



DIRECTIVE NO. 14

GOVERNING FRAMEWORK FOR THE MANAGEMENT OF THE REVOLVING DOOR POLICY FOR PUBLIC EMPLOYEES

Issued on 18 June 2020 by the Principal Permanent Secretary in terms of the Public Administration Act (CAP 595).

1. PURPOSE AND APPLICABILITY OF THIS DIRECTIVE

1.1 The Public Administration Act (CAP 595) Article 4(5) and (6) provides for the regulation of revolving door employment for public employees holding **posts/positions that involve regulatory or inspectorate functions.**

Article 4(5) states that public employees holding posts/positions that involve regulatory or inspectorate functions may be designated for the purpose of this article and enter into an undertaking under which they shall not, for a period of up to two years following resignation, retirement or termination from public employment, have a relationship of profit with a private enterprise or non-government body with which they have dealt during a period of up to five years prior to leaving public employment. In this regard, "relationship of profit" means any kind of relationship in which the former public employee does work for which remuneration is ordinarily payable notwithstanding the fact whether such remuneration is received, or not.

Article 4(5) also states that the undertaking shall be regarded as a condition of employment of the post to which it applies and shall continue to apply to the incumbent if he takes up a different post in public employment. Such undertaking shall also specify the penalty that applies if its terms are breached, which penalty shall be equivalent to three years' salary.

The designation of posts/positions shall be carried out by the Revolving Door Policy Governance Board established by the Public Administration Act as detailed in para 3 below. This Board shall also monitor the proper implementation of the revolving door policy.

Any public employee who is subject to an undertaking may request a ruling from the Board to determine whether entering into a particular relationship of profit would constitute a breach of that undertaking. No penalty shall apply to any breach where the person has acted in conformity with the ruling of the Board.

1.2 This Directive applies to those public employees in posts/positions within the Public Administration that involve regulatory or inspectorate functions and which are identified as Designated posts/positions by the Board.

2. GENERAL PRINCIPLES

2.1 The term 'revolving door' in this case refers to the movement of individuals from public office to private companies and non-governmental bodies. Public employees may move to private sector positions, whereby they may use their government experience and connections to unfairly benefit their new employer, or may even favour certain companies or sectors in their decisions while they are in office in the hope of landing a job in the corporate world once they exit government.

2.2 This Directive supports the introduction of a new statutory framework of effective mechanisms to regulate revolving door employment. The main principle and aims of which are to ensure that:

- The migration of an employee to public employment shall not cause real, perceived or potential conflict with the highest ethical conduct expected of officers holding or having held public office;
- The Public Administration has the systems in place to effectively manage the risks associated with revolving door employment.

3. ESTABLISHMENT OF A REVOLVING DOOR POLICY GOVERNING BOARD

3.1 Article 4(5) of the Public Administration Act (CAP 595) provides for the setting up of the Revolving Door Policy Governing Board, hereby referred to as the Board, for the implementation of the provisions of Article 4(5) and (6).

3.2 The Prime Minister, as Minister responsible for Public Administration has appointed the Board which is composed of a:

- Chairperson,
- Two Members; and
- An expert designated as observer.

3.3 In line with the provisions of Article 4 of the Act, the principal roles of the Board shall be to:

- Identify posts/positions that involve regulatory or inspectorate functions and compile a list of designated posts/positions. These posts/positions shall be designated for the purposes of sub-article 5 of Article 4 of the Public Administration Act and the list shall be published as an Annex to this Directive;
- Issue rulings in line with the provisions of sub-article 6 of Article 4; and
- Monitor the proper implementation of the provisions of sub-article 5 of Article 4.

3.4 Public employees whose grades/positions are listed in the Annex to this Directive may request a ruling from the Board to determine whether entering into a particular

relationship of profit would constitute a breach of the undertaking in terms of Article 4(5) of the Public Administration Act. The Board shall give a ruling within two weeks of receipt of communication and reserves the right to extend the timeframe by a further four weeks in exceptional circumstances, justified by the need for investigation. No penalty shall apply to any breach of the undertaking where the person has acted in conformity with the ruling of the Board.

4. OTHER PROVISIONS

4.1 In preparation for the introduction of this new regulatory provision, extensive preliminary work was carried out throughout the Public Administration to assess which posts/positions could potentially be so designated to be included in the Revolving Door Policy. This assessment involved a scrutiny of the functions and responsibilities of the identified regulatory or inspectorate posts/positions to inform and enable Ministries to be primed for the introduction of the Revolving Door Policy.

4.2 Consultation and discussions held with trade unions focused on the regulatory provisions being introduced, on how these shall be implemented and more specifically on the posts/positions that could potentially fall within the Revolving Door Policy. The outcome of these consultations has been referred to the Board for its information.

4.3 The period of two years following resignation, retirement or termination referred to in Article 4(5)(a) of the Public Administration Act shall be reduced to 6 months for employees who, by the time Article 4(5) came into force, i.e., 27 September 2019 (L.N.25 of 2019), already held an appointment to any of the posts/positions listed in the Annex to this Directive. Any appointment after this date shall be governed by the two-year obligation, as stipulated in Article 4(5)(a).

4.4 An initial list of designated posts/positions, compiled by the Board, has been presented to the Principal Permanent Secretary who is publishing it as an Annex to this Directive. The list may be subsequently updated by the Board on a regular basis through the Principal Permanent Secretary.

5. IMPLEMENTATION

5.1 In line with applicable directives, circulars and any other administrative binding communication, policies or procedures, Heads of Department within the public service and Heads of public entities shall, in respect of their remit:

- I. Assist the Board, as required, in identifying posts/positions involving regulatory or inspectorate functions and in determining whether these should be designated posts/positions in accordance with the provisions of Article 4(5) of the Act;
- II. Ensure that this directive is brought to the attention of employees currently occupying a position listed in the annex to this directive;
- III. Ensure that internal policies and procedures are developed, maintained and implemented to effectively manage inherent risks of revolving door employment;
- IV. Ensure that an employee who is occupying or, is to be appointed to such a designated post, enters into an undertaking in accordance with the provisions of Article 4(5) of the Act;
- V. Ensure that any employee who is occupying such a designated post keeps and maintains any records as may, from time to time, be required;
- VI. Where a ruling of the Board has been requested in accordance with the provisions of Article 4(6) of the Act, participate in the hearing of the Board, or otherwise make such submissions, as may be requested by the Board;

- VII. In respect of an employee who has retired, resigned or otherwise terminated his/her employment from such a designated post, assist the Board with monitoring compliance with the provisions of the agreed undertaking;
- VIII. Where non-compliance with the provisions of the agreed undertaking is identified, ensure that legal and other applicable procedures are initiated against the defaulting person;
- IX. Support and co-operate with any initiative of the Board aimed at monitoring the proper implementation by the Public Administration of the scope and provisions of Article 4(5) of the Act;
- X. Develop, keep and maintain any such records as may be required for the proper application of this Directive and the management of risks associated with revolving door employment. This obligation entails keeping records of any person who held a post/position listed in the Annex to this Directive for two years after resignation, retirement or termination.

5.2 All public employees who at present occupy any of the posts/positions designated by the Board for the purpose of the provisions of Article 4(5) of the Public Administration Act are by virtue of this directive considered to have been notified of the contents of this directive and shall, by not later than 31 August 2020, have their personal records amended by their respective Heads about the Board's decision and the relative conditions contained in this directive.

5.3 Failure on the part of an employee to fulfil any obligations s/he may have under this Directive shall constitute grounds for legal action to be taken by the Permanent Secretary of the respective Ministry.

5.4 This Directive applies indefinitely unless specifically revoked or amended by the Principal Permanent Secretary.

Mario Cutajar
Principal Permanent Secretary

Attached: [Annex - List of posts/positions that involve regulatory/inspectorate functions](#)