phase of a subject. The employee will however as far as possible be required to study at a Gauteng based tertiary institution, unless the particular course is not offered at a tertiary institution within Gauteng. These payments and attendance will be according to the Travel Allowance Policy as well as the Leave Policy.

59. Employee Assistance Programmes: An Employee Wellness Program will be implemented to assist employees during employment at the Office (and will be regulated by policy) that cover the following:

- a. Counsellors who can assist but no financial assistance will be given in this regard.
- b. Substance abuse – When an employee after being employed for a number of years with a good service record falls into a habit of substance abuse, such employee will be afforded the opportunity to seek help to recover with in the prescripts of the Leave Policy. No financial assistance will be afforded although assistance towards acquiring the services of possible institutions that run rehabilitation programmes for substance abuse may be afforded.
- c. Social Problems – Should an employee experience social problems either at home or at work, such employee will be assisted with first line counselling to determine further action to be taken. Managers will be trained in first line

counselling in order to prepare them to identify issues that may require referrals and the appropriate way of handling such cases. No financial assistance will be afforded to seek outside counselling.

- d. Stress Counselling – Assistance will be afforded to employees who experience stress in their lives by guiding the employee to a credible counsellor. The Office will however not be liable for any financial payments towards these sessions.
- e. Referrals – The Office will assist with guiding the employee to credible service providers to the matter at hand. There will however be no financial liability for the Office for any of these referrals as it is a personal matter of the employee.

PART 8: PROBATION, PROMOTION AND TERMINATION OF SERVICE

60. Probation: All new appointees need to complete a probation period of not less than twelve (12) months which can be extended with a further three (3) months should the supervisor or line manager considers this appropriate.

61. Appointments can only be confirmed when an appropriate security clearance has been issued as per section 9(3) of the Military Ombud Act.

62. Promotion: Promotion to a higher salary level can only take place by appointment into that post as all vacancies must be advertised to ensure free and fair competition between all applicants. No automatic promotions will take place.

63. Termination of Service: Employees may leave the employ of the Office in the following circumstances which will be further regulated by policy:

- a. Resignation – This option can be followed at any stage of employment where the employee decides to leave the service of the Office and seek employment elsewhere.
- b. Normal Retirement – This option is utilised when the employee reach the compulsory retirement age of sixty five (65) years of age.
- c. Early Retirement – Early retirement can be utilised by an employee from the age of fifty five (55) years of age with penalties and from sixty (60) years of age without penalties according to the rules of the applicable pension fund.
- d. Ill Health Retirement – When an employee has a medical condition that is permanently affecting his/her ability to perform his/her daily work, the Office can apply for ill health retirement due to this medical condition.
- e. Dismissal/Retrenchment – There are different reasons to utilise dismissal/retrenchment as an option to terminate an employees' service:
 - i. Disciplinary action when an employee did something that requires the disciplinary process to be followed.

- ii. Dismissal due to poor performance during probation period or during a performance management and development cycle when all corrective steps were taken and no progress was made.
- iii. Administrative dismissal when the employee was on leave without authority for a period of more than thirty (30) days without notifying the Office or the supervisor/manager. This process can also be followed when an employee was convicted and found guilty of an offence.
- f. Death – When an employee passes on employment is automatically terminated although all the necessary administrative processes must still be completed.